

**VOYAGA YETMAGAN SHAXSLAR ISHIDA HIMOYACHINING MAJBURIY
ISHTIROKI: PROTSESSUAL KAFOLATLAR, AMALIY MUAMMOLAR VA SUD
AMALIYOTI TAHLILI**

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<https://doi.org/10.5281/zenodo.20301399>

***Annotatsiya.** Mazkur maqolada voyaga yetmagan shaxslar ishtirok etadigan jinoyat ishlarida himoyachining majburiy ishtiroki instituti kompleks ravishda tahlil qilinadi. Milliy qonunchilik, xususan O‘zbekiston Respublikasi Jinoyat-protsessual kodeksi normalari hamda xalqaro standartlar, jumladan Bola huquqlari to‘g‘risidagi konvensiya talablari asosida protsessual kafolatlarning mazmun-mohiyati ochib beriladi. Sud amaliyoti misolida himoyachisiz o‘tkazilgan protsessual harakatlarning huquqiy oqibatlari tahlil qilinib, mavjud muammolar va ularni bartaraf etish bo‘yicha takliflar ilgari suriladi.*

***Kalit so‘zlar:** voyaga yetmagan, himoyachi, majburiy ishtirok, protsessual kafolat, himoya huquqi, sud amaliyoti.*

**“MANDATORY PARTICIPATION OF A DEFENSE COUNSEL IN CASES
INVOLVING MINORS: PROCEDURAL GUARANTEES, PRACTICAL CHALLENGES,
AND COURT PRACTICE ANALYSIS”**

***Abstract.** This article examines the institution of mandatory participation of a defense counsel in criminal cases involving minors. It provides a comprehensive analysis of procedural guarantees based on national legislation, particularly the Criminal Procedure Code of the Republic of Uzbekistan, and international standards, including the Convention on the Rights of the Child. Court practice is analyzed to highlight the legal consequences of procedural actions conducted without a defense counsel. The study also identifies practical challenges and proposes recommendations to ensure effective protection of minors’ rights in criminal proceedings.*

***Keywords:** minor, defense counsel, mandatory participation, procedural guarantees, right to defense, court practice.*

Kirish

Jinoyat protsessida shaxsning huquq va erkinliklarini ta‘minlash davlatning asosiy vazifalaridan biridir. Ayniqsa, voyaga yetmagan shaxslar ishtirok etadigan jinoyat ishlarida protsessual kafolatlarning mustahkam tizimini yaratish alohida ahamiyat kasb etadi. Chunki voyaga yetmagan shaxs psixologik, ijtimoiy va huquqiy jihatdan yetuk emasligi sababli protsessual jarayonda mustaqil ravishda o‘z huquqlarini to‘liq himoya qila olmaydi.

Shu nuqtayi nazardan, himoyachining majburiy ishtiroki voyaga yetmagan shaxsning konstitutsiyaviy huquqlarini real ta‘minlashga xizmat qiluvchi muhim institut sifatida namoyon bo‘ladi.

Ushbu institut nafaqat milliy qonunchilikda, balki xalqaro huquqiy hujjatlarda ham mustahkamlangan bo‘lib, davlatning inson huquqlarini ta‘minlash borasidagi majburiyatlaridan kelib chiqadi.

Introduction

Ensuring the rights and freedoms of individuals in criminal proceedings is a fundamental responsibility of the state. This responsibility is particularly critical in cases involving minors, who require special procedural protection due to their psychological, social, and legal vulnerability.

In this context, the mandatory participation of a defense counsel serves as an essential mechanism to guarantee the real protection of minors' rights. This institution is enshrined not only in national legislation but also in international legal instruments, reflecting the state's obligation to uphold human rights.

Voyaga yetmaganlar ishida himoyachining majburiy ishtirokining huquqiy asoslari

Voyaga yetmagan shaxslar ishtirok etadigan jinoyat ishlarida himoyachining majburiy ishtiroki milliy qonunchilikda aniq belgilangan. O'zbekiston Respublikasi Jinoyat-protsessual kodeksiga muvofiq, voyaga yetmagan gumon qilinuvchi yoki ayblanuvchi ishtirok etayotgan ish bo'yicha himoyachining ishtiroki shart hisoblanadi. Bu talab jinoyat protsessining barcha asosiy bosqichlariga — ushlab, so'roq qilish, ayblov e'lon qilish, tergov harakatlarini o'tkazish hamda sud muhokamasiga tatbiq etiladi.

