
ПРАВОВОЙ ОПЫТ ПРОТИВОДЕЙСТВИЯ ПРЕСТУПНОСТИ В РОССИИ И ЗА РУБЕЖОМ

LEGAL EXPERIENCE OF CRIME COUNTERACTION IN RUSSIA AND ABROAD

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МОДЕЛИ ДОПРОЦЕССУАЛЬНОГО УРОВНЯ РАССЛЕДОВАНИЯ ЭКОНОМИЧЕСКИХ ПРЕСТУПЛЕНИЙ: ИСПАНСКИЙ ОПЫТ

В.А. Шестак, В.В. Дубровин, З.И. Ильичева

Московский государственный институт международных отношений (университет) Министерства иностранных дел Российской Федерации, г. Москва, Российская Федерация

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Уголовно-процессуальные меры противодействия преступности; экономические преступления; оперативно-розыскная деятельность; предупреждение преступности; уголовный процесс; допроцессуальный уровень расследования; уголовное судопроизводство

Аннотация. Допроцессуальная или непроцессуальная деятельность по расследованию экономических преступлений — совокупность мероприятий по расследованию преступлений, совершаемых в сфере экономики, проводимых до возбуждения уголовного дела. В Испании она возложена на следующие государственные органы: судебную полицию, прокуратуру, административные органы. Выбор допроцессуальной модели расследования экономического преступления в современной Испании подчиняется самым разнообразным факторам, в том числе специфике межличностных отношений, сложившихся между сотрудниками правоохранительных органов. Отличительными чертами, присущими допроцессуальной деятельности по расследованию экономических преступлений в Испании, являются ее спонтанность и отсутствие единообразия в порядке ее проведения. В частности, отсутствует правовая определенность в том, кто принимает решение о начале допроцессуальной деятельности по расследованию экономического преступления, а также упорядоченность в том, на кого возлагается основная обязанность по направлению ее хода. Непроцессуальное расследование экономических преступлений в Испании осуществляется в соответствии с моделями, которые постепенно внедрялись в практику посредством обобщения обычаев ведения профессиональной деятельности, понятных только сотрудникам рассматриваемых в статье органов. В условиях современности в Испании сформировалось три непроцессуальных модели расследования экономических преступлений с разным субъектным составом. При этом нельзя не отметить роль административных органов в расследовании экономических преступлений. Некоторые испанские исследователи относят ее к отдельной модели расследования, поскольку для нее характерны собственный порядок и динамика. В то же время рассматриваемые модели все более отдаляются от установленного законом порядка расследования, что ставит под сомнение правовую безопасность и создает угрозу обеспечению принципа законности. В рамках проектов реформы уголовного судопроизводства в Испании обязанности по расследованию уголовных дел, в частности экономических преступлений, предлагается возложить на прокурора и судью, ответственных за обеспечение процессуальных гарантий. Однако реализуемость этого проекта, даже по мнению самих испанских исследователей, сомнительна. В этой связи авторами в настоящей статье рассматриваются не только положительные стороны каждой непроцессуальной модели расследования экономических преступлений в Испании, но и их недостатки.

MODELS OF THE PRE-PROCEDURAL LEVEL OF INVESTIGATION OF ECONOMIC CRIMES: SPANISH EXPERIENCE

Victor A. Shestak, Vladimir V. Dubrovin, Zoya I. Ilyicheva

Moscow State Institute of International Relations (University) of the Ministry of Foreign Affairs of the Russian Federation, Moscow, the Russian Federation

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Abstract. Pre-procedural or non-procedural activities for the investigation of economic crimes are the activities to investigate crimes committed in the sphere of economy that are carried out before the initiation of criminal proceedings. In Spain, it is entrusted to the following state bodies: the judicial police, the prosecutor's office,

