

PROTECTION OF VICTIMS' RIGHTS IN THE PRELIMINARY PART OF THE CRIMINAL PROCEDURE

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DOI: 10.5958/2249-7137.2022.00723.6

ABSTRACT

The article analyzes the role of the victim in achieving the goals of the criminal case, as well as provides a comparative legal analysis of the legal status of the victim, the study of international experience and the development of recommendations for the protection of the rights of victims in pre-trial proceedings.

KEYWORDS: *Pre-Trial Criminal Proceedings, Protection Of The Rights Of The Victim, Representative Of The Victim.*

INTRODUCTION

The policy of combating crime, first of all, covers the order and forms of activity of the subjects of its implementation, as well as the participation of the general public in the fight against crime.

In this regard, as V.N Kudryavtsev said, "Criminal policy not only determines the content and forms of legal norms, but also determines the structure of law enforcement and law enforcement agencies, and clearly shows the content of this system."¹ For a criminal policy to be successful, it must first and foremost be scientifically based and effective.

The criminal procedure legislation of the Republic of Uzbekistan specifies the rights and obligations of victims of crime (Article 55. "Rights and obligations of the victim") and defines the protection of the rights of victims as the main task of criminal proceedings.

Criminals take very cruel measures against victims and witnesses, and the law criminalizes the refusal of a victim or witness to testify as a non-socially dangerous crime. (For example, Article 208 of the Criminal Code of the Russian Federation provides for a severe punishment for a witness or victim's refusal to testify, and Article 240 of the Criminal Code of the Republic of Uzbekistan provides for a maximum penalty of up to three months' imprisonment. The punishment imposed by the perpetrators for the testimony of the victim or witness will frighten any person. Therefore, the victim prefers to receive the punishment prescribed by law rather than the punishment of the offender.

With this in mind, we are completely away from the idea that the punishment should be increased for a witness or victim refusing to testify or giving false testimony.

We want to emphasize that when a victim or witness testifies, he or she must first be sufficiently confident that his or her safety is fully guaranteed.

It is true that the Criminal Code of the Republic of Uzbekistan provides for criminal liability for torture and other cruel, illegal or degrading treatment and punishment. However, the subjects of this crime are only inquiry officers, investigators, prosecutors, law enforcement officers, as well as employees of the penitentiary institution. The law provides special liability for unlawful violence committed by criminals against a witness or victim in penitentiary institutions. As a result, the offender continues to enjoy criminal privileges over law enforcement officers. The most severe punishment for law enforcement officers to do so is imprisonment for up to eight years, which can be punishable by a total of more crimes. The perpetrator will be held accountable for the use of such violence, depending on the consequences.

Amendments to the Criminal Codes and other codes of the Republic of Uzbekistan and the CIS countries of Kazakhstan and Turkmenistan are mainly aimed at mitigating the fate of the offender. Ensuring the safety of victims and witnesses is not adequately provided for in the law.

In order to solve this problem, the Criminal Procedure Codes of the Russian Federation and other CIS countries (Articles 19, 537 of the Criminal Procedure Code of the Republic of Uzbekistan) may be seen in closed court if he is required to provide security.

Given the acute problem of harassment of witnesses and victims in the Russian Federation, on August 20, 2004 the Law "On State Protection of Victims, Witnesses and Other Participants in Criminal Proceedings" was adopted. This legal document sets out the measures for the protection of victims, witnesses and participants in criminal proceedings, the grounds and procedure for their application.

At present, not only in the Russian Federation, but in many other countries, serious attention is paid to ensuring the security of participants in criminal-procedural, criminal-executive legal relations. However, much of the research has been devoted to the study of general safety rules, with very little research on the safety of victims and witnesses in places of deprivation of liberty.

In the legal regulation of the institution of security of victims and witnesses, in addition to the participants in criminal proceedings, the issue of ensuring the safety of persons assisting in criminal justice should not be neglected.

This problem was also raised by the Russian scientist LV Busnitsyn².

Different countries use different methods of harassing victims and witnesses. In particular, according to A.Yu. Epixin, in Germany the following persons are more often used to harass victims and witnesses: a) constant telephone calls by an unknown person; b) relentless pursuit of a person; c) be psychologically influenced by killing (e.g., think of children, "think of your health"), and be intimidated by constant intimidation with similar words³.

