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LEGAL PREREQUISITES OF PRIVATE DETECTIVE ACTIVITY IN THE REPUBLIC OF KAZAKHSTAN

The article deals with the issues of balancing the interests of the individual and the state, most clearly manifested in the criminal process, by the example of the implementation of the principle of privacy, issues of private detective activity in the Republic of Kazakhstan, issues of improving legislation on professional secrets, which are the most important mechanisms designed to protect the right to privacy of citizens. The legal analysis of guarantees of observance of constitutional rights of citizens in the implementation of private detective activities in criminal proceedings is carried out.

In this regard, the authors actualize the need for further improvement of legislation defining the legal regime of privacy in criminal proceedings; the implementation of private detective activities in the Republic of Kazakhstan. Also relevant are: the essence, importance and role of the measures of criminal procedural coercion applied by the state, in particular by the bodies of criminal prosecution, which amounts to ensuring state legality and law and order; the principle of inviolability of private life as the fundamental and guiding principle of the entire criminal process of the Republic of Kazakhstan. For this purpose, the work examines the norms of the legislation of the Republic of Kazakhstan, the range of homogeneous public relations regulated by them on the implementation of individual rights and freedoms in criminal proceedings, the practice of law enforcement on the issues under consideration in the Republic of Kazakhstan, on the basis of which proposals are being developed to improve legislation; theoretical and legal foundations of private detective activity as an activity related to the protection of the legitimate rights and interests of the individual of the Republic of Kazakhstan.

In the study of the questions posed, a logical, formal – legal, analytical, as well as functional method is used, revealing the qualitative characteristics of the subject of research, allowing to determine the essence of the institution under study, the possibility of regulatory impact of constitutional and sectoral legislation on the state of law and order in the Republic of Kazakhstan. In the scientific analysis undertaken by the authors, the principles of complexity and consistency are consistently implemented and productively combined, which made it possible to more fully, scientifically actualize the issues of improving criminal procedural capabilities for the realization of individual rights and freedoms.

As a result of the study, it was determined that the participation of a private detective in the criminal process will serve as a guarantee of the protection of the rights and legitimate interests of an individual only if the rules and procedures provided for by law for obtaining and researching information about a person's private life are observed.

Key words: human rights, private life, the principle of privacy, criminal proceedings, detective work, detective.

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Қазақстан Республикасындағы жеке детективтік қызметтің құқықтық алғышарттары

Мақалада Қазақстан Республикасында жеке детективтік қызметті жүзеге асырудың құқықтық реттелуі, азаматтардың құқықтарын, соның ішінде жеке өміріне қол сұқпаушылық құқығын қорғауға арналған маңызды тетіктер кәсіби құпиялар туралы заңнаманы жетілдіру мәселелері қарастырылады. Қылмыстық процесте жеке детективтік қызметті жүзеге асыру кезінде азаматтардың конституциялық құқықтарын сақтау кепілдіктеріне құқықтық талдау жүргізілген.

Осыған байланысты авторлар қылмыстық процесте жеке детективтік қызметті реттеуші заңнаманың қажеттілігін, сондай-ақ жеке өмірге қол сұғылмаушылықтың құқықтық режимін айқындайтын заңнаманы одан әрі жетілдіруді өзектендіреді. Сондай-ақ мемлекеттік, атап айтқанда, қылмыстық қудалау органдары қолданатын, мемлекеттік заңдылық пен құқық тәртібін қамтамасыз етуге дейін азайтылатын қылмыстық-процестік мәжбүрлеу шараларының мәні,

маңыздылығы мен рөлі; Қазақстан Республикасының бүкіл қылмыстық процесінің негізгі және жетекші бастауы ретінде жеке өмірге қол сұғылмаушылық қағидаты өзекті. Бұл үшін жұмыста Қазақстан Республикасы заңнамасының нормалары, қылмыстық процесте жеке адамның құқықтары мен бостандықтарын іске асыру мәселелері бойынша олар реттейтін біртекті қоғамдық қатынастар шеңбері, Қазақстан Республикасында қаралатын мәселелер бойынша құқық қолдану практикасы зерттеледі, оны зерделеу негізінде заңнаманы жетілдіру жөнінде ұсыныстар әзірленеді; Қазақстан Республикасы жеке тұлғасының заңды құқықтары мен мүдделерін қорғауға байланысты қызмет ретінде жеке детективтік қызметтің теориялық-құқықтық негіздері қаралады.

