

## Improving Investigator's Participation in Criminal Proceedings

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**ABSTRACT:** This article discusses the issues of independence of the investigator's activities in the preliminary investigation, the participation of the investigator in choosing a measure of coercion and restraint for the suspect and the accused, the powers of the investigator in the collection of evidence. It also contains proposals and recommendations for expanding the independence of the investigator.

**KEYWORD:** citizens, independence, social, economic, political, personal rights, freedoms, law, interests, society, decision, law and order, protection, state.

The issue of providing sufficient guarantees for the protection and restoration of the rights of each person whose rights have been violated as a result of bringing the person who committed the crime to criminal responsibility is relevant, as well as the issue of further increasing the responsibility of state bodies and officials who issued a decision on the application of unreasonable measures of criminal prosecution and procedural measures. coercion by the investigator and those responsible for the conduct of all criminal cases by the court<sup>1</sup>.

This implies the adoption in Uzbekistan of new laws and a number of other legal documents and the consolidation of social, economic, political and personal rights and freedoms of citizens in these documents, the legal strengthening of the legal foundations and foundations of public life and the state in order to protect legally protected interests and established in our society of law and order<sup>2</sup>. The fight against crime is the unconditional interest of society, but this activity is based on the fate of a person, and its fate cannot be decided without the concepts of truth and justice. Justice is a moral and legal means of adapting society to environmental conditions<sup>3</sup>. A preliminary investigation aimed at combating crime in the country and its suppression is an important component of the criminal process. Preliminary investigation is considered a complex institution of criminal procedure law and includes procedural conditions, forms and means of solving a crime, bringing perpetrators to criminal responsibility and creating conditions for their transfer to

<sup>1</sup> Огородов, Антон Николаевич. "Процессуальная самостоятельность следователя в уголовном судопроизводстве." (2018): 173-173.

<sup>2</sup> Асанов Р. Ш. Обеспечение прав личности как функция следователя в уголовном процессе //Екатеринбург.–2021.–229 с. – 2021.

<sup>3</sup> Барышова М. В. и др. Социальное предпринимательство: научные исследования и практика. – 2019.

court<sup>4</sup>. Also, the norms of this institution provide for the termination of a criminal case if, during the investigation, there are no signs of a crime in the actions committed by persons or there are grounds for bringing to criminal responsibility and releasing a person from punishment, as specified in the law.

Preliminary investigation of a criminal case is carried out by the prosecutor's office, internal affairs bodies, investigators of state security bodies<sup>5</sup>. The law provides that prosecutors may also conduct preliminary investigations.

The body of the preliminary investigation is the investigator. This means that the investigator, as a certain procedural figure, is authorized to take all measures provided for by the criminal procedure law for a full and comprehensive investigation of a criminal case, to draw conclusions based on the evidence he has collected<sup>6</sup>. The bodies of preliminary investigation are not institutions or organizations, but persons with a certain procedural status in the criminal process. This situation is clearly spelled out in the law: "The investigator independently makes all decisions regarding the direction of the investigation and the conduct of investigative actions, with the exception of cases provided by law for obtaining the permission of the prosecutor." In addition, the law defines the following rule: "Written orders and resolutions issued by the investigator in accordance with the law in connection with his work are binding on all enterprises, institutions, organizations, officials and citizens." This applies to decisions taken by the investigator during the preliminary investigation, such as search and seizure, involvement of third parties, seizure of property, and similar actions<sup>7</sup>. The investigator has a certain procedural independence, he makes his decisions based on the circumstances of the case and his own conviction that they are correct. Scholars argue that the preliminary investigation bodies play a supporting role in relation to the trial. It is known that the main subject of proof at the stage of preliminary investigation is the investigator<sup>8</sup>. The requirements for a full, comprehensive and objective investigation of cases relevant to the case are also obligatory for the preliminary investigation bodies. That is, the investigator must collect the necessary and sufficient evidence to resolve issues that will be the basis for sentencing in court.

In the legal literature, there are opinions that the conclusion of the preliminary investigation bodies as a result of evidentiary activity does not have to be reliable<sup>9</sup>. In addition, there are opinions that the investigator can take the case to court even if there are doubts about the guilt of the accused.

We cannot agree with such views, since the conclusion about the guilt (or innocence) of the accused, which is the subject of proof of the investigation, must be based on sufficient and reliable evidentiary materials<sup>10</sup>. In the activities of the preliminary investigation bodies, making statements within their competence, conducting legal propaganda among the population and in higher educational institutions in order to prevent new crimes in order to strengthen measures to prevent crimes, eliminate the conditions that made it possible to commit

<sup>4</sup> Борова Д. М. К вопросу о процессуальной функции следователя в уголовном судопроизводстве //Общество и право. – 2009. – №. 3 (25). – С. 207-210.

