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THEORETICAL AND LEGAL ANALYSIS OF THE CONDITIONS OF CONDUCTING FAST SEARCH EVENTS

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ABSTRACT

In this state, the concept of the conditional implementation of the operational-rational management system, the principle of ego reliability and principles, the different opinions and shortcomings of the management system, and also the following concepts under the conditions of the operational-system management management, and the basis of the analysis of the theoretical conditions of the management system are presented. operativno-rozysknoy deyatelnosti. Conducted legal analysis, study of the opinions of students and etom napravlenii, a takje razrabotany predlozhenii i rekomendatsii po vlyucheniyu definition of this concept in the Law "Ob operativno-rozysknoy deyatelnosti".

KEYWORDS

Operational investigative activities, conditions for conducting operational investigations, special rules, confidentiality, balance of interests.

INTRODUCTION

Fighting crime is an important and basic task of every state. A human wants to live peacefully and undisturbedly. Where there is peace there is blessing and development[1]. One of the main tasks is the prevention, solving, detection and disclosure of crimes, and a number of responsibilities are assigned to internal affairs bodies in this field. In the fight against crime, the implementation of operational

investigative measures plays a key role. It is important to comply with the conditions of conducting rapid search activities. The Law of the Republic of Uzbekistan "On operational investigative activities" dated December 25, 2012 (Article 16) specifies "Conditions for conducting emergency search activities".

The employees of the IAB, who carry out operational investigative activities in the application of legal norms, allow some shortcomings in conducting activities based on the conditions, essence and principles of conducting operational investigative activities. The purposeless or inappropriate implementation of these activities leads to their illegal implementation in some cases[2]. Therefore, it is necessary to understand and analyze the conditions for conducting operational investigative activities. It will be necessary to consider the concept of the conditions for conducting operational investigative activities in this article of the law.

Legal scholars of the CIS countries, A. U. Shumilov, K. K. Goryainov, V. S. Ovchinsky, G. K. Sinilov, V. I. Zuev, V. G. Bobrov and V. N. Omelin who conducted scientific research on operational investigative activities, gave definitions on this concept.

In particular, A.U. Shumilov defined the concept of the conditions for the implementation of operational investigative activities as follows: "Operational investigative legislation, first of all, is regulated by the law on operational investigative activities, special rules, the strict implementation of which legislates a specific operational investigative activity determines the preparation and implementation, which is aimed at increasing their effectiveness and (or) ensuring compliance with the requirements of the principles of operational investigative activities during their conduct"[3]. It is difficult to agree with this definition, because one of the main features, privacy and conflict of interests between the individual and the society (the state), was not reflected.

According to V.G. Bobrov, the conditions for conducting operational investigative activities are thought to be specific rules aimed at ensuring the effective implementation of these measures, achieving

the goals of solving the tasks of operational investigative activities in strict compliance with the rule of law and other principles of this activity, developed in theory, regulated by legislation and other regulatory legal documents and approved in practice[4]. This definition includes recognition of the supremacy of the law in relation to the above scientists and the fact that it is regulated by it, the goals are achieved through the implementation of operational investigative activities, and most importantly, it is developed from the theoretical side and in practice it is approved, that is, officially approved based on inspection, testing and discussion.[5]. However, the definition does not include the inviolability of personal life and the balance of interests between the individual and the society (state), as the above scientists think.

Conditions for the conduct of operational investigative activities are a special type of rules that guarantee compliance with the principles of operational investigative activities, that are established with the help of operational investigative legislation, ensure the effective implementation of certain operational investigative activities and must be strictly observed.[6]. We can see that the above-mentioned issues are not clarified in this definition.

K.K. Goryainov, V.S. Ovchinsky, G.K. Sinilov and A.Yu. Shumilov in the textbook "Operativno-rozysknaya deyatel'nost'" gave the following understanding of the conditions for conducting operational investigative activities: (in particular, the Federal Law on TQF) These are special rules, the strict implementation of which determines the preparation and (or) implementation of a certain operational investigative activity, increases their effectiveness and ensures compliance with the principles of operational investigative activities in the process of conducting them"[7]. Although we have no objection to the legislative determination of the preparation and conduct of operational investigative

activities of this definition, the relationship arising as a result of the conflict of interests between the individual and the society (state) arising from the privacy of a person and the interests of the society (the state) is not regulated in it.

In this field, it was studied by our Uzbek legal scholars, such as A.A.Khamdamov, T.R.Saitbaev, V.Karimov, S.N.Gordeev, R.N.Rakhimkho'djaev, N.N.Bekmurodov, R.T.Rashidkhodzhaev. In particular, according to R. T. Rashidkhodzhaev and R. N. Rakhimkhodzhaev,[9] it is noted: "Conditions for conducting operational investigative operations should be understood as a set of principles and rules established by law and ensuring a balance between the interests of a person who has the right to privacy on the one hand, and the interests of society interested in effectively fighting crime on the other hand"[10]. The concept in this context was also reflected in works of A.A.Khamdamov[11], and V. Karimov[12].

We agree with the above definition of the conditions for conducting operational investigative activities and would like to make some comments to make it more meaningful and expedient. In the definition, some terms and phrases are unclear and unnecessary words are used.

