



FOREIGN EXPERIENCE IN INTERACTION AT THE PRE-TRIAL STAGE

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***Annotation.** In this article, the author examines the experience of interaction between law enforcement agencies at the pre-trial stage, in particular in the countries of the Commonwealth of Independent States. The author provides a detailed analysis of the mechanisms of interaction between the participants in the process, as well as modern trends in the digitalization of this interaction. The leading experience of developed countries is highlighted, and recommendations are provided for their implementation into national legislation. Proposals and recommendations are formulated to optimize domestic pre-trial proceedings, aimed at reducing the duration of investigations and strengthening guarantees of the rights of participants in the legal proceedings.*

***Keywords:** criminal procedure, interaction, digitalization, pre-trial proceedings, comparative analysis, investigator, police.*

***Аннотация.** В данной статье автор исследует опыт взаимодействия правоохранительных органов в стадии досудебного производства, в частности, стран Содружества независимых государств. Автором подробно рассматриваются механизмы взаимодействия участников процесса, а также современные тенденции цифровизации взаимодействия. Отмечается ведущий*

опыт развитых стран и даются рекомендации по их имплементации в национальное законодательство.

Сформулированы предложения и рекомендации по оптимизации отечественного досудебного производства, направленные на сокращение сроков расследования и усиление гарантий прав участников судопроизводства.

***Ключевые слова:** уголовный процесс, взаимодействие, цифровизация, досудебное производство, сравнительный анализ, следователь, полиция.*

It is worth noting with recognition that foreign criminal procedural norms contain many valuable scientific ideas that are useful to discuss within the framework of domestic legal doctrine. Specifically, an analysis of foreign experience in organizing the activities of pre-trial proceedings bodies allows for a better understanding of the domestic approach to their design, helps to identify strengths and weaknesses, and determines how well it complies with modern international standards for the protection of individual rights and freedoms¹. Furthermore, we should agree with the opinion of domestic scholars who have studied foreign experience in the organization and professional training of personnel and who note that the task of combating crime cannot be accomplished without knowledge and consideration of the practical experience in organizing and operating the police systems of the world's leading countries².

¹ For example: Trefilov A.A. Organization of pre-trial proceedings under the Criminal Procedure Code of Switzerland in 2007. The abstract. diss. ... kand. jurid. nauk. M., 2014.

² See: Dirlabo Karimova The socio-legal significance of the interaction of pre-trial authorities in the detection and investigation of crimes // ОИ. 2020. №3. URL: <https://cyberleninka.ru/article/n/sotsialno-pravovoe-znachenie-vzaimodeystviya-organovdebnogo-proizvodstvav-raskrytii-i-rassledovanii-prestupleniy> (date of reference: 02/08/2025).; Yakubov A.S., Mirazov D.M., Assiamov S.V., Tajiev A.A. Police of foreign countries: organization system and experience professional training of personnel: A textbook. – T., 2010. – p.3.

According to S.N. Gordeev, who is rightly stating that although foreign states have different levels of development, traditions, infrastructure, and other specific features that give their police forces a unique character, there are also objective prerequisites for applying foreign experience, since Uzbekistan, like other countries, has to address many similar problems in the fight against crime³.

Surely, the organization of preliminary proceedings in a criminal case (before the case is submitted to court) varies extremely widely across different states. The fundamental difference is already inherent at the level of whether a state belongs to the Anglo-Saxon or continental legal system, with an adversarial or mixed type of criminal procedure. In global criminal procedure, two historically established models of pre-trial proceedings are distinguished: the unitary European (Romano-Germanic) model and the federal (Anglo-Saxon) model, which differ qualitatively in terms of their structure and functioning within the state's law enforcement mechanism, the specifics of regulatory framework, and the level of integration of investigative and adversarial principles into the procedures and organizational structure⁴. Within the framework of a single type of process, approaches to the forms of pre-trial investigative activity and the filing of charges differ significantly.

In Russia, pre-trial proceedings historically developed under the influence of the investigative principle and were characterized by written documentation and detailed regulation of the procedure. According to Yu.V. Derishev, "the need to examine a criminal case 'prima facie' is

³ Gordeev S. N. On the search for persons who have fled from the authorities of justice (foreign experience) // Bulletin of the Academy of MIA of the Republic of Uzbekistan. 2012. No. 3. Pp. 84–87.

