



The Participation of Journalists in Court Proceedings

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Abstract

In this article, you can get complete information about the participation of journalists in court proceedings in the course of journalistic investigation, the problems that arise during the process, the actual role of legal regulation of the activities of courts and journalists, the importance of the concept of transparency.

Keywords: *Legal Proceedings; Procedural Code; Crime; Prosecutor; Discussion; The Supreme Court*

Introduction

Most of the cases related to the investigation of a journalist will be related to the trial (examination of the case in court, announcement of the verdict). This process takes a lot of time. No matter how long the trial lasts, the TV material will not be broadcast until a clear verdict and evidence is presented. The non-participation of a journalist in the trial gives rise to legal errors in the investigation, confusion of events and the impossibility of fully disclosing the details of the crime. In investigative journalism, the result, positive or negative, requires perfection. This is one of the requirements of the genre. However, sometimes journalists are expelled from the courtroom, not allowed to cover and record, “confidentiality” of non-confidential information, unreasonable refusal to provide the requested information, restriction of the right to copy materials and documents.

“This can be seen in the cases of restricting the participation of journalists in the court session held in 2019 in the case of the unsuccessful trial against journalist Tursunali Akbarov, or the court session of February 5, 2019 in the case of the ban on wearing the hijab on the territory of the International Islamic Academy” [1].

On July 15, 2019, Gazeta.uz correspondent Shukhrat Latipov was not allowed into the open courtroom at the Tashkent Administrative Court in the case of Dior Business LLC. A journalist presents his testimony to a National Guard security officer who insists court permission is necessary even if the court is open. But the security officer said that he could not solve such problems, he asked to contact the assistant judge.

The Main Part

The guards call an assistant judge and get his opinion on the trial by asking the judge's permission. Shortly thereafter comes the rejection of the judge. The journalist reminds that this is an open meeting and he has the right to participate in it. The senior judge stated that the speaker could participate in the meeting as a "listener". After that, correspondent Shukhrat Latipov will contact the Agency for Information and Mass Communications under the Administration of the President of the Republic of Uzbekistan. The representative of the agency, in turn, speaks to the head of the press service of the Supreme Court. Only then will this issue be resolved positively. At the court session, the judge will warn that anyone can participate in the open courtroom, but audio and video recording can be made only with the permission of the judge.

Article 5 of the Law "On the Protection of Journalism" establishes that a journalist is obliged to collect, analyze, edit, prepare and disseminate information, attend open court hearings, hostilities, in places of natural disasters, mass events, record information in the prescribed manner, it is indicated that he has the right to receive, including recording using the necessary technical means [2].

Also, in Article 13 of the Code of Administrative Procedure, proceedings in courts are conducted openly. If it is necessary to keep state secrets or other secrets protected by law, it is indicated that the consideration of the case is allowed in a closed court session [3].

On this occasion, the former deputy of the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan Rasul Kusherbaev said: "In practice, we hear that the judge takes a different position on the first and second day, and his decisions may change the final decision of the court. That is, in practice it seems that there may be some pressure on someone. It is also noted that the evidence taken into account by the court in some cases is excluded in subsequent cases. To limit these shortcomings, it is necessary to ensure the presence of journalists in court.

If the judges do not include a journalist in an open trial and do not give him the opportunity to record, it means that he is afraid to openly carry out his activities. We need to get rid of these judges. The presence of a journalist in court should not be limited just because the judge does not want it. Some judges can't accept it. "We are independent, why should we provide information to the district deputy?" some judges said [4].

So, a judge who is afraid to give anyone open information about his activities has some disadvantages. If the judge is not completely open and independent, corruption will continue to grow, there will be no openness, no transparency".

Transparency of legal proceedings, providing the public with timely and objective information about the activities of the courts allows raising the level of legal awareness in society, is a necessary guarantee of the administration of justice, is an effective way to ensure public control over judicial activities and increase public confidence in the court.

Also, in accordance with Article 7 of the Law "On Courts", cases are heard openly in all courts. Consideration of cases in a closed session is allowed only in cases established by law [5].

This Decree does not allow restricting the right to receive information about the activities of the courts depending on the language, gender, race, nationality, religion, social origin, religion, personality and social status of citizens, the media is not allowed to predict the results of a trial in connection with a specific case or inform the court about something else, it is indicated that he does not have the right to influence (pressure) the judge, that the judge does not have the right to give interviews or speak in the media on a case in which the court decision has not entered into legal force.

