

**EXPRESSION AND DEVELOPMENT STAGES OF THE MEASURE OF PRESERVATION IN
THE FORM OF HOME ARREST IN NATIONAL LEGISLATION**

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Abstract: *The article analyzes the expression of house arrest as a preventive measure in the legislation of Uzbekistan and the stages of its development. Also, proposals and recommendations aimed at improving the mechanisms of control over persons subjected to house arrest have been developed.*

Keywords: *house arrest, measures of procedural coercion, suspect, accused, defendant, legal reforms, principles of humanism, preventive measure, electronic bracelet.*

In the context of fundamental democratic reforms in New Uzbekistan, a number of regulatory legal acts have been adopted aimed at strengthening the legislative and organizational-legal framework for ensuring human rights, freedoms, and legitimate interests in practice, and implementing international standards into national legislation.

In particular, as noted in the Decree of the President of the Republic of Uzbekistan dated September 11, 2023 No. UP-158 "On the Strategy "Uzbekistan - 2030," the Strategy "Uzbekistan - 2030" was approved "in order to realize the will to build a powerful New Uzbekistan, create all opportunities for every citizen to develop their potential, raise a healthy, educated and spiritually mature generation, form a strong economy that has become an important link in global production, and guarantee justice, the rule of law, security and stability"[1].

Clause 84 of Section 4.2 of this legal document, which defines the main conceptual directions for the development of the Republic of Uzbekistan in the near future, which provides for "Ensuring the rule of law and reforms in the judicial and legal system," sets the task of "Reducing the practice of sentencing to imprisonment from 30 to 20 percent"[2].

The essence of defining this task lies in making the practical provision of reliable protection of human rights, freedoms, and legitimate interests the main criterion of judicial and legal reforms.

As a result of a humanitarian policy, house arrest, which is considered a new institution in our country compared to other types of preventive measures, was introduced as the eighth preventive measure into the Criminal Procedure Code (Article 237) 11 years ago, for the first time on September 4, 2014, by the Law "On Amendments and Additions to Certain Legislative Acts of the Republic of Uzbekistan," signed by the Head of State. Prior to this, there were seven preventive measures in national legislation.

Article 2421 of the Criminal Procedure Code of the Republic of Uzbekistan stipulates that: house arrest is applied to a suspect, accused, or defendant if there are grounds for choosing a preventive measure in the form of detention, taking into account their age, health status, marital status, and other circumstances, if detention is deemed inappropriate[4].

In essence, house arrest is a measure to restrict a person's freedom by keeping them in a certain place, mainly at home, without imprisonment. This measure is usually applied by the court as a preventive measure during the investigation of a criminal case. The goal is to isolate the individual during the criminal proceedings, but without any restrictions on their freedom, and to supervise them at home.

In accordance with national legislation, house arrest consists of the presence of a suspect, accused, or defendant in the dwelling in which they live as an owner, tenant, or on other legal grounds, with complete or partial isolation from society, imposing prohibitions (restrictions), as well as supervision over them.

According to the conclusion of legal scholar M. Kadirova, "a preventive measure in the form of house arrest, which is one of the coercive measures, is a measure to ensure the execution of the sentence and prevent attempts to obstruct the establishment of the truth by the accused, the defendant from evading the inquiry, preliminary investigation, and trial, or to prevent criminal activity"[5].

According to researcher U. Yakubov, "The introduction of house arrest as a preventive measure into the system of preventive measures in the Republic of Uzbekistan, along with creating favorable conditions for the social adaptation of persons who have committed crimes, serves to preserve families, allow a person who has committed an offense to draw appropriate conclusions while in the embrace of his family, and reduce the number of persons in custody"[6, p.164].