⁴ See, for example: Obolkina A.V. Models of preliminary (pre-trial) proceedings in criminal cases: a comparative legal analysis: abstract of a candidate's dissertation, Moscow, 2005, p. 7.

predetermined by the specific conditions of Russian criminal proceedings: first and foremost, by the geographical and demographic characteristics of the country, as well as by the complexities of a socio-political and economic nature that objectively limit prompt access to justice and require a mandatory pre-trial examination of the circumstances of the case, a kind of ‘conservation’, the preservation of evidence ‘before and for the court’⁵.”

Russian pre-trial criminal proceedings represent a prototype of the continental model with a clear procedural order and separation from the judiciary. Its uniqueness lies in the presence of a stage for initiating a criminal case and the non-judicial nature of the investigative bodies. In our view, Russia’s experience in organizing interaction between the police and the public is interesting. The Russian Federation Law “On the Police” has defined the prospects for developing the relationship between the police and civil society. The law contains a number of conceptual ideas, including: establishing a partnership model of relations between the police and society; ensuring civil society’s oversight of the police’s activities; and establishing a new image of law enforcement officers. The “partnership model” is characterized by increased cooperation between both parties. The prospects for such strengthening lie in the legislative definition of rights and obligations, the consolidation of the legal status of the police officer in addressing issues of interaction, and the release of the department from functions that are not inherent to it or that duplicate others. The mechanism for implementing the principles of interrelations includes ensuring public trust and cooperation with

⁵ Derishev Yu. V. Criminal pre-trial proceedings: the concept of procedural and functional-legal structure: dis. ... doctor of law. sciences'. Omsk, 2005. P. 381

citizens, establishing public oversight, monitoring police activities, citizens' participation in the implementation of state policy, the police's participation in the development and review of concepts, programs, and initiatives of public associations and citizens, and discussing issues related to police activities in the media. The foundations of interaction and cooperation between the police and civil society institutions, as well as in the legislation of our country, are defined by the relevant article of the Russian Federation Law "On the Police," which states that when performing its duties, the police interact with public associations and citizen organizations, make use of their capabilities, assist public associations and organizations in ensuring the protection of citizens' rights and freedoms, and support the development of civic initiatives.

It should be noted that the two-stage nature of criminal proceedings was first enshrined in the Criminal Procedure Code of the Russian Federation, which divided criminal proceedings into two stages — pre-trial and trial proceedings (clause 56 of Article 5 of the Criminal Procedure Code of the Russian Federation). Thus, the law confirms that the Russian criminal process is structured according to the European (continental or French) type, where preliminary proceedings, as well as judicial proceedings, are strictly regulated by the criminal procedure law. This division has developed historically, in accordance with the laws of the theory of cognition. Before reaching the judge's desk, every crime undergoes preliminary investigation in order to form an image of the event that has occurred and to convince the judge of the involvement of a specific person (or persons) in the act. Since pre-trial proceedings not only precede the judicial stages but also support them, creating the foundation for the trial, an examination of their essence and legal nature

— which will be discussed in the next section — makes it possible to understand the patterns and procedural features. For most CIS countries, there is a tendency to abandon the legacy of the Soviet criminal procedure. For example, the criminal procedural legislation of Ukraine, Georgia, Estonia, Moldova, and Kazakhstan does not include a stage for initiating a criminal case in the traditional Russian sense and does not divide the preliminary investigation into inquiry and preliminary investigation. For example, Article 179 of the Criminal Procedure Code of the Republic of Kazakhstan recognizes the registration of an application or report of a criminal offense in the Unified Register of Pre-Trial Investigations or the first urgent investigative action as the starting point of a pre-trial investigation. If there is insufficient data indicating signs of a crime, the circumstances are subject to non-procedural verification (Article 185 of the Criminal Procedure Code of the Republic of Kazakhstan)⁶.

According to Article 193 of the Criminal Procedure Code of the Republic of Estonia, the Estonian criminal procedure begins with the performance of the first investigative or other procedural action⁷.

