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Research Article

PROCEDURAL INDEPENDENCE OF THE INVESTIGATOR: MYTH OF REALITY?

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ABSTRACT

The article highlights the factors that led to a major restriction of the investigator's procedural independence as a result of a sharp growth in the number of procedural-administrative and procedural-control powers held by the chief of the investigative body.

One of these reasons is explained by the author's efforts to address the consequences from the well-known crisis of law enforcement agencies in the 1990s, which resulted in a decline in the quality of preliminary investigation. The second justification is connected by the author to the Soviet preliminary investigation's administrativeization and the assignment of traditional jurisdictional (judicial-investigative) powers to the executive authorities.

As a result, it is determined that the procedural independence of the investigator is merely another doctrinal illusion at the moment. It should be noted that the investigator's discretionary powers are actually limited to a minimum, and their potential use depends on the procedural omnipotence of the chief of the investigative body.

In conclusion, in light of the topic of this article the prospects for the further development of the preliminary investigation bodies are examined.

KEYWORDS

Pre-trial proceedings, powers of the investigator, preliminary investigation, procedural independence of the investigator, chief of the investigative body, investigator, status of the investigator.

INTRODUCTION

Questions regarding the prospects for the development of the legal status of the investigator as one of the primary subjects of pre-trial proceedings in a criminal case are currently of great relevance in light of the ongoing changes and additions to the criminal procedural legislation, constant fluctuations in the national criminal justice system, and numerous other developments. These questions are the subject of constant considerations and scientific discussions. Different viewpoints are expressed, ranging from the revival of the pre-revolutionary institution of forensic investigators to the total elimination of the preliminary investigation and its replacement by inquiry along the lines of the German or even the American model of organizing pre-trial investigation.

However, as was to be expected, moderate positions that expressed reasonable conservatism received the most support. These positions implied continuity with the Soviet model of preliminary investigation that was developed since the 1920s and assumed the most effective application of the legacy of the Soviet criminal procedure school and the well-tested provisions of Soviet criminal procedure law. Modern scientists, in particular, do not yet run the risk of entirely abandoning the long-established postulate of the investigator's procedural independence, a well-known legal phenomenon with roots in the pre-revolutionary paradigm of preliminary investigation. This postulate has never raised any particular doubts, was perceived [5, p. 55; 7, p. 98; 15, pp. 53–54, etc.] and continues to be perceived [3, pp. 41; 8, p. 15; 17, p. 28; 24, p. 170, etc.] by the overwhelming majority of procedural scientists as a matter of course. Only those who support a total rejection of the national model of the criminal procedure in general and the investigative style of pre-trial proceedings in

Materials and research methods. In accordance with the meaning of the law, procedural independence can be defined as one of the legal conditions inherent in the status of an investigator, which implies a significant degree of legal freedom in terms of exercising the discretionary powers granted to him in a criminal case in his production. In other words, this condition is expressed in the ability of the investigator to independently carry out any investigative (other procedural) actions, make a variety of procedural decisions, assess the strength of the evidence, establish legally significant facts, exercise other state powers and take personal responsibility for their proper execution. Certain procedural actions and decisions that require coordination with the chief of the investigative body or judicial authorization (sanction) are only cases directly established by law regarding the restriction of the procedural independence of the investigator. And it is because of this requirement that the legislator intended that the status of the investigator should favorably differ from that of an inquiry officer, who plays a similar procedural role as a participant in pre-trial procedures.

The procedural independence of the investigator also starts to appear rather conditional, largely depriving its owner of full jurisdictional legal personality, in light of the excessively broad range of issues related to the exclusive jurisdiction of the dominant participants in criminal proceedings in terms of their legal status - the court and the chief of the investigative body. The administrative and control duties of the chiefs of investigative bodies at various levels are currently dealing a particularly concrete blow to the procedural independence of the investigator; it is they who most seriously restrict the freedom of use of discretionary powers by investigators.

particular have objections to make.

