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CONCERNING PRIVATE INVESTIGATIVE METHODS AND DETECTIVES' INTERACTIONS WITH INTERNATIONAL LAW ENFORCEMENT AGENCIES

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Abstract

The proposal aims to enhance the effectiveness of ways to combat crimes committed in the fields of information technology, money-laundering, and terrorist crimes. Law enforcement authorities can identify the 'professional' money launderer, along with their beneficiaries and networks, in advance thanks to the author-detective's uncovering of new functions of the private investigator. An analysis is conducted on the author's practical cases that involve the collaboration between detectives and international law enforcement agencies. The proposal aims to improve the effectiveness of private investigative methods to fight crimes related to information technology, money laundering, and terrorist activities.

Keywords: international crime, joint (international) private investigations

One of the main challenges in investigating and proving the criminal activities of established criminal networks is the timely detection of the signs of an imminent or continuing offense. Most such investigations require significant time and human resources to be mobilised by state investigative agencies. At the same time, the illegal activities of a criminal group may be manifested from different countries, that is, they can be transnational in nature. Due to the imperfections of international legal assistance and the lack of effective prompt assistance, most investigations stall before they even begin.

However, even if an investigation is successfully initiated, the subsequent gathering of evidence and documents remains a difficult process, due, for example, to the difficulties the competent authorities face in obtaining procedurally relevant information in the case. Those suspected of preparing to commit serious offences carefully disguise their identity and conceal their whereabouts from foreign law enforcement agencies and courts. The investigation process is slowed down by objective difficulties in obtaining time-sensitive information about the beneficial owners of companies registered in the name of bi-nationals or under invalid/lost documents.

Procedures for investigating crimes of an international character have their own unique features and ambiguities. These include the regulated nature of legal assistance, peculiarities in obtaining business-related information about the suspect, and the impossibility of urgent identification of participants in illegal transactions and activities. Another problem is the use of electronic means and proxy servers by criminals when they conduct illegal transactions on specialised darknet platforms. As a result, the competent authorities often close cases without even identifying the first intermediaries associated with the illegal activities of professional criminal groups.

The nature of private investigations reveals the most unexpected sides to the detective's work. This often happens when the object of investigation is a single ordinary client trying to place an order for money related to various illegal activities that the client, while being an intermediary in the 'Money Mule[8] – Beneficiary' scheme, is not even aware of. For example, this situation may occur with funds received by the 'patron' from drug trafficking, fraud, and even acts of terrorism.

8 'Money mules' are people who provide services to the beneficiaries of criminal schemes to transfer criminally derived funds.

Example 1. War Crimes Prevention

In 2014, a detective accidentally found an online recruitment advertisement for former members of special paramilitary units to participate in a military conflict in a European country. The press had previously reported on the participation of foreign mercenaries of British PMCs in military operations in Eastern Europe. However, the Foreign Office of that country consistently denied the participation of foreigners in spec ops.

As per Article 359 of the Criminal Code of the Russian Federation (Criminal Code of the Russian Federation of 13 June 1996, 2022), these acts are treated as penal, so the detective informed the law enforcement agencies on the grounds of instituting criminal proceedings.

While law enforcement agencies were conducting their own checks, the detective proactively continued gathering evidence of illegal mobilisation and discovered that the British PMC recruitment scheme involved Spanish nationals who had completed a year's course at the UK MoD Military Academy.

The mercenaries were paid by the criminal group organiser at the rate of 3,000 euros per month. In some cases, the mercenaries were unaware of the true nature of the criminal activity they were involved in, because initially, the employer promised the applicants employment in a foreign private security company without giving further details.

As a result of the investigation, the detective was able to gather evidence indicating that 'private security' services were provided by a UK-registered security company.

Source: Detective A. E. Krioni, Russian Federation

The detection of cross-border criminal schemes, including in the area of cybercrime, are most effective when law enforcement agencies and private investigators cooperate.

At the first stage of the investigation, the detective uses traditional methods and techniques of searching and collecting evidence such as personal identification, encrypted (legend) interviews, collection and analysis of documents, test purchases, and infiltration into different levels of the hierarchy of a professional criminal organisation. The detective collects all available information, including email correspondence, IP addresses, payment details, payment card and bank account numbers, specimens of signatures and stamps, telephone numbers, names of operating systems installed on computers, and so on. Access to this information at the early stages of an investigation provides the greatest opportunity to identify the organisers and coordinators of a criminal scheme.

Example 2. Prevention of an IT/computer-related crime

In early 2015, the detective received an email from a foreign customer asking for advice about the possibility and terms of providing computer-related investigative services. Subsequently, it became clear to the detective from the correspondence that the client intended to gain unauthorised access to the information resources and information systems of a national bank in a western European country.

