

freedoms and legitimate interests of a person in criminal proceedings, as well as improving the regulation of criminal proceedings cannot be carried out without taking into account international experience.

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PROBLEM ASPECTS OF ENSURING THE RIGHTS, FREEDOMS AND LEGAL INTERESTS OF PERSONS DURING THE EXHUMITATION OF THE CORPSE

Such an investigative (search) action as exhumation of a corpse is carried out quite rarely today, because a modern category of cases, where the object of criminal proceedings is a human corpse is quite limited. However, sometimes the exhumation of a corpse is the most important stage, because without it it is impossible to investigate the entire criminal proceedings.

It should be remembered that this investigative (search) action, in turn, differs from others by the presence of a special mechanism for combining the interests of the state with the interests of relatives and friends of the deceased. Our chosen investigative (search) action is very contradictory, because sometimes the purpose of law enforcement agencies does not coincide with the wishes of the relatives of the deceased. Such a

contradiction causes a conflict situation. There have been many such circumstances in history. Therefore, in our opinion, it is interesting and appropriate to analyze several as such problems.

As you know, the right to respect for private and family life, guaranteed by Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, applies, *inter alia*, to cases where the body of a deceased person is left alone [1]. In cases of exhumation of corpses, according to the ECtHR (*Solska and Rybytska v. Poland*, application №30491 / 17), first of all, it was necessary to find mechanisms to combine the public interests of the state with the rights of relatives and friends of the deceased.

The issue of exhumation in this case arose in connection with the re-investigation of the circumstances of the plane crash near Smolensk, which took place in 2010. The tragedy killed eight crew members and 88 passengers, including Polish President Lech Kaczynski.

In 2016, the authorities decided that a re-investigation was needed to identify new circumstances.

During the re-investigation, the question of exhuming the corpses arose, as an examination of the remains could help establish the true cause of the accident, including whether there was an explosion on board the aircraft.

This investigative (search) action was carried out, but the consent of relatives and friends of the deceased was not obtained. Thus, *Eva Solska* and *Eva Rybytska* opposed the exhumation of the remains of their husbands. The women were unable to influence the decision to carry out the procedural action, so they appealed to the European Court of Human Rights. The court ruled that Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms had been violated in this case.

At the same time, Strasbourg noted that re-investigating the tragedy was, of course, more important for the state than the interests of individuals, but the authorities did not use a mechanism to avoid a conflict between the state's interests and the applicants.

Another controversial case involving the exhumation of a corpse is

the reburial of the remains of Spanish dictator Francisco Franco. On September 25, 2019, the Supreme Court of Spain finally allowed Franco to be exhumed. Earlier, on September 24, the court rejected the decision of the dictator's heirs, who denied the reburial of a deceased relative.

The conflict was that the dictator's remains were planned to be reburied from the Valley of the Fallen near Madrid to a regular cemetery in Mingorrubio. However, Francisco Franco's relatives did not agree with this decision. Their consent could only be obtained on the condition that the reburial take place in the family crypt of Almudena Cathedral in central Madrid.

The Spanish government has decided not to use the mechanism of combining the interests of the state and relatives and friends of the deceased, arguing that reburial of the dictator in the family crypt will create many difficulties and problems for law enforcement, as the cathedral is next to the Royal Palace. In addition, the authorities insist on reburial of the remains. They defend their position that the Valley of the Fallen, where Franco was buried in 1975, should be a place of reconciliation, not a place of worship for the dictator.

Also, one of their arguments is that Francisco Franco died a natural death, not died in battle, like the other dead buried in the Valley of the Fallen.

Thus, we can say that in this situation the priority was the interest of the state, not individuals. The mechanism of combining the interests of the state and the relatives of the deceased was not applied at all.

Despite the fact that this procedural action, which takes place under the above conditions, is a violation of the European Convention for the Protection of Human Rights and Fundamental Freedoms, the exhumation of the corpse was still approved, and the reburial of Francisco Franco was scheduled for October 24, 2019 [3].

Thus, considering this issue, we can conclude that the exhumation of the corpse is a special investigative (search) action, which has its own characteristics.

It should also be noted that the mechanism of combining the interests of the state with the interests of relatives and friends of the deceased is

important. Conflicts during the exhumation of a corpse can jeopardize all criminal proceedings. Contradictions that arise between law enforcement agencies and relatives of the deceased must in any case be resolved, as this is a direct violation of Ukrainian and international law.

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PRACTICE USE OF POLYGRAPH IN THE USA

For as long as human beings have deceived each other, people have tried to develop techniques for detecting deception and determining truth. These techniques have almost always included interviews and interrogations try to see through deception and reveal what is lie and what is truth. A polygraph, popularly referred to as a lie detector test, is a device or procedure that measures and records several physiological indicators such as blood pressure, pulse, respiration, and skin conductivity while a person is asked and answers a series of questions.