



THE PROSPECTS FOR THE DEVELOPMENT OF THE INSTITUTION OF MODIFICATION AND TERMINATION OF CHARGES IN CRIMINAL PROCEDURAL LEGISLATION

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Abstract. This thesis examines the theoretical and legal content of the institution of amending and terminating charges in criminal procedure law, as well as prospects for its development. Based on international experience, the application of judicial control, guarantees of defense rights, and the implementation of fair trial principles are analyzed. In addition, the article highlights existing problems in the legislation and judicial-investigative practice of the Republic of Uzbekistan and proposes solutions to address them. The study has both theoretical and practical significance for improving criminal procedure legislation and ensuring the effective realization of fair trial principles.

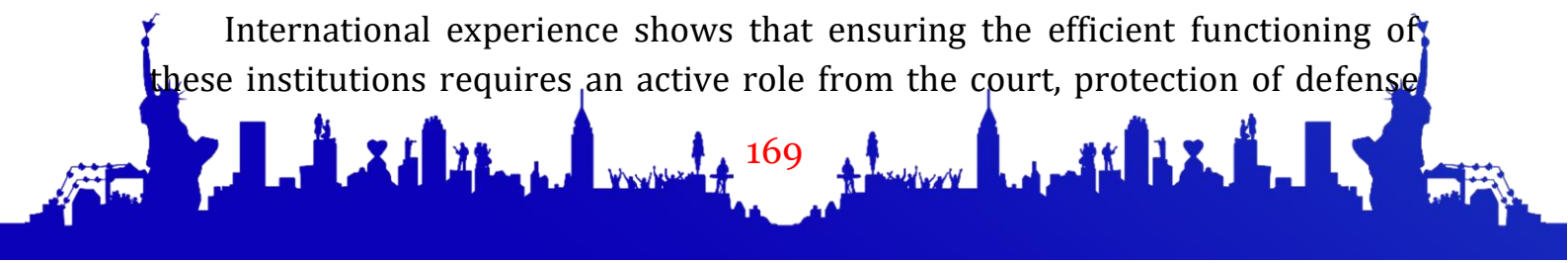
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The institution of modifying and terminating charges in criminal procedure is recognized as a significant procedural mechanism. The current regulation of this process, on the one hand, reflects the state's interest in combating crime and, on the other, protects the rights and liberties of individuals. Modifying charges allows for reassessing evidence, clarifying the legal classification of an offense, and substituting a lesser law provision during judicial or investigative processes. Terminating charges embodies the principle of presumption of innocence, releasing individuals from unjust liability.

In recent years, a number of comprehensive reforms have been implemented in the area of criminal procedural legislation with the goal of liberalization and protection of human rights. However, there are still challenges in the judicial practice regarding the application of the institutions of modification and termination of charges, such as:

- The predominance of prosecutorial powers
- Weakness of judicial oversight
- Insufficient mechanisms for timely notification of the accused
- Limited practical application of termination charges

International experience shows that ensuring the efficient functioning of these institutions requires an active role from the court, protection of defense





rights, and adherence to fair trial principles. Therefore, it is considered a pressing issue in the development of Uzbek legislation to study foreign practices, identify gaps in the domestic legal system, and address them.

In criminal procedural law, the process of modifying and dismissing charges is one of the essential mechanisms that protect individuals from unjust prosecution and ensure the principles of a fair trial.

Modification of charges refers to the alteration of the nature of the offense during the preliminary investigation or trial process, which may include substituting it with a more serious or less severe legal provision. Dismissal of charges, on the other hand, means the absence of a criminal act, insufficient evidence, or exclusion of certain elements in the accusation.

The primary purpose of these institutions is to maintain a balance in criminal procedural activities. On the one hand, they represent the state's interests in fighting crime, while on the other, they ensure the protection of the constitutional rights and liberties of the accused. These institutions are closely linked to fundamental principles such as the presumption of innocence, fairness in trial, and safeguarding defense rights.

