



## **SPECIFIC ASPECTS OF SUBSTANTIATION IN TERMINATION OF CRIMINAL CASE**

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### **Abstract**

This article analyzes the importance of substantiation and its specific aspects in the termination of criminal cases based on the norms of criminal and criminal-procedural legislation at the stage of implementation of judicial reforms. In the article, the scope of application of this institution was studied through the views put forward by the scientists on substantiation in termination of the criminal case. Based on these ideas, the issue of substantiation in the termination of the criminal case was analyzed through scientific, theoretical, practical, and legal norms. The basis of terminating the criminal case was reviewed using a comparative analysis of the opinions given by scientists on the issue of substantiation in the termination of a criminal case. Based on the results of the analysis, conclusions, suggestions, and recommendations aimed at improving the substantiation in termination of criminal cases were developed.

**Keywords:** culpability, termination of the criminal case, rehabilitation, termination of the criminal case on non-rehabilitation grounds, term of prosecution, suspect, accused, defendant, victim, victim's complaint.

### **Introduction**

One of the important issues in the implementation of judicial reforms is to protect the rights of individuals and ensure their legal interests at all stages of the criminal process, including the termination of the criminal case. Because improvement and liberalization of criminal procedural norms are one of the priority tasks in criminal procedural legislation. The actuality of this issue is reflected in the adopted normative legal documents and state programs.

In particular, the Concept of Improving the Criminal and Criminal Procedure Legislation of the Republic of Uzbekistan [1], approved by the decision of the President of the Republic of Uzbekistan No. 3723 dated May 14, 2018, defined the task of improving certain institutions in the criminal and criminal procedure law.

Based on this, it is important to research the issue of terminating the criminal case and the implementation of substantiation in the criminal process, as well as to create





methodological bases for the improvement of this institution, taking into account the specific features.

### **Materials and Methods**

Although the issue of terminating the criminal case is defined in the legislation, due to the concept of this institution and problems arising in practice, this research mainly uses the method of comparative legal analysis. At the same time, observation, generalization, induction, and deduction methods were used.

### **Research Results**

As we know, termination of the criminal case in criminal proceedings is a form of completion of inquiry and preliminary investigation. In this case, the bodies and officials who have the authority to terminate the criminal case do so by substantiating (collecting evidence, verification, and assessment) the case to be terminated on some basis. Today, scientists put forward different opinions about the termination of the criminal case and the circumstances that must be proven.

According to U. Tukhtasheva, the presence of legal facts denying the existence of criminal-procedural relations in the act requires the termination of the criminal case [2, p. 181].

According to the opinion of a group of scientists led by V.Radchenko, the termination of the criminal case means the completion of the investigation by the termination of the case, since the circumstances exclude further criminal-procedural actions, which in this case, have been determined.

We can partially agree with the opinions expressed. Because, in some cases, the presence of legal facts denying the existence of criminal-procedural relations leads to the termination of the criminal case.

At the same time, we cannot say that there are legal facts that deny the existence of criminal-procedural relations in the application of some grounds mentioned in the criminal-procedural legislation, including conciliation, private prosecution (cases initiated based on the victim's complaint), as well as other grounds for termination of the case that are terminated with the consent of the person. The reason is that in this case, the criminal case can be terminated with the consent of the parties, or it can be continued in the general order.

Therefore, it is necessary to approach each case individually and substantiate based on the nature of the case when terminating the criminal case.

Termination of a criminal case is a type of completion of the inquiry and preliminary investigation. At this stage, the evidence collected in connection with the case is





comprehensively analyzed, checked, evaluated, and the official authorized to conduct the criminal case has the opportunity to make a well-founded conclusion about whether or not there are grounds for terminating the case [3, p. 78]. Based on the above points, the concept of terminating the criminal case should be interpreted as: “Termination of a criminal case is when an authorized official makes a firm conclusion about the completion of the criminal case and terminates the case by issuing a procedural decision or ruling, making sure that all the circumstances have been proven to apply a specific basis provided for by law by evaluating the evidence collected in the case”.

