



**MODERN ASPECTS OF ECONOMIC AND SOCIAL
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RECENT REFORMS TO THE COURT OF APPEALS

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Abstract: This thesis talks about the changes introduced to the court of appeal in criminal cases in order to ensure the independence of the judiciary and to increase the confidence of the people in the fairness of the court. In addition, what conveniences and opportunities will arise as a result of the reforms of the courts of appeal, possible problems and suggestions for their solutions are given.

Keywords: recent reforms of appellate courts.

The judiciary plays a decisive role
in ensuring justice and the rule of law
Shavkat Mirziyoyev

In order to ensure the rule of law, to realize the constitutional rights of citizens and to establish justice in society, large-scale organizational and legal measures are being implemented in the following years to radically reform the judicial and legal sphere.

According to the results of the analysis of the practice of law enforcement, new institutions were introduced into the process of conducting court cases, in order to ensure the reliable protection of citizens' rights, institutions such as conciliation, preliminary hearing, mediation, as well as checking the legality, reasonableness and fairness of court decisions were improved.

At the same time, the sharp increase in the volume of cases in the courts led to the loss of the opportunity to consider cases within the time limit set by the law, which caused an increase in reasonable objections of citizens.

In addition, the limited possibilities of checking the legality, reasonableness and fairness of court decisions by means of a three-level system in making long-term decisions indicate the need to improve this system by effectively using the capabilities of the middle level - regional courts.

According to Law No. 869 of September 27, 2023, the Criminal Procedure Code of the Republic of Uzbekistan includes the review of court decisions that have not entered into legal force in the appeal procedure based on a complaint (protest), court decisions that have entered into legal force in the cassation procedure, and court decisions that have been considered in the appeal or cassation procedure. as well as the transfer of powers to review court decisions in the cassation procedure to regional courts and courts equivalent to them, and the practice of annulling court decisions by higher courts and sending the case to lower courts for retrial changes and additions are being introduced, which provide for procedural norms on termination.

This Law aims to increase the responsibility of judges, ensure quality and timely review of cases, effectively use the capabilities of regional courts and courts equal to them in reviewing court decisions, expand the opportunities for citizens to use the right to appeal and prevent protests, as well as excessive wandering serves to prevent.

According to this law, the fifth part of Article 13 of the Civil Procedure Code states that "Appeal, cassation, and review cases shall be considered by three judges in appropriate court panels.



MODERN ASPECTS OF ECONOMIC AND SOCIAL SUSTAINABLE DEVELOPMENT Vol. 12 (2023): Special Issue

INTERNATIONAL E-CONFERENCE-15th September

Complaints (protests) filed in the procedure of appeal, cassation, or review of the judgments of the Supreme Court of the Republic of Uzbekistan are considered by the Criminal Trial Panel of the Supreme Court of the Republic of Uzbekistan in the composition of five judges. In the Presidium of the Supreme Court of the Republic of Uzbekistan - it will be seen if the majority of the members of the Presidium are present.

On the basis of this law, the cases considered by the court of appeal, cassation and inspection instances were added to the cases in which the defense attorney, covered by Article 51 of the Criminal Code, must participate. I think this is very appropriate. Because the legalization of the presence of the prosecutor in the courts of this instance, with the participation of the lawyer, serves as a guarantee of keeping the judicial process in balance.

Article 414 of the Criminal Code of Criminal Procedure "In cases where the case is considered after the judgment of the court of appeal has been canceled by the court of cassation due to the need to apply the law on a more serious crime or the lightness of the imposed punishment, the discussion in the court of appeal is whether the defendant is guilty or not guilty at all." without touching on the issue of non-compliance, it will be carried out only on the part related to the description of the crime and the punishment", it is planned to remove the norm. The purpose of this is to put an end to the situation where the jurisdiction of the cassation instance is limited.

According to the Law of the Republic of Uzbekistan No. 664 of January 12, 2021, the eleventh section, which has lost its force, is being reformed and re-introduced. We can also know it by its name "Checking the legality, reasonableness and fairness of judgments, rulings, decisions".

According to this section, the legality, reasonableness, and fairness of court verdicts, rulings, and decisions can be checked in the appeal procedure.

