

THE SIGNIFICANCE AND THEORETICAL-LEGAL ASPECTS OF  
PROCEDURAL FORMS IN THE IMPLEMENTATION OF JUSTICE IN THE  
CRIMINAL PROCESS

*Kukonboyev Khislatjon Muxtorovich*

*Independent researcher Higher School of Judges under the  
Supreme of Judges the Republic of Uzbekistan*

**Abstract**

This article analyzes the theoretical and legal aspects of the importance of procedural forms in criminal proceedings. Compliance with procedural forms in criminal proceedings is scientifically substantiated as a guarantee of ensuring the validity, legality and fairness of court decisions. At the same time, it is analyzed based on the experience of foreign countries in this area and the opinions of theoretical scientists.

**Keywords**

criminal proceedings, criminal procedural form, fair trial, judicial power, judicial documents, investigative actions, guarantee of personal rights, presumption of innocence, violation of procedural norms.

ЖИНОЯТ ПРОЦЕССИДА ОДИЛ СУДЛОВНИ АМАЛГА ОШИРИШДА  
ПРОЦЕССУАЛ ШАКЛЛАРНИНГ АҲАМИЯТИ ВА НАЗАРИЙ-ҲУҚУҚИЙ  
ЖИҲАТЛАРИ

*Куконбоев Хислатжон Мухторович*

*Ўзбекистон Республикаси Судьялар  
Олий кенгаши ҳузуридаги Судьялар  
олий мактаби мустақил изланувчиси*

**Аннотация**

Мазкур мақолада жиноят ишлари бўйича суд ишларини юритишда процессуал шаклларнинг аҳамияти назарий-ҳуқуқий жиҳатлари таҳлил қилинган. Жиноят процессида процессуал шаклларга риоя этилиши суд қарорларининг асосли, қонуний ва адолатли бўлишини таъминлаш кафолати сифатида илмий асосланган. Шу билан бирга ушбу соҳага оид хорижий давлатлар тажрибалари ҳамда назариётчи олимларнинг фикрлари асосида таҳлил қилинган.

**Калит сўзлар**

жиноят процесси, жиноят-процессуал шакл, одил судлов, суд ҳокимияти, суд ҳужжатлари, тергов ҳаракатлари, шахсий ҳуқуқлар кафолати, айбсизлик презумпцияси, процессуал нормаларнинг бузилиши.

In the world, combating and preventing crime is becoming an important global issue in protecting human rights, ensuring the security of society and the state.

In particular, Article 11 of the Universal Declaration of Human Rights (10 December 1948) states that everyone charged with a criminal offence has the right to be presumed innocent until proven guilty in a public trial according to law, with full opportunity for a defence. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall the penalty imposed be heavier than the penalty which was applicable at the time when the criminal offence was committed [1].

In ensuring and adequately protecting human rights, the role of the judiciary is incomparable, and it is of great importance in ensuring a dignified life of citizens, protecting them from socially dangerous acts, and applying appropriate punishment to guilty persons.

In turn, courts conduct their cases in accordance with the procedure and grounds established by procedural legislation. These processes are classified as procedural forms in procedural law.

Therefore, it is one of the important issues to improve the observance of the procedural form in conducting criminal cases, taking into account the international standards and advanced foreign experience, to implement the principles of the rule of law and the inevitability of responsibility, and to further improve the criminal-procedural legislation.

It is known that criminal-procedural activities are carried out not only in a certain sequence, but also in procedural forms strictly defined by law. The criminal-procedural form is the structure of the criminal process and some of its stages and conditions defined in the criminal-procedural law, the sequence and order of performing procedural actions and recording the activity in legal documents [2], and it is necessary to follow the procedural forms when considering the case in court.

Procedural forms serve to ensure the legality and fairness of cases at the judicial stage of the criminal process, expressed in the observance of the norms and rules established in criminal procedural legislation, the sequence (consistency) of actions taken in the consideration of cases, the observance of strictly established requirements, and the observance of procedural guarantees.

