ANALYSIS OF THE ROLE OF THE SUPREME COURT IN CRIMINAL CASES: AS A MECHANISM FOR ENSURING UNIFORM JUDICIAL PRACTICE

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This article analyzes the role of precedent-based decisions of the Supreme Court of the Republic of Azerbaijan in criminal cases in ensuring the uniformity of judicial practice. The article emphasizes the importance of case law in terms of the principles of legal certainty and equality, and examines the compatibility of national practice with relevant decisions of the European Court of Human Rights. The article identifies the current legal and institutional problems in the application of precedents and puts forward practical proposals for their elimination. The author, by comparative analysis of both the internal decisions of the national judicial system and the requirements of international law, justifies the fact that precedent law is an important mechanism in the formation of a unified judicial practice.

Keywords: Supreme Court, case law, uniform judicial practice, legal certainty, criminal procedure, judicial practice

According to Part 5 of Article 63 of the Constitution of the Republic of Azerbaijan, no one may be considered guilty of committing a crime without a legally binding court verdict [2]. The stability and uniformity of court decisions in criminal proceedings are important conditions for ensuring the principles of the rule of law and a fair trial. Ensuring a unified approach in judicial practice is important both in terms of implementing the principle of legal certainty and protecting human rights and freedoms. In this regard, the analysis of the precedential nature of the decisions of the Supreme Court of the Republic of Azerbaijan on criminal cases and the assessment of their impact on the uniformity of judicial practice are of particular importance.

Recent decisions of the Supreme Court, especially the activities of the Criminal Chamber and the legal interpretations of the Plenum, have served as legal guidance for lower court. However, in practice, there are still cases of violation of uniformity, with different courts reaching different legal conclusions in cases of the same nature. This situation not only weakens legal predictability, but also reduces citizens' trust in the judicial system [4, p. 89].

The main purpose of the article is to analyze the legal force of precedent decisions adopted by the Supreme Court of the Republic of Azerbaijan in criminal cases and their impact on the formation of a unified judicial practice in lower courts. At the same time, the article will determine the main problems encountered in ensuring the uniformity of judicial practice and put forward specific proposals by benefiting from international experience.

The research methods will include comparative legal analysis, content analysis of court decisions, and analysis of normative legal acts. The research materials will consist of precedent-based decisions adopted by the Supreme Court of the Republic of Azerbaijan in recent years, local legislation, and relevant decisions of the European Court of Human Rights.

The concept of case law refers to the use of court decisions in legal systems as a legal source to determine solutions to similar issues in the future. The application of case law is one of the main elements of legal certainty and serves

to predict legal regulation. The application of case law not only ensures legal stability, but also serves to eliminate the different application of the law by the courts [12, p. 15; 10, p. 46].

Although case law is not formally recognized in the Azerbaijani legal system, decisions of the Plenum of the Supreme Court and certain decisions of the Criminal Collegium are de facto precedents and have a significant impact on judicial practice. In this sense, the precedents of the Supreme Court are an effective tool aimed at ensuring uniformity of legal interpretations [1, p. 30].

In European legal systems, especially in common law countries, case law is explicitly recognized and court decisions have the same legal force as normative legal acts. In continental legal systems, case law is considered a legal source after statutes. Nevertheless, the case law of the European Court of Human Rights plays an important role in ensuring legal certainty in all Council of Europe member states and serves as a legal guide for national courts. Case law in the Republic of Azerbaijan is also formed through the precedents of the European Court of Human Rights.

The legal positions of the Supreme Court are of particular importance for ensuring uniform judicial practice in the Republic of Azerbaijan. The decisions of the Supreme Court play an important role in shaping the legal approaches of lower courts and finding uniform legal solutions to the same legal problems. Although the Azerbaijani legal system is based on the continental model, reference to precedent is widespread in actual application [12, p. 22]. However, there are certain difficulties in the application of the legal positions of the Supreme Court and the need to develop experience in this area is felt.