The hearing of the case by the higher court is carried out according to the complaints and protests of the persons specified in Article 497² of the Criminal Code of the first instance against the verdict and decision of the court of first instance in the prescribed manner. In this case, they can provide additional materials to confirm their case. He person who filed a complaint or protest in the appeal procedure, as well as those whose interests are affected by the complaint or protest, will be notified by the court about the time and place where the case will be heard in the appeal procedure.

Convict, acquitted person, victim, civil claimant, civil defendant and their representatives have the right to participate in the hearing of the case at the appellate instance. The non-appearance of these persons, who were informed about the time and place of the hearing of the case due to unexcused reasons, does not prevent the hearing of the case. However, the court may summon the convicted person, the acquitted person, as well as the victim, the civil plaintiff, the civil defendant and their representatives to give explanations.

The following must be stated in the appeal and protest:

- 1) the name of the court to which the complaint or protest is addressed;
- 2) information about the person who filed a complaint (protest), his procedural position, his place of residence or location;
- 3) the name of the court that issued the verdict, the date of the verdict, the court case number, the judgment, the verdict against which the complaint (protest) is filed, information about the person against whom the verdict or verdict was issued;
- 4) according to the opinion of the person making a complaint (protest), what are the reasons for the wrongness of the verdict, the ruling, which norms of the law influenced the decision-making during the proceedings before the court or during the trial reasons for violation, as well as the content of his request;



**MODERN ASPECTS OF ECONOMIC AND SOCIAL
SUSTAINABLE DEVELOPMENT
Vol. 12 (2023): Special Issue**

INTERNATIONAL E-CONFERENCE-15thSeptember

- 5) evidence on which a person bases his claims, in particular, evidence that has not been verified by the court of first instance;
- 6) newly presented evidence and the reason why they were not presented to the court of first instance;
- 7) list of materials attached to the complaint (protest);
- 8) the date of filing the complaint (protest), signature of the person who filed the complaint (protest).

If the content of the appeal (protest) does not meet the above-mentioned requirements and prevents further consideration of the case, the judge of the first instance court shall issue a decision within three days to return the appeal (protest) to the person who filed it. issues and sets a deadline for redrafting an appeal or protest.

In cases where the requirements of the judge's ruling on the return of the appeal, protest are not fulfilled and the appeal (protest) is not received at the specified time, it is considered not to have been submitted.

The prosecutor participates in the appeal of the criminal case.

During the consideration of the criminal case:

- 1) In the panels of the court of the Republic of Karakalpakstan, regional and Tashkent city courts, the Military Court of the Republic of Uzbekistan - the Prosecutor General of the Republic of Uzbekistan, the Prosecutor General of the Republic of Karakalpakstan, the regional, Tashkent city prosecutor, the Military Prosecutor of the Republic of Uzbekistan and their equivalent prosecutors, their deputies or a prosecutor authorized by them;
- 2) in the Criminal Trial Panel of the Supreme Court of the Republic of Uzbekistan - the Prosecutor General of the Republic of Uzbekistan, his deputies or the prosecutor authorized by them;
- 3) The Chief Prosecutor of the Republic of Uzbekistan or his deputies participate in the Presidium of the Supreme Court of the Republic of Uzbekistan.

The appellate court shall determine whether the true facts of the case have been fully determined and the norms of the Criminal Code have been correctly applied, whether the norms of the Criminal Code have been followed during the proceedings, the judgment of the first instance court, examines the legality, reasonableness and fairness of the decision based on the evidence available in the case and additionally examined by the appellate court.

The court is not limited to complaints or protests when hearing a criminal case on appeal, and it examines the case in full against all convicts, including those who did not file an appropriate complaint or convicts against whom a complaint (protest) was not filed.

The court considering the criminal case in the appellate procedure takes into account the evidence examined by the lower courts during the decision-making process, as well as the new evidence presented to the court of the appellate instance by the parties or requested and examined by the parties during the hearing of the case checks.

