

General Characteristics of Preliminary Investigations in The Republic of Uzbekistan

Buronov Shahboz Ruzikul o'g'li

[*buronovshaxboz2004@gmail.com*](mailto:buronovshaxboz2004@gmail.com)

student of the Law Faculty of Samarkand State University

Abstract

Criminal procedure is a special area of the relationship between the individual and the state. The specificity of these relationships is manifested, first of all, in a certain inequality between the citizen and the complex system of the state machine, and this applies equally to both the accused (defendant) and the victim. This, by the way, determines the importance of studying the preliminary investigation, the peculiarities of the procedure for its implementation. The relevance of the research in this scientific article is also due to the fact that, despite the practical applicability of the institution of preliminary investigation in Uzbekistan, its theoretical component, coverage of the largest number of aspects of its conduct is currently insufficient.

Keywords: preliminary investigation, investigation, investigator, stage of the criminal process, criminal case, terms, tasks.

INTRODUCTION

Preliminary investigation is the stage of the criminal process, which includes procedural actions from the discovery of the crime by the investigator to the drawing up of the indictment by the prosecutor. According to its content, this stage includes the need to carry out a number of investigative actions and activities, the number and specificity of which depends on the criminal case.

From the point of view of social assessment, the preliminary investigation is the most labor-intensive work of inquirers, investigators and prosecutors, and it is associated with the use of state legal coercion and the restriction of the rights of citizens (in particular, suspects). and the accused) and other procedural aspects of the criminal case, including the risk of violating the current criminal procedural legislation. Therefore, studying the preliminary investigation, determining its features and the most important aspects of its implementation are in great demand in practice today.

The law obliges investigators and prosecutors to take all the measures provided for by the procedural legislation in order to determine whether a crime has been committed and expose the

person or persons responsible for its commission in every case where the signs of a crime are detected[1]. Thus, according to Part 1 of Art. According to Article 22 of the Code of Criminal Procedure of the Republic of Uzbekistan, the investigator, prosecutor and court must determine whether a crime has been committed, who is guilty of it, and other related circumstances.

Literature Review

The general description of the preliminary investigation includes theoretical and legal issues related to its definition, general aspects and the legal basis of its conduct. Therefore, first of all, it should be noted that the prosecutor's office, internal affairs bodies and investigators of the state security services play a special role in the implementation of this stage of the criminal procedure (Article 35 of the Code of Criminal Procedure). . It is possible to talk about the beginning of this stage of the criminal process when the decision to open a criminal case is made.

Full and timely detection and investigation of the crime emphasizes the essence of the preliminary investigation. The most common category of cases is cases where criminal prosecution is carried out publicly, i.e. state prosecution cases. They make up the majority of criminal cases. In such cases, the criminal prosecution is fully transferred to the jurisdiction of state bodies and officials, the prosecutor's office gives the powers of the participants in the criminal proceedings (prosecutor, investigator, investigative bodies) [2].

Theoretically, preliminary investigation is defined as an independent legal institution that includes an independent stage of the criminal process and a set of legal norms defining the procedure of criminal-procedural activity. The concept of "preliminary investigation" is not defined in the Criminal Procedure Code. But in any case, many scientists worked on this concept. Professor II Sydoruk [4] wrote: "Preliminary investigation as an independent form of investigation is a certain system of actions that is, as it were, the outer shell of the investigator's activity." It is impossible to disagree with this opinion, because inspection, search, seizure and other actions constitute investigative actions of the investigator.

AV Smirnov [5] wrote: "Preliminary investigation is the most complete form of preliminary investigation and provides maximum guarantees for establishing the truth and exercising the rights of the participants in the process." Based on this definition, it is not clear what the essence of the preliminary investigation is, what its goals and tasks are. However, AVSmirnov clearly stated that the most important thing is to respect and implement the rights of the participants of the process.

Empirical Evidence

Based on this, it is appropriate to formulate the concept as follows. Preliminary investigation is an independent form of preliminary investigation carried out by an investigator or investigation team in a criminal case, which provides a special system of procedural actions and procedural decisions that ensure the maximum guarantees of finding the truth and exercising rights in a criminal case. contains z. Participants in the process, which ends with the referral or termination of the criminal case to the prosecutor on the grounds provided for in the Criminal Procedure Code. The preliminary investigation is called so because it is conducted before the court hearing, and the court, in turn, conducts its own judicial investigation. Apparently, the preliminary investigation is designed to help the court solve problems in the criminal process. The court will make an appropriate decision after carefully analyzing the evidence gathered in the case.

