TOSHKENT DAVLAT YURIDIK UNIVERSITETI HUZURIDAGI ILMIY DARAJALAR BERUVCHI DSc.07/30.12.2019.Yu.22.01 RAQAMLI ILMIY KENGASH

TOSHKENT DAVLAT YURIDIK UNIVERSITETI

XUDOYNAZAROV DADAXON AVAZ O‘G‘LI

IQTISODIY PROTSESSDA ODIL SUDLOVNI AMALGA OSHIRISHGA KO‘MAKLASHUVCHI SHAXSLAR ISHTIROKINI TAKOMILLASHTIRISH (NAZARIY-HUQUQIY VA PROTSESSUAL JIHATLARI)

12.00.04 – Fuqarolik protsessual huquqi. Iqtisodiy protsessual huquqi. Hakamlik jarayoni va mediatsiya

yuridik fanlar bo‘yicha falsafa doktori (PhD) dissertatsiyasi AVTOREFERATI

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Content of the abstract of the dissertation of the Doctor of Philosophy (PhD)

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Falsafa doktori (PhD) dissertatsiyasi mavzusi O‘zbekiston Respublikasi Oliy ta’lim, fan va innovatsiyalar vazirligi huzuridagi Oliy attestatsiya komissiyasida B2021.3.PhD/Yu589 raqam bilan ro‘yxatga olingan.

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KIRISH (falsafa doktori (PhD) dissertatsiyasi annotatsiyasi)

Dissertatsiya mavzusining dolzarbligi va zarurati. Dunyoda tadbirkorlik subyektlari va investorlar soni kun sayin ortib bormoqda. Ularning o‘z huquqi va qonuniy manfaatlarini sudlarda himoya qila olishi uchun zarur bo‘lgan barcha shart-sharoitlarni yaratish, sud ishlarini yuritish jarayonida ishtirokchilar o‘rtasida tortishuv va taraflarning tengligini ta’minlash, nizolarni o‘z vaqtida hal qilish, ish bo‘yicha qonuniy, asosli va adolatli sud qarorlari qabul qilinishiga erishish va sud majlislarida masofadan turib ishtirok etish imkoniyatlarini kengaytirish butun dunyo sudlari oldida turgan dolzarb masalalardan biri bo‘lib qolmoqda. Heritage Foundation tadqiqot muassasasi tomonidan e’lon qilingan “Iqtisodiy erkinlik indeksi — 2023” reytingida O‘zbekiston 56,5 ball to‘plagan holda 176 ta davlat orasida 109-o‘rinni egallagan. Indeksning metodologiyasiga ko‘ra, O‘zbekistonning iqtisodiyoti asosan “erkin bo‘lmagan mamlakatlar” guruhida qolganligini ko‘rsatdi. Jumladan, eng yomon ko‘rsatkich “sud samaradorligi” (-37,8) yo‘nalishi bo‘ldi[1]. Bu esa sud tizimi, uning ishtirokchilari (odil sudlovni amalga oshirishga ko‘maklashuvchi shaxslar)ning doirasini, huquqiy maqomini va tashkiliy-huquqiy asoslarini yanada takomillashtirish hamda sudlar faoliyatiga raqamli texnologiyalarni joriy etish va qo‘llash lozimligini ko‘rsatib turibdi.

Jahonda sudlar faoliyatida ochiqlik va shaffoflikni ta’minlash, tadbirkorlar va investorlarning odil sudlovga bo‘lgan ishonchini mustahkamlash, odil sudlovni amalga oshirishga ko‘maklashuvchi shaxslarning iqtisodiy sud ishlarini yuritishda onlayn ishtirok etishi hamda ularning faoliyatiga sun’iy intellekt texnologiyalarini joriy etishga alohida e’tibor qaratilmoqda. Bunda odil sudlovni amalga oshirishga ko‘maklashuvchi shaxslarning protsessual maqomini belgilash, ularning sud jarayonida huquq va majburiyatlarini to‘laqonli amalga oshirishga imkon yaratish birlamchi vazifalar sifatida belgilangan. Hozirda jahonda odil sudlovni amalga oshirishga ko‘maklashuvchi shaxslar faoliyatida sun’iy intellekt texnologiyalari (3D, Forensic Toolkit, Yolo, ChatGPT, Kudo, Boostlingo, Languageline va Lie detector) qo‘llanilib kelinmoqda.

Respublikamizda tadbirkorlarning sudlardan to‘la rozi bo‘lishi va sudlar faoliyatiga sun’iy intellekt texnologiyalarini keng joriy etish borasida sezilarli ishlar amalga oshirilmoqda. 2022-yil 28-yanvarda qabul qilingan O‘zbekiston Respublikasi Prezidentining “2022–2026-yillarga mo‘ljallangan Yangi O‘zbekistonning taraqqiyot strategiyasi to‘g‘risida”gi PF-60- son Farmonida sud tizimini bosqichma-bosqich raqamlashtirish, byurokratik g‘ov va to‘siqlarni bartaraf etish orqali tadbirkorlik subyektlarining odil sudlovga erishish darajasini tubdan oshirish belgilangan[2]. Statistik ma’lumotlarga qaraganda, odil sudlovni amalga oshirishga ko‘maklashuvchi shaxslar ishtirokida ko‘rilgan ishlar 2021-yil davomida 436 tani, 2022-yil davomida 1068 tani va 2023-yil (11 oy)da esa 713 tani[3] tashkil etmoqda. Shundan *guvoh* ishtirokida 2021-yilda 111 ta, 2022-yilda 206 ta, 2023-yilda 255 ta, *ekspert* ishtirokida 2021-yilda 36 ta, 2022-yilda 77 ta, 2023-yilda 58 ta,

[1] https://www.heritage.org/index/country/uzbekistan
[2] O‘zbekiston Respublikasi qonun hujjatlari ma’lumotlari milliy bazasi 03.01.2024-y., 06/24/221/0003-son.
[3] O‘zbekiston Respublikasi Oliy sudining 2023-yil 04-dekabrdagi 07/15-445 sonli xati.

mutaxassis ishtirokida 2021-yilda 272 ta, 2022-yilda 753 ta, 2023-yilda 370 ta, *tarjimon* ishtirokida 2021-yilda 17 ta, 2022-yilda 32 ta, 2023-yil davomida esa 30 ta ish ko‘rib chiqilgan[4]. Bundan ko‘rinib turibdiki, odil sudlovni amalga oshirishga ko‘maklashuvchi shaxslar ishtiroki va maqomini yanada takomillashtirish, ishtirokchilar doirasini ko‘rib chiqish, huquq subyektliligini aniqlash, so‘roq qilish bilan bog‘liq yangi moddalar bilan boyitish, sudlar – ekspertlar o‘rtasidagi axborot hamkorligini barcha turlarini ta’minlashga qaratilgan axborot tizimini joriy etish, huquq va majburiyatlarini kengaytirish va boshqa masalalar protsessual huquq normalarida ifodalanmaganligi mazkur muammolarni ilmiy-nazariy jihatdan tadqiq etishni talab etadi.

O‘zbekiston Respublikasining Iqtisodiy protsessual kodeksi (2018), “Sud ekspertizasi to‘g‘risida”gi (2010), “Xalqaro tijorat arbitraji to‘g‘risida”gi (2021), “Mediatsiya to‘g‘risida”gi (2018), “Hakamlik sudlari to‘g‘risida”gi (2006) Qonunlari, O‘zbekiston Respublikasi Prezidentining 2021-yil 5-iyuldagi “O‘zbekiston Respublikasida sud-ekspertlik tizimini takomillashtirish chora-tadbirlari to‘g‘risida”gi PF-6256-son va 2023-yil 16-yanvardagi “Odil sudlovga erishish imkoniyatlarini yanada kengaytirish va sudlar faoliyati samaradorligini oshirishga doir qo‘shimcha chora-tadbirlar to‘g‘risida”gi PF-11-son Farmonlari va mavzuga oid boshqa qonun hujjatlarida keltirilgan vazifalarni amalga oshirishda mazkur dissertatsiya tadqiqoti muayyan darajada xizmat qiladi.

Tadqiqotning respublika fan va texnologiyalari rivojlanishining ustuvor yo‘nalishlariga mosligi. Mazkur dissertatsiya respublika fan va texnologiyalar rivojlanishining I. “Axborotlashgan jamiyat va demokratik davlatni ijtimoiy, huquqiy, iqtisodiy, madaniy, ma’naviy-ma’rifiy rivojlantirishda innovatsion g‘oyalar tizimini shakllantirish va ularni amalga oshirish yo‘llari” ustuvor yo‘nalishiga muvofiq bajarilgan.

Muammoning o‘rganilganlik darajasi. Dissertatsiya mavzusi shu kunga qadar O‘zbekiston Respublikasida mustaqil tadqiqot obyekti sifatida doktorlik dissertatsiyasi darajasida tadqiq qilinmagan. O‘zbekistonda Sh.Sh.Shoraxmetov, E.E.Egamberdiyev, M.M.Mamasiddiqov, Z.N.Esanova, D.Yu.Xabibullayev, F.X.Otaxonov, N.F.Imomov, T.A.Umarov, F.B.Ibratova, Q.S.Avezov, R.T.Berdiyarov, X.B.Abduraxmanova, X.B.Burxanxodjayeva, O.Sh.Pirmatov va I.M.Salimovalarning tadqiqot ishlarida u yoki bu darajada iqtisodiy protsessual huquqida odil sudlovni amalga oshirishga ko‘maklashuvchi shaxslarning tutgan o‘rni, maqomi va taqdim etgan ma’lumotlar (xulosalar)ning dalillar sifatida o‘rni va ahamiyati yoritilgan bo‘lib, biroq bu borada mamlakatimiz olimlari iqtisodiy protsessda odil sudlovni amalga oshirishga ko‘maklashuvchi shaxslarning ishtiroki bo‘yicha kompleks tadqiqotlar olib borilmagan. Shuningdek, ushbu mavzu doirasida MDH davlatlari olimlari A.V.Vanyarxo, V.V.Yarkov, E.A.Tresheva, A.T.Bonner, M.I.Kleandrov, I.N.Lukyanova, I.V.Reshetnikova, M.V.Jijina, S.P.Vorojbit, A.A.Vlasov, E.R.Rossinskaya, T.Saxnova, M.S.Shakaryan va V.V.Molchanovlar muayyan tadqiqot ishlarini olib borganlar. G‘arbiy Yevropa va AQSH davlatlari

[4] O‘zbekiston Respublikasi Oliy sudining 2022-yil 19-avgustdagi 07/14-10964-275 sonli xati.

olimlaridan Steven W.Schneider, Colin Tapper, John O'Hare & Kevin Browne[5]lar o'z tadqiqotlarida to'xtalib o'tgan.

Dissertatsiya tadqiqotining dissertatsiya bajarilgan oliy ta'lim muassasasining ilmiy-tadqiqot ishlari rejalari bilan bog'liqligi. Dissertatsiya tadqiqoti Toshkent davlat yuridik universitetining ilmiy tadqiqot ishlari rejasiga kiritilgan "Iqtisodiy protsessda odil sudlovni amalga oshirishga ko'maklashuvchi shaxslar ishtirokini takomillashtirish" nomli ilmiy tadqiqotlar rejasi doirasida bajarilgan.

Tadqiqotning maqsadi iqtisodiy sud ishlarini yuritishda odil sudlovni amalga oshirishga ko'maklashuvchi shaxslar ishtirokining huquqiy asoslarini takomillashtirish va bu boradagi munosabatlarni huquqiy tartibga solishga qaratilgan takliflar hamda tavsiyalar ishlab chiqishdan iborat.

Tadqiqotning vazifalari:

odil sudlovni amalga oshirishga ko'maklashuvchi shaxslar faoliyatining protsessual jihatlarini tahlil qilish orqali takliflar ishlab chiqish;

sudya yordamchisi (sud majlisi kotibi)ning iqtisodiy protsessdagi o'rni (huquqiy maqomi)ni ochib berishga qaratilgan tavsiyalar berish;

odil sudlovni amalga oshirishga ko'maklashuvchi shaxslarning protsessual huquq va muomala layoqatining ilmiy-amaliy tomonlarini yoritishga doir tavsiyalarni asoslash;

guvoh, tarjimon ekspert va mutaxassislarning huquq va majburiyatlarini protsessual muammolarini tadqiq etish orqali takliflar ishlab chiqish;

guvoh, tarjimon ekspertlarning iqtisodiy sud ishlarini yuritish jarayondagi javobgarligini huquqiy va protsessual xususiyatlarini ochib berishga oid iqtisodiy protsessual qonunchiligi va sud amaliyotini takomillashtirishga qaratilgan takliflarni ishlab chiqishdan iborat.

Tadqiqotning obyekti sifatida iqtisodiy sud ishlarini yuritishda odil sudlovni amalga oshirishga ko'maklashuvchi shaxslarning ishtiroki natijasida vujudga keladigan ijtimoiy munosabatlar olingan.

Tadqiqotning predmetini iqtisodiy protsessda odil sudlovni amalga oshirishga ko'maklashuvchi shaxslar ishtirokini huquqiy tartibga solishga oid nazariy g'oyalar, bu boradagi muammolar, protsessual qonunchilik normalari va sud hujjatlari tashkil etadi.

Tadiqiqotning usullari. Tadqiqot jarayonida umumlashtirish, tizimli yondashuv, mantiqiy tahlil, so'rovnoma o'tkazish, aniqlashtirish, statistik va amaliyot materiallarini o'rganish hamda qiyosiy-huquqiy tahlil usullari qo'llanilgan.

Tadqiqotning ilmiy yangiligi quyidagilardan iborat:

arbitrlar, arbitraj tarkibi tomonidan tayinlangan ekspertlar, arbitraj muassasasining xodimlari, hakamlik sudyalari – arbitraj yoki hakamlik muhokamasi davomida o'zlariga ma'lum bo'lib qolgan holatlar to'g'risida guvoh sifatida chaqirilishi va so'roq qilinishi mumkin bo'lmagan shaxslar ekanligi asoslantirilgan;

doimiy ish haqi olmaydigan jabrlanuvchilar, guvohlar va xolislarga odatdagi mashg'ulotlaridan qoldirilganligi (chalg'itganligi) uchun to'lov miqdori amalda ularning sarflangan vaqti va belgilangan mehnatga haq to'lashning eng kam

[5] Mazkur olimlar asarlarining to'liq ro'yxati dissertatsiyaning foydalanilgan adabiyotlar ro'yxatida keltirilgan.

miqdoridan kelib chiqqan holda hisoblanishi, bunda to‘lovning aniq miqdori belgilangan mehnatga haq to‘lashning eng kam miqdori summasini mazkur oyda mavjud ish kunlariga nisbatini majburiyatlar bajarilgan ish kunlariga ko‘paytirish orqali aniqlanishi asoslab berilgan;

davlat sud-ekspertiza muassasasi va nodavlat sud-ekspertiza tashkiloti ekspertlarining faoliyatini kasbiy layoqatliligi, o‘tkazilgan sud ekspertizalarining sifati va boshqa mezonlarga asosan reyting tizimi asosida baholash ko‘rsatkichlari bo‘yicha to‘plangan ballardan kelib chiqib hisoblanishi asoslantirib berilgan;

arbitraj muhokamasi bilan bog‘liq ishlarni yuritishda arizaga ilova sifatida chet tilida tuzilgan hujjatlarni iqtisodiy sudga taqdim etilayotganda, mazkur hujjatlarga ularning davlat tilida yoki sud ishlari yuritilayotgan tildagi tegishli tarzda tasdiqlangan tarjimasi qo‘shib topshirilishi asoslantirilgan.

Tadqiqotning amaliy natijalari quyidagilardan iborat:

odil sudlovni amalga oshirishga ko‘maklashuvchi shaxslar doirasi aniqlashtirilgan;

sudya yordamchisi (sud majlisi kotibi)ning iqtisodiy protsessdagi huquqiy maqomi asoslantirilgan;

odil sudlovni amalga oshirishga ko‘maklashuvchi shaxslarning protsessual huquq va muomala layoqatini aniqlashtirilgan;

odil sudlovni amalga oshirishga ko‘maklashuvchi shaxslarning huquq, majburiyatlari va javobgarlik masalalarini takomillashtirilgan;

tarjimonlar faoliyatini tartibga soluvchi huquqiy asosning yo‘qligi bois “Sud tarjimoni to‘g‘risida”gi Qonun loyihasi ishlab chiqilish lozimligi asoslab berilgan;

“O‘zbekiston Respublikasining ayrim qonun hujjatlariga o‘zgartish va qo‘shimchalar kiritish to‘g‘risida”gi Qonun loyihasi ishlab chiqilgan.

Tadqiqot natijalarining ishonchliligi. Tadqiqot natijalari har bir bob oxirida va ish yakunida aksini topgan nazariy hamda amaliy xulosalar, qonunchilikni takomillashtirishga qaratilgan takliflar ilgari surilgan shuningdek, ishda Iqtisodiy ishlar bo‘yicha Toshkent shahar sudining sudlov hay’ati (2023-yil yanvar-fevral oylari), iqtisodiy ishlar bo‘yicha Toshkent tumanlararo sudi (2022-yil dekabr oyi) va iqtisodiy ishlar bo‘yicha Zangiota tumanlararo sudi (2021-yil may-avgust oylari)ning ish materiallari hamda tadqiqotchi tomonidan sudyalar, sud xodimlari, ekspert, mutaxassis, tarjimonlar va professor-o‘qituvchilar, yuridik xizmat xodimlari, mustaqil izlanuvchilar, doktorantlar va yurisprudensiya yo‘nalishi talabalari o‘rtasida o‘tkazilgan so‘rovnoma natijalaridan foydalanildi.

Tadqiqot natijalarining ilmiy va amaliy ahamiyati. Tadqiqotning ilmiy ahamiyati dissertatsiyada bayon qilingan materiallardan “Iqtisodiy protsessual huquqi” va boshqa maxsus modullarni o‘qitishda hamda mavzuga oid ilmiy-tadqiqot ishlari olib borish jarayonida foydalanish mumkin.

Tadqiqot natijalarining amaliy ahamiyati iqtisodiy sud ishlarini yuritishni tartibga soluvchi normativ-huquqiy hujjatlarni takomilashtirishda, shuningdek, iqtisodiy ishlar bo‘yicha sud amaliyotida va davlat organlarining qonun va norma ijodkorligi faoliyatida foydalanishi mumkinligi bilan izohlanadi.

