

**ANNOTATION**  
**of the dissertation for the scientific degree of Doctor of Philosophy (Ph.D.)**  
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**Criminal procedural problems of regulation of private detective activity in the  
Republic of Kazakhstan**

**The relevance of the research topic.** The task of building a civil society, where each citizen is guaranteed not only his rights and freedoms but also the possibility of self-realization as an individual, is approved by the Constitution of the Republic of Kazakhstan. In particular, the country's Basic Law establishes that every citizen has the right to protect his rights and freedoms by all means that do not contradict the law, has the right to freedom of labor, free choice of occupation and profession.

Thus, the role of the state at the present stage of development consists not only in providing the rights and interests of the individual but also in recognizing the right of citizens to self-development and self-realization with the provision of equal opportunities and conditions to be engaged in certain professional activities that benefit the state, society and the individual. Currently, Kazakhstani society has all legal conditions and reasons for stating that the law enforcement function is provided not only by the law enforcement system of the state authorized bodies but also by individual entities of private (non-state) law enforcement organizations. An example is ensuring the rights and legitimate interests of an individual by private notaries, experts, lawyers, officers of the law and private security services.

While private (non-state) forms of law enforcement and public relations related to the activities of a private detective (investigation) go beyond the scope of scientific and norm-setting activities. Meanwhile, the main goal of private detective activity is to provide legal assistance in the interests of protecting individual rights and ensuring the safety of property and property of citizens and legal entities, including assisting law enforcement agencies in the fight against criminal offenses in their prevention.

The relevance of the research topic lies in the fact that the legal foundations of private detective activities are not officially fixed in the Republic of Kazakhstan. At the same time, in the latent form of public relations, the provision of private detective services to commercial and other organizations (for example, large enterprises, banks), including individual citizens is de facto. These services are provided, in particular, in areas such as the identification of industrial espionage, the search for stolen property, vehicles and other property, when hiring employees in organizations and enterprises associated with commercial or stewardship, etc. It is alarming that, without legal permission to conduct private detective activities, private security companies and other organizations, certain citizens provide such services to legal entities and individuals illegally. In this case, the services of private detectives are provided by these entities on a reimbursable basis, for the assistance rendered they receive monetary or other material compensation. The

lack of legal regulation of private detective activity allows individuals to provide such services to evade taxes, license and other obligatory payments to the state budget, responsibility before clients and state-controlled bodies. In addition, the vulnerability of this kind of public relations can involve criminal structures in this sphere, which, in turn, in subtle form can use the private detective services for criminal purposes.

And, finally, the main thing is the danger of providing such services where there are no norms, control and legal responsibility in the private detective's activity can lead to irreversible consequences as a result of the violation of constitutional rights and freedoms of man and citizen.

Therefore, in our opinion, there is a need to legalize and legal regulation of private detective activity in the Republic.

Such a task was highlighted by the Leader of the Nation - Elbasy in the Decree "On measures to improve the effectiveness of law enforcement and the judicial system in the Republic of Kazakhstan", in particular (paragraph 10): "...make proposals for the introduction of Institute of Private Investigation in the Republic of Kazakhstan together with interested state bodies.

To address issues of protecting and ensuring the rights and freedoms of citizens, including persons involved in criminal procedural relations, whose interests are affected in criminal proceedings, it is necessary to intensify the participation of various non-state law enforcement entities, organizations and associations. The participation of the above-mentioned persons in the law enforcement system and the division of responsibility in this area will make it possible to achieve the main goal of the law – enforcement activity - the effective implementation of the human rights function, including in the field of criminal procedural relations.

The normative consolidation of the status of persons assisting on a reimbursable basis or providing evidence-gathering services to a victim, defense counsel, suspect (accused) is currently minimal. Therefore, legal acts are needed that can facilitate the emergence of new subjects of criminal procedural relations in criminal proceedings, including a private detective, to assist in the search and collection of potentially evidentiary or other information for the above-mentioned persons. In this case, the rule-making activity of the state should be aimed at creating a civilized market for the provision of services by private detective activity, solving problems associated with the mechanism of assistance in protecting the rights and legal rights and interests of the suspect (accused), the victim, and other persons.

