



## PROCEDURAL AND LEGAL FOUNDATIONS FOR THE PARTICIPATION OF A LAWYER IN THE CONSIDERATION OF CRIMINAL CASES UNDER THE AUDIT PROCEDURE AND THE IMPACT OF REFORMS

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**Abstract.** This scientific article analyzes the procedural status, rights and obligations of a lawyer in criminal proceedings, in particular, at the stage of consideration of a criminal case in the supervisory procedure, as well as issues of ensuring justice through their participation. The activities of a defense attorney in the supervisory instance are assessed as an important procedural guarantee in verifying the legality and validity of court decisions.

**Keywords:** lawyer, audit procedure, criminal procedure, right of defense, court decision, higher instance.

One of the main guarantees of ensuring the rights and freedoms of the individual in a legal democratic state is the right to qualified legal assistance. In the process of criminal proceedings, this guarantee is implemented through the activities of a lawyer. In particular, the participation of a lawyer in the supervisory review procedure, which is a stage of reviewing court decisions in higher instances, is of particular importance. Because this stage serves to eliminate judicial errors, restore legality, and make a fair final decision.

In recent years, large-scale reforms have been carried out in our country aimed at radically modernizing the judicial and legal system, bringing criminal procedure legislation in line with international standards, and reliably protecting human rights. In particular, the "Uzbekistan - 2030" Development Strategy defines priority tasks for ensuring the rule of law, strengthening judicial control, and enhancing the role of the bar. These strategic directions bring to a new level the effective provision of the right to defense at the stages of reviewing criminal cases, including in the revision procedure.

From this point of view, the scientific analysis of the procedural status, powers of a lawyer in the process of considering a criminal case in the revision procedure and their practical significance is one of the urgent issues. The revision procedure is a criminal procedural stage aimed at verifying the legality, validity, and fairness of court decisions that have entered into legal force by a higher court. The main tasks of this stage are: identifying and eliminating judicial errors, ensuring the correct application of legal norms, restoring violated human rights, and forming a unified and stable judicial practice. The supervisory authority assesses the legality of the court decision based on existing materials, not new factual circumstances of the criminal case. Therefore, at this stage, the lawyer's activity based on legal analysis is important.

The lawyer, as an independent procedural subject in criminal proceedings, performs the function of defense and also actively participates in the revision stage. Its procedural status is expressed, first of all, in the right to file a supervisory appeal against court decisions. At the same time, the lawyer has the authority to familiarize themselves with the case materials, conduct their comprehensive analysis, participate in court hearings, and deliver speeches. In this regard, the participation of a lawyer in the audit stage is an important guarantee of the right

to defense. These powers ensure the real implementation of the right to defense and correspond to the principle of adversarial proceedings.

At the audit stage, the lawyer continues the defense function as an important and independent subject of criminal proceedings. Its activity is manifested, first of all, in the preparation and submission of a reasoned audit complaint in cases of disagreement with the court decision. In this complaint, the material and procedural errors made by the court, the incorrect assessment of evidence, the unjustified or severe nature of the punishment, and the circumstances that served as the basis for acquittal are analyzed from a legal point of view. The reliability of the complaint directly affects the decision of the supervisory authority.

The participation of a lawyer in the court session of the supervisory authority is a practical expression of the principles of adversarial proceedings and procedural equality. In the court session, the lawyer substantiates the arguments of the complaint, indicates violations of the law committed during the previous trial, and requests to overturn or amend the court decision. The final speech is an important tool for systematically expressing the legal position of the defense counsel and protecting the interests of the client. The active participation of a lawyer can significantly influence the decisions of the supervisory authority, leading to the cancellation of a court verdict, referral of a case for reconsideration, mitigation of punishment, or acquittal of a person. Therefore, the activities of a lawyer are not only a mechanism of individual protection, but also an important legal factor that serves to improve judicial practice.

At the same time, in practice, some problems related to the participation of a lawyer at the audit stage are encountered: superficial consideration of complaints, limited opportunities for presenting evidence, and insufficient justification of court decisions. To eliminate these shortcomings, it is necessary to expand the powers of lawyers, strengthen the requirements for motivating court decisions, and develop mechanisms for monitoring the real provision of the right to defense. As a result, the active and qualified participation of a lawyer at the audit stage is one of the important guarantees of ensuring justice.

In December 2019, the head of state put forward the issue of further improving criminal procedure legislation, in particular, granting interested parties the right to appeal decisions of the prosecutor, investigator, or inquiry officer directly to the court. Based on this instruction, the Supreme Court, together with the Prosecutor General's Office, the State Security Service, the Ministry of Internal Affairs, and the Ministry of Justice, developed a draft law providing for amendments to the Criminal Procedure Code.

The draft law clearly defines the circle of interested parties in the context of decisions. In particular, the right to appeal the decision to conduct an audit has been established for the suspect, the accused, their defense counsel, and the authorized representative of the audited entity. The decision to initiate criminal proceedings can be appealed by the person against whom the criminal case has been initiated, the accused, his defense counsel, and legal representative. The right to appeal against the decision to refuse to initiate criminal proceedings was granted to a citizen or a representative of an organization who reported the commission of a crime.

It is also envisaged that decisions to suspend an inquiry or preliminary investigation, or to terminate a criminal case may be appealed by the suspect, the accused, their defense counsel, the victim, the civil claimant and the defendant, and their representatives. The obligation to

provide copies of decisions to interested parties, to indicate the procedure for appealing them, and to convey some decisions within three days has been established.

According to the draft law, decisions on conducting an audit, initiating or refusing to initiate a criminal case can be appealed within ten days, and decisions on suspending an investigation or terminating a case - within one year. The complaint is sent to the relevant court through the prosecutor, who has the authority to overturn the decision or submit it to the court along with the materials within three days. The court will consider the complaint individually within five days. The person filing the complaint, their defense counsel, representative, an official of the investigative body, investigator, inquiry officer, and prosecutor may participate in the court session. Based on the results of the consideration, the court issues a ruling on the rejection of the complaint or on the cancellation of the decision. The possibility of submitting a representation in the form of a private complaint or appeal against this ruling is also retained. These changes will serve to strengthen judicial control in criminal proceedings, effectively protect individual rights, and further strengthen the procedural role of lawyers. In general, these reforms aimed at improving criminal procedure legislation are one of the important stages in the democratization of the judicial and legal system, strengthening the rule of law, and ensuring a fair trial. Therefore, the further development of the activities of a lawyer in the supervisory authority and the expansion of his procedural powers will remain one of the priorities of future legal reforms

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