



LEGAL REQUIREMENTS FOR THE RIGHT TO PROTECT THE ACCUSED PERSON FROM GUM ON

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Annotation

In this article, the author refers to the concept of the defender, the status of the defender in the Criminal Procedure, the rights and obligations, the circumstances in which the defender is obliged to participate in the Criminal Procedure, the procedural procedure and the basis for providing the suspect and the defendant with the right to protection, the general description of the circumstances that Several suggestions and recommendations have also been developed.

Keywords: defender, Criminal Procedure, suspect, defendant, right to protection, habaes-corporis.

GUMON QILINUVCHI VA AYBLANUVCHIGA HIMOYALANISH HUQUQI KAFOLATLARINI TAKOMILLASHTIRISH ISTIQBOLLARI

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Ixtisoslashtirilgan filiali Jinoyat-huquqiy

fanlar kafedrası o`qituvchisi

Annotatsiya

Ushbu maqolada muallif tomonidan himoyachi tushunchasi, himoyachining jinoyat-protsessidai maqomi, huquq va majburiyatlari, jinoyat-protsessida himoyachi ishtirok etishi shart bo`lgan holatlar, gumon qilinuvchi va ayblanuvchini himoya huquqi bilan ta`minlashning protsessual tartibi va asoslari, gumon qilinuvchi va ayblanuvchini himoya huquqi bilan ta`minlashga mo`nelik qiladigan holatlarning umumiy tavsifi, sohadagi muammo va kamchiliklar, ularni bartarag qilish yo`llari xususida so`z yuritilgan. Shuningdek, bir qancha taklif va tavsiyalar ham ishlab chiqilgan.

Kalit so`zlar: himoyachi, jinoyat-protsessi, gumon qilinuvchi, ayblanuvchi, himoya huquqi, xabaes-corporis.





ПРАВОВЫЕ ТРЕБОВАНИЯ ПРАВА НА ЗАЩИТУ ОБВИНЯЕМОГО ОТ ПОДОЗРЕВАЕМОГО

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Аннотация

В данной статье автор обращается к понятию защитника, статусу защитника в уголовном процессе, правам и обязанностям защитника, обстоятельствам, при которых защитник обязан участвовать в уголовном процессе, процессуальному порядку и основаниям предоставления подозреваемого и обвиняемого с правами общее описание случаев, в которых.

Ключевые слова: защитник, уголовный процесс, подозреваемый, обвиняемый, право на защиту, habeas-Corpus.

During the short period of our independent republic, a lot of work has been done to protect human rights. Laws "On Advocacy" adopted in 1996 and "On guarantees of legal profession and social protection of lawyers" adopted in 1998, government decisions and other important documents, the law, consciousness and culture of the members of the society are protected by our state. it is a clear expression of the implementation of the active policy aimed at increasing.

After independence, human rights and freedoms, as well as their value, increased to a higher level, and it was necessary to ensure their practical guarantee. In order to develop such institutions, many consistent reforms have been implemented in the legislation of our country. It should be noted that the institution that protects and ensures human rights and freedoms is the legal profession, and its individual form is a lawyer. Both concepts are closely related and work together.

It is important to understand the role of the lawyer in the society, his legal status and role in the administration of justice in the country, and the nature of the tasks assigned to the lawyer by the state. Because the duty of a lawyer is to protect the person suspected of committing a crime, accused or tried by any means and means, and achieve an acquittal against his client. to provide guidance in the identification, to prevent the use of illegal methods by judicial and investigative agencies against the





person, to achieve a correct, legal qualification of the action of the accused person and a fair punishment based on his guilt, and to increase the rights and consciousness of citizens is to agree.

With the adoption of a number of laws and legal documents related to the legal profession, the law and status of the lawyer changed, concepts such as "lawyer's firm", "lawyer's office", "advocate's qualification commissions" appeared in the legal system, and the law's activity changed. boudi content with progressive-views.

In addition, the decree of our president Sh.M. Mirziouie on January 9, 2019 "On fundamental improvement of the system of improving law, consciousness and law and culture in society" is also important. To improve the effectiveness of work on increasing the rights and consciousness of the population and the rights and culture of the population, to implement modern methods of improving the rights and knowledge of citizens in accordance with social and political changes, as well as to protect the population, especially children, from harmful information. several tasks were defined in the process of forming immunity.

Ensuring the right to defense during the inquiry and preliminary investigation means the right to defense by the investigator and the investigator of the participants in the criminal process, i.e., the suspect, the accused, the defendant, the victim, and the witnesses. Article 24 of the Code of Criminal Procedure of the Republic of Uzbekistan states that the suspect, the accused and the defendant have the right to defense, one of the basic guarantees of the rights of these participants. The right to defense measures are aimed at explaining the rights granted to the investigator, investigator, prosecutor or the suspect, the accused and the defendant to the court and to use all the means and methods provided by the law to defend themselves against the accusation. It is provided by the obligation to pay [1].

Providing the suspect, the accused and the defendant with the right to defense creates the function of defense in the judicial process. So what is the meaning of himoua in the process of jinuoat? Ensuring the right to defense in criminal proceedings is first of all based on universal human values. In the "Universal Declaration of Human Rights" adopted on December 10, 1948, a number of norms related to the protection of individual rights, including the protection of the right to protection in criminal cases, were defined. In particular, Article 8 of this declaration states that "Every person has the right to effective restoration of his rights by competent national courts in case of violation of his constitutional and law-enforced fundamental rights" [2].

Also, in Article 11 of the declaration, "Every person shall have his case heard by an independent and impartial court, on the basis of complete equality, in order to



determine his rights and duties and to determine the validity of the crime charged against him." has the right to exit" [3].

