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THE ROLE OF THE GENERAL SUBJECTS OF HUMAN RIGHTS PROTECTION DURING COVERT INVESTIGATIVE (SEARCH) ACTIVITIES (ACTIONS)

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РОЛЬ ЗАГАЛЬНИХ СУБ'ЄКТІВ ЗАБЕЗПЕЧЕННЯ ПРАВ ЛЮДИНИ ПРИ ПРОВЕДЕНІ НЕГЛАСНИХ СЛІДЧИХ (РОЗШУКОВИХ) ДІЙ

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This article analyzes the system of state bodies and officials who are more or less authorized (obliged) to ensure human rights, including in the conduct of covert investigative (search) actions. According to the tasks performed by each of such subjects, they are divided into two groups: general (those that determine the basis of domestic and foreign policy of the state and public administration strategy, have relevant coordination powers and solve constitutional and legislative strategic tasks in the specified area, or implement state policy in this direction, one of the powers of which is to approve or ensure human rights) and special (subjects of criminal proceedings who are directly involved in the appointment, conduct, and evaluation of the results of the CISA, and who are charged with the protection, protection (enforcement) of human rights in criminal proceedings, including the CISA.

Key words: *human rights, covert investigative (search) actions, guarantees of rights and freedoms, court investigative judge, participants in criminal proceedings.*

Problem statement. Human rights, freedoms and interests, as well as their guarantees determine the content and direction of the activity of the state governed by the rule of law, which Ukraine is. To assert and ensure human rights and freedoms is the main obligation of the state (Article 3 of the Constitution of Ukraine). However, in the fight against crime, the competent authorities are allowed by law to apply measures that significantly limit fundamental constitutional human rights and freedoms. The leading place among them is taken by covert investigative (search) actions (hereinafter - CISA). Therefore, the current criminal procedural legislation enshrines guarantees for the administration of justice in pre-trial proceedings so that to a person who has committed a crimi-

nal offense measures to restrict rights and freedoms were applied only on the basis of the law. However, the mechanism to ensure human rights, in particular in the performance of the CISA, cannot be implemented in the absence of coherence and consistency in the activities of the relevant actors responsible for the implementation of certain areas of state activity. The results of a survey of judges, investigators, prosecutors, and attorneys indicate that in 80% of cases there are violations of the law, leading to unreasonable restrictions of human rights in carrying out CISA¹. The reasons for this situation are, in

¹ According to the results of the survey of judges, investigating judges, investigators, heads of preliminary investigation, employees of operational units, prosecutors, lawyers, conducted in the Kherson, Mykolaev and Odessa regions during 2017-2020, Total 370 people.



particular, imperfections in the current legislation, inconsistencies in authority, contradictions, gaps in legal regulation of the powers of state bodies.

Analysis of recent research. It is worth noting that the problems of human rights and their enforcement have always been at the center of attention of jurisprudence. They devoted their works to scientists of various spheres of legal science, in particular, A.N. Bandurka, A.P. Bushchenko, Y.M. Grosheviy, Y.A. Gurdzhi, A.V. Kaplina, A.M. Kolodiy, A.A. Lukasheva, N.A. Myalovitsky, A.Y. Oleynyk, P. Rabinovich, V.Y. Tatsiy, Y.M. Todika, O.F. Fritzky, M.I. Havronyuk, I. Chanysheva and others. However, the importance of the designated problem requires further systemic research of the directions of ensuring human rights in Ukraine, as well as the legal status of the bodies responsible for this activity.

The purpose of the article is to systematize and classify the subjects of ensuring human rights, to determine the place and role of state bodies and officials authorized to ensure human rights in the implementation of the CISA.

Presentation of the basic material. According to the current legislation, state bodies and officials are more or less authorized (obliged) to ensure human rights, including in carrying out CISA. These subjects determine, establish, guarantee, coordinate or control legal mechanisms to ensure the rights of the person involved in criminal proceedings (including the CISA), act only on the grounds, to the extent provided by the Constitution, the Code of Criminal Procedure and other laws of Ukraine, as their powers and functions subordinate, serving the individual, society and the state.

