



Journal Website:
<https://theamericanjournals.com/index.php/tajpslc>

Copyright: Original content from this work may be used under the terms of the creative commons attributes 4.0 licence.

The Role And Functions Of The Court In Criminal Proceedings In The New Uzbekistan

Gulnoza Ilkhomovna Yusupdjanova

Lecturer, Department Of Crime Prevention And Public Order, Specialized Branch Of Tashkent State Law University, Uzbekistan

ABSTRACT

The article presents the theoretical and legal analysis of the functions of the judiciary and the role of judicial review and place, made the scientific and theoretical conclusions based on them.

KEYWORDS

The judiciary, judicial supervision, law, legal act.

INTRODUCTION

Judicial independence and ensuring justice in courts is the most important matter of debate in this globalization period. According to UN Human rights department, there are frequently appearing problems with making judicial system independent and liberty of judicial processes.

All these long-term and efficient reforms that are being done in modern Uzbekistan

possess the core idea of ensuring human rights as the most valuable trait. Provided that, the most essential measurement of how independent courts are is to make fair judgement abiding by the law. 'Only in this case, as was claimed by the President of the Republic of Uzbekistan Sh.M.Mirziyoyev, each and every person that steps into a court hall, could be perceived that there is a justice waiting

inside'. This means, judicial system is a significant institution of a law-based country.

With the help of Five-Area Development Strategy Uzbekistan has made a considerable number of reforms. Specifically, the second one which is about ensuring the authentic independence of judicial system, enhancing the reputation of courts, democratizing the judicial system was a noticeable boost for the realization of the plans. In particular, it is planned to increase the status of the judiciary, financial incentives and social security, strengthen the material and technical base of the courts, take effective measures to prevent their unlawful interference, the independence and impartiality of the judiciary, the principles of equality and equality of arms. In order to expand the scope of the institution "Habeas Corpus", to strengthen judicial control over the investigation, as well as to ensure transparency and openness, there was the introduction of modern information and communication technologies in the judiciary.

THE MAIN FINDINGS AND RESULTS

In modern constitutional states, the independence of the judiciary is based on the principle of separation of powers. It creates a system of checks and balances aimed at preventing the abuse of power. The principle of independence means that the judiciary is a constitutional institution, and judges who make decisions on a

particular case must be able to carry out their professional duties without any external influence by the legislature or the executive.

On August 10, 2020, the President of the Republic of Uzbekistan adopted the Decree "On measures to further strengthen the guarantees of protection of the rights and freedoms of the individual in judicial and investigative activities." The decree is aimed at implementing the constitutional guarantees of individual rights and freedoms in the field of justice, improving the access of citizens to justice, improving the quality of court proceedings and expanding mechanisms to ensure equality and adversarial nature of the parties to make impartial, fair and lawful judicial decisions.

Among the scientific researches carried out in our country on the judicial power are G. A. Abdumajidov, Z.F. Inogamjanova's "Problems of judicial control and its implementation in criminal proceedings", F. F. Muxitdinova's "Establishment and development of judicial power in the Republic of Uzbekistan", the research of Umarova "The role of the judiciary in building a democratic state governed by the rule of law in the Republic of Uzbekistan", A.U. Egamberdiev's "Judicial power: criminal and procedural aspects", G.M. Shodiev's "Judicial control over investigative actions restricting the rights and freedoms of citizens". According to the Law of the Republic of Uzbekistan "On

Courts" and the Code of Criminal Procedure, criminal justice is administered by the Supreme Court of the Republic of Uzbekistan, military courts, the Judicial Board for Criminal Cases of the Republic of Karakalpakstan, regional and Tashkent city courts and district (city) criminal courts.

Some researchers argue that the judiciary performs the functions of justice and constitutional review. According to V P Bojev, the main function of the judiciary is justice, judicial control, the organization of the judiciary, and the management of judicial practice is the authority of the judiciary and the type of its implementation.

The main function of the judiciary - to resolve the case, that is, to study the case comprehensively, thoroughly and make a lawful, fair verdict - is a fair trial.