Although the precedent function of the Supreme Court in the legal system of the Republic of Azerbaijan does not have a formal legal status, it actually plays an important role in the formation of judicial practice [8]. In particular, the decisions, legal explanations and recommendations adopted by the Criminal Collegium and the Plenum guide the legal approach of the courts. The legal force of these decisions is also recognized by the Constitutional Court of the Republic of Azerbaijan.

The scope of influence of the precedent-setting decisions adopted by the Supreme Court is quite wide. As such, these decisions have become an important legal reference in the daily activities of the courts. The decisions of the Supreme Court in criminal cases at various times provide legal direction to lower courts and play an important role in resolving legal issues before the lower courts. The precedent-setting decisions of the Criminal Chamber, in addition to assisting in the correct application of legal norms, perform an important function in eliminating contradictions in judicial practice and ensuring legal certainty. The decisions of the Supreme Court Plenum, in addition to being legally explanatory, are an important legal guide for lower courts [1, p. 31].

Recent landmark decisions of the Supreme Court have played a significant role in unifying approaches to specific categories of crime. Such decisions have reduced legal uncertainties in judicial practice and increased the actual impact of case law. The regular and systematic application of these precedent-setting decisions plays an important role in ensuring legal stability and serves to further strengthen the principle of uniformity of judicial practice in the Azerbaijani legal system. By examining specific examples of precedents in criminal cases, one can better understand the legal significance of these decisions and their impact on common judicial practice. For example, Resolution No. 15 of the Plenum of the Supreme Court of the Republic of Azerbaijan "On the Court Judgment" dated December 24, 2021 [9]. This decision is dedicated to ensuring a unified approach to the writing and delivery of court sentences. The Plenum emphasizes the importance of ensuring legality, reasonableness and fairness when delivering sentences in criminal casesThe decision states that a court verdict can only be considered a fair judicial act if it is the result of a fair trial, in full compliance with criminal procedural norms, and the court's conclusions are clearly and convincingly substantiated.

The Plenum decision provides detailed explanations on a number of issues, from the language and content requirements of the judgment to the evaluation of evidence and the drafting of the concluding part of the judgment.

Legal significance: The aforementioned decision is the first comprehensive explanatory document on the structure and justification of a court verdict in criminal proceedings. Referring to the principle of presumption of innocence in Article 63 of the Constitution, the Plenum recalls that no one can be considered guilty without the legal force of a court verdict. Through the decision, the Supreme Court has indicated to lower instances that the verdict should be based only on reliable evidence (Articles 33.4 and 349.5.1 of the Criminal Procedure Code of the Republic of Azerbaijan) and should not refer to facts that were not investigated during the court hearing.

These explanations raise the standards of reasoning and serve to improve the quality of judicial decisions.

Impact on uniform practice: This decision of the Plenum is directly aimed at the formation of uniform practice in the courts. The decision aims to put an end to the different approaches observed in the writing of judgments in different courts.

This precedent encourages judges to follow the same rules when sentencing in criminal cases, including the clarity of the language of the verdict, a fair analysis of each piece of evidence in the verdict, and motivation for the decision. Consequently, the unification of sentencing standards across the country paves the way for a more reliable guarantee of the right to a fair trial for accused persons.

Legal aspect covered: This decision complies entirely the field of criminal procedural law and specifically covers the procedures for drafting, justifying and announcing a judicial act (judgment). The decision explained in concrete terms fundamental procedural principles such as the role of the verdict within the framework of a fair trial (Convention: Article 6), the presumption of innocence (Constitution: Article 63) and the right to defense, for example, the right not to testify against oneself in accordance with Article 20 of the Criminal Procedure Code of the Republic of Azerbaijan.

