



THEORETICAL AND LEGAL BASIS OF PRE- INVESTIGATION INSTITUTE BEFORE THE INVESTIGATION

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Abstract: in this article, the expansion of individual rights in the pre-investigation institute, which is considered one of the stages of proceedings before the court, quick and easy solving of crimes by increasing the methods of evidence collection in the pre-investigation institute, the experiences gained by advanced foreign countries regarding the consideration of criminal applications and reports and their implementation into our national legislation devoted to the analysis of issues. In the master's thesis, important scientifically based proposals were developed regarding the development of the review of criminal applications and reports in the field of norm creation.

Key words: crime, norm creation, pre-investigation investigation

Мазкур мақолада судга қадар иш юритиш босқичларидан бири ҳисобланган терговга қадар текширув институтида шахс ҳуқуқларини кенгайтириш, терговга қадар текширув институтида далиллар йиғиш усулларини кўпайтириш орқали жиноятларни тез ва осон очиш, илғор хорижий давлатларнинг жиноятга оид ариза ва хабарларни кўриб чиқиш юзасидан тўплаган тажрибалари ва уларни миллий қонунчилигимизга имплементация қилишга масалаларини таҳлил қилишга бағишланган. Магистрлик диссертациясида норма ижодкорлиги соҳасида жиноятга оид ариза ва хабарларни кўриб чиқишни ривожлантиришга оид муҳим илмий асосланган таклифлар ишлаб чиқилган.

Калит сўзлар : жиноят, норма ижодкорлиги, терговга қадар текширув тергов харакатлари

Аннотация: в данной статье рассматривается расширение прав личности в следственном органе, что рассматривается как одна из стадий производства в суде, быстрое и легкое раскрытие преступлений за счет увеличения способов собирания доказательств в следственном органе. , опыт передовых зарубежных стран по рассмотрению уголовных заявлений и сообщений и имплементации их в наше национальное законодательство посвящен анализу вопросов. В магистерской диссертации разработаны важные научно обоснованные предложения по развитию рассмотрения уголовных заявлений и отчетов в области нормотворчества.

Ключевые слова: преступление, нормотворчество, следственное расследование.

We know from the world community that the manifestation of humane, democratic and legal principles in society and the state depends on the extent to which the right to protect the interests of the individual, the state and society is formed in practice. it is important to ensure the rights and freedoms of citizens in accordance with the democratic point of view.

Criminal Procedure Code of the Republic of Uzbekistan in accordance with Article 15, the prosecutor, investigator and inquirer must initiate a criminal case within the scope of their powers in relation to every case with signs of a crime.

In determining whether or not there are signs of a crime in a particular case, the Law of the Republic of Uzbekistan dated September 6, 2017 "On Amendments and Additions to Certain Legislative Documents of the Republic of Uzbekistan in Connection with the Improvement of the Investigation Institute" ¹mainly includes the role of pre-investigation investigation bodies as a new structure among the entities at the stage of bringing the case to court. Because the purpose of the pre-investigation investigation is to determine whether there are signs of a crime in each case based on the applications received and to initiate or dismiss the criminal case based on this.

Now we will dwell on the concept of pre-trial inspection, its goals and tasks.

Pre-investigative investigation is aimed at fulfilling the tasks of fighting crime, regulated by the Code of Criminal Procedure, prevention or prevention of crime by pre-investigative investigation bodies, collection and preservation of evidence, arrest of suspected criminals and searching for hiding suspects and accused persons. to find, refers to a special form of proceedings before the court, consisting of the activity of carrying out urgent investigative actions in a criminal case in order to ensure compensation for the material damage caused by the crime².

In other words, pre-investigation investigation is a set of actions carried out in connection with investigation of reports and reports about committed or planned crime.

Criminal Procedure Code of the Republic of Uzbekistan

Article 320² provides the legal basis for the pre-investigation investigation, according to which it is necessary to check applications, messages and other information related to crime, take measures to make a decision based on the result of their review, as well as strengthen traces of crime, objects and documents that may be important for the case. and actions that include custody measures are called pre-investigation investigations.

Pre-investigation investigation is defined as the process of registering an application, message or other information about a crime, performing certain investigative and procedural actions in order to determine the legality of the reason for initiating a criminal case and the existence of grounds, and making an appropriate decision based on the information obtained or determined³.