Justice regulates the social relations of the subjects in society, ensuring that such relations comply with legal norms. It is one of the areas of state activity. At the same time, it is a very important authority, the implementation of which depends on the functioning of the judiciary.

The main task of the judiciary is to protect members of society, their rights and freedoms, legitimate interests from unlawful aggression of other members of society, the wrongdoings of the state. Justice as a form of law enforcement activity of the state differs from legislative

and executive activities in a number of respects.

Unlike the legislature, which serves to plan socio-political processes, and the executive, which exercises specific control over the process of social relations, the purpose of the judiciary is clear, it is based on the full identification of facts, their legal assessment and application to specific cases. One of the most important features of the judiciary is the full identification of facts and their legal assessment based on the study of complex, multidisciplinary legislation and the analysis of existing legal norms. In this context, knowledge of judicial activity is required to be viewed as a type of thinking activity. Although it is a type of activity with only its own characteristics, but it is subject to the general and special laws of cognition and therefore requires study not only on the basis of legal sciences, but also using the theory of genealogy.

Judicial activity in criminal proceedings is the administration of justice in criminal proceedings. It represents the set of procedural actions and procedural decisions that the court carries out as a participant in the criminal proceedings, carrying out the discussion of the case. Its constituent elements (action and judgment) are interrelated and focused on the tasks facing the court. They form a coherent system of criminal procedural activity of the court, which is mutually compatible, and it is an integral part of

criminal procedural activity, which is a slightly higher order system. All the procedural actions and decisions that make up the content of the criminal procedural activity of the court are interconnected (related) as a chain, they alternate in an interrelated order of legal acts. Judicial activity is carried out on the basis of the rights and obligations established by law. Therefore, judicial activity is considered as a means, a method of exercising judicial powers. The following aspects of judicial activity can be identified:

- Application of interested parties to the court;
- Commencement of court proceedings;
- The court enters into a legal relationship with the participants in the trial;
- Exercise of judicial powers;
- Emergence of new legal relations;
- Continuation of legal proceedings;
- A court decision resolving a specific issue;
- Termination of judicial activity.

The most important part of judicial activity is the trial of a specific case by the court (court proceedings), which is carried out in a court session and is manifested as the main form of criminal procedural activity. This is one of the features that distinguishes the activities of the court from the activities of other participants in the criminal proceedings. Execution of special procedural actions by the court before or after the court session (for

example: summoning the parties to the court session, sending various notifications to the parties, providing copies of court decisions, acquaintance with the minutes of the court session), as well as the court's decision outside the court session only the jurisdiction of the court. It should be noted that these actions and decisions have a preparatory nature, that is, they play a secondary - subordinate role in relation to the trial. Moreover, they are carried out not by the judge but by the clerk of the court session or other members of the court.

Judicial activity is the main part of the whole criminal procedural activity, the peak of the criminal process and prevails over the activities of other participants in the process at the stage of judicial proceedings. As long as the judiciary is in power in court, the powers of other state bodies lose their power, because before the court, both the prosecutor, who is provided with the power of state power, and the defendant sitting in the dock are equal.

In short, the main subject of criminal proceedings consists of substantive legal issues related to the accusation in the criminal case and the guilt or innocence of the person involved in the criminal case related to it. Therefore, a large part of the judicial activity is occupied by the activity of reviewing and resolving criminal cases by the court. Accordingly, according to court statistics, as of September 2021, 32,583

criminal cases were considered by the courts of first instance.

At the same time, the function of resolving a case in criminal proceedings is not the sole function of the court. Other issues not related to the application of criminal law are also pending before the court. Many of these issues arise in the course of direct criminal proceedings (change of precautionary measures, partial termination of criminal proceedings, etc.) and in this case their resolution is aimed at regulating the issues that arise, making adjustments to the trial, integral, structural is part of.

In addition to the differentiation of judicial activity into types depending on the subject of the trial (content of the case) and the tasks of the proceedings, the procedural activity of the criminal court also differs on the subjects who carry it out.

