IRSTI 10.79.01 https://doi.org/10.26577/JAPJ.2021.v100.i4.09

A.B. Sharipova*, A.A. Murat , A.C. Batzhanova

Al-Farabi Kazakh National University, Kazakhstan, Almaty
*e-mail: aselya.sharipova@mail.ru

RECONCILIATION OF PARTIES IN A PRIVATE PROSECUTION CASE

The article is a result of the conducted research, devoted to a participant of criminal proceedings, as a private prosecutor, the procedural order of the main trial in cases of private prosecution is considered. The article reveals some peculiarities of court proceedings, such as reconciliation of an injured person with a guilty person, which allows to eliminate the conflict between them and normalize the situation. Private prosecution has an important procedural value, as it allows to clearly define a specific moment of the beginning of the trial, which in turn provides control over the procedural timing of the proceedings, as well as the possibility of exercising their rights by all interested persons within the framework of their legal status. At this point, the participants in the process acquire a certain procedural status and are endowed with the relevant procedural rights and obligations. In order to terminate such criminal cases in connection with the reconciliation of the victim with the accused, it is not enough just to express the will of the parties, as well as to compensate the guilty person for the damage caused to the victim. At the same time, a criminal case may be terminated only in respect of a person brought to justice for the first time. However, compliance with all the conditions specified in the law does not mean the unconditional termination of the criminal case. Termination of a criminal case in order to reconcile the parties is the right, not the duty of the court.

Key words: private prosecutor, trial, defendant, private prosecution cases, judge, sentence, Institute of reconciliation of the parties.

А.Б. Шарипова*, А.А. Мурат, А.С. Батжанова

Әл-Фараби атындағы Қазақ ұлттық университеті, Қазақстан, Алматы қ.
*e-mail: aselya.sharipova@mail.ru

Жеке айыптау ісі бойынша тараптардың татуласуы

Мақала жеке айыптаушы ретінде қылмыстық сот ісін жүргізуге қатысушыға арналған зерттеу нәтижесі болып табылады. Жеке айыптау істері бойынша басты сот талқылауының процестік тәртібі қаралды. Мақалада сот ісін жүргізудің кейбір ерекшеліктері, зардап шеккен адамның кінәлі адаммен татуласуы, бұл олардың арасындағы жанжалды жоюға және жағдайды қалыпқа келтіруге мүмкіндік береді. Жеке айыптау маңызды процедуралық мәнге ие, өйткені ол іс бойынша сот ісін жүргізудің маңызды сәтін нақты анықтауға мүмкіндік береді, бұл өз кезегінде іс жүргізудің процедуралық мерзімдерін бақылауды, сондай-ақ барлық мүдделі тұлғалардың өз құқықтарын олардың құқықтық мәртебесі аясында жүзеге асыру мүмкіндігін қамтамасыз етеді. Бұл кезде процеске қатысушылар белгілі бір процедуралық мәртебеге ие болады және тиісті процедуралық құқықтар мен міндеттерге ие болады. Жәбірленушінің айыпталушымен татуласуына байланысты мұндай қылмыстық істерді тоқтату үшін тараптардың ерік білдіруі ғана жеткіліксіз, сондай-ақ кінәлі адамның жәбірленушіге келтірілген зиянды өтеуі қажет. Сонымен қатар, қылмыстық істі тек бірінші рет жауапқа тартылған адамға қатысты ғана тоқтатуға болады. Алайда, заңда көрсетілген барлық шарттарды сақтау қылмыстық істің сөзсіз тоқтатылуын білдірмейді. Тараптардың татуласуы үшін қылмыстық істі тоқтату – бұл соттың міндеті емес, құқығы.

Түйін сөздер: жеке айыптаушы, сот талқылауы, сотталушы, жеке айыптау істері, судья, үкім, тараптардың татуласу институты.

