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IMPROVING THE PROCEDURAL BASIS OF INTERROGATION

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Abstract: This article presents the norms implementing the investigative interrogation act in criminal proceedings. Through a deep analysis of the opinions of local and foreign scientists, relevant suggestions and recommendations have been developed to improve the actions that should be taken during the interrogation of these norms.

Keywords: right, investigation, law, idea, citizen, participant, crime, criterion, procedure, content, acceptable, system, protection, basis, conditions.

We all know that one of the main goals of the large-scale reforms implemented in the judicial system in Uzbekistan is to strengthen the guarantees of protection of the rights and legal interests of citizens, establish effective mechanisms to prevent torture and other cruel, inhuman or degrading treatment against them during evidence in criminal cases.

In particular, the adoption of the Decrees of the President of the Republic of Uzbekistan “On measures to further reform the judicial system and strengthen the guarantees of reliable protection of the rights and freedoms of citizens” [8], “On additional measures to strengthen guarantees of citizens’ rights and freedoms in judicial investigation” [9], and “On measures to further strengthen the guarantees of protection of the rights and freedoms of the individual in judicial investigation” [10] serves as a program for the reforms we mentioned above.

Indeed, the reforms being carried out in the country, numerous laws and regulations being adopted, and innovative ideas being put into practice – at the root of all of them is the provision of human interests, rights, and freedoms.

Therefore, it is necessary to ensure equal protection of the rights and legal interests of every citizen, regardless of the procedural status, at the stage of bringing the case to court, especially during the interrogation process, which is most often conducted in the investigation of criminal cases. At this point, when we talk about the rights and legal interests of the citizen related to the investigative act of interrogation, we understand such cases as the fact that the interrogation is conducted on legal grounds (for example, the citizen called for interrogation is related to the case under

investigation) and that the procedures and conditions established in the course of the investigative act are observed.

The criterion of the legality of interrogation is compliance with the actions of the subject performing it with the requirements of the procedural form. The purpose of interrogation is to obtain factual information related to the case from the interrogated person in the form of testimony for the correct resolution of the criminal case in accordance with the procedure established by the criminal procedure law [4]. It is strictly prohibited to deviate from the policy set by the law of criminal process during the interrogation, as it violates the rights of the persons being interrogated. After all, any deviation by the inquirer, investigator, prosecutor, and court from the exact implementation and observance of the law, regardless of the reason for which it occurred, leads to the recognition of the evidence obtained in this way as unacceptable (invalid) [7].

According to the law, any procedural decision should be taken only if sufficient grounds exist. The inquirer, the investigator, and the prosecutor exercise their authority to make decisions and perform specific actions, not according to their wishes, but taking into account the necessary conditions for this, $\phi\tau\beta$ because they make relevant decisions and actions $\text{и}\phi\kappa\upsilon\beta$ on the reasonableness and always verifiable sufficient grounds are essential to ensure legitimacy [11]. In this sense, the decision to hold an interrogation is no exception.

The Criminal Procedure Code of the Republic of Uzbekistan provides for the strengthening of testimony in advance (Article 121²), face-off (Article 122), presentation for identification (Article 125), examination of evidence at the scene of the incident (Article 132), inspection (Article 135), testimony (Article 142), exhumation of the corpse (Article 148), experiment (Article 153), confiscation (Article 157), search (Article 158), listening to conversations conducted through telephones and other telecommunication devices, receiving information transmitted through them (Article 169), appointment of expertise (Article 172), appointment of inspection (Article 187¹), application of procedural coercive measures (Article 213),

detention (Article 221), release of the detainee (Article 234), application of precautionary measures (Article 236), suspending the validity of a passport (movement document) (Article 254¹), dismissal of the accused, the defendant (Article 255), placement of a person in a medical institution for forensic examination (Article 265), grounds for initiating a criminal case (Article 322), and others. As for the interrogation, the legislator did not specify the basis for conducting this investigative action in the criminal procedure law. However, subpoenas and interrogations can only be undertaken with justification.

Here S.A. Schaefer's thoughts on this matter are worth noting. According to him, the interrogation, search, and identification conducted "hoping for a random result" threaten the principle of legality and the rights of citizens – participants in criminal proceedings. Because they may be subjected to a precautionary measure or various restrictions without any necessity; in addition, it can lead to a waste of energy; the sufficient grounds established by the law for conducting an investigative act serve as special legal instructions aimed at limiting the subjective discretion of the investigator [12].

It is a mistake to think everything happens by chance in our world. A coincidence cannot exist as an event without a cause. Coincidence is a phenomenon for which we do not know why, but they always exist. Nothing just happens, and you have to remember that. In Aristotle's words, the things we say happen spontaneously or by chance also have reasons. Only the human mind is incapable of understanding some reasons.

In light of this, and support of S. A. Schaefer's arguments, the interrogation should be carried out based on the grounds provided by the law, which provide a "real" reason for conducting the investigative action, not "accidentally".

