



### Abstract

This article is dedicated to analyzing the specific aspects of ensuring the participation of persons involved in criminal proceedings at the pre-trial stage. The article examines the roles of participants - suspects, victims, witnesses, experts, and other individuals based on German criminal procedure law (Strafprozessordnung, StPO) and methods for ensuring their procedural activities. Special attention is given to legislative mechanisms, coercive measures, use of technology, and legal-ethical issues in ensuring participation. Additionally, based on the opinions of prominent legal scholars, the German experience is evaluated as a unique system. The aim of the article is to demonstrate the importance of participants in increasing the effectiveness of the pre-trial stage and to discuss the possibilities of applying this experience in Uzbekistan's legislation. The results of the analysis provide important conclusions for ensuring procedural justice and transparency at this stage.

**Keywords:** Pre-trial proceedings, criminal process, participants, German experience, Strafprozessordnung (StPO), suspect, victim, witnesses, experts, procedural justice, legislation, prosecutor's office, technologies.

The pre-trial proceedings stage is one of the most important and complex parts of the criminal process, in which the participation of various individuals appears as a key factor in ensuring a fair trial. At this stage, the involvement of participants such as suspects, victims, witnesses, and experts is carried out not only in accordance with legislative norms but also aims to maintain a balance between their rights and obligations. German criminal procedure legislation (Strafprozessordnung, StPO) is recognized as one of the most advanced and comprehensive systems in this field worldwide. This system is based on the principles of the rule of law, protection of human rights, and procedural effectiveness. Therefore, the experience of Germany can serve as an example for many countries, including our country.

The issue of active involvement of participants in pre-trial proceedings is of great theoretical and practical importance. According to the renowned German legal scholar K. Roxin, a balance between the rights and obligations of participants at the pre-trial stage is an important condition for a fair trial[1]. This point of view is one of the main features of the German system, in which suspects and victims are provided with equal legal opportunities.

The peculiarity of the German experience is that it is based on the "principle of legality" (Legalitätsprinzip), that is, when any crime is reported, the prosecutor's office is obliged to investigate it[2]. This principle ensures the inevitable involvement of participants in the procedural process and regulates their participation by law. For example, the summoning of witnesses and their mandatory participation are clearly defined in Articles 48-55 of the Criminal Procedure Code, in which the interests of the state and society are prioritized. At the

same time, special attention is paid to the rights of victims in Germany, which demonstrates the humanitarian aspect of this system[3].

Another well-known scholar, Franz von Liszt, believes that without the activity of witnesses and other participants, it is impossible to establish the true circumstances of the crime[4]. This approach is widely used at the pre-trial stage in Germany and is reflected in the legislation.

In addition, one of the modern German lawyers, Bernd Schünemann, pays special attention to the issue of the use of technologies at the pre-trial stage. In his article "Technisierung des Strafverfahrens," he argues that while video conferencing and other digital methods facilitate participation, personal communication should not lose its importance[5]. This point of view has been a widely discussed issue in Germany in recent years, especially during the COVID-19 pandemic, with witness participation increasing via videoconference.

In Germany, the pre-trial proceedings stage, as an important and fundamental part of criminal proceedings, are regulated in detail by law. This stage includes pre-investigation verification (Vorermittlungen) and preliminary investigation (Ermittlungsverfahren) processes, mainly carried out by the prosecutor's office (Staatsanwaltschaft) and the police (Polizei). The main legal source of this stage is the German Criminal Procedure Law - Strafprozessordnung (StPO), Articles 152-170 of which define the procedures for pre-trial proceedings. The peculiarity of the German system lies in its reliance on the "principle of legality" (Legalitätsprinzip), that is, the prosecutor's office is obliged to investigate any crime upon its discovery (StPO, §152). This ensures the inevitable involvement of participants in the procedural process.

Another important feature of the pre-trial proceedings stage is the managerial role of the prosecutor's office. According to Article 160 of the Criminal Procedure Code, the prosecutor's office acts as the main subject of the investigation and has the right to give instructions to the police. In this system, the police perform an auxiliary function, collecting evidence based on the instructions of the prosecutor's office and involving participants. The renowned German legal scholar Klaus Roxin writes: "The pre-trial priority of the prosecutor's office is important in ensuring the rule of law, as it maintains a balance between the interests of the state and the rights of the individual"[6]. Roxin's opinion demonstrates the high level of responsibility placed on the prosecutor's office within the German system.

