

Answers to the Questionnaire for preparation of Opinion #10 CCEP “On Activities of the Prosecutors within the Framework of Criminal Investigation”

A. Relations between Prosecutors and the Police

1. Describe in general the relations between prosecutors and the police and other investigative bodies in Your country.

The relations between the prosecutors and the police (the bodies of preliminary investigation) are conducted on the basis of Criminal Procedure Code of the Russian Federation (CPC RF), other legislative acts (for instance, Federal Laws #2202-1 “On the Prosecutor’s Office of the Russian Federation” (Law on the Prosecutor’s Office) , dated January 17, 1992; #144-FZ “On Operative and Search Activities”, dated August 12, 1998; #119-FZ “On State Protection of the Victims, Witnesses and Other Participants of the Criminal Law Proceedings”, dated August 20, 2004)¹.

Each of the above mentioned participants of the legal relations acts in accordance with the volume of powers, preconditioned by their procedural functions. In Russia the prosecutor and the bodies of preliminary investigation (inquiry bodies and investigation authorities²) perform the function of criminal prosecution in criminal law proceedings. Moreover, the prosecutor has a function of supervision over the procedural activities of the bodies of preliminary investigation at the pre-trial stages of criminal law proceedings. These activities include constant control over the legality of procedural decisions and actions of the officials of the inquiry bodies and investigation authorities.

Alongside with the standards and principles of international law, which are implemented in the Russian legislation and which regulate the format of legal relations of the bodies of prosecution, police and other investigative bodies, the prosecutors also take into account the international standards of non-legal nature,

¹ You can familiarize with the text of the Criminal Procedure Code of the Russian Federation and other legal acts at the Russian official Internet-portal of Legal Information: <http://www.pravo.gov.ru>

² The preliminary investigation in Russia is conducted in the form of preliminary investigation or in the form of inquiry.

Investigation is a form of preliminary investigation which is conducted by the investigator in grave and very grave criminal cases and also in cases when the personality of the suspect has not been identified.

Inquiry is a form of the preliminary investigation which is conducted by the inquirer (investigator) in the criminal case, in which the conduction of the preliminary investigation is not necessary (compulsory). Inquiry is conducted in the general order or in summary.

Article 150 of the Criminal Procedure Code of the Russian Federation states which crimes are to be investigated in the form of inquiries. Preliminary investigation is conducted in all other crimes.

including Recommendation # R (2000) 19 of the Committee of Ministers of the Council of Europe, dated October 06, 2000, “On the Role of the Prosecutor’s Office in the Criminal Justice System”.

2. *Is there any dialogue with the prosecutor about the work of the police or another investigative body?*

The dialogue as a form of interaction between the prosecutors and the bodies of inquiry or investigation is conducted within the framework of criminal procedure law and according to the function, performed by the prosecutor’s office, concerning the coordination of the activities of law enforcement bodies in the fight against crime.

Within the framework of permanent supervision, the bodies of the prosecutor’s office conduct monitoring of the state of legality in general at the pre-trial stage of criminal proceedings. The results of such monitoring are discussed at joint working meetings, meetings of the working groups and in other formats.

The most resonant problems are put on discussion at coordination meetings with participation of the heads of law enforcement bodies at the regional and federal levels, the aims of which is to elaborate coordinated decisions on conduction of organizational and practical events to prevent crimes, and these decisions are aimed at improving the situation with the crime in Russia³.

As it is viewed, the volume of the powers, entrusted by the legislator to the prosecutor’s office and the bodies of investigation, also preconditions the opportunity to organize constructive work and eliminates the advantages on the part of the bodies of the prosecutor’s office or the body of investigation.

Thus, the Russian legislation entrusted the prosecutor with the right to return the criminal case for conduction of the preliminary investigation, though it excludes

³ Such meetings are one of the forms in which the prosecutor’s office performs its function on coordination of the activities of law enforcement bodies in the sphere of combat against crime (article 8 of the Law on the Prosecutor’s Office).

the possibility of procedural management in respect of the investigator, but it allows to minimize the number of poorly investigated criminal cases and violations of the rights of persons who are involved in the criminal proceedings.