The activities of these entities are expressed in legal and organizational measures aimed at:

- protection of a person, his life, health, rights, freedoms and legitimate interests regardless of age, sex, property status, nationality, race, religion, language, and the like;

- preventing (stopping) in its activities illegal restrictions and violations of the rights, freedoms and legitimate interests of citizens (release of an unreasonably detained person, etc.);

- ensuring the necessary conditions for individuals to exercise their rights, freedoms and legitimate interests (ensuring timely participation of a defender);

- to cancel an unlawful or unreasonable law enforcement act and restore the violated rights, freedoms and legitimate interests of an individual;

- compensation for harm caused by an unlawful restriction (violation) of human rights;

- bringing the person guilty of committing an offence to justice [1, p. 388 - 389].

According to the tasks performed by each of these subjects, they can be divided into two groups: general and special. The first group (general) includes those that determine the basis of domestic and foreign policy of the state and the strategy of public administration, have relevant coordination powers and solve constitutionally and legislatively enshrined strategic tasks in this area, or implement state policy in this direction, one of whose powers is to approve or ensure human rights (it may be non-mainstream) [2, p. 143]. The second group (special) consists of subjects of criminal proceedings who directly participate in the appointment, conduct, and evaluation of the results of the CISA, and who are charged with the protection, protection (ensuring) of human rights in criminal proceedings, including the CISA. In view of the legal status of the body (official), the nature of the powers, functions, and tasks they perform, and in order to understand everyone's role in ensuring human rights in carrying out the CISA, all of the actors already discussed can be classified according to various criteria:

A. Depending on the constitutional and legal status, the bodies that:

1) are obliged to assert and ensure human rights and freedoms (Article 3 of the Constitution of Ukraine): The Verkhovna Rada, the President of Ukraine, the Cabinet of Ministers of Ukraine, the central bodies of executive power, the Constitutional Court of Ukraine and others;

2) protect human rights (Article 55 of the Constitution of Ukraine) court, the Commissioner of the Supreme Council for Human Rights;

3) provide professional legal assistance (Article 59, 131-1 of the Constitution of Ukraine) the advocacy.

B. Depending on the spread of jurisdiction:

1) domestic bodies (The Verkhovna Rada of Ukraine, The President of Ukraine, Cabinet of Ministers of Ukraine, courts, bodies of preliminary investigation)

2) international bodies (judicial institutions, bodies of international organizations of which Ukraine is a member).

C. Depending on the presence under the law of the power to exercise power managerial functions:

1) state (public authorities) - the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine, courts, bodies of preliminary investigation, local state administrations, local self-government bodies);

2) non-state (subjects of private law) - the Bar, public human rights organizations.

D. Depending on the scope of competence:

1) bodies of general competence (The Verkhovna Rada of Ukraine, The President of Ukraine, Cabinet of Ministers of Ukraine);

2) bodies of sectoral competence (Ministry of Internal Affairs of Ukraine, Security Service of Ukraine, bodies of prosecution)

3) specialized bodies (Advocacy, Ombudsman).

Special bodies directly leading or participating in criminal proceedings (subjects of rights in the narrow sense) can be classified separately according to the following criteria:

A. Depending on the entrenchment of the duty to ensure human rights during the CISA, actors:

1) charged with ensuring human rights (prosecutor, pre-trial investigation bodies (investigator), operative units)

2) entitled to protect their or presented rights and legitimate interests (victim, suspect, defense counsel, representatives)

3) exercising judicial control over the observance of human rights during the preliminary investigation (search judge).

B. Depending on the criminal procedural functions:

1) the prosecution;

2) the defense;

3) the subjects involved in criminal proceedings;

4) the subjects exercising judicial control over the observance of human rights during the preliminary investigation.

