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## ANALYSIS OF THE DISTINCTIVE CHARACTERISTICS AND STAGES OF MODIFYING AND SUPPLEMENTING CHARGES

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### Abstract

This article examines the scientific-theoretical and practical aspects of the institution of amending and supplementing charges in the criminal process of Uzbekistan. The subject of research is the legal nature, distinctive characteristics, and stages of modification, supplementation, and termination of charges. The relevance lies in the fact that the prosecution, as a dynamic procedural institution, often requires correction during investigation or trial due to newly revealed evidence or circumstances, which directly impacts the rights of the accused and the fairness of justice. The study employs comparative-legal analysis, synthesis, induction, deduction, and generalization, drawing on national and foreign scholarly works as well as legislative provisions. The results demonstrate that the legal framework of Uzbekistan's Criminal Procedure Code — particularly Articles 362, 385, 409, and related norms — provides a foundation for revising charges at both pre-trial and trial stages, though the scope, form, and authority of the actors involved differ significantly. The research highlights that objective and subjective factors, including new evidence, changes in legal qualification, or prosecutorial decisions, influence this process, while insufficiently precise regulations may create procedural uncertainty and risks to defense rights. The findings suggest that further legislative clarification is needed to ensure consistency, procedural guarantees, and balance between prosecution and defense. The results can be applied in legal scholarship, judicial practice, and law-



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making to strengthen procedural safeguards and enhance the effectiveness of criminal justice. The study concludes that the institution of modifying and supplementing charges is central not only for ensuring lawful prosecution but also for upholding constitutional rights and fair trial guarantees.

**Keywords:** Criminal procedure, accusation, amendment of charges, supplementation of charges, termination of charges, procedural guarantees, defense rights, Uzbekistan Criminal Procedure Code.

### **Introduction:**

The significance of the institution of prosecution in criminal procedural activity is also characterized by its dual nature as both permanent and dynamic. The content of prosecution may evolve during the course of criminal proceedings, particularly at the stages of investigation or trial, on the basis of newly established circumstances, factual information, and evidence that are crucial for the proper resolution of the case. Such a situation, in turn, necessitates the formation of the institution of modification and supplementation of the indictment as an independent procedural mechanism. From this perspective, the presence of norms in the current legislation that provide for the possibility of reviewing the indictment, together with their legal precision, assumes particular importance in the regulation of criminal procedural relations.

Special attention to this issue has also been given in the Decree of the President of the Republic of Uzbekistan dated May 14, 2018, No. 3723, “On Measures for the Fundamental Improvement of Criminal and Criminal Procedural Legislation”, as well as in Chapter 3 of the Concept annexed to the Decree [1]. In particular, it stipulates the task of establishing procedural mechanisms that regulate the modification of the indictment during trial, including the possibility of moving to a more serious charge, as well as the development of a clear procedural framework governing the prosecutor’s withdrawal of the indictment.

### **Materials and Methods:**

This study draws upon legislative norms, as well as the scientific and theoretical perspectives of national and foreign legal scholars, in analyzing issues related to



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the distinctive features of the modification and supplementation of the indictment within criminal procedure, its place in the system of criminal procedural law, and its stages of implementation. The materials were examined through the application of comparative-legal analysis, synthesis, observation, generalization, induction, and deduction methods.

### **Discussion and Results:**

In accordance with the current legislation, the modification and supplementation of the scope and content of the indictment may be carried out during the investigation and trial stages of criminal procedural activity. In particular, the legal foundations of this matter are stipulated in Articles 362, 385 (part one, paragraph 2), as well as Articles 414, 415, 415<sup>1</sup>, 416, 417, 485, 489, 493, and 527 of the Criminal Procedure Code of the Republic of Uzbekistan [2]. However, the legal procedure for amending and supplementing the accusation possesses specific characteristics at each procedural stage, and this process is carried out through clearly defined procedural rules within the scope of the authorized subjects' activities.

It is particularly noteworthy that Article 362 of the Criminal Procedure Code of the Republic of Uzbekistan provides for the modification, termination, and supplementation of the accusation exclusively at the pre-trial stage of criminal proceedings (investigation).

At the investigation stage, the legal procedure for amending and supplementing the accusation is relatively complex and extensive, as its implementation is closely interconnected with the emergence of new circumstances, the expansion of the body of evidence, and factors affecting the legal qualification of the crime. Therefore, the process of reviewing the accusation at this stage requires strict adherence to procedural legal norms. From this perspective, the accusation, by its very nature expressing a legal position that the crime was committed and by a specific individual, may undergo certain modifications during the course of the investigation due to the discovery of new evidence, analysis of facts, and changes in legal qualification. The accusation reflected in the investigator's decision to involve a person as the accused cannot be considered absolute or final until all circumstances essential to the case are fully and accurately established.



