

COMPETENCE OF THE COURTS OF FIRST INSTANCE OF THE REPUBLIC OF UZBEKISTAN

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Abstract: The UN obliges the national legislator to pay particular attention to issues of jurisdiction through the International Documents. These obligations are specified in clause 1 of Article 14 of the Covenant on Civil and Political Rights and in clause 1 of Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms. It is the duty of states to guarantee rights to a fair public hearing by a competent court without delay. Jurisdiction issues, i.e. competencies of criminal courts in the Russian Federation, are regulated by Article 31 of the Criminal Procedure Code of the Russian Federation. The rules of this article are of great importance. The issues of competence of the courts of first instance are also given serious attention by the legislator of the Republic of Uzbekistan. The legal system of this country is part of the Romano-German legal family, but with distinctive features. In our opinion, in order to ease the workload of the courts of first instance, Article 15 of the Criminal Code of the Republic of Uzbekistan shall be used to introduce misconduct as an independent form of punishment. In addition, for the same purpose, it is necessary to stipulate simplified (total) proceedings in the Criminal Procedure Code of the Republic of Uzbekistan, which, unfortunately, is absent in the current legislation.

Key words: competence of the courts, courts of first instance, specialization of courts, crimes that do not pose a great social danger, decriminalization, classification of crimes.

1 Introduction

In the field of criminal law and proceedings, Uzbekistan, as a Muslim country, has a Romano-German legal system that has come from a socialist one. The latter was associated with the formation of the Uzbek SSR in 1924, which lasted until September 1991. All domestic legislation was borrowed from the Soviet Union. During this period, on August 31, 1991, Uzbekistan was proclaimed an independent state. In 1992, Uzbekistan adopted a new Constitution, which is still valid today.

In its further development, Uzbekistan, ahead of other former union republics, began to adopt its new legislation. Thus, in 1994, the Criminal Code and the Criminal Procedure Code, as well as the Administrative Responsibility Code were adopted. Thus, Uzbekistan was ahead of the Russian Federation, which adopted the Criminal Code only in 1996. It should be noted that neither this, nor the other country has the concept of offense, which is inherent in many Western states. Indeed, an offense could be introduced into Article 15 of the Criminal Code of the Russian Federation, given a definition and a maximum penalty of up to one year in prison. In our opinion, such changes would be an attempt to take measures to reduce the workload of Russian justices of the peace.

At the same time, it is important to note that the legal system of Turkey in recent decades has begun to be based on strictly secular principles aimed at Romano-German traditions that take into account the requirements of international documents of the United Nations.

2 Materials and Methods

In this work, the comparative procedural research methods are applied in relation to the relevant regulatory legal acts of the Russian Federation. A brief analysis of the issues of competence of the courts of first instance is given taking into account the previously adopted procedural laws. Article 15 "Classification of crimes" of the Criminal Code of the Republic of Uzbekistan, as well as Article 15 of the Criminal Code of the Russian Federation, cites four types of crimes. The name of the first variety is not of great public danger, with a maximum punishment for a deliberate crime of up to 3 years in prison. The name is slightly different in the Criminal Code of the Russian Federation - crimes of minor gravity, with the same maximum term of punishment. Therefore, we can conclude that the criminal procedure legislation of both countries is almost the same. However, Russia is discussing the adoption of such a new concept as offense, which we fully support.

Article 31 of the Criminal Procedure Code of the Russian Federation regulates the jurisdiction of courts in criminal cases (Criminal Procedure Code of the Russian Federation, 2018). The Criminal Procedure Code provides a list of corpus delicti from the Criminal Code of the Russian Federation, the sanctions of which are not more than 3 years in prison (Criminal Code of the Russian Federation, 2018). From 2000 to July 1, 2002, the maximum punishment could not be more than 2 years (Criminal Procedure Code of the RSFSR, 2000). On December 7, 2011, in Article 15 of the Criminal Code, the maximum punishment for committing minor offenses was increased from two to three years in prison (Criminal Code of the Russian Federation, 2012). It should be noted that the requirements of this article are essential especially in determining the jurisdiction of criminal cases, which primarily affects the workload of the courts of first instance. The point of view on the necessity of introducing justices of the peace in the judicial system of Uzbekistan was defended by professor Ismailov B.I. (Ismailov, 2008).

In the study, general scientific and special methods of the science - observation, historical, integrative methods, comparative, structural and forensic, systemic-structural and other research methods - were used.

3 Results and Discussion

The Constitution of the Republic of Uzbekistan No. 247 dated 15.12.1992 provides in Article 115 that the official language in the country and in the courts is the Uzbek language, as well as the Karakalpak language (Article 4). Chapter 22 of the Constitution, consisting of Articles 106-116, is devoted to judicial power. Article 107 of the Constitution presents the country's judicial system, a list of which is fully copied by Article 1 of the Law "On courts". The above list will be given by us below. The principle of independence and inviolability of judges, their submission only to the law, is regulated by Article 112 (Constitution of the Republic of Uzbekistan, 1992).

