

AZERBAIJAN REPUBLIC

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**TACTICAL AND PROCEDURAL PROBLEMS IN
INVESTIGATING CRIMES COMMITTED BY MINORS**

Speciality: 5612.01 – Criminal procedure, criminology
and forensic examination; operation-search
activity

Field of Science: Law

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ABSTRACT

**of the submitted dissertation to receive the degree of
Doctor of Philosophy**

BAKU – 2024

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THE GENERAL CHARACTERISTICS OF THE STUDY

The relevance of the topic and its degree of development. The independence of our country marked its emergence as a fully legitimate subject of the global community. In pursuit of establishing a democratic and lawful state, our integration into the international arena required aligning legislation with the norms and principles of international law.

The independence of our republic and the implementation of radical reforms across the economic, political, and socio-cultural spheres could not have achieved meaningful impact without legal reforms. Obviously, a legal framework was essential to facilitate societal development, regulate existing relationships, and elevate the country to a higher level of progress for the general welfare of its citizens. In this regard, the Constitution of independent Azerbaijan, prepared and adopted under the personal oversight and leadership of the National Leader Heydar Aliyev, established a vital foundation for comprehensive and fundamental reforms in society. The 1995 Constitution, which fully aligned with international standards for a democratic legal state, prompted widespread legal reforms in a short period. New laws were enacted to establish a system of judicial authorities. The concepts of all laws covered the establishment of a legal state, the separation of powers, the independence of the judiciary, and the supremacy of human rights as outlined in Article 12 of the Constitution, along with provisions for promoting social welfare and other universal democratic principles. In the Republic of Azerbaijan, the recognition of human rights as the supreme goal of the state is a fundamental principle enshrined in the 1995 Constitution, which serves as the foundational law of the country. In the Republic of Azerbaijan, the recognition of human rights as the supreme goal of the state is a fundamental principle enshrined in the 1995 Constitution, which serves as the country's foundational law.

Thus, Article 12 of the Constitution of the Republic of Azerbaijan establishes the recognition of human and civil rights and freedoms as the supreme goal of the state.

The human and civil rights and freedoms outlined in the Constitution are implemented in accordance with the international treaties to which the Republic of Azerbaijan is a party.

Children's rights are among the most sensitive and fundamental human rights, necessitating special attention and protective mechanisms. Article 34 of the Constitution of the Republic of Azerbaijan addresses the right to marriage, which is integral to this fundamental category of human rights and plays a crucial role in safeguarding the rights of both spouses and children. According to Article 34 of the Constitution of Azerbaijan, marriage and family are protected by the state, and motherhood, fatherhood, and childhood are protected by law.

In the subsequent history of our statehood, the necessity for independent political and legal activities to gain international recognition, Azerbaijan's admission to the Council of Europe in 2001, along with its independent representation in the European Court with a professional judge's mandate and the ratification of several international conventions led to a new approach at both domestic and international levels.

The adoption of laws such as "On the Constitutional Court," "On Courts and Judges," "On the Prosecutor's Office," "On the Police," and "On Operational Search," along with the new Criminal and Criminal Procedure Codes, played a crucial role in establishing the legal system of an independent state. Additionally, the amendments and additions made to these legislative acts after their adoption reflect the need for continuous review of legislation in our rapidly developing republic. This dynamic growth across all sectors necessitates the enactment of laws that align with the pace of societal development in the context of human rights, as well as regular updates to existing laws. Moreover, it emphasizes the importance of conducting theoretical research in this field.

The Criminal Procedure Code introduced the principle of establishing criminal justice based on genuine conflict and legal equality between the parties involved. It established guiding principles for criminal prosecution and defense, as well as for the consideration and

resolution of cases. Additionally, it emphasizes the supremacy of human rights, the rule of law, and fair litigation, all aimed at ensuring the development of a just legal system in accordance with its foundational principles. The Code has enhanced procedural form by introducing

new rules and achieving fundamental regulation in differentiation. While adhering to the principle of uniformity in procedural form within criminal procedure legislation, additional safeguards and regulations have been established, considering factors such as the subject, age, country, public political function, and international obligations related to foreign policy. Chapter L, Section 10 of the Criminal Procedure Code of the Republic of Azerbaijan outlines special rules that address the unique aspects of proceedings involving minors. Given that such regulations were not included in either the 1923 or 1961 Azerbaijan SSR CPC, this legislative stance further underscores the importance of paying special attention to criminal proceedings involving minors.

The relevance of this topic is influenced by several factors, primarily the shift in the international community's approach to criminal proceedings involving minors. The traditional model of criminal justice, which has long been applied to this group, no longer meets the needs of juveniles or a society striving for a better, safer, and more prosperous state of social welfare. Society is seeking alternatives, with restorative justice emerging as a more suitable approach for addressing the needs of both juveniles and society. This view is supported by the international community, as well as through the analysis of relevant international documents. Additionally, the relevance of this research is underscored by the need for a well-constructed framework based on systematic knowledge of juvenile proceedings within criminal procedure law and criminology, in alignment with international standards. It is important to highlight that when criminal proceedings against minors include complex provisions, they can contribute to fulfilling the goals of education and reformation. Global practices are evolving in this direction. Another important aspect is that the regulation of juvenile proceedings has become a key and independent focus within the criminal and criminal procedural law policies and legislation of modern legal states. This is

reflected differently in the legislation of various countries. Studying and analyzing these differences enables the identification of optimal approaches, tailored to the unique characteristics of each national legal system. This is another factor that highlights the relevance of this study. History has shown that it is premature to discuss progress in a society with high levels of crime. In societies where juvenile delinquency is prevalent and increasing, the future stability and security of those societies are at risk. While continuous reforms in various areas in the Republic of Azerbaijan have contributed to a reduction in overall crime, the situation regarding offenses committed by minors remains concerning. Today's teenager is tomorrow's parent, teacher, doctor, soldier, etc. Viewed through the lens of society—family, state and homeland—it becomes a critical social and political priority to nurture young people in a healthy environment, prevent their alienation from society, and help those already in conflict reintegrate as productive citizens.

