

PECHERSKYI DISTRICT COURT OF KYIV CITY

Case No.: 757 / 13840 / 20-k

ORDER OF THE COURT

IN THE NAME OF UKRAINE

On April 21, 2020, the investigating judge of the Pecherskyi district court of Kyiv city S. V. Vovk, in the presence of the Court clerk O. O. Brachun having examined in a public court hearing in the courtroom in Kyiv city the bill of complaint of Teleshetskyi Oleksandr Ivanovych executed in the interests of Shokin Viktor Mykolaiovych about the inaction of the Office of the Prosecutor General, which consists in not entering of information about a criminal offense in the Unified register of pre-trial investigations after receiving a statement on the commission of a criminal offense.

THE COURT DETERMINED THE FOLLOWING:

Teleshetskyi Oleksandr Ivanovych in the interests of Shokin Viktor Mykolaiovych appealed to the Pecherskyi district court of Kyiv city with a complaint under subparagraph 1 of Paragraph 1 of Article 303 of the Criminal procedure code of Ukraine about the inaction of the Office of the Prosecutor General, which consists in not entering of information about a criminal offense in the Unified register of pre-trial investigations after receiving a statement on the commission of a criminal offense dated March 26, 2020.

Teleshetskyi Oleksandr Ivanovych states in the bill of complaint that the investigator I.A. Koveza in execution of the decision of the investigating judge of the Pecherskyi district court of Kyiv city I.V. Lytvynova dated February 06, 2020 violated the requirements of the Paragraph 1 of Article 214 of the Criminal Code of Ukraine and Paragraph 2.1 of the Regulations on the procedure for conducting the Unified register of pre-trial investigations approved by the order of the Office of the Prosecutor General of Ukraine (Prosecutor General's Office of Ukraine) No. 139 dated April 06, 2016, due to the incomplete introduction to the section of the Register, namely: "summary of circumstances that may indicate a criminal offense" information from the statement of Shokin Viktor Mykolaiovych dated January 28, 2020. Thus, in this section, there is no second name, first name and patronymic of a citizen of the United States of America, who, according to words of Shokin Viktor Mykolaiovych, committed unlawful interference in his activities as the Head of the Office of the Prosecutor General of Ukraine (Prosecutor General's Office of Ukraine).

At the same time in the statement of Shokin Viktor Mykolaiovych dated January 28, 2020 specifically states the commission of this criminal offense against him by a non-abstract US citizen, but the former US Vice President Joseph Biden, and provides a summary of the facts (summary of circumstances) of the abovementioned criminal offense. Thus, in the statement of Shokin Viktor Mykolaiovych, the US citizen who committed this criminal offense is clearly identified.

In addition, the decision of the investigating judge of the Pecherskyi district court of Kyiv city I.V. Lytvynova dated February 06, 2020 obliges officials of the State bureau of investigation to enter into the Unified register of pre-trial investigations all, but not selectively, information from the statement of Shokin Viktor Mykolaiovych dated January 28, 2020 on the commitment of a criminal offense.

On March 10, 2020, a bill of complaint was sent to the Office of the Prosecutor General of Ukraine (Prosecutor General's Office of Ukraine), whose prosecutors are conducting procedural management in this criminal proceedings, against the actions of the investigator № 307-k / 00299 / 2019-3263, the operative part of which contained a request to include in the summary of circumstances of Unified register of pre-trial investigations information that may indicate the commission of a criminal offense under Paragraph 2 of Article 343 of the Criminal procedure code of Ukraine on the criminal proceedings No. 62020000000000236 dated February 24, 2020, on interference in the activities of the former Prosecutor General of Ukraine Shokin Viktor Mykolaiovych performed by citizen of the United States of America Joseph Biden, former US Vice President.

On March 25, 2020 by the letter No. 31/2-/1-46vyh-20 (31/2-/1-46бух-20) dated March 17, 2020 signed by the prosecutor of the First department of procedural management of the Second department of organization and procedural management of pre-trial investigation carried out by the investigators of the Central office of the State Bureau of investigation of Office of the Prosecutor General of Ukraine (Prosecutor General's Office of Ukraine) Herasim S. Y., was reported on the consideration of the bill of complaint and, in particular, it was stated that the investigator's actions to enter incomplete information in the Unified register of pre-trial investigations could not be appealed during the pre-trial investigation, and accordingly no additions to the Unified register of pre-trial investigations on identifying the US citizen would be made.

Moreover, he requests the Office of the Prosecutor General of Ukraine (Prosecutor General's Office of Ukraine), according to the applicant, to provide information on the criminal offense to the Unified register of pre-trial investigations and to initiate a pre-trial investigation.

