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The concept, essence and significance of the activities of inquiry units

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■ **Abstract.** The purpose of the study – provides an analysis of historical, theoretical and regulatory aspects that form the concept, essence and significance of inquiry as a simplified form of pre-trial investigation. The attention was emphasised on the insufficiently explored aspects of the subject, and the importance of the relevant institution in the functioning of the mechanism of protection of human and civil rights and freedoms in Ukraine. The scientific originality of the study is that the research substantiates the importance of the functioning of the institute of inquiry, based on statistical data provided by public authorities, it is established that this institute performs the main objective – to unload the investigative units, and to restore the violated rights and freedoms of human and citizen. The author analyses the achievements of foreign researchers of law enforcement systems of the world, and the field of criminology, which connect the efficiency of state institutions with the mechanism of protection of human rights and freedoms. It is determined that the shortcoming in the functioning of the relevant institution is the shortage of institutional and administrative interdepartmental regulations to simplify a wider range of procedures in the pre-trial investigation of criminal offences and to improve existing forms of interaction. Conclusions. The historical, theoretical and regulatory aspects that define the concept, essence and significance of inquiry as a simplified form of pre-trial investigation are analysed. Several alternative positions of scientists interpreting the main categories are considered, and the author's opinion on the definition of the concept of inquiry, which is the procedure of actions of a specifically authorised entity, is substantiated. The essence of inquiry as a pre-trial investigation form and organisational and analytical process is argued. The positions of researchers are consolidated as a justification of the significance of the understudied institution in the functioning of the state in general and the criminal procedure system in particular

■ **Keywords:** organisational and legal principles; pre-trial investigation; genesis; interpretation of the concept; human and civil rights

■ Introduction

Ensuring human and civil rights and freedoms in the world is one of the highest priorities. The modern world community intensifies the processes of strengthening the rights and freedoms of man and citizen, which in turn significantly affects the problem of violation of human and civil rights and bringing the perpetrators to justice.

Currently, there are many institutions in Ukraine whose activities are designed to protect and defend the rights and freedoms of humans and citizens. One such institution is the National Police of Ukraine a

body authorised to perform a pre-trial investigation of criminal offences. The organisation of the work of the relevant units, their structural features, and managerial and procedural powers is the subject of a separate study, but within the framework of this subject, it is proposed to consider its main conceptual aspects. The pre-trial investigation, according to the Criminal Procedure Code of Ukraine, is reflected in two forms – pre-trial investigation and inquiry.

After amendments were adopted to the legislation of Ukraine, the institute of criminal misdemeanours

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was introduced, and the work of the National Police of Ukraine inquiry units was launched, the activities of which are governed by several regulations. However, the issues of organising the work of the relevant units, regulations of their organisational and legal framework and fundamental aspects of the functioning of the relevant institution, in general, remain open. Thus, the issue of scientific interpretation of the concept, essence and significance of the activities of inquiry units as an organisational and legal form of functioning of pre-trial investigation authorities was chosen for the study.

The problems of the functioning of inquiry units in law enforcement agencies have repeatedly been the subject of scientific research by both Ukrainian and foreign lawyers.

The purpose of the research is to analyse the concept, essence and significance of the activities of inquiry units as a simplified form of investigation of criminal offences. Based on the current regulations of national and international jurisdiction, the opinions of scientists, and empirical materials, conclusions on optimising the functioning of this institution in Ukraine should be argued. The purpose determined the necessity of performing several research tasks, including: analysis of approaches to the definition of the concept of inquiry; outlining the essence of inquiry and its significance for the institution of pre-trial investigation; development of recommendations for possible improvement of the relevant institution and the legal system of Ukraine in general. The scientific originality of the research is based on the fact that it analyses the main conceptual and categorical issues of establishing the essence and significance of the institute of inquiry as a simplified form of pre-trial investigation of criminal offences. Further steps to optimise its functioning are proposed, and the areas of promising scientific research are outlined.

■ Outline of the Main Material

The issue of the scientific study of the concept, essence and meaning of inquiry from the standpoint of administrative law is rarely considered in scientific sources from the standpoint of criminal procedural law. Therewith, in the context of the study of the institutional and legal framework for the functioning of the National Police of Ukraine's inquiry units in particular and all pre-trial investigation bodies in the law enforcement institutions of Ukraine in general, the efficiency of the latter's functioning could be improved. Along with this, inquiries as a form of the pre-trial investigation were considered in the works of scientists in the last century.

For example, V. Cherney and S. Chernyavsky argue that the genesis and modern experience of applying the institute of simplified proceedings both in Ukraine and in foreign countries demonstrate the necessity of further improvement of this procedural form [1].

For example, in the dictionary of the Russian language of S. Ozhegov, the concept of inquiry is interpreted as a preliminary administrative investigation [2], while in the dictionary of V. Dahl "to inquire" means "to interrogate, learn, inquire, reconnoitre, inquire, search, find by search, know ("become aware")", "to be sure of something" [3]. Thus, notably, the concept of inquiry in 1950-1990 was associated with the administrative process and was distinguished from the investigation based on this feature.

