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Research Article

GENERAL REQUIREMENTS OF THE ADMISSIBILITY OF EVIDENCE OBTAINED DURING THE CONDUCTION OF OPERATIONAL-SEARCH MEASURES AT THE STAGE OF PRE-INVESTIGATION CHECK

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ABSTRACT

The article analyzes various aspects of processing the results and materials of operational-search activities (hereinafter referred to as OSA), in particular, definitions of OSA and operational-search measures (hereinafter OSM) are given and the meaning of these concepts is compared, a definition of pre-investigation checks, results and materials are given operational-search activity, the significance of the grounds and conditions necessary for conducting an OSA, the types and classification of the OSA are indicated. Also in this article, a comparative study of various norms of the national criminal procedure legislation related to the use of evidence obtained through the conduct of the OSM was carried out. In addition, this article indicates scientific approaches to the possibilities of using evidence obtained as a result of the OSM, as well as ways to include materials obtained during the OSA in the evidence, the presence of general and special requirements for the admissibility of OSA materials is highlighted and indicated, and also listed and the general requirements for the admissibility of these materials are disclosed in detail.

KEYWORDS

Operational-search activity, operational-search measures, results of the operational-search activity, materials of the operational-search activity, operational documentation, legalization of operational materials, procedural and legal methods of transforming operational materials, completeness, reliability, relevance, verifiability of evidence, general and special requirements for the admissibility of materials of the operational-search activity.

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INTRODUCTION

The reforms carried out in accordance with the Action Strategy for the five priority areas of development of the Republic of Uzbekistan in 2017-2021, approved by Decree of the President of the Republic of Uzbekistan dated February 7, 2017 PD-4947 [1], marked significant events in improving the overall judicial and legal system, to integral parts of which are criminal and criminal procedural legislation. These conversions are initial and in order not to dwell on the existing achievements, the Development Strategy of New Uzbekistan for 2022-2026, approved by Decree of the President of the Republic of Uzbekistan No.PD-60 dated January 28, 2022, identifies seven priority areas, including those designated as building a humane state by raising the honor and dignity of a person and further developing a free civil society, as well as turning the principles of justice and the rule of law into a fundamental and necessary condition for the development of the country [2].

The implementation of both directions requires the improvement of the regulatory framework for the activities of law enforcement agencies, the provision of guarantees for the observance of the rights and freedoms of citizens, as well as the provision of a unified practice of their application.

In this regard, operational-search activity (hereinafter referred to as OSA) is of particular relevance, which for many years of evolution was regulated exclusively by unspoken departmental legal acts. Despite the fact that the Law of the Republic of Uzbekistan "On operational-search activity" was adopted on December 25, 2012 [3] and a number of changes were made to the Code of Criminal Procedure (Laws of April 25, 2016 No. LRUz-405 and of February 18, 2021 No. LRUz-675) for the implementation of the rules and regulations related to the operational-search activity, certain problems of legal regulation of the use of the results obtained in the course of the implementation of the operational-search activity have survived to this day.

It should be noted that legal relations in the field of investigative activities can arise both before the initiation of a criminal case - as part of the verification of statements, messages and pre-investigation verification, and after its initiation as part of additional fixation of illegal activities.

The subject of the study in this article is precisely the assessment of the results and materials obtained in the course of the implementation of the operational-search activity, before the initiation of a criminal case, namely, within the framework of the pre-investigation check. It is also necessary to understand that the meaning of the concepts of operational-search activity and operational-search activities (hereinafter referred to as OSM) correlate with each other as an absorbing concept - OSA, where OSM is only one of the components of the OSA. The OSA includes a mechanism for searching, fixing, processing, storing and using search and reconnaissance information, while the OSM provides for methods or methods of searching and fixing the specified information specified by law.