А.Б. Шарипова, А.А. Мурат, А.С. Батжанова

Казахский национальный университет имени аль-Фараби, Казахстан, г. Алматы,
*e-mail: aselya.sharipova@mail.ru

Примирение сторон по делу частного обвинения

Статья представляет собой результат исследования, посвященного участнику уголовного судопроизводства, как частный обвинитель. Рассмотрен процессуальный порядок главного судебного разбирательства по делам частного обвинения. В статье раскрыты некоторые

особенности судопроизводства, как примирение пострадавшего лица с виновным лицом, которое позволяет ликвидировать возникший между ними конфликт и нормализовать обстановку. Частное обвинение имеет важное процессуальное значение, поскольку позволяет четко определить конкретный момент начала судебного производство по делу, что, в свою очередь, обеспечивает контроль над процессуальными сроками разбирательства, а также возможность осуществления своих прав всеми заинтересованными лицами в рамках их правового статуса. В этот момент участники процесса приобретают определенный процессуальный статус и наделяются соответствующими процессуальными правами и обязанностями. Для прекращения подобных уголовных дел в связи с примирением потерпевшего с обвиняемым недостаточно просто выразить волю сторон, а также возместить виновному лицу ущерб, причиненный потерпевшему. В то же время уголовное дело может быть прекращено только в отношении лица, впервые привлеченного к ответственности. Однако соблюдение всех условий, указанных в законе, не означает безоговорочного прекращения уголовного дела. Прекращение уголовного дела в целях примирения сторон является правом, а не обязанностью суда.

Ключевые слова: частный обвинитель, судебное разбирательство, подсудимый, дела частного обвинения, судья, приговор, институт примирения сторон.

Introduction

The Constitution of the Republic of Kazakhstan, the basic law of our state, stipulates that «Everyone has the right to judicial protection of his/her rights and freedoms» (Part 2, Article 13 of the Constitution of the Republic of Kazakhstan) (https://online.zakon.kz/document/?doc_id=1005029). This provision means that any person has the right to apply to judicial bodies for the protection of his violated rights and interests. This provision gives the right to assert that all people are equal before the law and therefore they have equal rights to life, liberty, labor, education, and inviolability of private property and private life.

Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms stipulates that «In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law» (http://hrlibrary.umn.edu/russian/euro/Rz17euroco.html).

Trial before a judge is carried out with observance of all obligatory conditions and principles of legal proceedings established by the CPC of the RK: immediacy, oral hearing; publicity, continuity of the trial; adversarial nature, equality of parties with obligatory participation of a defendant, his defense counsel and prosecutor, inadmissibility of reversal of charges; examination of a case by one and the same judge.

Thus, the directness of court proceedings implies that the judge is obliged to examine all the evidence presented in the case personally, i.e. to examine the material evidence, to question the parties of the process, witnesses; to get acquainted with expert opinions, to read the reports, etc. In accordance with the CPC of the RK the court verdict may be based only on those evidences which were examined in the court session.

Materials and methods

An exception to the principle of immediacy of court proceedings is only when the defendant agrees with the accusation against him and petitions to consider the case in a special order, which will be mentioned below.

Orality of court proceedings is one of the manifestations of adversarial proceedings, as it allows all participants of the process and the judge in equal conditions to simultaneously perceive everything that is happening in the courtroom, to listen to the testimony of witnesses, expert opinions, motions of the parties, etc.

Publicity means that the trial is conducted in open mode, i.e. with possible presence of all interested citizens. The process may also be covered in the media, but photo and video filming in the courtroom is possible only with the permission of the court and the consent of the parties.

Transparency is one of the prerequisites for a fair, legal and substantiated verdict in a case, since the judge's actions are under public scrutiny.

There are exceptions to this rule. Thus, in some cases, the judges to such cases include:

- the trial of a criminal case in court may result in the disclosure of state secrets;
- the hearing of a criminal case on criminal offenses of minors;
- the hearing of the case may lead to the disclosure of information about the intimate aspects of the lives of the participants in criminal proceedings or information that is humiliating and degrading to their honor and dignity;

- the interests of ensuring the safety of the victim, witness or other persons involved in the case, as well as members of their families or close relatives, require this.

