



THE CONCEPT AND CHARACTERISTICS OF OPERATIONAL SEARCH MEASURES

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Abstract: This article discusses the concept and characteristics of operational search measures, the objects of operational search measures, and develops a definition for the concept, objects, and characteristics of operational search measures.

Keywords: operational search activity, operational search measures, characteristics of operational search measures, objects of operational search measures.

In today's era of globalization, new threats and dangers are emerging, and the methods, means, and goals of committing crimes are changing. Taking this into account, in recent years, extensive work has been carried out in our country to improve the system of internal affairs bodies for the early prevention and detection of crimes, as well as for more effective crime prevention[1].

In particular, the adoption of the Law on Operational Search Activities (hereinafter referred to as OSA) serves to further increase the effectiveness of work in this area. Prior to the adoption of this law, "operational search measures" were regulated by departmental regulatory legal acts (orders, instructions, manuals) [2], with only certain general rules for conducting operational search measures established by the Criminal Procedure Code (hereinafter - CPC) [3]. For the first time, the law allowed citizens to familiarize themselves with the types of operational search measures, the grounds and conditions for their implementation, including circumstances that restrict their rights.

Operational search activity is a type of activity carried out by operational subdivisions of state bodies, specially authorized by law, in conjunction with operational search measures using overt and covert methods, means, and forms for the purpose of performing operational search activity tasks.

Operational search measures are a set of actions carried out by authorized entities in accordance with the law on operational search activities, on the grounds and under the conditions established by law, with the application of overt and covert force, means, and methods for the direct identification, acquisition, and use of factual information necessary for solving the tasks of operational search activities.

The characteristics of operational search measures are:

1. Legislative consolidation of operational search measures. According to the Law on Operational Search Activities (Article 17), conducting operational search measures not provided for by this Law (Article 14) is prohibited. It should be noted here that the legislator should include in the law (Art. 14) the provision that "the list of operational search measures may be changed or supplemented only by law." This is because, as practice shows, there are cases when operational units carry out operational search activities not specified by law. This provision is also reflected in the laws of the CIS countries, including the Russian Federation, Turkmenistan, and the Republic of Azerbaijan "On Operational Search Activities."

2. Conducting operational-search activities only by authorized entities and with their permission. According to the Law on Operational-Investigative Activities, officials of bodies carrying out operational-investigative activities openly and covertly use the assistance of specialists with special knowledge to solve their tasks, as well as with the consent of citizens, by personally participating in the organization and conduct of operational-investigative activities. Other state bodies, as well as legal entities and individuals, are prohibited from carrying out operational-search activities (Article 10 of the Law). 2);

3. Conducting operational-search measures on the grounds and under the conditions established by law. The Law specifies the grounds (Article 15) and conditions (Article 16) for conducting operational-search measures, and the operative officer must conduct operational-search measures in accordance with the grounds and conditions specified in the Law.

4. Conducting operational-search measures in accordance with the requirements established by departmental regulatory legal acts of bodies carrying out operational-search activities. The legislator provides for the establishment by law of the specifics of conducting operational-search measures (Article 16, Paragraph 8). The law does not provide any information on the organization and tactics of conducting operational-search activities. It is noted that, in accordance with the Law (Article 8), operational-search measures are carried out with the establishment of a special procedure for obtaining, processing, storing, and using operational-search information, as well as rules for working with operational-service documents. According to it, these requirements should be reflected in departmental regulatory legal acts.

5. Operational-search activities are carried out mainly through the use of non-disclosed means and methods in conjunction with transparent means and methods. This requirement stems from the principles of the TQF established by the Law on Operative-Investigative Activities (Article 3). At the same time, non-disclosed methods and means of conducting operational-search measures are aimed at obtaining information, its subsequent implementation, and disclosure in the prescribed manner, with the exception of certain restrictions related to security measures;

6. The purpose of conducting operational-search measures is to identify, obtain, and use factual data and other information to solve the tasks defined by the law on operational-search activities. In this case, the results of operational-search measures include not only information reflecting real events, but also information requiring additional verification to establish its factual state;

