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## PROCEDURAL ACTIONS PERFORMED IN THE COURSE OF DETAINING A PERSON IN CRIMINAL PROCEEDINGS

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### Abstract

The article analyzes procedural actions carried out during the detention of a person in criminal proceedings, focusing on the legislation of the Republic of Uzbekistan. The study examines the legal nature of detention, procedural guarantees at the moment of factual deprivation of liberty, and mechanisms of prosecutorial and judicial control. Using a comparative legal method, the experience of Germany and Kazakhstan is analyzed in order to identify legal instruments that may be implemented in the national criminal procedure. The author substantiates proposals aimed at strengthening safeguards of personal liberty and improving the effectiveness of procedural control.

**Keywords:** Detention, criminal procedure, procedural guarantees, right to liberty, judicial control, Uzbekistan.

### I. INTRODUCTION

The detention of a person in criminal proceedings constitutes one of the most intensive forms of state coercion, as it directly affects the fundamental right to liberty and personal security. In criminal procedure doctrine, it is emphasized that it is precisely at the stage of detention that the risk of arbitrary state interference with individual rights reaches its maximum. [1] The European Court of Human Rights has consistently held that deprivation of liberty is permissible only subject to strict compliance with the principles of legality,



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necessity, and procedural certainty. [2] At the same time, the absence of clear procedural guarantees during the initial hours following the actual restriction of liberty renders subsequent judicial control largely formal.

The right to liberty and personal inviolability is enshrined in Article 25 of the Constitution of the Republic of Uzbekistan, [3] which provides that no one may be deprived of liberty except on the grounds and in the manner prescribed by law. A similar approach is reflected in Article 13 of the Criminal Procedure Code of the Republic of Uzbekistan, which establishes the principle that restrictions of individual rights and freedoms are permissible only in cases and within limits expressly provided by criminal procedural legislation. [4]

In the Republic of Uzbekistan, significant steps have been taken in recent years to modernize criminal procedural legislation, including strengthening the role of defense counsel, introducing mandatory video recording of certain procedural actions, and clarifying the rules for calculating detention time limits. However, an analysis of law-enforcement practice indicates the persistence of systemic problems related to the moment of actual detention, access to legal defense, and the effectiveness of oversight over the actions of law-enforcement authorities.[4]

The purpose of this article is to provide a comprehensive analysis of the procedural actions carried out during the detention of a person in criminal proceedings in the Republic of Uzbekistan, taking into account international standards and the comparative experience of Germany and Kazakhstan, as well as to formulate the author's proposals for improving national legislation.

Detention should be viewed not as an auxiliary stage of the investigation, but as an independent institution of criminal procedural law requiring an enhanced level of formalization and judicial control. Underestimating this stage leads to systemic violations of individual rights that cannot be remedied at subsequent stages of the criminal process.

## **II.MATERIALS AND METHODS**

The methodological framework of the study is based on formal-legal, comparative-law, and doctrinal methods of analysis. The formal-legal method is applied in examining the provisions of the Criminal Procedure Code of the



Republic of Uzbekistan regulating the grounds, procedure, and time limits of detention.

In particular, the study analyzes the provisions of the Criminal Procedure Code of the Republic of Uzbekistan governing the grounds for detention of a person suspected of committing a crime, the procedure for its procedural formalization, the calculation of detention time limits, the rights of the detainee, as well as the requirements for the detention record and the exercise of prosecutorial oversight. [4]

The comparative-law method is used to analyze the criminal procedural models of Germany (the Strafprozessordnung) and the Republic of Kazakhstan, which makes it possible to identify differences in mechanisms of judicial and procedural control. The doctrinal analysis draws on the works of both foreign and national scholars in criminal procedure, as well as on the case law of the European Court of Human Rights.

The empirical basis of the study consists of national and foreign criminal procedural legislation, academic publications, and international standards for the protection of the right to personal liberty.

The selection of Germany and Kazakhstan is justified by the fact that the former represents a classical continental model with strong judicial oversight, while the latter reflects a post-Soviet legal system that is close to Uzbekistan in terms of legal culture. This combination makes it possible to avoid abstract comparisons and to focus on mechanisms that are realistically capable of being implemented in national practice.

### **III.RESULTS**

In the criminal procedural law of the Republic of Uzbekistan, detention is defined as the short-term deprivation of liberty of a person suspected of committing a crime, pending a decision on the application of a preventive measure. At the same time, the legislator consistently distinguishes between the moment of actual detention and its subsequent procedural formalization.

Pursuant to Article 221 of the Criminal Procedure Code of the Republic of Uzbekistan, detention constitutes the temporary deprivation of liberty of a person suspected of committing a crime for a period not exceeding forty-eight



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hours from the moment of factual detention, unless otherwise provided by law. [4]

In national criminal procedural doctrine, the detention of a person suspected of committing a crime is regarded as a measure of preventive procedural coercion, applied primarily in urgent circumstances and involving the short-term isolation of the individual from society. A collective monograph by Uzbek procedural scholars emphasizes that the purposes of detention include preventing the continuation of criminal activity, eliminating the risk of the suspect evading inquiry and preliminary investigation authorities, and preventing interference with the establishment of the truth in a criminal case, including the concealment or destruction of evidence. The authors stress that detention may occur both prior to the initiation of criminal proceedings— including by any individual, with subsequent transfer to law enforcement authorities— and after the initiation of the case, but exclusively on the basis of a procedural decision taken by an authorized official. It is further underlined that the list of grounds for detention is exhaustive and not subject to extensive interpretation, which serves as an important safeguard against arbitrary deprivation of liberty. [3]

Procedural actions carried out during detention include informing the person of the suspicion, explaining procedural rights, ensuring the right to legal counsel, video recording of relevant procedural actions, transfer to a law enforcement body, and prosecutorial oversight within the time limits established by law. A particularly significant element is the obligation to ensure a confidential meeting between the detainee and defense counsel prior to the conduct of procedural actions.

