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УДК: 343.132
343.9.024:336.7
Прегледни рад
Примљен: 09.04.2012
Одобен: 11.05.2012

HUMAN RIGHTS IN CRIMINAL AND FINANCIAL INVESTIGATION

Summary: The process of criminal and financial investigation is a complex process that explores the complicated criminal situation where criminals who commit crimes illegally obtain material gain which they cleverly conceal or transfer to foreign countries. In the very process of conducting the investigation, police and state police agencies that have powers have to respect the human rights from the very beginning. There is right to work and to earn legally, but the vast wealth earnings are gained through crime, namely the most general forms of the manifestations of the organized crime. The aim of the criminal investigation is to provide evidence of crimes and their perpetrators, and the goal of financial investigations is to identify the criminal returns, the provision and their confiscation. In this process it is inevitable that the police and state police agencies that have powers uphold the legal rights of the citizens and their property rights. The burden of proof of property rights, or the legality of the obtaining the property and money is on the suspects to prove in the course of the legal procedure the origin of the property, and in case of lack of evidence, property and money are confiscated by a final court judgment. In the process of researching and providing evidence, police take more measures which affect the right to privacy, freedom of movement and so on. But it should always be born in mind that these measures should be carried out based on the principles of legality, proportionality and subsidiarity.

Key words: crime and financial investigation, human rights, the burden of proof, confiscation, legality

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Introduction

Organized crime is a serious security problem which is an obstacle to European integration of the Balkan countries to which more attention is given to build strategies for its suppression both nationally and internationally. Countries in transition are suitable soil for the emergence and spread of organized crime in the highest power structures, but that does not mean that organized crime is not a serious danger to democratic and economically developed countries. "The main generator of organized crime in countries in transition is the intention of certain social groups and layers to undertake the dominant economic and political position in the emerging social circumstances. In other words, a theory of "crime as a means for realizing dominant social status"! The essence of this theory could further explain the conflicting situations that incurred in the creation of new social (economic and political) stratification of groups and layers of power, that the power will turn into a political power in condition nearly equal to those of the initial accumulation of capital and law, and of the law initial standards and standards of democratization, democratic conscience and law culture and underdeveloped "civil society" (Kamboski V., 2008:18)."

In modern society, organized crime penetrates all spheres of life and social structure, particularly the field of economy in the most profitable industries in which earnings and the acquisition of profit is the highest. Political structures tend to avoid the state control, paying taxes and tend to be protected from prosecution. M. Elliot says that "the success of organized crime is based on presumed collaboration with the political state apparatus, which is not likely to emerge before the court. Organized crime is thoughtful social disorder in which a group has the power to cooperate in breaking the laws rather than to apply the laws. Organized crime is business "or way of acquiring money by participating in activities that are explicitly prohibited by law (Eliot M. 1962; Arnaudovski LJ., 1994: 424 – 425)."

The structure of the criminal groups and organizations is formed by offenders who are direct executors and offenders who take advantage of their functions, positions and political power in society, provide smooth execution of multiple offenses over a long period of time and obtain high proceeds from crime expressed in money, property or other resources. The aim of criminals is not only to acquire criminal assets, but that they can provide the "reach of the government forces", or it could mean, providing of criminal proceeds of finding and confiscation by the competent authorities of the prosecution and judgment. Criminal proceeds derived from any forms of organized crime are

quite high, and criminals are concerned about their safety and therefore apply methods and tools for concealing their criminal backgrounds and their legalization by displaying how those proceeds come from lawful/legal sources, or that they come from legal work and earnings. They most often do that through the process of laundering criminal money and proceeds or illegally acquired property and money are shown as a legitimate profit of the legal business. There are numerous emergent forms of organized crime that the criminals are gaining high crime proceeds from, and as a secondary crime money laundering as a criminal offense with which perpetrators want to legalize the same criminal proceeds. Fight against organized crime until a few years back included the detection, clarification and proof of the basic or first instance crime, little attention being paid to the type and the amount of criminal proceeds and undertaking a range of measures to enable their confiscation. In recent years, in accordance with recommendations of the international community, there has been much work done to harmonize national legislation with the EU legislation, with the purpose to enable the successful opposition to organized crime and the measures and activities for finding and providing of the criminal proceeds are transformed into another type of property or capital, or transferred abroad and providing their confiscation.