The Degree of Scientific Development of the Topic: There has been no dedicated research on the tactical and procedural aspects of investigating crimes committed by minors within the criminal justice process of the Republic of Azerbaijan.

However, some national authors have contributed to research on specific aspects of juvenile procedures. Notably, E.A. Nasibov conducted a study titled "Features of the Preliminary Investigation in Cases Involving Minors" (Dissertation for the Candidate of Legal Sciences, Baku, 2004), and S.A. Aliyeva authored "Elements of Juvenile Justice in the Activities of the Court, Prosecutor's Office, Police Authorities, and Lawyers" (Baku, 2007). Additionally, in 2006, a textbook titled "Juvenile Justice" was published, edited by Doctor of Law, Prof. K.N. Salimov, with co-authorship of Doctor of Law, Prof. M.S. Gafarov. Individual issues related to juvenile justice have also been addressed in articles, textbooks, and commentaries, as in the "Commentary on the Criminal Procedure Code", edited by Doctor of Law, Prof. C.H. Movsumov, and others, as well as the textbook "Criminal Process of the Republic of Azerbaijan" by Doctor of Law, Prof. M.A. Jafarguliyev.

Additionally, Doctor of Law, Prof. F.Y. Samandarov, Doctor of Law, Prof. M.S. Gafarov, and Doctor of Law, Prof. F.M. Abbasova have explored these topics in various articles.

Object and Subject of the Study:

The object of this study is the legal relationships that arise during the preliminary investigation of minors within the criminal process of the Republic of Azerbaijan.

The subject of the study includes the rules governing criminal proceedings against minors, the criminal-procedural legal norms that establish enhanced guarantees, investigative and judicial practice related to the application of these norms, as well as documents reflecting international standards. Additionally, it encompasses preliminary research on criminal cases involving minors and sources from the fields of criminology and criminal procedural law that focus on studying these activities.

Purpose and Objectives of the Study:

The primary goal of this dissertation is to identify the key tactical and procedural aspects of the preliminary investigation of minors within the criminal process of the Republic of Azerbaijan. This involves analyzing the system of norms that regulate social relations in this area, examining the characteristics of criminal proceedings involving minors, and assessing historically established tactical recommendations and societal needs. By incorporating scientific-theoretical perspectives and advancements in science and technology, the research aims to provide an understanding of the current state of the legal regulation mechanism for preliminary investigations of minors. Additionally, it seeks to develop specific proposals and recommendations to enhance the effectiveness of this mechanism and contribute to scientifically informed practice.

To achieve the goal of the dissertation, the following tasks have been set:

1. Conduct a scientific-theoretical analysis of criminal-procedural legislation and forensic tactical methods related to the preliminary investigation of minors, identifying the developmental directions and trends in both legislation and theory.

2. Identify the specific characteristics of conducting preliminary investigative actions for crimes committed by minors, initiate criminal prosecution, and examine the tactical methods and tools used during the initial stages of a criminal case, considering both the interests of minors and society.

3. Study alternative approaches to prosecuting minors at the international level and explore options for integrating these alternatives into the national legal system.

4. Analyze the application of criminal-procedural coercive measures to minors in relation to the tactical and procedural foundations of the preliminary investigation;

5. Provide a doctrinal interpretation of the preventive measure of supervision, which is applied exclusively to minors;

6. Offer practical recommendations for applying procedural coercive measures in cases involving minors;

7. Examine the forensic and procedural aspects of terminating criminal cases against minors;

8. Justify the proposal to amend legislative norms that comprehensively regulate proceedings involving minors, based on an analysis of the legislative norms governing the preliminary investigation of juvenile cases.

Study Methods: The methodology of this dissertation is grounded in the main principles of dialectical cognitive theory. It incorporates logical reasoning methods such as analysis and synthesis, comparative jurisprudence, interdisciplinary research, systematic analysis, sociological surveys, and generalization of experience, along with various other scientific methods.

Main Clauses Defended: In line with the study's objectives and content, the following scientific results and a set of legislative proposals have been developed:

1. Scientific Results:

1. One of the most fundamental values that remains an undeniable constant in any society – regardless of the various reforms and eras that come and go – is the institution of the family. The family, as a vital unit of society, has the critical responsibility of

raising responsible citizens. When considering minors as part of the international category of "children," it becomes clear that children represent the foundational building blocks of society. Any significant failure in their upbringing or a substantial deviation from accepted behavioral norms poses a serious threat not only to the family unit but also to society as a whole. My research involved analyzing relevant periodic reports from the State Statistics Committee on criminal offenses committed by minors, summarizing 107 final court decisions, and utilizing a questionnaire database from the "Guba District Closed-Type Educational Institution for Boys.", national and international experience which allows for meaningful practical and doctrinal conclusions.

Thus, this generalization goes beyond merely presenting statistics on crimes committed by minors; it highlights certain criminological factors that can significantly aid in eliminating these underlying causes. Among the offenses committed by minors, crimes against property specifically theft hold a prominent position. This analysis explores the interconnectedness of family and societal institutions that contribute to juvenile delinquency. It becomes evident that minors who engage in these crimes often come from financially disadvantaged backgrounds and have been raised in conflicted family environments.

