



SOME ISSUES RELATED TO THE IMPROVEMENT OF THE LEGAL BASIS OF ENSURING THE SAFETY OF THE PARTICIPANTS IN THE CRIMINAL PROCEEDINGS

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Annotation

This article describes the scientific and theoretical issues related to the improvement of the legal basis of ensuring the safety of the participants in the criminal proceedings. In this, the experiences of foreign countries on eliminating gaps in legislation are analyzed. The article was prepared on the basis of scientific research conducted in the field and the analysis of national and foreign legislation.

Key words: special personal protective equipment, technical equipment, state and non-state organizations, victim assistance center

1. Introduction

A new law has been adopted in the Republic of Uzbekistan to ensure the safety of victims, witnesses and other persons assisting in criminal proceedings and to create additional conditions for the administration of justice.

It should define a system of measures to protect the life, health and property of the above persons by the state [1].

Let's pay attention to the cases where the norms of the JPK of the Republic of Uzbekistan conflict with the Law. In particular, Article 270 of the Criminal Code of the Republic of Uzbekistan defines the norms for protecting the honor and dignity of the victim, witness or other persons participating in the case, as well as their family members or close relatives. However, these provisions are not reflected in the Law. Accordingly, Article 270 of the Civil Code contradicts the second paragraph of Article 1 of the Law [2].

II. Analysis of the research results.

It should be said that human honor and dignity are the highest value and it is strictly defined in Article 13 of the Constitution of the Republic of Uzbekistan. In addition, the exclusion of issues related to human honor and dignity from the Law is also against the Constitution. In our opinion, in this regard, it is appropriate to introduce amendments and additions to the second paragraph of Article 1 of the Law reflecting these provisions.

Despite recent changes in the current legislation, the safety of the victim, witness or other persons participating in the case, as well as their family members or close relatives is not fully legally guaranteed. JPK of the Republic of Uzbekistan

In Article 270, the duty of legal protection of the honor and dignity of the victim, witness or other persons participating in the case, as well as their family members or close relatives, is entrusted to the relevant HMQO. However, there is still a practice of treating the participants of the proceedings as suspects in the practice of investigations and investigative bodies before the investigation. For example, if one or two cannabis plants grow from the territory belonging to a certain enterprise, or if military ammunition is found in the basement

of a school during the inspection, the issues related to the honor of the head of the enterprise and financially responsible persons remain at risk. After all, in practice, there are cases where the head of the enterprise is found guilty and liable under Article 207 of the Civil Code of the Republic of Uzbekistan, and the materially responsible person is found guilty and liable under the relevant articles of this Code. In this case, the objective and complete investigation of the case is the reason for the emergence of corruption cases. At the same time, Article 382 of the Criminal Procedure Code does not clearly define the criteria (limits) for the objective assessment of evidence by the inquiry and preliminary investigation bodies, as well as the bodies that carry out the pre-investigation investigation or operational search activities, as well as the issue of responsibility for illegal actions committed by them. Therefore, in order to fully guarantee the safety of the participants of the proceedings, it is appropriate to include the fifth paragraph of Article 382 of the Criminal Code of the Criminal Code, as well as the issues of responsibility of the investigators and investigators, as well as the officials of the bodies that carry out operational and search activities in addition to the pre-investigation authorities, for making illegal and unreasonable decisions.

The concept of personal protective equipment and technical equipment is not defined in the law. If this law is considered the legal basis for the regulation of relations in the field, it is appropriate to clarify this in Article 9 of the law. Because it is necessary for everyone to understand what is meant by protective equipment and technical equipment [3]. This situation is of fundamental importance for the protected person. If the law does not literally ensure the safety of the participants in the proceedings, its impartiality and fairness cannot be trusted. This situation is the reason for the formation of distrust of the citizens towards the state bodies.

At the same time, the Law also leaves open the issues related to the procedure for the list and accounting of such instruments. In particular, each body implementing protection forms and maintains a list of such tools based on its internal capabilities. In addition, this article does not specify the issues related to the procedure for providing protective equipment and technical equipment to persons under protection. In our opinion, it is appropriate to clarify these situations in the legislative law.

In recent years, crimes related to religious extremism, terrorism or other organized crime have increased in number and quality. In such situations, ensuring the safety of the participants in the process is an urgent issue. Article 4 of the law does not include the bodies that carry out investigations, investigative activities, investigators, investigators, lawyers, prosecutors and judges in the list of protected persons. In our opinion, it is necessary to include these persons in the list of protected persons provided for in this article. Because the law must take into account the interests of all participants in the process equally. In addition, special physical and tactical training is required for personal protection. Unfortunately, not every law enforcement agency or judicial officer has this training. This, in turn, causes the life, health or property of these employees to be at risk. Accordingly, it is appropriate to amend Article 4 of the Law.