<sup>5</sup> Ibratova F. TERMS IN CIVIL LAW AND THEIR APPLICATION IN LEGAL PROTECTION OF CITIZENS IN THE REPUBLIC OF UZBEKISTAN.

<sup>6</sup> Пинок А. В. Правовое положение следователя в современном уголовном процессе России //Российская юстиция. – 2011. – №. 3. – С. 33-37.

<sup>7</sup> Yunusova M., Ibratova F. LEGAL ISSUES OF THE WORLD AGREEMENT IN BANKRUPTCY AS A PROCEDURAL INSTITUTE //Norwegian Journal of Development of the International Science. – 2021. – №. 62-2. – С. 10-14.

<sup>8</sup> Макарова З. В. Специальное назначение и роль следователя в уголовном процессе //Евразийский юридический журнал. – 2012. – №. 4. – С. 121-123.

<sup>9</sup> Шейфер С. А., Борисов С. А. О самоидентификации следователей как участников уголовного процесса //Российский следователь. – 2011. – №. 17. – С. 16-20.

<sup>10</sup> Довлатова Г. П. и др. Инновации, тенденции и проблемы в области экономики, управления и бизнеса. – 2021.

crimes, gives good results<sup>11</sup>. Investigative actions are carried out in strict accordance with the rules of inquiry and preliminary investigation.

The role of the preliminary investigation bodies in solving crimes depends on the procedural function that they perform in the criminal process<sup>12</sup>. These views, in our opinion, break the activity of the investigator into parts, unified in nature, forgetting about the elementary rules of a complete, objective and comprehensive investigation.

The activities of the investigator should be aimed at finding the culprit, and not at establishing “neutral” facts for the case<sup>13</sup>. However, this should not be only the activity of finding and establishing charges, the investigation must be carried out in full, objectively and comprehensively - this is a requirement of the law. Although the investigator is independent in his activities, he is under the control of the head of the investigation department.

Taking into account the above, as well as the problems that arise in the modern field of judicial investigation, it is worth saying that the investigator should be given more independence in accordance with the Code of Criminal Procedure<sup>14</sup>. In order to apply preventive measures in the form of detention and house arrest to the suspect and the accused, the investigator collects all the evidence and information and gets acquainted with all the materials of the case, personally managing the case. Therefore, it would be expedient if, in the current CCP, the duty of direct participation in court in connection with the conduct of the preliminary investigation, as well as in the application of procedural coercive measures during the preliminary investigation, was strengthened.

Also, the recovery of moral and material harm caused to a person in connection with illegal detention, initiation of a criminal case and detention in places of deprivation of liberty, from state bodies and officials conducting a criminal case, most importantly, will not allow cases of such illegal actions and indifference to fate people, and individual rights will be fully guaranteed<sup>15</sup>. A system of procedural guarantees aimed at preventing violations of individual rights will be created in criminal proceedings.

And so, any infringement of the procedural independence and independence of the investigator entails a decrease in his initiative in the investigation of criminal cases, prevents the most complete and timely production of the necessary investigative and procedural actions, creates conditions for reducing his personal responsibility for the decisions made and the results of the investigation<sup>16</sup>. Giving the investigator procedural independence is a necessary condition for the proper provision of timely and legal proceedings in a criminal case<sup>17</sup>.

In this regard, the improvement of the criminal procedural legislation of the Republic of Uzbekistan should follow the path of reducing to reasonable limits the decisions of the investigator, requiring any

<sup>11</sup> Телигисова С. С. Уголовно процессуальные функции следователя и их место в его деятельности //Вестник Оренбургского государственного университета. – 2011. – №. 3 (122). – С. 146-153.

<sup>12</sup> Ибратова Ф. и др. ПРАВОВЫЕ ВОПРОСЫ ЭЛЕКТРОННОГО ДОКАЗАТЕЛЬСТВА В ЭКОНОМИЧЕСКОМ ПРОЦЕССЕ //International journal of professional science. – 2022. – №. 4. – С. 18-24.

<sup>13</sup> Ерохина О. С. Сущность участия следователя в судебном заседании в ходе досудебного производства по уголовному делу //Евразийский юридический журнал. – 2011. – №. 11. – С. 123-127.

<sup>14</sup> Устинова С. Ю. Об участии следователя в апелляционном процессе //Вестник экономической безопасности. – 2017. – №. 3. – С. 124-129.

