OBSERVANCE OF HUMAN RIGHTS AND FREEDOMS IN THE IMPLEMENTATION OF INTELLIGENCE-GATHERING

A Observância dos Direitos Humanos e das Liberdades na Implementação da Coleta de Informações

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ABSTRACT

Nowadays, in most states of the world, including the Russian Federation, intelligence-gathering is being carried out, affecting fundamental private interests. The problem is acute, since at the present stage of development, changes are taking place in society due to the introduction of information and communication technologies. In the context of the development of these technologies, the problem of observance of human rights is becoming more acute. To solve this issue, a new look at the theoretical and legal foundations of intelligence-gathering is needed, the search for new ways to achieve proportionality and maintain a balance of interests while ensuring it. All of the above testifies to the need and relevance of a comprehensive theoretical and legal study of the foundations of limiting the fundamental rights and freedoms of a person and a citizen during intelligence-gathering. Such an analysis will make it possible to start work on the harmonization of the legislation of the Russian Federation in this area and the allowable restrictions on the constitutional rights and freedoms of man and citizen, adequate to the existing threats to the security of the Russian Federation, its significant institutions, society and citizens.

Keywords: Crime; Crime detection; Criminal law; Criminal procedure; Criminalistics.

RESUMO

Atualmente, na maioria dos estados do mundo, incluindo a Federação Russa, a coleta de informações está sendo realizada, afetando interesses privados fundamentais. O problema é agudo, pois no estágio atual de desenvolvimento, estão ocorrendo mudanças na sociedade devido à introdução das tecnologias de informação e comunicação. No contexto do desenvolvimento dessas tecnologias, o problema da observância dos direitos humanos está se tornando mais agudo. Para resolver este problema, é necessário um novo olhar sobre os fundamentos teóricos e jurídicos da coleta de informações, a busca de novas formas de atingir a proporcionalidade e manter o equilíbrio de interesses, garantindo-os. Tudo isso atesta a necessidade e a relevância de um estudo teórico e jurídico abrangente dos fundamentos da limitação dos direitos e liberdades fundamentais de uma pessoa e de um cidadão durante a coleta de informações. Tal análise permitirá começar a trabalhar na harmonização da legislação da Federação Russa nesta área e nas restrições permitidas aos direitos e liberdades constitucionais do homem e do cidadão, adequadas às ameaças existentes à segurança da Federação Russa, de suas importantes instituições, da sociedade e dos cidadãos.

Palavras-chave: Crime; detecção de crime; direito penal; processo penal; criminalística.

INTRODUCTION

Observance of human and civil rights and freedoms is a mandatory and inalienable requirement for the implementation of any type of law enforcement activity. However, in the modern free and safe existence of the individual, society and the state depend on the security of the information sphere of their interaction from external and internal threats in the digital environment, which becomes the object of criminal encroachments (PUSHKAREV, et al., 2020). The special significance of the fulfillment of this requirement is inherent in the intelligence-gathering, which is an exceptional extraordinary type of law enforcement activity. Intelligence-gathering, due to the forces, means, methods, and the nature of the activities performed, cannot but limit the rights of a person and a citizen, since they can be applied and carried out behind the scenes. As a rule, any secret intelligence-gathering limits the constitutional rights of citizens, enshrined in Chapter 2 of the Constitution of the Russian Federation (1993). The state was forced to take such measures with the sole purpose of ensuring the safety of society and the state from criminal encroachments. The possibility of limiting the constitutional rights of a person and a citizen is provided for in Part 3 of Article 55 of the Constitution of the Russian Federation, which states: health, rights and legitimate interests of others, ensuring the country's defense and state security". As follows from the text of this article of the Constitution of the Russian Federation, limitation of human rights is possible only if a number of conditions are met:

- the existence of a corresponding federal law on intelligence-gathering;
- for specific purposes – ensuring the safety of the individual, society and the state from unlawful encroachments;
- within the minimum permissible limits necessary to achieve the specified goals.

MATERIALS AND METHODS

The methodological basis of the study is the general scientific systemic method of cognition, which made it possible to comprehensively consider issues related to ensuring human and civil rights and freedoms in the implementation of intelligence-gathering in the legislation of the Russian Federation and other CIS member states, as well as other foreign states.