In many cases, judges do not consider journalists as participants in court proceedings, referring to Article 112 of the Constitution of the Republic of Uzbekistan. “Participant in the process—the prosecutor, defense attorney, prosecutor, public defender, as well as the defendant, victim, civil plaintiff, civil defendant and their representatives participating in the case, appointed for consideration in accordance with the criminal procedure law” [6]. In article 112 of this document, “Judges are independent, subject only to the law”. Any interference in the activities of judges in the administration of justice is not allowed, and such interference entails liability in accordance with the law. Article 106 states: “In the Republic of Uzbekistan, the judiciary operates independently of the legislative and executive branches, political parties and other public associations” [7]. Although it is said that this does not override the part of Article 7 on the transparency of judicial proceedings provided for in the same document. That is, the transparency of the trial is ensured by providing media representatives with the opportunity to participate in the trial. It is also not allowed to hold open court sessions in buildings that exclude the participation of persons who are not participants in the trial.

Given that the participation of representatives of the media in an open court session in order to obtain information on the case is a legal way to obtain information, it is not allowed to prevent their entry into the courtroom on grounds not provided for by law.

Photographing, video recording and broadcasting in the media of an open court session when considering a civil case are carried out with the permission of the presiding judge in the court session after obtaining the consent of the parties.

If journalists are free to participate in open court hearings, what information is discussed in a closed courtroom?

- Cases contrary to the interests of protecting state secrets, information related to adoption;
- Cases of crimes on sexual grounds, cases of crimes of persons under the age of eighteen, on non-disclosure of information about the private life of citizens or information degrading their honor and dignity, as well as in cases where this is necessary to ensure the safety of close relatives;
- If it is necessary to keep secrets related to state economic activity, commercial secrets or other secrets protected by law;
- If it is necessary to keep state or other legally protected secrets related to administrative proceedings, it is allowed to consider the case in a closed court session.

In the case when it is known that the court session will be held in camera, the court shall issue a reasoned ruling, which indicates the specific circumstances that prevent the free entry of media representatives into the courtroom. This information should be available to everyone. The fact that the court session will be held in a closed court session must be indicated in the minutes of the court session and in the introductory part of the court document received on the case.

Representatives of the media cannot be excluded from the court session until the verdict is announced. If the decision is made while the case is scheduled for trial, media representatives will not be allowed into the courtroom. If the court decides to consider a certain part of the criminal case in a closed court session, representatives of the media are not included in this part of the court session.

It is not allowed to use video conference communication systems, audio and video recordings in closed court sessions, when considering cases of criminal, administrative, economic offenses.

February 21, 2020 in accordance with the Decree of the Plenum of the Supreme Court of the Republic of Uzbekistan “On ensuring the transparency of legal proceedings and the right to receive information about the activities of the courts”, “On the transparency of legal proceedings”, citizens, organizations, public associations, public authorities, self-government bodies of citizens and the public ensuring familiarization of representatives of the media with information about the activities of the courts,

in accordance with the laws “On the protection of journalistic activity”, “On the publicity of the activities of state authorities and administration”, “On public control”, “On the mass media” and other regulatory legal acts, respectively, the Civil Procedure Code of the Republic of Uzbekistan, the Criminal Procedure Code Republic of Uzbekistan, Economic Procedural Code of the Republic of Uzbekistan, Code of the Republic of Uzbekistan on the conduct of administrative proceedings, Code of the Republic of Uzbekistan on administrative responsibility [8]”.

Conclusion

Today, it is very important that journalists conducting inquiries in the direction of investigative journalism correctly convey the analysis of the event to the public by participating in lawsuits. In this regard, it is important for a journalist to arm himself with information regarding the legal aspect, that is, the court, the legal system, and the rights of a journalist. A journalist who takes up this genre, in any case, must not forget to give a correct assessment of the situation, accept the words of each with evidence, observe professional ethics and, most importantly, act on the basis of a thorough plan. According to several dozen documents mentioned above, “openness of judiciary” is, first of all, timely and objective informing the population about the activities of the courts, which allows raising the level of legal awareness in society, an important guarantee of the administration of justice, ensuring public control and effectively increasing public confidence in the court, indicates that that it’s a tool. And he supports the initiative and impartiality of the journalist in this activity.

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