

Ensuring the Right of a Person Suspected of Committing a Crime to Know the Materials of the Criminal Case

Mavlanov Kamoliddin Tuychievich

Lecturer of Tashkent State University of Law

Abstract: This article is aimed at protecting the rights and legitimate interests of a suspect in the course of criminal proceedings, during which it is his right to protection that has been investigated. Awareness of persons defending their interests in criminal proceedings, based on the materials of work at the early stages of the process, affects the effective organization of protection. The subject, who is obliged to prove, will have to provide the suspect with sufficient time and conditions to organize his defense. The article uses a comparative analysis to study the current state of our national criminal procedure legislation on the relevant issue, the experience of developed foreign countries.

Keywords: the suspect, the evidence, the materials of the criminal case, protection, crime, investigation.

Familiarization with the materials of a criminal case is the process of studying the materials of the investigative and judicial case, as well as physical evidence, necessary for the participants in the criminal process to realize their rights and legitimate interests. The suspect's right to familiarize himself with the case materials is not provided for in Article 48 of the Criminal Procedure Code of the Republic of Uzbekistan. At this time, he has the opportunity to become acquainted only with the protocols or decisions of the investigative actions in which he participated. However, the other part of the criminal case or the existing materials of the criminal case are not reflected in this article of the law.

The legislation has given the suspect participating with his defense attorney somewhat broader rights, that is, by exercising his right, the defense attorney can become familiar with the documents of the investigation or other procedural actions carried out with the participation of the suspect. However, in order to fully understand a criminal case, it is necessary to complete the investigation and by that time the suspect will be charged. The current procedure is important from the point of view of ensuring the secrecy of the investigation.

The predominance of the interests of the parties involved in court proceedings in relation to familiarization with or review of the case materials is still a controversial issue among scholars. N.V. Kalmykova noted that when a suspect is involved in a criminal trial, he has the right to receive from the investigative authorities copies of a number of procedural documents that constitute the content of the suspect and are the basis for assessing his actions [1]. According to it, the suspect has the right to receive a copy of the resolution or protocol on the initiation of a criminal case, recognition of him as a suspect, detention and preventive measures.

At the same time, scientists who advocated restricting suspects' access to case materials during the investigation also tried to substantiate their conclusions. In particular, according to procedural scientist I.A. Nasanova, there should be restrictions on familiarization with the case materials before the completion of the investigative process, and these restrictions include

information about the identity of witnesses or victims to whom security measures were applied, as well as material evidence [2]. The scientist expressed his opinion based on the safety of the participants in the process. A.Yu. Golovin and A.V. Matveev emphasize that the parties should not be provided with information, the disclosure of which could lead to a violation of the principles of the criminal process during the investigation [3].

However, the right of the parties to appeal such behavior of the investigator, investigator or prosecutor in court must be ensured. Agreeing with the opinion of these proceduralists, we can say that the secrecy of the investigation prevents the parties from ensuring the right to familiarize themselves with the case materials.

What exactly the mystery of the investigation is, what it covers, is not clearly regulated in our legislation. A.V. Krylov touched upon this issue and roughly explained what questions the secrecy of the investigation includes: 1) information about the formation of versions of the investigation; 2) evidence obtained as a result of investigative actions carried out without the participation of the suspect or accused; 3) information about measures to ensure the safety of participants in the process; 4) information about investigative tactics; 5) information about the identity and place of residence of the officials conducting the investigation; 6) information about individual witnesses and victims; 7) information about the relatives and relatives of the participants in the process. In addition to the above, L. Cherepanova also included official secrets and commercial secrets in the non-disclosure information [5]. Agreeing with the opinion of these scientists, we can say that participants in the process should be given the right to familiarize themselves with the case materials and copy them at all stages of the investigation, but issues related to the secrecy of the investigation should be excluded.

In general, computerization of a criminal case not only reduces paperwork and reduces the burden on investigative authorities, but also ensures the safety of the case and guarantees transparency and speed of investigation. Another important aspect of e-crime management is that it also prevents possible tampering of evidence. All this is important for the reliable protection of the rights and legitimate interests of the participants in the process and the administration of justice.

The institution of familiarization with the materials of a criminal case is developing in the theory of criminal procedural law in a position opposite to the secrecy of the investigation. For example, criminal procedural rules do not provide the parties with the right to familiarize themselves with the investigation materials before the start of the investigation at the stage of initiating a criminal case and, in this regard, do not impose obligations on the official in charge of the case. . According to procedural scientist P.V. Sedelnikov, a person's right to get acquainted with the case materials is inextricably linked with his right to extract or copy procedural documents using technical means. Providing the criminal procedure law with the right of the parties to receive a copy of the case materials at the end of the investigation negatively affects the full implementation of the rights of the participants [6]. This Russian scientist is a supporter of ensuring this right of participants at all stages of the investigation. However, it is necessary to take into account the secrecy of the investigation. The same opinion was expressed by A.P. Lipinsky [7].

