

**Вікторія РУФАНОВА**  
**ВІКТИМНІСТЬ ЖІНКИ-ЖЕРТВИ ГЕНДЕРНО ЗУМВОЛЕНОГО НАСИЛЬСТВА**

**Анотація.** У статті аналізуються характерні властивості жінки, схильної стати жертвою гендерно обумовленого насильства. Автором зазначається, що витoki гендерного насильства походять з історично нерівності жінок і чоловіків.

Найпоширенішим видом гендерного насильства є насильство в сім'ї з боку інтимного партнера. Гендерне насильство є породженням не лише маргінального середовища. Жертвою насильства може стати будь-яка жінка незалежно від статусу та становища у суспільстві. Жінки страждають від такого насильства вчетверо більше, ніж чоловіки. Віктимність жертви гендерного насильства проявляється в усвідомленому знаходженні в такій соціальній ситуації, в якій вона своїми діями і наражає себе на небезпеку стати жертвою злочину.

Автор доходить висновків, що для зниження рівня віктимності від гендерно зумовленого насильства необхідно: змінити соціальне та індивідуальне сприйняття насильства; підвищувати рівень інформування суспільства щодо способів отримання допомоги; формувати у населення нетерпимість до проявів насильства; здійснювати пропаганду мирного співіснування громадян різних гендерів; не допускати засудження та звинувачення жертви за те, що вона постраждала від насильства; пропагандувати ненасильницьких взаємини у сім'ї; надавати кваліфіковану допомогу боку поліції, прокурорів, суддів, фахівців соціальної, освітньої, медичної сфер, уповноважених з питань запобігання та протидії домашньому насильству та насильству за ознакою статі.

**Ключові слова:** *гендер, гендерно обумовлене насильство, домашнє насильство, жертва, віктимність, віктимологія.*

UDC 343.98

DOI 10.31733/2078-3566-2021-5-152-156



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**SECURITY AS A CONDITION FOR ORGANIZING AND CONDUCTING  
INVESTIGATIVE (SEARCH) ACTIONS DURING AN EPIDEMIC (PANDEMIC)**

**Abstract.** The article is devoted to the consideration of the security of participants in investigative actions in the context of an pandemic. The article considers the content of the concept of «security» and states that its provision is a complex multidimensional system of measures and means in its implementation. It is noted that the provisions of the laws and regulations in question, particularly: They are designed to protect the participants in criminal proceedings from the possibility of pressure and to ensure their physical and mental safety, and do not take into account the condition of carrying out investigative actions such as an pandemic. It is argued that the security of participants in an investigation should be considered as a multidimensional category, which requires a comprehensive approach to its assessment and decision in criminal proceedings. It is noted that due attention should be paid by researchers to the development of reasoned proposals for legislative changes, expanding the rights to ensure the security of criminal operators in the context of an pandemic.

**Keywords:** *conditions of preparation and conduct of investigative actions, security, pandemic, pressure authorized person, risk of infection.*

**Relevance of the study.** Human activity in general and such a type as the organization and conduct of investigative (search) actions is always accompanied by risks and threats that can affect the results of its implementation. A person, his life and health, honor and dignity,

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inviolability and security are recognized by Article 3 of the Constitution of Ukraine as the highest social value. Ensuring security is a complex multidimensional system of measures and means of its implementation.

**Recent publications review.** The complexity of the category under consideration is determined by research carried out within the framework of such branches of knowledge as: Constitutional law, life safety, psychology, sociology, medicine, criminal procedure, etc. scholars such as A. Ababkova, I. Abakumova, L. Antonova, O. Asmolov, I. Baeva, S. Belov, V. Ganzhin, P. Ermakov, A. Zhukov, O. Zaitsev, Z. Zinatullin, V. Zelenetsky, V. Isipkin, T. Krasnyanskaya, H. Lisie, S. Marchenko, A. Nepomnyashchy, A. Rean, V. Rozin, V. Rubtsov, V. Semykin, K. Chernov, V. Shapakidze, L. Shershnev, S. Shcherba and others. Various aspects of ensuring the safety of the participants in the investigation were paid attention to by such forensic scientists as: V. Bakhin, R. Belkin, V. Bernaz, A. Vasiliev, A. Volobuev, V. Karagodin, V. Konovalova, V. Lukashevich, E. Lukyanchikov, M. Saltevesky, V. Shepitko, K. Chaplinsky, B. Shchur, M. Yablokov and others.

