

# PROVIDING OF PERSONAL RIGHTS IN CRIMINAL PROCEDURE: THEORETICAL ANALYSIS

Bazarova Dildora Baxadirovna,  
Head Of Department Of Criminal-Procedural Law Of Tashkent State University Of Law,  
PhD. Professor., Uzbekistan  
E-mail: d.bazarova@tsul.uz

## ANNOTATION:

**The article examines the theoretical and legal aspects of providing of personal rights in criminal procedure. The article also analyzes the scientific views of scholars on the theoretical aspects of providing of personal rights in criminal procedure.**

**Keywords: principle, law, standard, crime, criminal procedure, investigation.**

## 1. INTRODUCTION:

The concepts of individual rights and their procedural guarantees in criminal proceedings have been legally described by foreign procedural researchers as follows.

In addition to the legal definitions given to the concept of criminal procedural guarantees, it can be understood as a set of all legal norms and legal instruments aimed at ensuring the rights and freedoms of participants in criminal proceedings.

At the stages of criminal proceedings, in particular, from the initiation of a criminal case to its investigation, appointment to court, consideration of the case in court and the adoption of court documents (verdict, ruling), enforcement of the sentence (ruling, decision) procedural safeguards are important.

It should be noted that criminal procedural guarantees are a practical confirmation of the legitimacy and humanity of justice in criminal proceedings, and the practical protection of the rights of the person established by law in criminal proceedings.

## 2. THE MAIN PART:

Guarantees are inextricably linked and cannot be contrasted or equated, they are a type of legal guarantees of legality in criminal proceedings. The interests of the state in relation to an individual may not be mutually exclusive, but the state ensures the protection of these interests by determining the legitimate nature of this or that interest of the individual. In the broadest sense, the guarantee of legality is the whole criminal process, as well as the procedural form. The form is aimed at ensuring the achievement of procedural tasks in compliance with the rights and legitimate interests of the participants in the process.

According to LD Kokoreva, criminal procedural guarantee is a system of legal instruments aimed at justice and established by law to protect human rights and freedoms in criminal proceedings [1].

According to KF Gutsenko, criminal procedural guarantees are the conditions, means and methods of ensuring the clear and uniform observance of the law in the activities of participants in criminal proceedings, the exercise of their rights and obligations to achieve and resolve goals[2].

The theoretical definition of the concept of procedural guarantees by P.A. Lupinskoy is more precise, according to which these are the legal means available in the legal norms, which allow all subjects of criminal procedural activity to perform obligations and exercise the granted rights [3].

S.Yu.Frantsiforova, on the other hand, defined the concept of procedural guarantees as "a system of legal means established by law,

which ensures the implementation of the tasks of judicial proceedings in criminal cases" [4].

In order to achieve the goals of criminal procedure legislation and effectively address the tasks facing it, it is necessary, first of all, to create a system of special procedural guarantees aimed at protecting the rights and legitimate interests of persons involved in criminal proceedings.

According to the theoretical conclusions given in the definition of procedural guarantees of the rights of the person, procedural guarantees include the following elements: 1) principles of criminal procedure; 2) the rights and obligations of the participants in the process; 3) the duties of officials in ensuring the rights of the individual.

L.A.Krotova also divides them into two groups according to the scope of criminal procedural norms: 1) procedural guarantees provided by norms that contain the whole system of criminal procedure, the basic conditions of justice or the interpretation of procedural concepts and institutions (principles). in a criminal case); 2) procedural safeguards provided for in the rules covering certain typical procedural situations that have a regulatory effect [6].

Despite the conflicting views in science regarding the system of guarantees, we emphasize once again that procedural guarantees are a system of legal means of security, not independent procedural means. The social significance of this system is that it directs the officials conducting the criminal proceedings to change the center of gravity, to reject the declaration, rather than the actual provision of the rights of the person provided for in the law of criminal procedure [7].

As in any field, criminal procedure, which is one of the main branches of jurisprudence, also has principles that reflect the basic rules.