In general, a lawyer is allowed to participate in the case after he shows the lawyer's certificate and submits a warrant confirming that he is authorized to handle the case. The participation of the suspect, the accused, one of the close relatives or legal representatives of the defendant as a defense attorney along with the lawyer may be prohibited at the request of the suspect, the accused, the defendant, according to the decision of the investigator, the investigator or the court ruling.

Participation in the criminal case is allowed at any stage of the criminal procedure, and when a person is arrested, his right to freedom of movement is practically limited (Article 49 of the Criminal Procedure Code).

The decree of the President of the Republic of Uzbekistan dated March 1, 2008 "On measures to reform the legal profession in the Republic of Uzbekistan" and the Republic of Uzbekistan 2008 "Criminal Procedural Code of the Republic of Uzbekistan" dated September 15

Laws of December 31, 2008 "On Amendments to Article 49" and "On Amendments and Additions to the Legal Documents of the Republic of Uzbekistan in Connection with the Improvement of the Law Institute" serves [4]. According to them, it was confirmed that the defendant could participate in the case at the preliminary stage of the Jinouat process, and the equality of the parties was practically ensured at the preliminary investigation stage.

In 2017-2021, according to the implementation of the action strategy on the five priority directions of the development of the Republic of Uzbekistan, ensuring the true independence and freedom of the judiciary, improving the quality and transparency of justice, expanding the use of the "habeas corpus" institution, fighting corruption A number of regulatory and legal documents aimed at creating an effective system of combat were adopted [6].

Thus, the defender participates in the criminal case as an independent subject of criminal proceedings and acts independently of the suspect's unreasonable and unreasonable demands.

If the accused does not confess to the crime committed, it does not create the obligation of the defender to prove his innocence, even if, in the opinion of the defender, the evidence gathered in the criminal case files refutes the reasons of the accused and this evidence was collected based on the legal requirements of the criminal process. . But in this case, the defense does not have the right to recognize the guilt of the accused as proven. It is necessary to protect the defendant by agreeing



with the defendant on the actions of the defendant. He should also use these rights in an agreed manner.

In the preliminary investigation, the protection of the rights and legal interests of the suspect is considered as a social and relational obligation. subject to certain sanctions on the basis of lack of security and to satisfy the most basic legal interests of the suspect.

The procedural activity of the suspect will have the status guaranteed by the law.

The grounds and procedure for engaging a person as a suspect in a crime case are regulated by criminal-procedural legal documents.

The investigator must make sure that the decision he is making is based on sufficient reliable information to justify the conclusion that the crime exists and was committed by a specific person.

In addition, all evidence must be collected, checked and evaluated during the initial investigation in accordance with the requirements of the law and within the limits of the available possibilities before questioning the suspect. Also, during the investigation, all assumptions about the innocence of this person should be eliminated. In this case, it is impossible not to take into account the fact that a crime can be considered as a crime discovered when a person is notified. In order to involve a person as a suspect in a crime case, it is necessary to have evidence that constitutes the composition of the crime and confirms that it was committed by this person.

Accordingly, the following situations should be determined:

- 1) Crime event (time, event, method of commission, etc.)
- 2) Respect of the person
- 3) Other information of criminal and legal importance for the correct assessment of the crime (presence of previous conviction, recognition of the person as a very dangerous recidivist, specific amount of damage)
- 4) Absence of factors that negate or exempt from criminal responsibility.

Aggravating and mitigating circumstances that are not included in the elements of the crime, the specifics of the intention and the exact amount of the damage caused (if this does not affect the qualification), the circumstances that lead to the commission of the crime can be determined even after the announcement of the crime.

The degree of provenance of this situation in the published version is also important. In each case, the investigator determines the sufficiency or insufficiency of the grounds for considering these cases to be established, based on his internal confidence, after comprehensively, completely and objectively analyzing and evaluating the evidence collected in the case. It is necessary to take into account that



the investigator is given full independence in matters such as recruiting a suspect, qualifying the crime and determining the extent of the suspicion.

The decision of the Plenum of the Supreme Court of the Republic of Uzbekistan "On the application of the law on the protection of the accused and the suspect" has a positive effect on the state of management. At the same time, the establishment of electronic control over the process of taking a person as a suspect can ultimately serve as a factor that brings great success to this process.

Ensuring the participation of the defender in the inquiry and preliminary investigation is carried out by the investigator, investigator, and prosecutor, and the creation of favorable rights and conditions for the execution of the duties of protecting the interests of the suspected defendant. As a result of this procedure, the legal interests of the defendant in the criminal proceedings must be satisfied without any doubt.

The participation of the defense has an important right and significance in the process of involving a person as a suspect.

Based on this, the defense attorney examines the charges against the accused and the information about the accused's identity, and the correct study of these questions is necessary to check all the evidence collected in the case in order to effectively organize the defense according to the law, and to carry out the defense. It is necessary to convince the investigative prosecutor and the court that all procedural actions related to the increase are conducted according to reality, legal and fair.

Based on this, the defender should learn about the identity of the accused, work with the evidence necessary and important for the defender, get information about them and directly draw the attention of the investigator, prosecutor and the court in the form of a petition to mitigate the guilt of the defendant against him. the focus of the announced aub on the denied evidence serves as evidence of the full implementation of the lawyer's duty. The defendant's right to defense is expedient for the defendant to explain to this person the definition and significance of the evidence available in the criminal proceedings and to use this knowledge in determining the truth of the case.

Often, in practice, investigators fill out receipts from the accused that they do not need protection and that they have the opportunity to conduct the protection themselves, which has a negative impact on the issue of providing the right to protection.





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