<sup>15</sup> Babakulovna I. F., Normuratovna E. Z. Legal Issues of the Concept of “Corporate Disputes” Under Procedural Legislation: Theory and Practice //American Journal of Social and Humanitarian Research. – 2022. – Т. 3. – №. 6. – С. 341-346.

<sup>16</sup> Шумилин С. Ф. Теоретические основы и прикладные проблемы механизма реализации полномочий следователя в уголовном судопроизводстве. – 2010.

<sup>17</sup> Буглаева Е. А., Виноцкий Л. В. Участие прокурора в ходе предварительного следствия //автореф. дис.... канд. юрид. наук. – 2011.

coordination<sup>18</sup>. As a competent official endowed with authority, the investigator must be independent and independent in his decisions and procedural actions, while his main duty is the obligation to act within the strict framework of criminal procedure legislation, without exceeding his powers and not abusing them.

Thus, the reform of the bodies of preliminary investigation, which has a good goal, as proclaimed, is to strengthen the authority and procedural independence of the investigator.

**REFERENCES**

1. Огородов, Антон Николаевич. "Процессуальная самостоятельность следователя в уголовном судопроизводстве." (2018): 173-173.
2. Асанов Р. Ш. Обеспечение прав личности как функция следователя в уголовном процессе //Екатеринбург.–2021.–229 с. – 2021.
3. Барышова М. В. и др. Социальное предпринимательство: научные исследования и практика. – 2019.
4. Берова Д. М. К вопросу о процессуальной функции следователя в уголовном судопроизводстве //Общество и право. – 2009. – №. 3 (25). – С. 207-210.
5. Ibratova F. TERMS IN CIVIL LAW AND THEIR APPLICATION IN LEGAL PROTECTION OF CITIZENS IN THE REPUBLIC OF UZBEKISTAN.
6. Пилюк А. В. Правовое положение следователя в современном уголовном процессе России //Российская юстиция. – 2011. – №. 3. – С. 33-37.
7. Yunusova M., Ibratova F. LEGAL ISSUES OF THE WORLD AGREEMENT IN BANKRUPTCY AS A PROCEDURAL INSTITUTE //Norwegian Journal of Development of the International Science. – 2021. – №. 62-2. – С. 10-14.
8. Макарова З. В. Специальное назначение и роль следователя в уголовном процессе //Евразийский юридический журнал. – 2012. – №. 4. – С. 121-123.
9. Шейфер С. А., Борисов С. А. О самоидентификации следователей как участников уголовного процесса //Российский следователь. – 2011. – №. 17. – С. 16-20.
10. Довлатова Г. П. и др. Инновации, тенденции и проблемы в области экономики, управления и бизнеса. – 2021.
11. Телигисова С. С. Уголовно процессуальные функции следователя и их место в его деятельности //Вестник Оренбургского государственного университета. – 2011. – №. 3 (122). – С. 146-153.
12. Ибратова Ф. и др. ПРАВОВЫЕ ВОПРОСЫ ЭЛЕКТРОННОГО ДОКАЗАТЕЛЬСТВА В ЭКОНОМИЧЕСКОМ ПРОЦЕССЕ //International journal of professional science. – 2022. – №. 4. – С. 18-24.
13. Ерохина О. С. Сущность участия следователя в судебном заседании в ходе досудебного производства по уголовному делу //Евразийский юридический журнал. – 2011. – №. 11. – С. 123-127.
14. Ibratova F. B. Legal consequences of the introduction of a bankruptcy procedure for an individual entrepreneur or an individual who has lost the status of an individual entrepreneur. – 2022.

<sup>18</sup> Голова С. И. Процессуальная деятельность следователя по уведомлению участников уголовного судопроизводства об окончании предварительного следствия с обвинительным заключением //Общество и право. – 2014. – №. 3 (49). – С. 166-170.

15. Устинова С. Ю. Об участии следователя в апелляционном процессе //Вестник экономической безопасности. – 2017. – №. 3. – С. 124-129.
16. Babakulovna I. F., Normuratovna E. Z. Legal Issues of the Concept of “Corporate Disputes” Under Procedural Legislation: Theory and Practice //American Journal of Social and Humanitarian Research. – 2022. – Т. 3. – №. 6. – С. 341-346.
17. Шумилин С. Ф. Теоретические основы и прикладные проблемы механизма реализации полномочий следователя в уголовном судопроизводстве. – 2010.
18. Буглаева Е. А., Виноцкий Л. В. Участие прокурора в ходе предварительного следствия //автореф. дис.... канд. юрид. наук. – 2011.
19. Голова С. И. Процессуальная деятельность следователя по уведомлению участников уголовного судопроизводства об окончании предварительного следствия с обвинительным заключением //Общество и право. – 2014. – №. 3 (49). – С. 166-170.