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Criminal proceedings; economic crimes; operational-search activity; crime prevention; criminal procedure; pre-procedural level of investigation; criminal proceedings

and administrative bodies. The choice of the pre-procedural model of investigating an economic crime in modern Spain is subject to a variety of factors, including the specifics of interpersonal relations that have developed between law enforcement officials. The distinctive features inherent in the Spanish pre-procedural activity in the investigation of economic crimes are its spontaneity and the lack of uniformity in the procedure for its conduct. In particular, there is no legal certainty as to who decides on the commencement of pre-procedural activities to investigate an economic crime, as well as orderliness in who is assigned the main responsibility in the direction of its progress. The non-procedural investigation of economic crimes in Spain is carried out in accordance with the models that were gradually introduced into practice through the generalization of the customs of professional activities of law enforcement agencies that are understandable only to the staff of the bodies considered in the article. In modern times in Spain, four non-procedural models of the investigation of economic crimes with different constituent composition have been formed. In this case, it is impossible not to note the role of the administrative bodies in the investigation of economic crimes. Some Spanish researchers refer it to a separate investigation model, since it has its own order and dynamics. At the same time, the models under consideration are increasingly moving away from the order of investigation established by law, which calls into question legal security and creates a threat to the principle of legality. Within the framework of the projects on the reform of criminal justice in Spain, it is proposed to assign the responsibility for investigating criminal cases, particularly for economic crimes, to the prosecutor and the judge responsible for ensuring procedural guarantees. However, the feasibility of this project, even in the opinion of the Spanish researchers themselves, is questionable. In this regard, the authors in this article consider not only the positive aspects of each non-procedural model for the investigation of economic crimes in Spain, but also their shortcomings.

Modern Spanish researchers define criminal procedure as a form of substance building, and the person authorized to investigate is making effort to build it in the direction he considers appropriate [1, p. 112–120]. Existing criminal legislation of Spain usually differs two levels of the investigation of economic crimes: pre-procedural which is carried out by the judicial police, the prosecutor's office, the administrative authorities, and procedural which is carried out by the investigating judge [2, p. 36–57]. The choice of model of pre-procedural level of the investigation depends on a nature of the relationship between the officer of the judicial police, the prosecutor and the investigating judge. Moreover, it also depends on the tradition of their applying according to the modern tendency of the development of criminal procedure legislation of Spain and the line of professional activity of the kingdom's law enforcement.

Spanish researchers presume that during the study of models of non-procedural level of the investigation of economic offenses in the kingdom, it is easy to notice an absence of the uniformity and the ability of active participation of the administrative authority in criminal prosecution [3, p. 110–120; 4, p. 68–75]. It is important to notice that it is carried out without the legal certainty who should make a decision to conduct

operational-search activity on pre-procedural level of the investigation and who is authorized to guide it.

On model of pre-procedural level of the investigation of economic crimes carried out by judicial police

The specificity of non-procedural level of the investigation of economic crimes in Spain is multiplicity of authorized units of judicial police. We should take into account a dualism of legal nature of the judicial police. Firstly, there are formed units exclusively aimed at execution of the instructions given by the investigating judges. Its officers are the officers of the Ministry of the Interior. The MIR determines the number of the officers according to proposals of The General Council of the Judiciary and Attorney General's Office. Secondly, there are other units (national, regional and local ones) of the judicial police. Its officers can also be officials of the other government authorities, in particular, the officials of the Tax Agency or the Service of Customs Surveillance, subordinate to it.

The units of judicial police authorized to carry out the pre-procedural investigation of economic crimes are: The General Commissariat of Judiciary Police of The National Police Corp, The Central Police Unit On the investigation of economic and tax crimes. The second one includes police brigades

specializing in investigation of specific economic crimes (money-laundering, corruption, circulation of force money). In particular, The Central Brigade for investigation of economic and tax crimes, crimes against social security and financial interests of the European Union has been created and is functioning now [5]. The structure of The Central Police Unit on investigating of economic and tax crimes includes the special unit of the other government authority — The Office for the Suppression of Corruption and Organized crimes. In addition, the judicial police include the Civil Guard which is authorized to investigate economic crimes.