Having defined the subject of research of this article, it is necessary to identify the tools or methods used to understand the essence of the problem and put forward proposed solutions. In particular, when writing this article, such methods are used as a historical one with an appeal to the origins of the OSA and its legal regulation in the past and at the present time, a systematic method associated with substantiating the relationship of legal norms in the

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field of OSA and other components of social development, as well as other branches of law, comparative-logical, expressed in the application of logical techniques and comparison of the legal provisions of various laws and regulations of different countries regarding the same phenomenon, event, and also through analysis, a mental separation of the constituent components of the concepts used, the events under consideration was carried out, and also through synthesis, a mental connection of the components of the events under consideration, various definitions and legal mechanisms is carried out.

Starting the main part of the study, it is necessary to give the most important definitions, legal provisions that will ensure the focus of consideration of issues, a unified approach to understanding and resolving problems.

To determine the time frame, we need to define a pre-investigation check, which is the initial stage of criminal pre-trial proceedings, it should be understood as the activities of authorized state bodies, officials provided for by the Criminal Procedure Code, during which initial information about a committed or impending crime is checked, preliminary damage, harm, qualification of the committed act, causal relationships between the actions of persons and the consequences that have occurred are identified, and urgent measures are taken to quickly solve the crime and detain offenders [4, p.173]

The pre-investigation check is of particular importance, since it is at this stage that the circumstances for making the initial procedural decision are examined, as well as primary evidence is collected, in connection with which, the issue of the legality and admissibility of using evidence collected during the OSM is of particular importance. According to Ryapolova Y.P. "OSM at the initial stage of the criminal process can be considered as non-procedural verification actions carried out when considering reports of a crime, creating conditions and prerequisites for the appearance of full-fledged procedural evidence in a criminal case, on the basis of which circumstances are established that are important for resolving the issue of initiating a criminal case. ". [5, p.104] We can agree with this opinion only partially, specifying that it is unfair to classify OSM as a non-procedural activity, and the results or materials obtained during its implementation as completely non-procedural or inadmissible evidence.

The next important point in the legal regulation of OSM is the grounds for their implementation. So, if in an initiated criminal case, the basis for the implementation of operational-search measures is the existence of the case itself or an order in the case, then within the framework of the pre-investigation check, the grounds for the implementation of the operational-search activity are numerous and all of them are indicated in Article 15 of the Law "Operational Search Activity" and are conditioned, in including the need to conduct a pre-investigation check. These grounds are so carefully thought out that the body carrying out the operational-search activity, in any case, will be able to justify the need for an operational-search activity, without violating the requirements of the current legislation.

The public significance of the grounds and conditions for conducting an OSM lies in the fact that they make it possible to determine situations in which it is possible to conduct an OSM and, on their basis, to analyze a specific case, as well as the legality of the decision on a particular OSM, and thereby ensure guarantees of the rights and freedoms of the individual, inviolability private life. At the same time, scientists disagree and some understand the legal circumstances with the

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presence of which the legislator associates the possibility of their implementation [6, p.104], while others believe that the concept of "grounds" include both the reasons for conducting an OSM, which should be understood as the circumstances prompting the initiation of appropriate actions, and the grounds for conducting an OSM, which are considered actual data, information about facts (information) that require verification to confirm or refute and implement in in the form of OSM or investigative actions, or both in combination [7, p.288], and still others believe that the basis for conducting an OSM is actual data on direct signs of the illegality of an act or a threat to public safety, requiring a response from the operational-search authorities. [8, c.288]

Based on the above definitions, we can divide the grounds into factual - the availability of information indicating the need for an OSM and legal - the existence of conditions specified by law for an OSM. For the validity of the implementation of the OSA, both factual and legal grounds are required in the aggregate. The combination of these grounds will ensure the validity, legitimacy and effectiveness of the implementation of the OSM.