The system and dynamics of the participation of non-governmental law enforcement organizations in ensuring public safety in the republic are in its infancy. At the same time, with a certain degree of probability it can be stated that, for example, private security companies have mastered the field of providing services for property protection, the property of citizens and legal entities and are duly involved in public security systems. This circumstance allows us to argue that in the future, non-governmental security organizations will effectively promote and assist the law enforcement system of the republic in the fight against offenses.

Thus, the relevance of the study is due to the above arguments. An analysis of official static data, a synthesis of international best practices of the private detective's participation in ensuring the rights and legitimate interests of participants of criminal proceedings, and their interaction in the fight against crime create effective prerequisites for an in-depth study of this problem and the development of scientifically based recommendations. In general, this will contribute to the creation of a legal mechanism of using the results of private detective activity in criminal cases for solving the problems of the criminal process.

**Overview of the state of the theoretical study of the problem.** The legal literature mainly deals with issues of the criminally-legal and criminological aspects of the fight against crime with the participation of public associations and organizations, irrespective of the form of ownership. Studies on this issue were carried out by E.O. Alaukhanov, A.A. Agybaev, A.I. Gurov, O.A. Evlanova, B.E. Syzdyk and others.

The problems of state legal regulation on private detective participation in criminal proceedings have been investigated by many authors, primarily, of the Russian Federation. In particular, V.A. Azarov, A.V. Agutin, M. Alexandrov, R.F. Asanov, N.N. Gusev, T.E. Zulfurgarzade, P.V. Ivanov, V.I. Kozlov, A.V. Krygina, T.G. Matveeva, V.G. Semenov, V.T. Tomina, N.G. Khizhnyakov, V.V. Shestakov, A.Yu. Shumilov and others.

In the science of criminal procedural law, the problems associated with effective public participation, the participation of third parties in the process of investigation and consideration of criminal cases, have been repeatedly considered and have been the subject of research. Also, the need for a broad interpretation and determination of the status of a particular participant in criminal proceedings was investigated by S.A. Alpert, A.N. Akhpanov, V.P. Bozhiev, S.F. Bychkova, L.V. Voronina, A.Ya. Vyshinsky, A.Ya. Ginzburg, L.E. Doskaliev, A.A. Isaev, M.Ch. Kogamov, L.D. Kokorev, D.K. Kanafin, M.M. Mikhienko, G.Kh. Nasyrov, S.D. Ospanov, T.E. Sarsenbaev, G.Zh. Suleimenova, V.M. Savitsky, M.S. Strogovich, R.D. Rakhunov, B.Kh. Toleubekova, F.N. Fatkulin, A.L. Khan, A.D. Shaimukhanov and many others.

Most of the issues raised in this paper have not previously been analyzed by Kazakhstani scientists.

**Purpose of the research work.** The purpose of the dissertation research is to develop a mechanism for the participation of private (non-state) detective activities in criminal proceedings, determine their legal status, responsibility, subject, and limits of such activities, issues of interaction with other participants of the process, as well as legislative proposals formulation and recommendations on the use of their work results in the field of criminal procedure.

To solve this goal the following targets were established:

-to determine the state of scientific development of the problem of crime combating with the participation of entities of non-state law enforcement activity;

- to conduct a theoretical and legal justification for the need for legalization and participation in criminal procedural legal relations of a private detective, including in the context of resolution of related humanitarian issues;

- to formulate proposals for establishing the classification of a private detective as the participants in the criminal process, as well as related to its functions in providing legal and other types of services;

-based on foreign experience in using the results of private (non-state) detective activities in criminal cases to develop theoretical assumptions and justify the need for a private detective to participate in the criminal process to ensure the rights and freedoms of man and citizen;

- based on the study of criminal procedural, forensic and other legal literature, analysis of empirical data, consider the effective participation of private (non-state) detective activities in the investigation and consideration of criminal cases;

