



THE RIGHTS OF VICTIMS OF OFFENSES - UNDER THE PROTECTION OF THE CONSTITUTION.

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Abstract. The article discusses the essence of the norm on the protection of the rights of victims of offenses enshrined in the new edition of the Constitution, the features of applying this constitutional principle within the framework of administrative law, criminal and criminal procedure law, and puts forward proposals for improving the mechanism for guaranteeing the rights of victims.

Key concepts: Constitution, human rights and interests, offense, victim, legal aid, administrative offense, crime.

The "Development Strategy of New Uzbekistan for 2022-2026" defines the task of radically increasing the potential of the legal profession in protecting human rights, freedoms, and legitimate interests [1].

In order to strengthen the legal guarantees of the right of the individual to defense, Article 29 of the Constitution of the Republic of Uzbekistan in the new edition gives even more space to the issue of the right of everyone to qualified legal assistance and the provision of legal assistance at the expense of the state in cases stipulated by law. According to it, every person has the right to use the assistance of a lawyer at any stage of criminal proceedings, and when a person is detained, from the moment their right to freedom of movement is effectively restricted, at their discretion [2].

The sixth part of this norm states: "The rights of victims of offenses are protected by law. The state ensures the protection of victims and access to justice, and creates conditions for compensation for the damage caused to them." This provision essentially means that the rights and legitimate interests of the victim are protected by the state.

However, in this discussion, we would like to draw attention to another aspect of the issue, namely, the relevance of this norm to the provision of legal assistance to victims at the expense of the state, and the analysis of legislation in this area. In essence, the provisions of the constitutional norm "The rights of victims of offenses are protected by law" and "The state ensures the protection of victims..." encourage this. To further clarify the essence of the matter, it is advisable to use grammatical* and logical* should be commented on. Here, first of all, we will pay attention to the definition of the concept of "offence." Thus, an offense is a culpable unlawful act (action or inaction) for which administrative or criminal liability is provided [3]. In this sense, victims can be divided into two categories. The first includes victims of a crime, i.e., persons who have suffered moral, physical, or property damage as a result of a crime, as well as a socially dangerous act of a mentally incompetent person (Article 54 of the Criminal Procedure Code). The second category includes persons who have suffered moral, physical, or property damage through an administrative offense (Article 295 of the Code of Administrative Offenses) [4].

In turn, the rights of victims of crimes in criminal proceedings are defined in part one of Article 55 of the Criminal Procedure Code of the Republic of Uzbekistan, and the rights to consider cases of administrative offenses are defined in part two of Article 295 of the Code of the Republic of Uzbekistan on Administrative Responsibility. The rights and interests of victims of offenses, provided for by law, are protected, first of all, by the Constitution of the Republic of Uzbekistan, as well as by the Criminal*, Criminal Procedure Codes and the Code of the Republic of Uzbekistan on Administrative Responsibility* of the Republic of Uzbekistan "On Courts" and other regulatory legal acts adopted on their basis.

Logical interpretation can reveal the essence of the norm even more broadly. In particular, the provisions concerning the provision by the state of the right of victims to protection and access to justice, as well as the creation of conditions for compensation for damage caused, are comprehensive in essence. This means, on the one hand, that justice creates sufficient and equal opportunities for victims to realize their rights and legitimate interests, and on the other hand, all measures are taken to resolve civil claims considered in criminal proceedings, including compensation for property damage caused as a result of the crime.

When considering the issue from the point of view of criminal procedure relations, the importance of protecting the rights and legitimate interests of the victim becomes even more apparent. After all, the victim is the main subject of criminal procedure relations, and the stage of pre-trial proceedings is carried out on the basis of his appeal and in his interests. Also, a person who participates as one of the parties in ensuring the principle of adversarial proceedings and whose legitimate interests are given priority by the state is considered a victim.

In turn, the process of exercising the rights established by current legislation, including the restoration of violated rights, such as the initiation of a civil claim in criminal proceedings, the return of property to the victim and the plaintiff, usually requires activity from the victim. According to the requirements of Article 62 of the current Criminal Procedure Code, the victim performs these actions directly or through their representatives. If necessary, he has the right to exercise his rights and interests by hiring a lawyer as a representative and using his legal assistance. However, a person (victim) who died as a result of a crime, or a victim recognized as a minor or legally incompetent, does not have such an opportunity. Although part five of Article 55 of the Criminal Procedure Code states that "in cases of crimes that resulted in the death of a victim, the rights and obligations specified in this article are exercised by close relatives or other persons recognized by the preliminary investigation bodies or the court as the legal representative of the deceased," from the point of view of law enforcement practice, this procedure cannot be considered perfect. For example, on February 26, 2024, in accordance with the verdict of the court of first instance in the "Dok-1 Max" case, in which a total of 23 people were accused, it was decided to compensate for moral damages in the amount of 1 billion soums to each of the legal representatives of 68 deceased and 4 children in critical condition who died as a result of the crime, 500 million soums to each of the legal representatives of 4 children with satisfactory health, 200 million soums to each of the legal representatives of 8 children with improved health, and to recover them from the convicts in solidarity [5].