As previously mentioned in the author's earlier publications, after being re-leased from prosecution dependence as a result of the well-known reform in 2007 Russian investigators fell into an even greater dependence on their direct, particularly immediate superiors [20, p. 96]. And as observed in the Republic of Uzbekistan, the dependence of the investigation and inquiry bodies is only on the basis of the authority specified in the Criminal Procedure Legislation. The current version of the Criminal Procedure Code of the Russian Federation (CPC RF) significantly burdens the procedural independence of "ordinary" investigative workers through the mechanisms of departmental control and procedural guidance. The legislation, in particular, mandates that investigators discuss several procedural choices with their Chiefs. In turn, the Chief is empowered to give written directions that are legally binding on investigators, remove them from a criminal investigation, revoke their decisions, etc. In this regard, it would appear that the chief of the investigative body, who has full investigative authority and is endowed with a sizable amount of procedural powers and is only legally constrained by the mechanisms of preliminary and subsequent judicial control, should be regarded as a truly independent subject of pre-trial proceedings instead of the investigator. In Uzbekistan, the prosecutor serves as an independent subject of pre-trial proceedings. The investigating authorities approve and coordinate the procedural acts with the prosecutor.

The role of an investigator in such circumstances is similar to that of inquiry officer. Therefore, some experts believe that these participants in criminal proceedings are almost identical, they evaluate the investigator as a more qualified inquiry officer [11, p. 330]. Or in general they propose to combine inquiry and preliminary investigation into a single form of pre-trial investigation, which implies a unified procedural

status of the subjects carrying it out [19, p. 47]. In Uzbekistan, there are some distinguishing features between an interrogating officer and an investigator. It is possible to divide them according to the terms adopted by the procedural documents, the powers, the jurisdiction of the investigation of criminal cases.

However, the procedural independence of the investigator undergoes in the real conditions of law enforcement practice the most significant burdens, the most serious administrative and managerial control. In fact, it is reduced to the absolute omnipotence of the heads of the investigative bodies and the complete obedience of their subordinates (the investigators themselves), who have actually been turned into weak-willed and uncomplaining performers. For a number of reasons, internal organizational rules have prevailed in the preliminary investigation bodies, suggesting the need for coordination with the authorities of any more or less significant act (even if, in accordance with the law, such coordination is not required). This means, putting almost every procedural step of the investigator under strict control, every action taken by him or decision made.

A.V. Milikova, the student of the author of this article, conducted her Ph.D. thesis focused on the issues surrounding the investigator's independence when making choices or working with other criminal procedural bodies of preliminary investigation.

Hence, 68% of the investigative workers who were interviewed made it obvious that they repeatedly encountered need to unofficially coordinate their decisions with the chiefs of investigating bodies at various levels in their practice [13, C. 87]. By the way, it is very likely that, for obvious reasons, not all of the respondents interviewed by her answered the question accurately, and therefore, in reality, the

suggested amount could well have been considerably higher. The information gathered by I.A. Nasonova and N.A. Morugina during the interview with investigators from one of the regions of the Central Chernozem region has just as much empirical significance. When asked about appealing against the instructions of the head of the investigative body, 45% of the respondents answered that they had never done this because it is un-ethical behavior, 25% - made it clear that they did not want to enter into any conflicts with the authorities, another 45% - indicated that they had full confidence in the leadership, only 5% of the respondents reported that at least once in their practice they raised objections to such instructions [16, p. 9].

How can the current process for the exercise of the preliminary investigation bodies' powers, which involves the almost total omnipotence of the chief of the investigative body, be explained? What is the cause of the declining perception of the investigator's procedural independence?

These questions aren't that difficult to answer, either! There appear to be two valid causes for the constraints on the investigator's procedural independence that are now being observed.

I. Without a doubt, the first of these causes is directly connected to efforts to address the effects of the well-known crisis of the preliminary investigation bodies that occurred in the 1990s and, as a result, to enhance the caliber of investigative activities, minimize errors made, instances of individual rights violations, etc. In fact, there is still a shortage of experienced specialists in the territorial and specialized investigative units of the Investigative Committee of the Russian Federation, the Federal Security Service of Russia, and the Ministry of Internal Affairs of Russia; "Ordinary" investigative positions are typically filled by young people who have recently received a legal education

(sometimes still only studying at senior courses in law schools), whose average age does not even reach 30 years.

