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METHODOLOGICAL PARTICULARITIES IN INVESTIGATING
THE INVOLVEMENT OF PUBLIC OFFICIALS IN THE ILLEGAL PRACTICE
OF ENTREPRENEURIAL ACTIVITY

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Summary

This article analyzes the methodological particularities of investigating the involvement of public officials in the illegal practice of entrepreneurial activity, with a focus on the regulatory framework and investigative practices in the Republic of Moldova. It highlights concealed forms of involvement, specific criminal typologies, relevant evidentiary sources, dissimulative behaviors, and institutional difficulties that impact the effectiveness of criminal investigations. Based on doctrinal and practical analysis, the paper formulates concrete proposals aimed at strengthening investigative tactics and improving the national legal framework.

Keywords: public official, entrepreneurial activity, incompatibility, abuse of office, proxy, investigation methods, conflict of interest, corruption.

Introduction. The investigation of offenses committed by persons holding positions of responsibility in the context of the illegal practice of entrepreneurial activity requires a complex methodological approach, situated at the intersection of criminal law, administrative offense law, and public integrity norms. Since such acts are typically committed in a concealed manner and benefit from an appearance of legality, traditional investigative methods must be adapted to reveal the actual relationships between the public official and the economic activity conducted under the guise of other entities.

This phenomenon is often linked to other forms of unlawful conduct, such as influence peddling, bribery, conflicts of interest, or abuse of office. From a criminalistics perspective, there is a noticeable trend of concealing direct involvement through third parties – relatives, proxies, former colleagues – who are formally listed as founders or administrators of the respective business entities. In such cases, the investigation is oriented towards analyzing relationships of control and benefit, rather than focusing solely on ownership structures.

Discussions and results obtained. In the Republic of Moldova, the incompatibility regime for persons holding positions of responsibility is regulated by several normative acts, especially Law No.158/2008 on the public function and the status of the public serv-

ant [1], and the Integrity Law No. 82/2017 [2]. These provisions aim to prevent conflicts of interest and ensure integrity in the public service [3, 49-53].

According to Article 25 of Law No.158/2008, public servants are prohibited from:

– Engaging in entrepreneurial activity, except for holding the status of founder of a commercial company, provided that the company’s field of activity is not directly or indirectly related to the duties exercised as a public servant, according to their job description;

– Favoring, by virtue of their position, the entrepreneurial activities of natural or legal persons;

– Engaging in other remunerated activities under an individual labor contract or any other civil contract within commercial companies, cooperatives, state or municipal enterprises, as well as nonprofit organizations from the public or private sector, whose activity is subject to the control, subordination, or competence of the authority where they are employed, etc.

Law No.288/2016 on the status of public servants with special status within the Ministry of Internal Affairs [4] stipulates that “a public servant with special status is not allowed to engage in entrepreneurial activities, except for holding the status of founder of a commercial company, nor to facilitate, by virtue of their position, the entrepreneurial activities of natural or legal persons”.

According to paragraph 2 of Article 241 of the Criminal Code of the Republic of Moldova [5], the illegal practice of entrepreneurial activity is punishable when committed with the use of one’s official position, with the use of such a position being considered an aggravating circumstance. Similar offenses are also punishable in other countries [6, p.45-48].

The incompatibility regime in the Republic of Moldova is designed to ensure the integrity and impartiality of public officials by preventing situations in which they may have personal interests that could influence their professional decisions or activities.

The illegal practice of entrepreneurial activity by public officials is typically not an isolated offense. It is frequently combined with, or preceded by, acts such as influence peddling, where the official exploits their position to obtain economic benefits for a company they control; bribery, when the official pressures business partners to provide advantages in the context of public contracts; abuse of office, when documents contrary to the law are issued for personal benefit or for the benefit of an affiliated commercial entity; and undeclared conflicts of interest, which give rise to related criminal or administrative offenses, as well as institutional vulnerabilities.

A common mechanism used to avoid legal sanctions is the use of “proxies” – individuals who are officially listed as founders, shareholders, or administrators of commercial entities but who do not actually exercise control. Among the most frequently used proxies are spouses, children, or other close relatives, trusted colleagues or former employees of public institutions, as well as unemployed individuals or persons with low levels of education, who accept the formal role of administrator in exchange for symbolic benefits, and so on [7, p.153-158].