The study used the following scientific methods:

- the formal-logical method, consisting in the interpretation of the content of legal norms governing the procedure for limiting the rights and freedoms of a person and a citizen in the implementation of intelligence-gathering under the legislation of Russia and other states;

- the comparative legal method, with the help of which the features of the legal regulation of the limitation of human and civil rights and freedoms are investigated in the implementation of intelligence-gathering in the legislation of Russia and other states;

- the statistical method, which includes the collection and processing of information about the quantitative and qualitative parameters of certain legal phenomena;

- the specific sociological method used when questioning officials of bodies carrying out intelligence-gathering, as well as a preliminary investigation in a criminal case;

- the method of legal and technical research was applied in the formulation and introduction of proposals for improving the norms of Russian law in terms of the subject matter of this research.

RESULTS

The right of the state to restrict the constitutional rights of citizens on the basis of law and in order to combat crime is consistent with the content of Article 12 of the Universal Declaration of Human Rights (UNITED NATIONS, 1948), Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (COUNCIL OF EUROPE, 1950), Art. 17 of the International Covenant on Civil and Political Rights (UNITED NATIONS GENERAL ASSEMBLY, 1966), the Convention of the Commonwealth of Independent States on human rights and fundamental freedoms (CIS MEMBER STATES, 1995), etc.

Guarantees for ensuring the constitutional rights of a person and a citizen in the implementation of intelligence-gathering are due to the exact observance of the requirements of the Constitution of the Russian Federation, legislative, subordinate, interdepartmental, departmental normative legal acts, as well as compliance with the norms of international law.

The main provisions, the implementation of which guarantees the observance of the constitutional rights of a person and a citizen, are contained in Article 5 of the Federal Law “On intelligence-gathering” dated August 12, 1995, No. 144-FZ (STATE DUMA OF THE FEDERAL ASSEMBLY OF THE RUSSIAN FEDERATION, 1995) with amendments and additions (hereinafter – the Law). Also, the Law specifies the requirements for the possible limitation of the above rights.

The Law (Part 2 of Art. 5) provides a direct indication that the implementation of intelligence-gathering is allowed only to achieve the goals and solution of tasks (Art. 2 of the Law) of this type of the law enforcement activity. Resolution of other offenses and torts by means of forces, means and methods of intelligence-gathering is illegal.

In 1999, in the text of Art. 5 of the Law was supplemented by the requirement for the bodies (officials) carrying out intelligence-gathering, when carrying out intelligence-gathering, to ensure the observance of human and civil rights to privacy, personal and family secrets, home inviolability and correspondence. Since the adoption of the first edition of the Law in 1992, during the validity of its second edition since 1995, there was no such direct indication at the legislative level. There are several explanations for this situation. Firstly, these rights were enshrined in the Constitution of the Russian Federation, and secondly, the concepts relating to a person's private life, his personal and family secrets have not yet been normatively defined. Each person has the right to independently decide what information about him and his loved ones, and in what volumes constitutes a secret of private life, personal and family secrets. Determining the permissible limits of restriction of the human rights in question causes, sometimes significant, difficulties in the activities of operational officers.

Summarizing the content of scientific and practical research in the theory of constitutional law, privacy can be defined as a state-guaranteed opportunity for each person to control information concerning his life and not subject to control by society and the state, as well as to prevent the disclosure of personal and intimate information (DUNG, et al., 2021). Private life is expressed in communication between people in the field of kinship, family, friendship, intimate and personal relationships, affection, likes, dislikes, etc. Private life includes religious and political beliefs, behavior with friends and family, disposal of funds and property, information about addictions, hidden physical disabilities and other information that a person does not want to make public (IVANOV, et al., 2021). Once again, it is necessary to emphasize the fact that each person determines the limits of the secrets of private life for himself. It is not possible to designate a single criterion characterizing the limits of the secrecy of private life for all members of society as a whole. However, in certain cases, the norms guaranteeing privacy, personal and family secrets are not applicable. Private life does not include any information related to criminal activity and, therefore, the conduct of operational-search measures in order to collect, store, use and disseminate information about his criminal activity without the consent of a person cannot be considered as a violation of constitutional rights (CONSTITUTIONAL COURT OF THE RUSSIAN FEDERATION, 1998, 2005).