In criminal proceedings, which form an integrated system of criminal procedure, there are various elements called criminal procedural functions related to individual elements and general rules, which are the basis for determining the legal nature and social orientation of the entire criminal process.

Until recently, the prevailing view in criminal proceedings was that the court would only perform a “case-solving function” known as a “justice function”. With the implementation and development of oversight activities in

criminal proceedings, the judicial oversight function began to develop as a new independent procedural function.

The main direction of the exercise of judicial power is the protection of law through the administration of justice, which reflects the social significance and responsibilities of this activity.

In criminal proceedings, which are a separate form of justice, only the tasks specific to the criminal court, in turn, determine the direction of judicial activity, based on the objectives of the criminal process. In addition, in criminal proceedings, the criminal court is given clear powers, which creates features that are unique to the procedural activities of the court.

If we examine not only the relationship of the court with the parties, but also its procedural activities in a comprehensive and complete way, then we can see several other functions of the court. Because judicial activity is aimed at solving a number of tasks, as in the procedural activities of other subjects in the process.

When the court is considered as a subject of criminal procedural activity, the concept of its procedural function plays an important role in defining the description of the court, its importance, place in the criminal process and its legal status.

As a subject of criminal procedural activity, the procedural functions of the court in

criminal cases are an independent criminal procedural activity, which is regulated by law and the tasks set by the criminal procedural legislation related to the task of the court must be performed by the court.

The case-solving function is the main function of the court, and the functions listed above arise during the resolution of a case on a particular criminal case. But the oversight function is now argued by many scholars as an independent function of the judiciary. We will talk about this in more detail.

The supervisory function of the court, i.e. judicial review, is characterized by the investigative nature of its criminal procedural activities.

The function of control (inspection, observation for the purpose of investigation) is carried out by the court at all stages of the criminal process and is characterized by verification of the legality and validity of invalid court decisions (judgments), as well as procedural actions and decisions of state bodies.

The introduction of judicial control into the preliminary investigation stage creates an integral link between the other stages of the criminal process, resulting in an increase in the quality of control, the effectiveness of the target system.

According to Z.F. Inogomjanova, judicial control is a guarantee of legality, validity and fairness of decisions, actions and

inactions and preliminary investigation and court decisions (regardless of their entry into force), which are in force at almost all stages of the criminal process, aimed at protecting the constitutional rights and freedoms of citizens. its legal nature becomes clear only when it is recognized as an activity that serves.

According to I.E. Slepneva, judicial control occurs in the pre-trial stage of the criminal process when decisions made by the bodies of preliminary investigation violate the constitutional rights of citizens.

NA Kolokolov says that "the function of judicial review applies only to the preliminary investigation, that is, only to this stage." Z.F. Inogomjanova denies the above and states that judicial control is exercised in addition to the preliminary investigation at the stage of appointing a criminal case to court and verifying the legality, validity and fairness of judgments, rulings and decisions.

According to OV Khimicheva, judicial control is the activity of the judiciary in instituting criminal proceedings and in the preliminary investigation. It can therefore be said to be a function of the criminal process. In it, the court serves to ensure the legitimacy and reasonableness of the decisions and actions of the bodies of preliminary investigation to restrict the rights and freedoms of the individual, including a system of investigation, warning and restitution.

According to VN Galuzo, judicial review is an independent criminal procedural function of the court, which is responsible for verifying the legality and validity of decisions on detention, arrest and extension of detention and for improperly applied coercive measures against the suspect and accused. consists of precautionary measures.

N.N. Kovtun also recognizes that judicial control is an independent institution of criminal process and a form of judicial activity, it is a direction of activity of criminal process.

The court has to assess the legality of the activities of other bodies and lower courts in resolving many of the issues before it in criminal proceedings.

In some cases, such oversight (investigation) is the basis of litigation, and oversight is the primary function of the court (consideration of appeals, cassation, and review by the court under the CPC), while oversight is a means to achieve other goals for the court.

It is clear that the supervisory (investigative) function of the court is not always aimed at protecting or restoring the rights of the citizen. This activity is also aimed at verifying the legality of the procedural activities of state bodies involved in criminal proceedings.