In his turn, the investigator has a right to appeal such procedural decision to the upper prosecutor in compliance with the procedure, established by law.

3. Does the prosecutor participate in training of the police officers or employees of any other investigative body?

The law of Russia does not in general contain the direct indication about participation of the bodies of prosecution in training of police officers or employees of another investigative body. At the same time, the employees of the prosecutor's office organize conduction of organizational and practical events which envisage improvement of professional qualification and sharing of work practices and they are also invited to participate in such events which are conducted by the bodies of investigation.

B. Existing Legal Standards and Rules.

4. Does the law and other standards regulate the relations between prosecutors and bodies of investigation? Explain in general.

The relations between prosecutors and investigators are conducted within the framework of the uniform procedural order which is established by the provisions of the Criminal Procedure Code of the Russian Federation when each participant of the legal relations acts in accordance with the rights and duties, established by law and preconditioned by their procedural functions. The prosecutor, bodies of inquiry and investigation in criminal law proceedings perform the function of criminal prosecution, and besides that the prosecutor is entrusted with the function of supervision over the procedural activities of the bodies of inquiry and investigation at the pre-trial stages of criminal law proceedings.

The essence of supervision is to constantly and comprehensibly maintain the regime of legality by applying the measures of prosecutor's action (reaction) to the

actions and decisions of the bodies of inquiry and investigation which violate the requirements of criminal procedure law.

C. The role of the prosecutor in setting the priority when investigating crimes

5. How is priority in initiating criminal cases defined in Your country?

Russia is the country where there is mandatory prosecution for the committed crime.

The order of initiating criminal cases is regulated by the Criminal Procedure Code of the Russian Federation. In each case when the signs of crime are revealed, the prosecutor, investigator, the body of the inquiry or the inquirer take the measures which are envisaged by the Criminal Procedure Code of the Russian Federation to define the event of the crime, to identify and charge the person or persons who are guilty in commission of the crime. The exceptions are the criminal cases of private and private-public accusation.

Criminal cases of private accusation are initiated upon the statement of the victim or his/her legal representative and are subject to termination due to reconciliation of the victim with the accused. These are such crimes as deliberate infliction of light damage to health, assault and battery, defamation without aggravating circumstances.

Criminal cases of private-public accusation are initiated only upon the statement of the victim or his legal representative, but they are not terminated due to reconciliation of the victim with the accused. These are such crimes as rape, forced actions of sexual nature, violation of privacy, violation of the confidentiality of correspondence, telephone talks, postal, telegraph or other messages, violation of integrity of the dwelling, unsubstantiated refusal to hire for work or unsubstantiated dismissal of a pregnant woman or a woman who has children of up to three years, violation of copyright and adjacent rights, violation of inventor's and patent rights, fraud and etc.

Criminal case of private or private-public accusation may be initiated by the head of the investigative body, an investigator and upon the consent of the prosecutor by an inquirer and in the absence of the application of the victim or his/her legal representative, if such crime was committed in respect of the person who cannot

protect his/her rights and legal interests due to the dependent or powerless state or due to any other reasons.

The Criminal Procedure Law of Russia defines the reasons and bases to initiate a criminal case and regulate the order of initiation of the criminal case in the cases of private accusation. Taking into account the factual circumstances, the criminal case may be initiated either based on the fact of commission of the crime and against specific persons if these persons had been identified by the bodies of investigation by the moment such a decision was taken.

Moreover, there is a special order of initiation of the criminal case against specific categories of persons (for instance, the members of the Federation Council and the deputies of the State Duma⁴, the deputies of the Legislative (Representative) body of the state power of the subject of the Russian Federation, the deputies and members of the elected body of local self-government, elected officials of the bodies of local self-government, judges of the Constitutional Court of the Russian Federation, judges of federal courts of common jurisdiction and federal arbitration courts, juries or arbitration judges when they are administering justice; prosecutors, investigators, attorneys of defence and others).

