



LEGAL BASIS AND REGULATION OF ENSURING TRANSPARENCY OF COURT HEARINGS IN MILLY'S CRIMINAL PROCEEDINGS.

Adizov Alibek Oybek o'g'li

Prospects for the development of a mechanism for realizing the principle of transparency of court proceedings in criminal proceedings based on foreign experience

Tashkent State Law University

Theory and practice of criminal law application

Master's degree student

phone: +99891-246-88-50

Gmail: alibekadizovofficial@gmail.com

B.K. Khudaybergenov

Academic supervisor: Associate Professor of the Department of Criminal Procedural Law v.b., Ph.D. (RhD)

Article history:	Abstract:
Received: April 6 th 2023 Accepted: May 6 th 2023 Published: May 8 th 2023	In this case, the modern best practices of open criminal proceedings in court were studied, the legal system of Uzbekistan was compared, and useful suggestions were put forward.

Keywords: Disclosure, criminal process, justice, public control, trial, juvenile delinquency, closed court procedure

The legal basis for regulating the transparency of court proceedings in criminal proceedings is the Constitution of the Republic of Uzbekistan, the Criminal Code, the Code of Criminal Procedure, the Law "On Courts", the Law of the Republic of Uzbekistan "On Guarantees and Freedom of Information" Law, Law on Principles and Guarantees of Freedom of Information, Law on Protection of Journalism, Law on Public Control, Law on Mass Media Law on ", Law "On Openness of Activities of State Power and Management Bodies", Decision No. 04 of the Plenum of the Supreme Court "On Ensuring the Transparency of Court Proceedings and the Right to Information on the Activities of Courts" enters. In addition, the scientific works of legal scholars on the topic of ensuring the transparency of court proceedings can be recognized as an unofficial scientific source. Taking into account the recognition of the supremacy of universally recognized norms of international law in the Republic of Uzbekistan, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights can be shown as a legal basis for regulating transparency in courts. In Article 10 of the Universal Declaration of Human Rights, everyone should be treated in a transparent and fair manner on the basis of full equality, in order to determine the rights and duties of each person and to determine the extent to which the criminal charge is justified by an independent and impartial court. right ownership is defined.

Below we will talk about the mechanism of regulating relations between the legal system of the Republic of Uzbekistan and the public discussion of criminal cases. It is known that the introduction of modern information and communication technologies into the

judicial process ensures openness, transparency, and that court sessions are held in full accordance with the requirements of the law. Another important change in the criminal procedural legislation is that criminal cases can be heard publicly in courts, at the initiative of the court or at the request of the participants in the criminal proceedings, using audio and video recordings, as well as in the mode of video conferencing.

Article 7 of the Law "On Courts" envisages the principle of transparency of court proceedings. As can be seen from the content of this article, the term "openness" is used as a synonym for the term "open consideration of cases in court".

According to article 28 of our Constitution adopted by popular vote, a person suspected of having committed a crime is considered innocent until his guilt is proven in a public trial in accordance with the procedure provided for by law and until it is determined by a legally binding judgment of the court, in particular, according to article 137 of the Constitution, cases in all courts it is established that hearing of cases in a closed session is allowed in the cases specified by law. It is assumed that the regulation of the public hearing of the court, first of all, is one of the main factors for the fair administration of justice. The principle of openness is a necessary condition for the fair conduct of criminal justice.

Article 19 of the Criminal Procedure Code stipulates that criminal cases are heard publicly in all courts, with the exception of cases that conflict with the interests of protecting state secrets, as well as cases of sexual crimes.



It can be seen from the above that all cases are considered in court proceedings in an open manner, in order to protect state secrets, the special important, completely secret and confidential military, political, economic, scientific matters are protected by the State and limited to special lists. - criminal relations arising in relation to the state secrets of the Republic of Uzbekistan, which are considered technical and other information, are discussed in closed court sessions in criminal courts. Therefore, keeping state secrets is It is stated in our legislation that it is the duty of all state bodies, enterprises, institutions, organizations, associations, as well as officials and citizens of the Republic of Uzbekistan, who have such secrets. The participants in the court proceedings should not disclose information about the state secrets that have become known to them in connection with the service. Cases of sexual crimes are also held in closed court. This includes defamation, sexual satisfaction in an unnatural way using force, prostitution, collusion, forcing a person who is dependent on the offender to have sexual intercourse in an unnatural way, sixteen sexual intercourse with a minor, sexual intercourse with a sixteen- to eighteen-year-old person by giving material values. Both of the above-mentioned categories of cases are constantly discussed in a closed court session.

The criminal procedural legislation provides for such criminal cases that it may be allowed to hear them in a closed court session. In this case, the reasons for conducting the case in a closed court session must be justified. The following criminal cases can be heard in a closed court session.

- cases of crimes committed by persons under the age of eighteen,
- In order not to disclose information about the private life of citizens or information that degrades their honor and dignity;
- In cases where it is necessary to ensure the safety of the victim, witness or other persons participating in the case, as well as their family members or close relatives.

In the cases mentioned above, the case can be conducted in a closed court session.

