

## ENSURING IMPARTIALITY AND FAIRNESS IN THE JUDICIAL SYSTEM

**Shokirova Lola Otabek qizi**

Master's Degree Student of the faculty of International Law

University of World Economy and Diplomacy

e-mail: [lolashokirova@gmail.com](mailto:lolashokirova@gmail.com)

### ***ABSTRACT***

*This article discusses the ongoing work on creating an independent and impartial judicial system that protects human interests and further reforming the existing rules. Also, the results of the work carried out in the legal system and their contribution to human interests, as well as the problems existing within the system, are analyzed.*

**Key words:** *Judicial system, impartial, conventions, law*

**Introduction.** In our developing country today, radical reforms in all spheres and implementation of new reforms are becoming the need of the hour. And at this point, issues of ensuring impartiality and fairness in the judicial system are becoming one of the priority tasks. At this point, it should be noted that in the radical modernization of the state and society, first of all, it is important to protect the rights and freedoms of citizens, to ensure judicial independence, to achieve a fair trial, and to strengthen legitimacy.

**Methodology.** It is known that everyone has the right to demand a fair and independent court. At this point, it is appropriate to recall the words of President Sh. Mirziyoyev, "Justice is the solid foundation of statehood." And this right is defined in Article 10 of the Universal Declaration of Human Rights and other international legal documents to which Uzbekistan has joined. Only an independent court can give

confidence that every citizen can defend his or her violated rights through an impartial and transparent trial. In this regard, the reforms implemented on the basis of the Strategy of Action have laid the foundation for the democratization and liberalization of the judiciary, ensuring true independence of the judiciary, protection of the rights and legitimate interests of citizens. As noted in the next Address of the President of the Republic of Uzbekistan to the Oliy Majlis on December 29, 2020, over the past 4 years, bold steps have been taken to reform the judiciary. More than 40 laws, decrees and decisions have been adopted on priority issues in this area. An important strategic step has been taken to ensure the rule of law and further reform the judiciary.[1] The issues of achieving impartiality and fairness in the judicial system are reflected in the following legal documents. They are: Presidential decree "On measures to further improve the judicial system and increase confidence in members of the judiciary", Law of the Republic of Uzbekistan "On Courts", Decree of the President of the Republic of Uzbekistan "On measures to further reform the judicial system, strengthen guarantees of reliable protection of the rights and freedoms of citizens" the Constitution of the Republic of Uzbekistan. As stated in Article 11 of the Constitution of the Republic of Uzbekistan, "the system of state power of the Republic of Uzbekistan is based on the principle of division of power into legislative, executive and judicial powers." A separate chapter of the Constitution is directly devoted to the judicial system. This Chapter XXII is called "Judicial Power of the Republic of Uzbekistan" and includes 11 articles (Articles 106-116). According to Article 112 of the Constitution: "Judges are independent and subject only to the law. It is not allowed to interfere with the activities of judges in the administration of justice in any way, and such interference is the cause of responsibility according to the law. The inviolability of judges is guaranteed by law." In our country, the legal and organizational foundations of judicial power and independence of judges have been created. In particular, Article 9 of the Law "On Courts" is entitled "Independence of Judges".

**Analysis and Result.** During the years of independence, a number of reforms were carried out in the judicial system. These reforms are directly aimed at strengthening impartiality and fairness in the judicial system. In the framework of achieving the 16th goal of the agenda set until 2030 in the field of sustainable development, the President of Uzbekistan signed more than 20 laws, decrees and decisions on the priority issues of the judicial system in the next three years. In the State program for the implementation of the strategy of actions in 2020-"The year of development of science and digital economy", several draft laws will be developed in the field of ensuring the rule of law and further reforming the judicial system. In particular, the adoption of the Law "On Courts" in the new version, draft laws regulating the activities of the bodies of the community of judges are among them. At the same time, consistent work is being done on the preparation of five new Codes, i.e. Criminal, Criminal-Procedural and Criminal-Executive, Civil and Administrative Liability Codes. Most importantly, updates aimed at improving the judicial system on the basis of best practices and international standards and on the principle of "One court - one instance" are being carried out.[2]