To arraign the above mentioned persons to criminal liability, the consent of the relevant state body or an official is needed.

For instance, the criminal case against the members of the Federation Council and the deputy of the State Duma is initiated by the Chairman of the Investigative Committee of the Russian Federation upon the consent, respectively, of the Federation Council and the State Duma which was received on the basis of representation of the Prosecutor General of the Russian Federation.

The criminal case against the prosecutor of the district, city, and prosecutors equal to them, the director and the investigator of the investigative body for the district, city is initiated by the director of the investigative body of the Investigative Committee of the Russian Federation for the subject of the Russian Federation; the criminal case against the upper prosecutors, directors and investigators of the higher investigative bodies is initiated by the Chairman of the Investigative Committee of the Russian Federation or his deputy.

It is viewed as one of the guarantees of independence of a prosecutor and an investigator.

⁴ The Federation Council and the State Duma are, correspondingly, the upper and the lower houses of the Federal Assembly—the Parliament of the Russian Federation.

6. *Does the prosecutor or the prosecutor's office have direct influence on this process?*

The prosecutor does not have direct influence on the process of initiation of the criminal case. In the course of pre-trial proceedings the prosecutor is entitled to check the execution of the requirements on the order of acceptance, registration and resolution of the messages about crimes (paragraph 1 part 2 article 37 of the Criminal Procedure Code of the Russian Federation), to cancel illegal or unsubstantiated resolutions of the bodies of inquiry and investigation on initiation or refusal to initiate a criminal case (part 4 article 146 and part 6 article 148 of the Criminal Procedure Code of the Russian Federation).

Upon cancellation of the illegal or unsubstantiated procedural decision to refuse the initiation of the criminal case, the prosecutor has a right to state in his/her resolution specific circumstances, subject to additional check.

Apart from the copies of the main procedural documents which are forwarded to the prosecutor's office, the results of the prosecutor's checks are the sources of information for the prosecutor to adopt the relevant decision. In the sphere of supervision over the legality of acceptance, registration and resolution of the messages about crimes, the prosecutor's checks shall be conducted systematically (not less than once a month) and in the presence of the information on violations of the law these checks shall be conducted immediately (Order #277 of the Prosecutor General of the Russian Federation, dated September 05, 2011).

The violations of legality, which were revealed by the prosecutor during the check, serve as basis to apply the measures of the prosecutor's reaction (action), including, inter alia, to adopt motivated resolutions on forwarding materials to the investigative body or the body of inquiry to solve the issue of criminal prosecution (paragraph 2 part 2 article 37 of the Criminal Procedure Code of the Russian Federation).

In cases when there is no application of the victim or his/her legal representative about the crimes, envisaged by parts 2,3 article 20 of the Criminal Procedure Code of the Russian Federation, if such crimes were committed against the person who cannot protect his/her rights and legal interests due to the dependent or powerless state or due to any other reasons or when the above mentioned crimes were committed by the person, the data about whom are unknown, the prosecutor as a carrier of the fundamental role in the protection of rights in the criminal law proceedings shall have direct influence on the process of initiation of the criminal

case by giving consent to the inquirer to initiate such a case (part 4 article 20 of the Criminal Procedure Code of the Russian Federation).

D. Accountability of the prosecutor when investigating

7. *Are prosecutors responsible for conduction of investigations in Your country? If no, who is responsible for it?*

There is no direct indication about the responsibility of the prosecutor for the investigation in the law. The investigator and the inquirer,—who enjoy procedural independence and who are obliged to use the whole complex of investigative and other procedural actions, aimed at full, comprehensive and objective investigation of crimes within the reasonable period of time, —are responsible for the results of investigation.

