Ponomarenko Alla,

Candidate of Juridical Sciences, Senior Researcher, State Research Institute MIA Ukraine, Kyiv, Ukraine ORCID ID 0000-0002-6271-4485

WARRANTIES OF LEGAL PROTECTION OF INVESTIGATION OF PROCEDURAL ACTIVITIES: MODERN ISSUES

The purpose of research article is to investigate the guarantees of legal protection of investigators during their procedural activities, to clarify problematic issues and to suggest ways of solving them.

On the basis of the analysis of the current legislation of Ukraine, it is concluded that the guarantees of the activity of investigators in criminal proceedings are divided into procedural guarantees, which are defined in the CPC of Ukraine, and non-procedural. The main procedural bases for the activities of investigators include the following: legal norms that set out the procedural powers of investigators; the procedure for pre-trial investigation provided for by law; responsibility for thecontempt of the investigator and for unlawful interference with his procedural activities, obstruction of his activities in the investigation of criminal offenses, failure to comply with procedural decisions and legal requirements of the investigator; the right to appeal against the decisions, actions or omissions of the prosecutor and the head of the investigative body. Non-procedural include: personnel, financial, material and social security of National Police investigators.

It is found out that today the provisions of the current legislation on procedural independence and autonomy are more declarative than those, which have got a real implementation in the current practical realities. Attention is drawn to the lack of an effective mechanism for exercising the investigator's right to the protection from interference into his procedural activities, as well as to the absence of regulations that

would establish liability for non-compliance with the investigator's requirements and procedural decisions, other than administrative liability.

In order to solve the abovementioned issues, it is suggested to exclude from the powers of the prosecutor his supervisory and supervisory activities regarding the coordination of the investigator's petitions with the investigating judge regarding the application of measures of securing criminal proceedings, carrying out other procedural actions that require the appropriate permission of the investigating judge, the court, as well as requests for the period of pre-trial investigation. It is considered expedient to provide in the Criminal Code a norm that would influence in any form the investigator during his procedural activity. In addition, it is proposed to provide for liability in the current legislation in the form of monetary recovery in the case of unjustified failure to provide things, documents, information required by the investigator or prosecutor to state authorities, local authorities, enterprises, institutions and organizations, officials and individuals.

Keywords: investigator, investigator's independence, unlawful interference, appeal against decisions, procedural safeguards, authority.

REFERENCES

- 1. Velykyi tlumachnyi slovnyk suchasnoi ukrainskoi movy (z dod. i dopov.). "Great Explanatory Dictionary of Modern Ukrainian Language" (with additions and supplements) / ed. V.T. Busel. Kyiv; Irpin: Perun, 2005. 1728 p. [in Ukrainian].
- 2. Protchenko S.M. (2008) Sutnist ta vydy yurydychnykh harantii, yaki peredbacheni dlia pratsivnykiv orhaniv vnutrishnikh sprav. "The Nature and Types of Legal Safeguards Provided for Law Enforcement Officials". Herald of Kharkiv National University of Internal Affairs 42, P. 294–300. [in Ukrainian].
- 3. Lysetskyi O.O. (2018) Slidchyi yak subiekt kryminalnoho provadzhennia. "Investigator as a Subject of Criminal Proceedings": thesis ... Cand. of Juridical Sciences. Kyiv, 2018. 244 p. [in Ukrainian].
- 4. Tatarov O.Yu. (2012) Dosudove provadzhennia v kryminalnomu protsesi Ukrainy: teoretyko-pravovi ta orhanizatsiini zasady (za materialamy MVS). "Pre-trial Proceedings in the Criminal Process of Ukraine: Theoretical, Legal and Organizational

- Foundations (based on MIA materials)": monograph. Donetsk: WPP Promin LLC, 2012. 640 p. [in Ukrainian].
- 5. Basysta I.V., Shchur, B.V. (2015) Protsesualna samostiinist slidchoho v svitli vymoh chynnoho KPK: problemy ta perspektyvy. "Procedural Independence of the Investigator in Light of the Requirements of the Current CCP: Problems and perspectives". Scientific Information Bulletin No. 11, P. 144–145 [in Ukrainian].
- 6. Drozd V.H. (2018) Pravove rehuliuvannia dosudovoho rozsliduvannia: problemy teorii ta praktyky. "Legal Regulation of Pre-trial Investigation: Problems of Theory and Practice": monograph. Odesa: Helvetik Publishing House. 448 p. [in Ukrainian].
- 7. Zaitsev O.V. (2018) Protsesualna nezalezhnist ta samostiinist slidchoho pid chas dosudovoho rozsliduvannia: zminy u kryminalnomu protsesualnomu zakonodavstvi Ukrainy. "Procedural Independence and Independence of the Investigator during the Pre-trial Investigation: Changes in the Criminal Procedural Legislation of Ukraine". Carpathian Legal Bulletin 1 (22), P. 208–210 [in Ukrainian].
- 8. Okhrimenko S., Okhrimenko I. (2018) Teoretyko-pravova kharakterystyka vtruchannia v protsesualnu diialnist slidchoho. "Theoretical and Legal Characteristics of Interference in the Investigative Process". Entrepreneurship, Economy and Law, P.134–139 [in Ukrainian].
- 9. Pro nezalezhnist sudovoi vlady: Postanova Plenumu Verkhovnoho Sudu Ukrainy vid 13 chervnia 2007 roku № 8. On the Independence of the Judiciary: Resolution of the Plenum of the Supreme Court of Ukraine dated June 13, 2007 No 8. URL: http://zakon2.rada.gov.ua/laws/show/v0008700-07 (date of application: 16.06.2019) [in Ukrainian].
- 10 . Bilokin R.M. Vidpovidalnist za nevykonannia zakonnykh vymoh i protsesualnykh rishen osib, yaki zdiisniuiut kryminalne provadzhennia. "On the Independence of the Judiciary": Resolution of the Plenum of the Supreme Court of Ukraine of June 13, 2007. No 8. Scientific Herald of Uzhhorod National Univ., 2017. Issue 43. Vol. 2. P. 52–156. [in Ukrainian].