Moreover, it is not legally defined to jurisdiction and competence of which law-enforcement agency the economic crimes refer. In practice, the investigation would be carried out by the unit which was informed about an economic crime. According to the article 547 of the Organic law «On the judiciary» and the article 126 of Spanish Constitution¹, the main functions of judicial police are: to assist investigating judges and prosecutors in an investigation, to individually carry out the activities to prevent the crimes and to impose preventive measures against suspects. The Criminal Procedure Act authorizes the judicial police to individually investigate crimes on a pre-procedural level. It is caused by practical reasons, in particular, by the fact that the judicial police can be informed about preparing or committed economic crimes, and they are able to act more quickly than investigating judges and prosecutors. In case if the judicial police are informed about revealing of evidence of economic crime, they should individually carry out the activities essential to the gathering of evidence. In 2015 the list of activities were exported as a result of the reform procedure legislation [6, p. 45–52]. Thus, the activity of the judicial police is legally controlled by judicial supervision. In particular, when the judicial police decide to intercept a telephone transmission, they should inform the court judge about the carried action no later than 24 hours after the actual beginning of the action. In this turn, the evidential value of the results of the operate-search activity of the judicial police on non-procedural level is the consideration of officers' reports as notices of offenses. Moreover, according to the article 286 of the Criminal Procedure Act, the op-

erate-search activity of the judicial police should be terminated if the investigating judge starts an individual procedural investigation².

According to the law, the judicial police have a right to carry out the operate-search activity *ex officio* and to initiate a criminal proceeding. But in practice their role in an investigation is substantially unlimited. In the current context, they usually carry out the assignment of the investigating judges and the prosecutors. Moreover, in Spain the judicial police are not considered a subsidiary government body.

The practical popularity of the police model of pre-procedural investigation arises from the following factors:

1. A high level of education and competence of the officers of the judicial police units. (Some Spanish researchers believe the judicial police have a special professional culture which favorably distinguishes them from the investigating judges and the prosecutors, and gives them an ability to effectively investigate complicated crimes [7; 8, p. 67–78].)

2. The development of new technologies that expand the ability to carry out the operate-search activities. (Nowadays, the ability to grant to the judicial police access to personal data without the need for a judicial permission is discussed. During the procedural work of the investigating judge the judicial police don't become less important. The beginning of the procedural work only means that pre-procedural investigation loses its conspiratorial nature [9, p. 150–158].)

3. A police investigation is more flexible. (The judicial police just as the prosecutors operate within the territory of Spain and have an ability of rapid exchange of information. This advantage is increasing, when we speak about the international investigations. The researchers recognize the international cooperation of the Spanish judicial police as dynamic, informal and smooth [2, p. 36–57; 3, p. 110–120].)

4. The weakened procedural requirements of obligatory compliance with the rules of the immediacy. (This is the decisive factor. It is considered to have made the biggest contribution to the development of the popularity of the model. The Criminal Procedure Act prescribes that the judicial police should inform the investigating judge about the action they carried out individually no later than

¹ Ley Orgánica 6/1985, de 1 de julio, del Poder Judicial // Agencia Estatal Boletín Oficial del Estado. URL: <https://www.boe.es/buscar/act.php?id=BOE-A-1985-12666&p=20190312&tn=1#aquinientoscuarentaysiete>.

² Real Decreto de 14 de septiembre de 1882 por el que se aprueba la Ley de Enjuiciamiento Criminal // Agencia Estatal Boletín Oficial del Estado. URL: <https://www.boe.es/buscar/act.php?id=BOE-A-1882-6036&p=20151006&tn=1#a282>.

24 hours after the actual beginning of this action³. According to the Spanish doctrine this rule is more formal and is carried out contrary to the requirements of the Criminal Procedure Act. The transformation of this rule is reflected in the fact that the investigating judge periodically is informed by fax, mail or by phone. Also, the investigating judge usually gives a permission without the delay and further examination of the materials to carry out a police pre-procedural investigation. Such ways of notification have gradually replaced the filing of a written police report of the detection of the elements of a criminal offense [10, p. 138–141].