At the same time, the issues of ensuring the safety of participants in investigative (search) actions in the context of an epidemic (pandemic) remained outside the proper attention of scientists. The lack of recommendations on the activities of authorized persons in appropriate conditions leads to the possibility of negative consequences, in particular: firstly, it is the risk of infection with an infectious disease; secondly, the complexity (not the possibility) of carrying out investigative (search) actions in general; thirdly, the use of the entire complex of tactical techniques. Without an integrated approach to considering the content of the concept of «security» we are studying, it is difficult or almost impossible to solve certain Art. 2 of the Criminal Procedure Code of Ukraine, the task of criminal proceedings on the one hand, and to ensure the rights of its participants guaranteed by the Constitution of Ukraine, on the other. The explanatory dictionary of the Ukrainian language defines "security" as a state when for some reason nothing threatens anyone [1].

**The article's objective** is to highlight security as a condition for organizing and conducting investigative (search) actions during an epidemic (pandemic)

**Discussion.** The Law of Ukraine "On Ensuring the Safety of Persons Participating in Criminal Proceedings" [2] regulates the rights and obligations of bodies ensuring safety, the rights and obligations of persons in need of protection. The security measures defined in Art. 7 of the law under consideration, are implemented by: personal protection, protection of housing and property; issuance of special personal protective equipment and warning of danger; the use of technical means for monitoring and listening to telephone and other conversations, visual observation; replacement of documents and changes in appearance; change of place of work or training; relocation to another place of residence; placement in a school educational institution or institutions of social protection bodies; ensuring the confidentiality of personal information; closed trial [2]. The considered normative legal act aimed at ensuring the safety of participants in criminal proceedings in need of protection.

"Protection", by the Big Explanatory Dictionary, is defined as the prevention of committing something of a prohibition, protection (someone / something from attack, attempt, hostile actions) [3]. The law of Ukraine "On operational-search activity" also requires attention, in which Article 1 of obtaining information in the interests of the safety of citizens, society and the state is determined by one of the tasks of operational-search activity [4].

The positions of scientists in this category also require attention. So, to determine the optimal course of action on the part of law enforcement officials in the application of security tools provides, according to V. Zelenetsky, the need to address the specific situation. The author notes that in practice, in the process of combating crime, different options for the use of the same security measures in different situations are implemented, which allows us to talk about the functional polyvariety of security means [5, p. 116]. The above stipulates the tactics of actions of the relevant subjects of the investigation to ensure security. It asserts B. Shur must be taken, in particular as the most optimal system of measures; a set of tactics for ensuring security; optimal forensic security recommendations; structural dependence of security measures [6, p. 11].

The cited positions of scientists reflect such a widespread pre-trial investigation condition as opposition. To overcome it, the Code of Criminal Procedure of Ukraine [7] gives the right to ensure security measures to such categories of participants in criminal proceedings as: suspect, accused (part 12 of Art. 42 of the Code of Criminal Procedure of Ukraine "to file a petition to conduct procedural actions, to ensure security in relation to oneself, members their

family, close relatives, property, housing, etc.); victim (part 5 of article 56 of the Criminal Procedure Code of Ukraine "if there are appropriate grounds for ensuring security in relation to himself, close relatives or members of his family, property and housing"); witness (part 8 of article 66 of the Code of Criminal Procedure of Ukraine "to file a petition for ensuring security in cases stipulated by law").

