



CLOSED COURT SESSION AS A WAY TO ENSURE THE SAFETY OF PARTICIPANTS IN CRIMINAL PROCEEDINGS

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Article history:	Abstract:
Received: 11 th December 2022 Accepted: 14 th January 2023 Published: 22 th February 2023	This article describes the features of holding a closed court session in order to ensure the rights and legitimate interests of citizens in the consideration and resolution of a criminal case on the merits. One of these grounds is the need to ensure the safety of participants in the trial and their loved ones. Creating safe conditions for the participation of citizens in the court session allows the court to identify and examine the evidence collected in the case. This article analyzes the opinions of scientists along with domestic and foreign legislation
Keywords: publicity, closed trial, safety of participants, witnesses, guarantee.	

Judicial and legal reforms carried out in recent years have made it possible to strengthen guarantees of the independence of the judiciary and the protection of the rights and legitimate interests of citizens and entrepreneurs in addition to ensuring openness and transparency in the activities of the courts.

2022 —2026 In accordance with the tasks set in the development strategy of the new Uzbekistan for, as well as in order to ensure the genuine independence of the judiciary, improve the effectiveness of the activities of the courts and the quality of justice, within the framework of the strategy, the following are the priority tasks of ensuring justice, creating all opportunities for citizens and, the improvement of legislation aimed at ensuring the impartiality of the courts in practice is also defined as the strengthening of guarantees of the independence and inviolability of judges, the development of effective mechanisms to prevent cases of disrespect for the court and interference in the court case ¹.

It should be noted that, according to international experts, about 55 million people are involved in the scope of Investigation and Proceedings of criminal cases every year. In this area, about sixty thousand criminal cases are also initiated annually in the Republic of Uzbekistan, of which more than 45-50 thousand cases are sent to the courts². During the trial, approximately four to five witnesses, the victim and the defendant are questioned by the court. As follows from this circumstance, about two hundred and fifty thousand people a year participate in criminal proceedings as witnesses, victims, defendants. The same data indicate the important scientific and practical significance of the research topic. Therefore, the analysis of the problems related to the procedural legal status, implementation of the rights and fulfillment of obligations of the participants of the judicial process on the topic, ensuring their security at the dissertation level is an urgent issue.

At the stage of court proceedings, the question of considering a criminal case in a transparent context is the central pressure of the criminal process.

The transparent consideration of the criminal case at the court session is enshrined in Article 113 of the Constitution of the Republic of Uzbekistan³. In addition, the issue of considering transparent and closed court sessions is also contained in the resolution of the plenum of the Supreme Court of the Republic of Uzbekistan "on ensuring transparency of judicial proceedings and the right to receive information on the activities of courts"⁴.

Ensuring the safe participation of citizens in a criminal case is considered as a separate guarantee of a fair sentence. Only in such cases are sufficient conditions created for the court to receive the necessary, complete and reliable information about the circumstances that need to be proved in order to make a final procedural decision.

The current legislation provides for the holding of a court session in a closed order as one of the procedural measures for the safe participation of persons in a criminal case, which is an exception to the general rule on the open consideration of materials of a criminal case. This is primarily due to the need to keep state secrets and ensure the safety of individuals. The holding of closed court sessions is also allowed in cases provided for in Part 3 of Article 19

¹ "Одил судловга эришиш имкониятларини янада кенгайтириш ва судлар фаолияти самарадорлигини оширишга доир қўшимча чора-тадбирлар тўғрисида"ги Ўзбекистон Республикаси Президентининг Фармони 16.01.2023 йилдаги ПФ-11-сон.

² Ўзбекистон Республикаси Олий судининг 2022 йилдаги статистик маълумотлари

³ Ўзбекистон Республикасининг Конституцияси. - Т.: Ўзбекистон, 2022.

⁴ "Суд муҳокамаси ошқоралигини ва судлар фаолиятига доир ахборот олиш ҳуқуқини таъминлаш тўғрисида"ги ЎЗР Олий судининг Пленумининг қарори, 21.02.2020 йилдаги 04-сон.

of the CPC. Conducting a closed court session criminal proceedings in cases where it is necessary to provide information about the personal life of participants (state secret, minor, citizens and the safety of persons (family members or close relatives), it is allowed to be seen in a closed court session with a court ruling⁵.

Closed viewing of criminal cases in courts can be carried out on the initiative of the court or at the request of the participants in the criminal proceedings (Article 19 of the CPC).

The issue of a closed court session can be resolved by the judge (court), depending on when it is necessary to resolve the procedural aspect:

1. individually at the stage of judicial appointment;
2. at the hearing of the court, taking into account the opinions of the parties;
3. the purpose of application is associated with the need to ensure the safety of the person under the pseudonym;
4. danger occurs not only in relation to the witness being questioned, the victim (family members and close relatives), but also in relation to the defendant.

In the event that the petition of the parties is satisfied, the judge is also indicated in the minutes of the court session and at the entrance to the court document adopted in the case. Such process should be seen as another guarantee of non-disclosure of information concerning the person, directly ensuring the safety of persons.

Holding a closed court session can be accompanied by other security measures established by the National Criminal Procedure Law. For example: in order to ensure the safety of victims, witnesses, Holis and other participants in the process, questioning and recognition in conditions that exclude visual observation by the court as a criminal-procedural security measure, their nicknames may be indicated in the list of persons who must be summoned to the court session. Security measures such as information about persons in need of ensuring their safety can be applied to the court in sealed form along with the introductory parts of the minutes of investigative actions with their participation, and information about the person about keeping secret.

As can be seen from the content of the disposition of Part 3 of Article 19 of the Criminal Procedure Code of the Republic of Uzbekistan, the adoption of such a decision by the court is based on the possibility of a threat both to participants in the Criminal Procedure and to their family members and close relatives.

Closed court session is a type of security measure. The decision to hold a court session behind closed doors can only be made if there are strictly defined procedural grounds. Such a decision should be causal and justified, taking into account all the factors of the specific situation in the criminal case.

Ensuring the safety of persons in a court hearing must be confirmed by a set of information about the immediate threat, and, of course, cannot be subjective, it must also be objectively confirmed by the evidence collected in a criminal case and other information.

This measure is aimed at achieving and maintaining the confidentiality of information about the person, which is achieved through a set of procedural measures to ensure the safety of persons under this pseudonym. The set of events consists of two parts: 1) storage of real information about the victim, witness and defendant separately from the materials of the criminal case; 2) implementation in conditions that exclude visual observation of persons whose safety is ensured during court proceedings.

Based on the above analyzes, the following structure of a closed court session can be proposed: 1) a closed court session is one of the cases that excludes publicity as a general condition for the trial; 2) a closed court session limits the possibility of staying in the courtroom of other citizens, including representatives of the media; 3) a closed court session can be seen in a closed court session with a court ruling according to the petition of the participants in the Criminal Procedure; 4) in order to ensure the safety of the recognizer, it is possible to conduct an interrogation under conditions in which the recognition of the recognizer is excluded from viewing; 5) a closed court session is allowed to be seen in a closed court session in cases where it is necessary not to disclose information about the personal life of minors, as well as people and citizens, or to protect their (family members, close relatives) life, health and property; 6) the decision to hold a closed court session is made by the individual judge at the stage of appointment of a criminal case for trial.

Ensuring the safety of persons taken under state protection can not only be carried out by holding a closed court session, but also provides for questioning by the court without disclosing real information about the person of the process participant.

USED LITERATURE:

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⁵ Ўзбекистон Республикасининг Жиноят-процессуал кодекси. – Т.: Ўзбекистон, 2022.