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Bekzod Babakulov

Samarkand State University
Master's degree in legal Faculty

THE ROLE OF THE DEFENDER IN THE CRIMINAL PROCESS

Abstract: Today, large-scale work is being carried out to improve the Institute of advokatura of our country, to implementation of Advanced International Standards and foreign practice in order to ensure unconditional rights and freedoms of citizens.

Key words: criminal and criminal-prosessual legislation, implement completely new priority.

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Introduction

The adoption of the strategy of action on five priority areas of development of the Republic of Uzbekistan in 2017-2021 marked the most important directions of the state policy in the field of improvement of criminal and criminal-prosessual legislation, as well as an important stage of the reform of the judicial system of historical significance.

In turn, in order to develop and implement completely new priority areas of the state criminal and legal policy, on May 14, 2018 "the concept of improving the criminal and criminal-prosessual legislation of the Republic of Uzbekistan" was adopted. In this concept: unification of the norms of criminal law; improvement of the system of criminal responsibility and punishment; ensuring practical and reliable protection of the rights and freedoms of citizens, public and public interests; systematization and harmonization of the norms of criminal-prosessual legislation; the criminal process provides for such structural tasks as ensuring a reliable guarantee of the rights and freedoms of a person and improving the Institute of advokatura; implementation of foreign experience advanced to the legislation, taking into account national characteristics and conditions.

Indeed, the main factor of the reforms carried out in the judicial system is aimed at ensuring reliable protection of human rights and freedoms. The activity of the advisory board is considered one of the important institutions in the social life of the society

and is assigned to it the implementation of the constitutional functions of protection of the rights and freedoms of citizens. In particular, the role of the Institute of advokatura in the conduct of Justice is special.

In the Constitution of the Republic of Uzbekistan, "the accused is provided with the right to protection. The right to qualified legal assistance at any stage of Investigation and judicial proceedings is guaranteed. Advokatura provides legal assistance to citizens, enterprises, institutions and organizations. The organization of the advocacy and the procedure for its work are determined by law", is defined separately.

By the decree of the president of the Republic of Uzbekistan dated August 10, 2020 № PR-6041 "on measures to further protect the rights and freedoms of a person in judicial-investigative activity", the Institute of advokatura has once again determined its extensive functions in the field of protection of human rights and interests.

In particular, on the further improvement of the activities of the advisory board, the following:

implementation of applications, explanations or testimonies from the suspect, defendant or defendant by the employees of the bodies carrying out operational-search activities in accordance with the written permission of the investigator, investigator, prosecutor or judge who is in the Proceedings of this criminal case and only with the participation of the

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defender (except for cases where the defender is waived);

calculation of the period of detention of a person suspected of committing a crime from the time he was actually detained;

determination of the condition that a person is practically detained or that an urgent action related to the arrest of him on a crime has been concluded in practice or recognized as a suspect, provided that from the moment of notification to him, he must ensure that he meets with his counsel before proceeding with the prosecutorial actions associated with him.;

the introduction of the Institute of confession reconciliation on guilt. Bunda, the structure of a written agreement with the bodies of inquiry and preliminary investigation in cases where a person in certain categories of crimes has filed a complaint against the neck of his guilt, has expressed sincere regret, has actively assisted in the detection of the crime and has eliminated the damage caused, and in relation to it, the court shall appoint a penalty;

at the stage of pre-trial prosecution of the criminal case, in the absence of the possibility of a later interrogation of the witness and the victim due to severe illness or the need to leave for a long period to a foreign state, their testimony should be submitted by the court in accordance with the request of the suspect, defendant, victim, witness, prosecutor;

in the case of persons suspected or accused of committing an extremely serious crime, as well as in the case of the application of a precautionary measure in the form of a prison sentence or a house arrest in relation to a person, the definition of the condition for the participation of the defender was provided for, etc.

