

AUDIT PROCEDURE: NEW PROCEDURE FOR REVIEWING SENTENCES IN UZBEKISTAN

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Abstract:

In the science of criminal procedural law, the review of court decisions is perceived as a form of criminal procedural activity. It includes several types of review of court sentences and determinations, both those that have entered into legal force and those that have not. The functions of the appellate and cassation instances of the court consist precisely in the fact that at each of the specified stages, the legality of the sentence and determination of the court that considered the case in the previous instance is verified.

Keywords: review of court decisions, sentence, file an appeal, judicial errors, revision in the revision procedure, change of the sentence, complaints and protests in the revision procedure.

Introduction

In recent years, in order to further expand the population's access to justice within the framework of the "New Uzbekistan – New Court" principle, important reforms have been implemented aimed at ensuring the priority of human dignity.

In particular, consistent work has been carried out in our country to further improve the judicial and legal system, strengthen measures for reliable protection of the rights and legitimate interests of citizens and entrepreneurs, and effectively ensure justice. As a result of the work carried out, the degree of protection of the rights and legitimate interests of individuals in the process of administering justice has reached a new level.

At the same time, to date, an analysis of the institution of review of court decisions has shown the need to revise the current procedure by improving this institution.

In the science of criminal procedural law, review of court decisions is perceived as a form of criminal procedural activity. It includes several types of review of court sentences and rulings, both those that have entered into legal force and those that have not. The functions of the appellate and cassation instances of the court consist precisely in the fact that at each of these stages, the legality of the sentence and ruling of the court that considered the case in the previous instance is verified. At the same time, the courts of higher instances serve as a guarantor of establishing the truth, ensuring the rights and legitimate interests of the participants in the process, and eliminate investigative and judicial errors within the powers granted to them by law. Now an appeal (protest) against a sentence can be filed within 10 days (previously - 20 days).

The Code of Criminal Procedure is also supplemented by a chapter providing for the procedure for reviewing cases in an audit procedure. The next type of review of court decisions is revision proceedings, in which a sentence that has not entered into legal force may be appealed. The subject of the appeal is different: in revision proceedings, only issues of compliance and application of procedural and substantive law may be appealed. Thus, a complaint in the revision procedure can be filed against sentences and decisions:



courts of first instance, considered in the appellate or cassation, corresponding revision procedure; courts of appeal or cassation, the relevant revision authority.

A revision of a guilty verdict or a court ruling, if the complaint or protest raises the issue of worsening the situation of the convicted person, as well as an acquittal or a ruling to terminate the case, is permitted only within one year from the date of its entry into legal force.

Evidence that has not been examined by the courts of previous instances is accepted by the court, and the person must explain for what reasons beyond his control he was unable to present this evidence to the court of first, appellate or cassation instance.

The sentence must be legal, reasonable and fair . The court, having considered the criminal case in the revision procedure, makes one of the following decisions based on the results:

to leave the sentence or ruling of the court of first instance, appellate or cassation instance unchanged, and the complaint without satisfaction;

on the cancellation of a sentence or determination of a court of appeal or cassation and leaving the sentence or determination of a court of first instance unchanged;

on the cancellation of all judicial decisions made in the case and the issuance of a guilty or acquittal verdict;

on the cancellation of all court decisions made in the case and the termination of the case;

to cancel all court decisions made on the case and refer the criminal case to the court of first instance;

on changing the sentence or ruling of the court of first instance, appellate or cassation instance;

on termination of proceedings in an audit procedure, in the event of withdrawal of a complaint or protest.

In addition, from now on, when considering a criminal case in an appellate, cassation, or revision procedure, the court is not limited to the arguments of the complaint or protest and reviews the case in full with respect to all convicted persons, including those who have not filed a corresponding complaint, or with respect to whom a complaint (protest) has not been filed ¹.

The study of the system of review of judicial decisions in criminal proceedings of the CIS countries is of particular interest, since these countries are united by a common legal heritage. After gaining independence, the basic provisions of criminal proceedings for the CIS member states were laid down in the Model Criminal Procedure Code, adopted on February 17, 1996.

It can be concluded that "courts of higher instances, considering criminal cases on the basis of complaints and protests, thereby administer justice. Analysis of law enforcement practice and the norms of criminal procedure legislation regulating proceedings in the court of appeal, cassation and supervisory instances, allows us to conclude that these stages actually perform the role of judicial control and supervision over the judicial activity of lower courts, a means of quickly correcting errors committed, improving the quality of justice ². "

In the Court of the Republic of Karakalpakstan, regional, Tashkent city courts, and the Military Court of the Republic of Uzbekistan, sentences and rulings of district (city) courts on criminal cases, territorial military courts considered in the appellate or cassation procedure, as well as

¹ D.Zh.Suyunova . Review of court decisions in criminal proceedings. Study guide. - T.: Publishing house, « Lesson press », 2021. - 185 p.

² Tukhtasheva U.A. Criminal procedural ways of eliminating judicial errors: Monograph. - T.: Publishing house of TSUL, 2020. - P. 19.



sentences and rulings of these courts issued in the appellate or cassation instance on cases considered by district (city) courts, territorial military courts are subject to review in the revision procedure ³.

The following cases are considered in the judicial panel for criminal cases of the Supreme Court of the Republic of Uzbekistan in a revision procedure:

sentences, rulings of district (city) courts on criminal cases, territorial military courts, considered in the appellate, cassation or revision procedure by the Court of the Republic of Karakalpakstan, regional, Tashkent city court, Military Court of the Republic of Uzbekistan, as well as sentences and rulings issued by the same courts in the appellate, cassation or revision procedure on cases considered by district (city) courts, territorial military courts;

sentences and rulings issued at first instance by the Supreme Court of the Republic of Uzbekistan, the Court of the Republic of Karakalpakstan, regional, Tashkent city courts, the Military Court of the Republic of Uzbekistan and considered by these same courts in appellate or cassation proceedings, as well as sentences and rulings issued in appellate or cassation proceedings in cases considered by these courts in first instance.