Let's take a look at the European Court of Human Rights' Decision of May 28, 2020 in the case of Farzaliyev v. Azerbaijan. In this case, a criminal case was initiated against the applicant, Bajan Farzaliyev, on charges of embezzlement, but the case was closed without formal charges being brought against him because the statute of limitations had expired. However, the prosecutor's office filed a civil lawsuit within the framework of the criminal case, and in 2006, the Nasimi District Court sentenced Farzaliyev to pay 2.3 million AZN in compensation for the damage caused by the crime. The court noted that despite being acquitted of criminal liability, "damages suffered as a result of the criminal act" were not compensated.

Higher courts upheld this decision, and as a result, Farzaliyev was found guilty in "civil procedure" without any criminal conviction.

The European Court of Human Rights found that the right to a fair trial was violated in those decisions. The European Court emphasized in its decision that if a judicial act regarding a person who is not accused in a criminal case contains the fact that he is guilty, this is a violation of the presumption of innocence.

In the Farzaliyev case, the courts used expressions in civil proceedings as if they had proven a criminal charge ("embezzlement was committed", etc.), and as a result, the applicant was declared "guilty" without being able to fully exercise his rights of defense.

The European Court of Human Rights found this to be a violation of Article 6 § 2 of the Convention (presumption of innocence). It also found that the courts' decision without responding to the applicant's main arguments violated the right to a fair hearing. The European Court of Human Rights ruled in 2020 that the conviction of a person who has not been formally convicted by a civil court decision violates Article 6 of the Convention [6].

This precedent indicates that it is unacceptable to hold someone civilly liable and thus indirectly punish them without criminal liability. The Farzaliyev decision sends a direct message to the Azerbaijani judicial system that it is unlawful to treat a person as if they were criminally liable (whether through official statements or through civil lawsuits) without a criminal conviction. This precedent may require national courts to review their legislation and practice to prevent such situations. For example, in cases where criminal proceedings are dismissed due to time limits, it is important for the authorities to rely on the presumption of innocence

rather than to bring a separate civil action for damages. This case of the European Court of Human Rights has also influenced the reasoning of court decisions within the country, highlighting the need for higher courts to respond to all the applicant's significant arguments in their decisions.

This precedent is at the intersection of both criminal and civil procedural law. On the one hand, the principle of the presumption of innocence and the imposition of punishment only by a lawful verdict of a competent judicial body (Article 63 of the Constitution of the Republic of Azerbaijan; Article 6, paragraph 2, of the Convention for the Protection of Human Rights and Fundamental Freedoms) is the main legal issue of this case. On the other hand, the decision concerns the application of the institution of civil action within the criminal framework. The Court also upheld, in the context of Article 6 of the Convention, the principle of justification of judicial decisions and legal certainty (lex certa).

There are a number of serious problems in ensuring a uniform practice in the Azerbaijani judicial system. The most important of these is the lack of full legal certainty. In particular, the fact that lower courts sometimes do not pay enough attention to the decisions and explanations of the Supreme Court leads to the emergence of different legal approaches on the same type of legal issues [1, p. 32]. This has negative consequences in terms of protecting citizens' rights.

Insufficient reasoning in court decisions, incorrect or partial application of legal norms and precedents are also among the reasons leading to the violation of uniform practice [7, p. 66-71]. In addition, there are problems such as the lack of a unified methodology in the analysis of legal knowledge and court decisions of law practitioners. In order to prevent such situations, continuous training of lawyers and the creation of a unified database of judicial experience are considered necessary.

Another problem is related to inaccuracies in the use of legal techniques and terminology. When the same terms are used with different meanings in different decisions, this disrupts the stability of legal concepts and the consistency of interpretations. Also, in some cases, the insufficient dissemination of precedent-based decisions in the official legal framework and practical legal teaching materials negatively affects the frequency and effectiveness of their application.

In addition, the lack of unambiguous regulations regarding the binding legal force of the Supreme Court's legal positions in regulatory legal acts also poses a problem. Since the mechanisms for applying legally binding precedents are not clearly and specifically stated in the legislation, there is uncertainty among judges as to whether these decisions should be applied or not. This negatively affects overall legal stability and sometimes leads to the continuation of contradictory judicial practice [8].

