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THEORETICAL PROBLEMS OF UNDERSTANDING THE ESSENCE OF OPERATIONAL INVESTIGATIVE ACTIVITIES

Abstract: *The theoretical basis for the development of any direction of scientific activity, the purpose of which is to know the problems and ways to overcome them, is a well-founded system of principles and their concepts. The presence of such principles and concepts in the theory of operational investigative activities should decipher the main investigative relationship in the system of ORD and between the elements of the structure of its component. The logical validity of theoretical definitions, their clear and easy-to-understand content, and unified form make it possible to implement their main communicative functions without any problems.*

Key words: law, criminal procedure, operational measures, operational investigative activities, priority tasks of operational investigative activities, criminal procedure legislation.

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Introduction

The presented conclusions of theoretical problems allow us to clearly identify the directions for the long-term development of understanding the priority tasks of the ORD as a component of the theory of the legal system, while expanding the boundaries of the content of the logic of perception and basic concepts. The main concept in the system of constructing a logical understanding of the theoretical aspects of operational activities is the content characteristics of operational activities, which are the mechanism for implementing operational activities.

The importance of understanding the semantic content of the definition of "operational activities" is determined by the existence of existing conditions that need clarification:

1. the Dynamics of the development of theoretical aspects of forensic tactics and its subsection tactics of operational investigative activities has determined the need for their clear interpretation and perception by the norms of criminal procedure legislation. Based on this, the generally applicable term "operational activities" was formulated. At the same time, the applicant draws

attention to the fact that this was only a generally applicable term that does not contain a legal interpretation and unified content. In the activities of law enforcement agencies and special services of the Kyrgyz Republic, the term "operational measures" as a legal category was first designated in the Law "on operational search activities" and a number of other legislative acts regulating the activities of law enforcement agencies. But not one of the legislative acts did not attempt to formulate the content of the definition of "operational search activities". As a result, law enforcement agencies in practice faced problems with the interpretation of this term and its interpretation in practice. This very clearly indicated the need for a unified legal interpretation and application of the well-founded definition expressed in the development.

2) operational science, in contrast to legislation, has not faced such a problem. this term and its content have been formulated in It for a long time, although it has been used in various interpretations. The theorist of Soviet intelligence P. A. Sudoplatov on this occasion noted "Operational work is life, not its continuation, to live operational work and not

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understand what you are doing is like living in vain" [1].

I. Klimov in his arguments about the nature of operational measures came to the following conclusions. "In some cases, the ORM is associated with the cognitive side of the ORD, aimed at searching, detecting and recording information of interest to operational devices, in others - with the active side, aimed at implementing the received operational search information" [2].

Summarizing the arguments of the above scientists, we come to the logical conclusion that a unified legal interpretation of the term "operational measures" is necessary for the uniformity of its practical application.

3) the Theoretical analysis of the nature of the essential content of operational activities is carried out fairly regularly, the result of these studies are formulated definitions that reflect the General parameters of the characteristic features of the term under consideration. In this regard, it is necessary to determine the main direction in the cognitive activity of the essential nature of operational search activities, while formulating the scientific and legal content of the definition under study. Analysis and theoretical understanding of the definition of operational measures was carried out in the works of scientists of the Russian Federation, V. G. Bobrov, N. S. Zheleznyak, SI. Zakhartsev, V. V. Dyukov, V. I. kannsky, A. M. Efremon, A. G. Lekar, B. II. Omelin, D. V., L. Yu. Shumilov, including in the Kyrgyz Republic, theoretical scientists K. By Kydyrbaeva, O. D. Kim, A. By Jakubikova, T. I. By Sayfutdinov.

As a result of studying the works of these theoretical scientists, the author has identified various opinions on this issue and approaches that have their own arguments in the legal formulation of the definition of "operational search activities". The applicant, investigating the nature of the author's definitions of scientists, does not consider them absolute and exhaustive, while giving priority to one of them. The reason for this is the presence of many individual views and, as a result, the methods that determine the development of the concept of "operational activities".

The author made an attempt to impartially study the opinions of scientists presented in the process of theoretical analysis of the definition of "operational measures" and identify the main individual features of the subject of the dissertation research. Investigating this issue, the applicant came to the conclusion that the most optimal in its completeness and effectiveness of the analysis of the problem of the definition of "operational measures" is the method of "topology", which makes it possible to analyze a lot of existing logically based opinions on this issue and on this basis indicate the limits of the logical justification of the scientific problem. In the course of the dissertation research of the conceptual apparatus of operational

activities, the applicant identified the first mention of the legal definition of "operational search activities" in a scientific study by one of the theorists of operational activities A. G. Lekar [3].