Thus, Article 14 of the Law "Operational-search Activities" provides for the possibility of conducting 16 OSM. Of these, only 4 OSM are related to the restriction of the right to privacy of correspondence, telephone conversations, postal, telegraphic and other messages, the right to inviolability of the home, namely, the inspection of residential premises, control of postal, courier, telegraph and other messages, listening to conversations conducted with telephones and other telecommunication devices, the removal of information transmitted over them, obtaining information about connections between subscribers or subscriber devices. Therefore, the specified OSM, according to the Law, should be carried out only with the sanction of the prosecutor. But in addition to the specified list of OSM subject to authorization by the prosecutor, it must be taken into account that when carrying out activities aimed at obtaining information (including making inquiries within the framework of OSM) constituting bank secrecy, it is also necessary to obtain the prosecutor's sanction.

There are also OSM carried out on the basis of a resolution approved by the head of the body carrying out operational-search activities, agreed with the prosecutor. This subgroup includes 7 OSM - test purchase, controlled acquisition, operational surveillance, operational implementation carried out within the Republic of Uzbekistan, controlled delivery, undercover operations and operational experiment. And the rest of the OSA are carried out by the employees of the bodies carrying out the OSA independently.

These requirements of the Law form special requirements for the grounds and conditions for the implementation of the OSM, and in this case, both the grounds for holding the event and the conditions for holding the events must strictly comply with the requirements of the law. Otherwise, the evidence obtained will not have probative value, due to their inadmissibility.

It should be noted that, according to research, in the face of the emergence of new challenges of the time, there is an imbalance between the constantly self-improving crime and law enforcement activities operating on the basis of archaic legal requirements. A number of foreign countries partially resolved this shortcoming in the procedural regulation of the OSA by partially filling the Code of Criminal Procedure with the norms of operational-search legislation (for example: Georgia, the Kyrgyz Republic, China,

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Germany), which, according to M. Kolosovich, should be perceived as a need for new means of countering crime. [9, p.6]

However, despite the obvious need and practical need to use the results of the operational-search activity in the process of proving in criminal cases, neither academic theorists nor practitioners of law enforcement agencies have yet established a publicly available and unified mechanism for the direct transformation of the results of the operational-search activity into procedural evidence, which would clearly resolve issues admissibility of evidence. A certain intrigue and ambiguity in this matter is created by the norms of the Code of Criminal Procedure, which are not consistent with each other as a single unified mechanism.

Attention should be paid to the fact that in Article 19 of the Law of Uzbekistan "Operational-search Activities", along with the term "results of the investigative activity", the term "materials of the investigative activity" is also used. If we define the concept of "result", then it means the consequence of something, the consequence, the final conclusion, the result, the denouement, the outcome, the end of the matter. [10] Also, "result" means "what is obtained at the end of some activity, work, result". [11] While "material" means a substance, object, raw material used to make something, as well as data, information, sources that serve as the basis or proof of something. [12]

The law does not provide clarification as to what exactly must be attributed to the results, and what exactly to the materials. As stated in the law, the results of the operational-search activity are used exclusively to fulfill the tasks assigned to the bodies that carry out the operational-search activity, while the materials of the operational-search activity can be used, including for initiating a criminal case, as well as for proving in criminal cases. Proceeding from this provision, the author believes that the materials of the search warrant should be understood as documents and other material carriers of information properly drawn up based on the results of the OSM, containing information about the signs of a crime committed or about the person who committed it, as well as about the tools and means of committing a crime. Whereas the results of the operational-search activity should be understood as information obtained in the course of the implementation of the operational-search activity, which, either in content or in form, cannot be directly used for the public purposes of criminal procedural evidence. In particular, Part 3 of Article 19 of the Law "Operational search Activities" indicates the results of operational-search activities carried out in compliance with the conditions of Article 16 of the Law, can be recognized as evidence after their verification and evaluation in accordance with the Code of Criminal Procedure of the Republic of Uzbekistan [13]. Thus, the materials of the OSA can be used in proving directly, while the results of the OSA after their verification and evaluation in accordance with the requirements of the Code of Criminal Procedure.