In turn, S.F. Shumilin emphasized the importance of questioning the legitimacy of summoning people for interrogation, saying that an unjustified call wastes the time of both the investigator and the person summoned for interrogation, worries citizens,

and ultimately creates a negative attitude towards the activities of investigative bodies.

In the scientific literature, this point of view is strictly defined, according to which investigative actions are carried out when there are legal and factual grounds. A legal basis is a set of conditions provided by legislation that gives the investigator the right to perform a specific action. The factual basis means the accurate information that determines the need to take particular steps to determine the truth in the case [12]. In general, in science, in life, in any debate and discussion, an idea used to prove an idea or come to a conclusion is considered to be the basis [5].

Factual information indicating that a person may be aware of any circumstances relevant to investigating a criminal case shall be grounds for a subpoena. Suppose the investigator conducting the criminal case does not have information about the fact that a particular person has information about the committed crime. In that case, it is not allowed to call or subpoena him as a witness. Summoning and questioning without sufficient grounds may violate the rights of the persons being questioned.

The basis for questioning is the existence of sufficient evidence to believe that the person being questioned has the information necessary for the case. This provision should be strengthened in the criminal procedural legislation of the Republic of Uzbekistan to ensure the effectiveness of the interrogation and the protection of the rights and legal interests of the interrogated persons.

All of these are important in organizing the investigative process in a criminal case, planning the investigator's work, deciding to call for questioning, determining the subject of investigation, choosing tactics and criminalistic techniques during interrogation, and using technical tools to record the progress and results of interrogation.

Articles 96-108 of the Criminal Procedure Code of the Republic of Uzbekistan establish the general rules of interrogation, which are conditions for interrogation. The general conditions of interrogation should be understood as the legal

requirements to be observed in interrogating all participants in criminal proceedings. Such prevailing conditions are the following requirements of the law: determining the place of interrogation; subpoena for interrogation; identification of the interrogated person; determining in which language the interrogator can testify; explanation of rights and obligations; offering to speak freely about the circumstances of the case; it is not allowed to ask leading questions; the possibility of the interrogator to read out to the interrogator the testimony he gave in previous interrogations and to show things and documents; record the interrogation process and results; compliance with the statutory duration of the interrogation and the possibility of additional interrogation.

As for the interrogation procedure, in contrast to the general conditions listed above, there are specific conditions for the interrogation of certain categories of persons. They include the mandatory participation of a defense attorney and a legal representative in questioning a minor suspect and the accused (Article 553 of the Criminal Procedure Code of the Republic of Uzbekistan); participation of a pedagogue and (or) a psychologist in questioning a minor suspect or accused (Article 554 of the Criminal Procedure Code of the Republic of Uzbekistan); in the course of inquiry and preliminary investigation, the suspect, accused person is detained, summoned for questioning, detained or brought to court immediately or no later than twenty-four hours after being questioned (Article 110 of the Criminal Procedure Code of the Republic of Uzbekistan).

The general rules of interrogation, in general, derive from the general laws of investigative actions and cannot contradict them [3]. The rules regulated by the norms of the Criminal Procedure Code of the Republic of Uzbekistan are used in questioning the suspect, the accused, the witness, and the victim. These are some flexible standards that the investigator must follow without question during any interrogation.

A condition for interrogation of persons with witness immunity is the right not to testify against themselves and their close relatives and the consent of these persons

to testify. According to Article 116 of the Criminal Procedure Code of the Republic of Uzbekistan, the close relatives of the suspect, the accused, and the defendant can be questioned as witnesses or victims about the circumstances related to the suspect, the accused, only with their consent. After all, no one must testify against himself or his close relatives.

Summoning such persons for questioning is carried out in accordance with general rules. Before the questioning begins, the person must be explained the right to testify or refuse to testify. If the person refuses to testify, it will be recorded in the interrogation report, and the interrogation will not be conducted. If persons with witness immunity agree to testify, the body conducting criminal proceedings must warn these persons that their testimony may be used as evidence in a criminal case. They are also warned of criminal liability for refusing to testify and knowingly giving false testimony.

The criminal procedure legislation does not specify the age at which a person can be questioned as a witness. Age does not prevent a person from being questioned as a witness. It all depends on how the minor or the senior can correctly perceive the situations relevant to the work and give them adequate instructions. However, according to Article 115, Part 1, Paragraph 3 of the Criminal Procedure Code, it is impossible to interrogate a person who cannot correctly perceive and testify about a situation relevant to the case due to a mental disorder or physical disability.

The conditions of interrogation stipulated by the law also include the time, place of investigation, the scope of its participants, their specific rights and obligations, and the use of scientific and technical means.

The total duration of the interrogation should be at most eight hours in one day. An hour break for rest and meals is not included. The entire period of questioning of a minor witness or victim should not exceed four hours, excluding a one-hour break for rest and meals during the day. The duration of questioning a minor suspect, the accused, should not exceed six hours during the day, excluding a one-hour break for rest and meals. According to Article 88, Part 2, Paragraph 3 of the Criminal

Procedure Code, to prevent the crime being prepared or committed during the proof, to prevent the disappearance of the crime trace or the escape of the suspect, without taking into account the need to recreate the situation of the investigated event during the experiment, taking into account that it is prohibited to carry out investigative activities at night, that is, from 10:00 p.m. to 6:00 a.m., we can see that the legislator has set a clear limit on the conduction of the investigative act of interrogation.

