



INSTITUTE OF INDEPENDENCE OF COURTS AND JUDGES IN CRIMINAL PROCEDURE

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Article history:	Abstract:
Received: February 6 th 2022 Accepted: March 10 th 2022 Published: April 26 th 2022	This article discusses in detail the institute of independence of courts and judges in criminal procedure on the basis of procedural law and theoretical rules. The article also puts forward a number of scientific and theoretical views by the author on the subject.
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On the basis of judicial and legal reforms in our country, consistent work is being done to ensure the independence of judges and increase justice in the field. On the basis of the measures taken, an effective legislative framework has been created to further develop the judiciary and the system of ensuring the independence of judges.

Ensuring the inevitability of liability for interference in the constitutional norms on the independence of the judiciary and the administration of justice is an important guarantee of achieving the goals we have set for ourselves. In recent years, our country has been systematically working to increase its position in the international rankings and indices. It should be noted that Uzbekistan is experiencing a steady increase in the indicators of the effectiveness of the legislative and judicial systems of prestigious international rankings and indices.

The basic principles of the independence of the judiciary were endorsed by a UN General Assembly resolution of 29 November 1985. This document, which provides for a number of rights, such as the independence of the judiciary and the inviolability of judges, was ratified in 1997 in Uzbekistan.

The Law of the Republic of Uzbekistan "On Courts" of July 28, 2021 and the Law of the Republic of Uzbekistan "On Measures to Ensure True Independence of Judges and Improve the Effectiveness of Preventing Corruption in the Judiciary" of July 7, 2020 and the Law of the Republic of Uzbekistan of July 24, 2020 The Decree "On Additional Measures to Improve the Efficiency of Justice" was an important piece of legislation adopted to ensure the independence of judges.

According to the Decree of the President of the Republic of Uzbekistan "On measures to ensure the

true independence of judges and increase the effectiveness of prevention of corruption in the judiciary", one of the important normative legal acts on ensuring the independence of judges, effective protection of judges' professional activities The creation of legal mechanisms to ensure the independence of judges and the prevention of corruption in the judiciary has been identified as one of the main directions of state policy.

The decree establishes organizational and legal provisions on the immunity of judges, according to which the presentation of the chairman of the Council on cases of violation of the immunity of judges and interference in the activities of the judiciary in the implementation of a fair trial is considered by the prosecutor's office within one month.

The law also provides for the procedure for summoning judges for questioning to law enforcement agencies as witnesses or suspects with the consent of the relevant qualification commissions.

Based on the above, in this article we will consider in detail the theoretical and legal aspects of ensuring the independence of judges as one of the main areas of procedural guarantees.

It should be noted that in our research, the principles of criminal procedure and the rights and obligations of participants in the process are identified as key elements of procedural safeguards.

According to criminal procedural law, the independence of judges and their subordination only to the law is defined as one of the principles of criminal procedure.

Judges and people's advisers are independent in the administration of justice and are subject only to the law. Judges and people's counsels review and resolve criminal cases in accordance with the law. No



interference in the activities of judges and people's assessors in the administration of justice shall be permitted, and such interference shall be punishable by law.

Hence, the independence of judges and people's deputies and the principle of subordination only to the law protect judges from any influence in criminal proceedings. This is one of the main essences of this principle of criminal procedure.

The independence of judges is possible only if they are subject to the law, and the rule of law is possible only if judges are protected from the influence of external and internal factors. Independence without the rule of law can lead to arbitrariness. If judges were subordinate to any agency or official, only the obligation to obey the law would have in fact been abolished.

Theoretical views on the independence of judges and its scientific and theoretical significance have been put forward by a number of scholars and researchers, which are discussed below.

In particular, "individual independence of the judiciary (personal independence) means the independence of judges from other governmental and non-governmental structures and their officials, ordinary citizens and even judges within a single court or a higher court.

The individual independence of the judiciary is characterized by the following features: independence of judges from officials of other republican and local state authorities; independence of judges from court chairmen; independence of judges from higher courts; independence of a judge in judicial commissions from other judges; the independence of judges from any other citizen "[1].

The independence of judges is largely determined by procedural guarantees, as they ensure the degree of freedom of the judge from the will of the parties or any external interference, and the degree of procedural independence of the judge directly depends on how independent he is in decision-making or procedural action [2].

The independence of judges in the administration of justice includes the following criminal procedural guarantees:

1) that the opinion of the judge, the investigator, the prosecutor and other participants in the proceedings is not related to the possibility of changing the charge;

2) evaluation of evidence on the basis of internal confidence;

3) confidentiality of judicial consultations;

4) the ability of the judge to freely express his opinion [3].

In criminal proceedings, it is advisable to include the following guarantees related to the system of procedural guarantees of judicial independence, including:

1) prohibition of violation of the secrecy of judicial consultations;

2) the obligation of the judge to directly examine the evidence in the criminal case;

3) the possibility of changing the territorial jurisdiction of the case, if the entire composition of the court is challenged;

4) the right of the judge to express his opinion during the collegial consideration of the case;

5) the possibility of changing the charge at the trial, if it does not worsen the situation of the defendant;

6) objection of the judge[4].

Based on the above, it can be argued that the category of "judicial independence" in criminal proceedings includes the following, namely: consideration and resolution of criminal cases by a judge in accordance with the law; limited interference in the legal activities of judges; the independence of the judge from the higher courts.

The independence of judges is necessary in society in cases where the constitutional powers of courts and their effective implementation are required [5].

They note that the independence of judges is guaranteed by a number of guarantees:

1) procedural guarantees (the order of administration of justice, the prohibition of interference in the administration of justice under the threat of liability; the judge is not directly responsible for the administration of justice, etc.);

2) organizational and legal guarantees (established procedure for selection to this position, responsibility, established procedure and conditions for leaving this position, conditions for retirement);

3) social and legal guarantees of the judge and his family members (social protection of both the acting judge and the retired judge, the immunity of the judge, the right to receive material and social security from the state, etc.)[6].

Adding to the views of these scholars, we can see that among the main guarantees of a judge's independence are the inviolability of the judge and the



judge's adherence to the law in the administration of justice.

The independence of judges does not mean that criminal cases are decided by judges at their unreasonable will, that they are not subject to scrutiny. The higher courts have the right to review judgments in the manner prescribed by law. The court of first instance is not subject to the supreme court in reaching a conclusion when reconsidering the case, and is independent not only in assessing the evidence and establishing the facts, but also in applying the criminal law and imposing the penalty.

The independence of the judiciary must be guaranteed by the Constitution, laws and policies of the country, and in practice must be exercised by the executive branch, its agencies and representatives, as well as the legislative branch of government. The judiciary should be independent in terms of the internal structure of the judiciary[7].

In conclusion, it should be noted that ensuring the independence of judges, in turn, is important in the administration of justice, the legal consideration of cases in the courts and the rights and freedoms of citizens.

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