



## SOME ASPECTS OF ENSURING THE SECURITY OF CRIMINAL PROCEEDING PARTICIPANTS AT THE JUDICIAL STAGE

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**Abstract:** This article analyzes important aspects of ensuring the safety of participants in criminal proceedings at the trial stage. Problems in implementing necessary measures have been identified, and proposals have been made to expand the list of security measures. Along with national and foreign legislation, the opinions of scholars in this field on ensuring the safety of participants in criminal proceedings were also analyzed.

**Keywords:** court hearing, security measures, social survey, victim, limitation of transparency, person participating under an alias, witness, criminal proceedings.

In accordance with the tasks outlined in the Development Strategy of New Uzbekistan for 2022-2026, as well as to ensure the true independence of the judiciary, improve the efficiency of court activities and the quality of justice, the following are identified as priority tasks for ensuring justice within the framework of the Strategy: creating all opportunities for citizens and entrepreneurs to be able to defend their rights and legitimate interests in courts, fully implementing the principles of adversarial proceedings and equality of parties in court proceedings, improving legislation aimed at ensuring the impartiality of courts in practice, as well as strengthening guarantees of judges' independence and immunity, and developing effective mechanisms to prevent contempt of court and interference in court proceedings.

The judicial and legal reforms implemented in recent years, along with ensuring the independence of the judiciary and openness and transparency in the activities of the courts, have made it possible to strengthen guarantees for the protection of the rights and legitimate interests of citizens and entrepreneurs.

The role of the court in preparing for the trial and conducting the trial is important, as the preparatory actions are directly aimed at creating appropriate conditions for the execution of all criminal procedural instructions, implementing the principles of criminal proceedings, and ensuring the equality of participants in the process based on evidence in the criminal case.

This stage of the criminal process serves as a kind of filter for the submission of criminal cases to the court. The judge checks the materials of the criminal case taken into his proceedings, first of all, ensuring compliance with all procedural instructions in pre-trial proceedings, including ensuring the safety of participants in the criminal process.

Moreover, ensuring the safety of participants, if there are grounds and reasons for this, not only affects the adoption of a fair final decision in the case, but also serves as a serious guarantee of the realization of the rights of participants in the judicial process. Also, during the trial, errors and violations of the law made during the preliminary investigation, as well as circumstances that hinder further proceedings and decision-making on the case, may be revealed. Social surveys conducted on this issue also almost confirm the aforementioned

opinions. Allows the application of the following criminal procedural security measures in the judicial process:

1. Closed court session (Article 19 of the Criminal Procedure Code);
2. at the request of the participants in the criminal process, it is possible to conduct audio and video recordings and video conferencing (Article 19 of the Criminal Procedure Code);
3. indication of their nicknames in the list of persons to be summoned to the court session (Article 380 of the Criminal Procedure Code);
4. the hearing of a criminal case at a crime scene, other than the crime scene, can be considered as a type of security measure (Chapter 48 of the Criminal Procedure Code);
5. eavesdropping on the suspect, accused, defendant, victim, witness, as well as their relatives and relatives over telephones and other telecommunications devices (Article 170 of the Criminal Procedure Code);
6. interrogation in conditions where the court does not disclose their personal information, excluding the examination of the person being recognized by the person being recognized (Article 127 of the Criminal Procedure Code).

However, the aforementioned security measures and protective measures are only a prelude, and if they are not applied comprehensively, all the procedural actions taken may be in vain.

In this paragraph, we will consider a general description of the application of security measures in preparation for the trial and during the conduct of the trial.

In order to eliminate the threat that may have a psychological or physical impact on the persons to whom protective measures were applied in the court session, the law establishes conditions for limiting transparency.

The closed court session is focused on the side of the court related to ensuring information security. If there are grounds for holding a closed court session, the following additional security measures can be taken:

To ensure the safety of persons participating under a pseudonym, create a safe space and interrogate them without public participation;

Obtaining a confession from the participants in the trial and other persons present in the courtroom about not disclosing information known to them in the course of the criminal proceedings;

Take measures to keep confidential information about protected persons from persons who do not have the right to access it;

Participation of protected persons in court proceedings under a pseudonym (modified biographical information, including the use of a pseudonym in the verdict)[2];

Bringing a person under a pseudonym to court under conditions that exclude observation[3].

The aforementioned security measures are aimed at preventing protected persons from participating in the trial and preventing them from being subjected to unlawful influence.

Let's analyze each of the security measures listed above one by one. According to Part 6 of Article 127 of the Criminal Procedure Code of the Republic of Uzbekistan, in order to ensure the security of the person being identified, the presentation of a person for identification may be carried out under conditions that exclude the presence of the person being identified for

the examination of the person being identified by the decision of the investigator, prosecutor, or court.

The essence of the measures under consideration lies in the fact that their implementation in conditions that exclude the recognition of the person being recognized does not allow the recognition and memorization of the external information of the person being identified. Such conditions are for the identifier to freely express their opinion and fully convey information. Under visual surveillance conditions, identification is primarily used to ensure the safety of the victim and witness, less often to protect the accused.

