JOURNAL OF INTELLECTUAL PROPERTY AND HUMAN RIGHTS

Volume: 4 Issue: 2 | Feb–2025 ISSN: 2720-6882
http://journals.academiczone.net/index.php/jiphr

Preliminary Investigation in Uzbekistan: Challenges, Development Prospects, and Improvement Strategy

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Abstract: This article examines the current state of the preliminary investigation system in the Republic of Uzbekistan, its legal framework, organizational structure, and practical principles. Special attention is given to enhancing the efficiency of the investigative process, protecting the rights of participants in criminal proceedings, and integrating modern technologies into crime investigations. Additionally, judicial and legal reforms aimed at strengthening the independence of investigative bodies, reinforcing guarantees of suspects' and defendants' rights, and optimizing procedural timelines are analyzed.

The author suggests potential directions for improving the preliminary investigation system in Uzbekistan, including modernizing the legislative framework, implementing digital technologies in the investigative process, enhancing interagency cooperation, and improving the training system for investigative personnel. Furthermore, the possibility of adapting advanced international practices to national conditions is explored.

The findings of this study may be valuable for lawyers, investigators, law enforcement officials, and scholars engaged in the reform of criminal proceedings and the law enforcement system.

Key words: preliminary investigation, criminal process, Republic of Uzbekistan, legal reforms, law enforcement system, digital technologies, procedural efficiency, rights protection, investigative bodies.

Introduction

Over the past years, significant changes have taken place in the criminal procedure legislation of our country aimed at improving its norms, introducing advanced international standards and foreign practices in order to unconditionally ensure the rights and freedoms of citizens involved in the criminal process.

It can be said that the Strategy “Uzbekistan-2030”, approved by Decree of the President of the Republic of Uzbekistan dated 09/11/2023 No.UP-158, has become a meaningful continuation of reforms in this area. The fact that the implementation of this strategy and the achievement of its targets have been identified as a priority task for all government agencies and organizations indicates how much attention is being paid to this area.

In the investigative system of the Republic of Uzbekistan, the interaction of operational-search and investigative units of law enforcement agencies plays an important role in the detection and investigation of serious and multiple crimes.

The reforms taking place in the judicial and legal system and legislation of the republic in recent years, in particular, the improvement of criminal and criminal procedure legislation, the inclusion of the

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institute of pre-investigation verification in the Criminal Procedure Code, the change in the essence of the institute of inquiry [1], the adoption of the Law of the Republic of Uzbekistan "On operational investigative activities"[2], and as well as laws related to the activities of law enforcement agencies, in particular, the Laws of the Republic of Uzbekistan "On Internal Affairs Bodies of the Republic of Uzbekistan"[3], "On the State Security Service of the Republic of Uzbekistan"[4], "On the State Customs Service"[5], require a review of the issue of interaction between investigative and operational search units of law enforcement agencies in the direction of disclosure and investigation of crimes.

Methodology

The Criminal Procedure Code of the Republic of Uzbekistan, namely article 320^1, states that pre-trial proceedings begin upon receipt of an application, notification and other information about crimes and include a pre-investigation check and investigation of a criminal case. From a systematic point of view, pre-trial proceedings are divided into two stages: the initiation of a criminal case, which includes a pre-investigation check, as well as a preliminary investigation in the form of an investigation and inquiry. In accordance with this, the stages of pre-trial proceedings are also distinguished in the legal literature.

The preliminary investigation is a stage of the criminal process that covers the procedural actions from the discovery of a crime by an investigator to the preparation of an indictment by a prosecutor. This stage includes performing a number of investigative actions and measures, depending on the specific case.

In the science of criminal procedural law, the preliminary investigation is defined as an independent stage of the criminal process and a legal institution that includes a set of rules for criminal procedural activities. This need for a preliminary investigation arises from the integration of public prosecution with the adversarial nature of modern justice[6].

The Criminal Procedure Law of the Republic of Uzbekistan does not provide a clear definition of the term "preliminary investigation". However, there are several procedural scholars who have studied this concept.

For example, I.I. Sydoruk argues that "the preliminary investigation is an independent form of inquiry that consists of a set of actions that serve as the outer layer of the investigator's work"[7]. We believe that this opinion is valid, as inspection, search, seizure, examination, and other actions constitute the investigative activities of the investigator.

A.V. Smirnov wrote: "A preliminary investigation is the most complete form of a preliminary investigation, providing maximum guarantees of establishing the truth and exercising the rights of participants in the process"[8]. However, this definition lacks specifics in terms of the nature of the preliminary investigation, its purpose and objectives. Despite this, he accurately noted that the most necessary thing is to respect and implement the rights of participants in the criminal process.

Based on these definitions, it can be concluded that a preliminary investigation is one of the forms of a preliminary investigation, which is carried out by an investigator and an investigative team in an initiated criminal case. The main purpose, the main purpose of the preliminary investigation is to ensure the possibility of forming the position of the state prosecution (criminal law claim, "criminal action") as the subject of subsequent court proceedings.