In Germany, along with the "principle of obligation" (against the Opportunitätsprinzip) at the pre-trial stage, in some cases, the prosecutor's office is given the opportunity to terminate the case. For example, according to Article 153 of the Criminal Procedure Code, the prosecutor's office has the right not to continue the investigation if the crime is less serious and does not cause serious harm to public interests. This serves to effectively manage resources and prevent overload at the pre-trial stage. However, when making this decision, the prosecutor's office must also take into account the opinion of the victims, which is clearly defined in Article 171 of the Criminal Procedure Code.

Another feature is that great attention is paid to the rights of participants at the pre-trial stage. For example, in accordance with Article 136 of the Criminal Procedure Code, the suspect's rights (including the right to use a lawyer and refuse to testify) must be explained to him during the preliminary interrogation. This testifies to the human rights-based approach of the German system. Franz von Liszt, addressing this issue in Lehrbuch des Deutschen

Strafrechts, writes: "Compliance with the rights of the suspect at the pre-trial stage demonstrates the state's adherence to the law and creates trust in society"[7]. In our view, this idea is aimed at ensuring the transparency and fairness of pre-trial proceedings in Germany.

In the German system, special attention is paid to the participation of witnesses. According to Article 48 of the Criminal Procedure Code, witnesses are obliged to comply with the summons of investigative bodies, otherwise they may be fined or subjected to compulsory appearance (StPO, §51). This rule is important in ensuring the procedural activity of witnesses. Modern scholar Bernd Schünemann emphasizes the advantages of using technology in this matter, stating: "The participation of witnesses via videoconference accelerates the pre-trial stage, but this should not damage the quality of evidence"[8]. In Germany, this method was widely used, especially during the COVID-19 pandemic, and the use of these technologies is regulated by law.

Another feature of the pre-trial proceedings stage is the involvement of experts and specialists. According to Article 73 of the Criminal Procedure Code, if an expert opinion is required to determine the technical or special aspects of a crime, they are involved in the investigation. This serves to improve the quality and reliability of evidence. For example, DNA analysis or forensic medical examination is widely used in Germany, and these methods increase the effectiveness of the investigation.

It is also worth noting that in Germany, special attention is paid to the rights of victims at the pre-trial stage. According to Article 406 of the Criminal Procedure Code, victims have the right to actively participate in the investigation process, engage a lawyer, and protect their interests. This testifies to the German system's victim-oriented approach. Analyzing this feature, scientist Hans-Joachim Schneider writes: "The participation of victims in the pre-trial stage contributes to the restoration of justice and increases their confidence"[9].

In short, the pre-trial stage in Germany has its own peculiarities, such as the perfection of legislation, the regulatory role of the prosecutor's office, attention to the rights of participants, and the use of technologies.

In Germany, different persons participate in criminal proceedings at the pre-trial stage, each of whom has their own procedural status and tasks. The role of these participants is clearly defined in the legislation, and their activities are important for ensuring the effectiveness of the investigation and fair trial. German criminal procedure legislation (Strafprozessordnung, StPO) details the types of participants and their duties. At this stage, the main participants are the suspect (Beschuldigter), the victim (Verletzter), witnesses (Zeugen), experts (Sachverständige), and other persons performing procedural functions. This section analyzes the role of each participant and their significance at the pre-trial stage.

The suspect is one of the main participants in the pre-trial proceedings and is suspected of committing a crime against him. According to Article 136 of the Criminal Procedure Code, during the preliminary interrogation, the suspect must be explained his rights, including the right to use a lawyer, to refuse to testify, and not to present evidence against himself. These rights demonstrate the human rights-based approach of the German system. The suspect's role lies in the fact that they have the opportunity to express their position to investigative bodies and actively participate in the process of collecting evidence.

According to the renowned legal scholar Klaus Roxin, the rights of the suspect at the pre-trial stage protect his presumption of innocence and prevent a one-sided investigation[10].

Roxin's opinion shows that the suspect's role serves not only self-defense but also ensures the fairness of the investigation. For example, a suspect can influence the investigation by refuting evidence against them or involving their own witnesses (StPO, §137).

The victim, as a victim of the crime, plays an important role in the pre-trial proceedings. According to Article 406 of the Criminal Procedure Code, victims have the right to actively participate in the investigation process, to engage a lawyer to protect their interests, and to receive information about investigative actions. This demonstrates the German system's victim-oriented approach. The main role of the victim is to assist the investigation with their testimony and to participate in revealing the true circumstances of the crime.