In the Republic of Moldova, the start of the process is associated with a resolution to initiate criminal prosecution (Article 274 of the Criminal Procedure Code of the Republic of Moldova). At the same time, Moldovan procedural law contains an analogue of the Russian pre-investigation check — within 30 days, the sufficiency of data for criminal prosecution

⁶ The Criminal Procedure Code of the Republic of Kazakhstan (as of December 27, 2019). URL:http://mvd.gov.kz/portal/page/portal/mvd/mvd_page/mvd_norm_baza_current/mvd_norm_baza_zakon_upk_kaz.pdf.

⁷ The Criminal Procedure Code of the Republic of Estonia (as of January 1, 2020). URL: <https://v1.juristaitab.ee/sites/www.juristaitab.ee/files/elfinder/ru-seadused>.

is assessed, which is established based on reports of awareness or attesting acts⁸.

The start of a preliminary investigation in Ukraine (Article 214 of the Criminal Procedure Code of the Republic of Ukraine) is the entry of information about a crime into the Unified Register of Pre-trial investigations within 24 hours of receiving a report about a crime⁹.

Refusal to enter information into the register is not permitted. It is also worth noting that in the countries of the former union, a monopoly on the form of pre-trial proceedings is presumed. In some of them, a preliminary investigation is conducted in all cases (for example, Ukraine, Belarus, Kyrgyzstan); in others, inquiry is the only form of preliminary investigation (Moldova, Estonia, Georgia).

Recognizing the validity of the proposals formulated by scholars, one can turn to the experience of the reforms carried out in the criminal procedure legislation of some post-Soviet states. For example, the Criminal Procedure Code of the Republic of Kazakhstan provides for the institution of investigative judges (Article 55), who are responsible not only for considering complaints about the actions and decisions of officials of the preliminary investigation bodies and for authorizing certain investigative and procedural actions, but also for depositing the testimony of witnesses and victims. The latter authority ensures procedural economy, since the deposited testimony can be read out at the stage of court proceedings without summoning these persons to the court. Articles 190–191 of the Criminal Procedure Code of Kazakhstan regulate

⁸ The Criminal Procedure Code of the Republic of Moldova (as of January 1, 2020). URL: <http://lex.justice.md/viewdoc.php?id=326970&lang=2>. 32

⁹ Golovnenkov P., Spitsa N. Criminal Procedure Code of the Federal Republic of Germany: a scientific and practical commentary and translation of the law text. Moscow, 2012. P. 247

the procedure for conducting pre-trial investigations in an expedited manner, which makes it possible to optimize procedural deadlines.

Since March 2018, the Criminal Procedure Code of Ukraine has included provisions that complicate the procedure for extending the deadlines for pre-trial investigations and encourage investigators and interrogators to make the most effective use of the general deadlines established by law. These provisions help to enhance the guarantee of the right to a reasonable period of legal proceedings.

In accordance with Part 3 of Article 58 of the Criminal Procedure Code of Kazakhstan, the prosecutor has the right to personally conduct an investigation, exercising the powers of an investigator in the process. As can be seen, under the Criminal Procedure Code of Kazakhstan, the prosecutor not only oversees the legality of the proceedings but also directs the preliminary investigation, whereas under the Criminal Procedure Code of Ukraine, the prosecutor primarily performs a supervisory function.

For comparison, in the modern period, the function of prosecutorial supervision over the procedural activities of preliminary investigation bodies in the Russian Criminal Procedure Code is seriously imbalanced, as it varies depending on the form of investigation; moreover, the prosecutor is actually authorized to directly determine the start and direction of the investigation only in the case of conducting an inquiry.

Discussions about the scope of the powers of the investigator, the inquirer, the head of the investigative body and the prosecutor and the nature of the relationship between them can be resolved during the transformation of pre-trial proceedings, including taking into account foreign experience, including the abandonment of the stage of initiation

of criminal proceedings and the decision not to initiate criminal proceedings, the conduct of pre-trial cognitive activity (investigation) under the guidance of the prosecutor's office, the prosecutor's nomination of charges based on the results of the investigation, some expansion of judicial control in pre-trial proceedings (to consider petitions from participants who are not vested with authority, which were denied by the preliminary investigation authorities), the development of effective simplified and accelerated procedures in pre-trial proceedings¹⁰.