The Criminal Code of the Republic of Uzbekistan No. 2012-XII dated 22.09.1994, Article 15 "Classification of crimes", provides four types of crime: 1. crimes that do not pose a great social danger with the maximum punishment for a deliberate crime of up to 3 years in prison and up to 5 years - for a negligent crime; 2. less severe crimes - up to 5 years in prison and over 5 years - for a negligent crime; 3. severe crimes - from 5 to 10 years in prison; 4. especially grave crimes - over 10 years in prison or life imprisonment. According to Parts 2 and 3 of Article 15 of the Criminal Code, a judge single-handedly examines criminal cases on crimes not posing a great social danger, and on committing less serious deliberate crimes - with a maximum sentence of up to 5 years in prison (The Criminal Code of the Republic of Uzbekistan of September, 1994).

Article 28 of the Criminal Procedure Code is referred to as the "Court" and it refers to the court of first instance, which is competent to pronounce sentences or rulings in the criminal cases. It should be noted that the jurisdiction of the courts of Uzbekistan is regulated by the Criminal Procedure Code, in particular, Article 389 "Jurisdiction of criminal cases" of Chapter 48 "Jurisdiction" included in Section 10 "Proceedings in the court of first instance" (The Criminal Procedure Code of the Republic of Uzbekistan). This article states that all criminal cases are assigned to the jurisdiction of the district (city) court, except for the cases that are subject to jurisdiction of higher and military courts.

Similar to Russian private prosecution cases, in Uzbekistan, Article 325 of the Criminal Procedure Code "Initiation of a criminal case on a victim's claim" provides a list of 16 criminal offenses stipulated by Part 1 of Article 105, Parts 1 and 2 of Article 109, Part 1 of Article 110, Parts 1 - 3 of Article 111, Part 1 of Article 118, Part 1 of Article 119, Part 1 of Article 121, 136, Part 1 and 2 of Article 139, Parts 1 and 2 of Article 140, Article 149 of the Criminal Code, which are only raised upon a victim's claim with a request to bring the perpetrator to justice. According

to Article 20 of the Criminal Procedure Code of the Russian Federation, 3 components of crimes stipulated by Part 1 of Article 115, 116.1 and Part 1 of Article 128.1 of the Criminal Code of the Russian Federation relate to private prosecution cases. Thus, the number of corpus delicti attributed by the Criminal Code to private prosecution cases is less in Russia than in Uzbekistan almost six times. That is why the scientists and practitioners advocate an increase in the number of private prosecution cases. In our opinion, this is a perfectly correct approach that meets the modern requirements of judicial practice.

The inquiry activities are regulated by Chapter 42 of the Criminal Procedure Code. Thus, Article 341 establishes an inquiry period of not more than ten days (as in Russia). Chapter 43 of the Criminal Procedure Code "General conditions for preliminary investigation" cites Article 345 "Criminal investigation jurisdiction". The first four parts of this article provide a list of crimes that shall be investigated by the investigators of the prosecutor's office, military prosecutor's office, and the National Security Service. Part 5 provides a list of crimes to be investigated by investigators of the internal affairs bodies. They include: Article 104-140 (75 corpus delicti), 164-166 (11 corpus delicti), 168-173 (16 corpus delicti), Parts 1, 2 of Article 183, 186-186.2 (6 corpus delicti), 193-204 (21 corpus delicti), Part 1-3 of Article 213, Parts 1, 2 of Article 214, 216-217 (6 corpus delicti), Parts 1, 2 of Article 222, 224 - 229 (18 corpus delicti), 243, 244, Part 1, 2 of Article 245, 247-264 (47 corpus delicti), 266-278.6 (32 corpus delicti); in total - about 250 corpus delicti, as well as in all cases of crimes committed by minors.

