

Some Opinion About The Status Of An Eyewitness To The Incident In The Criminal Process

Abdullayev Rustam Kahramanovich

Acting Associate Professor of the Department of Forensic Science and Forensic Expertise, Tashkent State University of Law, Doctor of Philosophy in Law (PhD), Uzbekistan

Received: 26 July 2025; **Accepted:** 22 August 2025; **Published:** 24 September 2025

Abstract: Based on the analysis of the practice of pre-investigation inspection bodies, preliminary investigation, inquiry and courts, as well as the results of the study and generalization of the scientific views of legal scholars, the concept of the term "eyewitness of the incident" and the procedural status of an eyewitness are considered in the article. Based on the results of scientific research, the proposals are substantiated on the need to ensure the rights and legitimate interests of all participants in the criminal process both in pre-trial and in court proceedings, as well as on the introduction of norms on the eyewitness of the incident, as well as concerning his rights and obligations, into the criminal procedure legislation.

Keywords: The eyewitness of the incident, the procedural status of the eyewitness of the incident, the witness, the participation of the eyewitness of the incident in the criminal process, the testimony of the eyewitness of the incident, the protection of participants in the criminal process, the responsibility of the eyewitnesses of the incident.

Introduction: The Criminal Procedure Legislation of the Republic of Uzbekistan, based on the provisions of the Constitution of the Republic of Uzbekistan, defines the procedure for legal proceedings throughout Uzbekistan (Part 1 of Article 1 of the Criminal Procedure Code of the Republic of Uzbekistan). In addition to the actual procedure of court proceedings, i.e., the grounds and rules for making procedural decisions, conducting investigative and other procedural actions, including measures of criminal procedural coercion, and the procedures of judicial stages, the law establishes the procedural status of participants in criminal proceedings (Chapter 3 of the Criminal Procedure Code of the Republic of Uzbekistan). However, the criminal procedure legislation of the Republic of Uzbekistan does not define the concept of a participant in criminal proceedings, i.e., a person participating in criminal proceedings.

According to A.V. Mironova, "Participation implies joint activity, cooperation in something. In relation to criminal proceedings, participation means the interaction of persons during certain stages (stations) of criminal proceedings or during the production of a specific procedural action".

Articles 155, 221, and 224 of the Criminal Procedure Code of the Republic of Uzbekistan stipulate that "before conducting an experiment, the circumstances of the investigated event must be fully reconstructed in accordance with the testimony or assumptions being examined. For this purpose, each suspect, accused, defendant, victim, and witness may be asked to recreate the circumstances and circumstances of the incident in which they participated or witnessed individually". Also, as grounds for detention (Article 221), the direct testimony of witnesses to the crime and the testimony of witnesses in the procedure for detention before the initiation of a criminal case (Article 224) are defined as grounds.

Persons involved in criminal proceedings at the stage of initiating a criminal case (the victim, the applicant, witnesses, the suspect, the investigator, the inquiry officer, the specialist) acquire procedural status from the moment they are involved in activities to verify a report or statement about an unlawful act (action or inaction). And if the status of these participants in criminal proceedings is specifically enshrined in the provisions of criminal procedure legislation, then the procedural status of such a participant in this activity as

a witness is not defined. This may be due to the fact that the witness's participation in criminal proceedings is short-term. Despite this, in practice, numerous questions arise regarding the absence of separated rights and obligations of witnesses and, as a rule, their lack of responsibility for giving false.

In forensic literature, there are opinions about witnesses, in which a witness is defined as a person who has seen the crime from beginning to end with their own eyes, or as a person who has seen and known the perpetrator. For example, T. Mamatkulov and others... "First, as a rule, victims and witnesses - persons who have witnessed the crime from beginning to end with their own eyes - are interrogated, then persons who have reported the incident or who have information about the suspect and the victim are interrogated" and A. Zakurlaev and K. Makhmudov write that "the mentioned abilities of human consciousness allow for the effective use of information about a person's appearance in forensic practice by involving persons (witnesses) who have seen and known that person in the process of identifying or searching for a crimina" .

Despite the high significance of witness testimony in any case and the small number of errors or changes in the transfer of information from one person to another, the status of this participant in criminal proceedings is not enshrined in criminal legislation.