2. I believe that during the initiation of a criminal case against a minor, tactical methods and strategies should be employed to verify the information received by the authorities regarding the juvenile's alleged crime, particularly when the juvenile or parent is summoned by the investigator. Additionally, the investigator should assess the psychological state of the juvenile both before and after the commission of the crime

Thus, when an investigator issues an illegal and unfounded charge, it diminishes the minor's trust in public authorities and erodes confidence in the principles of fairness, comprehensive investigation, and objectivity. This loss of trust negatively impacts the establishment of psychological rapport between the investigator and the juvenile during the investigation.

3. The involvement of the accused individual and the announcement of the charges are crucial actions during the investigation. In this context, having a teacher or psychologist whom the minor knows, and respects can significantly enhance the psychological atmosphere when informing the minor of the accusations. We believe it is beneficial for a teacher or psychologist to participate in the interrogation process. Their presence helps establish a moral and psychological connection between the investigator and the minor. As specialists familiar with the psychology of children and adolescents, they also serve as guarantors of the minors' rights and legal interests.

After reviewing the above, we believe that given the joint involvement of the investigator and the educator during the interrogation of minors, it is essential to distinguish the educator from other participants in the criminal process, such as experts or witnesses. It can be said that the educator (or psychologist) serves as an independent entity within the criminal process. Their legal status allows them to review the interrogation protocol and request that specific entries be made in the record.

The effective legislation applies a similar rule only to individuals under the age of 16 and minors with mental disabilities.

4. During the interrogation of a minor suspect or accused, it is not advisable to draft the interrogation protocol simultaneously with the interrogation itself. This is because the minor's attention will likely be diverted towards the protocol being written, making it challenging for the investigator to effectively employ the tactical methods selected.

5. In the theory of criminal procedural law, the specific features of case dismissal and the termination of criminal prosecution in cases involving minors should be addressed through special provisions. These should reflect the need to establish additional safeguards to protect the rights and legal interests of minors. Summarizing the above points, it is clear that the unique grounds and procedures for handling criminal cases and prosecutions involving minors occupy a special place within the criminal procedural system. The need to establish additional safeguards for protecting the rights and interests of minors

is essential for ensuring that any measures taken against them are optimal until they reach the age of majority. In cases involving minors, particular attention must be paid to the objective and subjective factors surrounding the specific incident, as well as the offender's individual characteristics. Emphasis should be placed on avoiding punitive measures and, instead, focusing on the closure of the criminal case.

Scholars of criminal procedural law argue that while criminal proceedings involving minors are governed by general principles and provisions, special rules should be applied in recognition of their unique characteristics – such as age, mental state, and social status. These distinct features must be reflected in separate norms within criminal procedural law, particularly when dealing with minors. In considering the personality and circumstances of the minor offender, emphasis should be placed on closing criminal cases without resorting to punishment. However, an analysis of investigative practices reveals that in many cases, the materials related to criminal cases involving minors are not thoroughly investigated. Investigators and examining officials often decide to dismiss these cases once the offender's age is established, without conducting a comprehensive review of the evidence. From a legislative standpoint, we believe that each case should be examined individually, with a focus on determining whether other individuals were involved in the crime. This is crucial, as in many instances, minors are influenced or incited to commit offenses under the instigation or guidance of adults.

6. In the section of criminal procedural legislation that addresses proceedings involving individuals who have not reached the age of majority, certain aspects create challenges in investigative and judicial practice. Specifically, the procedural status of minors is not clearly defined in situations where criminal prosecution is terminated through the application of compulsory educational measures. The current legislation specifies that these measures should only be applied to minors who have been formally accused, which leaves a gap when it comes to terminating the criminal prosecution of minors who are suspects.

We believe that when terminating the criminal case of a minor who

has committed an offense, the prosecuting authorities should take into account the following facts in the case, in accordance with legislative requirements:

1. The identity of the minor, including their living conditions and upbringing, as well as the absence of circumstances that necessitate their isolation from society and immediate surroundings;

2. The circumstances surrounding the crime, including whether it was committed under certain influences or due to difficult living conditions;

3. The minor's willingness to remedy the harm caused by their actions or to assist law enforcement agencies in the investigation of the crime, among other factors.

4. To accurately assess the future rehabilitation of the accused minor, it is essential to conduct a forensic psychological examination. This evaluation can help develop a comprehensive psychological profile of the individual. Additionally, proper and effective interrogation tactics should be employed when questioning the suspect or accused minor.

5. An analysis of the cases underlying the termination of criminal proceedings against minors through the application of mandatory educational measures reveals that such measures are imposed only when circumstances exist that preclude the imposition of punishment, and there are no other grounds for exemption from criminal liability. Although the termination of a criminal case and the cessation of criminal prosecution are closely related from a procedural standpoint, it is essential to distinguish between the two. The current criminal procedure legislation does not explicitly address the termination of criminal prosecution or the criminal case in the context of applying mandatory educational measures to minors. We believe that the court should terminate the criminal case when considering a petition regarding the imposition of mandatory educational measures for a minor who has committed a crime. We recommend that this position be incorporated into the Criminal Procedure Code. An authorized body or official who concludes that compulsory educational measures should be applied to a minor who has committed a crime must conduct

a thorough, comprehensive, and objective examination of the materials collected in the criminal case. After evaluating the evidence, this body or official will decide to implement compulsory educational measures, effectively halting the procedural activities and filing a motion in court regarding this decision.

6. In the Criminal Procedure Code, the procedural norms regarding the application of mandatory educational measures for minors are insufficient, leading to challenges in implementing this institution effectively. There are gaps in the legislation concerning the coordination between the examining official or investigator responsible for prosecuting a minor and the prosecutor overseeing the procedural management of the decision to reform the individual through the application of mandatory educational measures. We propose that when case materials are submitted by the investigator or examining official to the prosecutor in charge of the preliminary investigation, it should indicate that there is written consent to terminate the criminal prosecution.

