JOURNAL OF INTELLECTUAL PRPERTY AND HUMAN RIGHTS

**Volume: 2 Issue: 2 | February – 2023 ISSN: 2720-6882**
http://journals.academiczone.net/index.php/jiphr

# Acquitting Verdict in the Criminal Procedural Legislation of the Republic of Uzbekistan

***Pirnazarov Abdurashid Abdulakhaevich***
*Tashkent State University of Law, Independent Researcher*

**Abstract:** the article discusses the grounds and procedure for acquittal. The requirements for the content of the acquittal sentence and the issues of their further improvement are analyzed in the criminal-procedural legislation. The information that should be recorded in the structure of the acquittal verdict is scientifically explained. The requirements for the court verdict are analyzed. Considerations for further improvement of the grounds for judging are put forward.

**Keywords:** judgment, introductory part, descriptive part, decision part, grounds for conviction, grounds for acquittal, appellate instance, annulment of sentence.

The verdict of acquittal consists of introduction, description and decision parts, and compliance with the requirements of the law (Articles 466-468 of the Criminal Procedure Code) is one of the important guarantees of making a legal, reasonable and fair decision. Clause 9 of the Decision No. 07 of the Plenum of the Supreme Court of the Republic of Uzbekistan dated May 23, 2014 "On the Judgment" states that "Compliance with the requirements of the law regarding the content of the introduction, description and decision parts of the judgment is one of the general guarantees of issuing a reasonable judgment." highlighted.

According to Article 466 of the Criminal Code, the following circumstances are noted in the introduction of the acquittal sentence: when and where the sentence was issued; the name of the court that issued the verdict, the composition of the court, the secretary of the court session, the parties, the translator; the defendant's name, father's name and surname, year, month, day and place of birth, place of residence, place of work, occupation, education and other information relevant to the case of the defendant; which article of the Criminal Code provides for the charge against the defendant. In the above-mentioned decision of the Plenum, other information about the defendant should be taken into account when imposing a sentence, determining the type of sentence to be served, and finding the convict a very dangerous recidivist. it is noted that it will not be included in the In addition, information about the defendant's state of health, the presence of state awards, special titles, previous convictions (if the conviction has not been completed or removed in accordance with the law) is also shown in the introduction. Also, the introduction contains information about other participants in the trial - the victim, the civil plaintiff, the defendant and their representatives.

The descriptive part of the verdict of acquittal reflects the facts proven by the court during the trial and the grounds of the decision being made. The descriptive part of convictions and acquittals is different. In the judgment of acquittal, the evidence that is the basis of the court's conclusions against each defendant and the reasons for the court's rejection of other evidence are written. Circumstances mitigating or aggravating responsibility, if part of the charge is found to be unfounded, or when the description of the crime is found to be incorrect, the grounds and reasons for changing the charge are indicated[1].



PUBLISHED UNDER AN EXCLUSIVE LICENSE BY OPEN ACCESS JOURNALS

Volume: 2 Issue: 2 | February – 2023 ISSN: 2720-6882
http://journals.academiczone.net/index.php/jiphr

In the descriptive part of the judgment , the court substantiates the above circumstances in relation to each crime committed and each defendant. In this case, the court will show the reasons for rejecting the information that was removed from the evidence system, justifying its conclusions in relation to each defendant . Also, all episodes of the criminal act should be indicated in the descriptive part of the sentence. In clearly revealing the charge, the court is based on directly examined evidence, that is, the charge is defined only on the basis of the circumstances proved at the trial. Along with the defendant's confession (full or partial) or denial of his guilt, the content of his reasons justifying his guilt will be disclosed. Then the evidence disproving the defendant's guilt is analyzed [2].

The court must also indicate the grounds of the decision it has issued on its own initiative on the initiated civil action or on the recovery of property damage caused by the crime.

The defendant's admission of guilt during the preliminary investigation or trial cannot be the basis for the court to issue a guilty verdict. Evidence that contradicts the court's conclusions about the defendant's guilt or innocence must be stated in the judgment, with reasons why it is considered unreliable and rejected.