At the same time, the Institute of advokatura is increasingly strengthening, and although the rights of advokatura are growing, the legislation adopted, taking into account the theology carried out in the last years, has shown that there are still obstacles in what aspects of the advokatura system.

Therefore, the lawyer Mohandas Karamchand Gandhi in the profession of advokat gives such a definition to the profession of advokat in the manuscripts "I understand that the profession of justification - it's a bad profession: in the whitewash (defender) a lot of dishonesty-it turns out that knowledge is scarce. I had a sense of responsibility growing."

When India began to justify the leadership of the national liberation movement in these words, the profession of justification was a laborious profession, and the days when the justification experienced that it would see the day on the tip of the hand for five to seven years, based on the experiences it had seen, it described the profession of justification.

Of course, in the conditions of our country, there are many owners of the sphere who have perfectly mastered the profession of advokat and have established to work with the law to the full extent the

activity of advokat. However, the implementation of reforms in the system of advokatura aimed at ensuring full personal rights by the state or the transformation of the rights of advokat into a body capable of meeting international standards is one of the important tasks ahead.

In particular, our vision of the role of The Advocate in the protection of the accused, the suspect in the agreement on confession to guilt, is also mokin.

Chapter 621 has been added to the current criminal-prosecutorial code of the Republic of Uzbekistan. It was supplemented by Article 5861 of the agreement on confession to guilt and the conditions for its conclusion. According to the law, an agreement on confession to the crime is concluded if the suspect, the defendant, has realized the essence of his actions, as well as the consequences of the petition he has filed, the petition is issued voluntarily and after consultation with the defender participating in the case, the suspect, if the defendant does not deny the suspect or the

Article 5865 of the criminal-prosecutorial Code of the Republic of Uzbekistan is detailed about the content of the agreement on confession to guilt.

The date and place of the conclusion of the agreement on extradition for guilt, information on the prosecutor concluding the agreement, the surname, name and patronymic of the defendant, other data of the defendant, information on the defender, description of the place and time of the crime, as well as other circumstances that must be proved, part, paragraph, of the article of the Criminal Code, an agreement on confession to the crime was concluded on the procedure for the appointment of punishment for the crimes committed, the disclosure of the committed crime, the provision of evidence in the criminal case, the suspect for the detection of property acquired by the way of the criminal, the actions that the defendant will take after the signing of the agreement. the amount of damage caused and the consequences of non-fulfillment of the conditions stipulated in the fifth part of Article 5863 of the criminal-prosecutorial code of the Republic of Uzbekistan shall be indicated.

If more than one person is involved in the case as a suspect, defendant, then the agreement on confession for guilt is concluded with each suspect, the defendant separately.

The agreement is signed by the prosecutor, the suspect, the defendant, his defender. Before the signing of the agreement, the suspect, the accused, has the right to discuss with the defender the issue of concluding the agreement and its consequences without delay and in secret.

It remains to be noted that article 5863 establishes the consideration by the prosecutor of the petition for the conclusion of an agreement on confession of guilt. The petition for the conclusion of an agreement on confession to the crime is submitted

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to the investigator, the investigator, who is conducting the criminal case. The investigator will send the materials of the criminal case to the prosecutor to resolve the issue of concluding an agreement, within twenty-four hours from the moment the investigator receives a request for an agreement on confession of guilt. The prosecutor considers the petition for the conclusion of an agreement with the participation of the investigator or investigator and the suspect, the defendant, his defender within seventy-two hours from the moment of his arrival and examines the compliance with the requirements specified in Article 5861 of this code. If necessary, the prosecutor also attracts the victim or the Civil Plaintiff to consider the issue of concluding an agreement.

It should be noted separately that according to Article 57(2) of the Criminal Code of the Republic of Uzbekistan, the term or amount of the punishment to be imposed on crimes for which an agreement on extradition has been concluded should not exceed half of the maximum punishment provided for in the relevant article (part) of the special part of the Criminal Code.