These provisions generally comply with international standards as articulated in the case law of the European Court of Human Rights, in particular in the judgment in case [4], which emphasizes the necessity of immediate access to legal counsel following the actual deprivation of liberty.

Despite the progressive nature of the normative framework, the author argues that Uzbek regulation remains excessively dependent on the discretion of law-enforcement authorities. The formal existence of safeguards does not always translate into their effective implementation in practice, indicating the need for further procedural specification and the strengthening of oversight mechanisms.



In German criminal procedural law, detention is regarded as an exceptional measure, permissible only as a transitional stage leading to a judicial decision. Pursuant to §§ 114–128 of the Strafprozessordnung (StPO)[5], a person detained without a judicial warrant must be brought before a judge without delay.

As noted by T. Weigend, the German model is based on the presumption that prolonged police detention without judicial control is inadmissible, which serves as a key barrier against arbitrariness. [6] An important safeguard is the obligation of the police to provide the detainee with written notification of their rights in a language they understand.

The author considers that the German model demonstrates the priority of judicial authority over police discretion, which fundamentally distinguishes it from many post-Soviet systems. It is early judicial oversight, rather than subsequent avenues of appeal, that ensures genuine protection of the right to liberty.

The Criminal Procedure Code of the Republic of Kazakhstan provides for mandatory procedural medical examination of the detainee, allowing for the documentation of physical condition and any bodily injuries. In addition, Kazakh criminal procedure law contains detailed requirements regarding the contents of the detention record, which reduces the risk of manipulation of the time and grounds for deprivation of liberty.

Specifically, Article 132 of the Criminal Procedure Code of the Republic of Kazakhstan provides for mandatory medical examination of a detained person, including documentation of bodily injuries and health condition. Article 131 of the Criminal Procedure Code of the Republic of Kazakhstan establishes detailed requirements for the contents of the detention record, including precise indication of the moment of factual deprivation of liberty. [6]

The author concludes that the Kazakh experience is of particular value for Uzbekistan, as it demonstrates the possibility of strengthening procedural safeguards without radical restructuring of the procedural system, through the introduction of additional mechanisms of documentation and control.

#### **IV.DISCUSSION**

The comparative analysis demonstrates that the criminal procedural legislation of the Republic of Uzbekistan, insofar as it regulates detention, generally





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complies with international standards; however, it falls behind foreign models in terms of the degree of procedural formalization.

Unlike the German and Kazakh models, the Criminal Procedure Code of the Republic of Uzbekistan does not provide for a standardized written notification of detainees' rights, mandatory medical examination upon detention, or immediate judicial review of the lawfulness of deprivation of liberty, which objectively reduces the effectiveness of existing procedural safeguards.

At the same time, the criminal procedural legislation of the Republic of Uzbekistan draws a clear distinction between the moment of factual deprivation of liberty and its procedural formalization. In accordance with Article 225 of the Criminal Procedure Code of the Republic of Uzbekistan, a detention record must be drawn up no later than three hours from the moment the person is brought to the inquiry or preliminary investigation authority; however, the detention period is calculated from the moment of actual deprivation of liberty. [4]

The absence of a standardized written notification of rights, the limited scope of medical documentation of the detainee's condition, and relatively weak early judicial oversight create risks that procedural guarantees may become merely formal. As noted by S. Trechsel, it is precisely "procedural gaps at the early stage" that most often become the source of violations of the right to personal liberty. [7]

The author is convinced that the further development of the institution of detention in Uzbekistan should proceed not through the expansion of the powers of investigative authorities, but through the institutional strengthening of procedural barriers designed to prevent arbitrary deprivation of liberty.

## **V.CONCLUSION**

The detention of a person in criminal proceedings is a key indicator of the actual level of human rights protection within a legal system. An analysis of the legislation of the Republic of Uzbekistan demonstrates the existence of a normative framework that generally complies with international standards; however, the effectiveness of its practical application remains limited.

In this regard, it appears necessary to amend the Criminal Procedure Code of the Republic of Uzbekistan by introducing an obligation to provide detainees with



a written notification of their rights, establishing mandatory medical examination at the detention stage, and strengthening early judicial control over the lawfulness of deprivation of liberty.

The implementation of certain elements of the German and Kazakh models—such as written notification of rights, mandatory medical examination, and enhanced judicial oversight—could significantly strengthen procedural safeguards and increase public trust in the criminal justice system.

The author concludes that detention should be regarded not as a merely technical stage of the investigation, but as a central element of the system for the protection of individual rights, requiring independent theoretical development and further normative refinement.

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