

Some Problems and Their Solutions in the Full Provision of Justice in Procedural Legal Norms

Bozorov Maksudali Makhmudovich

Tashkent State Law University, criminal procedural law, teacher of the department

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ABSTRACT

In this article, the author talks about the importance of expenses in criminal proceedings, their application, and the procedure for recovery of costs. A number of proposals and recommendations have also been developed.

In our country, special attention is paid to the further reform of the judicial system, ensuring reliable protection of the rights and freedoms of citizens, as well as increasing the level of access to justice.

It should be noted that the guarantee of the development of our country is manifested in the implementation of comprehensive reforms aimed at the development of all sectors of the state and society.

In recent years, a number of systematic works have been carried out in our country to fundamentally improve the judiciary.

In the new version of the Constitution, legal norms related to the provision of human rights and freedoms were introduced, including the right to qualified legal assistance was guaranteed, and the **legal status of lawyers was specially strengthened**, as well as that of judges and prosecutors .

Also, in our General Code, the provisions regarding the legal protection of the rights of the victims of crime, the state's **provision of protection and access to justice for the victims** , and the **creation of conditions** for the compensation of the damage caused to them were clearly defined. [1]

However, today there are some problems and shortcomings that need to be solved **regarding the results related to the processing of the case in this field, which in turn** causes some obstacles

in the unconditional provision of human rights and interests and the full protection of their rights.

It is worth noting that **the costs associated with viewing the case importance** can be seen in:

- creates **the necessary conditions** for conducting business ;
- effectively protects the material interests of the participants in the proceedings, which in turn **ensures their full and timely participation in the proceedings** ;
- **increases the quality of work** by attracting more **specialists with knowledge and skills in various fields** and **participants with the necessary information** ;
- **through collection of expenses** related to the investigation of criminal complaints and reports **when they are not confirmed unfounded appeals** and **law enforcement agencies** causes **a decrease in workload** ;
- **expenses incurred in conducting business determine the amount** and ensures their **recovery**.

In general, **justice** work cannot be imagined **without the outputs associated with viewing**.

In other words, this institution is literally a **process** serves as a **financial instrument** . However, in spite of this, today **the institution of procedural issues** does not work in practice and, according to some experts, it has become one of **the formal "dead institutions" in criminal proceedings**. In particular,

First, Law of the Republic of Uzbekistan "On the Procedure and Amounts of Payment of Expenses of Witnesses, Victims, Experts, Specialists, Interpreters and Impartials" adopted on July 3, 1992 that it did not meet today's requirements for **From November 4, 2022 canceled** [3]

Sources of payment, payment procedure and mechanisms have not been determined and the possibility of attracting experts and specialists on the basis of the contract has not been taken into account.

It is provided that the victims, witnesses and impartial, who do not receive regular wages, will be paid from the budget funds for the distraction from their usual work, but the **legal mechanisms for this have not been created** .

The low amount of payment for the work done to the expert, specialist and translator, who perform their procedural duties independently of the service assignment, limited **the possibility of attracting qualified specialists** in the administration of justice .

Secondly, during the conduct of court proceedings, relations regarding reimbursement of costs related to the consideration of the case are not fully regulated in some procedural legal norms. This, in turn, **limits the possibility of attracting qualified specialists and persons participating in the case in the implementation of justice** .

For example, payments for the work performed by experts, experts and translators in cases related to administrative offenses are not provided for in connection with coming to court (travel, accommodation and daily expenses) of persons involved in work in civil cases.

Thirdly, Proceedings based on the current procedural legislation although it is established that it will be collected **from the parties in civil, economic, and administrative court cases**, as well as **from the convicts in criminal cases and from the state budget** , **the sources of funding** for the reimbursement of fees **in cases of administrative offenses** are not clearly indicated. These situations create various difficulties **for the competent authorities** .

For information, the legislative documents of many advanced foreign countries specify in detail

the sources of funding for the reimbursement of fees in connection with administrative offense cases.

In particular, Latvia Obligation to cover procedural costs based on Article 76 of the Law on Administrative Responsibility compensation by the person held liable defined. Also, procedural expenses if, according to the final decision, the person is not liable, if the person from whom they are to be recovered is indigent or in need and fees for the interpreter 's work to the state or himself compensation from self-management funds is provided for.

Fourthly, The criminal-procedural code does not specify specific mechanisms related to the recovery of procedural expenses .

Article 318 of the Criminal Procedure Code provides for the types of procedural costs, one of which is defined as **the amount spent for conducting expertise in expert institutions .**

For example, the costs of reagents, consumables , medical examinations (reagent, X-ray, CT scan, CT, etc.) during medical examinations , in- patient treatment for up to 30 days in forensic psychiatric examination. several tens of billions per year expenses in the amount of soums are spent from the state budget and from their extra-budgetary sources.

Also, the fact that this article does not specify the concept of **the amount spent for conducting expertise in expert institutions** causes many problems in the practice of this norm.

For example, the possibility of appointing more than 10 expertises within the framework of one criminal case, the fact that there are many objects of comparison, how exactly this amount is formed (electricity consumption, wear and tear of equipment, etc. can be taken into account), etc. are not clearly defined.