Investigators have a tough task in the research of organized crime, its basic forms and providing material evidences of an organized activity of a criminal group or organization, type and level of criminal proceeds and search for money and property acquired by first degree crime, and converted into other forms of ownership in the national framework or its finding and securing overseas. In the process of researching, the legislator foresaw wide range of operational - tactical measures and actions known as police powers, investigations and special investigative measures that have a preventive and repressive character. Preventive action is directed to take measures and actions proactively or before the execution of criminal acts, or disabling the criminals to realize their criminal purpose and obtain illegal profit. Repressive measures are taken when there is already a grounded suspicion of a criminal act of a certain criminal group or organization that has committed crimes and knowledge about the acquired illegal profits. The application of repressive measures is conditioned on respect for fundamental human freedoms and rights of suspects when taking legal measures and actions with respect to the legal regulations in the application of any of these measures and actions. The process of fully investigating criminal acts which are committed by an organized criminal group or organization is a complex process of taking legal measures and actions by several state agencies and institutions that have police powers and conduct criminal investigation and parallel to the criminal

conduct and financial investigations that aim at tracking criminal proceeds and money and is the responsibility of the authorities for financial intelligence. The overall research process is followed by applying a series of laws and procedures to be observed by police officers, but by employees in the financial intelligence in control of financial transactions of individuals and legal entities for their financial situation and assets, personal information and data assets and financial conditions. Disrespect of the legal procedures or operational standards and rules lead to violations of basic human freedoms and rights, and it often exceeds the powers and the degree of force. One such disrespect is the presumption of innocence, and media coverage of certain criminal situations, and filming by the media of the method of taking certain measures and actions, such as the images of the home search deprivation of freedom and so on. It is prohibited to extort from the defendant or other person participating in the procedure confession or any other statement, the suspects in the preliminary investigative proceedings should always be acquainted with their right of silence, and should not be interviewed without the presence of the lawyer. The evidence obtained on the illegal mode or with violation of freedoms and rights established by the Constitution, laws and international agreements, and evidence derived from them cannot be used against them and cannot present justification or grounds of suspicion. Each piece of evidence should be secured in legal proceedings and by respecting the operational procedures and rules. Because, besides material evidence over the money and the type and amount of criminal proceeds are provided, the legislator enables active participation of a part of criminal proceeds in research of the suspicion and thus to prove the origin of property and money. In particular, the proof of the second instance crime or laundering of criminal money, the burden of proving is on the suspect who should provide the investigating authorities with adequate evidence for the origin of property and money. Otherwise that would mean that the burden of providing the materials evidence for first instance crime is on the investigating authorities and especially the public prosecutor's, while the burden of proving the origin of the property and money is on the suspect. For this purpose more methods are being used such as: method of net worth, method of revenue, method of deposit, a method of costs, etc.

Scientific research of organized crime

Today organized crime is at the centre of attention of all international organizations in their fundamental documents that devote considerable atten-

tion to emergent forms and forms of transnational organized crime and finding a way of defining organized crime which should contain elements of criminal behaviour in practice, because only in this way we can research this problem as emergence and to find adequate criminological - criminality tactic and means for its detection and its prevention. To define this concept is of great significance for its recognition and determining the differences between ordinary criminal activities and those that are well and professionally organized by organized criminal groups who tend to manage and control to the overall economic structure. Organized crime as a phenomenon is known and studied by many world theorists in the area of legal, criminological and criminal theory. They all have their own opinion and their own definitions of what is organized crime. There is no universal definition, there are individual clarifications, so known theorists such as M. A. Eliot and H. H. Schneider considered that: "Organized crime in its content, despite the organization, planning, division of tasks, discipline and accountability within the criminal organization whose goal is realization of benefit and profits, covers some relationship with the state and individual organs. In the form of cooperation of bodies applying the law, those who do not respect the law, deceive the law, or in a form of neutralizing the police and judiciary and the corrupting of the authority, making organized crime tend to be not discovered and entered in the legal business world (Bošković M.1998:4)."

As a definition that corresponds to the previous definition of Abadinski (Абадински), according to whom "organized crime can be defined as non ideological activity involving many people in a tight social integration, organized on a hierarchical basis in order to gain profit and power for running illegal or lawful activities that at relatively small risk provides high profits (Arnaudovski Lj. 2002:83)."

