



FEATURES OF PROCEDURAL INDEPENDENCE OF THE INVESTIGATOR IN THE INVESTIGATION OF CRIMINAL CASES

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ABSTRACT

This scientific research is devoted to a comprehensive analysis of the organizational and procedural factors influencing the effectiveness of ensuring the procedural independence of the investigator in the system of pre-trial proceedings in criminal cases in the Republic of Uzbekistan, strengthening its legal guarantees, as well as the effectiveness of investigative activities. The study substantiates that in the current conditions of deepening judicial and legal reforms, when human rights are becoming a priority principle, the freedom of the investigator in making decisions, the degree of protection from external and internal administrative pressures are a decisive factor determining the effectiveness of the criminal justice system.

The work scientifically reveals that illegal interference in the investigation process, the excessive strength of departmental subordination mechanisms negatively affect the presumption of innocence, the principles of transparency and justice. At the same time, the current Criminal Procedure Code, normative legal acts in the judicial and legal sphere adopted in 2021-2024, as well as legislative changes aimed at improving the system of combating economic crimes in 2025 were analyzed, and their impact on the real independence of the investigator was assessed.

The study reveals the theoretical and legal content of the concepts of jurisdiction and jurisdiction, and a comparative analysis of their interpretation in national and foreign (mainly Russian legal doctrine) sources is carried out. The author substantiates the possibility of ensuring a fair distribution of powers in investigative activities by distinguishing these concepts and giving them a clear definition. Also, the practice of organizing an investigation through departmental orders and instructions, their influence on the procedural independence of the

investigator is analyzed, and the need to adopt a separate regulation for the activities of the newly created department under the Prosecutor General's Office is put forward as a scientific conclusion. These proposals serve to ensure legality, justice, and human rights in criminal proceedings.

Ensuring legality in the country is directly related to the objective and fair investigation of criminal cases, the protection of the constitutional rights of citizens. In the current conditions, when judicial and legal reforms are deepening and human rights are becoming a priority, the effectiveness of the criminal justice system is determined by how the investigator's activities are ensured and the degree to which they are free to make decisions. Any external pressure, administrative influence, illegal interference of officials, and the unfair use of subordination mechanisms within the internal system undermine not only the presumption of innocence but also the criteria of transparency and fairness in criminal proceedings. Therefore, the study of the procedural independence of the investigator has not only theoretical, but also practical significance, and by improving its guarantees, it will be possible to fully ensure the fairness of decisions in criminal cases, the objectivity of evidence assessment, and the rule of law at the pre-trial stage.

The current legal framework in Uzbekistan, including the Criminal Procedure Code and decrees and resolutions adopted in 2021-2024, have accelerated reforms in the activities of investigative bodies, but their effectiveness largely depends on the real independence of the investigator's activities. The rapid integration of digitalization processes into the investigative system, the improvement of procedural control, and the tasks set to increase transparency and accountability in the activities of law enforcement agencies are making this issue even more important. At the same time, in some cases, it is observed in practice that the investigator's excessive dependence on internal service orders, instructions of higher officials, and administrative supervision limits legal independence, which reduces the possibility of a fair resolution of a criminal case.

According to domestic and international experts, with the strengthening of the procedural independence of the investigator, cases of unlawful pressure in criminal proceedings will decrease, the collection of evidence will be organized more qualitatively, the risk of conflicts of interest will decrease, and most importantly, the legal protection of citizens will be strengthened. In this regard, the study of this topic in the context of Uzbekistan is considered a logical continuation of the ongoing legal reforms in the country. Optimization of relations between investigative bodies and the prosecutor's office, establishing clear boundaries of judicial control, providing guarantees of professional immunity and security to investigators, independence of logistical support, and revision of the internal control mechanism also indicate the need for expanding scientific research in this area. Therefore, a deep analysis of the procedural independence of the investigator and the development of proposals for its strengthening is one of the urgent and strategically important tasks in building a fair, humane, and modern criminal procedure system in Uzbekistan.