According to the current Criminal Procedure Code of the Republic of Uzbekistan, the following authorities conduct the preliminary investigation:

- Investigators of the Ministry of Internal Affairs of the Republic of Uzbekistan;
- Investigators of the General Prosecutor's Office of the Republic;

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- Investigators from the State Security Service. (Article 344 of the Criminal Procedure Code)

It should also be noted that a preliminary investigation is carried out into certain aspects of the crime that are specified in Article 345 of the Criminal Procedure Code (for serious and particularly serious crimes).

The content of the preliminary investigation is a set of procedural actions and decisions carried out by the bodies of inquiry and investigation under the supervision of the heads of these bodies and prosecutors, as well as the judicial control of the courts. This includes various procedural activities that are interrelated and conditioned by each other.

Studying the experience of developed countries in this area helps to critically examine the existing problematic issues in legislation and develop measures for the effective use of law enforcement forces and means during pre-trial criminal proceedings.

A vivid example of the convergence of operational investigation and criminal procedural functions in the implementation of criminal justice is seen in the United States. The construction of US statehood based on the principle of federalism has led to a unique approach to cooperation between operational search and investigative agencies. In the US, government agencies that are authorized to conduct operational searches, investigations, detain, arrest and prosecute, are referred to as law enforcement agencies.

Results

In the United States, there is no government agency responsible for conducting centralized investigations in the same way as the Ministry of Internal Affairs, State Security Service, Prosecutor's Office, or State Customs Committee in Uzbekistan. At the federal level, there are more than 40 investigative bodies, each part of a different ministry or department, that are divided according to jurisdiction based on the type of crime and its level of public danger.

Since there is no special procedural entity called an investigator in the United States, it is possible to search and consolidate evidence in a criminal case in criminal proceedings without his participation or assistance. At the pre-trial stage, the actual owner of the criminal case is a police officer[9]. Most crimes are investigated by state and local police, and their investigations are complemented by assistant district attorneys, or they investigate serious criminal cases themselves.

A police investigation involves checking received statements and reports of a crime in open and secret ways[10]. The rules of a police operational search operation are not regulated by law, the main task is to collect information for search and detention, as well as information about the crime and the person who committed it. To this end, the police conduct secret operational activities, receive explanations, necessary materials, and compile reports. The documentation of the criminal case is collected in the form of records, reports, diagrams, plans and videos [11].

During the pre-trial stage of proceedings, covert activities are central to the investigative process. This includes collecting evidence without following the usual procedural form. Law enforcement officers, such as police, detectives, and FBI agents, can conduct both operational and investigative activities based on data that contains signs of a crime.

Obtaining a search warrant or arrest warrant marks the beginning of criminal proceedings and is the first official document in the case. The police investigation reveals evidence that is then presented to the court during the trial.

Witnesses do not participate in investigative actions, and reports are prepared instead of protocols being drawn up. It should be noted that existing procedural actions in the United States that do not involve witnesses have several advantages. For instance, a search warrant specifies the items that

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should be seized during the execution of the action, aimed at confirming whether the suspect actually possesses items related to the crime. This information can be evaluated as evidence after the officer's personal involvement in the trial, or the officer's testimony in the status of an expert witness.

Here, we can say that the incomplete resolution of the pre-trial stage allowed the police to gather evidence during the preliminary investigation, which eliminated procedural barriers when presenting the collected evidence to the court. The evidence collected by the police during the preliminary investigation in a criminal case serves only to prove guilt, and their recognition as evidence occurs during the trial. Consequently, the police investigation is subject to a search method of regulation, meaning that the data collected during the preliminary investigation are not definitively considered evidence. Rather, their assessment is primarily within the jurisdiction of the court.

Now, when analyzing the specifics of the institution of the preliminary investigation, we will focus on French legislation and law enforcement practice. The experience of France in conducting preliminary investigations differs significantly from that of the United States. Commissars and judicial police officers, as well as gendarmerie officers with more than five years of service, are all authorized to conduct preliminary investigations.

The Prosecutor's Office conducts criminal prosecution at all stages of the criminal process and directs the activities of the police. It decides on the initiation of public lawsuits (criminal cases). The Prosecutor's office is the only authorized body to initiate criminal proceedings[13].

In France, the preliminary investigation is conducted as an inquiry, combining elements of operational investigative and criminal procedural activities. The country’s Criminal Procedure Code does not clearly define the boundary between these two institutions[14].

The actions carried out by the judicial police in France are not defined in law, but they are supervised by the prosecutor. During an investigation, searches, seizures, interrogations, examinations, and detentions are often used. Searches and seizures may be carried out in cases of clear-cut crimes and at the beginning of the investigation. A special aspect of the French criminal justice system is that searches and seizures for clear-cut cases are only conducted by judicial police officers.

