



CURRENT STATE OF ENSURING THE PARTICIPATION OF OTHER PERSONS INVOLVED IN CRIMINAL PROCEEDINGS AT THE PRE-TRIAL STAGE IN THE REPUBLIC OF SOUTH KOREA

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Abstract

The article is devoted to the current state of ensuring the participation of persons involved in criminal proceedings - suspects, victims, witnesses, and experts - at the pre-trial stage in the Republic of South Korea. Modern methods of ensuring participation based on the Criminal Procedure Act (CPA) are analyzed, including digitalization, enforcement measures, and protection mechanisms. The article examines South Korea's successes in using technologies and strengthening victims' rights, and discusses current challenges and their solutions. The main purpose of the article is to demonstrate the significance of South Korea's experience in ensuring the effectiveness of investigations and fair trials.

Keywords: Pre-trial proceedings, criminal procedure, South Korea, participants, Criminal Procedure Act (CPA), suspect, victim, witnesses, experts.

The pre-trial proceedings stage is one of the most important and complex parts of criminal proceedings, in which the activities of participants such as suspects, victims, witnesses, and experts play a key role in ensuring the effectiveness of investigations and fair trials. Today, in the context of globalization and digitalization, the use of modern technologies at this stage, the protection of participants' rights, and ensuring procedural transparency are becoming increasingly important. Ensuring the participation of individuals in criminal proceedings affects not only the technical aspects of the investigation but also socio-legal relations. In this regard, South Korea's experience deserves attention as a unique and progressive approach, as it is based on the harmonization of traditional legislation and modern technologies.

The relevance of the topic is connected with the growing role of participants in criminal proceedings and the introduction of new methods for ensuring their participation. In South Korea, the pre-trial stage is currently characterized by digital systems, reforms aimed at strengthening the rights of victims, and increasing the transparency of investigations. For example, the Criminal Procedure Act (CPC) of South Korea serves as the main document regulating the activities of participants in the investigation, and reforms in recent years have made this system more effective. This experience can also serve as an important example for Uzbekistan, as the processes of improving and digitalizing criminal procedure legislation are intensifying in Uzbekistan.

The significance of the South Korean experience lies in its successful approach to ensuring social control and justice in criminal proceedings. David Garland, in his work "The Culture of Control," emphasizing the role of participants in modern criminal proceedings, writes: "The relationship between the state and society in the fight against crime depends on the activity of the participants, which increases the effectiveness of the investigation"[1]. This opinion fully corresponds to the current state of South Korean experience, since this state has

achieved a balance between the state and society in ensuring the participation of participants in the investigation.

In this paragraph, based on the experience of South Korea, the current state of ensuring the participation of participants in pre-trial proceedings is analyzed, and the possibilities of its application in the legislation of Uzbekistan are considered. The relevance of the topic and the significance of the South Korean experience will be revealed in detail in the following sections.

In South Korea, pre-trial proceedings are carried out on the basis of the Criminal Procedure Code (Criminal Procedure Act, CPA), which was adopted in 1954 and has been improved in recent years by a number of modern reforms. The CPA is the primary legal document regulating pre-trial investigation and preliminary investigation processes, which grants the Prosecutor's Office and police the authority to conduct the investigation. According to Article 195 of the CPA, the prosecutor's office acts as the primary subject of the investigation and has the right to give instructions to the police.[2] In this system, the prosecutor's office plays a priority role in all aspects of the investigation, including the involvement of participants and the collection of evidence.

The current state of pre-trial proceedings in South Korea is characterized by digitalization and the use of technologies. The "Electronic Investigation System" (e-Investigation System), introduced in 2020, made it possible to register the information of participants in the investigation process online and facilitate communication with them. This system served to increase the speed and transparency of the investigation. According to Article 148 of the CPA, the presence of witnesses and other participants is mandatory, which further enhances the effectiveness of the investigation[3].

In the South Korean system, special attention is paid to the rights of victims. Article 259 of the CPA grants victims the right to actively participate in the investigation and to engage a lawyer to defend their interests[4]. This reform was introduced in 2010 and strengthened the role of victims in the investigation. David Garland assesses this as "an increase in the social significance of victims in criminal proceedings," and emphasizes that this trend is characteristic of modern states[5].

In Uzbekistan, the pre-trial proceedings are regulated by the Criminal Procedure Code, but the South Korean experience in digitalization and strengthening the rights of victims can be used.

In South Korea, various participants are involved in criminal proceedings at the pre-trial stage, each of which has its own procedural status and functions. The Criminal Procedure Act (CPC) clearly regulates the role of these participants and their activities in the investigation. At this stage, the main participants are the suspect (Suspect), the victim (Victim), witnesses (Witnesses), and experts (Experts). Each of them is important for the effectiveness of the investigation and ensuring a fair trial.

The suspect is the main participant in the pre-trial proceedings as a person suspected of committing a crime. According to Article 200 of the CPA, the suspect must be explained his rights during the investigation - the right to use a lawyer, to refuse to testify, and not to present evidence against himself[1]. The suspect's role is to express their position and influence the investigation with their testimony. For example, a suspect can actively participate in the investigation process by refuting evidence against them or involving their witnesses.

