



## **PROTECTION OF THE RIGHTS AND LEGITIMATE INTERESTS OF A MINOR IN THE PREPARATORY PART OF THE COURT SESSION**

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<b>Received:</b> 4 <sup>th</sup> September 2021 <b>Accepted:</b> 7 <sup>th</sup> October 2021 <b>Published:</b> 24 <sup>th</sup> November 2021	This article deals with the protection of the rights and legitimate interests of minors in the preparatory part of the court session. In particular, in the preparatory part of the trial, the issues of strengthening the additional procedural safeguards provided by law for the juvenile defendant analyzed and substantiated by the legislation of developed foreign countries.

**Keywords:** Juvenile, Defendant, Trial, Preparatory Part Of The Trial, Procedural Safeguards.

The trial conducted in four stages: preparation, trial, negotiation of the parties and the final word of the defendant, sentencing [1].

As K.E. Igoshev noted, criminal proceedings have the following specific features:

- The possibility of a closed trial;
- No special procedure for making a court decision if the defendant agrees with the charges against him;
- The condition of the presence of a legal representative and defense counsel in the court session;
- in passing sentence, the court must consider the possibility of releasing the juvenile defendant from punishment by applying coercive measures, placing him in a special juvenile institution, imposing a suspended sentence, and imposing a non-custodial sentence on him [2].

At the same time, we believe that the author's opinion does not fully cover the specifics of juvenile justice. In particular, it does not mention the need for the court to investigate additional cases that proved in criminal cases against minors, the juvenile defendant removed from the courtroom, and a teacher and psychologist may be involved in the interrogation of minors.

A similar shortcoming observed in the approach put forward by E.V. Bryanskaya. In his opinion, he noted that the peculiarities of juvenile justice reflected in the following aspects:

- closed hearings in criminal cases against minors;
- Participation of legal representatives in the court session;
- Removal of a minor from the courtroom during the investigation of circumstances that may adversely affect him;
- When sentencing a juvenile defendant:
  - a) Coercive measures of an educational nature;
  - b) Placement in a special institution for minors;
  - c) Conditional sentence;

g) the obligation to consider additional issues related to the imposition of a sentence not related to imprisonment [3] The Criminal Procedure Code of the Republic of Kazakhstan, [4] Azerbaijan [5] the trial is held in a environment of limited transparency. participation of legal representatives of the juvenile defendant in the consideration of the case; the condition of the participation of the defense counsel, the presence of a teacher, a psychologist in the court session. These features of juvenile delinquency described in detail in a number of articles in Chapter 60 of the Criminal Procedure Code of the Republic of Uzbekistan, which regulates the proceedings on juvenile delinquency. We think there is no need to do.

The trial begins with the preparatory part. The procedure for conducting the preparatory part of the court session is set out in Chapter 51 of Articles 428-439 of the Code of Criminal Procedure.

The purpose of the preparatory part of the court session is to check the availability of the necessary conditions for its holding, to check whether the participants in the proceedings have appeared in court, to consider petitions on procedural issues, to take measures to organize a court session [6].

The legal literature emphasizes the rights of participants in the preparation of the case, as well as the implementation of certain procedural actions to ensure the full and impartial determination of the circumstances of the case in the judicial investigation. [7].

The preparatory part of the trial shall also contain additional procedural safeguards provided by law for the juvenile defendant. Since the Code of Criminal Procedure provides for the participation of a lawyer and a legal representative in criminal cases against minors, the appearance of these persons in court investigated.

According to paragraph 4 of the Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan "On judicial practice in cases of juvenile delinquency", in accordance with Articles 551 and 562 of the Code of Criminal Procedure, the court notifies the surrogate parents. Representatives of the guardianship or trusteeship authority, the enterprise, institution, organization where the juvenile studied or worked, the commission dealing with the affairs of minors, representatives of citizens' self-government bodies and, if necessary, other organizations. The court has the right to summon the representatives of these organizations, the guardian or trustee of the defendant, the representatives of the commission dealing with the affairs of minors as witnesses for questioning [8].

In the Law of the Republic of Uzbekistan "On prevention of juvenile delinquency and delinquency", interdepartmental commissions on juvenile affairs are included in the system of bodies and institutions for the prevention of juvenile delinquency and perform a number of functions in this area [9].

Under the Convention on the Rights of the Child [10] and the Beijing Rules [11], member states seek to establish laws, processes, bodies and institutions that directly apply to minors accused of or guilty of violating criminal law.

The Convention sets out a number of measures to ensure the effective participation of minors in criminal proceedings. First, the convention emphasizes the need to introduce a friendly environment and services in order to facilitate the effective participation of a juvenile accused of a crime in trial. Emphasizing this requirement, the Committee on the Rights of the Child noted that the environment and working methods should be appropriate to the abilities and needs of minors [12].

Various practical measures taken by the member states to meet the above requirement. These include the introduction of special judicial bodies specializing in juvenile justice, and the establishment of special requirements for the skills and professional training of judges in this category of cases.

In our opinion, it is expedient that experienced judges consider criminal cases against minors. It is necessary to strengthen the personal responsibility of judges considering this category of cases for compliance with the requirements for legality, validity and fairness of court decisions, constantly improve the professional skills of judges. Judges dealing with juvenile delinquency are required to have certain skills not only in legal matters but also in areas such as pedagogy, sociology, and youth psychology.

The legislation of a number of foreign countries stipulates such requirements for judges. In particular, the Code of Criminal Procedure of the Republic of Belarus stipulates that criminal cases against minors heard by special juvenile courts or specially trained judges [13].

Resolution №3 of the Plenum of the Supreme Court of the Republic of Belarus of 28.06.2002 "On Judicial Practice in Juvenile Delinquency" states that "such special training of judges implies the need to improve their skills not only in legal matters, but also in pedagogy, sociology and psychology" [14].

Article 319 of the Code of Criminal Procedure of the Republic of Georgia stipulates that specially trained investigators, prosecutors and judges in the fields of pedagogy and psychology [15] shall conduct criminal proceedings against minors.

There are no separate courts in the Republic of Uzbekistan specializing in juvenile criminal cases. Therefore, despite the fact that juvenile delinquency cases have their own characteristics, which require a special approach to their consideration, in the current context of consideration by courts of general jurisdiction, it is important that judges in this category of cases have special training.

According to the above, we think it is appropriate to include in the Criminal Procedure Code of the Republic of Uzbekistan a norm that judges with special training in pedagogy, psychology and sociology should consider criminal cases against minors. However, in order to prevent unprepared judges from prosecuting juveniles, we propose that Article 76 of the CPC define the lack of appropriate training in juvenile cases as an impediment to the participation of a judge in juvenile cases.

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