The issues of legal regulation of the problems of visual observation attract the attention of scientists. According to O.V. Vinogradov, conducting identification of a person in visual settings, especially a minor witness, is important, along with the exclusion of psychological trauma to the victim, to eliminate the threat against them.[4]

A.V. Yashin also expressed an additional opinion on this issue. He stated that in order to ensure the safety of the participants, the participants in the process can identify the person through a photo or video footage, not in the interrogator's or interrogator's room, but in the place where it is located.[5]

Therefore, the importance of personal identification in visual settings for the criminal process, especially the need to ensure the safety of the life and health of individuals, is taken into account.

The issue of transferring the criminal case from the crime scene to a place not falling under the territorial jurisdiction of the criminal case on the grounds provided for in Chapter 48 of the Criminal Procedure Code is resolved by the chairman of the higher court.

The purpose of transferring a criminal case to a court to which other territorial jurisdiction does not belong is a necessary condition for the impartial and objective consideration of the criminal case, the fulfillment of the state function assigned to it to protect the rights and freedoms of individuals and citizens. Objectivity is a category aimed at identifying and evaluating the factual circumstances of the case, while objectivity is the attitude towards the persons involved in the case.

Therefore, transferring the trial from one place to another, first of all, ensuring the safety of protected persons, and secondly, people and citizens will have the opportunity to freely express their opinion on the case and appeal the decision. It is advisable to pay attention to this issue in the criminal procedural legislation of Russia and Kazakhstan.

Part 4 of Article 35 of the Criminal Procedure Code of the Russian Federation states that in order to ensure the safety of participants in the trial, the case can be transferred from one court to another.[6] For example, at the request of the Prosecutor General of the Russian Federation or his deputy, if there is a real threat to the safety of the participants of the trial, their close relatives or close persons, by decision of the Supreme Court of the Russian Federation, the crime can be transferred to a court in another place for consideration.

Similar security measures are established in Article 317 of the Criminal Procedure Code of the Republic of Kazakhstan, that is, at the request of the parties, upon the submission of the judge or the chairman of the court, if the court is impartial, objective and the transfer of the case to another court is related to circumstances of obstruction or a real threat to personal security, it can be seen that the case is transferred from the same-level court to another court for consideration.[7]

One of the next security measures provided for in the Criminal Procedure Code is related to ensuring the confidentiality of personal data at the trial stage.

Currently, the legal regulation of current norms related to the procedure for familiarizing oneself with criminal cases involving confidential information is still relevant in our national criminal procedural legislation.

Because the current Criminal Procedure Code does not mention procedural documents containing the rules for secrecy of information about persons participating under a pseudonym and the conduct of confidential criminal cases, and officially, the judge can only make a decision that excludes familiarization. In our opinion, if regulatory norms related to protection are not applied, they may hinder the effective operation of security guarantees.

Therefore, if a decision to keep personal data confidential has been made at the preliminary investigation stage, the judge will conduct the materials of the criminal case in accordance with the rules of secrecy and take measures to exclude the possibility of familiarization of other participants in the process with information about persons participating under a pseudonym. As noted above, in addition to issuing a relevant decision on the use of a pseudonym, during the criminal proceedings, information about the person under the pseudonym is stored separately from the materials of the criminal case. In this regard, during the court proceedings, security measures are observed. Only persons carrying out the case may be allowed to familiarize themselves with personal data under a pseudonym. Apparently, it imposes an additional obligation on the judge to prevent measures to familiarize himself with personal information under the pseudonym. According to one of the procedural scholars, only the criminal judge can participate in opening the envelope containing personal information under a pseudonym in the materials of a secret criminal case.[8]

The reason for the conditionality of such prohibitive measures is explained by the irresponsible attitude to the rules of storage of procedural documents in law enforcement practice, personal information under the correct pseudonym is stored separately from the materials of the criminal case, but is related to storage without observing a confidential regime or sewing into the material of the criminal case without complying with the rules of confidentiality.[9]

It should be noted that at the preliminary investigation stage, there are cases where protective measures were not taken against individuals, which may lead to the need to ensure the safety of participants in the process at the stage of assigning a case. However, the legislator did not specify the rules related to ensuring the safety of the participant in the criminal process at the stage of the trial. If the court finds that there is a threat to the participants in the process during the appointment and hearing of the case, the judge must take security measures based on the specific situation in the criminal case and promptly inform the participants in the process. However, the Criminal Procedure Code itself does not specify what measures a judge should take in this case.

To this end, it is advisable to specify such measures and provide recommendations to ensure the safety of individuals subject to protective measures.

At the same time, it appears insufficient to ensure the safety of participants in the criminal process only through measures of a criminal procedural nature. In our opinion, it is appropriate to consider non-procedural measures, particularly operational-search activities

as established by the Law "On Operational-Search Activities," which can also be applied to ensure security during the process.

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