Mazkur normaning mazmuni shundan iboratki, voyaga yetmagan shaxsning huquqlari faqatgina formal e'lon qilinishi bilan cheklanib qolmasdan, ularni amalda himoya qilish mexanizmi ham yaratiladi. Himoyachi protsessual jarayonda faol ishtirok etib, voyaga yetmaganning ko'rsatmalarini olish tartibiga rioya qilinishini nazorat qiladi, uning manfaatlariga zid bo'lgan harakatlarga e'tiroz bildiradi va zarur protsessual iltimosnomalar kiritadi.

Xalqaro huquqiy standartlar ham ushbu institutning majburiyligini tasdiqlaydi. Xususan,

Bola huquqlari to'g'risidagi konvensiyaning 40-moddasida bola jinoyat sodir etishda ayblanganda malakali yuridik yordam olish huquqiga egaligi belgilangan. Mazkur qoida davlatlarga voyaga yetmagan shaxsning himoya huquqini real ta'minlash majburiyatini yuklaydi.

Shunday qilib, himoyachining majburiy ishtiroki milliy va xalqaro huquqiy normalarning uyg'unlashuvi asosida shakllangan kafolatdir.

Legal Foundations of Mandatory Defense Participation in Cases Involving Minors

National legislation clearly stipulates the mandatory involvement of a defense counsel in cases involving minor suspects or defendants. According to the Criminal Procedure Code of the Republic of Uzbekistan, all procedural stages—including detention, interrogation, charge notification, investigative actions, and trial—require the participation of a defense counsel.

The essence of this provision is to ensure that the rights of minors are not only formally recognized but effectively protected. The counsel actively participates in procedural actions, supervises the legality of obtained statements, safeguards the minor's interests, and submits necessary procedural motions.

International legal standards reinforce the mandatory nature of this institution. Article 40 of the Convention on the Rights of the Child guarantees the right of every child accused of an offense to receive qualified legal assistance. This obliges states to ensure that minors' procedural rights are fully realized.

Thus, the mandatory participation of a defense counsel is a procedural guarantee rooted in both national and international law.

Protsessual kafolatlarning mazmuni va ahamiyati

Voyaga yetmaganlar ishida himoyachining majburiy ishtiroki bir qator muhim protsessual kafolatlarni ta'minlaydi. Avvalo, bu — tenglik va tortishuv prinsipining amalda ro'yobga chiqishidir. Ayblov tomoni professional huquqshunoslardan iborat bo'lgan sharoitda voyaga yetmagan shaxsning mustaqil ravishda o'zini himoya qilishi deyarli imkonsizdir. Himoyachi mazkur nomutanosiblikni muvozanatlashtiradi.

Ikkinchidan, himoyachi voyaga yetmagan shaxsga protsessual huquq va majburiyatlarini tushuntiradi, uning ko'rsatmalarini ongli ravishda berishini ta'minlaydi. Bu esa dalillarning qonuniy to'planishiga xizmat qiladi.

Uchinchidan, himoyachining ishtiroki tergov organlari tomonidan bosim yoki boshqa noqonuniy ta'sir ko'rsatish ehtimolini kamaytiradi. Voyaga yetmagan shaxslar ko'pincha ruhiy bosimga tez beriluvchan bo'lgani sababli, himoyachi ularning manfaatlarini himoya qiluvchi muhim subyekt sifatida namoyon bo'ladi.

Agar protsessual harakat himoyachisiz o'tkazilgan bo'lsa, bu dalillarning haqiqiyliги va maqbulligiga shubha tug'diradi. Natijada, sud bunday ko'rsatmalarni isbot vositasi sifatida rad etishi mumkin.

Procedural Guarantees and Their Significance

The mandatory participation of a defense counsel in cases involving minors provides several crucial procedural guarantees. First, it ensures equality and adversarial balance in proceedings. Since prosecution teams are typically staffed by professional legal experts, minors are generally unable to defend themselves effectively without legal assistance. The counsel compensates for this imbalance.

Second, the defense counsel informs the minor of their procedural rights and obligations, ensuring that statements are given knowingly and voluntarily. This contributes to the lawful collection of evidence.

Third, the counsel mitigates the risk of undue pressure or unlawful influence from investigative authorities. Due to minors' susceptibility to psychological pressure, the defense counsel plays a pivotal protective role.

Procedural actions carried out without the counsel may cast doubt on the reliability and validity of evidence. Consequently, courts may reject such statements as evidence.