The Law imposes requirements on the bodies and/or officials carrying out intelligence-gathering in terms of ensuring compliance with the inviolability of the home. This means that penetration into a dwelling against the will of persons living in it is possible only in cases established by federal law (for example, in accordance with Article 15 of the Federal Law “On Police” dated February 7, 2011 No. 3-FZ (STATE DUMA OF THE FEDERAL ASSEMBLY OF THE RUSSIAN FEDERATION, 2011)) or on the basis of judgment. In order to exclude cases of violation of the right to the inviolability of the home, it is very important to correctly and accurately determine which premises belong to the category of residential ones.

According to the note to Art. 139 of the Criminal Code of the Russian Federation “Violation of the inviolability of the home”, a dwelling is understood as: an individual dwelling house with residential and non-residential premises included in it, a dwelling, regardless of the form of ownership, included in the housing stock and suitable for permanent or temporary residence, as well as other premises or structure not included in the housing stock, but intended for temporary residence (STATE DUMA OF THE FEDERAL ASSEMBLY OF THE RUSSIAN FEDERATION, 1996). A more detailed description of the dwelling is given in the Resolution of the Plenum of the Supreme Court of the Russian Federation of December 25, 2018 No. 46 "On some issues of judicial practice in cases of crimes against constitutional human and civil rights and freedoms (Articles 137, 138, 138.1, 139, 144.1, 145, 145.1 of the Criminal Code of the Russian Federation)" (SUPREME COURT OF THE RUSSIAN FEDERATION, 2018). According to the decree, the following are recognized as dwellings: a veranda, a balcony, a built-in garage, an attic, if they are structurally combined with the living quarters themselves; apartment, room, service living quarters, dormitory quarters; garden house, apartments, etc. The same decree determines that premises and buildings structurally separate from an individual residential building are not housing, if they were not specially adapted (equipped) for living, as well as premises intended for temporary residence, but not residence (ship's cabin, train compartment, tent).

When carrying out intelligence-gathering, in the process of carrying out a number of intelligence-gathering that may be associated with an unofficial visit to a home (examination of living quarters, observation, collection of samples for comparative research and examination of objects and documents located in a residential building), it is necessary to have a court decision, as well as information about the signs of a criminal act, according to which the production of a preliminary investigation is mandatory (POPENKOV et al., 2021, p. 1270). In addition, the Supreme Court clarified that a court decision is required on receipt of information related to penetration into a home without entering it, but with the use of technical means, when such means

are used to violate the inviolability of the home (for the illegal installation of listening devices or video surveillance devices).

Only if these conditions are met, the limitation of the constitutional right to the inviolability of the home will be implemented legally.

Restriction of the constitutional rights of citizens also takes place upon receipt of information related to secret correspondence, telephone conversations, postal telegraph and other messages, which comes at the disposal of operational units of internal affairs bodies in the process of such operational-search measures as: wiretapping, control of postal items, telegraph and other messages, removal of information from technical communication channels, receipt of computer information. The guarantee of ensuring the constitutional rights of a person and a citizen in such cases is the observance of conditions similar to the restriction of the right to inviolability of the home, that is, obtaining a court decision and the availability of information about a criminal act, for which the preliminary investigation is mandatory.

In certain operational-tactical situations, it is necessary to immediately make a decision on the commencement and conduct of one or another intelligence-gathering requiring a court permission, and there is not enough time to prepare the relevant materials and visit the court. Such situations arise when there is a threat of committing a terrorist act, contract murder, hostage-taking, organizing mass riots, etc. In such situations, responsibility for the observance of human and civil rights and freedoms is fully assigned to the head of the body carrying out intelligence-gathering. Intelligence-gathering begin by order of the specified head, with a mandatory (usually written) notification of the court within 24 hours. However, within 48 hours of the start of the event, a judgment must be received. In case of a negative decision of the court, the event should be immediately terminated, and its holding is regarded as a violation of constitutional human rights. And this is despite the fact that it is possible to appeal to a higher court for a court decision, with a positive decision of which the intelligence-gathering begins anew. In some cases, a negative decision of the court of first instance may have a negative impact on the process of solving a crime, since the time for obtaining operatively significant information will be lost due to the execution of a court decision by a higher court.

The only exception to the general rule regarding the need to obtain a court decision on conducting a number of operational-search measures is the possibility of wiretapping the telephone conversations of certain categories of persons. However, to ensure the legality of such wiretapping and to exclude violations of constitutional law, it is necessary to fulfill a number of conditions: written consent (statement) of the person for whom the telephone number is registered; the presence

of a decree of the head of the body carrying out intelligence-gathering; written notification to the court within 48 hours from the start of the listening; obligatory indication in the application and resolution of the duration (time, terms) of listening, to which the subscriber agreed in writing.