Аталған мәселелерді зерттеу кезінде зерттеу нысанасының сапалық сипаттамаларын анықтайтын, зерттелетін институттың мәнін айқындауға мүмкіндік беретін логикалық, формалды-құқықтық, талдамалық, сондай-ақ функционалды әдіс, Қазақстан Республикасындағы заңдылық пен құқық тәртібінің жай-күйіне конституциялық және салалық заңнаманың реттеушілік әсер ету мүмкіндігі пайдаланылады. Авторлар қабылдаған ғылыми талдауда күрделілік пен жүйелілік принциптері дәйекті түрде жүзеге асырылады және нәтижелі біріктіріледі, бұл жеке адамның құқықтары мен бостандықтарын іске асыру үшін қылмыстық іс жүргізу мүмкіндіктерін жетілдіру мәселелерін неғұрлым толық, ғылыми тұрғыдан жандандыруға мүмкіндік берді.

Зерттеу нәтижесінде жеке детективтік қызметтің қылмыстық процесте орын алуы және Қазақстан Республикасының қылмыстық-процестік кодексінде жеке детективтің қылмыстық процестің қатысушысы ретінде бекітілуі адамның жеке өмірі туралы ақпаратты алу және зерттеу үшін заңда көзделген ережелер мен рәсімдер сақталған жағдайда ғана адамның құқықтары мен заңды мүдделерін қорғауға кепілдік беретіні анықталды.

Түйін сөздер: адам құқығы, жеке өмір, жеке өмірге қол сұғылмаушылық принципі, қылмыстық процесс, детективтік қызмет, детектив.

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Правовые предпосылки частной детективной деятельности в Республике Казахстан

В статье рассматриваются вопросы правового регулирования осуществления частной детективной деятельности в Республике Казахстан, совершенствования законодательства о профессиональных тайнах, являющихся важными механизмами для защиты прав граждан, в том числе права на неприкосновенность частной жизни. Проведен правовой анализ гарантий соблюдения конституционных прав граждан при осуществлении частной детективной деятельности в уголовном процессе.

В этой связи авторы актуализируют необходимость законодательства, регулирующего частную детективную деятельность в уголовном процессе, а также дальнейшее совершенствование законодательства, определяющего правовой режим неприкосновенности частной жизни. Также актуальны: сущность, значение и роль мер уголовно-процессуального принуждения, применяемых государственными органами, в частности органами уголовного преследования, сводимых к обеспечению государственной законности и правопорядка; принцип неприкосновенности частной жизни как основного и ведущего начала всего уголовного процесса Республики Казахстан. Для этого в работе изучаются нормы законодательства Республики Казахстан, круг регулируемых ими однородных общественных отношений по вопросам реализации прав и свобод личности в уголовном процессе, правоприменительная практика по рассматриваемым вопросам в Республике Казахстан, на основе ее изучения разрабатываются предложения по совершенствованию законодательства; теоретико-правовые основы частной детективной деятельности как деятельности, связанной с защитой законных прав и интересов физического лица Республики Казахстан.

При изучении поставленных вопросов используется логический, формально-правовой, аналитический, а также функциональный методы, определяющие качественные характеристики предмета исследования, позволяющие определить сущность исследуемого института, возможность регулирующего воздействия Конституционного и отраслевого законодательства на состояние законности и правопорядка в Республике Казахстан. В принятом авторами научном анализе последовательно реализуются и продуктивно объединяются принципы комплексности и системности, что позволило более полно, научно активизировать вопросы совершенствования уголовно-процессуальных возможностей для реализации прав и свобод личности.

В результате исследования установлено, что наличие частной детективной деятельности в уголовном процессе и утверждение частного детектива в качестве участника уголовного процесса в уголовно-процессуальном кодексе Республики Казахстан гарантируют защиту прав и закон-

ных интересов человека только при соблюдении правил и процедур, предусмотренных законом для получения и изучения информации о частной жизни лица.

Ключевые слова: права человека, частная жизнь, принцип неприкосновенности частной жизни, уголовный процесс, детективная деятельность, детектив.

