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USE OF THE RESULTS OF OPERATIONAL-RESEARCH ACTIVITIES IN CRIMINAL PROCESS

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The use of the results of operational-search activities in criminal proceedings, as one of the problems in the process of proof, is an issue of interest to both legal scholars and practitioners. The issue of using information obtained through operational means as evidence should be resolved primarily based on the requirements of the Criminal Procedure Code.[1], since the procedure for conducting criminal proceedings in the territory of the Republic of Uzbekistan is determined only by the Criminal Procedure Code (Article 1)[2].

Thus, the norms of the Law "On Operative-Investigative Activities," which determine the procedure for conducting operative-investigative measures, are supplemented by:

should not contradict the provisions of the Criminal Procedure Code established by the institution of evidence. In this case, the Law on Operative-Investigative Activities is an auxiliary normative legal act for preliminary investigation bodies in solving crimes (Article 4).

In our opinion, it is necessary to use the results of operational-search activities in criminal cases. Because, although they themselves cannot be procedural evidence, they allow for the identification of the most important evidence in criminal cases.

In the Law on Operative-Investigative Activities (Art. 3) that the results of

[1] Stremoukhov A.V., Ivanov I.A., Use of the results of operational-search activities in criminal proceedings: problems and ways to solve them // Leningrad Legal Journal. 2016. No. 1. C 86.
[2] Criminal Procedure Code of the Republic of Uzbekistan/https://lex.uz/acts/111460 (accessed: 15.09.2022).

operational-search measures conducted in compliance with the conditions of the law may be recognized as evidence after verification and assessment in accordance with the Criminal Procedure Code of the Republic of Uzbekistan, is connected with the requirement of the Criminal Procedure Code of the Republic of Uzbekistan (part 3 of Article 81) that the results of operational-search measures conducted in compliance with the requirements established by law may be recognized as evidence in a criminal case after verification and assessment in accordance with the norms of the code.[3].

The results of operational-search activities, in a procedural sense, are, as a rule, information based on a set of data obtained from various sources and verified by operational means. These data can be both material in paper form, in the form of electronic or other information carriers, and have the character of oral information not formalized as a document.

For example, this information can be reflected in operational-service documents (certificates, reports, acts, etc.), which record the conduct of operational-search measures and are compiled in accordance with departmental regulatory documents; photo, film, audio, and video recording materials obtained as a result of operational-search measures; applications and information received from citizens.[4].

Documents themselves are not the results of operational-search activity, since they reflect the information received by the subject of operational-search activity and record only the results of the actions of this subject. Consequently, the

[3] Law of the Republic of Uzbekistan "On Operational-Investigative Activities" of December 25, 2012 // https://lex.uz/docs/2107763

[4] Law of the Republic of Uzbekistan "On Operational-Investigative Activities" of December 25, 2012 // https://lex.uz/docs/2107763

results of operational-search activities are formed not by the sources of operational documents, but by the information contained in them. In other words, the results of this field are not factual data, but data about facts.

Based on the results of operational-search measures:

- as a basis for initiating a criminal case;
- in the preparation and conduct of investigative actions;
- in the proof of criminal cases;
- in the search for persons who have fled from the inquiry, investigation bodies and the court and are evading serving a sentence, as well as missing persons;
- for conducting other operational-search activities.

The peculiarity of directly determining the signs of a crime as grounds for initiating a criminal case lies in the fact that by the time the relevant documents are drawn up, the totality of factual data indicating the signs of a crime is sufficient for initiating a criminal case. Employees of the body carrying out the pre-investigation check authorized to conduct operational-search measures, if they discover signs of a crime in the course of carrying out this activity, have the right to independently initiate a criminal case without waiting for information from another source, if there are sufficient grounds provided for in Article 322 of the Criminal Procedure Code of the Republic of Uzbekistan.

Since the primary source of information about the commission of a crime must be registered, the results of operational-search measures containing information about the signs of a crime must be summarized in a report addressed to the head of the employee who carried out the measure, and in the documents

attached to it.

The results of operational-search measures must be sufficient to conclude the presence of signs of a crime in the act. Therefore, the full basis for initiating a criminal case is the totality of operational-search information. When a criminal case is initiated by a body carrying out operational-search activities, this set of information may consist of both factual data, which subsequently acquire the status of evidence in the case, and information that is not disclosed and not indicated in the criminal case.

When assessing the legality and validity of the decision to initiate criminal proceedings, the prosecutor is obliged to take into account the entire set of available data.

The current legislation does not exclude the possibility of initiating a criminal case based on the results of operational-search measures carried out by the body conducting the pre-investigation check and recorded only in the documents received from the accompanying persons. However, it is necessary to strive to include information that should be used publicly in primary materials. If a criminal case is initiated by an investigator, the basis for making a decision is operational-search information that can be officially verified.

The use of the results of operational-search measures in the preparation and conduct of investigative actions means the use of these results:

a) when making a decision on the conduct of investigative actions;

b) the possibility of their consideration during the direct conduct of investigative actions.

The principle of the possibility of using operational-search information

when making decisions on conducting investigative actions is established by the Criminal Procedure Code of the Republic of Uzbekistan. The law proceeds from the fact that when expressing the grounds for carrying out investigative actions, the basis for conducting any investigative action is a set of factual (true, substantiated) information that indicates the possibility of achieving certain results, obtaining new information about circumstances relevant to the case. Certain investigative actions (for example, confrontation) are carried out only on the basis of factual data (evidence) available in the criminal case.

The basis for conducting other investigative actions may be a set of evidence and factual data obtained as a result of operational-search measures. For example, according to Article 158 of the Criminal Procedure Code, a search may be conducted if there is sufficient information to believe that "objects significant for the case are located in a certain place," that is, the law does not provide for a search only if there is evidence. Operational-search information may supplement the set of procedural information on the presence in a specific building (premises) or place, in a person, of objects indicating (identifying) the circumstances that are subject to proof in the case. If, for example, a person detained for theft stated that he came to the city from another locality, did not live in the city permanently, and was temporarily staying with acquaintances, then in this case, there will be insufficient grounds for conducting a search of acquaintances' apartments.

Thus, operational-search information that provides sufficient grounds to conclude the presence of weapons of crime, criminally obtained items and valuables, as well as other objects that may be relevant to the criminal case, in any room (other place) or in the home of a person serves as the basis for conducting a

search, if it corresponds (does not contradict) to the circumstances established in the criminal case and does not raise doubts about its reliability.

Similarly, operational-search information can be used to make decisions on conducting inspections, appointing expert examinations, and other investigative actions.

As for the procedural decision on the detention of a suspect, along with evidence, information obtained during operational-search measures is considered as other information that serves as grounds for suspecting a person of committing a crime. Similarly, operational-search data on planned resistance to the investigation, including through evasion of inquiry and investigation, can be used to make a decision on the selection or modification of a preventive measure.

The use of operational-search information in conducting direct investigative actions is mainly tactical. In the course of investigative actions, based on operational information, decisions may be made that do not require formalization in the form of a decision (for example, a decision on a personal search of a person who has entered the room where a search or seizure is being carried out).

Based on the above analysis, we can conclude that one of the problems associated with the results of operational-search measures is its use as evidence in criminal proceedings. Therefore, firstly, to introduce the concept of the results of operational-search measures into operational-search legislation. Secondly, it is advisable to specify in a separate article the procedures related to the use of the results of operational-search measures in criminal proceedings.

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