At the same time, it must be remembered that obtaining information about incoming, outgoing connection signals between subscribers or subscriber devices (date, time, duration of the connection, subscriber numbers) and other data that allow identifying subscribers, in accordance with the Resolution of the Plenum of the Supreme Court of the Russian Federation of December 25, 2018 No. 46 violates the secrecy of negotiations and requires a court decision.

The Law provides for a number of intelligence-gathering, the condition for which, and, therefore, a guarantee of the observance of human and civil rights and freedoms, is the presence of a resolution of the head of the body carrying out intelligence-gathering. These activities include: operational implementation; operational experiment; controlled delivery and test purchase of items, substances and products, the free sale of which is prohibited or the circulation of which is limited. It should be borne in mind that when carrying out a test purchase and controlled delivery of any items, substances and products, it is necessary to obtain material (monetary) funds, and the procedure for obtaining such funds requires a resolution of the head of the body carrying out intelligence-gathering. Therefore, it seems advisable to obtain a resolution to carry out the above operational-search measures in any operational-tactical situation.

At the legislative level, a number of operational-search measures are determined, the conditions for which are not reflected in Art. 8 of the Law. The decision on the implementation of one or another intelligence-gathering, the operational officer makes independently, taking into account the facts and circumstances of the crime being solved. However, in order to ensure guarantees of observance of human and civil rights, one should carefully follow the provisions of departmental regulations that determine the organization and tactics of conducting and documenting the results of intelligence-gathering.

When carrying out operational-search measures, it is possible and necessary to use special technical means to obtain and record operatively significant information. The use of technical means of video and audio recording, film and photography, and other technical means must meet certain requirements: do not harm the life and health of people and do not harm the environment; the use of technical means intended (developed, adapted, programmed) for secretly obtaining information should be carried out exclusively by the subjects of intelligence-gathering; development, production, sale and purchase for the purpose of selling special technical means for secretly obtaining information is possible with a license. If special technical means meet the listed

requirements, then "their use is carried out in accordance with the general procedure for conducting operational-search measures to record their progress and results. The use of technical means of recording the observed events in itself does not predetermine the need to issue a court decision on that, which is recognized as mandatory for carrying out certain operational-search measures limiting the constitutional rights of citizens (CONSTITUTIONAL COURT, February 2017, December 2017). Operational-search measures requiring a court decision are determined in accordance with the content of Part 2 of Art. 8 and Part 1 of Art. 9 of the Law. It should be remembered that penetration into a home, including without entering it, but with the use of technical means, when such means are used in order to violate the inviolability of the home (for the illegal installation of listening devices or video surveillance devices) – requires obtaining a court decision (SUPREME COURT OF THE RUSSIAN FEDERATION, 2018).

The observance of human and civil rights and freedoms in the implementation of intelligence-gathering is ensured by the opportunity to appeal against the actions of officials of the operational divisions of the internal affairs bodies, as well as to demand from them information about the amount of information received.

The ability to appeal against the actions of officials of operational units of the internal affairs bodies, if there is reason to believe that human rights and freedoms have been violated, is enshrined in Part 3 of Art. 5 of the Law. It is possible to appeal against the actions of officials, at the choice of the applicant, to a higher authority carrying out intelligence-gathering, to the prosecutor or to the court.

Rather serious consequences for operational units, including with the possibility of proceedings with the participation of a court, arise if the guilt of a person in committing a crime is not proven in accordance with the procedure established by law (a criminal case was refused, a criminal case was closed for lack of corpus delicti or event of a crime), and the person being checked has the facts of conducting operational-search measures against himself and believes that his constitutional rights have been violated. In such cases, a person has the right to demand from the officials of the internal affairs body information about the information received about him within the limits of compliance with the requirements of secrecy and the preservation of state secrets. The availability of the possibility of submitting such information and the sufficiency of their volume is determined by the applicant. The duty to substantiate and prove the reasons for the refusal of the relevant information, including in full, rests with the body carrying out intelligence-gathering. In this case, the applicant can appeal against the actions of officials in court. The court, in order to ensure the completeness of the consideration of the case, may oblige the body carrying out

intelligence-gathering to submit to the judge the relevant documents that were not presented to the applicant. If the court recognizes the decision of the internal affairs body in terms of refusal to provide information, unreasonable, then the judge may oblige the specified body to provide the applicant with the information it requires. Under no circumstances is information provided either to the court or to the applicant about persons providing confidential assistance to the internal affairs bodies, embedded in organized criminal groups, and about full-time undercover employees. This limitation is due, on the one hand, to the need to comply with secrecy and the preservation of state secrets, and on the other hand, to ensure the security and rights of the listed categories of confidants.