7. Conducting operational-search measures in the presence of operational accounting. Accordingly, information or data obtained as a result of operational-search activities should be recorded in operational accounting for the purpose of collecting and systematizing, verifying and evaluating the results of operational-search activities, as well as making appropriate decisions of bodies carrying out operational-search activities on their basis;

8. Use of information systems, means of video and audio recording, film and photography, as well as other technical means safe for human life and health, property of legal entities and individuals, and the environment during operational-search activities. The list of types of special technical means intended for covert acquisition of information in the process of carrying out operational-search activities is determined by the government;

9. Participation of relevant specialists in operational-search activities. The constant change (complication) of methods of committing crimes leads to the complication of

operational-search measures to solve the corresponding tasks of detecting, preventing, suppressing, and solving crimes, which often requires the involvement of relevant specialists. Moreover, the use of modern technical means in conducting operational-search activities cannot be carried out without the use of special knowledge. These factors require the participation of specialists in many operational-search activities.

Based on the essence of the OSF and its legal interpretation, operational-search activities are organized and conducted only by special subjects - officials of the bodies carrying out operational-search activities, the conduct of operational-search activities by other subjects is prohibited, and operational-search activities by special subjects are conducted openly and covertly. At the same time, participants in operational-search activities may also be employees of other services, other persons assisting in the performance of operational-search activities, participating in the preparation or conduct of operational-search activities, or carrying out certain activities on behalf of operational officers.

Conducting certain activities similar to operational-search activities by employees of other services does not constitute operational-search activity, but can be assessed as an element of administrative, civil, or other activity.

For example, prevention inspectors, employees of the patrol and guard service, road patrol service, and other services openly carry out such activities as surveys, data collection, inspection, and observation of premises, buildings, structures, territories, and vehicles. These types of measures do not have all the existing characteristics of operational-search measures and, therefore, are not considered operational-search measures. The covert conduct of such activities can be assessed as a violation of the Law "On Operational-Investigative Activities," which defines the special characteristic of the subject of this activity, i.e., the authority to carry it out.

It is operational-search measures provided for by the Law "On Operational-Investigative Activities" that are means of obtaining information about events or actions, the content of which allows one to assess the presence and nature of threats to the security of the individual, society, and the state.

The content of operational-search measures consists of actions that form specific types of these measures - their full list is given in Article 14 of the Law "On Operational-Search Activities."

The legislative consolidation of operational-search measures, the definition of their final list, not only ensures the observance of human and civil rights and freedoms in the implementation of operational-search activities, but also determines the legality of the actions of the subjects of operational-search activities (officials and persons assisting them), thereby ensuring the legality of their activities.

In accordance with the Law "On Operational-Investigative Activities," each of the operational-investigative measures can be conducted independently of each other or in conjunction with other operational-investigative measures, be open or non-open, while the open conduct of some operational-investigative measures does not preclude the covert conduct of others, and vice versa. It is within the framework of operational-search activities that the forces, means, and methods of operational-search activity are applied. Although the list of operational-search measures is strictly limited by law, their implementation also requires the implementation of organizational measures, the involvement of specialists to participate in them, the use of special technical and other means, all of which contribute to the

implementation of certain operational-search measures or their complexes. It is important to note that both organizational and other supporting measures are secondary to operational-search measures, often preceding them or being their consequences, logically, technically, and methodologically derived from them.

Although operational-search measures differ from each other, their list is not random. Its single common essence is related to the fact that it is aimed at obtaining information for subsequent use. It is by conducting operational-search activities that it is possible to fulfill the tasks of operational-search activities and achieve the goals of protecting the life, health, rights and freedoms, property of a person and citizen, ensuring the security of the individual, society, and the state.

Operational-search measures may be carried out to fulfill the general and special tasks of operational-search activities directly defined by the Law "On Operational-Search Activities." In this case, the resolution of special (intermediate) issues by their direction and content should correspond to the achievement of the ultimate goals and objectives of operational-investigative activity.

The purpose of conducting operational-search measures determines the scope of their objects. These objects can be individuals as sources of information or as subjects of crime, as well as persons whose consent is obtained for conducting operational-search measures for their verification or protection. Such categories of persons determine the type, form, grounds, and conditions for conducting specific operational-search measures.