According to article 415 of the Criminal Code, the court can change the charge. Its main condition is that the accusation only alleviates the situation of the defendant, that is, recharacterizes his actions to another article or part, paragraph of the law, as well as some episodes of crimes, if the actions described by the new article of the law of the defendant are his fault, and are serious with the factual circumstances of the announced accusation The defendant has the right to be classified by the article of the law, which does not differ and does not have signs of a more serious crime. According to the second part of this article, it is not allowed to change the charge by the court with a more serious charge or with a charge whose factual circumstances are significantly different from the original charge. A more serious charge, i.e., the application of another legal norm providing for a more severe punishment, also applies to additional punishment.

Decision No. 07 of the Plenum of the Supreme Court of the Republic of Uzbekistan "On Judgment" states that "According to the contents of Article 467 of the Criminal Code, the courts have no right to indicate the participation in the crime of persons who are not discussed in this case in the descriptive part of the judgment." If the crime was committed with participation, but the other participants of the crime were not identified or fled, or the case related to them was not discussed in court for other reasons, the judgment only records that the crime was committed with participation, without indicating the surnames, names and other information of the participants, the court shall the participant must indicate what part of the criminal act he committed[3].

In practice, there are cases when the defendant gives testimony at the trial that contradicts the testimony he gave during the inquiry or preliminary investigation. In such cases, the court should carefully examine and evaluate the previous testimony together with other evidence.

Article 469 of the Criminal Code specifies the requirements for the descriptive part of the acquittal sentence. In the descriptive part of the verdict of acquittal: the nature of the charge against the defendant; circumstances determined by the court; evidence confirming the court's conclusion about the defendant 's innocence ; why the court considers the evidence, which is the basis for claiming that the defendant is guilty of committing a crime, to be unreliable or insufficient , or why the court considers that the criminal event itself did not occur or that the act committed by the defendant is not a crime ; the grounds of the decision regarding the above claim must be indicated. The sentence of acquittal should not include phrases that cast doubt on the acquittal 's innocence . In addition, the acquitted person's rights to compensation for moral and material damages caused by illegal criminal prosecution are explained.



PUBLISHED UNDER AN EXCLUSIVE LICENSE BY OPEN ACCESS JOURNALS

Volume: 2 Issue: 2 | February – 2023 ISSN: 2720-6882
http://journals.academiczone.net/index.php/jiphr

The decision part of the sentence reflects the decision of the court on all issues discussed in the criminal case. Its content is given in Articles 468, 470-471 of the Criminal Code.

For example, if the defendant is charged with several articles of the Criminal Code, the decision part of the sentence should indicate which articles the defendant was acquitted of and which articles he was sentenced for. The ruling part of the sentence also states that the defendant is released from serving the sentence[4].

According to Article 470 of the Criminal Procedure Code, in the decision part of the acquittal sentence:

1) the defendant's name, father's name and surname;
2) the decision to acquit the defendant of the crime;
3) the decision to cancel the precautionary measure applied to the defendant; a decision to release the acquitted person immediately, in the courtroom itself, if he is kept in prison as a preventive measure;
4) if the satisfaction of the initiated civil claim is refused, the decision to cancel the measures taken to secure the claim;
5) information on recognition of the right of the acquitted person to compensation for the property damage caused to him and to eliminate the consequences of moral and other damage in the manner stipulated in articles 304-313 of the Criminal Code.

According to Article 471 of the JPK, the decision part of both the conviction and the acquittal sentence, in addition to the issues specified in Articles 468 and 470 of the JPK, must include the following: 1) Articles 283-289 of the JPK on compensation for damages initiated by the initiated civil action or the court a decision made accordingly; 2) a decision made in accordance with Article 289 of the Criminal Procedure Code regarding physical evidence and other items and documents attached to the case; 3) a decision on procedural costs made in accordance with Article 320 of the Civil Code; 4) the procedure and time limits for filing an appeal and cassation complaint against the sentence , as provided for in Articles 497 [3] , 497 [4] , 499-500 of the Criminal Code, respectively.

A serious violation of the norms of the criminal-procedural law (Article 487) refers to two important issues: the violation or limitation of the rights of the participants in the proceedings, and the failure to fulfill the requirements of the form specified in the norms of the criminal-procedural law, which affects the legality, reasonableness and fairness of the sentences [5] .

