

## **Basic Requirements for Sentences. Legality of Sentences**

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**Abstract:** This article discusses the basic requirements for sentences, the legality of sentences from the perspective of criminal procedural law, ensuring the legality of sentences through the impartiality of the judge, issues related to conducting proceedings within the framework of the law, ensuring fair trial based on the equality of citizens before the law and the court, respecting the dignity and honor of the individual, protecting the rights and freedoms of citizens, the public hearing of criminal cases in court, the adversarial nature of proceedings, and the strict adherence to principles of directly and orally examining evidence.

**Keywords:** sentence, legality, judge, criminal cases, fair trial, criminal code, criminal procedural law.

**Sentence** – -A final written decision issued by the court after considering the criminal case, determining whether the defendant is guilty or not, and deciding on the appropriate measures. The legal foundations for the court's decision-making are outlined in Chapter 54 of the Criminal Procedure Code of the Republic of Uzbekistan. Therefore, a sentence is considered lawful if it is issued in accordance with all the requirements of the law and based on the law. A legally issued sentence means that the judge has adhered to legality, considered criminal cases both collectively and individually, maintained judicial independence and their subordination only to the law, ensured a fair trial based on the equality of citizens before the law and the court, respected the dignity and honor of individuals, protected the rights and freedoms of citizens, ensured the public nature of criminal case hearings, and strictly followed the principles of adversarial proceedings and direct and oral examination of evidence. Z.F. Inog'omjonova has stated the following on this matter: "A sentence can be called lawful if it is issued under the following conditions: 1) the judge has strictly adhered to the Constitution of the Republic of Uzbekistan, the Criminal Procedure Code (CPC), and other laws as specified in Article 11 of the CPC; 2) the composition of the judges (whether a panel or individual proceedings) is lawful, as outlined in Article 13 of the CPC; 3) the judge has independently made decisions in their activities without any interference (Article 14 of the CPC); 4) the equality, dignity, and rights of the participants in the trial have been respected, and their freedoms have been protected, as per Articles 16, 17, and 18 of the CPC; 5) the procedures, requirements, and conditions for conducting the trial have been strictly followed, as specified in Articles 19, 25, 26, and 456 of the CPC."

**Legality** is one of the fundamental constitutional principles of fair trial. Legality means that all state and non-state bodies, organizations, officials, and citizens must strictly comply with and implement the requirements of the Constitution of the Republic of Uzbekistan, laws, and other normative documents that align with them. "This principle is aimed at ensuring the comprehensive, complete, and impartial examination of all circumstances relevant to the case, guaranteeing that each case is considered and resolved correctly and in accordance with the law,

protecting the rights and legal interests of the participants in the trial, and fostering respect for the law and compliance with its requirements among citizens."

Such a principle is of particular importance because it is closely related to the state activity in this area of law, as noted in its definition above. It is crucial to adhere to the law and the procedures for examining civil and criminal cases specified by it. Where the law is not followed, there can be no talk of fair trial; it would rather be considered an act of violence. Adhering to the principle of legality serves to guarantee the rights of all participants in the criminal process.

The state bases its activities on the principles of social justice and legality, and the judiciary's activities also follow these principles. The principle of legality in the judiciary is expressed in a specific manner, that is, in the administration of justice, this principle is combined with the principle of judicial independence. Judges make decisions based on existing laws, their legal awareness, and internal conviction.

To hold a judicial office, a person must be of a certain age, possess higher legal education, have sufficient life and professional experience, and, most importantly, be of impeccable conscience.

The essence of the principle of judicial independence is the effort to provide the conditions that allow judges to make responsible decisions in strict adherence to the law, without external interference, pressure, or influence.

Based on the principle of judicial independence, judges resolve criminal cases based on criminal procedural and criminal law. Any interference in their activities leads to legal accountability. This is one of the guarantees of judicial independence and is reinforced in Article 236 of the Criminal Code in the chapter "Crimes Against the Administration of Justice."

The law stipulates that judges must evaluate all circumstances of the case based on their internal conviction. The concept of internal conviction, as envisioned by the law, can be interpreted as follows: a) the process of instilling a certain viewpoint or action in someone (including oneself); b) the result of this process, that is, coming to a specific opinion or thought; c) the individual's attitude toward their knowledge, decisions, and actions, that is, the state of being convinced or certain.

Thus, internal conviction consists of the process of examining and the result of this process. The requirement of internal conviction in the law can also be understood as an authority granted to the person handling the case. Through this authority, their privileges in evaluating evidence are strengthened, and it is emphasized again that evaluation is both their right and duty. The court is not entitled to delegate this task to another person or use assessments made by others in issuing a judgment.

