

Problems Related to the Concept of the Head of the Investigative Body in Criminal Proceedings

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Abstract. *This article analyzes the issues associated with the concept of the head of the investigative body in criminal proceedings. Additionally, it thoroughly examines problems related to the procedural status of the head of the investigative body in criminal proceedings (including the scope of authority of the heads and deputy heads of investigative departments, divisions, units, and groups, as well as their distinguishing features). Furthermore, the article analyzes the work of national and foreign scholars and relevant legislation.*

Key words: *preliminary investigation, criminal procedure, investigator, head of the investigative body, status, reforms, leadership, obligation.*

According to the essence of Article 37 of the Criminal Procedure Code of the Republic of Uzbekistan, the head of the investigative body is an authorized supervisory official of the preliminary investigation body. The head of the investigative body is an official responsible for the completeness, comprehensiveness, and objectivity of the preliminary investigation in criminal cases. The head of the investigative body has the following powers: the head of the investigative department, department, subdivision, group and his deputy have the right to examine cases, as well as to give instructions to the investigator on conducting a preliminary investigation, involving a person in the case as an accused, qualifying a crime and determining the scope of the charges, the direction of the case, conducting certain investigative actions, transferring the case from one investigator to another, assigning the investigation of the case to several investigators, and also, using the powers of the investigator, to participate in the preliminary investigation and personally conduct the preliminary investigation.¹

The legislator did not provide for only the fact that the head of the investigation is an official, but also did not provide for their departmental affiliation with the investigative apparatus. This, in turn, can lead to the fact that the list of definitions given to the concept of the head of the investigative body is not exhaustive and is interpreted in an expanded manner.

In our opinion, firstly, the head of the investigative body is an official who has certain rights and obligations under the law; secondly, the definition of the content and scope of the rights and obligations of the head of the investigative body in the legislation will lead to the possibility of influencing the work of officials working at the lower level in the future; thirdly, the head of the investigative body, as an official, within his competence, not only provides procedural guidance to subordinates, but also exercises procedural control over the legality of the performance of procedural tasks.

Within the framework of this paragraph, we express the following opinion on the question of why the investigation is analyzing precisely the improvement of the status of the head of the investigative

¹ Ўзбекистон Республикасининг Жиноят-процессуал кодекси. – Т.: Ўзбекистон, 2025.

body, since in practice, we know that the prosecutor cannot simultaneously (daily) control the procedural activities of investigative bodies, including the investigator, inquiry officer, officials of the pre-investigation body (for example, in one district, usually, only prevention inspectors, approximately 60-70 cases per day, make a decision to refuse to initiate a criminal case), as well as from the point of view of the volume of work. Consequently, the supervising prosecutor simply does not have time to supervise the investigative bodies. Therefore, the legislator assigned control over the procedural activities of lower-level investigative bodies to the head of the investigative body. Properly, the legislator did not allow the supervision rights granted to the head of the investigative body to be duplicated with the supervision functions exercised by the prosecutor. However, the law establishes specific rights and obligations for prosecutors to supervise the activities of subordinate bodies.² However, for internal affairs, this distribution remains open. If we look at practice, we can see that the head of the investigative body enters into daily criminal procedural relations with investigators in the course of carrying out his procedural activities. However, it should be noted that the head of the investigative body has the right to verify the activities of subordinate managers through legal and procedural means, to give necessary instructions and assignments.

Based on the foregoing, the author concludes that it is necessary to introduce the concept of "head of a higher investigative body" into the Criminal Procedure Code of the Republic of Uzbekistan and thereby define a centralized vertical system of preliminary investigation bodies.

Taking into account all the above-mentioned characteristics of the head of the investigative body, in particular, characterized by the main content of all his procedural activities (management of the preliminary investigation), this characterizes this participant in criminal proceedings as follows:

"The head of the investigative body and his deputies are officials authorized to supervise the timely actions of officials of the lower investigative body, as well as to manage the activities of the preliminary investigation, who have the corresponding rights and obligations".

In our opinion, the concept of "head of the investigative body," proposed in Article 37¹ of the Criminal Procedure Code of the Republic of Uzbekistan, is analogous to the concept of a direct supervisor, which corresponds to the legal concepts of a direct supervisor formed in the country. At the same time, for the first time, a higher-ranking head of an investigative body can be considered an attempt to introduce a concept into the sphere of criminal procedure relations. In this definition, for the first time, the status of a head of an investigative body directly subordinate to a higher-ranking official and his deputy is proposed, whose powers include overseeing the activities of these officials.