According to A.E.Zharova and V.V.Goryunov, the reason for the procedural independence of investigators working in the prosecutor's office differs somewhat from investigators working in other bodies is that in the prosecutor's office, the prosecutor carries out both

procedural and departmental control simultaneously, which, on the one hand, gives an advantage from a procedural point of view, and on the other hand, leads to a constant limitation of the procedural independence of the investigator due to the strength of excessive control.

We partially agree with the above opinions, indeed, in the prosecutor's office, investigators mainly investigate cases of serious and especially serious crimes, as well as crimes committed by officials, and due to the strong public attention, the prosecutor tries to keep case files under constant control.

As is known, in accordance with the Law of the Republic of Uzbekistan dated February 25, 2025, No. ZRU-1038 "On Amendments and Additions to Certain Legislative Acts of the Republic of Uzbekistan in Connection with the Improvement of the System of Combating Economic Crimes," the number of bodies authorized to conduct preliminary investigations has been increased by one, and from this date, the Department for Combating Economic Crimes under the Prosecutor General's Office (hereinafter referred to as the Department) has been granted the authority to carry out not only operational-search activities, inquiry, but also preliminary investigations.

This law also defines the competence of the preliminary investigation and related matters of jurisdiction. It was noted that in cases of crimes provided for in parts three and four of Article 177, Articles 180 - 1811, part three of Article 184, part two of Article 186, and Article 1861 of the Criminal Code, the preliminary investigation is carried out by the investigators of the department.

However, it should not be forgotten that the concepts of jurisdiction and subordination to the investigation differ, and this subordination should be resolved by territorial and central bodies regarding which types of these crimes are subject to investigation.

In this regard, it is important that in what cases the issues of affiliation and in what cases the issues of affiliation are regulated by law. The formation of codes in this regard, the model of French codification and lawmaking in the RSFSR, prompted the appeal to the Russian language in this regard. According to the explanatory dictionaries of the Russian language, the concepts of "subjectivity" and "subordination" are distinguished. The concept of "subjectivity" refers to the delineation of the powers of investigating criminal cases between different investigative bodies, and in the Great Soviet Encyclopedia, it refers to the distribution of criminal cases subject to preliminary investigation among different investigative and inquiry bodies. In Soviet law, 3 types of affiliation are distinguished: subject (species), territorial (local), and by the interdependence of cases.

In Russian legal encyclopedias,... is the distribution of powers between the bodies conducting the preliminary investigation, depending on the nature of the criminal case, the place of its commission, as well as the subject of the crime. In a broad sense, this is a branch of criminal procedure law that determines which body or official is authorized to investigate a specific criminal case. This concept is important for ensuring the legality and effectiveness of the investigation.

Consequently, from the analysis of the above, it becomes clear that the concept of "subjectivity," in turn, corresponds to the phrase of jurisdiction in the Uzbek language. In any

case, since this sentence is also used in the Russian text of our current criminal procedure legislation, we must not forget that their mutual compatibility is also noted normally.

A slightly different definition of the concept of "subjectivity" has been formed in Russian explanatory dictionaries, according to which cases are assigned to the competence of separate state bodies. And in legal dictionaries and encyclopedias -... The jurisdiction of which state body, public organization, or arbitration court is the jurisdiction of legal disputes and other legal cases to be resolved by state authorities; a specific feature of legal cases, according to which they are subject to consideration and resolution by bodies of a certain jurisdiction.

This is recorded in the courts as a special rule, which is relatively easier for us to understand and comprehend. In particular, the issue of jurisdiction in courts is determined by whether the dispute is civil, administrative, economic, or criminal, and if it is, it is determined by which court is competent in considering the case in one court, that is, the jurisdiction of the court of first instance in district, city courts, appellate or cassation instance in regional courts, etc.

