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SOME ASPECTS OF THE INSTITUTE OF WITNESS IN CRIMINAL PROCEDURE

This article analyzes the legal literature on certain aspects of the institute of witnesses in criminal proceedings in Ukraine. Also, a comparative analysis of the norms of our legislation and the legislation of other states in relation to the institute of witnesses is carried out. The appropriate fundamental conclusions and proposals on the subject are made. The relevance of this topic is determined by the fact that, in accordance with item 25, part 1 of Article 3 of the Criminal Procedure Code of Ukraine, witness is a party to the criminal proceeding. Participation of witnesses in the investigation (search) and other proceedings is governed by part 7 of Art. 223 of the Criminal Procedure Code of Ukraine.

The investigator, the prosecutor is obliged to invite at least two disinterested persons (witnesses) for filing a person, body or thing for identification, examination of the corpse, including exhumation, investigative experiment, examination of person. However, if the investigator, the prosecutor uses continuous recording of the progress of the

corresponding investigative (search) activity, the witnesses may not be invited. The exception is search or inspection of the home or any other possession of a person, search of persons, carried out with the obligatory participation of at least two witnesses, regardless of the use of technical means of recording of the investigative (search) activities. Witnesses may be invited to participate in other proceedings, if the investigator, the prosecutor deems it appropriate. Also p. 7 of Art. 223 of the Criminal Procedure Code states that the witness can not be the victim, the relatives of the suspect, the accused and the victim, law enforcement officials, as well as those interested in the outcome of criminal proceedings.

The purpose of this article is to examine the issues of: – compensation of procedural costs for witnesses; – participation of witnesses in the investigative (search) activities and other procedures, during which the information protected by law is obtained; – introduction of the institute of “special witnesses”.