Tadqiqot natijalarining joriy qilinishi. Odil sudlovni amalga oshirishga ko‘maklashuvchi shaxslar maqomini takomillashtirish yuzasidan olingan ilmiy natijalar asosida:

arbitrlar, arbitraj tarkibi tomonidan tayinlangan ekspertlar, arbitraj muassasasining xodimlari, hakamlik sudyalari – arbitraj yoki hakamlik muhokamasi davomida o‘zlariga ma’lum bo‘lib qolgan holatlar to‘g‘risida guvoh sifatida chaqirilishi va so‘roq qilinishi mumkin emasligi to‘g‘risidagi taklif O‘zbekiston Respublikasining 2022-yil 16-maydagi O‘zbekiston Respublikasining “Xalqaro tijorat arbitraji to‘g‘risida”gi O‘zbekiston Respublikasi Qonuni qabul qilinganligi munosabati bilan O‘zbekiston Respublikasining ayrim qonun hujjatlariga o‘zgartish va qo‘shimchalar kiritish haqida”gi O‘RQ–769-sonli Qonuni 1-moddasining 12-bandini ishlab chiqilishida foydalanilgan (O‘zbekiston Respublikasi Oliy Majlisi Senatining 2023-yil 6-fevraldagi 06-13/11-son ma’lumotnomasi). Mazkur taklifning qabul qilinishi natijasida arbitrlar va ular tomonidan tayinlangan ekspertlar hamda hakamlik sudyalarning huquq va erkinliklarini himoya qilishga xizmat qilgan;

doimiy ish haqi olmaydigan jabrlanuvchilar, guvohlar va xolislarga odatdagi mashg‘ulotlaridan qoldirilganligi (chalg‘itganligi) uchun to‘lov miqdori amalda ularning sarflangan vaqti va belgilangan mehnatga haq to‘lashning eng kam miqdoridan kelib chiqqan holda hisoblanishi, bunda to‘lovning aniq miqdori belgilangan mehnatga haq to‘lashning eng kam miqdori summasini mazkur oyda mavjud ish kunlariga nisbatini majburiyatlar bajarilgan ish kunlariga ko‘paytirish orqali aniqlanishiga oid taklif O‘zbekiston Respublikasi Vazirlar Mahkamasining 2023-yil 28-oktabrdagi RCM -570-son Qarori bilan tasdiqlangan “Jabrlanuvchilar, guvohlar, ekspertlar, mutaxassislar, tarjimonlar va xolislarga to‘lanishi lozim bo‘lgan mablag‘larni hisoblash va to‘lash tartibi to‘g‘risida”gi nizomning 11-bandini ishlab chiqishda foydalanilgan (O‘zbekiston Respublikasi Vazirlar Mahkamasining 2023-yil 25-dekabrdagi 12-15-131-son ma’lumotnomasi). Mazkur taklif qabul qilinishi natijasida guvohlarga sudga kelgan xarajatlarni to‘lash va uni olish huquqini takomillashishiga xizmat qilgan;

davlat sud-ekspertiza muassasasi va nodavlat sud-ekspertiza tashkiloti ekspertlarining faoliyatini kasbiy layoqatliligi, o‘tkazilgan sud ekspertizalarining sifati va boshqa mezonlarga asosan reyting tizimi asosida baholash ko‘rsatkichlari bo‘yicha to‘plangan ballardan kelib chiqib hisoblanishi asoslantirilgan doir taklif Vazirlar Mahkamasining 2022-yil 13-dekabrdagi 705-son qarori bilan tasdiqlangan “O‘zbekiston Respublikasi Adliya vazirligi huzuridagi Sud-ekspertlik faoliyatini rivojlantirishni qo‘llab-quvvatlash jamg‘armasi to‘g‘risida”gi nizomning 13-bandini ishlab chiqishda foydalanilgan (O‘zbekiston Respublikasi Vazirlar Mahkamasining 2023-yil 25-dekabrdagi 12-15-131-son ma’lumotnomasi). Mazkur taklif qabul qilinishi natijasida sud ekspertlari faoliyatini reytingini aniqlab beradi va ularni ishlash faoliyatini rag‘batlantirib borishiga xizmat qilgan;

arbitraj muhokamasi bilan bog‘liq ishlarni yuritishda arizaga ilova sifatida chet tilida tuzilgan hujjatlarni iqtisodiy sudga taqdim etilayotganda, mazkur hujjatlarga ularning davlat tilida yoki sud ishlari yuritilayotgan tildagi tegishli tarzda tasdiqlangan tarjimasi qo‘shib topshirilishiga oid taklif O‘zbekiston Respublikasining 2022-yil 16-maydagi O‘zbekiston Respublikasining “Xalqaro tijorat arbitraji to‘g‘risida”gi

O‘zbekiston Respublikasi Qonuni qabul qilinganligi munosabati bilan O‘zbekiston Respublikasining ayrim qonun hujjatlariga o‘zgartish va qo‘shimchalar kiritish haqida”gi O‘RQ–769-sonli Qonuni 1-moddasining 6-bandini bayon qilinishda foydalanilgan (O‘zbekiston Respublikasi Oliy Majlisi Senatining 2023-yil 6-fevraldagi 06-13/11-son ma’lumotnomasi). Mazkur taklifning qabul qilinishi natijasida arbitraj muhokamasiga ko‘maklashish bilan bog‘liq ishlarni yuritishda arizaga ilova sifatida hamda arbitrajning hal qiluv qarorini bekor qilish to‘g‘risidagi arizaga tarjimasini qo‘shib topshirilishi davlat tili va sud ishlari yuritilayotgan til prinsipini amalda mustahkamlashga xizmat qilgan.

Tadqiqot natijalarining aprobatsiyasi. Mazkur tadqiqot natijalari 6 ta ilmiy anjumanda, jumladan 4 ta xalqaro va 2 ta respublika ilmiy-amaliy konferensiyalarda va ilmiy seminarlarda muhokamadan o‘tgan.

Tadqiqot natijalarining e’lon qilinganligi. Dissertatsiya mavzusi bo‘yicha jami 18 ta ilmiy ish, shu jumladan, 1 ta ilmiy-ommabop risola, 8 ta ilmiy maqola (2 tasi xorijiy nashrlarda), 9 ta tezis shaklda chop qilingan.

Dissertatsiyaning tuzilishi va hajmi. Dissertatsiyaning tuzilishi kirish, sakkiz paragrafni qamrab olgan uchta bob, xulosa, foydalanilgan adabiyotlar ro‘yxati va ilovalardan iborat. Dissertatsiyaning hajmi 156 betni tashkil etadi.

DISSERTATSIYANING ASOSIY MAZMUNI

Dissertatsiyaning **kirish** qismida tadqiqot mavzusining dolzarbligi va zarurati, tadqiqotning respublika fan va texnologiyalari rivojlanishining ustuvor yo‘nalishlariga mosligi, muammoning o‘rganilganlik darajasi, dissertatsiya tadqiqotining dissertatsiya bajarilgan oliy ta’lim muassasasining ilmiy-tadqiqot ishlari rejalari bilan bog‘liqligi, tadqiqotning maqsadi, vazifalari, obyekti, predmeti va usullari, tadqiqotning ilmiy yangiligi va amaliy natijasi, tadqiqot natijalarining ishonchliligi, ilmiy va amaliy ahamiyati, ularning joriy qilinganligi, tadqiqot natijalarining aprobatsiyasi, natijalarning e’lon qilinganligi va dissertatsiyaning tuzilishi va hajmi bayon etilgan.

Dissertatsiyaning “**Iqtisodiy sud ishlarini yuritishda odil sudlovni amalga oshirishga ko‘maklashuvchi shaxslarga nazariy-huquqiy tavsif”** deb nomlangan birinchi bobida odil sudlovni amalga oshirishga ko‘maklashuvchi shaxslar tushunchasi, ularning tasnifi, huquq subyektliligi ya’ni protsessual huquq va muomala layoqati tushunchalariga doir tahlillar amalga oshirilgan.

Odil sudlovning vazifasi ziddiyatli vaziyatlarni nizosiz holga keltiradigan qonuniy, asosli va adolatli sud hujjatlirini chiqarishdan iboratdir. Shu o‘rinda aytish joizki, odil sudlovni ta’minlashda bir qancha asosiy konsepsiyalar dunyo davlatlari tajribasida qo‘llanilib kelinmoqda. Olimlarning fikricha asosiylari sifatida “procedural justice” (protsessual odil sudlov), “procedural fairness (protsessual adolat)” konsepsiyalar ilgari surilmoqda. “Procedural justice” (protsessual odil sudlov) konsepsiyasiga ko‘ra dalillar va isbotlash qonuniy bo‘lishi, qonuniylikni protsessual odillik orqali qurish mumkinligi, barcha jarayonlar qonun (kodeks)dagi normalarga asoslanishi, dalillarni tinglash, teng imkoniyatlar ega bo‘lish va taraflarga bir xil hurmatda bo‘lish kerakligi ta’kidlanadi. “Procedural justice” (protsessual odil sudlov) konsepsiyasining elementlari sifatida insonlarning qadr-qimmatini hurmat qilish

(respect), uchrashuv vaqtida ishtirokchilarga ovoz berish (voice-so‘z, ovoz berish) huquqini taqdim etish, qaror qabul qilishda xolis va shaffof bo‘lish (neutrality), ishonchli hisoblangan (trustworthiness) asoslar (dalillar)ni topshirish keltirib o‘tiladi. Aynan tadqiqot ishimizda ham odil sudlovni amalga oshirishga ko‘maklashuvchi shaxslarga sud jarayonida hurmat bilan munosabatda bo‘lishi, ularga so‘z berish, guvoh, ekspert, mutaxassis va tarjimon qaror qabul qilishda xolis va shaffof bo‘lishi hamda ishga oid dalillarni isbotlashi keltirilgan. Ikkinchi “procedural fairness” (protsessual adolat) konsepsiyasida jarayonning muayyan elementlarini yaqinlashtiradi va oydinlashtiradi. Mazkur konsepsiyasida sud bilan aloqada bo‘lganlar sud jarayonidan, atrofdagilardan va insonlarning muomalasidan prosessual adolat haqida tasavvur hosil qiladi. “Procedural fairness” (protsessual adolat) konsepsiyasida ichki ishonch, insof, vijdon va insonparvarlik qoidalariga, real sharoit, holat va vaziyatga qaraladi. “Procedural fairness” (protsessual adolat) konsepsiyasining asosiy elementlari sifatida “voice” taraflarning o‘z fikr-mulohazalarini bildirishi orqali ishtirok etish layoqati, “neutrality” xolis qaror qabul qilishda asosiy tamoyillarni qo‘llashi , “respect” insonlarga xushmuomala va hurmat bilan munosabatda bo‘lish, “trust” qaror qabul qiluvchining ichki ishonchiga asoslanishi, “understanding” sud jarayoni ishtirokchilari sud qarorlari va ularni qanday qabul qilinishini tushunishi, “helpfullness” taraflar sud ishtirokchilarini qonunda ruxsat etilgan darajada shaxsiy holatiga qiziqqan deb bilishiga e’tibor qaratiladi. “Procedural fairness” (protsessual adolat) konsepsiyasiga eng ko‘p e’tibor qaratadigan va sudlar faoliyatida qo‘llaydigan davlatlar sifatida AQSh, Buyuk Britaniya, Kanada, Avstraliya, Yevropa Ittifoqiga a’zo davlatlar, Hindiston va Yangi Zelandiya keltirib o‘tiladi. Tadqiqotchi tomonidan ilgari surilayotgan takliflar, tavsiyalar va xulosalar “procedural fairness” (protsessual adolat) konsepsiyasiga mos kelishi va ular aynan profilaktik choralar (normalar) sifatida baholanishi tadqiq va tahlil qilindi. “Procedural fairness” (protsessual adolat) konsepsiyasiga eng ko‘p e’tibor qaratadigan va sudlar faoliyatida qo‘llaydigan davlatlar sifatida AQSh, Buyuk Britaniya, Kanada, Avstraliya, Yevropa Ittifoqiga a’zo davlatlar, Hindiston va Yangi Zelandiya keltirib o‘tiladi.

Muallif O‘zbekistonda ham iqtisodiy sud ishlarini yuritishda iqtisodiy sudlar asosan “procedural justice” (protsessual odil sudlov) konsepsiyasi bilan bir qatorda “procedural fairness” (protsessual adolat) konsepsiyasini rivojlantirishni va qo‘llashni ta’kidlab o‘tadi. Bu konsepsiyani ilgari surish natijasida quyidagi natijaga erishish mumkin bo‘ladi:

1) ish bo‘yicha dalillar tarjimonlarning tarjimasi, guvohlarning ko‘rsatuvlari, ekspertlarning xulosalari va mutaxassislarning maslahatlari (tushuntirishlari) bilan aniqlanishi orqali iqtisodiy sudlar tomonidan qabul qilinayotgan hal qiluv qarori va qarorini qonuniy, asosli va adolatli chiqarilishiga erishiladi;

2) mazkur konsepsiyada tarjimonlarning tarjimasi, guvohlarning ko‘rsatuvlari, ekspertlarning xulosalari va mutaxassislarning maslahatlari (tushuntirishlari)ning to‘g‘ri, to‘liq va xolis bo‘lishi natijasida nizolarni birinchi instansiyani o‘zida hal qilinishi hamda ularni yuqori instansiyalarda ko‘rishda ish yuklamasini kamaytirish va vaqtni tejashga olib keladi;

3) tarjimonlarning tarjimasi, guvohlarning ko‘rsatuvlari, ekspertlarning xulosalari va mutaxassislarning maslahatlari (tushuntirishlari)ga baho berishda iqtisodiy sud

sudyalari uchun ichki ishonch va insonparvarligi asosida yuzasidan nizoni ko‘rib chiqish, real holatlarni eshitish va hal qilishda muhim hisoblanadi.

Tadqiqot ishida odil sudlovni amalga oshirishga ko‘maklashuvchi shaxslar tushunchasi, tarjimon va mutaxassis tushunchalari qator olimlar (Z.N.Esanova, R.T.Berdiyarov, X.B.Abduraxmonova, F.B.Ibratova, V.V.Yarkov, A.V.Vanyarxo, A.P.Rijakov, A.V.Strunkina, K.A.Kuznetsova, V.A.Verbitskaya, A.T.Bonner va boshqalar)ning qarashlari tahlil qilinib, odil sudlovni amalga oshirishga ko‘maklashuvchi shaxslar tushunchasi, tarjimon va mutaxassis tushunchalariga mualliflik ta’rifi ishlab chiqilgan. Unga ko‘ra, *odil sudlovni amalga oshirishga ko‘maklashuvchi shaxslar* – iqtisodiy sudlar (sudyalar) tomonidan yoki ishda ishtirok etuvchi shaxslarning iltimosiga binoan ish bo‘yicha jalb qilingan, ish natijasidan manfaatdor bo‘lmagan guvohlar, ekspertlar, mutaxassislar va tarjimonlar ekanligi tahlil qilingan.

Bundan tashqari, *tarjimon* – tarjima qilish uchun zarur tillarni biladigan, *voyaga yetgan, ish natijasidan manfaatdor bo‘lmagan* hamda sud tomonidan tayinlangan yoki *ishda ishtirok etuvchi shaxslar iltimosiga* binoan sud majlisida ishtirok etish uchun jalb qilish to‘g‘risida ajrim chiqarilgan shaxs tarjimon bo‘lishi, shuningdek mutaxassis – *tegishli oliy ma’lumotga, alohida hollarda esa o‘rta-maxsus, kasb-hunar ma’lumotiga ega bo‘lgan,* maslahatlar (tushuntirishlar) berish va ilmiy-texnika vositalarini qo‘llashda yordam ko‘rsatish yo‘li bilan dalillarni to‘plash, tekshirish va baholashda ko‘maklashish maqsadida fan, texnika, san’at yoki hunar sohasida *zarur* bilim va malakaga ega bo‘lgan, voyaga yetgan, ish natijasidan manfaatdor bo‘lmagan shaxs sud majlisida yoki protsessual harakatlarda ishtirok etish uchun sud tomonidan mutaxassis sifatida jalb qilinishi mumkinligi haqida xulosalar ilgari surilgan.

Dissertant fikricha iqtisodiy sud ishlarini yuritish ishtirokchilaridan birortasi tomonidan tarjimon vazifalarini bajarish imkoniyatiga ega emas, bu tarjimaning to‘liqligi va to‘g‘riligiga, shuningdek uning ishonchliligiga shubha tug‘dirishi mumkinligini aytib o‘tadi. Muallif fikricha tarjimon bir tildan ikkinchi tilga amalga oshirgan tarjimasini ishonchli *aks-sado (faithful echo)* deb qiyoslash mumkin. Sababi bir tildan ikkinchi tilga qilingan tarjima aniq va ravon, o‘z holidek ikkinchi manzilga yetib borishi kerak bo‘ladi.

Dissertant tomonidan ushbu bob doirasida bir qator olimlar (Z.N.Esanova, S.S.Gulyamov, A.S.Sidikov, M.S.Shakaryan V.V.Petrova I.Kleandrov Y.A.Tresheva S.Y.Channov va boshqalar)ning sudya yordamchisining protsessdagi o‘rnini aniqlashtirish borasidagi qarashlari tahlil etilib, muallif tomonidan sudyaning yordamchisi (sud majlisi kotibi) iqtisodiy protsess ishtirokchilarining yana bir alohida protsessual guruhini tashkil qilishi, iqtisodiy sud apparati xodimlari sifatida protsessual huquqiy munosabatlarga kirishishi, sudya yordamchisi alohida subyekt sifatida bo‘lishi va davlat xizmatini amalga oshiruvchi kasbiy faoliyati deb keltirilgan.

Bundan tashqari, *sud tomonidan sudya yordamchisi (sud majlisi kotibi)ni sud protsessiga jalb qilish, dastlabki tanlash ishda ishtirok etuvchi shaxslarning xohish-irodasiga hech qanday tarzda bog‘liq emas*. Dissertant ta’kidlashicha sudya yordamchisi har bir sud protsessida ishtirok etadi va odil sudlovni amalga oshirishga ko‘maklashuvchi shaxslardan farqli ravishda jinoiy javobgarlikka emas, intizomiy javobgarlik choralari qo‘llaniladi. Tadqiqotchi sudya yordamchisi (sud majlisi kotibi)ni

iqtisodiy protsessning odil sudlovni amalga oshirishga ko‘maklashuvchi shaxslar qatoriga kiritib bo‘lmaydi, shuningdek yuridik texnik qoidalarga rioya qilgan holda IPKda sud tarkibi qatoriga kiritish (alohida subyekt sifatida) va huquqiy maqomini alohida “Sud tarkibi”nomli bobga tegishli bo‘lgan normada aks ettirish lozim degan ilmiy-amaliy xulosaga kelgan.

Dissertant bir qator olimlar (Q.S.Avezov, N.F.Imomov, V.V.Yarkov, M.A.Nikishenkova, N.I.Matuzov, O.S.Ioffe va boshqalar)ning iqtisodiy sud ishlarini yurtishda huquq subyektliligi – huquq normalarida nazarda tutilgan huquqiy munosabatlarning ishtirokchisi bo‘lish qobiliyati (imkoniyati) ya’ni protsessual huquq layoqati va muomala layoqati mavjudligi, unga ega bo‘lishi tahlil qilib, tadqiqot doirasida odil sudlovni amalga oshirishga ko‘maklashuvchi shaxslarning protsessual huquqiy layoqati mavjudligi, sudda shaxsan o‘zi ishtirok etishi lozimligi, ular protsessda vakillari orqali ishtirok etishlariga yo‘l qo‘yilmasligi, yetarli malaka va bilim hamda ish uchun ahamiyatli ma’lumotga ega bo‘lishi lozimligi, voyaga yetganligida aks etishini ta’kidlaydi. Shundan kelib chiqib, muallif tomonidan odil sudlovni amalga oshirishga ko‘maklashuvchi shaxslarning protsessual huquq layoqati va protsessual muomala layoqati tushunchalariga quyidagicha ta’rif ishlab chiqildi:

Protsessual huquq layoqati – odil sudlovni amalga oshirishga ko‘maklashuvchi shaxslarning sudda protsessual huquq va majburiyatlarga ega bo‘lish layoqati (huquq layoqati) teng ravishda e’tirof etiladi.

Protsessual muomala layoqati – sudda o‘z protsessual huquqlarini amalga oshirish va majburiyatlarini bajarish layoqati voyaga yetgan (guvohdan tashqari) odil sudlovni amalga oshirishga ko‘maklashuvchi shaxslarga tegishlidir. Voyaga yetmagan shaxs (guvoh)larning huquqlari va qonun bilan qo‘riqlanadigan manfaatlari sudda ularning ota-onalari, ularni farzandlikka olganlar, vasiylar yoki homiylar tomonidan himoya qilinadi.

Dissertatsiyaning “**Odil sudlovni amalga oshirishga ko‘maklashuvchi shaxslarning huquqiy maqomi”** deb nomlangan ikkinchi bobida guvohning huquqiy maqomi, tarjimonning huquqlari, majburiyatlari, javobgarligi va ishtiroki hamda ekspert va mutaxassisning huquqlari, majburiyatlari, javobgarligi hamda ishda ishtirok etishni takomillashtirish muammolari va ularni tahlili amalga oshirilgan.

Dissertant IPHda haqiqatda ikki turdagi guvohlarni iqtisodiy protsessga jalb qilish mumkin deb hisoblaydi.

