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THE ISSUES OF IMPROVEMENT OF JUDICIAL PROCEDURE: PROSPECTS OF SUMMARY JUDICIAL PROCEEDINGS IN THE REPUBLIC OF UZBEKISTAN

This article is based on an analysis of the issues of improvement of judicial procedure of the republic of Uzbekistan. In addition, prospects of summary judicial proceedings.

Key words: improvement of judicial procedure, prospects of summary judicial proceedings, the liberalization of criminal procedure, court, judge, judicial reforms.

Introduction.

In the recent years, there have been dramatic changes in the political, social, economic and legal systems of the Republic of Uzbekistan. In light of the ongoing judicial reforms gained some recognition as an opinion on the need to fundamentally different ways of organizing national criminal justice. Thus, great attention is paid to the liberalization of criminal procedure including the reforms in this area, particularly, house arrest. On September 4, 2014, President

of Uzbekistan signed a Law on introducing amendments and additions in the Criminal Procedural Code (CPC). According to the introduced amendments, house arrest was introduced in Uzbekistan as a preventive measure. [1]

In particular,

Judicial reform in Uzbekistan is conducted stepwise, purposefully, and, primarily, pursues the goal of ensuring the protection of rights and legitimate interests of people in the administration of justice. At the same time, appropriate measures are being taken in Uzbekistan to ensure the efficiency of justice.

Trial is the central stage of the criminal process, in which court of first instance resolves the main issues of criminal case: the presence or absence of crime, the guilt of the accused in its commission, the content of the circumstances characterizing the illegality and the degree of social danger of the offense and the identity of the accused1.

In the court of first instance, the proceedings commence with the exercise of the court's authority over the incoming criminal case. The judge considers the criminal case with an indictment or an accusation, checks whether the requirements of the procedural law are compiled during the additional investigation, submitting the case to the court, and, in the absence of obstacles to the trial, appoint a hearing, and take all necessary actions to consider the case in the court session. The main purpose of the proceedings in the court of first instance is to verify the quality of the preliminary investigation, the legality and validity of indictment against the person, to determine how to fill gaps made by the preliminary investigation bodies, to remove other shortcomings, to create other procedural prerequisites for judicial review of the main issue of the guilt of the defendant and imposition of punishment on him/her as well as in resolving the case on the merits.

It is worth to mention that during judicial reform conducting in the country, can be seen significant increase in interest to the positive experience of organization and legislative regulation of justice formed in foreign countries. In recent years, the interest of legal nature of special order of decision-making with the consent of the accused with the charge is heightened. This is reflected in the Decree of the President of the Republic of Uzbekistan of October 4, 2013 "On measures to improvement and enhancement of efficiency of district and city courts of general jurisdiction", which comprises commission to make proposals for improvement and liberalization of legislation in the judicial sphere, including introduction in criminal procedure the summary proceedings of consideration of criminal cases.

This institution is one of the forms of summary legal proceedings2, although in many countries, the procedure of exercising of this institution is different, but the goal is the same – to exclude the delaying of the proceedings in certain criminal cases, which leads to an increase in the effectiveness of administration of justice in general.

The research of scientific works confirms that ensuring the efficiency of criminal proceedings is a serious issue for every state, regardless of the legal system in which it operates. One of the ways to improve it is to introduce a procedure of summary legal proceedings.

Discussion at the XII United Nations Congress on Crime Prevention and Criminal Justice (El Salvador, Brazil, 12-19 April 2010) on the concept of summary (accelerated) criminal proceedings showed that improving crime control in modern conditions requires consideration of a wide range of factors.

Among the problems that had a negative impact on the condition of crime control were ineffective and protracted investigations, limited use of the provisions on release from pretrial detention, ineffective practice of

consideration of cases, limited resources at the prosecutor's office and the judiciary and lack of the provisions on summary proceedings or its inadequate application.

In this regard, the world community is faced the task to develop the strategies contributing to the increase of effectiveness of criminal justice, the objectives of which, among others, are:

– Reduction of the term between the commencement of the criminal case and its completion with the adjudgement of the sentence;

– Introduction of summary proceedings of criminal procedure.

In the view of the United Nations, summary proceedings means a simplified procedure that speeds up judicial proceedings in order to ensure a higher efficiency of the criminal justice system and minimize the expenses. In general, summary legal proceedings is used in lower courts, usually with regard to less serious criminal offenses, and is an expedited procedure in which certain formal procedures are not required or simplified.

By now, legislators and practitioners in Uzbekistan are searching for ways to reduce (optimize) the terms of criminal proceedings, especially at its pre-trial stages.