7. If, during the application of mandatory educational measures to a minor, the prosecuting authority determines that the individual acknowledges guilt for a serious or minor offense and is cooperating in the criminal process, and rehabilitation without punishment is feasible, the prosecution should first be terminated, followed by a petition to the court regarding this matter.

8. When a court terminates a criminal case against a minor by applying compulsory educational measures, it must be confirmed whether the accused or their legal representative has given consent. If there is no consent, the criminal prosecution must continue. Additionally, when making a decision to terminate the prosecution, the investigator must ensure that the minor or their legal representative is informed about the materials of the criminal case.

9. It is essential to establish a Juvenile Justice Institute in the Republic of Azerbaijan to ensure a more objective, discreet, and high-quality investigation and trial of crimes committed by minors, who represent the future of our society. To achieve this, a law on "Juvenile Justice" should be enacted, and specialized juvenile courts should be

established Juvenile court panels should also be organized within appellate courts and the Supreme Court of the Republic of Azerbaijan, leading to the creation of a dedicated corps of juvenile investigators and juvenile judges.

10. The Commission on Cases Involving Minors, under the executive authority and the MIA, should define the authority limits of the respective inspectors. The mechanism for their cooperation can be established as a direct implementation framework for the proposed legislative act mentioned above.

11. Additionally, the research conducted for this dissertation examined the scientific principles regarding the tactical and procedural challenges in investigating crimes committed by minors. Through the analysis of practical cases and the formulation of specific scientific and empirical generalizations, a foundation was established for developing a comprehensive set of legislative proposals:

1. To effectively safeguard the right to defense for this category of individuals at the procedural level, it is proposed to amend Article 224.2 of the CPC of to include the following provision:

The presence of a lawyer is mandatory when a charge is announced to a minor.

2. It is also deemed essential to introduce specific distinctions concerning individuals under the age of majority in the relevant provisions of the criminal procedural legislation pertaining to the conduct of investigative actions.

Therefore, it is proposed to include the following wording in Article 238.4 of the CPC of the Republic of Azerbaijan:

«When conducting a personal examination of a minor, it is essential to ensure that the examination occurs in conditions that do not jeopardize the physical or psychological well-being of the minor. Additionally, the presence of a same-sex lawyer, a legal representative, and, if necessary, a doctor is mandatory.

3. I believe it would be beneficial to amend Article 239.7 of the CPC of the Republic of Azerbaijan by adding the phrase "also when the identifying is carried out with the participation of a minor" after the words "To ensure the safety of the person who identifies or at relevant

request.

4. It is proposed to add Article 246.5 to Article 246 of the CPC of the Republic of Azerbaijan, stating the following:

The presence of a parent (legal representative) and a lawyer of the same gender is mandatory during a personal search and seizure conducted on a minor.

5. It is proposed to amend Article 260.3 of the CPC of the Republic of Azerbaijan to include the following addition:

When verifying testimony on-site against a minor, the presence of a lawyer, legal representative, or representative, as well as a teacher, must be ensured during the investigation.

6. It is proposed to add the following paragraph 6 to Article 262 of the CPC of the Republic of Azerbaijan:

«Investigative experiments involving a minor should only be conducted in necessary cases, after assessing the potential impact of the actions on the minor's physical and mental health, and must include the participation of a lawyer, teacher (psychologist), and the representative or legal representative of the minor.

7. It is proposed to amend Article 432.2 of the CPC of the Republic of Azerbaijan as follows:

432.2. During criminal proceedings involving a minor, the presence of their defense attorney and a teacher with whom the minor is familiar is mandatory. The minor must be informed in advance about the identity of the teacher who will be present during the indictment and must be given the opportunity to express any objections to such presence.

8. The current criminal-procedural legislation does not adequately address the investigation of criminal cases involving individuals who have not reached the age of majority. Therefore, we propose that when there are grounds for applying compulsory educational measures during the investigation of a minor's criminal case, the decision to terminate the criminal prosecution by the investigator and the subsequent application of these measures by the court should be mandated by law, rather than left to the discretion of the investigator.

9. For this reason, we propose adding Article 432.8 to the CPC of

the Republic of Azerbaijan with the following wording:

«During the preliminary investigation into a minor's involvement in a serious public endangerment and a minor offense, if it is concluded that this is the minor's first offense and that reform is possible without imposing punishment, the investigator or examining official, with the approval of the prosecutor overseeing the investigation, may decide to terminate the criminal prosecution, with the court instead imposing a compulsory educational measure».

10. It is proposed to amend Article 434.1 of the CPC of the Republic of Azerbaijan with the following addition.

After the phrase "when referring to the commission of a serious and particularly serious crime" "if other preventive measures, which are an alternative to preventive detention, endanger the progress of the investigation" wording should be added

A provision addressing the tactical aspects of interrogation should be directly included:

The indictment of a minor must be conducted by the investigative body in the most informal manner possible

11. In the practice of penal execution, when individuals convicted as minors are transferred from a juvenile correctional facility to an adult penal institution upon reaching the age of majority, I believe that older inmates may negatively influence the behavior of those newly entering adulthood and beginning their path of rehabilitation. To address this, a dedicated juvenile penal institution (separate for boys and girls) should be established for adult convicts in this category. Therefore, it is proposed to make an appropriate amendment to Article 72.1 of the Code of Execution of Sentences of the Republic of Azerbaijan.

Article 72.1 - A convicted person who was a minor at the time of committing a crime shall be placed in a juvenile penal institution upon reaching the age of majority.

12. To enhance the protection and rehabilitation of individuals in this category, it is proposed to adopt a "Law on the rehabilitation of minors who have committed a crime and have been convicted".

13. In the Law of the Republic of Azerbaijan "On Lawyers and

Legal Activities," I propose the introduction of special requirements for the professional and psychological training of lawyers who defend minors. Additionally, the Cabinet of Ministers should establish a differential payment procedure for lawyers representing juvenile defendants. This would help create a specialized corps of lawyers focused on this area and incentivize their efforts.