In particular, of course, based on the essence of these concepts, conditions for conducting operational investigative activities are understood to be a set of basic rules representing connections and relationships, that is, between various events that provide a balance between the interests of a person who has the right to the privacy of his private life, on the one hand, and the interests of society, which is interested in effectively fighting crime, on the other hand.

In addition, taking into account that in the implementation of these conditions, not only certain

principles and rules are followed, but also specific procedures (permitting, agreement, etc.), it is necessary to express the concept of "rule" with the concept of "procedure"[13].

One important point should be emphasized here. In the Article 27 of the new version of the Constitution of the Republic of Uzbekistan, it is indicated "Everyone has the right to freedom and privacy" or in the Article 31, "Everyone has the right to privacy, personal and family secrets, protection of his honor and dignity"[14]. In the requirements of the norm, the phrase "a person who has the right to private life" in the conditions for conducting operational investigative activities should be replaced with "a person with the right to private life". Also, since the definition is about the relationship between the individual and the society, it is not necessary to use the expressions "on the one hand" and "on the other hand" in the definition.

In defining the above concepts and the conditions for conducting operational investigative activities, we will show the specific features of this concept:

1. Operational investigative activities are clearly defined by legislation. That is, according to the Law "On operational investigative activities" (Article 19), it is specified to conduct operational investigative activities, in compliance with the conditions of this law (Article 16).
2. Privacy. It is confirmed in the Constitution of the Republic of Uzbekistan that everyone has the right to privacy, to personal and family secrets, to the protection of his honor and dignity.[14](Article 31).
3. Personal interests. It is stated in the Constitution of the Republic of Uzbekistan that in exercising his rights and freedoms, a person must not harm the rights, freedoms and legal interests of other persons, society and the state.[14](Article 21), and the law states that

the main tasks of operational investigative activity are the protection of human rights, freedoms and legal interests, the property of legal entities and individuals, and ensuring the safety of individuals, society and the state (Article 4).

4. Fight against crime. It is prohibited to establish and operate private organizations, public associations and their divisions that independently carry out operational investigative, investigation and other special tasks in the fight against crime in the territory of the Republic of Uzbekistan.[14]

5. The interests of society considered responsible and competent. Like the above distinctive sign it is confirmed in the Constitution of the Republic of Uzbekistan (Article 146), "It is prohibited to establish and operate private organizations, public associations and their divisions that independently perform operational investigative, investigation and other special tasks in the fight against crime in the territory of the Republic of Uzbekistan[16].

6. Balance between interests. The Constitution of the Republic of Uzbekistan and the Law clearly define the protection of human rights, freedoms and legal interests, the property of legal entities and individuals, as well as ensuring the safety of individuals, society and the state (Article 4).

7. Set of principles and procedures. It is a set of rules (laws) that are the basis for activity, that represent connections and relationships between various events, and constitute the basis.

Based on these specific elements, it is appropriate to define the concept of the conditions for conducting operational investigative activities at the legal level, indicating the following:

The first basis, the reflection of the concept in the law, shows that the norm regulates exactly which relations;

The second basis requires scientific polemics and further research in this field on the basis of the definition at the level of law in providing theoretical knowledge;

The third basis allows practitioners to have an idea of the definition of these conditions while observing the conditions for conducting operational investigative activities;

The fourth basis is that this definition is reflected in the law, which helps to enrich it theoretically and practically.

In order to enrich the concept of the conditions for conducting operational investigative activities and to further reveal its essence, the concept of "Conditions for conducting operational investigative activities" was developed. For this reason, we propose to amend the provisions of part 1 of Article 16 (Conditions for conducting operational investigative activities) of the Law of the Republic of Uzbekistan "On Emergency Search Activities" as follows:

"Conditions for the conduct of operational investigative activities are understood as a set of principles and procedures that provide a balance between the interests of a person with the right to privacy and the interests of society, which is responsible and competent to increase the effectiveness of the fight against crime.

The above definition is more complete, encourages clear interpretation, and forms a unified approach to the consideration of some issues of the theory of operational investigative activity.[17].

In conclusion, it can be said that a number of reforms are being implemented in all spheres of society in order to build New Uzbekistan in our society. In particular, it is stated in the Decree No. PF-60 of the President of the Republic of Uzbekistan dated January 28, 2022 "On the Development Strategy of New Uzbekistan for 2022 - 2026" aims at "Strengthening control over operational investigative and investigation activities, effectively protecting the dignity and freedom of citizens" implementation of effective protection mechanisms." [18].

Therefore, since the adoption of the new version of the Constitution of the Republic of Uzbekistan, in order to prevent misunderstandings between law enforcement agencies, it is necessary to harmonize the normative legal documents with the main law. Because the restriction of correspondence, listening to telephone conversations, mail, electronic and other messages during the implementation of investigative measures is strictly followed by the constitutional norms that are implemented only in accordance with the law and based on the decision of the court. It is specified that the conduct of rapid-search activities aimed at obtaining information about communications between subscribers or subscriber devices through correspondence, telephone conversations and other conversations transmitted through communication networks, courier shipments and telegraphic messages should be carried out only on the basis of a court decision. [19].

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