Another group of authors think that the existence of organized crime is not connected with the state and the authority, but under the organized crime include individual criminal behaviour of certain groups organized to carry out occasional or persistent crimes. Their connection can be in the criminal organization - the gang, or just connecting the criminal behaviour of each case. National theorists and theorists from the former Yugoslav region have their own opinion and definition of organized crime. According to Vodinelić "organized crime is knowing and the willing organization with the intention to stay permanently in joint criminal of the members after principle of conspiracy, inside and outside, and division of work with a wide radius operandi of the riding roughshod over treatment." Academic Vlado Kambovski (Владо Камбовски) in order to avoid over-generalization of the elements of the notion of organized crime on the one hand and causal watering down on

the other hand, is determined to the following definition: Organized crime is committing offenses from the criminal association for profit and (or) power, the use of violence or by using specific particular connections in society, reducing risk by engaging in legal economic, political and other activities of the previously developed system for protection from prosecutions. According to these theoretical views, there are two concepts of the notion of organized crime and in a broader sense, notion of organized crime encompasses those forms of organized criminal activity where there is a criminal organization, term of organized crime encompasses those forms of organized criminal activity where there is a criminal organization, and its organized approach to the stages of preparation and pursuit of criminal activity in order to obtain illegal profit. Immediate understanding of the term of organized crime is reduced only by those forms of organized crime which establish some connections between organized crime and government officials at local or national level. In attempting to define organized crime as: **"a crime punishable by pursuit of works from the criminal association for profit and (or) power, the use of violence or using particular position in society, reducing risk by engaging in legal economic, political and other activities designed to advance a system of protection from prosecution (Камбовски, 1996:12)."**

The elements of organization of this crime are observed in the preparation, execution and linking offenders with other people who have control - the control function of their work, or persons on behalf of the government responsible for discovery, clarification and proving of crime and of course the prosecution and judicial authorities as crucial in the prosecution and adjudication of offenders. "This form of professional criminality is widespread largely, or much more than the official statistics show. Its perpetrators rarely come under attack of criminal responsibility. Reason for not being prosecuted are overwhelming economic and political impact, expert deceiving of the law, resorting to bribery and similar funds, shortage of a sense of positive values and so on. The damage inflicted by this type of crime is much greater of the damage inflicted by all other types of crime together, and also destroys the social morality, causing distrust and creates disorganization. Because its perpetrators were economically and politically powerful, by many things it is closer to organized crime - of the strength and power, the political influence and relationships, belonging to the governing layer, immunity from police and prosecution (Reckless W.1950:206 – 225 and Димитров Д. 1998:9)."

In this period term "organized crime" as the most used term in everyday life of ordinary people, politicians, journalists and publicists, the merchant and "cheat", is related to anyone who is in serious material, social or

other status and one who is in good standing, especially in the very short period of the anaemic situations rapidly succeeded to enrich, in style with the anecdote of the old Ford, who said: **"You can ask me what I do, but do not ask me how I obtained my first million dollars,"** or on the one that today is with nouveau riche, **"Ask me what I work but do not ask me how much I earn (Рејчел Боба, 2010:62)."**

Criminal investigation

Criminal investigation is developing in specific disciplines or in different types of criminal investigation responsible for target at specific investigations, on a separate group of criminal acts which have identical or similar criminal characteristics. Criminal investigation is operation, investigation of criminal problem that has a complex nature, and it is the clarification of a complex procedure in which more legal measures, actions and criminal methods are applied, but also include more state authorities which have legal competence for investigating organized crime, and all this is possible with the well-organized investigation. A purpose of this research is detection, clarification and proof on the criminal behaviour and involved perpetrators through legal procedure in which human rights and freedoms will be respected.

The process of criminal investigation is connected with obtaining initial operational information. Further in the process of criminal investigation the tactics of the criminality investigation is quite important which Boba (Боба, 2010:63) defined as follows: **"Tactical criminality investigation is the study of previous criminality activities and potential criminal activities by examining the characteristics of how, when and where the criminal activities assist in the development scheme, investigate, identify suspects and shut case."**

Operational research is the specific planning and taking appropriate legal methods, means and actions in order to clarify criminal situation and provide evidence. Operational activity is defined by many authors as an operational activity or according to some authors – operational work. The Serbian criminalists Ž. Aleksić and Z. Milovanović define operational activity as: **"The system of criminal methods and means of the police are used to prevention and detect crimes, then the gathering data on the personality of the offender (the place where he is and his connections), and for determining and providing the items are proofs of information (Aleksić Ž i Milovanović Z. ,1994: 52)."**

While Vodinelić (Vodinić, 1987:383) says: "Operational activity considered to be system of illegal, criminal, ways and means of straining control in the criminality and the criminality processing as two stages of this activity is within the competence of the police."