Scientific Novelty of the Study. The scientific novelty of this study is primarily demonstrated by the fact that no independent research on this subject has been conducted in the Republic of Azerbaijan before. In addition to this, the content and nature of the results achieved in the dissertation further highlight its innovative character. The findings of this research do not replicate the results of previous studies on the same issues, and the proposals and recommendations developed by the author are aimed at enhancing both the legislative process and its practical application. The scientific novelty of the study is also evident in the key provisions presented for defense.

Theoretical and Practical Significance of the Study. The individual findings and the overall content of the research hold both theoretical and practical significance. The theoretical importance of the dissertation is reflected in its analysis of various aspects of criminal procedural legislation, as well as in the theoretical generalizations made throughout the case, the author expresses position on many of the issues discussed. The proposals and recommendations presented in the dissertation may serve as a valuable theoretical foundation for scientific studies focused on the challenges of juvenile criminal justice.

The full text of the dissertation can be used as a teaching resource in courses such as "Criminology," "Criminal Process," "Preliminary Investigation," and other related subjects within law faculties at higher education institutions, both at the bachelor's and master's levels.

The legislative proposals developed and supported during the research can serve as a valuable resource in improving the criminal procedural legislation in the Milli Majlis (Parliament) of the Republic of Azerbaijan

and in the implementation of judicial reforms in this area. Additionally, the insights and suggestions presented in the dissertation can be directly applied by investigative and judicial bodies during the preliminary investigation of crimes committed by minors.

Normative Foundations of the Study. The legislative framework of the Republic of Azerbaijan, international legal documents, and relevant legislation from foreign countries. The dissertation references key legal acts, including the Constitution of the Republic of Azerbaijan, the Criminal Code, the Criminal Procedure Code, and various other pertinent laws.

The dissertation extensively utilized the decisions of the Plenum of the Constitutional Court and the Supreme Court of the Republic of Azerbaijan as part of the research, particularly for analyzing the current legal framework, identifying existing problems, and proposing solutions. the legislation of Russia and other foreign countries was referenced to conduct comparative studies.

Approval and Application: The foundations and outcomes of the research have been presented in the author's scientific articles and in speeches delivered at both international and national conferences. The dissertation was discussed in stages at the meetings of the Department of Criminalistics, at the scientific seminars held by the department.

Structure of the Study. Dissertation consists of Introduction (page 4-17), three chapters (page 18-151), conclusion (page 152-160), bibliography (page 161-170), appendices (page 171-199), as a whole it consists of 199 pages (50392 words).

Organization Where the Dissertation Work was Conducted. The dissertation was carried out at the Department of Criminalistics and Forensic Expertise at Baku State University, with the support of the professor and teaching staff of the department.

THE MAIN CONTENT OF THE WORK

The **Introduction** addresses the relevance of the research topic, the level of its scientific development, the object and subject of the research, its goals and objectives, the research methods and methodology, the theoretical and normative foundations of the study, the scientific novelty of the research, and the system of scientific and practical recommendations proposed to achieve the main goals of the dissertation.

The first chapter of the dissertation focuses on the **"Social Nature, Objectives, and Significance of Investigating Crimes Committed by Minors."** This chapter is divided into two paragraphs.

The first section is titled **"Historical Development of Juvenile Criminal Proceedings (International and National Aspects)."** The issue of criminal liability for minors was first addressed in the "Articles of War" adopted in 1715. Another significant document, the "Code on Criminal and Correctional Punishments" from the 1845 Collection of Laws, outlined the minimum age for holding minors criminally responsible. While this code set the minimum age at 7 years, in practice, minors were generally held criminally liable starting at the age of 10.

In later years, the Decree "On Introducing Several Amendments to the System of Criminal and Correctional Punishments", dated April 17, 1863, abolished corporal punishments for individuals within this category.

The "Regulation on Punishments Imposed by Magistrates", adopted in 1864, transferred the jurisdiction over juveniles who had not committed serious crimes to the Courts of the Peace.

Another important document, dated December 5, 1866, was the Law "On the Establishment of Asylums and Colonies for the Moral Education of Juvenile Offenders". This law provided for the establishment of colonies and shelters funded by budget allocations, zemstvos, and protective organizations.

Despite the enactment of these laws, the rise in crimes committed by minors necessitated the introduction of new legislation.

On June 2, 1897, Tsar Nikolai II of Russia amended the Code "On

Criminal and Correctional Punishments." The amendment stipulated that minors would be exempt from criminal responsibility for offenses committed through negligence, provided they had a parent or guardian to guarantee their behaviour.

The Compendium of Laws "On Criminal and Correctional Punishments," adopted in 1903, established the age limit for criminal prosecution at 10 years. Juveniles were sent to monasteries to serve their sentences until they reached adulthood, while girls were directed to women's monasteries.

In general, the development of juvenile justice in the USSR can be divided into three stages:

1. January 17, 1918 - April 7, 1935: Establishment of the "Commission on Minors";
2. April 7, 1935 - October 27, 1960: Creation of a special court for cases involving minors;
3. October 27, 1960 - 1989: Consideration of minor cases in mobile courts, closed hearings, participation of educators, and the restoration of the commission on juvenile cases.

The second section is titled **"International Standards and Recommendations on Juvenile Criminal Proceedings."** In contemporary times, international law plays a crucial role in regulating political and legal relations between states. It is no coincidence that the years 1990-1999 were designated the 10th anniversary of international law by the UN General Assembly. The primary goal of this anniversary was to promote the acceptance and respect for the principles of international law.

