

Guarantees of Ensuring the Legality and Reasonability of Procedural Coercive Measures

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Abstract:

This article examines an important aspect of criminal procedural law - guarantees of ensuring the legality and validity of coercive measures. The mechanisms and tools that should guarantee the rights and legitimate interests of persons subject to criminal procedural coercion are explored. The article offers an analysis of current legal norms and the practice of their application in order to increase efficiency and compliance with the principles of fairness in the criminal process.

Keywords: basic principles of criminal procedure, coercion, basis, justice.

According to the article 13 of the Constitution, democracy in Uzbekistan is based on universal human principles, according to which the person, his life, freedom, dignity and other inalienable rights are recognised as the supreme value. The direct protection of democratic rights and freedoms by the Constitution and the law is the constitutional and legal basis for the application of criminal procedural coercive measures.

Criminal procedure law is one of the most important branches of law, which is directly related to the observance of laws, justice and law and order in society. The study of the basic principles of this branch allows a better understanding of the fundamental aspects of criminal procedure and its basic principles, which determine the order and rules of participation of the parties in criminal proceedings, as well as ensures the protection of the rights of citizens and compliance with procedural discipline. The study of the relationship between these principles and measures of procedural coercion will reveal the relationship between them and their impact on the course of criminal proceedings.

Ensuring legality and reasonableness in the application of measures of procedural law is a fundamental principle of the legal system. These guarantees play an important role in ensuring a fair trial and protecting the rights of citizens.

Legality implies compliance with and application of legislation in procedural activities. This means that all actions of the participants in the process, from the collection of evidence and investigation to the judgement of the court, must comply with the laws and norms of procedural law. Violation of legality may lead to invalidity of actions or decisions, as well as violate the rights of the parties to the process.

Reasonableness means that procedural decisions are justified and reasonable. This requirement implies that the measures and decisions taken must be justified by facts, evidence and the law. Illegal and insufficiently justified actions may lead to violation of the rights of the parties and negatively affect the fairness of the process.

Thus, legality and reasonableness in the context of application of measures of procedural law are important principles that ensure fairness, protection of rights and interests of participants in the process, as well as the legitimacy of actions of state bodies and courts.

It should be noted that in a society, the enactment of certain laws in the legal field should not be the main goal, but their implementation should remain the main goal. That is why it is necessary to act in accordance with the Constitution and laws. In fact, it is also a constitutional obligation. Compliance with the law is ensured through coercive procedural measures in case of non-compliance by individuals.

Measures of criminal procedural coercion are an integral part of the procedural system, ensuring its effective functioning. They maintain a balance between the rights of individuals and public safety and serve as a guarantor of the rule of law. The application of these measures requires careful observance of the law and the protection of fundamental individual rights and freedoms, including the presumption of innocence, the right to defence and privacy.

The principle of legality in the application of measures of criminal procedural coercion occupies a dominant position in the system of procedural guarantees. Consequently, strict compliance with the provisions of the law regulating the procedure and conditions of application of measures of criminal procedural coercion serves as the main prerequisite for the realisation of the rights and legitimate interests of persons involved in criminal proceedings.

As rightly noted by N.V. Vitruk, the constitutional status of a person is the social and legal basis for all sectoral statuses of a person, because sectoral legal statuses in a certain part are a specification of the constitutional status of a person, and in the rest - must correspond to the constitutional status of a person.

In the process of application of the rules determining the procedure for the use of means of criminal coercion, new issues arise that require resolution. This is due to the constant development of sectoral human rights, which often outstrip constitutional standards. Therefore, it is considered necessary to amend the current criminal procedure legislation, especially those of its norms that relate to the guarantees of the rights of participants in criminal proceedings.

It should be noted that in the legal literature there are several approaches to procedural guarantees. From the point of view of some scientists-processualists, criminal procedural guarantees in general are means established by law to ensure the fulfilment of the tasks of justice. The basis of this point of view is the statement about the unity of guarantees of the rights of citizens and guarantees of achieving the goals of criminal proceedings.

Supporters of a different point of view point to the need to distinguish between guarantees of the rights of citizens and guarantees of solving the tasks and achieving the goal of criminal proceedings, and note the theoretical and practical significance of such a division. L.D. Kokorev and V.Z. Lukashevich called procedural guarantees of the rights and legitimate interests of an individual "measures provided by law, aimed at the real provision of rights and legitimate interests".

A more precise and justified definition is given by the supporter of the third point of view M.S.Strogovich, who believes that "procedural guarantees are means established by the procedural law, which ensure the correct implementation of the tasks of justice in each criminal case".

The criminal procedural legislation of the Republic of Uzbekistan in the fourth section, devoted to "Procedural coercion", provides for the grounds and limits of restriction of individual rights in criminal proceedings. The general ground and limit for the use of procedural coercive measures is the need to achieve the aims of justice, to ensure the established order of criminal proceedings and the proper execution of a judgement. Measures of procedural coercion are applied only when there are actual or realistic possible obstacles to the progress of the case.

In particular, article 213 of the Code of Criminal Procedure clearly lists the grounds for the application of procedural coercive measures. The inquirer, investigator, procurator and court have the right to apply coercive measures:

1. if a participant in criminal proceedings obstructs investigative or judicial actions;
2. if a participant in criminal proceedings fails to fulfil the obligations imposed on him or her;
3. if it is necessary to suppress further criminal activity of a suspect or accused person;
4. if it is necessary to ensure the enforcement of a judgement.

In these cases, the inquirer, investigator, procurator and court have the right to apply coercive measures.

The general conditions for the application of procedural coercion are:

- 1) the existence of an initiated case (an exception is provided for detention);
- 2) a proper subject of application (a person holding the relevant position, who has taken over the case, who is not subject to recusal);
- 3) An appropriate object (persons subject to the law of criminal procedure).

Coercion is applied in the procedural forms established by law and only after the initiation of criminal proceedings (with the exception of detention).

The use of coercive measures, especially those involving restriction of liberty, is permissible only in cases expressly specified in the law. Neither analogy of procedural law (law), nor extensional interpretation of legal norms are not applicable to these cases, as the situation of the individual cannot be worsened due to gaps in the legislation.

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