Despite the fact that personal searches, interrogations, confrontations, and examinations are not explicitly mentioned in the French criminal procedural legislation, these actions are widely used in practice.

Discussion

As part of the same legal system, in the Federal Republic of Germany and France, the initial investigation is carried out in the form of an inquiry. This means that it has a searching nature. The prosecution of criminal cases falls under the responsibility of the prosecutors’ office, while the police can only perform operational searches and preliminary investigative activities. Their task is to “eliminate dangers”. At the same time, each police officer should be skilled in identifying crimes and able to carry out urgent investigations at the scene where they occurred[15]. The prosecutor’s office investigates all aspects of a criminal case, including both accusations and acquittals. To do so, the prosecutor has the right to request information from various authorities and conduct investigations independently or with the assistance of police officers. In cases of urgency, the prosecutor may issue orders for searches, seizures, detentions, searches for the accused, wiretaps on phone conversations, or request that the court detain the accused. Police officers are required to follow the instructions and requests of the prosecutor, which is similar to the criminal procedural laws of Uzbekistan. Although officially, the police are not an investigative body, they take measures to investigate the circumstances of a crime and prevent loss of evidence.

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In the UK, investigations are also carried out in an administrative rather than a criminal procedural way. Police activities are guided by a "due process" that governs the exclusion of evidence. Police and prosecutors act as parties preparing materials for trial. In other words, criminal proceedings in this country begin only in court; before that stage, it is considered an extra-legal relationship [16].

At the same time, police and other law enforcement agencies carry out not only operational search measures, but also arrest, interrogation, search, presentation for identification, and other actions to collect and examine evidence guided by the rules arising from judicial practice[17]. That is, police can make procedural decisions related to the investigation of a criminal case. Police activities are not aimed at establishing the truth, but rather at finding the person who committed the crime and collecting evidence against them. Detention and search can be authorized by magistrates[18].

Consequently, in countries that are part of the Anglo-Saxon legal system, pre-trial procedures are not fully governed by laws and are mostly regulated by subordinate and departmental regulations. This, in turn, reduces the administrative and procedural obstacles during operational search activities and preliminary investigative actions.

In particular, the absence of separation between these activities prevents misunderstandings and conflict situations between operational and investigative units within law enforcement agencies. Additionally, it can lead to ineffective investigation of criminal cases.

The absence of an official stage in the initiation of a criminal case contributes to a rapid and efficient investigation of crimes. During the investigation, there is a high degree of rationality, a focus on conserving resources and money, and a low number of repetitive and parallel actions. Police officers do not prioritize the procedural consolidation of evidence in a criminal case or compliance with prescribed forms and paperwork. Instead, the importance of conducting investigations according to a standard procedure, recording relevant information in written documents, accurately drafting protocols and reports when gathering evidence, ensuring witness participation, and identifying perpetrators is emphasized in the legislation of our country.

In these States, operational search and investigative activities are not clearly separated. Law enforcement officials have the authority to conduct both operational search and urgent investigative actions simultaneously. The officer leading the investigation of a criminal case chooses the tactics for conducting the investigation independently and is responsible for pre-trial proceedings due to the lack of an investigator. Police officers acting on behalf of the prosecution collect evidence related to the case, which is then assessed by the court to determine its admissibility in the trial.

Conclusion

Whereas, in accordance with articles 35 and 344 of the Criminal Procedure Code, preliminary criminal investigations are conducted by investigators from the Prosecutor's Office, the Ministry of Internal Affairs, and the State Security Service, the analysis of the investigation of criminal cases leads us to conclude that:

31.7% of crimes under the Criminal Code are investigated by the prosecutor's office. This includes 11.7% by the investigation of the military prosecutor's office and 8.3% by the investigators of the State Security Service of Ukraine. 60% of criminal cases are investigated by investigators from the Ministry of Internal Affairs.. In addition, given that the preliminary investigation of all crimes committed by minors is carried out by investigators from the Ministry of Internal Affairs, it can be seen that the main responsibility for conducting preliminary investigations into criminal cases in the Republic of Uzbekistan lies with investigators from this ministry.

Preliminary investigation of criminal cases, as provided for in articles 345, parts two to seven, and 381^5, of the Criminal Procedure Code (CPC), as well as those investigated in the form of an inquiry,

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may be transferred to a single investigative body for a more comprehensive, objective, and complete investigation. This is in accordance with article 381^5 of the CPC. An inquiry is conducted on criminal cases covered by articles 381^2, parts one to three, of the same code. Therefore, it would be advisable for the preliminary investigation to be carried out by investigators working within a single agency throughout the country in our country.

With the help of this system, the preliminary investigation will be carried out in a unified system with a uniform content and in a single format. This will facilitate the prosecutorial supervision of the bodies conducting the preliminary investigation. Departments for analyzing, coordinating, and preparing statistical reports on investigative activities should be established within this Investigative Committee. Instructions should be developed for all investigators to follow, and their work should be constantly coordinated.

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