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Research Article

HISTORY OF DEVELOPMENT OF REHABILITATION IN CRIMINAL PROCEDURAL LAW IN UZBEKISTAN

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ABSTRACT

The article explores some matters in the field of the citizen protection from illegal criminal prosecution and accusation, restriction of their rights and freedoms.

Also examined a mechanism of compensation for harm caused by unlawful or unjustified criminal charges. Proposals for improving legislation are justified.

KEYWORDS

Illegal actions, rehabilitation, reparation, restoration of rights, criminal proceedings.

INTRODUCTION

All around the world, special attention is being paid to the creation of effective mechanisms for the investigation and judicial errors of criminal cases, elimination of their consequences, restoration (rehabilitation) of the violated rights of persons unjustly prosecuted and convicted. Despite the creation of a system of procedural guarantees aimed at preventing the violation of individual rights in the

criminal process, there are still cases of illegal and unjustified criminal prosecution.

In particular, in recent years, as a result of the changes in criminal procedural legislation of the Republic of Uzbekistan and changes in the judicial system, it can be seen that the courts have provided a fair trial and issued acquittals against the persons who were brought to unjustified criminal responsibility. In

particular, a total of 4,170 persons were acquitted by the courts in our Republic from 2017 to the 2nd quarter of 2022.

Acquittals are issued on the grounds provided for in Article 83 of the Code of Criminal Procedure of the Republic of Uzbekistan, that is, on the grounds of rehabilitation of a person. Although the rehabilitation institute was provided for in the criminal procedural legislation, but in practice this institute hardly worked and therefore there were no problems regarding the mechanisms of its implementation. The issue of rehabilitation was one of the important legal mechanisms in eliminating the tragic consequences of the repression policy of the Soviets in Uzbekistan, but the courts were limited to acquitting the victims of repression and did not restore their other rights.

In the Decision No. 1655 of the SSSR Council of Ministers dated September 8, 1955 "On the length of service, employment and pension provision of citizens unjustly prosecuted and subsequently rehabilitated", the time spent in prisons or exile of rehabilitated citizens is included in the total length of service and length of service by specialty an instruction was given to add it, record it in the labor book, and restore housing rights.

Article 2 of the 1959 Criminal Procedure Code of the Uzbek SSR states that it is the duty of criminal court proceedings to ensure that no innocent person is prosecuted or tried, which became an important basis for the improvement of the rehabilitation institute. However, rehabilitation is not separated as a separate chapter, the grounds for the right to rehabilitation are not defined and procedurally regulated.

According to official data, 3,778,234 people were tried for political crimes in the Soviet Union in 1930-1953, of which 786,098 were sentenced to death. However,

since the official data includes only those who were repressed by the court verdict and does not take into account the victims of administrative repression, the total number of repressed people is estimated from 10-12 million to 38-39 million.

In 1937-1939, more than 41,000 people were arrested by the "troika" of the People's Commissariat of Internal Affairs of the Uzbek SSR. Of these, more than 37,000 people were tried, 6,920 people were shot [1].

In 1954-1961, 737,182 persons were rehabilitated and 208,448 persons were refused rehabilitation on the scale of the Soviet Union due to the lack of a criminal record [2].

However, although these persons were rehabilitated, in fact, their other rights were not actually restored, as such a mechanism did not exist. That until 1959, the term rehabilitation was mainly used to restore the name of those who died under repression, that is, it was almost never used for living persons, that until 1981, only illegally convicted workers and servants received compensation in the amount of two months' wages, regardless of the length of time they spent in the place of deprivation of liberty, pensions suffice it to say that compensation is not intended at all.

It seems unjustifiable to determine the amount of compensation or compensation for property damage caused to a rehabilitated person depending on the type of punishment and the social status of the person[3].

In 1958, the term "rehabilitation" was used for the first time in the principles of criminal court proceedings of the Soviet Union and allied republics. That is, until that time it was not officially recognized that an innocent person could be tried, the concept of "presumption of innocence" existed only in scientific literature.

Article 56 of the Constitution of the Republic of Uzbekistan in 1978 recognized for the first time the rights of citizens of the Republic of Uzbekistan to compensation for damages caused by illegal actions of state bodies and public organizations, as well as officials. However, despite the existence of the right, it was almost impossible to use this right in practice due to the fact that the subject of responsibility was not provided, as well as the mechanism for using this right was not provided.

It is from this time, during the conduct of criminal court proceedings, the improvement of scientific research and legal norms regarding guaranteeing the right to compensation for damages caused by illegal decisions and actions of officials has reached a new stage.

In 1981-1982, special regulatory documents on this issue: the Decree of the Presidium of the Supreme Soviet of the USSR of May 18, 1981 "On compensation for damage caused to citizens as a result of illegal actions of state bodies and public organizations, as well as officials", "Investigation, preliminary investigation, illegal actions of prosecution and judicial authorities" on the procedure for compensation of damage caused as a result of his actions" Regulation was adopted.