-based on the analysis of social and legal policy of the Republic of Kazakhstan, investigative and judicial practice, statistical data of the prosecutor's office, internal affairs, legal profession, private (non-state) security activities and security services of enterprises and organizations (irrespective of the form of ownership) - determine the role of private (non-state) detective activity in ensuring law and order, protecting the rights and legitimate interests of participants in criminal proceedings;

-to analyze the activity status of non-state security structures, enterprises security services, commercial banks on the matter on using by these bodies of the functions of private detective activities to protect the life, health and property of citizens and organizations;

- to characterize the procedural status and place of the private detective, determine the mechanism of criminal procedural relations with the bodies and officials authorized to carry out criminal prosecution, as well as with the victim and his legal representatives, the suspect (accused) and his defender;

-to determine the nature, forms, types, and conditions of the interaction of private (non-state) detective activities with the bodies of preliminary investigation and inquiry, the legal profession, as well as other persons and organizations that need the service of private detective;

- systematize the legal guarantees of the private detective activities to prevent illegal actions and decisions that contradict the Constitution of the Kazakhstan Republic, laws and other normative legal acts on the part of private (non-state) detective activity subjects;

-to develop and propose, for the legislative perception of novels in the criminal procedural law, as well as proposals related to the participation of a private detective in criminal procedural relations.

**The scientific novelty of the research work.** In the national science of the criminal process, many of the problematic issues of participation in the criminal procedural legal relations of a private detective have not been considered before. Therefore, at the level of this dissertation research, we, for the first time in the Republic of Kazakhstan, are attempting to conduct a scientific analysis, build a

doctrinal model of the procedural status of a private detective and the prospects for its legislative implementation, and study its place in criminal procedure.

The author for the first time in a special study comprehensively, systemically scientifically investigated the theoretical, organizational, methodological and applied foundations of participation of private (non-state) detective activities in criminal proceedings. The author prognostically examines the procedural and legal status of a private detective - a relatively independent, not interested in the case outcome, the figure of criminal procedural relations.

In the framework of the theory of criminal procedural law, a national legal mechanism has been developed for the private detective to provide legal services to persons involved in the field of criminal proceedings; recommendations on determining the legal status and classification of a private detective as a participant in a criminal process are presented; recommendations on establishing relationships between the subject of private (non-state) detective activity with participants in the criminal process, contributing to the effective collection, verification, assessment and use of possible evidence for the objective investigation, consideration, and resolution of criminal cases.

The following theoretical provisions are taken out for defense.

1 The theoretical and legal justification of the need for legislative legalization of private detective activity in the Republic of Kazakhstan in the context of the implementation of the principle of competitiveness and equal rights of the parties, primarily at the stage of pre-trial investigation, as well as for the multiplicative resolution of related humanitarian issues.

2 The epistemological structure of private detective activities is formed from the following elements: a) the ratio between the state and non-state spheres of law enforcement activities; b) the role of the non-state sector in the fight against criminal offenses and their prevention; c) the subject, limits, and methods (ways) of search and cognitive activity of a private detective in the process of participation in criminal matters to ensure the rights and legitimate interests of the persons in whose interests he acts (in this aspect, the draft Law of the Kazakhstan Republic "On Private Detective Activity" needs cardinal revision).

3 The author offers methodological recommendations on using legal sources of private (non-state) detective activity the provisions of international law, the Constitution of the Kazakhstan Republic, constitutional laws, laws and other regulatory legal acts related to private investigation.

4 The creation of an effective national mechanism for using the results of private (non-state) detective activities depends on a comprehensive study and adaptation of successfully tested foreign experiences of various countries in the field of private investigation.

5 To determine the role of private (non-state) detective activity in the criminal process, it is necessary to determine the legal basis for the interaction of private investigators with interrogators, officers of the detective -search units of law enforcement organs to disclose, investigate and prevent criminal offenses, as well as provide legal assistance and legal services on a reimbursable basis to defense and other parties interested in the outcome of a criminal case.