Undoubtedly, this problem requires comprehensive study and analysis so that the legal regulation corresponds to the contemporary needs and contributes to increase of the effectiveness of the crime control. One of the aspects of the study is

The acquaintance with the experience of foreign countries in the sphere of summary criminal proceedings, which can be used to develop national legal solutions in this area.

As the analysis of international practice shows, accelerated and summary proceedings are those forms of the criminal process that are designed to resolve

criminal cases in a shortened terms and according to simplified rules. The main tasks of summary legal proceedings are:

1. Procedural economy, that is, the reduction of the time, efforts and resources used to resolve some criminal cases and release them for cases that are more complex.

2. Approximation of the moment of punishment of the perpetrator at the time of committing a crime in order to strengthen the preventive effect of the judicial procedure and punishment.

3. Reconciliation of the parties.

4. Efficient restoration of violated rights of injured party.

As a rule, summary proceedings provides parties of the procedure not less, and sometimes, even more beneficial guarantees of their rights and legitimate interests than the usual judicial proceedings.

Summary proceeding is usually used only with the consent of the accused and, as an alternative, has a full trial in an adversarial character.

As mentioned above, the trial with the consent of the accused with the charge is a form of the summary proceedings. It is reflected in the legislation of the following countries: Spain, France, Italy, Germany, the USA3, the Russian Federation (since 2001) and other countries, but the order of application of this form of legal proceedings is different. Bellow we consider each of them closer.

In the criminal process of the developed countries, operate such forms of summary proceedings as "summary proceedings" (England), "plea-bargaining

Arrangement" (USA), "conditional refusal to institute criminal proceedings", "criminal order" (France), "accelerated proceedings" (Germany)4.

Conduct in a simplified way in Germany is called the "order for punishment"5. It is carried out by the district judge for insignificant crimes

(criminal offenses), the punishment for which does not exceed 3 months of imprisonment. The prosecutor, or the police, on the basis of the data of the inquiry request to the district judge with the draft order for punishment. The judge, in a written proceeding in the absence of the accused, rejects the request owing to insufficient suspicion, appoints a trial or immediately issues an order for punishment. The order for punishment comes into force and acquires the significance of the sentence if the accused does not bring his objections within 7 days after acquaintance with it. Otherwise, a trial is ordered according to general rules. Thus, the conduct in the "order for punishment" is approaching the imposition of disciplinary action. However, granting the accused the right to agree or disagree with the order, introduces an adversarial principle, equalizing the prosecutor and the accused. In theory, there are three advantages of the order for punishment in comparison with other forms of summary proceedings6:

1) For the accused in a minor act is more advantageous to submit to the demand for light punishment, than to be subjected to the hardship of the trial connected with the need to appear in court;

2) Significant cheapness and quickness of proceedings;

3) Economy of judicial resources for more important and complex criminal cases.

Conclusion. At the present stage of the development of the criminal justice system of the Republic of Uzbekistan, the most important changes are taking place in this sphere and corresponding changes are introduced to the legislation.

One of the priorities of the criminal procedural policy of the Republic of Uzbekistan is the formation of such criminal procedural legislation that would create

Conditions for the effectiveness of activity of the judiciary, as well as guaranteeing the protection of the individual's rights and freedoms, the interests of society and the state. Thus, after analyzing the contents of this study, the following suggestions were made.

Appointment of a criminal case for trial as the stage of a criminal process fulfills the following tasks: 1) verification in each case the legality and validity of involvement in a criminal case as an accused; 2) auditing the case for sufficient grounds for consideration it in the court session; 3) the adoption of all necessary organizational measures for each case to be considered on the merits for an opportune, complete and comprehensive trial; 4) resolving issues of further movement of those cases which do not have sufficient grounds for considering them in court, referring to additional investigation, dismissal, suspension of a case.

The emergence of the institute of summary legal proceedings is aimed at simplifying the trial, as well as increasing the optionality in the criminal process, thereby allowing the rationalization of criminal procedure, making the process less time-consuming and more effective.

It should be noted that the institution of summary proceedings was born a long time ago and was legislated in countries such as Spain, France, Italy, Germany, the USA, the Russian Federation (since 2001) and so forth. The main purpose of this institution is that the court, with the consent of the parties, may, without prejudice to legality and fairness, validity and objectivity, make a final decision without observing certain procedural requirements, often of a formal nature.

Passing the Law and realization of these changes will promote observance of the principle of fairness, as it is the main purpose of punishment.

Besides that, it will help to eliminate inevitabilities by increasing responsibility, as well as reduce the number of people in penitentiaries.