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Essence and significance of jurisdiction in criminal appeals process

Annotation. The article deals with the essence and significance of the appellate court in criminal proceedings. Actualizes the need for further improvement of legislation defining the legal regime of the proceedings on the basis of competitiveness and equality of parties in criminal proceedings.

Keywords: criminal proceedings, the prosecution function, protection function, administration of justice, the appeal, the appellate court Annotation. The article deals with the essence and significance of the appellate court in criminal proceedings. Actualizes the need for further improvement of legislation defining the legal regime of the proceedings on the basis of competitiveness and equality of parties in criminal proceedings.

In article 13 of the Constitution of the Republic of Kazakhstan it is written: "Everyone has the right to recognition before the law and protect his rights and freedoms by all means not contradicting the law including self-defense. Everyone has the right to judicial protection of their rights and freedoms. Everyone has the right to qualified legal assistance "[1].

In his Address to the Nation, December 14, 2012 "Strategy" Kazakhstan-2050 "new political course of established state" President of Kazakhstan Nursultan Nazarbayev said: "The most important issue of legal policy is to implement citizens' right to judicial protection, which is guaranteed by the Constitution. To do this, you must simplify the process of administration of justice, to save him from unnecessary bureaucratic procedures. With the active introduction of new information technologies make it easy. At the same time in order to unload ships should proceed with the development of institutions of extra-judicial settlement of disputes. It is necessary to provide for such a mechanism, in which the resolution of disputes over minor issues will be conducted out of court. The authority of the judiciary is undermined because of unexecuted

judgments. In this regard should be taken to rectify this situation radical measures "[2].

In paragraph 7 of Article 3 of the Criminal Procedure Code of the Republic of Kazakhstan shows the position of judge appellate court thus: "the appellate court - the court hearing the case on the merits on appeals (protests) on not entered into force verdicts, court of first instance." [3].

Code of Criminal Procedure explains the appeals process as a reconsideration not come into force court decisions and sentences. The entry into force of the sentence means the administration of the court decision for execution. In other words, from this point on will of the state court is compulsory for all citizens, legal entities, state bodies on the territory of the Republic of Kazakhstan in connection with the legal force equal to the statute.

In order to identify and eliminate errors RK Criminal Procedure Code the court determines the right of every authorized subject to appeal and filing a claim for a period of fifteen days. According to this, the institution of the presentation of appeals and complaints against judicial decisions and judgments is an efficient way to verify judgments, provides the legitimacy and fairness of the judiciary.

Investigative and judicial practice shows that the value of the appeal decisions and judgments as a procedural means to safeguard the rule of law in criminal proceedings is not limited to the specific cases in which they are handed down.

Persons who carried out the inquiry, investigators, judges who participated in the investigation of a criminal case in which appeal the decision rendered or the sentence, take into account the provisions contained therein in their subsequent practice. In addition, the statutes and judgments of the court of second instance are studied by many judges, prosecutors, investigators, and not only those who directly investigated or solved a particular case on its merits. In view of this appellate decisions and sentences are of great importance for the prevention of violations of the law in the investigation and resolution of criminal cases.

Appeal decisions and sentences are to the judicial and investigative practice of briefing the value that strengthens the role of the appeal proceedings as a guarantee of legality in criminal proceedings. At the same time it increases the requirements to appeal decisions and sentences, which must be lawful, reasonable, motivated.

The essence of the appeals process - to verify the legality and the grounds and justice is not a final judgment, other solutions through the highest court of the new trial. As stated in the Federal Act on the appeals process, in order to implement the appellate review is to strengthen legal guarantees of private entities and obstacles to the entry into force of an unlawful decision. [4, 93-94 sec.]

Above stated that the actions of participants in the process for making complaints and claims to the court decisions are proceedings generating processes at appropriate stages. There are process - checking the decisions taken in the previous instance.

Instructive value appellate rulings and sentences does not mean that their value

like a judicial precedent. In Kazakhstan, the judge in the exercise of justice are independent and subject only to the law. An analysis of the law and the evidence contained in these instructions, orders and judgments of higher courts contribute to the deepening of theoretical knowledge of investigators and judges, a correct understanding of the law, and help them to acquire practical skills in the application of the rule of law and actively promote the formation of sense of justice of judges, prosecutors, investigators. It is on this basis and in this way the courts of second instance contribute to the proper resolution of criminal cases as those who do not come to the stage of the appeal proceedings.

In general, one of the most significant changes to the appeals process - the appeal court in the case of finding errors in the decision of the court of first instance, makes the right decision by not returning the case. This means that the appeal process is an effective way to test the judgments and make fair decisions and to protect the rights and freedoms of citizens.

In order to fulfill the constitutional position of the appeal of freedom lawsuits, judgments on the basis of equality law gives equal right to lodge complaints and claims. The parties were able to express their opinions and objections regarding the complaints and claims presented, the documents complement First Instance additional materials not previously considered in court. If the deadline for the submission of complaints and claims for the right reasons lost, guaranteed his recovery.

Thus, the revision of court decisions and verdicts have not come into legal force - special stage of the criminal process, whose main objective is to protect people and society from miscarriages of justice, to ensure compliance with the law by all the participants of criminal legal relations, to ensure a fair, humane and democratic administration of justice [5].

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