Discussion and results

The main and basic stage of criminal proceedings on cases of private prosecution is their trial. Such exceptional importance of this stage of criminal proceedings was possible due to the fact that in modern conditions the court occupies a central place in the system of protection of rights and freedoms of a man and citizen, because according to part 1 of article 11 of the CPC of the RK «Justice in criminal cases in the Republic of Kazakhstan shall be administered only by court», and according to part 2 of article 11 of CPC of the RK «Nobody shall be found guilty of criminal offenses or be subjected to criminal punishment except upon a court verdict and in accordance with the law». In addition, at present, the court, in fact, is the only state body, which carries out the procedural activity in cases of private prosecution.

Thus, a court sentence pronounced on behalf of the state requires judges to make only lawful and well-founded decisions (Article 387 of the CPC of the RK) with imposition of fair but humane punishment, being the most important act of justice which has a great educational and social significance. At the same time the verdict should be based on the reliable evidence examined directly in the court session as the verdict based on the suppositions is not allowed.

Prior to the adoption of the new law of criminal procedure, if there was sufficient evidence, the judge, by a ruling, instituted private prosecution and tried the defendant. The reform of the criminal justice system has introduced significant changes, related not only to the expansion of the list of cases that can be tried privately, but also to the whole procedural order of the proceedings.

In order to appoint a hearing, if there are any reasons, the judge within seven days from the date of receipt of the complaint in court shall summon the person against whom the complaint was filed, familiarize him with the case file, give a copy of the complaint, explain the rights of the defendant in the court proceedings under Article 64 of the CPC of the RK. The judge also finds out who, in the opinion of the person, should be summoned to the court as witnesses for the defense, about which a signature is taken. If the person against whom the complaint was filed fails to appear in court, a copy of the complaint with an explanation of the rights of the defendant, as well as the possibility of reconciliation is sent by mail.

Consideration of cases of private prosecution is carried out according to the general rules of court proceedings, but with some peculiarities, the essence of which is as follows:

1) The trial begins with a statement of a complaint by a private prosecutor or his representative of the complaint. In case of simultaneous consideration of a counter-appeal in a private prosecution case, its arguments shall be presented in the same order after the arguments of the main appeal. The prosecutor presents evidence, has the right to take part in the examination of evidence, and has the right to submit his opinion to the court on the merits of the charges, the application of criminal law to the defendant, the imposition of punishment upon him, and other issues arising during the court proceedings. The prosecutor at the trial may change the charge, if this does not worsen the situation of the defendant and does not violate his right to defense, and also has the right to drop the charge (Part 5 of Article 411 of the CPC of the RK);

2) Failure of a private prosecutor or his representative to appear at a court session without a valid reason if the prosecutor did not personally participate in the examination of the case leads to the termination of the case, but at the request of the defendant the case may be considered in their absence (part 6 of article 411 of the CPC of the RK).

Still, as T.V. Trubnikova rightly notes: «the court cannot always establish the reasons for the victim's failure to appear in the very court session to which he did not appear, and the law does not provide for an algorithm of court actions that would allow it to postpone the resolution of the issue of termination of the criminal case until such reasons are established» (Trubnikova 2015:59).

The institute of private prosecution has undergone changes related to the release of the court from the function of criminal prosecution.

One of the peculiarities of court proceedings in cases of private prosecution is the possibility of reconciliation of the injured person with the guilty person, which allows eliminating the conflict arisen between them and normalizing the situation, and in addition contributes to the prevention of offenses and crimes. The judge, having received a complaint from the victim, takes measures to summon the parties for an interview, during which he is obliged to explain their right to conciliation. In case of their application for reconciliation or agreement to achieve reconciliation through mediation, the proceedings by order of the judge shall be terminated (part 6 of

Article 409 of the CPC of the RK). If reconciliation has not taken place, the case of private prosecution is assigned for consideration in a court session according to the rules of Article 322 of the CPC of the RK. From the moment the case is assigned for consideration in the court session, the defendant is referred to as a defendant. In the preparatory part of the court session the judge is obliged according to the requirements of part 4 of article 411 of the CPC of the RK to explain again to the private prosecutor and the defendant their right for reconciliation about which the note is made in the protocol of the court session. Reconciliation of the parties is possible before the court leaves for the deliberation room.