Taking into account the experience of foreign countries in this regard, the 40-th chapter of the CPC of the Russian Federation also provides for a separate procedure on the basis of Italian experience. According to him, the proceedings in a separate procedure are processual rights of the accused, and this procedure can be applied in cases where the accused is guilty of a confession and has filed an application to the court in a separate procedure. Consent to the accusation means consent to the circumstances of the act, the form of the fault, the motive, the qualification, the amount and amount of damage caused. However, later, although not foreseen in the CPC, the RF Supreme Court gave an explanation about the non-application of this institution in relation to minors.

In the Russian Federation, five conditions of consideration of the case in accordance with the procedure established by Chapter 40 of the code are established, the object of which is the application of the conditions for work committed by minors, up to 10 years of imprisonment, the consent of the public accuser and victim, the private accuser for cases of private prosecution, the, it presupposes that the defendant understands the content and consequences of the petition. In the presence of all the above conditions, the court can consider the case in a separate order, and if one of them does not exist, then the case will be considered in the general order.

The participation of the defender in this category of cases is mandatory, and the refusal of the defendant from the defender is not mandatory for the court. If the court is satisfied with the request for refusal from the defender, the case can be considered in a separate order.

In the FRG, however, the " agreement on confession of guilt" (Germany, Romania, Turkey, etc.) it is again referred to in other states as the agreement of the parties in the preliminary investigation. In particular, reconciliation in the GFR is carried out by a special judge in the reconciliation chamber. A special judge shall be elected at the local community or city district upon the proposal of the public council agreed with the director of the district for a period of 3 years. Complaints about the activities of this judge are considered in the District Court of Justice.

It is known that there are many families of rights in the world, in which we can see many different aspects in the basis and process of applying the Institute of reconciliation. For example: the countries of the Anglo-Saxon legal system are of little importance of the act as the material and legal basis for the application of the Institute of reconciliation in criminal law. In the countries belonging to the system of continental law, the basis of reconciliation is more clearly defined. The reconciliation of the offender with the victim in the states belonging to the system of continental law is formalized in the form of a mass contract. For example, in the Netherlands, Belgium, France, such a reconciliation took the name "transaction", which meant an agreement between the victim and the offender, which is carried out by mutual reconciliation. As the name of the Institute of reconciliation in different states differs, there are different aspects of its application. In particular, the difference between the general criminal law of German law and the leadership idea of reconciliation is that the consent of the victim for the application of reconciliation is not provided for as an obligatory element.

In conclusion, it is the main duty of the defender to protect the rights and legitimate interests of the accused, the victim, the suspect. Only in the case of protection of the legitimate interests of the accused, in connection with the unreasonable nature of the accusation, achieve the abolition of the criminal case; achieve a change in the qualification (qualification) of the criminal case for the purpose of mitigating responsibility in accordance with the circumstances of the case; achieve the abolition or amendment of the precautionary measure; various processual actions, consisting of attempts to determine the circumstances that mitigate responsibility, and others, are understood. In other words, it includes the protection of the legitimate interests of the accused, the elimination of the prosecution of an innocent person or the imposition of responsibility, the Prevention of unfair severe punishments, the consideration of a whole complex of mitigating circumstances.

The independence of the defender does not mean that he must operate without regard to the discretion and requirements of the protected person in general.

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The defender should not follow the illegal attempts of the accused, but he must take into account the requirements of the person in his defense based on the law, and in this sense the independence of the defender is relative.

The professional duty of the solicitor imposes on him the obligation to analyze and evaluate all evidence on the case in an objective, comprehensive and truthful manner, to not deliberately distort the facts, to not try to distract the court and the

investigation, to evaluate the investigated events without the position of legality and morality. The defender may not use real, self-evident evidence or use data in the case that contradicts the facts known to him.

Proceeding from this, the norms of the law of the Republic of Uzbekistan "on Advokatura" require, first of all, advokat to be an example of moral purity, a clear and underrated observance of the laws.

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