

On improving the requirements for the decision part of the court decision in the process of judicial reform

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Abstract: This article discusses the ongoing reforms in the judicial sphere of the republic, the grounds for sentencing, the circumstances on which the court bases a guilty verdict, as well as cases in which the court issues an acquittal and conviction without sentencing. The main requirements for the operative part of court verdicts are their legality, validity and fairness, which are carefully studied and analyzed. In addition, further simplification of the mechanism of requirements for the verdict, general rules for the full restoration of the rights and interests of the defendant and the development of criminal procedure legislation, as well as the sequence of requirements to be covered in the verdict. Suggestions and recommendations are given to the Code of Criminal Procedure on the analysis of the type and amount of punishment imposed for each crime committed by the defendant, the elimination of problems that arise in practice in the execution of the sentence, its enforcement. In the final part, proposals of scientific and practical importance are agreed upon to improve the mechanism for sentencing in criminal proceedings, the sentence of criminal courts, the sentence, and some issues to be resolved in the sentence.

Keywords: justice, the judiciary, legal culture, judgment, lawful, reasonable, acquittal, conviction, defendant, democratization, reform, dangerous recidivist, citizens.

Judicial and legal reforms in the country mean an increase in confidence in the judiciary in our society, the judiciary has become a system that reliably protects the rights and freedoms of citizens.

As each person grows older, his or her perception of society, including the judiciary, develops. Gains knowledge of how disputes that arise in marriage, in society, or in the course of business are resolved by the court.

That is why we understand the concept of justice from our youth. Therefore, from time immemorial, citizens have appealed to the judge, today, when they encounter any injustice in their imagination. Therefore, anyone who appeals to the court expects justice from the court.

Indeed, the scale of judicial reform in the Republic in recent years has hastened any experienced lawyer[1].

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We see that reforms in this area are yielding significant positive results in society.

All this is closely linked with the implementation of the tasks set out in the Action Strategy for the five priority areas of development of the Republic of Uzbekistan in 2017-2021, the reforms carried out in the framework of the New Uzbekistan Development Strategy for 2022-2026 [10]. In this regard, a number of important reforms have been carried out to ensure the true independence of the judiciary, increase the prestige of the judiciary, democratize the judiciary, ensure reliable protection of the rights and freedoms of citizens, and practical work continues.

In the Address of the President of the Republic of Uzbekistan to the Oliy Majlis and the people of December 29 [5], 2020, noting that reforms in the judicial sphere, including the liberalization of criminal penalties, are continuing, as a result, in 2020 As a result of ensuring the independence of the judiciary, 719 people were acquitted this year.

The President also informed about the reforms to be carried out in the judicial sphere in 2021, emphasizing that justice is a solid foundation of statehood, and the judiciary plays a key role in ensuring justice and the rule of law[8].

At this point, we must acknowledge a fact. The rule of law in society, the high level of legal culture, is closely linked with the activities of the judiciary, with the decisions made by the courts. Therefore, it is no coincidence that the ultimate goal of judicial reform in the Republic is to ensure justice[3].

Therefore, any court decisions made by judges must be made in full compliance with applicable law.

From the point of view of this scholar, if a lawyer presents things and documents to an inquiry officer, investigator, prosecutor, or court, they are considered evidence. A number of other scholars say that a lawyer is not limited to gathering evidence like an investigator, but to petitioning for the inclusion of information in a criminal case[13].

In particular, the verdict in criminal cases is issued on behalf of the Republic of Uzbekistan.

The document issued on behalf of the state must be perfect in all respects. Our current laws require that court judgments be lawful, reasonable, and fair.

The Code of Criminal Procedure of the Republic of Uzbekistan defines the requirements for a sentence to be recognized as lawful, reasonable and fair.

At this point, I would like to make some comments on the indictment to be rendered by the court, the judgment part of the judgment, and other issues that need to be addressed in the judgment section.

Paragraph 2 of Article 455 of the Criminal Procedure Code of the Republic of Uzbekistan states that a sentence shall be recognized as lawful if it is issued in accordance with all the requirements of the law and in accordance with the law.

Today, this requirement is important in ensuring the rule of law in society, convincing citizens of the existence of justice in the state, increasing the investment attractiveness of the Republic, and its implementation in practice is the most important task of the judiciary, which is the responsibility of every judge[9].

Article 463 of the Criminal Procedure Code of the Republic of Uzbekistan specifies the grounds for sentencing, the circumstances on which the court may issue a conviction, as well as the cases in which the court acquits and convicts without imposing a sentence.

These requirements of the law are being strictly adhered to by the courts today.

During his meetings with representatives of the judiciary and law enforcement agencies of the Republic of Uzbekistan, the President of the Republic of Uzbekistan Sh.M.Mirziyoyev[4].

As a result of the President's policy to ensure the independence of the judiciary, the number of acquittals has increased in recent years, indicating that judicial reforms are yielding positive results..

Nevertheless, improving the existing legislation is a requirement of today. We need to improve our existing laws in order to ensure the rule of law in society. Procedural actions in criminal proceedings in the Criminal Procedure Code of the Republic of Uzbekistan are presented in an orderly, systematic, sequential manner.

However, in practice, it is possible to encounter violations of this principle in the performance of certain procedural actions.

In particular, according to Part 1 of Article 468 of the Criminal Procedure Code of the Republic of Uzbekistan, there is a sequence of requirements that must be covered in the operative part of the conviction.