The judge should explain to the victims that reconciliation excludes the possibility of criminal prosecution for the same actions of the person against whom the complaint was filed.

O.H. Gaeva believes that the institute of reconciliation was used in order to maintain state power. The state created conditions under which two options of case resolution were provided: either the victim's revenge was recognized as legitimate and repeated revenge by the offender was excluded, or the state protection of the conciliation agreement between the victim and the offender was established. (Gaeva 2008:30).

Currently, according to the current criminal procedural legislation, the institute of reconciliation of parties has a dual nature, which depends on the form of criminal prosecution. Termination of a criminal case of private prosecution for reconciliation of parties has some distinctive features, therefore, in our opinion, it will be correct to consider issues of application of reconciliation of parties in more detail and separately (Sabyrbayev2001:35).

The institution of private prosecution combines two components:

- Procedural (a special procedure for proceedings in a criminal case);
- Criminal (list of offenses).

The main features of the institute of private prosecution are:

- The victim has the opportunity to independently apply to the judge with a statement;
- There are no pre-trial stages of the process;
- The victim has rights of a dispositive nature;
- A private prosecutor may participate in the proceedings, who has the authority to carry out and maintain charges specifically in the categories of criminal cases of private prosecution;
- The victim has the right to declare reconciliation with the accused, and the case is terminated (Ukhova 2004:11).

One of the peculiarities of proceedings in private prosecution cases is the possibility of reconciliation of the victim with the person against whom a complaint has been filed, or refusal to maintain the charge, which is a basis for termination of criminal prosecution. Unfortunately, domestic legislation does not define the significance of the institute of reconciliation of the parties. In practice, often it is reduced to summoning the parties or one victim to the judge and holding with them, or one of them, a conversation, inducement to reconciliation and elimination of the conflict.

Private prosecution is specific in that the private prosecutor, i.e. the victim, can independently express his will to prosecute the person who committed a crime against him and bring him to criminal responsibility (Koryakin 2016:8).

J.O. Motovilovker attaches very serious importance to the rule about taking measures to reconciliation in cases of private prosecution and raises the issue of procedural consequences of failure to take measures to reconcile the victim with the person against whom a complaint is filed. The author believes that the expression in the law of criminal procedure of the provision «the judge shall take measures to reconcile the victim with the person against whom a complaint has been filed» means: «the judge is obliged to take measures». Otherwise he does not fulfill the legal obligation imposed on him, he violates the law, the meaning of which is not so much to save money and time, as to prevent the expansion (aggravation) of mutual hostility between the victim and the offender. The failure to take measures to reconcile the victim with the person against whom the complaint was filed was defined by the author as a significant violation of the law. The author explained this by saying that «... failure to take measures to reconcile is a significant violation of the rights and interests of the accused, since it is possible that as a result of reconciliation (if measures had been taken) he would have avoided a conviction against himself at all» (Motovilovker1976:62).

Some scholars deny the need for judges to take active measures to reconcile the parties, believing that judges should not repeatedly call the parties to talk, persuade the parties to reconcile, and write a statement to the court. In their view, it is sufficient that the judges explain to the parties their right to reconciliation. If after performing the above actions reconciliation has not been achieved, the court should immediately take the complaints to its proceedings or refuse to do so, but on other grounds (Bukayev 2017:184).

The position of proceduralists who oppose judges taking active measures to reconcile the parties should be recognized as sufficiently reasoned. Moreover, the legislator enshrines the procedure according to which part 6 of article 409 of the CPC of the RK before the beginning of the trial, the judge is obliged only to explain to the parties the possibility of achieving reconciliation, but they do not contain an indication that the judge takes measures to achieve reconciliation. Such a provision corresponds to the concept of judicial and legal reform, which laid down the principles of separation of powers, release of judges from performing non-relevant functions. However, part 6 of article 409 of the CPC of the RK, when considering a case of private prosecution in court, before the beginning of the judicial investigation, obligates the presiding judge to take measures to reconcile the parties, which is confirmed by the unanimous opinion of the judges on this issue. One thing is not clear – what measures, and how the judge should take and whether it will not affect the authority of the judge, who is the bearer of judicial power? In our opinion, this should be regulated at the legislative level.

