International Journal Of Law And Criminology
(ISSN – 2771-2214)
VOLUME 03 ISSUE 11 Pages: 29-33
SJIF IMPACT FACTOR (2021: 5. 705) (2022: 5. 705) (2023: 6. 584)
OCLC – 1121105677
Crossref doi Google Scholar WorldCat MENDELEY

Publisher: Oscar Publishing Services

Journal Website: https://theusajournals.com/index.php/ijlc

Research Article

SOME ISSUES OF LEGAL REGULATION OF OPERATIONAL-SEARCH ACTIVITIES

Submission Date: November 01, 2023, Accepted Date: November 05, 2023,
Published Date: November 10, 2023
Crossref doi: https://doi.org/10.37547/ijlc/Volume03Issue11-05

Khojiev Nabullo Mirtemirovich
Mia Academy Of Criminal Law Senior Teacher Of The Department, Uzbekistan

ABSTRACT

The article discusses the current problems of legal regulation of the grounds for conducting operational-search measures. The author proposes to make amendments and additions to article 15 of the Law "Of the operational-search activity" related to the basics of conducting operational-search activities.

KEYWORDS

Operational search measures, grounds for conducting, reasons, foundations, legal reasons, intelligence search.

INTRODUCTION

The absence of loopholes in laws is of particular importance in the further development of law enforcement practice in our country. Judging from the opinion of the President of the Republic of Uzbekistan, Shavkat Mirziyoyev, "...when talking about the completeness, vitality and direct implementation mechanisms of the laws, it is necessary to emphasize that we still need to do a lot of work in this regard" there are certain loopholes in the laws, which can negatively affect the further development of our country. Therefore, a number of laws are being adopted to fill the gaps in the legislation and further improve each area.

We can include the Law of the Republic of Uzbekistan "On Quick Search Activity" among these. This document was adopted for the purpose of legal regulation of the field of search activity, ensuring the rights and freedoms of citizens in conducting search activities, and creating real legal guarantees of compliance with legality. This law not only serves as a legal guarantee for the implementation of appropriate measures in solving the issues of rapid search activity, but also shows that this activity is of great importance in the prevention, detection and detection of crimes.

In Article 3 of the law, search operation is defined as the activity carried out by the operation units of the state bodies specially authorized by the law by

International Journal Of Law And Criminology
(ISSN – 2771-2214)
VOLUME 03 ISSUE 11 Pages: 29-33
SJIF IMPACT FACTOR (2021: 5. 705) (2022: 5. 705) (2023: 6. 584)
OCLC – 1121105677
Crossref doi Google Scholar WorldCat MENDELEY
Publisher: Oscar Publishing Services

conducting search operations. Also, scientists B.E. Zakirov and V.G. Karimov have expressed the opinion that "the Institute of rapid-search activities is considered the mechanism of implementation of the rapid-search legislation and forms the core, that is, the main part of the law"2. The definition given in the law and the analysis of the opinions of scientists allow us to draw a conclusion that search activity can be carried out only through search activities. As can be seen from the above, conducting rapid search activities is the main component of rapid search activities.

Although conducting rapid search activities is of special importance in the activity of rapid search, the current procedure for conducting rapid search activities does not allow to fully fulfill the tasks specified in the law. The law has the following problems with the implementation of rapid search activities.

First of all, Article 15 of the law is entitled "Grounds for conducting urgent search activities", in which "reasons" are also given as "grounds" for conducting urgent search activities.

Secondly, the grounds for carrying out rapid-search activities defined in this article somewhat limit the possibility of performing tasks such as crime detection in rapid-search practice.

We will see below that in Article 15 of the Law, the "reasons" are given as "grounds" for carrying out rapid search activities. The grounds for carrying out quick-search activities listed in the first part of this article include seven cases, namely 1) the presence of a criminal case; 2) written assignment of inquiry, investigative bodies, instruction and assignment of the prosecutor; 3) if there are no sufficient grounds for initiating a criminal case, the information that has become clear to the bodies carrying out rapid-search activities about the signs of preparation and commission of crimes, as well as the persons involved (related) in the preparation or commission of crimes; 4) availability of information about persons, events, actions (inaction) that threaten the security of a person, society and the state; 5) information about persons who are hiding from investigative bodies and courts, who are evading criminal punishment, missing persons and other persons in the cases provided for by law, as well as about unrecognizable corpses that have become known to the bodies that carry out rapid-search activities; 6) questionnaires received on the basis of international agreements of the Republic of Uzbekistan on cooperation in the field of fighting crime and providing legal assistance; 7) covered the questionnaires of other bodies that carry out rapid-search activities.