Birinchi guruhga ish uchun ahamiyatli bo‘lgan holatlar to‘g‘risida ma’lumotga ega bo‘lgan shaxslar – ular ishda ishtirok etuvchi shaxslarning iltimosiga binoan protsessga jalb qilingan shaxslardan iborat. Ushbu shaxslar sudga “birlamchi dalillar” – taraflar va boshqa shaxslar tomonidan taqdim etilgan boshqa ish materiallarida mavjud bo‘lmagan ma’lumotlarni taqdim etadilar.

Ikkinchi guruh - bu ishni ko‘rayotgan sudning ixtiyorida bo‘lgan boshqa turdagi dalillarni aniqlash va tekshirish uchun iqtisodiy sud tashabbusi bilan sud majlisiga chaqirilgan shaxslar: bular sud tomonidan yozma dalil sifatida ko‘rib chiqilgan hujjat yoki sud tomonidan ko‘rib chiqilayotgan narsa ashyoviy dalil sifatida yaratilgan yoki o‘zgartirilganda sud qarorini tayyorlashda ishtirok etgan shaxslardir.

Lekin, mazkur tadqiqot ishida bir qator olimlar (I.B.Zokirov, V.V.Yarkov, M.I.Braginskiy va boshqalar)ning arbitraj (iqtisodiy) protsessda yozma va ashyoviy

dalillar guvohlarning ko‘rsatuvlariga nisbatan ishonchliroq sanalishi borasidagi fikrlari tahlil qilgan.

Ishni ma’lum bir isbotlash vositalari orqali tasdiqlanishi zarur bo‘lgan holatlarni boshqa hech qanday isbotlash vositalari bilan tasdiqlash mumkin emas. Qarz beruvchi yuridik shaxs bo‘lganida yoki fuqarolar o‘rtasida tuzilgan qarz shartnomasining summasi eng kam ish haqining o‘n baravaridan ortiq bo‘lgan hollarda qarz shartnomasini oddiy yozma shaklda tuzilishi talab qilinadi.

Sudlar qarz shartnomasining oddiy yozma shakliga rioya qilmaslik uning haqiqiy emasligiga olib kelmasligini nazarda tutishlari lozim. Taraflar bunday holda guvohlarning ko‘rsatuvlariga asoslanishga haqli emas, lekin bu ularni yozma va boshqa dalillar keltirish imkoniyatidan mahrum qilmaydi. Yozma shakl og‘zaki shakl (guvoh ko‘rsatuvi)dan ko‘ra bitimning haqiqiy aniqlashga yaxshiroq yordam beradi va zarur hollarda uni tegishli davlat organlari (ekspert) tomonidan tekshirilishini yengillashtiradi. Muallif fikricha, yozma dalillarning aniq mavjudligi guvoh ko‘rsatuviga qaraganda aniqroq, lekin guvoh ko‘rsatuvidan foydalanish taraflarning huquqlari ekanligini ta’kidlaydi. Bu borada dissertant “Rules of Evidence” (dalillik qoidasi) doktrinasidan kelib chiqib, dalillarni belgilangan qoiadalar va olish tartibiga rioya etish, ishonchli va tegishli dalillarni qabul qilishligini ta’kidlanadi.

Bugungi kunda dunyoda iqtisodiy sud ishlarini yuritishda bir qancha doktrinalar mavjud. Jumladan, “witness testimony – guvoh ko‘rsatuvi”, “right to confrontation - qarama-qarshilik huquqi” “collaboration and cooperation – hamkorlik va koperatsiya” va boshqa doktrinalar (dissertatsiya va avtoreferatda batafsil) keltirilgan. Muallif tomonidan dissertatsiya doirasida iqtisodiy protsessual huquq (qonunchilik)da ko‘rsatuv berish va qasamyod qabul qilish (guvohning ayrim ma’lumotlarni oldindan bilib olib, ko‘rsatuvlarida shu detallarga urg‘u berishga tayyorgarlik qilgan holda sudga kelishini oldini olish) uchun mumkin bo‘lgan “Doctrine of Witness Testimony” (guvoh ko‘rsatuvi) doktrinasiga asosan guvoh ko’rsatuvlarini yuzlashtirish orqali olish va so‘roq qilish hamda to‘g‘riligini tekshirish imkonini beruvchi “Doctrine of Right to Confrontation” (qarama-qarshilik huquqi) doktrinasini hamda iqtisodiy protsessga ko‘maklashuvchi shaxslarni jalb qilish, ularni rag‘batlantirish, ishtirokini va ishlar samaradorligini oshirish, hamkorlikda ma’lumotlar almashinuvini ta’minlashga xizmat qiluvchi “Doctrine of Collaboration and Cooperation” (hamkorlik va koperatsiya) doktrinasini va undagi g‘oyalarni ilgari suradi hamda ushbu doktrinalardagi g‘oyalar iqtisodiy sud ishlarini yuritish sohasidagi munosabatlarni yanada tartibga solishga qaratilgan. Bu doktrinalarni ilgari surish natijasida O‘zbekistonda iqtisodiy sud ishlarini yuritishda quyidagi natijaga erishish mumkin bo‘ladi:

Birinchidan, guvohning ko‘rsatuvini aniqlashtirish va qasamyod qilish lozim (guvoh ko‘rsatuvini oldindan tayyorgarlik qilishini sindiradi);

Ikkinchidan, guvohni yuzlashtirish orqali so‘roq qilish va ko‘rsatuvini to‘g‘riligini tekshirish imkonini beradi;

Uchinchidan, iqtisodiy sud ishlarini yuritish jarayoniga ko‘maklashuvchi shaxslarni tezda jalb qilish, ularni rag‘batlantirishni yangi bosqichga olib chiqish, organlar ichida hamkorlikni kengaytirish va ishlar samaradorligini oshirish.

Dissertant ushbu bob doirasida bir qator olimlar (D.Yu.Xabibullayev, A.Ya.Markov, T.I.Stesnova, S.P.Sherba va boshqalar)ning sudda tillarni bilmagan

ishtirokchilar tarjimon xizmatidan foydalangan holda o‘z ona tilida murojaat qilishga haqli ekanligi borasidagi fikrlarini tahlil qilib, xorijiy davlatlar Germaniyada “Qasamyod qilgan tarjimonlar to‘g‘risida”gi Qonun, Bavariya shtatining “Qasamyod qilgan tarjimonlar to‘g‘risida”gi Qonunni (22.12.2009 y. tahririda), Rossiya Federatsiyasida “Sud tarjimoni to‘g‘risida”gi Nizom loyihasi, Chexiyada “Sud tarjimoni to‘g‘risida”gi Qonun, Estoniyaning 2001-yildagi “Qasamyod qilgan tarjimonlar to‘g‘risida”gi Qonunchiligini o‘rgangan holda *dissertant tomonidan “Sud tarjimoni to‘g‘risida”gi Qonun ishlab chiqildi va uni tarjimonlar faoliyatini tartibga solishga qaratilganligi asoslantirildi.*

2023-yilda elektron plaftformasida keng jamoatchilik o‘rtasida onlayn so‘rovnoma o‘tkazilgan.

Tadqiqotchi tomonidan “sud tarjimoni faoliyatini tartibga soluvchi normativ-huquqiy hujjat (qonun yoki qaror) ishlab chiqilish zaruriyati bormi?” kabi o‘tkazilgan so‘rovnomada 131 kishi qatnashgan va uni natijasiga ko‘ra 71 % respondent “ha” deb ovoz bergan bo‘lsa, 29 % respondent “yo‘q” deb ovoz bergan.

Tadqiqot ishida tadqiqotchi tarjimonni sud jarayonida ishtirok etish uchun jalb qilishda qiyinchilik tug‘diradigan holatlar sifatida:

Birinchidan, tegishli tildagi tarjimonni topish kerak;

Ikkinchidan, uning malakasiga ishonch hosil qilish lozim (tilni bilish darajasi yoki diplomi yuridik atamalardan mohirona foydalanishni anglatmaydi);

Uchinchidan, tarjimon shaxsiga u bilan turli protsessual harakatlarda samarali hamkorlik qilish uchun moslashish kerak (tarjimon o‘ziga xos xususiyatga ega bo‘lishi mumkin va bu qiyin bo‘ladi) deb hisoblaydi.

Ekspertning majburiyati ishda ishtirok etuvchi shaxslarning va ishda ishtirok etmayotgan boshqa shaxslarning qonun bilan qo‘riqlanadigan ma’lumot siri rejimini ta’minlash bo‘yicha huquqlarining kafolati hisoblanadi. Davlat siri, tijorat siri va boshqa qonunlar bilan qo‘riqlanadigan sirlarni qonunga xilof ravishda axborot to‘plash, uni oshkor qilish yoki undan foydalanish javobgarlikka sabab bo‘ladi. *Dissertant ekspertga taqdim etilgan materiallarda sir bilan bog‘liq jihatlar mavjud bo‘lganda ularni sir saqlash haqida ogohlantirilishi asoslantirgan*. Mazkur jarayonga “professionalism and ethics” doktrinasi kasbiy va axloqiy va ma’lumotlarni sir saqlash muhim.

Dissertant ushbu bobda ekspertning yolg‘on xulosasi uning oldiga qo‘yilgan savollarga yolg‘on javoblar berishda ko‘rinishini tahlil qilib, bir qator olimlar (A.V.Vanyarxo, A.Y.Abdullayev, Sh.Sh.Suyunov va boshqalar)ning odil sudlovni amalga oshirishga yordam beradigan boshqa shaxs – ekspertga nisbatan jinoiy javobgarlik to‘g‘risida *ogohlantirish tartibini bekor qilish va uni o‘rniga ekspertning qasamyod qilish tartibini kiritish bo‘yicha* fikrlarini keltirib o‘tgan. *Qasamyod qilish tartibi bu jinoiy javobgarlikdan oldingi chora sifatida qaraladi.* Yana bir sabab ularning *sha’ni va qadr-qimmati ham kamsitilmasligi va shu orqali ularning asosiy huquqlari cheklanmasligi yoki e’tiborsiz qolmasligiga olib kelishi* mumkin.

Mutaxassisning noto‘g‘ri maslahati so‘roq paytida u tomonidan maxsus bilimlarni talab qiladigan holatlar to‘g‘risida noto‘g‘ri ma’lumot berish, shuningdek, uning fikrini ataylab noto‘g‘ri tushuntirishdan iborat bo‘ladi. *Dissertant tomonidan mutaxassisning*

bila turib noto‘g‘ri maslahat berganlik uchun faqat ma’muriy javobgarlikni belgilash maqsadga muvofiqligi asoslantirilgan.

Dissertant tomonidan mutaxassis va ekspertning umumiy jihati maxsus bilim va ko‘nikmalarga ega bo‘lishi va ish natijasidan manfaatdor bo‘lmasligi va quyidagi bir nechta farqlarini keltirib o‘tadi:

1) “maxsus bilim” atamasi faqat ekspertga nisbatan qo‘llaniladi. Mutaxassisga nisbatan yana bir tushuncha ko‘rsatilgan – “kasbiy bilim”. Adabiyotda bu masala e’tiborga olinmaydi va faqat “professional bilim” atamasi “maxsus bilim” tushunchasini ochish uchun ishlatilishi mumkin, ammo uning o‘rnini bosmaydi”. “Doctrine of Legal Education and Training” doktrinasiga asosan ko‘maklashuvchi shaxslar malaka oshirishi, zarur bilim va ko‘nikmalarga ega bo‘lishi lozim. Ayrim huquqshunos olimlar (A.A.Moxov, V.V.Molchanov, T.V.Saxnova) tomonidan *“maxsus bilim” va “zarur bilim” tushunchalari tahlil qilingan*. Tadqiqotchi tomonidan maxsus bilimga ekspert ega bo‘lsa, mutaxassis esa zarur bilimga ega bo‘lgan inson tushunilishi asoslantirilgan;

2) ekspert xulosasini tekshirishda mutaxassis tomonidan tushuntirishlar berishi mumkin;

3) mutaxassis sud ekspertizasi doirasida tadqiqotni talab qilmaydigan masalalarni oydinlashtirishda asosiy rol o‘ynashi mumkin, bunda sudga tor bilim sohasidagi mutaxassisning vakolatli fikrini bilish kifoya bo‘ladi;

4) ekspertlar oldiga savollar qo‘yilsa, mutaxassis oldiga savol qo‘yilmaydi;

5) ekspert yozma ravishda xulosa bersa, mutaxassis og‘zaki yoki yozma tarzda maslahat berishida ham ifodalanadi;

6) ekspertni jinoiy javobgarlikka tortish imkoniyati mavjud bo‘lsa, mutaxassisda esa javobgarlik mavjud emas;

7) mutaxassis o‘z faoliyatini sud binosida ham, sud binosidan tashqarida ham amalga oshira oladi. Ekspert tadqiqot o‘tkazish uchun odatda maxsus jihozlangan joylar kerak bo‘ladi.

Dissertatsiyaning “**Odil sudlovni amalga oshirishga ko‘maklashuvchi shaxslar ishtirokini rivojlantirish istiqbollari”** deb nomlangan uchinchi bobida odil sudlovni amalga oshirishga ko‘maklashuvchi shaxslar maqomining qiyosiy tahlili: ayrim xorijiy davlatlar qonunchiligi talqinida, ushbu shaxslar protsessual faoliyatini yanada takomillashtirish imkoniyatlariga oid jihatlari hamda odil sudlovni amalga oshirishga ko‘maklashuvchi shaxslar ishtirokini raqamlashtirish masalalari tahlil qilingan.

Dissertant tomonidan iqtisodiy protsessda odil sudlovni amalga oshirishga ko‘maklashuvchi shaxslar doirasi va qonunchilikdagi o‘rni xorijiy davlatlar tajribasi asosida tahlil qilingan. Jumladan, odil sudlovni amalga oshirishga ko‘maklashuvchi shaxslar doirasi ayrim davlatlar *(Rossiya Federatsiyasi, Qozog‘iston, Ukraina)da sudya yordamchisi va sud majlisi kotibini kiritgan bo‘lsa, ba’zi davlatlar (Turkmaniston, Moldova, Qirg‘iziston, Belarus, Turkiya, Litva, Polsha, Vengriya, Germaniya, Fransiya, Koreya, Xitoy, Kanada, Chexiya, Bolgariya, Italiya, Buyuk Britaniya, Yaponiya)*da esa kiritilmagan va bir-biridan farq qilishi mumkin (dissertatsiya ilovasida keltirilgan).

Shuningdek, iqtisodiy sud ishlarini yuritishda sudda olib boriladigan tilni bilmaydigan, tushunmaydigan (chet ellik) shaxslar ishtirok etganda sudya tarjimon

tayinlashga zarurat sezadi. *Tarjimonlarning huquq va majburiyatlari ichida ishda ishtirok etuvchi shaxslar tomonidan tarjimon nomzodini taklif qilish huquqidir. Bu xorijiy davlatlar (Rossiya Federatsiyasi, Estoniya, Moldova, Belarus)* tajribasida mazkur huquq keltirilgan. Dissertant tomonidan tarjimani sifatli va aniq bo‘lishi uchun tarjimon nomzodini ishda ishtirok etuvchi shaxslar ham taklif qilish huquqini asoslantirgan.

Tadqiqotchi tomonidan bir nechta davlatlar *(Bolgariya, Vengriya, Yaponiya, Litva, Chexiya, Estoniya, Germaniya, Buyuk Britaniya, Polsha, Turkiya, Armaniston, Belarus, Gruziya, Qozog‘iston, Qirg‘iziston, Moldova, Ukraina, Turkmaniston, Tojikiston, Rossiya Federatsiyasi)* qonunchiligida *yolg‘on guvohlik berganlik uchun javobgarlik nazarda tutilgan va shu bilan birgalikda sud muhokamasi chog‘ida sud hal qiluv qarori (qarori) chiqargunga qadar ixtiyoriy* ravishda o‘z ko‘rsatuvlari, xulosalari yoki noto‘g‘ri tarjima qilinganligini e’lon qilsa, jinoiy javobgarlikdan ozod qilinishi keltirib o‘tilganligi va taklif asoslantirilganligi hamda bu diniy me’yorlar bilan ham qoralanishi ya’ni “Qur’oni Karim” Baqara surasi 282-oyatida qarz olinganda yoki berilganda uning yozib qo‘yilishi hamda guvoh tariqasida ikkita erkak (agar ikkita erkak topilmagan taqdirda, bitta erkak va ikkita ayol) bo‘lishi mandub (ixtiyor) etilgan. Bundan tashqari, Niso surasining 135-oyatida Alloh yo‘lida to‘g‘ri guvohlik berish, shuningdek yolg‘on so‘zlamaslik va guvohlikdan bosh tortmaslik lozimligi bayon etilgan.

Guvoh o‘zi shaxsan bilgan ma’lumotlarni yetkazishi shart bo‘lgan qoida, bir qarashda, anglo-sakson huquqiga ma’lum bo‘lgan ko‘rsatuvlarda shaxsga faqat o‘zga shaxs so‘zlaridan ma’lum bo‘lgan yoki mish-mishlar *(egri dalil)ga asoslangan (hearsay rule) ma’lumotlar bo‘lishiga yo‘l qo‘yilmasligi to‘g‘risidagi umumiy huquq qoidasiga o‘xshash*, biroq o‘z mazmuniga ko‘ra undan farq qiladi. Ushbu qoida sudga guvohning, ish holatlari haqidagi bevosita o‘zi idrok etmagan, balki o‘zga shaxs so‘zlaridan olingan ko‘rsatuvlaridan foydalanishni taqiqlaydi. *“Hearsay rule” qoidasi guvohning faktlarni shaxsan bilishi zaruratidan shu bilan farq qiladiki, u “ikkinchi qo‘l”dan olingan ma’lumotlardan maqbul* dalil sifatida foydalanishni (ushbu qoidadan mavjud istisnolarni hisobga olgan holda) taqiqlaydi. Ingliz *fuqarolik protsessida guvohlik ko‘rsatuvi sudga affidavit (“affidavit”) – qasamyod ostida berilgan yozma ko‘rsatuv (agar guvoh sudga yetib kelishi imkoni bo‘lmasa) shaklida yoki “deposition” – sud muhokamasi boshlanishidan oldin sudya yoki sud tomonidan tayinlangan boshqa shaxs tomonidan qasamyod qilgan holda olingan guvohning yozma ko‘rsatuvi shaklida taqdim etilishi mumkin. Garchi bunday ko‘rsatuvlar yozma ravishda berilgan bo‘lsa-da, ular yozma dalillar emas, balki guvoh ko‘rsatuvlarining bir turi* hisoblanadi. Yozma guvohlik ko‘rsatuvlardan foydalanishning xuddi shu kabi imkoniyati Fransiya fuqarolik protsessual qonunchiligida ham mavjud, u sudga taraflarning tashabbusi bilan yoki sudyaning talabiga binoan taqdim etilgan yozma ko‘rsatuvlardan *(les attestations)* foydalanish imkonini nazarda tutadi. Affidavit singari, Fransiyada yozma guvohlik ko‘rsatuvlari guvoh shaxsan bilgan va o‘z ko‘rsatuvlarida xabardor qilayotgan faktlar ro‘yxatini o‘z ichiga olishi kerak bo‘ladi.

Dissertant tomonidan tarjima faoliyati faqat bir tildan ikkinchi tilga tarjima qilishda emas, balki imo-ishora orqali amalga oshirilishi mumkinligini ham keltirib o‘tadi. *Imo-ishora tilidan tarjima qilish malakasiga ega bo‘lgan shaxs kar (soqov, kar-*

soqov) fuqarolar bilan muloqotda bo‘lganida karlarning imo-ishora tilidan va daktilologiya (qo‘l barmoqlari yordamida gaplashish)dan foydalangan holda imo-ishora tilini yoki barmoqlar yordamida takrorlangan nutqni tarjima qiladi. Tarjimonning malakasi uning tarjimaning zarur darajasini, uning to‘liqligi va aniqligini, shuningdek sud organlari uchun zarur bo‘lgan tezlikni ta’minlash qobiliyatiga qarab belgilanishi mumkin. Tadqiqotchi tomonidan tarjimon imo-ishora tilini ham zarur darajada bilishi kerakligi asoslantirilgan.