According to him, in the operative part of the indictment;

- 1) surname, name and patronymic of the defendant;
- 2) a decision that the defendant was found guilty of the crime;
- 3) An article of the Criminal Code (part, paragraph) of the article, which is the basis for the conviction of the defendant, as well as the fact that the defendant was found to be a high-risk recidivist, if the court has made such a decision;
- 4) the type and amount of punishment imposed for each crime in which the defendant was found guilty; Punishment imposed in accordance with the articles of the Criminal Code and to be served; the type of colony of the appropriate order in which the deprived person is to serve his sentence;

1. 4-1) Prohibitions (restrictions) imposed on a person sentenced to deprivation of liberty;

5) if the defendant has been given a suspended sentence, the community or person charged with the probation period and the duty to supervise the convict;

6) the decision to include the time spent in detention or in custody or house arrest in the calculation of the sentence;

7) a decision on a measure of restraint against the defendant until the judgment enters into force;

8) the obligations imposed on the convict;

9) in cases when the grounds provided for in Article 533 of this Code are established, the decision to postpone the execution of the sentence shall be indicated.

In the sequence specified in the law, the operative part of the verdict of the court shall specify the article in which the defendant was found guilty, the relevant part of this article, the paragraph, the issue of finding the defendant as a high-risk recidivist if there are grounds.

According to Part 3 of Article 34 of the Criminal Code of the Republic of Uzbekistan, an intentional new crime punishable by imprisonment for a term of not less than five years, ie:

a) commission of a very serious crime by a person previously convicted for a very serious crime or twice for a serious crime, each of whom has been sentenced to imprisonment for a term of not less than five years;

b) The commission of a serious crime by a person who has previously been convicted twice for a felony or sentenced to imprisonment for a term of not less than five years for each of the felony or aggravated felonies, regardless of the previous one, is considered a very dangerous recidivism.

Thus, in order to find a person a high-risk recidivist, the court first concludes that he should be sentenced to at least five years in prison, and then the defendant is charged under Article 34 (3) (a) and (b) of the Criminal Code. should resolve the issue of finding a high-risk recidivist only if the specified grounds are available.

When issuing an indictment, the judge must follow the sequence specified in Part 1 of Article 468 of the CPC at the time of writing the part of the decision. Because this law is a requirement of the Code of Criminal Procedure and it is required to be complied with.

In practice, there is only one practice in this regard. That is, the operative part of the verdict shall indicate the last name, first name, patronymic of the defendant, the relevant article, part and paragraph of the Criminal Code in which the defendant was found guilty, and then the type and amount of punishment imposed for the offense[12].

Then, if there are grounds specified in Article 34, Part 3, Paragraphs "a", "b" of the Criminal Code, the issue of finding the defendant as a high-risk recidivist is resolved. Recognition of a person as a high-risk recidivist affects the determination of the type of colony of the appropriate order in which the defendant must serve the term of imprisonment imposed. Therefore, the issue of finding the defendant a high-risk recidivist should be considered in accordance with Article 468, Part 1, Clause 4 of the Criminal Procedure Code, after determining the penalty imposed and to be served in accordance with the articles of the Criminal Code.

We believe that the case law is well-established because of the existence of these connections.

In addition, as a positive result of the ongoing judicial reforms in the Republic, the number of acquittals has increased in recent years. The Supreme Court of the Republic of Uzbekistan regularly publishes information on acquittals in the country through the media..

According to Article 463 of the Criminal Procedure Code of the Republic of Uzbekistan, a conviction cannot be based on presumptions and will be issued only if the defendant is found guilty of a crime during the trial..

In the criminal case, the defendant was charged with several crimes, and if part of the charges brought by the preliminary investigation body were not proved in court, the unconvicted charges were acquitted in the courts..

Thus, in one sentence, that is, in the indictment, the court rules on both the acquitted part of the defendant and the accused part, and in the part of the decision the decision of the defendant on acquitted articles, as well as the court decision on the part of which he was found guilty.

In particular, in 2020 alone, 1,398 people were partially acquitted. In other words, the operative part of the verdict against 1398 persons states their acquittal and the verdict on the charges..

If the defendant is charged under several articles of the Criminal Code under Part 2 of Article 468 of the Criminal Procedure Code of the Republic of Uzbekistan, the operative part of the sentence must indicate on which articles the defendant was acquitted and under which articles.

In such a case, should the indictment be written on the acquittal part of the sentence, or should the acquittal be disclosed? The Code of Criminal Procedure does not specify this.

In court practice, if a defendant is found guilty of several offenses by the pre-trial investigation body, he acquits the defendant on one part of the charge and convicts the other on the part of the conviction. court verdict is shown[6].

However, this case is also not clearly defined in the Code of Criminal Procedure on the basis of the principle of sequence. In our view, the case law is well established.

If we conclude that the trial is theoretically correct, then after Article 468, Part 1, Paragraph 1 of the Criminal Procedure Code, ie after the name, surname and patronymic of the defendant, first the decision on which articles of the Criminal Code the defendant is acquitted, and then the crime is committed. It will be necessary to amend the legislation to reflect the decision on conviction.

As mentioned above, the decision of the court must be perfect and made in full compliance with the law. That is, all the circumstances specified in the court decision must be determined by the requirements of the law, so that the legitimacy of the court decision is not in doubt.

According to Article 1 of the Criminal Procedure Code of the Republic of Uzbekistan, the procedure for criminal proceedings in the territory of the Republic of Uzbekistan is determined by the Code of Criminal Procedure.

The procedure for criminal proceedings established by this Code shall be uniform and obligatory for all courts, prosecutor's offices, investigative bodies, bar associations, as well as citizens..

The perfection of the law does not cause problems or doubts in its implementation, enforcement, and the rule of law associated with this law.

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