



## Improvement Of The Procedure Of Production Of Criminal Cases Of Private Action

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**Journal Website:**  
<http://usajournalshub.com/index.php/tajpslc>

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### ABSTRACT

The article outlines the problems associated with the use of the institution of private prosecution, aspects must be taken into account when solving these problems, opinions on the proceedings of private prosecution cases, as well as on the improvement of criminal procedural activities and criminal procedural legislation, proposals and recommendations aimed at improving the procedure for applying the institution of private charges and criminal procedure legislation.

### KEYWORDS

Criminal procedural activity, private prosecution, procedure for the proceedings of private prosecution cases, improvement of the institution of private prosecution, improvement of criminal and criminal procedural legislation.

### INTRODUCTION

The purpose of the judicial and legal reforms carried out in our country in recent years is to provide reliable guarantees for the protection of the rights and freedoms of citizens, first of all, from criminal prosecution, as well as to prevent humiliation of their honor and dignity, limitation of legitimate interests. To achieve

these goals and in pursuance of the "Strategy of Action for Five Priority Areas of Development of the Republic of Uzbekistan in 2017-2021", a number of normative legal acts were adopted aimed at ensuring genuine independence and independence of the judiciary, improving the quality and

transparency of justice, expanding the use of the institution "Habeas Corpus", the creation of an effective anti-corruption system.

At the same time, the analysis of law enforcement practice, the generalization of the results of an open dialogue with the population indicate the presence of legal gaps in the legislation that impede the provision of legality and objectivity in the collection, consolidation, verification and evaluation of evidence in the process of investigation and consideration of criminal cases.

These circumstances negatively affect the effectiveness of measures to protect the rights, freedoms and legitimate interests of citizens and, as a result, lead to justified discontent of the population, a decrease in their trust in law enforcement agencies and faith in the impartiality of the court [1].

## RESULTS AND DISCUSSION

Ensuring the unquestioning and unconditional observance of such constitutional principles as the rule of law, equality of citizens before the law, the presumption of innocence, humanism, observance of the rights and freedoms of citizens in judicial and investigative activities, further improvement of criminal and criminal procedural legislation, first of all, requires a revision of the foundations criminal procedural activities and elimination of gaps in legislation.

Improvement of criminal procedure legislation gives rise to the need for a scientific and practical analysis of the problems encountered in the judicial and investigative field, and the development of ways to solve them in accordance with modern requirements. And here there are problems associated with the application of the

institution of private prosecution, which is the basis of criminal procedural activity, today it is required to eliminate gaps in the law on the procedure for its application. The elimination of inconsistencies in the investigative practice on the application of the legal framework and the institution of private prosecution, the reforms carried out to improve this institution in the future, and the positive results achieved will serve to further liberalize the criminal and criminal procedural legislation as a logical continuation of changes in the judicial system.

Among the above-mentioned gaps in the existing legislation on the application of the institution of private prosecution are not the provisions governing what is the basis for criminal procedure, who, when, in which cases will carry out the prosecution, the consequences of refusing to charge (withdrawal of the statement), authorized entities supporting the prosecution and the limits of their powers to support the prosecution in certain cases [2], the circumstances of belonging to the full victim of the right to support the prosecution, the circumstances of belonging to both the victim and the authorized official, as well as the circumstances of belonging to the right to carry out the prosecution only to the authorized official.

In modern judicial investigation practice, there are certain problems associated with the use of the institution of private prosecution [3, p. 98-112, 4, p. 27-32]. These problems in most cases impede the effective use of the private prosecution institution. The main reasons for such problems, in our opinion, are related to the mechanism for applying the institution of private prosecution. The identification, study of inconsistencies and problems arising in the application of the institution of private prosecution, the search for their optimal

solutions and the adoption of new legislative norms that serve to increase the use of the institution of private prosecution in criminal procedural relations, in general, the expansion of the institution of private prosecution, along with ensuring the effectiveness of criminal justice, serves the purpose of improving criminal and criminal procedure legislation. At the same time, when improving the institution of private prosecution, applying a systematic approach to the criminal process, taking into account the goals of State policy in the field of combating crime, it is advisable to pay attention to improving the close relationship between criminal and criminal procedure legislation.

