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PROVIDING PERSONAL RIGHTS AND FREEDOMS OF DEFENDANDT IN CASES HE DOES NOT KNOW THE LANGUAGE OF THE JUDICIAL PROCEEDINGS AND AGREEMENTS ON CONFESSIONS

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Abstract
The article examines the existing problems in ensuring the rights and freedoms of the individual in cases where the court does not know the language of the proceedings and the plea agreement is concluded, and offers suggestions for their elimination.

Keywords: defense, not knowing the language, not knowing the language well enough, petition, plea agreement.

Introduction

In the course of pre-trial proceedings, there are many acts that undermine the rights and legitimate interests of the participants in the criminal proceedings. In 2017, 263, in 2018, 867, in 2019, 859, in 2020, 781, in the 1st quarter of 2021, 186 people were acquitted by the court of preliminary investigation, torture in Sariosiya, Shurchi, Denau, Andijan, 24 in 2017, in 2018 101, 138 in 2019 and 184 in 2020 allegations of torture and other cruel, inhuman or degrading treatment or punishment.
Inadequate protection of the above rights by officials responsible for criminal proceedings, the fact that the participation of a defense counsel in criminal proceedings is less than in other developed countries and their legislation is not sufficiently clearly defined, the suspect, the accused should be aware of mitigating circumstances the lack of regulation of the mechanism is also having an effect.
The current Code of Criminal Procedure lists 13 cases in which the presence of a lawyer is mandatory. In the course of our research, we found it necessary to dwell in detail on two of these cases, namely: the existing problems in ensuring the rights of the individual in cases where the court proceedings do not know the language in which the case is being conducted and a plea agreement has been reached.
In the case of persons who do not know the language in which the trial is conducted.
Practical analysis shows that today there are a number of problems related to the criminal proceedings of persons who do not know the language in which the trial is conducted. They are:
First: Article 51 of the Criminal Procedure Code does not provide for the participation of a defense counsel in the case of persons who do not know the language of the proceedings;
Second: There is no single rule in the legislation on what is meant by not knowing the language.
Some participants in the process claim that they know the language under the influence of negative habits such as embarrassment and overestimation of others, even if they do not know the language well enough. While some understand the words others are speaking, they have difficulty explaining their speech to others due to a lack of practical communication in that language. In some cases, although the

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defendant is fluent in the language, he or she has difficulty reading written texts due to a lack of literacy. In the cases listed above, the official conducting the case may or may not provide the suspect, accused, defendant with a defense counsel. Because it is allowed in our legislation. That is, the participation of a defense counsel in the case of persons who do not know the language in which the JPC trial is conducted is mandatory, but not in the case of those who do not know enough. This means that in the case of persons who can speak little without a good understanding of the language, the investigator decides on the basis of his or her own inner convictions. If a complaint is lodged against the investigator's actions, there is no basis to charge him. Because, according to our legislation, the investigator is obliged to provide a lawyer only to those who do not know the language. In this case, the complainant knows the language, but not enough. Understanding him, not understanding him, is irrelevant to the investigator (he could have said a little). It is clear that such a situation would lead to a gross violation of the right to protection. Because the criminal process requires the ability to speak the language of the proceedings, to read, to understand legal terms sufficiently. In our opinion, the participation of a lawyer is mandatory not only in the case of persons who do not know the language, but also in those who do not know it sufficiently.

If we pay attention to the legislation of the Republic of Kazakhstan [1], the Russian Federation [2], we can see that the participation of a lawyer is mandatory even for those who do not know the language well enough.

Also, there is no single concept in our legislation on the level of literacy required to know a language. This idea was supported by A.V. Churkin also confirms [3].

O.I. Aleksandrova [4], I.I. While scholars such as Bunova [5] believe that the extent to which language should be known should be clearly defined in legislation, B.V. Pimonov disagrees. That is, in his opinion, knowledge of the language should be determined not by the legislation, but by the participant in the process [6].

T.V. Jerebilo emphasizes: "Language knowledge is the ability of a person to understand and synthesize information related to the following skills:

- be able to distinguish right from wrong;
- be able to distinguish words that are similar in form but different in meaning;
- to be able to choose the most appropriate of the synonyms to express the event that is taking place "[7].

G.P. Sargsyan states: "Knowledge of the language of the proceedings means the ability to understand all the words in the language, to express any opinion on any issue that arises during the criminal proceedings" [8].

L.B. Filonovym argues that it is effective to determine in which language he can give instructions by asking the person's name, father's name, surname [9].

T.Yu. In his research, Vilkovoy argues that in order to clarify the question of whether the defendant knows the language, the investigator must determine in which language he studied at school and in which language he spoke in his work [10].

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E.P. Grishina argues that the term “insufficient knowledge of the language” is applied to individuals who can speak a particular language but do not have writing skills or are unfamiliar with words used in a narrow specialty even if they are fluent in conversation, and that the concept is abstract [11].

N.Yu. Developing this view, Litvintseva argues in her research that criminal proceedings against a person under the age of 7 do not know the language well enough, even if the language is his or her mother tongue and has low intellectual and intellectual development [12].