The Supreme Council of Judges was established to ensure the independence of the judiciary. Also, the Supreme Court and the Supreme Economic Court were unified and the activity of the Supreme Court was improved. The arbitration courts in the regions were reorganized into economic courts, and 71 inter-district, district (city) economic courts were empowered to hear cases in the first instance. The term of office of a judge was identified as five years for the first time, then ten years and afterwards - indefinite. The powers of the courts to independently resolve their financial, material and technical issues were transferred from the judiciary to the Supreme Court. The institution of returning the criminal case for further investigation by court is abolished. It was firmly established that a person's guilt in committing a crime was based solely on the evidence found in the trial. Torture, mental, physical, and other forms of violence were strictly prohibited. In order to further strengthen human rights guarantees in court proceedings and to implement the principle of

adversarial nature of the parties, there was introduced the institute of preliminary hearings in criminal courts [3]. For the sake of transparency and openness of the courts, more than 10,000 criminal cases were considered in mobile court hearings. The maximum periods of detention - as a precautionary measure and of preliminary investigation were reduced. It should be noted that a mechanism for the selection of candidates for judicial office has been introduced. For the first time, the practice of online coverage of the examination process for the selection of candidates for the post of judge has been established. Consideration of candidates to be appointed for the position of a judge for the first time will be carried out on an alternative basis. Of course, the new system of training qualified and mature judges and court staff will serve to increase public confidence in the judiciary, ensure the stability of justice and the rule of law, literally turn the court into a "fortress of justice" and achieve a high level of justice. Also, investment disputes and competition cases will be heard only by economic courts. The right of prosecutors to participate in all economic court hearings was abolished. From now on, the prosecutor can participate only in cases provided by law or in cases initiated by the prosecutor's statement of claim [4]. Another noteworthy aspect is that the supervisory instance in the proceedings has been abolished. The principle of "one court - one instance" was introduced in the judiciary through the abolition of red tape, as well as the practice of reviewing the decisions of inter-district courts by regional courts, and decisions of regional courts as courts of first instance by the Supreme Court of the Republic of Uzbekistan. The institution of conciliation was introduced on the confession of guilt. It is an important factor in the implementation of criminal, criminal procedure legislation in the country, raising to a higher level the protection of human rights, freedoms and legitimate interests. The right of the Prosecutor General and his deputies to protest against court decisions in a supervisory order was also revoked. Clear criteria have been put into practice (rating program) that provide an open and transparent assessment of the effectiveness of judges through electronic rankings. The establishment of a judicial inspectorate to ensure the inviolability of judges and the

prevention of corruption serves to ensure the inviolability of judges. If the public prosecutor dropped the charge, the criminal case would be terminated on the grounds of rehabilitation. Today, a number of measures are being taken to ensure gender equality in the judiciary, increase the status of women in the judiciary, especially to support women judges. In particular, in 2019 – there have been 149 women judges, in 2020 this figure reached 157. In the I quarter of 2021, there were 1,053 male judges out of a total of 1,214 judges in the country, with 161 female judges, or 15.3 per cent. Out of a total of 63 judges in the Supreme Court, 15 are female (31.25%). For the first time in the history of Uzbekistan, a system of appealing against the decisions and illegal actions of state bodies and officials has been established. This system, created to ensure the implementation of constitutional law, began to bear fruit in a short time. For example, between 2019 and 2020, 31,321 applications were considered by administrative courts, of which 21,272 or almost 67.9% were satisfied. In particular, 2,852 decisions of governors were declared illegal and the violated rights of citizens and legal entities were restored. Over the past four years, 2,770 people have been acquitted, while in 2020 alone, 781 people have been acquitted, 3,434 people have been released from the courtroom, and in cases of 5,958 people unjustified charges were dropped or changed. This is undoubtedly one of the great achievements in the field of justice. It should be noted that the penal colony "Jaslyk", which has long been a symbol of the country, has been abolished. The closure of this institution was a great event in the political life of the country and in the eyes of the world community. The reduction of the number of prisoners in prisons by 2.5 times is also an important step in the protection of human rights.[3]

Also over the past three years, a number of important reforms have been implemented in our country to democratize and liberalize the judiciary, to increase the role and importance of the judiciary in protecting the rights and legal interests of citizens. Firstly, with the Decree of the President of the Republic of Uzbekistan dated October 21, 2016 "On measures to further reform the judicial system, strengthen the guarantees of reliable protection of the rights and freedoms of citizens", from April 1,

2017, criminal, criminal-procedural, civil important changes were made to procedural and other legal documents aimed at increasing the efficiency of justice. In particular, the type of criminal punishment in the form of imprisonment has been abolished, the period of detention of persons suspected of committing a crime has been reduced from 72 hours to 48 hours, the maximum periods of the application of preventive measures in the form of imprisonment and house arrest, as well as the preliminary investigation of criminal cases have been reduced from 1 year to 7 months. Also, the institution of returning the criminal case for further investigation was abolished. As part of the further expansion of the application of the institution of "habeas corpus", the powers of prosecutors to sanction the conduct of investigative actions, such as blocking and exhumation of postal and telegraphic dispatches, were transferred to the courts. Also, the courts were given the right to apply alternative precautionary measures in case of refusal to apply preventive measures in the form of imprisonment or house arrest. Secondly, with the Decree of the President of the Republic of Uzbekistan dated February 21, 2017 "On measures to fundamentally improve the structure of the judicial system of the Republic of Uzbekistan and increase the efficiency of its activities", in order to ensure uniform judicial practice, the Supreme Court and the Supreme Economic Court have civil, criminal, the municipal and economic courts were merged into a single supreme body of judicial power - the Supreme Court of the Republic of Uzbekistan. 207 administrative courts were established, a total of 85 economic courts were established at the inter-district and district (city) level aimed at guaranteeing the legal interests of business entities. The Supreme Council of Judges was established in order to prevent illegal interference in the selection and appointment of judges, and to create an open, transparent and alternative selection system. Thirdly, the Code of Civil Procedure, the Code of Economic Procedure and the Code of Administrative Court Proceedings of the Republic of Uzbekistan were approved in January 2018 and entered into force on April 1, 2018. It should be noted that these codes were developed on the basis of a deep study of the advanced experience of the developed countries of the world, rich