If incompleteness or one-sidedness of the judicial investigation or procedural violations were allowed by the lower instance court, the court considering the criminal case in the appeal procedure by conducting a full or partial judicial investigation takes measures to fill gaps, eliminate procedural violations. For this purpose, the court considering the case in the appeal procedure:

- 1) to demand documents important for solving the case at the request of the parties;
- 2) to appoint the necessary forensic expertise;
- 3) to summon and interrogate additional witnesses, experts, specialists to the court session, to examine the written, material and other evidence presented by the parties or requested by the court at their request;



**MODERN ASPECTS OF ECONOMIC AND SOCIAL
SUSTAINABLE DEVELOPMENT
Vol. 12 (2023): Special Issue**

INTERNATIONAL E-CONFERENCE-15th September

- 4) to find the evidence examined by the lower instance court inadmissible and exclude it from the set of evidence;
- 5) to find the evidence excluded from the set of evidence because it was deemed inadmissible by the lower court as acceptable evidence and to examine them;
- 6) to investigate the circumstances related to the civil claim and to make a decision on the civil claim;
- 7) has the right to perform other actions necessary to ensure a complete, comprehensive and impartial investigation of all materials of the case.

In the event that several persons have been convicted or acquitted in a criminal case, the court of appeals has the right to cancel the sentence or decision concerning convicts or acquitted persons against whom a complaint (protest) has not been filed, if the cancellation of the sentence or decision aggravates their situation. it's not.

The appellate court shall consider the case no later than fifteen days from the date of receipt of the complaint or protest. If the case is very complicated and in other special cases, the chairman of the relevant court may extend this period by a maximum of one month.

The interested participants of the process should be informed about the extension of the term of consideration of the criminal case.

The duration of consideration of a criminal case by an appellate court should not exceed three months from the day of its consideration. If the case is complicated or large, and there are other good reasons, this period may be extended by a maximum of one month according to the decision of the court considering the appeal.

Grounds for canceling or changing a sentence or ruling in the appeal procedure are as follows:

- 1) incomplete or one-sided judicial investigation;
- 2) that the court's conclusions stated in the verdict, ruling are not in accordance with the actual circumstances of the case;
- 3) serious violation of JPK norms;
- 4) Incorrect application of the norms of the Criminal Code;
- 5) unfairness of punishment;
- 6) There is a need to apply the norm of the relevant article of the Special Part of the Criminal Code, which stipulates that the punishment in the form of restriction of liberty and deprivation of liberty shall not be applied in case of compensation for the material damage caused;
- 7) the entry into force of a law that abolishes the criminality of an act, reduces the punishment or otherwise improves the situation of a person;
- 8) the charge against the defendant has been replaced with a more serious charge or a charge that is significantly different from the original charge according to the actual circumstances, or the defendant has been brought to criminal liability on a new charge, or another person has been involved as a defendant in the case.

It is important to note that each of the above grounds has been addressed.

The judicial investigation is considered incomplete and one-sided in the following cases, if:

- 1) if the cases specified in Articles 82 - 84 of the Civil Code are not fully defined;
- 2) persons whose testimony is important for solving the case have not been interrogated;
- 3) if the required examination has not been conducted;
- 4) documents or physical evidence important for the case were not obtained;
- 5) if other investigative actions, the results of which may be important for the case, have not been conducted.

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**MODERN ASPECTS OF ECONOMIC AND SOCIAL
SUSTAINABLE DEVELOPMENT
Vol. 12 (2023): Special Issue**

INTERNATIONAL E-CONFERENCE-15th September

The court's verdict, decision is recognized as not in accordance with the actual circumstances of the criminal case in the following cases, if:

- 1) if the court's conclusions are not confirmed by the evidence seen at the court session;
- 2) the court did not take into account circumstances that could seriously affect its conclusions;
- 3) if there are conflicting evidences regarding the circumstances important for the case, the reasons why the court found some of these evidences to be reliable and rejected others, if it is not indicated in the judgment or decision;
- 4) there are serious contradictions in the conclusions stated in the verdict, decision, which affected the resolution of the issue of the defendant's guilt, the correct application of the norms of the Criminal Code, or the determination of the punishment. Isa or if it can be affected.

Violations that deprive the participants of the process of their rights guaranteed by law or limit these rights or otherwise hinder the court from considering the case in any way and affect or may affect the rendering of a legal, reasonable and fair decision are serious violations of the norms of the Criminal Procedure Code is considered a violation.

