

Saving the state budget by improving the criminal procedure activities of bodies of inquiry

Ahorro del presupuesto estatal mejorando las actividades procesales penales de los órganos de investigación

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ABSTRACT

After accepted criminal Procedure code Republic of Uzbekistan 38 articles were changed more than ten items. The author tries to explore the historical development of inquiry bodies and their activity. The purpose of the research is to develop proposals and recommendations aimed at improving the theoretical, organizational and procedural aspects of the modernization of the bodies of inquiry. The object of the research is the criminal procedure of the activities of the bodies of inquiry.

Keywords: criminal procedure, inquiry, inquiry bodies, improvement legislation system.

RESUMEN

Después del código de procedimiento penal aceptado República de Uzbekistán 38 artículo se modificaron más de diez artículos. El autor intenta explorar el desarrollo histórico de los cuerpos de investigación y su actividad. El objetivo de la investigación es desarrollar propuestas y recomendaciones destinadas a mejorar los aspectos teóricos, organizativos y de procedimiento de la modernización de los cuerpos de investigación. El objeto de la investigación es el procedimiento penal de las actividades de los órganos de investigación.

Palabras clave: procedimiento penal, investigación, cuerpos de investigación, sistema legislativo de mejora.

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Research objectives

analysis of the problems of legal regulation of relations in the activities of inquiry bodies existing in the national legal system, system analysis to eliminate conflict of laws norms in them;

- development of a draft law giving the possibility of expanding the procedural operations of the bodies of inquiry;
- preparation of proposals and recommendations for the improvement of the norms of the current legislation on the fundamental reform and modernisation of the institutions of inquiry;
- development of ways to improve the institutional framework and conditions of the bodies of inquiry;
- analysis and implementation of international legal norms and international experience of developed countries in the activities of inquiry bodies.

The scientific novelty of the research

It is justified to identify issues such as the application of the norms of criminal procedure legislation in the production of inquiry; execution of the order of the inquiry officer; the dates of commencement of the inquiry and the production of the inquiry; the implementation of the inquiry by a group of investigators and the implementation of investigative actions by several investigators; types of suspension of inquiry and end of inquiry; indictment, as well as complaints about the actions and decisions of the inquirer.

Justified the inclusion in the Code of Criminal Procedure of the inquiry officer, the bodies conducting the pre-investigation check, the heads and officials of the bodies conducting the pre-investigation check, which serves to complete the formation of participants in the criminal process;

justified the simplification of the activities of the investigator, the head of the pre-investigation department and his deputy, the investigator by improving their powers as participants in criminal proceedings;

proposed the introduction of procedures for accepting, storing and processing evidence by experts, which contributes to the improvement of the process of conducting expert investigative actions;

substantiated the opening in the Code of Criminal Procedure of the words «investigative actions and operational search measures», «tax and currency crimes and legalisation of criminal proceeds», which contributes to the correct application of the law in practice;

it is proved that ensuring the cooperation of inquiry and investigation, as well as the introduction of a simplified procedure for office work, serves the timely conduct of an inquiry.

Introduction of research results

Based on the results of research on the improvement of national legislation and practice on the accelerated criminal proceedings:

Proposals for the powers of the investigator, the bodies carrying out the pre-investigation check, the head of the bodies carrying out the pre-investigation check, and the officials of this body were used to include Chapter 461 - «General conditions of inquiry», covering articles 381¹-381¹⁷ of the Criminal Procedure Code of the Republic of Uzbekistan (Senate Act Of the Oliy Majlis of the Republic of Uzbekistan dated April 18, 2018 (06-18 / 375)). The implementation of these proposals served to save the state budget at the stage of pre-trial proceedings, to promptly and fully disclose crimes, to ensure the correct application of criminal procedural deadlines;

Proposals on the powers of the inquirer, the body carrying out the pre-investigation check, the head and the official of the body carrying out the follow-up check are used in making amendments and additions to articles 38, 39,39 and chapter 46 of the Criminal Procedure Code of the Republic of Uzbekistan (Senate of the Oliy Majlis of the Republic of Uzbekistan No. 06- 18/375 of April 18, 2017). The introduction of this proposal served to improve the activities of the bodies of inquiry and investigation in the Criminal Procedure Code of the Republic of Uzbekistan;

