INSTITUTE TEST OF JUDICIAL DECISIONS - AS A GUARANTEE OF THE TIMELY CORRECTION OF ERRORS IN CRIMINAL PROCEEDINGS

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Abstract. *In this article author had searched the evolution and current state of institute of judicial decisions as the instrument used for court mistakes correction. On the basis of historical view and comparative analysis of modern laws in well developed countries author suggested proposals for improving the criminal procedural rules in the Republic of Uzbekistan.*

Key words*: judicial decisions, court mistakes, criminal proceeding, the criminal court.*

Introduction. On December 14, 2000 was adopted the Law "On introduction of changes and amendments to the Criminal Procedure, Commercial and Civil Procedure Codes of the Republic of Uzbekistan", which introduced in criminal proceedings the appellate procedure for verification of judgments (sentences and definitions), which have not entered into legal force [1]. As the President of the Republic of Uzbekistan Islam Karimov said: "... it was an important guarantee for the timely correction of miscarriages of justice, avoid condusions in the proceedings" [2] . Introduction of the institute full conformity with the Republic of Uzbekistan's international obligations under the International Covenant on Civil and Political Rights, to which our country joined in 1995.

Legislative novel in 2000 aimed at the realization of the right to appeal court decisions and improving judicial decisions verification institute, which resulted in the introduction of the appeals procedure in criminal cases. These judicial statistics indicate that the introduction of the institute of appeal, cassation and supervisory reform of the order of consideration of cases contributed to the effective and

expeditious remedial and corrective to appeal the legality of the violations during the preliminary investigation and trial of cases of the first instance court.

Today the appeal proceedings firmly taken its place in the system of criminal procedure stages and implements its powersin order to quickly and effectively correct judicial and investigative errors.

Referring to the origins of the appeal proceedings, the term "appeal" (from the Latin appellatio -. Treatment appellare - Summons [3]) is literally translated as treatment call for review of the decision, i.e., the appeal is defined as the appeal court decisions. This term has been known since the days of ancient Rome. Here there was an appeal from the time of the tsarist period (VII century BC - the end of the VI century BC) and first used in the etymological sense of the word, that is, implies the possibility of applying for support to any credible court, public opinion or for advice. In the period in question for an appeal has not yet been formalized. Gaining outlines procedural form, the appeal begins to be used as an opportunity to appeal the decision and its review in a higher court.

At the beginning of the appeal was used in the presence of two factors: a) in the case of bringing appeals in important cases (which caused the death penalty and corporal punishment); b) the appeal is brought in the interest of full Roman citizens. Appeal procedure was very simple. So every Roman citizen right up to the moment of execution has the right to stop it with his word: provoco (from the Latin "are appealed"!). Then the case reported in the national assembly, and the official who passed the decision was to protect and defend its decision. A feature of the appeal proceedings at the time was that it was carried out not between parties, but between a person dissatisfied with the decision, and the official who resolved it. The appeal proceedings were conducted in the form of a duel. At the same time the defeated party shall be punished.

Further development of the Institute received the appeal proceedings in the imperial period (the middle of the I century BC - The end of the V century BC) [4]. During this period, the highest court of appeal represented the emperor. In turn, the

emperor subcontract its judiciary officials (magistrates) who carried out judicial activities in the name of the emperor.

The Emperor's face all kinds of the highest state authorities were focused, which allowed him to intervene in the actions of all officials who are in a subordinate position to him. Emperors often used this right, directly dealing with cases that fall into their field of vision and have attracted their attention for any reason, as well as business, which asked stakeholders. Requests for such intervention, on the review of the appealed decision called appeals (from arrellatioappellare - to call) [5]. In the imperial period the appeal proceedings has undergone major changes. For example, modify the terms of appellate review of subjects. Earlier require appellate review were all Roman citizens, now this right is owned only by the parties in the case. A person wishing to appeal against a decision should have been for a certain period of time to express their dissatisfaction verbally or in writing. In parallel, the appeal proceedings (jusappellandi) ceases to be a particular dispute between the person dissatisfied with the decision, and the judge, becoming an extension of dispute between the parties in the same case that is considered in the first instance [6].

As you can see, above-mentioned changes contributed to the improvement of appellate review, and has led to the need to develop forms of clerical office, which was due to the inability to transfer the chain of command speech, which took place in the lower court. This explains the need for everything that happens in the court entered into the trial record.