Eliminating all these problems can create conditions for the effective provision of a unified judicial practice and a more complete realization of citizens' right to a fair trial.

Conclusion and suggestions

The precedent-setting decisions formulated by the Supreme Court of the Republic of Azerbaijan perform an important function in ensuring the uniformity of judicial practice. These decisions lay the foundations for legal certainty, stability and predictable judicial practice. However, as noted, the difficulties existing at the institutional, legal and practical levels in the application of case law require a systematic approach.

As a result, the analysis conducted in this article shows that ensuring a uniform judicial practice in criminal proceedings is not limited to the adoption of Supreme Court decisions. The effectiveness of the mechanisms for implementing those decisions is closely related to the level of legal education in the courts, the accuracy of the normative-legal framework, and the institutional support system.

It is recommended that:

1) A unified database of precedent-setting decisions of the Supreme Court should be formed and its use should be facilitated [8];

2) Methodological recommendations and explanations on the application of case law for lower courts should be prepared and supported with periodic training [1, p. 27-35; 10, p. 42-51];

3) The legal force of precedents in criminal proceedings should be more precisely expressed in a normative manner [3; 4];

4) Legal techniques and writing culture should be improved in the field of reasoning and terminological consistency of court decisions;

5) Institutional control mechanisms should be strengthened so that lower instance decisions that are inconsistent with the decisions of the Supreme Court can be subject to appellate and cassation review;

6) Compliance with the decisions of the European Court of Human Rights should be constantly monitored and these decisions should be taken into account in the compilation of Supreme Court precedents [5; 11].

The implementation of these proposals will serve to strengthen the rule of law, ensure more effective protection of human rights, and strengthen public confidence in the judiciary.

References

1. Bayramov Ramin. The attitude of lower courts to the precedents of the Supreme Court // Ganun ve Hugug, 2023, No. 4, 2023, p. 27–35.

2. Constitution of the Republic of Azerbaijan dated November 12, 1995 (in Azerbaijani): [Electronic resource] / https://e-qanun.az/framework/897

3. Criminal Procedure Code of the Republic of Azerbaijan: [Electronic resource] / https://e-qanun.az/framework/46950;

4. Dzehtsiarou Kanstantsin. European Consensus and the Legitimacy of the European Court of Human Rights. Cambridge: Cambridge University Press, 2015, 254 p.

5. European Convention on Human Rights and its additional protocols. Baku: Institute of Law and Human Rights, 2022.

6. Guide on Article 6 of the European Convention on Human Rights. Strasbourg: Council of Europe, 2023.

7. Jalilov Rauf. Problems of substantiation of court verdict in criminal proceedings. Baku: Ganun, 2021, pp. 66-71.

8. Recommendation CM/Rec(2021)1 of the Committee of Ministers to member States on the development and strengthening of effective, pluralist and independent national human rights institutions (Adopted by the Committee of Ministers on 31 March 2021 at the 1400th meeting of the Ministers' Deputies): [Electronic resource] / https://rm.coe.int/0900001680a1f4da

9. Resolution No. 15 of the Plenum of the Supreme Court of the Republic of Azerbaijan dated December 24, 2021 "On the court verdict": [Electronic resource] / https://supremecourt.gov.az/az/media/xeberler/mehkeme-hokmu-haqqinda-azerbaycan-respublikasi-ali-mehkemesi-plenumunun-qerari-1394

10. Sadigov Farid. Case law and the uniformity of judicial practice // Hugug ve Inkishaf, 2022, No.2, p. 42–51.

11. Stone Sweet Alec. The Judicial Construction of Europe. Oxford: Oxford University Press, 2004, 304 p.

12. Suleymanov Aladdin. Case law and the role of the Supreme Court in the Azerbaijani legal system // Baku: Hugug ve Demokratiya, 2020.