The person who filed the bill of complaint did not appear at the court hearing, and such person was duly notified about the consideration of the bill of complaint.

The rule of impossibility to consider complaints in accordance with Article 303 of the Criminal procedure code of Ukraine provides for the mandatory participation of such person, however, the court received a statement from the lawyer Teleshetskyi Oleksandr Ivanovych on consideration of the bill of complaint in his absence, he supports the claims, asks to satisfy such claims, taking into account the procedure for consideration of this category of complaints (claims), the investigating judge concluded that the bill of complaint shall be considered in the absence of the person who filed it.

A representative of the Office of the Prosecutor General of Ukraine (Prosecutor General's Office of Ukraine) did not appear at the court hearing. Such person was duly notified about the date, time and place of consideration of the bill of complaint.

According to the Paragraph 3 of Article 306 of the Criminal procedure code of Ukraine, the absence of an investigator or prosecutor is not an obstacle to the consideration of the bill of complaint.

The investigating judge having examined the materials of the bill of complaint and the documents attached to it, comes to the following conclusion.

The court found that Teleshetskyi Oleksandr Ivanovych in the interests of Shokin Viktor Mykolaiovych appealed to the Office of the Prosecutor General of Ukraine (Prosecutor General's Office of Ukraine) with a statement on the commission of a criminal offense dated January 28, 2020 No. 763zkp (763зкп).

According to the Paragraph 1 of Article 214 of the Criminal procedure code of Ukraine, the investigator, the prosecutor immediately, but not later than 24 hours after filing a statement, notification of a criminal offense or after his / her own discovery from any source of circumstances that may indicate the commission of a criminal offense, shall enter the relevant information into the Unified register of pre-trial investigations, as well as to initiate an investigation and 24 hours after entering of such information, to provide the applicant with an extract from the Unified register of pre-trial investigations.

Every person whose rights and freedoms as set forth in the Convention for the protection of human rights and fundamental freedoms are violated has the right to an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting as the officials (Recommendation Rec (2004) No. 6 of the Committee of Ministers to the member states of the Council of Europe, adopted by the Committee of Ministers on May 12, 2004).

Thus, the statement dated January 28, 2020 No. 763zkp (763зкп) contains the summary of circumstances that may indicate the commission of a criminal offense by individuals, the preliminary legal qualification of criminal offenses, in other words, information that is sufficient to enter relevant information into the Unified register of pre-trial investigations and in full, in accordance with Paragraph 5 of Article 214 of the Criminal procedure code of Ukraine.

However, in accordance with the statement of Teleshetskyi Oleksandr Ivanovych dated January 28, 2020 on the commission of a criminal offense, information was not entered into the Unified register of pre-trial investigations in full, so the requirements are defined in the Paragraph 1 of Article 214 of the Criminal procedure code of Ukraine were not executed, which contradicts the provisions of the national legislation.

In such circumstances, the bill of complaint should be satisfied and the competent official of the Office of the Prosecutor General of Ukraine (Prosecutor General's Office of Ukraine) shall be required to enter information

into the Unified register of pre-trial investigations in accordance with the statement on the commission of a criminal offense.

In consideration of the foregoing, guided by the Articles 303, 305, 306, 307, 309, 376 of the Criminal procedure code of Ukraine,

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED BY THE INVESTIGATING JUDGE:

To satisfy the bill of complaint of Teleshetskyi Oleksandr Ivanovych executed in the interests of Shokin Viktor Mykolaiovych about the inaction of the Office of the Prosecutor General of Ukraine (Prosecutor General's Office of Ukraine), which consists in not entering of information about a criminal offense in the Unified register of pre-trial investigations after receiving a statement on the commission of a criminal offense.

To oblige a competent person of the Office of the Prosecutor General of Ukraine (Prosecutor General's Office of Ukraine) who conducts procedural management in criminal proceedings No. 6202000000000236 dated February 24, 2020 to enter information into the Unified register of pre-trial investigations; to enter in the section of the Unified register of pre-trial investigations a summary of facts (summary of circumstances) that may indicate the commission of a criminal offense under the Paragraph 2 of Article 343 of the Criminal procedure code of Ukraine on criminal proceedings No. 6202000000000236 dated February 24, 2020, namely: information on interference in the activities of the former Prosecutor General of Ukraine Shokin Viktor Mykolaiovych performed by citizen of the United States of America Joseph Biden, former US Vice President.

The order of the court may not be appealed.

The investigating judge

(signature)

S. V. Vovk

(Stamp:

/ unreadable /)

*(Official seal: Ukraine * Pecherskyi district court of Kyiv city * Identification code: 02896745)*