Plans for the powers of the inquirer, the head of the unit of inquiry and his deputy, the investigator were used in making amendments and additions to articles 36, 38, 39 of the Criminal Procedure Code of the Republic of Uzbekistan (Acts of the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan No. 06 / 1-05 / 624 in of May 2, 2016, Committee on Legislation and Judicial and Legal Issues of the Senate of the Oliy Majlis of the Republic of Uzbekistan No. 06-18 / 183 of February 24, 2017). The introduction of this proposal served to expand the powers of the inquirer, the head of the unit of inquiry and his deputy, the investigator;

Proposals for the acceptance, storage and processing of evidence by experts were used in the improvement of paragraphs 3, 26, 27 of the Instruction «On the procedure for the use and storage of physical evidence in expert activity of the

Republican forensic examination named after H. Suleymanova», approved on August 3, 2015 (act of the X Center of Expertise. Suleymanova Ministry of Justice of the Republic of Uzbekistan No. 29-1296 dated November 25, 2015). The use of these proposals contributed to the improvement of the process of conducting expert investigations at the inquiry stage;

Proposals aimed at ensuring the cooperation of inquiries and investigations were adopted for use in the preparation of the regulatory normative act by the Chief Directorate of Investigations of the Ministry of Internal Affairs (Act of the General Directorate of Investigations of the Ministry of Internal Affairs No. 18/72 of January 7, 2016). This served to improve the implementation of investigative actions.

A number of activities have been undertaken around the world to improve access to justice and the enjoyment of human rights by the courts. Article 10 of the Universal Declaration of Human Rights guarantees "Everyone, in order to determine his rights and obligations and to establish the validity of criminal charges against him, is entitled to a fair, public and independent hearing by an independent and impartial tribunal". The quality and speedy conduct of pre-trial criminal proceedings serves to fully implement the above guarantee. In the developed world, 90 per cent of criminal cases are dealt with in an expedited and simplified manner, which requires special attention to this procedure¹. (Fields G., 2012)

The study of crime control policies around the world, through the prism of the protection of the rights and legitimate interests of persons involved in criminal proceedings in the fast-track (*judicio rapido*) and simplified (*judicio abreviado*) pre-trial proceedings, shows the existence of problems with the regulation of legal procedures and the use of the powers of law enforcement agencies, in particular the agencies of inquiry, as well as the need for scientific research to resolve them. At the same time, in order to eliminate the imbalance and insufficient systematization of structural-functional and organizational-structural foundations of the activity of bodies of inquiry in the criminal procedural legislation, it is important to acquire scientific-theoretical and practical solution of such issues as ensuring the balance of procedural-legal and social-moral mechanisms of prevention of cases of abuse of powers in the activity of bodies of inquiry, violation of rights and legitimate interests of persons involved in criminal proceedings.

In Uzbekistan, fundamental reform of the judicial and legal sphere, further liberalisation of criminal and criminal procedure legislation and its coordination with the principles of humanism are important areas for improving reforms. The courts of general jurisdiction have specialized, civil and criminal courts have been established and the legislative framework for their activities has been established. Judicial control over investigations at the pre-trial stage has been strengthened. Habeas corpus has been introduced into national legislation, under which the power to order arrest, suspension and coercive measures to place a person in a medical facility has been transferred from the procurators to the courts. To date, 68 per cent of the rules of criminal procedure have been amended. In particular, ten amendments and additions have been made to article 38 of the Code of Criminal Procedure, which has been reformed by 90 per cent.

Overview of foreign scientific research on the topic. Research on pretrial criminal proceedings is carried out in such leading scientific centres and higher education institutions as the National Institute of Justice, Southwest University (USA), Institute Zurich (Switzerland), Heidelberg (Germany), University of Sannio (Italy), Waseda University, Okinawa International University (Japan), Paris Lodron Universität Salzburg (Austria) va National University Australia, Griffith University (Australia) and the Academy of the Ministry of Internal Affairs (Uzbekistan).

Based on the results of research conducted around the world on the issues of pre-trial proceedings in criminal proceedings, in particular, on the improvement of the activity of inquiry, the following scientific results have been achieved: the necessity of creating a central agency entrusted with the traditional functions of the police (Southwest University, University of Illinois, Institute Zurich) has been substantiated; it has been proposed to give court executors the authority to conduct operational and investigative proceedings (National University, Australia), and the need for a complete rejection of the institution of investigation from overdose has been substantiated.

In the developed countries of the world, research is being carried out aimed at legal regulation and organization, as well as improvement of criminal proceedings in the following priority areas: simplification of pre-trial proceedings in criminal cases; acceleration of pre-trial proceedings in criminal cases; enhancement of the role of inquiry in the protection and safeguarding of human rights; reduction of expenses on legal proceedings; ensuring the effectiveness of protection of human rights and freedoms by reducing the duration of criminal justice proceedings.