The provisions of the articles of the Criminal Procedure Code of Ukraine under consideration are primarily aimed at protecting against the possibility of pressure on the participants in the production and ensuring their physical and mental safety. At the same time, these provisions do not take into account the possibility of organizing and conducting an investigation in general and individual investigative actions in the pandemic in particular. This, in our opinion, necessitates paying due attention to this issue, which would result in well-reasoned proposals for improving legislation with expanding the rights to ensure the safety of participants in criminal proceedings in the pandemic.

The feeling of danger by the relevant participant will not allow him to focus on the course of the procedural actions, which will cause their improper result and complicate the judicial perspective. Therefore, the thesis of V. Pletnets that a directly proportional relationship can be traced between the degree of pressure on the participants in the production and the amount of information provided by them about the circumstances of the incident [8, p. 240], is reflected in the conditions of conducting investigative actions during the pandemic. This is due to the need for the corresponding participant to feel psychological safety. The latter, according to E. Edmondson, is necessary for the most productive activity [9]. So, in the notification by the relevant participant in the risk of infection, it will stipulate the adoption of avoidance measures under any pretext from participating in the investigation, the change of the taken position from a conscientious one to an unfair one, a formal attitude to the conduct of investigative actions with his participation, etc. This will complicate to obtain the required amount of information to establish all the circumstances of a criminal offense and carry out a legal assessment of the actions of its participants.

It should be noted that pandemics of infectious diseases are determined by natural and technogenic hazards [10, p.11]. At the same time, opposition to the pre-trial investigation and the associated influence on the participants in the proceedings can be regarded as a danger that has a social origin and demonstrates the level of formation of society on the one hand and the effectiveness of the institutions of the state created by it, on the other. Such a natural and man-made danger that we are considering as an epidemic (pandemic) acts as a condition for organizing and conducting investigative actions and, depending on the level of threats to the health of participants in criminal proceedings or unauthorized persons, can acquire both imperative and discretionary significance. We do not exclude the possibility of the use by persons not interested in the investigation of the participants in the manipulation by exaggerating the risk of contracting an infectious disease as a way of countering the pre-trial investigation. It should be noted that conditions acquire psychological content as a result of how the person perceives it and, accordingly, how they behave [11, p. 36]. Accordingly, the existing danger may be inspired from the outside and have no grounds for panic in the participants in criminal proceedings.

Thus, the authorized person must take this circumstance into account when organizing and conducting investigative actions. Accordingly, the counteraction and risk of infection with an infectious disease should be assessed as conditions for investigation and conduct of investigative actions. It is advisable to consider them both differentially and in aggregate in each particular case. Determination of the factors in the formation of conditions for the investigation and the conduct of investigative actions will contribute to the perception of the situation as a whole picture, the correct determination of the directions for their elimination and minimization of the possibility of their occurrence. Such an analysis will ensure the comprehensive nature of the activities of authorized persons, in which not a single circumstance will be overlooked. This, in turn, will allow more quickly with less time and resources to comprehensively solve the tasks set for criminal proceedings. The expectation of persons not interested in the investigation on the unexpected nature of their own actions and unpreparedness for this authorized person will not have the expected effect of surprise.

Noteworthy allocated O. Chebotareva four methodical approach to determining risk: engineering, based on statistics, the frequency calculation, probabilistic safety analysis, construction hazard trees; model, based on the construction of models of the action of harmful factors on an individual, social, professional groups, etc., which are based on calculations for

which data are not always available; expert, when the probability of events is determined based on a survey of experienced specialists, that is, experts; sociological, based on a survey of the population [10, p. 13]. The above components of risk determination should be considered in aggregate and comprehensively, which will ensure a holistic perception of this category and its effective use in organizing and conducting investigative actions in the pandemic.

The danger can be eliminated by creating a system of elements that will ensure (prevent) their occurrence. Ensuring the safety of the participants in the investigation should be considered as a condition that determines the amount of evidentiary value of the information received, as well as the amount of time, effort and money spent by authorized persons. The organization and planning of the activities of authorized persons is determined by the postulate of the effectiveness of their investigation in general and investigative actions in particular.