It should be noted that the legal status and procedural powers of the head of the investigative department have not been sufficiently analyzed and improved by legislators, practitioners, and scientists. In Article 37 of the Criminal Procedure Code of the Republic of Uzbekistan, we can see that the definition and procedural status of the head of the department, division, subdivision, group of the investigative body and his deputies are mentioned in the general order. However, the legislator did not distinguish between their special definition and procedural status. Of course, like any subject participating in criminal procedural activity, the head of the investigative body department must have distinctive features. Thus, firstly, the head of the investigative body's department participates as an independent participant in criminal proceedings; secondly, he is an official of the body; thirdly, he carries out leadership in criminal procedural activities; fourthly, he is an official appointed in the prescribed manner to organize and manage investigative work; fifthly, he has certain procedural rights and obligations; sixthly, he has the opportunity to actively influence the course and outcome of the investigative process; seventhly, he has the right to enter into relations with other participants in criminal procedural relations within the limits of authority.

X.J. Ergashev, Head of the Investigative Body Department, plays a significant role in organizing the investigator's work in pre-trial proceedings and is a responsible official. Also, the head of the department of the investigative body, along with supervising the investigators, performs an

² Ўзбекистон Республикасининг 2001 йил 29 августдаги 257-II-сонли "Прокуратура тўғрисида"ги Қонуни.

organizational and managerial function.³ D. Mirazov notes that supervision occupies a special place in investigative bodies, especially since the activities of investigators are aimed at solving crimes, exposing the persons who committed them, taking measures to ensure the inevitability of responsibility and punishment for the guilty, investigating and preventing criminal cases.⁴

The head of the department of the investigative body is guided by the main goal of the preliminary investigation bodies to actively influence the course and results of the investigation process, the principles of respect and observance of the rights and freedoms of man and citizen, the rule of law, humanism, and the presumption of innocence. The requirements and instructions of the head of the investigative body's department to investigators allow achieving certain positive results. It should be noted that internal departmental control, as a rule, always entails the personal responsibility of the head of the department of the investigative body for the correctness of the work carried out by the investigator and is obliged to take measures to eliminate any identified shortcomings. Therefore, the success of the head of the investigative body's department in organizing the investigator's work, assessing the state of legislation and criminal cases largely depends on the maturity, professional and personal qualities, skill, knowledge, and organizational skills of the head of the investigative department. Another important quality that the head of the investigative unit must possess is, of course, competence. This indicates the need for extensive life experience, adherence to the rules of professional ethics, deep professional knowledge and practical experience in organizational work, as well as the ability to correctly understand a certain, sometimes complex and confusing situation and make procedural decisions.

In complex criminal cases, investigators often cannot quickly find the right solution, especially in conditions of time constraints. Even experienced investigators sometimes make simple mistakes. Such assessment and methodological assistance are provided by the head of the investigative unit within the framework of the procedural powers granted to them by law.

D. A. Vlezko, investigators are not always able to objectively assess their work and results, do not admit mistakes, do not understand their causes and consequences, and do not correct them in a timely manner. Therefore, in addition to prosecutorial supervision, an important role is played by the procedural person who carries out procedural guidance and procedural supervision over the progress of the case over the investigator.⁵

Today, the importance of the head of the professional investigative unit, the person carrying out procedural supervision, capable of using legal methods to ensure the timely, complete, comprehensive, and impartial conduct of crimes by investigators, is evidenced. Thus, the essence of assigning this function to the head of the investigative body is that he directs and controls the activities of the investigator related to the progress and investigation of the criminal case. The head of the investigative department is included in the staff of the internal affairs bodies as a procedural person.

It is proposed to supplement Article 37¹ of the Criminal Procedure Code of the Republic of Uzbekistan with the following content:

"Head of the Investigative Department - an official who, within the limits of his rights and powers, manages the investigative department, subdivision, group, and investigators".

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³ Эргашев Х.Ж. Терговчининг процессуал мақоми ва унинг тақомиллаштириш йўллари. Автореф.дисс...юридик. фан. фалсафа. докт (PhD). Т., ЎзР Ички ишлар вазирилиги академияси, 2002. – Б. 77, 79.

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⁵ Влезъко Д.А. Проблемы организационных функций начальника следственного отделения (отдела) в расследовании. Дис.... канд.юрид. наук.- Краснодар.2002.- С. 14.

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