



## SOME OF THE PROBLEMS OF LEGISLATIVE PROVISION OF OPERATIONAL-SEARCH ACTIVITIES AND THEIR SOLUTIONS

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### ABSTRACT

*The article discusses the actual problems of legislative provision of the basis for conducting operational-search activities. The author made a proposal on amendments and additions to Article 15 of the law "on operational-search activity" on the basis of conducting operational-search activities.*

Proceeding from the opinion of the president of the Republic of Uzbekistan Shavkat Mirziyoyev that "when talking about the completeness, viability and direct implementation of laws, it is necessary to emphasize that we still have to do a lot of work in this regard", the fact is that there are certain gaps in the laws regulating certain spheres, which can adversely affect the further development of. Therefore, a number of laws are being adopted in order to fill the gaps in legislation and further improve each sector.

In particular, we can cite as an example the law of the Republic of Uzbekistan "on operational-search activity", adopted with the purpose of legal regulation of the field of operational-search activity, ensuring the rights and freedoms of citizens in the conduct of operational-search activities, as well as creating real legal guarantees of compliance with the law. This law not only serves as a legal guarantee for the

implementation of appropriate measures to solve the issues of operational-search activity, but also shows that this activity is of great importance in the prevention, detection and disclosure of crimes.

In Article 3 of the law, operational-search activities are defined as activities carried out by operational divisions of state bodies, which are specially authorized by law, through the conduct of operational-search activities. Also scientists B.E. Zakirov and V.G. Karimov: "the Institute of operational-search activities is the core of the law, that is, the main part, which is considered the mechanism for the implementation of operational-search legislation". The definition given in the law, as well as the analysis of the opinions of scientists, allows us to draw conclusions about the fact that operational-search activities can be carried out only through operational-search activities. As can be seen from the above, the conduct of operational-search activities



is the main component of operational-search activities.

Although the conduct of operational-search activities is of particular importance in the operational-search activity, the current procedure for conducting operational-search activities does not allow the full implementation of the tasks specified in the law. There are the following problems associated with the conduct of operational-search activities in the law.

First of all, Article 15 of the law is called "grounds for conducting operational-search activities", in which the reasons for conducting operational-search activities are also given as "grounds".

Secondly, the basics of carrying out these moddada defined operational-search activities will limit the possibility of performing tasks such as crime detection in Operational-Search practice for a while.

We see in the article 15 of the law that the "reasons" for the conduct of operational-search activities are given as "grounds" in the following. The grounds for conducting operational-search activities listed in the first part of this article are seven cases, namely:

- 1) the presence of a criminal case;
- 2) the inquiry, the written order of the investigative bodies, the instruction and assignment of the prosecutor;
- 3) if there are not enough grounds for initiating a criminal case, then it is obvious that the operational-search bodies have information about the preparation of crimes, about the signs of committing, as well as about the persons involved (related) in the preparation or committing of crimes;
- 4) the presence of information about persons, phenomena, actions (inaction) that threaten the security of;

5) information on persons hiding from investigative bodies and the court, persons evading from the criminal punishment, missing persons and other persons in cases provided for by the legislation, as well as the found unrecognized corpses;

6) on the basis of international agreements of the Republic of Uzbekistan on cooperation in the field of Fight Against Crime and provision of legal assistance, received questionnaires;

7) covering questionnaires of other bodies that carry out operational-search activities.

These "grounds" in the theory of operational-search activity are divided into two types, such as valid (genuine) grounds and legal (official) reasons. When referring to the current (true) grounds, it is understood that there is information about a criminal incident that requires the conduct of operational-search activities. As for legal (official) grounds, official documents on joint events are provided.

At the same time, in order for us to better understand the difference between "reasons" and "grounds", we need to turn to the criminal process. In the criminal process (CPC 322-m.) the difference between "reasons" and "grounds" is indicated, according to which for the initiation of a criminal case:

- 1) applications of persons;
- 2) messages of enterprises, institutions, organizations, public associations and officials;
- 3) messages given by the mass media;
- 4) the data and traces that indicate the commission of a crime are determined directly by the investigator, the investigator, the prosecutor, as well as the body that carries out the investigation before the investigation;



5) the reason for the complaint about the neck of the crime, and the data that indicate the presence of signs of the crime, are determined to be the.