Therefore, except for some cases provided for in the Code of Criminal Procedure, all cases are considered in an open court session. In the Criminal Procedure Code, it is indicated that cases are heard openly in all courts, and cases are heard openly in lower, middle and higher level courts as well. That is, the criminal case is considered in an open manner, regardless of whether it is considered in the procedure of appeal, cassation, repeated cassation, whether it is considered at the level of the district, city, region, or the Supreme Court.

Personal correspondence and telegraph messages can be read out at the open court session with the consent of the parties, voice recording, photography, video recording and filming in the courtroom is allowed only with the permission of the presiding judge of the court session. There are cases provided by the law for conducting work using a video conferencing system. It should not be forgotten that court judgments, rulings and decisions are publicly announced in all cases. Based on this, taking into account the fact that the verdict will be announced publicly in all cases, when the court is drawing it up, it will detail the methods of committing the crime related to the preparation of weapons, narcotic drugs, their analogues, or psychotropic, explosive substances, as well as citizens' interest. should not use expressions derogatory to his dignity. In addition to cases considered in a closed court session, legally binding decisions of the Court may be published on the official website of the court with the permission of the participants in the criminal proceedings or anonymously. Today, the electronic platform <<public.sud.uz>> has been established, and it contains more than 233,000 cases of lower, middle, and higher criminal cases in the first instance, appeal, cassation, and repeated cassation procedures. More court documents have been made public.

The Code of Criminal Procedure stipulates that in order to increase transparency in judicial activities, courts should, in necessary cases, inform mass media workers, relevant public associations and communities about the appointed proceedings, as well as direct proceedings in enterprises, institutions, organizations, citizens' self-government bodies and it is provided that it can be held in educational institutions. Mass media, self-government bodies of citizens, non-governmental non-profit organizations are considered subjects of public control according to the Law of the Republic of Uzbekistan "On Public Control". In particular, the decision of the Plenum of the Supreme Court No. 04 "On Ensuring the Transparency of Court Proceedings and the Right to Information on Judicial Activities" stipulates that the transparency of court proceedings is an effective means of ensuring public control over judicial activities and increasing public trust in the court. . It is not allowed to establish additional restrictions on the restriction of receiving information. Except for the cases stipulated in the criminal procedural legislation. The right to receive information about the activity of the courts is guaranteed. In this case, the race and language of the citizens , it is not allowed to limit based on nationality, social origin and other criteria. Publicity of the trial is ensured by the opportunity to participate in the trial to persons who are not participants in the trial, including representatives of the mass media. With the consent of the chairman of the court session, audio and video



recording may be allowed. It is not allowed to hold open court sessions in buildings that exclude the participation of persons who are not participants in the trial. That is, court sessions will not be held in buildings where access to citizens is restricted. Minors are also allowed to participate in open court sessions in the cases provided for by law.

The legal way for media representatives to obtain information is to witness the case file by attending the hearing. If the media does not attend court hearings, the judge in the case will not be able to give interviews until the verdict becomes final. In this case, media workers may be left without information on the criminal case. Taking this into account, they cannot be prevented from entering the courtroom.

Photographing, video recording, and mass media broadcasts of open court sessions in criminal courts are carried out with the permission of the presiding judge after hearing the views of the parties. In addition, in paragraph 16 of the decision of the Supreme Court plenum No. 04 "On ensuring the transparency of court proceedings and the right to receive information on judicial activities", the entry of persons who came to participate in the court session, including representatives of the mass media, into the court building must be provided in strict compliance with the rules established by the documents regulating the internal activity of the court. In this regard, it was noted that the courts should provide the opportunity to get acquainted with these documents at the entrance to the court building. It is allowed to include foreign mass media employees in open court hearings on criminal cases. In doing so, they must present documents on accreditation.

It is not possible to create conditions that limit or hinder the participation of persons who are not considered participants in the court proceedings, including representatives of the mass media, in the open court session. and such a situation is considered a violation of the procedural law and causes liability established by law. The use of information about the activity of courts is open for public use, except in cases limited by law. Such restrictions include state secrets or other secrets protected by law, provided for in Article 6 of the Law "On Openness of Activities of State Power and Management Bodies". The court may not refuse to provide the requested information on the grounds that a certain part of the information is limited for use. In such a situation, the public part of the information should be provided. The information provided to the users must be provided in a timely manner and within the period specified by the law. Clause 21 of the Decision No. 04 of the Plenum of the Supreme Court on "Ensuring the transparency of court proceedings and the right to receive information on judicial activities" In paragraph 2, information on the

activity of courts can be provided to users based on their request, that is, based on their request in oral or written form, including in the form of an electronic document. The requirements for formalization of written requests are applied to the appeal received by the court through the Internet, that is, to the request in the form of an electronic document.

In the case of appeals received in the form of an oral request, information on the activity of the courts that does not require special investigation and search may be provided. For example, based on an oral request, information can be provided about the time and place of the court session, the stage and outcome of the case hearing, and whether the case has been referred for trial.

Dissemination of information on the activities of courts through the mass media and the Internet is also established by law. The text of legally binding court judgments may be published in full on the official website of the court without possession or with the consent of the participants in the court proceedings.

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