

GUARANTEES FOR THE PROTECTION OF THE RIGHTS OF SUSPECTS AND ACCUSED PERSONS DURING INVESTIGATIVE PROCEEDINGS: A LEGAL ANALYSIS AND PRACTICAL ISSUES

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Abstract

The present article conducts an analysis of the mechanisms for protecting the rights of suspects and accused persons during investigative proceedings. It identifies practical shortcomings and proposes specific measures to address them. The study examines legal safeguards, including national and international instruments, as well as typical violations in practice. These include restrictions on access to a defence lawyer, pressure on participants in the proceedings, formalism in the consideration of applications, inadequate recording of investigative activities, and delays in the preliminary investigation. In light of the identified issues, a series of proposals have been formulated with the aim of enhancing oversight of the implementation of the right to defence. These proposals include the introduction of mandatory audio and video recording, the tightening of the liability of officials, the expansion of prosecutorial supervision, and the improvement of access to qualified legal assistance. The implementation of the proposed measures is intended to ensure the effective observance of the rights of participants in criminal proceedings, strengthen the rule of law, and increase public confidence in the law enforcement system.

Keywords

protection of rights, suspect, accused person, investigative procedures, legal representation, audio and video recording, prosecutorial oversight, judicial review, procedural transparency, accountability of public officials.

The protection of the rights and legitimate interests of individuals involved in criminal proceedings constitutes a fundamental principle of modern justice. The present article aims to examine the mechanisms for protecting the rights of suspects and accused persons during investigative proceedings, to identify existing shortcomings, and to propose practical solutions for addressing them.

The fundamental guarantees for the protection of the rights of suspects and accused persons are enshrined in legal sources, in particular in the Constitution of the Republic of Uzbekistan, the Universal Declaration of Human Rights, the Convention for the Protection of Human Rights and Fundamental Freedoms, and the International Covenant on Civil and Political Rights.

It is imperative to note that throughout the investigative process, suspects and accused persons are entitled to the following rights:

It is vital that individuals are apprised of the nature of the suspicions or charges against them. This entails the right to be informed of the specific facts and grounds on which they are suspected or charged.

The right to either provide explanations and evidence, or to exercise the right to remain silent, must be exercised at the individual's discretion.

It is vital to ensure that individuals are granted legal assistance from the moment of their actual detention or the bringing of charges. Furthermore, it is essential to guarantee the right to a defence lawyer from the moment of actual restriction of liberty or official notification of the charges.

It is vital to present evidence in support of one's position, as this right is fundamental to the process of defence.

The right to initiate procedural requests and to challenge persons involved in the proceedings is recognised, provided that there are grounds to do so.

The records of investigative actions in which they have participated are to be examined, and comments are to be made. The right to review the records and to raise objections or seek clarifications is also recognised.

The right to appeal against the actions and decisions of the preliminary enquiry officer, the investigator, the prosecutor and the court is recognised. This right encompasses the ability to lodge complaints and appeals against procedural actions and rulings of the competent authorities.

A suspect or accused person is entitled to contest any procedural actions or decisions taken.

The following paper sets out to explore the issues that have been encountered during the process of implementing safeguards within the context of investigative practice.

In certain cases, suspects are not granted the immediate opportunity to contact a defence lawyer following their actual detention. This is a restriction on access to legal representation.

The application of pressure to suspects is a common practice, encompassing both psychological and physical forms. The utilisation of such pressure is often aimed at eliciting confessions from the suspects.

It is imperative to consider the formal aspects of applications, as investigative authorities frequently reject defence requests without providing adequate justification.

The absence of transparency in investigative procedures is a matter of concern. The fact that audio and video recordings of interrogations are not always made complicates the subsequent verification of the legality of actions taken.

It is evident that extended periods of investigation result in prolonged detention without sufficient grounds, thereby violating the right to liberty and the right to a timely hearing of the case.

This paper sets out the measures that have been implemented with a view to improving the protection of the rights of suspects and accused persons.

It is imperative to enhance the oversight of the right to a defence. In order to achieve this, robust safeguards for access to a lawyer must be established. These safeguards should include the mandatory presence of a defence lawyer during all investigative procedures involving a suspect or accused person.

It is imperative that the following measures be implemented with immediate effect:

- The mandatory audio and video recording of investigative proceedings.
- The continuous recording of interrogations and confrontations.

The rationale for these measures is as follows:

- Enhanced transparency of procedures.
- Facilitated subsequent objective verification.

It is imperative that the accountability of officials for procedural violations is tightened. Stricter disciplinary, administrative and criminal sanctions must be introduced for infringements of the rights of participants in criminal proceedings.

It is imperative that the scope of prosecutorial oversight with regard to the legality of investigative actions is expanded. In order to achieve this objective, it is essential to grant prosecutors additional powers to promptly prevent and remedy unlawful actions by pre-trial investigation bodies.

In order to enhance access to qualified legal assistance, it is imperative to augment the number of court-appointed lawyers, whilst ensuring the provision of sustainable funding for free legal aid services. Furthermore, the professional development of defence lawyers must be encouraged.

It is imperative to enhance the efficacy of judicial review mechanisms and expedite the processing of complaints. Optimising procedures for appealing against procedural actions undertaken during the investigative process is paramount. Furthermore, it is essential to reduce the timeframe for the consideration of complaints, ensuring the prompt protection of infringed rights.

Conclusion: In view of the aforementioned, it can be concluded that the safeguarding of the rights and legitimate interests of suspects and accused persons constitutes an integral component of fair criminal proceedings. Notwithstanding the existence of a comprehensive regulatory framework, systemic inadequacies persist in practice, necessitating targeted resolution.

The enhancement of defence mechanisms, the augmentation of the transparency of investigative procedures, and the consolidation of the accountability of officials will engender the conditions for the effective observance of the rights of participants in criminal proceedings. The implementation of the proposed measures will contribute to the strengthening of the rule of law and the enhancement of public confidence in law enforcement agencies.

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