



DEADLINES RELATED TO THE SUSPENSION AND RESUMPTION OF INQUIRY AND PRELIMINARY INVESTIGATION

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Abstract: This article examines the procedural time limits for suspending and resuming criminal cases during inquiry and preliminary investigation, their calculation, and the establishment of such time limits related to the suspension of investigation in some foreign countries. It also addresses the problems associated with these time limits in law enforcement practice. Additionally, the paper highlights issues related to the suspension and resumption of investigations under the current Criminal Procedure Code and develops proposals for their resolution.

Keywords: inquiry, preliminary investigation, suspension, resumption, procedural time limit, investigator, inquiry officer, prosecutor, petition, criminal case.

In order to further reform the judicial and legal system, strengthen guarantees for the reliable protection of citizens' rights and freedoms, as well as implement the State Program for the Action Strategy, the Law "On Amendments and Additions to Certain Legislative Acts of the Republic of Uzbekistan in Connection with the Improvement of the Inquiry Institute" was adopted. This law is considered one of the most important reforms implemented in recent years in the field of crime investigation.

With the introduction of the new inquiry institute, significant changes have been made in the system of procedural law. The scope of inquiry, the persons conducting it, and the established timeframes distinguish it from preliminary investigation. These differences clearly define the status and characteristics of inquiry.

In accordance with the current Criminal Procedure Code, inquiry is conducted for crimes that do not pose a great public danger and are not particularly serious. In such cases, the criminal case should be considered within one month from the date of its initiation, and, if necessary, may be extended by the prosecutor for another twenty days. The law does not provide for the possibility of extending this period further.

The timeframe for preliminary investigation and inquiry in criminal cases is one of the most complex aspects of criminal proceedings. Article 192 of the Criminal Procedure Code of the Republic of Kazakhstan stipulates that the preliminary investigation period shall not exceed one month, and the inquiry period shall not exceed two months. Additionally, the first part of the article establishes the requirement to complete the case within reasonable timeframes, taking into account the complexity of the investigative process, the volume of actions performed, and the need to clarify all the circumstances of the case. Furthermore, the average term is limited by the statute of limitations for criminal prosecution in the Criminal Code of the Republic of Kazakhstan.

In accordance with Article 162 of the Criminal Procedure Code of the Russian Federation, an initial two-month period is established for the preliminary investigation, which can be extended by the head of the investigative body for up to three months. If a preventive

measure in the form of detention is applied to a person, the extension of this period is carried out by the head of the investigative body at the level of the territorial subject of the Russian Federation (republic, region, autonomous republic), the head of an equivalent body, or their deputy.

The term of the preliminary investigation may be extended by the head of the investigative body of the subject of the Russian Federation for up to 12 months. In some cases, an extension for an even longer period may be permitted by the head of the Investigative Committee or the head of the relevant investigative body at the federal level. Thus, there is no strict limit on the duration of preliminary investigations in the Russian Federation.

According to Article 190 of the Criminal Procedure Code of the Republic of Belarus, the term of the preliminary investigation is set at two months. In accordance with parts two and three of this article, this period may be extended by the relevant prosecutors or heads of investigative units for up to 6 months. This approach is considered one of the most acceptable options.

Also, in exceptional cases, in accordance with part four, further extension of the term may be carried out by the Prosecutor General of the Republic of Belarus, the Chairman of the Investigative Committee, the Head of the State Security Service, or their deputies . This mechanism establishes strict control over investigations, places high responsibility on investigators and their supervisors, and prevents uncontrolled extension of investigation deadlines.

However, recently there has been a tendency to extend the terms of pre-trial proceedings through legislation. This process is manifested, in particular, by the introduction of provisions for the temporary suspension of criminal cases .

According to Article 351 of the Criminal Procedure Code of the Republic of Uzbekistan, the term of the preliminary investigation is three months, which can be extended to five months by the regional prosecutor, and to seven months by the Prosecutor General of the Republic or his deputies. The inquiry can be completed within one month, and if necessary, the prosecutor may extend it for an additional twenty days.

The preliminary investigation period is a fixed term, before the end of which the proceedings must be completed . The duration for conducting the preliminary investigation is not specified, however, this does not mean the investigation can be conducted indefinitely . The established period is extended even after the expiration of the statute of limitations if there are grounds within the statute of limitations for bringing criminal charges, or if the parties disagree with the decision taken to resolve the criminal case on its merits.