The legality of the sentence refers to its strict compliance with both substantive and procedural legal norms. The compliance of the sentence with substantive legal norms refers to the correct application of the provisions of the Criminal Code, proper qualification of the crime, the type and extent of the punishment, the recovery of material damages, and the correct resolution of other matters. In this context, not only the norms of criminal law but also those in civil, labor, and other areas of substantive law relevant to the case must be correctly applied. For instance, a court sentence can be deemed unlawful in the following situations: if the court recognizes an act that does not constitute a crime as a criminal act; if the actual crime is not recognized as such; if the crime is misqualified; if the penalty or its type is incorrectly determined, and so on.

The **legality of a sentence from the perspective of procedural law** refers not only to the moment of issuing the sentence but also to the adherence to procedural rules throughout the entire criminal process. If circumstances outlined in Article 485 of the Criminal Procedure Code are identified during the trial or the initial investigation, the sentence may be declared unlawful.

If the conclusions stated in the sentence do not correspond to the actual facts of the criminal case, this becomes grounds for the annulment or modification of the sentence (Article 487 of the

Criminal Procedure Code). The sentence will be deemed inconsistent with the actual facts of the case in the following situations:

1. **The sentence must be based on evidence that has been verified and confirmed during the trial investigation.** The court should state in the justification section of the sentence why it considers certain evidence as the basis for the judgment. For this, the court must carefully, fully, impartially, and thoroughly examine all circumstances of the case, assessing the evidence based on the law and its internal conviction. Each piece of evidence should be evaluated in terms of its relevance, admissibility, and reliability. If these requirements are not met, the court's conclusions are considered unsubstantiated by the evidence examined during the trial.

2. **The court must pay attention to all important facts of the case** (for example, the defense's requests or objections, the prosecutor's opinion or demands, the requests of the accused or the victim, etc.). The court must examine these matters based on their relevance to the case. If the court fails to take into account circumstances that could influence its conclusions, this becomes grounds for the annulment or modification of the sentence.

3. **There are circumstances that will certainly affect the crime's composition, qualification, guilt, and punishment.** These circumstances can only be proven through evidence. The evidence confirming these circumstances must be interconnected, with one piece supporting the other. For example, a witness who directly saw a murder, information about the accused's relationship with the victim, expert conclusions, etc. During the initial investigation, any contradictions in the collected evidence regarding the important circumstances of the case are resolved. In some cases, such errors may also occur during the trial. If the evidence concerning significant facts contradicts one another, and the court fails to explain why it considers certain evidence reliable while rejecting others in the sentence, the sentence will be annulled or modified.

In the following cases, a judgment is considered unlawful and will be annulled:

- If the case was heard in the absence of the defendant (except in the cases provided in part 3 of Article 410 of the Criminal Procedure Code);
- If after the completion of the preliminary investigation, the defendant was not familiarized with all the materials of the case, and this procedural violation was not addressed by the court that issued the judgment;
- If the defendant was not given the opportunity to present a defense statement in the absence of a defense lawyer;
- If the defendant was not given the opportunity to make a final statement;
- If the defendant's right to use their native language and interpreter services was violated;
- If, according to the law, the participation of a defense lawyer was mandatory, but the case was investigated or considered without their involvement.

Observing the form in criminal procedure is also one of the strict requirements of the law. For example:

- If the judgment is issued by the court in a composition that violates the law, it is considered contrary to the principle of fair trial. According to the law, only elected or appointed judges and lay judges participating within the prescribed time frame have the right to substantively review the case, as they alone are authorized to issue a judgment;
- If the procedure for a judge issuing a judgment alone or the confidentiality of consultations among judges in delivering a judgment is violated;
- If the case was considered after preliminary investigation and court hearings were conducted, despite circumstances that exclude such procedures;

- If the protocol of the court session was not restored or signed, the violation of criminal procedural law is considered serious, and the judgment will be annulled.

The incorrect application of criminal law may lead to changes in the court's decision or other rulings (if this does not worsen the defendant's situation or violate the right to defense) and may result in its annulment, additional investigation of the case, or reconsideration or termination of the case in court.

In conclusion, only judgments issued by a competent court that fully, comprehensively, and impartially investigates all aspects of the case, in accordance with the rules, are considered lawful and reflect the objective truth relevant to the particular criminal case. For a judgment to be deemed lawful, its content, adoption procedure, conditions, structure, conclusions, and resolved issues must comply with the Constitution of the Republic of Uzbekistan, the Criminal Code, the Criminal Procedure Code, and other legal documents.

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