In particular, the following persons may be objects of operational-search measures:

- persons planning, committing, or having committed illegal acts;
- persons who are hiding from the inquiry, investigation bodies and the court or evading criminal punishment;
- missing persons;
- protected persons;
- persons receiving permission to work with information constituting state secrets;
- persons engaged in work related to the operation of facilities that pose a great danger to the life and health of citizens, the environment;
- persons applying for participation in operational-search activities or for familiarization with materials obtained as a result of its implementation;
- persons involved in conducting operational-search activities, with whom cooperative relations are being established or cooperation is being carried out;
- persons aware of illegal acts, events, actions that threaten security, the behavior and (or) location of persons of operational interest.

In accordance with Article 14 of the Law, bodies carrying out operational-search activities conduct 16 types of operational-search activities. Including:

request - an event consisting of obtaining information in the process of direct communication with a person who knew or could know information about individuals and legal entities, facts and circumstances relevant to solving the tasks of operational-search activity;

data collection - an activity aimed at obtaining significant information about individuals and legal entities, facts and circumstances, including information constituting banking secrecy, by studying documents, materials, databases, information systems and information resources, as well as sending inquiries to solve the tasks of operational-search activities;

Collection of samples for comparative examination - an event consisting of obtaining material objects for further comparative examination in order to solve the tasks of operational-search activity;

Procurement for inspection - an event consisting of the paid acquisition of goods or services from legal entities or individuals that are important for solving the tasks of operational-search activities;

controlled acquisition - a measure consisting of making a fraudulent transaction, that is, obtaining goods, currency valuables, substances and other items for the purpose of consumption or sale without the purpose of identifying and documenting the fact of a violation of legislation;

Inspection of objects and documents - an event conducted with the involvement of specialists with the necessary scientific, technical, and other special knowledge for the study of objects and documents in order to solve the tasks of operational-investigative activity;

operational observation - an event consisting of direct or indirect (using technical means) covert observation and recording of actions, events, and processes of persons in order to obtain information relevant to solving the tasks of operational-investigative activity;

identification of a person - a measure consisting of identifying the identity or establishing the identity of a person under investigation or wanted on the basis of personal characteristics;

Inspection of residential and other premises, buildings, structures, land plots, technical and transport vehicles - an event consisting of direct or indirect (using technical means) inspection and study of residential and other premises, buildings, structures, land plots, computers, communication devices and vehicles in order to identify persons, facts and circumstances relevant to solving the tasks of operational-search activities;

control of postal, courier items and telegraph correspondence - an event consisting of a covert selection and study of postal, courier items and telegraph correspondence in order to obtain information relevant to solving the tasks of operational-investigative activity;

eavesdropping of conversations conducted via telephones and other telecommunication devices, obtaining information transmitted through them - an event consisting of covert eavesdropping, interception, and recording of conversations conducted using special technical means, including transmitted text, graphic, and multimedia information;

obtaining information about connections between subscribers or subscriber devices - an event consisting of covertly obtaining information and other data on the date, time, duration of connections between subscribers or subscriber devices (equipment used);

operational entry - a measure consisting of the entry of an employee of the body carrying out operational-search activities or a person providing covert assistance into the criminal-criminogenic environment or an object of operational significance for the purpose of solving the tasks of operational-search activities and the covert use of their capabilities;

controlled delivery - a measure consisting of covert control over the movement (transportation, shipment, transfer) of goods, currency valuables, substances and other items, the free sale of which is prohibited or the circulation of which is restricted, or which are the object, subject and instrument of the crime, in order to solve the tasks of operational-investigative activity;

a covert operation - a complex of measures, including the conduct of two or more operational-search activities using overt and covert methods in order to solve the tasks of operational-search activities;



operational experiment - a measure consisting of the artificial creation of fully controlled and supervised conditions by the body carrying out operational-search activities in order to expose and identify persons who have committed or are preparing for an unlawful act by restoring a certain event.

Operational-search measures for monitoring postal, courier items and telegraph messages, eavesdropping on conversations conducted over telephones and other telecommunication devices, obtaining information transmitted through them, and obtaining information about connections between subscribers or subscriber devices are carried out by the forces and means of a specially authorized state body.

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