As a result of the analysis of normative legal acts regulating the activities of general subjects to ensure human rights, we can determine the following directions of their activities:

1) development and adoption of relevant normative legal acts in the sphere of implementing measures to ensure human rights and freedoms;

2) development and adoption of statewide programs (strategies) in the sphere of ensuring human rights, ensuring monitoring of the situation in this sphere;

3) creation of conditions for sustainable and effective human, material, technical, financial, informational and legal support of the activities of entities to implement measures to ensure human rights. Considering the powers of the general subjects in the sphere of ensuring human rights in carrying out CISA, we should begin with the description of the competence of the President of Ukraine, who is the guarantor of human and civil rights and freedoms (Art. 102 of the Constitution of Ukraine).

It is well known that ensuring human rights and freedoms, as well as their guarantees is the main task of the state, and therefore it is obvious that the content and focus of the activity of the President of Ukraine is also the implementation of the above social values. The outlined tasks are carried out by the head of state in accordance with Ukrainian legislation, in particular with the Basic Law of Ukraine and other constitutional laws of Ukraine, within the limits of his powers and in the way determined by law. Thus, the President of Ukraine ensures the constitutional legal order, as well as the proper level of functioning of the state mechanism for the unhindered exercise by citizens of their rights and freedoms.

It should be noted that the Constitution of Ukraine establishes the powers of the President in such a way that his activity and influence are linked directly to all branches of power. The President is not only responsible to the people for the whole state, but also for the implementation of domestic and foreign policy of the state.

The President exercises his powers to secure and guarantee human and civil rights and freedoms through the following mechanisms:

- the right of the President of Ukraine to appeal to the Constitutional Court with a constitutional representation in case of unconstitutionality of provisions of legal acts of the Verkhovna Rada of Ukraine;

- the right to veto the President of Ukraine and to return by him/her for reconsideration a law of Ukraine in case of deciding that a law that has come to him/her from the Verkhovna Rada of Ukraine for signing is unconstitutional. In this case, if the President of Ukraine has doubts about the constitutionality of a law, the guarantor of the rights and freedoms of man and citizen may, after signing this normative-legal act, appeal to the Constitutional Court of Ukraine with the appropriate constitutional representation;

- the right of the President of Ukraine to stop the acts of the Cabinet of Ministers of Ukraine and the Council of Ministers of the Autonomous Republic of Crimea in case it decides that they do not comply with the provisions of the Constitution of Ukraine, the laws of Ukraine or violate human and civil rights and freedoms with a simultaneous appeal to the Constitutional Court;

- assessment of the activities of the bodies responsible and under the control of the President of Ukraine, as well as the heads of state structures for which the latter makes a personnel decision. Thus, the head of state is authorized to dismiss the Prosecutor General (by consent of the Verkhovna Rada of Ukraine) or the head of the local state administration in case of violation of the Constitution of Ukraine or other law, improper organization of the work of the body in terms of ensuring human rights and freedoms, as well as their guarantees;

- the President's address to the Verkhovna Rada of Ukraine to guide the latter in the implementation of the most important draft laws in various spheres of public life;

- the right of legislative initiative of the President of Ukraine on the introduction of draft laws on amendments and additions to the Constitution, laws of Ukraine, including the CPC of Ukraine in terms of ensuring and guaranteeing human rights;

- judicial appointments indefinitely;
- the conclusion by the head of state of international treaties on the implementation and enforcement of human and civil rights and freedoms;

- approval of the National Human Rights Strategy by signing a Decree by the President to ensure the realization of human rights and freedoms as a leading factor of state policy, as well as decision-making by state authorities and local self-governments [3]. The above powers of the President of Ukraine in terms of ensuring human rights and freedoms are defined in the laws "On

the Fundamentals of National Security of Ukraine", "On the National Security and Defense Council of Ukraine", "On the Security Service of Ukraine", "On International Treaties of Ukraine" and many other legislative acts [4; 5; 6; 7]. Along with the President of Ukraine, an important role in ensuring and guaranteeing human rights and freedoms is played by the Verkhovna Rada of Ukraine, which, in accordance with the basic law of Ukraine, is the only body of legislative power in the state. It follows from the latter that it is the Verkhovna Rada of Ukraine that normatively declares the entire system of rights, freedoms and duties vested in a person and a citizen of Ukraine, and also determines the mechanism for ensuring and protecting these rights, freedoms and duties.

