
**EUROPEAN INTERNATIONAL JOURNAL OF MULTIDISCIPLINARY
RESEARCH AND MANAGEMENT STUDIES****VOLUME04 ISSUE04**DOI: <https://doi.org/10.55640/eijmrms-04-04-26>

Pages: 167-173



**SOME PROBLEMS AND THEIR SOLUTIONS IN THE FULL PROVISION OF JUSTICE IN
PROCEDURAL LEGAL NORMS*****Djuraev Ikhtiyor Bakhtiyorovich****Doctor of Law, Associate Professor, Head of the Department of Court, Law Enforcement and Advocacy of
Tashkent State University of Law, Uzbekistan*

ABOUT ARTICLE**Key words:** Procedural outputs, their types, importance and their application, cost recovery procedure.**Received:** 20.04.2024**Accepted:** 25.04.2024**Published:** 30.04.2024**Abstract:** In this article, the author talks about the importance of expenses in criminal proceedings, their application, and the procedure for recovery of costs. A number of proposals and recommendations have also been developed.

INTRODUCTION

In our country, special attention is paid to ensuring the reliable protection of the rights and freedoms of citizens by further reforming the judicial system, establishing a fair judicial decision, as well as increasing the level of access to fair justice.

It should be emphasized that the guarantee of our country's development is visible in the implementation of comprehensive reforms aimed at the development of all sectors of the state and society.

In recent years, a number of systematic works have been carried out in our country to fundamentally improve the judiciary.

In the new version of the Constitution, legal norms related to the provision of human rights and freedoms were introduced, including the right to qualified legal assistance was guaranteed, and the legal status of lawyers was strengthened, as well as that of judges and prosecutors.

Also, in our General Council, the provisions regarding the legal protection of the rights of the victims of crime, the state's provision of protection and access to justice for the victims, and the creation of conditions for the compensation of the damage caused to them were clearly defined.

However, today there are some problems and shortcomings that need to be solved regarding the results related to the processing of cases in this field, which in turn causes some obstacles in the unconditional provision of human rights and interests and the full protection of their rights.

It is worth noting that the importance of the outputs related to viewing the case can be seen in the following:

- creates the necessary conditions for conducting business;
- effectively protects the material interests of the participants in the proceedings, which in turn ensures their full and timely participation in the proceedings;
- increases the quality of work by attracting more specialists with knowledge and skills in various fields and participants with the necessary information;
- it causes a reduction in the work load of law enforcement agencies by collecting the expenses related to their investigation when the applications and reports about the crime are not confirmed;
- determines the amount of costs incurred in the conduct of work and ensures their recovery.

In general, justice cannot be imagined without the outcomes associated with the trial.

In other words, this institution literally serves as a financial instrument of the process. However, in spite of this, today the institution of procedural issues does not work in practice and, according to some experts, it has become one of the formal "dead institutions" in the criminal process. In particular,

First, the Law of the Republic of Uzbekistan "On the Procedure and Amounts of Payment of the Expenses of Witnesses, Victims, Experts, Specialists, Interpreters and Impartials" adopted on July 3, 1992, was canceled on November 4, 2022, as it did not meet today's requirements. (in particular, this Law does not specify the sources of payment, payment procedures and mechanisms, and does not take into account the possibility of hiring experts and specialists on the basis of the contract.)

Also, although the law stipulates that victims, witnesses, and bystanders who do not receive regular wages will be paid compensation from the budget funds for the distraction from their usual work, but legal mechanisms for this have not been created.

The low amount of payment for the work done to the expert, specialist and translator, who perform their procedural duties independently of the service assignment, limited the possibility of attracting qualified specialists in the administration of justice.

Secondly, during the conduct of court proceedings, relations regarding reimbursement of expenses related to the consideration of the case are not fully regulated in some procedural legal norms. This, in turn, limits the possibility of attracting qualified specialists and persons participating in the case in the implementation of justice.

For example, payments for the work performed by experts, experts and translators in cases related to administrative offenses are not provided for in connection with coming to court (travel, accommodation and daily expenses) of persons involved in work in civil cases.

Thirdly, according to the current procedural legal documents, it is established that costs are collected from the parties in civil, economic, and administrative court cases, as well as from the convicts in criminal cases, as well as from the state budget, but the sources of financing for the reimbursement of fees in cases of administrative offenses are not clearly indicated. These situations create various difficulties for the competent authorities.