As we know, according to Article 85 of the Code of Criminal Procedure, the current structure of proof consists of 3 elements - collection, verification and evaluation of evidence. Unfortunately, the inconsistency of the legislator in the formation of normative acts has also affected the sphere of the operational-search activity. Part 3 of Article 81 of the Code states that the results of operational-search measures can be recognized as evidence only if they are obtained in accordance with the requirements of the law, after their verification and evaluation in accordance with the norms of the Code of Criminal Procedure. Part 1 of Article 87 of the Code of Criminal Procedure states that evidence is being collected,

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including through operational-search activities. Based on the specified provisions of the Code, we can state that in proving it is permissible to produce an OSM for collecting evidence on the basis of the Law on OSA, their probative value will be determined by checking and comparing with other evidence collected and assessing for compliance with the criteria specified in the law. However, already in Part 1 of Art. 90 of the Code of Criminal Procedure stipulates that information and objects can be used as evidence only after they are recorded in the protocols of investigative actions or in the protocol of the court session. It is here that a legal problem arises, in particular, the imperative requirement of part 1 of article 90 of the Code of Criminal Procedure does not allow the use of evidence collected during the OSM, since one of the requirements for evidence is the requirement for the form of a procedural document, and the results of the conducted OSM are drawn up not in the protocols of investigative or judicial actions, but in the protocols (acts, certificates, reports) of the relevant OSM. Here it is appropriate to cite the opinion of A.R. Ratinov, who pointed out that it is wrong to consider other, except for investigative (judicial) actions, methods of collecting and verifying evidence as non-procedural. Their procedural form is different from that of investigative actions, but it exists. [14, p.373] The requirements of Article 90 of the Code of Criminal Procedure formally blocks any possibility of direct use in proving the results (materials) of the investigative activity and encourages ingenuity in the search for "alternative ways" of including materials obtained during the investigative activity as admissible evidence.

Recognition or non-recognition of the status of procedural evidence for the results (materials) of the OSA is very controversial in science and in practice, and for clarity, one can consider the opinion of researchers in this field. In particular, E.A. Dolya, in his primary works, denied the very possibility of giving the results of operational-search measures evidentiary value, explaining this by the fact that the OSM are not carried out according to the rules regulated by the Code of Criminal Procedure. [15, 69]. However, in subsequent scientific works, he already corrected his opinion and outlined his position as follows: "The results of the operational-search activity can only be considered as a basis on which evidence can be formed in criminal proceedings. [16, p.341]

M.P. Polyakov in his monograph indicates that the results of the investigative activity should be recognized as evidence, provided that they are received and verified in the manner prescribed by the Law on Investigative Activities and if they contain information that is important for establishing the circumstances to be established in a criminal case[17, 262]. Thus, in this situation, the main criterion for using the results of the OSA is their relevance, and then their admissibility follows.

Taking into account the diversity, and in some cases even the polarity, in the opinions of people who study the issues of legal support of the OSA and the use of the results obtained in the course of its implementation, according to the direction of the ideas put forward by them, they can be divided into 3 groups:

The first group of scientists, who believes that the evidence obtained through the implementation of the OSA cannot be used as evidence, due to the fact that they were obtained outside the framework of criminal procedure, in ways not provided for by the Code of Criminal Procedure, as well as by subjects not specified in the Code of Criminal Procedure [18, p.104], [19, p.12].

The second group of scientists advocates giving the results of the OSA the status of full-fledged evidence,

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believing that the OSA is part of the procedural activity [20, p.52], [21, p.47]

The third group of scientists puts forward the opinion that the results of the operational-search activity, clothed in the appropriate documentary form, can be evidence, subject to certain criminal procedural requirements when collecting, verifying and evaluating evidence. [22, p.113], [23, p.102] The author believes that this group of scientists expresses the optimal opinion.