Introduction

The entire system of law is subordinated to the protection of individual rights to one degree or another. In particular, in such branches as civil law, family law, labor law, administrative law, criminal law, protection of personal rights occupies an important place. A special place in the legal regulation of individual rights and freedoms is occupied by the branch of international and constitutional law. Defining the priority of personality in the system of state-legal institutions, the Constitution of the Republic of Kazakhstan thereby established that a person, a citizen and a person uniting these two concepts is the most important objective value of world civilization, its history and development (<https://prg.kz>).

The Concept of the Legal Policy of the Republic of Kazakhstan until 2030 emphasizes the need for "... the maximum combination of the interests of the individual and society, the use of law in accordance with its social purpose" (<https://adilet.zan.kz/rus/docs/U2100000674>).

A person provided with a system of legal constitutional guarantees, which include guarantees of the right to a decent and safe life, can fully develop, work and function in the system of social ties. In the Republic of Kazakhstan, the interests of the individual are regulated by the sectoral system of domestic legislation and are protected by a certain degree of inviolability. Thus, the Civil Code of the Republic of Kazakhstan establishes that life, health, personal dignity, honor, good name, business reputation, privacy, personal and family secrets, the right to a name, the right to authorship, the right to inviolability of a work and other intangible benefits are personal non-property rights (paragraph 3, article 115) (https://online.zakon.kz/Document/?doc_id=1013880).

Materials and methods

The norms of the Civil Procedure Code of the Republic of Kazakhstan (hereinafter referred to as the CPC RK) guarantee the inviolability of private life; the secrecy of correspondence, telegraphic and other messages; the inviolability of property. The CPC stipulates that restrictions of these rights in the

course of civil proceedings are allowed only in cases and in accordance with the procedure directly established by law (Articles 10, 11) (<https://adilet.zan.kz/rus/docs/K1500000377>).

The Code of Administrative Offences of the Republic of Kazakhstan establishes the principle of inviolability of private life and protection of secrecy (Article 16), the principle of respect for the honor and dignity of the individual in the administrative process (Article 17). Article 16 in particular states that "private life, personal, family, commercial and other secrets protected by law are protected by law" (https://online.zakon.kz/Document/?doc_id=31577399).

The life and health of the individual, the inviolability of private life, the secrecy of correspondence, telephone conversations, telegraphic messages and mail, as well as the right to inviolability of the home is a special object of protection in the production of operational investigative actions (<https://adilet.zan.kz/rus/docs/Z940004000>).

If a person has a constitutional right to his inviolability, that the State is obliged to guarantee the implementation of it in relation to each individual. This provision is especially relevant in conditions when a person falls into the sphere of criminal legal influence. Therefore, the inviolability of the individual as a right is transferred to a different quality and becomes the determining and fundamental principle of the criminal process: when conducting criminal proceedings, everyone is guaranteed the right to inviolability of private (personal and family) life (Article 16 of the Criminal Procedure Code of the Republic of Kazakhstan) (https://online.zakon.kz/Document/?doc_id=31575852). Restriction of this right is allowed only in cases and in the manner directly established by law. Thus, Article 147 of the Criminal Code of the Republic of Kazakhstan establishes a penalty for non-compliance with measures to protect personal data by a person who is responsible for taking such measures (<https://adilet.zan.kz/rus/docs/K1400000226>).

Human rights and freedoms have been affected by all of humanity for centuries, and, in our opinion, this still remains an exciting problem, since a person lives in society. Nevertheless, the effective solution of these issues, that is, the prevention of

infringement of human rights and freedoms, testifies to the prospects for further development of a truly democratic, rule of law state. Compliance of the legal system of the Republic of Kazakhstan with international norms and standards in the field of human rights also depends on this. This is stated in part 3 of Article 4 of the Constitution of the Republic of Kazakhstan: “International treaties ratified by the Republic have priority over its laws and are applied directly, except in cases when it follows from an international treaty that its application requires the publication of a law” (<https://prg.kz>); in paragraph 3 of Article 2 of the Criminal Procedure Code of the Republic of Kazakhstan: “International treaties ratified by the Republic of Kazakhstan have priority over this Code and are applied directly, except in cases when it follows from an international treaty that the publication of a law is required for its application” (<https://prg.kz>).