This strategy of concealing real influence relationships is recognized as a typical feature of white-collar crime and serves to reduce the risk of detection through standard control mechanisms (inspections by the National Integrity Authority [8, p.16-17], internal audits, investigations by the National Anticorruption Center).

An analysis of the investigative practices of the National Anticorruption Center and

the Anticorruption Prosecutor's Office reveals several criminalistics patterns:

1. The “contract with one's own firm” typology – where the official, via intermediaries, signs contracts between their public institution and their own company, sometimes bypassing procurement procedures. In this scheme, the public servant awards public contracts to a commercial entity they effectively control, yet masked by proxies (spouse, relatives, acquaintances). The official uses either simplified procedures or informal influence over evaluation committees to steer procurements. Characteristics include: the winning firm is not officially linked to the official, but is de facto managed by them; quoted prices are sometimes unjustifiably high; the company's economic activity is often limited exclusively to contracts with the very institution where the official works. Example (hypothetical, inspired by case practice): a Section Chief in a district social assistance department sign, via simplified procurement, a contract for food supplies with a firm formally run by his brother-in-law. The company was founded only two months before the bid and has only one client – the public institution. The procurement occurs without consulting other offers, and deliveries are of poor quality. The National Anticorruption Center's investigation reveals that the official prepared the procurement decisions, and the firm's administrator had no real control over operations.

2. The “consultant-official” typology – where the official provides consulting or expert services to private firms in exchange for disguised commissions, even though this contravenes the incompatibility regime. This involves the public official offering “consulting services” or “strategic support” to private companies, often in the same field in which they officially work. Even without signing formal agreements, the official shares confidential information or uses their influence to help firms obtain contracts, licenses, or authorizations. Typical indicators include: masked income through fictitious civil contracts (e.g., drafting services, market analysis), the official effectively mediates access to favorable decisions, and these activities often go undeclared in asset and interest declarations. Example: An environmental protection agency specialist is “unofficially” employed by a construction firm to facilitate environmental authorization. In return for a monthly sum disguised as payment for “ecological consultations”, the official provides guidance on avoiding negative reviews and influences the commission's final decision. CNA investigation proves that the consultancy reports were copied from the internet, and the income was not declared.

3. The “decision-maker partner” typology – where the official facilitates contracts with indirectly controlled partner firms, granting them wins from public funds or preferential access to resources. Here, the official is not the founder or consultant, but a decision-maker (e.g., mayor, institution director, division head) who favors partner firms – either through contracts or by providing administrative advantages. The official's benefits may be indirect: commissions, hiring of relatives, firm-paid vacations, etc. Characteristic elements: involvement is indirect, but visible through acts and benefits obtained; the firms have economic or social ties to the official (donors, sponsors, etc.) and are repeatedly favored by that institution. Example: a mayor repeatedly awards road maintenance contracts to a firm whose administrators are party comrades. Even though tenders are held annually, qualification criteria are drafted so that only that firm can meet them. The firm, via an intermediary, pays for the mayor's vacations and sponsors a sports team run by his son. Based on wiretaps and witness statements, CNA officers confirm the indirect link and conclude the existence of a criminal agreement.

Among the enabling factors for this type of crime are privileged access to confiden-

tial information (e.g., public procurement plans), a decision-making position that allows influencing contract award procedures or obtaining permits, insufficient internal control and audit in public institutions, and the inefficient operation of asset and interest declaration regimes, which makes it difficult to detect unjustified accumulation of assets.