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Consequently, clarifying, supplementing, or modifying the legal characterization of the accusation at the investigation stage represents one of the important procedural opportunities envisaged by criminal procedural legislation for the substantive improvement of the accusation.

Although the initial accusation in a criminal case is based on established facts, it may be subject to subsequent modification. According to some scholars, “during the investigation of a criminal case or at subsequent stages of criminal proceedings, there sometimes arises a need to introduce certain changes or corrections to the accusation, or to remove certain circumstances from it, in order to fill gaps or eliminate deficiencies in its formulation” [3]. Furthermore, some scholarly sources advance a well-founded approach asserting that the basis for holding a person criminally liable lies in their direct actions and the facts confirming the commission of those actions. In this process, the legal characterization of the actions (i.e., qualification) is of secondary importance; the individual is held accountable not for the legal classification itself, but for the actual conduct they committed [4]. Therefore, if the facts within a criminal case change—meaning that the circumstances stated in the initial accusation are not confirmed or new, previously unidentified circumstances emerge—the legal grounds for continuing criminal prosecution are lost, and the case must be terminated. However, if the legal grounds remain intact, that is, the underlying facts are preserved but their legal qualification changes, this does not constitute a basis for terminating the case; on the contrary, it necessitates the supplementation or modification of the accusation.

From this perspective, a comprehensive understanding of the fundamental nature of the institution of amending and supplementing the accusation requires the study of the factors influencing this process. According to researcher N.M. Qoshaev, “both objective and subjective factors affect the modification of the accusation” [5]. Objective factors are circumstances that arise independently of the will of the subjects conducting the initial investigation or inquiry and cannot be fully controlled by them. They may lie beyond the investigators’ or participants’ capacity for knowledge and understanding. Examples include: evidence presented by the accused or defense that was initially unknown to the investigative authorities; the identification of new circumstances crucial for the



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legal qualification of the socially dangerous act committed; changes in legislation; or updates in judicial and investigative practice. In legal literature aimed at clarifying the content and essence of these factors, various opinions have been advanced. In particular, some researchers have argued that the need to amend the announced accusation often arises due to the emergence of new information regarding the actual circumstances of the committed crime, a reassessment of the scope and content of the accusation, as well as the necessity to apply a legal evaluation to the committed actions resulting from changes in criminal legislation [6].

Subjective factors, in contrast, are directly related to the activities of the subjects involved in forming the accusation. As noted in research, “for the accusation to be based on established facts in a criminal case, the committed criminal act must be examined and expressed through the process of proof. Since proof is a subjective cognitive activity, the conclusions drawn from it may subsequently be modified as circumstances require” [7]. Subjective factors are typically manifested in circumstances such as the one-sided conduct of the initial investigation, the investigator’s (or inquirer’s) incomplete fulfillment of the procedural obligations assigned to them, or insufficient attention paid to important evidence during the course of the investigation. In our view, the grounds for amending and supplementing the accusation should be developed based on a unified approach. In doing so, the principles must take into account both theoretical-legal perspectives and practical experience, balancing the interests of all participants in the process while complying with the requirements of criminal procedural legislation.

Moreover, although the title of this article mentions the procedurally independent institutions of “amending the accusation”, “supplementing the accusation”, and “terminating the accusation” the content of the article primarily provides a relatively detailed procedural regulation of the mechanism for terminating the accusation (second part). Several scholars consider “amending the accusation” as a general concept, supporting the inclusion within it of supplementing the accusation, changing its legal qualification, and partially terminating the accusation due to a reduction in its scope [8].



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Regarding this issue, Z.D. Enikeev advances a conceptual approach, emphasizing that the notions of “supplementing the accusation” and “amending the accusation” are equal in scope but opposite in direction. According to him, supplementing the accusation involves expanding its scope, whereas amending the accusation entails narrowing or modifying it [9]. According to S. Sakhaddinov, “Article 362 of the Criminal Procedure Code separately lists amending and supplementing the accusation. This means that amending the accusation does not encompass its supplementation and refers solely to changing the content of the accusation—either maintaining its severity or modifying it in a mitigating direction. At the same time, from a logical standpoint, supplementation of the accusation, in essence, falls within the scope of amending the accusation” [10]. Supporting these approaches, it should be noted that although the legislator’s separate designation of the institutions of “amending the accusation,” “supplementing the accusation,” and “terminating the accusation” provides grounds for classifying them as independent procedural institutions, from a practical substantive perspective, all these forms represent different manifestations of procedural circumstances that lead to a change in the content, scope, or structure of the accusation. In each case, the structure or semantic boundaries of the initially announced accusation are reviewed and acquire a new substantive expression.