In our opinion, even if, at the end of the pre-investigation investigation, the initiation of a criminal case is refused, the party interested in the outcome of the criminal case should be given the right to appeal to the official who conducted the pre-investigation check. investigative investigation in order to become familiar with the investigation materials. In this case, the official introducing the case materials must warn the applicant about the non-disclosure in the case materials of information about the personal lives of the parties and the existence of liability for this.

In the criminal procedural legislation of the Republic of Uzbekistan, we do not see a specific rule regarding the right of a suspect to familiarize himself with the case materials. In particular, among the rights of a suspect in Article 47 of the Code of Criminal Procedure, the norm on this

is not strengthened. Also, Article 92 of this Code establishes that participants in investigative actions must be given the right to familiarize themselves with the protocol reflecting the progress and results of these actions, as well as to make additions and corrections to the protocol. . Upon completion of an investigative action, the investigator or investigator is obliged to allow the participants in this action to familiarize themselves with the protocol or read it to them at their request. Persons familiar with the protocol of the investigative action put their signature under each page of the protocol and at the end of it (Article 92 of the Criminal Procedure Code). It follows from this that although the legislation provides for the possibility of a suspect to familiarize himself with the protocols of investigative actions in which he participated, other investigative actions in which he did not participate are not provided for.

In criminal procedural law, fully familiarize yourself with the documents on procedural actions carried out with the participation of the suspected defense attorney, and after the end of the investigation, familiarize yourself with the criminal case and record the necessary information from them, as well as make copies of the documents at your own expense, if this is necessary for the implementation of defense , state secret, commercial, you have the right to get acquainted with information containing a secret or other secret in the manner prescribed by law (Article 53 of the Code of Criminal Procedure). In this case, we see that the defense has greater access to the case materials than the suspect. Awareness of the process by the participants in this process helps to fully realize the right to defense.

According to A. Sharipova, one of the factors that negatively affects the effectiveness of the defense is that the defender is not familiar with the case materials and is not notified of the decisions being made [8]. Procedural scientists Z.F. Inogamzhonova and G.Z. Tulaganova did not agree with the parties familiarizing themselves with the case materials on the eve of the end of the investigation and expressed the opinion that this should be allowed from the moment the human rights defender enters the case [9]. According to D.B. Bazarov, the suspect must have the right to familiarize himself with the case materials from the moment when the suspect is suspected of committing a crime against him [10]. In our opinion, the right of a suspect to familiarize himself with the case materials should be strictly reflected in our legislation.

However, a suspect who personally exercises the right to defense may, at his own expense, receive copies of the resolution and protocol on the initiation of a criminal case, his involvement as a suspect, his detention, a decision on the application of preventive measures, as well as documents related to procedural actions carried out with his participation , or records in other form. Necessary protection rights, such as access, are not reflected in our legislation. Therefore, it is necessary to supplement Article 48 of the Code of Criminal Procedure with the rights of the suspect related to familiarization with the case materials.

The effective organization of the defense is influenced by the fact that the parties are familiar with the materials of the criminal case at the early stages of the proceedings. At the same time, this situation may pose a risk to the investigation process. Some comments should be made regarding the fact that all arrest materials are provided to the defense at the beginning of the investigation. According to B.A. Salomov, in most cases, some crimes that are not related to a series of crimes committed in the economic sphere are disclosed through investigative information and information about undercover activities, and such investigative materials are often the basis for detaining a person [11]. This information is hidden for privacy reasons. For this reason, the author stated that the defense lawyer's demands for the presentation of information and evidence available in the investigation materials must be satisfied immediately, otherwise the possibility of appealing in court against the actions of officials of the investigative body must be provided. . In our opinion, the suspect and accused should be given the right to appeal directly to the court the decisions or procedural actions of the investigative and preliminary investigation bodies, as well as the prosecutor.

Investigative authorities have broad powers, and they themselves decide what materials to provide to the suspect or his lawyer. The suspect or accused must be given sufficient time and

opportunity to organize his defense. This condition relates to the access of individuals and their lawyers to case files and evidence important to the defense. Failure of lawyers to familiarize themselves with the case materials at the required time is considered one of the cases that has a negative impact on justice.

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