However, there are some shortcomings in the model of a pre-procedural investigation of economic crimes in Spain. In practice, the investigating judge doesn't lead the investigation, but, in fact, he also doesn't control its conduction. Indeed, he acts as the judge responsible for procedural safeguards, and he loses his fundamental judicial functions. Moreover, the transformation of the application of the rule of immediacy and of the role of the investigating judge is connected with the private factors. For example if the investigating judge has an interest, time and means, he can take the lead in this investigation. But usually they choose the passive role and the lead goes to the judicial police. The empowerment of judicial police gives them an authority to carry out «a forumshopping» (Spanish). It is a search for a convenient court. In spite of it if the judicial police carried out the operating-search activity but didn't get the right result they can offer the prosecutor to continue the pre-procedural investigation. Only after that these results will be handed over to the investigating judge. Surely, the investigating judge can refuse to follow the tactic of pre-procedural investigation chosen by the judicial police, and begin its own investigation. Moreover, the Criminal Procedure Act prescribes the ability of the judicial police to carry out the operational-search activity only in case of emergency, and it doesn't entail liability of a long-term police pre-procedural investigation.

We can also consider the results-orientation instead of the orientation at the constitutional guarantees of the individual rights as a shortcoming of the police pre-procedural investigation of economic crimes. Thus, a long-term operational-search activity can be carried out against alleged perpetrator.

³ Real Decreto de 14 de septiembre de 1882 por el que se aprueba la Ley de Enjuiciamiento Criminal // Agencia Estatal Boletín Oficial del Estado. URL: <https://www.boe.es/buscar/act.php?id=BOE-A-1882-6036&p=20151006&t-n=1#tiii-2>.

Meanwhile, the person won't be informed about it. In contrast to the prosecutor's pre-procedural investigation, the one carried out by the judicial police is not oriented on the respect of the principle of impartiality. Moreover, the question connected with what happens with the report of the crime which police decide not to investigate or investigate it in a special direction, remains uncertain.

On the model of pre-procedural level of the investigation of economic crimes carried out by the prosecutor's office

According to the article 124 of the Constitution of Spain prosecutors have a right to carry out operational-search activities aimed at clarification of circumstances of the committed economic crimes as a part of the protection of the legality⁴. The prosecutor's office operates within the territory of the individual provinces. But it can create separate units to investigate economic offenses within the territory of the whole State. Previously, the prosecutors can carry out the operational-search activity against the crimes punishable by the imprisonment for not more than 9 years. Nowadays, the prosecutor's office in Spain has an ability to carry out the pre-procedural investigation against all categories of crimes, including economic crimes, before the investigating judge initiates criminal proceeding⁵. At the same time, the prosecutor has to terminate the crime investigation when the investigating judge starts the legal proceedings to avoid the duplication of the investigation and operational-search activity. The pre-procedural level of investigation of economic crimes by the prosecutor's office starts due to receiving of *notitia criminis*. It is a crime report which can be filed by private persons and by public bodies. It is not necessary for the prosecutor's office to carry out such investigation. This creates ability to hand the report of the economic crime over the investigating judge after the receiving.

We should highlight the power of the Public Prosecutor's Office to fight the organized crime and corruption, established in 1995, to investigate the economic crimes with specific patterns. The special prosecutors are sent to the Spanish provinces

⁴ La Constitución Española. URL: <https://www.boe.es/legislacion/documentos/ConstitucionCASTELLANO.pdf>.

⁵ Real Decreto de 14 de septiembre de 1882 por el que se aprueba la Ley de Enjuiciamiento Criminal // Agencia Estatal Boletín Oficial del Estado. URL: <https://www.boe.es/buscar/act.php?id=BOE-A-1882-6036&p=20151006&t-n=1#a773>.

to investigate the most important crimes. Meanwhile, one of the characteristics of the pre-procedural investigation of economic crimes carried out by the prosecutors in Spain is legal uncertainty of their power [10, p. 138–141]. In particular there is a wide list of crimes which are guided by the prosecutors. On the other hand, the Prosecutor's office aimed to fight corruption and organized crimes as independent participant in criminal proceedings has a right to institute criminal proceedings at their decision, when the important social interests are jeopardized. The final decision on the initiation of investigation is made by the Crown General Prosecutor which is appointed upon the recommendation of the Government and carries out his activity on the base of the principles of impartiality and objectivity. Moreover, the decision of the prosecutor's office to initiate the investigation is not subject to the review.