At appointment of judicial session in cases of private prosecution it is necessary to observe the requirements of art. 409 of CPC of the RK, establishing the order and terms of delivery of a copy of the victim's statement to the defendant, thereby ensuring observance of his rights and interests protected by the law.

If a counterclaim of the person against whom the complaint was filed is submitted to the court along with the victim's complaint, the judge has the right to combine them in one proceeding and consider the counterclaim in the same manner as the victim's complaint only if the victim's complaint and the counterclaim relate to the same persons, one wrongful act or although different acts, but interrelated with each other. Since in combining a counterclaim in the same proceeding with a victim complaint, both persons appear in the same proceeding not only as victims but also as defendants, the court should ensure that all the procedural rights granted to each of them as a victim and as a defendant are observed. If a counter statement is made during the trial, the judge adjourns the trial for a period not exceeding three days in order to guarantee the person's right to a defense if the decision to consider it jointly is favorable. The questioning of these persons about the circumstances set forth by them in their complaints shall follow the rules of interrogation of the victim, and about the circumstances set forth in the counter-complaints shall follow the rules of interrogation of the defendant. The private prosecutor or his representative shall support the prosecution at the trial.

In addition, when considering cases of private prosecution it is necessary to pay attention to compliance with procedural rules, providing the victim the right to support the prosecution, which is not limited to participation in the judicial debate, but is carried out throughout the trial by submitting motions, evidence, etc. When counter-accusations are consolidated in one proceeding, the court determines the order of appearance of the participants in the judicial debate.

Taking into account that at non-appearance of the victim at a court session without reasonable cause (illness which deprives the victim of an opportunity to appear; death of close relatives; natural disasters; non-receipt of the summons (notice); other circumstances preventing the victim to appear at the appointed time) the case of private prosecution according to part 2 of article 157 of the CPC of the RK and part 6 of article 411 of the CPC of the RK can be stopped. The judge should in each case find out the reason for this failure to appear. If it is established that the victim did not appear without a valid reason, and the defendant petitions to consider the case, the judge shall be obliged to conduct a trial and make a decision on the merits.

The decision of the court on the case of private prosecution may be appealed by the parties on general grounds, according to the procedure and within the time limits stipulated by Chapters 47 and 48 of the CCP of the RK.

When considering cases of private prosecution, it is necessary to identify the causes and conditions that contributed to their commission and to take measures to eliminate them by issuing private rulings to the organizations and institutions involved.

An important argument against the existence of this institution is its ability to create the conditions for the commission of new crimes by the participants in private prosecution cases, since as a result of consideration of such cases with a verdict, the hostility between the parties is exacerbated. And the type of verdict (accusatory or acquittal), as a rule, has almost no effect on the nature of further relations between the feuding parties (Golubov 2016:55).

Proper regulation of the procedural activity of the parties in the course of proceedings in criminal cases and, above all, in cases of private prosecution ensures compliance with the constitutional rights of citizens, the imposition of effective and fair punishment, the education of citizens to respect the law and norms of behavior in society, helps

to eliminate conflicts arising on personal grounds and prevents in some cases related serious crimes against life and health.