6 During the emergence of criminal procedural relations related to the participation of private investigator, the author offers recommendations that establish legal guarantees of compliance with the law, protection of the rights and legitimate interests of person and citizen, conditions for which are:

- четкое определение основных целей и задач частной (негосударственной) детективной деятельности;

- судебный контроль и прокурорский надзор со стороны государственных органов и их должностных лиц за деятельностью частного детектива;

- требования, предъявляемые к частным детективам, а также к лицам, изъявившим желание использовать услуги частной (негосударственной) детективной деятельности;

- порядок отзыва лицензий и запрет на право предоставления услуг гражданам, связанным с частной (негосударственной) детективной деятельностью;

- Clear identification of main goals and objectives of private (non-state) detective activity;

- Judicial control and prosecutorial supervision by state bodies and their officials over the activities of a private detective;

- Requirements for private detectives, as well as for individuals who have expressed a desire to use the services of private (non-state) detective activities;

- The procedure of withdrawing their licenses and prohibiting the right to provide services to citizens relating to private (non-state) detective activity;

- The criminal, civil, the administrative responsibility of a private detective for the use of illegal methods and techniques in their activities that violate the rights and freedoms of citizens.

**Chapter 1 “Theoretical and legal prerequisites for legislative regulation of private detective activity”.**

**Sub-chapter 1.1** provides the scientific basis for the cognitive and methodological activities of a private detective activity in the process of providing services to individuals and legal entities. The epistemological conditionality of the activities of a private detective aimed at establishing objective truth in a criminal case is revealed from a philosophical, humanitarian and criminal procedural point of view.

**In sub-chapter 1.2,** attention is paid to regulatory legal acts, which can be legal prerequisites for private detective activity in the Republic of Kazakhstan. Based on the systematization of national legislation, legal sources are identified that can be the basis for regulating the scope of the private detective activity.

**In sub-chapter 1.3,** the foreign experience of the participation of a private detective in criminal matters is studied. The experience of countries where a civilized market for the provision of services to citizens, commercial and other organizations has been investigated is an evidence of the created favorable conditions for the functioning of private detective activities in the system of ensuring public security and the rule of law. In the process of studying foreign experience, the historical roots of the emergence and development of private investigation are highlighted. An analysis of the activities of private detective

allows us to conclude that they were independent subjects of the disclosure and investigation of a crime and at the same time participated in the compliance with legal order in society and the state. The experience of England, Germany, Italy, France, and the United States and other countries in creating the legal conditions for the participation of private detectives in the criminal investigation process hypothetically can be useful to the legal system of the Republic of Kazakhstan, taking into account all the historical, legal and factual prerequisites for the legalization of private detectives.

## **Chapter 2 “Private Detective in the Criminal Justice System”.**

Sub-chapter 2.1 discloses the procedural legal status of a private detective in criminal proceedings of the Republic of Kazakhstan. The participation of a private detective in criminal proceedings must be considered from involving him in criminal procedural relations, determining the procedural status of a private detective, as well as his classification as a participant in criminal proceedings. To establish the procedural status of a private detective in criminal proceedings, it is necessary to determine the legal nature of private detective activity. It should be noted that an important tool for sustainable development and the formation of private detective activity in society is its legal basis and conceptual apparatus. Only relying on these key attributes we can judge the law-enforcement perspective of a private investigation and conclude its qualifications as a participant in the criminal process.

Private detective activity is a licensed type of private detective activity of individuals and associations provided by law, which provides services to citizens, organizations, and commercial enterprises on a contractual basis to protect the rights and legitimate interests of individuals, society and the state.

Thus, the internal content of the conceptual apparatus of private detective activity consists of: firstly, a licensed type of activity based on the law; secondly, the law-enforcement function aimed at providing services to individuals and legal entities, including in criminal matters; thirdly, a private detective may be individuals and organizations that meet all the requirements established by law; fourthly, the legal relations of private detective and a client arise based on a bilateral agreement between them; fifthly, the private detective's activity is aimed at providing legal guarantees for the protection of rights and legitimate interests of individuals.