In the context of the current reform of Spanish criminal proceedings, the prosecutors have a right to carry out operational-search activity on all categories of crimes. Their aim can also be to inquire the reports of the crimes received from the Custom office. Although the Custom office of Spain has a right to directly inform the investigating judge about the discovery of the evidence of tax crimes, it more frequently informs the prosecutor's office. Non-procedural prosecutor's investigation qualitatively differs from the one carried out by the judicial police. Prosecutors have access to the bases of data and can carry out the procedural implementation of their officers. The prosecutors are not subject to the rule of emergency activity. The pre-procedural prosecutor's investigation can last 6 months, and in corruption-related cases it can last to 12 months. During this non-procedural level of investigation the prosecutors have an assistance of judicial police.

The prosecutors are authorized to give to judicial police the instructions which should contain a well-defined level and circumstances of mandated activities on pre-procedural investigation [5]. In spite of it, the prosecutors are authorized to control non-procedural level of the investigation of economic crimes carried out by judicial police. In case if the instructions of the prosecutor's office are not properly or not fully implemented, the prosecutors have the authority to initiate a disciplinary proceeding against the judicial police officers. Moreover, the results of the operating-search activity carried out by the prosecutor's office are later incorporated into criminal case file as evi-

dence. This demonstrates their greater effect as an evidence than other similar pre-procedural activities carried out by judicial police.

The implementation of the considered model usually requires that the suspect should be informed about the investigation against him. But in practice such information of the suspect about the investigation against him can cast doubt on evidential value of the investigation. After the investigating judge is notified by the prosecutor about an inappropriateness of such action, he makes a correlation with the right to judicial protection and the goal settled by the prosecutor's office. Finally, he is authorized to made different decision. Sometimes the prosecutors' pre-procedural investigation ends with archiving of the results of the operational-search activity when no evidence of economic crime has been revealed. The decision to archive the materials is not considered similar to the procedural decision made by the investigating judge to terminate the criminal proceeding. Moreover, if the similar report of the crime will be received by the investigating judge, he has a right to carry out the procedural investigation no matter if the prosecutor's office made a decision to archive the materials. In the other cases the pre-procedural investigation carried out by the prosecutors can be terminated by forwarding the proposal to the investigating judge in case if he agrees with it. Moreover, the prosecutor terminates the investigation in any case if the investigating judge starts the procedural investigation of the same economic crime.

There are some advantages of the model of pre-procedural level of an investigation of economic crimes carried out by the prosecutor's office:

1. The prosecutor's office unit to fight the corruption and organized crime is not connected with the territorial competence of the investigating judges.
2. The prosecutor's office acts in accordance with the principles of proportionality, competitiveness and protection.
3. The pre-procedural activity of the prosecutor's office is fast and effective. Thus, in accordance with the requirements of the article 22 of the Law «On the Protection of personal data»⁶, the prosecutor's office doesn't need judicial authorization to get access to this data.

⁶ Ley Orgánica 3/2018, de 5 de diciembre, de Protección de Datos Personales y garantía de los derechos digitales. URL: <https://www.boe.es/buscar/pdf/2018/BOE-A-2018-16673-consolidado.pdf>.

4. The conspiracy of prosecutor's investigation. (The prosecutor's office has a right together with the judicial police to carry out the same activity on the pre-procedure level of the investigation as the investigation judge on the procedural level. But their activity is not procedural in nature.)

5. The ability to carry out the operational-search activity against uncertain circle of persons.

Moreover, such model of pre-procedural level of the investigation of economic crimes is carried out by the prosecutor's office after the investigating judge instituted criminal proceedings. This model requires the overlapping of consolidation of the results of the operational search activity carried out by the prosecutors to ensure that the procedural guarantees of parties to criminal proceedings are respected. In addition, it is considered that the prosecutor's activity is terminated when the investigating judge institutes criminal proceedings. Furthermore, Spanish researchers doubt if the prosecutor's office can carry out the sufficient and detailed pre-procedural investigation considering that they have limited means in contrast to the investigating judge [11, p. 34–45].

