

## Legal Basis of Rehabilitation in Criminal Proceedings



Gulom Mahammatovich Shodiev, PhD

The Academy of the General Prosecutor's Office of the Republic of Uzbekistan

**ABSTRACT:** This article discusses the legal basis of rehabilitation in criminal proceedings in the Republic of Uzbekistan. The most constructive theories of the institution under discussion are discussed, their advantages and disadvantages are emphasized. The article also analyzes the volume of rehabilitation in the Criminal Procedure Code of the Republic of Uzbekistan.

**KEYWORDS:** Rehabilitation; compensation; cases of rehabilitation

### INTRODUCTION

The development of a market economy and the associated democratization of society in our country, as well as the transition to civil society, in turn, require further improvement of the system of criminal procedure legislation. Article 13 of the Constitution of the Republic of Uzbekistan guarantees that democracy in the Republic of Uzbekistan is based on universal principles, according to which a person, his life, freedom, honor, dignity and other inalienable rights are the highest value. This constitutional norm itself testifies to the relevance of protecting the rights of citizens.

It should be noted that the pace of development of the judicial system in the Republic of Uzbekistan has increased significantly since 2017. For example, in the first 10 months of 2017, the court acquitted 191 people, and over the past five years - only 7 people. In addition, this year the preliminary investigation authorities terminated 3,511 criminal cases on rehabilitation and other grounds [1, p 345].

It is enough to show as an example that in the first nine months of 2019 alone, 576 people were rehabilitated and rehabilitated in the Republic of Uzbekistan to understand the effectiveness of democratic reforms in the judicial sphere.

In the analysis of the topic of rehabilitation in the legislation of the Republic of Uzbekistan, it is best to start with the coverage of the concept of rehabilitation. There are several views on the origin of the concept of rehabilitation. One of them was N.I. Mirolyubov, who, in his opinion, was first used by the medieval French jurist Blenianus to refer to the oldest institution of pardon with the restoration of all the former rights of the convict [2, p 17].

Initially, the law defined punishment as punishment for an offense committed by the offender. The punishment was used to permanently isolate the offender from society. Over time, views of punishment as a way to rehabilitate the offender began to emerge and improve. Accordingly, the deprivation of any rights remained temporary. The convicted person has the opportunity to restore his rights and social status over time under certain conditions. This restoration was called rehabilitation. Rehabilitation, which emerged as a method of amnesty, became an independent legal institution.

### THE MAIN FINDINGS AND RESULTS

Issues related to compensation for damage caused to persons illegally prosecuted have long been considered. At Pericles' time, Athenian law (445-430 BC) provided for: the prosecution is entrusted with the conduct of the public prosecution in the course of the proceedings. He was deprived of the right to institute criminal proceedings in the future if he won less than one-fifth of the judges' votes in favor of the case, paid a fine of 1,000 drachmas, and failed charges were repeated three times. The liability of a prosecutor who fails to collect one-fifth of the votes of judges in a private court is limited to a fine in favor of the accused in the amount of one-sixth of the amount of the claim (by drachma). The acquittal of each individual, in turn, could serve as an excuse to initiate litigation against an intentionally unjust accusation [3, p 91].

Also, as a result of considering the origin of the concept of rehabilitation, it can be concluded that rehabilitation involves the process of restoring a person's violated rights and compensating for the damage caused to him.

## Legal Basis of Rehabilitation in Criminal Proceedings

In this regard, if we talk about the institution of rehabilitation in the criminal process, it is advisable, before discussing the institution "Rehabilitation in the criminal process", to highlight the importance of its improvement. It is important to study the institute of "rehabilitation in criminal proceedings" and to create a new methodological framework for improving this institution, taking into account its specific features.

In turn, we have a number of tasks ahead of us in improving the institution of "Rehabilitation in Criminal Proceedings" on the basis of the requirements of modern jurisprudence. These tasks include:

- 1) Re-analysis of cases of "rehabilitation in criminal proceedings" through the implementation of best international practices in criminal procedure legislation and the study of problems associated with the application of these cases;
- 2) Improvement of certain types of cases "Rehabilitation in criminal proceedings" on the basis of the requirements of modern jurisprudence.

Rehabilitation in criminal proceedings and the procedure for their application are set out in both the criminal procedure legislation of foreign countries and our national legislation.

In particular, Article 83 of the Criminal Procedure Code of the Republic of Uzbekistan [4] provides **grounds for rehabilitation**, and this article identifies **3 cases**.

- 1) If the case has been initiated and no criminal incident has occurred in the case in which the investigative actions or court proceedings were conducted;
- 2) If there is no criminal element in his act;
- 3) If it is not related to the crime committed.