Based on the above, we can conclude that the supervisory function of the court, in its

essence and scope, differs from the judicial function of law enforcement and restorative law, and has its own independent content and essence.

The function of judicial control is to increase the status and role of the judiciary in the state and to protect citizens through the courts.

The function of law enforcement is to ensure the constitutional rights and freedoms of every person involved in criminal proceedings.

When considering a criminal case, the main task of the court is to correctly resolve the issue of the guilt of the defendant (the validity of the accusation against him). This, in turn, requires the court to examine and evaluate the evidence presented on the admissibility issue. At the heart of this activity is the mandatory verification by the court of whether the primary investigative bodies have followed the procedure for gathering evidence, ie how well they have complied with the criminal procedural law in collecting the evidence under investigation and other procedural actions.

In any court case, the court protects in one way or another from the unlawful and unjustified restriction of the subjective rights of citizens.

For example, when a court hears a criminal case, it protects the rights, honor, and dignity of the defendant, and acquits him when his guilt is not proven.

In resolving issues related to the execution of a conviction under Article 463 of the Criminal Procedure Code of the Republic of Uzbekistan, the court shall prevent the violation of the subjective rights of the convict and, in the absence of sufficient grounds, may reject an application for the replacement of the unserved part with a heavier penalty.

The law enforcement function of the court is defined in the tenth part of Article 243 of the CPC, which provides for the constitutional protection of citizens.

It considers the petition for the application of a measure of restraint in the form of detention against the suspect or accused, which is related to the restriction of his rights and freedoms, and makes a clear and full statement when making a decision within its competence.

Without the initiator and executor of the court's investigative actions and the application of coercive procedural measures restricting the rights and freedoms, it only by its decision allows the investigator and the inquiry officer to carry out certain procedural and investigative activities.

When considering the relevant petitions of the investigating authorities requesting to restrict the rights of the accused or another person, the court shall check their legality and validity, and thus, in accordance with the Constitution, the rights of citizens are protected only by the

Constitution protection shall be limited only to the extent necessary for the purpose of ensuring the defense of the country and the peace of the State.

In the absence of sufficient grounds to carry out procedural and investigative actions aimed at restricting the constitutional rights and freedoms of a citizen, the court does not allow the investigative bodies to carry out such actions, ie prohibits them to do so, thus ensuring individual rights and freedoms prevents illegal restriction.

The restorative function of the court is mainly related to the fact that during the preparation of the case for trial, the court considers such cases on the basis of the prosecutor's (investigator's, inquiry bodies' and the inquiry officer's actions (inaction) and the power to consider complaints against their decisions.

Here we can again see that the subject of the case in court is the issue of ensuring the rights and freedoms of citizens by law enforcement agencies.

The purpose of the court hearing of such complaints is to restore the rights and freedoms of the citizen, which were violated by law enforcement agencies and officials.

A lawsuit aimed at restoring the violated right shall be initiated only on the basis of an application (petition) of the interested person to the court requesting the

restoration of the violated right or removal of the obstacle to the exercise of the right.

The purpose of reinstatement is also sought and achieved in many other court proceedings and proceedings (for example, a private prosecution case, a civil lawsuit for pecuniary and non-pecuniary damage, an appeal against an illegal court decision, and a cassation appeal). , the claim of the acquitted person for compensation for property damage).

The function of law enforcement arises not only from the process of consideration and resolution of the case, protection and restoration of the rights and interests of the individual, but also from the creation of objective conditions for the trial, ensuring a lawful and fair decision.

Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms solemnly proclaimed the right of everyone to a fair trial. Under the Convention, this concept encompasses the individual's right to justice, equality of arms and litigation, and it is the judge who must ensure that the trial is fair to all parties involved in the proceedings, in accordance with the rights conferred on them by the Convention.

National law also imposes a number of "security" obligations on the courts. In carrying out these procedural actions, the court first of all ensured the full exercise of its procedural rights by the parties, created the necessary conditions for open dispute

between the parties, prevented violations of the principle of equality of parties and restriction of procedural rights of litigants. (fair trial).