In the following cases, the judgment and decree must be annulled, if:

- 1) if the verdict or ruling was issued by a court with illegal composition;
- 2) if the procedure for the judge to issue a verdict or ruling alone or the secrecy of the consultation of judges in issuing a verdict or ruling is violated;
- 3) if the case was heard in the absence of the defendant, except for the cases stipulated in the third part of Article 410 of the Criminal Code;
- 4) after completion of the inquiry or preliminary investigation, the accused was not introduced to all the materials in the case, and this violation was not eliminated by the court that issued the sentence or ruling;
- 5) if the defendant who does not have a defense attorney is not given the floor for the defense speech;
- 6) if the defendant was not given the last word;
- 7) if the defendant's right to use his native language and the services of an interpreter is violated;
- 8) if according to the law, the presence of a defense attorney or legal representative is required, but the case was investigated or considered without their participation;
- 9) if the inquiry, preliminary investigation and court hearing were held while there are circumstances that exclude the conduct of the case;
- 10) if the minutes of the court session are not available in the case or are not signed.

The following are recognized as incorrect application of the norms of the Criminal Code:

- 1) Violation of the requirements of the articles of the General part of the Criminal Code;
- 2) that the crime is described by another article (part of the article, paragraph) of the Criminal Code instead of the applicable article (part of the article, paragraph);
- 3) that the type and standard of punishment not provided for in this article of the Criminal Code were assigned to the convict.

If the punishment does not correspond to the gravity of the crime, the personality of the convicted person, or the punishment is imposed without deviating from the scope provided for in the relevant article of the Special Part of the Criminal Code, but it is too light or too heavy in terms of type or standard. If it is, it is unfair.

If the court considering the case in the appellate procedure, in the event that the material damage is compensated, the grounds for application of the relevant article of the Special Part of the Criminal Code on the non-applicability of the punishment in the form of restriction of liberty and deprivation of liberty shall be imposed. changes.



**MODERN ASPECTS OF ECONOMIC AND SOCIAL
SUSTAINABLE DEVELOPMENT
Vol. 12 (2023): Special Issue**

INTERNATIONAL E-CONFERENCE-15thSeptember

If, during the appellate review of the case, a law that has retroactive effect in accordance with Article 13 of the Criminal Code, cancels the criminality of the act, reduces the punishment or otherwise improves the situation of the person, the court shall make the necessary changes to the sentence or terminates proceedings.

If the circumstances provided for in the second part of articles 416, 417 of the Criminal Code are determined during the hearing of the criminal case in the appeal procedure, the court, at the request of the prosecutor or the victim, his representative or the convict, his defender, legal representative, may charge the defendant with a new charge. makes a ruling on the satisfaction of the motion to bring criminal responsibility or involve another person to participate in the case as an accused in the case.

Execution of the judgment is entrusted to the prosecutor who approved the indictment or indictment.

In the event that the court decision is not executed within the time limit specified in Articles 416, 417 of the Criminal Procedure Code, or if the prosecutor concludes that it is not possible to include an addition to the indictment or to involve a new person as an accused in the case, the court of appeal, cassation and inspection instance shall close the trial continues on the basis of the evidence available in the criminal case.

In the event that a new charge is brought against the convict or a new person is involved in the case to participate as an accused, the court of appeal, cassation and review instance cancels the conviction and sends the case to the court of first instance for a new trial.

The discussion of the case is carried out by the court of first instance on general grounds.

The appellate court has the right to overturn the trial court's sentence and issue a new sentence of conviction, applying the law on a more serious crime that has increased the punishment or the charge announced against him.

The court's guilty verdict can be annulled by the appellate court only upon the protest of the prosecutor or upon the complaint of the victim, his representative, by issuing a new sentence, aggravating the condition of the convict.

The court's acquittal can be annulled by the appellate court only upon the prosecutor's protest or the victim's or his representative's complaint regarding the illegality and unreasonableness of the said sentence, with a guilty verdict issued.

The appellate court has the right to:

- 1) to reduce the punishment or to apply the law on a lighter crime to the convicted person;
- 2) to find the prisoner a very dangerous recidivist;
- 3) to change the type of penal institution to a lighter or heavier one;
- 4) to reduce or increase the amount of material damage caused as a result of the crime, which must be compensated, as well as the amount of moral damage compensation;
- 5) to apply coercive medical measures against the prisoner in accordance with Article 96 of the Criminal Code;
- 6) to resolve issues of material evidence, procedural outcomes and other issues.

The part of the acquittal sentence on the grounds of acquittal can be changed based on the appeal of the acquitted person, his defender, legal representative.