Supporting the above-mentioned opinions of scientists, it should be noted that the preventive measure in the form of house arrest has several differences and features that distinguish it from other preventive measures:

firstly, imbued with the principles of humanism towards the individual (when applying this precautionary measure, the age, health status, and marital status of the citizen are taken into account);

secondly, the suspect, accused, or defendant, regardless of who they are, is not completely isolated from society, but also serves as an educational and explanatory preventive measure to guarantee the interests of the criminal process (only with certain restrictions);

thirdly, the application of this preventive measure also represents the interests of the state and society (increases the possibility of concealment from the preliminary investigation and court, obstruction of establishing the truth in the case, deprivation of the opportunity to continue criminal activity).

We consider it expedient to study the stages of development of the institution of preventive measures in the form of house arrest in our country, conditionally dividing them into 2 stages:

the first stage - the period from the moment the preventive measure in the form of house arrest was first introduced into national legislation (from September 4, 2014) to December 5, 2024;

the second stage - from December 5, 2024 to the present day.

The first stage should be noted as the period of emergence in the legislation and practice of Uzbekistan of one of the most effective and relatively effective means of procedural coercion - a preventive measure in the form of house arrest.

Since then, the measure of restraint in the form of house arrest has been applied in the Republic of Uzbekistan as an integral part of criminal procedural coercive measures.

"Criminal procedural coercion is understood as a set of state measures of influence in the form of legal restrictions of a personal, property, and organizational nature, applied to participants in criminal proceedings by authorized entities in the presence of grounds established by law and in the prescribed manner, in order to ensure the effective implementation of the tasks of criminal proceedings, prevent illegal acts that threaten the administration of justice" [7, p. 256].

It is at the first stage that it is necessary to introduce into the national legislation:

- taking into account what circumstances the preventive measure in the form of house arrest is applied (the age, health status, marital status of the suspect, accused, or defendant, if there are grounds for choosing a preventive measure in the form of detention) [4];

- where the suspect, accused, or defendant may be completely or partially isolated from society, i.e., serve a preventive measure in the form of house arrest (in the residential premises in which they reside as an owner, tenant, or on other legal grounds, with imposed prohibitions (restrictions), as well as control over them, and also, taking into account their health status, a medical institution may be designated as a place of house arrest) [4]

- prohibitions (restrictions) imposed on a person for whom a preventive measure in the form of house arrest has been chosen;

- unrestricted rights of a person in respect of whom a preventive measure in the form of house arrest has been chosen, necessary for social life (the right to use telephone communication to communicate with the body, investigator, inquiry officer, prosecutor, court entrusted with the exercise of control over compliance with the established prohibitions (restrictions), as well as, if necessary, to call law enforcement agencies, emergency medical services, fire safety services, rescue services and other emergency services) [4];

- when monitoring the time and procedure for the inspection by the relevant body of a person in respect of whom a preventive measure in the form of house arrest has been

chosen (compliance with the established prohibitions (restrictions) on leaving the dwelling), the internal affairs body has the right to check his presence at the place of residence at any time of day. The inspection is carried out no more than once during the daytime and no more than once at night) [4].

Based on the foregoing, it can be concluded that during this period, in order to ensure a fair and impartial resolution of the preventive measure in the form of house arrest, the procedure for its application, many necessary norms were reflected in the criminal and criminal procedure legislation of the Republic of Uzbekistan.

The second stage should be noted as a period of improving the application of the institution of preventive measures in the form of house arrest and the development of mechanisms for supervising persons subjected to this preventive measure using modern technologies.

At this stage, as one of the most important regulatory legal acts aimed at improving the preventive measure in the form of house arrest, it is advisable to cite the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 813 dated December 5, 2024, "On Approving the Regulation on the Procedure for Remote Monitoring of Persons Subjected to Preventive Measures of House Arrest and Sentenced to Restriction of Freedom through an Electronic Bracelet."

The Regulation approved by this resolution, based on the requirements of today, establishes a number of procedures aimed at further improving the mechanisms for ensuring the inevitability of responsibility and establishing effective control over the execution of punishment by establishing the practice of remote control over persons subjected to house arrest and restriction of liberty, bringing it to a qualitatively new level.