A pre-trial investigation includes:

- application, receiving and registering messages;
- check, resolve applications and messages and comply with their deadlines;
- notification of inspection results;
- fully ensuring the rights (legality) of the detained person.

¹Ўзбекистон Республикаси "Суриштирув институти тақомиллаштирилиши муносабати билан Ўзбекистон Республикасининг айрим қонун ҳужжатлари га ўзгартиш ва қўшимчалар киритиш тўғрисида" (Ўзбекистон Республикаси Қонун ҳужжатлари маълумотлари миллий базаси) <https://lex.uz/docs/3328284> Мурожаат этилган сана 02.04.2022 йил

² Рашидов Б. Н. Терговга қадар текширув: Маърузалар курси / Масъул муҳаррир юридик фанлар доктори, профессор М.А. Ражабова. – Т.: Ўзбекистон Республикаси ИИВ Академияси, 2018. – 61 б.

³ Терговга қадар текширувни юритиш: Ўқув-амалий қўлланма / Тузувчи-муаллифлар: И.Ж. Бабамурадов, Б.Э. Бердиалиев, М.А. Саттаров, А.А. Султонов; Ўзбекистон Республикаси ички ишлар вазирлиги генерал-майор П.П. Бобожоновнинг умумий таҳрири остида. – Т.: Академия ноширлик маркази, 2018. – 8 б.

According to Article 3202 of the Code of Criminal Procedure of the Republic of Uzbekistan, these actions are carried out by the bodies mentioned in Article 391 of this Code. In accordance with the Code of Criminal Procedure of the Republic of Uzbekistan, pre-investigation activities can be carried out by the investigator, investigator or prosecutor in addition to the above entities.

Before the investigation, the investigation is considered the most important institution in the criminal process. Because it is precisely in this institute that on the basis of several investigations and procedural actions, applications and reports about the occurrence of a crime are carefully examined and thoroughly studied, and a legal assessment is given to them. At the end of the investigations, one of the following decisions will be made:

- initiating a criminal case;
- refusal to open a criminal case;
- if the received application or report is not a crime, but an administrative or other type of offense, sending it to the body authorized to consider this offense.

The investigation before the investigation is considered to be a concept with many meanings, and in the course of its implementation, the issues of initiating a criminal case and refusing to initiate it are resolved. In addition, this concept is also applied to the implementation of investigative actions aimed at determining the presence or absence of a criminal act on the basis of the materials collected before the investigation.

The adoption of the Law of the Republic of Uzbekistan on September 6, 2017 "On Amendments and Additions to Certain Laws of the Republic of Uzbekistan in Connection with the Improvement of the Investigative Institute"⁴ is of great importance in the formation of pre-investigation activities as a separate institution in criminal proceedings.

This institute, like other institutes in the criminal process, has its own independent procedural tasks, which, in accordance with the Code of Criminal Procedure of the Republic of Uzbekistan, collect sufficient information about the presence or absence of signs of a crime in the received report, crimes that are being prepared or planned to be committed, and initiate a criminal case or are the main tasks, such as refusing to initiate a criminal case.

The purpose of the investigation before the investigation is to protect the rights and legal interests of citizens, enterprises, institutions, organizations and the state from criminal attacks and to take measures to recover the damage caused to the person, society and the state as a result of this activity.

In the pre-investigation institute, the pre-investigation body, the investigator, the investigator, the prosecutor determine whether there are signs of a crime in an incident known to them, and decide whether to initiate a criminal case and initiate proceedings, or refuse to initiate a criminal case in the absence of any signs of a crime, as well as in the presence of circumstances that exclude criminal proceedings. certain to make a decision on the achievement

criminal-procedural actions are carried out.

⁴ Ўзбекистон Республикаси «Суриштирув институти такомиллаштирилиши муносабати билан Ўзбекистон Республикасининг айрим қонун ҳужжатларига ўзгартиш ва қўшимчалар киритиш тўғрисида» // (Ўзбекистон Республикаси Қонун ҳужжатлари маълумотлари миллий базаси) <https://lex.uz/docs/3328284>. Мурожаат этилган сана 04.04.2022 йил.



Subjects of this institute are the person or organization, institution, pre-investigation investigation body, investigator, prosecutor, defender, victim, civil plaintiff, etc., who filed a crime report.