Ekspertning vazifasidan biri, sud tomonidan uning oldiga qo‘yilgan savollarga javob berishdir. *Ekspert o‘z xulosasini aniqlashtirish va to‘ldirish uchun qo‘shimcha tadqiqotlar talab etilmaganda so‘roq qilinadi. Ekspert xulosasining ishonchliligini tekshirishning protsessual usullaridan biri bo‘lgan ekspertni chaqirish, so‘roq qilish protsessual usuli bilan bog‘liqdir. Ekspertni so‘roq qilish aynan xulosani aniqlashtirish maqsadida amalga oshiriladi*, ya’ni ekspert xulosasini sud tomonidan tekshirish usuli sifatida namoyon bo‘ladi. Dissertant tomonidan ekspertni so‘roq qilish lozimligi asoslantirilgan.

Hozirda odil sudlovni raqamlashtirish jarayoni ikkita asosiy shaklda amalga oshirilmoqda, birinchisi – elektron sudlov tizimini yaratish, ikkinchisi – sud qarorlari (hujjatlari)ni qabul qilishda sun’iy intellektdan foydalanishidir. Ko‘plab xorijiy davlatlarda sud ekspertlari faoliyatida bir qancha dasturlar, platforama (ilova)lardan foydalanib dalillarni isbotlash imkonini bermoqda. Bugungi kunda Adliya vazirligi huzuridagi X.Sulaymonova nomidagi Respublika sud ekspertiza markazi tomonidan ekspertiza tadqiqotlarida “EnCase forensic”, “Belkasoft Evidence Centre X” va “ACElab PC-3000 portable II” maxsus dasturiy ta’minotlaridan foydalanib kelinmoqda.

Dissertant tomonidan sud ekspertlari tadqiqotlari uchun *“Forensic Toolkit”* (har xil ma’lumotlarni qidirib qattiq diskni skanerlaydi hamda o‘chirilgan elektron pochta manzillarini aniqlashi mumkin va shifrlashni buzish) dasturi, yuzni tanib olish uchun*“OpenFace”, “FaceID” va “NEC” va “Cognitec”* texnologiyasi yordamida suratlar yoki videolardagi yuzlarni aniqlash va tanish shaxslar bilan moslashtirish imkoniga ega hamda rasmlar yoki videolardagi aniq obyektlar yoki naqshlarni aniqlash va kuzatish, har bir obyektni noma-nom aytib o‘tishi uchun vizual *“TensorFlow”* va *“Yolo”* (faqat bir marta qaraladi) ilovasi kabi ochiq manbali dasturlardan foydalanishni ham tahlil qilgan.

Tadqiqotchi tomonidan sud ekspertlari foydalanishi mumkin bo‘lgan mashhur hamkorlik platforma (ilova)lar (*Microsoft Teams, Slack, Zoom, Google Workspace (formerly G Suite), SharePoint, Jira, Confluence)*ni tahlil qilib, mazkur platformalar orqali sud ekspertlarining sud jarayonida masofaviy ishtirok etishi va unda qasamyod qabul qilish va yoki tasdiqlash bayonnomalari tuzish imkonini berishini asoslagan.

Bundan tashqari, dalillarni taqdim etishda 3D formatdagi fotografiya vositalaridan foydalanish va ushbu orqali ma’lumotlarning ekspertiza tekshiruvi uchun berilishi maqsadga muvofiq hisoblanadi. Sudga olib kelish imkoniyati bo‘lmagan yoki olib kelinishi qiyin bo‘lgan dalillarni, shuningdek tez buziladigan ashyoviy dalillarni sud ular turgan joyda ko‘zdan kechirishi va tekshirishi joyi, vaqtini *3D formatda* fotosurat ko‘rinishida aks ettirish lozim. 3D modellashtirish xorijiy davlatlar, jumladan,

Hindiston, Yaponiya, Rossiya, Belarussiya, Xitoy, Germaniya, Shveytsariya, Fransiya, Buyuk Britaniya, AQShda qo‘llanilib kelinmoqda.

Ishda ishtirok etuvchi shaxslarning ekspert xulosasining mazmuni bilan sud majlisi oldidan tanishish huquqlarini ta’minlash maqsadida bunday shaxslarga ekspert xulosasining nusxasini yuborish tartibini belgilashni nazarda tutadi. *“Efficiency and expeditiousness”* doktrinasiga asosan nizolarni tezkorlik va samaradorlik bilan o‘z vaqtida hal etish. Dissertant tomonidan ekspert faoliyatining barcha jabhalarini qamrab olgan holda ekspertlarni sud jarayoniga qisqa muddatlarda jalb etish va ularni xulosasini belgilangan muddatlarda olish, ekspertlarni tezda qidirib topish, ularni maxsus bilim darajasini aniqlash va ishga jalb qilishni qisqa vaqtlarda amalga oshirish, sud ekspertlari va ekspertiza to‘g‘risidagi ma’lumotlarni yig‘ish, ularga ishlov berish jarayonlarini kompleks *avtomatlashtirish uchun “E-ekspertiza” yagona axborot tizimini joriy etilishi* asoslab berilgan.

Dissertant bundan tashqari, odil sudlovni amalga oshirishga ko’maklashuvchi shaxslardan biri tarjimon faoliyatini raqamlashtirish masalasiga ham e’tibor qaratadi. Tarjimonlarning sudda masofaviy ishtirokini ta’minlashda xorijiy davlatlarda bir qancha platformalar, ilovalar va boshqa dasturlardan ham foydalanilmoqda. Jumladan, *“Kudo”* ko‘p tilli uchrashuvlar va tadbirlar uchun mo‘ljallangan bulutga asoslangan platformadir. U tarjimonlarga dunyoning istalgan nuqtasidan ishlash imkonini beruvchi masofaviy sinxron tarjimani amalga oshirishini tahlil qilgan. Mazkur platforma orqali tarjimonlar tomonidan real vaqt rejimida inson tilidagi tarjimani ishtirokchilarning smartfonlari va kompyuterlariga uzatadi, shuning uchun har bir kishi istalgan joydan o‘zi xohlagan tilda qo‘shila olishini asoslantirgan. Bundan tashqari, mazkur tadqiqot ishida *ChatGPT, “ZipDX” va “Boostlingo”* virtual uchrashuvlarga qo‘shilish va real vaqtda tarjima xizmatlarini ko‘rsatish imkonini beradi hamda virtual sinxron yoki ketma-ket tarjimani ta’minlash amalga oshirib, *bir vaqtni o‘zida ham tarjima, ham imo-ishora* tarjimasidan foydalanilishni ham keltirildi.

AQShdagi yana bir tarjimonlar uchun zarur bo‘lgan platforma (ilova) *“Languageline”*dir. Bunda telefon yoki kompyuter orqali tarjimonlik qilish uchun malakali tarjimonni topish va telefon aloqasini o‘rnatish va tarjimonga xizmat uchun haq to‘lashni tartibga solishdir. Mazkur *“Languageline”* platformasida tarjimonlarning sertifikati yoki boshqa malakaga ega ekanligi aniqlanadi va unda aks ettirilishi belgilangan. Sudlarda telefon orqali tarjimonlik xizmatlari rasmiy sud sharoitida va bir necha daqiqadan bir necha soatgacha davom etadigan suddan tashqari suhbatlar uchun taqdim etilgan. *“Languageline” Services (LLS)* 140 dan ortiq tillarda mijozlarga tarjimonlik xizmatlarini ko‘rsatadi. *Xizmat har kuni 24 soat ishlaydi. Aksariyat hollarda (taxminan 98 foiz) ulanish xizmat so‘rovini olgandan keyin bir daqiqa ichida o‘rnatiladi.* Tarjimon uchun haq birinchi ulanish to‘lovi qilinadi va oylik minimal to‘lov belgilanadi. Tarjimon xizmatini oluvchiga ID raqami va shaxsiy kirish kodi taqdim etiladi. Shu bilan bir qatorda *“Closed Captioning and Transcription”*ga asosan onlayn shaklida tarjima amalga oshirilayotgan vaqtda kar va eshitish qobiliyati past bo‘lganlar va yozma transkripsiyani afzal ko‘rganlar uchun audioni yozma matnga aylantirish va real vaqt rejimida matnni ekran pastki qismida va har qanday tovush, ovoz va boshqa tarzda paydo bo‘ladi.

Shundan kelib chiqib, *“e-tarjimon.uz”* saytini va ilovasini yaratish hamda saytida tarjimonlarning ro‘yxati, familiya, ismi, sharifi, tarjima tillari, staji, surdo tarjimonlar, onlayn tilxat orqali jinoiy javobgarlik haqida ogohlantirish, ushbu sayt orqali sertifikat tekshiriladi, tilni tarjima qilish darajasi aniqlanadi, tarjima narxlari keltirib o‘tiladi, xavsizlik darajasi belgilanadi. Ilovasi orqali real vaqt rejimida onlayn tarjima amalga oshirilish taklif etiladi.

Dissertant tomonidan odil sudlovga ko‘maklashuvchi shaxslardan biri bo‘lgan guvoh va uning ko‘rsatuvlarida axborot texnologiya vositalaridan foydalanish muhimligi ta’kidlanadi. Guvohlarning yolg‘on ko‘rsatuv berishini oldini olish va ko‘rsatuv berishda axborot texnologiyalardan foydalanib kelinmoqda. Jumladan, *“lie detector”* qurilmasiga asosan shaxslarga bir qator savollar berilganda, ularning haqiqat yoki yolg‘on ekanligini aniqlash uchun fiziologik javoblarni aniqlash uchun ishlatiladi. *“Lie detector”*ning asosiy vazifasi yolg‘on gapirayotganda tanadagi fiziologik o‘zgarishlarni keltirib chiqarishi mumkin.

“Lie detector” yordamida bir qancha holatlarni aniqlash mumkin:

Birinchisi, guvohlik ko‘rsatuvini berayotgan shaxsni yolg‘on gapirayotganligini yurak urishi *(Heart Rate (Cardiovascular Activity))*ni eshitish orqali aniqlash mumkin. Ya’ni bunda uning ko‘kragiga o‘rnatilgan elektrodlar yoki sensorlar yordamida odamning yurak urish tezligini o‘lchaniladi. Shaxs yolg‘on guvohlik ko‘rsatuvini berayotgan bo‘lsa, asabiylashish yoki stress tufayli yurak urish tezlashishi mumkin.

Ikkinchisi, shaxsni nafas olish *(Respiration (Breathing)* tezligini aniqlash orqali amalga oshiriladi. Bunda shaxsni ko‘krak va qorin bo‘shlig‘iga datchiklar o‘rnatish orqali odamning nafas olish tezligini nazorat qiladi. Agar shaxsda sayoz yoki tartibsiz nafas olish holati kuzatilsa yolg‘onni ko‘rsatuv berayotgan bo‘lishi mumkin.

Uchinchisi, terining elektr o‘tkazuvchanligini o‘lchaydigan galvanik terining reaktsiyasi *(Galvanic Skin Response)*ga binoan shaxs yolg‘on guvohlik ko‘rsatuvini berayotganda tashvishlanishi yoki asabiylashishi natijasida tez-tez uchraydigan terlash terining o‘tkazuvchanligiga ta’sir qilishi mumkin.

To‘rtinchisi, qon bosimi *(Blood Pressure)* orqali guvohlik ko‘rsatuvini haqiqat yoki yolg‘on ekanligini aniqlash. Unda qon bosimining oshishi asabiylashish bilan bog‘liq bo‘lishi mumkin.

Dissertant ba’zi xorijiy davlatlar qonunchiligini tahlil qilgan holda, XXRning qonunchiligiga binoan guvohlar sud majlisida shaxsan ko‘rsatuv berishlari shart ekanligi belgilab qo‘yilganligini o‘rgangan. Biroq guvohning betobligi, tabiiy ofatlar hamda boshqa fors-major holatlarida sudning ruxsati bilan guvoh videokonferensaloqa rejimida ko‘rsatmalar berishi mumkin. Ukraina Respublikasida ishda ishtirokchilarning e’tirozlari bo‘lmasa, guvoh sud *majlisida videokonferensaloqa orqali ishtirok etishi mumkin. Sud, agar guvoh kasalligi, keksaligi, nogironligi, yoxud uzrli sabablar bo‘lganda sudga kelmasa, ishda ishtirok etadiganlarning e’tirozlaridan qat‘i nazar, videokonferensaloqa* orqali sudda ishtirok etishga ruxsat berishi mumkin (XPK 66-moddasi). Qozog‘iston Respublikasida guvohning *kasalligi, keksaligi, nogironligi, turgan joyining uzoqligi yoki boshqa uzrli sabablar bo‘lganda sudga kelmaganligi oqibatida o‘zi joylashgan hududdagi sud tomonidan yoki texnik aloqa vositalaridan foydalangan holda so‘roq qilinishi mumkin* (FPK 81-moddasi). Bolgariya Respublikasida *sud chaqiruv bo‘yicha kelmasa sud unga jarima* soladi. Ushbu

davlatlarning tajribasidan ko‘rinadiki, agar guvohning *“kasalligi, keksaligi, nogironligi yoki boshqa uzrli deyilgan sabablariga ko‘ra chaqiruv yuzasidan sudga kela olmasa, u turgan joyda sud yoki videokonferensaloqa vositasi orqali so‘roq qilnadi”* deb keltirilgan (FPK 85-moddasi).

XULOSA

“Iqtisodiy protsessda odil sudlovni amalga oshirishga ko‘maklashuvchi shaxslar ishtirokini takomillashtirish (nazariy-huquqiy va protsessual jihatlari)” mavzusidagi ilmiy-tadqiqot natijasi bo‘yicha quyidagi ilmiy-nazariy va amaliy ahamiyatga ega bo‘lgan xulosalar, taklif va tavsiyalar ishlab chiqildi:

I. Ilmiy nazariy xulosalar:

1. Odil sudlovning vazifasi nizoli vaziyatlarga yechim beradigan qonuniy, asosli va adolatli sud hujjatlirini chiqarishdan iboratdir. Odil sudlovni ta’minlashda bir qancha asosiy konsepsiyalar dunyo davlatlari tajribasida ilgari surilmoqda va mazkur konsepsiyalarning ustuvor jihatlarini mamlakat amaliyotida joriy etish jadal sur’atlarda olib boriladi.

Birinchisi, dalillar va isbotlash qonuniy bo‘lishi, qonuniylikni protsessual odillik orqali qurish mumkinligi, barcha jarayonlar qonun (kodeks)dagi normalarga asoslanishi, dalillarni eshitish, teng imkoniyatlar ega bo‘lish va taraflarga bir xil hurmatda bo‘lish kerakligi ta’kidlangan *“procedural justice” (protsessual odil sudlov)* konsepsiyasi va uning elementlari sifatida insonlarning qadr-qimmatini hurmat qilish *(respect)*, uchrashuv vaqtida ishtirokchilarga ovoz berish *(voice-so‘z, ovoz berish)* huquqini taqdim etish, qaror qabul qilishda xolis va shaffof bo‘lish *(neutrality)*, ishonchli hisoblangan *(trustworthiness)* asoslar (dalillar)ni topshirish keltirib o‘tiladi.

Ikkinchisi, *“procedural fairness” (protsessual adolat)* konsepsiyasi va unda sud bilan aloqada bo‘lganlar sud jarayonidan, atrofdagilardan va insonlarning muomalasidan prosessual adolat haqida tasavvur hosil qiladi. Ushbu konsepsiyada ichki ishonch, insof, vijdon va insonparvarlik qoidalariga, real sharoit, holat va vaziyatga qaraladi. Mazkur konsepsiyasining asosiy elementlari sifatida *“voice”* taraflarning o‘z fikr-mulohazalarini bildirishi orqali ishtirok etish layoqati, *“neutrality”* xolis qaror qabul qilishda asosiy tamoyillarni qo‘llashi, *“respect”* insonlarga xushmuomala va hurmat bilan munosabatda bo‘lish, *“trust”* qaror qabul qiluvchining ichki ishonchiga asoslanishi, *“understanding”* sud jarayoni ishtirokchilari sud qarorlari va ularni qanday qabul qilinishini tushunishi, *“helpfullness”* taraflar sud ishtirokchilarini qonunda ruxsat etilgan darajada shaxsiy holatiga qiziqqan deb bilishiga e’tibor qaratiladi. *“Procedural fairness” (protsessual adolat)* konsepsiyasiga eng ko‘p e’tibor qaratadigan va sudlar faoliyatida qo‘llaydigan davlatlar sifatida AQSh, Buyuk Britaniya, Kanada, Avstraliya, Yevropa Ittifoqiga a’zo davlatlar, Hindiston va Yangi Zelandiya keltirib o‘tiladi.

Muallif O‘zbekistonda ham iqtisodiy sud ishlarini yuritishda iqtisodiy sudlar asosan *“procedural justice” (protsessual odil sudlov)* konsepsiyasi bilan bir qatorda *“procedural fairness” (protsessual adolat)* konsepsiyasini rivojlantirishni va qo‘llashni ta’kidlab o‘tadi. Bu konsepsiyani ilgari surish natijasida quyidagi natijaga erishish mumkin bo‘ladi:

1) ish bo‘yicha dalillar tarjimonlarning tarjimasi, guvohlarning ko‘rsatuvlari, ekspertlarning xulosalari va mutaxassislarning maslahatlari (tushuntirishlari) bilan aniqlanishi orqali iqtisodiy sudlar tomonidan qabul qilinayotgan hal qiluv qarori va qarorini qonuniy, asosli va adolatli chiqarilishiga erishiladi;

2) mazkur konsepsiyada tarjimonlarning tarjimasi, guvohlarning ko‘rsatuvlari, ekspertlarning xulosalari va mutaxassislarning maslahatlari (tushuntirishlari)ning to‘g‘ri, to‘liq va xolis bo‘lishi natijasida nizolarni birinchi instansiyani o‘zida hal qilinishi hamda ularni yuqori instansiyalarda ko‘rishda ish yuklamasini kamaytirish va vaqtni tejashga olib keladi;

3) tarjimonlarning tarjimasi, guvohlarning ko‘rsatuvlari, ekspertlarning xulosalari va mutaxassislarning maslahatlari (tushuntirishlari)ga baho berishda iqtisodiy sud sudyalari uchun ichki ishonch va insonparvarligi asosida nizoni ko‘rib chiqish, real holatlarni eshitish va hal qilishda muhim hisoblanadi;

4) O‘zbeksiton Respublikasi Konstitutsiyasidagi ijtimoiy adolatlilik prinsipini amalda ro‘yobga chiqarish hamda “Sudlar to‘g‘risida”gi qonunda belgilangan sudning asosiy vazifalaridan biri ijtimoiy adolatni ta’minlashga qaratilgan.

2. Bugungi kunda dunyoda iqtisodiy sud ishlarini yuritishda bir qancha doktrinalar mavjud. Jumladan, *“independence and impartiality - mustaqillik va xolislik”, “impartiality of experts and interpreters – ekspert va tarjimonlarning xolisligi, “witness testimony – guvoh ko‘rsatuvi”, “right to confrontation - qarama-qarshilik huquqi” “collaboration and cooperation – hamkorlik va koperatsiya”* va boshqa doktrinalar (dissertatsiya va avtoreferatda batafsil) keltirilgan. Muallif tomonidan dissertatsiya doirasida iqtisodiy protsessual huquq (qonunchilik)da ko‘rsatuv berish va qasamyod qabul qilish (guvohning ayrim ma’lumotlarni oldindan bilib olib, ko‘rsatuvlarida shu detallarga urg‘u berishga tayyorgarlik qilgan holda sudga kelishini oldini olish) uchun mumkin bo‘lgan *“Doctrine of Witness Testimony”* doktrinasini, guvoh ko‘rsatuvlarini yuzlashtirish orqali olish va so‘roq qilish hamda to‘g‘riligini tekshirish imkonini beruvchi *“Doctrine of Right to Confrontation”* doktrinasini hamda iqtisodiy protsessga ko‘maklashuvchi shaxslarni jalb qilish, ularni rag‘batlantirish, ishtirokini va ishlar samaradorligini oshirish, hamkorlikda ma’lumotlar almashinuvini ta’minlashga xizmat qiluvchi *“Doctrine of Collaboration and Cooperation”* doktrinasini va undagi g‘oyalarni ilgari suradi hamda ushbu doktrinalardagi g‘oyalar iqtisodiy sud ishlarini yuritish sohasidagi munosabatlarni yanada tartibga solishga qaratilgan. Bu doktrinalarni ilgari surish natijasida O‘zbekistonda iqtisodiy sud ishlarini yuritishda quyidagi natijaga erishish mumkin bo‘ladi:

Birinchidan, guvohning ko‘rsatuvini aniqlashtirish va qasamyod qilish lozim (guvoh ko‘rsatuvini oldindan tayyorgarlik qilishini sindiradi);

Ikkinchidan, guvohni yuzlashtirish orqali so‘roq qilish va ko‘rsatuvini to‘g‘riligini tekshirish imkonini beradi;

Uchinchidan, iqtisodiy sud ishlarini yuritish jarayoniga ko‘maklashuvchi shaxslarni tezda jalb qilish, ularni rag‘batlantirishni yangi bosqichga olib chiqish, organlar ichida hamkorlikni kengaytirish va ishlar samaradorligini oshirish.