Suppose that in the absence of a close relative recognized as the legal representative of a person (victim) who died as a result of a similar crime, the legitimate interests of the victim in



the case may not be sufficiently expressed. Or, even if the deceased is a close relative of the victim, there are cases of insufficient financial means to hire a lawyer as a representative. By virtue of the law, in such a situation, the prosecutor may take measures to protect the interests of the state or society, or the rights and legitimate interests of citizens. Thus, the prosecutor's duty to oversee the precise and uniform implementation of laws at the stages of considering cases of administrative offenses, inquiry, and preliminary investigation also prevents prioritizing the interests of one party in the case. In such a situation, there is also a need for qualified legal assistance to protect the rights and legitimate interests of the victim. In our opinion, in the presence of the above-mentioned circumstances, without qualified legal assistance, the effective protection of the procedural rights and legitimate interests of the victim, and most importantly, the goals provided for in Article 29 of the Constitution, may not be fully achieved.

This shows that the protection of the rights and legitimate interests of victims who died as a result of a crime is one of the most pressing issues in all legal relations, including criminal procedure law. Although important proposals and recommendations on this matter have been put forward in some scientific literature [6], unfortunately, the measures for their full implementation into legislation have not been completed. One of such issues is the adoption of the Law "On Compensation for Damage Caused by Crime," developed by D. Turaeva, and, in accordance with it, proposals and recommendations for the provision of social and legal assistance by the state to victims, including close relatives of persons who died as a result of a crime (victims) [7]. In our opinion, the practical implementation of this document will further improve the mechanisms for protecting the interests of victims in criminal proceedings.

Also, in the scientific research of foreign scientists O.S. Pochechuyeva [8] I.M. Ibragimov [9], E.A. Artamonova [10], I.V. Misnik [11], N.S. Manova [12], N.V. Arsenova [13], O.I. Andreeva, P.O. Herzen, A.A. Rukavishnikova [14], A.A. Dmitrieva [15], A.V. Kozhevnikov [16], and domestic lawyers S.M. Achilov [17] and D.B. Bazarova [18] substantiated that the right of a victim to qualified training in a criminal case is an important factor guaranteeing their rights and legitimate interests. In particular, N.S. Manova noted that "the absence of a legally professional representative of the victim seriously negatively affects his interests," while E.A. Artamonova emphasizes that "it is necessary to immediately introduce into the legislation a procedure for the representative of the victim to use the legal assistance of a lawyer at the expense of the state." The aforementioned scientific views also demonstrate the validity of the previously proposed proposals for the protection of the rights and legitimate interests of the victim in a criminal case by an investigator, inquiry officer, prosecutor, or a lawyer appointed by the court as a representative.

On this issue, a number of positive experiences have been observed in the legislation of foreign countries, including the Criminal Procedure Codes of Azerbaijan and the Republic of Kazakhstan. In particular, Article 87.2 of the Criminal Procedure Code of Azerbaijan provides for the involvement of a legal successor to protect the legitimate interests of the deceased victim based on the decision (ruling) of the official responsible for the proceedings, as well as the appointment of a lawyer at the expense of the state. In Article 106, the "Legal Heir of the Victim" is recognized as a separate participant in criminal proceedings, and its legal status is defined. Article 194 of the Criminal Procedure Code of this state establishes the procedure for payment at the expense of the state as a procedural expense for the legal assistance of a representative and lawyer recognized as the legal successor of the deceased victim [19]. In



addition, Articles 174 and 177 of the Criminal Procedure Code of Kazakhstan establish the procedure for transferring expenses to the state when the victim's representative is exempt from paying for the provision of legal assistance [20].

Based on the foregoing, in the absence of close relatives of the deceased victim, the issue of introducing the procedure for the protection of his rights and legitimate interests by an investigator, inquiry officer, prosecutor, or a lawyer appointed by the court as a representative, who is conducting the case, should be addressed in the following cases:

1) in part five of Article 55, after the word "increase," the words "in the absence of close relatives of the deceased victim, his rights and legitimate interests are protected by a lawyer appointed as a representative by the investigator, inquiry officer, prosecutor, or court conducting the case. In such cases, expenses for the remuneration of a lawyer are covered by the state in the manner determined by the Cabinet of Ministers";

2) Article 318 is proposed to be supplemented with paragraph 41 of the following content:

"in accordance with Article 55 of this Code, from the remuneration paid to a lawyer who participated as a representative of a victim who died as a result of a crime"

The introduction of this procedure, along with strengthening the procedural foundations of reliable protection of the rights and legitimate interests of victims who died as a result of a crime in criminal procedure relations, will serve to ensure constitutional guarantees of human rights.

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