In general, if we return to the origins of the OSA, then the collection of evidentiary information about a crime, the circumstances and participants in its commission by the operational-search method was called documenting criminal activity in the theory of the OSA. In the period before the adoption of the Law "Operational search Activities", all information obtained within the framework of the OSM was of an indicative and reference nature, due to the impossibility of their procedural use. Regarding the term "documentation", various definitions are given, firstly, "as a means of knowing the truth, which constitutes the information basis of the OSA, ensuring the achievement of its tasks" [24, p. they contain data" [25, p.552]. Even M.S. Strogovich drew attention to the peculiarity of evidence, consisting in the unity of two components: a fact and a source of data. Such a double meaning of the concept of evidence comes from the very essence of evidence as ways, means of establishing the actual circumstances of the case, discovering objective material truth in the case. [26, v.1 p.294] Also, E.A.Dolya pointed out that in the formation of evidence based on the results of the operational-search activity, there is no change in the legal status of the results of the operational-search activity, but the receipt of new data - evidence [16, p.76-77]. Analyzing these definitions, we can come to the conclusion that the procedural evidence and the results of the OSM refer to the same primary source (to an event, fact or incident), but they draw information in a different way, that is different learning process.

Today, the possibility of using the results of the operational-search activity for the purpose of proving runs into a significant difficulty - the lack of legally recognized publicly available rules for converting the results of the operational-search activity into evidence, in the procedural sense. Why is it important that the rules are publicly available, because even if there is any interdepartmental or departmental instruction that specifies the rules for the implementation of a particular event, or indicates the method for converting the results of the investigative activity into procedural evidence, it remains only as a guide in the activities of the subjects of the investigative activity, depriving persons involved in the pre-investigation check of the opportunity to familiarize themselves with these rules, protect their rights and interests, as well as verify the compliance of the measures taken with the normatively prescribed rules for appealing them, thereby significantly reducing the possibility of direct use of the results of the operational investigation as evidence.

Practice has developed several procedural and legal ways to include information obtained in the course of an operational-search activity in evidence:

The first way is to attach protocols of investigative actions, other documents drawn up in accordance with the Code of Criminal Procedure, which duplicate information obtained during the search. The normative-legal regulation of the use of OSA materials in criminal procedural evidence lags behind the realities of judicial and investigative practice and the ambiguity of the use of the results in some cases requires its circumvention by conducting investigative

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actions, through which the so-called legalization is carried out. V.V. Utkin notes: "The symbolic act of removing the "inadmissibility" from the data obtained by the OSA: through the investigative ritual of "legalization", it increasingly looks archaic against the backdrop of the development of digital technologies that equalize the participants in the information and communication model in obtaining evidentiary information using these technologies." [27, p.5].

In the course of this transformation, which includes the performance of investigative and other procedural actions, the official of the pre-investigation inspection body puts into a procedural form the information obtained in the course of the operational-search activity, without significant changes in content. The Code assumes that this is sufficient for the formation of criminal procedural evidence. A striking example of this is the conduct of an OSM operational experiment, in situations of being caught red-handed upon receipt of a material reward, when a resolution is drawn up for its implementation, approved by the head of the body carrying out the OSA, and based on the results of its implementation, in parallel with operational documents (report on the conduct of the search operation, an act on the results of the conduct of the search operation), in accordance with the requirements of the Code of Criminal Procedure, a protocol of inspection of the scene is drawn up. However, the use of such a scheme leaves a large number of questions regarding the factual justification and initiation of the investigative action itself and requires a detailed consideration of the course of this transformation.

The second way is to conduct interviews with employees of operational units and other participants in the OSM and receive reports from them, explanatory, when the information presented in this way, received by them during the OSM, takes the form of testimony. However, a survey of an employee and other persons also cannot replace OSM materials, since during the survey and receipt of explanatory statements, the level of their reliability, completeness and reality decreases, passing through the subjective consciousness of the perceiving persons. This method can be used to supplement the available evidentiary materials, to clarify individual details of the OSM. This method is especially indispensable in situations where the crime is obvious, for example, a cache with a laying of narcotic drugs was discovered, and information about persons possibly involved in the laying of these substances exists only in the operational plane and there is no other way to make this information public and question the person who carried out the operational observation at the time of laying will be the only possible way to obtain reliable information about the persons involved in this crime.