Criminal investigations are guided from information to realization

The procedure of criminality investigation starts with preliminary findings - information about criminal activity and beginnings for suspicion are developed into process of the search for suspicion. Without systematic application of that investigation as organizational - tactical principle there cannot be detection of suspicion. According to the definition of Hans Valder (Hans Valder, 1975:44) "to suspect, means more or less to be assumed from what is shown." However, the criminal skill is not to wait any indication, but systematically to find and research the detection clues. Suspicion is productive when it is abolished itself or beyond us to a higher level, becoming a full and reliable knowledge of the offense or the offender.

"Suspicion is the only sequence of judicial cognition and is not its essence, but, again, it seems the essence of pre-investigation proceedings. Suspicion is the golden bridge for the development of criminal processing of criminal procedure, which may lead to understanding of the known (Водинелиќ, В. 1995: 230 - 231)."

The initial grounds for suspicion have the task of initiating the pre-investigation procedure which, in turn, means finding and providing the overall evidence. Otherwise, the pre-investigation proceedings are legally regulated and scientifically reliable for the detection of crime and its perpetrator, and have the task to substantiate the grounds for suspicion that it was a crime or that a person has committed a criminal offense.

"The detection of the crime does not mean clarification, it suggests process of the clarification (explanation) that is synonymous with the determination, or to confirm what is found with supporting facts. To clarify (illuminate) means "to fully explain, to interpret, to investigate" or to establish, determine, to prove (Водинелиќ, В. 1995: 01)."

The process of proving, besides the classical methods of detection and proof should be adjusted in accordance with the socio-economic and social developments in the country, and of course influences from the outside due to massive entry and exit of capital. Therefore, classical methods of detection and proof of criminality in the overall relations of society should tolerate changes through the integration of international experience in the domain of

proof of criminal activity through the application of appropriate legal measures and methods in the proceeding. It is especially important to establish a legal framework for undertaking certain operational - tactical measures, investigations and special investigative measures whose imprecision or total absence reduces the possibility of their taking, but the possibility of securing relevant evidence. Also very important element in the process of proof is the cooperation and the need for it by the relevant state bodies and institutions within their lawful and timely determining, but should emphasize cooperation with relevant institutions with international character, because crime knows no borders, but knows only profit. The application of special investigative measures is facilitating the possibility of obtaining operational information and knowledge, and providing evidence of criminal activity or concrete crimes and their perpetrators. The application of special investigative measures is related to violation of privacy and inviolability of the home, but their application is in function of disclosure, clarification and evidence of organized forms of crime, and the perpetrators should be aware that their privacy will be violated because they made violation against the law and visit upon somebody any evil in (material, physical or psychological).

Special investigative measures are provided by law, but the technical methods of implementation are determined by the crime situation and relationship of perpetrators, and in certain situations, international cooperation is necessary as well as planned and coordinated implementation of these measures by foreign agencies which have police powers and contractual process of exchanging information and evidence. Given the fact that with special investigative measures are infringed on the protected zone and constitutionally guaranteed freedoms and rights of citizens, their application must be accurate within the legal provisions and principles. And it is provided with the Recommendations of the Committee of Ministers of the Council of Europe special investigative measures in 2005,¹ and relates that the results that come with the application of these measures can be used as evidence in criminal proceedings only if these measures are taken in accordance with the principles of (Marinković D., 2010: 267) **legality** - application of a particular or special investigative measures must be explicitly provided (and accurate standards) by law, **subsidiarity** - their application comes into consideration only if milder measures can't achieve the goal, and it is preventing, detecting and proving of certain crimes, **proportionality**-there should be proportionality between the violation of freedoms and rights of citizens with the application

¹ Recommendation (2005)10 of the Committee of Ministers to members states on "special investigation techniques" in relation to serious including acts of terrorism.

of these measures and the severity of the crimes for which detection and proof apply. In other words, their application comes into consideration only in severe criminal acts or acts in accordance with law and court supervision. The court approves or issues orders for the application of special investigative measures, exerting control over their implementation. This is because they are often applied preventively, in the earliest stages of discovery and proof of the crimes, where the actions of law enforcement and public prosecution are dominant.

