**Search and provisionally seized property during the search.**

*What you have to know when law-enforcement officers knock on the door for a search?*

A search is an investigative (detective) action conducted with the purpose of finding and fixing information on circumstances of commission of criminal offense, finding tools of criminal offense or property obtained as a result of its commission, as well as of establishing the whereabouts of wanted persons – *Article 223, Paragraph 1 Article 234 of the Criminal Procedure Code of Ukraine (CPCU).*

A search shall be based on investigating judge’s court order - *Paragraph 2 Article 234 of the CPCU.*- It means that the investigator (detective) have to provide you the official copy of the investigating judge’s court order.

* Take a picture of the investigating judge’s court order and immediately send it to your defense counsel; It will save time for your defense counsel while he or she arrives at your office. Sometimes even a couple of minutes make a difference;
* Check the names of officers that are mentioned in the investigating judge’s court order and compare it with the ID`s of the officers; Only persons mentioned in the investigating judge’s court order are allowed to enter your office or apartment.
* Check the address of the premise that is mentioned in the investigating judge’s court order. If the mentioned address in the court order is wrong you are allowed not to let the officers inside your office or apartment.
* Often, investigators (detectives) use physical support of the Special Forces of Police, Security Service of Ukraine etc. There is no sense in barricading the doors or try to stop them etc. Just call the police and inform them about illegal actions of the officers.

**If the law-enforcement officers and special forces already entered your office.**

* Try to record all the actions of the officers who are searching your office. Use your smartphone and smartphones of your employees;
* Do not try to flatter the investigators (detectives), the best behaviour is more confidence and less talk.

**Property may be provisionally seized during the search.**

* After seizure of property, the investigator (detective) authorized officer is obliged to make an appropriate record and to ensure preservation of such property - *Paragraphs 2, 3, 4, Article 168 CPCU*.
* Make a list of the seized items as the result of the search (laptops, money, documents etc.). Describe the seized property, mention owners and cost of the seized property. Add this information to the record of the search that has been made by the investigator (detective)  Persons who are present during the search have the right to make statements in the course of investigative (detective) action, such statements need to be put on the record of the search - Paragraph 8 Article 236 CPCU.

**Provisionally seized property shall be returned to the person from whom it has been seized (Article 169 of the CPCU):**

* Upon public prosecutor’s resolution, if he finds that the seizure was unreasonable;
* Upon an order of investigating judge or court, if it dismisses public prosecutor’s motion to arrest the property;
* In cases set forth in Paragraph 5 of Article 171 and Paragraph 6 of Article 170 of the CPCU.
* In cases where arrest is cancelled.

In case when the property has been seized as a result of the search based on the order of the investigating judge according to the article 235 of the CPCU, the investigator or public prosecutor are obliged to submit a motion for the arrest of provisionally seized property within 48 hours after the seizure of property, otherwise the property has to be immediately returned to the person from whom it had been seized – *Paragraph 5  of Article 171 of the CPCU.*

Motion for arrest of property is considered by the investigating judge or court not later than two days after it has been submitted, with participation of the investigator and/or public prosecutor, civil plaintiff, if he has filed the motion, suspect, accused, owner of property, and also of the defense counsel, authorized representative of the legal entity in whose respect proceedings are taken, if any. These persons' failure to appear at court hearing does not preclude consideration of the motion – *Paragraph 1 of Article 172 of the CPCU*.

Arrest of seized as a result of the search property means a temporary the deprivation of the property rights (the right to use the property; the right to earn income from the property; the right to transfer the property to others; the right to enforce property rights etc.).

The property can be arrested by the investigative judge or court if it is presented or comes up with the list of reasons or reasonable suspicion that the provisionally seized property is:

* Evidence of a crime;
* Object of the special confiscation;
* To secure civil suits;
* Confiscation.

Provisionally seized property can be arrested for ensurance of property conceal, damage, destruction, transformation, alienation – *Article 170 of the CPCU.*

Investigating judge, court shall pass the court order to arrest the provisionally seized property within 72 hours after the motion of the investigator or public prosecutor has been received, otherwise such property should be returned to the person from whom it has been provisionally seized *– Paragraph 6 Article 173 of the CPCU.*

* If you or your defense counsel were absent during the hearing in the court at which the arrest of the property has been issued you are have a right to file a motion to revoke the arrested property – Article 174 of the CPCU.
* If you or your defense counsel were present during the hearing in the court at which the arrest of the property has been issued you are have a right to file an appeal to the Appeal Court.

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