The above circumstances, as well as the existence of an acquittal under Article 301 of the Code of Criminal Procedure, are grounds for rehabilitation.

Unlawful detention of a rehabilitated person in accordance with Article 302 of the Criminal Code of the Republic of Uzbekistan, unlawful detention as a precautionary measure, has the right to recover property damage caused to him as a result of unlawful dismissal due to his involvement in the case as a defendant and to demand compensation for the consequences of moral damage, article 309 sets out the procedure for compensating for the consequences of moral damage inflicted on a rehabilitated citizen. In such cases, the rule that the moral damage caused to the citizen shall be compensated in accordance with the procedure provided for in the general civil legislation is strengthened.

There is also partial rehabilitation, and Article 303 of the Criminal Procedure Code sets out the grounds and consequences of partial rehabilitation. According to it, the following is the basis for partial rehabilitation of a person:

- 1) A person has been sentenced to a term of imprisonment or restriction of liberty or a non-custodial sentence less than that of a person in custody or house arrest;
- 2) The partial removal of the charge from the sentence and the consequent impossibility of lawful custody or house arrest or deprivation of liberty or restriction of liberty;
- 3) Whether the term of imprisonment or restriction of liberty has been reduced by the higher court in comparison with the term actually served or replaced by another lesser type of punishment;
- 4) unreasonable detention, imprisonment or house arrest, placement in a medical institution in cases where a sentence has been passed without a criminal penalty.

As for the consequences of partial rehabilitation, partial rehabilitation entails compensation for the unjustified part of the property damage caused to the accused or convicted person, and the elimination of the unjustified part of the consequences of moral harm.

The rehabilitated person also has other rights, in addition to the right to compensation for moral damage, the restoration of which is provided for in article 310 of the Criminal Procedure Code. According to it, unlawful conviction, unlawful placement in a medical institution, unlawful detention or house arrest as a precautionary measure, dismissal from office (position) due to unlawful detention, or involvement in the case as an accused, defendant a person who has been unlawfully removed from office shall be reinstated in his previous job (position); if the enterprise, institution, organization is liquidated or other grounds provided by law do not allow him to return to his previous job (position), he should be given another job (position) equal to the previous one.

Also, as a precautionary measure, the time spent by the rehabilitated as a precautionary measure, the time spent in custody or under house arrest, the time spent serving the sentence, the time spent on leave in connection with dismissal, the time spent in a medical institution are taken into account. added to the total length of service.

In addition, a person who has been unlawfully convicted, detained as a precautionary measure, or placed under house arrest, detention, or placed in a medical facility must be reinstated at the request of the person expelled from the institution.

However, a person who has been deprived of the right to use a dwelling in connection with an illegal conviction or the use of compulsory medical measures must be returned the dwelling he previously occupied, if it is impossible to return it, a dwelling with equal conditions in the same village. -the seat will be provided.

## Legal Basis of Rehabilitation in Criminal Proceedings

Also, the validity of the passport (travel document) is restored by issuing a new passport (travel document) to a person whose passport (travel document) has been suspended due to an illegal conviction or involvement in the case as an accused, defendant. In addition, the Code of Criminal Procedure provides for the restoration of rights in the form of a claim, according to which a person's claim for the restoration of employment, pension and housing rights, as well as the return of property or payment of its value is denied or the person does not agree with the decision, he has the right to apply to the court in the order of litigation with the relevant claim.

However, with regard to the term of the claim, the rehabilitated person or persons specified in part three of Article 304 of the Criminal Procedure Code have the right to demand compensation for property damage within two years from the date of receipt of the ruling or decision on acceptance. such payments.

Rehabilitation of other rights can be requested by a rehabilitated person within one year from the date of receipt of a notification letter explaining the procedure for restoration of rights. If this deadline is missed for valid reasons, it must be reinstated by the inquiry officer, investigator, prosecutor or court at the request of the person concerned.

The criminal procedure legislation also addresses the issue of rehabilitation of servicemen, according to which the rehabilitation, rehabilitation, housing and other personal and property rights of rehabilitated servicemen and the restoration of property and compensation for property damage, elimination of the consequences of moral damage The Prosecutor General, the Minister of Defense, the Minister of Internal Affairs, the Chairman of the State Security Service, the Chairman of the State Security Service of the President of the Republic of Uzbekistan and the Commander of the National Guard of the Republic of Uzbekistan.

It is obvious that the restoration of the rights of rehabilitated servicemen will be carried out in a separate order.