Amaliy muammolar va sud amaliyoti tahlili

Amaliyot shuni ko'rsatadiki, ayrim hollarda himoyachining ishtiroki formal xarakter kasb etadi. Davlat hisobidan tayinlangan himoyachilarning ish hajmi yuqoriligi, moddiy rag'batning yetarli emasligi yoki voyaga yetmaganlar bilan ishlash bo'yicha maxsus tayyorgarlikning sustligi institut samaradorligiga salbiy ta'sir ko'rsatadi.

Ba'zi holatlarda tergov organlari tomonidan himoyachini jalb etishda kechikishlarga yo'l qo'yilishi yoki dastlabki protsessual harakatlar himoyachisiz o'tkazilishi kuzatiladi.

Sud amaliyotida bunday protsessual buzilishlar hukmni bekor qilish yoki ishni qo'shimcha tergovga qaytarish uchun asos bo'lib xizmat qilgan holatlar mavjud.

Sudlar tomonidan berilgan huquqiy baholash shuni ko'rsatadiki, voyaga yetmagan shaxsning himoya huquqi buzilgan taqdirda, bu jinoyat-protsessual qonunning jiddiy buzilishi

sifatida e'tirof etiladi. Natijada, himoyachisiz olingan ko'rsatmalar ishonchsiz dalil sifatida baholanadi yoki umuman chiqarib tashlanadi.

Bu esa himoyachining majburiy ishtiroki jinoyat protsessining adolatli va qonuniy yuritilishida hal qiluvchi omil ekanligini tasdiqlaydi.

Practical Challenges and Court Practice Analysis

In practice, the participation of defense counsels sometimes remains formal. Challenges include excessive caseloads for state-appointed counsel, insufficient material incentives, and limited specialized training for working with minors.

Delays in involving counsel or conducting procedural actions without their presence have been observed. Court practice demonstrates that violations of procedural guarantees may lead to the annulment of judgments or referral of cases for additional investigation.

Courts consistently recognize that any infringement of minors' rights represents a significant procedural violation. Statements obtained without the counsel's participation are often deemed unreliable or inadmissible. This underscores the critical role of mandatory counsel participation in ensuring lawful and fair proceedings.

Xulosa va takliflar

Tahlillar shuni ko'rsatadiki, voyaga yetmagan shaxslar ishida himoyachining majburiy ishtiroki nafaqat formal talab, balki real protsessual kafolatdir. Ushbu institutning samarali ishlashi voyaga yetmagan shaxsning huquq va qonuniy manfaatlarini himoya qilish, adolatli sudlovni ta'minlash hamda noqonuniy protsessual harakatlarning oldini olishga xizmat qiladi.

Shu bilan birga, institut samaradorligini oshirish maqsadida quyidagi takliflarni ilgari surish mumkin:

- 1.Voyaga yetmaganlar bilan ishlovchi advokatlar uchun maxsus ixtisoslashuv tizimini joriy etish;
- 2.Davlat hisobidan himoya institutini moddiy va tashkiliy jihatdan kuchaytirish;
- 3.Himoyachisiz o'tkazilgan protsessual harakatlarning oqibatlarini qonunchilikda yanada aniqroq belgilash;
- 4.Voyaga yetmagan shaxslarni so'roq qilishda psixolog ishtirokini majburiy tartibda mustahkamlash.

Xulosa qilib aytganda, voyaga yetmagan shaxslar ishtirok etadigan jinoyat ishlarida himoyachining majburiy ishtiroki jinoyat protsessining insonparvarlik va adolat tamoyillarini ta'minlovchi muhim institut hisoblanadi. Mazkur institutni takomillashtirish orqali voyaga yetmaganlarning huquqlarini yanada samarali himoya qilish imkoniyati yaratiladi.

Conclusion and Recommendations

Analysis shows that the mandatory participation of a defense counsel in cases involving minors is not merely a formal requirement but a real procedural guarantee.

Effective implementation of this institution protects minors' rights, ensures fair trials, and prevents unlawful procedural actions.

Recommendations to enhance the effectiveness of this institution include:

- 1.Specialized training programs for defense counsels handling cases involving minors;
- 2.Strengthening state-supported defense mechanisms materially and organizationally;

3. Clearly regulating in legislation the legal consequences of conducting procedural actions without counsel;

4. Mandating the participation of psychologists during interrogations of minors to ensure their rights and well-being.

In conclusion, mandatory defense participation is a central element in safeguarding minors' rights in criminal proceedings. Improving this institution ensures more effective protection and upholds the principles of justice and human rights.