Discussion and results

In this regard, we can mention the Universal Declaration of Human Rights, adopted by the General Assembly of the United Nations on December 10, 1948, which contributed to the conclusion of many international treaties in the field of human rights (the Universal Declaration of Human Rights Declaration, adopted by resolution 217 A (III) of the UN General Assembly, <http://adilet.zan.kz>). Despite the fact that the Declaration has no contractual force, its principles and norms are generally recognized and are taken as the basis of the constitutions of many States. The rights and freedoms specified in Part 2 “Man and Citizen” of the Constitution of the Republic of Kazakhstan are also based on the rights that make up the group of personal rights and freedoms in the first articles of the Declaration: respect for the honor and dignity of the individual, the right to life, the right to freedom, personal inviolability, protection of personal privacy, etc. The right to choose a place of residence, freedom of conscience, freedom of opinion, the right to elect and be elected to State authorities, civil and political rights are provided for in articles 1-21 of the Declaration. Socio-economic rights: the right to work, education, recreation and its organization, to an adequate standard of living, protection from unemployment, fair wages, social security, participation in the cultural life of society, the norms enshrined in articles 22-28 of the Declaration are taken. Thus, in December 2018, the Ministry of Foreign Affairs hosted a round

table of the Human Rights Commission under the President of the Republic of Kazakhstan dedicated to the 70th anniversary of the adoption of the Universal Declaration of Human Rights by the UN General Assembly and International Human Rights Day, where a wide range of issues of the realization of human rights and freedoms, improvement of national mechanisms for the protection of human rights in accordance with the international standards (<https://www.gov.kz>).

It can be said that the norms of this Declaration have defined the path of documents covering different areas of human rights. Among them: International Covenants on Civil and Political Rights, as well as on economic, Social and cultural Rights, adopted in 1966 by the UN as legally binding documents (<https://www.gov.kz>). Legally binding means that the parties to these Covenants undertake to comply with all the rules of these Covenants on the territory of their States.

The norm of the Constitution of the Republic of Kazakhstan (part 2 of Article 17), the norm specified in paragraph 5 of Article 14 of the Criminal Procedure Code of the Republic of Kazakhstan that none of the persons participating in the criminal process may be subjected to torture and other cruel, inhuman or degrading treatment or punishment, are consonant with international legal interpretation of the inviolability of honor and dignity. In particular, the “Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment”, adopted by the UN General Assembly resolution 39/46 on December 10, 1984, states that the protection of persons deprived of liberty from cruelty and inhuman or degrading treatment or punishment can be strengthened by non-judicial preventive instruments. In accordance with the Convention, “torture” means any act by which severe pain or suffering, physical or moral, is intentionally inflicted on a person in order to obtain information or confessions from him or from a third person, punish him for an act that he or a third person has committed or is suspected of committing, as well as intimidate or force him or a third person, or for any reason based on discrimination of any nature, when such pain or suffering is caused by a public official or other person acting in an official capacity, or at their instigation, or with their knowledge or tacit consent. This definition does not include pain or suffering that arise only as a result of legal sanctions, are inseparable from these sanctions or are caused by them accidentally (Article 1).

The Convention indicates that States parties are obliged to ensure punishment for torture and humiliation of human dignity or punishment by criminal penalties (<http://adilet.zan.kz>). Thus, Article 415 of the Criminal Code of the Republic of Kazakhstan establishes punishment for forcing a suspect, accused, victim, witness to testify, as well as preventing a person from voluntarily testifying, filing a statement about a committed crime, or forcing an expert to refuse to testify, or forcing an expert to give an opinion by using threats, blackmail or other illegal actions on the part of the prosecutor or the person conducting the pre-trial investigation (<https://adilet.zan.kz/rus/docs/K1400000226>).

Thus, the inviolability of private life, being, first of all, a constitutional human right, is put by the legislator at the forefront of the criminal process. And this is due to the increased attention of the state to the individual, despite the fact that she is involved in the sphere of criminal proceedings, where they fall for committing (or suspected of committing) the most dangerous offenses for society. Here, the main (constitutional) postulate is the promotion of the individual in priority positions in relation to all other state institutions, including the institutions of power (in particular, the penal system).

As far as the inviolability of the individual as a legal category acting in the form of the right of the individual is complex from the point of view of constitutional and legal science, so much, and perhaps even more, taking into account the industry specifics, it is complex in the criminal process. If in the Constitution the right to personal inviolability is assembled from several norms: the right to life, freedom, privacy, personal and family secrets, protection of one's honor and dignity, etc., then in criminal proceedings this whole complex also "breaks up" into stages specific to the process, multiple procedural and investigative actions, procedural measures, etc.