Sentences and decisions issued in the revision procedure by the Judicial Collegium for Criminal Cases of the Supreme Court of the Republic of Uzbekistan may be reviewed again in the revision procedure by the Presidium of the Supreme Court of the Republic of Uzbekistan.

The powers of higher courts to review court decisions consist of control functions, since they consider criminal cases on the basis of a complaint or protest. At the same time, courts of appeal and cassation review a criminal case in full, not limited to a complaint or protest. This supervisory function of higher courts is called "revision order" ⁴. As Tukhtasheva U. rightly notes, "these courts also have supervisory powers, which are predetermined by the presence of revision principles in their activities. Higher courts, considering a case on the basis of complaints and protests, not only control, but also supervise compliance with the law by the bodies of inquiry, preliminary investigation and the court of first instance" ⁵.

A revision of a guilty verdict or a court ruling, if the complaint or protest raises the issue of the need to apply the law on a more serious crime, on increasing the punishment or on other changes that lead to a worsening of the convicted person's situation, as well as a revision of an acquittal or a court ruling on the termination of a case, is permitted only within one year of its entry into legal force.

The review of sentences is based on the same basic principles on which the entire criminal process is built: legality, fairness, adversarial nature, equality of the parties, etc. At the same time, the conditions of proceedings for the review of sentences, the powers of the courts of appeal and cassation instances, have a special content, their own specific meaning and procedural role, each of these instances is an independent legal institution, designed to ensure the participants in the

³ D.Zh.Suyunova . Review of court decisions in criminal proceedings. Study guide. - T.: Publishing house, « Lesson press », 2021. - 185 p.

⁴Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan dated August 24, 2018 No. 25 "On the practice of considering criminal cases by courts in appellate and cassation proceedings". // <https://lex.uz/docs/3898200>.

⁵ Tukhtasheva U.A. Criminal procedural ways of eliminating judicial errors: Monograph. - T.: Publishing house of TSUL, 2020. - P.20.



criminal process their right to review the criminal case ⁶.

In the audit procedure, a complaint is filed or a protest is brought:

1) on sentences and rulings of district (city) courts considered in the appellate or cassation procedure, as well as on sentences and rulings of the Court of the Republic of Karakalpakstan, regional, Tashkent city courts, issued in the appellate or cassation procedure in cases considered by district (city) courts - to the Court of the Republic of Karakalpakstan, regional, Tashkent city courts;

2) on sentences and rulings of territorial military courts considered in the appellate or cassation procedure, as well as on sentences and rulings of the appellate or cassation court of the Military Court of the Republic of Uzbekistan on cases considered by territorial military courts - to the Military Court of the Republic of Uzbekistan.

A complaint (protest) may be filed with the Judicial Collegium for Criminal Cases of the Supreme Court of the Republic of Uzbekistan against:

sentences, decisions of district (city) courts, territorial military courts considered in the appellate, cassation or revision procedure;

sentences, rulings issued at first instance by the Supreme Court of the Republic of Uzbekistan, the Court of the Republic of Karakalpakstan, regional and Tashkent city courts, the Military Court of the Republic of Uzbekistan and the sentences, rulings issued on them by the appellate or cassation instance.

A protest shall be filed against the sentences and decisions of the Judicial Collegium for Criminal Cases of the Supreme Court of the Republic of Uzbekistan issued in the revision procedure for reconsideration in the revision procedure to the Presidium of the Supreme Court of the Republic of Uzbekistan.

The grounds for filing a protest by the Chairman of the Supreme Court of the Republic of Uzbekistan to the Presidium of the Supreme Court of the Republic of Uzbekistan are statements (petitions) of persons specified in Article 511 of the Code of Criminal Procedure , as well as a representation by a judge, and media reports.

Complaints and protests in the revision procedure provided for are submitted through the court that issued the sentence, ruling. In the event of filing a complaint or protest directly to the Court of the Republic of Karakalpakstan, regional, Tashkent city court, Military Court of the Republic of Uzbekistan, the court sends them to the court that issued the sentence, ruling to fulfill the requirements set out in Article 479 of the Code of Criminal Procedure ⁷.

The procedure established by this article also applies to the procedure for filing a private complaint and bringing a private protest in the audit procedure. If for any reason a complaint or protest filed in the revision procedure with respect to some convicted persons is received by the court considering the case in the revision procedure after the consideration of the criminal case with respect to other convicted persons, and also if a complaint filed in the revision procedure by a convicted person, his defense attorney or legal representative is received when the case with respect to this convicted person has been considered on the basis of a complaint or protest filed in

⁶Kalyakin O.A. Limits of review of a criminal case in the court of appeal (comparative legal analysis of the legislation of Russia, the USA, France and Germany) // International criminal law and international justice. - 2016. - No. 5. - P. 13-16.

⁷ Borodinova T.G. Institute of review of sentences in modern criminal procedural law of the Russian Federation: dissertation for the degree of Doctor of Law. – Moscow, 2016. – 454 p.



the revision procedure by another participant in the process, the court considering the case in the revision procedure is obliged to consider such complaint or protest and make an appropriate decision on it.

If, during an additional review of the case, the verdict, ruling (order) issued by the court considering the case in the revision procedure contradicts the previously issued verdict, ruling (order), the case is sent to the prosecutor authorized to file a protest in the revision procedure to decide on the issue of filing a protest.

The procedure for additional consideration of a criminal case also applies to late-submitted private complaints and private protests.

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