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OBSERVATION OF HUMAN RIGHTS AND FREEDOMS IN THE ORGANIZATION OF SILENT INVESTIGATIVE (INVESTIGATIVE) ACTIONS

The issue of human and civil rights and freedoms in the organization of investigative (search) actions is an urgent problem in Ukraine. It is the level of affairs in the field of ensuring human and civil rights and freedoms and their implementation that determines the level of democratic development of the state and society.

Human rights can be called a rather complex and multidimensional phenomenon. At different times, the problem of human rights has invariably remained political and legal, acquired a religious-ethical, philosophical sound. Protection of human and civil rights and freedoms is a very important issue in the law enforcement sphere. In the legal literature, the problem of rights and freedoms was covered in the works of O. Bandurka, E. Didorenko, I. Kozachenko, D. Nikiforchuk, S. Piskun, B. Rozovsky and others who did significant contribution to the formulation of the above. – the problem of citizens' rights is mentioned.

Thus, Part 1 of Article 30 of the Constitution of Ukraine states: «Everyone is guaranteed the inviolability of his home. It is not allowed to enter a person's home or other property, conduct an inspection or search in them other than by a reasoned court decision. Article 31 of the Constitution establishes the secrecy of correspondence of telegraphic correspondence, telephone conversations. Exceptions may be established only by a court in cases provided by law, «for the purpose of preventing a crime or finding out the truth during the investigation of a criminal offense» proceedings, if otherwise it is impossible to obtain information [1]. Provisions indicating the direct effect of the norms set by the Constitution of Ukraine are primarily aimed at ensuring that all state bodies, including employees of the National Police of Ukraine in their inherent law enforcement activities should be based not only on the Constitution but also make decisions accordingly. To the content of these principles.

The key position in criminal proceedings is occupied by man. In procedural terms, it can be a suspect, victim, witness, expert, and in the criminal aspect – the organizer or perpetrator of a criminal offense. A person can be called a complex source of information that acts as a key figure in the pre-trial investigation. In the process of gathering information about a person, his rights and freedoms enshrined in law should not be restricted.

Changes and additions to the content of the CPC of Ukraine have the opportunity to expand the application of such investigative actions that significantly affect the rights and freedoms of citizens guaranteed by the Constitution of Ukraine. These include covert investigative (investigative) actions [2]. Article 246 of the CPC of Ukraine enshrines the right of an investigator, prosecutor, and in cases provided for by this Code, an investigating judge to decide on such actions. The investigator conducting the pre-trial investigation of the crime, or on his behalf authorized authorized operational units that carry out operational and investigative activities, have the right to conduct covert investigative (investigative) actions in cases where information about the crime and the person who committed it can not be obtained in another way [2].

At the same time, the Law of Ukraine «On operational and investigative activities» (Article 8) creates a legal basis for operational and investigative measures that allow operational units to obtain information and other information that helps to solve problems of operational and complete prevention, detection and cessation of crimes, search for criminals [3].

Respect for human rights and freedoms is established by Art. 9 of the Law of Ukraine «On ORD», which states that in the process of operational and

investigative measures are inadmissible human rights and freedoms and the law [3]. This statement is based on a system of state bodies created to respect and ensure the rights and freedoms of citizens of independent Ukraine. Due to its dynamism and ephemerality, the ORD cannot be constantly monitored: it is usually conducted in secret in order to counter criminal acts, so conflicts often arise. Therefore, even minor tactical actions and mistakes in the activities of operatives can lead to serious consequences: casualties among the population, causing moral and material damage, destruction of property, etc.

These provisions speak about the content of respect for human rights and freedoms, which is the basis and enshrined in relation to the legal status of the person, which must be observed by law enforcement officers in organizing covert investigative (investigative) actions and tasks set before them. Must be carried out in accordance with the law. The guarantor of observance of the principles of the rights and freedoms of the citizen is prosecutorial supervision, judicial-departmental control [6, p. 301]. Thus, covert investigative (search) actions of the National Police of Ukraine are strictly regulated by the CPC, although the application of these norms in practice causes many problems that need to be resolved and investigated.

References:

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