At the same time, within the framework of the supervision function, the prosecutor shall undertake all necessary measures, aimed at improving the efficiency of work of the bodies of investigation and inquiry in the sphere of revealing and investigating crimes. All procedural actions and decisions of the prosecutor shall meet the requirements of the legality, substantiation and motivation (part 4 article 7 of the Criminal Procedure Code of the Russian Federation). Taking into account the above mentioned provisions, if the prosecutor violates the requirements of the criminal procedure law which regulates the procedural order of his participation in the criminal law proceedings, including in conducting supervision over the procedural activities of the bodies of inquiry and investigation when investigating crimes, the prosecutor is subject to disciplinary liability.

8. *When does the prosecutor receive the claim (immediately as soon as the claim was filed or after the police have conducted investigation)?*

Constitutional guarantees (article 46 of the Constitution of the Russian Federation) and the procedural order of filing a claim grant an opportunity to the participants of the criminal proceedings to challenge before the prosecutor, director of the investigative body or the court any procedural action (inaction) or a decision in the part in which the conducted procedural activities and the adopted procedural decisions touch their interests at the pre-trial stages of criminal proceedings (articles 124, 125 of the Criminal Procedure Code of the Russian Federation).

In case the claim is immediately forwarded to the prosecutor, he is obliged to consider it within 3 days from the moment he received it. In exceptional cases,

when it is necessary to request additional materials or take other measures for the check, it is permitted to consider the claim within 10 days and the claimant shall be informed thereof. Upon the results of consideration of the claim, the prosecutor adopts the resolution on full or partial satisfaction of the claim or on refusal to satisfy it.

9. *What is the degree of independence of the police or any other body of investigation in the course of investigation?*

The Criminal Procedure Code of the Russian Federation empowers the investigator to independently define the course of the investigation, to adopt decisions on investigative and other procedural actions except for the cases when according to the law it is necessary to obtain a court decision or consent of the director of the body of investigation (paragraph 3 part 2 article 38 of the Criminal Procedure Code of the Russian Federation).

The inquirer independently conducts investigative and other procedural actions and adopts procedural decisions except for the cases when according to the Criminal Procedure Code of the Russian Federation it is necessary to obtain consent of the director of the body of inquiry, consent of the prosecutor (for instance, when it is necessary to initiate a certain category of criminal cases (deliberate infliction of light damage to health, assault and battery and other violent actions which caused physical pain; defamation); when the criminal case is initiated against a person who is suspected in or accused of the crime of a light or medium gravity on the basis of the application of the victim or his/her legal representative if this person reconciled with the victim and restituted the damage incurred to him/her and etc.) and (or) when it is necessary to obtain a court decision (paragraph 1 part 3 article 41 of the Criminal Procedure Code of the Russian Federation).

Thus, according to the requirements of the Criminal Procedure Code of the Russian Federation, the investigator and the inquirer have the right to independently conduct most procedural actions (interview of the witness, detention of a person who is suspected in commission of the crime, examination of the site, examination and etc.).

10. *Does the prosecutor have a right to prevent or terminate investigation?*

The prosecutor's activities on protection of rights when investigating crimes include the duty to take all the measures, envisaged by law, so that in case of adoption of illegal, ungrounded or unmotivated decision by the inquirer or the investigator to initiate a criminal case, the prosecutor could cancel it by his/her resolution so that such a procedural decision should not infringe the constitutional

guarantees of rights and freedoms of a human being and a citizen. The prosecutor shall also cancel illegal and ungrounded resolution of the bodies of inquiry and bodies of preliminary investigation on suspension of a criminal case.

The prosecutor has a right to give consent to the inquirer to terminate the criminal case due to reconciliation of the parties (article 25 of the Criminal Procedure Code of the Russian Federation) and due to the active repentance (article 28 of the Criminal Procedure Code of the Russian Federation). The prosecutor has also a right to terminate the criminal case upon the adoption of the Bill of Indictment on the grounds, stipulated by articles 24-28¹ of the Criminal Procedure Code of the Russian Federation (paragraph 3 part 1 article 226, paragraph 4 part 2 article 226⁸ of the Criminal Procedure Code of the Russian Federation).