The third method is reduced to the presentation of items and documents seized during the OSM and for recognition as material evidence. In the scientific work of Inomjonov Sh.Kh. it is indicated that it is necessary to use the results of the search warrant in proving in criminal cases by introducing them through the use of an investigative action - the presentation of objects and documents. [28] We can agree with this method of involving the materials of the OSA in a criminal case, provided that the materials contain the above signs. It should also be noted that the OSA materials obtained in violation of the admissibility rules regarding the content of evidence, even if the protocol of the investigative action on the presentation of objects and documents is properly drawn up, will not provide her with admission to participate in the evidence.

The fourth way is the submission of documents that record the progress and results of the ORM

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(operational experiment, test purchase, controlled delivery, etc.) in the form of documents (acts, protocols), audio and video recordings - on electronic media based on the decision of the head of the body , carrying out the ORD. Subsequently, the materials submitted in this way go through the stage of procedural research, through production - inspection, examinations and other necessary investigative actions.

The introduction of OSA materials into the criminal process as evidence is possible only if the basic requirements and categories of evidence law and the theory of evidence that determine the admissibility of evidence are strictly observed. However, admissibility in relation to OSA materials should be divided into 2 categories: general requirements for the admissibility of evidence arising from the requirements of the Code of Criminal Procedure, special admissibility requirements, due to the procedure and conditions for conducting an OSA, provided both by the Law "On the OSA" and intradepartmental instructions of limited access.

Certain features of the materials of the OSA are singled out by Karyagina O.V., the presence of which allows them to be further used in procedural proof [29, p.64]. Having improved their content, developing the idea, we can designate them as general requirements for the submitted materials of the OSA. In particular, the materials of the OSA must:

- contain sufficient data indicating signs of a crime. This feature can be characterized as the sufficiency of data, because not all information received in the framework of the OSM is significant in the criminal law sense. Lack of sufficiency in accordance with paragraph 6 of part 1 of article 95-1 of the Code of Criminal Procedure was considered by the legislator as a basis for declaring evidence inadmissible. However, in the OSA, in the absence of sufficient materials, the activity can be continued until the specified gaps are filled, and the operational data do not acquire evidentiary value;

- fit the appropriate type of evidence. The types of evidence are defined in Part 2 of Article 81 of the Code of Criminal Procedure and they are: testimony of witnesses, the victim, the suspect, the accused, the defendant, expert opinion, physical evidence, audio recordings, video recordings and filming, protocols of investigative and judicial actions and other documents. We can characterize this sign as the desire to give the results of the OSM external signs of procedural evidence;

- relate to the subject of proof in a particular case. Within the framework of the conducted ORMs, various information may be at the disposal of law enforcement agencies, including information that is not related to the event or fact being checked, or information relating to private life, affecting their honor and dignity, which the subject of the OSA is obliged not to disclose without the consent of the persons themselves. This feature is based on the mandatory relevance of evidence to the verified event or incident;

- describe the specific OSM carried out within the framework of the law. When compiling documents based on the results of the OSM, it is necessary to clearly indicate which particular OSM is being carried out, avoiding the symbiosis of activities or the "invention" of new types of activities not provided for by law. In practice, in similar situations in various bodies, various OSMs are practiced, as a result of which documents are drawn up with a different original form, composition of participants, their own specifics of the OSM, and therefore, there is a clear need to ensure a unified approach and unification of documents drawn up during the OSM;

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- contain information that can be verified in the course of legal proceedings. We can characterize this sign as verifiability, that is, the possibility of reproducing or knowing the actions taken through the study of several sources of information not interested in the outcome of the case. The investigating authorities, the prosecutor and the court should be able to trace the entire path of the formation of evidence in order to make sure that the source is reliable and that no distortion of information has occurred in this process. In other words, when presenting and using the results of a search warrant in a criminal process, it should be borne in mind that it is important not so much to document the information carrier, but rather to provide information about sources and facts that can be verified and confirmed procedurally;

- be reliable. If the information received is unreliable, or its reliability is doubtful, then it makes no sense to think about the presence of other signs that allow the use of OSA materials in evidence.