In addition, the changes and the procedure on appeal. If before the decision imposed only on the basis of the case, which were sent a written explanation of the judge and the interested parties, it is now in the trial was part of a structure such as a part of the presentation of additional evidence by the parties and their research directly to the court. Originating during the reign of the emperor, this part of the appeal proceedings operates to this day. "By the end of the imperial period, the emperor was established by the Office, with a special production order. The court decision which stated displeasure, had to make to the office of a special report on the case. This report is communicated to the parties that can present written objections

against it. These were transmitted to the office from which the members of the selected voice. The opinion received confirmation of the emperor, the palace was declared quaestor. In addition, the right to appellate review and belonged to different magistrates courts in order. Their production was oral and the presence of the parties" [7].

Thus, initially emerged in ancient Rome, the appeal meant only the possibility of appeal or recourse to a higher court, authoritative opinion, with a request to resolve the dispute. At the time of the birth she did not have a particular form, judgments of the review procedure. By the end of the imperial period (V century BC), the appeal becomes procedural characteristics and becomes a special form of proceedings to verify the judgments of the lower court.

With the fall of the Roman Empire under the onslaught of Germanic tribes institute appeal proceedings Western Europe disappeared and came back later, after the region have developed centralized states. Originating in ancient Rome, appeals Institute continued to exist, by the reception of Roman law, has been further developed in the proceedings of the European countries.

In legal proceedings such countries as France, USA, UK, this institution has a high reputation [8]. Of course, in the current state, they did not come immediately.

In general, the emergence and development of the institute of appeal in criminal proceedings of foreign countries aimed at the effective protection of the rights of the convicted person in order to improve its position.

At the same time the right to review court decisions in some countries is complicated by the existing procedural form of consideration in the appeal proceedings; dependence of the appeal not only on the will of the participant of the process, but also from a court determines that the treatment of the appeal justified (in the English proceedings); different procedural regulation of appeal against court decisions, depending on the membership of a particular species of appeal (as in the English proceedings); presented demands to the appeal (for example: in the Russian Federation, the United States); narrowing the range of subjects entitled to appeal (for example: in the US - the right to appeal only endowed with the convict, his lawyer and

the prosecutor, who spoke in court); stretching the term of consideration between the commission of the offense and the appeal proceedings (for example, in France the trial may last from 18 months to 3 years); restriction of the right of appeal to appeal (for example, the basis for the application of the appeal in the United States can serve as a general rule, a question of law, appeal the sentence can only be one convict who pleaded not guilty in a court of first instance); as well as the limitation of the audit started in the activities of the appellate court.

Conclusions. In order to improve the national institute of the appeal it would be useful to implement in our criminal procedure law some positive aspects of the institute of appeal in foreign countries. The followings could be considered: providing a longer period for exercising the right to appeal or protest; limiting the prosecutor the right to appeal; Features of the principle of "turning the prohibition for the worst", where the deterioration of the situation of the convicted in the court of appeal is only possible if there is a protest of the prosecutor or the victim's complaint; enabling complaint in accordance with the requirements of the law; restrictions to cancel the acquittal, and the most significant among them, the right to make its own judgment on the case without sending the case back for further investigation or a new trial.

References:

1. Bulletin of Oliy Majlis of the Republic of Uzbekistan. - 2001- №1-2. - p. 298-335..
2. I.A. Karimov The validity of the priority of the law. Report at the IX session of Oliy Majlis of the Republic of Uzbekistan second convocation // For security and peace must be fought. T. 10. - T .: Uzbekistan, 2002. - p.31.
3. Mini dictionary of foreign words / Comp. S.M. Lokshin. - 4th ed. - M .: Russian Language, 1974. - p.31.
4. Bryansk V.Yu. History of appeal in criminal proceedings in ancient Rome and the countries of Western Europe / Collection of scientific works juridical faculty of NCSTU. - Stavropol, 2004. - Vol. 5. - http://www.nestu.ru.
5. Borisova E.A. Appeal in civil (arbitration) process (second edition, revised and enlarged). - M .: Gorodets, 2000. - p. 9 - 11; Sidorova N.V. Appeal in the criminal trial of the Russian Federation: History and Modernity / / Russian J. Judge. - 2004. - № 5. - p.22.
6. Tcheltsov-Bebutov M.A. A course of criminal procedural law. Essays on the history

of the court and criminal proceedings in the slave-bearing, feudal and bourgeois states. - SPb .: Ravenna, Alfa, 1995. - p.155 - 156.
7. Bryansk V.Yu. Decree. article. - Http://www.nsu.ru.
8. H. Hasanov Appeal – a stage of Justice // J. With the name of law.- 2001. - № 3-4. - p.62.