We, too, proceeding from the above, should divide the grounds into two groups, such as "reasons" and "grounds", in order to conduct operational search activities, which are listed in the first part of Article 15 of the law, and enter the word "reasons" into the naming of this article. To the first group – the reasons for which it is formally established, that is, the grounds specified in paragraphs 1-2, 4-7 of the first part of Article 15 of the law, and to the second group – the real basis, that is, the most frequent basis for conducting operational-search activities – if there are not enough grounds for initiating a criminal case, then the analysis of this "basis" allows us to draw the following conclusions. In order for operational personnel to have the right to conduct operational search activities, they must first obtain information (information) about illegal behavior.

Receipt of information can be both direct (for example, an operational employee receives information in the process of face-to-face communication with a person) and indirect (for example, written applications, messages received by mail, etc.). The information that constitutes the content of the basis under consideration can be either in a processual form (for example, a criminal record, a statement of inquiry, etc.) or in an unprocessual form (for example, messages received by express means).

In this place, however, a natural question arises, what to do if there are no applications, messages and other information from the victims about the crimes that are planned, prepared

and committed, that is, if there are no grounds specified in the law? From the point of view of legality in such cases, the operative employee does not undertake obligations to identify and (or) prevent crimes. He does not even have the right to conduct operational-search activities. If there are criminal actions, you can express it, saying there will be information about them. Unfortunately, this opinion will not always be correct. There is a category of latent crimes, which are described in detail in the criminological literature, for certain reasons are not considered official, are hidden from competent state bodies.

Especially this feature is inherent in crimes of corruption and economic orientation, for example, obtaining and giving money. These crimes have the property of anonymity. The parties are interested in the final results of illegal actions and their confidentiality. The absence of an application or a notification (information) of illegal actions on the part of which Pora is required means that there is no possibility of the emergence of operational-search legal relations and the implementation of operational-search activities. Because there is no basis for conducting quick search activities in fast-growing employees.

In particular, we can see that the basis for conducting operational-search activities established in Article 15 of the law somewhat limits the possibility of performing such tasks as the detection of crimes in Operational-Search practice, when the existing legislative norms lead to a decrease in the intelligence-search feature of operational-search activity. This article:



- 1) can not be the basis for conducting reconnaissance-search for the purpose of identifying the signs of a crime;
- 2) does not provide an opportunity to obtain information on the crimes under preparation;
- 3) does not create conditions for conducting quick-search activities for prophylactic purposes.

We need to have an idea of this activity in order to connect the basics under consideration with the essence of the search for intelligence activity. The functions of operational-search activities are carried out through operational-search activities. They make up the stages of the operational-search process of operational-search activities, depending on the time, type and purpose of development. In the theory of operational-search activity, sequential stages such as fast-searching, fast-checking and fast-processing are distinguished.

The basis of conducting operational-search activities under consideration will have a direct impact on the initial stage of the operational-search process. This is due to the fact that the peculiarity of quick search is known facts and it consists in the contact of a limited number of objects of operational-search activity with individuals. Its main task is to identify unknown crimes and the persons who committed them. A quick search can be described as "intelligence" conducted in a criminal environment or objects that affect crime. Quick search is often immortalized by the knowledge of operational-search features and criminological signs of some types of latent crimes. All this makes a logical assumption about the possibility of the formation and implementation of criminal plans in certain categories

of individuals. Identifying information of immediate importance in the process of operational search allows the operational search activity to establish optimal measures for the performance of its tasks related to the prevention, elimination or disclosure of crimes. Thus, fast-searching is not one of the tasks of fast-searching activities, but it ensures that all are carried out. Since the lack of official operational information, which is the basis for conducting operational-search activities, does not allow the bodies carrying out operational-search activities to move to the first stage of the operational-search process, which is aimed at identifying information about illegal actions, then it will not be possible to perform other tasks.

In this regard, we consider it necessary to introduce amendments and additions to Article 15 of the law "on operational-search activity" in order to ensure an increase in the effectiveness of the operational-search phase on the timely detection of hidden crimes in the operational-search activity, the disclosure of persons who committed them in the following content:

- as "reasons and basis for conducting operational-search activities";
- separately indicate "reasons" and "grounds" in the text of the article;
- on the basis of the first part of the article, the introduction of the paragraph "the need to identify hidden (latent) crimes that are planned, prepared and committed".

The priority of these proposals will be expressed in the current legislation, human rights, freedoms and legitimate interests will serve to ensure the printing press. By creating an effective framework for solving the problems of operational search activities in the legal field related to the detection of crimes, it will find solutions



to the further tasks of this activity. At the same time, it causes the legal gap in the legislation to be filled.

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