



SPECIFIC FEATURES OF INITIATING CRIMINAL PROCEEDINGS FOR CRIMES RELATED TO EXTREMIST ACTIVITY

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<https://doi.org/10.5281/zenodo.14934552>

Abstract: The article considers the scientific opinions of scholars, practical experience, and analysis of current regulatory legal documents when discussing the circumstances of criminal cases related to extremism that need to be clarified during pre-investigation checks, as well as the issues of initiating or refusing to initiate criminal proceedings based on their essence.

Keywords: investigation, crime, extremism, evidence, initiation of proceedings, refusal, appeals, individual, legal entity.

Optimizing the system of procedural actions that must be carried out to verify the legality and sufficiency of grounds for initiating a criminal case, elevating the system of collecting, verifying, and evaluating evidence at this stage to a new level, and improving the procedure for registering applications, reports, and other crime-related information through the widespread implementation of modern information technologies remain requirements of our time.

U.T. Tadjikhanov notes that "pre-investigation verification is a multifaceted concept, during which the issue of initiating a criminal case or refusing to initiate it is resolved"[1]. Contrary to this opinion, V.G. Kosikh asserts that "during the pre-investigation check, even if the applicant has described all the details of the act, it is impossible to obtain the amount of information necessary to initiate a criminal case based on this report". Specifically, in this case, it is necessary to at least establish the identity of the applicant and warn them about criminal liability for false reporting, which is precisely an integral part of the pre-investigation check, as this activity determines the validity of the reason for initiating a criminal case.

In this regard, A.B. Divayev noted that the initiation of a criminal case at the conclusion of a pre-investigation check serves to commence a preliminary investigation, and that the pre-investigation check stage should also be termed the criminal case initiation stage. A.P. Rijakov expressed a similar opinion, stating that the initiation of a criminal case is a time period during which a specific activity called pre-investigation verification of a crime report or statement is carried out. From the opinions of procedural scholars, it becomes clear that pre-investigation verification is the first and necessary stage, during which the officer conducting the pre-investigation check, the investigator, the inquiry officer, and the prosecutor determine whether there are grounds and reasons to initiate a criminal case. They may initiate a criminal case if signs of a crime are detected, or refuse to initiate a criminal case based on existing grounds.

In the Criminal Procedure Code, pre-investigation verification bodies are included in the group of state bodies and officials responsible for criminal proceedings.

In our opinion, the inclusion of pre-investigation verification bodies in the group of state bodies and officials responsible for criminal proceedings leads to conflicts between legal norms. According to the current Criminal Procedure Code, the activities of state bodies responsible for criminal proceedings begin immediately after a criminal case is initiated. According to M.J. Botaev, the activities of pre-investigation verification bodies conclude from the moment a crime report is received until a decision is made to either initiate or refuse to initiate criminal proceedings. That is, pre-investigation verification bodies do not belong to the group of state bodies and officials responsible for criminal proceedings. To address such opinions and eliminate conflicts in the current legislation, it is advisable to change the phrase "state bodies and officials responsible for criminal proceedings" used in criminal procedure law to "state bodies and officials responsible for handling criminal matters."

The reasons for initiating a criminal case are listed in Article 322 of the current Criminal Procedure Code, and these reasons serve to initiate a pre-investigation check. They include:

- 1) applications from individuals;
- 2) reports from enterprises, institutions, organizations, public associations, and officials;
- 3) reports from mass media;
- 4) direct identification by the body conducting the pre-investigation check, the investigator, the inquiry officer, the prosecutor, or the court of information and evidence indicating the commission of a crime;
- 5) a confession statement.

One of the reasons for initiating a criminal case is individuals' applications. An application is a citizen's appeal containing a request for assistance in realizing their rights, freedoms, and legitimate interests[2]. According to Article 324 of the Criminal Procedure Code, individuals' statements about crimes can be written or oral, and it is specified that citizens' oral statements are recorded in minutes.

The minutes must indicate the place and time of receiving the application, the position and surname of the person who accepted it, information about the applicant (surname, first name, year of birth, position and place of work, passport or other identity document, residential address), and the applicant's signature confirming they have been informed about criminal liability for false reporting under Article 237 of the Criminal Code. The content of the application is stated in the first person, and after the applicant reads it, this fact is noted in the minutes, which is then formalized with signatures of both the applicant and the official who accepted the application[3].

The Criminal Procedure Code's requirement for the author to sign the application aims to increase the responsibility of citizens reporting crime information and to obtain reliable information that can serve as a basis for deciding whether to initiate a criminal case. Therefore, in each instance of receiving an oral or written application or report, establishing the applicant's identity is of great importance for justifiably initiating a criminal case.

It should be noted that the current Criminal Procedure Code does not reflect requirements for citizens' electronic applications, which, due to rapidly developing processes, may cause several problems in the future. Although B.A. Saidov emphasized that to ensure timely registration and resolution of crime-related appeals from individuals and legal entities as prescribed by law, it is necessary to introduce a procedure for registering and processing crime reports and complaints in electronic form[4], the procedure for processing appeals from individuals and legal entities, requirements for electronic applications, and opinions on

their processing are not expressed. In other words, the procedure for implementing citizens' electronic appeals is not covered. Meanwhile, 30% of crimes related to extremist activities are reported through applications and appeals. This type of crime is mainly reported by relatives of the perpetrators. However, we know that the safety and confidentiality of these relatives must be ensured. Due to the lack of an electronic procedure for ensuring such situations and accepting applications and appeals, the possibility of implementing this has not been provided.

