



LEGAL BASIS OF SAFETY IN CRIMINAL PROCEEDINGS AND ISSUES OF ITS INSURANCE

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Abstract: The article provides a comprehensive analysis of the issues related to ensuring the safety of participants in criminal proceedings. The author conducts a comparative legal analysis of international legal documents, as well as the current laws and bylaws of the Republic of Uzbekistan concerning the security of process participants. The article scientifically examines the improvement of safety measures for participants in criminal proceedings and analyzes the fact that the legislation does not provide for ensuring the safety of certain individuals who are participants in criminal proceedings. The author develops proposals and recommendations aimed at improving the legislation.

Key words: security, legal security, personal inviolability, suspect, accused, defendant, victim, witness, other persons, evidence.

Ensuring the safety of participants in criminal proceedings is guaranteed on the basis of the Constitution of the Republic of Uzbekistan, the Criminal Procedure Code, laws and regulations, as well as international treaties and agreements of the Republic of Uzbekistan.

The UN General Assembly has adopted about 80 international treaties, conventions, and pacts on human rights, the Council of Europe has adopted more than 160, UNESCO has adopted over 70, the Organization for Security and Co-operation in Europe has adopted more than 30, and various regional organizations have also adopted many such documents [1]. Currently, about 500 international documents on ensuring human rights have been adopted [2].

The "Universal Declaration of Human Rights," which fully guarantees the protection of human rights on an international scale, has been translated into more than 360 languages worldwide and is reflected in the constitutions of over 90 countries [3].

These statements are well-founded in all respects. To date, the Republic of Uzbekistan has also ratified about 60 international documents. Specifically, international legal documents regulating various issues of security and its provision in criminal proceedings include the "Universal Declaration of Human Rights" [4], the "Convention for the Protection of Human Rights and Fundamental Freedoms" [5], the "International Covenant on Civil and Political Rights," the "Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment" [6], the "United Nations Convention against Transnational Organized Crime" [7], the "Agreement on the Protection of Participants in Criminal Proceedings" [8], and others.

The provisions of Article 3 of the Universal Declaration of Human Rights stating that "everyone has the right to life, liberty and security of person," Article 5 stating that "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment," and Article 9 stating that "no one shall be subjected to arbitrary arrest, detention or exile" [9] directly serve to ensure the safety of participants in the process.

These same norms are reflected in the Constitution of the Republic of Uzbekistan and other legislative acts.

"The supremacy of generally recognized norms of international law in the Republic of Uzbekistan" [10] is enshrined on a constitutional basis.

M. Chutbaev stated that "the protection of human rights and freedoms is one of the main tasks of the state, which is based on the specifics of its internal laws" [11], while Sh.F. Fayziev emphasized that "private inviolability is one of the basic principles of civil society." [12]

Article 23 of the Constitution of the Republic of Uzbekistan "guarantees of legal protection of citizens"; Article 27 states that "no one may be arrested or detained without legal grounds"; Article 55 stipulates that "everyone is guaranteed the right to judicial protection of his rights and freedoms, the right to appeal to the court against unlawful actions of state bodies, officials, public associations" [13].

The constitutional status of a person, based on fundamental rights and freedoms, determines the initial principles of his criminal procedure status. In other words, the status of any participant in criminal proceedings includes the constitutional status of citizens as a mandatory element.

Constitutional provisions also define the basic condition of personal inviolability in the sphere of criminal proceedings. This is at the same time a guarantee of security - the principle of the presumption of innocence, which contributes to the legality and validity of criminal prosecution. According to this principle, "a suspect, accused, or defendant is presumed innocent until their guilt in committing the crime is proven in the manner prescribed by law and established by a court verdict that has entered into legal force" [14].

According to L.V. Brusnitsyn, "the participation of a person in the consideration of criminal cases should not lead to a decrease in their level of defense. In cases where the performance of procedural duties by participants in criminal proceedings creates the possibility of subsequent dangerous influence on them, their safety must be guaranteed by the relevant competent authorities [15].

Although the right to security of participants in criminal proceedings is not directly indicated in the norms of the Constitution, based on its legal provisions, the norms of criminal procedure legislation guarantee a high level of protection of the security of a person participating in the sphere of criminal proceedings. Constitutional provisions determine the need to create and improve guarantees of personal safety, including the development of an effective legal mechanism aimed at ensuring the safety of the individual at all stages of criminal proceedings.

Sectoral legislation regulating the state of security of security objects in criminal proceedings is represented by an important list of laws and regulatory legal acts.

According to Article 238 of the Criminal Code of the Republic of Uzbekistan, "bribery of a witness or victim for giving false testimony, or an expert for giving a false opinion, or a translator for incorrect translation, as well as coercion to give false testimony by exerting psychological, psychological, physical, or other influence on them or their close relatives during inquiry, preliminary investigation, or court proceedings," as well as Article 239 of the Criminal Code of the Republic of Uzbekistan, "disclosure of inquiry or preliminary investigation data without the permission of the investigator, inquiry officer, or prosecutor" [16].

The Criminal Executive Code of the Republic of Uzbekistan enshrines the right of convicts to personal safety (Article 11). At the same time, "in the event of a threat to the personal safety of a person sentenced to assignment to a disciplinary unit or imprisonment, he has the right to apply orally or in writing to any employee of the penal institution or body with a statement (notification) to ensure his personal safety. The employee who accepted the convict's application (notification) shall immediately submit it to the head of the institution or body executing the sentence."

