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THE IMPORTANCE OF CLARIFYING THE FUNCTIONS OF THE PROSECUTOR IN THE APPELLATE COURT

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Abstract. This article examines theoretical rules, concepts, and opinions on the general conditions for verifying the legality, validity, and fairness of judgments, rulings, and decisions, as reflected in the Criminal Procedure Code of the Republic of Uzbekistan. It explores the content and essence of amendments and additions to the procedures for filing a complaint (protest) against a judgment or ruling of the court of first instance, as well as the significance of these innovations in the theory and practice of criminal procedural law and their role in the activities of criminal justice. Additionally, an analysis of the prosecutor's role as a party in the court of appeal, as a higher instance, and their powers is presented. From the perspective of the new norms of criminal procedural legislation, this scientific work describes modern legal factors of appeals, which serve as mechanisms for reviewing court decisions in criminal cases, and the grounds for canceling or amending court decisions. To highlight the relevance of the topic, the author gives special attention to the opinions and views of procedural scholars in various educational and scientific literature on the science and field of criminal procedural law, the need to revise judicial documents in recent years, and an analysis of the powers and responsibilities of judges in judicial practice in this regard.

Keywords: legal validity, fairness of judgments, ruling of the court of first instance, higher instance, court decision, legal factors

Introduction

The review of court decisions in higher courts is gaining importance. After all, ensuring the legality, validity, and fairness of court decisions is closely related to the protection of human rights and their legitimate interests [1].

The law establishes the basis for reviewing court decisions in criminal cases in higher courts [2].

The relevance of this article lies in further improving the mechanism for verifying the legality and validity of court decisions, enhancing the quality of justice and the level of access to justice by introducing new norms for their review, interpreting legislative acts aimed at ensuring reliable protection of violated rights and freedoms, as well as the legitimate interests of citizens, and explaining the norms in this regard. As

the President of the Republic of Uzbekistan, Sh.M. Mirziyoyev, rightly noted in his Address to the Oliy Majlis and the people of Uzbekistan, "Justice is the solid foundation of statehood" [3].

The adoption of Resolution No. 7 of the Plenum of the Supreme Court of the Republic of Uzbekistan dated March 25, 2024, "On Certain Issues of the Practice of Considering Criminal Cases in the Appellate and Cassation Procedures," also demonstrates that these above-mentioned purposes are served. In this regard, it is impossible not to address the powers of the prosecutor as a party in the appellate court.

Based on statistical data, in the first quarter of 2025, 2,064 criminal cases involving 2,706 persons were considered on appeal. Decisions issued by first-instance courts against 92 persons were canceled, and court decisions against 825 persons were amended.

These indicators alone demonstrate that the appellate court holds a significant place in our judicial system.

Drawing on foreign experience, a distinctive feature of the Ukrainian Criminal Procedure Code is that, along with the subjects of criminal proceedings who have the right to file a complaint, the prosecutor has the exclusive right to file a complaint (Article 393) [4].

The purpose of this scientific article is to elucidate the essence of the prosecutor's powers as a party in the appellate court in procedural law and judicial practice, interpret the relevant norms of the Criminal Procedure Code, identify solutions to problems encountered in the practical application of these norms, and substantiate the proposals derived from research, studies, and analysis. In particular, the following important aspects are addressed:

- Does the prosecutor support the state prosecution in issuing a verdict, or does he express his opinion on the appeal?

- To ensure the principle of adversarial proceedings in court, is it appropriate for

the prosecutor to protest if he participates in the court as a party?

- If the court issues a verdict in a case where the prosecutor protests as a party, does the prosecutor support the state prosecution or the protest?

- To develop proposals and recommendations for improving legislation based on research and analysis and to provide scientific conclusions.

N.G. Stoyko, a foreign scholar, addressed this issue in the book *Уголовный процесс западных государств и России: разнительное теоретико-правовое исследование англо-американской и романо-германской правовых систем* [5].

The 2005 work of Azerbaijani scholar F. Abdullayev, entitled "Problems of Improving the Procedure for Considering Criminal Cases in the Court of Appeal," is devoted to the issues of reviewing criminal cases in higher-instance courts [6].

As a scientific study on higher courts, we can cite the research by Umida Tukhtasheva [7]. Her research extensively covers the importance of the appellate court.

Kh.Z. Kuchkarov's work, "*Improving the Review of Criminal Cases in Higher-Instance Courts*," was studied at the level of a dissertation (DSc) [8]. The ideas of this national scholar on ensuring adversarial proceedings in the appellate court are highly relevant.