The science of constitutional law distinguishes three leading functions of the Verkhovna Rada of Ukraine: legislative, constituent and parliamentary control functions. Given the purpose of our study, it is advisable to consider these functions in the aspect of human rights protection.

The legislative function of the Verkhovna Rada of Ukraine is manifested in its right under the Constitution to adopt normative legal acts: laws, resolutions and etc. It should be noted that the issues of human and civil rights and freedoms, their guarantees, as well as the fundamental duties of citizens are regulated exclusively by the laws of Ukraine (paragraph 1 of Article 92 of the Constitution of Ukraine). In this aspect, it is noteworthy, in particular, the 1997 Law of Ukraine "On the Commissioner for Human Rights of the Verkhovna Rada of Ukraine".

It is important to pay attention to the fact that the provision, protection and defense by the Verkhovna Rada of Ukraine of the rights, freedoms and duties of man and citizen is carried out by adopting laws taking into account the need to eliminate gaps and inconsistencies in the legislation governing the activities of the relevant state authority and other subjects of legal

relations that ensure and implement the protection of rights. In this case, the relevant rule applies: public authorities are allowed what is clearly established in the legislation, and a person - what, on the contrary, is not prohibited by law.

In addition to laws, resolutions of the Verkhovna Rada of Ukraine play an important role. In the context of our study, attention should be paid to the Decree of the Verkhovna Rada of Ukraine dated June 17, 1999 "On the Fundamentals of State Policy of Ukraine in the Field of Human Rights" [8]. The significance of this normative act is beyond doubt, since the resolution declares the principles and directions of state policy in the sphere of ensuring human rights and acts as a kind of basis for the activities of public authorities in the sphere of ensuring and guaranteeing human rights.

At the same time, an important area of the legislative function of the Verkhovna Rada of Ukraine is to amend the Basic Law of Ukraine within the limits and in accordance with the procedure established by Section XII of the Constitution of Ukraine. In this case, it is very important that the Constitution of Ukraine may not be amended if the amendments provide for the abolition or restriction of human and civil rights and freedoms (Article 157).

It is obvious that the effectiveness of ensuring and guaranteeing human rights and freedoms depends directly on the effectiveness, legality, clarity and promptness of the exercise by the Verkhovna Rada of Ukraine of its constituent function. The Verkhovna Rada of Ukraine, in accordance with the law, is vested with the powers to regulate the activity of public authorities, the formation of judicial and prosecutorial bodies. Thus, it appoints one-third of the Constitutional Court of Ukraine, decides to give its consent to the appointment by the President of Ukraine of the Prosecutor General, expresses no confidence in the Prosecutor General, as a result of which the latter resigns.

An important aspect of the constituent function of the Verkhovna Rada of Ukraine in terms of ensuring and guaranteeing human rights and freedoms is the appointment and dismissal of the Commissioner for Human Rights of the Verkhovna Rada of Ukraine. The latter is undoubtedly an important guarantor of ensuring and protecting the rights and freedoms of man and citizen, is an effective tool to eliminate and offset the shortcomings of judicial means of protecting human rights, as well as parliamentary and departmental control on a set of administrative bodies. The implementation of its activities by the Ukrainian Parliament Commissioner for Human Rights is an effective additional means of ensuring and protecting constitutional rights and freedoms, which, although it operates along with others, does not abolish them and does not entail a revision of the competence of public authorities responsible for the protection and restoration of violated rights and freedoms. An important aspect of the activities of the Ombudsman of the Verkhovna Rada of Ukraine is the preparation of the latest annual reports on the state of observance and protection of human rights and freedoms in Ukraine. This is how the parliamentary control is exercised in this sphere.