These "grounds" are divided into two types, such as actual (true) grounds and legal (official) reasons in the theory of investigative activity3. Current (genuine) grounds mean that there is information about a criminal incident that requires the conduct of rapid-search activities. Legal (official) grounds mean official documents about criminal incidents.

At the same time, in order to better understand the difference between "reasons" and "grounds", we should refer to the criminal process. In the criminal procedure (Article 322 of the Criminal Procedure Code) the difference between "reasons" and "grounds" is indicated, according to which the following are required to initiate a criminal case: 1) applications of individuals; 2) messages of enterprises, institutions, organizations, public associations and officials; 3) messages given by mass media; 4) direct identification of information and traces indicating the commission of a crime by the investigator, investigator, prosecutor, as well as the pre-investigation body; 5) it is established that a confession of guilt is a reason, and information

International Journal Of Law And Criminology
(ISSN – 2771-2214)
VOLUME 03 ISSUE 11 Pages: 29-33
SJIF IMPACT FACTOR (2021: 5. 705) (2022: 5. 705) (2023: 6. 584)
OCLC – 1121105677
Crossref doi Google Scholar WorldCat MENDELEY
Publisher: Oscar Publishing Services

indicating the presence of signs of a crime is a basis for initiating a criminal case.

Based on the above, we should divide the reasons for conducting the search operations mentioned in the first part of Article 15 of the law into two groups, such as "reasons" and "grounds", and include the word "reasons" in the name of this article. The first group includes the officially defined reasons, i.e., the grounds specified in clauses 1-2, 4-7 of the first part of Article 15 of the law, and the second group includes the real grounds, i.e., the most common grounds for conducting rapid-search activities - "if the initiation of a criminal case if there are no sufficient grounds, the information about the signs of preparation and commission of crimes, as well as the persons involved in the preparation or commission of crimes"4 should be included in the bodies carrying out operational search activities. Analysis of this "base" allows us to draw the following conclusion. In order for emergency personnel to have the right to conduct an emergency search, they must first receive information (information) about illegal behavior.

Obtaining information can be direct (for example, an operative receives information during face-to-face communication with a person) and indirect (for example, written applications, messages received by mail, etc.). The information constituting the content of the considered basis can be in a procedural form (for example, a criminal complaint, an interrogation report, etc.) or in a non-procedural form (for example, messages received by fast means).

However, a natural question arises at this point, what should be done if there are no applications, messages and other information of the victims about planned, prepared and committed crimes, i.e., there are no legal grounds? In such cases, from the point of view of legality, the operative does not undertake the duties of detection and (or) prevention of crimes. He also does not have the right to conduct search operations. If there are criminal activities, you can object that there will be information about them. Unfortunately, this is not always the case. There is a category of latent crimes that are described in detail in the criminological literature, are not officially taken into account for certain reasons, are hidden from the competent state authorities5.

This feature is especially characteristic of corruption and economic crimes, such as taking and giving bribes. These crimes are characterized by secrecy. The parties have an interest in the final results of illegal acts and their secrecy. The absence of a request for a bribe or a report (information) about illegal actions means that there is no possibility of the emergence of fast-search legal relations and the implementation of fast-search activities. Because operatives do not have the basis to conduct rapid search activities.

In particular, we can see that the principles of conducting rapid-search activities defined in Article 15 of the Law limit the possibility of performing tasks such as detecting crimes in the practice of rapid-search, when the norms of the existing legislation cause a decrease in the intelligence-search nature of rapid-search activities. This item:

1) it cannot be a basis for conducting intelligence-search activities in order to identify the signs of a crime;

2) does not allow to obtain information about crimes being prepared;

3) does not create conditions for conducting rapid search activities for preventive purposes.

We need to have an idea about this activity in order to connect the considered bases with the essence of the intelligence search activity. This feature is especially

International Journal Of Law And Criminology
(ISSN – 2771-2214)
VOLUME 03 ISSUE 11 Pages: 29-33
SJIF IMPACT FACTOR (2021: 5. 705) (2022: 5. 705) (2023: 6. 584)
OCLC – 1121105677
Crossref doi Google Scholar WorldCat MENDELEY
Publisher: Oscar Publishing Services

characteristic of corruption and economic crimes, such as taking and giving bribes. These crimes are characterized by secrecy. The parties have an interest in the final results of illegal acts and their secrecy. The absence of a request for a bribe or a report (information) about illegal actions means that there is no possibility of the emergence of fast-search legal relations and the implementation of fast-search activities. Because operatives do not have the basis to conduct rapid search activities.

