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## **ENSURING THE PRINCIPLE OF THE RULE OF LAW DURING THE PRE-JUDICIAL INVESTIGATION UNDER THE CONDITIONS OF MARTIAL STATE**

Pretrial investigation is an important part (form) of criminal proceedings. At this stage, the evidence base is created and organized, on the basis of which the court administers justice. The Institute of Investigative (Investigative) Actions is the main component of the pre-trial investigation, which actually is the basis of the criminal proceedings. Investigative (search) actions, in turn, are aimed at obtaining, collecting or checking already received evidence in criminal proceedings.

The rule of law during the planning, organization, conduct and recording of investigative actions obliges the authorized subjects to ensure and not violate the rights and freedoms of the participants in the criminal proceedings. Establishing and regulating the procedure for the implementation of investigative actions, the legislator allows restrictions on the rights and freedoms of participants in criminal proceedings.

An important point is the changes in the criminal procedural legislation of Ukraine regarding the pre-trial investigation in the conditions of martial law. It is worth noting that Art. 615 of the Criminal Procedure Code of Ukraine was supplemented with new provisions, in particular, on the initiation of a pre-trial investigation, recording of the results of a pre-trial investigation, features of conducting a search or inspection of a dwelling, the impossibility of exercising the powers of an investigating judge and choosing a preventive measure, detaining a person and the term of his detention without a decision of the investigating judge, the participation of a defense attorney, special features completion of pre-trial investigation and recovery of lost materials of criminal proceedings.

I would like to pay special attention to the peculiarities of conducting a search or inspection of housing under martial law. In accordance with Clause 1, Part 1, Art. 615 of the Criminal Procedure Code of Ukraine "a search or inspection of a dwelling may be carried out without the involvement of witnesses in case of potential danger to their life or health. However, in such a case, continuous video recording should be carried out with the help of available technical means."

The rights of individuals become the most vulnerable and unprotected in the process of carrying out this investigative action, because during its conduct there is a direct interference with them.

Obtaining evidentiary information in the process of conducting such investigative actions can be a means of gross violation of human rights and freedoms. The evidence that was obtained as a result of human rights

violations has a significant impact on the process of proving, their research and evaluation by the court during the trial. Such evidence is considered inadmissible. Therefore, compliance with the rule of law in this aspect is an important point.

I also want to draw attention to the participation of the defense counsel, in accordance with Part 12 of Article 615 of the Criminal Procedure Code of Ukraine. In case of impossibility of the direct participation of the defense counsel during a separate procedural action in accordance with Art. 53 of the Criminal Procedure Code, the investigator or inquirer must ensure its conduct through the remote participation of the defender by means of audio and video communication.

The rule of law provides for the proper implementation of the defense function at each stage of criminal proceedings. It is very important that even in the conditions of martial law, this moment is fully thought out and legislated.

The lack of national legal remedies violates the procedural aspect of human rights, since the rights of victims and public interests remain unprotected, which violates a number of provisions of the Constitution of Ukraine, the Criminal Procedure Code of Ukraine, the Resolution of the Supreme Administrative Court of Ukraine «On the Application of Legislation that Ensures the Right to Defense in Criminal Proceedings» № 8 of 24.10.2003 and international legislation, in particular Art. 6 of the European Convention on Human Rights.

#### ***Список використаних джерел***

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