The opinions of the above scholars help us to form a single understanding of what is meant by the words ‘ignorance’ and ‘insufficient knowledge’ applied to language knowledge.

In our opinion, "a person who does not know the language" should be understood as a person who has gone to a country where there is no religion and his people have no idea about the language they speak. When we say "a person who does not know the language well enough", we mean a child under 7 years of age. Although a child of this age can speak, cannot write, cannot read, or does not understand legal terms well enough.

By summarizing these two concepts, we can clarify in which cases the rule of participation of the defense is conditional.

In our view, it should be noted that the participation of a defense counsel is mandatory in the case of persons who do not understand or misunderstand the words of the language in which the criminal case is being conducted, are unable to express themselves freely, and have difficulty speaking and reading texts.

From the above we can conclude:

To change Article 51, part 1, paragraph 3 of the CPC as a case of persons who do not know or do not know the language of the proceedings;

Persons who do not know or do not know the language of the trial - those who do not understand or misunderstand the words in the language of the criminal case, can not express themselves freely, have difficulty speaking and reading texts.

In cases where a plea agreement has been reached.

A plea agreement is with a prosecutor who oversees the criminal proceedings on the basis of a petition filed by the suspect or accused who has agreed to the charges, actively assisted in the investigation of the crime and remedied the damage. is an agreement on crimes?

This institution is present in the legislation of the USA, England, Italy, Spain, Germany, USA, France and a number of other CIS countries [13].

A number of authors believe that the main purpose of introducing a confession agreement into law is to speed up the time of criminal investigations and alleviate the burden of litigation [14], to expedite compensation for property damage caused to victims [15].

Others point out the shortcomings of this institution.

For example, according to B.Kh. Toleubekova, T.B. Khvedelidze, this institution contradicts the presumption of innocence due to the incompleteness of inquiries, preliminary investigations and trials in cases where a plea agreement has been reached [16].

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The plea agreement does not provide for procedural actions to the extent that it is possible to fully prove the person's guilt [17].

In our opinion, the inclusion of this institution in the CPC is of positive significance for the officials responsible for criminal proceedings, participants in the proceedings and the State as a whole. For example, by concluding a procedural agreement, the case of the investigator, inquiry officer, court is facilitated, and secondly, if the suspect or accused admits his guilt and compensates for the damage, he will be punished much less. It also has a certain benefit to the state as it does not distract other participants in the process, such as a specialist, expert, witness, impartial, working in public affairs, from being summoned for investigation and summoning to court. However, it should be borne in mind that the main purpose of criminal proceedings should be to perform the functions of criminal procedure. We know that prompt and complete disclosure of crimes, fair punishment for every person who commits a crime, and exposing the culprits so that no innocent person is prosecuted and convicted are among the main tasks of the criminal process. Therefore, the very structure of the confession agreement should not relieve the inquirer, the investigator, the prosecutor of the obligation to fully and comprehensively investigate the crime, and the court to consider each case carefully. Only then can all the culprits be punished and the innocent be held accountable.

One of the problems with the plea bargaining agreement is that it is rarely used in practice. Despite the fact that the above institute was included in the CPC a year ago, it was used once in Yashnabad district of Tashkent. Not used at all in other areas. This is much less than in foreign countries where there is a plea agreement. For example, in the United States, 90% of criminal cases are handled in this order.

In our view, this is due to two different factors:

The first is that the inquiry officer, investigator, prosecutor, court, lawyers do not have enough information about this institution.

The solution to this problem is to focus on the content of the institute in the process of retraining officials and lawyers responsible for criminal proceedings, to create video tutorials that fully reveal its essence, and to provide them with operational staff.

Second: The ignorance of the suspect, the accused about this institution.

In the current CPC, the question remains as to which entity will explain its right to a petition for a plea bargain. The inquiry officer, investigator, in accordance with our legislation, must acquaint the suspect and accused with the rights set forth in Articles 46 and 48 of the CPC. Among the rights set out in the above articles is the right to petition. But suffice it to say that a defendant who has no knowledge of any field of law has the right to petition. This is because there are petitions filed during the initial investigation and inquiry phase that directly affect the punishment to be imposed on the accused in the future, and it is impossible not to mention them separately. A petition for a plea agreement is one of the above. The inquiry officer, the investigator may apply to the defendant for a plea agreement, acquaint him with the essence of this agreement, and if he agrees with the prosecutor, up to half of the maximum penalty and (or) term provided for in the relevant article of the Special Part of the Criminal Code it should be noted that a penalty may be imposed. Failure to do so will result in the institution of confession not fully functioning. This is because a plea agreement is entered into under Article 5861 of

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the CPC for less serious, less serious and more serious crimes. In such cases, the participation of a lawyer is not mandatory. How do they know about the existence of this institution unless it is explained to the suspect, the accused, the inquiry officer, the investigator, the defense counsel? In our opinion, Articles 46 and 48 of the current CPC should be supplemented with a separate sentence with the following content.

Be aware of the possibility of filing a plea agreement.

In short, the study of existing problems related to the protection of the right to protection and the further improvement of legal norms to address them, the strict adherence of officials responsible for criminal proceedings to the rules of applicable law will lead to a fair trial.

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