experience accumulated in the process of reforms. Fourth, on April 4, 2018, the Law of the Republic of Uzbekistan "On amendments and additions to certain legal acts of the Republic of Uzbekistan in connection with the adoption of measures to strengthen the guarantees of the rights and freedoms of citizens in judicial-investigative activities" was adopted. The inclusion of articles in the Criminal Code that provide for criminal liability for falsification of evidence and results of investigative activities has further increased the responsibility of law enforcement and court officials. As a result of these reforms, the use of duress statements as evidence was prohibited. In the consideration of court cases, it is based only on the evidence thoroughly examined and confirmed during the judicial investigation. Fifth, by the Decision of the President of the Republic of Uzbekistan dated January 6, 2019 "On measures to prepare candidates for judicial positions, retrain judges and court staff, and fundamentally improve the system of their professional development", the Higher School of Judges was established under the Supreme Council of Judges of the Republic of Uzbekistan. The main goal of the Higher School of Judges is to train qualified judges and court personnel, taking into account the requirements of today, and to achieve a high level of justice.

Sixth, the adoption of the Law of the Republic of Uzbekistan on January 14, 2019 "On Protection of Victims, Witnesses and Other Participants in Criminal Proceedings" established legal guarantees for the protection of life, health and property of victims, witnesses and other participants in criminal proceedings. For example, although the current Article 270 of the Criminal Procedure Code of the Republic of Uzbekistan establishes general rules for ensuring the safety of participants in criminal proceedings, the types of security measures used and the procedure for their application were not clearly defined. The importance of this Law is that it includes security and social protection measures, which are applied when there is a threat to the life, health, and property of victims, witnesses, and other participants in the criminal process, which help to prevent or detect crimes, the system of measures, as well as the basis and order of their application were clearly defined. This

Law envisages a system of measures to be used in the event of a threat of aggression against the victim, witness and other participants in the criminal process, to help prevent or detect crimes, and to include security and social protection measures. The aforementioned fundamental changes in the field of judicial reforms are aimed, first of all, at ensuring the independence of the judiciary in our country, increasing the efficiency of justice, thereby increasing the firm confidence of our people in the courts and changing their attitude. is bearing fruit. In particular, as stated in the Address of the President of the Republic of Uzbekistan to the Oliy Majlis dated January 24, 2020, 1 thousand 989 citizens were acquitted in the last 3 years, and 859 citizens were acquitted in 2019 alone. In addition, in 2019, 3 thousand 81 people were released from the courtroom, and the charges against 2 thousand 623 citizens were dismissed and changed. On December 7, 2019, in the speech of the head of state at the solemn ceremony dedicated to the 27th anniversary of the adoption of our Constitution, the next directions of judicial reforms were determined. that is, there was talk of introducing the procedure of appealing to the court over the prosecutor's decision. According to the current Criminal Procedure Code, the application of preventive measures in the form of imprisonment or house arrest, extension of its term, dismissal of the accused, placement of a person in a medical institution and extension of its term, exhumation, blocking of postal and telegraphic shipments, suspension of validity of a passport, etc. and it is within the jurisdiction of the court to allow the conduct of procedural actions.[4]

**Conclusion.** In conclusion, it should be noted that the goal of a number of reforms in the judicial system is to achieve a fair and just trial, to strengthen impartiality and independence in judicial proceedings. Also, these reforms will ensure the rule of law in the country, the well-being and peace of society and, of course, the confidence of citizens in an independent and fair judiciary.



## REFERENCES

1. <https://strategy.uz/index.php?news=1442&lang=uz#>
2. <https://insonhuquqlari.uz/oz/news/sud-huquq-tizimidagi-islohot-sudlarning-mustaqilligi-va-xolisligini-mustahkamlashga-qaratilgan>
3. <https://strategy.uz/index.php?news=1442&lang=uz#>
4. <https://qoraqalpoq.adliya.uz/uz/news/detail.php?ID=47048>