The Commonwealth of Independent States was the first country in Belarus and other countries to adopt the Law on State Protection of Victims, Witnesses and Other Participants in Criminal Proceedings on August 8, 2004, which came into force on January 1, 2005.

After adopting of this law, the Government of the Russian Federation approved the State Program "Ensuring the safety of victims, witnesses and other participants in crime" for 2006-2008.

Criminals are also using new methods as they begin to make extensive use of the most modern methods of scientific and technological progress against the criminal world. One such method is to prevent the disclosure of the crime by harassing the participants in the criminal proceedings, to

mislead the investigators or to take revenge on the victim, witness or other participants in the proceedings, and thus to intimidate the people. they use.

The above-mentioned Law of the Russian Federation is also a measure developed by the state against such actions of the criminal world.

The law provides a list of participants in criminal proceedings under state protection, including: victim, witness, private prosecutor, suspect, accused, defendant and their lawyers and legal representatives, convicts, acquitted persons, experts, specialists, interpreters, attesting witnesses, and educators and psychologists involved in the process, representatives of the civil plaintiff, the civil defendant, the victim, the civil plaintiff and the civil defendant, and the private prosecutor.

In addition, the law may apply to persons who reported a crime before the initiation of criminal proceedings and tried to prevent the crime, as well as those who assisted in the detection of the crime. The court (judge) has issued a decision to ensure the protection of the participants in the criminal proceedings and instructs the body entrusted with the protection to do so.

Article 2 of the law provides a list of participants in criminal proceedings who are subject to state protection, which does not include judges or public prosecutors. They will be prosecuted under the relevant articles of the Criminal Code if they are attacked in connection with the performance of official duties.

While the law provides for state protection of participants in criminal proceedings in general, Article 14 sets out the rules for the protection of witnesses, persons arrested on suspicion of a crime and persons serving sentences in penitentiary institutions, as well as witnesses.

The problem of ensuring the safety of participants in criminal proceedings has been present in almost all countries for many years. Adoption and implementation of the Law of the Russian Federation "On state protection of victims, witnesses and other participants in criminal proceedings" is another important step in the development of national legislation of the Russian Federation and being an important step, it can also serve as a model for the criminal laws of the countries of the Commonwealth of Independent States. In particular, in order to ensure the safety of the victim, witness and other participants in the criminal proceedings, in some serious or very serious crimes, the identities of the victims and witnesses are indicated only in the case file and their testimony is obtained by videoconference without visiting the building.

The main reason for this is that as a result of the destruction of witnesses or victims in some of the following crimes, the crime remains unsolved or the perpetrator is released from punishment.

While the CIS countries, including the Republic of Uzbekistan, recognize human beings as the highest value at the current stage of development, one of the important tasks of the state should be to ensure the legal protection of fundamental rights and freedoms in all spheres of society. Unless the participants in criminal proceedings are specifically protected by law, the provisions of the law on the commission of a crime against a person in connection with the performance of his official duties or civic duty shall remain declarative.

CIS countries, including the Republic of Uzbekistan, are harmonizing their national laws with international standards and developing them on the basis of these standards.

In court, a stimulating norm is not provided in accordance with criminal law, the victim or witness is forced to give false testimony or to be in such conditions, to give false testimony during an inquiry and investigation, or to give correct testimony. Although the law provides for a

lighter penalty for giving false testimony, the victim or witness is more likely to comply with the offender's claim because the calamity that can be inflicted for giving correct testimony is more severe.

By this we do not mean that the punishment for giving false testimony or testimony should be increased, and we are far from such an idea. However, we suggest that the exemption norm be included in the Criminal Code if a person gives false testimony during an inquiry or preliminary investigation and gives correct testimony or testimony, regretting that he or she will remain in court. In view of the above, we propose to introduce the following incentive norm after Article 238, part 3 of the Criminal Code of the Republic of Uzbekistan, Article 238, part 4, " "If a person repents in court and gives the right testimony, he may be released from criminal liability."

The reason we come to this conclusion is that the crime of perjury is considered as a crime of a formal nature, and the act of perjury is itself a crime committed during the interrogation or preliminary investigation.

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