The Criminal Code of Ukraine of 2018 was amended following the procedure established by law to introduce the concept of "criminal offence", which covers crimes and criminal violations [4]. It is criminal offences, which are more serious than administrative offences and less serious than crimes, that are investigated by detectives in a simplified manner, as defined by the relevant amendments.

Significant in the context of the interpretation of the concept of inquiry, in the authors' opinion, is the assertion that the investigators perform the investigation of criminal offences under an abbreviated procedure, the duration of which should not exceed one month from the date of serving a person with a notice of suspicion [5], since it is the period during which the investigator is obliged to perform all procedural actions that essentially distinguishes the inquiry as an institutional process from the pre-trial investigation. In the author's opinion, the issue of the organisation (the necessity of planning, strategic thinking, the ability to efficiently distribute tasks and give instructions) of the pre-trial investigation in a short time, ensuring the rights and freedoms of a person and a citizen in this process during the characterisation of the inquiry from the standpoint of administrative law is key.

The conventional interpretation of the inquiry in criminal proceedings, according to O. Boyko and V. Boyko, was a combination of operational and investigative functions and administrative powers [6], which is emphasised by V. Litvinov, since, in his opinion, the inquiry was interpreted as a procedural activity to investigate the category of crimes provided for by law in full at the stage of pre-trial investigation or as a procedural activity of state authorities (officials) defined in the law, which, given the specifics of their specific activities, performed priority procedural actions to record the crime committed [7].

Such positions, in the author's opinion, are (and were before the amendments to the legislation of Ukraine) of conceptual importance, since by establishing specific criteria for the subject of the inquiry process, and the nature of the necessary actions, they established the essence and affirmed the importance of the relevant institution. However, the legislation of Ukraine now interprets the concept of inquiry in a different way. From the definition of the concept of

“investigator”, in the author's opinion, the interpretation of the concept of inquiry as a form of organisation of the pre-trial investigation process becomes completely understandable.

In particular, an investigator, according to the Criminal Procedure Code of Ukraine, is an official of the investigation unit of the National Police, a security body, a body exercising control over compliance with tax legislation, the body of the State Bureau of Investigation, in cases established by this Code, an authorised person of another unit of the said bodies, which are authorised within the competence provided by this Code, to perform a pre-trial investigation of criminal offences.

Thus, the inquiry from the standpoint of the organisation of work is a set of actions and decisions determined by the current legislation, performed and taken by an authorised person, they are designed to achieve the objectives of criminal proceedings within the time limit provided by law.

One of the tasks of this research is to study the essence of inquiry as a process of organising the functioning of one of the elements of the institution of protection of human and civil rights and freedoms. The relevance of this area in the study is conditioned, in particular, upon the fact that the main purpose of the inquiry (i.e. pre-trial investigation of criminal offences) is to ensure the restoration of human and civil rights and freedoms that have been violated.

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According to A. Sakovskiy and A. Zhyzhyn, the interaction of criminal police units with pre-trial investigation bodies is a recognised and widespread institution in the civilized world, which allows achieving the highest results by combining the efforts of stakeholders, as such cooperation is enhanced both quantitatively through human resources and qualitatively through the narrow specialisation and professional skills of each participant in a particular field of activity [8].

In the author's opinion, the essence of the inquiry is to use the institution of pre-trial investigation as quickly as possible, involving all organisational and procedural resources within the limits defined by the legislation of Ukraine to restore the rights and freedoms of humans and citizens. All this is primarily organisational, but the actions performed by the investigator in the pre-trial investigation are procedural. Such definition of the concept and essence of inquiry forms the content of this process in the context of administrative law.

Therewith, analysing the positions on the definition of the importance of the activities of the investigation units, to be noted that they have some specific

features, thus, a summary and further justification of the relevant doctrines will be provided.

According to S. Edwards, crime has always been in society and probably always will be, although the forms of crime have changed significantly, as violent crimes have transformed, as people have always been characterised by forms of antisocial behaviour [9]. Such a position is supported by D. Govender, who emphasises the interconnectedness of the development of society and crime as two mutual processes [10].

The most common types of criminal offences are theft, infliction of minor bodily harm, etc. These types, according to the CC of Ukraine, belong to the category of criminal offences that are investigated under a simplified procedure. It is the increase in the number of such offences and the necessity to provide a rapid response to their commission that contributed to the development of the institute of investigators and partially determine its importance.