Thus, the subjects of the investigation must organize and carry out investigative actions to ensure the safety of their participants determined by the Constitution and other regulatory legal acts of Ukraine, minimizing the possibility of abuse of this condition by persons not interested in the investigation and obtaining the maximum number of significant ones to establish all the circumstances. criminal data production. Accordingly, the concept "Security" we are studying is a multifaceted and complex category, which necessitates a systematic approach to its study. The search for ways to ensure security should be one of the important measures for the preparation and conduct of investigative actions in the pandemic. The only certain aspects of this problem that we have identified determine the need for further more thorough research in this direction.

**Conclusions.** Our study allows us to note the need for scientists to pay more attention to the issue of developing reasoned proposals for changes in legislation with the expansion of the rights to ensure the safety of participants in criminal proceedings in the pandemic. The feeling of safety by the relevant participant is the key to the effective conduct of procedural actions. Ensuring the safety of the investigators should be considered as a multidimensional category, which necessitates an integrated approach to the assessment and decision in the framework of criminal proceedings. The factors that determine the formation of conditions for the investigation and conduct of investigative actions, it is advisable to consider both separately and in aggregate.

Our further research will focus on considering the features of the organization and tactics of conducting investigative actions in the pandemic.

#### *Conflict of Interest and other Ethics Statements*

The author declares no conflict of interest.

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Submitted: 01.12.2021

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**БЕЗПЕКА ЯК УМОВА ОРГАНІЗАЦІЇ Й ПРОВЕДЕННЯ**  
**СЛІДЧИХ ДІЙ ПІД ЧАС ПАНДЕМІЇ**

**Анотація.** Стаття присвячена розгляду питання забезпечення безпеки учасників слідчих дій в умовах пандемії. В статті розглядається змістовне наповнення поняття «безпека» та наголошується, що її забезпечення являє собою складну багатоаспектну систему заходів та засобів в її реалізації.

Зазначається, що положення аналізованих в роботі нормативно-правових актів, у першу чергу, спрямовані на убезпечення від можливості здійснення тиску на учасників провадження та забезпечення їх фізичної та психічної безпеки та не враховують таку умову проведення слідчих дій як пандемія. Стверджується, що відчуття небезпеки відповідним учасником не дозволить зосередитися на ході проведення процесуальних дій, що обумовлюватиме їх неналежний результат та ускладнить судову перспективу. Водночас, відчуття відповідним учасником психологічної безпеки є необхідним для найбільш продуктивної діяльності. Визначається, що усвідомлення відповідним учасником ризику інфікування обумовлюватиме прийняття ним заходів уникнення під будь-яким приводом від участі в розслідуванні, зміну зайнятої позиції з сумлінної на несумлінну, формальне ставлення до проведення за його участі слідчих дій та ін. Підтримується теза В. Плетнеця про те, що між ступенем захищеності учасників провадження та кількістю наданих ними відомостей про обставини вчиненої події може простежуватися прямо пропорційна залежність. Наголошується, що пошук шляхів забезпечення безпеки має виступати однією з важливих заходів підготовки та проведення слідчих дій в умовах пандемії.

У висновках наголошується, що забезпечення безпеки учасників розслідування має розглядатися як багатоаспектна категорія, що обумовлює необхідність комплексного підходу до її оцінки та вирішення в рамках кримінального провадження. Крім того, наголошується на необхідності приділення з боку дослідників більшої уваги питанню розробки аргументованих пропозицій до змін в законодавство із розширенням прав на забезпечення безпеки учасників кримінального провадження в умовах пандемії. Чинники та фактори, що обумовлюють формування умов розслідування та проведення слідчих дій, доцільно розглядати як окремо, так і у сукупності.

**Ключові слова:** умови підготовки та проведення слідчих дій, забезпечення безпеки, пандемія, тиск, уповноважена особа, ризик інфікування.