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LEGAL RELATIONSHIPS OF INVESTIGATING JUDGE, PROSECUTOR AND INVESTIGATOR DURING THE CONDUCT OF INVESTIGATIVE (DETECTIVE) ACTIONS

This article provides an attempt to study the concept of investigative (detective) actions and their content, manner of conduct, and consequently arising legal relationships of investigative judge, prosecutor and investigator, in the context of the new Criminal Procedure Code of Ukraine (CPC).

The purpose of this paper is to study the concept and content of investigative (detective) actions under existing criminal procedure law and its impact on the relationship between the investigating judges, prosecutors and investigators in the course of their conduct. The relevance of the topic is determined by the fact that Chapter 20 of the Criminal Procedure Code of Ukraine regulates the requirements and procedure for the investigative (detective) action. It should be noted that the term “investigative (detective) action” is new and still is not used in the criminal procedure legislation of Ukraine. In this regard, there are questions about the concept of investigative (detective) actions and their content, manner of conduct, arising legal relationships of investigative judge, prosecutor and investigator and so on. The concept and content of investigative actions in the context of the old criminal procedure law is widely and fully investigated by

Ukrainian and foreign scholars. Some of them define investigative actions as “proceedings for the purpose of collection, identification, record, inspection, examination of evidence in a criminal case”. Others, actually agreeing with them, emphasize that “investigative action is part of the proceedings, which is related to the identification, recording and checking of evidence in a criminal case”. The traditional treatment for investigation as understanding of the proceedings is related to obtaining, recording and verifying evidence. Similarly, when investigative actions are understood as measures for identification of persons involved in the commission of crimes, and evidence related to the crime. It should be understood that it is not an operational and search activity, but the investigative activities of the investigator.

Conclusions also give us reason to establish that the legal regulation of the grounds and procedure for the investigation (detection) of action specified in Chapter 20 of the Criminal Procedure Code of Ukraine, convincing evidence of a functional mismatch in structure of public bodies involved in the provision of pre-trial investigation requirements today and European standards. Excessive expansion of the powers of

prosecutors, weakening of the role of judicial review in a criminal trial, the actual destruction of an effective system of pre-trial investigation require

immediate introduction of significant changes to existing CPC of Ukraine, which would restore the effective functioning of the fight against crime.

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EQUALITY BEFORE THE LAW AND COURT AS THE CONSTITUTIONAL PRINCIPLE OF CRIMINAL PROCEEDINGS, ITS ESSENCE AND CONTENT

The article is devoted to research of essence and content of the constitutional principle of equality before the law and court in criminal proceedings, to formulation of the concept of this principle, and also author's edition of the corresponding criminal procedural regulation.

It is specified that equality and inadmissibility of discrimination of people are not only the constitutional principles of national legal system of Ukraine, but also fundamental values of the world community which is manifested in international legal acts concerning protection of the rights and freedoms of man and the citizen.

It is established that the constitutional provision on equality before the law and court defines content of the law and practice of its application in criminal proceedings and acts as the requirement to activity of the legislator and subjects who carry out criminal proceedings. Thus, for government

bodies and officials the norm on equality before the law and court is a duty, and for citizens – a guaranty for implementation of their rights, protection of freedoms and legitimate interests.

Equality before the law and court is defined as the constitutional principle of criminal proceedings which works in all its stages, is directed on implementation of the provision on the highest natural value of each person, defines contents of the law and law-enforcement activity and grants to participants of legal relationship equal legal opportunities for implementation of the interests and demands from the legislator and subjects who carry out criminal proceedings, not allowing exclusive or discrimination position of its participants.

Author's edition of regulations on equality before the law and court which is enshrined in Article 10 of the Criminal Procedural Code of Ukraine is offered.