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Experience of foreign countries in the application of the Institute of reconciliation of the parties in criminal cases

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Annotation: The article reveals the experience of foreign countries in the application of the institute of reconciliation of the parties in criminal cases, on the basis of which suggestions and recommendations are made to improve legislation and law enforcement practice.

Keywords: pre-trial proceedings, compliance with laws, reconciliation of the parties, foreign experience, involvement of a person to participate in a criminal case as a suspect or accused, termination of the preliminary investigation.

Introduction. The Constitution of the Republic of Uzbekistan proclaims that "... the highest value is a person, his life, freedom, honor, dignity and other inalienable rights. Democratic rights and freedoms are protected by the Constitution and laws." The approach to the individual as the highest social value protected at the highest level, reflected in the Constitution, required the improvement of criminal procedure legislation and the practice of its application, aimed at preventing various violations in the criminal procedure sphere [1]. This is reflected in the Development Strategy of the New Uzbekistan for 2022-2026, within the framework of goal 14, "Ensuring the rule of law and constitutional legality, as well as the definition of human honor and dignity as the main criterion of this process" is established [2].

This legal attitude indicates the need to solve the tasks of ensuring detailed regulation in the criminal procedure legislation of the legal relations that develop during criminal proceedings, as well as in accordance with the requirements of the rapidly developing time, amendments and additions are being made to the norms of the Criminal Procedure Code (CPC), new institutions of criminal procedure law appear, which are an integral part of the judicial and legal reform being carried out in our country.

The object and subject of research. International standards for ensuring human rights and freedoms, enshrined in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, are reflected in the Constitution of the Republic of Uzbekistan, according to which the observance of such rights and freedoms as personal inviolability, inviolability of the home, the secrecy of correspondence and, etc. is guaranteed [3].

The New Constitution of the Republic of Uzbekistan serves not only as the legal basis for independent statehood and guarantees the observance of universal values, it

also lays the foundation for the criminal procedural policy of the state, by reflecting in it the basic principles of justice - the presumption of innocence, ensuring the right to defense, the administration of justice only by the court on the basis of equality of citizens before the law and the court, etc.

Methodology of research. It should be noted that the institution of reconciliation of the parties has successfully established itself in the system of criminal law legislation. At the same time, taking into account the expansion of the dispositive rights of the victim in the criminal process, there is a need for further development of this institution. In particular, it is possible to think about expanding the action of the institution of reconciliation of the parties not only to crimes that infringe on the interests of individuals, but also to acts that infringe on the property interests of legal entities. The fulfillment of this task requires the study of foreign experience in this field and the assessment of the possibility of using positive experience in improving national legislation and law enforcement practice.

In England, the institution of reconciliation of the parties is called "Police and judicial mediation". Depending on the stage of the proceedings, police and judicial mediation are distinguished, which differ in consequences [4]. Police mediation is conducted before criminal prosecution is initiated. In case of successful mediation and the conclusion of an agreement, the police decides to refuse to initiate criminal prosecution, which, due to the peculiarities of the English criminal process, is not formalized by any procedural document. Judicial mediation is carried out in the period after the conviction of a person, but before sentencing him. The court, having found guilty the person who committed the crime, postpones the decision of the final decision on the measure and amount of punishment for a certain period, during which the probation service conducts mediation. When the parties conclude an agreement on reconciliation and compensation for harm, the court appoints a milder punishment to the convicted person.

In Germany, this institution is called an "Attempt at Reconciliation" and is regulated by Article 380 of the German Criminal Procedure Code. The initiation of charges is allowed only after the intermediary organizations indicated by the Land Administration of Justice have unsuccessfully tried to reconcile the parties, about which the prosecutor must submit a certificate to the court together with the charge [5].

An attempt at reconciliation in the German criminal process is made dependent on a number of conditions:

a) payment of a deposit against court costs;

b) the absence of a statement from a higher official on the initiation of criminal prosecution against a person who has committed an insult or intentionally or

negligently caused bodily injury to an official in connection with the performance of his official duties;

c) residence of both parties in the same municipal district;

d) admission of guilt by the person against whom the issue of initiating criminal prosecution is being resolved;

e) consent of the parties to reconciliation;

f) providing guarantees to the parties that none of them will be subjected to excessive pressure to agree to specific conditions for resolving the conflict.