These grounds include, for instance:

- absence of the event of the crime;
- absence of corpus delicti in the action;
- expiry of periods of limitations for criminal prosecution;
- death of the accused or suspect, except for the cases when conduction of the criminal case is necessary to rehabilitate the late person;
- absence of the statement of the victim of the criminal case may be initiated only upon his/her statement except for the cases, envisaged by part 4 article 20 of the Criminal Procedure Code of the Russian Federation;
- absence of the conclusion of the court on the presence of indicia of the crime in the actions of one of the persons, mentioned in paragraphs 2 and 2.1 part 1 article 448 of the Criminal Procedure Code of the Russian Federation or absence of the consent of the Federation Council, the State Duma, the Constitutional Court of the Russian Federation, the Qualification Panel of Judges correspondingly to initiate a criminal case and to arraign as an accused one of the persons who are mentioned in paragraphs 1 and 3-5 part 1 article 448 of the Criminal Procedure Code of the Russian Federation;
- reconciliation of the parties;
- active repentance.

Moreover, the prosecutor has a right to conclude a plea bargain with the suspect or the accused after the initiation of the criminal case.

11. How is decision taken what service of the police or another investigative body, if such exists, shall conduct investigation?

In the Russian Federation, there are bodies of preliminary investigation in the Investigative Committee, the Ministry of the Interior, the Federal Security Service and Federal Service for Control over the Turnover of Drugs.

In the Russian criminal proceedings the issue about which of the bodies of preliminary investigation will conduct a criminal case is defined according to the rules of investigative jurisdiction, established by article 151 of the Criminal Procedure Code of the Russian Federation. The essence of this order is in distribution of investigative workload among different law enforcement bodies, taking into account the corpus delicti, complexity of investigation, participants of the criminal proceedings (the suspect, accused and the victim), territorial jurisdiction and etc.

Part 2 article 151 of the Criminal Procedure Code of the Russian Federation contains a list of articles of the Criminal Code of the Russian Federation, under which the preliminary investigation is conducted by the investigators of the Investigative Committee of the Russian Federation, bodies of Federal Security Service, bodies of the Interior (the Ministry of the Interior) of the Russian Federation, bodies for the control over the turnover of drugs and psychotropic substances.

Part 3 article 151 of the Criminal Procedure Code of the Russian Federation contains a list of articles of the Criminal Code of the Russian Federation, under which the inquirers of the bodies of the Interior (the Ministry of the Interior) of the Russian Federation, border authorities of the Federal Security Service, Federal Service of Court Bailiffs, State Fire Supervision of the Federal Fire-Fighting Service and Customs bodies of the Russian Federation conduct inquiries.

Under a number of articles of the Criminal Code of the Russian Federation, the preliminary investigation may be conducted either in the form of preliminary investigation or in the form of inquiry (the authority which was the first to discover the crime is to investigate it).

The prosecutor is entrusted with settlement of all disputes on investigative jurisdiction (parts 8 and 7 article 151 of the Criminal Procedure Code of the Russian Federation).

Moreover, the prosecutor has a right

-to withdraw any criminal case from the body of inquiry and transfer it to the investigator with the mandatory indication of the grounds for such transfer;

-to transfer the criminal case or the materials of the check of the message about the crime from one body of preliminary investigation to the other (except for the transfer of the criminal case or materials of the check of the message about the crime within the system of one body of preliminary investigation) according to the rules, established by article 151 of the Criminal Procedure Code of the Russian Federation.

-to withdraw any criminal case or any materials of the check of the message about the crime from the body of preliminary investigation of the federal body of the executive power (at the Federal body of the executive power) and transfer it (them) to the investigator of the Investigative Committee of the Russian Federation with mandatory indication of the grounds for such transfer.

12. If the prosecutor directs the investigation which is conducted by the police or any other body in your country, does the prosecutor have a right to control execution of his/her instructions? If yes, please, explain in general.

According to the provisions of the criminal procedure law, the prosecutor does not have a right to direct investigation. This is the duty of the director of the investigative body and the head of the subdivision of inquiry.

