

## **Prosecutor's Supervision At The Stage Of The Preliminary Examination In The Field Of Information Technologies**

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**Abstract:** In this article, the author analyzes prosecutorial supervision at the stage of the pre-investigation check in the field of information technology and also highlights some aspects of the pre-investigation check. In addition, the article, based on its subject matter, contains judgments on improving the legal framework for pre-audit in the field of information technology.

**Keywords:** pre-investigation, verification, technologies, information, IP address, IMEI, bank, telephone, identity card, criminal case, preliminary examination, transfer

The stage of initiating a criminal case has the task of establishing the presence or absence of grounds for investigating a criminal case. For a criminal case, you must have a legitimate reason and grounds. The reason for initiating a criminal case is a statement of a crime, a confession, a report of a crime committed or being prepared, received from other sources, a decision of the prosecutor on sending relevant materials to the preliminary investigation body to resolve the issue of criminal prosecution.

The participation of the prosecutor at the stage of the pre-investigation check is to oversee compliance with the rules for the reception, registration, review and verification of incoming reports of crimes in order to establish the presence or absence of grounds for initiating a criminal case.[1]

Judicial reform has intensified significantly in recent years. The legal rules governing the initial stage of criminal proceedings-the initiation of a criminal case, were repeatedly subjected to adjustments. Over the past 10 years of application of the Criminal procedure code of the Republic of Uzbekistan in Art. 321–338 and other norms that make up this institution, more than 30 changes and additions have been made. In particular, in Art. 322 of the Criminal procedure code of the Republic of Uzbekistan there is a new reason for initiating a criminal case, in art. 328. The

Criminal procedure code of the Republic of Uzbekistan has expanded the methods for checking reports of a crime, the powers of the criminal proceedings sections, especially the prosecutor, have been repeatedly changed at this stage.[2] It is obvious that the reform is far from complete: the President of the Republic of Uzbekistan has set the task of adopting a new criminal and criminal procedure code of the Republic of Uzbekistan, in particular, improving the criminal procedure legislation in terms of “clarifying the procedure for the preliminary examination of materials”.

According to Criminal procedure code of the Republic of Uzbekistan pre-investigation verification includes checking for applications event, messages and other information about the crimes, a decision on the results of their review, as well as measures to consolidate and preserve the traces of the crime, objects and documents that may be relevant for business.

The interrogator, investigator, prosecutor and official of the body conducting the preliminary investigation, within the limits of their competence, are required to initiate a criminal case on a crime in all cases where there are reasons and sufficient grounds for this.

The grounds for initiating a criminal case are:

- 1) statements of persons;
- 2) communications of enterprises, institutions, organizations, public associations and officials;
- 3) media reports;
- 4) the discovery of information and traces indicating a crime directly by the inquiry officer, investigator, prosecutor, as well as the body conducting the preliminary investigation;
- 5) a confession statement.

The grounds for initiating a criminal case are data indicating the presence of evidence of a crime.

Supervision of the implementation of laws during the pre-investigation check is carried out by the prosecutor.[3]

The subject of supervision of the implementation of laws by bodies of pre-trial inspection is the procedure established by the Criminal procedure code of the Republic of Uzbekistan for the consideration and resolution of applications and reports of crimes.[4]

- carrying out supervision of the execution of laws by bodies conducting preliminary investigations, the prosecutor, within his competence:

- requires documents, materials and other information about the crimes committed, the progress of the operational-search activities from the bodies conducting preliminary investigations or operational-search activities to verify the case, at least once a month, checks the fulfillment of the requirements of the law on the reception, registration and resolution of applications and reports of crimes committed or in preparation;
- cancels the illegal and unreasonable decisions of the official of the body conducting the preliminary investigation;
- instructs the bodies conducting the preliminary investigation, the execution of decisions on the detention, transfer, search of persons, court rulings on the application of a preventive measure in the form of detention or house arrest, and also instructs on taking the necessary measures to solve crimes and identify the persons who committed them, in cases under investigation by the prosecutor or investigator of the prosecutor's office, etc.
- participates in the pre - investigation checking stage and, if necessary, personally performs individual actions

The prosecutor's instructions to the bodies of inquiry and preliminary investigation, as well as to bodies conducting preliminary investigations or operational-search activities in connection with conducting preliminary investigations, initiating and investigating cases by them, data in the manner prescribed by the Criminal procedure code of the Republic of Uzbekistan are mandatory for these bodies

If there are facts of falsification of materials of pre-investigation inspections, the prosecutor must make a reasoned decision to send the relevant materials to the preliminary investigation bodies to resolve the issue of criminal prosecution on the facts of violations revealed by the prosecutor.

In our opinion, based on an analysis of foreign legislation (Russia,[5] Kazakhstan,[6] Belarus,[7] Kyrgyz with tan [8] ) the activities of the employee of the preliminary investigation body at the stage of the pre - investigation audit of a crime in the field of information technology should include the following main elements:

- study of the available evidence (assessment of the received baseline information about the crime);
- verification of the application and message if the source information does not contain sufficient data indicating signs of a crime;
- putting forward versions, identifying issues to be clarified;

- determination of the circle of investigative actions and organizational measures to be carried out for each version, the timing and sequence of their conduct, as well as the performers;
- adjustment of the plan in accordance with the information received;
- adoption and procedural execution of a decision to institute criminal proceedings.[9]

Depending on the content of the initial information about the incident, the employee of the body of inquiry, the investigator or the head of the investigative body has the opportunity to initiate a criminal case in accordance with Art. 137 at the Criminal procedure code of the Republic of Uzbekistan, inspection of the scene of the incident set out in the report of the crime.

