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THE PROCEDURAL STATUS OF THE PRESIDING JUDGE IN THE CONSIDERATION OF CRIMINAL CASES ON THE MERITS

Submission Date: June 08, 2022, Accepted Date: June 18, 2022,

Published Date: June 29, 2022

Crossref doi: <https://doi.org/10.37547/ijlc/Volume02Issue06-02>

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ABSTRACT

The Code of Criminal Procedure determines the place of the court in the implementation of the tasks of criminal proceedings and the implementation of its purpose. Occupying a central place in the system of criminal proceedings, the court is called upon to implement the criminal proceedings specified in the Constitution of the Republic of Uzbekistan to protect the rights and freedoms of citizens in the course of administering justice. Therefore, the content of the status of the court established by the procedural law, its duties, the limits of authority and the legal means granted to it largely depends on the effectiveness of solving the problems assigned to criminal proceedings.

KEYWORDS

Criminal process, judge, trial, presiding judge, people's assessor.

INTRODUCTION

In the Development Strategy of New Uzbekistan for 2022-2026, the President of the Republic of Uzbekistan Sh.M. Mirziyoyev noted that in order to ensure the rule of law and further development of the country, it is necessary to increase the role of the judiciary in ensuring the true independence of the judiciary, the

widespread introduction of the principles of judicial self-government, and also the creation of effective mechanisms to prevent illegal influence on judges [1]. The Code of Criminal Procedure determines the place of the court in the implementation of the tasks of criminal proceedings and the implementation of its

purpose. Occupying a central place in the system of criminal proceedings, the court is called upon to implement the criminal proceedings specified in the Constitution of the Republic of Uzbekistan to protect the rights and freedoms of citizens in the course of administering justice. Therefore, the content of the status of the court established by the procedural law, its duties, the limits of authority and the legal means granted to it largely depends on the effectiveness of solving the problems assigned to criminal proceedings.

The legal regulation of the general procedure for preparing for a court session has as its task the implementation of all necessary preparatory actions for conducting a trial in full compliance with the requirements of the criminal procedure law. At this stage, the case is considered, which came to the court from the prosecutor with an indictment or an indictment.

When preparing for a court session, the judge examines the criminal case received by the court and single-handedly establishes the presence or absence of factual data and legal grounds for deciding whether to bring the case to the court session for its subsequent trial. The study by the judge of the written materials of the case is aimed at ascertaining the observance of the legality of the conduct of investigative actions during the inquiry and preliminary investigation and the state of preparedness of the case materials for their consideration at the court session.

The performance of one of the functions of the stage of preparation for the consideration of a case in a court session as a form of direct judicial control over the compliance of the actions of the bodies of inquiry and preliminary investigation with the requirements of the law is to establish compliance by officials of these bodies with all obligations to refer the case to court, to

ensure the procedural rights of participants in criminal proceedings, removal of obstacles to the consideration of the case in court.

According to Articles 13, 29 of the Code of Criminal Procedure of the Republic of Uzbekistan, a judge, acting alone or as part of a court, exercises powers that include: preparation of a criminal case for trial; trial of the case and the decision of the verdict or other decision; consideration of the case in the appellate, cassation, supervisory procedure; the appeal of the sentence for execution and, in addition, the higher courts, within their powers, supervise the judicial activities of the lower courts [2].

A special place among the powers of the judge during the trial is occupied by his function of procedural leadership of the court session. Its implementation ultimately aims to ensure effective, purposeful management of the entire course of the proceedings at this stage: to take all measures provided by law for a comprehensive, complete and objective investigation of the circumstances of the case and to establish the truth, to eliminate everything from the trial that is not related to the case, maintain proper order in the court session [3].

The presiding judge is an independent participant in the justice administered by the court of first instance in criminal cases, since he is endowed by law with certain procedural rights and obligations, is able to enter into criminal procedural relations and carry out directed criminal procedural activities. On the basis of the norms of the criminal procedure legislation and internal conviction, the chairperson performs the function of managing the consideration of the case, which consists of three relatively independent areas of his activity:

- Organizational and procedural;
- Competitiveness activities
- Equality of the parties and participation in criminal procedural proof.