It should be noted that the classification of a private detective can be determined by observing the following conditions:

Firstly, the procedural status of a private detective must necessarily be regulated by criminal procedure legislation;

Secondly, the initiative for his participation in the case should come from a specific participant of a criminal process;

Thirdly, a private detective should not be interested in the outcome of a criminal case;

Fourthly, a private detective can carry out only an auxiliary function of a criminal process.

Thus, taking into account the procedural powers and the status of a private detective, he should be attributed to other persons participating in a criminal process. Based on the classification of other persons into three subgroups, we believe that his functional duties are in contact with the activities of persons assisting in the collection of evidence (first subgroup)

This assumption is based on the fact that a private investigator, when providing them with services and assistance related to the collection of information or the establishment of other circumstances that are relevant in criminal cases, has certain features that relate to the characteristics of other persons involved in criminal proceedings. In particular, it involves the following provisions:

- Recognition of private detective activity in the Republic of Kazakhstan can create the conditions for the objective administration of justice, the implementation of adversarial principle and equal rights of the parties to ensure the rights and legitimate interests of participants in criminal proceedings;

- A private detective activity in criminal proceedings is aimed at the implementation of auxiliary functions;

- Participation in criminal procedural legal relations of a private detective is fragmentary since they arise only based on an agreement by a party has expressed a desire to hire a private detective;

- A private detective participating in a criminal process should not be interested in the progress and outcome of the criminal case;

- The legal status of a private detective must be regulated directly in the norms of the criminal procedure law regulating the provision of services by a private detective.

**Sub-chapter 2.2** analyzes the legal basis, limits and procedure for the participation of a private detective in criminal cases. The issues of determining the legal grounds for providing private detective services not only in criminal proceedings but also in other legal sectors will allow monitoring him for legality and validity. When conducting private detective activities in Kazakhstan, defacto, without a legislative basis, it is extremely difficult to identify and evaluate such grounds in the work of private investigations.

If to assume hypothetically that the issue of adopting the bill "On Private Detective Activity" in the Republic of Kazakhstan will be resolved positively, then the grounds for the participation of a private detective in the criminal process can be defined as legal and factual.

Legal grounds could include the following types on the condition of their entirety:

- The presence in the proceedings of criminal case interrogator, registered in the manner prescribed by law in the Unified Register of pre-trial investigations;

- Recognition by the person of the status of one or another participant in the criminal process;

- The conclusion made by a private detective and a participant in the criminal process of an agreement on provision of the latter appropriate services;

- A person has a license to carry out private detective activity;

- The competence of a private detective for a certain type of activity.

The factual reasons for the activity of a private detective may be:

- Specific sources of information relevant to the customer-participant in the criminal process;
- Factual evidence substantiating the need for precisely this detective action;
- Legislative and ethical admissibility of a particular detective action;
- The will of a person who turned to a private detective for the provision of detective services.

To establish the limits of participation of a private detective in a criminal case, the following features are specific:

- The guide of a private detective to certain circumstances of the subject of proof in which a customer-participant in a particular criminal case interested in;
- subsequent specification by a private detective of the type and scope of detective services provided by him to a particular participant in the criminal process, for example, aimed at identifying the location of the object, weapon, means of criminal encroachment, establishing eyewitnesses of the event, gathering information from an open-source about a person, official reclamation of documents, etc.

Based on the foregoing, a person conducting private detective activity will be required to carry out detective activities and provide criminal services within the limits agreed upon by the parties, in strict accordance with the limits of invasion of privacy established by law.

An important legal basis for the emergence of legal relations between a private detective and individuals, legal entities, a guarantee of compliance with the established order of activity is an agreement on the provision of detective services. The legal form and procedure for the participation of a private detective in criminal matters should be determined both by regulatory legal acts and through the conclusion of an agreement between the parties. The main purpose of the contract is that it contributes to the regulation, in strict accordance with the law, of the proper conduct of a private detective in the provision of criminal services.