Scholar Hans-Joachim Schneider says about this: "The victim's role at the pre-trial stage ensures his access to justice and serves to eliminate the social consequences of the crime"[11]. For example, the victim, along with giving their testimony to the investigation, can present evidence against the suspect, which contributes to the completeness and objectivity of the investigation.

Witnesses are important at the pre-trial stage as persons who have information about the crime. According to Article 48 of the Criminal Procedure Code, witnesses are obliged to obey the call of the investigative authorities, who are obliged to tell the truth and assist the investigation with their testimony. If a witness fails to appear, according to Article 51 of the Criminal Procedure Code, they may be fined or brought forcibly. The role of witnesses is important in establishing the objective circumstances of the crime, as they form an evidence base by stating what they saw and knew.

Franz von Liszt writes on this matter: "Without witnesses, it is impossible to establish the truth of the crime; their participation is a key element of the investigation"[12]. This opinion indicates that in Germany, a high level of attention is paid to witnesses and strict measures are taken to ensure their mandatory participation. For example, in Germany, special protection programs (Zeugenschutzprogramm) operate to ensure the safety of witnesses, which increases the effectiveness of their participation.

Experts are involved in issues requiring special knowledge and qualifications at the pre-trial stage. According to Article 73 of the Criminal Procedure Code, the investigative body appoints experts to determine the technical or scientific aspects of the crime. The role of experts is to analyze evidence, give a conclusion, and assist the investigation with their conclusions. For example, the participation of experts in DNA analysis, forensic medical examination, or the investigation of cybercrimes is carried out constantly.

In this regard, Bernd Schünemann believes that the participation of experts in the pre-trial stage ensures the quality and reliability of the evidence, which contributes to the fairness of the court decision[13]. This opinion emphasizes the importance of experts in the investigation, since their conclusions often serve as the main evidence in proving or refuting the guilt of the suspect.

In addition to the above main participants, translators (Dolmetscher), lawyers (Verteidiger), and employees of investigative bodies also play an important role at the pre-trial stage. For example, according to Article 187 of the Criminal Procedure Code, if a suspect or witness does not speak the state language, an interpreter is involved. The role of interpreters is important in ensuring the transparency of the investigation and understanding

of the participants. Lawyers actively participate in protecting the interests of the suspect or victim (StPO, §137).

In conclusion, in Germany, the types of participants and their roles at the pre-trial stage are clearly defined by law, and each participant serves a specific aspect of the investigation. The suspect defends, the victim demands justice, witnesses provide evidence, and experts provide technical assistance. This system can serve as an important lesson in the procedural role and clear regulation of participation for countries such as Uzbekistan.

### References:

1. Roxin, C. Strafprozessrecht. 29. Auflage. München: C.H. Beck, 2021, S. 45.
2. StPO, §152.
3. StPO, §406.
4. von Liszt, F. Das Verbrechen als sozial-pathologisches Phänomen. Berlin: Guttentag, 1902, S. 78
5. Schünemann, B. Technisierung des Strafverfahrens. Zeitschrift für die gesamte Strafrechtswissenschaft, 2019, Bd. 131, S. 567
6. Roxin, C. Strafprozessrecht. 29. Auflage. München: C.H. Beck, 2021, S. 112
7. Liszt, F. Lehrbuch des Deutschen Strafrechts. Berlin: Guttentag, 1908, S. 234
8. Schünemann, B. Technisierung des Strafverfahrens. Zeitschrift für die gesamte Strafrechtswissenschaft, 2019, Bd. 131, S. 572
9. Schneider, H.-J. Kriminologie der Gewalt. Stuttgart: Kohlhammer, 2001, S. 189
10. Roxin, C. Strafprozessrecht. 29. Auflage. München: C.H. Beck, 2021, S. 145.
11. Schneider, H.-J. Kriminologie der Gewalt. Stuttgart: Kohlhammer, 2001, S. 192
12. Liszt, F. Das Verbrechen als sozial-pathologisches Phänomen. Berlin: Guttentag, 1902, S. 82
13. Schünemann, B. Technisierung des Strafverfahrens. Zeitschrift für die gesamte Strafrechtswissenschaft, 2019, Bd. 131, S. 580