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PROBLEMS OF LEADING QUESTIONS IN INTERROGATION TACTICS

Human rights and freedoms enshrined in the Constitution of Ukraine are of the highest value. And enshrining in other legislative acts the principle of protection of human and civil rights and freedoms increases the responsibility of law enforcement agencies and courts for the implementation of their tasks. First of all, this applies to criminal proceedings, the main purpose of which is to protect the rights, freedoms and legitimate interests of participants in criminal proceedings, as well as to protect persons from illegal and unfounded accusations.

The effectiveness of such activities is largely determined by the quality of legislation and the use of statutory procedural actions aimed at collecting and examining evidence in criminal proceedings and ensuring the rights of its participants. Among such actions, without which no criminal proceedings can be imagined interrogation, because it is one of the most common investigative (investigative) actions and occupies a special place among the statutory methods of proving circumstances relevant to criminal proceedings.

However, currently the potential of the system of ensuring the rights and legitimate interests of respondents cannot be fully realized due to the low quality

of legal regulation, the lack of legal certainty of certain rules. Therefore, in our opinion, there is an urgent need for comprehensive coverage of the interrogation and legal regulation of leading questions during the pre-trial investigation, as this study will help in the formation of new tactics and development of quality forensic recommendations to improve during it.

To begin with, it is necessary to understand the concept of "interrogation" from different angles. And so, M.O. Silnov noted that “from the point of view of the criminal process, interrogation is a process of obtaining testimony regulated in detail by law. Forensics studies the interrogation in terms of application in the process of its tactics, the place of interrogation in the methodology of investigation in order to form evidence. Forensic psychology considers interrogation as a process of specific communication between the interrogated and the interrogated, studies the psychological phenomena associated with this investigative action, as well as the laws of the human psyche, which are manifested during interrogation "[1, p. 21].

We fully agree with the concept of interrogation, but we believe that it would be more appropriate not to divide it into components, as each of the above aspects plays a role in the effective conduct of the interrogation. Failure to comply with at least one of them may lead to a violation of the rights, freedoms and legitimate interests of participants in criminal proceedings, as well as lead to illegal and unfounded accusations.

Considering the correctness of the interrogation, it should be emphasized that an important component is the tactics of this investigative (search) action, based on the provisions of forensic tactics and tactics of investigative (search) actions.

According to VS Komarkov, the tactics of interrogation are the most appropriate forms and methods of interaction between the investigator and the interrogated, which are carried out to clarify the essential circumstances, by using evidence and operational information. The author also notes that the content of interrogation tactics includes: determining ways to establish psychological contact; development of a rational set of tactics and means of their implementation; anticipation of the possible effect of their influence; determining the moment of sequence of application of each technique [2, p. 56]. And already VO Konovalova claims that the correctly chosen interrogation tactics ensure the objectivity and reliability of testimony, the success of the investigation of crimes [3, p. thirteen].

The purpose of the interrogation is more likely to be achieved through the use of various tactics that help to obtain complete and objective testimony. E. Porubov, in turn, identifies two groups of tactics during the interrogation. Thus, "the former includes the rules of a tactical nature provided for in the CCP and are therefore binding in all cases. An example of this is the ban on asking leading questions, conducting separate interrogations of suspects summoned in the same case, and so on. The second group consists of tactics that are not

provided for in the CPC, but those that contribute to the implementation of the investigative action, its effective conduct "[4, p. 125].

We suggest to stop and consider in more detail a problem concerning "leading" questions. Thus, the reform of the Criminal Procedure Code of Ukraine has led to the fact that the rules for asking leading questions during interrogation at the stage of pre-trial investigation have not been regulated in any way. Another big issue is that earlier the domestic legislation forbade asking leading questions during the interrogation at the stage of pre-trial investigation, but in the new legislation this norm was not reasonably removed.

In the current Criminal Procedure Code of Ukraine on "leading questions", ie "questions, the wording of which contains the answer, part of the answer or a hint to it", is mentioned in Part 6 of Art. 352 [5]. However, the problem is that such questions make obvious a certain answer, or state the presence of certain objects, processes, phenomena. That is, the wording shows that the degree of obviousness of a certain answer is of fundamental importance, and not its fact.

A large number of world and domestic scientists in their works convincingly argued about the impossibility of asking leading questions during the interrogation. This impossibility is noted by VO Konovalova, who writes that "leading issues are prohibited by criminal procedure law as contrary to the requirements of the objectivity of the criminal process. The logical and psychological inability of leading questions is that they contain a ready answer to a given question or prompt it to the person being questioned "[6, p. 14]. It was she who pointed out that "an important requirement for the issue is its neutrality. This means that the question should be formulated in such a way that it does not anticipate or provide an answer. That the personal judgment of the person asking the question is not manifested in it "[6, p. 14].

We absolutely support the position on the inadmissibility of leading questions, which is actually reflected in modern criminology. Asking leading questions should remain inadmissible, as such questions lead the person to the answer that is desirable to the investigator. This, in turn, can lead to a wrong answer: a person points not to the fact that he knows, but to what the investigator told him, especially if he does not remember this fact or remembers it vaguely and is not sure in what was in reality.

As already mentioned, the articles of the CPC of Ukraine, which are devoted to the regulation of interrogation at the stage of pre-trial investigation, do not even mention such a ban. However, the ban on asking leading questions can be seen in Part 6 of Art. 352 of the CPC of Ukraine in 2012, but this article regulates the rules of interrogation of a witness during the trial. That is, from such a situation it is possible to conclude that the raising of leading questions at the stage of pre-trial investigation is still possible, or rather - not prohibited.

Thus, on the basis of the above, it can be said that the absence of a ban on asking leading questions during interrogation at the stage of pre-trial investigation should be considered a kind of gap in the Criminal Procedure

Code. Since the leading issues have a negative impact on the results of criminal proceedings, there is a need to resolve this issue at the legislative level, namely the addition of Art. 224 of the CPC of Ukraine by the wording that would prohibit the formulation of leading questions, namely those that already contain the answer, part of the answer or a hint to it.

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АНАЛІЗ ОСНОВНИХ ПОЛОЖЕНЬ СУДОВО-МЕДИЧНОЇ ТАНАТОЛОГІЇ

З точки зору права і закону смерть також цілком природна. Юридичний аспект танатології включає в себе найрізноманітніші проблеми, пов'язані зі смертю, вирішення яких так чи інакше залежить від їх законодавчої регламентації.

Найбільш прийнятним для судово-медичної науки і практики слід вважати чисто біологічне визначення смерті: "Смерть це припинення життєдіяльності організму і внаслідок цього – загибель індивідуума як