For information, the legal documents of many advanced foreign countries specify in detail the sources of funding for the reimbursement of fees in connection with administrative offense cases.

In particular, according to Article 76 of the Law on Administrative Responsibility of Latvia, the obligation to cover the procedural costs is determined to be covered by the person held responsible. It is also provided that the procedural expenses will be covered by the state or self-government funds if, according to the final decision, the person is not held liable, if the person from whom they are to be collected is poor or in need, and the fees for the interpreter's work.

Fourthly, the Criminal Procedure Code does not specify specific mechanisms related to the recovery of procedural costs.

In particular, Article 318 of the Code of Criminal Procedure provides for the types of procedural costs, one of which is defined as the amount spent for conducting expertise in expert institutions.

For example, the costs of reagents, consumables, medical examinations (reagent, X-ray, CT scan, CT, etc.) for the appointed expertises related to the detection of chemical substances in criminal cases, in-patient treatment for up to 30 days in forensic psychiatric expertise, the expenses of several ten billion soums per year are spent from the state budget and from their extra-budgetary sources.

Also, the fact that this article does not specify the concept of the amount spent for conducting expertise in expertise institutions causes many problems in the practice of this norm.

For example, the possibility of appointing more than 10 expertises within the framework of one criminal case, the fact that there are many objects of comparison, how exactly this amount is formed (electricity consumption, wear and tear of equipment, etc. can be taken into account) and others are not clearly defined.

This article does not fully provide for the sources and mechanisms of recovery of costs incurred for the arrest, enforcement and search of persons.

This, in turn, causes a lot of problems in the extradition of the accused and defendants who are mostly in the territory of a foreign country, and in some cases, it also causes the citizens of our country to stay in foreign detention centers for a long time.

At the same time, although this article stipulates the amount of expenses related to the storage and sending of physical evidence as procedural costs, today various misunderstandings arise in the practical application of these norms. For example, the cost of bringing and transporting physical evidence, as well as the amount spent on the transportation of corpses and their parts, has not been determined.

Pursuant to Article 131 of the Criminal Code of the Russian Federation, sums spent on disassembly, storage, transfer and transportation (transportation) of physical evidence, as well as transportation (transportation) of corpses and their parts are clearly provided as types of procedural costs.

According to Article 320 of this code, the norms related to the collection of procedural costs from prisoners are specified, but the fact that the requirements for the collection of costs are not clearly explained in this article leads to the fact that the procedural costs that should be collected are not collected at the expense of the state budget and state forensic institutions. The return of these funds can serve the further development of the industry and increase the salaries of forensic experts.

For information, in the legislation of many advanced foreign countries, specific mechanisms for the collection, payment and amounts of procedural costs are noted.

For example, articles 118-126 of the Code of Criminal Procedure of Ukraine detail the procedure for the recovery of procedural expenses.

Also, as item 8-1 of Article 162 of the Criminal Code of the Republic of Belarus, the funds spent by the state forensic expert organizations for the purchase of consumables used for the examination and the current repair of the (special) equipment of the examination are also provided as types of procedural costs.

It should be noted that the state forensic examination institutions and their regional departments are not equipped with sufficient equipment that meets the requirements of the time. Also, due to the lack of sufficient funds, new equipment is not purchased by them, and some questions put before the court experts by the competent authorities remain unsolved.

In foreign countries, the approach to the method of autopsy as a "gold standard" in forensic medical expertise has been stopped, and virtual autopsy has been widely introduced into the field.

According to international experience, the virtual autopsy - 3D modeling method is widely used in forensic research in the USA, Germany, France, Switzerland, Great Britain, Switzerland, Japan, Israel, India, China and the Republic of Kazakhstan.

(This method has been used since the 90s of the last century and allows to analyze the causes of death using information obtained from computer tomography, magnetic resonance tomography and scanning of the surface of the body through a special photoscanner.

This method (does not require direct physical intervention in the tissues, the obtained images are stored for a long time).

Fifth, according to the Law of the Republic of Uzbekistan No. O'RQ-786 dated August 3, 2022, when economic, civil and administrative work is being conducted, during the preparation of the case for trial or in the course of the trial, state forensic institutions and non-state forensic organizations with the consent of the person giving confidence on the basis of a contract it was allowed to request an expert examination.