The role and powers of the prosecutor in the trial of criminal cases were deeply explored by O. Madaliyev during his scientific research [9]. In his research, special attention is paid to cases where the prosecutor withdraws the accusation.

Dilbar Suyunova has scientifically analyzed the changes being made to the appellate review of sentences in our legal system as a result of recent reforms [10].

Materials and methods

The research is substantiated by the use of opinions from national and foreign scholars on the powers and role of the

prosecutor in the appellate court, with references provided. The texts, theses, ideas, and concepts used were drawn from official sources. The results obtained were analyzed during lectures and practical training sessions among specialists in the field, including judges and court employees (respondents), tested through a questionnaire, and used to develop proposals and recommendations for improving legislative acts.

The methodological basis for the study primarily includes the goal of organizing adversarial proceedings in the court of appeal, as outlined in the Law of the Republic of Uzbekistan No. 869, dated September 27, 2023, "On Amendments and Addenda to the Criminal Procedure Code of the Republic of Uzbekistan in Connection with the Improvement of the Institution for Checking the Legality, Validity, and Fairness of Court Decisions."

Additionally, it is appropriate to highlight the goals of expanding the role and authority of the prosecutor in the court of appeal, based on ideas that reflect the essence of significant reforms aimed at enhancing the population's access to justice and ensuring the primacy of human dignity within the framework of the principle of "New Uzbekistan – New Court," which has been the cornerstone of judicial and legal reform activities in recent years.

In conducting the research, methods such as historicity, systematicity, comparative legal analysis, surveys, comprehensive study of educational and scientific sources, analysis of empirical materials and statistical data, analytical study of law enforcement practice – particularly judicial practice materials – identification of problems in the fields of substantive and procedural law, and the development of new and relevant proposals and recommendations were employed to determine the role and powers of the prosecutor as a party in the appellate court.

The empirical basis of the research includes Resolution No. 7 of the Plenum

of the Supreme Court of the Republic of Uzbekistan, dated March 25, 2024, "On Certain Issues of the Practice of Considering Criminal Cases in the Appellate and Cassation Procedures," and generalized statistical materials on the activities of the Supreme Court, published on the official Telegram channel of the Supreme Court of the Republic of Uzbekistan.

Research results

Currently, an appeal is the only way to review judgments and other court decisions that have not entered into legal force in Uzbekistan, regardless of the level of the court that issued the judgment or decision. After a court decision is made and before it enters into legal force, persons whose rights and legitimate interests are affected by this decision have the right to appeal (protest) to the court of second instance within 10 days. The grounds for appealing court decisions are the illegality, groundlessness, or injustice of the court decision. The objection of a person authorized to file a complaint or application against the adopted decision must be expressed in writing and meet the mandatory requirements established by law (Article 497⁸ of the Code of Civil Procedure).

If the court of first instance finds that the judicial investigation was incomplete or biased, or that procedural violations were committed, the court of appeal shall take measures to address these gaps and eliminate procedural violations by conducting a full judicial investigation. For this purpose, the court of appeal has the right to take actions provided for in paragraphs 1–7 of part three of Article 497²⁵ of the Criminal Procedure Code, necessary to ensure a complete, comprehensive, and impartial examination of the circumstances of the case [11].

Indeed, in the process of implementing recent judicial and legal reforms, comprehensive measures are being taken to ensure the equality of prosecutors and

lawyers, adversarial proceedings at all stages of criminal proceedings, and the quality and speed of justice delivery.

Additionally, the requirements for ensuring equality between the prosecution and the defense during trials are being thoroughly discussed.

We fully agree with S.M. Rakhmonova's analysis that "the court is not on the side of the prosecution or defense, does not represent their interests, and maintains impartiality, creating the necessary conditions for the parties to fulfill their procedural obligations and exercise the rights granted to them" [12].

Measures are being consistently implemented to ensure the proper functioning of the principle of adversarial proceedings at all stages of the judicial process.

The fact that recent reforms in the judicial and legal sphere in our country have focused extensively on reforming the legal profession, one of the key institutions of civil society, and enhancing its status in society is clear evidence of the above idea.

The protection of human rights and interests in court proceedings is closely associated with the activities of defense lawyers. Therefore, extensive efforts have been made to strengthen the system of the bar, ensure its independence, and equate the powers and status of lawyers with those of prosecutors.