American jurist John Rolls argued that “justice must be not only in the result, but also in the process. If the participants in the trial do not have equal rights and opportunities, even a formally correct decision may be unfair” [3], which is how he put forward the theory of justice. From John Rolls's ideas, it can be seen that ensuring justice in court is carried out not only in formal decisions, but also in the correct conduct of each process in the trial.

Czech lawyer and OSCE expert Mirek Novak described the procedural form as the most effective method of protecting human rights in practice, saying, “if procedural forms lose their force, the content also loses its effectiveness. Because only through the form can real protection of human rights be achieved” [4], while Russian scholar M.N. Marchenko stated that “procedural form is not only an external expression of judicial actions, but also serves as the main guarantee for the implementation of a fair trial, ensuring human rights” [5], and N.A. Lopashenko expressed the opinion that “the importance of procedural form is that it creates equal opportunities for the parties, ensures the independent decision-making of the court, and limits cases of interference in the case” [6].

Also, the observance of procedural forms at the court stage of the criminal process serves to ensure legality and justice. We can see the opinions of many scholars on this.

In particular, according to the Russian scholar M.S. Strogovich, “the procedural form in a trial serves to ensure that the court’s activities are carried out within the framework of the law and regulates the process of examining, evaluating evidence and making decisions by the court” [7]. P.A. Lupinskaya, on the other hand, linked compliance with the procedural form with ensuring the rights of the participants in the trial, and expressed the opinion that “if the trial is not conducted in accordance with the procedural order established by law, doubts arise about the legality and validity of the court decision” [8]. It follows from this that compliance with the procedural form at the trial stage is a practical guarantee of judicial justice, ensuring the legality, validity and fairness of court decisions.

Partially agreeing with these opinions, we can give an opinion that at each stage of the criminal process, it is necessary to follow the procedure established by the procedural legislation, and to follow both the procedural form and the procedural process.

At the stage of considering a case in court, the criminal procedural form has its own characteristics, which include the following:

- the primacy of the principle of publicity over dispositivity in deciding the case in court and choosing the methods of action of the participants in the process;
- the provision of a certain order of actions required of the participants in the process by state coercive measures;
- the dependence of the nature of coercion on the level of social danger of the committed crime;
- the existence of the institution of reconciliation;
- a fair trial is the only method of bringing the guilty to criminal liability and imposing punishment on him or acquitting an innocent person;
- the existence of the institution of protection of the rights and legitimate interests of the suspect, accused, defendant.

The most important parts of procedural activity are given a procedural form. The degree of legal regulation depends on the significance of these types of activity in determining the objective truth in the application of criminal law, which is the ultimate goal [9].

It should be emphasized that the procedural form at the trial stage is a legal mechanism that ensures the legal, sequential and official implementation of all procedural actions during the consideration of a criminal case, the protection of the rights of the parties, compliance with the principles of judicial independence and fair trial. Compliance with the criminal procedural form at the trial stage is one of the most important issues, and the court is also required to eliminate violations of procedural forms committed during the pre-investigation, inquiry and preliminary investigation stages.

Compliance with procedural form ensures fairness and legality through the correct organization of the judicial process, strict adherence to deadlines, confidentiality of judicial deliberations, and formalization of judicial documents. In addition, violation of procedural form at the trial stage leads not only to a violation of the legality of the court decision, but also to a violation of the rights of the participants in the case.

Therefore, it is important to eliminate serious procedural violations that occurred at the stages of investigation and investigation by the court, to strictly observe legal norms, and to ensure a fair and effective trial.

Adherence to procedural forms at the trial stage is one of the important conditions of a fair trial, and it serves to protect social justice and human rights by fully following the norms established in the criminal-procedural legislation.

Violations of criminal procedural forms are errors that occur as a result of non-compliance with the requirements of the law in criminal proceedings, which hinder the legality, validity and fairness of decisions of investigative and judicial bodies. Therefore, it is important to prevent violations of procedural forms in criminal proceedings.

