

THE PROBLEMS OF DEFINING THE POWERS OF THE INVESTIGATING JUDGE IN PRE-TRIAL PROCEEDINGS

Securing more democratic and humanistic principles of criminal justice, the legislator has provided reliable functioning mechanisms of protection and legal assistance, and envisaged the creation of a mechanism for administration of justice, in which the court will not only occupy a central position as a judicial body, has the exclusive right to decide on behalf of the state in court considering the guilt or innocence of a person with a criminal offense, but also carry out control functions during the pre-trial criminal proceedings.

One of the innovations of modern criminal procedure designed to strengthen the protection of procedural rights of participants in criminal proceedings is the introduction of an investigating judge in criminal proceedings.

Investigating judge – a judge of a trial court, whose powers are to exercise in the manner provided by this Code, judicial review of compliance with the rights, freedoms and interests of persons in criminal proceedings.

The main purpose of the investigating judge is to protect the rights and interests of participants in criminal proceedings, as well as providing a quick, full and impartial trial to ensure that no person has been subjected to unjustified procedural coercion and that each party to the criminal proceedings was applied due process.

Given the general definition of criminal procedural functions as the underlying subsystem types (parts components directions) criminal procedural activities can be argued that ensuring legality limitation of constitutional rights and freedoms in the pre-trial proceedings covered by the concept of judicial review function in the criminal process.

The powers of the investigating judge determined it executable function that should be cross-cutting in nature. To carry out judicial supervision over the observance of human freedoms and interests of persons in criminal proceedings the investigating judge has the authority to address many issues. Thus, the Code is no separate chapter or article in which the powers have determined the investigating judge. Therefore, the complexity of the study of this question as the very specifics of building handheld system is the need to study its provisions, as established in the law rules regulating the procedures and definitions are given a complex system of relationships approvals, regulations, permits, restrictions and exclusions are combined with the onset of many conditions and restrictions of different content and scope due to special circumstances.

In the literature, there is no standard classification authority investigating judge. On the one hand, the analysis of certain articles of the Code con-

cerning the powers of the investigating judge reveals the following major groups (areas) of its activity in the pre-trial proceedings:

1) the application of the measures of criminal proceedings (excuse the imposition of monetary penalties, exclusion from office persons, seizure of property, the application of preventive measures) and others;

2) permits to conduct investigative (detective) and covert investigative (detective) actions into a dwelling or other property, search, review, the privacy of communication, audio-, video-control individuals seizure of correspondence, interception of communication channels, public inspection of inaccessible places, home or other property, secretly obtaining samples, necessary for comparative studies and others;

3) consideration of complaints pas decision, action, inaction by the preliminary investigation and the prosecutor.

On the other hand, depending on the content and nature of issues that are within the competence of the law, the investigating judge, his powers are united them into five groups: 1) issues concerning the application of the measures of criminal proceedings, 2) issues of the investigation (investigation) of action, 3) issues of conducting covert investigative (detective) actions, 4) consideration of appeals against decisions, actions or inaction of the investigator or the prosecutor during the preliminary investigation, 5) addressing other legal issues to be impartial review.

Also the activities of an investigating judge in the context of its powers can be divided into the following nine areas: the issue of outlets, addressing the fate of physical evidence, the question of timing, application of the measures of criminal proceedings, the question of holding the vowels investigative (detective) actions, issues discovery materials other side of the criminal proceedings, appeal against decisions, actions or inaction of the investigator, prosecutor during the preliminary investigation; issues in the criminal proceedings against juvenile issues related to the implementation of the general duty investigating judge of human rights.

Thus, we can distinguish the following groups of powers depending on the content and nature of issues that are within the competence of the law, the investigating judge: 1) the investigating judge in applying the measures of criminal proceedings at the pre-trial investigation, 2) the powers of an investigating judge during the proceedings that limit constitutional rights of individuals, and 3) the powers of an investigating judge in considering appeals against decisions, actions or omissions of the preliminary investigation or the prosecutor during the preliminary investigation, 4) other judicial authority investigating judge to secure procedural rights of the subjects of criminal proceedings.

Introduced new procedural role of the investigating judge to appropriately carry out all necessary procedural steps to ensure real judicial review under preliminary investigation, ensure that the requirements of procedural law and guarantee the rights and interests of participants in criminal proceedings through proper and timely judicial review specific matters within

the competence established by law.

Aliieva Krystyna
Yaroslav Mudryi National Law University
Department of Civil Law №1

THE LEGAL NATURE OF A RIGHT TO A MUSICAL AND DRAMATIC WORK

The main areas of spiritual creativity of the people are the scientific literature, and art activities. The results of these types are inexhaustible creativity of forms, techniques, methods of objective expression of the spiritual wealth of man.

The subject of the legal protection of copyright is the result of all kinds of creative activity. One kind is the result of creative activity of musically dramatic work, which is a kind of a stage work. And copyright protected not only the literary text and the music track movements, gestures, postures, facial expressions, and stage resolution as a special object of copyright that defines originality stage performance of the work.

There are four characteristics required for legal protection, such as:

1. creative musical and dramatic works. This feature requires that the work is a direct result of creative and intellectual work of its author.
2. musical- dramatic work must be expressed in an objective form, if the pieces were recorded in the libretto, performed, recorded on a physical medium in a form suitable to read. But the intent of a composer or any other author who has formed in his mind to complete a form, an image, a certain combination of sounds, but is not expressed in any form is not recognized subject to copyright .
3. feature on content, which means that the product of any content may be the subject of protection, subject to certain limitations set by law.
4. feature of publicizing of the work suggests that musical- dramatic work is the subject of protection, regardless of whether it was communicated to a wide range of people or not.

Music and drama are a composite work, including drama and music as a whole. Thus, before the date of determination, musical and dramatic works need more detail to find out what drama and music are.

Work is an internal reflection of the author, the result of creative activity as a complex of ideas, images, arguments, evaluations, proposals and conclusions, which should be expressed in simple way to be understood in an objective form.

A musical piece is composed of combinations of sounds created by musical instruments and voice. Music is an art form in which the means of implementation of the images to some extent are organized by musical sounds. The basic elements of music and expressive means are order, rhythm, tempo, dynamics, melody, harmony, polyphony and instrumentation. Musical com-