Summarizing the peculiarities of private prosecutions, it should be noted that an exhaustive list of criminal cases to be prosecuted privately is provided by law (Article 32 of the CPC of the RK). These cases are:

1) Criminal offences against the person careless infliction of harm to health (part 1 of Article 114 of the Criminal Code of the RK), coercion to sexual intercourse, sodomy, lesbianism or other acts of a sexual nature (Article 123 of the Criminal Code of the RK), insult (Article 131 of the Criminal Code of the RK);

2) Criminal offenses against constitutional and other rights and freedoms of an individual and citizen (violation of privacy and legislation on personal data and their protection (Part 1, 2 Article 147 of the Criminal Code), violation of the inviolability of the home (Part 1 Article 149 of the Criminal Code), obstructing the exercise of electoral rights or the work of election commissions (Part 1 Article 150 of the Criminal Code)

3) Criminal offenses against property (against property the violation of copyright and (or) related rights (Part 1 of Article 198 of the Criminal Code), violation of the rights to inventions, utility models, industrial designs, selection achievements or topologies of integrated circuits (Part 1 of Article 199);

4) Medical criminal offenses (disclosure of medical secrets (Article 321 of the Criminal Code) (https://online.zakon.kz/document/?doc_id=31575252).

By establishing a special procedure for proceedings on cases of these criminal offenses, the legislator proceeds primarily from the fact that such acts do not represent a significant public danger, and therefore the victim has the right to decide whether to seek protection of their rights and legitimate interests in court or to resolve them without the intervention of state authorities.

Conclusion

It should be noted that the provisions of the CPC of the RK governing the institute of private prosecution need certain improvement; they contain a number of editorial errors, suffer from synonymy, contradictory and vague provisions, etc. Their essence is as follows:

1) By depriving the court of the power to initiate criminal cases, the legislator provides that cases of private prosecution are initiated by the person (i.e. the victim) by filing a complaint to the court. It follows that the fact of registration of a victim's complaint in court is the moment of initiation of a criminal case. This raises the question of who should decide to terminate a criminal case if the court refuses to accept the complaint to its proceedings? After all, if the case is initiated, but there are grounds for termination, then, consequently, the decision to terminate the case must be made. However, the law says nothing about this. Therefore, in our opinion, the court, if there are certain statutory grounds, should not refuse to accept the complaint to its proceedings, but to terminate the criminal case, since it has been initiated;

2) The legislator gives different formulations of the concept of «private prosecutor». Part 1 of Article 72 of the CPC of the RK provides that a person becomes a private prosecutor from the moment of filing a complaint to the court on a private prosecution case and supporting the prosecution in court. However, part 6 of Article 408 of the CPC of the RK defines that a person becomes a private prosecutor from the moment the court accepts the complaint for its consideration. Analysis of norms regulating the institute of private prosecution allows to draw a conclusion that a person acquires the status of a private prosecutor in the case stipulated by part 6 of article 408 of the CPC of the RK, since legal grounds for recognizing a person as such appear only from the moment the judge accepts the case for prosecution. Exactly at the moment of accepting a case for proceeding a person really gets the rights, i.e. rights of a private prosecutor, stipulated by art. 72, part 4, 6 article 411 of the CPC of the RK, which must be explained to a judge, which is confirmed by a protocol that is signed by a judge and a complainant;

3) Along with the notion of a «private prosecutor» the legislator also uses the notion of a «victim or any other person who has filed a complaint regarding a crime that has been committed...» (part 1 of article 410 of the CPC of the RK). Who is this «other person» – a relative of a private prosecutor, his representative, a friend or just a passerby who happened to learn about a crime? The solution to this question apparently depends on the imagination of the judge, as the legislator does not give any clarification on this point;

4) The norms of the CPC, regulating the institute of private prosecution, do not provide requirements for the content of the judge's ruling on the acceptance of the complaint to his proceedings. In particular, the law does not directly address the question of whether the judge must indicate in

the ruling the wording of the charge, article of the criminal code, on the basis of which the person is prosecuted. Part 2 of Article 408 of the CPC of the RK does not oblige a private prosecutor to specify in his complaint the article of the criminal code under which the act falls. However, knowing the article of the Criminal Code under which the accused is charged is the most important guarantee of his right to a defense. Point 2 of part 2 of Article 322 of the CCP provides as one of the requirements to the ruling on the appointment of the trial precise indication of the criminal law which violation is imputed to the defendant. However, paragraphs 3 and 4 of Article 409 of the CCP provide that only copies of the complaint and the ruling to accept the complaint are handed over to the defendant, but not copies of the judge's ruling to schedule the trial. Thus, prior to the start of the trial, the defendant is in ignorance of the legal qualification of the deed;