3. Muallif tomonidan odil sudlovni amalga oshirishga ko‘maklashuvchi shaxslar, tarjimon va mutaxassis tushunchalariga quyidagicha ilmiy ta’riflar ishlab chiqildi:

a) *Odil sudlovni amalga oshirishga ko‘maklashuvchi shaxslar* – iqtisodiy sudlar (sudyalar) tomonidan yoki ishda ishtirok etuvchi shaxslarning iltimosiga binoan ish bo‘yicha jalb qilingan, ish natijasidan manfaatdor bo‘lmagan guvohlar, ekspertlar, mutaxassislar va tarjimonlardir.

b) *Tarjimon* – tarjima qilish uchun zarur tillarni biladigan, *voyaga yetgan, ish natijasidan manfaatdor bo‘lmagan* hamda sud tomonidan tayinlangan yoki *ishda ishtirok etuvchi shaxslar iltimosiga binoan sud majlisida ishtirok etish* uchun jalb qilish to‘g‘risida ajrim chiqarilgan shaxs tarjimondir.

c) *Mutaxassis - tegishli oliy ma’lumotga, alohida hollarda esa o‘rta-maxsus, kasb-hunar ma’lumotiga ega bo‘lgan,* maslahatlar (tushuntirishlar) berish va ilmiy-texnika vositalarini qo‘llashda yordam ko‘rsatish yo‘li bilan dalillarni to‘plash, tekshirish va baholashda ko‘maklashish maqsadida fan, texnika, san’at yoki hunar sohasida *zarur* bilim va malakaga ega bo‘lgan, voyaga yetgan, ish natijasidan manfaatdor bo‘lmagan shaxs sud majlisida yoki protsessual harakatlarda ishtirok etish uchun sud tomonidan mutaxassis sifatida jalb qilinishi mumkin.

4. Sudya yordamchisining suddagi o‘rnini va vakolatini belgilash, olimlar tomonidan bildirilayotgan fikr va mulohazalarni yanada bir joyga to‘plash natijasida bir xulosaga kelish, sudya yordamchisining sud tizimidagi obro‘-e’tiborini yana yuksaltirish maqsadida quyidagi taklif ilgari suriladi:

sudya yordamchisi (sud majlisi kotibi)ni iqtisodiy protsessning odil sudlovni amalga oshirishga ko‘maklashuvchi shaxslar qatoriga kiritib bo‘lmaydi, shuningdek yuridik texnik qoidalarga rioya qilgan holda *IPKda sud tarkibi qatoriga kiritish (alohida subyekt sifatida) va huquqiy maqomini alohida “Sud tarkibi”nomli bobga tegishli bo‘lgan normada aks ettirish lozim*.

5. Odil sudlovni amalga oshirishga ko‘maklashuvchi shaxslarning protsessual huquq layoqati va protsessual muomala layoqati tushunchalariga quyidagicha ta’rif berildi:

Protsessual huquq layoqati – odil sudlovni amalga oshirishga ko‘maklashuvchi shaxslarning sudda protsessual huquq va majburiyatlarga ega bo‘lish layoqati (huquq layoqati) teng ravishda e’tirof etiladi.

Protsessual muomala layoqati – sudda o‘z protsessual huquqlarini amalga oshirish va majburiyatlarini bajarish layoqati voyaga yetgan (guvohdan tashqari) odil sudlovni amalga oshirishga ko‘maklashuvchi shaxslarga tegishlidir. Voyaga yetmagan shaxs (guvoh)larning huquqlari va qonun bilan qo‘riqlanadigan manfaatlari sudda ularning ota-onalari, ularni farzandlikka olganlar, vasiylar yoki homiylar tomonidan himoya qilinadi.

6. IPKda odil sudlovni amalga oshirishshga ko‘maklashuvchi shaxslarni alohida maqomga olib chiqish va ularning huquq va majburiyatlari aniq belgilash maqsadida *“odil sudlovni amalga oshirishga ko‘maklashuvchi shaxslar”deb nomlangan alohida bob sifatida* belgilash taklifi keltirildi.

7. *“e-tarjimon.uz”* saytini va ilovasini yaratish taklif etiladi hamda saytida tarjimonlarning ro‘yxati, familiya, ismi, sharifi, tarjima tillari, staji, surdo tarjimonlar, onlayn tilxat orqali jinoiy javobgarlik haqida ogohlantirish, ushbu sayt orqali sertifikat tekshiriladi, tilni tarjima qilish darajasi aniqlanadi, tarjima narxlari keltirib o‘tiladi,

xavsizlik darajasi belgilanadi. Ilovasi orqali real vaqt rejimida onlayn tarjima amalga oshiriladi.

II. Qonun ijodkorligi sohasidagi taklif va xulosalar:

1. IPKni 54-moddasi birinchi qismiga quyidagi tahrirda to‘ldirish taklif etildi:

“guvoh sudga chaqiruv bilan bog‘liq xarajatlarni qoplashga va vaqtni yo‘qotganligi sababli pul kompensatsiyasini olishga haqli”.

2. IPKning 54-moddasi ikkinchi va uchinchi qismini quyidagi tahrirda to‘ldirish taklif etildi:

“Agar guvoh sud uzrsiz deb topgan sabablarga ko‘ra sud chaqiruvi bo‘yicha kelmasa, shuningdek ko‘rsatuvlar berishdan bo‘yin tovlasa, unga nisbatan ushbu Kodeksning 14-bobida belgilangan tartibda sud jarimasi solinishi mumkin”.

“Bu jarima solinishi guvohni sudga kelish va ko‘rsatuvlar berish majburiyatidan ozod etmaydi”.

3. IPK 56-moddasi birinchi qismi va O‘zbekiston Respublikasi “Sud ekspertizasi to‘g‘risida”gi Qonunning 15-moddasi birinchi qismiga quyidagi mazmundagi to‘ldirish taklif etildi:

“Ekspert uning xulosasi e’lon qilinganidan keyin u bo‘yicha zarur tushuntirishlar berishga haqli, shuningdek, ishda ishtirok etayotgan shaxslar va sudning qo‘shimcha savollariga javob berishga majbur. Shuningdek, ekspert, qo‘shimcha savollarga bergan javoblari bilan birga sud majlisi bayonnomasiga kiritilishi shart bo‘lgan, sud tomonidan uning xulosasi noto‘g‘ri talqin qilinganligi to‘g‘risida ariza berishga haqli”.

4. IPK 58-moddasi birinchi qismiga quyidagi tahrirda qo‘shimcha kiritish taklif etildi:

“Agar u sud muhokamasi yuritilayotgan tilni bilmasa yoki yetarlicha bilmasa, o‘z ona tilida maslahat (tushuntirish) berish hamda tarjimon xizmatidan bepul foydalanish”.

5. IPK 58-moddasi beshinchi qismini quyidagi tahrirda to‘ldirish taklif etildi:

“Mutaxassis bila turib noto‘g‘ri maslahat (tushuntirish) berganlik uchun ma’muriy javobgarlikka tortiladi”.

6. IPK 59-moddasi ikkinchi qismiga quyidagi tahrirda qo‘shimcha kiritish taklif etildi:

“Tarjimonga tegishli qoidalar ish yuritishda ishtirok etish uchun taklif qilingan, kar yoki soqovning imo-ishoralarini tushunadigan shaxsga nisbatan ham qo‘llaniladi”.

7. IPK 60-moddasi birinchi qismiga quyidagi tahrirda to‘ldirish taklif etildi: *“ishda ishtirok etuvchi shaxslar iqtisodiy sudga tarjimon nomzodini taklif qilish huquqiga ega”.*

8. IPKning 60-moddasi uchinchi qismini quyidagicha band bilan to‘ldirish taklif etildi:

“Belgilangan tartibda muomalaga layoqatsiz yoki muomala layoqati cheklangan deb topilgan, qasddan sodir etgan jinoyatlari uchun sudlanganlik holati tugallanmagan yoki sudlanganligi olib tashlanmagan shaxslar tarjimon sifatida jalb qilinishi mumkin emas”.

9. IPKning 60-moddasi birinchi qismiga quyidagi tahrirda qo‘shimcha kiritish taklif etildi:

“Tarjimon: protsessual harakatlarni amalga oshirishi natijasida qilgan tarjimasi uchun haq olish va majburiyatlari doirasidan tashqaridagi ishlarni bajarganliklari va o‘zi yonidan qilgan xarajatlarni qoplanishini talab qilish huquqiga ega”.

10. IPKning 80-moddasi to‘rtinchi qismiga quyidagi mazmundagi to‘ldirish taklif etildi:

“Ekspertiza tayinlash to‘g‘risidagi ajrimda ekspert ekspertiza uchun taqdim etilgan materiallar davlat siri, tijorat siri va boshqa qonun bilan qo‘riqlanadigan sirlarini o‘z ichiga olgan bo‘lsa”.

11. IPK 117-moddasi uchinchi qismini quyidagi tahrirda to‘ldirish taklif etildi:

“Mehnat munosabatlariga kirishmagan guvohlar odatdagi mashg‘ulotlaridan qoldirilganligi uchun amalda sarflagan vaqti va belgilangan bazaviy hisoblash miqdoridan kelib chiqilgan holda haq oladi”.

12. IPKda guvohni so‘roq qilish tartibini belgilash maqsadida quyidagi prim moddani kiritish taklif etildi:

“168^{1}-modda. Guvohni so‘roq qilish tartibi

Har bir guvoh alohida so‘roq qilinadi. So‘roq qilinmagan guvohlar ishni muhokama qilish vaqtida sud majlisi zalida bo‘lishi mumkin emas. Raislik qiluvchi guvohni so‘roq qilishdan oldin uning shaxsini, yoshini, mashg‘uloti turini, ushbu ishga aloqasini hamda taraflar va ishda ishtirok etuvchi boshqa shaxslar bilan o‘zaro munosabatlarini aniqlaydi, shuningdek uni bila turib yolg‘on ko‘rsatuv berganlik uchun O‘zbekiston Respublikasi Jinoyat kodeksining 238-moddasiga muvofiq javobgar bo‘lishi to‘g‘risida ogohlantiradi. Shundan keyin raislik qiluvchi guvohga: “Men, (familiyasi, ismi, otasining ismi), bugungi sudda ko‘rib chiqilayotgan ish bo‘yicha menga shaxsan ma’lum bo‘lgan ma’lumotlar va materiallar to‘g‘risida to‘g‘ri va to‘liq ko‘rsatuv berish majburiyatini zimmamga olaman va ish yuzasidan o‘zimga ma’lum bo‘lgan hamma narsani sudga aytib berishga qasamyod qilaman” deb oshkora qasamyod qilishni taklif etadi. Guvohdan unga o‘z huquqlari, majburiyatlari va javobgarligi tushuntirilganligi to‘g‘risida tilxat olinadi. Qasamyodning matni va tilxat sud majlisi bayonnomasiga qo‘shib qo‘yiladi. Raislik qiluvchi guvohga ish bo‘yicha shaxsan o‘zi bilgan barcha ma’lumotlarni sudga aytib berishni taklif qiladi. Shundan so‘ng guvohga savollar berilishi mumkin. Guvoh kimning arizasi bo‘yicha chaqirilgan bo‘lsa, shu shaxs va uning vakili birinchi bo‘lib, keyin esa ishda ishtirok etuvchi boshqa shaxslar guvohga savollar beradi. Sudning tashabbusi bilan chaqirilgan guvohga savollarni birinchi bo‘lib da’vogar beradi. Sudya (sudyalar) guvohga u so‘roq qilinayotganida istalgan vaqtda savol berishga haqlidir. So‘roq qilingan guvohlar ishning muhokamasi tamom bo‘lguniga qadar sud majlisi zalida qolishi kerak. Sud so‘roq qilingan guvohlar ishning muhokamasi tamom bo‘lmasidan oldin sud majlisi zalidan chiqib ketishiga taraflarning roziligi bilan ruxsat berishi mumkin. Zarur bo‘lgan taqdirda sud guvohni o‘sha majlisning o‘zida yoki kelgusi majlisda takroran so‘roq qilishi, shuningdek guvohlarning ko‘rsatuvlaridagi ziddiyatlarni aniqlash uchun ularni yuzlashtirishi mumkin. Shuningdek, yoshi tufayli qasamyodning mazmunini tushuna olmaydigan shaxslar guvoh sifatida jalb etilgan taqdirda, bunday guvohlar qasamyod qabul qilmasdan so‘roq qilinadi”.

13. IPKga ekspertni so‘roq qilish tartibini takomillashtirish maqsadida quyidagi prim moddani kiritish taklif etildi:

“168[2]-modda. Ekspertni so‘roq qilish

Ekspertning xulosasi sud majlisida o‘qib eshittiriladi, shundan keyin xulosani tushuntirish va to‘ldirish maqsadida ekspertga savollar berilishi mumkin. Ekspertiza kimning arizasi bo‘yicha tayinlangan bo‘lsa, o‘sha shaxs va uning vakili birinchi bo‘lib, keyin esa ishda ishtirok etuvchi boshqa shaxslar savollar beradi. Sudning tashabbusi bilan tayinlangan ekspertga birinchi bo‘lib da’vogar savollar beradi. Sudya (sudyalar) ekspert so‘roq qilinayotganida unga istalgan vaqtda savollar berishga haqli”.

14. Jinoyat kodeksi 238-moddasi to‘rtinchi qismiga quyidagi tahrirda to‘ldirish taklif etildi:

“guvoh, jabrlanuvchi, ekspert yoki tarjimon surishtiruv, dastlabki tergov yoki sud muhokamasi jarayonida sud hukmi yoki qarori chiqarilgunga qadar o‘z ko‘rsatuvi, xulosasi yoki noto‘g‘ri tarjima qilganligi to‘g‘risida o‘z ixtiyori bilan xabar qilgan va jinoyatni ochishga yordam bergan bo‘lsa jinoiy javobgarlikdan ozod qilinadi”.

15. Sud tarjimonlari faoliyatini huquqiy jihatdan tartibga solish maqsadida *“Sud tarjimoni to‘g‘risida”gi Qonun qabul qilish kerak.*

16. O‘zbekiston Respublikasining “Sud ekspertizasi to‘g‘risida”gi Qonun 15-moddasi Sud ekspertining huquqlari birinchi qismi o‘ninchi xatboshiga qo‘shimcha taklif sifatida:

*“sud eksperti tegishli sud-ekspertiza tashkiloti (muassasa) rahbariga sud ekspertizasini o‘tkazishga boshqa ekspertlarni jalb etish haqida iltimosnoma kiritishga, agar bu tadqiqotlar o‘tkazishga va xulosa berish uchun zarur bo‘lsa”*nomli xatboshi bilan to‘ldirish taklif etildi.

17. O‘zbekiston Respublikasining “Sud ekspertizasi to‘g‘risida”gi Qonun 11[1]-moddasi Sud eksperti qasamyodi bilan to‘ldirish taklif etildi:

Sud eksperti belgilangan tartibda tegishlicha guvohnoma yoki sertifikatga ega bo‘lgandan so‘ng tegishli komissiyaning majlisida quyidagi mazmunda qasamyod qiladi:

“Men o‘z kasbiy burchimni halol va vijdonan bajarishga, O‘zbekiston Respublikasining Konstitutsiyasi va qonunlariga, qonuniylik, mustaqillik va sud-ekspertlik faoliyatining boshqa prinsiplariga, shuningdek sud ekspertining kasbiy etikasi qoidalariga qat’iy rioya etishga, o‘z bilimlarimdan to‘liq, asosli va xolisona xulosa berish uchun foydalanishga tantanali qasamyod qilaman”.

18. Ekspertlarni sud jarayoniga qisqa muddatlarda jalb etish va ularni xulosasini belgilangan muddatlarda olish, ekspertlarni tezda qidirib topish, ularni maxsus bilim darajasini aniqlash va ishga jalb qilishni qisqa vaqtlarda amalga oshirish, sud ekspertlari va ekspertiza to‘g‘risidagi ma’lumotlarni yig‘ish, ularga ishlov berish jarayonlarini kompleks avtomatlashtirish hamda ekspertiza harakatlarni amalga oshirishga aloqador tashkilotlar bilan axborot hamkorligining barcha turlarini ta’minlash uchun mo‘ljallangan *“E-ekspertiza” yagona axborot tizimini joriy etish taklif etildi.*

SCIENTIFIC COUNCIL AWARDING OF THE SCIENTIFIC DEGREES DSc.07/30.12.2019.Yu.22.01 AT TASHKENT STATE UNIVERSITY OF LAW

TASHKENT STATE UNIVERSITY OF LAW

KHUDOYNAZAROV DADAKHON AVAZ UGLI

IMPROVING THE PARTICIPATION OF PERSONS ASSISTING IN THE IMPLEMENTATION OF JUSTICE IN THE ECONOMIC PROCESS (THEORETICAL-LEGAL AND PROCEDURAL ASPECTS)

12.00.04 - Civil procedural law. Economic procedural law.
Arbitration process and mediation

ABSTRACT
of doctoral (Doctor of Philosophy) dissertation on legal sciences

Tashkent – 2024

The theme of the dissertation of the Doctor of Philosophy (PhD) was registered at the Supreme Attestation Commission under the Ministry of higher education, science and innovations of the Republic of Uzbekistan under number №B2021.3.PhD/Yu589

The dissertation is prepared at Tashkent State University of Law.

The abstract of the dissertation is posted in three languages (Uzbek, English, Russian (summary)) on the website of the Scientific Council (www.tsul.uz) and Information educational portal «ZiyoNET» (www.ziyonet.uz).

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The defense of the dissertation will be held on 16 march, 2024 at 10:00 at the Session of the Scientific Council DSc.07/30.12/2019.Yu.22.01 at the Tashkent State University of Law (Address: 100047, Sayilgokh street, 35. Tashkent city. Phone: (99871) 233-66-36; Fax: (99871) 233-37-48; e-mail: info@tsul.uz).

The doctoral dissertation is available at the Information Resource Center of Tashkent State University of Law (registered under No. 1240), (Address 100047, Amir Temur street, 35. Tashkent city. Phone: (99871) 233-66-36).

The abstract of the dissertation distributed on 29 February, 2024.

(Registry protocol No 42, on 29 February, 2024).

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INTRODUCTION (abstract of the doctoral (PhD) dissertation)

The actuality and relevance of the dissertation theme. The number of business entities and investors in the world is increasing day by day. To create all necessary conditions for citizens and business entities to be able to protect their rights and legal interests in courts, to ensure the equality of parties in disputes, fairness between participants in the process of court proceedings, and achieve legal, reasonable fair court decisions and expanding opportunities for remote participation in court hearings are becoming essential in the world. In the "Economic Freedom Index – 2023" rating published by the Heritage Foundation, Uzbekistan took 109th place among 176 countries with a score of 56.5. According to the methodology of the index, it was shown that the economy of Uzbekistan remained mainly in the group of "non-free countries". In particular, the worst indicator was the direction of "court efficiency" (-37.8).[6] This shows the need to further improve the scope, legal status and organizational-legal foundations of the judicial system, its participants (persons who assist in the administration of justice) and to introduce digital technologies into the activities of the courts.