In recent times, the protection of children's rights has emerged as a critical issue at both the domestic and international levels. Initially, efforts to safeguard children's rights were confined within the borders of individual states, resulting in limited effectiveness. Subsequently, countries recognized the need to collaborate in this area, elevating the issue to the international stage. Ultimately, the goal of international human rights protection is to encourage states to adopt and implement protective measures using the methods and instruments specific to international law.

In addition to domestic law, several international documents should guide the implementation of juvenile justice. These include the "Minimum Standard Rules for the Administration of Juvenile Justice" (1985), known as the Beijing Rules, the "Convention on the Rights of the Child" (1989), the "UN Guiding Principles for the Prevention of Juvenile Delinquency" (1990), also known as the Riyadh Rules.

The UN's approach to justice for children encompasses two key strategies:

1. Prioritizing minors in initiatives that uphold the principle of the rule of law;
2. Strengthening the rule of law in the administration of justice for minors while ensuring the comprehensive protection of children's rights.

The second chapter of the dissertation is titled "**Criminalistic and Procedural Aspects of Pre-Trial Proceedings in Criminal Cases Involving Minors.**" It is divided into five paragraphs.

The first paragraph focuses on the "**Tactical and Psychological Aspects of Initiating Criminal Cases Involving Crimes Committed by Minors**".

According to the legislation, pre-trial proceedings in criminal cases involving minors must be conducted exclusively in the form of a preliminary investigation. The core principle of investigating criminal cases involving minors through this process is that, due to their inability to fully exercise their procedural rights and obligations independently, it is the investigator's responsibility to ensure that the investigation is conducted impartially.

The initiation of a criminal case against a minor who has committed a crime marks the first step in the criminal process, setting the stage for an investigation by the appointed investigator. The initiation of a criminal case constitutes a distinct and independent stage of the criminal procedure, differing from other stages in terms of its objectives, participants, procedural relationships, duration, and the types of decisions made at its conclusion. The primary goal at this stage is to determine whether there are sufficient grounds to initiate a criminal case, as well as to identify any circumstances that might preclude such initiation. The

issue of whether to proceed with the case must be resolved accordingly. At this early phase, it is not necessary to fully or definitively establish the existence of a criminal event. In accordance with Article 209.1 of the Criminal Code of the Republic of Azerbaijan, the law stipulates the procedure for the immediate initiation of a criminal case by the investigator, investigator-in-charge, or prosecutor overseeing the preliminary investigation, provided that the grounds and reasons specified in the code are present. In our view, when sufficient grounds for suspecting the commission of an act prohibited by criminal law are identified at the stage of initiating a criminal case, the investigator must consider the specific features and criminological-psychological aspects outlined in the legislation for this category of criminal cases during the subsequent investigation.

The second paragraph is titled "Tactical and Psychological Aspects of Involving (indictment) of Minors as Suspects or Accused."

Before charging a minor as an accused, the investigator must ensure that the following elements have evidence in the criminal case:

1. The facts and circumstances surrounding the criminal incident;
2. The connection between the suspect or accused and the criminal incident;
3. The existence of elements of a crime as defined by the criminal law;
4. The individual's guilt in committing the act specified by the criminal law;
5. Circumstances that may mitigate or aggravate the punishment under criminal law;
6. Instances where a participant in the criminal proceedings or another involved person justifies relevant request, unless otherwise specified by law.

The act of involving a minor as an accused marks the initial stage of bringing them to criminal responsibility, which results in the limitation of their constitutional rights. From this perspective, the investigator is obligated to thoroughly, comprehensively, and impartially examine the criminal case before deciding to involve the minor as an accused. The goal of the criminal procedure legislation of the Republic of

Azerbaijan is to ensure that no one who is innocent of a crime is wrongfully suspected, accused, or convicted due to the arbitrary actions of officials conducting the criminal process. Additionally, it aims to prevent anyone from being unlawfully or unnecessarily prosecuted, subjected to coercive measures, or having their human and civil rights and freedoms unjustly restricted.

The third paragraph focuses on the **"Specific Features of Criminalistic Support for Evidence in Cases Involving Minors."**

The evidentiary process in criminal proceedings encompasses the activities of gathering, examining, and evaluating evidence. Legislation identifies three distinct phases within this process: the collection of evidence, the examination of evidence, and the evaluation of evidence.

Article 429 of the Criminal Procedure Code outlines the specific issues that must be addressed during proceedings involving minors:

1. The age of the minor (including the year, month, and day of birth);
2. The living and upbringing conditions of the minor;
3. The minor's level of physical, intellectual, and mental development;
4. The feasibility of separating the criminal proceedings against the minor when there are other participants involved in the crime.

In addition to the points mentioned above, the investigator conducting the preliminary investigation involving minors must establish the facts and circumstances surrounding the criminal event, determine the suspect's or accused person's connection to the crime, and identify the elements of the offense as outlined by criminal law. The investigator must also assess the individual's guilt in committing the act and is required to consider any mitigating or aggravating circumstances relevant to sentencing. Unless otherwise specified in the Code of Criminal Procedure, the investigator must evaluate the basis for any requests made by participants or other individuals involved in the criminal process.

Paragraph 4 is titled **"Theoretical and Practical Importance of Arresting Minors Who Have Committed Crimes and the Proper**

Selection of Criminal Procedural Coercive Measures."

The investigation of crimes committed by minors must follow special procedures in line with criminal procedural legislation. This requirement stems from both the Constitution of the Republic of Azerbaijan and international conventions. Article 17 of the Constitution of the Republic of Azerbaijan mandates that children without parents or guardians, or those deprived of parental care, are under state protection, and the state is responsible for ensuring the enforcement of their rights. Additionally, Article 10 of the 1966 International Covenant on Civil and Political Rights stipulates that minors facing criminal charges must be separated from other detainees and brought to trial within a brief period.