For the provision of services related to the participation of private detective activity in criminal procedural relations, the possibility of using the results of his activities in criminal procedural evidence, it is necessary to have a license to provide such services to individuals and legal entities.

### **Chapter 3 «Prospects for legislative regulation of private detective activity in the Republic of Kazakhstan»**

Sub-chapter 3.1 focuses on the conceptual principles of the organization and private detectives activity in criminal matters. The main objective of criminal proceedings is the observance and protection of the rights and legitimate interests of persons participating in criminal proceedings. The prospects for modernization and the state of criminal justice in the Republic of Kazakhstan indicate that the main idea of the development of the criminal process is based on legal principles and guarantees of individual rights and freedoms.

Thus, in the future namely the conceptual foundations of legal principles will play a special role in matters not only of the legal regulation of private investigations in the Republic of Kazakhstan, but also of the legitimacy of a private

detective activity. Since it was through a system of legal principles the basics of ensuring and observing constitutional rights and interests of a person by a private detective in a criminal and civil process can be considered. Meanwhile, the legal principles of private detective activity should contain not only regulatory functions but also methods and forms of protective function. An important role in organizing private detective activity belongs to legal guarantees and principles, namely these institutions can provide the high moral and legal side of the mechanism for providing services to citizens, organizations and non-state commercial enterprises by a private detective. Therefore, legal guarantees and principles should be the starting point in the system of ensuring and observing the rights and interests of the individual in the process of legal relations, including the criminal process.

Thus, the legal principles of private detective work, elevated to the law governing this type of public relations, act as a volitional act of the state, providing a system of certain legal guarantees. It should be noted that the principles of private detective activity cannot independently act as instruments providing legal guarantees. Their implementation is possible only with the appropriate legislative regulation of public relations associated with the emergence of a new subject of legal relations - a private detective.

In the structure of this legislation, legal principles can be laid down as norms-prescriptions with relevant legal guarantees to respect the rights and protect the interests of the individual.

It should be noted that both legal principles and legal guarantees are interconnected elements. Therefore, for a theoretical study of the conceptual foundations of the legal principles of the institution of private investigation, it is necessary to consider these legal institutions jointly. At the same time, at the theoretical level, it is necessary to develop modern mechanisms of legal principles that allow in the future to consolidate the conceptual foundations of organizing private detective activities in the Republic of Kazakhstan. These legal requirements will guarantee the prevention of violations of human rights and freedoms in the process of providing services by a private detective to individuals and legal entities, including criminal proceedings.

Therefore, legal principles play an important role in the system of organizing the work of a private detective, not only in terms of theory, but also in practice. The essence of this assumption is if in the process of fulfilling his functional duties a private detective makes significant violations of the criminal procedural law or other normative legal norms, the principles act as legal guarantees ensuring a measure of the proper conduct of this subject of legal relations.

The principles act as initial principles in the legal system of private detective activity; contribute to the provision of private detective services in strict accordance and with strict observance of the requirements of the Constitution of the Republic of Kazakhstan, constitutional laws and other regulatory legal acts. In their structure, they are in the system of one norm governing the institution of private investigation, but their content and direction are the norms prescribed by law and act as a means of determining the system of legal guarantees and procedural rules for the provision of services by private detective activities.

Sub-chapter 3.2 of the dissertation raises issues related to the regulation of the status of a private detective in criminal procedure legislation. The right to collect evidence for the participants in the criminal process is provided by paragraph 4 of Article 122 of the CPC of the Republic of Kazakhstan, "... Information, either verbally, written or in the form of an electronic document, as well as objects and documents to attach as evidence to the criminal case can be provided by a suspect, accused, defender, private prosecutor, victim, civil plaintiff, civil defendant, and their representatives, as well as any citizens and organizations. "

Hypothetically, it can be assumed that in the case of the legitimacy of private detective activity in the Republic of Kazakhstan, a private detective could be one of the subjects of criminal procedural relations. But to recognize a person as a private detective when proving in criminal proceedings, legislative norms regulating private detective activity are needed. In such norms, the powers of a private detective must be spelled out, including his right to collect information on criminal cases in the interests of a particular participant in the criminal process. Then it is possible that the disposition of Part 4 of Article 122 of the CPC of the Republic of Kazakhstan can be changed with the addition of another subject of proof in the person of a private detective.