Now, let's focus on the factors that lead to violations of procedural form in criminal proceedings and how to prevent them.

In criminal procedural law, violations of procedural form are considered systemic situations that arise under the influence of objective and subjective factors, and many scholars explain these violations not only by non-compliance with the law, but also by the complex nature of the practice of applying law.

In particular, the Russian scholar M.S. Strogovich pointed to the lack of clarity or internal contradictions of procedural norms as one of the important reasons for violations of procedural form, saying that “the more vague a procedural rule is, the greater the likelihood of its different interpretation in practice, which leads to deviations from procedural form” [10]. V.P. Bozhev linked violations of procedural form to the weakness of institutional control, and put forward the idea that “in the absence of effective prosecutorial or judicial control over investigation and judicial activities, a formal attitude towards procedural form arises” [11].

Another scholar, P.A. Lupinskaya, noted that “in investigative practice, the focus on results sometimes pushes the requirements of procedural form to the background” [12], and that in practice, violations of procedural form are often associated with the desire to resolve the case quickly, while Y.K. Orlov associated violations of procedural form with the legal consciousness and professional deformation of an official, expressing the opinion that “when a nihilistic attitude towards procedural rules is formed, the form is perceived as an “unnecessary formality” [13].

Claus Roxin also points out that one of the main reasons for violations of procedural form in German criminal procedure law is the prevailing focus on results in investigation and judicial practice, stating that “the excessive desire to solve a crime or prove guilt sometimes pushes procedural guarantees to the background, resulting in violations of form” [14]. Similarly, Thomas Weigend expressed a similar opinion to Claus Roxin, stating that “the requirements of speed, statistical reporting, and efficiency can encourage investigative bodies to deviate from procedural requirements” [15].

At the same time, French legal scholar Jean Pradel argues that “in French practice, a procedural violation is considered significant only if it causes real harm (grief) to the person, which leads to situations where certain formal violations are “turned a blind eye” to them” [16], and that one of the reasons for procedural violations is the tendency to avoid excessive formalism [17], while Mireille Delmas-Marty links procedural violations to the imbalance between security interests and human rights, stating that “the tendency to reduce procedural guarantees is increasing in the context of the fight against terrorism and serious crimes” [18].

The scientific views of the above-mentioned scholars show that the violation of procedural form in criminal proceedings is not an isolated technical error, but a systemic legal problem that arises under the influence of various objective and subjective factors. These factors are directly related to the uncertainty of procedural norms, insufficient institutional control, result-oriented

practices, deformation of the legal consciousness and professionalism of officials, as well as the priority of security interests over human rights.

The reasons for the violation of procedural formality in the legal systems of foreign countries are similar, and they are mainly explained by the fact that in practice the requirements of efficiency and speed prevail over procedural guarantees. This negatively affects the full implementation of the principles of legality and fair trial in criminal proceedings.

From this point of view, eliminating procedural violations requires not only improving legislation, but also a systemic approach to this problem. That is, the clarity of procedural norms, effective control, the legal culture of law enforcement entities, and human rights-oriented judicial practice must be ensured in harmony with each other.

Therefore, preventing violations of procedural formality in criminal proceedings should not be considered an auxiliary means of ensuring legality, but rather an independent legal task aimed at ensuring a fair trial, social justice, and the protection of human rights.

The above analysis shows that the procedural forms ensure the independence of the courts and ensure that the decisions issued by them are reasonable, legal and fair. In conducting court proceedings, procedural forms are not only an external expression of procedural actions, but also an important guarantee that serves to protect the rights and legal interests of the participants in the proceedings.

The experience of foreign countries also shows that violations of procedural form often arise as a result of the priority given to the requirements of speed and efficiency over procedural guarantees. Therefore, the prevention of violations of procedural form should not be limited to improving legislation, but should also include the formation of judicial practice, such as strict adherence to the requirements of existing legislation and strengthening control. Only in this way will legality and the rule of law be ensured in the country.

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