The factual basis for arresting a minor must be assessed and differentiated. These grounds can be categorized into two main groups. The first group includes situations where:

- a) the person is apprehended while committing a socially dangerous act;
- b) the person is detained immediately after committing a criminal act;
- c) the victim or eyewitnesses of the crime directly identify the individual as the perpetrator;
- d) clear evidence of the crime, such as traces on the person's clothing, body, residence, or vehicle, indicates their involvement.

The second group consists of circumstances where:

- a) the person committed the crime and attempted to flee or hide from the scene;
- b) the suspect lacks a permanent place of residence;
- c) the suspect's identity cannot be determined;
- d) the suspect attempts to evade authorities responsible for the criminal proceedings.

It is crucial to address specific issues with law enforcement when interrogating the victim or witnesses whose testimony forms the basis for a minor's arrest. First, the circumstances surrounding the crime should be thoroughly examined, including the time of day the crime occurred, weather conditions, lighting levels, the distance from which

the event was observed, and any subjective factors that may have influenced perception. Additionally, questions should be asked regarding the criminal's appearance, such as eye color, gender, race, hair texture, and other distinguishing features. The nature of the relationship between the juvenile suspect and the victim or witnesses should also be a key focus during questioning.

When considering pretrial detention for a minor who has committed a crime, the investigator must first submit a motion to the prosecutor overseeing the procedural management of the preliminary investigation, the prosecutor, in turn, must file a petition with the court. The decision made by the criminal prosecution authorities must clearly state the reasons and justifications for selecting a particular preventive measure for the minor, along with an explanation as to why alternative preventive measures are not suitable for this individual.

Additionally, when a court imposes house arrest, Article 163.3 of the Azerbaijan Criminal Procedure Code stipulates that the person under house arrest must comply with specific conditions, including not leaving their place of residence either entirely or during specified times, wearing an electronic monitoring device and ensuring it remains operational, not leaving the court-designated territorial limits, and not changing their place of residence without a court decision.

One of the preventive measures applicable to minors is bail, as outlined in Article 164 of the Criminal Procedure Code. As an alternative to imprisonment, the court may impose bail instead of detention when a minor commits a minor crime of an intentionally violent nature or recklessly commits a serious or particularly serious crime.

Paragraph 5 is titled **"Particulars of Interrogation in the Investigation of Criminal Cases Involving Minors."**

New evidence related to a crime can be uncovered through the proper conduct of interrogations during the criminal process. This requires adherence to the provisions of criminal procedural legislation and the careful selection of tactical methods by the authorities conducting the interrogation.

The interrogation process should be treated with special

consideration when investigating criminal cases involving minors, a subject of ongoing scientific investigation. This approach is supported by the provisions outlined in Articles 226.3, 228, 231, 232, 233, and 432 of the Criminal Procedure Code of the Republic of Azerbaijan. Based on these legal guidelines, interrogations involving minors can be categorized as follows:

1. Interrogation of a minor suspect;
2. Interrogation of a minor accused;
3. Interrogation of a minor victim;
4. Interrogation of a minor witness.

The third chapter of the dissertation is titled "**Procedural and Tactical Foundations of Preliminary Investigations in Criminal Cases Involving Minors**" and is divided into four paragraphs.

The first paragraph is titled "**Theoretical and Practical Issues and Tactical Foundations of Preliminary Investigations in Cases Involving Minors.**"

The final stage of the preliminary investigation in criminal cases involving minors is governed by Article 219 of the Criminal Procedure Code of the Republic of Azerbaijan. According to Article 219.1, the preliminary investigation concludes with either the preparation of an indictment, a decision to submit the criminal case to court for the application of compulsory medical measures, or the termination of the proceedings.

While the unique aspects of proceedings involving minors are specifically addressed in Chapter L (Articles 428-435) of the Criminal Procedure Code we believe it is inappropriate to base the preliminary investigation concerning crimes committed by minors solely on Article 219. This is because this Article does not highlight special considerations for minors.

Based on the requirements of the legislation, we can identify the following forms of preliminary investigation:

1. Completion of the preliminary investigation occurs when an indictment is prepared, and the criminal case is sent to court, signed by the prosecutor overseeing the preliminary investigation;
2. If, during the preliminary investigation, it is determined that the

individual who committed the criminal act was in a state of insanity at the time of the offense or developed a mental illness thereafter, the investigation will conclude with a recommendation to submit the criminal case to the court for the application of compulsory medical measures for the offender;

3. Another form of terminating the preliminary investigation occurs when criminal proceedings are ended during this phase. If circumstances outlined in Articles 39-41 and 46.5 of the Code of Criminal Procedure are identified during the preliminary investigation, the proceedings for the criminal case will be terminated in accordance with the law.

The second paragraph is titled **"Features of Completing the Preliminary Investigation for Individuals Who Have Not Reached the Age of Criminal Responsibility."**

The criminal-procedural legislation of the Republic of Azerbaijan serves essential functions including determining whether actions that exhibit the characteristics of a crime are indeed criminal, assessing the guilt of the individual accused of such acts. It also outlines the legal procedures for both the prosecution and defense of individuals suspected or accused of committing offenses under criminal law, emphasizes that every person who commits a crime should be held accountable and brought to justice, safeguards against the wrongful suspicion, accusation, or conviction of individuals who are not guilty of a crime due to the arbitrary actions of officials or judges involved in the criminal process, ensures that no one is subjected to illegal or unnecessary procedural coercion measures, or any restrictions on their human and civil rights and freedoms.

The emergence of criminal-procedural legal relations primarily depends on two key conditions: the occurrence of a crime as defined by criminal legislation and the offender having reached the legal age of criminal responsibility.