It goes without saying that most of the time, such personnel simply lack the qualities required for the proper use of state power in the area of criminal justice. They lack the necessary competence, legal awareness, and legal understanding, as well as the necessary professional and life experience to properly evaluate evidence or a legally significant fact, make the most rational law enforcement decision in the context of the current investigation, etc. Therefore, the reasonable use of procedural-administrative and departmental-control levers, which are in the arsenal of more experienced chiefs of investigative bodies, undoubtedly brings certain benefits, leads to positive results, and allows improving the quality of the preliminary investigation.

Furthermore, for the same reason, pragmatic procedural scientists actively support the idea of limiting the procedural independence of the investigator, and believe that the legislative actions taken in this direction have been quite successful in ensuring the legality of pre-trial proceedings in general and the preliminary investigation in particular [14, p. 128; 21, p. 376; 26, pp. 9–10]. For instance, B.Ya. Gavrillov cites numerous statistical data in his publications to demonstrate the great practical benefits of introducing into the sphere of criminal procedure regulation the figure of the chief of the investigative body as a special subject with a wide range of control and administrative powers [1, pp. 123–124; 6, pp. 35–44].

Yet, it is also evident that such actions are not intended to be long-term solutions, but are aimed at solving a momentary problem, figuratively speaking, at "emergency plugging holes." After all, the current state

policy, which is demonstrated by placing investigators under such procedural guardianship on the part of the authorities, by providing them with ongoing external insurance against the risk of making their own mistakes, and by absolving them of responsibility for their actions and decisions, will never permit the development of an appropriate investigative and personnel potential, to cultivate the personal and professional qualities of “ordinary” employees of the preliminary investigation bodies to a level that allows them to independently (without the help of “wise” and more experienced leaders), but at the same time effectively and competently exercise discretionary powers in the field of criminal justice .

In this regard, it would be wiser for the state to review the current approaches to the order of pre-trial proceedings, gradually changing the legal requirements for the work of the preliminary investigation bodies and placing a confident bet not on the “weak” and reliant on the leader, but on the “strong” and independent investigator - a highly educated, competent in his field, and responsible lawyer with the proper level of legal awareness, legal understanding, and legal understanding, professional and life experience, aware of the risks and negative consequences of improper use of discretionary powers, etc. It appears that only these guidelines will be able to preserve the traditional pre-trial procedures and preliminary investigations for the national model of criminal justice, in addition to promoting the productive growth of the investigative apparatus and its gradual exit from the protracted crisis. Furthermore, the notions of a “strong” investigator that first surfaced more than 150 years ago have been put to the test in practice and have proven to be viable; as a result, many procedural scientists have consistently supported them [15, pp. 52–57; 22, p. 310; 27, S. 134 and others]. By the way, they were the ones

who originally established the Concept of Judicial Reform in the RSFSR , which noted, among other things, the unacceptability of investigators' procedural subordination to administrative chiefs and the inadmissibility of giving the latter the authority to administer and control procedural matters, including the authority to review decisions made by investigators.

Otherwise, the existence and development of preliminary investigation mechanisms will simply lose all meaning while maintaining current approaches, which imply an all-consuming procedural guardianship of “weak,” unprofessional, inexperienced, irresponsible, and frequently abuse-prone personnel. And the investigators themselves, sooner or later, will finally turn into technical assistants to the chiefs of investigative bodies, completely devoid of jurisdictional legal personality and, thus, able to do without a higher legal education, not worthy of filling positions, involving the assignment of an officer rank.

II. There is another reason that influenced the limitation of the procedural independence of the investigator. This explanation, in contrast to the first, is less obvious and has a deeper significance: in order to comprehend it fully, one must be thoroughly familiar with the evolution of the country's criminal justice system over the last 100 years. And because the concepts it specified for the creation and operation of the preliminary investigation bodies have been so deeply ingrained in the criminal justice system, any improvements in this area appear to be incredibly confusing and challenging.