A serious violation of the norms of the Criminal Procedure Law mainly means situations that deprived the participants of the proceedings of their rights established by the law or limited these rights, or otherwise allowed the court to review the case in a comprehensive way and affected or may affect the issuance of a legal, reasonable and fair verdict.

All the rights and obligations of the participants in the proceedings are defined in the JPK and their fulfillment is guaranteed. Violations that deprive the participants of the criminal proceedings of their rights established by law or limit these rights or otherwise hinder the court's comprehensive consideration of the case and may affect the issuance of a legal, reasonable and fair verdict are recognized as serious violations of the norms of the Criminal Code [6].

In the following cases, the sentence is considered illegal and is annulled:

1) the case was heard in the absence of the defendant (except for the cases provided for in the third part of Article 410 of the Criminal Code);



PUBLISHED UNDER AN EXCLUSIVE LICENSE BY OPEN ACCESS JOURNALS

Volume: 2 Issue: 2 | February – 2023 ISSN: 2720-6882
http://journals.academiczone.net/index.php/jiphr

2) after the completion of the preliminary investigation, the accused was not introduced to all the materials in the case and this violation was not eliminated by the sentencing court;
3) if the defendant who does not have a defense attorney is not given the floor for the defense speech;
4) if the defendant was not given the last word;
5) if the defendant's right to use his native language and the services of an interpreter is violated;
6) if according to the law, the participation of the defender is required, but the case was investigated or considered without his participation.

Compliance with the form in criminal proceedings is also one of the strict requirements of the law. For example:

1) issuance of a verdict by an illegal court is contrary to the requirement of fair trial. According to the law, only elected or appointed judges and people's councilors participating in the term have the right to hear the case, because only they have the authority to pass judgment;
2) if the procedure of the judge to deliver the verdict alone or the confidentiality of the consultation of the judges during the delivery of the verdict is violated;
3) if there are circumstances that exclude the case, preliminary investigation and trial have been conducted;
4) if the minutes of the court session are not filed or signed, it is considered that the norms of the criminal procedure law have been seriously violated, and the sentence is annulled.

Incorrect application of the norms of the Criminal Code (Article 488 of the Criminal Code) refers to the incorrect application of the norms of the General and Special part of the Criminal Code in the decision of the court on the existence of the basis and conditions of criminal responsibility, qualification of the act, exemption from criminal responsibility and punishment. "Revocation or modification of judgments as a result of incorrect application of the norms of the Criminal Code means that the courts perform the function of law enforcement in the criminal-judicial activity, and these are within the scope of protection and are aimed at the execution of the procedural sanction"[7]. "This imperative takes the form of a legal obligation, and failure to fulfill it is the basis for sanctioning the use of state coercive measures ." Misapplication of the criminal law is expressed in the following:

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

The listed manifestations of the wrong application of the criminal law are closely related to each other. A court's failure to apply a rule of law that should be applied often results in the application of a rule of law that should not be applied instead. Misinterpretation of the meaning of the law also leads to the application of an unnecessary legal norm. At the same time, each of the violations in Article 488 of the Criminal Code has its own content. In particular, the expiry of the time limit for criminal prosecution requires the application of the norms of the law on exemption from criminal responsibility.



PUBLISHED UNDER AN EXCLUSIVE LICENSE BY OPEN ACCESS JOURNALS

**Volume: 2 Issue: 2 | February – 2023 ISSN: 2720-6882**
http://journals.academiczone.net/index.php/jiphr

Applying a rule of law that should not be applied is evidence of a violation of the law. For example, the appointment of such compulsory treatment to a person who does not need treatment for alcoholism or the appointment of a punishment not provided for in the sanction of the article of the special part of the Criminal Code means a violation of the law [8].

In many cases, the wrong application of the criminal law can be caused by other violations committed by the preliminary investigation and court authorities (the preliminary investigation or court investigation was conducted one-sidedly or incompletely, the conclusions of the court stated in the verdict do not correspond to the true circumstances of the case).