The adoption of a procedural decision to extend the term of the preliminary investigation is always associated with a certain degree of risk, the essence of which lies in choosing an alternative decision . It should be noted that the term of the preliminary investigation varies depending on the severity of the crime committed, the number of crimes committed, the number of victims or defendants, the difficulty of obtaining evidence, the need to conduct numerous and complex expert examinations, and other factors. These circumstances affect the decision to extend the preliminary investigation. In particular, handling complex criminal cases requires a longer period of time. When considering the issue of extending the term of the preliminary investigation, the investigator makes a decision on the extension or refusal to extend the term, the correctness of which is subsequently determined.

The preliminary investigation consists of several independent stages: conducting preliminary investigative actions; investigating the crime and exposing the perpetrator; indictment; completion of the preliminary investigation, including familiarization with the materials of the criminal case and drawing up final documents based on the results of the investigation of the crime.

The determination, calculation, and extension of inquiry and preliminary investigation periods hold significant importance in criminal procedural law. These processes directly impact not only the effectiveness of procedural mechanisms but also the protection of citizens' constitutional rights and freedoms.

The commencement of the preliminary investigation and inquiry period is marked by the decision to initiate criminal proceedings. The conclusion of this period depends on the following: transferring the case with an indictment to the prosecutor, referring it to court for the application of compulsory medical measures or reconciliation of parties, submitting a petition to the court to terminate the criminal case based on an amnesty act, or issuing a decision to terminate the case. During these processes, the inquiry and preliminary investigation period may be extended, suspended, and resumed.

The issue of extending the period warrants special attention, as it depends on time factors and grounds for extension. However, this process is constrained by two crucial factors: firstly, the statute of limitations for criminal prosecution, and secondly, the possibility of conducting a preliminary investigation even after the expiration of the statute of limitations at the parties' initiative.

In practice, the duration of preliminary investigations often depends on the number of suspensions, terminations, and reinstatements of the criminal case, leading to unjustified prolongation of the investigation. This, in turn, results in long-term inquiries or preliminary investigations that may last several years, yet are officially conducted within the legal time limits.

Specifically, the criminal case initiated by the Shaykhantakhur District Department of Internal Affairs against A.A. on December 21, 2021, under clause "a" of part four of Article 168 of the Criminal Code, was sent to court on September 29, 2022, 9 months later. The criminal case initiated against Kh.Sh. on November 15, 2022, under the same article and clause, was sent to court on April 5, 2023, almost 5 months later. The criminal case initiated against N.Kh. on May 1, 2022, under Articles 165, 168, and others, was sent to court on November 30, 2022, 6 months later with an indictment. During the examination of these criminal cases, decisions were repeatedly made to suspend and reinstate proceedings based on paragraph one of part one of Article 364 of the Criminal Procedure Code. Thus, a practice has emerged of conducting long-term investigations without extending the established deadlines as prescribed by law, instead suspending the case based on the aforementioned article and subsequently resuming it.

This practice is employed to avoid extending the investigation from 1 month or the preliminary investigation from 3 months to a maximum of 7 months. This method also allows investigators to circumvent the complex process of extending the initial three-month period to five months, which requires approval from the regional prosecutor. The reason is that the authorized prosecutor, while imposing strict requirements for term extension, can also raise objections to the investigator's activities.

Here the question arises: how can a criminal case against a specific person be terminated on the grounds that the person who committed the crime has not been identified? This situation primarily indicates that criminal procedure legislation allows for this, the insufficient effectiveness of prosecutorial oversight in this area (or mutual interest), and the high level of human factor in conducting investigations in criminal cases.

There is a need to review the issues of establishing the terms of inquiry and preliminary investigation, their extension and termination in criminal procedure legislation. By improving legislation in this area, strengthening prosecutorial oversight, and increasing the responsibility of investigators, it is possible to create opportunities for more effective protection of citizens' rights and freedoms, and timely and high-quality investigation of criminal cases. This, in turn, serves to ensure the rule of law in society and the formation of a fair investigation system.

In the process of criminal proceedings, the issues of their termination and restoration are of great importance. In this regard, to improve the current procedures, we propose the following:

Strengthening prosecutorial supervision:

According to the first paragraph of the first part of Article 364, when a case is suspended due to the lack of identification of the person who committed the crime, a reasoned conclusion from the prosecutor should be required.

Improvement of the documentation procedure: The above-mentioned conclusion of the prosecutor should not only be uploaded to the electronic system but also a copy of it should be attached to the materials of the criminal case. This ensures the possibility of further verification of the legality of the grounds for termination of proceedings.