So, these tendencies started in the early 1920s. They have a direct connection to the gradual administrativeization of the criminal justice system in the Soviet Union, which was driven solely by political considerations and involved the delegation of

traditional jurisdictional (judicial-investigative) powers to executive and administrative bodies, particularly to “power” departments. These trends were a direct result of the well-known cataclysms of 1917, which brought about fundamental changes to the entire public administration system. These changes unintentionally affected the criminal justice system, the prosecutor's office, the preliminary investigation bodies, and the process by which they exercised their procedural powers. After all, the well-known Leninist phrase “All power to the Soviets” had already dictated it. [12, pp. 113–117] Even in the relatively abbreviated form that was present earlier, beginning in the 1860s, the paradigm of the new Russian and later the all-union society did not imply the principle of separation of powers. The latter, being fairly limited by the traditions of autocracy, was nevertheless characterized by relatively autonomous bodies and institutions of justice separated from other branches of government. And thus, despite the intentions of the Soviet government as a whole to preserve quite acceptable and well-tested pre-revolutionary mechanisms of criminal justice, they could no longer accurately reflect the previous model, which was built in the style of the classical French (Napoleonic) concept and suggested that the functions of the preliminary inquiry and justice are handled by enough independent courts. It is managed by judicial investigators, who work with the police's aid and under the prosecutor's office's supervision. Instead, the revolution's creation of the People's Commissariat of Justice (People's Commissariat of Justice), an executive and administrative body, placed the People's Courts, People's Investigators, and, later, People's Prosecutors under its direct control. It is not unexpected that the criminal justice system as a whole become heavily reliant on the executive branch (in the terminology of those years - on the state administration bodies). As Yu.V. Derishev, such a dependence was generally

characteristic of all legal institutions of that time [10, pp. 29–30].

These advances allowed Soviet investigators, who possess full jurisdictional legal individuality, to assume the role of traditional officials and become common members (or “small crew”) of the expanding state bureaucracy. By the way, this is the exact reason why any subsequent, even major, changes to the preliminary investigation bodies were, if not wholly necessary, then at least completely comprehensible and expected. The well-known decision on the transfer of the preliminary investigation bodies from judicial jurisdiction to the prosecutor's office (1928), for instance, was the result of lobbying by A.Ya. Vyshinsky and his like-minded individuals and was frequently criticized by many contemporary authors. However, the decision actually had an organizational and regular character in many respects. Such a reform actually amounted to little more than the transfer of the investigation machinery from one “head office” to another because both the courts and the prosecutor's office were part of the system of a single authority - the People's Commissariat of Justice. If the state had already chosen the route of giving the function of preliminary investigation to one executive and administrative body, then what prevented it from giving the same functions to other similar bodies? This can also explain subsequent steps aimed at the formation of investigative units of the NKVD of the USSR (1938) and the Ministry of Internal Affairs of the USSR (1963).

As a result of the administrativeization of the preliminary investigation bodies, they have become characterized by a special bureaucratic climate, a bureaucratic atmosphere and a kind of “ministerial” mentality. They began to form and work in the likeness of the classical bureaucratic bodies of executive

power; they were characterized by strict managerial verticals, division into main departments, departments, units etc. and, according to territorial and sectoral principles, the hierarchy of powers, the obligation to follow the instructions of the authorities, the coordination of the most important decisions with the leaders of different levels, in particular, the endorsement of relevant documents, etc. And therefore, in 1965, the criminal procedure law in force at that time was quite naturally and expectedly supplemented by a group of new provisions defining the status and powers of the chief of the investigative department as a special entity designed to carry out procedural management of the work of subordinate investigators and departmental control over their activities. (Article 127.1 of the Code of Criminal Procedure of the RSFSR of 1960) . These new provisions defining the status and powers of the chief of the investigative department as a special entity designed to exercise procedural guidance on the work of subordinate investigators and departmental control over their activities were eventually reflected in the criminal procedure codes of Central Asia, including the criminal procedure code of the Republic of Uzbekistan.

