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CURRENT STATE OF ACCELERATED ENQUIRY - EVOLUTION OR DEGRADATION OF THE PROCEDURAL FORM

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***ABSTRACT**--The article analyzes the legal regulation of inquiry in an abbreviated form, set forth in Chapter 32.1 of the CPC of the Russian Federation, and the practice of inquiry in an abbreviated form on the territory of Russia, on the basis of the positions expressed in the scientific literature by processional scientists, and also through the prism of international standards of police inquiry. It concludes that, despite the discussions of scientists, the model of accelerated inquiry, introduced in the CPC of the Russian Federation, generally meets the requirements, and the organizational measures of the Ministry of Internal Affairs will allow spreading the rule of law.*

***Keywords**--shortened form inquiry, international standards of police inquiry, accelerated pre-trial proceedings, model of accelerated inquiry, organizational measures of the Ministry of Internal Affairs, scope of application of accelerated inquiry*

I INTRODUCTION

As it's known, the Federal Law of March 4, 2013 № 23-FZ in the Criminal Procedural Code of the Russian Federation introduced Chapter 32.1 - "Inquiry in a reduced form", which in fact in domestic legal proceedings was introduced by the implementation of accelerated pre-trial registration of materials on crimes, unified inprocedural form and significantly optimized the activities of agencies of inquiry, primarily the police, on a certain category of criminal cases.

Discussions are continuing in the scientific literature on the perception of the accelerated form of inquiry as an independent procedural form introduced into Russian criminal proceedings.

It is also important for us to evaluate the innovation of 2013 dialectically, i.e. from different positions and, even more importantly, taking into account the opinions of scientists and practitioners.

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The most accessible opinion of the opponents of the shortened form of inquiry was expressed by A. A. Sumin, who believes that this unified procedural form has brought to life “an unbridled and, most importantly, not conditioned by the needs of practice, reformatory itching”.

Perhaps the above reference to the needs of practice, to put it mildly, is bewildering, since it is the huge number of simple and obvious cases in the proceedings of police investigators, which distract them from a qualitative investigation of crimes with a more complex structure of composition, required the Russian Ministry of Internal Affairs to constantly initiate before the legislative bodies of Russia the problem of introducing a unified procedural form in criminal proceedings.

Another researcher, E.A. Dolya, points out that “the motives for introducing an abridged form of inquiry in this form remain unclear”.

It should be noted that soon after the introduction of the chapter on inquiry in the CPC of the Russian Federation, we also made certain predictions, including those that were skeptical, on a number of features of the procedure adopted by the legislator. Our later research related to international standards of accelerated pre-trial proceedings showed that the unified form of pre-trial proceedings introduced into the Russian criminal procedure largely complies with them.

In particular, in this regard, attention should be drawn to the requirement of the law on the mandatory application of a suspect for an abridged form of inquiry proceedings. One gets the impression that it is quite difficult to obtain such a petition from a guilty party. Interviews with practical interrogators in that area had shown, however, that they did so in the initial record of the interrogation of the suspect. In practice, the seemingly complex procedure regulated by law does not cause any difficulties.

Another issue that raises debate in the scientific community concerns the issue of inquiry in an expedited form, in relation to a specific individual and subject to his or her admission of guilt. According to A.R. Belkin, this "seems strange". The opinion is also expressed that the decision to initiate an accelerated form of inquiry "is often at the discretion of the enforcer".

Meanwhile, we do not see anything strange in conducting an accelerated form of inquiry on a particular person. Moreover, the unified procedure of inquiry is therefore applied with various simplifications and reasonable deviations from the classical, traditional preliminary investigation that the crime is obvious, the involvement of a specific person is not in doubt and has credibility.

B.T. Bezlepkin and B.T. Bezlepkin later quite reasonably pointed out that "confession of guilt by a suspect is of special importance among the legal conditions of inquiry proceedings in a reduced form and forms the main prerequisite for cooperation of a suspect with the person conducting the inquiry and for reducing the volume of procedural activity on proving".[6]

The legislator's association of the possibility of initiating an abridged form of inquiry with the request of a suspect was also previously criticized by us. From our point of view, such a decision should be solely the result of the investigator's discretion, taking into account all the circumstances of the case: his or her obviousness and admission of guilt by the suspect, the characterization of the guilty person. No other circumstances should influence the decision to initiate an abridged form of inquiry.