Also, in accordance with the Decree No. PF-67 of the President of the Republic of Uzbekistan dated May 8, 2023 "On Priority Measures for the Implementation of the Constitution of the Republic of Uzbekistan" the right to organize the involvement of knowledgeable specialists was given.

However, currently, lawyers are not given the right to initiate forensic examinations within the framework of administrative offense cases.

Sixth, today, lawyers are also given the right to appoint forensic experts, and they are also allowed to involve experts important for the work, however, the requirements for natural persons who can participate as forensic experts and experts are not clearly defined, and their registers are not kept. does not allow the involvement of experts.

For information: these procedures exist in foreign countries, and the registry is widely used. For example, a special register (<https://seznat.justice.cz>) is maintained by the Ministry of Justice of the Czech Republic and is widely used in practice. Such registries can also be found in the Netherlands, Latvia, Lithuania and Estonia. <https://integraties.doclogic.nl/nrgd/nrgdsearch>, <https://kohtuekspert.just.ee/en/person/search?type=advanced>)

Seventhly, electronic data exchange with related organizations has not been established by the state forensic expertise institutions, and information is still being exchanged in paper form.

For example, the interdepartmental electronic information system is widely used in the USA, in most countries of the European Union, in particular, in the German Federation, Sweden, Finland, the Czech Republic, as well as in the CIS countries of Kazakhstan and Azerbaijan.

Based on the above-mentioned circumstances, in order to solve the existing problems and further develop the industry, the following is proposed:

In order to eliminate the above-mentioned problematic situations, it is advisable to establish a working group consisting of competent experts of the relevant ministries and agencies (Ministry of Internal Affairs, General Prosecutor's Office, Supreme Court, Ministry of Justice, state forensic examination institutions, etc.) that will ensure the following tasks and assignments:

- development of a project of regulatory legal documents regulating the relations regarding the full reimbursement of expenses related to the handling of the case, their amounts and mechanisms, specific mechanisms related to the collection of procedural expenses in the criminal process, and the appointment of experts in cases related to administrative responsibility to lawyers;
- creating convenience for the competent authorities by establishing that expenses related to administrative responsibility are initially paid by the initiator on the condition that they are later

recovered from the respondent. In doing so, ensure that it is initially applied to works related to motor vehicles as an experiment;

- determining the requirements and rules for keeping the registry for individuals who can participate as court experts and experts;

- Introduction of interdepartmental electronic information system.

REFERENCES

1. Ўзбекистон Республикаси Конституцияси. <http://lex.uz> (Uzbekistan Republic and Constitution. <http://lex.uz>)
2. Jinoyat-protsessual huquqi (Umumiy qism). Darslik. Mualliflar jamoasi // -Toshkent: TDYU nashriyoti, 2018. 403-408-betlar. (Criminal procedural law (General part). Textbook. Author team // -Tashkent: TDYU Publishing House, 2018. Pages 403-408)
3. O'zbekiston Respublikasi Oliy sudi Plenumining 2009-yil 24-noyabrdagi 13-sonli "Jinoyat ishlari bo'yicha protsessual chiqimlarni undirish amaliyoti to'g'risida"gi Qarori. <https://www.lex.uz> (Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan dated November 24, 2009 No. 13 "On the practice of collecting procedural costs in criminal cases". <https://www.lex.uz>)
4. O'zbekiston Respublikasining "Guvohlar, jabrlanuvchilar, ekspertlar, mutaxassislar, tarjimonlar va xolislarining qilgan xarajatlarini to'lash tartibi va miqdorlari to'g'risida"gi Qonuni. <https://www.lex.uz> (The Law of the Republic of Uzbekistan "On the procedure and amounts of payment of expenses incurred by witnesses, victims, experts, specialists, translators and neutrals". <https://www.lex.uz>)
5. O'zbekiston Respublikasi Vazirlar Mahkamasining 2008-yil 20-iyundagi 137-sonli "Advokatlar tomonidan ko'rsatilgan yuridik yordam uchun davlat hisobidan haq to'lash mexanizmini takomillashtirish chora-tadbirlari to'g'risida"gi qarori. <https://www.lex.uz> (Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 137 dated June 20, 2008 "On measures to improve the mechanism of payment of fees for legal assistance provided by lawyers at the state expense." <https://www.lex.uz>)