Observance of human and civil rights and freedoms in the process of carrying out intelligence-gathering is ensured, inter alia, by the fulfillment of requirements for handling materials obtained as a result of intelligence-gathering. Materials obtained as a result of operational-search measures against persons whose guilt in committing a crime has not been proven in accordance with the procedure established by law, are stored for one year, and then destroyed, unless official interests or justice require otherwise. Phonograms and other materials obtained as a result of wiretapping of telephone and other conversations of persons against whom a criminal case has not been initiated, are destroyed within six months from the moment the wiretapping was stopped, about which a corresponding protocol is drawn up. Three months before the destruction of materials reflecting the results of operational-search measures carried out on the basis of a court decision, the appropriate judge is notified of this. The legislative definition of the storage period for materials of intelligence-gathering and the participation of the court in their destruction indicates that the appropriate attention has been paid to the observance of rights at the state level.

When initiating a criminal case, materials reflecting the results of intelligence-gathering are submitted to the body of inquiry, investigator or court in accordance with the requirements of the "Instructions on the procedure for presenting the results of intelligence-gathering to the body of inquiry, investigator or court". The presented results of intelligence-gathering for use in proving in criminal cases should allow the formation of evidence that meets the requirements of criminal procedure legislation. Article 89 of the Criminal Procedure Code of the Russian Federation (STATE DUMA OF THE FEDERAL ASSEMBLY OF THE RUSSIAN FEDERATION, 2001) contains a direct prohibition on the use of the results of intelligence-gathering if they do not meet the specified requirements (KADNIKOV, et al., 2021).

When presenting the results of intelligence-gathering for use in criminal proceedings, the attention of law enforcement agencies is drawn to the observance of the rights of the inspected persons in the process of carrying out these activities. So, when presenting to authorized officials

(bodies) the results of intelligence-gathering obtained during a test purchase or controlled delivery of items, substances and products, the consolidated sale of which is prohibited or whose circulation is limited, as well as an operational experiment or operational implementation, they are attached the originals of the resolution of the head of the body carrying out intelligence-gathering, on the conduct of this intelligence-gathering. When presenting the results of intelligence-gathering, containing information on the organization and tactics of conducting operational-search measures that restrict the constitutional rights of a person and a citizen to the secrecy of correspondence, telephone conversations, postal, telegraph and other messages transmitted through electrical and postal networks, and also the right to the inviolability of the home, copies of court decisions on the conduct of operational-search measures are attached to them. Admission to the materials of the criminal case of the above decisions and court decisions indicates that the issue of legality and guarantees of observance of the rights of the inspected persons in the implementation of operational-search measures was studied, and the conclusion about the need to carry out just such measures was justified by the current operational-tactical situation, which was analyzed at the level of the leadership of the internal affairs body and the judge.

Respect for human and civil rights and freedoms is guaranteed by strict adherence to the provisions of all articles of the Law. Almost every article of the Law sets out the requirements to ensure the legality of the implementation of intelligence-gathering and the assistance of citizens to operational units to the subjects of intelligence-gathering. Violation of any requirement of the Law, as well as other regulatory legal acts, including the departmental level of legal regulation of intelligence-gathering, leads to a violation of human and civil rights in the process of this type of law enforcement activity.

When solving problems and achieving the goals of intelligence-gathering, special attention should be paid to the content of the prohibitions contained in Part 8 of Art. 5 of the Law. Bodies (officials) carrying out intelligence-gathering are prohibited from:

- carrying out intelligence-gathering in the interests of any political party, public and religious association. This prohibition excludes the receipt of information for the purpose of waging a political struggle, the success of an election campaign, other assistance to the activities of public, religious associations and political parties, if such information does not indicate criminal activity;

- taking unspoken participation in the work of federal government bodies, government bodies of the constituent entities of the Russian Federation and local government bodies, as well as in the activities of duly registered and not prohibited political parties, public and religious associations in order to influence the nature of their activities. The covert nature implies the

introduction of confidential, including full-time undercover employees, into government and local government bodies, into their management structures. Influence on the nature of activities can be carried out in various ways: carrying out various actions that discredit or strengthen public opinion about organizations and their leaders, promotion of individuals to leadership positions, amending programs and regulations of activity, promoting the adoption of bills that meet the interests of individual political formations, etc. At the same time, the action of the considered norm does not apply to illegal associations and organizations.