In addition, Part 6 of Article 345 of the Criminal Procedure Code provides a list of cases on crimes stipulated in Parts 1-3 of Article 167; 176-181 (12 corpus delicti); Parts 1-3 of Article 184; 185-185.2 (2 corpus delicti); 188-192 (11 corpus delicti), 241.1-244.3 (9 corpus delicti) of the Criminal Code; in total - 40 corpus delicti, under which the investigation is carried out by the body, having initiated the criminal case. Part 7 of Article 345 of the Criminal Procedure Codes also provides a list of 10 more corpus delicti: Article 237-241 of the Criminal Code, according to which the preliminary investigation is carried out by the authority to whose jurisdiction the crime relates, in connection with which a case has been initiated. Chapter 62 "Conciliation proceedings" provides Article 582 "Criminal proceedings before reconciliation". This article provides a link to Article 66.1 of the Criminal Code, which provides a list of 50 corpus delicti, according to which a person who committed a crime from this list can be exempted from criminal liability. Moreover, there are the following conditions: 1) if the person pleaded guilty; 2) if he/she/it has reconciled and 3) he/she/it made amends for the harm caused. The corpus delicti include: Part 1 of Article 105 (intentional moderate injury),... Article 109 (intentional slight injury),... Part 1 of Article 110 (torture),... Article 122 (evasion of minors...), Article 123 (evasion of parental support),... Parts 1 and 2 of Article 139 (libel), Parts 1 and 2 of Article 140 (insult),... Art. 143 (violation of copyright or inventive rights), Part 1 of Article 167 (theft by appropriation or embezzlement), Part 1 of Article 168 (fraud), Part 1 of Article 169 (theft),... Part 1 of Article 266 (violation of traffic safety rules or vehicle operation),... Part 1 of Article 277 (hooliganism), Part 1 of Article 298 (violation of the driving rules or vehicle operation) of the Criminal Code.

The previous Law "On courts" was the law dated 02.09.1993. On December 14, 2000, the Law of the same name was adopted to replace it, which specialized in the courts. It was the Law that created the criminal courts and civil courts. In addition, the courts were exempted from their unusual function to enforce their decisions and sentences.

Thus, Article 1 of the Law "On courts" No. 162-II dated 14.12.2000 is referred to as the "Judicial system" [9]. It includes: Constitutional Court, Supreme Court, military courts, civil court of the Republic of Karakalpakstan, regional and Tashkent city civil courts; criminal court of the Republic of Karakalpakstan, regional and Tashkent city criminal courts; economic courts of the Republic of Karakalpakstan, regions and Tashkent city; inter-district, district (city) civil courts; district (city) criminal courts;

inter-district, district (city) economic courts; district (city) administrative courts. It is important to note that there are no justices of the peace in Uzbekistan. There are no justices of the peace in Germany either, although district judges (amtsgericht) function there (The Federal Law on the Judiciary of Germany of January, 2010). However, as indicated above, professor Ismailov B.I. proposed to introduce local courts, namely: justices of the peace closest to the population. One can only agree with such a proposal. This means that the judicial reform of Russia is going in the right direction.

Thus, Article 37 of the Law "On courts" 2000 is called "Powers of the inter-district, district (city) civil court; district (city) criminal court; inter-district, district (city) economic court; district (city) administrative court". The jurisdiction of district (city) courts includes criminal cases and cases of administrative offenses assigned by law to their competence. In addition, this article provides a list of judicial functions, namely: consideration of petitions for the application of preventive detention measure or house arrest, removal of a person accused from his/her post, placement of a person in a medical institution,... arrest of mail and telegraph correspondence, refusal to initiate criminal proceedings or to terminate a case or to be released from punishment on the basis of an amnesty act (Law of the Republic of Uzbekistan "On Courts", 2000).

Article 41 of the Law "On courts" 2000, "Jurisdiction to military courts" provides a list of: cases of crimes committed by servicemen of the Ministry of Defense, the National Security Service, the Ministry of Emergencies, troops of the Ministry of Internal Affairs and other military units created in accordance with the law, as well as those liable for military service during their training camps;... all civil and criminal cases in areas where, due to exceptional circumstances, the courts do not operate; cases concerning state secrets... According to the same article of the Civil Procedure Code, the Supreme Court of the Republic of Uzbekistan has jurisdiction over cases of particular complexity and significance.

4 Conclusions

The article was developed on the basis of a comparative analysis of the competence of the courts of first instance of the Republic of Uzbekistan, Russia and some European countries. Unfortunately, there are no justices of the peace in the judicial system of Uzbekistan, and the rules of jurisdiction are completely different from the Russian ones. The situation with issues of jurisdiction and competence in Uzbekistan is very simple, therefore it cannot lead to increased cash costs from the budget. However, such a conclusion may be erroneous, since there are no simplified proceedings, and the country also needs a lower authority closest to the population. This would ensure the principle of public access to justice.

In addition, it is necessary to introduce the grounds for applying expedited (total) proceedings concerning criminal cases with a maximum sentence of up to 5 years in prison into criminal procedure legislation.

5 Summary

A comparative analysis of issues of competence of the courts of first instance of the Republic of Uzbekistan and Russia showed that soon the national legislator will have to return to a new development of issues of jurisdiction between the courts of first instance. The second issue in line will be the coordination of jurisdiction with issues of jurisdiction, which we also considered in this article. If violations of the rules of jurisdiction are avoided, a reduction in budget expenditures will be positive consequence for Uzbekistan.

Another important issue will be the development by the legislator of the rules of simplified (expedited) proceedings, which will also solve the problems of public access to justice. The rational development and successful use of the rules of simplified (total) proceedings will allow solving the problem of congestion of the

courts of first instance of both the Republic of Uzbekistan and other states.

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