It is also worth noting that its competence includes permanent indirect parliamentary control over the observance of constitutional human and civil rights and freedoms and the protection of these rights of every citizen who is on the territory of Ukraine, as well as within its jurisdiction.

It should be noted that the ombudsman is not a law enforcement institution. It is a political institution, the main competence of which is to protect human rights and freedoms when other state bodies are unable to do so due to imperfections in the legislation itself. Thus, the Ombudsman of the Verkhovna Rada of Ukraine carries out indirect parliamentary control, the purpose of which is:

to ensure and protect the rights and freedoms of man and citizen, provided by the Basic Law of Ukraine and other normative legal acts, including international treaties of Ukraine;

observance and non-infringement of human and civil rights and freedoms by state bodies, local self-government bodies, and their officials;

prevention of various violations of human and civil rights and freedoms, as well as assistance in their restoration in case of violation;

bringing Ukrainian legislation regulating human and civil rights and freedoms not only in accordance with the Constitution of Ukraine, but also in compliance with international standards in this area;

establishing international cooperation in the sphere of ensuring and protecting human and civil rights and freedoms;

countering various manifestations of discrimination in the exercise of a person's rights and freedoms;

promoting legal awareness among the public, as well as the protection of confidential information about a person.

At the same time, in the context of our study, it is necessary to disclose such main function of the Ombudsman of the Verkhovna Rada of Ukraine as control and supervisory, which is disclosed in the following directions:

- monitoring the compliance of the Constitution of Ukraine, laws of Ukraine and other legal acts of the Supreme Council of Ukraine, acts of the President of Ukraine, acts of the Cabinet of Ministers of Ukraine, legal acts of the Verkhovna Rada of the Autonomous Republic of Crimea that regulate the rights and freedoms of individuals and citizens, by appealing to the Constitutional Court of Ukraine with the appropriate petitions;

- verification of compliance with human and civil rights and freedoms established by law by the relevant public authorities, especially those engaged in operational and investigative activities;

- sending relevant appeals of citizens of Ukraine, foreigners, stateless persons or persons acting in their interests, as appropriate, to the bodies whose competence is limited to the consideration of the case, as well as exercising appropriate control over the consideration of these appeals;

- making decisions on the need to carry out appropriate audits of the activities of public authorities, local authorities, enterprises, institutions, organizations, regardless of ownership, with the right to demand from their officials and officers of these bodies to facilitate these audits, the allocation of specialists to participate in their conduct, expertise and the provision of appropriate conclusions.

Unfortunately, however, the Ombudsman has no real leverage over the officials guilty of failing to ensure human rights.

Along with the Verkhovna Rada of Ukraine at the legislative level, Article 116 of the Constitution of Ukraine obligates the highest body of executive power - the Cabinet of Ministers of Ukraine, in accordance with the law protects the rights and freedoms directly, as well as through a system of central and local executive bodies, directs and monitors the implementation of these bodies to protect these rights.

The central bodies of executive power in Ukraine include ministries, services, central bodies of executive power with a special status. At the same time, it is obvious that ministries and other bodies of central executive power carry out a complex of legal measures aimed at ensuring and realizing the rights, freedoms and obligations of a person and a citizen in a specific sphere related to their powers.

In their turn, local state administrations, in accordance with the law, ensure the observance of rights and freedoms of citizens on a particular territory (Article 119 of the Constitution of Ukraine). The executive power in the regions and districts, the cities of Kiev and Sevastopol, districts in these cities and districts in the Au-

tonomous Republic of Crimea is exercised by local state administrations. One of the main tasks of the latter within the boundaries of the respective administrative-territorial unit is to ensure law and order, as well as the observance of the rights and freedoms of citizens.

