

Секція 7

ЗАРУБІЖНИЙ ДОСВІД ДІЯЛЬНОСТІ ПРАВООХОРОННИХ ОРГАНІВ З ПРОТИДІЇ ЗЛОЧИННОСТІ

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STATE BUREAU OF INVESTIGATION IN UKRAINE AND FEDERAL BUREAU OF INVESTIGATION IN USA: COMPARATIVE ANALYSIS

On November 12, 2015, the Law of Ukraine «On the State Bureau of Investigation» was adopted in Ukraine, according to which the State Bureau of Investigations (hereinafter referred to as the SBI) is the central organ of executive power with a special status investigating certain crimes. Since the institute is new, the selection of personnel continues, it has not yet been able to show its effectiveness, but it is possible to make a formal comparison of the State Investigation Bureau of Ukraine and the known all over the planet of the Federal Bureau of Investigation of the United States (hereinafter referred to as the FBI).

Article 5 of the Law of Ukraine «On the State Bureau of Investigation» defines such DBB. Yes, the State Bureau of Investigations solves the problem of preventing, detecting, terminating, disclosing and investigating:

1) crimes committed by officials who occupy a particularly responsible position in accordance with part one of Article 9 of the Law of Ukraine «On Civil Service», persons whose positions are classified in the first — third categories of civil service positions, judges and law enforcement officers, except cases, when these crimes are attributed to the testimony of detectives of the National Anti-Corruption Bureau of Ukraine;

2) crimes committed by officials of the National Anti-Corruption Bureau of Ukraine, Deputy Prosecutor General — the head of the Specialized Anti-Corruption Prosecutor's Office or other prosecutors of the Specialized Anti-Corruption Prosecutor's Office, except when the pre-trial investigation of these crimes is attributed to the investigation of detectives of the internal control unit of the National Anti-Corruption Bureau of Ukraine;

3) crimes against the established order of service of military service (war crimes), in addition to crimes stipulated by Article 422 of the Criminal

Code of Ukraine (Про державне бюро розслідувань : Закон України від 12.11.2015 р. № 794-VIII. URL: <https://zakon.rada.gov.ua/laws/show/794-19>).

Therefore, as seen from the Law, the SBI investigates corruption and war crimes (with some exceptions). Nowadays there is a conflict in the legislation in distinguishing between SBI and other anti-corruption bodies. Moreover, the creation of a new anti-corruption body in the functioning of many such (National Anti-Corruption Bureau, National Agency for the Prevention of Corruption, specialized anti-corruption prosecutor's office, security service of Ukraine, military prosecutor's office) may be due only to mistrust of these bodies due to their inefficiency and hope for change through introduction of a new body. On the other hand, the new body can effectively prevent its crime from being carried out by the state bodies that are under investigation, but at a lower level of corruption in Ukraine it would be inappropriate to create it.

As for the FBI, it has a long history, which begins on July 26, 1908. For many years, the existence and hard work of the FBI has earned a brilliant reputation on a world scale.

The main objective of the FBI is to protect and protect the United States, to support and apply the criminal laws of the United States and to provide guidance and criminal justice services for federal, state, municipal and international agencies and partners.

Currently, the FBI has the following functions:

- United States protection from terrorist attacks;
- protection of the United States from operations of foreign intelligence and espionage;
- protection of the United States from cyber-attacks and high-tech crimes;
- the struggle of the public with corruption at all levels;
- protection of civil rights;
- fight against transnational / national criminal organizations and enterprises;
- the fight against significant violent crime;
- support for federal, state, local and international partners, etc. (Mission & Priorities: Federal Bureau of Investigation. URL: <https://www.fbi.gov/about/mission>).

Thus, the scope of the FBI is much wider, and the structure is accordingly complex and multifaceted. The FBI has 8 departments (senior staff, director's office, assistant directors, criminal cases and cybernetics, intelligence, science and technology, information technology, personnel), there are 56 FBI departments with the appropriate structure in the United States (may be small differences due to differences in legislation in different states).

Consequently, in comparison with the FBI, SBI is a newborn body created in Ukraine specifically for the investigation of corruption and other crimes. The opinion that the creation of the SBI is inappropriate due to the functioning of a number of similar institutions (NABU, SSU, police) is rather widespread. On the other hand, if in Ukraine, the SBI functioned like the FBI and there would be no other anti-corruption bodies, nobody would have been investigated in the event of the corruption committed by the SBI employees. Therefore, new ways to fight corruption and other crimes should be sought, first of all — to raise citizens' legal awareness, to pay special attention to children.

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ПОРІВНЯЛЬНО-ПРАВОВИЙ АНАЛІЗ ДЕРЖАВНОГО БЮРО РОЗСЛІДУВАНЬ В УКРАЇНІ ТА ОРГАНІВ, ЩО ЗДІЙСНЮЮТЬ ДОСУДОВЕ РОЗСЛІДУВАННЯ, У США, ФРН ТА ВЕЛИКОБРИТАНІЇ

В умовах розвитку соціальної та правової держави на перший план виходить захист прав і свобод людини і громадянина від незаконних посягань. Для забезпечення такого захисту необхідним є утворення системи органів, які здійснюють ефективне досудове розслідування кримінальних правопорушень, притягнення винних осіб до відповідальності та вживають заходів для попередження таких правопорушень.

З моменту утворення в Україні Державного бюро розслідувань у 2018 році було завершено формування цілісної системи органів, що здійснюють досудове розслідування. Відповідно до норм ст. 216 Кримінального процесуального кодексу України досудове розслідування кримінальних правопорушень здійснюють слідчі органів Національної поліції; слідчі органів безпеки; слідчі органів, що здійснюють контроль за додержанням податкового законодавства; слідчі органів державного бюро розслідувань; детективи Національного антикорупційного бюро України; слідчі органів Державної кримінально-виконавчої служби України (Кримінальний процесуальний кодекс України: Закон України від 13 квітня 2012 року № 4651-VI // Відомості Верховної Ради України. 2013. № 9–10, 08.03. С. 474, ст. 88). Та-