To provide openness and transparency in the activities of courts in the world, to create wide opportunities for those who apply to the courts, to further increase the strong confidence of citizens and entrepreneurs in the justice system, to improve the system of online resolution of economic disputes and to introduce artificial intelligence technologies into their activities, as well as economic court cases of persons who assist in the implementation of justice is of great importance. In this case, determining the procedural status of persons assisting in the implementation of justice, and creating an opportunity for full implementation of their rights and obligations in the judicial process are defined as primary tasks. Currently, artificial intelligence technologies (3D, Forensic Toolkit, Yolo, ChatGPT, Kudo, Boostlingo, Languageline, and Lie detector) are being used in the activities of individuals assisting in the implementation of justice.

In our republic, significant work is being done on the full satisfaction of entrepreneurs from the courts and the widespread introduction of artificial intelligence technologies into the activities of the courts. In the Decree of the President of the Republic of Uzbekistan on the Development Strategy of New Uzbekistan for 2022-2026, adopted on January 28, 2022, it is determined to radically increase the level of access to justice by business entities by eliminating bureaucratic obstacles, and step-by-step digitization of the judicial system.[7] According to statistical data, 436 cases involving persons assisting in administering justice were conducted in 2021, 1068 in 2022, and 713 in 2023 (11 months)[8]. Of these, 111 with witness participation in 2021, 206 in 2022, 255 in 2023, 36 with expert participation in 2021, 77 in 2022, 58 in 2023, 272 with specialist participation in 2021, 753 cases in 2022, 370 cases in 2023, 17 cases with interpreter participation in 2021, 32 cases

[6] https://www.heritage.org/index/country/uzbekistan
[7] National database of legal documents of the Republic of Uzbekistan, 03.01.2024., No. 06/24/221/0003.
[8] Letter of the Supreme Court of the Republic of Uzbekistan, 04.12.2023. No.07/15-445.

in 2022, and 30 cases in 2023 were considered.[9] It can be seen from this that further improvement of the participation and status of persons assisting in the administration of justice, review of the scope of participants, determination of subjectivity of law, enrichment with new articles related to interrogation, the introduction of a single information system designed to ensure all types of information cooperation between courts and experts, expansion of rights and obligations, and other issues are not expressed in the norms of procedural law, these issues require scientific and theoretical research.

This dissertation is based on the Economic Procedural Code of the Republic of Uzbekistan (2018), Laws "On Forensic Expertise" (2010), "On International Commercial Arbitration" (2021), "On Mediation" (2018), "On Arbitration Courts" (2006), and the dissertation research serves to a certain extent the implementation of the tasks defined in decrees of the President of the Republic of Uzbekistan No. PR-6256 dated July 5, 2021 "On measures to improve the forensic expert system in the Republic of Uzbekistan" and the Decree No. PR-11 dated January 16, 2023 "On additional measures to further expand access to justice and increase the efficiency of the courts" and other legal documents related to the topic.

The compliance of the research on the priority directions of scientific and technological development of the republic. This dissertation is completed in accordance with the priority direction of the republican science and technology development I. "Formation of a system of innovative ideas and ways of their implementation in the social, legal, economic, cultural, spiritual and educational development of the information society and democratic state".

The scope of study of the problem. The topic of the dissertation has not been researched at the level of a doctoral dissertation as an independent research object in the Republic of Uzbekistan. In the research works of Sh.Sh.Shorakhmetov, E.E.Egamberdiyev, M.M.Mamasiddikov, Z.N.Esanova, D.Yu.Khabibullayev, F.X.Otakhanov, N.F.Imomov, T.A.Umarov, F.B.Ibratova, Q.S.Avezov, R.T.Berdiyarov, Kh.B.Abdurakhmanova, Kh.B.Burkhankhodjayeva, O.Sh.Pirmatov and I.M.Salimova the role and status of persons assisting in the implementation of the law and the importance of the provided information (summaries) as evidence are highlighted in economic procedural law in Uzbekistan, but in this regard, the scientists of our country have not conducted comprehensive research on the participation of persons assisting in the implementation of justice in the economic process. Also, within this topic, scientists from the CIS countries A.V.Vanyarho, V.V.Yarkov, E.A.Tresheva, A.T.Bonner, M.I.Kleandrov, I.N.Lukyanova, I.V.Reshetnikova, M.V.Zhijina, S.P.Vorozhbit, A.A.Vlasov, E.R.Rossinskaya, T.Sakhnova, M.S.Shakaryan and V.V.Molchanov conducted research. scientists from Western Europe and the USA, such as Steven W. Schneider, Colin Tapper, John O'Hare & Kevin Browne[10] have touched upon this in their research.

[9] Letter of the Supreme Court of the Republic of Uzbekistan, 19.08.2022., No. 07/14-10964-275.

[10] The complete list of the works of these scientists is shown in the list of used literature of the dissertation.

Relation of the dissertation research with the research plans of the higher educational institution where the dissertation is performed. Dissertation research was carried out within the scientific research plan “Improving the participation of persons assisting in the implementation of justice in the economic process” included in the scientific research work plan of the Tashkent State University of Law.

The aim of the research is the improvement of the legal basis of the participation of persons assisting in the implementation of justice in the conduct of economic court cases and the development of proposals and recommendations aimed at the legal regulation of relations in this regard.

Research tasks are aimed at:

developing suggestions by analyzing the procedural aspects of the activities of persons assisting in the administration of justice;

making recommendations aimed at revealing the role (legal status) of the assistant judge (secretary of the court session) in the economic process;

substantiation of recommendations on elucidating the scientific and practical aspects of procedural rights and legal capacity of persons assisting in the administration of justice;

developing proposals by researching the procedural problems of the rights and obligations of witnesses, interpreters, experts and specialists;

development of proposals aimed at improving economic procedural legislation and court practice related to revealing the legal and procedural features of the responsibility of witnesses, interpreters and experts in the process of conducting economic court cases.

The object of research as is taken the social relations that arise as a result of the participation of persons who assist in the implementation of justice in conducting economic court cases.

The subject of research is the theoretical ideas on the legal regulation of the participation of persons assisting in the implementation of justice in the economic process, problems in this regard, procedural legal norms and court documents.

Research methods. In the research process, methods of generalization, systematic approach, logical analysis, survey, clarification, study of statistical and practical materials, and comparative legal analysis were used.

The scientific novelty of the research is following: it is justified that arbitrators, experts appointed by the arbitration body, employees of the arbitration institution, conciliators are persons who cannot be called as witnesses and questioned about the circumstances that became known to them during the arbitration or conciliation proceedings;

it is justified that compensation for victims, witnesses, and bystanders who do not receive a regular salary for being missed (distracted) from their usual activities is calculated based on the actual time spent and the minimum amount of payment for the specified work, in which the exact amount of the payment is determined; the amount of the minimum wage is determined by multiplying the ratio of the available working days in this month by the working days of the obligations;

it is justified that the activity of the experts of the state forensic institution and the non-governmental forensic organization is calculated based on the professional competence, the quality of the conducted forensic examinations and other criteria based on the points collected on the evaluation indicators based on the rating system;

it is proven that when submitting documents in a foreign language to the economic court, it is reasonable to attach to these documents a duly certified translation into the state language or the language in which the proceedings are being conducted, as an appendix to the application in cases related to arbitration proceedings.

Practical results of the research are as follows:

determined the circle of persons assisting in the administration of justice;

determined the legal status of the assistant judge (secretary of the court session) in economic proceedings;

clarification of procedural rights and legal capacity of persons assisting in the administration of justice;

improvement of the rights, duties and responsibilities of persons assisting in the administration of justice;

due to the absence of a legal framework regulating the activities of interpreters, it is justified that the draft law "On Court Interpreter" should be developed;

the draft Law "On Amendments and Additions to Certain Legislative Documents of the Republic of Uzbekistan" has been developed.

Reliability of research results. The results of the research are presented at the end of each chapter and at the end of the work, theoretical and practical conclusions, and proposals aimed at improving legislation. In addition, the dissertation includes the materials of the judicial panel of the Tashkent City Court on Economic Affairs (January-February 2023), the Tashkent inter-district Court on Economic Affairs (December 2022) and the Zangiota inter-district Court on Economic Affairs (May-August 2021), as well as the results of the survey conducted by the researcher among judges, court employees, experts, specialists, translators and professors and legal service employees, independent researchers, doctoral students and the students of jurisprudence.

Scientific and practical significance of research results. The scientific significance of the research can be used in the teaching of "Economic Procedural Law" and other special modules, as well as in the process of conducting scientific research related to the topic.

The practical significance of the results of the research is explained by the fact that they can be used in the improvement of normative legal documents regulating the conduct of economic court cases, as well as in the judicial practice of economic cases and in the activity of law and norm creation of state bodies.

Implementation of research results. Based on the scientific results obtained in connection with the improvement of the status of persons assisting in the administration of justice:

The proposal that arbitrators, experts appointed by the arbitration panel, employees of the arbitration institution, and conciliators cannot be called as witnesses and questioned about the circumstances that became known to them

during the arbitration or conciliation proceedings was used in the description of Clause 12 of Article 1 of the Law of the Republic of Uzbekistan No. 769 of the Republic of Uzbekistan dated May 16, 2022 “On amendments and additions to some legal acts of the Republic of Uzbekistan in connection with the adoption of the Law of the Republic of Uzbekistan “On International Commercial Arbitration” (Reference No. 06-13/11 of February 6, 2023, of the Senate of the Oliy Majlis of the Republic of Uzbekistan). The acceptance of this proposal served to protect the rights and freedoms of arbitrators and experts appointed by them as well as conciliators;

the proposal that compensation for victims, witnesses, and bystanders who do not receive a regular salary for being missed (distracted) from their usual activities is calculated based on the actual time spent and the minimum amount of payment for the specified work, in which the exact amount of the payment is determined; the amount of the minimum wage is determined by multiplying the ratio of the available working days in this month by the working days of the obligations was used in the development of paragraph 11 of the “Regulation on the procedure for calculating and paying funds to be paid to victims, witnesses, experts, specialists, translators, and neutrals” approved by the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. RCM -570 dated October 28, 2023 (Reference No. 12-15-131 of the Cabinet of Ministers of the Republic of Uzbekistan dated December 25, 2023). As a result of the adoption of this proposal, the right of witnesses to pay and receive court costs was improved;

the proposal the activity of the experts of the state forensic institution and the non-governmental forensic organization is calculated based on the professional competence, the quality of the conducted forensic examinations and other criteria based on the points collected on the evaluation indicators based on the rating system was used in the development of paragraph 13 of the “Regulation on the support fund for the development of forensic expertise under the Ministry of Justice of the Republic of Uzbekistan" approved by the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. RCM-705 dated December 13, 2022 (Reference No. 12-15-131 of the Cabinet of Ministers of the Republic of Uzbekistan dated December 25, 2023). The acceptance of this proposal determines the rating of the activity of forensic experts and serves to encourage their work;

the proposal on submitting documents in a foreign language to the economic court, it is reasonable to attach to these documents a duly certified translation into the state language or the language in which the proceedings are being conducted, as an appendix to the application in cases related to arbitration proceedings was used in the description of Article 1, Clause 6 of the Law of the Republic of Uzbekistan No. 769 of the Republic of Uzbekistan dated May 16, 2022 “On amendments and additions to some legal acts of the Republic of Uzbekistan in connection with the adoption of the Law of the Republic of Uzbekistan “On International Commercial Arbitration” (Reference No. 06-13/11 of February 6, 2023 of the Senate of the Oliy Majlis of the Republic of Uzbekistan). As a result of the adoption of this proposal, the submission of a translation as an attachment to the application and to the application for annulment of the arbitration decision served to enhance the principle of the state language and the language of the court.

Approbation of research results. The results of this research were discussed at 6 scientific conferences, including 4 international and 2 national scientific-practical conferences and scientific seminars.

Publication of research results. A total of 18 scientific works on the topic of the dissertation, including 1 popular scientific brochure, 8 scientific articles (2 in foreign publications), and 9 theses were published.

Structure and volume of the dissertation. The structure of the dissertation consists of an introduction, three chapters covering eight paragraphs, a conclusion, a list of references and appendices. The volume of the dissertation is 156 pages.

THE MAIN CONTENT OF THE DISSERTATION

In **the introductory** part of the dissertation consists of the relevance and necessity of the research topic, the relevance of the research to the main priorities of the development of science and technology, the scope of study of the problem, the relevance of the dissertation to the research institution, aim and tasks, object and subject, methods, scientific novelty and practical results of research, reliability, scientific and practical significance of research results, approbation of research results, publication of results, scope and structure of the dissertation.

In the first chapter of the dissertation entitled **"General description of the persons who assist in the administration of justice in the conduct of economic court cases",** the analysis of the concept of persons assisting in the administration of justice, their classification, subjectivity of law, i.e. procedural law and legal capacity, was carried out.

The task of justice is to issue legal, reasonable and fair court documents that make conflict situations non-conflict. At this point, it should be said that a number of basic concepts in the provision of justice are being used in the experience of the countries of the world. According to scientists, the main concepts are "procedural justice", "procedural fairness". According to the concept of "procedural justice" evidence and proof are legal, legality can be built through procedural justice, all processes are based on the norms of the law (code), evidence is heard, equal opportunities are given to the parties, and it is stated that there should be different respect. Elements of the concept of "procedural justice" include respect for the dignity of people, providing participants with the right to vote (voice-word, vote), impartiality and transparency in decision-making (neutrality), transfer of trustworthiness grounds (evidence) is mentioned. In our research work, it is mentioned that persons who assist in the implementation of justice should be treated with respect during the court process, give them their floor, witness, expert, specialist and translator should be impartial and transparent in decision-making and prove the evidence related to the case.

In the second "procedural fairness" concept, it brings closer and clarifies certain elements of the process. In this concept, those who are in contact with the court create an idea of procedural justice from the court process, the people around them, and the behavior of people. The concept of "procedural fairness" refers to the rules of internal trust, honesty, conscience, and humanity, as well as real conditions,

circumstances, and situations. As the main elements of the concept of "procedural fairness", "voice" is the ability of the parties to participate by expressing their opinions, "neutrality" is the application of basic principles in impartial decision-making, "respect" is treating people with courtesy and respect, "trust" is based on the inner confidence of the decision-maker, "understanding" refers to the fact that the participants in the court process understand court decisions and how they are made, "helpfulness" focuses on the fact that the parties consider the participants in the court to be interested in their personal situation to the extent permitted by law. The USA, Great Britain, Canada, Australia, EU member states, India and New Zealand are cited as the countries that pay the most attention to the concept of "procedural fairness" and use it in the work of courts. It was researched and analyzed that the proposals, recommendations and conclusions put forward by the researcher correspond to the concept of "procedural fairness" and that they are evaluated as preventive measures (norms). The USA, Great Britain, Canada, Australia, EU member states, India and New Zealand are cited as the countries that pay the most attention to the concept of "procedural fairness" and use it in the work of courts.

The author emphasizes the development and application of the concept of "procedural fairness" as well as the concept of "procedural justice" in conducting economic court cases in Uzbekistan. As a result of promoting this concept, it is possible to achieve the following result:

1) legal, reasonable and fair issuance of the decision and judgement taken by the economic courts is achieved by clarifying the evidence in the case with the translation of translators, testimony of witnesses, conclusions of experts and advice (explanations) of specialists;

2) in this concept, as a result of accurate, complete and impartial translation of translators, testimony of witnesses, conclusions of experts and advice (explanations) of specialists, it is resolved in the first instance and disputes are considered in higher instances reduces workload and saves time;

3) it is important for the judges of the economic court to assess the translation of translators, testimony of witnesses, conclusions of experts and advice (explanations) of specialists, to consider the dispute on the basis of internal trust and humanity, to hear and resolve real situations.

A number of scientists (Z.N.Esanova, F.B.Ibratova, R.T.Berdiyarov, Kh.B.Abdurakhmonova, V.V.Yarkov, A.V.Vanyarkho, A.P.Rizhakov, A.V.Strunkina, K.A.Kuznetsova, V.A.Verbitskaya, A.T.Bonner, etc.)'s views were analyzed, and an author's definition of the concept of persons assisting in the implementation of justice, the concept of translator and specialist was developed. According to it, it was analyzed that the persons assisting in the implementation of justice are witnesses, experts, specialists and translators who are involved in the case by the economic courts (judges) or at the request of the persons participating in the case, who are not interested in the outcome of the case.

In addition, an interpreter is a person who knows the languages necessary for translation, is an adult, has no interest in the outcome of the case, and is appointed by the court or a person who has been issued a decision on involving him to participate in the court session at the request of the persons participating in the case.

A specialist is a person who has a relevant higher education, and in special cases, a secondary-specialized, vocational education, to give advice (explanations) and help in the use of scientific and technical tools. In order to assist in the collection, examination and evaluation of evidence, a person who has the necessary knowledge and skills in the field of science, technology, art or craft, who is an adult and has no interest in the outcome of the case, to participate in the court session or procedural actions the court has put forward conclusions that can be involved as a specialist.

According to the dissertation, none of the participants in economic court proceedings have the opportunity to perform the duties of a translator, which may raise doubts about the completeness and correctness of the translation, as well as its reliability. According to the author, the translation made by a translator from one language to another can be compared to a faithful echo. The reason is that the translation from one language to another must be clear and fluent and reach the second destination as it is.

Within the framework of this chapter, the dissertation analyzed the views of a number of scientists (Z.N.Esanova, S.S.Gulyamov, A.S.Sidikov, M.S.Shakaryan, V.V.Petrova, I.Kleandrov, Y.A.Tresheva, S.Y.Channov, etc.) judge's assistant (secretary of the court session) to form another separate procedural group of economic process participants, to enter into procedural legal relations as employees of the economic court apparatus, to be a judge's assistant as a separate entity, and to perform public service professional activities.

In addition, the involvement of an assistant judge (secretary of the court session) by the court in the court proceedings, the initial selection does not depend in any way on the will of the persons participating in the case. The dissertation notes that a judge's assistant participates in every court proceeding and, unlike persons assisting in the administration of justice, disciplinary measures are applied, not criminal responsibility. The research assistant judge (secretary of the court session) cannot be included among the persons who assist in the administration of justice in the economic process, as well as the inclusion of the court composition (as a separate entity) in the EPC in compliance with legal technical rules and its legal status is specified in a separate "Court composition" came to the scientific-practical conclusion that it should be reflected in the norm belonging to the chapter.

Dissertation of a number of scholars (Q.S.Avezov, N.F.Imomov, V.V.Yarkov, M.A.Nikishenkova, N.I.Matuzov, O.S.Ioffe, etc.) in economic court cases, the subjectivity of law - the ability (possibility) to be a participant in legal relations provided for by legal norms. Analyzing the presence and possession of procedural legal capacity and the capacity to act, within the framework of the research, the presence of the procedural legal capacity of persons assisting in the implementation of justice, the necessity to personally participate in the court, they are allowed to participate in the process through their representatives. He emphasizes that he should not be placed and that he should have sufficient qualifications and knowledge and information relevant to work, which is reflected in his maturity. Based on this, the author developed the following definition of the concepts of procedural legal capacity and procedural capacity of persons assisting in the implementation of justice:

Procedural legal capacity - the capacity (legal capacity) of persons assisting in the administration of justice to have procedural rights and obligations in court is equally recognized.

Procedural capacity - the capacity to exercise procedural rights and fulfill obligations in court belongs to persons who have reached the age of majority (except for witnesses) and assist in the administration of justice. The rights and legally protected interests of minors (witnesses) are protected in court by their parents, adopters caregivers or custodians.

In the second chapter of the dissertation entitled **"Legal status of persons assisting in the implementation of justice",** the legal status of the witness, the rights, obligations, responsibility and participation of the interpreter and the rights, obligations, responsibility and participation of the expert and specialist and the problems of improving participation in the work and their analysis were carried out.