### **Analysis of Research Results**

When terminating a criminal case and substantiating it, scientists divide them into several stages. In particular, most authors believed that the termination of a criminal case consists of clarifying the situation by evaluating the evidence and formalizing this situation through a procedural decision [4, B. p. 78].

It is impossible to completely agree with the opinions of these authors. Because here, after the termination of the criminal case, the issue of material evidence and the issue of a precautionary measure remain open.

In our opinion, the termination of the criminal case includes the following steps as one of the types of completion of the inquiry and preliminary investigation:

- 1) By analyzing and evaluating the evidence collected in the case, determining the appropriate basis for the termination of the case in law, and making a well-founded and reliable conclusion about the impossibility of continuing the investigation, preliminary investigation, or court stage in the future, or about the expediency of the termination;
- 2) Documentation and systematization of criminal case materials as required (this is usually related to the evaluation and recording of evidence, as these actions help in researching the sources of evidence);
- 3) Adoption of a decision (judgment) on the termination of a criminal case;
- 4) solving all issues related to the decision (judgment) to terminate the criminal case, including cancellation of the precautionary measure applied to the suspect (accused, defendant), return of property and other items taken from them, etc.;
- 5) Convey the notice of the termination of the criminal case to the suspect, the accused, the defendant, and all persons interested in the termination of the case and, upon their request, familiarize them with the materials of the terminated case.

It should be noted that although the criminal procedural legislation provides for the grounds and procedures for terminating the criminal case, it does not provide for the



circumstances that must be proven (identified). However, the grounds and procedure for terminating the criminal case are provided.

The grounds for terminating the criminal case are defined in Articles 83 and 84 of the Criminal Procedure Code, and 16 grounds are mentioned in these articles. These 16 bases are divided into classifications according to certain criteria [5, p. 96–102]. The procedure for terminating the case is defined in Articles 373 and 374 of the Criminal Procedure Code.

Most scientists classify the reasons for terminating the criminal case according to rehabilitation and non-rehabilitation grounds [6, p. 88-90].

When terminating the criminal case based on rehabilitation, the investigator, inquirer, the prosecutor shall take necessary measures to restore the person's pre-commitment rights, honest name, and reputation in the court or administrative order, and the damage caused to him as a result of the crime shall be fully compensated.

Non-rehabilitation (non-rehabilitation) grounds are legal facts that allow the termination of the criminal case, which excludes the rehabilitation of the person, and the recovery of the damage caused to the person.

Termination of a criminal case on grounds that do not lead to rehabilitation means that the state has given up the claim to criminal responsibility without going into the issue of whether or not the person is guilty of committing the crime [7, p. 492].

There are two different procedures for terminating a criminal case in the current Criminal Procedure Code. These are:

The first is the termination of the criminal case on the grounds of rehabilitation (Article 83 of the Code of Criminal Procedure, 3 grounds);

The second is the termination of the criminal case without solving the culpability issues (non-rehabilitation grounds) (Article 84 of the Criminal Procedure Code, 13 grounds).

The issue of terminating the criminal case is one of the issues to be resolved after the competent official conducting the case collects sufficient evidence on all the circumstances related to the case and proves the facts [8, p. 90].

In agreement with these points, it can be said that initiating a criminal case is fundamentally different from terminating it. That is, when deciding whether to open a case, investigative bodies do not always have complete information that will clarify the situation of the case.

On the other hand, when terminating the case, the official conducting the criminal case must have collected sufficient and reliable evidence that applies to the current situation and must examine and evaluate them. In this case, the competent official, by analyzing the evidence collected in the case, makes sure that all the circumstances for





the application of this basis have been proven and concludes with the termination of the criminal case.