In the first part of Article 221 of the Criminal Procedure Code of the Republic of Uzbekistan, among the grounds on which the investigator or inquiry officer has the right to detain a suspect, the grounds "2) witnesses, including victims, shall directly indicate this person as having committed a crime" are indicated. In this case, according to the witness's testimony, a measure of procedural coercion may be applied, i.e., detention, which restricts a person's personal freedom. However, there is no guarantee of the truthfulness of the witness's information (testimony), as there is no norm in the current legislation regarding the witness's liability for knowingly submitting false reports or providing false.

In practice, an explanatory note is obtained from witnesses regarding an incident, which is attached to the investigation documents. This may be due to the fact that the witness participates in the criminal proceedings for a short period and does not play a decisive role in the administration of justice. Nevertheless, in practice, the lack of a clearly defined status, rights, and obligations of witnesses and, as a consequence, the absence of liability for giving false testimony is the cause of many disputes.

N.A. Ternovsky asserts that the concepts of witness and

witness are similar. However, in accordance with the Criminal Procedure Code of the Republic of Uzbekistan, it is clearly established that "Any person who may be aware of any circumstance to be clarified in a criminal case may be summoned as a witness".

In the science of criminal procedure, for example, disputes arise regarding the investigator's right to obtain explanations from witnesses before initiating a criminal case. Analysis of investigative practice shows that at the stage of initiating a criminal case, investigators receive explanations from the victim (applicant) and witnesses. However, in this case, the witness interacts with the investigator, who is currently outside the criminal proceedings.

Some foreign scholars argue that witnesses should be understood as both individuals and legal entities, for example, I. Kaznachey and S. Nazarov note that "legal entities are of interest as witnesses. For example, in accordance with the Criminal Procedure Code of the Russian Federation, as a witness, one can consider the Bank of Russia, which discovered the fact of deliberately providing incomplete or unreliable information about the transactions, obligations, property of any organization or its financial condition" .

Based on the foregoing, the analysis of the status of a witness in criminal proceedings allows us to conclude that this participant in criminal proceedings should be considered in connection with the procedural action of obtaining explanations and clarifications.

If we pay attention to the etymology of the word shohid, we can be sure that "Shohid - (Arabic - witness, observer) - a person who was directly involved in, participated in, or witnessed any action, event, or behavior; witness".

As can be seen, the concept of witness is more precise than the concept of witness. A witness may be a person who directly witnessed and observed the crime, while a witness may have obtained information about the crime from other sources. However, from the analysis of practice, it became known that witnesses to the incident may also be persons who did not directly participate in the crime.

In this regard, G. Abdumajidov and others note that "during the initial stage of investigating a criminal violation of traffic safety rules, the interrogation of witnesses is of particular importance. Such persons include pedestrians, passengers, and drivers of vehicles who were not involved in the incident, but can observe it from a close proximity to the accident site. Traffic police officers performing their duties to monitor traffic safety may also be witnesses to the incident".

Therefore, it is proposed to use the term "witness of the event" instead of "witness" in criminal proceedings and to define this participant in criminal proceedings as follows:

An event witness is a person who sees, knows, and perceives the occurrence of an event and the person (subject) who committed it.

According to the theory of criminal procedure law, a witness can be a witness. Criminal Procedure Code of the Republic of Uzbekistan Article 65 specifies two characteristics of the witness status: "a witness is a person who may be aware of any circumstance that may be relevant to the investigation and resolution of a criminal case, and a participant in criminal proceedings summoned for testimony. To determine the procedural status of a witness, it is not enough for him to be aware of any circumstance (fact) that is of interest to the preliminary investigation and the judicial body and is subject to clarification in the criminal case. In this case, the fact that this witness was summoned for testimony is also important. Only after this procedure is completed does the person become a witness and acquire certain rights and obligations". According to the official interpretation of the Criminal Procedure Code, the legal status of a person is determined based on their actual situation and is subsequently formalized by relevant procedural documents.

Along with the above, the issue of the presence of witness immunity among witnesses of an event, whose factual status is similar to the procedural obligations of a witness, is also relevant. Because, based on their professional and procedural activities, the Criminal Procedure Code of the Republic of Uzbekistan does not prohibit preliminary investigation bodies from obtaining information relevant to the case from witnesses. In such cases, certain categories of persons who are witnesses to the event (situation), for example, a lawyer, are obliged to provide information about the circumstances that became known to them in the process of providing legal assistance. However, in this case, the lawyer, when a criminal case is initiated in the case under consideration, now acquires the status of a witness and, in accordance with the procedure established by current legislation, "cannot be interrogated as a witness regarding the details that became known to him when performing the duties of defense".