Nevertheless, the prosecutor has a number of powers in respect of the bodies of inquiry, namely:

-to give written instruction to the inquirer on direction of the investigation, conduction of the procedural actions;

-to give consent to the inquirer to file a motion with the court to select, cancel or change the preventive measure or to conduct any other procedural action which is permitted according to the court decision;

-to suspend the inquirer from the further investigation if he/she commits violation of the requirements of the Criminal Procedure Code of the Russian Federation;

-to withdraw any criminal case from the body of inquiry and transfer it to the investigator with the mandatory indication of the grounds for such transfer;

-to transfer the criminal case or materials of the check of the message about the crime from one body of preliminary investigation to another (except for transfer of the criminal case or materials of the check of the message about the crime within the system of one body of preliminary investigation) according to the rules,

established by article 151 of the Criminal Procedure Code of the Russian Federation;

-to withdraw any criminal case or any materials of the check of the message about the crime from the body of preliminary investigation of the federal body of executive power (at the federal body of the executive power) and transfer it (them) to the investigator of the Investigative Committee of the Russian Federation with mandatory indication of the grounds for such transfer (paragraphs 4-5, 10-12 part 2 article 37 of the Criminal Procedure Code of the Russian Federation).

Moreover, when adopting decision in the criminal case which was received by him/her with the Bill of Indictment (Resolution, Act), the prosecutor may return it (with his/her written instructions) to the investigator in order to conduct additional investigation, to change the volume of accusation or qualify the actions of the accused or to recompile the Bill of Indictment and to eliminate the drawbacks which have been revealed (paragraph 2 part 1 article 221 of the Criminal Procedure Code of the Russian Federation).

Control over the execution of the instructions of the prosecutor is conducted both at the inter-departmental level (according to the principles of centralization of the prosecutor's office) and at the outside level (the court control).

E. Responsibility of the Prosecutor for Law Abidance by the Police

13. Does the prosecutor have a duty to control law abidance by the police or other investigative body, if there is such? If yes, at what stage and what measures of control?

According to the Russian law, the state control over the activities of the police is conducted by the President of the Russian Federation, the houses of the Federal Assembly of the Russian Federation and the Government of the Russian Federation within the powers, defined by the Constitution of the Russian Federation, Federal Constitutional Acts and Federal Laws.

Supervision over abidance of laws by the police is conducted by the Prosecutor General of the Russian Federation and his subordinate prosecutors according to the powers, granted by the federal law.

These powers are exercised in the whole course of pre-trial proceedings in the criminal case from the moment of registration and beginning of the check of the message about the crime till the criminal case is forwarded to court to start examination on its merits.

For instance, the prosecutor is empowered

-to adopt a motivated resolution on forwarding the relevant materials to the investigative body or the body of inquiry to decide the issue of criminal prosecution on the facts of violations of criminal law, revealed by the prosecutor;

-to demand from the bodies of inquiry and investigative bodies to eliminate the violations of the federal law, committed in the course of inquiry or preliminary investigation;

-to give the inquirer the written instructions on the direction of the investigation and conduction of procedural actions;

-to demand and check the legality and substantiation of the decisions of the investigator or the director of the investigative body on refusal to initiate, suspend or terminate the criminal case and to adopt the decision thereof according to the Criminal Procedure Code of the Russian Federation.

F. General Principles in Respect of the Police

14. Are there any written standards concerning conduction of criminal investigations by the police or any other investigative body?

The order of investigation of the crimes and the bodies, empowered to conduct it, are defined by the Criminal Procedure Code of the Russian Federation. In particular, the list of authorities, investigators and inquirers who are entitled to conduct criminal prosecution are established by article 151 of this Federal Law (see the reply to question #11).

15. What is the essence of these standards (for instance, the way of conducting interviews, deprivation of liberty and etc.)?

The Criminal Procedure Code of the Russian Federation strictly regulates the order of conduction of investigative and other procedural actions (including the application of preventive measures, including detention and custody) which are based on observance of human rights and freedoms.