5) The legislator, referring criminal offenses under Article 123 (coercion to sexual intercourse, sodomy, lesbianism or other acts of a sexual nature) of the Criminal Code, to cases of private security, significantly complicates access to justice for victims in such cases. This is due to the fact that under part 2 of Article 408 of the CCP of the RK, victims must not only provide information about the person prosecuted, but also provide evidence, a list of witnesses whose call is necessary, etc. Given the nature of these criminal offenses, moral issues, and the complexity of the proof, they should have been classified as cases of private-public prosecution.

In conclusion, we would like to recall the unquestionable truth that an appropriate clear, uninterrupted normative regulation of criminal proceedings in general, and proceedings on private prosecution cases in particular, is the most important guarantee of compliance with the rule of law in criminal proceedings. In the legal literature it is rightly pointed out that insufficient regulation of social relations, the vagueness of the prescriptions of laws, their contradictory nature can lead and lead to negative consequences. If the law does not fully reflect the essence of arising relations, or leaves out of regulation important issues arising in the proceedings in criminal cases, it generates legal nihilism. In the habit of acting in deviation from the requirements of the law, participants in criminal proceedings allow its violation even in cases where certain relations and actions are fully regulated by the rules of criminal procedural legislation.

Литература

Конституция Республики Казахстан (принята на республиканском референдуме 30 августа 1995 года) (с изменениями и дополнениями по состоянию на 23.03.2019 г. // https://online.zakon.kz/document/?doc_id=1005029

Конвенция о защите прав человека и основных свобод (Заключена в г. Риме 04.11.1950) (с изм. от 13.05.2004) // http://hrlibrary.umn.edu/russian/euro/Rz17euroco.html

Уголовно-процессуальный кодекс Республики Казахстан от 4 июля 2014 года № 231-V (с изменениями и дополнениями по состоянию на 06.10.2020г.) // https://online.zakon.kz/document/?doc_id=31575852#pos=3319;-54

Трубникова Т.В. Частное обвинение или отказ в правосудии? // Уголовная юстиция. – №2 (6). 2015. – С. 59-62.

Гаева О.Х., Хайрусов Д.С. Историко-правовой аспект развития института примирения. – М.: Издательская группа «Юрист» // История государства и права. – 2008. – № 6. – С. 30.

Сабырбаев М.К. Обстоятельства, препятствующие окончанию производства по делу как основания приостановления производства по уголовному делу // Правовая инициатива. – 2001. – № 2 (5). – С. 34-38.

Ухова Е.В. Институт частного обвинения в уголовном судопроизводстве: Автореф. Диссер. на соискание ученой степени кандидата юридических наук. – Владимир: Издательство Владимирского юридического института Министерства юстиции РФ, 2004. – 25 с.

Корякин А.Л. Институт частного обвинения в уголовном судопроизводстве: Автореф. диссертации на соискание ученой степени кандидата юридических наук. – Омск: Издательство Омской академии Министерства внутренних дел РФ, 2016. – 23 с.

Мотовиловкер Я.О. Основные уголовно-процессуальные функции. – Ярославль, 1976. – 94 с.

Букаев Н.М., Корякин А.Л. Институт частного обвинения в уголовном судопроизводстве: Монография. – М.: Издательство «Юрлитинформ», 2017. – 184 с.

Голубов И.И. «Частное обвинение как условие совершения преступлений против правосудия» // ИГ «Юрист». – № 2, 2016. – С. 54-55.