Thus, from the opinions of the above-mentioned scholars and the information in translated explanatory dictionaries, it is known that the general views on jurisdiction and jurisdiction do not differ from each other, and their differentiation requires fundamental research. The reason is that the rules regarding jurisdiction and jurisdiction in courts differ somewhat in conducting investigations in criminal cases. For example, rules on jurisdiction in courts are normative, in which the type of dispute determines to which court it belongs. And jurisdiction in courts presupposes a distribution over which court instances to consider a clearly defined competitive dispute.

Although these rules related to jurisdiction and affiliation in the implementation of preliminary investigation and inquiry in criminal cases are enshrined at the procedural level, based on the existing rules in this regard, we considered it necessary to give them the following definitions.

The jurisdiction of criminal cases is the distribution of powers between the bodies conducting the preliminary investigation or inquiry, depending on the nature of the crime, the place of its commission, as well as the subject of the crime. In a broad sense, this is an institution of criminal procedure law that determines which body or official is authorized to investigate a specific criminal case. Investigative affiliation is determined by: subject (species) - by types of crimes; territoriality - by the place of the crime or the location of the suspect, accused, witnesses; personal - by the subject of the crime (for example, military personnel, minors, law enforcement officers).

The jurisdiction of criminal cases is an organizational and procedural institution that determines which level of body (district/city, regional, central apparatus) in the internal investigation system should investigate a criminal case, which is not regulated by the Criminal Procedure Code, but in practice is determined by departmental normative acts (instructions, orders, regulations).

In addition, it can be observed that the jurisdiction of the investigation gives differences related to the use of mutually opposite words with the concepts in the courts, but according to the concepts established in the procedural order, we considered that these are the definitions corresponding to the current situation. In a broad sense, jurisdiction is an organizational and

procedural institution, not directly regulated by law, but determined by departmental orders, regulations, and instructions, indicating to which investigative body (district/city, regional, republican/central apparatus) the authority to conduct a case in criminal proceedings should be assigned.

Based on the complexity of a particular criminal case, the number of episodes, the nature and degree of social danger of the crime, the specialization of investigative bodies, as well as the practical resources and powers of higher investigative bodies, it determines by which level of investigator the case should be considered.

We can observe that the issues of jurisdiction of other bodies are resolved on the basis of departmental orders. For example, according to the "Instruction on the Procedure for Organizing Inquiry and Preliminary Investigation in the Internal Affairs Bodies of the Republic of Uzbekistan," approved by Order No. 100 of the Ministry of Internal Affairs of the Republic of Uzbekistan dated June 12, 2017, in the investigative units of the Internal Affairs Bodies, it is established which types of criminal cases (complex, multi-episode, etc.) are investigated by investigators of investigative units of regional or central subdivisions. At the same time, this instruction regulates many issues related to the organization of investigations, and this order even protects strict rules related to the procedural independence of investigators.

For example, paragraph 46 of Chapter 7 of the Instruction establishes that an internal investigation can be appointed against an internal affairs investigator only by the Investigative Department and an internal investigation can be appointed against him only with the signature of the head of the department, paragraph 45 establishes that an investigator and heads of investigations may be subjected to disciplinary action by order of the Minister of Internal Affairs of the Republic of Uzbekistan in agreement with the head of the Investigative Department, in all other cases, they are strictly prohibited from being subject to disciplinary responsibility, in territorial internal affairs bodies, they are subject only to internal order, and any case related to the investigator is carried out only with the participation of representatives of the investigators.

Today, many departmental issues arise in the activities of the newly created Department of the Prosecutor General's Office, the first of which is the jurisdiction of the investigation. There is also a need to adopt a regulation approved on the basis of an order of the Prosecutor General of the Republic of Uzbekistan (departmental order), which should regulate the organization of the investigation, guarantees of procedural independence, immunity, legal and social protection, incentives and disciplinary liability of investigators, the grounds and procedure for conducting an official investigation, and hundreds of other issues.

The adoption of this order and regulation will serve not only to establish internal regulations, but also to strengthen the guarantees of procedural independence of investigators of the Department of the General Prosecutor's Office in criminal cases. The reason is that the procedural independence of the investigator should be protected not only from external influences, but also from internal departmental influences.

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