We fully support the view of L.N. Maslennikova and K.A. Tabolina¹¹ that an independent area for improving pre-trial proceedings should be the introduction of digital technologies, including establishing digital interaction between government bodies and the public via a single secure digital online platform (author's emphasis); and creating a mechanism for submitting crime reports via a special online service integrated into the said digital platform. Since the rationalization of criminal proceedings through the active use of digital technologies will make it possible to reduce excessive paperwork, save time, and avoid unjustified refusal to initiate, suspend, or terminate criminal cases, this, in turn, will ensure the rights of participants in the criminal process and citizens' trust in the justice system. To promote the adoption of information technologies, the organization of obtaining criminologically significant information in electronic form for making interim decisions must be changed. The priority should be to equip law enforcement officers with

¹⁰ See, for example: Vilkova T. Yu. Organization of pre-trial proceedings in criminal cases in Russia and abroad as a factor ensuring access to justice // Bulletin of the O. E. Kutafin University. 2020. No. 10 (74). Pp. 167–179. 11

¹¹ Maslennikova L. N., Tabolina K. A. Optimizing the prosecutor's supervision over the adoption of decisions ensuring access to justice in the context of the development of digital technologies // Legality. — 2019. — No. 7 (1017). — Pp. 18–22.

digital skills and knowledge and to ensure a genuine understanding of the opportunities that technologies provide¹².

Creative reflection and the use of foreign experience will make it possible to better understand contemporary problems and will enable the identification of patterns in the development of theory and practice that are difficult to discern without thorough analysis.

Reference:

Trefilov A.A. Organization of pre-trial proceedings under the Criminal Procedure Code of Switzerland in 2007. The abstract. diss. ... kand. jurid. nauk. M., 2014.

Dilrabo Karimova The socio-legal significance of the interaction of pre-trial authorities in the detection and investigation of crimes // OIL. 2020. №3. URL: <https://cyberleninka.ru/article/n/sotsialno-pravovoe-znachenie-vzaimodeystviya-organovdebnogo-proizvodstvav-raskrytii-i-rassledovanii-prestupleniy> (date of reference: 02/08/2025).

Gordeev S. N. On the search for persons who have fled from the authorities of justice (foreign experience) // Bulletin of the Academy of MIA of the Republic of Uzbekistan. 2012. No. 3. Pp. 84–87.

Obolkina A.V. Models of preliminary (pre-trial) proceedings in criminal cases: a comparative legal analysis: abstract of a candidate's dissertation, Moscow, 2005, p. 7.

¹² Karimova, D. (2022). The introduction of departmental electronic interaction in pre-trial proceedings is an imperative requirement of the time. Countering offenses in the field of digital technologies and issues of organizational and legal support for information security, 1(01), 296–303. Retrieved from https://inlibrary.uz/index.php/digital_technology_offenses/article/view/7511; For more details: Karimova, D. (2021). Improving the interaction between pre-trial proceedings bodies in the context of the development of digital technologies. YuristAkhborotnomasi, 2(2), 80-85

Derishev Yu. V. Criminal pre-trial proceedings: the concept of procedural and functional-legal structure: dis. ... doctor of law. sciences'. Omsk, 2005. P. 381

Golovnenkov P., Spitsa N. Criminal Procedure Code of the Federal Republic of Germany: a scientific and practical commentary and translation of the law text. Moscow, 2012. P. 247

Vilkova T. Yu. Organization of pre-trial proceedings in criminal cases in Russia and abroad as a factor ensuring access to justice // Bulletin of the O. E. Kutafin University. 2020. No. 10 (74). Pp. 167–179. 11

Maslennikova L. N., Tabolina K. A. Optimizing the prosecutor's supervision over the adoption of decisions ensuring access to justice in the context of the development of digital technologies // Legality. — 2019. — No. 7 (1017). — Pp. 18–22.

Karimova, D. (2022). The introduction of departmental electronic interaction in pre-trial proceedings is an imperative requirement of the time. Countering offenses in the field of digital technologies and issues of organizational and legal support for information security, 1(01), 296–303