The circumstances that became known to the detective were treated as 'illegal access to computer information' as per Article 272 and as 'causing property damage by deceit or abuse of trust' as per Article 165 of the Criminal Code of the Russian Federation (Criminal Code of the Russian Federation of 13 June 1996, 2022). Therefore, on the day when the signs of an imminent crime were detected, the detective notified the law enforcement agencies in writing on the grounds for instituting criminal proceedings[9].

However, the detective did not finish his investigation but continued his work proactively, trying to temporise as long as possible. While negotiations were ongoing and the terms of the contract were being discussed, the detective was determining the client's identity as well as the beneficiaries' identities of the company he worked for. Finally, it was time to arrange a meeting between the detective and the 'money mule', where the latter was required to hand over an advance payment of 300,000 (three hundred thousand) euros in cash to the detective. At this point, the detective knew that there would be no interactions with law enforcement agencies, so he contacted the Interpol representative office in the country of the imminent crime and, following the instructions provided, handed over a 15-page report to the Interpol representative office in Moscow.

Ten days later, the detective notified the perpetrator of his refusal to fulfil his assignment, reasoning that he had the right to withdraw from the investigation at any stage until he received the advance payment.

Source: Detective A. E. Krioni, Russian Federation

In the course of a private investigation, detectives are greatly assisted by their colleagues from the countries where the suspects plan to commit the offence. Detectives engage foreign colleagues solely on a 'trust' basis, warning of the possible transfer of collected evidence and testimonies to the state investigative services and courts. Additionally, it should be taken into account that professional criminals use various encryption mechanisms and hold correspondence in foreign languages. In such cases, the detective needs extensive knowledge in the field of forensics, cryptography, financial analysis, and foreign languages.

In order to suppress the activities of criminal organisations and their networks, detectives try to collect as much evidence, characterising the financial, economic, and social aspects of their work, as possible.

9 In accordance with paragraph 1 of Article 7 of the Law of the Russian Federation 'On Private Detective and Security Activity in the Russian Federation', private detectives are prohibited from concealing any of the facts of imminent or committed crimes that have become known to them from law enforcement agencies.

Understanding of these aspects enables the state law enforcement officers to quickly recreate the picture of the criminal group's activities and to reach those community members who can provide direct and substantial assistance to the investigative services without wasting time in the second stage.

Example 3. Investigation of a terrorist-related incident

Russian cities were attacked by telephone terrorists starting on 10 September 2017, for approximately one month. Tens of thousands of people were evacuated because of phone reports of alleged mine planting in public buildings. Shopping centres, railway stations, and other public institutions were affected due to such phone calls. According to the Ministry of Internal Affairs of the Russian Federation, about 150 thousand people overall were evacuated from more than 480 buildings countrywide. For example, in Moscow alone, Kievsky, Yaroslavsky, and Kazansky railway stations, Metropolis shopping centre, Head Department of the Ministry of Internal Affairs, Sechenov Moscow State Medical University, Plekhanov Russian Economic University, and electronics market in Mitino were evacuated over the course of three days.

The FSB opened a criminal investigation for all these facts under Article 207 of the Criminal Code of the Russian Federation (false report of terrorism) (Criminal Code of the Russian Federation of 13 June 1996, 2022). The main assumption of the investigators was a planned attack using IP-telephone services. Having taken the investigative committee's assumption as the basis for the proactive investigation, the private detectives prepared methodological recommendations for searching and identifying anonymous callers, which were taken into account by the Centre for Combating Extremism in its practical activities. (See the letter of the Centre for Combating Extremism, 'On Consideration of the Report by A. E. Krioni', dated 5 December 2017, No. 3/177717072252) (Cabinet of Private Detective Alexander Krioni, 2023).

Source: Detective A. E. Krioni, Russian Federation

The general scheme of proactive private investigation of crimes of an international character is provided in Figure 1.

Step 1. The detective monitors news via the Internet and carries out private business activities—investigations, verbal and written counselling, and electronic correspondence with clients and potential business partners. If the detective finds grounds for opening a criminal case, he/she shall (in accordance with the law) inform the law enforcement agencies and either stop 'monitoring' or continue the 'operational game', depending on the nature of offense. In the second case, the detective secretly takes all possible measures to find the identities of the suspects, identifies the beneficiaries of the illegal transaction, and collects any other case-relevant information.