On model of pre-procedural level of investigation of economic crimes carried out by administrative authorities

Apart from the judicial police and the prosecutor's office the administrative authorities such as The Customs authority and The Court of Auditors are authorized to carry out the non-procedural investigation of economic crimes. The Court of Auditors includes the prosecutor who ensures that uncertain circle of people acts in accordance with the law, checks the economic activity which is under the competence of the Court of Auditors and carries out the pre-procedural investigation of economic crimes revealed by the Court of Auditors. The officers of the Autonomous Communities Administration responsible for execution of the corresponding budget are obliged to assist in the non-procedural investigation. In particular, they are obliged to report on the revealed economic crimes, but they are not authorized to carry out the investigation⁷.

Furthermore, all administrative authorities of Spain have to report to the judicial police, the pro-

secutor's office or the investigating judge on every fact of the commitment of economic crime. After the revealing of the fact they should immediately terminate an administrative procedure which is carried out to hold individuals to the administrative responsibility, and report to the authority responsible to carry out the pre-procedural level of investigation. This rule is subject to the principle of immediate execution. It means that administrative authorities should report to the authorized body as soon as possible after they revealed the elements of the economic crime. In such case the officer of the public body authorized to carry out the non-procedural investigation makes the decision on operational-search activity.

In Spain there are the public bodies which are not authorized to carry out the pre-procedural investigation of economic crimes but are directly involved in them. Commission for the Prevention of Money-Laundering and Monetary Offenses has a special place within them. This Commission is under the supervision of the State Secretariat of Economic Affairs. Other administrative bodies have to report to the Executive Office of the State Secretariat of Economic Affairs on any suspicions that an individual or an illegal person is involved in money-laundering, illegal accusation of funds or financing of terrorism. This Secretariat is required to directly cooperate with the securities forces and bodies, the prosecutor's office, the judicial police and the investigating judges [12, p. 79–86]. In case if the administrative bodies not authorized to carry out the pre-procedural investigation have doubts if there are any or no elements of economic crime in activity of an individual or a legal person, they should report on the alleged crime only to the prosecutor's office which makes a final decision.

Moreover, The Tax Agency of Spain is authorized to carry out the individual pre-procedural investigation of economic crimes. It can be carried out with the aim to eliminate not punishable faults in tax records or to establish a form of guilt (intent or negligence) of a certain subject involved in economic crime. When a tax inspector reveals the alleged tax crime he primarily reports to The National Anti-Fraud Office of The Tax Agency. Then this Office gives the report with the relevant materials to the prosecutor's office. The National Anti-Fraud Office is authorized to appoint a tax inspector to carry out the pre-procedural investigation in case if the information he gave is not essential to make a decision. Apart from this Office, The National Unit for Fraud Investigations has a right to carry out a

⁷ Real Decreto de 14 de septiembre de 1882 por el que se aprueba la Ley de Enjuiciamiento Criminal // Agencia Estatal Boletín Oficial del Estado. URL: <https://www.boe.es/buscar/act.php?id=BOE-A-1882-6036&p=20151006&t-n=1#a262>.

non-procedural investigation of economic crimes. It directly cooperates with The Office of the Prosecutor for the Fight against Corruption and Organized crime and The Service of Customs Surveillance subordinate to The Tax Agency.

The difficulties connected with the pre-procedural level of the investigation carried out by the administrative authorities are the same as the ones within the police model of non-procedural investigation. The first problem is the lack of safeguards of constitutional guarantees because of the current practice in Spain of getting the potential suspect to cooperate under the threat of sanctions. The second problem is the lack of transparency. The executive governmental bodies have a right to make an individual decision to refer the materials to the investigating judge or to terminate the investigation. They are authorized to carry out the pre-procedural investigation of economic crimes.