Exploring the aspects of using global information technologies in the activities of law enforcement agencies, M. Linares notes that the necessity of introducing such technologies is primarily conditioned upon the incessant growth of crime rates and changes in their nature. In his opinion, “IT will become a panacea for decision-making, and using this technology will improve police work by statistically predicting where, when and who is most probably to commit a crime, as there is too much crime to hope for objective, unbiased forecasting of events” [11]. Sharing the position of M. Linares, in the author's opinion, the simultaneous reorientation of the institute of inquiry to electronic document management would significantly improve its work and significantly affect its efficiency.

According to the positions of foreign and domestic researchers, A. Melnyk notes that the necessity of inquiry as a form of pre-trial investigation is due to the excessive workload of investigators (primarily the National Police of Ukraine) with criminal proceedings for crimes of minor gravity, which are currently considered criminal offences. To relieve investigators and effectively organise a pre-trial investigation of minor crimes, the institution of inquiry and criminal misconduct was introduced [12].

The Unified Report on Criminal Offenses for January-July 2021, published on the official website of the Office of the Prosecutor General, established that out of the total number of recorded criminal offences (221,403), the share of criminal offences is 75,103, which indicates the position on the establishment of an institution of inquiry, which relieves the investigative units and provides an opportunity to devote time to the investigation of serious and particularly serious crimes [13]. Such results of the functioning of inquiry units fully reflect the importance of it as an institution in the system of law enforcement agencies of Ukraine. Although the shortcomings of its functioning

are systematically highlighted by scientists, in the author's opinion, its activity plays a key role in the functioning of the mechanism for the protection of human and civil rights and freedoms in Ukraine, which is confirmed by the positions of domestic and foreign scientists, statistical data and legal framework, and therefore author proposes to consider the issue of organising the work of the relevant body from an administrative and legal standpoint in the future.

■ Conclusions

Based on the analysed opinions of scientists of the domestic space, and foreign colleagues, the study of statistical information on the efficiency of the functioning of the inquiry units, the analysis of organisational, administrative and regulatory sources, allowed substantiating several important conclusions, including the following:

1. From the standpoint of the form of organisation of work, the inquiry is a set of actions and decisions determined by the legislation of Ukraine, which are made (taken) by an authorised person, they are designed to achieve the objectives of criminal proceedings within the time limit established by law.

2. The essence of the inquiry as a form of organisation of pre-trial investigation in a short time is that a designated official should develop a pre-trial investigation plan as quickly as possible, distribute tasks among all participants of the prosecution for the fastest, full and comprehensive examination of available evidence to present the results of such activities to the procedural supervisor and send the criminal proceedings to the court.

3. In the author's opinion, the importance of inquiry as a form of simplified pre-trial investigation used for criminal offences is that this institution allows establishing quickly, impartially and objectively the involvement of a person in violation of human and civil rights, and then sends the relevant criminal proceedings to the court for its consideration. It is the most important factor in the case of violation of the rights and freedoms of a particular person since the desire to restore the violated rights arises immediately after they have been violated, and the relevant institution allows compliance with the principle of the reasonableness of terms in criminal proceedings and prevents adverse manifestations of individuals regarding the inaction of public authorities.

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Поняття, сутність і значення діяльності підрозділів дізнання М. Ю. Романов

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■ **Анотація.** Мета публікації – здійснити аналіз історичних, теоретичних і нормативних аспектів, що формують поняття, сутність та значення дізнання як спрощеної форми досудового розслідування. Акцентовано увагу на недостатньо досліджених аспектах теми, значенні відповідного інституту у функціонуванні механізму захисту прав і свобод людини та громадянина в Україні. Наукова новизна дослідження полягає в тому, що в статті обґрунтовано значення функціонування інституту дізнання, на підставі статистичних даних, висвітлених органами державної влади, встановлено, що цей інститут виконує основне завдання – щодо розвантаження слідчих підрозділів, а також відновлення порушених прав і свобод людини й громадянина. Проаналізовано напрацювання іноземних дослідників правоохоронних систем світу, а також галузі кримінології, що пов'язують ефективність функціонування державних інституцій з механізмом захисту прав і свобод людини. Визначено, що недоліком у функціонуванні відповідного інституту є брак організаційно-розпорядчих міжвідомчих нормативно-правових актів щодо спрощення ширшого обсягу процедур у досудовому розслідуванні кримінальних проступків, а також удосконалення вже наявних форм взаємодії. Висновки. Проаналізовано історичні, теоретичні та нормативні аспекти, що формують поняття, сутність і значення дізнання як спрощеної форми досудового розслідування. Розглянуто декілька альтернативних позицій вчених, що тлумачать основні категорії, обґрунтовано авторську позицію щодо визначення поняття дізнання, що є порядком дій конкретного уповноваженого суб'єкта. Аргументовано сутність дізнання як форми досудового розслідування та організаційно-аналітичний процес. Консолідовано позиції дослідників як обґрунтування значення досліджуваного інституту у функціонуванні держави загалом і системі кримінального процесу зокрема.

■ **Ключові слова:** організаційно-правові засади; досудове розслідування; генеза; тлумачення поняття; права людини і громадянина