In our opinion, in order to ensure the acceptance of electronic applications and the conduct of pre-investigation checks on their basis, it is advisable to establish requirements for electronic applications with a unified form, while preserving the requirements for applications of individuals in the Criminal Procedure Code.

Another reason for conducting a pre-investigation check is reports from the mass media. Reports about the crime in the press, on radio and television, in documentary films, as well as in published and unpublished letters addressed to the mass media, are grounds for initiating a pre-investigation check. The mass media that published or sent the report on the crime, as well as the authors of this report, are obliged, at the request of an official of the pre-investigation inquiry body, an investigator, an inquiry officer, a prosecutor, or a court, to submit actions and other materials at their disposal confirming the report (Article 327 of the Criminal Procedure Code).

The fact that the Criminal Procedure Code establishes such a reason for initiating a criminal case obliges officials of pre-investigation verification bodies, investigators, inquiry officers, prosecutors, and judges to constantly monitor press releases and take measures on them[1].

The next basis is the direct identification of signs of a crime by a pre-investigation inquiry body, investigator, inquiry officer, prosecutor, and court, and the peculiarity of this reason is that the issue of initiating a criminal case is resolved not due to the receipt of an application, notification, or letter about the crime being prepared or committed, but at the initiative of the pre-investigation inquiry body, investigator, inquiry officer, prosecutor, judge, or court. Direct discovery of information indicating the commission of a crime entails the initiation of a criminal case in cases where an official of the pre-investigation inquiry body discovers information about a crime while performing an administrative function, the investigator, the inquiry officer - during the investigation of another criminal case, and the prosecutor - during supervision over the execution of laws or during the preliminary investigation of another criminal case. The last reason for conducting a pre-investigation check, cited in our criminal procedure legislation, is a plea for confession. A statement of confession is a statement made by the applicant about the crime committed by him before he was suspected of committing this crime and he was charged with it, which can be in oral or written form[2]. An official of the body conducting a pre-investigation check, an investigator, an inquiry officer, a prosecutor, or a court shall reflect the oral report in the minutes, which shall include information about the identity of the complainant, and in which the content of the complaint shall be stated in the first person's name. The report is signed by the applicant and an official of the pre-investigation inquiry body, the investigator, the inquiry officer, the prosecutor.

In this case, it is necessary to distinguish between a sincere confession after interrogations conducted during the detention of the suspect with a plea for confession. Such

a confession is sometimes incorrectly formalized in judicial and investigative practice as a plea for confession.

Another important aspect of the concepts given in Article 329 of the Criminal Procedure Code is that this article procedurally strengthens the institution of pre-investigation verification, and it is this norm that grants employees authorized to conduct pre-investigation verification the authority to conduct procedural and investigative actions even before the initiation of a criminal case[3]. According to the current criminal procedure legislation, procedural actions that can be carried out during a pre-investigation check are strictly limited and allow only nine procedural actions to be performed. Including:

- 1) to request additional documents;
- 2) requesting explanations;
- 3) giving instructions for conducting operational-search measures;
- 4) application of a measure of procedural coercion of detention;
- 5) conducting a personal search;
- 6) conducting an investigative action of seizure;
- 7) inspection of the scene of the incident;
- 8) making a decision on the appointment of an expert examination;
- 9) making a decision on the appointment of an audit (if a financial operation has been carried out).

Despite the fact that the above-mentioned actions are permitted during pre-investigation checks, we can observe that the authority to conduct some of them was not granted to officials of the pre-investigation check body, or the legislator overlooked these norms in the process of developing new regulations. In particular, Article 201 of the Criminal Procedure Code states that heads and other officials of enterprises, institutions, and organizations are obliged, at the request of the investigator, inquiry officer, prosecutor, or court, to submit specially prepared documents based on actions at their disposal or information available to them[4]. However, this provision does not mention officials of the pre-investigation inquiry body.

In our opinion, to address this existing gap, it is advisable to revise Article 201 of the Criminal Procedure Code as follows:

"Article 201. Submission of Documents at the Request of Persons Responsible for Criminal Proceedings Heads and other officials of enterprises, institutions, organizations are obliged to submit, at the request of state bodies responsible for criminal proceedings, documents at their disposal or specially drawn up on the basis of information available to them.

Heads and other officials of enterprises, institutions, and organizations are obliged, at the request of state bodies responsible for criminal proceedings, to conduct, within their competence, an audit or other official investigation and submit, within the established timeframe, a report on the results of the audit or investigation with all its appendices.

State bodies responsible for criminal proceedings, upon detecting deviations from the established rules in the audit or inspection report or in another document, deficiencies, contradictions, or other shortcomings, have the right to demand the correction of the noted errors in the document."

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