[6]*Bezlepkin B.T. Commentary on the Criminal Procedure Code of the Russian Federation (article-by-article). - 14th ed. Pererab. idop. - Moscow :Prospekt, 2018. p. 318.*

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Meanwhile, one should also take into account the international practice of accelerated procedural proceedings, police investigation procedures adopted and effectively operating in foreign countries. It should be noted that the obviousness of the crime, the suspect's admission of guilt and its veracity, the consent of the guilty party to pre-trial proceedings in the format of accelerated procedure are decisive in making a decision on simplified proceedings on a specific fact in the countries of both continental and Anglo-Saxon systems of law.

In the environment of scientists-processors are widely enough discussed and problems associated with proving.

According to B.T. Bezlepkin "Narrowing the subject of proof in the implementation of a reduced inquest, compared with the general list of circumstances to be proved in accordance with Art. 73 of the CPC, does not seem sufficiently justified.

We would like to remind that in this case we are talking about a crime with a simplified structure of the crime, which is obvious, when more often than not the person who committed it is detained, at the scene of the crime or soon after it was committed, when it is obvious and does not pose a significant public danger. In this case, everything, including the evidence procedure, is based on the principle of procedural economy.

In view of our reasoning, it is appropriate to give a concrete example from the legislation regulating criminal proceedings in the Russian Empire. Thus, the purpose of the inquiry is stated in paragraph 15 of the Instruction of the Prosecutor of the Moscow Court Chamber of Stepanov on October 15, 1909, which entered into force on January 1, 1910: "Under the obligation to detect crimes by police officers, having received statements or information about the commission of a crime, make an inquiry to find out whether a crime has been committed and, if so, what, when, by whom and under what circumstances".[7] It is quite concise and concrete.

The limits of proof, the process of proof as elements of the system of work with proof, in the manufacture of inquiry in an accelerated form by the legislator also individualized. From our point of view, they fully ensure the possibility of applying this procedural form in the practice of inquiry bodies. Besides, they largely correspond to the foreign practice of police inquiry.

However, not all experts in the field of criminal proceedings share the approach to the problem outlined. In a number of cases conflicting and even mutually exclusive positions are expressed. So, for example, Y.V. Franciforov defines “legal component of the peculiarities of proving in the course of inquiry in a shortened form contradicting the fundamental rules of not only the theory of evidence, but also the principles of the criminal procedure itself”.[8] He is opposed by B.T. Bezlepkin, who believes that “various simplifications allowed in the work on proving in the accelerated pre-trial proceedings do not contradict the theory of evidence”.[9]

With regard to the positions expressed in various literary sources, it should be noted that the problem of legal regulation of an accelerated and simplified, that is, of a differentiated procedural form and its inclusion in the CPC of the Russian Federation arose at the stage of a significant growth in crime in the Russian Federation. The main burden of investigation of mass crimes, mainly those that do not belong to the category of grave and medium gravity, fell on the Russian Ministry of Internal Affairs. The main idea of a unified procedural form is

[7]*Instruction to police officers to detect and investigate crimes by the Prosecutor of the Moscow Trial Chamber. Compilation and manual for police reports with annexes. Publication of the Law Bookstore I.I.Zubkov, under the firm Law. S.- St. Petersburg, Liteiny prospect, 53. 1911.*
[8]*Franziforov, Yu.V. Ensuring the rights and legal interests of the process participants in the course of inquiry in an abridged form // Judicial power and criminal proceedings. 2015. No.4. P.146-150.*
[9]*Bezlepkin, B.T. Commentary to the Criminal Procedure Code of the Russian Federation (article-by-article). Ibid. P.321.*

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its accelerated and simplified nature. By the way, with the same “patterns” to similar forms of police interrogation are suitable in leading foreign countries.

Assessing the procedural form of inquiry in the abridged form as quite adequate to the public relations developed in the issues of counteraction to mass crimes of small and medium gravity, it should be noted that, from our point of view, the legislator has not found an opportunity to approach in more detail the issues of regulation of sources of evidence in cases carried out in the form of inquiry in an accelerated form.

In particular, in such cases, the evidentiary information comes from the same sources used in the preliminary investigation.