According to this Regulation: the task of remote monitoring of the presence of persons subjected to house arrest and sentenced to restriction of liberty at the place of execution of the preventive measure and punishment through an electronic bracelet is carried out by the internal affairs bodies[8].

The relevant clauses of the Regulation stipulate that an electronic bracelet should be worn on the lower leg of a person subjected to house arrest or restriction of liberty as a preventive measure. In cases where it is not possible to wear the electronic bracelet on the lower leg, it may be attached to the arm. For female individuals, the electronic bracelet must be attached and removed by a female staff member (senior inspector for women's affairs of the crime prevention unit of the public security service of the internal affairs body). The regulations also specify that electronic bracelets cannot be used on persons under eighteen years of age, pregnant women, women with children under three years old, persons with first or second group disabilities, and individuals who are not recommended to wear electronic bracelets due to medical reasons (such as those with implanted pacemakers or those suffering from infectious skin diseases like allergic contact dermatitis, fungal skin infections, or pruritus).

It is no exaggeration to say that this Regulation has become a legal basis for increasing the effectiveness of the application of new technologies to ensure the inevitability of responsibility in the sphere of ensuring public safety, preventing repeated offenses, and establishing an effective mechanism for monitoring the execution of sentences.

At the second stage, another important legal document aimed at improving this area is the Decree of the President of the Republic of Uzbekistan dated June 11, 2024, No. UP-89 "On Measures to Further Strengthen Guarantees of Reliable Protection of the Rights and Freedoms of the Individual in Operative-Investigative and Investigative Activities"[9].

In accordance with this decree, for the first time in the history of the judicial system of our country, the institution of "Investigative Judge" was introduced from January 1, 2025.

Application of criminal materials, including sanctions and coercive measures, to investigating judges, created in district (city) courts for criminal cases, in particular:

petition related to the application of a preventive measure in the form of detention or house arrest;

consideration of a petition related to the extension of the term of detention or house arrest[9].

Thus, certain results have been achieved in the implementation of effective mechanisms for ensuring guarantees for the protection of human rights, freedoms, and legitimate interests in judicial and investigative practice, which is one of the priority areas of democratic reforms in New Uzbekistan. It should be especially noted that the introduction of the institution of an investigative judge and granting him some of the above-mentioned important powers increases the possibility of strengthening measures to reliably ensure the constitutional rights of a person accused of committing a crime to freedom and personal inviolability through the courts.

As researcher E.Soliyev correctly points out, ..."it holds a firm position in the life of the state and society and manifests as an example of an impartial, independent institution that ensures the implementation of the adversarial principle in pre-trial proceedings[10] (here we are referring to the institution of the 'investigative judge' - our note).

In conclusion, the institution of preventive measures in the form of house arrest in Uzbekistan has been formed over the past 10-15 years as the most important humanitarian legal mechanism in the criminal justice system.

Without denying the practical work being carried out to improve the institution of preventive measures in the form of house arrest, the development of the legal basis for its application, we consider it expedient to make the following proposals and recommendations aimed at the further development of this sphere in accordance with the requirements of rapidly changing social life and legal relations:

- in order to correctly and effectively apply a preventive measure in the form of house arrest by judicial bodies, to form a unified judicial practice, based on the specifics of this

institution and analysis of international experience, as well as national legislation and practice in this area, it is necessary to develop relevant manuals for judges;

- development of modern trends and mechanisms for adequate familiarization of the public, as well as specialists of law enforcement agencies, with analytical information on the preventive measure in the form of house arrest;

- systematic updating and increasing the level of sufficiency of electronic devices - electronic bracelets and other necessary technical means worn on the feet or hands, designed for remote monitoring of the movement of a person subjected to house arrest and sentenced to restriction of liberty in real time by sending an automatic message, as well as taking measures for their use on equal terms in all regions.

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