The dissertant believes that two types of witnesses can actually be involved in the economic process in EPL.

The first group consists of persons who have information about the circumstances important for the case - they are involved in the process at the request of the persons participating in the case. These persons provide the court with "primary evidence" - information that is not available in other case materials submitted by the parties and other persons.

The second group is the persons summoned to a court session at the initiative of the economic court to identify and verify other types of evidence at the disposal of the court hearing the case: these are persons who participated in the preparation of a court decision when a document considered by the court as written evidence or an item considered by the court as material evidence was created or changed.

However, in this research, a number of scientists (I.B.Zokirov, V.V.Yarkov, M.I.Braginsky, etc.) analyzed the opinions of written and material evidence in arbitration (economic) proceedings as more reliable than the testimony of witnesses.

Circumstances that need to be confirmed by certain means of proof cannot be confirmed by any other means of proof. When the lender is a legal entity or in cases where the amount of the loan agreement concluded between citizens is more than ten times the minimum wage, the loan agreement must be concluded in a simple written form.

Courts should assume that failure to comply with the simple written form of a loan agreement does not invalidate it. In this case, the parties do not have the right to rely on the testimony of witnesses, but this does not deprive them of the opportunity to provide written and other evidence. The written form better helps to determine the true nature of the transaction than the oral form (testimony) and, if necessary, facilitates its verification by the relevant state authorities (experts). According to the author, the clear presence of written evidence is more accurate than witness testimony, but the use of witness testimony is the right of the parties. In this regard, the dissertator emphasizes that based on the "Rules of Evidence" doctrine, compliance with the established rules and procedures for obtaining evidence, and acceptance of reliable and relevant evidence.

There are several doctrines in economic litigation in the world today. In particular, “Doctrine of Witness testimony”, “Doctrine of Right to confrontation”, “Doctrine of Collaboration and cooperation” and other doctrines (detailed in the dissertation and abstract) are presented. The author can testify and take an oath in economic procedural law (legislation) within the framework of the dissertation (preventing the witness from coming to the court having learned some information in advance and preparing to emphasize these details in his testimony). The “Doctrine of Witness Testimony”, and the “Doctrine of Right to Confrontation” allow obtaining questioning and checking the accuracy of witness statements by confronting them, and attracting persons assisting in the economic process, encouraging them to promote the “Doctrine of Collaboration and Cooperation” and its ideas, which serve to increase the promotion, participation and efficiency of work, to ensure the exchange of information in cooperation, and the ideas in these doctrines are aimed at further regulation of relations in the field of conducting economic court cases. As a result of promoting these doctrines, it will be possible to achieve the following results in conducting economic court cases in Uzbekistan:

First, it is necessary to clarify the testimony of the witness and take an oath (it breaks the preliminary preparation of the testimony of the witness);

Secondly, it allows to cross-examine the witness and check the accuracy of his testimony;

Thirdly, to quickly involve persons assisting in the process of conducting economic court cases, to bring their motivation to a new level, to expand cooperation within the bodies, and to increase the efficiency of work.

Within this chapter, the dissertator analyzes the opinions of a number of scientists (D.Yu.Khabibullayev, A.Ya.Markov, T.I. Stesnova, S.P. Sherba, etc.) on the fact that the participants who do not know languages in court have the right to apply in their native language using the services of an interpreter. Analysing the countries that adopted the Law “On Sworn Translators” in Germany, the Law “On Sworn Translators” of the State of Bavaria (as amended on 22.12.2009), the draft regulation “On Court Interpreters” in the Russian Federation, the Law “On Court Interpreter” in the Czech Republic, the Law “On Court Interpreter” of Estonia in 2001, the Law “On Court Interpreter” was issued and it was justified that it was aimed at regulating the activities of translators

In 2023, an online survey was conducted among the general public on the electronic platform https://docs.google.com.

The following question was put forward: Is there a need to develop a regulatory legal document (law or decision) regulating the work of a court interpreter by the researcher? 131 people took part in the survey, and according to its results, 71% of respondents voted “yes”, while 29% of respondents voted “no”.

Situations that make it difficult to attract a researcher-interpreter to participate in a trial in a research case:

First, you need to find an interpreter in the appropriate language;

Secondly, it is necessary to be sure of his competence (a level of knowledge of the language or a diploma does not mean the skilful use of legal terms).

Thirdly, the interpreter's personality needs to be adapted to effectively cooperate with him in various procedural actions (the interpreter may have his own personality and this will be difficult).

The obligation of the expert is a guarantee the rights of persons participating in the case and other persons not participating in the case to ensure the regime of information secrecy protected by law. Illegal collection of information, disclosure or use of state secrets, commercial secrets and secrets protected by other laws shall be a cause of liability. The dissertation justified the fact that the materials submitted to the expert should be warned to keep them confidential if there are aspects related to secrecy. The doctrine of "Professionalism and ethics" is essential to this process, and it is important to keep information confidential.

In this chapter, the dissertator examines how the expert's false conclusion appears in giving false answers to the questions put before him and cites the opinions of a number of scientists (A.V. Vanyarkho, A.Y. Abdullayev, Sh.Sh. Suyunov, etc.) on canceling the procedure for warning about criminal responsibility against another person who helps to implement justice - the expert and replacing it with the procedure for taking an oath of the expert. The swearing-in procedure is considered as a pre-trial measure. Another reason may be that their dignity and dignity are not degraded and their basic rights are not limited or ignored.

The expert's incorrect advice consists of giving incorrect information about situations that require special knowledge by him during the interrogation, as well as deliberately misrepresenting his opinion. The dissertation justified the expediency of determining only administrative responsibility for knowingly giving incorrect advice.

According to the dissertation, the general aspect of the specialist and the expert is that they have special knowledge and skills and are not interested in the result of the work, as well as the following several differences:

1) the term "special knowledge" is used only for an expert. In relation to the specialist, another concept is indicated – "professional knowledge". In the literature, this issue is ignored, and only the term "professional knowledge" can be used to reveal the concept of "special knowledge", but not to replace it. Based on the "Doctrine of Legal Education and Training", assisting persons should improve their qualifications, and acquire the necessary knowledge and skills. Some legal scholars (A.A. Mokhov, V.V. Molchanov, T.V. Sakhnova) analyzed the concepts of "special knowledge" and "necessary knowledge". It is justified that the researcher understands that an expert has special knowledge, and a specialist is a person who has the necessary knowledge;

2) the expert may give explanations during the examination of the expert opinion;

3) a specialist can play a key role in clarifying issues that do not require research within the framework of forensic expertise, in which case it is enough for the court to know the competent opinion of a specialist in the field of narrow knowledge;

4) if questions are put to experts, questions are not put to specialists;

5) if the expert gives a written conclusion, it is also expressed when the specialist gives advice orally or in writing;

6) if there is a possibility of bringing the expert to criminal responsibility, but the specialist does not have responsibility;

7) the specialist can perform his activities both in the court building and outside the court building. Expert research usually requires specially equipped facilities.

In the third chapter of the dissertation entitled **"Prospects for the development of the participation of persons assisting in the administration of justice"** comparative analysis of the status of persons assisting in the administration of justice: in the interpretation of the legislation of some foreign countries, the aspects related to the possibilities of further improvement of the procedural activities of these persons and issues of digitalization of the participation of persons assisting in the administration of justice are analyzed.

The dissertator analyzed the scope of persons assisting in the implementation of justice in the economic process and their role in legislation based on the experience of foreign countries. For example, in some countries (the Russian Federation, Kazakhstan, Ukraine) the circle of persons assisting in the administration of justice includes assistant judges and court clerks, while in some countries (Turkmenistan, Moldova, Kyrgyzstan, Belarus, Turkey, Lithuania, Poland, Hungary, Germany, France, Korea, China, Canada, Czech Republic, Bulgaria, Italy, Great Britain, Japan) are not included and may differ from each other (listed in the appendix of the dissertation).

Also, the judge feels the need to appoint a translator when the (foreign) persons who do not know or understand the language of the court take part in economic court proceedings. Among the rights and obligations of translators is the right to propose a translator candidate by the persons participating in the work. This right is presented in the experience of foreign countries (Russian Federation, Estonia, Moldova, Belarus). In order for the translation to be high-quality and accurate, the dissertation justified the right of the persons participating in the work to propose the candidate of the translator.

The legislation of several countries (Bulgaria, Hungary, Japan, Lithuania, Czech Republic, Estonia, Germany, Great Britain, Poland, Turkey, Armenia, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Ukraine, Turkmenistan, Tajikistan, the Russian Federation) provides for liability for perjury, and at the same time, during the trial, he voluntarily announces his testimony, conclusions or incorrect translation before the court issues a decision (judgement), exemption from criminal liability is cited and the proposal is justified. This is also condemned by religious standards, i.e. in the "Holy Qur'an" Surah Al-Baqarah, verse 282, it is suggested to write it down when taking or giving a loan and to have two men as witnesses (if two men are not available, one man and two women). In addition, in verse 135 of Surah Nisa, it is stated that it is necessary to give true testimony in the way of God, as well as not to tell lies and not to refuse to testify.

The rule that a witness must give information that he personally knows, at first sight, is similar to the testimony known to Anglo-Saxon law, which is known to the person only from the words of another person or to the common law rule of inadmissibility of information based on hearsay, but it differs from it according to its content. This provision prohibits the court from using the witness's testimony

about the circumstances of the case, which he did not directly perceive, but obtained from the words of another person. The "hearsay rule" differs from the witness's need for personal knowledge of the facts in that it prohibits the use of "secondhand" information as admissible evidence (subject to exceptions to this rule).

In English civil proceedings, testimony is given to the court in the form of an *affidavit ("affidavit")* - a written statement given under oath (if the witness cannot come to court) or "deposition" - before the start of the trial, a judge or other person appointed by the court may be presented in the form of written testimony of a witness taken under oath. Although such affidavits are given in writing, they are not written evidence but are a type of witness testimony. A similar possibility of using written testimony exists in French civil procedural law, which provides for the possibility of using written testimony (les attestations) submitted to the court at the initiative of the parties or at the request of the judge. Like an affidavit, written testimony in France must contain a list of facts that the witness knows personally and is informing in his testimony.

The dissertation states that translation activity can be done not only by translating from one language to another but also by gestures. When communicating with deaf (mute, deaf-mute) citizens, a person with sign language translation skills translates sign language or repeated speech with the help of fingers using the sign language of the deaf and dactylology. The translator's qualification can be determined based on his ability to provide the required level of translation, its completeness and accuracy, as well as the speed required by judicial authorities. It is justified by the researcher that the interpreter should also know the sign language to the required level.

One of the tasks of the expert is to answer the questions put before him by the court. The expert is questioned when additional research is not required to clarify and complete his conclusion. Summoning an expert, which is one of the procedural methods of checking the reliability of an expert opinion, is related to the procedural method of questioning. Interrogation of an expert is carried out precisely for the purpose of clarifying the conclusion, that is, it appears as a method of checking the expert's conclusion by the court. The need to interrogate the expert was justified by the dissertation.

Currently, the process of digitalization of justice is implemented in two main ways, the first is the creation of an electronic judicial system, and the second is the use of artificial intelligence in the adoption of court decisions (documents). In many foreign countries, forensic experts use a number of programs and platforms (applications) to prove evidence. Today, special software *"EnCase forensic", "Belkasoft Evidence Center X" and "ACElab PC-3000 portable II"* are used in expert research by the Kh. Sulaymonova Republican Forensic Center under the Ministry of Justice.

The dissertation analyzed the use of open source software such as *"Forensic Toolkit"* for forensic research (scans hard drive for various data and can identify deleted email addresses and break encryption), *"OpenFace", "FaceID" and "NEC"* for facial recognition, "Cognitec" technology, which is able to recognize faces in

photos or videos and match them with familiar people, as well as visual TensorFlow and Yolo (only viewed once).

By analyzing the popular collaboration platforms (applications) that can be used by forensic experts *(Microsoft Teams, Slack, Zoom, Google Workspace (formerly G Suite), SharePoint, Jira, Confluence),* the researcher reasoned that it allows to participate and take an oath and/or to draw up declarations of confirmation through these platforms providing remote monitoring of forensic experts in the trial process.

In addition, it is considered appropriate to use 3D photographic tools in the presentation of evidence and provide the information for expert examination. Evidence that cannot be brought to court or that is difficult to bring, as well as perishable material evidence should be reflected in 3D photo format at the place and time of examination and inspection by the court. 3D modelling is used in foreign countries, including India, Japan, Russia, Belarus, China, Germany, Switzerland, France, Great Britain, and the USA.

In order to ensure the rights of persons participating in the case to familiarize themselves with the content of the expert opinion before the court session, it provides for setting the procedure for sending a copy of the expert opinion to such persons. Timely resolution of disputes based on the doctrine of "Efficiency and expeditiousness". The dissertation covers all aspects of the expert's work, involving experts in the court process in a short period of time and obtaining their conclusions within the specified period, quickly finding experts, determining their level of special knowledge and engaging them in the work in a short period of time, court experts and expertise. The introduction of the unified information system *"E-expertise"* for complex automation of data collection and processing processes is justified.

In addition, the dissertation draws attention to the issue of digitization of the work of translators, one of the persons who assist in the implementation of justice. Several platforms, applications and other programs are used in foreign countries to ensure the remote participation of translators in court. For example, *Kudo* is a cloud-based platform for multilingual meetings and events. The researcher analyzed the implementation of remote simultaneous translation, which allows translators to work from anywhere in the world. The platform provides real-time human language translation by translators to participants' smartphones and computers, so anyone can join in any language of their choice from anywhere. In addition, in this research paper, the use of *ChatGPT, ZipDX and Boostlingo* that can join virtual meetings and provide real-time translation services, and provide virtual simultaneous or consecutive translation, both translation and sign at the same time, was also mentioned.

Another must-have platform (app) for translators in the US is Languageline. This involves finding and establishing a telephone connection with a qualified interpreter for interpreting over the phone or computer, and arranging payment for the interpreter's services. On this "Languageline" platform, it is determined that the translators have a certificate or other qualification and it is specified to be reflected in it. In court, telephone interpreting services are provided in formal court settings

and for out-of-court interviews lasting from a few minutes to several hours. *Languageline Services (LLS)* provides translation services to clients in more than 140 languages. *The service works 24 hours a day. In most cases (about 98 percent),* a connection is established within a minute of receiving a service request. The fee for the translator is the first connection fee and the minimum monthly fee is determined. The recipient of the interpreter service will be provided with an ID number and a personal access code. In addition, based on *"Closed Captioning and Transcription"*, when translation is carried out online, for the deaf and hard of hearing and those who prefer written transcription, it is possible to convert audio into written text and real-time text at the bottom of the screen and any sound , voice and otherwise appear.

Based on this, it is proposed to create the website and application *"e-translator.uz"* that provide the list of translators, surnames, first names, names of translators, translation languages, seniority, sign language translators, warning about criminal responsibility through online receipt, certificate will be checked through this site, the level of language translation is determined, translation prices are quoted, the level of security is determined. The application offers online translation in real time.

The dissertation emphasizes the importance of the use of information technology tools in the testimony of the witness. Information technologies are being used to prevent witnesses from giving false testimony. For example, the *"lie detector"* device is used to determine the physiological responses of individuals when they are asked a series of questions to determine whether they are true or false. The main function of the *"lie detector"* is to cause physiological changes in the body when lying.

A number of situations can be detected using the "Lie detector":

First, it is possible to determine if the person giving the testimony is lying by listening to the Heart Rate (Cardiovascular Activity). That is, a person's heart rate is measured using electrodes or sensors placed on his chest. If the person is giving false testimony, the heart rate may increase due to nervousness or stress.

The second is done by determining the rate of breathing (Respiration (Breathing)) of the person. It monitors the breathing rate of a person by installing sensors on the chest and abdomen. If a person has shallow or irregular breathing, he may be lying.

Third, according to the Galvanic Skin Response, which measures the electrical conductivity of the skin, frequent sweating caused by anxiety or nervousness during perjury can affect skin conductivity.

The fourth is to determine whether the testimony is true or false through blood pressure. Then the increase in blood pressure may be related to nervousness.

Analyzing the legislation of some foreign countries, the researcher found out that according to the legislation of the PRC, it is established that witnesses must testify in person at the court session. However, in case of illness of the witness, natural disasters and other force majeure cases, with the permission of the court, the witness can give instructions in the mode of video conference. In the Republic of

Ukraine, if there are no objections from the participants in the case, the witness can participate in the court session via video conference. If the witness does not appear in court due to illness, old age, disability, or due to valid reasons, the court may allow him to participate in the court through video conference, regardless of the objections of the participants in the case (Article 66 of the Criminal Procedural Code). In the Republic of Kazakhstan, a witness may be interrogated by the court in the region where he is located or by using technical means of communication due to his illness, old age, disability, distance from his place of residence or other valid reasons. In the Republic of Bulgaria, if the court does not appear on the summons, the court imposes a fine on him. It can be seen from the experience of these countries that if the witness "cannot come to the court due to illness, old age, disability or other legitimate reasons, he will be interrogated by the court or by means of video conferencing" (Article 85 of the Criminal Procedural Code).

CONCLUSION

The following scientific-theoretical and practical conclusions, proposals and recommendations were developed as a result of the scientific research on the topic “Improving the participation of persons assisting in the implementation of justice in the economic process (theoretical-legal and procedural aspects)”:

I. Scientific theoretical conclusions:

1. The task of justice is to issue legal, reasonable and fair court documents that provide solutions to conflict situations. Several basic concepts in the provision of justice are being promoted in the experience of the countries of the world, and the implementation of the priority aspects of these concepts in the practice of the country is being carried out at a rapid pace.

First, the “justice” (procedural justice) concept, in which evidence and proof are legal, can build legality, all processes are based on the norms of the law (code), evidence should be heard, equal opportunities should be given, and parties should be treated with equal respect and its elements, to respect the dignity of people, to give the participants the right to vote during the meeting, to be impartial and transparent in decision-making (neutrality), transfer of trustworthiness grounds (evidence) is mentioned.

The second is the concept of “procedural fairness” in which those who interact with the court form an image of procedural justice from the court process, the people around them, and the behavior of people. In this concept, internal trust, honesty, conscience and humane rules, real conditions, and situation are considered. As the main elements of this concept, “voice” is the ability of the parties to participate by expressing their opinions, “neutrality” is the application of basic principles in impartial decision-making, “respect” is treating people with courtesy and respect, “trust” it is based on the inner confidence of the decision-maker, “understanding” means that the participants of the court process understand court decisions and how they are adopted, “helpfulness” focuses on the fact that the parties consider the

participants of the court process to be interested in their personal situation to the extent permitted by law. The USA, Great Britain, Canada, Australia, EU member states, India and New Zealand are cited as the countries that pay the most attention to the concept of "procedural fairness" and use it in the work of courts.

The author emphasizes the development and application of the concept of "procedural fairness" as well as the concept of "procedural justice" in conducting economic court cases in Uzbekistan. As a result of promoting this concept, it is possible to achieve the following result:

1) legal, reasonable and fair issuance of the decision and judgement taken by the economic courts is achieved by clarifying the evidence in the case with the translation of translators, testimony of witnesses, conclusions of experts and advice (explanations) of specialists;

2) in this concept, as a result of accurate, complete and impartial translation of translators, the testimony of witnesses, conclusions of experts and advice (explanations) of specialists, disputes are resolved in the first instance; the concept reduces workload considered in higher instances reduce workload and saves time;

3) it is important for the judges of the economic court to evaluate the translation of translators, testimony of witnesses, conclusions of experts and advice (explanations) of experts, considering the dispute on the basis of internal trust and humanity, hearing and solving real situations;

4) implementation of the principle is aimed at ensuring social justice mentioned in the Constitution of the Republic of Uzbekistan and one of the main tasks of the court defined in the Law "On Courts".