Modern trends in the criminal procedure legislation of the Republic of Kazakhstan are aimed at ensuring the rights and freedoms of citizens, as well as the implementation of the constitutional principles of justice and criminal procedure, are increasingly based on the direction of protecting the rights of persons involved in the orbit of the process at the pre-trial stage. The highest possible degree of protection of the rights and legitimate interests of an individual, especially a person involved in the orbit of criminal proceedings, is a distinctive feature of a democratic and legal state.

The practice of the past years shows that the formation of the democratic foundations of the life of

the Kazakh society did not go smoothly and painlessly. The rights and freedoms enshrined in the Constitution of the Republic of Kazakhstan are not always fully realized for many reasons. In law enforcement practice, a group of obstacles often arises, the elimination of which depends on the Kazakh legislator, the subjects of law enforcement. The legal status of a person must be guaranteed by the current legislation, which provides a solid mechanism for protecting his rights, freedoms and legitimate interests.

In connection with unsatisfactory indicators of law enforcement practice, the issue of personal inviolability becomes important. Statistical data indicate that violations of the law took place during the application of measures of criminal procedural coercion, many citizens were illegally detained and placed in places of detention, violent actions and mental violence were used by the bodies conducting the preliminary investigation. Thus, the Coalition of NGOs of Kazakhstan against Torture registered cruel, inhuman, degrading treatment and facts of torture (624) (<https://www.notorture.kz/>). According to the data of the Committee on Legal Statistics and Special Records of the Prosecutor General's Office of the Republic of Kazakhstan, 86 criminal offenses were registered in the URPI in 2019 under Article 146 of the Criminal Code of the Republic of Kazakhstan for crimes of torture. For 5 months of 2020, 131 criminal offenses were registered in Kazakhstan under this article. For 3 months of 2020, 16 persons were convicted of torture. For 3 months of 2020, 1 police officer, 10 employees of the CPES, 5 previously convicted persons were convicted of torture (<https://www.notorture.kz/>).

In our opinion, in the use of the opportunities provided by the law to defend himself, and with the help of a private detective (detective), an individual in the criminal process has a guarantee of compliance and protection of his rights and legitimate interests.

According to Article 1 of the Draft Law of the Republic of Kazakhstan "On Private Detective Activity", private detective activity is a licensed type of activity for rendering detective services on a paid contractual basis related to the protection of the legitimate rights and interests of the customer (<https://adilet.zan.kz/rus/docs/P1300000548>). The main purpose of private detective activity is to provide legal assistance in the interests of protecting the rights of the individual and ensuring the security of property and property of citizens and legal entities, including assistance to law enforcement agencies in

combating criminal offenses and their prevention. The main task of private detective work is to protect the rights and legitimate interests of the individual.

Despite the fact that detective work is not new in the world, the activities of private detectives in Kazakhstan are still not regulated. As we can see, only the project No. 548 dated May 30, 2013 has been developed.

The director of the “Center for Lie Detection «Pravdalab» Andrey Kriknin suggests that one of the reasons why the adoption of the law is “stalling”: «Most likely, some of the officials are against it for very specific reasons: to keep their privacy longer, as if private detectives would be very interested in officials and so on. In fact, of course, it’s not like that». In turn, Igor Chernov, Director of «Informsecurity» LLP, believes that the adoption of the law is a very complex issue that requires serious attention and serious analytical discussion. And in this discussion, the presence of professionals who are engaged in private detective work is mandatory, since the work of a private detective is ambiguous, and it may affect the interests of other companies and individuals (<https://kursiv.kz/news/vlast-i-biznes/2018-05/pochemu-detektivnuyu-deyatelnost-v-kazakhstane-ne-mogut-reglamentirovat>). Rustam Mirzabayev, Chairman of the PA “Association of Corporate Security and Detective Activities “Kalkan”, believes that the actions of detective agencies in Kazakhstan are legal if they do not use prohibited equipment and illegal methods of collecting information in their work. According to him, detectives in Kazakhstan are mainly engaged in the services of checking contractors, personnel, helping in the search for lost property and the search for missing persons, within the framework of general laws, observing the norms of the Criminal Code, the Constitution, the Tax Code, following the Law “On Personal Data and their Protection” (<https://ru.sputnik.kz/society/20181012/7582054/kazakhstan-chastnye-detektivy.html>).

