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Issues of Temporary Access to Items and Documents

This article analyses issues of temporary access to items and documents as security measure in criminal proceedings.

Temporary access to the items and documents is a criminal proceeding action which provides an opportunity to examine property or documents authorizing the ownership of the suspect (accused) during the pretrial investigation and guarantees compensation of damage at the trial. The author has concluded that temporary access to the items and documents containing information about the suspect's possessions in order to guarantee compensation of damage caused by the criminal offence commission is fully in line with the aim and purpose of the security measures in criminal proceedings.

It is stated that material evidence and documents extracted may become exceptional subjects of temporary access to the items and documents only in case if the corresponding investigative actions are impossible to be carried out as collection of any evidence including material is a result of investigative procedures.

One specific aspect is thoroughly examined – unavailability to meet the requirements under Article 163 of CPC of Ukraine concerning the judicial summons of the documents/items owner to the investigator. Usually this responsibility is delegated to the representative of the agency with no regional departments in this location – that is why his/her presence cannot be guaranteed.

The article also provides analysis of issues concerning the duration of the review of motion on temporary access to the items and documents as the CPC of Ukraine does not clearly define the term of solving a petition on such security measure in criminal proceeding.

It is also concluded that the requirements on such motions do not include the necessity to provide the data of the person who is obliged to guarantee access to items and documents. But the court practice in terms of measures applied during criminal proceedings defines this necessity (including the data of individuals or legal bodies responsible for provision of temporary access to the items and

documents) and the corresponding amendments to the Article 155 of the CPC of Ukraine are offered.

Keywords: temporary access to the items and documents; grounds for temporary access to the items and documents; procedure of temporary access to the items and documents.