This phase of the process follows the prosecution phase. It consists of the detection and investigation of crimes through investigative activities and the use of other methods of evidence collection, examination and evaluation.

When studying the concept of preliminary investigation, it is important to pay attention to why it is called preliminary. There are two main points of view here. The first is based on the fact that the criminal process is generally divided into two main parts - the pre-trial proceedings and the trial. At the preliminary investigation stage, pre-trial proceedings are completed. Thus, this investigation is carried out before the trial, and it makes the conclusions and decisions necessary for the main investigation, judicial investigation [6]. The second point of view is based on the determination of the circumstances of the crime committed at the preliminary investigation stage.

The identification and evaluation of these cases is preliminary, because the final recognition of guilt is necessary only with a court verdict. In general, both of these points of view are valid and logical.

The purpose of the preliminary investigation stage is to determine all circumstances of the crime (evidence of guilt) [7]. The goals of this stage are expressed in Article 2 of the Code of Criminal Procedure: to quickly and fully solve crimes, expose the guilty and ensure the correct application of the law so that every person who commits a crime receives a fair punishment and is not punished. 'to provide. one innocent person is prosecuted and convicted [8]. However, we consider the attempt to answer the question about the tasks of the preliminary investigation to be incomplete.

Yu. V. Darovskih believed that the tasks of the criminal procedure are determined by the goals of the Criminal Law, and the judicial procedure itself is a mechanism of the state's criminal-legal policy [9].

As for preliminary investigative tasks, it can be noted that there are many definitions of them in legal literature. But at the same time, they differ only in size and quantity, but in many ways they are similar.

M. S Strogovich also wrote that the preliminary investigation is aimed at fully solving the crime, identifying and exposing all the participants of the crime, collecting and checking all the necessary evidence in the case, protecting innocent people from unjustified accusations [10].

By analyzing the opinions of these scientists, it is possible to determine the most common general tasks of preliminary investigation:

- 1) quick and complete detection of crimes;
- 2) ensuring the rights of the accused and other participants in the proceedings;
- 3) proper preparation of the criminal case for consideration by the court [11].

The conclusions of the investigator (inquirer), the head of the investigative body and the prosecutor sent to the court on the case are considered decisive from the point of view of these officials. But at the same time, these conclusions in the court session are not final. For decades, legal literature has paid special attention to the characteristics of the preliminary investigation stage, its nature, content, tasks, forms, participants in the criminal process and their powers, investigative actions and procedural decisions [12]. Nevertheless, some issues related to the initial investigation are still controversial today.

In practice, the position of scientists in the following cases is not completely clear: why attention is directed to determining the guilt (innocence) of a person in committing a crime; what other circumstances are we talking about "related to a criminal case", what are these "relations"; why these cases are important for the criminal case. In addition, it is often impossible to solve a crime at the stage of initiation of a criminal case, as a result of which it is necessary to investigate it further [13]. Often, scientists do not always pay attention to these aspects in the initial investigation.

Other definitions of the concept of "preliminary investigation" are given in the legal literature [14], which are understandable to us "in advance" due to their similarity to the ones mentioned above.

Implications for Practice

It should be noted that often researchers replace this concept with others when considering various aspects of the preliminary investigation, which, in our opinion, does not help to understand its essence, scope and content. Thus, for example, SP Efimichev and PS Efimichev, analyzing the tasks of the preliminary investigation without any comments, actually equate them with the tasks of the preliminary investigation and the investigator [15]. As a result, according to the authors, it is not clear how the preliminary investigation, these concepts and tasks of the preliminary investigation, as well as the tasks of the investigator, are related. The most important aspect of the preliminary investigation is the timing of its conduct. Thus, all criminal proceedings must be completed within three months from the date of initiation of the criminal case (Article 351 of the Criminal Procedure Code). During this time, the preliminary investigation authorities are empowered to carry out enormous procedural actions aimed at gathering and securing evidence. However, to ensure speedy investigation of the case, the investigation should be completed as soon as possible without waiting for the expiry of the period [16].

The duration of the preliminary investigation plays an important role, because in some sense it regulates the activity of the investigator and ensures the speed and maximum effectiveness of the investigation of the crime. It should be said that the investigators repeatedly apply to extend the period of the initial investigation. Practice shows that this period is more often violated by various types of forensic examinations, without which the preliminary investigation cannot be completed.

Based on the above, we can conclude that the existence of a large number of definitions of the concept of "preliminary investigation" is explained by its multifaceted nature. Today, researchers identify several of its meanings:

We can formulate the following positions according to the definition of preliminary investigation. In particular, these are:

- the logical continuation of the stage of initiation of a criminal case and the next stage - the independent stage of conducting a criminal case, which is the basis for the court stage;
- criminal-procedural institute - a system of criminal-procedural legal norms that regulates a group of homogeneous social relations that arise during the investigation of crimes.