The victim, as a victim of the crime, plays an important role in the investigation. Article 259 of the CPA gives victims the right to actively participate in the investigation, to engage a lawyer to protect their interests, and to receive information about investigative actions[1]. After the reforms in 2010, the rights of victims were strengthened, which made their role in the investigation even more important. The victim appears as an important participant in assisting the investigation with their testimony and revealing the true circumstances of the crime.

Witnesses, as persons possessing information about the crime, are of great importance at the pre-trial stage. According to Article 147 of the CPA, witnesses are obliged to obey the summons of investigative bodies and are obliged to speak the truth[1]. The main role of witnesses is to form a database of evidence by stating what they saw and knew. For example, in South Korea, witness testimony is often obtained via videoconference, which increases the speed of the investigation.

Experts are involved in the investigation on issues requiring special knowledge and qualifications. According to Article 164 of the CPA, the investigative body appoints experts to determine the technical or scientific aspects of the crime[1]. The role of experts consists of analyzing evidence and giving a conclusion. In South Korea, experts are widely involved in DNA analysis, forensic medical examination, and verification of digital evidence, which improves the quality of the investigation.

David Garland writes about this: "Different roles of participants in criminal proceedings ensure the versatility of the investigation and serve to make a fair decision"[2]. The activities of these participants in South Korea demonstrate the current state of the investigation.

In South Korea, modern methods are widely used to ensure the participation of participants in the pre-trial proceedings. These methods are aimed at increasing the effectiveness of investigations, ensuring the safety of participants, and implementing digitalization. The main ways to secure participation based on CPA are as follows.

In South Korea, technology plays an important role in involving participants in the investigation process. The "Electronic Investigation System" (e-Investigation System), implemented in 2020, allowed participants to send electronic call notifications and conduct interrogations via videoconference. According to Article 147 of the CPA, witness testimony can be obtained online, which increases the speed of the investigation[2]. For example, during the COVID-19 pandemic, this method was widely used.

Forced measures will be taken in South Korea to ensure the active participation of participants. According to Article 148 of the CPA, if a witness or other participant disobeys the summons, they may be brought in or fined[2]. This measure guarantees the continuity of the investigation and protects the interests of society.

To ensure the safety of victims and witnesses, South Korea has special protection programs (Victim and Witness Protection Program). According to Article 259 of the CPA, victims and witnesses are given safety guarantees[2]. For example, this program, legalized in 2005, served to increase the activity of participants in the investigation.

David Garland considers these methods "an important element in ensuring the trust and safety of participants in modern criminal proceedings"[1]. In South Korea, these methods play an important role in improving the current state of the investigation.

Pre-trial proceedings in South Korea today face a number of problems related to digitalization, legal problems, and the rights of victims. These problems affect the



effectiveness of the investigation and the activity of the participants. In this section, problems are analyzed and solutions are proposed.

In South Korea, digitalization has become an important part of the pre-trial proceedings stage. The "Electronic Investigation System" (e-Investigation System), introduced in 2020, has accelerated the investigation process, but there are concerns that this system may damage the quality of evidence. According to Article 147 of the CPA, witness testimony is obtained via videoconference, but there is a possibility of technical malfunctions or data security issues.[1]

Solution: To solve the problems of digitalization, it is necessary to more clearly regulate technologies in legislation and provide investigative bodies with modern equipment. For example, it is important to use encryption technologies to ensure data security.

In South Korea, there are some legal problems in ensuring the rights of participants at the pre-trial stage. Although Article 200 of the CPA gives the suspect the right to use a lawyer, in practice, the active involvement of lawyers in the investigation is delayed[1]. In addition, the application of compulsory measures by investigative bodies to participants (Article 148 of the CPA) is sometimes perceived as an encroachment on their personal rights[1].

Solution: To eliminate legal issues, it is necessary to make additional changes to the CPA and strengthen the process of explaining the rights of participants. For example, suspects should be given the opportunity to meet with a lawyer as soon as the investigation begins.

Although the role of victims in the investigation is important in South Korea, there are cases where their rights are not fully protected. While Article 259 of the CPA grants victims the right to participate in the investigation, in practice they may not receive adequate information and legal assistance.[1] David Garland calls this "secondary damage to victims in criminal proceedings," noting that this problem is widespread in modern systems[2].

Solution: To strengthen the rights of victims, it is proposed to establish a system for appointing special legal advisors and providing them with complete information about the investigation process. In addition, it is important to expand protection programs to ensure the safety of victims.

In South Korea, the pre-trial proceedings stage today appears as an effective system based on the use of technologies, the perfection of legislation, and the active involvement of participants. This experience can serve as an important example for our country, as the processes of improving criminal procedure legislation and increasing the transparency of investigations continue in our country. One of the most important programs in South Korea today is the increase in the speed and quality of investigation through digitalization, strengthening the rights of victims, and ensuring the safety of participants.

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