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PRELIMINARY INVESTIGATION CONCEPT

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ANNOTATION: *Comments are made in this article to the definition of the preliminary investigation concept institute,the views of various scholars in this area are studied and analyzed.*

KEY WORDS: *preliminaryinvestigation, to initiate criminal proceedings,law, notice, application, decision.*

INTRODUCTION

In his speech on the occasion of the 27th Anniversary of the Constitution of the Republic of Uzbekistan, President Shavkat Mirziyoyev noted that the effectiveness of any democratic reforms, the main guarantee of peace and development is directly related to the Constitution and ensuring the rule of law, as well as providing respect for human rights and freedoms, respect for the dignity of every individual are an integral feature of the open, free and just society we are building.

Over the past three years, large-scale activity has been carried out in Uzbekistan to improve the judicial-legal sphere, and based on humanitarian principles,to ensure that no person's rights and freedoms, honor and dignity are violated and unjustly prosecuted for the act that he did not commit.In order to ensure the effectiveness of the reforms, activities on curbing crime and ensuring the inevitability of liability for criminal actsare important.At the same time, the analysis of preliminary investigation practice shows that there are systemic problems and shortcomings that hinder the effectiveness of the agencies carrying out these activities, which negatively affect the impartiality of the bodies that facilitate the detection of crimes.This, in turn, requires measures to be implemented for improving the preliminary investigation process.

The preliminary investigation concept is a relatively new concept in the criminal procedure law.However, its novelty is not due to the fact that this concept was not used in legal scientific publications or in the course of interviews with practitioners, but due to the Law of the Republic of Uzbekistan No. LRU 442 "On introducing amendments and addenda to certain legislative acts of the Republic of Uzbekistan"of September 6, 2017 and due to the fact that the adoption of the law has a new meaning.

In our opinion, it is necessary to know its lexical meaning in order to properly and fully understand the content of the preliminary investigation concept.There is no general concept of preliminary investigation in the explanatory dictionary of the Uzbek language.However, it is possible to know its lexical meaning by analyzing the words used in the vocabulary of this dictionary.

According to the Article 3202 of the Criminal Procedure Code: "The preliminary investigationincludes measures to verify statements,messages and other information about crimes, making decisions based on the results of their consideration, as well as measures to consolidate and preserve traces of crime, objects and documents that may be relevant to the case". In our opinion, there are a number of ambiguities in the preliminary investigationconcept in this provision of the Law, and to clarify them, we found it necessary to refer to the existing tariffs for preliminary investigationin the theory of criminal procedure legislation.

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In particular, U.T. Tadjikhanov notes that preliminary investigationis a multifaceted concept and the issue of instituting criminal proceedings, refusing to initiate it is resolved in the process of its implementation [16, p.18].

There is another concept forpreliminary investigation, in which it is emphasized that the registration of anapplication, report or other information about a crime and the conduction of certain investigative and procedural actions to determine the legitimacy and foundations for instituting criminal proceedings,based on the information obtained or identified, the decision-making process to initiate a criminal case or to refuse to initiate a case is understood [5].

According to D.M. Mirazov, the preliminary investigation is the initial stage of the criminal process, in which the application, report and other information about the crimes are examined and the issue of whether or not to initiate a criminal case is resolved.At this stage, the process of protecting the legitimate interests of citizens who have suffered as a result of a crime begins[15].

According to D. Kenjabayev, the preliminary investigation includes measures to investigate criminal applications, reports and other information, to make decisions on the results of their consideration, as well as measures to strengthen and preserve traces of crime, objects and documents relevant to the case. [10].

In our opinion, while the above considerations reflect the process by which scholars relate to the structure of the preliminary investigation phase, these views do not fully disclose the understanding of the nature of the preliminary investigation. In this regard, L.S. Mirza's opinion is noteworthy. Because, in his opinion, as a general rule, when a report of a crime is received and there are appropriate grounds, a criminal case should be initiated immediately (i.e. without preliminary investigation stage).At the same time, the author acknowledges that any report of a crime does not immediately lead to the initiation of a criminal case, and as a proposal to address the problem, he proposes to strengthen the law with a detailed list of procedural action taken during the preliminary investigation[12].

M.G. Kovaleva noted that the information obtained as a result of any action to determine the presence of signs of a crime in the crime report shall not be the basis, uncertainties in the legal nature of the incident must be the result of investigative actions before the investigation established by law [6].

In this regard, according to L.M. Volodina, "a hypothesis-based conclusion cannot be a sufficient guarantee for a decision to be made".According to V.G. Kosykh, "during the preliminary investigationperiod, it is not possible to obtain an information necessary to initiate criminal proceedings on the basis of this report, even if the applicant has provided all the details of the act" [9].Indeed, in this case it is necessary to at least identify the applicant, warn him of criminal liability for giving false information, which is an integral part of the preliminary investigation, as this activity determines the validity of the reason for instituting criminal proceedings.

In addition to most of the above considerations, it should be noted that during the preliminary investigationphase, information or evidence should have been collected only as a result of procedural actions carried out in the manner prescribed by law.

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