In addition, in accordance with the current Law of the Republic of Uzbekistan "On the Protection of Victims, Witnesses and Other Participants in Criminal Proceedings". witnesses are also included in the category of protected persons subject to state

protection, including "protective measures may also be applied to the applicant, witness of the crime, or persons assisting in the prevention or detection of a crime before the initiation of a criminal case". Of course, this norm is an important guarantee of ensuring the rights and freedoms of witnesses to the incident.

In conclusion, the current Criminal Procedure Code should clearly regulate the status of all categories of persons involved in verifying information about crimes, given the need to properly ensure the rights and legitimate interests of all participants in criminal proceedings. Because the absence of such regulation can lead to violations of the rights and legitimate interests of witnesses in the activities of law enforcement agencies.

The involvement of participants in justice is associated with the application of various coercive measures against them, therefore the status of all participants should be determined by special norms of the Criminal Procedure Code of the Republic of Uzbekistan.

Therefore, in our opinion, it is necessary to introduce into the criminal procedure legislation a norm on the liability of witnesses for giving deliberately false explanations and information in the process of confirming information about a crime.

REFERENCES

1. Law of the Republic of Uzbekistan "On the Bar" of December 27, 1996. Article 10 / National Database of Legislation, 12.10.2018, No. 03/18/497/2044; January 16, 2019, No. 03/19/516/2484; 24.05.2019, No. 03/19/542/317, 11.09.2019, No. 03/19/566/3734; National Database of Legislation, April 21, 2021, No. 03/21/683/0375.
2. Law of the Republic of Uzbekistan "On the Protection of Victims, Witnesses and Other Participants in Criminal Proceedings" of January 14, 2019, Article 4 / National Database of Legislation, April 21, 2021, No. 03/21/683/0375.
3. Criminal Procedure Code of the Republic of Uzbekistan. - T., 2019. p. 65. / National Database of Legislation, February 13, 2021, No. 03/21/673/0112; 18.02.2021, No. 03/21/675/0126.
4. Forensics: Textbook for students of higher educational institutions / Authors: G.Abdumajidov et al. - T.: Adolat, 2003. - P. 558.
5. S. Sahaddinov. Commentary on the Criminal Procedure Code of the Republic of Uzbekistan. General Part (Scientific and Practical Review) /

Editor-in-Chief: B.H. Pulatov. - Tashkent: Yangi Ars Avlodi, 2014. - P.142.

6. Criminalistic Tactics: Textbook / T.B. Mamatkulov, Sh.T. Djumanov, U.T. Turgunov et al. - T.: Academy of the Ministry of Internal Affairs of the Republic of Uzbekistan, 2013. - P.107.
7. Criminalistics: Textbook. / A.K. Zakurlaev, K.O. Makhmudov. - T.: Military-Technical Institute of the National Guard of the Republic of Uzbekistan, 2018. - P.399.
8. Терновский Н.А. Юридические основания к суждению о силе доказательств и мысли из юристов практиков и присяжных заседателей. – Тула. 2006. – С.43.
9. Explanatory Dictionary of the Uzbek Language. Sh letter. Editorial Board: E. Begmatov, A. Madvaliyev, N. Mahkamov, T. Mirzayev (head), N. To'xliyev, E. Umarov, D. Xudoyberganova, A. Hojiyev. A.Madvaliyev ed. - T.: State Scientific Publishing House "Uzbekistan National Encyclopedia." 2013. - P.599.
10. И.В. Казначей, С.Д. Назаров. Фантомы уголовного судопроизводства - заявитель и очевидец как участники проверки сообщения о преступлении // Вестник Уральского юридического института МВД России. 2018. №2. URL: <https://cyberleninka.ru/article/n/fantomy-ugolovnogo-sudoproizvodstva-zayavitel-i-ochavidets-kak-uchastniki-proverki-soobscheniya-o-prestuplenii>. – С.21-26.
11. Комментарий к Уголовному кодексу России (постатейный) / под ред. Г.А. Есакова. – М., 2017. – С.179.
12. А.В. Миронова - <https://cyberleninka.ru/article/n/zayavitel-i-ochavidets-kak-uchastniki-ugolovnogo-sudoproizvodstva-s-neopredelennym-protsessualnym-statusom/viewer>