In addition, in the matter of the guilt of a significant person and the imposition of a sentence, attention should be paid to the role of the conviction in preventing the offense, which determines the grounds and amount of the obligation imposed for the commission of the crime.

Judgment is a threat in the form of a criminal penalty imposed on a person for violating the prohibitions established by criminal law by the state through justice.

The existence of this threat in the norms of criminal substantive law and its implementation by a court verdict to prevent crime, to hold the motives of a person to commit a crime, and thus to protect the rights and legitimate interests of individuals and organizations, public interest, law and order and to ensure the rule of law in the state.

The power of the court to issue a special ruling, referred to in Article 423 of the CPC, is one of the most important manifestations of the crime prevention function.

The court draws the attention of the relevant organization and official to the circumstances that led to the commission of the crime by its private ruling, ie the necessary measures should be taken in

cases of violation of civil rights and freedoms and other violations of the law.

The basis of such court decisions is not the content of the case, the restoration of violated rights and the provision of rights, but the prevention of recidivism of the same crimes and offenses.

The activities of the court related to the issuance of private rulings are aimed at preventing violations of the law, refraining from actions (inaction) of state bodies, various organizations and individuals, which are then considered negative by the court, and, in general, to increase legal awareness and legal education.

Although a number of authors argue that the judiciary cannot be a crime-fighting body and that the court has universal powers in this regard, existing legal norms do not include the court in the system of anti-crime bodies and do not define crime as a court task.

According to N.R. Kosevich, “the definition of the functions of the judiciary and law enforcement agencies, which were previously dominant, the responsibility of the court for the criminal situation should be rejected as contradicting the idea of the structure of the judiciary. However, this fact, whether or not the court is included in the system of law enforcement agencies, does not affect the role of the court in preventing violations of the law.

The crime prevention function of the court is somewhat broader in its content than the crime prevention scope traditionally defined.

CONCLUSION

Based on the analysis of case law, we are convinced of the following. Private decisions (rulings) of the court may be issued not only on the circumstances that led to the commission of a crime, but also on other grounds provided by law. In this case, their impact on crime prevention is aimed not only at stopping or preventing the commission of crimes, but also at preventing other types of offenses in criminal procedure and criminal law relations.

Therefore, in our opinion, the expansion of the scope of judicial control in the legal system can be assessed as a positive situation that leads to a higher level of legal protection of the individual. In many countries, judicial review of investigative cases is one of the principles of early investigation.

REFERENCES

1. Abduvaliev, M. (2020). Invalidity of agreements in civil law-an analysis of the experience of Uzbekistan and Japan. TSUL Legal Report International electronic scientific journal, 1(1).
2. Mamajanova, I. T. (2019). WORLD EXPERIENCE IN THE NOTARY

-
- SECTOR AND MODERNIZATION OF THE NOTARY SECTOR IN UZBEKISTAN. Theoretical & Applied Science, (9), 172-175.
3. Mamajanova, I. T. (2019). WORLD EXPERIENCE IN THE NOTARY SECTOR AND MODERNIZATION OF THE NOTARY SECTOR IN UZBEKISTAN. Theoretical & Applied Science, (9), 172-175.
 4. Mamajanova, I. T. (2019). WORLD EXPERIENCE IN THE NOTARY SECTOR AND MODERNIZATION OF THE NOTARY SECTOR IN UZBEKISTAN. Theoretical & Applied Science, (9), 172-175.
 5. Mirhamidova, P., Karimbayeva, M., & Toychiyeva, D. (2021). DETERMINATION OF ACTIVITY OF CATALAZA ENZYME DURING THE GROWTH PERIOD OF GRAIN AND LEGAL PLANTS. Norwegian Journal of Development of the International Science, (69-1), 13-15.
 6. Mirhamidova, P., Karimbayeva, M., & Toychiyeva, D. (2021). DETERMINATION OF ACTIVITY OF CATALAZA ENZYME DURING THE GROWTH PERIOD OF GRAIN AND LEGAL PLANTS. Norwegian Journal of Development of the International Science, (69-1), 13-15.