Significantly, it was recognized that rehabilitation is not only judicial acquittal, but also the termination of a criminal case against a person unjustly prosecuted, illegal detention and imprisonment.

However, compensation for moral damages was not provided for in this regulation and decree, and the procedure for restoring rights was complicated.

Based on the above changes, by the Decree of the Presidium of the Supreme Soviet of Uzbekistan dated October 28, 1982, a new article, Article 471, was added

to the Code of Criminal Procedure of the Uzbek SSR of 1959, and the obligation of the inquiry, preliminary investigation, prosecutor's office and the court to compensate the citizen for damages caused by illegal actions was determined. That is, when the criminal case is closed on rehabilitative grounds, as well as when the verdict of acquittal is issued, the investigator, investigator, prosecutor and the court must explain to the citizen the procedure for restoring his violated rights and compensate the citizen for the damage caused to the citizen as a result of the illegal trial, illegal criminal prosecution, illegal use of preventive measures in the form of imprisonment. It was established that he must take the measures prescribed by law. Unlike the current Code of Criminal Procedure, the principles and procedure of rehabilitation were regulated in only one article, while the mechanism was more declarative due to the fact that it was not specified.

Before the independence of our country, this judicial institution was not recognized in the criminal-procedural law in force in our country, and later amendments and additions to the legislation regarding rehabilitation did not work effectively in the matter of compensation for damages, did not envisage the recovery of moral damages, and the rule that rehabilitation is based on the judgment, ruling and decision of the court. It was not intended to recover damages caused to a person due to the use of unenforceable, illegal detention, detention and other coercive measures, and it allowed for discretion in the issue of damages[4].

However, in practice, only after 1985, mechanisms for recovery of pecuniary damage were put into practice, and clarifications of the Plenum of the Supreme Court of the USSR were developed regarding the problematic situations caused by their application.

In particular, in the decision of the Plenum of the Supreme Court of the USSR No. 15 of December 23, 1988, it was explained that the termination of the criminal case in connection with the adoption of the act of amnesty of the criminal case, the expiration of the term of prosecution, and the adoption of the law canceling the criminality of the act is not a basis for compensation for the material damage caused.

Improvement of the legal basis of rehabilitation was the demand of that time, only in 1986-1989 and in the first half of 1990, about one million citizens were rehabilitated[5].

On August 13, 1990, the Decree of the President of the USSR "On the restoration of all rights of the victims of political repression of 1920-1950" was announced. That is, for the first time in the history of the USSR, the state officially admitted that it abused its powers and repressed innocent people.

The need to create an effective mechanism for bringing illegal criminal responsibility and restoring the rights of convicted persons was clearly demonstrated in the repressions within the framework of the "Cotton case" in 1984-1989.

Investigative officers illegally detained women, children and even neighbors of the accused in order to obtain useful testimony[14]. For example: R. Goyipov's two innocent sons were kept in prison for 4 and 6 years before the trial. Many innocent people were imprisoned and tortured in this case. By our count, only six people have not been acquitted in cases investigated by this group. There was no such disgrace in the investigative practice of any country [6].

More than 10,000 victims of political repression were acquitted due to the policy of rehabilitating persons who were illegally and unjustifiably convicted in the

years 1917-1950 and "Stalin's repressions" and 1970-1990 [7].

In the new Code of Criminal Procedure of the independent Republic of Uzbekistan adopted in 1994, although it is not perfect, the basics of rehabilitation, the property and other consequences of rehabilitation, the size and procedure of compensation for property damage, the elimination of the consequences of moral damage, the issue of rights restoration in the procedure of claims were regulated, the basics of rehabilitation were partially expanded. , most procedural coercive measures were introduced.

In addition, the introduction of the concept of a new subject "rehabilitated person" into the criminal process was definitely an important step in protecting the rights of wrongfully accused persons.

Most importantly, Article 18 of the Code of Criminal Procedure stipulates that the damage caused to a person due to the violation of his rights and freedoms during the proceedings should be recovered on the grounds and in the manner specified in the Code of Criminal Procedure.

According to the decree of the General Prosecutor's Office of the Republic of Uzbekistan, the Ministry of Defense, the Ministry of Internal Affairs and the National Security Service of March 4, 2014 No. "Regulation on the procedure for restoring other personal and property rights and compensating for property damage caused to them, eliminating the consequences of moral damage" was adopted, and for the first time in the Regulation, the concept of "rehabilitation", "other personal and property rights", service rights of a military serviceman, receiving a pension, the procedure for restoring the right to use housing, compensation for property damage and

elimination of the consequences of moral damage was established.

It can be seen from the above that our legislation specifies the general rules for the application of rehabilitation, but does not specify specific mechanisms for the application of rehabilitation. The lack of clear definition of such mechanisms causes various misunderstandings in the practice of restoring the violated rights of rehabilitated persons. Therefore, it will be necessary to make changes to our national legislation after studying the positive experiences of foreign countries and the problems arising in practice.

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