

**Drogovoz Svitlana Yevhenivna,**  
cadet of the first course of faculty of  
preparation of experts for divisions of  
preventive activity  
Dnipropetrovsk state  
University of Internal Affairs

**Supervisor:**

**Bidnyak Anna Sergeevna,**  
Ph.D., Associate Professor,  
Associate Professor of Criminology and  
Home Medicine Training,  
Dnipropetrovsk state  
University of Internal Affairs

## **FEATURES OF ENSURING THE RIGHT TO FREEDOM AND PERSONAL INVOLUTION AS ONE OF THE PRINCIPLES OF CRIMINAL PROCEEDINGS**

The legislation of most modern states provides for the provision of human rights of various kinds: political, economic, personal, and others. At present, given the increased number of armed conflicts and the level of crime, we are particularly interested in the personal rights of man and citizen, namely the right to liberty and security of person during the application of such precautionary measures as house arrest and detention. To begin with, it is worth clarifying the historical aspects of the concepts of "freedom" and "personal integrity". For example, Sh.L. Montesquieu, in defining the concept of "freedom", believed that it was a human right to allow a person to do what is required by law. In general, the emergence of the right to liberty and security of person is associated with the emergence of the international legal act of the Universal Declaration of Human Rights, its text has been amended in various countries, but the essence of the right to liberty and security has not changed. Thus, it means that a democratic state cannot exist without respect for this type of human rights [1].

It is also special how the state should ensure the implementation of the principle of respect for the right to liberty and security of person in the field of pre-trial investigation. To begin with, it is necessary to determine the essence of ensuring the human right to personal integrity during the application of precautionary measures, for example, according to K.D. Volkova is a holistic, indivisible legal mechanism that provides for the lawfulness of application and determines all the rules for the application of precautionary measures during pre-trial proceedings. The existence of this mechanism is provided for the prevention of arbitrariness and bullying by law enforcement officials against a detained or arrested person during the application of measures of criminal coercion [4]. After all, on the one hand, the state must ensure fair punishment for offenders. On the other hand, it is important to ensure respect for the right to

liberty and security of person, even for those who have committed crimes against the lives of others, crimes against humanity, and so on. The Criminal Procedure Code of Ukraine, namely Article 12 of the CPC of Ukraine, defines the provision of the right to liberty and security of person as one of the principles of criminal proceedings. The article states that “During criminal proceedings, no one may be detained, detained or restricted in the exercise of the right to free movement in any other way on suspicion or accusation of committing a criminal offense other than on the grounds and in the manner prescribed by this Code. A detainee shall be released immediately if he or she has not been served with a reasoned detention order within seventy-two hours of his or her detention. The detention of a person, his detention or restriction of the right to free movement in another way, as well as his whereabouts must be immediately notified to his close relatives, family members or other persons of that person's choice in the manner prescribed by this Code. »[2]. Thus, from the CPC of Ukraine, it can be concluded that the legislator provides for the protection of this type of human rights, which is prosecuted for investigative (investigative) actions, this gives reason to believe that the legislator treats humanely those who are prosecuted. . After all, humanity and the recognition of human life, health, honor and dignity are fundamental principles of a democratic and legal state.

The issue of observance of the right to human freedom arises during the application of precautionary measures to ensure criminal proceedings that restrict this human right. Such precautionary measures are detention and house arrest [3].

Article 181 of the CPC of Ukraine defines house arrest as a precautionary measure, which is to restrict the free movement of a person and prohibits the suspect, accused to leave the home around the clock or during a certain period of day with the possibility of using electronic means of control. is prosecuted. So, in a way, house arrest is an alternative to detention. After all, the investigating judge at his own discretion, based on the provisions of a particular case of a criminal offense, the nature of the offense, the individual characteristics of the person who committed the criminal offense, prescribes one of the precautionary measures to ensure criminal proceedings.

Article 183 of the CPC of Ukraine defines detention as an exceptional precautionary measure that applies only if the prosecutor proves that none of the more lenient precautionary measures can prevent the risks provided for in Article 177 of this Code. Such risks in accordance with this article are:

- 1) concealment from the bodies of pre-trial investigation;
- 2) an attempt to destroy, hide factual data that are important to ensure criminal proceedings and establish the truth in the case;
- 3) the possibility of a person prosecuted to illegally influence a victim, witness, other suspect, accused, expert, specialist in the same criminal proceedings;

- 4) obstruction of criminal proceedings in another way;
- 5) the possibility of committing another criminal offense [2].

From the above we can conclude that the legislator in the Criminal Procedure Code of Ukraine tried during the criminal proceedings to ensure the realization of the human right to liberty and security of person, and in case of its restriction, the restriction to the minimum term and compliance with the rule of law. investigative) actions, which manifests itself in the fact that both house arrest and detention as precautionary measures should be applied only after the decision of the investigating judge, and in case of detention, the prosecutor must prove the necessity and effectiveness of this measure, relying on the norms of the Criminal Procedure Code of Ukraine. In addition, a person under Article 55 of the Constitution of Ukraine to whom measures of criminal procedural coercion apply has the right to apply to the court and accordingly appeal against decisions and actions of police officers that may violate his personal right to liberty and security.

**Дума Анастасія Артемівна,**  
курсант факультету підготовки  
фахівців для органів  
досудового розслідування  
Дніпропетровського державного  
університету внутрішніх справ  
**Науковий керівник:**  
**Бідняк Ганна Сергіївна,**  
кандидат юридичних наук, доцент,  
доцент кафедри криміналістики та  
домедичної підготовки  
Дніпропетровського державного  
університету внутрішніх справ

## **SPECIFIC ISSUES OF DETENTION OF A PERSON WITHOUT DOCUMENTS**

In today's realities and unstable political and economic situation in Ukraine, the problem of detaining a person without documents is urgent. After all, in addition to the current military conflict, there are clear restrictions and rules set for the population related to COVID-19 regarding the wearing of identity documents, such as ID, passport, driver's license.

Many studies have been devoted to the issue of detaining a person without documents. Among the important scientific works should be noted research: B. Malyshev, V. Baburin, N. Sotnik, O. Tatarov, I. Usenko and others. At the same time, legislative changes and the impact of force majeure need some clarification and clarification.