It is not coincidental that the grounds for terminating criminal prosecution, based on the completion of the preliminary investigation, directly address the issue of whether the offender has reached the legal age of responsibility. In cases involving a criminal incident as outlined

in Article 219 and Articles 39-41 of the Criminal Procedure Code, if all elements of the crime are not present, or if the

individual who committed the act was not of an age that allows for criminal liability at the time the offense occurred, the criminal prosecution must be terminated.

The third paragraph is titled **"Termination of Criminal Cases Involving Minors with Mental Retardation."**

From both criminal-procedural and criminal legal perspectives, examining the termination of criminal cases related to mental retardation—when it does not involve a mental disorder that limits a minor's ability to understand the nature and societal dangers of their actions—is of significant theoretical and practical importance.

The commission of a crime due to a minor's mental retardation, as well as the termination of the procedural investigation concerning that individual, involves complex and interrelated factors. The issue of mental retardation in minors requires ongoing research in both law and medicine. This area of investigation is explored through various fields, including psychology, developmental psychology, pedagogy, pathopsychology, psychopathology, and forensic examination.

In its decision dated June 30, 2008, the Plenum of the Supreme Court of the Republic of Azerbaijan addressed judicial practice in cases involving crimes committed by minors and recommended that when a minor reaches the age of criminal responsibility, the actual nature of their actions (or inactions) must be carefully considered. If it is determined that the minor is mentally retarded—not due to a mental disorder that impairs their ability to understand or control the public danger of their actions—they may not be held criminally liable.

The fourth paragraph is titled **"Conclusion of the Preliminary Investigation in Relation to the Application of Compulsory Educational Measures."**

One form of terminating the preliminary investigation into criminal incidents involving minors is the cessation of the investigation related to the application of compulsory educational measures for the minor.

To apply mandatory educational measures to minors who have committed a crime, the following conditions must be met:

1. The individual accused of committing the crime must be a minor and not older than 18 years of age;

2. The minor must be charged with a crime that poses no significant public danger or is a minor offense committed for the first time;

3. Sufficient evidence must be gathered to demonstrate that the minor can be rehabilitated without imposing a punishment;

4. Minors must be informed about the termination of the preliminary investigation and the application of compulsory educational measures.

Article 87 of the Criminal Code of the Republic of Azerbaijan outlines the types of compulsory educational measures that can be applied to a minor found guilty of committing a crime:

1. Warning;

2. Placement under the supervision of parents, guardians, or a relevant state body;

3. Imposition of an obligation to compensate for damages caused by the crime;

4. Restriction of the minor's free time and the imposition of specific behavioral requirements.

There are certain nuances in the chapter of criminal procedure legislation concerning proceedings involving minors that present challenges in investigation and judicial practice. Specifically, the procedural status of a minor has not been clearly defined in cases where criminal prosecution is terminated through the application of compulsory educational measures. The legislation's stipulation that these measures apply only to minors in the capacity of accused individuals creates gaps when attempting to terminate criminal prosecution for minors categorized as suspects.

In the **Conclusion** section, the key theoretical generalizations and proposals are presented systematically.

Tables, diagrams, and a questionnaire related to the dissertation research are included in the **Appendices**.

The following scientific works by the author were published on the topic of the dissertation:

1. "The Age of Minors as a Necessary Condition for Carrying Out Criminal Proceedings Against Them" // - Baku: Forensic Expertise, Criminalistics, and Criminology, Actual Issues Journal, - 2015. № 63, - pp. 187-189.
2. "Modern Problems of the Implementation of Justice for Minors" // - Baku: "Qanun" Journal, - 2015. № 04, - pp. 93-96.
3. "Problems of Ensuring Confidentiality During Criminal Proceedings Against Minors" // - Baku: "Qanun" Journal, - 2016. № 11, - pp. 102-106.
4. "Issues in the Investigation of Crimes Committed by Minors with Mental Anomalies" // - Baku: "Qanun" Journal, - 2016. № 1, - pp. 63-68.
5. "On Some Issues of Termination of Criminal Prosecution Against Minors" // - Baku: Forensic Expertise, Criminalistics, and Criminology, Actual Issues Journal, - 2017. № 65, - pp. 336-340.
6. "Some Special Features of Proof in the Investigation of Crimes Committed by Minors" //-Moscow: Gaps in Russian Law, - 2020. № 05, - pp. 219- 222.
7. "Features of Judicial Proceedings Against Minors: International and National Aspects" // - Baku: "Qanun" Journal, - 2022. № 12, - pp. 96-100.
8. "International Standards and Recommendations on the Investigation of Criminal Cases Committed by Minors" // Baku State University Faculty of Law, International Scientific Conference on "Heydar Aliyev and the Establishment of a Legal State in Azerbaijan," Dedicated to the 93rd Anniversary of the National Leader Heydar Aliyev, - Baku: - June 3, 2016, - pp. 122-124.
9. "On Ending Criminal Prosecution with the Application of Educative Measures for Minors // Baku State University Faculty of Law International Scientific Conference on "Main Development Tendencies of Legal Science and Education in Azerbaijan" Dedicated to the 94th Anniversary of the National Leader Heydar Aliyev, - Baku: - June 2, 2017, - pp. 207-208.
10. "Tactical and Psychological Aspects of the Interrogation of Minors" // Legal activity International Scientific-Practical Conference, - Kyiv: Legal activity, - 2017, - pp. 98-102.

The dissertation defense will take place at a session of the Dissertation Council ED 2.45 under the National Aviation Academy on 25.11, 2024, at 14:00

Location: 30 Mardakan Ave., Baku.

The dissertation is available for review in the library of the National Aviation Academy.

Electronic versions of the dissertation and its abstract are published on the official website of the National Aviation Academy.

The abstract was 24 10 2024.
sent to the required addresses on ____

Signed to print: 18.10.2024
Paper format: A5 (210 x 148 mm)
Volume: 48804 characters
Circulation: 120