The appellate court, after reviewing the criminal case, shall cancel the conviction and terminate the criminal case in the following cases, if:

- 1) if the grounds provided for in Article 83 and the first and fifth parts of Article 84 of the Criminal Procedure Code have been determined in the case;

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**MODERN ASPECTS OF ECONOMIC AND SOCIAL
SUSTAINABLE DEVELOPMENT
Vol. 12 (2023): Special Issue**

INTERNATIONAL E-CONFERENCE-15th September

2) if the evidence collected in the case is insufficient to find the convict guilty and there is no opportunity to collect additional evidence.

According to the new law, appeals and protests can be filed against sentences that have not entered into force as follows:

- 1) on the judgment of district (city) courts in criminal cases - to the court of the Republic of Karakalpakstan, to the regional, Tashkent city court;
- 2) on the verdict of the regional military courts - to the Military Court of the Republic of Uzbekistan;
- 3) on the judgments of the Supreme Court of the Republic of Uzbekistan, the court of the Republic of Karakalpakstan, regional courts, Tashkent city courts, the Military Court of the Republic of Uzbekistan - to these courts;

Appeals (protests) are filed through the court that issued the verdict. If the complaint (protest) is submitted directly to the appellate court, this court will send them to the court that issued the sentence to fulfill the requirements stated in Article 497⁶ of this Code.

Appeals and protests can be submitted within ten days from the day of the announcement of the sentence, and by the convicted, acquitted person, and the victim within the same period from the day when a copy of the sentence was delivered to them.

A private complaint or a private protest may be filed against the decision of the court of first instance on the case within ten days from the date of its issuance by the persons provided for in Article 497² of the Civil Code.

In the case of an appeal or a protest against the decision issued during the trial, which ended with the verdict, the case will be sent to the appellate court only after the deadline for filing a private appeal (private protest) against the verdict has expired.

In the event that a new charge is brought against the convict or a new person is involved in the case to participate as an accused, the court of appeals annuls the verdict of conviction, and in cases where the case is sent to the court of first instance for a new trial, the court of appeals issues a decision";

The persons specified in Article 497² of the Civil Code have the right to file a private appeal (private protest) against the decision of the court of first instance in the cases provided for in this Code.

If a judgment has been issued in a case, but a private complaint or a private protest has been filed only against the decision of the court of first instance, the court will send the case to the higher court after the deadline for filing an appeal or protest against the judgment has passed.

A private appeal (private protest) filed against the court's decision is considered in accordance with the general rules of proceedings in the appellate court.

According to the results of hearing the case on a private complaint (private protest) against the decision of the court of first instance, the court of appeal has the right to:

- 1) to leave the decision of the first instance court unchanged, and leave the private complaint (private protest) unsatisfied;
- 2) cancel the decision of the court of first instance and send the case for a new trial;
- 3) cancel the decision of the court of first instance and send the case to the prosecutor for an inquiry or preliminary investigation according to general rules;
- 4) cancel the decision of the court of first instance and apply the amnesty act;
- 5) cancel the decision of the court of first instance and terminate the proceedings;
- 6) annul the private decision of the court of first instance;
- 7) to change the decision of the court of first instance.



**MODERN ASPECTS OF ECONOMIC AND SOCIAL
SUSTAINABLE DEVELOPMENT
Vol. 12 (2023): Special Issue**

INTERNATIONAL E-CONFERENCE-15th September

The decision of the appellate court on a private appeal (private protest) against the decision of the first instance court is final, except for the cases provided for in Articles 308, 317 and Chapter 59 of the Criminal Code.

If, for some reason, an appeal or protest concerning some convicts, sent within the specified period, comes to the court of appeal after the criminal case of other convicts has been considered, or the deadline has been missed, in accordance with the procedure provided for in Article 497⁵ of the Criminal Code if reinstated by the court, as well as received after consideration of an appeal of the prisoner, his defender or legal representative, an appeal or protest filed by another participant in the proceedings, the appellate court must consider the protest and make a judgment and ruling on it.

If, during the additional consideration of the case, the judgment, decision issued by the appellate court contradicts the previously issued judgment, decision, in order to resolve the issue of protest will be sent to the prosecutor.

Taking into account that the new reforms will come into effect on January 1, 2024, we can expect significant positive changes if the authorities carry out sufficient preparatory work to introduce these legal norms into the court process.

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