- disclosing information that affects the inviolability of private life, personal and family secrets, honor and good name of citizens and which became known in the process of conducting intelligence-gathering, without the consent of citizens, with the exception of cases provided for by federal laws. This prohibition is a guarantee of compliance with the requirements of Part 1 of Article 23 of the Constitution of Russia. It applies not only to officials carrying out intelligence-gathering, but also to other officials who were involved in conducting intelligence-gathering, citizens assisting law enforcement agencies, including on a confidential basis. So, according to Part 1 of Art. 17 of the Law, persons providing confidential assistance to the bodies carrying out intelligence-gathering are obliged to keep secret the information that became known to them during the preparation or conduct of intelligence-gathering. Obviously, there is a need to notify the participants in operational-search measures about the inadmissibility of disclosing information affecting the privacy of the inspected persons, with the receipt of a corresponding subscription with a warning about liability under Art. 137 of the Criminal Code of the Russian Federation. However, information related to criminal activity does not constitute the subject of private life, personal and family secrets and can and should be considered in the course of legal proceedings.

- inciting, persuading, inducing, in a direct or indirect form, to commit illegal actions (provocation). Provocation is defined as an inducement with a specific purpose to actions that are unfavorable for someone. The purpose and motives of provocative actions should remain secret for the provoked person. The provocation of a crime takes place when a law enforcement officer, independently or through third parties, is not limited to passively establishing the circumstances of the crime in order to collect relevant evidence and, if there are grounds for prosecution, incite a person to commit a crime (persuasion, threats, promises of benefits, etc.) (SUPREME COURT OF THE RUSSIAN FEDERATION, 2006).

For example, when carrying out an operational-search measure, an “operational experiment” is a provocation is the creation of favorable conditions for the commission of crimes. When carrying out an operational experiment, favorable conditions should be reproduced (repeated,

recreated), and the person being checked should have the freedom to choose whether to commit criminal acts in the course of an intelligence-gathering or not. In cases of creating favorable conditions for the commission of a crime in the course of an operational experiment, responsibility for the unlawful implementation of operational-search measures falls on law enforcement officers. At the same time, the motives of such behavior of law enforcement officers are not important - the desire for the earliest possible disclosure of the crime, bringing to justice all the defendants in the criminal case, the triumph of justice and the Law.

- falsifying the results of operational search activities. Falsification is a deliberate (deliberate) distortion of the collected facts (deliberate distortion, forgery, introduction of false information instead of true information, destruction of data that has evidentiary value) in order to influence the adoption of appropriate, including procedural, decisions. Falsification is most likely during an operational experiment, examination of premises, buildings, structures, terrain and vehicles, test purchases, collection of samples for comparative research. At the same time, in some cases, operational officers are guided by so-called “good intentions” in order to counteract criminal acts. However, such motives do not exclude the possibility of bringing officials who have falsified the results of intelligence-gathering to criminal liability under Art. 303 of the Criminal Code of the Russian Federation.

CONCLUSION

With strict adherence to the requirements of regulatory legal acts governing intelligence-gathering, the provision of constitutional human and civil rights is guaranteed. Of course, this applies to intelligence-gathering, the condition for the implementation of which is the presence of a court decision or resolution of the head of the body authorized to carry out intelligence-gathering.

In the production of intelligence-gathering carried out at the sole discretion of the direct executor - an operational officer (interviewing, making inquiries, collecting samples for comparative research, observation, identification of the person – Part 1 of Art. 6 of the Law on OSA), issues of observance of constitutional human rights and citizen requires a separate analysis and are not the subject of this article. Some areas of observance of human and civil rights during intelligence-gathering using special technical means are discussed in the article “Observance of human and civil rights and freedoms when using special technical means in the process of intelligence-gathering” (BONDAR; MOLYANOV, 2021).

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