International experience has demonstrated that the most significant condition for the successful implementation of the institution of charging and discharging charges is judicial supervision and the full protection of defense rights.

For example, the German Criminal Procedure Code¹ enshrines the principle of "prohibition of surprise accusations", which strictly prohibits placing the accused in an unprepared position. In England and Wales, prosecutors cannot change the charges without the court's authorization.² U.S. law also upholds the principle of due process, requiring both court approval and the preservation of defense rights when changing charges³.

In countries such as France⁴ Italy⁵ and Japan⁶ the active involvement of the court is essential. In these legal systems, during the process of amending or dismissing a charge, the court has to ensure adequate conditions for the defense.

¹ Strafprozessordnung (StPO) der Bundesrepublik Deutschland, § 265

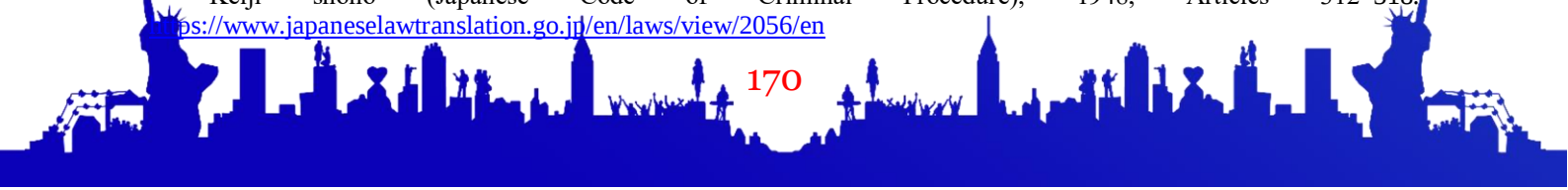
² Criminal Procedure Rules of England and Wales, Part 14 (Amendment of indictment). <https://www.legislation.gov.uk/ukxi/2014/1610/part/14/made>

³ U.S. Supreme Court, *Stirone v. United States*, 361 U.S. 212 (1960). <https://supreme.justia.com/cases/federal/us/361/212/>

⁴ Code de procédure pénale (CPP), Articles 79–189. https://www.legifrance.gouv.fr/codes/texte_lc/LEGITEXT000006071154/

⁵ Codice di procedura penale, Italia, Art. 516–522. <https://www.altalex.com/documents/codici-altalex/2014/10/30/codice-di-procedura-penale>

⁶ Keiji shohō (Japanese Code of Criminal Procedure), 1948, Articles 312–318. <https://www.japaneselawtranslation.go.jp/en/laws/view/2056/en>





Legislation in Russia and Turkey also provides for a broad application of the dismissal of charges, which contributes to reducing unnecessary judicial costs and efficiently utilizing procedural resources.

These experiences are relevant for Uzbekistan as they offer opportunities to strengthen judicial supervision and expand defense rights within its national legal framework.

Although the Code of Criminal Procedure of the Republic of Uzbekistan does contain provisions regarding the institution of modification and termination of charges, there are a number of practical shortcomings in their effective implementation.

Firstly, the powers of the prosecutor are broader than those of the court, which can potentially undermine the principle of procedural equality. Secondly, modifications to charges are often not communicated to defendants in a timely manner or sufficient time is not allowed for preparation of a defense.

In addition, the process of charging termination is not implemented with sufficient effectiveness. Even in cases where there is no evidence of a crime, the practice of taking cases to trial still persists. This results in violations of the principle of presumption of innocence, excessively high procedural costs, and unnecessary burden on the judicial system.

Furthermore, when compared to international standards, weaknesses in judicial oversight in domestic legislation become evident, limiting the full protection of the rights of those accused.

The current Criminal Procedure Code of the Republic of Uzbekistan does not include a specific article on the institution of changing, terminating, or amending charges. Instead, these processes are governed by certain general provisions. However, the legal basis and mechanisms for their application are not clearly defined, leading to divergent interpretations in practice and limiting the possibility of achieving procedural clarity and consistency in their implementation.