To prove the effective involvement of a public official in an activity prohibited by law, law enforcement agencies must adopt a multidisciplinary approach based on integrated analysis of information from administrative, fiscal, digital, and human sources. In the context of role concealment through intermediaries or contractual mechanisms, identifying economic, decision-making, and behavioral links becomes essential. The main categories of sources and methods used are:

1. Public registers and institutional information. State institutions provide access to official data concerning ownership and the status of founder or administrator, which can reveal hidden economic relationships. The State Register of Legal Entities reveals the founders and administrators of companies. Even if the public official does not appear directly, the analysis of repeated changes in shareholders or presence of relatives or close individuals may indicate masked involvement. The Public Services Agency – Cadaster Directorate allows verification of real estate registered in the names of the official or their relatives – searching for recent transfers, donations, or inexplicable purchases. The State Transport Register is useful for detecting valuable vehicles used by the official but registered under companies or other persons. Example of use: if the official uses a “premium” car daily, registered in the name of a company administered by a second-degree relative, there are indications that the company is informally controlled by that official.

2. Fiscal and financial information. Cooperation with the State Fiscal Service is essential to obtain accounting statements of firms suspected to be controlled by the official, income declarations of related persons, commercial transactions that may raise suspicions between firms and public institutions, and truncated or unjustified tax reports relative to actual activity. These can be corroborated with commercial bank data, under judicial authorization, to verify monetary flows and possible cash withdrawals, payments to relatives, or “masked payments”. Example of use: company X, administered by the official’s son-in-law, declared zero profit for three years despite receiving significant public contracts. Bank analysis shows funds were withdrawn in cash by the son-in-law and immediately used for real estate purchases where the official actually lives.

3. Communications interception and technical surveillance. Authorized telephone and electronic communications interceptions [9] can reveal informal orders given by the official to administrators or employees, negotiations personally conducted by the official in the name of the firm, instructions to falsify documents or hide information from control bodies. Additionally, video and environmental surveillance (in offices, company premises, public locations) provides indications of the official’s active presence in the decision-making process of an economic entity.

4. Witness statements and human sources. An essential role is played by the employees of the involved companies, who can confirm that the public official is in fact the one making business decisions; collaborators from the public institution, who may report favoritism or pressure; and personal acquaintances, who can provide details about lifestyle, undeclared income, or operational methods. Example of use: an accountant testified that although documents were signed by the administrator, all major economic decisions were made by official X, who also attended meetings with suppliers.

5. Document analysis. The criminal investigation must include commercial con-

tracts, addenda, invoices, payment orders, email correspondence between the official and business collaborators, meeting minutes, or internal documents showing the official's involvement in business activities [10, p.49-60], as well as promotional materials, catalogs, or websites where the official appears unofficially. These documents can be obtained through searches or by seizing documents from third parties (e.g., IT companies, banks, suppliers). Example of use: on the official website of a construction service company, the "About Us" section displays a photo of official X and describes him as "the founder of our vision". Officially, the company is owned by another person.

6. Examination of the official's lifestyle. One of the indirect but highly effective methods for identifying hidden involvement in economic activities is the analysis of the official's lifestyle in relation to their declared income. Key indicators include: acquisition of high-value assets (cars, houses, luxury items), frequent foreign travel, exotic vacations, participation in expensive events, high living expenses (private schools, costly medical treatments, leases, elite clubs). These elements are compared to official income, and any discrepancies may indicate involvement in illegal or undeclared economic activity. Example of use: a mid-level official declares a modest annual salary but lives in a recently renovated villa, drives a premium vehicle, and sends their children to an international private school. Documenting these expenditures through legal methods (open sources, tax findings, witness testimony) helps build the forensic hypothesis of either illicit enrichment or involvement in illegal entrepreneurial activity [11, p.10-15].

7. Verification of asset and interest declarations. The annual asset and interest declarations submitted by public officials and verified by the National Integrity Authority (ANI) are essential tools for uncovering evidence: intentional omissions of assets held through proxies, failure to declare income from consulting, rent, dividends, or undeclared conflicts of interest involving companies with contracts with the public institution.

These declarations must be compared against public registry data, bank statements, company documents, and the declarations of other family members. Example: ANI finds that a public official failed to declare a 1.5 ha agricultural plot, purchased via a company whose sole associate is a brother living abroad. It is later proven that the land is cultivated for the benefit of the official.

8. Analysis of relationships and social networks. In the digital age, social media profiles and the relational network of the official can provide valuable, even if indirect, information: photos taken at locations affiliated with investigated firms, frequent interactions with individuals involved in economic activities, posts reflecting high financial status, or "friendly" connections with individuals appearing on the boards of commercial entities. While such information does not constitute evidence in itself, it can guide the investigation or confirm already formulated hypotheses. Example: Public posts show that the official regularly participates in promotional events of a construction firm, which repeatedly wins tenders organized by the institution where the official works.