2. There are several doctrines in economic litigation in the world today. Including *"independence and impartiality", "impartiality of experts and interpreters", "witness testimony", "right to confrontation", "collaboration and cooperation"* and other doctrines (detailed in the dissertation and abstract). The author within the framework of the dissertation mentioned the "Doctrine of Witness Testimony" to testify and take an oath (preventing the witness from coming to court knowing some information in advance and preparing to emphasize these details in his testimony), the "Doctrine of Right to Confrontation", which allows obtaining and questioning and checking the accuracy of witness statements by confronting them, and attracting persons assisting in the economic process, encouraging them, the "Doctrine of Collaboration and Cooperation" and its ideas, which serve to increase the promotion, participation and efficiency of work, to ensure the exchange of information in cooperation, and the ideas in these doctrines are aimed at further regulation of relations in the field of conducting economic court cases and economic procedural law (legislation). As a result of promoting these doctrines, it will be possible to achieve the following results in conducting economic court cases in Uzbekistan:

First, it is necessary to clarify the testimony of the witness and take an oath (it breaks the preliminary preparation of the testimony of the witness);

Secondly, it allows to cross-examine the witness and check the accuracy of his testimony;

Thirdly, to quickly involve persons assisting in the process of conducting economic court cases, to bring their motivation to a new level, to expand cooperation within the bodies, and to increase the efficiency of work.

3. The author developed the following scientific definitions of the concepts of persons assisting in the administration of justice, translators and specialists:

a) Persons assisting in the implementation of justice are witnesses, experts, specialists and translators who are involved in the case by the economic courts (judges) or at the request of the persons participating in the case, who are not interested in the outcome of the case.

b) Interpreter - a person who knows the languages necessary for translation, who has reached adulthood, is not interested in the outcome of the case, and who is appointed by the court or who has been issued a decision on involvement to participate in the court session at the request of the persons participating in the case.

c) Specialist - who has the relevant higher education and, in special cases, secondary-specialized, vocational education, giving advice (explanations) and providing assistance in the use of scientific and technical means in order to assist in the collection, examination and evaluation of evidence, an adult person who has the necessary knowledge and skills in the field of science, technology, art or craft, who is not interested in the outcome of the case, to participate in the court session or procedural actions may be involved as a specialist by the court.

4. In order to determine the position and authority of the judge's assistant in the court, to come to a conclusion as a result of gathering the opinions and comments expressed by scientists, and to increase the prestige of the judge's assistant in the court system, the following proposal is put forward:

the judge's assistant (secretary of the court session) cannot be included in the list of persons assisting the administration of justice in the economic process, as well as included in the composition of the court (as a separate subject) in the EPC in accordance with the legal technical rules, and its legal status belongs to a separate chapter entitled “Composition of the Court”. It should be reflected in the norm.

5. The concepts of procedural legal capacity and procedural processing capacity of persons assisting in the administration of justice were defined as follows:

Procedural legal capacity - the capacity (legal capacity) of persons assisting in the administration of justice to have procedural rights and obligations in court is equally recognized.

Procedural capacity - the capacity to exercise procedural rights and fulfill obligations in court belongs to persons who have reached the age of majority (except for witnesses) and assist in the administration of justice. The rights and legally protected interests of minors (witnesses) are protected in court by their parents, adopters, caregivers or custodians.

6. In order to bring individuals who assist in the administration of justice to a separate status and clearly define their rights and obligations, a proposal was made

to designate them as a separate chapter called “Persons assisting in the administration of justice” in EPC.

7. It is proposed to create the website and application *“e-translator.uz”*, and the list of translators, surname, first name, surname, translation languages, work experience, sign language translators, a warning about criminal responsibility through an online receipt should be provided, and a certificate will be checked through this site, the level of language translation is determined, translation prices are quoted, the level of security is determined. Through the application, online translation is performed in real-time.

II. Proposals and conclusions in the field of law-making:

1. It was proposed to add the following wording to the first part of Article 54 of the EPC:

“the witness is entitled to compensation for the costs of the subpoena and to monetary compensation for the loss of time”.

2. It was proposed to fill in the second and third parts of Article 54 of the EPC in the following version:

“if the witness does not appear as per the court summons due to the reasons deemed by the court to be inexcusable, as well as refuses to testify, a court fine may be imposed on him in accordance with the procedure established in Chapter 14 of this Code”.

“The imposition of this fine does not release the witness from the obligation to appear in court and testify”.

3. The first part of Article 56 of the EPC and the first part of Article 15 of the Law of the Republic of Uzbekistan “On Forensic Expertise” were proposed to be supplemented with the following content:

“The expert has the right to give the necessary explanations after the publication of his conclusion, as well as to answer additional questions of the persons participating in the case and the court. Also, the expert has the right to submit an application that the court has misinterpreted his conclusion, which must be included in the minutes of the court session along with his answers to additional questions”.

4. It was proposed to add an addition to the first part of Article 58 of the EPC in the following version:

“if he does not know the language of the trial or does not know enough, to give advice (explanation) in his native language and to use the services of an interpreter free of charge”.

5. It was proposed to fill the fifth part of Article 58 of the EPC in the following version:

“the specialist will be held administratively responsible for knowingly giving incorrect advice (explanation)”.

6. It was proposed to add an addition to the second part of Article 59 of the EPC in the following wording:

“the rules pertaining to the interpreter shall also be applied to a person who understands the signs of a deaf or dumb person, who is invited to participate in the proceedings”.

7. The first part of Article 60 of the IPPC was proposed to be supplemented with the following wording: “Persons participating in the case have the right to propose a candidate for an interpreter to the economic court”.

8. It was proposed to fill the third part of Article 60 of the EPC with the following clause:

“Persons who have been found to be incompetent or have limited legal capacity in accordance with the established procedure, who have been convicted of intentional crimes or whose convictions have not been removed, cannot be engaged as translators”.

9. It was proposed to add an addition to the first part of Article 60 of the EPC in the following version:

“The translator: has the right to receive payment for the translation he made as a result of the implementation of procedural actions and to demand reimbursement of the expenses incurred by him for performing work outside the scope of his obligations”.

10. The following content was proposed to be added to the fourth part of Article 80 of the EPC:

“if the materials provided for the expert examination in the decision on the appointment of expert examination contain state secrets, commercial secrets and other secrets protected by law”.

11. It was proposed to fill the third part of Article 117 of the EPC in the following version:

“witnesses who have not entered into labor relations will be paid based on the time spent in practice and the set base calculation amount for being missed from their regular training”.

12. In order to determine the procedure for questioning a witness in the EPC, it was proposed to include the following primary article:

“Article 168^{1}. Procedure for questioning a witness

Each witness will be interrogated separately. Witnesses who have not been questioned may not be in the courtroom during the discussion of the case. Before questioning the witness, the presiding officer shall determine his identity, age, type of occupation, connection to the case, and his relations with the parties and other persons involved in the case, and warns that he will be liable in accordance with Article 238 of the Criminal Code of the Republic of Uzbekistan that he will be punished for knowingly giving false testimony. After that, the presiding person offers to the witness to take an oral oath by saying: “I, (surname, first name, patronymic), give a true and complete statement of the information and materials personally known to me regarding the case pending in court today. I undertake to testify and swear to tell the court everything I know about the case”. A receipt will be received from the witness stating that his rights, obligations and responsibilities

have been explained to him. The text of the oath and the receipt will be attached to the minutes of the court session. The chairman invites the witness to tell the court all the information he personally knows about the case. After that, questions can be asked of the witness. According to whose application the witness was summoned, this person and his representative will be the first to ask questions to the witness, and then other persons participating in the case. The plaintiff is the first to ask the questions to the witness called by the initiative of the court. The judge(s) have the right to ask questions of the witness at any time during his/her cross-examination. The questioned witnesses must remain in the courtroom until the hearing of the case is over. With the consent of the parties, the court may allow the questioned witnesses to leave the courtroom before the hearing of the case is over. If necessary, the court may interrogate the witnesses again at the same meeting or at the next meeting, as well as confront them in order to determine the contradictions in the testimonies of the witnesses. Also, in the event that persons unable to understand the content of the oath due to their age are involved as witnesses, such witnesses will be interrogated without taking an oath".

13. In order to improve the procedure for interrogating an expert, the EPC was offered to include the following primary article:

"Article 168^2. Interrogating an expert

The expert's opinion will be read out at the court session, after which the expert can be asked questions to explain and complete the opinion. According to the application of the expert, the person and his representative will be the first to ask questions, and then other persons participating in the case will ask questions. The plaintiff is the first to ask questions to the expert appointed by the court. The judge(s) have the right to ask questions at any time during the examination of the expert".

14. It was proposed to add the fourth part of Article 238 of the Criminal Code in the following version:

"witness, victim, expert, or interpreter voluntarily reported his testimony, conclusion, or misinterpretation during the investigation, preliminary investigation, or court proceedings before the court verdict or decision was issued, and if he helped to solve the crime, he will be exempted from criminal liability".

15. In order to legally regulate the activities of court interpreters, the Law "On Court Interpreter" should be adopted.

16. As an additional proposal to the tenth paragraph of the first part of the rights of the forensic expert, Article 15 of the Law "On Forensic Expertise" of the Republic of Uzbekistan:

It was proposed to fill in the paragraph entitled "forensic expert to submit a request to the head of the relevant forensic organization (institution) to involve other experts in conducting the forensic examination if it is necessary to conduct research and give a conclusion".

17. Article 11^1 of the Law of the Republic of Uzbekistan "On Forensic Expertise" was proposed to be supplemented with the oath of a forensic expert:

After obtaining the appropriate certificate in the prescribed manner, the forensic expert shall take the following oath at the meeting of the relevant commission:

“I am committed to fulfilling my professional duty honestly and conscientiously, strictly following the Constitution and laws of the Republic of Uzbekistan, legality, independence and other principles of forensic expert activity, as well as the rules of professional ethics of a forensic expert, to the best of my knowledge. I solemnly swear to use it to give a reasoned and objective conclusion.

18. It was proposed to introduce a unified information system “E-ekspertiza” designed to provide all types of information cooperation with the organizations involved in the implementation of expert actions and comprehensive automation of processing processes involving experts in the court process in short periods and obtaining their conclusions within the specified periods, quickly searching for experts, determining their level of special knowledge and engaging them in work in a short period of time, collecting information about court experts and expertise.

НАУЧНЫЙ СОВЕТ DSc.07/30.12.2019.Yu.22.01 ПО ПРИСУЖДЕНИЮ УЧЕНЫХ СТЕПЕНЕЙ ПРИ ТАШКЕНТСКОМ ГОСУДАРСТВЕННОМ ЮРИДИЧЕСКОМ УНИВЕРСИТЕТЕ

ТАШКЕНТСКИЙ ГОСУДАРСТВЕННЫЙ ЮРИДИЧЕСКИЙ УНИВЕРСИТЕТ

ХУДОЙНАЗАРОВ ДАДАХОН АВАЗ УГЛИ

СОВЕРШЕНСТВОВАНИЕ УЧАСТИЯ ЛИЦ, СОДЕЙСТВУЮЩИХ ОСУЩЕСТВЛЕНИЮ ПРАВОСУДИЯ В ЭКОНОМИЧЕСКОМ ПРОЦЕССЕ (ТЕОРЕТИКО-ПРАВОВЫЕ И ПРОЦЕССУАЛЬНЫЕ АСПЕКТЫ)

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АВТОРЕФЕРАТ
диссертации доктора философии по юридическим наукам (Doctor of Philosophy)

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С диссертацией можно ознакомиться в Информационно-ресурсном центре Ташкентского государственного юридического университета (зарегистрировано за № 1240). (Адрес: 100047, г. Ташкент, ул. Амира Темура, 13. Тел.: (99871) 233-66-36).

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ВВЕДЕНИЕ (Аннотация диссертации доктора философии (PhD))

Целью исследования является разработка предложений и рекомендаций, направленных на совершенствование правовой основы участия лиц, содействующих осуществлению правосудия и правовое регулирование этиш отношений в этой сфере.

Объектом исследования является общественные отношения, возникающие в результате участия лиц, содействующих осуществлению правосудия, в экономическом судопроизводстве.

Научная новизна исследования заключается в следующем:

обосновано, что арбитры, назначенные арбитражным составом эксперты, работники арбитражного учреждения, арбитры являются лицами, которые не могут быть вызваны в качестве свидетелей и допрошены об обстоятельствах, ставших им известными в ходе арбитражного или третейского разбирательства;

размер оплаты, потерпевшим, свидетелям и понятым, получающим регулярную заработную плату, за выполнение ими своих обязанностей(отвлечение) обосновано рассчитывать исходя из фактически затраченного времени и минимального размера оплаты указанной работы, при этом точный размер выплаты определяется путем умножения суммы установленного минимального размера оплаты труда на количество рабочих дней, имеющихся в данном месяце, на количество рабочих дней, в течение которых были выполнены обязательства;

обосновано оценивание профессиональной компетентности экспертов государственного судебно-экспертного учреждения и негосударственной судебно-экспертной организации исходя из качества проведенных судебных экспертиз и других критериев на основе баллов, набранных по оценочным показателям на основе рейтинговой системы;

при подаче в экономический суд документов на иностранном языке обосновано приложить к этим документам надлежащим образом заверенный перевод на государственный язык или язык, на котором ведется судебное разбирательство, в качестве приложения к заявлению по делам, связанным с арбитражным разбирательством.

Внедрение результатов исследования. На основании научных результатов по совершенстсованию правового статуса лиц, содействующих осуществлению правосудия:

предложение о том, что арбитры, назначенные арбитражным составом эксперты, работники арбитражного учреждения, арбитры являются лицами, которые не могут быть вызваны в качестве свидетелей и допрошены об обстоятельствах, ставших им известными в ходе арбитражного или третейского разбирательства, использовано в пункте 12 статьи 1 Закона от 26.10.2022 ЗРУ-796-сон «О внесении изменений и дополнений в некоторые законодательные акты Республики Узбекистан» в связи принятием В связи с принятием Закона Республики Узбекистан «О международном коммерческом арбитраже» от 16 мая 2022 года (Справка № 06-13/11, выданная Сенатом Олий

Мажлиса Республики Узбекистан 6 февраля 2023 года). Настоящее предложение способствовало совершенствованию права свидетелей на возмещение расходов, понеченных в связи явкой в суд, и на их получение;

предложение об исчислении размера возмещений, подлежащих выплате потерпевшим, свидетелям и понятым, получающим регулярную заработную плату, за выполнение ими своих обязанностей(отвлечение) исходя из фактически затраченного времени и минимального размера оплаты указанной работы, и определении при этом точного размера выплаты путем умножения суммы установленного минимального размера оплаты труда на количество рабочих дней, имеющихся в данном месяце, на количество рабочих дней, в течение которых были выполнены обязательства, использовано в разработке пункта 11 Положения «О порядке исчисления и уплаты средств, подлежащих выплате потерпевшим, свидетелям, экспертам, специалистам, переводчикам и присяжным», утвержденного Постановлением Кабинета Министров Республики Узбекистан от 28.10.2023 г. № 570 (Справка №12-15-131, выданная Кабинетом Министров Республики Узбекистан 25 декабря 2023 года). В результате принятия настоящего предложения переводчики при осуществлении перевода обязаны определять уровень сложности языков перевода (сложный, средний и легкий) и осуществлять им соответствующую оплату. В результате принятия настоящего предложения он служил для регулирования того, как переводчики оно способстововал определению уровени сложности языков перевода (сложный, средний и легкий) при осуществлении перевода и получению соответствующую плату;

предложение по оценки профессиональной компетентности экспертов государственного судебно-экспертного учреждения и негосударственной судебно-экспертной организации исходя из качества проведенных судебных экспертиз и других критериев на основе баллов, набранных по оценочным показателям на основе рейтинговой системы, использовано при разработке пункта 13 Положения «О Фонде развития судебной экспертизы при Министерстве юстиции Республики Узбекистан», утвержденного Постановлением Кабинета Министров от 13.12.2022 г. № 705 (Справка №12-15-131, выданная Кабинетом Министров Республики Узбекистан 25 декабря 2023 года). В результате принятия настоящего предложения способствует определению рейтинга деятельности судебных экспертов и стимулированию их работы;

предложение о представлении в экономический суд документов, составленных на иностранном языке, с приложением их надлежащим образом заверенного перевода на государственном языке или на языке, на котором ведется судопроизводство, в качестве приложения к заявлению по делам, связанным с арбитражным разбирательством, использовано в пункте 6 статьи 1 Закона от 26.10.2022 ЗРУ-796-сон «О внесении изменений и дополнений в некоторые законодательные акты Республики Узбекистан» в связи принятием В связи с принятием Закона Республики Узбекистан «О международном

коммерческом арбитраже» от 16 мая 2022 года (Справка № 06-13 / 11, выданная Сенатом Олий Мажлиса Республики Узбекистан 6 февраля 2023 года). В результате принятия настоящего предложения представление перевода в качестве приложения к заявлению и заявлению об отмене решения арбитража способствует прочного закреплению принципа государственного языка и языка судопроизводства с практической точки зрения.

Объем и структура диссертации. Структура диссертации состоит из введения, трех глав, охватывающих восемь параграфов, заключения, списка использованной литературы и приложений. Объем диссертации составляет 156 страниц.

E’LON QILINGAN ISHLAR RO‘YXATI
LIST OF PUBLISHED WORKS
СПИСОК ОПУБЛИКОВАННЫХ РАБОТ

I bo‘lim (I part; I часть)

1. Xudoynazarov D.A. Iqtisodiy protsessda tarjimon xizmatidan foydalanish. Ilmiy-ommabop risola. - T.:, TDYU nashriyoti, 2022.– 24 b.

2. Xudoynazarov D.A. Iqtisodiy protsessda ekspert ishtirokining o‘ziga xos xususiyatlari // Huquqiy tadqiqotlar jurnali. –Toshkent, 2023, 1-son, –B.57-67 (12.00.00; №19).

3. Xudoynazarov D.A. Iqtisodiy protsessda mutaxassis ishtirokining huquqiy va protsessual maqomi // Huquqiy tadqiqotlar jurnali. –Toshkent, 2022. 10-son, –B.21-28 (12.00.00; №19).

4. Xudoynazarov D.A. Iqtisodiy protsessda tarjimon ishtiroki:milliy va xorijiy tajriba // Huquqiy tadqiqotlar jurnali. –Toshkent, 2022. 8-son, –B.62-72 (12.00.00; №19).

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6. Xudoynazarov D.A. Iqtisodiy protsessda guvoh ishtiroki: milliy va xorijiy tajriba // Odil sudlov jurnali. 2022. 12-son, –B.21-25 (12.00.00; №3).

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9. Khudoynazarov D.A. Persons assisting in the implementation of justice in the economic process: a comparative legal analysis // The American Journal of Political Science Law and Criminology. ISSN – 2693-0803, Volume 05, Issue 04, april, – P.42-50. (SJIF: Impact Factor: 2023 = 7.304).

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11. Khudoynazarov D.A. Peculiarities of witness participation in the economic process // Scientific approach to the modern education system: a collection of scientific works of the International scientific online conference (5th October 2022) – France, Paris: “CESS”, 2022. P 64-67.

II bo‘lim. (II part; II часть)

12. Xudoynazarov D.A. Iqtisodiy protsessda tarjimon ishtiroki: xorijiy davlatlar misolida // “O‘zbekistonda ilmiy tadqiqotlar: Davriy anjumanlar:” mavzusidagi respublika 42-ko‘p tarmoqli ilmiy masofaviy onlayn konferensiya materiallari to‘plami, - Toshkent: “Tadqiqot”, 2022. –B.7-9.

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14. Khudoynazarov D.A. Issues of payment of sums to persons assisting in the administration of justice // International scientific and practical Conference Modern views and research | 2022 Independent Publishing Network Ltd, England 2022. – P 10-13.

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16. Khudoynazarov D.A. Peculiarities of the modern assistant judge (secretary of the court). European journal of science archives conferences series/ Konferenzreihe der europäischen Zeitschrift für Wissenschaftsarchive. Hausarztzentrum Aachen-Forst Trierer Str. 67, 52078 Aachener, Germany. P 111-114.

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