As for the main tasks of the Cabinet of Ministers of Ukraine as the highest body of executive power in the sphere of ensuring and guaranteeing the rights and freedoms of man and citizen, it should be noted that the latter takes appropriate measures not only to ensure the rights and freedoms of man and citizen from unlawful encroachments, but also to protect property of citizens and public order, ensuring the fight against crime, as well as the development of tools in the prevention and counteraction of corruption.

At the same time, important areas of activity of the Cabinet of Ministers of Ukraine in the sphere of ensuring and guaranteeing the rights and freedoms of man and citizen is to develop a system of measures aimed at implementation by executive authorities and their heads of court decisions, as well as creating appropriate conditions for the free development and effective functioning of legal services, legal aid to the population, including legal aid.

No less important vectors of the activities of the Cabinet of Ministers of Ukraine in the field of human rights are the financing of courts within the limits defined by the law on the State Budget of Ukraine, creating appropriate conditions for the functioning of courts and the activities of judges, financial and logistical support of law enforcement agencies, social protection of their employees and their family members, ensuring coordination and appropriate control over the activities of executive authorities to ensure the protection of human rights.

An important role in ensuring human rights and freedoms, along with the above-mentioned subjects of ensuring human rights, belongs to the Supreme Court. The relevant Law of

Ukraine "On the Judiciary and the Status of Judges" defines the Supreme Court in the system of courts of general jurisdiction, the highest judicial body, whose main authority in the sphere of ensuring human rights and freedoms, is the implementation of fair justice in the manner and manner, which are determined by the procedural legislation of Ukraine [9]. No less its authority is to ensure the uniform application of legal norms by the courts of various specializations, implementation of the analysis of court statistics, generalization of court practice, as well as providing relevant conclusions on the draft regulations concerning the judicial system, proceedings, status of judges, execution of court decisions and other issues related to the activities of the judicial system of Ukraine.

At the same time, only this judicial body is empowered to ensure the unity of judicial practice, in the order and manner prescribed by the procedural legislation of Ukraine.

In the context of the study of the powers of the Supreme Court in the sphere of ensuring human rights and freedoms, it should be noted the power of the latter to apply to the court of constitutional jurisdiction to verify the constitutionality of laws, other legal acts, as well as on the official interpretation of the Basic Law and other laws of Ukraine, because only the Constitutional Court of Ukraine has such powers.

Thus, the Supreme Court is one of the important subjects of ensuring and guaranteeing human rights and freedoms in Ukraine.

In addition to the Supreme Court of Ukraine, the Constitutional Court of Ukraine is the entity responsible for ensuring and guaranteeing human rights and freedoms in Ukraine. The Constitutional Court of Ukraine, in accordance with the legislation, is a body of constitutional jurisdiction, ensures the supremacy of the Basic Law of Ukraine, checks compliance of normative legal acts, in particular laws and subordinate acts of the Constitution of Ukraine, carries out the official interpretation of the Con-

stitution of Ukraine, as well as other powers [10].

As you know, today the legislator is faced with the task of declaring into the national legislation of Ukraine as much as possible the guiding ideas established by the Convention for the Protection of Human Rights and Fundamental Freedoms.

An important step in this direction is the right of every person, enshrined in the Basic Law of Ukraine, to apply to the body of constitutional jurisdiction with a corresponding constitutional complaint in case of existence of grounds, in her opinion, to consider that the law, to which it was applied in the final decision, contradicts the Constitution of Ukraine. It should be noted that this right is provided by the Constitutional provisions of such European countries as Austria, Germany, Hungary, Poland, Czech Republic, Switzerland, etc. It is a manifestation of democracy and an indispensable feature of a state governed by the rule of law.