Уголовный кодекс Республики Казахстан от 3 июля 2014 года № 226-V (с изменениями и дополнениями по состоянию на 06.10.2020 г.) // https://online.zakon.kz/document/?doc_id=31575252

References

Konstitucija Respubliki Kazahstan (prinjata na respublikanskom referendume 30 avgusta 1995 goda) (s izmenenijami i dopolnenijami po sostojaniju na23.03.2019g. [Constitution of the Republic of Kazakhstan (adopted by national referendum on August 30, 1995) (with amendments and additions as of 23.03.2019)] https://online.zakon.kz/document/?doc_id=1005029

Konvencija o zashhite prav cheloveka i osnovnyh svobod (Zakljuchena v g. Rime 04.11.1950) (s izm. ot 13.05.2004) [Convention for the Protection of Human Rights and Fundamental Freedoms (Concluded in Rome on 04.11.1950) (sizm. from 13.05.2004)] http://hrlibrary.umn.edu/russian/euro/Rz17euroco.html

Ugolovno-processual'nyj kodeks Respubliki Kazahstan ot 4 ijulja 2014 goda № 231-V (s izmenenijami i dopolnenijami po sostojaniju na 06.10.2020g.) [Criminal Procedure Code of the Republic of Kazakhstan dated July 4, 2014 № 231-V (with amendments and additions as of 06.10.2020)] https://online.zakon.kz/document/?doc_id=31575852#pos=3319;-54

Trubnikova T.V. Chastnoe obvinenie ili otkaz v pravosudii? // Ugolovnaja justicija. [Private accusation or denial of justice? // Criminal Justice.] №2 (6). 2015. – S.59-62.

Gaeva O.H., Hajrusov D.S. Istoriko-pravovoj aspekt razvitija instituta primirenija. – M.: Izdatel'skaja gruppa «Jurist» [Historical and legal aspect of the development of the institute of reconciliation. – M.: Publishing Group «Jurist»]/ Istorija gosudarstva i prava [History of the state and law] – 2008. – № 6. – S. 30.

Sabyrbaev M.K. Obstojatel'stva, prepjatstvujushhie okonchaniju proizvodstva po delu kak osnovanija priostanovlenija proizvodstva po ugolovnomu delu [The circumstances preventing the termination of a case as a basis for suspension of proceedings in a criminal case]// Pravovaja iniciativa [Legal Initiative]. – 2001. – № 2 (5). – S.34-38.

Uhova E.V. (2004) Institut chastnogo obvinenija v ugolovnom sudoproizvodstve: Avtoref. Disser. na soiskanie uchenoj stepeni kandidata juridicheskih nauk. – Vladimir: Izdatel'stvo Vladimirskogo juridicheskogo instituta Ministerstva justicii RF [Institute of private prosecution in criminal proceedings: Dissertation for the degree of candidate of legal sciences. – Vladimir: Publishing house of Vladimir Law Institute of the Ministry of Justice of the Russian Federation] – 25 s.

Korjakin A.L. (2016) Institut chastnogo obvinenija v ugolovnom sudoproizvodstve: Avtoref. dissertacii na soiskanie uchenoj stepeni kandidata juridicheskih nauk. – Omsk: Izdatel'stvo Omskoj akademii Ministerstva vnutrennih del RF [Institute of private prosecution in criminal proceedings: Ph. – Omsk: Publishing house of the Omsk Academy of the Ministry of Internal Affairs of the Russian Federation] – 23 s.

Motovilovker Ja.O. (1976) Osnovnye ugolovno-processual'nye funkcii [Main criminal-procedural functions]. – Jaroslavl', 1976. – 94 s.

Bukaev N.M., Korjakin A.L. (2017) Institut chastnogo obvinenija v ugolovnom sudoproizvodstve: Monografija. [Institute of private prosecution in criminal proceedings: Monograph.] – M.: Izdatel'stvo «Jurlitinform». – 184 s.

Golubov I.I. Chastnoe obvinenie kak uslovie sovershenija prestuplenij protiv pravosudija [Private accusation as a condition for crimes against justice] // IG «Jurist». – № 2, 2016. – S.54-55.

Ugolovnyj kodeks Respubliki Kazahstan ot 3 ijulja 2014 goda № 226-V (s izmenenijami i dopolnenijami po sostojaniju na 06.10.2020 g.) [Criminal Code of the Republic of Kazakhstan of July 3, 2014 No. 226-V (with amendments and additions as of 06.10.2020)] https://online.zakon.kz/document/?doc_id=31575252