Thus, the modern bodies of preliminary investigation resemble not so much the classical institutions (as they said before the revolution, the establishment) of justice, but the structural divisions of the executive authorities. Their bureaucratization is evident, among other things, in the widely accepted written and unwritten rules of internal order. For instance, the monograph by V.S. Status and A.A. Liquid outlines the typical mode of operation of the regional investigative department of the internal affairs bodies in 2000, which includes ongoing working meetings, reports from investigators on their work, weekly planning, and numerous other similar events of a purely “ministerial”

nature [23, pp. 35–40]. Yu.A. Tsvetkov, speaking of a certain corporate (read, bureaucratic) ethics of the Investigative Committee of the Russian Federation, writes that investigators often have to be at the workplace of the moment that their bosses are at the workplace [25, p. 164]. The author of this article, who once worked in the preliminary investigation bodies of the Main Department of Internal Affairs of Moscow, and now keeps close contact with criminal justice officials, is also familiar with many aspects of how modern investigative units operate, indicating their inherent “ministerial” mentality and the fact that they generally operate in a bureaucratic environment. For example, there is an unwritten obligation to go to work on “free” Saturdays or Sundays, especially in cases where the immediate supervisor is present at the workplace. Also, there is an unwritten order or even written that any documents coming from the investigator must be coordinated with the management, etc. The Republic of Uzbekistan is likewise experiencing this tendency. Tasks beyond the scope of their authority are privileged, and this is reflected in the timing of the criminal case investigation.

Given these facts, it seems so weird and ludicrous that theories on the investigator's procedural independence no longer devalue in practice. After all, if a criminal justice representative is required to be guided in his actions by the law and legal consciousness (in the context of the standards for evaluating evidence, by the law and conscience), then an official's primary guideline is a instruction, assignment or order of the superior. The administrative activity of a regular “ministerial” employee is much more constrained and frequently amounts to nothing more than creating a draft of the pertinent legal act of management (another document) and submitting it “for signature.” This is in contrast to the relative

procedural freedom that the implementation of traditional investigative functions should entail. Ordinary officials' employment is primarily of a purely technical nature, connected to office work and document flow, whereas traditional investigators are full-fledged subjects of criminal proceedings.

Since neither scientists nor legislators even considered the need to formally strengthen administrative and control mechanisms that limited the freedom of implementation by "ordinary" investigative workers and provided them with discretionary powers, the procedural independence of the investigator actually started to decline long before the reform of 2007 was implemented. A. N. Ogorodov is correct when he states that there cannot be actual independence of subordinates and afterwards their independence in a system based on relations of power and subordination [17, p. 32].

By the way, the presented concept is shall be confirmed with various empirical data. In instance, the aforementioned A.V. Milikova was able to conduct interviews with several individuals who served in the preliminary investigation bodies in the 1980s and early 2000s as part of her dissertation study. The most significant procedural decisions were routinely distributed over the course of the stipulated time period by way of written or, at the very least, oral coordination with the chiefs of the investigative divisions (in special cases, even with the chiefs of the investigative departments): on the initiation of a criminal case, on the involvement as an accused, on the termination of a criminal case, an indictment, etc. She also identified some archival investigating actions for the same period, signed by investigators and endorsed by the directors of the relevant investigative agencies [13, p. 92]. Similar incidents were repeatedly observed by the author of this article during his service in the

preliminary investigation bodies. Hence, in the second half of the 1990s, in the Investigation Department of the Main Department of Internal Affairs of Moscow (later - in the Main Investigation Department under the Main Department of Internal Affairs of Moscow), there was a practice of mandatory written coordination with the chiefs (with supervising deputy chiefs) of departments of any investigative acts, subject to reflection in the certificate attached to the indictment; an exception due to understandable reasons was allowed only in part of the protocol for the detention of a suspect. In addition, all outgoing documents requiring official registration in the office and (or) certification with an imprint of the official seal were subject to written agreement with the management: inquiries to state authorities, cover letters to higher investigative bodies, to the prosecutor's office, notifications from the administration of pre-trial detention centers on the extension of detention periods, etc. - otherwise, the office staff simply refused to register such documents and (or) certify them with a seal. Along with this, the signature of the chief (supervising deputy chief) of the department was required on all documents subject to approval or authorization by the prosecutor: on decisions to place a person in custody, to conduct a search, on indictments, etc.; if the sanction of a higher prosecutor was required (for example, if it was necessary to significantly extend the period of preliminary investigation or the period of detention of the accused), then the corresponding decision was subject to written approval by the chief of the department, and in especially difficult cases - with the Deputy Minister of the Interior Affairs of the Russian Federation - Chief of the Investigative Committee of the Ministry of Internal Affairs of Russia. And this is true despite the fact that the author of this article, who worked for the regional investigative unit, received some administrative favors, whilst the investigators of some

