



## Research Article

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### Preliminary investigation and invalidity of investigative actions

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#### Abstract

Time limits for preliminary investigation and its duration is part of the right to a regular legal process, provided for by Article 42 of the Constitution of the Republic of Albania.<sup>1</sup> This is because the preliminary investigation is the first stage of the criminal proceedings and is part of the trial as a whole. Under these conditions, the preliminary investigation also has deadlines within which it must be completed, in order to complete the investigation and judgment within a reasonable time.

The deadline of the preliminary investigation begins from the date that the name of the person whom the criminal offence is attributed to has been written in the register of notification of criminal offence and ends at the moment the investigations are completed with the relevant acts, the end of the investigations, etc. The duration of the preliminary investigations are different, depending on the prosecution, so in the general jurisdiction prosecution, the preliminary investigation period is 3 months and in the special jurisdiction prosecution it is 6 months. Extension of the preliminary investigation can be done periodically every 3 months, with a maximum term of 2 years, by the prosecutor of the concrete case. In addition to this 2-year period, the deadline can be extended by one more year by the General Prosecutor for the prosecutors of the general jurisdiction and by the Head of the Special Prosecution against Organized Crime and Corruption, for the prosecutors of this prosecution.

The goal of the legislator who has set deadlines for the preliminary investigation is not only the completion of the investigation within a reasonable period, but also the legality, validity of all acts and the usefulness of all the evidence obtained during this period of the preliminary investigation. In this way, the legislator has disciplined the preliminary investigation and its validity. Thus, in order for the investigation to be valid, all evidence and procedural acts must be done within this validity period.

But what happens if the investigative actions are carried out after the preliminary investigation period? What about the procedural acts that the prosecutor compiles at the end and beyond the deadline of the preliminary investigation, will they be valid and usable? These and other will be part of the analysis of this article.

<sup>1</sup> Paragraph 2 of Article 41 of the Constitution of the Republic of Albania provides that: "Everyone, for the protection of his constitutional and legal rights, freedoms and interests, or in the case of accusations brought against him, has the right to a trial fair and public within a reasonable time by an independent and impartial tribunal established by law."

**Keywords:** Deadlines of preliminary investigation, deadline extension, validity of acts, unusability of evidence.

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