The author believes that these theoretical studies can be considered basic and applicable as basic concepts.

A. E. Chechetin in one of the textbooks defined ORM as "based on the use of special means and methods in combination with public means and methods of action of an operative employee of the internal Affairs bodies, aimed at solving individual tasks of fighting crime" [4].

The study of the characteristic features of the presented definition suggests the following conclusion that the basic element in this case is the direct actions of the subject of operational search activity in the law enforcement practice of their powers.

The following features are identified as distinctive features in the content of operational activities:

- 1) Interdependence of operational activities based on the principles of combining tacit means and methods with vowels;
- 2) Authorized subject within its competence – a representative of the operational Department;
- 3) Focus on specific functional tasks in the fight against crime.

The characteristic feature of operational activities presented in the first paragraph, indicated in the definition, is a continuation of the content of operational activities, i.e. public and secret methods and means of operational work. This feature is the feature that clearly distinguishes operational activities from other actions carried out by authorized representatives of law enforcement agencies within their competence, namely, organizational, investigative, special, and administrative functions.

The author focuses on the fact that his position on this issue is on the side of the formulation of tacit means and methods. This position is justified by the fact that the characteristics of operational activities are based on a direct understanding of their content in practical use and only their combination with public means and methods.

As a result of the analysis of theoretical research of scientists and the practice of subjects of operational activities, the author comes to the conclusion that the formulated feature was used only in half of the presented definitions that formulate the definition of operational activities, which is perceived by the author as a clear belittling of its functional significance. At the same time, there is a pluralism in the essential content of existing definitions among theoretical scientists dealing with operational issues.

As a polemic, it can be assumed that the formulation of the definition of operational activities should include not means and methods, but other

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internal content - forces and means. At the same time, analyzing the scientific literature and their practical experience of operational work, the applicant comes to the conclusion that during the implementation of operational activities, as a rule, other subjects of operational activity are also involved. These include confidants and non-staff assistants, based on their competence.

The author notes the fact that in practice, such a component as methods of operational work is unreasonably excluded from the conceptual content of the definition – operational measures.

The analysis of legislative consolidation as one of the components of the content of operational measures, in the author's opinion, is logically justified, since it indicates a sign of their legal content. The list of operational activities set out in article 7 of the law "on operational search activities" of the Kyrgyz Republic summarizes the fact that, only those are operational activities that are included in the definition of the article itself, other practical actions of subjects of operational work carried out in the course of operational activities cannot be defined as operational activities.

Analyzing this provision, the author found another characteristic feature, which is contained in at least half of the presented definitions of operational measures, their semantic content consists in specific restrictions on the current legal norms, the production of operational measures. D. V. Rivman and I. K. Khrabrov were the first to consider and introduce this feature into the definition, drawing attention to the fact that, along with the legislative norm, operational measures have the presence of "strict procedural, tactical and space-time restrictions" [5].

The author believes that this explanation is quite controversial because the specified attribute is not applied to all operational activities, and the frequency of its application is not significant, and is usually limited to cases declared by the norm of the constitutional law. The main part of the declared operational activities does not contain regulations on the order and time of their implementation, so the given feature does not affect them in the context of the concept under study [6].

Analysis of the scientific literature has shown that theorists studying this trait, in its definition, approach from individual personal positions, which are often diametrically opposed to the opinion of their opponents [7]. One group of scientists claims that operational measures are implemented on the basis of the grounds and procedure provided for by operational legislation, their opponents believe that the rules of conduct are laid down in departmental regulations, or in the order established by law and by-laws [10].

The logical and most acceptable definition of a characteristic feature of an operational event is the requirement of its compliance with regulatory legal acts. The presented definition of a feature of an operational event in its content part is naturally considered as a prerogative, since it is a continuation of the principle of legality [8]. It is clear that the implementation of operational measures should be regulated in the aggregate by the relevant law and existing regulations, and therefore, the position of certain theorists that operational measures should be regulated only by certain acts, which is laid down in the definitions formulated by them, is not justified [9].

Theorists of operational search activity carefully analyze the definition of operational activities proposed by S. I. zakhartsev, where He examines and formulates the distinctive features that are the basis of the proposed definition.

S. I. zakhartsev in his research notes that operational measures are a component of the system of operational search activities. However, the results of our further research led to the conclusion that this feature is not applicable to the definition of an operational event and it should be removed from the definition because it is very problematic to give it a distinctive characteristic.

The logic of the author's reasoning is that, in addition to operational activities, there are a number of other structural elements that are a component of operational activities. This includes information, organizational support, management activities, and operational production.

In connection with the presented argument, it can be assumed that the analyzed feature is not distinctive from other components of the operational activity system.

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