lesser district departments and district offices were required to go through a lot more of these permissions.

In the Republic of Uzbekistan, where this approach is also used, law enforcement officials coordinate each of their operations with their superiors. In addition, the beneficial practice known as “Ustoz-shogird,” which is literally translated as “Mentor-student,” has also developed in Uzbekistan. Senior and knowledgeable law enforcement officials frequently serve as mentors. All bodies engage in this practice. And in the places also this practice is applied. The absence of this practice has resulted to a low level of qualification skills of the personnel of the preliminary investigation bodies, including due to the absence and / or breaking of the “mentor-student” chain.

What is more, the consolidation of the exclusive powers of the investigator in article 36 of the Code of Criminal Procedure of the Republic of Uzbekistan is supported by the prosecutor's office and the court. This is promoted in the preliminary investigation bodies more widely than the procedural duty of the investigator, enshrined in the third parts of Articles 22-23 of the Code of Criminal Procedure of the Republic of Uzbekistan [28, Art. 22-23] If there are any questions about a person's guilt, the investigator frequently exhibits an accusatory bias and eliminates any remaining unsalable doubts in favor of the accused. This is because an employee of the preliminary investigation bodies is exempt from the requirement to identify and take into account the circumstances that justify the accused and/or mitigate his responsibility.

As a result, not only are the essential principles of the legality and admissibility of evidence not guaranteed, but they are also broken, as stated in Article 95 of the Code of Criminal Procedure of the Republic of

Uzbekistan. This, in turn, determines the subjective reason for the existing low quality of the work of the investigation and the revision of the approved indictments in the courts, which the President spoke about in his speech [28. Art. 95].

The institution of administrative subordination obliges the investigator to “ob-serve the rules of the game” and corporate ethics. A similar territorial subordination within a particular territory to the higher leadership and the prosecutor of a particular region of the country artificially limits the “remains” of objectivity in the work of the investigator.

RESULTS OF THE RESEARCH

In conclusion, it should be acknowledged that the procedural independence of the investigator is currently nothing more than a beautiful doctrinal myth! In practice, the investigator lacks procedural independence, and the discretionary powers at his disposal are actually severely limited by long-standing “ministerial” traditions of investigative work, departmental control, and established procedural guiding systems. This indicates that the chiefs of investigating bodies at different levels have practically total omnipotence and demoting regular employees (investigators, senior investigators, senior investigators for very important cases, etc.) to the status of regular state bureaucratic representatives. Therefore, the well-known transformations of the procedural legislation of 2007 should not be perceived as something strange and unusual, as a kind of act of law-making voluntarism. Actually, by taking this action, the legislator merely removed some long-standing customs of official contacts between investigators and their superiors from the “gray zone,” legally acknowledged them, and effectively made them legitimate. While the positions of scientists who genuinely care about the future of the country's pre-

trial system, while also calling for an expansion of the investigator's independence only through changes to the Code of Criminal Procedure of the Russian Federation, particularly a formal reduction in the administrative and control powers of the chief of the investigative body [4, C 38–39], do not, on the other hand, conform to such traditional views.

The creation and implementation of a fundamentally different concept of investigative power, which more closely aligns with the "judicial" paradigm of the design and operation of the executive and administrative bodies of the state than the "ministerial" paradigm, appears to be the only way to ensure the true (not declared, but genuine!) procedural independence of the investigator. Only in this situation would the preliminary investigation system in Russia and Uzbekistan be able to gradually shed its inherent bureaucracy, including the chiefs of the investigating bodies' near-total power.