In contrast, in the laws of foreign countries, this institution is addressed through a separate provision or even a dedicated chapter. For instance, the German Criminal Procedure Code codifies the principle of “prohibition of surprise charges”, whereas in England and Wales, changes to charges are governed by a separate section of the Criminal Procedure Rules. Similar approaches can be seen in the legislations of France, the United States, and Italy as well. Therefore, compared to foreign practices, the fragmented legislative framework for this





institution in Uzbek law can be considered a shortcoming of the national legal system.

At the pre-trial stage, there is a lack of clarity regarding the circumstances that form the basis for the addition or modification of charges. This is due to the absence of detailed specifications in applicable normative acts concerning the situations and conditions in which such procedural decisions can be made. As a result, different approaches are observed in the practices of investigative and prosecution authorities. This leads to the adoption of various decisions in identical circumstances, undermining the possibility of ensuring consistency and stability in law enforcement.

Articles 415-417 of the Criminal Procedure Code of the Republic of Uzbekistan⁷ outline certain powers of courts in relation to changing charges. However, these provisions only permit courts to remove parts of charges. Mechanisms enabling courts to fully modify or add to charges at this stage have not been sufficiently regulated in practice.

The limited nature of the regulatory framework gives rise to procedural uncertainties in judicial proceedings and can lead to divergent interpretations. Experience from foreign countries shows that when a court has the authority to amend, terminate, or add to charges, legal grounds for these processes are clearly defined. For instance, the legislation in Germany and Italy establishes specific conditions and procedures for when a court can amend charges, which ensures procedural consistency and guarantees a fair trial. However, the lack of such a comprehensive mechanism in Uzbekistan's legislation hinders the effective implementation of this institution.

While the legislation of the Republic of Uzbekistan includes provisions for the institution of changing, terminating, and amending charges, in practice there are still several shortcomings in its effective implementation. Therefore, it is necessary to take legal and organizational measures to further develop this institution.

First, it would be beneficial to introduce a specific article or even a separate chapter into the Criminal Procedure Code that addresses the issues of modification, termination, and addition of charges. This practice is widely used in the legislation of other countries, ensuring clarity in procedural regulations. This, in turn, helps to establish a uniform approach to the application of the law.

Secondly, at the pretrial stage, it is necessary to clearly define the circumstances that justify the modification or addition of charges. In particular,

⁷Criminal Procedure Code of the Republic of Uzbekistan. <https://lex.uz/docs/-111460>





new evidence emerging, misclassification of the corpus delicti, or identification of additional criminal elements should be formally established as criteria, thus ensuring a consistent approach in the work of investigative and prosecution authorities.

Third, the powers of the court should be extended. Under current legislation, the court has the authority only to exclude certain elements from a charge; however, in the future it should also have the power to completely modify or add to a charge. This will not only strengthen judicial oversight, but also enhance the guarantee of procedural fairness.

Fourth, measures to protect the rights of defendants must be strengthened. When charges are increased or added, the defendant and their legal counsel should be given a minimum time period for preparation under law. Furthermore, regulations regarding the postponement of hearings and opportunities to review newly introduced evidence should be established at a normative level.

Fifth, national legislation should be aligned with international standards. As demonstrated by the jurisprudence of the European Court of Human Rights, any amendment to the charges must not limit defense rights and must be consistent with the principle of presumption of innocence. By incorporating these principles into the Criminal Procedure Code, the guarantees for a fair trial can be enhanced.

Overall, the improvement of the institution of modifying, terminating, and supplementing charges may be achieved through the strengthening of judicial oversight, the enhancement of legal certainty at the pre-trial stage, the expansion of judicial powers, the safeguarding of the rights of the accused, and alignment with international standards. This, in turn, contributes to the consistent development of criminal procedural legislation and ensures the practical realization of the principles of fair trial.

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