Cases of violation of human freedoms and rights in pre-trial proceedings or police usually reported to the Ombudsman, in accordance with new legislation in the courts will be treated by a judge to protect human rights. In the Republic of Macedonia by the proceedings of the Ombudsman there were real cases of violation of human rights in pre-trial proceedings and by police officers who exceeded their powers and principles of proportionality and proportionality in the use of force and means of coercion. The report of the Ombudsman in 2009 stated that it filed 252 petitions about illegal police proceedings. Of these 24.21% are concerned about excessive use of force; 19.44% for failing to take measures to protect life and property of citizens; 6.35% for delaying the investigation, 1.19% of unfounded or unlawful deprivation of freedom, 0.40% for retention in the police station more than 24 hours and 48.41 for other types of complaints about police conduct. According to data taken with the project for legal analysis in 2010 of the mechanisms for protecting human rights in cases of abuse of police powers, of the complaints of citizens in 2009, excessive use of force with elements of torture are represented by 49%; unlawful and unprofessional conduct by 14% with 10%, failure in providing assistance; unlawful conduct during trial with 5% offensive and humiliating behaviour by 5%, 12% were physically abused, and 5% complained of abuse of office. Excessive use of force by police commonly used to overcome the resistance in the detention, but quite frequent cases of police using force and extortion of confession or information the police officers took the material evidence. Excessive force is commonly used in detention when an attorney is present, while in the presence of counsel coercion and force are applied. There are ten fundamental human rights standards for officials applying the law, adopted by the UN and they are the basis and source for international standards of conduct of police officers, including the application of force. They include the right of all to equal protection without discrimination on any grounds, acting protectively towards the victims and respect, ensuring the protection of their security and privacy, use of force only when necessary and required at least given the circumstances, deprivation of freedom only when there is no legal basis, providing medical help and

humane treatment of detained persons, protection of arbitrator deprivation of liberty and obligation to inform the public prosecutor for every kind of violation of basic standards.²

Financial investigation

The world started recognizing the value of financial information for detecting and investigating crimes perpetrated by organized criminal groups. Examination of criminal proceeds acquired is a complex process that involves several state authorities through planned and coordinated action to deal with crime that resulted in the acquisition of high criminal proceeds - wealth for themselves and for their families. In the Republic of Macedonia, police powers of detecting serious financial crimes together with the Financial Police and Customs are responsible for discovery, clarification and proof of the legally specifically listed financial crimes. Besides keeping the classic criminal investigation, they with their own separate legal methods are actively involved in the investigation of illegally acquired property and proceeds and in cooperation with the special service for financial intelligence which has not operational intelligence but only character. Here, and in many states, financial intelligence units have been established (Financial Intelligence Unit/FIU). Macedonia formed Office for the Prevention of money laundering and financing terrorism intelligence which is the administrative intelligence authority in its jurisdiction and has the collection and analysis of information on money laundering. This Administration works on tasks to monitor financial transactions or keeping of financial investigations for money incorporated into the legal financial system, which originates from any criminal activity in their jurisdiction and have international cooperation with similar bodies in order to follow the trail of money internationally. Following the money and proceeds of crime are subject to financial investigations aimed to follow the money trail, the transformation of money into another property and so on.

Financial investigations are procedures that are implemented parallel with criminal investigations and that seek to uncover the proceeds of crime, identify the property that can be confiscated and temporarily provide (seized) property of a suspect in order to allow future final confiscation. These are important assumptions that the financial investigation should be based on and be of benefit in clearing criminal investigation of all crimes and perpetrators involved that resulted in the acquisition of criminal proceeds and provide

² Basic Human Right Standards for Law enforcement Officials UN, 1998, Al idex POL 30/04/98.

evidence of all individually committed offenses, and of course providing tangible evidence mostly based on documents that are exercised, illegal financial transactions or criminal proceeds that are embedded in legal economic flows. In certain situations based on the extent of having doubts that it made economic - financial crime or other criminal act which resulted in gaining illegal proceeds are visible external manifest forms of crime committed by manifesting, wealth, offenders who legally would have not acquired and it is initial signal for investigating acquired wealth and clarification of first degree criminal acts through the money trail that reveals the first instance of crime. The main measure applied in such cases is the financial investigation against the suspects, which includes assessing whether the life style suggests, "honest life" or "high living" provided by criminal activity.

Necessary elements for a successful financial investigation are the following:

1. Financial investigation should be standard procedure to be followed in investigating crimes that generate crime.
2. Investigators must be specialized in performing financial investigations and
3. Close collaboration with investigators responsible for criminal investigation.

Financial investigation is a procedure that is timely and the procedure that should be taken in all cases where the prosecuting authorities have operational information that criminal incomes are acquired, but their confiscation is only possible with identifying them or determining their current condition, where whether the money is converted into other property or wealth. Indeed, the forces of law enforcement have made many adjustments to their changed environment. By integrating financial investigative techniques in the arsenal of the forces of law enforcement have the opportunity to become as flexible as they are criminals who are currently prosecuted.