In particular, we can see that the principles of conducting rapid-search activities defined in Article 15 of the Law limit the possibility of performing tasks such as detecting crimes in the practice of rapid-search, when the norms of the existing legislation cause a decrease in the intelligence-search nature of rapid-search activities. This item:

1) it cannot be a basis for conducting intelligence-search activities in order to identify the signs of a crime;
2) does not allow to obtain information about crimes being prepared;
3) does not create conditions for conducting rapid search activities for preventive purposes.

We need to have an idea about this activity in order to connect the considered bases with the essence of the intelligence search activity. Tasks of rapid search activities are carried out through rapid search activities. Depending on the time of their development, type and goal orientation, rapid-research activities constitute stages of the rapid-research process. In the theory of rapid search activity, sequential steps such as rapid search, rapid inspection, and rapid processing are distinguished6.

The basis of the considered operational search activities has a direct impact on the initial stage of the operational search process. The reason for this is that a specific feature of quick search is that a limited number of objects of quick search activities are in contact with known facts and persons. Its main task is to identify unknown crimes and their perpetrators. A quick search can be described as "reconnaissance" conducted in a crime scene or crime-prone facility.

Quick search is often associated with knowledge of quick-search features and criminological signs of certain types of latent crimes. All this makes a logical assumption about the possibility of forming and implementing criminal plans in certain categories of individuals. Determining information of urgent importance in the process of rapid search allows determining the optimal measures for the performance of tasks related to the prevention, elimination or detection of crimes.

Thus, fast search ensures that not only one of the tasks of fast-search activity is performed, but also all of them. Since the lack of official operational information, which is the basis for conducting rapid-search activities, does not allow the authorities implementing rapid-search activities to go to the first stage of the rapid-search process aimed at identifying information about illegal actions, it will not be possible to perform other tasks later.

In this regard, we believe that it is necessary to make changes and additions to Article 15 of the Law "On Rapid Search Activities" in order to ensure the effectiveness of the rapid search stage for the timely detection of hidden crimes and the exposure of the persons who committed them:

- naming this article as "reasons and grounds for transfer of urgent search measures";
- specify "reasons" and "grounds" separately in the text of the article;

International Journal Of Law And Criminology
(ISSN – 2771-2214)
VOLUME 03 ISSUE 11 Pages: 29-33
SJIF IMPACT FACTOR (2021: 5. 705) (2022: 5. 705) (2023: 6. 584)
OCLC – 1121105677
Crossref doi Google Scholar WorldCat MENDELEY
Publisher: Oscar Publishing Services

- introduction of the clause "the need to identify hidden (latent) crimes that are being planned, prepared and committed" as a basis for the first part of the article.

The expression of these proposals in the current legislation serves to ensure the priority principle of human rights, freedoms and legal interests. Creates an effective mechanism for solving the problems of criminal investigation in the legal field and finds solutions to the further tasks of this activity. At the same time, it causes the legal gap in the legislation to be filled.

REFERENCES

1. 1Қонун устуворлиги ва инсон манфаатларини таъминлаш — юрт тараққиёти ва халқ фаровонлигининг гарови. Ўзбекистон Республикаси Президенти Шавкат Мирзиёевнинг Ўзбекистон Республикаси Конституцияси қабул қилинганлигининг 24 йиллигига бағишланган тантанали маросимдаги маърузаси // Халқ сўзи. — 2016. — 8 дек.
2. 2Закиров Б.Э., Каримов В.Г. «Тезкор-қидирув фаолияти тўғрисида»ги қонунда инсон ҳуқуқ ва эркинликларини таъминлаш // Ўзбекистон Республикаси ИИВ Академиясининг ахборотномаси. — 2013. — № 1. -Б. 25.
3. 3Ҳамдамов А.А., Саитбаев Т.Р. ва бошқ. Ўзбекистон Республикасининг «Тезкор-қидирув фаолияти тўғрисида»ги қонунига шарҳ. — Т., 2015. — Б. 101.
4. 4Ўзбекистон Республикасининг «Тезкор-қидирув фаолияти тўғрисида»ги 2012 йил 25 декабрдаги қонунининг 15-моддаси биринчи қисми 3-бандида келтирилган.
5. 5Криминология. Умумий қисм: ИИВ Олий таълим муассасалари учун дарслик / И.Исмоилов, Қ.Р.Абдурасулова, И.Й.Фазилов. — Т., 2015. — Б.64—65.
6. 6Оперативно-рознскная деятельность. 2-е изд., доп. и перераб. / Под ред. К.К.Горяинова, В.С.Овчинского, Г.К.Синилова, А.Ю.Шумилова. — М.: ИНФРА-М, 2004. — С. 408—435.