- comply with the requirements of the Code of Criminal Procedure on the admissibility of evidence. The legislation contains a number of requirements for evidence. According to the definition of V.V. Terekhin, what is acceptable is that which can be perceived, understood and used to construct legal reality in a certain format [30, p.52].

Revealing the meaning of the concept of general requirements for the admissibility of materials obtained in the course of the operational-search activity, we can note that they include:

- requirements regarding the legitimacy of the methods used to obtain such materials. Obtaining materials by humiliation of honor and dignity, threats or deceit and other illegal actions unequivocally makes them unacceptable in content, which cannot be eliminated through the outwardly correct execution of a procedural document. Repeated OSM, subject to all procedural requirements that guarantee the inviolability of the individual, his honor and dignity, may not always ensure the reliability of the information received. In particular, if during the initial OSM (for example, a survey), the subjects allowed the use of unlawful or illegal methods, or humiliated the honor and dignity of the respondent, then during the repeated event, the subjects responsible for their conduct must be replaced (one can say the implementation of a challenge), in otherwise, there is a high probability of repeated receipt of distorted information;

- requirements regarding the prevention of provocation of a crime or inducement of a person to commit unlawful acts. The subjects of the operational-search activity are obliged to delimit the legitimate influence on the attacker from provocation or inciting him to commit a crime. It is not a "provocation" of the actions of the OSM participants if they reveal the already formed criminal intent of the attacker, but do not suppress the will of the latter, do not force him to take actions or refrain from doing them, and do not mislead him about the nature of his actions. At the same time, neither the employees themselves, nor the persons assisting them on a covert basis, should not be involved in the formation of this criminal intent, otherwise it will also be considered incitement to commit a crime;

- requirements regarding the rules for the execution of procedural documents and materials of the OSA. In particular, in the absence of publicly available rules for the procedural registration of the results of the OSM, it is considered appropriate to apply the requirements specified in Part 3 of Article 90 of the Code of Criminal Procedure for the registration of the results of the

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OSM, as well as to ensure objectivity, comprehensiveness and completeness in the presentation of the circumstances, the conduct of the OSM, their participants and the results obtained. Thus, it is important to ensure the admissibility of evidence by giving it a criminal procedural form;

- requirements relating to compliance with the requirements of compliance with the regulatory requirements not only of the legislation on the operational-search activity, but also the requirements of other legislative acts of related branches of legislation. In particular, the Law "On Operational search Activities" provides for the need to obtain the prosecutor's sanction, the permission of an official of the body carrying out the investigative activities, or agreement with the prosecutor;

- requirements regarding the subject authorized to carry out the operational-search activity. In particular, the conduct of an OSM by a person, employees of the department who is not authorized to do so or who has performed this function at the request, instruction also gives rise to grounds for the subsequent challenge of its admissibility;

- requirements regarding compliance with the rules for the involvement of OSA materials in the criminal procedure plane. We have indicated above the ways of lawful involvement of the materials of the OSA for use as evidence in criminal cases. When conducting OSM, and converting the results into procedural evidence, it is necessary to understand and interpret the rules of law based on the purpose of legislative regulation, without putting your own judgments and concepts into it.

In conclusion, it should be noted that the materials of the OSA can be used in criminal procedural evidence on an equal basis with other evidence, subject to the requirements of the law, only through the use of one of the ways to involve the materials of the OSA in a criminal case. however, in the future, these materials go through the stage of re-verification and comparison with other evidence in the case, and only after that a conclusion is made about their significance in the case. The solution to the problem of using the results of the operational-search activity is to legalize the mechanisms for their direct and immediate introduction into the criminal process without the need for formal re-registration, minimizing the likelihood of undesirable disclosure of secret information, as well as their distortion, providing an opportunity for their subsequent rechecking or verification. The admissibility requirements considered in this article are general and can be applied to each OSA material, however, in addition to this, there are special admissibility requirements due to the nature and characteristics of a particular OSM.

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