In our opinion, when improving criminal legislation, it is necessary to work, taking into account the procedure and peculiarities of the application of criminal law institutions, such as: the content of the crime, the grounds of responsibility, the circumstances excluding the crime of the act, the concept of responsibility and the grounds for bringing to justice, the concept of punishment and the grounds for sentencing, the grounds for exemption from responsibility and punishment, coercive measures, penalties for crimes and for their commission, etc. In order to improve criminal procedure legislation, it is advisable to establish a procedure for proceedings in a case based on the claim of the person conducting the charges (prosecution) and a mechanism for carrying out criminal procedure activities.

The current Code of Criminal Procedure summarizes the basic rules for the application of the private prosecution institution. In particular, the circumstances in which criminal cases are initiated on the complaint of the victim, the procedure for refusing to initiate and terminating the initiated case in the

absence of a complaint of the victim, the possibility of terminating reconciliation cases and the procedure for conducting reconciliation cases are listed [5, p. 225, 226, 399-402]. However, in cases of private prosecution, the features of pre-trial proceedings, pre-investigation inspections, investigations, trials are not separately determined.

## CONCLUSIONS

The above-mentioned circumstances, being the stages of the proceedings that constitute the mechanism for the application of the institution of private prosecution, require their improved regulation. In addressing the gaps in the application of the private prosecution institution in the criminal procedure law, the following should be taken into account:

1. Abolish or improve the institution of criminal proceedings in the existing criminal procedure legislation.
2. Determine the existence of a victim's complaint or a prosecutor's statement as grounds for initiating criminal procedure. Accordingly, divide the prosecution into private, public (public) and mixed forms of prosecution and specify the manner in which they are implemented.
3. To establish that the basis for the mixed charge is the statement of the person approved or supported by the prosecutor.
4. Abolition of the obligation to investigate criminal cases in pre-trial proceedings. To determine in the law that an investigation must be carried out only in case of non-obvious crimes (when the person is unknown), and in complex cases when the offender is hiding or his whereabouts are unknown, in other circumstances it can be carried out if necessary, the decision of the prosecutor is the basis for the

- investigation, the duration of the investigation is also determined by the prosecutor.
5. If it is not necessary to conduct an investigation into the private prosecution case, it is necessary to establish the procedure for providing the necessary information collected to the court for considering the victim's complaint and implementing all necessary organizational measures.
  6. In cases of mixed and public prosecution, in which it is found not necessary to conduct an investigation, it is necessary to establish the procedure for appointing an official (investigator) supporting the State prosecution, implementing the necessary organizational measures, sending to the court the necessary information collected as a result of the verification together with the person's statement and/or the prosecutor's statement of support for the prosecution.
  7. There should be no restrictions on the conduct of investigative actions, if this is not connected with the restriction of the rights and freedoms of the individual, and it is necessary to abolish the requirements of mandatory participation of the understood and the right to conduct investigative actions or collect evidence (information) must be possessed by the prosecuting persons (victim, civil plaintiff, their representative, public prosecutor or public prosecutor), persons protected from prosecution (suspect, accused, civil plaintiff, his representatives), defence counsel.
  8. The investigation should be conducted in a manner similar to the requirements of the current legislation, but the person conducting the investigation should not have the right to evaluate evidence and make decisions related to the resolution of a criminal case, after the investigation the prosecutor must submit to the court an indictment letter or indictment document (opinion) together with the case file.
  9. It is necessary to establish a procedure according to which trials should be similar to the procedure established in the current legislation, the prosecution and defense parties, after the case is appointed for trial before the day the case begins, must have the right to collect the necessary information to protect their interests (evidence) and its submission to the court, as well as in cases of guilty plea, it is advisable to establish the procedure for conducting the trial in a simplified form.
  10. In cases of which, the investigation must also be created the possibility of simplified proceedings, in particular, it is necessary to put into effect the institutions of agreement, conciliation, non-prosecution.

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