According to part 4 article 15 of the Constitution of the Russian Federation (1993) the commonly recognized principles and standards of international law and international treaties of the Russian Federation are the integral part of its legal system. If the international treaty of the Russian Federation establishes rules other than envisaged by the Criminal Procedure Code of the Russian Federation, the rules of international treaty are applied (for instance, in the issues of extradition, legal assistance in criminal cases and transfer of criminal proceedings).

G. General Control over the Police

16. *What is the general system of control in the police or in any other investigative body, if there is such (internal/external)? Does the prosecutor play any role in this system?*

The general system of control in the bodies of inquiry and preliminary investigation is reflected in the provisions of the Criminal Procedure Code of the Russian Federation. Here the universally applied approach of departmental subordination is used. The legislator included such participants of criminal proceedings as the director of the investigative body (article 39 of the Criminal Procedure Code of the Russian Federation) and the director of the subdivision of the inquiry (article 40¹ of the Criminal Procedure Code of the Russian Federation), who perform procedural management when conducting preliminary investigation, in the system of internal control of the above mentioned bodies.

The system of external control include the prosecutor and the court. The court control is performed in the form of court examination of the claims of the participants of the criminal proceedings and other interested persons and also in the form of consent to conduction of investigative and other procedural actions which limit the constitutional rights and freedoms of a human being and a citizen.

See the reply to question #13 about the prosecutor's supervision.

17. *Does the prosecutor have competence to appoint sanctions?*

The Criminal Procedure Code of the Russian Federation does not grant the prosecutor a right to appoint sanctions within the framework of criminal law proceedings. According to the principle of an adversarial system, only the court has a right to recognize a person to be guilty and appoint the punishment for him/her on the basis of evidence which was immediately examined in the court proceedings. Taking into account the procedural function of conduction of criminal prosecution, the prosecutor, as a representative of the prosecution, has a duty to support state prosecution and to participate in court proceedings by supplying evidence and participating in examination of such evidence, stating his/her opinion on the merits of the accusation and also on other issues that may appear in the course of court proceedings, making proposals to the court on application of criminal law and appointment of punishment for the accused. The prosecutor also files or supports the civil lawsuit which is filed in the criminal case if it is necessary for protection of the rights of the citizens, public or state interests—for

instance, the lawsuit of the victim on compensation for the damage of the crime (parts 5,6 article 246 of the Criminal Procedure Code of the Russian Federation).

At the same time, at the pre-trial stages of criminal proceedings, the prosecutor has a right and in some cases is obliged

- to check execution of the requirements of federal law when accepting, registering and solving the messages about crimes;

- to issue a motivated resolution on direction of relevant materials to the investigative body or the body of inquiry to solve the issue on criminal prosecution on the facts of violations of criminal law which were revealed by the prosecutor;

- to demand from the bodies of the inquiry and investigative bodies that the violations of the federal law which were committed in the course of inquiry or preliminary investigation should be eliminated;

- to give the inquirer the written instructions on direction of the investigation, conduction of procedural actions;

- to give consent to the inquirer to file a motion with the court on selection, cancellation or change of the preventive measure or on conduction of any other procedural action which is permitted according to the court decision;

- to permit application on the challenge of the inquirer and also self-disqualification (self-withdrawal) of the latter. The above mentioned list of the rights of the prosecutor at the pre-trial stages is not absolute (complete).

H. Conclusion

18. What are the main problems in relations between prosecutors and investigative bodies in Your country?

The main problem of relations between prosecutors and investigative bodies in Russia is the level of sense of justice (legal consciousness) and qualification of employees (officers) of these bodies. Unfortunately, experts register the stable tendency of annual increase (for the last 5 years) in violations of the requirements of law by the investigator and the inquirer at the pre-trial stages of criminal proceedings.

Under these conditions the rights of supervision, available to the prosecutor now, are not enough to efficiently use professional opportunities and experience of the prosecutors in order to more fully ensure the preventive and efficient supervision,

operatively prevent violations of law and liquidate damaging consequences which have occurred.

The Prosecutor General's Office of the Russian Federation

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