Since the pre-investigation check is carried out within the time limits strictly regulated by the current criminal procedure law, it is advisable to draw up a plan for its implementation. The implementation of this plan will be supervised by prosecutors.

Given the legislative shortcomings, it seems appropriate to propose the following proposals, which should be included in the plan of pre-trial investigation in cases of crimes in the field of information technology:

- 1) receipt of a full written explanation from the applicant;
- 2) inspection of the scene of the incident - a place to detect traces of a crime with a mandatory inspection of electronic computers or other computer devices, electronic media and the information contained therein. In the course of this investigative action, data must be obtained confirming the facts stated by the applicant;
- 3) receipt of written explanations from the persons referred to by the applicant or there is evidence of them as possible witnesses to the incident;
- 4) familiarization with the technology of using documented computer information in a specific technological process or operation;
- 5) the study of the legal basis of the operation, the result of which was the event described in the report of the crime;
- 6) consultation with specialists;
- 7) the demand for the necessary materials (documents) evidencing the unlawfulness of the event or reflecting the illegality of the operation in the field of computer information processing;
- 8) inspection of the received items and documents;
- 9) analysis of the information available and the decision on the need to obtain a written expert opinion (in accordance with Article 184 of the Criminal procedure code

of the Republic of Uzbekistan), the appointment of examinations, for example, a forensic computer examination, audits, documentary or other checks;

10) verification of the authenticity and validity of documents available in the materials of the pre-investigation check;

11) the study of the completeness of the set and content of documents confirming the wrongfulness of the investigated act.

The plan may also include other verification and familiarization activities that are not investigative. In the sequence of the listed investigative actions, operational-search, verification and organizational measures, corrections can be made. Prosecutors must bear in mind that during the pre-investigation checks materials of the preliminary investigation authority employee:

1) did you get a clear and complete picture of the nature of the activity and structure of the facility where the crime may have been committed?

2) have you studied in sufficient detail the specific conditions of the facility's activity, the accounting and reporting procedures that exist there, the goods and documents circulation system, including electronic?

3) did you find out the communicative and other tactical and technical characteristics of the used computer hardware and software?

4) did the organization of protection of the object of informatization understand and the type of specific information (by what law or by-law normative legal act is it protected)?

5) did you study the official duties of persons having authorized access to information protected by law, as well as direct or indirect relations to values (property) that have become the subject of an offense?

Taking into account the data obtained as a result of a preliminary verification of the materials received, a decision is made to initiate a criminal case, to refuse to initiate a criminal case or to transmit a crime message under jurisdiction in accordance with Art. 345 Criminal procedure code of the Republic of Uzbekistan. [10]

Prosecutors need to keep in mind that in order to make an informed decision on instituting criminal proceedings, the investigator must have at his disposal the following information and documents:

1) a written statement of the victim - a citizen or a representative of a legal entity or a protocol for the adoption of an oral statement of a crime, drawn up in accordance with the current criminal procedure legislation;

2) a report on the detection of evidence of a crime and the materials attached thereto obtained during the production of operational-search measures, audits, documentary and other checks;

3) a written explanation of the applicant, which contains data on the time and place of the commission and detection of the crime, the subject of the criminal assault and its individual characteristics (name of computer information, location, special conditions for access to it and its computer carrier, their individual characteristics, etc.);

4) documents or their copies confirming the right of ownership (possession, disposal or use) of computer information, electronic computers, electronic computer systems or their network that have been subjected to criminal action: a written agreement to receive Internet services, telecommunications for a specific subscriber number or credit card service in a specific financial institution; plastic card (bank, telephone, travel, identity card, parking and other); a document on the right of possession (use) of the program for electronic computers, a database, an electronic resource of the Internet, an electronic digital signature; a document reflecting confidential information that was unauthorized by someone on the Internet;

5) a written opinion of a specialist and (or) a conclusion of experts who have studied the means of storage, processing, protection, or transmission of computer information and information and telecommunication networks, malicious computer programs, and computer information protected by law;

6) identification data on the owner (owner, user) of the computer device and its software, which may have carried out unauthorized access to computer information, for example, IP address, IMEI or other device identifier in the information and telecommunication network or telecommunication network, as well as login, password and subscriber number in the telecommunication network (phone number) with which such access was made;

7) protocol inspection of the scene, objects and documents, including electronic storage media, electronic documents, electronic messages, a website or a page on the Internet;

8) documents confirming the spread of malicious computer programs or electronic media with such programs: cash, merchandise or other check; the protocol of the relevant operational search measures and the documents which attached.

All of the above documents and the information contained in them must be evaluated from the standpoint of the legality of receipt, reliability and sufficiency for making this or that procedural decision. For these purposes, consultations with

specialists are extremely important. In our opinion, when implementing the plan, the investigator needs prosecutorial supervision.

Given the above regarding the general availability of almost any information, it should be noted that everyone can become a carrier of certain information in this area. But even the presence of the skills of an experienced user, not systematized knowledge in programming cannot serve as a basis for attracting a person as a specialist. But it is desirable to attract precisely such individuals (with certain knowledge in the field of information technology) to participate as witnesses, so that the purpose of what is happening and the meaning of the individual actions of a specialist when examining and studying computer technology are understandable to them.[11] Despite the complexity of the search, such a requirement when choosing witnesses is sometimes necessary, since a misunderstanding of the meaning of what is happening by the witnesses can lead to the court finding the evidence gathered inadmissible. Based on this, it is advisable to state the fourth part of Article 352 Criminal procedure code of the Republic of Uzbekistan follows: “Given the conflict of interests in narrowly specialized areas, witnesses are invited for seizure, search, examination, examination, experiment, presentation for identification, verification of evidence at the scene, obtaining samples for expert investigation, exhumation of the corpse during the preliminary investigation.”

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