The constitutional complaint of a person is undoubtedly an important tool for the protection of human rights and freedoms. With its help there is the realization of the principle reflected in the Constitution, according to which the main duty of the state is to assert human rights and freedoms. This institution gives the individual an additional means of protection and restoration of violated rights. In addition, it provides an opportunity for citizens to become parties to constitutional control: if there are reasons to believe that the law, which was applied in its final decision, is contrary to the Constitution of Ukraine, the latter has the right to appeal to the Constitutional Court with a request to recognize it unconstitutional. In such circumstances, the body of constitutional jurisdiction checks the constitutionality of the law in the manner determined by constitutional proceedings. This activity is a mechanism of legal protection of the Constitution and ensuring its supremacy in the

system of legal relations [11, p. 20]. As a result of these inspections of legislation for its compliance with the Constitution its constant updating is carried out. Legislative provisions that do not comply with the Basic Law, lose force, and in their place are adopted others that comply with the Constitution of Ukraine and the challenges of our time.

All the outlined contributes to the intensification of the implementation of European standards in the national legislation of Ukraine. Finally, the institution of a constitutional complaint should reduce the number of appeals of citizens to the European Court of Human Rights, according to the conviction of lawmakers [11, p. 20].

Conclusions. Thus, the determination of the place of state bodies and officials in the system of bodies ensuring human rights makes it possible to understand their role in this activity and responsibility for its implementation. Only a clear regulation of the powers of state bodies and their strict compliance with the norms of the law contributes to ensuring human rights in the implementation of the CISA. The Parliament of Ukraine is faced with the urgent task of improving national legislation in the outlined sphere. Directions for improving the activities of authorized bodies to ensure human rights will also be the subject of further scientific research.

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Коваль А.А. Роль загальних суб'єктів забезпечення прав людини при проведенні негласних слідчих (розшукових) дій. – Стаття.

У даній статті аналізується система державних органів та службових осіб, які тією чи іншою мірою уповноважені (зобов'язані) забезпечувати права людини, у тому числі і при проведенні негласних слідчих (розшукових) дій. Відповідно до завдань, які виконує кожен із таких суб'єктів, їх поділено на дві групи: загальні (ті, що визначають засади внутрішньої та зовнішньої політики держави та стратегію державного управління, мають відповідні координаційні повноваження та вирішують конституційно та законодавчо закріплені стратегічні завдання у зазначеній сфері, або реалізують державну політику в цьому напрямку, одним з повноважень яких передбачено утвердження або забезпечення

прав людини) та спеціальні (суб'єкти кримінального провадження, які безпосередньо приймають участь у призначенні, проведенні, оцінці результатів НСРД, та на яких покладено обов'язок охорони, захисту (забезпечення) прав людини у кримінальному процесі, у тому числі й НСРД.

Ключові слова: права людини, негласні слідчі (розшукові) дії, гарантії прав і свобод, суд, слідчий суддя, учасники кримінального провадження.

Коваль А.А. Роль общих субъектов обеспечения прав человека при проведении негласных следственных (розыскных) действий. – Статья.

В статье проведен анализ системы государственных органов, и должностных лиц, которые в той или иной степени уполномоченные (обязаны) обеспечивать права человека, в том числе и при проведении негласных следственных (розыскных) действий. В соответствии с задачами, которые выполняет каждый из таких субъектов, они разделены на две группы: общие (те, которые определяют основы внутренней и внешней политики государства и стратегию государственного управления, имеют соответствующие координационные полномочия и решают стратегические задачи в указанной сфере, реализуют государственную политику в этом направлении, уполномочены на утверждение или обеспечение прав человека) и специальные (субъекты уголовного производства, которые непосредственно принимают участие в назначении, проведении, оценке результатов НСРД, и на которых возложена обязанность охраны, защиты (обеспечения) прав человека в уголовном процессе, в том числе и НСРД.

Ключевые слова: права человека, негласные следственные (розыскные) действия, гарантии прав и свобод человека, следственный судья, участники уголовного производства.

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