The principles of criminal procedure embody the general rules that form the basis

for their implementation in this area. As the activities in this area are carried out in the manner prescribed by law, the basic rules (principles) underlying these activities should be strengthened.

The principles express the essence and content of the criminal process, describe its most important features and qualitative aspects, the subject and method of procedural regulation. The principles, which are the general norms, ensure that all issues arising in the course of practical activities are addressed. In procedural law, when problems or contradictions arise between certain norms, principles serve as a means of resolving the difficulties that arise. Further strengthening the rule of law in criminal proceedings requires strict adherence to each of its principles and their consistent implementation at all stages and institutions, and a correct understanding of the content and system of these principles will enrich the knowledge of operatives in the future. The importance of the principles of criminal procedure is as follows:

first, they vividly express the democratization and humanity of the criminal process, defining its structure and system;

secondly, it serves as a basis for further improvement of criminal procedure norms and some criminal procedural institutions;

thirdly, it is a reliable basis for the interpretation and application of criminal procedural norms, which are difficult to understand in practice the principles of criminal procedure;

fourthly, unconditional adherence to the principles of criminal procedure is a necessary and obligatory condition for the performance of all the tasks of criminal proceedings [8].

It is known that all relations in the field of criminal procedure, including the issue of principles, are reflected in the legislation governing the field, ie the Code of Criminal Procedure of the Republic of Uzbekistan.

In particular, these principles include the rule of law, the administration of justice only by the court, the jurisdiction and individual review of criminal cases, the independence of judges and their subordination to the law, the inevitability of criminal proceedings, the equality of citizens before the law and the courts. with the right to respect, honor and dignity of the person, protection of the rights and freedoms of citizens, transparency of criminal proceedings, language of criminal proceedings, public participation in criminal proceedings, truth-telling, presumption of innocence, protection of suspects, accused and defendants the right to seek, to challenge in court proceedings, to examine evidence directly and orally, to appeal procedural actions and decisions.

From the initiation of criminal proceedings in criminal proceedings, the system of procedural guarantees of the rights of the individual plays an important role in ensuring the content of the case in court and the adoption and execution of court documents (judgments, rulings).

We emphasize that the system of guarantees is a system of legal instruments, not a separate procedural means. The social significance of this system is that it determines the waiver of a declarative nature to officials involved in criminal proceedings, the real provision of the rights provided for in the criminal procedure legislation.

According to the summary of the theoretical conclusions given in the definition of procedural guarantees of the rights of the person, procedural guarantees include the following elements: 1) principles of criminal procedure; 2) the rights and obligations of the participants in the process; 3) the duties of officials in ensuring the rights of the individual.

Scholars who have studied the theory of criminal procedural guarantees have debates on the number of procedural tools included in

the system of procedural guarantees. There are also a number of theoretical conclusions about what elements can be included in the system of guarantees of the rights of participants in criminal proceedings by forming a scientific definition of the theory under consideration.

Therefore, foreign jurists on the system of criminal procedural guarantees have put forward the following conceptual views, in particular:

G. P. Ximicheva, O. V. Khimicheva and A. I. According to Borodulins, criminal procedural guarantees represent a multi-level system. That is, this system includes: 1) a form of criminal procedure; 2) principles of criminal proceedings; 3) procedural norms ensuring the rights and obligations of participants in criminal proceedings; 4) verification of the legality and validity of procedural actions and decisions (departmental control, prosecutorial control and judicial control); 5) the content of the activities of state bodies and officials conducting criminal proceedings; 6) the task of criminal prosecution bodies and officials to explain the rights of persons involved in the case and provide opportunities to exercise these rights [9].

According to Yu.A. Ivanov, in the system of procedural guarantees: 1) criminal procedural form; 2) principles of justice; 3) system of procedural coercion; 4) the procedure for monitoring the legality of procedural actions; 5) procedural sanctions [10]. Note that it does not contain norms that strengthen the rights and obligations of the participants in the process, but at the same time, unlike others, additionally emphasizes procedural sanctions.