From the revelations of a private detective: “since there are no clear laws regulating this activity, everyone sets the limits of what is allowed himself, and not all detectives work in good faith” (<https://tengrinews.kz/article/otkroveniia-chastnogo-detektiva-1040/>).

Private detectives, as guarantors of the realization of individual rights and freedoms in the criminal process, should guard the rule of law and act as partners to law enforcement agencies, as well as actively participate in the investigation of criminal offenses up to the production of individual inves-

tigative actions. A private detective as a passive subject of proof can collect evidence for both the prosecution and the defense. The legislator’s definition of the place and role of a private detective as a participant in criminal proceedings would serve as a guarantee of the realization of individual rights and freedoms in criminal proceedings. The identification of witnesses, the background check of suspects, the search for assets to determine the viability of the trial – all these actions of a private detective would help to achieve the goal of the criminal process. We find that the lack of legislative regulation of this serious, necessary activity and a reference to a law that does not currently exist can lead to a violation of individual rights and freedoms in general, in particular in criminal proceedings. This “omission” of legislative regulation contradicts Part 1 of Article 39 of the Constitution of the Republic of Kazakhstan, from which it follows that all restrictions on the rights of persons during criminal proceedings must be provided for by laws.

According to Patricia E. Schefcick, a private investigation is a complex area of work in which people from various walks of life, with different professional and educational experience, participate. The sphere of private investigation attracts a wide range of subjects, some of whom are not always people with ethical views (Schefcick 2004: 21-23).

M. Gill, J. Hart consider private investigation as a commercial enterprise. So they argue that private detectives most often work in small autonomous units with very weak centralization and a largely informal structure that has changed little since Victorian times. Currently, there is no legislative regulation, training is not readily available, and hiring is often based on the knowledge of the right people (Gill 1997: 117-141).

We agree with the statement that private detectives, like police detectives, must adhere to the established rules of evidence, since, despite the fact that they are not government agents, the information that private detectives collect can later be used for criminal investigations (<https://www.thebalancecareers.com>).

Conclusion

Also, a private detective in the criminal process would serve as a guarantor of the implementation of the norms of the CPC of the Republic of Kazakhstan, which states that the court, prosecutor, investigator, inquirer are obliged to take all measures provided by law for a comprehensive, complete and objective in-

vestigation of the circumstances necessary and sufficient for the correct resolution of the case.

The procedure established by law for criminal proceedings should contribute to ensuring the unconditional protection of human and civil rights and freedoms from illegal actions and decisions.

In this regard, the problems of bringing the interests of the individual and the state into equality in the context of the implementation of the principle of privacy, especially clearly manifested in the criminal process, are relevant in this work. We also emphasize the relevance of the essence, significance and role of:

1) measures of criminal procedural coercion applied by state bodies, including law enforcement agencies (bodies of inquiry and investigation), which are reduced to ensuring state legality and law and order;

2) the principle of inviolability of private life as the fundamental and initial basis of the criminal process of the Republic of Kazakhstan.

We point out that the conclusion of personal inviolability regarding the subject of this study on the legal principle means that the state adheres to the democratic rules of the structure of public relations. Of course, in order for the state to count on the status of democracy, an effective mechanism for implementing this principle is necessary. Therefore,

the issue under consideration requires a wide range of discussions and research.

So, summing up, it can be argued that there is a need for legalization and legal regulation of private detective (detective) activities in the Republic. The practice of law enforcement must meet the requirements of legality and be accompanied by such requirements for the subjects of law enforcement as morality, professionalism, etc. Here, an important factor is the individual properties of these subjects, such as: decency, sense of duty, education, patriotism, high self- and legal awareness, etc. Consequently, we speak about the inviolability of private life when applying measures of criminal procedural coercion, focusing on the preservation of a certain block of rights and freedoms for the individual, which cannot be restricted and violated by either the state or other law enforcement entities. We can firmly assert that it is step-by-step legal reform that can achieve the desired indicators, since the legislator uses in his arsenal not only the rules of legislative technique, but also the domestic experience of law enforcement practice.

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