From this perspective, Y. Ziyodullayev correctly noted that "if a defense lawyer is not informed of the time of the appellate court hearing and is deprived of the opportunity to participate, this situation constitutes a serious violation of the requirements of criminal procedural legislation" [13]. Kh. Kuchkarov, in his well-founded opinion, aptly stated, "When cases are considered in higher courts, proceedings are conducted on the basis of mutual disputes between the parties. Failure to ensure the equality of the parties in the court hearing raises reasonable

doubts about the legality, validity, and fairness of the court's decision" [14].

The first issue that drew our attention was the role of the prosecutor's office, one of the law enforcement agencies, in higher courts handling criminal cases. One aspect particularly stood out: the procedural procedure for the prosecutor's withdrawal of charges is established in the first instance. In accordance with Article 497² of the Criminal Procedure Code of the Republic of Uzbekistan, appellate proceedings are initiated upon the complaint of a convicted person, an acquitted person, their defense counsel, legal representative, victim, their representative, civil plaintiff, civil defendant, their representatives, or upon the protest of the prosecutor or their deputy.

When analyzing judicial practice, the prosecutor must explain in detail the content and purpose of the appeal protest to the court panel. The grounds for filing the protest, including why the prosecutor considers the court's decision to be illegal, unfounded, or unfair, must be explained in accordance with legal requirements. It is observed that the court will specify which legal norms or requirements of a decision of the Plenum of the Supreme Court of the Republic of Uzbekistan were ignored or how these legal requirements were violated.

If a court hearing is held and a judicial investigation is conducted, the prosecutor shall fully exercise their powers established by law during the hearing. The prosecutor has the right to call new witnesses, conduct examinations, and request the receipt of objects and documents that were refused for examination by the court of first instance.

The prosecutor, participating in the trial as a state prosecutor, performs their constitutional function of exercising control over the clear and uniform implementation of laws. The activity of supporting state prosecution in the consideration of criminal cases in courts is aimed at implementing legal requirements.

If, based on the results of the trial, the prosecutor concludes that the information verified and identified during the court investigation is insufficient to prove the defendant's guilt, then, in accordance with legal requirements, they must drop the charge and explain the reasons to the court or, if they conclude that it is necessary to amend the charge against the defendant, submit a reasoned written statement to the court [15].

The dismissal of the charge may be complete or partial, meaning it may dismiss some charges or parts of the charge while upholding the charge in the remaining part.

If the inquiry and preliminary investigation conclude with the drafting of an indictment, the prosecutor decides the fate of the criminal case. They confirm the indictment and send the case to the court for consideration, return the case to the investigator for additional investigation, or, if there are legal grounds, issue a decision to dismiss the case. In the first scenario, when confirming the indictment and sending it to the court, the body of evidence collected must leave no doubt about the accused's guilt. The prosecutor who confirms the indictment must be firmly convinced of the accused's guilt [16].

However, one aspect requires attention: the procedural procedure for the prosecutor's withdrawal of charges is established only in the first instance. In accordance with Article 497² of the Criminal Procedure Code of the Republic of Uzbekistan, appellate proceedings are initiated upon the complaint of a convicted person, an acquitted person, their defense counsel, legal representative, victim, their representative, civil plaintiff, civil defendant, their representatives, or upon the protest of the prosecutor or their deputy.

The withdrawal of charges, if they are not proven in support of the prosecution or during the trial, constitutes the main content of the prosecutor's participation in the court and determines their procedural status as a trial participant.

According to statistics, in 2018–2019, 307 people were acquitted in 192 criminal cases in first-instance courts, but in no case did the prosecutor drop the charges.

President Shavkat Mirziyoyev criticized this situation, stating, "From now on, if errors in the investigation process are discovered during the court session, a procedure should be introduced under which the prosecutor can drop the charges on their own initiative within 2 to 6 months, without waiting for the end of the trial."

He further noted, "I believe that the introduction of such a practice, which is common in developed democratic countries, regarding appeals to the court against the prosecutor's decision, will be a significant step in strengthening the criterion of justice in our lives."

According to Obidjon Madaliyev, "the internal conviction of the accused's guilt in the investigation of a criminal case with an indictment is the result of assessing the body of evidence confirming that the person involved in the criminal case as an accused committed a crime" [17].