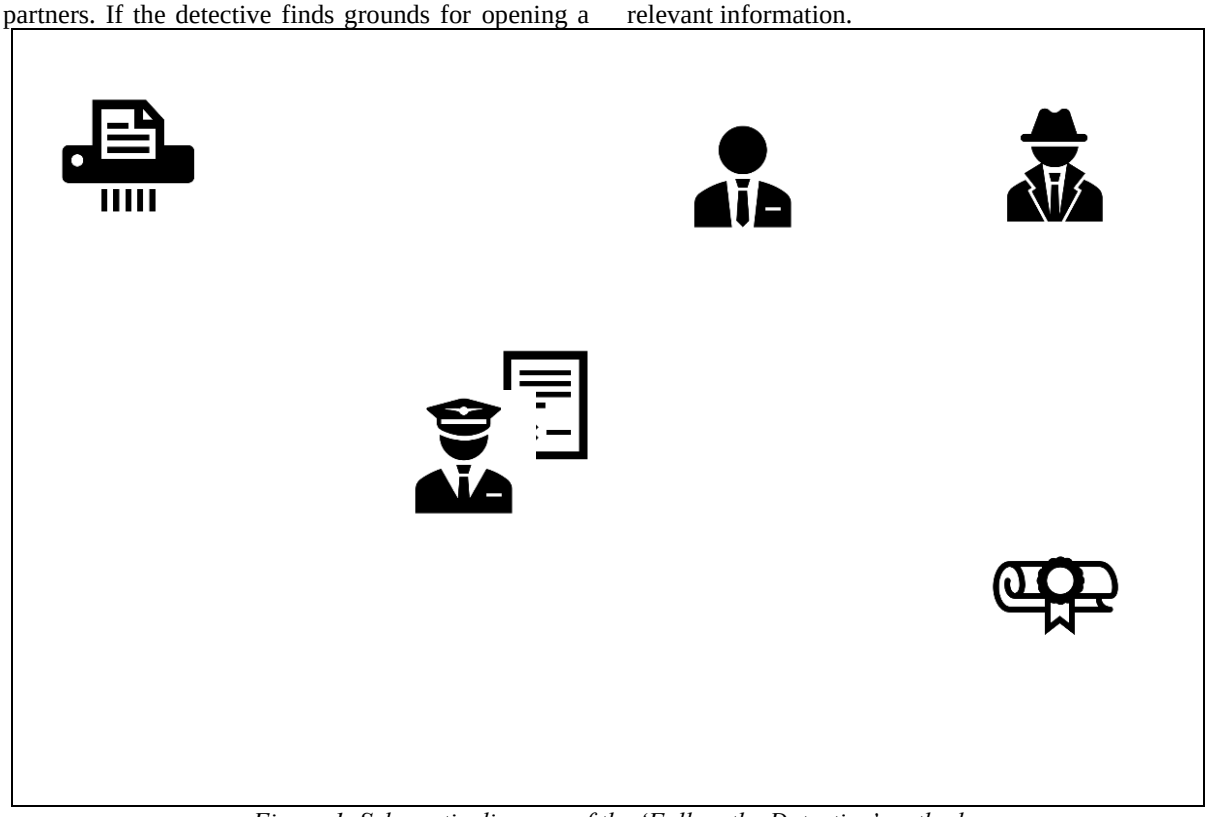

Figure 1. Schematic diagram of the 'Follow the Detective' method

Step 2. If, after two weeks of proactive private investigation, the national law enforcement agencies do not respond, take no action, or refuse to classify the evidence collected by the detective as a criminal offence, but the detective still believes that the threat of an unlawful act persists, the detective shall notify the Interpol bureau in the country of the imminent crime about the evidence discovered in writing.

The 'Follow the Detective' method allows the detective to obtain the information on the perpetrator, as well as the infrastructure used by professional money-launderers, in advance, and, in the long term, to gain control over transactions involving the disposal of criminal assets, which in theory should lead to significant financial and organisational losses to the organised crime. The criminal organisation's financial loss will result in an inability to fulfil its obligations to criminal clients and will render its further activities impossible.

Given the difficult process of recording the offence and subsequent collection of evidence, the need to use multiple sources of information, and the high resource intensity of such cases, it is recommended that national law enforcement agencies amend the early stages of the investigation methodology by adding the step of asking a detective to provide his/her own information about the signs of the detected crime.

The creation of a unified transnational database maintained by the detective communities in conjunction with the interested international law enforcement agencies would be particularly effective in such a case. In order to identify abnormal and questionable activities that may indicate organised crime, law enforcement agencies can use intelligence and analytical data that are proactively collected by detectives.

Conclusion

To coordinate the work of detectives, it is advisable to establish a specialised public–private partnership with the Interpol NCB with a main headquarters and representative offices in the participating countries. For example, the information retrieval system for exchanging significant evidence, which is being created at the initiative of the detective community, contains information on all private investigations and enquiries in the Russian Federation with a search depth since 1998.

The participation of detectives in international crime-fighting cooperation, as well as providing Interpol with direct access to the databases of private investigators, will contribute to the timely detection and suppression of certain types of criminal offences.

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