Criminal investigation aims at determining the evidence of committing criminal offense, evidence of the offender, characteristics of the offender, motive of the criminal action, the means of enforcement and acquiring illegal profit. But what remain to become the illegal proceeds is a problem that should be investigated by conducting comprehensive financial investigation which aims to:

- Determine the proceeds of crime (type and amount),
- Determine the ownership that can be confiscated (identification of persons, property that is subject to confiscation and extended confiscation), and
- Determine the conditions for application of provisional measures (seizure/security).³

³ Financial investigations and confiscation of income obtained by crime, manual training bodies for criminal prosecution and the judiciary, CARDS Regional programme 2002/2003, Skopje, 2006, pr 38.

The purpose of the financial investigation is to identify, track, seize and confiscate proceeds of crime along with the criminal investigation of crimes that resulted in gaining illegal profit. The right to work and income is one of the basic human rights but no right of unlawful earnings or acquisition of wealth at the expense of another in committing the crime. That is, the goal of financial investigations are criminal proceeds and property, or what criminals have or hide, and was acquired by execution of criminal acts to be found and confiscated in the interest of the damaged or in the interest of the State. This procedure is still not enough practice for research, because keeping the financial procedures of recent date, but what should be expected in future complaints of measures imposed blockade and freezing of money and property which authorities suspect their legality, and certainly any blocking or freezing in some way a violation of the right to work and capital available to it. But we should not forget that the legislator provides that objects or other values of crime can be kept, but if you wait for the verdict and the imposition of the confiscation measure, then there would be nothing to confiscate. That is the reason for the blockade and freezing as temporary measures imposed by the court to provide criminal proceeds and property and providing for their confiscation.

Summary

Criminal investigation and the funding by their nature are procedures which commonly affect the fundamental human freedoms and rights. There are people who need to discover and prove that the suspects committed crimes and to provide relevant evidence. The process of clarification and proving a system of legislative measures and actions that infringe on the privacy and freedom of suspects, but without them it is impossible to provide evidence. Provided precise legal procedures for taking all legal measures are actions and only their contempt violations of human rights and freedoms. Criminals are always complaining about the repressive measures of the police authorities, but police should and must apply those measures and actions, otherwise criminals will never get the deserved sanction and enjoy in criminal assets. The suppression of organized crime has been strengthened with more legislative measures and actions that restrict human freedoms and rights, but it is a function of detection, clarification and proof of organized crime, prosecution of perpetrators of criminal offenses and confiscation of criminal proceeds. Each well completed criminal case detection of offenses, clarification of the overall crime situation and providing evidence of offenses committed and the

type and amount of illegally acquired proceeds and imposed additional sanctions against offenders and confiscation of the direct and indirect benefit is the best prevention and sending message to all perpetrators that, law enforcement are behind their backs, the sentence will not pass, and it is strange not to be theirs.

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Људска права у процесу криминалистичке и финансијске истраге

Сажетак: Процес криминалистичке и финансијске истраге је сложени процес у коме се истражује сложена криминална ситуација где криминалци извршавањем кривичних дела су незаконито стекли имовинске користи која вешто прикривају или трансферирају у страним државама. У самом процесу вођења истраге полиција и други државни органи који имају полицијска овлашћења из самог почетка требају имати у виду поштовање људских права. Право је радити и зарађивати законитим пословима, али велика богатства је тешко зарадити поштеним радом, велика богатства се стичу криминалом и то најопснијим појавним облицима организованог криминала. Циљ криминалистичке истраге је обезбедити доказе о кривичним делима и њихових извршиоца, а циљ финансијске истраге је идентификација криминалних приноса, њихово обезбеђење и конфискација. У том процесу неминовно је да полиција и други државни органи која имају полицијска овлашћења да поштују законска права грађана, основна људска права и имовинска права. Терет доказивања имовинских права или законитост стечене имовине и новца је на осомњиченим лицима, да у легалном поступку докажу поријекло имовине, у случају немања доказа, имовина и новац се конфискује правоснажном пресудом суда. У том процесу истраживања и обезбеђивања доказа, полиција преузима више мера којима се нарушава право приватности, слободе кретања и др., али увек треба имати у виду да мере треба вршити на основима принципа легалитета, сразмерности и супсидијарности.

Кључне речи: криминалистичка и финансијска истрага, људска права, терет доказивања, конфискација, легалитет