A. V. Greenenko believes that the system of criminal procedural guarantees combines three components: 1) the form of criminal procedure; 2) principles of criminal proceedings; 3) the rights and freedoms of the

participants in the process enshrined in law [11].

N.I. Capinus emphasizes that the system of procedural guarantees in criminal proceedings is the organic integrity of interrelated procedural means and methods in ensuring the rights and legitimate interests of the participants in criminal proceedings in order to determine the truth in a criminal case [12].

Despite the conflicting views in science regarding the system of guarantees, we emphasize once again that procedural guarantees are a system of legal means of security, not independent procedural means. The social significance of this system is that it directs officials conducting criminal proceedings to deny declaration, to change the center of gravity, rather than the actual provision of individual rights provided for in the law of criminal procedure [13].

In turn, the system of guarantees directly allows the participants of the process to exercise their rights and legitimate interests. At the same time, it establishes justice in criminal proceedings by protecting any participant in criminal proceedings from unlawful acts of the investigation and law enforcement agencies.

In our opinion, based on the many interpretations listed above, it is appropriate to consider the system of procedural safeguards in a broad and narrow sense.

The system should include the following components, which differ significantly in composition, in particular: the principles of criminal procedure; forms of criminal proceedings; rights and obligations of participants in criminal proceedings; the responsibilities of bodies and officials in ensuring the rights of citizens participating in the process.

### 3. CONCLUSION:

In conclusion, it should be noted that the procedural guarantees of the rights of the individual in the proper administration of justice are aimed at the integral connection between the rights and freedoms of the individual.

The importance of criminal procedural guarantees cannot be linked to the protection of justice alone or only to the protection of the interests of the individual and cannot be contradictory.

Indeed, an in-depth and comprehensive study of the current state of law enforcement practice to ensure a system of procedural guarantees of the rights of each participant in criminal proceedings, as well as further improvement of legislation in this area is an urgent task today.

### REFERENCES:

- 1) Gorsky G.F., Kokorev L.D., Elkind P.S. Problems of evidence in the Soviet criminal process. Voronezh, 1978. - p. 229-230
- 2) Gutsenko K.F. Criminal process / Ed. K.F. Gutsenko. M., 1996. p. 19
- 3) Lupinskaya P.A. Criminal procedural law of the Russian Federation / Ed. P.A. Lupinskaya. M., 2005.-p. 53
- 4) Frantsiforova S.Yu. Guarantees of ensuring the rights of the individual in criminal proceedings // Izvestia of the Saratov University. 2008. T. 8. Ser. Economy. Control. Right, no. 1.-p.69
- 5) Ovchinnikov Yu. G. The concept of criminal procedural guarantees // Bulletin of SUSU, No. 19, 2011. - p.42
- 6) Ovchinnikov Yu. G. Classification of criminal procedural guarantees // Series "Law", issue 24. -p. 58.
- 7) Krotova L.A. Procedural guarantees for achieving the objectives of criminal justice: dissertation of the candidate. jurid. sciences. Kazan, 1982. -p. 106.

- 8) Criminal proceedings. Textbook (under the general editorship of Z.F. Inogomjanova). - T.: TDYuI, 2008. - p.20.
- 9) Химичева Г. П., Химичева О. В., Бородулин А. И. Понятие и назначение уголовного судопроизводства (уголовного процесса): учебное пособие // Уголовный процесс: общая часть. Вып. 1. М., 2002. С. 18.
- 10) Иванов Ю. А. Уголовно-процессуальные гарантии // Курс советского уголовного процесса: общая часть. М., 1989. С. 215.
- 11) Гриненко А. В. Уголовный процесс. Общая часть: учебник / под ред. А. В. Гриненко. М., 2002. С. 26-27.
- 12) Капинус Н. И. Процессуальные гарантии прав личности при применении мер пресечения в уголовном процессе: дис. д-ра юрид. наук. М., 2001. С. 149.
- 13) Овчинников Ю. Г. Система уголовно-процессуальных гарантий // Вестник ЮУрГУ, № 25, 2010. – С.56.