Taking into account that the first and second meanings of the preliminary investigation have been sufficiently studied, today the greatest scientific interest, in our opinion, is the approach understood as the activity of the considered stage of the criminal process.

To determine its characteristics, first of all, activity is defined as "a specific human form of attitude to the surrounding world, its content changes according to people's interests; a condition for the existence of society" [17]. Based on the above, we believe that the activity of "preliminary

investigation" can be considered as an independent purposeful process, which is carried out within the framework of pre-trial proceedings, carried out by the implementation of procedural and non-procedural actions by specially authorized officials. actions and procedural decision-making. Preliminary investigation is one of the main categories of pre-trial criminal proceedings. It is during the preliminary investigation that evidence is collected to confirm or deny the guilt of a person in a crime, the circumstances of its commission are determined, and the issue of compensation for the damage caused by the crime to the victim is resolved. Another important task is to protect individuals from unjustified criminal prosecution and to provide reparation for the harm caused to any person subjected to it.

We express our solidarity with the definition of preliminary investigation, which modern experts understand as the activities of authorized bodies regulated by law aimed at uncovering crimes, exposing the persons guilty of committing them, bringing these persons as accused, and determining other circumstances relevant to the crime. condition [18].

Recommendations for Future Research

In our opinion, the entire set of investigative actions that make up the material content of the preliminary investigation should correspond to the performance indicators. However, at the same time, the Criminal Procedure Law does not provide the concept of the quality of the detection and investigation of crimes, but it defines specific indicators that should be a completed criminal case in a number of norms. Considering these indicators, their individual aspects in unity and interdependence, reducing specific useful features of the completed criminal case to the general concept of "investigative quality" is the task of legal science, like the concept of "investigative efficiency". 19]. Therefore, the effectiveness of the preliminary investigation can and should be determined as a result of the performance of the objective tasks (tasks) of the criminal process in its pre-trial stages.

Conclusion

Thus, the main aspects of the preliminary investigation should be:

- the concept of preliminary investigation as a form of pre-trial activity of investigators, investigators and prosecutors;
- concept of preliminary investigation as a special legal institution
- jurisprudence;
- subjects and terms of preliminary investigation;
- duties and effectiveness of preliminary investigation.

We suggest that the preliminary investigation should be understood as the independent stage of the pre-trial criminal proceedings by authorized officials in order to identify the perpetrators of the crime and bring them to justice as defined by the criminal law. prove all the circumstances and evidence.

REFERENCES

1. Mukhitdinov F. M. Ugolovnyy protsess: suschnost, soderjanie, forma.: Tashkent, 2002. S. 125-126 (Mukhitdinov FM Criminal procedure: essence, content, form.: Tashkent, 2002, p. 125-126)
2. Bekmatova D.Sh. Vidy criminal prosecution: opyt Republic of Uzbekistan. Текст научной статьи по специальности "Pravo". Journal "Sudebnaya vlast i ugovovnyi protsess". 2016 g. // Istochnik: <https://cyberleninka.ru/article/n/vidy-ugolovnogo-presledovaniya-opyt-respubliki-uzbekistan> (Bekmatova D.Sh. Types of criminal prosecution: the experience of the Republic of

Uzbekistan. The text of the scientific article in the specialty "Law". Journal "Judicial Power and Criminal Procedure".: // Source: <https://cyberleninka.ru/article/n/vidy-ugolovnogopresledovaniya-opyt-respubliki-uzbekistan>)

3. Sydoruk I.I. Ugolovnyy process: uchebnoe posobie dlya studentov vuzov, obuchayushchihsya po spetsialnosti "Jurisprudence". M., 2012. S. 172. (Sidoruk II Criminal procedure: a textbook for university students studying in the specialty "Jurisprudence". M., 2012. P. 172)

4. Smirnov A.V. Ugolovny process. M., 2015. S. 432. (Smirnov AB Criminal process. M., 2015. C. 432)

5. Ugolovnyi process / Pod ed. A.V. Smirnova», SPb.: Peter, 2004. S. 238 (Criminal process / Under edition of ABSmirnov, SPB.: Pittsburgh, 2004. P. 238)

6. Zajitsky V.I. O napravleniyax sovershenstvovaniya Ugolovno-protsessualnogo kodeksa Rossiyskoy Federatsii // Gosudarstvo i pravo. 2014. No. 4. S. 30. (Zajicki VI On the directions of improving the Criminal Procedure Code of the Russian Federation // State and law. 2014. # 4. P. 30)