According to Article 24 of the Law of the Republic of Uzbekistan on Normative-legal documents (New version) "The text of the normative-legal document shall be stated in a clear, simple and fluent language. Concepts and terms used in the regulatory legal document are used in a uniform form, excluding the possibility of different interpretations, in accordance with their meaning adopted in the legal documents [5]. The use of outdated and ambiguous

words and phrases, metaphorical comparisons, adjectives, sarcasm is not allowed.

Article 5 of the law mentions state bodies that provide protection, but it does not indicate which state bodies are responsible for protection. In our opinion, the Law is a normative legal document and it must meet the legal and technical requirements defined above. Therefore, in this article, it is necessary to clearly indicate the state bodies that implement the protection[4].

There are cases of discriminatory treatment of victims and witnesses in investigative practice. In order to eliminate these situations, in the USA, the experience of receiving consultation from the prosecutor for victims of crime has been established [6]. This situation is giving its positive result. In our opinion, the implementation of this practice into the national legislation will have a positive effect on improving the safety of the participants in the process and ensure that the opinion of the victim is taken into account. This, in turn, can be seen as another guarantee of the safety of the participants in the process.

In addition, there are state and non-state organizations that provide assistance to crime victims in the United States. Accordingly, applying this experience to the national legislation, only the part related to the activities in the non-state sector, will give a good result. In particular, it is desirable to establish a center for assistance to victims of crime under the Ministry of Justice and to establish the activities of public associations.

III. Conclusion

1. Article 5 of the law mentions state bodies providing protection, but it does not specify which state bodies are responsible for protection. Law of the Republic of Uzbekistan on Regulatory Legal Documents (New Edition).

According to Article 24, "The text of the normative-legal document shall be stated in plain, simple and fluent language. Concepts and terms used in the regulatory legal document are used in a uniform form, excluding the possibility of different interpretations, in accordance with their meaning adopted in the legal documents. It is not allowed to use outdated and ambiguous words and phrases, metaphorical comparisons, epithets, sarcasm. Accordingly, it is appropriate to clearly indicate the bodies implementing the protection in this article.

2. Article 9 of the Law states that the bodies providing security measures may provide the protected person with special personal protective equipment and technical equipment, taking into account the level of threat to the life and health of the protected person. However, issues related to the procedure for issuing it remain open. In our opinion, it is necessary to clarify this in Article 9.

At the same time, the concept of personal protective equipment and technical equipment is not defined in the Law. Also, issues related to the list and accounting of such tools remain open. Therefore, it is necessary to revise Article 9 of the Law as follows:

Article 9. Providing special personal protective equipment and technical equipment to the protected person

The bodies providing security measures may provide him with special personal protective equipment and technical equipment, taking into account the level of threat to the life and health of the protected person.

Special means are technical items (devices, objects and tools) that are in the possession of state bodies providing protection and are used in the manner and in the cases specified by law, as well as service animals designed for self-defense and forced physical

impact on a person or a material object.

Special tools are designed for the following purposes:

- a. protection of personal content from the impact of firearms or cold weapons, as well as from blows of clubs, metal spikes (hipchin) and other objects;
- b. reflecting the attack of offenders, limiting and subduing their physical aggression;
- c. active exposure to offenders by upper respiratory tract or eyelid rejuvenation;
- d. psychophysiological impact on offenders using strong light or sound pulses;
- e. opening the emergency door or breaking other boundaries;
- f. forced stopping of vehicles;
- g. impacting offenders with an electric pulse.

There are 3 types of special tools:

1. personal protective equipment;
2. active defense means;
3. means of supply of special operations.

The procedure for providing special personal protective equipment and technical equipment to the protected person is carried out in accordance with the legislation.

3. According to the US experience, victims of crime have the right to consultation with the prosecutor. In our opinion, the implementation of this practice into the national legislation will have a positive effect on improving the safety of the participants in the process and ensure that the opinion of the victim is taken into account. This, in turn, can be seen as another guarantee of the safety of the participants in the process.

4. State and non-state organizations are also active in the USA to help victims of crime. Accordingly, applying this experience to the national legislation, only the part related to the activities in the non-state sector, will give a good result. In particular, it is appropriate to establish a center for assistance to victims of crime under the Ministry of Justice, as well as to establish the activities of public associations.

References:

1. Constitution of the Republic of Uzbekistan.-T.: Uzbekistan, 2023. -40 p.
2. Criminal Procedure Code of the Republic of Uzbekistan. - T.: Adolat, 2022.
3. International agreements on human rights. - T.: Adolat, 2014. - 270 p.
4. Law of the Republic of Uzbekistan dated January 14, 2019 "On Protection of Victims, Witnesses and Other Participants in Criminal Procedures" No. O'RQ-515.
5. Decree of the President of the Republic of Uzbekistan "On the strategy of actions for the further development of the Republic of Uzbekistan", February 7, 2017, No. PF-4947. // No. 28 (6722) of "Khalk sozi" newspaper dated February 8, 2017.
6. Decree of the President of the Republic of Uzbekistan "On measures to further reform the judicial system, strengthen the guarantees of reliable protection of the rights and freedoms of citizens". ("Khalk Sozi" newspaper, 22.10.2016, No. 209 (6644)