The implementation of these proposals will serve to increase the transparency of criminal proceedings, prevent cases of unjustified suspension of cases, and, in general, increase the efficiency of criminal proceedings. As a result, it will be possible to protect the rights and freedoms of citizens more reliably.

Фойдаланилган адабиётлар:

1. Жиноят-процессуал ҳуқуқ: Дарслик//Д.М.Миразов, Б.Н.Рашидов, Ш.А.Кулматов ва бошқ. – Т.: Ўзбекистон Республикаси ИИВ Академияси, 2019. 333 б.
2. Ўзбекистон Республикасининг Жиноят-процессуал кодексига шарҳлар. Масъул муҳаррир: проф. Ғ.А.Абдумажидов. –Т.: ТДЮИ нашриёти, 2009. -950 бет. Ўзбекистон Республикасида хизмат кўрсатган юрист, юридик фанлар доктори, профессор М.Ҳ. Рустамбоевнинг умумий таҳрири остида
3. Ўзбекистон жиноят-процессуал қонунчилигини такомиллаштириш истиқболлари (халқаро илмий-амалий конференция материаллари тўплами). – Т.: ТДЮУ, 2021. – 386 бет
4. Кадинова М.Х. Жиноят процессуал муддатлар. Монография. -Тошкент: ТДЮУ, 2021. – 30 б
5. Уголовный процесс Республики Узбекистан: Общая часть. Учебное пособие / Автор-составитель к.ю.н. У.А.Тухташева. – Т.: Издательство ТГЮИ, 2007. – 513 с

6. Ўзбекистон Республикасининг 06.09.2017 йилдаги “Суриштирув институти такомиллаштирилиши муносабати билан ўзбекистон республикасининг айрим қонун ҳужжатларига ўзгартиш ва қўшимчалар киритиш тўғрисида”ги ЎРҚ-442-сонли Қонуни.
7. Аширбоев, А. . (2024). СУРИШТИРУВ ВА ДАСТЛАБКИ ТЕРГОВНИ ТЎХТАТИШ ИНСТИТУТИНИ ТАКОМИЛЛАШТИРИШ ИСТИҚБОЛЛАРИ. Академические исследования в современной науке, 3(19), 103–110. извлечено от <https://www.econferences.ru/index.php/arims/article/view/16201>
8. Ўзбекистон Республикиси ЖПК 3812-моддаси. <https://lex.uz/docs>
9. Ўзбекистон Республикиси ЖПК 3817-моддаси. <https://lex.uz/docs>
10. УПК Республики Казахстан от 4 июля 2014 года № 231-V URL: // <https://online.zakon.kz/>
11. УПК Республики Казахстан от 4 июля 2014 года № 231-V. URL: // <https://online.zakon.kz/>
12. УПК Республики Беларусь <https://etalonline.by/document/?regnum>
13. Букато Л.Г. Указ. соч. Б, 2010 – С.45.
14. Петрова Б.Г. К вопросу о сроках в правовом регулировании деятельности в стадии предварительного расследования // Следственная деятельность: прошлое, настоящее, будущее: Материалы Международ. науч.-практ. конф., посвященной 90-летию со дня рождения профессора В.А. Дубривного – Саратов, 2015. – С. 221.
15. Аширбоев, А. . (2024). СУРИШТИРУВ ВА ДАСТЛАБКИ ТЕРГОВНИ ТЎХТАТИШДА ПРОЦЕСС ИШТИРОКЧИЛАРИНИ ХАБАРДОР ЭТИШ ВА ШИКОЯТ ҚИЛИШ МЕХАНИЗМИНИ ТАКОМИЛЛАШТИРИШ. Международная конференция академических наук, 3(9), 89–96. извлечено от <https://inlibrary.uz/index.php/icas/article/view/50840>
16. Шадрин В.С. Предварительное следствие // Научно-практический комментарий к Уголовно-процессуальному кодексу Российской Федерации / под общ. ред В.М. Лебедева, науч. ред. В.П. Божьев. – М., 2002. – С. 333.
17. Гранкина А.Б. Риски и неопределенность в установлении истины по уголовному делу // Уголовный процесс: от прошлого к будущему: материалы Международ. науч.-практ конф. В 2-х ч. – М., 2014. Ч. 2. – С. 51.
18. Татьяна Л.Г. Лазейка для беззакония // Вестник Оренбургского государственного университета. – 2013. – № 3 (53) . – С. 179-181; Озеров В.М. Сроки рассмотрения уголовного дела в суде первой инстанции // Научно-методический электронный журнал Концепт. – 2016. – Т. 17. – С. 409-413 и др.