Article 4 of the Law of the Republic of Uzbekistan "On Operational-Investigative Activities" defines one of the main tasks of operational-investigative activity as "ensuring the protection of human rights, freedoms, and legitimate interests, the property of legal entities and individuals, and the security of the individual, society, and the state" [17].

Article 2 of the Law of the Republic of Uzbekistan "On Internal Affairs Bodies" defines one of the main tasks of internal affairs bodies as "the protection of the rights, freedoms, and legitimate interests of citizens, the property of individuals and legal entities, the constitutional order, ensuring the rule of law, the security of the individual, society, and the state" [18].

Part one of Article 10 of the Law of the Republic of Uzbekistan "On Advocacy" states that "The professional rights, honor, and dignity of an advocate are protected by law. It is prohibited to interfere in the professional activities of lawyers in any way, directly or indirectly, to demand disclosure of certain information received by them in the performance of their professional duties, as well as to demand the same information from officials and technical personnel of bar associations. Any form of influence on a lawyer while performing their professional duties is not permitted" [19].

Article 15 of the Law of the Republic of Uzbekistan "On the Protection of Victims, Witnesses, and Other Participants in Criminal Proceedings" provides for "security measures," and Article 6 provides for "social protection measures" [20].

In the event of infliction of bodily harm or other harm to the health of a protected person in connection with their participation in criminal proceedings, resulting in disability, a lump-sum allowance is paid and a disability pension is assigned at the expense of the State Budget of the Republic of Uzbekistan by decision of the body making the decision on providing protection.

In the event of infliction of bodily harm or other harm to the health of a protected person in connection with their participation in criminal proceedings, not entailing disability, a lump-sum allowance is paid from the State Budget of the Republic of Uzbekistan by decision of the body making the decision on ensuring protection.

In the event of the death (death) of a protected person in connection with their participation in criminal proceedings, if members of their family and persons dependent on them have the right to receive various lump-sum benefits, one of the lump-sum benefits is assigned to them at their choice.

In the event of bodily injury or other harm to health, protected persons entitled to different lump-sum benefits at the same time are assigned one of the lump-sum benefits at their choice.

Property damage caused to a protected person in connection with their participation in criminal proceedings is subject to compensation from the State Budget of the Republic of Uzbekistan and other sources not prohibited by law, with subsequent recovery of these funds from the person guilty of causing property damage to the protected person.

The peculiarity of state protection measures is that they are not intended to be applied only to participants in criminal proceedings who have a certain procedural status (victim, witness, suspect, accused, expert, etc.), but also to all participants in criminal proceedings, as well as to other persons involved in this criminal process, but not having any status (applicant, witness, victim of the crime, etc.).

In our opinion, by introducing amendments and additions to the norms of the Criminal Procedure Code, it is necessary to introduce provisions providing for the application of protective measures to all participants in criminal proceedings, as well as to other persons who need to apply security measures during criminal proceedings, but do not have any procedural status.

At the same time, it is necessary to create units in the internal affairs bodies to ensure the safety of persons under state protection, the competence of which, in addition to the implementation of security measures, should include the conduct of operational-search measures to identify the source of threats.

According to A.Umarkhanov, "a number of factors, such as a sharp change in economic and socio-political conditions in the life of society, the emergence of an organized and interstate nature of crime, and the increasing level of armament of criminal structures, lead to the emergence of new and extremely dangerous forms of obstruction of the investigation and disclosure of crimes." This, in turn, means that there is a need for law enforcement agencies to be prepared to a certain extent to protect witnesses and victims, who are the source of evidence, and to combat and prevent a dangerous, previously unknown socio-legal phenomenon"[21].

In our opinion, the issue of protecting the protected person, that is, who and on what grounds carries out measures to eliminate pressure on persons assisting in justice, the terms of application of protective measures, the procedure for interaction between protected persons and law enforcement officers, is also a controversial issue. Because, according to Article 270 of the Criminal Procedure Code, "the obligation to take measures to ensure the protection of the life, health, dignity, and property of persons participating in the case is imposed" [22], the internal affairs bodies currently lack the material and technical capabilities to implement procedural measures to ensure the protection of persons assisting in justice.

We must realize that the creation of new structures in the system of special operational search bodies, which will ensure the safety of participants in criminal proceedings, is a requirement of today, and we must not forget that the implementation of reforms in this area is a requirement of today.

It should be borne in mind that the state of protection of objects of criminal procedure security is regulated by legal norms in the relevant branches of law (criminal, criminal procedure, penal enforcement, etc.).

As M.I. Baytin rightly noted, "in scientific literature, a set of norms regulating certain types of interconnected, closely related relations is called a legal institution or legal institution" [23]. A distinctive feature of the institution of complex law is the presence of several branches of law regulating its main provisions. In this direction, it is necessary to agree with the authors who put forward the idea of forming a new legal institution - the institution of ensuring the security of participants in criminal proceedings, which is a complex intersectoral institution [24].

Despite the impressive list of normative legal acts regulating the state of safety of these objects, in the scientific literature, reasonable opinions are expressed about the shortcomings of the modern process of ensuring security in criminal proceedings [25].

Analysis of the legal basis of security and ensuring it in criminal proceedings allows us to conclude that every participant in the process, as well as other persons participating in this area, but not having procedural status (applicant, witness, victim of a crime, persons contributing to the prevention or disclosure of a crime), also have the right to be guaranteed security, that is, to demand the protection of their life, health, honor, dignity, rights and freedoms, legitimate interests, and property [26].

This right should correspond to the duty of authorized state bodies and officials conducting criminal proceedings to ensure the safety of all persons involved in this sphere, regardless of their procedural status

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