

## FOUNDATIONS FOR DENYING THE PARTICIPATION OF A JUDGE IN CRIMINAL PROCEEDINGS

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**Abstract.** *This article considers that there are circumstances in which the judge can participate in the criminal proceedings. the question of impartiality of the judge. Relationships and types of personal interest, issues depending on the degree of kinship and abroad are studied*

**Keywords:** *refusal, impeding circumstances, criminal proceedings. judge, prosecutor, investigator, witnesses, impartial defendants, personal interest, kinship.*

As the most important guarantee of effective protection of human rights, freedoms and legitimate interests, a special place is occupied by the Institute of rejection in Criminal Procedural Law in ensuring the strengthening of the authority of the court, ensuring the genuine independence of the courts, ensuring non-interference in judicial affairs. The rejection Institute refers to the rejection of the judge and other participants in the process during the pre-trial and judicial process phase of the criminal proceedings.

The Institute for the rejection of the judge and other participants in the process is an important institution not only of Criminal Procedural Law, but also of related areas of law in another. Because we see that the rejection of the judge and other participants in the process is also contained in a number of other regulatory legal acts, such as the economic procedural, civil procedural codes and the "administrative liability code". Article 76 of the Criminal Procedural Code of the Republic of Uzbekistan provides for the strengthening of the basis for the rejection of the judge. According to him, in the following cases, the judge will not be able to see the case, and he will be rejected if: 1) when the same case was previously heard, he participated as a witness, expert, expert, translator, representative, prosecutor, clerk of the court session; 2) if the participant in the case is a relative of the party or other persons. 3) if there are other cases that raise doubts about its objectivity;

The fact that the process acted as a judge or other participant in a criminal case when it was previously heard is one of the grounds for denying the judge. In this case, when the same case was heard earlier, it is implied that a decision of the court entered into legal force on a dispute between the same parties, on the same subject and on the same grounds was issued.

In our national legislation, cases that raise doubts about the objectivity of persons participating in the review of a criminal case are not fully specified by what exactly are the cases. The same norm is established in Article 61 of the CPC of the Russian Federation "as a condition in which the judge is personally, directly or indirectly interested in the outcome of the case raises doubts about his objectivity. The personal interest of the judge is understood as circumstances in which he can participate as a party in the case under consideration and in the process, and the result of the case can bring him a certain benefit. Other circumstances that cast doubt on the impartiality of the judge include (a) the fact that the judge is full of service to the persons involved in the case or their representatives. or the fact that it is subject to the holy and the presence of facts confirming this situation b) the presence of a personal animosity between the persons involved in the case or their representatives and the friendliness of the judge, or between them; v) the presence of facts

confirming the opinions of the judge before the hearing of the case begins, expressed by him about the final result of the case.

N.Gasparyan makes such a determination in the conclusion of the judge's personal interest in the outcome of the case: the personal interest of the judge may affect or affect the performance of the duties of little service, by means of the provision of the judge's Service material rights or directly that the judge's receipt of illegal absurdities is understood to be

V.Moiseeva divides into 2 types of interested in the outcome of the case: round from round personal and indirect personal. 1) it is understood that a judge who has a personal interest is a material or other interest that may affect or affect the outcome of a judicial process. 2) to be an indirect personal interest, the judge will not be interested in the fullness of the outcome of the case, but the interests of other persons may be that of close kinship relations and close relations with persons who do not leave the judge indifferent, and the reasons for this.

From the tariffs recorded in the case, we can understand that in the legislation of foreign countries it is important to allocate from the result of the case to personal direct and indirect interest to those cases in which doubts about the uniqueness of the judge are aroused, but any interest in the result of the case leads to the loss of confidence in the

The judge's close kinship with the party or other persons involved in the case has been cited as another of the grounds for his rejection. In this case, too, the judge must be rejected, but in our criminal procedure legislation, the degree of kinship relations is not established: for example, if we take into account the division of close kinship into ranks and chajara in the family code and Civil Code, cannot participate only when there are closest relatives, or is kinship correctly determined by the

Therefore, criminal procedure law requires a strict, clear approach to determining kinship relations. Because even any level of kinship may not be the basis for rejecting a judge.

N.Kovtun writes that the state of " the existence of kinship ties between persons responsible for conducting criminal proceedings and persons interested in the outcome of the case " is related to the concept of prevention of factors affecting the objectivity and impartiality of authorized persons conducting criminal proceedings of social - Semitism and socio-subjective relations in the conduct of Justice. While such cases are very rare in criminal proceedings, but it is necessary that the mechanism of procedural safeguards contains procedural means that impede them. In the implementation of the institution of rejection, even in our opinion, these procedural tools should be applied to practice. The implementation of clearly defined subjects and methods of proof of refusal in the practice of judicial investigation can also serve as a procedural tool.

### **Conclusion**

In most cases, the criminal case blurs garazly from the objectivity and objectivity of the investigator, as well as the court in the case in question in essence. The nonlinear treatment of the investigation and resolution of a criminal case essentially reduces the quality of the case and leads to a negative attitude of citizens towards the systems of the entire law enforcement bodies, and not only of a separately obtained body or official. Judicial investigative practice shows that it is necessary to further improve the circumstances that prohibit persons considering a criminal case from participating in an investigation or trial. Through this, it is possible to achieve the protection of the legal rights and interests of citizens and participants in criminal proceedings.

### **REFERENCES**

1. Узбекистон Республикаси Жиноят процессуал кодекси. 2022й. Тошкент, Адолат.

2. Узбекистон Республикаси Фуқаролик процессуал кодекси. 2022й. Тошкент, Адолат.
3. С.Ампенов «Обстоятельство исключают участие в уголовном судопроизводстве» Тюмен 2010. diss.rsl.ru
4. Рукавишников П.П. «О допустимом сроке отвода судьи в уголовном деле. Рукавишников/Глагол правосудья, 2016. №1. (11)
5. Гаспарян.Н.С. «Отвод в судопроизводстве» 2012. Vol.1.Stavropol.
6. Е.Т.Рыбинская «Обстоятельство исключают участие судьи в уголовном судопроизводстве как основание вынесения
7. Палиева.О.Н. «Отвод судье: Проблемы правоприменения» Вестник Северо-Кавказского федерального университета.2013. №6,(39). С.235-238.
8. законного приговора» Москва. diss.rsl.ru, 2013.
9. Н.Н.Ковтун «Уголовный процесс России» учебное пособие для вузов, Москва 2023 г