The prosecutor drops the charges as soon as the court determines that the defendant is not guilty. In this case, we believe that maintaining the demand for charges is contrary to legal requirements and constitutes not a demand for law enforcement but, on the contrary, a violation of the law. According to Part 4 of Article 409 of the Criminal Procedure Code of the Republic of Uzbekistan, "If, as a result of the court hearing, the prosecutor is convinced that the information from the court investigation indicates the defendant's innocence, they must drop the charges and explain the reasons to the court." It is clear that the prosecutor cannot deviate from the law enforcement function assigned by the Constitution of the Republic of Uzbekistan. Our legislation states that the prosecutor's withdrawal of charges is a basis for the court to terminate the criminal case on the grounds of rehabilitation.

However, although the law stipulates that a criminal case in such instances shall be terminated on the grounds of rehabilitation, this circumstance is not included in Article 83 of the Criminal Procedure Code as a basis for acquitting a person. According to this article, a suspect, accused, or defendant shall be found innocent and rehabilitated in the following cases:

- 1) if no criminal incident occurred in the case in which the case was initiated and investigative actions or court hearings were held;
- 2) if their actions do not contain elements of a crime;
- 3) if they were not involved in the committed crime.

We believe it would be appropriate to include the prosecutor's withdrawal of charges among these grounds to address this legislative gap.

Some objections to this proposal argue that the three grounds in Article 83 of the Criminal Procedure Code are sufficient for the prosecutor to withdraw the state prosecution and that adding the withdrawal of charges as a ground could lead to prosecutors withdrawing the state prosecution even in cases where the above three grounds do not exist. In our opinion, in practice, when the prosecutor withdraws the state prosecution, the judge bases the acquittal not on the three grounds in Article 83 but on the prosecutor's withdrawal of the state prosecution. According to the system established in our national legislation, the prosecutor reports the conclusion on the withdrawal of the state prosecution to the court, and the court considers it. If there is no indictment, the court cannot consider the case. In this situation, the victim retains the right to appeal to higher instances by exercising their right to appeal. The victim's rights as a party do not include the function of state prosecution. Since the function of supporting state prosecution lies solely

with the prosecutor, the prosecutor decides the issue of prosecution regardless of whether the above three grounds exist.

According to our legislation, the issue of accusation is the function of the prosecutor, not the court. The court is responsible for the administration of justice. All bodies are accountable for their duties and functions. Based on the new authority of the appellate court to issue a verdict, we propose that the prosecutor's waiver of state prosecution be applied not only in the first instance but also in the appellate instance. The reason is that Article 34 of the Criminal Procedure Code provides for their powers throughout the entire criminal process in the general part. We believe that the special part should focus on the procedural authority of the appellate court as a directly higher instance. Articles 481 and 497¹⁶ of the Criminal Procedure Code focus only on the organizational aspects of the prosecutor's participation in the consideration of a criminal case by a higher court, namely in the appellate court, leaving the legal issue unresolved. We believe that the legal and procedural aspects and powers of the prosecutor's participation in the appellate court should also be clarified.

Article 497¹⁰ of the Criminal Procedure Code states that a person who has filed a complaint or protest against a verdict has the right to withdraw their complaint or protest. A higher prosecutor also has the right to withdraw the protest.

A study of statistical data on protests filed by prosecutors with higher courts showed the following:

1,136 protests were filed by prosecutors against court decisions in 2021 (of which 1,068 were upheld, 38 were rejected), 1,764 protests were filed in 2022 (of which 1,629 were upheld, 135 were rejected), 1,593 protests were filed in 2023 (of which 1,466 were upheld, 127 were rejected), and 291 protests were filed in the first three

months of 2024 (of which 273 were upheld, 18 were rejected) [18].

Analysis of judicial practice has shown that in a first-instance court hearing of a criminal case, the prosecutor withdrew the state prosecution, and a verdict of acquittal was issued. Later, a higher prosecutor filed a protest against this verdict of acquittal.

For example, in the criminal case of D. Mirkhamzayeva, who was acquitted in the Criminal Chamber of the Tashkent City Court under Article 167, Part 3, Clause "a" of the Criminal Code of the Republic of Uzbekistan, the prosecutor filed an appeal protest requesting the annulment of the verdict of acquittal. According to the case materials, during the negotiations of the parties in the first-instance court, the prosecutor withdrew the state prosecution. The court issued a verdict of acquittal for D. Mirkhamzayeva. Subsequently, a higher prosecutor requested that the lower prosecutor's conclusion on the withdrawal of the state's charges be overturned and that D. Mirkhamzayeva be convicted, citing the premature issuance of the conclusion by the lower prosecutor.

