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### **Hidden Fixation of Facts of Obtaining Unlawful Benefit by an Official in the Public Accessible Places**

It is determined that the primary means of fixation of fact of obtaining unlawful benefit by an official is a special investigative experiment. Realization of such experiment in publicly accessible places must be combined with the visual observation of a person in which legally can be used technical tools for photography and video. Depending on the investigation (operative-tactical) situation can also be used the visual observation of the place or thing, and audio-, videocontrol of place.

The solution of the problem concerning the hidden fixation of facts of obtaining unlawful benefit by an official in the public accessible places it is possible only by way of amending to The Criminal Procedural Code of Ukraine and the Law of Ukraine «On Operative Search Activity».

In particular, it is proposed in the art. 273 of the Criminal Procedural Code of Ukraine «The means used during the undercover investigation (search) action» on the separate part to regulate the use of the technical means. However, it should be noted that during the undercover investigation (search) action in the public accessible places the investigator, the procurator and the workers of the operational subdivisions and the persons involved in these

actions in the order of art. 275 the Criminal Procedural Code of Ukraine can easily use the technical means to hidden video- and audiorecording.

All type (under the current The Criminal Procedural Code of Ukraine – forms) of the control for committing an offense it is advisable to regulate by specific articles – as independent undercover investigation (search) actions. However, the special investigative experiment should be defined as organized by the investigator, prosecutor and on their instructions executed by the operational subdivisions (with the involvement of other persons in the manner prescribed by art. 275 of the Criminal Procedural Code of Ukraine) staging actions that correspond criminal intent of a person against whom open the criminal proceedings to fix evidence confirming the acceptance of an independent decision to commit grave or especially grave crime.

All types (forms) of the control for committing an offense shall comply with the relevant operative search measures. Thus, it is necessary to determine in the Law of Ukraine «On operative-search activity» the specific operational experiment as a staging by the operational subdivisions actions that correspond to the person intent for which opened a operative search case to fix the actual evidence that confirming the preparation and (or) making herself a final decision on committing grave or especially grave crime.

The art. 270 of the Criminal Procedural Code of Ukraine should be called «Audio- and videocontrol of a public accessible place». It is necessary to determine that this undercover investigation (search) action means the covert installation on the objects and covert use of the means of audio-, videorecording commits to events occurring in a specific a public accessible place. This action should be carried out by the decision of the investigator, prosecutor (without the receipt of the investigating judge).

The art. 269 of the Criminal Procedural Code of Ukraine should be called «Visual observation» and specify that it is a covert surveillance by the established (known) and unidentified (unknown) people in the public accessible places by the decision of the investigator, prosecutor (without the receipt of the investigating judge).

**Keywords:** undue advantage, official person, unofficial (investigators) investigative actions, operational-search measures, public accessible place.