In France [6], the institution of reconciliation of the parties is carried out through the so-called "Mediation process" (Articles 41-1 of the Criminal Procedure Code of 1958).

Prior to the initiation of criminal prosecution, the prosecutor has the right, with the consent of the victim and the offender, to initiate a mediation process. It is conducted either by the prosecutor himself or by a mediator authorized by him - a natural or legal person who is not directly related to the criminal justice system and is competent in the field of readaptation of criminals or assistance to victims. The prosecutor also makes the final decision on the fate of the criminal case after the materials from such an organization are returned to him.

In the USA, the institution of reconciliation is regulated by the Victim-Offender Mediation program [7].

This service is subsidized and controlled by the state judicial system and deals only with non-serious crimes (misdemeanors). More than half of all materials about mizdiminors are sent to the mediation service.

In the Russian Federation, this process is dedicated to the "Institute of termination of the case in connection with the reconciliation of the parties" is regulated by Article 25 of the Code of Criminal Procedure of the Russian Federation 2001 [8]. For the termination of the case in the Russian criminal process, in addition to reconciliation of the parties, a number of other legally established conditions are required: the commission of a crime of minor or medium gravity for the first time, the victim's statement, the consent of the head of the investigative body and the prosecutor to terminate the criminal case, making amends for the harm caused by the crime.

In Belgium, the reconciliation of the parties is carried out by the mediation process, which is regulated by Article 216 of the CPC. The central figure of mediation is the prosecutor [9]. He "selects" cases for mediation, hears the report of his mediation assistant, which sets out the proposals of the parties to resolve the conflict, if he agrees with these proposals, conducts mediation with the participation of the parties, has the right during the hearing of the case to propose another option

for resolving the conflict, different from the one set out in the report of the mediation assistant, approves the terms of mediation, what makes up the protocol, controls the fulfillment of the obligations assumed by the accused under the mediation agreement, draws up a protocol on the proper fulfillment of the conditions of mediation or initiates criminal prosecution on general grounds if the conditions are not met.

In the Republic of Kazakhstan, as well as in our country, this institution is called "Reconciliation of the parties", The beginning of the investigation is the registration of a statement and a report on a criminal offense or the first urgent investigative action preceding the registration [10].

In Estonia, this institution is called "Private Prosecution Proceedings" and is regulated by Article 391 of the CPC. The issue of initiating criminal prosecution is considered by the court only upon the application of the victim (civil plaintiff). If the parties reach reconciliation, the case is not initiated [11].

In the Republic of Belarus, the list of cases in which reconciliation of the parties is possible is limited to criminal cases of public, private-public and private prosecution (Article 26 of the CPC). Reconciliation in cases is allowed until the court is removed to the deliberation room to decide the verdict [12].

The results of research. Proceeding from the above, it should be noted that the problems of law enforcement and legislative regulation of the institution of reconciliation of the parties in foreign countries allow us to say that the expansion of private principles in criminal and criminal procedure law is the dictate of time.

The law should provide for a reasonable balance of public and private principles based on the interests of the victim and the accused, legal entities, as well as State bodies in the first place.

Conclusion. Thus, from the analysis of the norms of substantive and procedural law of foreign countries regulating the institution of reconciliation of the parties, it allows us to formulate a conclusion that it is possible to work out the issue of introducing a separate mediator participant into the number of subjects of reconciliation of the parties, who will be entrusted with the duties of reconciliation between the parties to the criminal conflict.

In addition, it is necessary to expand the moment of the beginning of the reconciliation procedure (before the initiation of a criminal case), as well as at the stages of checking the legality, validity and fairness of sentences, rulings and rulings (appeal, cassation).

In our opinion, the introduction of the proposals and recommendations made in the legislation will contribute to ensuring the effectiveness of law enforcement practice in the production of criminal cases, using the conciliation procedure.

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