Legislative regulation, which gives the right to a private detective to assist in the collection of information on a contractual, reimbursable basis, to participants in the criminal process, allows us to assume that, by providing services, the private detective carries out cognitive activities, which, first of all, should be aimed at

A theoretical study of the main directions of development of the criminal procedural legislation related to the participation of a private detective allows us to highlight several points that will help to determine the procedural status and assess his activities as a private detective in the criminal proceedings of the Republic of Kazakhstan.

1 The legal regulation of private investigations should not be limited to the framework of a norm only, even if these norms contain powers that provide the right to collect information on criminal cases. Besides the norms governing the basic provisions of private detective activity, this legal provision should also be covered by criminal procedure legislation. This is due to the fact that a gap in the legal foundations and forms of a private detective's participation in criminal procedure activities will hinder the development of private investigations in the Republic. The restriction of his participation in the criminal process will make it difficult to use the information he received as evidence.

2 We believe that the most preferable form of private detective participation is the involvement of this particular subject in the sphere of criminal procedure activity and his recognition as the subject of criminal procedure evidence. This will help to avoid uncertainty not only regarding the participation of a private detective in criminal proceedings from the criminal prosecution authorities but will also directly allow providing the evidence collected by him in the interests of a particular participant in the criminal process to an authorized person conducting criminal proceedings. At the same time, requirements for all evidence remains as the criterion for evaluating the activities of a private detective in criminal matters -

relevance conformity, reliability, and sufficiency of the information provided and other factual data.

3The participation of a private investigation in criminal procedural activities requires the resolution of the question by whatprocedural way should information and other data received by a private detective be transmitted to interrogator investigating a criminal case. The organizational and legal conditions for converting the results of private detective activity into evidence require theoretical understanding and legislative consolidation. Therefore, the purpose of the subsequent scientific research is to find the most rational and optimal for law enforcement activityform of data inclusion provided by a private detective to the evidence base in the interests of protecting the rights of participants in the criminal process.

Thus, our study allows us to propose the following definition: "The results of private detective activity are legally obtained information, objects, and documents which are important for establishing the circumstances of a criminal case, provided by a private detective in connection with the provision of detective services on a contractual reimbursable basis to protect the rights and legitimate interests of a person involved in the field of criminal procedure relations."

The establishment of a conceptual apparatus regarding the results of private detective activity involves the addition of the CPC of the Republic of Kazakhstan with article 126-1 "Use of the results of private detective activity as evidence in criminal cases".

We propose to state the content of this rule as follows:

- materials obtained as a result of private detective activity can be used to carry out investigative and operational-search measures, as well as evidence in criminal cases after they are checked in accordance with the criminal procedure law by the body conducting the criminal process;

-the use as evidence of objects and documents obtained by a private detective in the course of the implementation of detective services in the interests of a particular participant in the criminal process is carried out in accordance with Article 112, 113, 125 CPC of the Republic of Kazakhstan;

- information directly discovered by a private detective as a result of private detective activity can be used as evidence in a criminal case, only after the interrogation of the specified person as a witness.

#### **List of published scientific papers:**

##### **Article published in the journal included in the Scopus database**

A. Akhpanov, S. Sabitov. R. Shaykhadenov Criminal pretrial proceedings in the Republic of Kazakhstan: Trend of the institutional transformations. *Opcion. Venezuela. Arts and Humanities (miscellaneous), Social Sciences (miscellaneous). Universidad del Zulia. Año 33, No. 85 (2018): 107-125 ISSN 10107-1251587/ISSNe: 2477-9385. p. 107-125*

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1) Sabitov S.M. Legal prerequisites of balance justification between non-state detective activity and law enforcement in Kazakhstan // Law, and State. Kazakh Humanitarian Law University. 2008. No. 4. S.231-240

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