However, in the context of expedited interrogation, it is hardly justified to conduct investigative activities, especially such as forensic examinations, searches, investigative experiments and some others.

At the same time, of course, the legislator has provided for exemptions from the procedures of the process of proving used in the course of the preliminary investigation: failure to conduct a number of investigative and procedural actions, failure to verify certain evidence, which in itself may be perceived as a system of evidence independent of the accelerated inquiry.

However, we are talking about a different situation, similar to international practices, when in the framework of the inquiry in an abridged form would be developed and reflected in the law its own system of evidence, unique only for this procedural form.

As the main sources of evidence here could be used the evidentiary information carriers contained, for example, in part 1 of Article 144 of the CPC of the Russian Federation, possibly some other, but this is definitely the topic of independent research. It is important that such sources of evidence, subject matter, limits and process of proving are unique for inquiry in an abridged form and in their aggregate are perceived as a system of proving immanent exclusively to this procedural form.

Was the model of inquiry set forth in the CPC of the Russian Federation in abbreviated form a "tool" that provides for prompt investigation of minor crimes, ensuring timely prosecution of the persons who committed them. Has the shortened form of inquiry filled the legal niche of unified pre-trial proceedings, which until 1998 was occupied by the protocol form of pre-trial preparation of materials?

It is impossible to answer this question unambiguously, but it should be noted that from year to year, after the introduction of Chapter 32.1 of the Code of Criminal Procedure of the Russian Federation, the scope of investigation of cases in the form of an abridged form of inquiry has been increasing.

According to statistics (form 1-FEM) and factual information for 2018 from the Ministry of Internal Affairs Department of Internal Affairs, 92,600 criminal cases have been concluded by police units conducting shortened forms of inquiry, 91,000 of which were sent by the procurator to the courts. The proportion of accelerated proceedings in the total number of criminal cases referred to the courts by police officers conducting initial inquiries reached 28 per cent, an increase of 2 per cent over the past year alone. At the same time, the quality of initial inquiries in a reduced form is fairly high.

It should be noted that while in the initial period of introduction of the novelties in the Code of Criminal Procedure of the Russian Federation - shortened form of inquiry, law enforcement officials noted the absence of a unified policy to support accelerated proceedings, at present, at the level of federal structures of the Prosecutor's Office and internal affairs agencies a common strategy has been developed aimed at expanding the

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practice of accelerated inquiry. Joint comprehensive visits by representatives of the Ministry of Internal Affairs and the Office of the Procurator-General of the Russian Federation to territorial bodies with low rates of such work are being practiced. As a result, in the first 11 months of 2018 the number of cases in the Penza Ministry of Internal Affairs increased by a factor of 3.6 (from 7.4 per cent to 26.7 per cent), and in the Mari El Ministry of Internal Affairs by a factor of 2.7 (from 11.8 per cent to 32.1 per cent).

Nevertheless, the practice of actively using accelerated production cannot be called established to this day. Thus, with the average Russian indicator of 28%, if, for example, in the Ministry of Internal Affairs of the Republic of Crimea, the share of proceedings in a reduced form of inquiry - 66.3%, the Republic of Adygeya - 59.2%, the Department of Internal Affairs in the Tver region - 57%, the Department of Internal Affairs of Kursk region - 8.7%, the Orel region - 13.8%.

All of the above makes it possible to conclude that the legal regulation of inquiry in an abridged form, in general, is adequate to the tasks of this institution and reflects the international standards of such productions.

Law enforcers, the main of which are those conducting initial inquiries by the internal affairs (police) agencies, are taking organizational measures to extend the practice of shortened form inquiry throughout the Russian Federation, while expanding the scope of such pre-trial proceedings.

So, answering the question of what happens to the unified inquiry and the criminal procedure form regulating it: evolution or degradation, we believe that, in comparison with the protocol form of pre-trial preparation of materials on crimes of a certain category, the procedure of inquiry in an abridged form has become innovative, since it absorbed many criticisms from scholars and practitioners, firstly, and secondly, it is largely brought into line with most international standards, and is domestic. Obviously, the unified procedure fixed in the CPC is not ideal and needs to be further refined and brought to a state adequate to those social relations and "challenges" that will be formed in Russia in the future.

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