Thus, now there are three models of pre-procedural level of investigation of economic crimes in Spain. They represent the change away from the traditional pattern of procedural investigation prescribed in the Criminal Procedure Code and the tendencies of accusatorial model of criminal procedure [13]. The characteristic of every model of non-procedural level of investigation of economic crimes is that the investigating judge doesn't play a central role. After the complainant's governmental bodies' claim on an economic crime the central role goes to the prosecutor's office, the judicial police or the tax authorities. Moreover, different models of non-procedural level of investigation of economic crimes don't make taking of evidence faster and don't reduce the time required for criminal proceedings. After the completion of the pre-procedural investigation the procedural stage begins. During the procedural stage the investigating judge duplicates the operational search activity. Buy this he just gives the appearance of the protection of the procedural safeguards. During the non-procedural level of investigation of economic crimes in Spain the models are usually combined or consistently replace each other [14; 15].

Thus, it is possible to carry out an inspection and a non-procedural investigation by the authorized administrative authorities and after that by the judicial police and the prosecutor's office. In this case when prosecutor's office receives the data of operational-search activity carried out by judicial police, it can also carry out the individual pre-procedural investigation. Only after that the prosecutor's office should inform an investigating judge. At the same time the judicial police, the prosecutor's office or an investigating judge can authorize the administrative body to carry out the pre-procedural investigation [16; 17].

In the current context, some Spanish researchers consider that the procedural activity of Spanish judicial bodies doesn't usually allow investigating economic crimes effectively. Moreover, the participation of the lawyers in the process retracts the procedure and creates the obstacles to achievement of the final judgment [8; 9]. In this regard the pre-procedural activities are required to delve into the process of establishing the fact while the procedural activities are more complicated. They are more long-term because of the need to protect the procedural safeguards of the participants of criminal proceedings. Basically, all actions during the non-procedural level of the investigation of economic crimes, including the ones in the energetic sphere, are usually optional and are carried out at the discretion of the governmental bodies [18–20].

However, we should notice uncertainty of the evidence value of pre-procedural level of the investigation, and a theoretical and practical danger to the implementation of the right to protection during the investigation. Spanish models of the non-procedural level of the investigation of economic crimes create an uncertainty about the law because they don't let to form a unified procedure of the procedural investigation. During the realization of these models, the certain framework for the implementation of the operational-search activity carried out by the different authorized governmental bodies is absent.

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ИНФОРМАЦИЯ ОБ АВТОРАХ

Шестак Виктор Анатольевич — профессор кафедры уголовного права, уголовного процесса и криминалистики Московского государственного института международных отношений (университета) Министерства иностранных дел Российской Федерации, доктор юридических наук, доцент, г. Москва, Российская Федерация; e-mail: shestak.v.a@mgimo.ru.

Дубровин Владимир Валерьевич — доцент кафедры уголовного права, уголовного процесса и криминалистики Московского государственного института международных отношений (университета) Министерства иностранных дел Российской Федерации, кандидат юридических наук, г. Москва, Российская Федерация; e-mail: vldubrovin@gmail.com.

Ильичева Зоя Игоревна — бакалавр права, Московский государственный институт международных отношений (университет) Министерства иностранных дел Российской Федерации, г. Москва, Российская Федерация; e-mail: ilichevaz@mail.ru.

ДЛЯ ЦИТИРОВАНИЯ

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INFORMATION ABOUT THE AUTHORS

Shestak, Victor A. — Professor, Chair of Criminal Law, Criminal Procedure and Criminalistics, Moscow State Institute of International Relations (University) of the Ministry of Foreign Affairs of the Russian Federation, Doctor of Law, Ass. Professor, Moscow, the Russian Federation; e-mail: shestak.v.a@mgimo.ru.

Dubrovin, Vladimir V. — Ass. Professor, Chair of Criminal Law, Criminal Procedure and Criminalistics, Moscow State Institute of International Relations (University) of the Ministry of Foreign Affairs of the Russian Federation, Ph.D. in Law, Moscow, the Russian Federation; e-mail: vldubrovin@gmail.com.

Ilyicheva, Zoya I. — Bachelor of Law, Moscow State Institute of International Relations (University) of the Ministry of Foreign Affairs of the Russian Federation, Moscow, the Russian Federation; e-mail: ilichevaz@mail.ru.

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