When terminating the criminal case, officials determine the circumstances that must be proven based on which the criminal case was terminated. As it was mentioned above, the circumstances to be proven in the termination of the criminal case directly depend based on the termination of the criminal case. In this situation, the substantiation issue arises from the specific aspects of the ground of termination.

First, we will focus on the circumstances that must be proven when closing a criminal case based on rehabilitation.

Article 83 of the Criminal Procedure Code provides for 3 grounds for rehabilitation, the suspect, the accused, and the defendant shall be found innocent and rehabilitated in the following cases:

- 1) If a criminal incident did not occur in the case in which the case was initiated and investigative actions or court proceedings were held;
- 2) If the person's act does not contain a criminal element;
- 3) If the person is not involved in the committed crime.

In terminating the criminal case on the grounds of rehabilitation, it is required to establish that the person is innocent of the crime (that he did not commit the crime or was not related to the committed crime). Because the substantiation issue was considered the duty of the investigator, inquirer, prosecutor, and the court.

Following the first paragraph of Article 83 of the Criminal Procedure Code (if no criminal incident occurred in the case where the case was initiated and investigative actions or trial was held), the following issues should be determined when terminating the criminal case:

- 1) The objective non-existence of a criminal incident, which is the basis for initiating a criminal case, i.e. the fact that the incident did not occur at all (for example, the victim's alleged stolen item is found in his house, or the crime turns out not to have been committed at all, etc.);
- 2) An incident occurred, but its origin did not occur as a result of a person's criminal behavior (for example, a fire caused by a natural disaster burns down the organization's warehouse and causes a large amount of property damage. Such situations are caused by floods, earthquakes and other types of natural disasters can also be seen in disasters);
- 3) The incident occurred, but the victim himself was responsible for its occurrence (for example, suicide, accidents in the field of traffic, and its use, which caused the death of the victim due to negligence, etc.).



The second clause of Article 83 of the Criminal Procedure Code (if the act of a person does not contain the content of a crime) requires the determination of the absence of one or more of the elements of the composition of a crime (the object of the crime, the objective aspect of the crime, the subject of the crime, the subjective aspect of the crime) in the criminal case.

By the third paragraph of Article 83 of the Criminal Procedure Code (if the person is not involved in the committed crime), it is necessary to prove that the person has no connection to the committed crime when terminating the criminal case. Criminal affiliation means preparing for a crime, committing it, as well as knowingly not reporting the perpetrators to the authorities, and hiding the traces of the crime or the perpetrators without prior promise [9, B. 448].

According to the ninth paragraph of the decision of the Plenum of the Supreme Court of the Republic of Uzbekistan "On the verdict", if the fact and the origin of the socially dangerous actions are determined, but the fact that it was committed by the defendant is denied or not confirmed by the evidence presented and verified at the trial, the court issues a verdict of acquittal since the person was not involved in the committed crime (third clause of Article 83 of the Criminal Code).

The reasoned conclusion of the investigator and the court that the evidence collected in the case is insufficient, that it is not considered evidence because it was obtained illegally, or that it is not possible to eliminate the doubt about the defendant's full guilt in the charge, is the basis for the termination of the criminal case or the issuance of an acquittal by the third paragraph of Article 83 of the Criminal Code.

Termination of the criminal case without solving culpability issues (Article 84 of the Criminal Procedure Code contains 13 grounds) [10, p. 110-115].

## **Conclusion**

When terminating the criminal case due to the expiration of the term, it is required to determine whether the term of prosecution specified in Article 64 of the Criminal Code has passed, whether the term has been interrupted or not, and whether the criminal case has been suspended or not.

When terminating the criminal case regarding the death of a person (accused, defendant), it is necessary to determine the fact that the death occurred, and that the crime was committed by the deceased person.

In conclusion, it can be said that it is necessary to improve the institution of terminating the criminal case based on the analysis of advanced international standards and the practice of developed foreign countries, it is necessary to ensure the





protection of the legal rights and freedoms of citizens in the implementation of evidence at the stage of terminating the case.

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