Degree of study of the problem. To a certain extent, certain aspects of the activities of agencies of inquiry were studied in the scientific works of domestic scientists - G.A. Abdumazhidov, M.T. Khusanov, Z.F. Inogomzhonova, F.M. Mukhitdinova, G.Z. Tulaganova, U.A. Tukhtasheva, D.M. Mirazova, B.H. Pulatova, Y.S. Pulatova, Y. Rakhimova, S.M. Rakhmonova, D.B.B. Bazarova, I.R. Astanova, D.S. Umarkhanova, D. Karimova, B.B. Khidoyatova and others.

Studies on individual aspects of the activities of agencies of inquiry in the CIS countries were conducted by A.S. Annenkova, I.I. Fedulova, M.A. Borodkin, S.I. Girko, T.K. Ryabinina, Y.P. Yakubina, V.V. Vandyshev,

V.A.Limansky, D.A.Yastrebov, S.V.Grigorenko, T.A.Levinova, A.A.Dyadchenko, O.G.Beguntsem, U.A.Musseibov, M.A.Mityukova, T.V.Valkova, K.N.Emelianov.

The issues of conducting criminal investigations in foreign countries are highlighted in the scientific works of K. Shmoller (Austria), A. Gambaryan (Armenia), N. G. Stoyko, A. S. Shaginian (England), E. Best, L. V. Morozova, I. B. Grishay, B. A. Filimonova (Germany), F.R.Romeo (Spain), J. Illuminati (Italy), A.A. Trefilova (Switzerland), V.V. Laricheva, V.L. Bakhmayer, P.S. Pastukhova (USA), K.N. Chandrasekharan Pillai (India), Cook Cho (Japan), A.R. Belkina (Russia), H.D. Hoshimova (Tajikistan).

However, the works of the above mentioned scholars have been studied through the prism of legislation of foreign countries, so the urgency of the problems associated with the modernization of the activity of bodies of inquiry of our republic, improvement of the procedural status of the inquirer in the judicial and legal system, there is a need for in-depth and independent study of the issues of ensuring the rights and obligations of persons involved in criminal proceedings.

1. It is necessary to develop a separate recommendation instruction to increase the efficiency of the activity of the body of inquiry and the correct direction of the inquest case;
2. Constructive ideas on electronic management of procedural and nonprocedural document flow, some investigative and procedural actions through the Internet are put forward.
3. It is necessary to create a Department for Combating Computer Crime in the system of the Ministry of Internal Affairs. This Department provides court proceedings for interrogators with specialized knowledge, training, as well as rapid detection of crimes of this category;
4. It is necessary to hold separate training seminars for investigators and investigators responsible for criminal proceedings in order to give them practical recommendations on the case and form a responsible approach to their activities;
5. It is advisable to introduce 1, 2, 3, 4-month mandatory training courses for professional development for self-development, improvement of knowledge, retraining of investigators;
6. It is necessary to organise at the level of district, oblast and republic nominations among investigators "The best inquirer", "The best intellectual", "The employee who rationally uses the provisions of the Criminal Procedure Code", "The inquirer who sought the largest amount of funds in the State budget";
7. It is necessary to maintain a systematic rating reflecting errors in criminal and administrative cases. This, in turn, will create a legal basis for encouraging interrogators who carry out activities;
8. It is necessary to create an algorithm that includes tactical plans and hypotheses for the production of inquiry, investigative and procedural actions, various options for the detection of crime, to develop a proposal for the creation of a new algorithm reflecting the sequence of actions of agencies of inquiry in order to optimize the activities of agencies of inquiry;
9. The E-Communication Algorithm program should look like this. For example,
 - 9.1 Upon receipt of a crime report and its registration, the question of jurisdiction of the inquiry is resolved;
 - 9.2 Using the possibility of specific investigative actions in the pre-investigation phase provided for in article 329 of the Code of Criminal Procedure, one of them shall be selected based on the category of the case;
 - 9.3 Once the type of the crime provided for in the Criminal Code is clarified, the number of articles is entered into the Algorithm, and the E-communication algorithm includes answers for only one crime;
 - 9.4 In the case of a set of sins, the criminal case must be immediately transferred to the investigator, since the inquirer may conduct an inquiry in criminal cases that do not represent a significant public danger or less severe crimes.

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