According to Article 5 of the Law of the Republic of Uzbekistan "On the Prosecutor's Office," the prosecutor's offices constitute a single centralized system headed by the Prosecutor General of the Republic of Uzbekistan and operate on the basis of subordination and accountability of lower-ranking prosecutors to higher-ranking prosecutors and the Prosecutor General [19]. This norm clearly indicates that the prosecutor who participated in the first instance waived the state prosecution on behalf of the entire prosecutor's office.

In this situation, the higher prosecutor changed the conclusion of the lower prosecutor on the withdrawal of the charge and made a contrary decision, expressing an unfounded protest regarding the cancellation of the acquittal.

According to paragraph 8 of the Decree of the President of the Republic

of Uzbekistan No. 11, dated January 16, 2023, "On Additional Measures to Further Expand the Possibilities of Achieving a Fair Trial and Increase the Efficiency of the Activities of the Courts," an employee of the specialized prosecutor's corps shall be independent in expressing their opinion to the court on issues of supporting, amending, or withdrawing the charge (civil claim) in cases considered in courts, including on the application of the norms of the Criminal Code, determining the type and measure of punishment, based on the requirements of the law and all the circumstances of the case.

According to Obidjon Madaliyev, internal confidence in guilt is a psychological assessment of the collected evidence. The emergence of internal confidence in the prosecutor usually indicates the sufficiency of evidence and proof that fully confirm the guilt of the accused in a criminal case. This feeling of confidence and trust, as a rule, is not without reason and is based on the real result of cognitive activity that is independent of the subject [17]. We will elaborate on our proposal for this situation in the conclusions section.

Analysis of the results results

Upon the expiration of the period established for filing an appeal or protest against a judgment, the court that issued the judgment shall, in accordance with the requirements stipulated in Article 497⁶ of the Code of Civil Procedure, forward the case, together with the appeals, protests, and objections raised in relation to them, as well as any additional materials submitted, to the court of appeal within ten days (Article 497⁷ of the Code of Civil Procedure).

- To ensure that persons entitled to file an appeal or protest against judgments in the appellate procedure can fully and freely exercise their rights, higher courts are obliged to verify whether the following requirements have been met by lower courts when registering cases for appellate consideration:

- The parties have been informed of the content of the judgment, the term, and the procedure for filing an appeal or appellate complaint against the judgment at their request;

- Those whose interests the complaint or protest concerns have been informed of this;

- Copies of court decisions have been provided to the convicted person, the victim, and the acquitted person;

- They and other interested persons have familiarized themselves with the complaint or protest, including any additional documents submitted, and have expressed their objections;

- The person who filed the appeal or appellate complaint, as well as the participants in the proceedings, if any, whose interests the complaint or protest concerns, have been duly notified of the time and place of the hearing of the case;

- The legal requirements regarding the ability of the convicted person, acquitted person, their defense attorneys, legal representatives, the victim, the civil plaintiff, the civil defendant, and their representatives to participate in the consideration of the case in the higher-instance court have been met, etc.

Subjects entitled to file a complaint or protest in the appellate procedure also have the right to submit objections to received appeals or appellate protests, file an additional appeal or protest before the case is considered by the court of appeal, submit new materials to the appellate instance, and request the court of appeal to obtain such materials.

All of the above rights, including the right to appeal (and the right to protest), serve to ensure that these subjects can protect their rights by filing an appeal against the verdict.

Another important condition for the review of court decisions in a criminal case is the participation of the parties in the consideration by a higher court. The law (Article 497¹⁶ of the Criminal

Procedure Code) establishes a special procedure for the participation of parties in the consideration of a criminal case in the appellate procedure. Specifically, the consideration of a criminal case by the panels of the courts of the Republic of Karakalpakstan, regional courts, Tashkent city courts, and the Military Court of the Republic of Uzbekistan is attended, respectively, by the Prosecutor General of the Republic of Uzbekistan, prosecutors of the Republic of Karakalpakstan, regions, and Tashkent city, or a prosecutor authorized by the Military Prosecutor of the Republic of Uzbekistan. If a criminal case is considered by a panel of the Supreme Court of the Republic of Uzbekistan, prosecutors authorized by the Prosecutor General of the Republic of Uzbekistan may participate in this instance.

