

PROCEDURAL AND CRIMINALISTIC ASPECTS OF THE EXAMINATION IN CRIMINAL PROCEEDINGS

¹Imamov A.E., ²Normuminova S.Y.

^{1,2}Academy of the Ministry of Internal Affairs of the Republic of Uzbekistan

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Abstract. *The article discusses some aspects of the examination in the process of detection and investigation of crimes. The necessity of revising two norms of the Criminal Procedure Code of the Republic of Uzbekistan is substantiated. This may lead to an improvement in the tactics of these actions.*

Keywords: *examination; investigative actions; investigation; tactics of production.*

Any investigative action, including an examination, is aimed at obtaining evidence that has the properties of admissibility and reliability.

An examination is an investigative action aimed at establishing the truth in a criminal case. It is carried out without special examination to find out the causes of spots, scratches, abrasions, bruises, as well as to detect other specific signs of damage on the human body. It is carried out by the investigator by applying the cognitive techniques provided for by law [1].

According to the Criminal Procedure Code of the Republic of Uzbekistan [2], a suspect, an accused, a defendant and a victim may be examined. The examination of a witness is carried out only to verify the correctness of his testimony.

As for the detection of intoxication or other psychological and physiological abnormalities, in this case the investigator is obliged to send the examined person to a medical institution. In this case, it is not an examination, but an examination.

Article 142 of the Code of Criminal Procedure of the Republic of Uzbekistan states that an examination is carried out if it does not require an examination. In this regard, it is necessary to exclude from Part 1 of Article 142 of the Criminal Procedure Code of the Republic of Uzbekistan the provision on the expediency of an examination to identify a state of intoxication.

Taking into account the above, a draft of a new version of part 1 of Article 142 of the Code of Criminal Procedure of the Republic of Uzbekistan is proposed.

"Article 142. Grounds for examination.

The examination is carried out in cases where:

- the properties or signs found on a person's body that are relevant to the case, special signs and data on his physical condition in the form of spots, scratches, abrasions, bruises do not require examination;

- some psychological and physiological deviations that clearly do not require an examination."

According to the Criminal Procedure Code of the Republic of Uzbekistan, a suspect, an accused, a defendant and a victim can be examined. The examination of a witness is carried out only to verify the correctness of his testimony.

If there is sufficient data on the body of a suspect, accused, defendant or victim, as well as obvious traces of a crime and other signs relevant to the case (being in an unusual physiological

state), the inquirer or investigator issues a resolution on the examination, and the court makes an appropriate determination. The resolution or definition must specify:

- who and for what purpose will perform the examination;
- who should be examined;
- to whom and when the person should arrive for examination.

The decision of the inquirer, investigator or court ruling on the examination is mandatory for the persons in respect of whom it was issued. Persons who evade the examination may be subjected to a drive and compulsory examination. It is considered [3] that if there are objections of the suspect, the accused, the defendant, the examination can be carried out against their will.

Compulsory examination is associated with the restriction of constitutional human rights (the right to personal inviolability, freedom of movement, etc.). That is why the procedure for its implementation should be properly regulated in the criminal procedure legislation.

Examination, as well as a personal search, are investigative actions affecting the constitutional rights of a citizen and having a specific object of inspection (examination) of a living person. However, if a personal search requires the consent of the prosecutor, then only the investigator's decision is sufficient for the examination.

The examination is carried out at the stage of initiation of a criminal case. Because of this, the approval of the resolution on the examination by the head of the investigative unit (department, department, group) will serve as one of the guarantees against its unjustified conduct. Such an update of the existing situation will remove any obstacles in the investigator's activities to speed up the investigation.

During the examination, it is unacceptable to use methods that humiliate the honor and dignity of the person being examined and create a danger to his life and health. Paragraph 3 of Article 17 of the Code of Criminal Procedure of the Republic of Uzbekistan prohibits the performance of actions that humiliate the honor and dignity of a person, endanger his health, unreasonably cause him physical and moral suffering.

It is necessary to legislate the mandatory participation of witnesses in the production of this investigative action (as provided for in a personal search). Mandatory participation of witnesses will serve as a factor guaranteeing compliance with the rights of the person being examined. In this regard, it is advisable to make appropriate amendments to Article 146 Part 3 of the Code of Criminal Procedure of the Republic of Uzbekistan. The following version is proposed:

"During the examination, accompanied by the exposure of the body, or related to the identification of scratches, abrasions, bruises on the body, as well as the examination provided for in paragraph two of Article 142 of this Code, is carried out on behalf of the inquirer, investigator or court by a doctor or other medical specialist with the participation of witnesses. At the same time, the doctor or other medical specialist and the witnesses who participate in this investigative action must be of the same sex as the person being examined."

Conclusion. Some aspects of the examination in the process of detection and investigation of crimes are considered. The need to revise two norms of the Criminal Procedure Code of the Republic of Uzbekistan is reasonably attached. The adoption of the proposed amendments will serve as a factor guaranteeing compliance with the rights of the person being examined [4].

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