

comply with the requirements of the law as much as possible and eliminate possible complications during their execution.

### ***References:***

1. Бем М. В., Городиський І. М. Стандарти захисту персональних даних у соціальній сфері. – Львів - 2018. – С. 7-8.
2. Бем М. В., Городиський І. М., Саттон Г., Родіоненко О. М. Захист персональних даних: Правове регулювання та практичні аспекти: науково-практичний посібник. – К.: К.І.С., 2015. – С. 12-20.
3. Bennett C. J. *Regulating Privacy: Data Protection and Public Policy in Europe and the United State* / C. J. Bennett. – Ithaca, NY: Cornell University Press, 1992.

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## **COVERT INVESTIGATIVE (SEARCH) ACTIONS: DEFINITIONS, CLASSIFICATION AND GENERAL CONDITIONS OF REALIZATION**

The main means of forming evidence in criminal proceeding are investigative (search) actions. According to the Criminal Procedure Code of Ukraine, investigative (search) actions are those aimed at obtaining (collecting) evidence or verifying already obtained evidence in a particular criminal proceeding.

The characteristics of investigative (search) actions are the following: they have a cognitive focus on receiving, fixing or verifying evidence; significantly affect the rights of individuals, and therefore some of them have to be agreed with the prosecutor or judge; the procedure for conducting is fixed in the criminal procedural code; if necessary, they are provided under the state coercion.

The main forms of investigative (search) actions are the **covert investigative (search) actions**. In accordance with Article 246 of the Criminal Procedure Code information about the fact and methods of their conduct is not the subject to disclosure.

The determinative characteristic of covert investigative (search) actions is their non-publicity, non-obviousness, confidentiality from primarily from people for which they are conducted.

Confidential nature of these actions facilitates to collect the data about the crime and guarantees safety of participants in criminal proceedings.

The aim of carrying out the covert investigative (search) actions is to search and fix factual data which will be used as evidence during the pre-trial and trial stages of criminal proceedings, as well as to search missing persons or those who are hiding from law enforcement bodies.

According to Part 2 of Article 246 of Criminal Procedure Code, covert investigative (search) actions are carried out only in cases when information about the crime and the person who committed the crime cannot be obtained in the other way, as long as their conduct involves limitation of human rights.

The main features of covert investigative (search) actions are: confidentiality; structurally logical construction of their system depending on the gravity of the crime and the fact of interference in private communication.

The classification of covert investigative (search) actions according to the Criminal Procedure Code includes two main groups: the action that involves the interference in private communication of a person and others covert investigative (search) actions.

Thus audio-, video control of the person, arrest of correspondence, removal of information from transport telecommunication networks, removal of information from electronic information systems are actions that involve interference in private communication of a person.

Among other actions we can name detecting and fixing traces of a grave or especially grave crime, things and documents relevant to their pre-trial investigation; identification and extraction of samples for investigation during the pre-trial investigation of a serious or particularly serious crime; identification of wanted persons; installation of technical means of audio and video control of a person.

The decision to conduct one of the actions has to be made by the investigator, the prosecutor or in special cases - the judge at the request of the prosecutor, or at the request of the investigator agreed with the

prosecutor. The investigator is obliged to inform the prosecutor about the decision to carry out a certain covert investigative (search) action.

In the decision on conducting a covert investigative (search) action, the term of its conduct has to be indicated.

The fixation of the process and the results of the covert investigative (search) actions should be performed in accordance with the general rules for the fixation of criminal proceedings provided for the Code. The main form of fixation is a protocol, which includes the process and the result of the action conducted.

To sum up, we strongly believe that covert investigative (search) actions are significant for the criminal proceeding, as long as they allow authorities to find all the evidence required and to search for missing persons, or those who hide from the bodies of pre-trial investigation and court in order to refrain from serving a criminal punishment.

#### ***References:***

1. Конституція України: чинне законодавство станом на 03 січня 2017 р.: Офіц. текст. – К.: Алерта, 2017.- 80 с.
2. Кримінальний процесуальний кодекс України від 13 квіт. 2012 №4651-VI (зі змінами та доповненнями) [Електронний ресурс]. – Режим доступу: <http://zakon4.rada.gov.ua/laws/show/4651%D0%B0-17>.
3. Погорецький М. А. Проведення негланних слідчих (розшукових) дій та використання їх результатів у доказуванні / М. А. Погорецький // Матеріали всеукраїнської науково-практичної конференції «Актуальні питання досудового розслідування слідчими ОВС: проблеми теорії і практики»: Тези доповідей всеукраїнської науково-практичної конференції (Дніпропетровськ, 18–19 квітня 2013 р.), К.: «Хай-тек Прес», 2013. – С. 186–192.
4. Кримінальний процесуальний кодекс України. Науково-практичний коментар: у 2 т. / О. М. Бан- дурка, Є. М. Блажівський, Є. П. Бурдоль та ін.; за заг. ред. В. Я. Тація, В. П. Пшонки, А. В. Портнова. – Х.: Право, 2012. – Т. 1. –768 с.