This article does not fully provide for the sources and recovery mechanisms of **costs incurred for arresting, bringing and searching persons.**

This, in turn, causes a lot of problems in the extradition of the accused and defendants who **are mostly in the territory of a foreign country , and in some cases, it also causes the citizens of our country to stay in foreign detention centers for a long time.**

At the same time, although this article stipulates **the amount of expenses related to the storage and sending of physical evidence as procedural costs , today various misunderstandings arise in the practical application of these norms.** For example, the cost of bringing and transporting physical evidence, as well as *the amount spent on the transportation of corpses and their parts*, has not been determined.

Pursuant to Article 131 of the Criminal Code of the Russian Federation, sums spent on disassembly, storage, transfer and transportation (transportation) of physical evidence, as well as transportation (transportation) of corpses and their parts are clearly provided as types of procedural costs.

Article 320 of this code , the norms related to the recovery of procedural costs from prisoners are specified, but the fact that the requirements for the recovery of costs are not clearly explained in this article, in most cases, the procedural costs that should be collected are left uncollected at the expense of **the state budget and state forensic examination institutions .** The return of these funds **will contribute to the further development of the industry, can serve to increase the wages of forensic experts .**

For information, in the legislation of many advanced foreign countries, specific mechanisms for the collection, payment and amounts of procedural costs are noted.

For example, articles 118-126 of the Code of Criminal Procedure of Ukraine detail the procedure for the recovery of procedural costs.

Also, as item 8-1 of Article 162 of the Criminal Code of the Republic of Belarus, funds spent by state forensic expert organizations for the purchase of consumables used for expert examination and current repair of expert (special) equipment are also provided as types of procedural costs.

It should be noted that the state forensic examination institutions and their regional departments **are not equipped with sufficient equipment** that meets the requirements of the time. Also, due to the lack of sufficient funds, new equipment is not purchased by them, and some questions put before the court experts by the competent authorities **remain unsolved**.

To the method of autopsy in forensic medical expertise in foreign countries **The "gold standard"** approach has been discontinued and **virtual autopsy** has been widely introduced into the field.

According to international experience, **USA, Germany, France, Switzerland, UK, Switzerland, Japan, Israel, India, China** and in the Republic of Kazakhstan **virtual autopsy - 3D modeling method** is widely used in forensic research.

(This method is from the 90s of the last century It allows to analyze the causes of death using computer tomography, magnetic resonance tomography and the data obtained from scanning the surface of the body through a special photoscanner.

This method (does not require direct physical intervention in the tissues, the obtained images are stored for a long time).

Fifth, the Law of the Republic of Uzbekistan dated August 3, 2022 ORQ-786 with **the economic, civil and administrative work**, during the preparation of the case for trial or in the course of the trial, it was allowed to request an examination by state forensic examination institutions and non-state forensic examination organizations with the consent of the person giving confidence on the basis of the contract.

Also the President of the Republic of Uzbekistan **May 8, 2023 "On the first priority measures for the implementation of the new version of the Constitution of the Republic of Uzbekistan" No. PF-67 In criminal proceedings** according to the decree in order to strengthen the status of the defender, **based on the employment contract conducting forensic examinations** and **was given the right to organize** the involvement of specialists with the necessary knowledge.

However, currently, lawyers are not given the right to initiate forensic examinations **within the framework of administrative offense cases**.

Sixth, today, lawyers are also given the right to appoint forensic experts, and they are also **allowed** to involve experts who are important for the work, however, the requirements for individuals who can participate **as forensic experts and experts are not clearly defined, and their registers are not kept.** does not allow the involvement of experts.

***For information:** these procedures exist in foreign countries, and the registry is widely used. For example, a special register (<https://seznat.justice.cz>) is maintained by the Ministry of Justice of the Czech Republic and is widely used in practice. Such registries can also be found in the Netherlands, Latvia, Lithuania and Estonia. <https://integraties.doclogic.nl/nrgd/nrgdsearch> , <https://kohtuekspert.just.ee/en/person/search?type=advanced>)*

Seventhly, electronic data exchange with related organizations has not been established by the state forensic expertise institutions, **and** information is still being exchanged **in paper form**.

For example, the interdepartmental electronic information system is widely used in the USA, in most countries of the European Union, in particular, in the German Federation, Sweden, Finland, the Czech Republic, as well as in the CIS countries of Kazakhstan and Azerbaijan.

Based on the above-mentioned circumstances, **the following is proposed in order to solve the**

existing problems and further develop the industry :

In order to eliminate the above-mentioned problematic situations, it is advisable **to establish a working group** consisting of competent experts of the relevant ministries and agencies (Ministry of Internal Affairs, General Prosecutor's Office, Supreme Court, Ministry of Justice, state forensic examination institutions, etc.) that will ensure the following tasks and assignments :

- **on the full reimbursement of the expenses related to the consideration of the case , their amounts and mechanisms, specific mechanisms related to the collection of procedural expenses** in the criminal process, as well as **the appointment of experts in cases related to administrative liability to lawyers** development of draft normative legal documents regulating relations;
- creating convenience for the competent bodies by establishing that expenses **related to administrative responsibility will be paid initially by the initiator on the basis of the condition that they will later be recovered from the respondent** . At first, **as an experiment** to ensure **its application to motor vehicles**;
- determining the requirements and rules for keeping a register of natural persons who can participate **as court experts and specialists**;
- Introduction of interdepartmental **electronic information system**.

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