Incorrect application of the criminal law can lead to the change of the sentence or other decisions of the court (if it does not lead to aggravation of the defendant's situation or violation of the right to defense) and its cancellation, as well as additional investigation of the case or retrial or termination of the case in court.

Violations of the law mentioned above have a direct impact on the sentence. Decision No. 2 of the Plenum of the Supreme Court of the Republic of Uzbekistan dated May 2, 1997 "On the Court's verdict" also stated that the violation of the above-mentioned principles is the basis for declaring the sentence illegal. Independence of the judiciary in the Law of the Republic of Uzbekistan "On Courts" (Article 4), equality before the law and the court (Article 6), transparency of court proceedings (Article 7), the language of court proceedings (Article 8) in ensuring the legality of judgments , the right to be under court protection (Article 9), ensuring the independence of judges (Article 67), compliance with the provisions on non-interference in the resolution of court cases (Article 69) and the norms of the procedure and conditions of the court hearing in the criminal procedural legislation must be done.

Therefore, only the judgments of the court issued by the competent court in accordance with the rules of full, comprehensive and impartial investigation of all the circumstances of the case are considered legal and they reflect the objective truth that is important for a specific criminal case. In order to find the sentence legal, its content, procedure for acceptance, conditions, structure, given conclusions and resolved issues must be in accordance with the Constitution of the Republic of Uzbekistan, the requirements of the JK and JPK , as well as other legal documents.

**REFERENCES**

1. TULAGANOVA G. GUARANTEED TRUE INDEPENDENCE OF JUDGES //ИНТЕРНАУКА Учредители: Общество с ограниченной ответственностью" Интернаука". – С. 59-60.
2. Алишаев С. Т. ЖИНОЯТ ИШИНИ СУД МУҲОКАМАСИГА ТАЙЁРЛАШ ТАРТИБИНИ ТАКОМИЛЛАШТИРИШ МАСАЛАЛАРИ //ЖУРНАЛ ПРАВОВЫХ ИССЛЕДОВАНИЙ. – 2022. – Т. 7. – №. 11.
3. Bazarova, D. (2021). Presumption of Innocence-A Criminal Procedural Guarantee as A Component of the System. Middle European Scientific Bulletin, 14.
4. Uralov Sarbon Sardorovich. (2023). PREJUDICE IS THE FINAL KEY TO EVALUATING EVIDENCE IN CRIMINAL PROCEEDINGS. World Bulletin of Management and Law, 18, 55-57. Retrieved from https://scholarexpress.net/index.php/wbml/article/view/1931
5. МАХМУДОВ С. ЖИНОЯТ ИШИНИ ТУГАТИШДА ИСБОТ ҚИЛИШНИНГ ЎЗИГА ХОС ЖИҲАТЛАРИ //ЮРИСТ АХБОРОТНОМАСИ. – 2022. – Т. 2. – №. 4. – С. 69-77.



PUBLISHED UNDER AN EXCLUSIVE LICENSE BY OPEN ACCESS JOURNALS

**Volume: 2 Issue: 2 | February – 2023 ISSN: 2720-6882**
http://journals.academiczone.net/index.php/jiphr

6. Rajabov Bekzod Khalimovich. (2023). SIMPLIFICATION OF CRIMINAL PROCEEDINGS: CONCEPT, CONTENT AND IMPORTANCE. World Bulletin of Management and Law, 18, 51-54. Retrieved from https://www.scholarexpress.net/index.php/wbml/article/view/1930
7. Suyunova Dilbar Joldasbaevna and Uralov Sarbon Sardorovich (2021) "Features Of The Institution Of Prejudice In Criminal Proceedings ", The American Journal of Political Science Law and Criminology, 3(06), pp. 100–103. doi: 10.37547/tajpslc/Volume03Issue06-14.;
8. Иноғомжонова З.Ф. Ҳукм, ажрим ва қарорларнинг қонунийлиги, асослилиги ва адолатлилигини текширишда суд назорати. Монография. –Т.: ТДЮИ, 2006. –Б.22.



PUBLISHED UNDER AN EXCLUSIVE LICENSE BY OPEN ACCESS JOURNALS