



ISSUES RELATED TO THE CONDUCT OF PRIVATE PROSECUTION IN THE APPELLATE INSTANCE

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Annotation: This article analyzes the essence of private prosecution proceedings in the appellate instance. Emphasis is placed on the effectiveness of the reforms being carried out in the Republic of Uzbekistan, which is steadily continuing reforms to liberalize the judicial and legal system. Also, the institution of appeal is a universal means of protecting the interests of the individual, which is used by both individuals and legal entities. Issues related to the fact that a complaint activates the judicial control mechanism and serves as a guarantee of legality, justice, and other socially significant values were discussed.

Keywords: private prosecution, appeal, victim, prosecutor, judicial reform, protection of human rights and legitimate interests, foreign experience, improvement.

The purpose of justice is to issue a lawful, well-founded, and just verdict (Article 455 of the Criminal Procedure Code).

It is necessary to agree with the opinion that in recent years, many crimes, more often involving personal interests, remain unpunished. Therefore, the protection of the rights of victims of crime has become a real necessity. Indeed, personal interests suffer more serious damage than public interests. That is, the perpetrators of crimes go unpunished. These circumstances necessitate the improvement of criminal proceedings in private prosecution cases, taking into account the private interests of the victims of the crime.

Appellate proceedings - by a higher court complaint of the participants in the proceedings or protest of the prosecutor of sentences, rulings, and decrees of the court that have not entered into legal force of the Criminal Procedure Code, the legality, validity, and fairness of which are being verified.

According to E.B. Mizulina, strong public principles in legislation are characteristic of authoritarian and totalitarian states, where the interests of the state are placed above the interests of the individual. The predominance of a dispositive basis in law is characteristic of democratic states, where the personal interests of citizens are valued higher than the competing interests of the state. A.V. Abakov rightly expresses his opinion on these points. He noted that it is advisable to reflect in the legislation the possibility of granting a right to the victim (additional private prosecution).

Indeed, if we pay attention to part 4 of Article 409 of the Criminal Procedure Code, if the prosecutor withdraws the charges, it means the end of criminal prosecution, that is, the rights of the victim are exercised within the framework of state prosecution. In this case, even the judge does not have the opportunity to influence the course of the trial.

In this matter, according to Sh.Sh. Uzakov, in this case, the legislator *forces* the prosecutor, based on his inner conviction, to withdraw the charges, *the judge to terminate the criminal case on rehabilitation grounds*. The victim is a participant in the prosecution, and his

inner conviction may not coincide with the prosecutor's inner conviction. Nevertheless, if the prosecutor withdraws the charges, the victim is deprived of the right to present to the court grounds to prove the defendant's guilt.

In this regard, F.Kuchin expressed the opinion that an accusation is a criminal claim or a request to the court, from which it follows that the accusation should be brought only in court. Here, the opinion is expressed about private prosecution. We believe that when the personal interests of the victim and the accused clash, the court must verify and assess all the assumptions about what happened: the victim, the accused, etc. For this purpose, in order to protect the rights and legitimate interests of victims of crimes, we will try to analyze the need to improve the introduction of the institution of additional prosecution in higher instances.

Of course, the legislature has implemented a multi-level system to verify the legality of decisions made by the courts. This is, first of all, a guarantee of observance of the rights and legitimate interests of the persons involved in the criminal case (victim, defense counsel, convict). For this, the participants in the proceedings are obliged to file an appeal or protest against sentences of lower courts that have not entered into legal force (Article 497 of the Criminal Procedure Code).

The right of the victim to file a complaint is directly enshrined in the Constitution of the Republic of Uzbekistan. Thus, according to Article 55, Part 2 of the Constitution, everyone has the right to judicial protection of their rights and legitimate interests. Citizens are guaranteed the right to appeal to the court against unlawful decisions, actions (inaction) of state organizations and their officials.

In addition, according to Article 27 of the Criminal Procedure Code, the convicted person (acquitted person), their defense counsel, legal representative, as well as the victim and their representatives have the right to appeal the court's verdict (ruling) in appellate, cassation, and supervisory procedures, respectively.

Based on the foregoing, everyone has the right to file a private complaint with a higher authority or stage, and every complaint received by state bodies is obliged to be considered by them. Consequently, the institution of appeal is a universal means of protecting the interests of the individual, used by both individuals and legal entities. When a person realizes their interests in a private form, justice must be interested in their protection. It should be noted that the right to appeal can also be exercised by persons who do not have the status of a victim in the case. Usually, when the prosecution body refuses or terminates the initiation of a criminal case, the victim of the crime does not even have the status of a victim. In this case, the right to appeal should be granted to any person who believes that their rights and legitimate interests have been violated due to the actions (inaction) or decisions of officials of the prosecution body. A complaint - activates the judicial review mechanism and serves as a guarantee of legality, justice, and other socially significant values.

In our opinion, the appellate instance is the stage at which, after a certain time, a comprehensive, complete assessment of the changes, achievements, and shortcomings can be made. Consequently, a private prosecutor can defend their rights and legitimate interests in various forms and ways. At the same time, the state gave citizens the right to verify not only from the point of view of imperative legality, but also the fairness, legality, and validity of the verdict. This, in turn, normatively strengthened the state's right to be an equal subject in resolving legal disputes. The legislator assigned the exercise of these rights to the victim and their legal representative. At the same time, it is no coincidence that the legislator introduced

a multi-stage system for its review due to errors or shortcomings in the judicial system. These errors are caused by gaps in legislation or shortcomings made by the judge (corruption, unprofessionalism, lack of experience).

A complaint to a particular body is often interpreted as a means of protecting the rights, freedoms, and legitimate interests of a person and is filed in connection with a violation of their rights and legitimate interests by an interested person in a de facto or presumed manner.

According to statistics, 12% of sentences issued by courts of first instance are appealed in the appellate procedure. The unfairness of the verdict is the main reason for the appeal.

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