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**Comment: Minsk police do not know the laws and do not know how to use them**

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The case of the arrest of Oleg Manaev, ostensibly for identification, clearly demonstrated to the public that the heads of the capital's police units do not even know the basis of what law they are working on.

Let us recall, that on October 6th, the creator of the Independent Institute of Socio-Economic and Political Studies (registered in Lithuania) Oleg Manaev was going to elaborate on the results of sociological surveys, according to which Alexander Lukashenko's rating has fallen to 20%, at a briefing for foreign diplomats at the Embassy of Poland. However, even before he reached the embassy the police detained him.

According to the sociologist, on his way to the Polish Embassy in Belarus, Special Forces sergeant stopped the sociologist. The police officer said he should detain "suspicious passer" for identification. After examining Manaev’s passport, commando began to check whether the scientist had any weapons, drugs or other prohibited items, and then called for reinforcements. A few minutes later, there were two other police officers, one of which introduced himself as the inspector of criminal investigation department of the Central district of Minsk.

Oleg Manaev was taken to the police department of Partizansky District of Minsk, where, according to his words, the chief of the public security police and special police Lt. Col. Gladun said that according to law the police has the right to detain a sociologist up to three hours without any explanation. A 5 minutes before the expiry of a three-hour period sociologist was told that he "was detained for a documents’ check," and was released.

Try to understand how the action of law enforcement agencies comply with the law. But before we begin, I would like to remind the chief of the public security police and special police lieutenant colonel Gladun two fundamental aspects of which he either forgot or did not know about.

Firstly, the Law "On police", which supposedly allows a police officer to detain a person without explaining the reasons for up to three hours, repealed in 2007. Now, the right of police officers is regulated by the Law of the Republic of Belarus "On the internal affairs of the Republic of Belarus".

Secondly, any Law of the Republic of Belarus "On police" or the current Law of the Republic of Belarus "On the internal affairs of the Republic of Belarus" is never granted, and do not provide the police officer the rights, which, according to Oleg Manaev, Colonel Gladun justified his actions. These laws provide (provided) the right to conduct the detention and on that basis, the order of detention, length of detention, its validity is governed by completely different regulations.

The detention of a citizen of the Republic of Belarus and any other person, except for those who have certain immunities, can be done either on the basis of norms of "Procedural-Executive Code of Administrative Offences (PIC RB) or the" Code of Criminal Procedure of the Republic of Belarus "(Code of Criminal Procedure RB). Let us to start on the first.

According st.8.1., Detention refers to the measures of the administrative process, and can actually be used, including the identity of an individual. But this does not mean that a police officer has the right to detain any person "for identification" and "without explanation."

According st.8.2 PIC RB administrative detention of an individual is in the actual short-term restriction of liberty of a natural person against whom administrative proceedings for committing an administrative offense in delivering it to the body conducting the administrative process and the content in the body. That is the detention of Oleg Manaev "for identification" could be implemented only if against him was initiated administrative proceedings for committing an administrative offense.

Article 8.4. PIC RB says about those maximum of three hours, which can be detain a citizen, against whom the administrative process is taken, and describes the cases when such detention can last for more than three hours (when for an administrative offense the punishment is provided in the form of arrest or deportation when the detainee is intoxicated, there are signs of mental illness, etc.).

Thus, the basis for the administrative detention of Oleg Manaev would serve only his administrative offense and logical result of such detention is an administrative report.

In reality, we see a very different situation. Oleg Manaev was detained only for "identification" without being charged with a misdemeanor, which clearly says that the detention was illegal. Moreover, Oleg Manaev had his passport on him, and the procedure of "identification" in the reference point with the help of a special police inquiries (when there is no passport), rarely last more than 20 minutes. It is also important to note that according to Article 4.1. PIC RB, since his arrest, Oleg Manaev had the right to counsel, which it also deprived of forcing the phone off the hook.

But maybe Oleg Manaev was detained in criminal proceedings, especially since he was searched for weapons and drugs?

According to article 107 of the CCP, detention can only be applied, when:

1) a person is suspected of committing a crime for which may be sentenced to imprisonment in a disciplinary military unit or arrest;

2) the person is accused of the indictment or in the case of violation of conditions applied to him a measure of restraint;

3) the convicted person in respect of whom there is a representation of the authorized agency for annulment, decision or ruling of the probation, suspended sentence or parole from punishment.

In general, if Oleg Manaev was detained in terms of the criminal process, he still was neither accused nor convicted, he could have only be hold on direct suspicion of committing a crime. At the very minimum, Oleg Manaev had the right since his arrest to know what he was suspected of.

Also, according to st.108 CCP detention on direct suspicion of committing a crime could be made only if one of the following reasons were applicable:

1) If the person is caught committing a crime or immediately after its commission;

2) if the witnesses of the incident, including the person who suffered from the crime, directly identify this person as having committed a crime;

3) if on that face, with him on his clothes or other things used by him in his home and other premises used by him, in the workplace or vehicle found clear traces pointing to his involvement in the commission of a crime;

4) if there are other reasonable grounds to suspect a person of committing a crime, provided that it was trying to escape from the scene of the crime or the criminal investigation body, or has no permanent residence, or lives in a different area, or set his identity.

It is now known, nobody was indicating Oleg Manaev as a criminal, and he was not detained at the time of committing crime. And the search also found no prohibited items (drugs, weapons, etc.), which would point to the involvement in the offense. On the scene of the crime Oleg Manaev was not hiding.

Thus, summarizing all the above, we can clearly say that no matter how the detention review said, even in the framework of administrative proceedings in criminal though it is not on any legal. And it does not matter whether Oleg Manaev was released five minutes before the 3 hour period or later.

In conclusion, the police, and especially Lieutenant Colonel Gladunov should be reminded their own "materiel", aa they like to say in the Interior Ministry, namely Article 23 (Duties of police officers) and Article 25 (Rights of employees of internal affairs) of the Republic Belarus "On the internal affairs". According to these rules, a police officer had the right to detain Oleg Manaev on the street for a crime of an administrative offense, as well as to check his documents. And because the documents had been in order, and he didn’t have any charges, he had to be immediately released and not delivered to the reference point.