Criminal Procedure Code of the Republic of Uzbekistan

Article 391 mentions the bodies that carry out pre-investigation activities, according to which: "Pre-investigation is carried out by the following bodies:

- 1) internal affairs bodies;
- 2) commanders of military units, formations, heads of military institutions and military educational institutions;
- 3) bodies of the state security service;
- 4) Heads of the management bodies of the penal system of the Ministry of Internal Affairs of the Republic of Uzbekistan, penal colonies, educational colonies, investigative detention centers and prisons;
- 5) state fire control bodies;
- 6) border guarding bodies;
- 7) captains of ships on a long voyage;
- 8) bodies of the state customs service;
- 9) Department of Combating Economic Crimes under the General Prosecutor's Office of the Republic of Uzbekistan and its local units;
- 10) Compulsory Enforcement Bureau under the General Prosecutor's Office of the Republic of Uzbekistan and its local units;
- 11) General Department of Prevention of Offenses in the Retail Trade and Service Sector of the State Tax Committee of the Republic of Uzbekistan and its regional departments;
- 12) National Guard of the Republic of Uzbekistan and its local units;
- 13) State security service of the President of the Republic of Uzbekistan.

Before the investigation, it is the duty of the bodies conducting the investigation to take the necessary measures, including finding the signs of the crime and the persons who committed the crime, using scientific and technical means in order to determine the information that can be used as evidence in the criminal case after being checked in accordance with the provisions of the Criminal Procedure Code. , will be tasked with taking necessary measures. Internal Affairs, State Security Service, State Security Service of the President of the Republic of Uzbekistan, State Customs Service bodies, as well as the Bureau of Compulsory Enforcement under the General Prosecutor's Office of the Republic of Uzbekistan and the Department for Combating Economic Crimes and their local units have the right to conduct search operations for this purpose. The procedure for conducting rapid search activities is determined by law."

In accordance with the Criminal Procedure Law of the Republic of Uzbekistan, the head of the pre-investigation body shall initiate the pre-investigation investigation or delegate its conduct to another official subordinate to him; initiation of a criminal case or refusal to initiate a case or transfer of an application, a report according to the relevance of the investigation; if before the investigation, the official of the body conducting the investigation does not deny himself due to the existence of the circumstances specified in Articles 76, 79 of the Criminal Code, to resolve the issue of his denial according to the applications of interested parties; instruct subordinates to take all necessary actions without delay to collect and store, apprehend and search for absconding suspects and ensure compensation for property damage caused by crime; approval of the decisions of the official of the body conducting the

investigation before the investigation; in case of dissatisfaction with the instructions of the prosecutor, without stopping the execution of the instructions, he has the authority to complain to the higher prosecutor, to issue written instructions to subordinates.

The official of the body conducting the pre-investigation investigation has the following powers:

- to take all necessary actions, which cannot be delayed, to prevent or prevent the commission of a crime, to collect and preserve evidence, to catch and search for suspects who are hiding, and to ensure compensation for property damage caused by the crime;
- performing certain procedural actions and tasks of conducting rapid search activities in the case conducted by the investigator, inquirer, and assisting the investigator, inquirer in performing procedural actions;
- Performs procedural actions and makes decisions specified in JPK;
- appeal to the prosecutor against written instructions of the head without stopping their execution;
- in case of dissatisfaction with the instructions of the prosecutor, without stopping the execution of the instructions, to complain about them to the higher ranking prosecutor;
- extension of the investigation period up to 1 month; decision on appointment of inspection; refusal to initiate a criminal case;
- Self-refusal due to the presence of circumstances specified in Article 76 of the Criminal Code.

It is known that, according to the law of criminal procedure, investigation before the investigation can be carried out by the investigator, investigator, and prosecutors. In this case, they do not use the authority of an investigator, investigator or prosecutor, but have the rights of a person conducting an investigation before the investigation. However, in criminal procedural law, there is no concept of a person conducting an investigation prior to investigation. If this concept is included in the legislation, the investigator, the investigator, the prosecutor will work within the authority of the person conducting the investigation before the investigation.

Also, one of the problems related to the pre-investigation process is the lack of concepts of the injured person and the person being investigated before the investigation, as well as their rights and obligations.

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