The analysis of the above shows that the term rehabilitation is not defined in the Criminal Procedure Code of the Republic of Uzbekistan. If we look at the institution of rehabilitation in the example of countries around the world, in some countries, rehabilitation is defined at the constitutional level. For example, in Albania, Vietnam, Guatemala, and Honduras, the principle of compensation for damages, as well as the right of a citizen to rehabilitation, is enshrined in the constitution [5, -p 121]. Of course, it is very right to strengthen the institution of rehabilitation at the constitutional level, because it is not only the restoration of human rights, but also the restoration of the violated rights of the individual.

Also, Article 7 of the Code of Criminal Procedure of the Republic of Belarus states that rehabilitation, full compensation for damages, as well as the restoration of rights violated as a result of illegal criminal prosecution is one of the tasks of criminal proceedings.

In addition, Article 5, Paragraph 34 of the Criminal Procedure Code of the Russian Federation defines the term rehabilitation. It defines rehabilitation as rehabilitation, which is the restoration of rights and freedoms violated as a result of unlawful or unjustified criminal prosecution, as well as compensation for damage caused to him.

An analysis of the tariffs for the term rehabilitation in the legislation of foreign countries shows that in some countries the term rehabilitation is defined in law, which covers this concept in detail. The main purpose of elucidating such a term is that the laws are not only for lawyers but also for the common people, and for the people to understand these laws and exercise their rights properly.

## CONCLUSION

In short, when analyzing this article above, we saw that the legislation of the Republic of Uzbekistan does not define the term "rehabilitation". If the concept of rehabilitation was introduced into the Criminal Procedure Code of the Republic of Uzbekistan, it would be a step towards the transition to a civil society. The reason is that the main criterion of civil society is that citizens understand their rights and duties, as well as be able to use them properly. To do this, laws must be clear and concise, as well as the terms in the law must be defined.

## REFERENCES

- 1) Odilkoriev H.T. Legal aspects of innovative development of the state and society of Uzbekistan / Textbook. Tashkent: INNOVATION DEVELOPMENT PUBLISHING HOUSE, 2019. - 362 -p. 345.
- 2) Miroyubov N.I. Rehabilitation as a special legal institution. // Journal of the Ministry of Justice. 1902. No. 3 (12). - pp. 28. 17.
- 3) Cheltsov-Bebutov M.A. Course in criminal procedure law. SPb., Senate Printing House, 1995. -pp. 91.93.
- 4) Resolution of the President of the Republic of Uzbekistan "On measures to radically improve the system of criminal and criminal procedure legislation" dated May 14, 2018 № 3723. The book of information of Supreme Council of Republic of Uzbekistan. 15.05.2018 y., 07/18/3723/1225.

## Legal Basis of Rehabilitation in Criminal Proceedings

- 5) Orlova A.A. Rehabilitation and compensation for harm to victims of the actions of officials in the course of criminal proceedings. Problems of theory, law and law enforcement: monograph / A.A. Orlova. - M.: UNITIDANA: Law and Law, 2011. –pp. 173. 121.
- 6) Nodirov, D. (2020). ENSURING THE SUPREMACY OF LAW IN THE DEVELOPMENT OF AGRICULTURE IN UZBEKISTAN. *European Journal of Molecular & Clinical Medicine*, 7(8), 1414-1418.
- 7) Nodirov, D. (2020). Enhancing prosecutorial control over the implementation of legislation in the agricultural and food sectors. *ACADEMICIA: AN INTERNATIONAL MULTIDISCIPLINARY RESEARCH JOURNAL*, 10(12), 1072-1077.
- 8) Nodirov, D. (2020). Issues of improving prosecutorial control over the implementation of legislation in the field of agriculture and food. *European Journal of Molecular & Clinical Medicine*, 7(2), 663-670.
- 9) Ikromovich, N. D. (2020). The legal basis for assigning responsibilities to the prosecutor's office in ensuring control over the implementation of legislation in the agricultural sector in Uzbekistan. *ACADEMICIA: AN INTERNATIONAL MULTIDISCIPLINARY RESEARCH JOURNAL*, 10(12), 1058-1064.
- 10) НОДИРОВ, Д. (2020). ЎЗБЕКИСТОН ҚИШЛОҚ ХЎЖАЛИГИНИ РИВОЖЛАНТИРИШДА ҚОНУН УСТУВОРЛИГИНИ ТАЪМИНЛАШ. *ЮРИСТ АХБОРОТНОМАСИ*, 1(4), 44-49.
- 11) Ikromovich, N. D. (2020). The role of prosecutor's offices in the observance of the norms of legislation in the effective use of land and water resources. *ACADEMICIA: AN INTERNATIONAL MULTIDISCIPLINARY RESEARCH JOURNAL*, 10(12), 1323-1327.