The scope of the rights and duties of a judge presiding in a criminal case considered in a general manner varies depending on the composition of the court. During a collegiate hearing of the case, the presiding judge directs the court session, ensuring compliance with its schedule, explains to the participants in the trial their rights and obligations, and takes measures to ensure the competitiveness and equality of the parties. This activity is aimed at creating conditions in the court session for the correct resolution of the criminal law conflict of the parties, therefore, it is auxiliary in relation to the function of resolving a criminal case, carried out by the composition of the court. Meanwhile, in cases of a sole consideration of the case, the scope of the rights and obligations of the presiding officer is sharply expanded due to the specified function of the court. It only means that the judge becomes the bearer of two different procedural statuses: presiding judge and judge. This circumstance is especially clearly manifested when the presiding judge, who single-handedly considers the case, makes and signs criminal procedural decisions on behalf of the court, for example, a decision to return the criminal case to the prosecutor, to challenge, to appoint a forensic examination, to terminate the criminal case, and finally, a sentence.

And in the collegiate hearing of criminal cases, the judge ex officio presides over the court session. And it is he who is obliged to ensure both the strict observance of the law and the highly moral course and result of the trial. Of course, some of the moral problems that have to be solved in a collegiate court differ from those that face a single judge. At the same

time, the leadership of the court session, within the limits of the procedural procedure prescribed by law, invariably remains with the presiding judge, who enters into moral relations with the parties, other persons participating in the case, and in a collegiate hearing of the case also with judges or people's assessors.

The presiding judge is obliged to familiarize each people's assessor in advance with the case materials, explain the essence of the law under which the defendant is accused, as well as the rights of the people's assessor. At the same time, the judge is not entitled to inspire people's assessors with his own opinion on issues within the competence of the collegium of the court. The personal responsibility of the people's assessor for participation in the investigation of the case and its fair resolution should also be clarified.

During the trial, the presiding judge provides each member of the court the opportunity to freely express their opinion when the court makes a decision, as well as to participate in the study of all evidence. If the court issues a ruling conferring on the spot, then the opinion of each of the members of the composition of the court on the issue under discussion must be carefully listened to, and the decision is taken collectively by a majority of votes. This procedure, like all actions of a collegiate court, must be carried out in such a way that it is clear to all participants in the trial that any opinion is decided and accepted by the court, and not by the presiding judge.

The presiding judge must provide the members of the court with the opportunity to actively participate in interrogations and other judicial, including investigative actions, while in case of unsuccessful formulation of questions, their ambiguity, show due

tact, eliminating only leading questions prohibited by law, but in such a form that discredit their author. The judicial investigation ends on the condition that the members of the court do not insist on the continuation of actions to examine the evidence.

The position of the judge is such that before the decision of the verdict, he is not entitled to express his opinion about the guilt or innocence of the defendant. Otherwise, it is subject to a justified challenge. However, it is equally important that the judge not only does not “make public” in one form or another his attitude to the case, his position on resolving issues that form the essence of the verdict, but also be internally free from prejudice, ready to perceive everything that happens in court without additions, objectively.

The judge presiding over the case, as well as other judges or people's assessors, must be equally attentive to the petitions, statements of all participants in the trial, listen to them and raise the questions raised for resolution by the court.

In the process of judicial investigation, the actions and behavior of the presiding judge, other judges and people's assessors are subordinated to one goal - through a comprehensive, complete and objective examination of evidence, to establish the truth in the case. At the same time, both in content and in form, the actions of the court must comply with procedural and moral standards.

The presiding judge is obliged to carefully listen to the testimony of all interrogated persons, regardless of whether he considers these testimonies to be true or false, corresponding to reality or the result of a delusion. At the same time, each interrogated person should be given the opportunity to freely state his

testimony, and questions are asked, as a rule, at the end of such a story. All leading questions raised by any of the participants in the trial are subject to unconditional and immediate rejection by the presiding judge. The judges themselves, all the more, have no right to put leading questions in any form.

Summarizing all of the above, we conclude that, throughout the entire trial, the presiding judge is obliged to show tact, restraint, be extremely collected, exemplary observe the rules of judicial ethics. At the same time, he must take measures to ensure that in the process of communication among themselves, all participants in the trial comply with ethical standards, rules of conduct in a state institution. The presiding officer must behave formally and at the same time politely, be attentive to everyone with whom he comes into contact. The behavior of a judge should not be either dryness, callousness, or lightness, playfulness. Every crime that, the court investigated, brought grief to someone, a moral shock. The judge will probably be remembered for the rest of his life by the defendant, his relatives, the victim, other participants in the process, his behavior is carefully observed by those in the courtroom, in their eyes he is a judge, from whom they expect a smart and conscientious investigation of the case and its fair resolution. And the judge is obliged to justify these hopes with all his behavior.

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