We would like to draw attention to one aspect here. At the pre-trial stage, the prosecutor acts as a supervisory body. In the court of first instance, the prosecutor loses their supervisory function, becomes a party to ensure the principle of adversarial proceedings, and defends the state prosecution. In the court of appeal, the status of the prosecutor has not been clearly defined. Only the aforementioned types of prosecutors are permitted to participate.

Article 409 of the Criminal Procedure Code describes in detail the participation of the prosecutor in the first instance, but the functions performed by the prosecutor in the appellate instance are not defined in depth or comprehensively. In this case, does the prosecutor support the state prosecution in the sentencing, or do they express their opinion on the appeal? The basis for the consideration of a case in the appellate procedure is that the convicted person, their defense counsel, legal representative, the victim, or their representative can appeal against the court's verdict that has not entered into legal force, and the prosecutor or their deputy can file a protest.

To ensure the principle of adversarial proceedings in court, is it appropriate for the prosecutor to participate as a party and file a protest? If the court issues a verdict in a case where the prosecutor files a protest as a party, does the prosecutor support the state prosecution or the protest? A protest may be filed in one case, for example, concerning the punishment, whereas supporting the state prosecution relates to the entire case. The prosecutor who has filed a protest cannot withdraw from the protest but, as a party, supports the state prosecution. In cases where the appellate court adopts a new verdict based on a comprehensive and full judicial investigation of the case, the prosecutor participates in the discussion and supports the state prosecution based on all case negotiations, not on the protest.

Conclusion

In the democratic development of Uzbekistan, the establishment of a fair justice system and the legal protection of human rights and freedoms are among the core values of our society [20].

Considering that it is inappropriate for a higher prosecutor or their deputy to file a protest with the appellate court in cases where the prosecutor has withdrawn charges in the first-instance court, we propose adding the following sentence as the second part of Article 497² of the Code of Criminal Procedure:

“In cases where an acquittal is issued in the trial of the first-instance court as a result of the prosecutor’s withdrawal of charges, the higher prosecutor (or their deputy) may not file a protest against the cancellation of the acquittal, while preserving the right of the parties to appeal.”

This proposal is grounded in the principle that a person’s life, freedom, honor, dignity, and other inalienable rights are the highest value, and ensuring their protection is, first and foremost, the task of law enforcement agencies. The procedure for conducting criminal cases established in criminal procedural legislation should

strengthen legality, prevent crimes, and protect the interests of the individual, the state, and society. The phrase “first of all” in the tasks of criminal procedural legislation, prioritizing the individual before the state and society, vividly illustrates this principle. We believe that this proposal upholds the primacy of individual freedom above all else.

Our next proposal is the introduction of the following new norm. As a party, we propose equating the powers of the prosecutor in the appellate court with those in the court of first instance, as indicated in Article 497¹⁶ of the Criminal Procedure Code, so that they can both support the protest and act as the state prosecutor. We propose adding the following as the third paragraph of Article 481 of the Code of Criminal Procedure: “These prosecutors shall perform the functions specified in Article 409 of the Criminal Procedure Code in the proceedings of the court of appeal.”

This proposal is based on the premise that the powers of the appellate court should be broader than those of the cassation and supervisory instances. It is necessary to address all complaints regarding a verdict that has not entered into legal force and ensure that all cases are resolved in the court of appeal. Therefore, the functions of this instance, the prosecutor, and the defense attorney should be expanded. We believe this will allow the supervisory instance to focus more on analytical work.

Our final proposal is that, based on the appellate court’s authority to adopt a new verdict, including a verdict of conviction instead of an acquittal, and to allow the prosecutor to express their stance on this verdict based on their rights and obligations as both a party and a state prosecutor, we believe that introducing a new Article 497¹⁷ to the Criminal Procedure Code will ensure that each prosecutor enters the trial with a clear understanding of their authority.

Article 497¹⁷. Powers of the Prosecutor in the Appellate Court

The prosecutor in the appellate court has the following powers:

- To file a petition with the court;
- To involve new witnesses in the case;
- To issue a rebuttal to the participants in the trial;
- To withdraw the state prosecution.

In the event that the first-instance court has issued a guilty verdict, and as a result

of a complaint (or protest) filed with the appellate court in a criminal case, the case is being considered by the appellate court, and the prosecutor withdraws the state's charges in connection with the verdict that has not entered into legal force, the appellate court must cancel the verdict, issue a verdict of acquittal, close the case, and explain that it is impossible to appeal again or draw up an indictment in this case.

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