DISCUSSIONS AND CONCLUSIONS

What ought to these approaches be? Is it worth reformatting the entire system of investigative power, replacing the existing police and paramilitary-style preliminary investigation bodies with fundamentally new institutions to be created in the image of the judiciary? Or, perhaps, it would be wiser to maintain the currently prevalent structure for organizing investigative activities and establish a lone preliminary investigation body (for instance, based on the Investigative Committee of the Russian Federation), drastically altering the tenets upon which it is built and operates?

And in general, is worrying about the procedural independence of the investigator really required in the circumstances of contemporary Russian reality? It might be much more logical to give up on these notions

entirely, abolish the preliminary investigation as a type of preliminary investigation that is "unprofitable," and fully transfer the pertinent functions to the jurisdiction of the bodies of inquiry, who would then exercise their authority under the supervision of the prosecutor. In other words, why not follow the example of some post-Soviet States and adopt the German model of pre-trial proceedings?

The answers to these questions seem to be extremely complex, ambiguous and clearly beyond the scope of the scientific problems to be covered in this article. A clear, harmonious, and well-considered perspective concept for the development of the national system of pre-trial proceedings must exist before further changes to preliminary investigation bodies in general and the legal status of the investigator in particular can be considered reasonable and productive, which is currently simply not seen in practice.

Furthermore, any such reforms (if they are deemed necessary) should start with a revision of the current unfair practices in the training and education of investigative personnel rather than with new organizational and staff changes in the system and structure of public authorities authorized to conduct preliminary investigations and not with regular changes and additions to the criminal procedural legislation. After all, as was already mentioned, only highly educated, responsible lawyers who possess all the required skills and traits can effectively exercise their discretionary powers in the area of criminal justice. Thus, such changes ought to start with a change in the educational policy in the area of preparing investigators. The development of legal awareness, legal understanding, a sense of responsibility, and other crucial qualities of a law enforcement officer must be prioritized over increasing attention to physical culture, shooting, drill,

and special training, among other things. At the very least, it is necessary to stop training future investigators as law enforcement officers.

Although these skills and abilities are very useful, they shouldn't be developed at the expense of professional competencies in the field of law, which are so lacking for graduates of many specialized universities. After all, the main purpose of an investigator in a criminal procedure is not to run quickly, to be excellent at hand-to-hand combat, or to shoot accurately.

The main reassignment of the investigator should still be in the proper implementation of law enforcement activities, in the qualitative investigation of criminal cases through the competent use of jurisdictional powers aimed at ensuring the possibility of forming the position of the state prosecution for subsequent trial. Otherwise, the phenomena of the investigator's procedural independence will become meaningless.

In Uzbekistan, changes are being made to the way the preliminary investigation bodies operate by establishing a new, independent law enforcement agency called the State Investigation Service (SIS, or "Davlat tergov hizmati" in the Uzbek language) with the associated institutional divisions. By way of comparison with the Prosecutor General's Office of the Republic of Uzbekistan, it is proposed to give the Senate of the Oliy Majlis of the Republic of Uzbekistan responsibility for the State Investigation Service. At the same time, appointment to the position of a senior and second manager is possible at the proposal of a candidate directly by the President of the Republic of Uzbekistan and is subject to mandatory approval for the position by the relevant act of the Oliy Majlis of the Republic of Uzbekistan.

It is possible that the State Investigation Service's divisions will specialize in particular types of criminal

cases, taking into account the particulars of the operations of law enforcement agencies and types of crimes, but not to the level of the regional division, and that these divisions will also incorporate their own expert institution into the State Investigation Service's organizational structure. A permanent team of experts, auditors, and other specialists can and should be provided in this expert institution at the same time, with funding coming from budgetary sources and additional reimbursement of state costs for experts at the expense of court costs allowed by law, subject to resolution upon the announcement of the sentence, including an acquittal in accordance with Article 457 of the Code of Criminal Procedure of the Republic of Uzbekistan.

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