



GUARANTEES AND ENSURING THE RIGHTS OF THE ACCUSED IN THE INVESTIGATION OF CRIMINAL CASES

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Abstract. This article analyzes the theoretical and legal foundations of the rights of the accused, existing guarantees, and the reforms being implemented in the Republic of Uzbekistan. The legal nature of key guarantees such as the presumption of innocence, the right to defense, and judicial control is examined. The article provides a comparative analysis of theoretical approaches of national and foreign scholars and gives detailed consideration to issues related to the digitalization of investigative processes and the strengthening of the role of defense lawyers.

Keywords: rights of the accused, investigation process, defense lawyer, presumption of innocence, criminal procedural guarantees, judicial control, investigating judge, right to defense.

In the process of building a democratic state governed by the rule of law, ensuring reliable protection of individual rights and freedoms is considered a priority task. At the same time, the protection of human rights within criminal procedure legislation serves as a fundamental condition for establishing justice and the rule of law in society. As emphasized by the President of the Republic of Uzbekistan, Shavkat Mirziyoyev, in his Address to the Oliy Majlis on February 7, 2017: "For us, the individual, his rights and freedoms, and legitimate interests are the highest value. The main criterion for evaluating the effectiveness of state bodies should be the resolution of the problems faced by ordinary people". This political will created a solid foundation for the fundamental reform of criminal procedure legislation in Uzbekistan.

As noted by Alekseyeva L.B., the guarantee of individual rights in criminal proceedings is one of the main criteria determining the level of legal development of the state. Since the investigation of criminal cases directly affects personal freedom, ensuring the rights of the accused at this stage is of particular importance [15].

According to Bozhyev V.P., as stated in his scholarly work "Individual Rights in Criminal Proceedings", guarantees of the rights of the accused are not only procedural but also constitutional in nature, forming the legal basis of relations between the state and the individual [12].

An accused person is an individual suspected of committing a crime against whom a formal charge has been brought. The procedural status of the accused in criminal proceedings is strictly regulated by law, granting them a wide range of rights and imposing certain obligations.

Strogovich M.S. characterized the accused as a central subject of criminal proceedings and explained their procedural position as follows: the accused is an independent participant in the

process who opposes the state accusation and has the opportunity to defend his or her rights [14].

Modern legal doctrine recognizes two main approaches to the status of the accused. Proponents of the first approach (Petrukhin I.L., Kutsova E.F.) view the accused as an active subject of the process and emphasize the need to expand their rights. Representatives of the second approach argue that the rights of the accused should be balanced with public interests [13].

Article 28 of the Constitution of the Republic of Uzbekistan guarantees personal liberty and inviolability, establishing that no one may be found guilty without a court decision. According to this provision, a suspect, accused, or defendant is not obliged to prove his or her innocence [1].

This constitutional principle is further specified in Article 23 of the Criminal Procedure Code of the Republic of Uzbekistan, which provides that a suspect, accused, or defendant shall be considered innocent until his or her guilt in committing a crime is proven in accordance with the procedure prescribed by law and established by a court verdict that has entered into legal force [2].

Article 6 of the European Convention on Human Rights guarantees the right to a fair trial in criminal cases [4]. British legal scholar William Schabas, in his work "The European Convention on Human Rights: A Commentary" (2015), emphasizes that the presumption of innocence is a fundamental value for all democratic societies. According to him, ensuring the presumption of innocence is a key factor in determining the fairness of criminal proceedings [7].

The judgment of the European Court of Human Rights in *Barbera, Messegue and Jabardo v. Spain* (1988) established important standards for the practical application of the presumption of innocence [17]. The Court noted that the presumption of innocence must be strictly observed not only during the trial but at all stages of criminal proceedings.

The right to defense is one of the most important guarantees of the rights of the accused. According to EU Directive 2013/48/EU, every accused person has the right to access a lawyer [5]. In Uzbekistan, in line with this international standard, the mandatory participation of defense lawyers during the investigation has been strengthened.

As noted by Ryzhakov A.P., the right to defense serves as a guarantee for the realization of all other rights of the accused. Effective defense is virtually impossible without a lawyer, as the accused often lacks legal knowledge and cannot fully understand the consequences of procedural actions [16].

In recent years, significant reforms have been implemented in Uzbekistan to develop the institution of advocacy. In particular, the activities of the Chamber of Advocates have been improved, and guarantees for lawyers' participation in investigative actions have been strengthened.

Additionally, the institution of the investigating judge has been introduced in Uzbekistan, exercising independent judicial control over procedural and investigative actions carried out at the pre-trial stage. This system is similar to the German model, where the institution of the investigating judge (*Ermittlungsrichter*) operates effectively.

German professor Claus Roxin, in his scholarly work "Strafverfahrensrecht," explains the importance of the investigating judge as follows: the investigating judge plays a decisive role in

guaranteeing the rights of participants in criminal proceedings as an independent authority supervising investigative bodies' actions that interfere with human rights [8].

Comparative studies conducted by French legal scholar Mireille Delmas-Marty ("Criminal Procedure Systems in the European Community," 1995) demonstrate the role of judicial control in the humanization of criminal procedure in European countries. According to her conclusions, judicial control is the most effective safeguard against arbitrariness by investigative authorities [9].

In accordance with the recommendations of the European Committee for the Prevention of Torture (CPT), Uzbekistan has introduced video recording of investigative procedures and special monitoring mechanisms. These measures are aimed at preventing torture and other forms of cruel or inhuman treatment [10].

The UN Convention against Torture (1984) and its Optional Protocol (OPCAT) establish international standards for protecting accused persons from torture [6]. Uzbekistan has acceded to these international instruments and has strengthened relevant guarantees in national legislation [1].

Based on the above analysis, it can be concluded that in recent years Uzbekistan has fundamentally modernized its criminal procedure legislation, introducing the following significant changes:

First, the presumption of innocence has been further strengthened. Courts have been granted the authority to authorize procedural coercive measures such as detention, searches, and interception of telephone communications.

Second, judicial control has been expanded. The institution of the investigating judge has been introduced, establishing independent judicial oversight over the legality of investigative actions.

Third, the mandatory participation of defense counsel during the investigation stage has been significantly strengthened. Whereas previously certain procedural actions at the pre-investigation stage could be carried out without the involvement of a lawyer, at present ensuring the right to defense is considered mandatory.

Fourth, strict mechanisms for combating torture have been introduced, including the mandatory documentation of investigative procedures through video recording.

In conclusion, legislative reforms, the strengthening of judicial oversight, and the orientation of investigative authorities toward ensuring human rights serve to reliably protect the lawful interests of the accused. Overall, the reforms being implemented in Uzbekistan may be assessed as important steps toward the humanization of criminal procedure, ensuring fair justice, and building a state governed by the rule of law

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