B.T. Bezlepkin considers the rules regulating the duration of the interrogation and granting rest breaks as reasonable additional legal guarantees against the abuse of official powers in the implementation of this investigative action, aimed at preventing the interrogation from becoming a debilitating act that can be used as psychological violence to obtain the necessary testimony [2].

It is best to interview during the day whenever possible. In this regard, according to A. Schaefer, the investigator, determines this issue on a case-by-case basis to the best of his ability. Takes into account the possible loss of evidence and other exigent circumstances [12].

As for the duration of the questioning, although it is indicated that Article 107 of the Criminal Procedure Code states that the total time of interrogation should not exceed eight hours in one day, the one-hour break for rest and meals is not taken into account, according to part 4 of Article 121, the total duration of questioning of a minor witness or victim shall not exceed four hours during the day, excluding a one-hour break for rest and meals, according to Article 553, part 3, the total duration of interrogation of a minor suspect and the accused shall not exceed six hours, excluding a one-hour break for rest and meals during the day, these norms do not specify how long the questioning can continue without a break.

In our opinion, it is not correct that the interrogated person should be interrogated for 7 hours during the day, minus the one-hour break for rest and meals. Because human physiology can't withstand it. Interrogation for long periods without breaks can have serious consequences, especially for older people, minors, and persons with health problems. Based on the mentality of our people, which has been

developed for thousands of years, our nation has always respected older people and admired the younger. Older people have always been honored in our country. In many cases, the energy and health of an older person are not enough to stand in front of the interrogator, let alone to be interrogated for several hours without a break. In our opinion, this is not even tactically correct, because the longer the questioning goes on without a break, the less effective it is. Usually, the more time a person spends in the interrogation process, the more signs of fatigue are observed. As a result, his thinking, concentration, and memory of past events slow down. After all, fatigue is a body reaction that protects a person from exhaustion and overwork, and this is a subjective reaction, usually a feeling that reflects fatigue. Fatigue slows down a person's physical and mental processes, manifested in a temporary decrease in performance.

In addition, after the interrogator is overwhelmed by fatigue, he begins to show signs of stress. In turn, stress can affect our intellectual functioning: problems with concentration, sleep, and memory, the constant and forced distraction of thoughts, and difficulty in making decisions result from a non-constructive reaction to stress.

Continuing this investigative action for a long time without a break has a negative effect not only on the person being questioned, but also on the interrogator himself. Because the interrogator can only be limited to answering the given questions, it is also considered necessary for the interrogator to ask questions based on their unique psychological state and to analyze and synthesize each question and answer in the report. This causes much energy to be spent on the interrogator, resulting in him quickly becoming tired, and then the stress disappears. This causes the interrogator to be rude to the interrogated person in the investigation process, react angrily to the answer given to the question, and finally, break the psychological connection between them and end the investigation ineffectively.

In our opinion, in our criminal procedural legislation, it is necessary to set the time for the interrogation to continue without a break, to reflect the conditions for stopping the interrogation in cases where the elderly and minors show apparent signs

of fatigue, as well as in cases where the health of the interrogated person has deteriorated serves to increase the effectiveness of this investigative action, to strengthen further the guarantees of protection of the rights and freedoms of the individual in the judicial investigation, and to implement the reforms carried out by our government in the judicial system.

Based on the opinions mentioned above and analysis, the results of the comparative legal analysis of the norms of the Criminal Procedure Code of foreign countries, we consider it appropriate to state the first part of Article 107 of the Criminal Procedure Code in the following new version and to supplement it with the second part in the new version:

The questioning can last up to four hours without a break. Interrogation is allowed to continue after an hour break for rest and meals, and the total duration of the interrogation should be at most eight hours in one day.

Interrogation should be stopped when the interrogated person shows apparent signs of fatigue or the health of the interrogated person deteriorates.

We propose to state the fourth part of Article 121 of the Criminal Procedure Code in the following new version:

Interrogation of a minor witness or victim may not last more than two hours without a break. It is allowed to continue the interrogation after a one-hour break for rest and meals, and the total duration of the interrogation should be at most four hours in one day.

We propose to supplement Article 121 of the Criminal Procedure Code with a new tenth part as follows:

During the questioning of a minor witness or the victim, the questioning should be stopped if signs of fatigue are evident.

It would be appropriate to state the third part of Article 553 of the Criminal Procedure Code in the following new version:

Interrogation of a minor suspect or accused cannot last more than three hours without a break. Interrogation is allowed to continue after a one-hour break for rest

and meals, and the total duration of the interrogation should be at most six hours in one day.

We propose to supplement Article 553 of the Civil Procedure Code with a new fourth part as follows:

During the questioning of the minor suspect, the accused, the questioning should be stopped in cases with obvious signs of fatigue.

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