7. Code of Criminal Procedure (Approved by the Law of the Republic of Uzbekistan dated 22.09.1994 N 2013-XII) // Istochnik: www.lex.uz (Code of Criminal Procedure (Approved by the Law of the Republic of Uzbekistan dated 22.09.1994 N 2013-XII) Source www.lex.uz)

8. Darovskikh Yu.V, Funktsii ugolovnogo protsessa: sootnoshenie zadach ugolovnogo zakona i naznacheniya sudoproizvodstva // Sovershenstvovanie deyatelnosti pravoochranitelnykh organov po borbe s prestupnostyu v sovremennykh usloviyax. Tyumen, 2005. S. 203. (Darovskikh UB, Functions of the criminal process: the ratio of the tasks of the criminal law and the appointment of legal proceedings // Improving the activities of law enforcement agencies to combat crime in modern conditions. Tyumen, 2005. P. 203).

9. Strogovich M.S. Kurs sovetskogo ugolovnogo procesa. T. 2. M., 1970. S. 39-40. (Strogovich MS The course of the Soviet criminal procedure. T. 2.M., 1970.S. 39-40.)

10. Lavdarenko L.I. Raskrytie prestupleniya kak odna iz zadach organov predvaritelnogo rassledovaniya // Sibirskiy yuridicheskiy vestnik. 2013. No. 1 (Lavdarenko LI Crime detection as one of the tasks of the preliminary investigation bodies // Siberian legal bulletin. 2013. No. 1)

11. Anpilogova T. S. The process of proof in the stages of predvaritelnogo rassledovaniya // Ros. trackable 2019. No. 4. - p. 3-5. (Anpilogova TSProcess of proving at the stage of preliminary investigation // Ros. investigator. 2019. No. 4. - p. 3-5.)

12. Grishin D.A. Mejdunarodnye standarty olovnogo sudoproizvodstva. Текст научной статьи по специальности "Pravo". Journal "Juridical Science and Pravokhranitelnaya Practice". 2020 g. // Istochnik: <https://cyberleninka.ru/article/n/mezhdunarodnye-standarty-ugolovnogosudoproizvodstva> (Grishin DA International standards of criminal justice. The text of the scientific article in the specialty "Law". Journal "Legal Science and Law Enforcement Practice". 2020 // Source: <https://cyberleninka.ru/article/n/mezhdunarodnye-standarty-ugolovnogosudoproizvodstva>)

13. Mikhailov V. A. Course ugolovnogo sudoproizvodstva: uchebnik: v 3-x t. T. 2: Dosudebnoe i sudebnoe proizvodstvo. M.; Voronezh, 2006. - p. 31. (Mikhailov VA Course of criminal

proceedings: textbook: in 3 volumes. Vol. 2: Pre-trial and judicial proceedings. M .; Voronezh, 2006 .-- p. 31.)

14. Efimichev SP, Efimichev PS Problems of preliminary investigation // Journal of Russian law. 2006. No. 9. - p. 81-87. (Efimichev SP, Efimichev PS Problems of preliminary investigation // Journal of Russian law. 2006. No. 9. - p. 81-87.)

15. Shatalov A.S. Ugolovno-protsessualnoe pravo Rossiyskoy Federatsii. Textbook. M., 2013. S. 93-94.

16. (Shatalov AS Criminal Procedure Law of the Russian Federation. Textbook. M., 2013. S. 93-94.)

17. Large encyclopedic dictionary. 2nd ed., rev. and augm. Moscow-St. Petersburg, 1999. - p. 348.

18. Vasilenko V. A. Ponyatie predvaritelnogo rassledovaniya i ego znachenie v ugolovnom protesse Rossii. Текст научной статьи по специальности "Pravo". Journal "Obshchestvo: politics, economy, law". 2019 // Istochnik: <https://cyberleninka.ru/article/n/ponyatie-predvaritelnogo-rassledovaniya-i-ego-znachenie-v-ugolovnom-protesse-rossii> (Vasilenko VA The concept of preliminary investigation and its significance in the criminal process of Russia. The text of the scientific article in the specialty "Law". Society: Politics, Economics, Law magazine. 2019 // Source: <https://cyberleninka.ru/article/n/ponyatie-predvaritelnogo-rassledovaniya-i-ego-znachenie-v-ugolovnom-protesse-rossii>)

19. Mikhailov A.I. Ponyatie effektivnosti predvaritelnogo sledstviya // Problemy ugolovnogo sudoproizvodstva: sb. Nauch. tr. M.; Kemerovo, 1998. S. 7.