9. Interinstitutional cooperation. Combating these types of offenses and infractions requires strategic cooperation among several control and investigative bodies: CNA (National Anticorruption Center) – for investigating the offense and conducting criminal procedure acts, National Integrity Authority (ANI) – for identifying incompatibilities and conflicts of interest, State Tax Service (SFS) – for analyzing financial flows and income declarations, Public Services Agency (ASP) and State Registration Chamber (CIS) – for information on properties and company structures, Office for the Prevention and Combating of Money Laundering – for identifying suspicious transactions.

The lack of a shared data platform and institutional interoperability remains a major obstacle to the rapid documentation of facts. Example of best practice: in a 2023 corruption case, the CNA launched a criminal investigation in parallel with ANI, and the SFS provided accounting statements proving that a company associated with a public official received over 1.2 million MLD from a public contract. The consolidation of this data led to the official being indicted.

Investigating the involvement of public officials in the illegal practice of entrepreneurial activity in the Republic of Moldova, as well as in other activities leading to illicit enrichment, faces numerous challenges stemming from both legal loopholes and institutional or operational deficiencies of law enforcement. These shortcomings reduce the effectiveness of criminal prosecution and, in some cases, facilitate impunity.

Although Article 241(2) of the Criminal Code of the Republic of Moldova criminalizes the illegal practice of entrepreneurial activity involving abuse of office, several practical issues arise:

- The notion of “abuse of office” is not clearly defined, although it is listed as an aggravating factor in 39 distinct offenses;
- The absence of a distinct criminalization of involvement through proxies allows public officials to avoid criminal liability by claiming they are not founders, administrators, or signatories of official documents;
- There is no sufficiently severe sanctioning regime for individuals who agree to act as proxies, even though they contribute to the concealment of criminal acts;
- The lack of interoperability between the IT systems of institutions (ASP, CIS, ANI, CNA, SFS, Ministry of Internal Affairs) prevents real-time data analysis.

Procedural obstacles in criminal investigations include: difficulties in obtaining authorization for wiretapping or bank data without direct preliminary evidence, the necessity of corroborating indirect evidence (surveillance, witnesses, partial documents) in the absence of official recognition or involvement, increasing the risk of case dismissal, delayed responses from partner institutions, especially those with critical data on money flows or corporate structures.

Investigating the involvement of public officials in the illegal practice of entrepreneurship and other activities that lead to illicit enrichment requires a complex, integrated approach adapted to the realities of the Republic of Moldova. This type of administrative-economic crime is marked by a high degree of concealment, the use of proxies, exploitation of legislative loopholes, and increasingly sophisticated evasion methods. Without systemic and multidisciplinary intervention, such acts often go unpunished, severely undermining public trust in government and justice.

The hidden participation of officials in business activities constitutes a form of administrative corruption with systemic risk. The investigation requires the corroboration of indirect evidence and the use of special investigative techniques, yet current legislation does not always provide effective tools to sanction proxy involvement or the abusive use of influence.

Criminalistics recommendations: develop a specialized criminalistics guide for investigating public officials’ incompatibilities, with emphasis on behavioral, relational, and financial analysis, strengthen the investigative capacities of the CNA and prosecutors through continuous training in economic-financial analysis, conflict of interest cases, and undercover techniques, develop methods to identify informal control by correlating data from administrative, fiscal, and social sources.

Legislative recommendations: introduce a distinct criminal offense for involvement

in economic activities through proxies by public officials, regulate criminal or administrative liability for individuals who act as proxies to evade incompatibility rules, extend the sanctioning regime for officials who intentionally omit to declare relevant personal and economic interests.

In conclusion, combating the illegal involvement of public officials in business activities requires more than just the enforcement of criminal norms. It demands an integrated vision focused on prevention, prompt reaction, and proportional sanctioning – built on a modern institutional infrastructure, clear legislation, and a public service culture of integrity.

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