It should be specifically noted that Article 362 of the Criminal Procedure Code expresses the authority to review the accusation as pertaining solely to the investigator, without clarifying the degree of participation and powers of other subjects involved in this activity, such as the inquirer, the prosecutor, heads and deputies of investigative departments, units, or groups, and heads and deputies of inquiry divisions. This lack of specificity may give rise to certain difficulties in interpreting the legal norm uniformly and applying it consistently. Therefore, it is advisable to improve this article by comprehensively and systematically defining the types and forms of amending and supplementing the accusation, as well as the legal status of the subjects authorized to exercise this power.

In our view, even during the inquiry form of investigation, there are sufficient legal grounds to apply the legal mechanism for amending and supplementing the accusation as envisaged by Article 362 of the Criminal Procedure Code. Although



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the general conditions of inquiry are regulated in Chapter 46<sup>1</sup> of the CPC and the procedure for amending and supplementing the accusation is not directly established by separate provisions, the rule contained in Article 381<sup>3</sup> is of particular importance. This article provides that the inquiry must be conducted in accordance with the general rules established by the CPC, taking into account the specific features set forth in this chapter. From this perspective, if the need arises to amend or supplement the accusation during the inquiry, the inquirer has the authority to apply the general provisions envisaged by Article 362 of the CPC when reviewing the accusation. This indicates that the practical application of this article is not limited solely to the initial investigation but can also be appropriately implemented within the framework of inquiry activities.

Furthermore, some researchers have argued that the persons authorized to amend and supplement the accusation should be identified in the same manner as those who have the authority to make the decision to involve an individual as the accused in a criminal case [11].

Indeed, in accordance with the first part of Article 361 of the Criminal Procedure Code, the authority to make the decision to involve a person as the accused in a criminal case is granted to the inquirer, investigator, and prosecutor. The third subparagraph of the first part of this article stipulates that the decision must reflect the criminal act attributed to the individual, including the place, time, and other essential circumstances that constitute the content of the accusation. From this perspective, the powers related to amending or supplementing the accusation should likewise be exercised by the same persons who have the authority to make such a decision. This is necessary because procedural actions concerning the content and legal qualification of the accusation must be carried out in a manner consistent with procedural continuity.

Based on the conclusions outlined above, we consider it appropriate to interpret the term “investigator” in Article 362 of the Criminal Procedure Code as follows: “**an official conducting the initial investigation or inquiry who has the authority to make the decision to involve a person as the accused in a criminal case**”. Such participants include the investigator, inquirer, prosecutor, heads and deputies of investigative departments, units, or groups, as well as heads and deputies of inquiry divisions.



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At the same time, in the subsequent stages of criminal procedural activity — particularly after the prosecutor receives the criminal case along with the accusatory conclusion (indictment report) and during the trial stage — certain procedural limitations apply to amending and supplementing the accusation. Specifically, once the investigation is completed and the criminal case is forwarded to the prosecutor with the accusatory conclusion (indictment report), the prosecutor is authorized to amend the accusation only in a direction that mitigates the position of the accused (for example, by removing certain clauses from the content of the accusation or applying a law corresponding to a lesser offense).

To more clearly characterize these limitations, it is appropriate to thoroughly analyze the procedural procedure for amending the accusation during the prosecutor’s approval of the accusatory conclusion (indictment report) and its distinctive features. More precisely, Article 385 of the Criminal Procedure Code grants the prosecutor the right, at the time of approving the accusatory conclusion, to amend the accusation in favor of the accused, that is, in a manner that alleviates their criminal liability. According to S. Sakhaddinov, “Amending the accusation in a mitigating direction by the prosecutor is carried out by removing certain clauses from the accusation or by applying a provision of the Criminal Code that provides for a lesser offense (for example, applying a sanction or mitigating provision from the General Part, or a provision from the Special Part prescribing a lighter punishment, reclassifying the crime as one of lower social danger, removing aggravating circumstances, etc.)” [12]. This authority is noteworthy because it is exercised solely by reducing the scope of the accusation and is exclusively directed toward that purpose. The supplementation of the accusation, on the other hand, could lead to aggravating the position of the accused, potentially applying a provision that prescribes liability for a more serious offense. According to some procedural law scholars, such an approach would contradict the procedural guarantees of the rights of participants in the criminal process and the established procedural principles set forth in criminal procedural legislation [13].

In practice, the situation referred to in Article 385 of the Criminal Procedure Code as “amending the accusation in a direction that significantly differs from the



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previous accusation based on the actual circumstances” is not clearly defined in terms of its substantive content. The absence of legal provisions that specify the characteristics of this concept or the criteria for its application may lead to divergent interpretations in practice and, in some cases, procedural uncertainty. Nevertheless, this concept has been extensively explored in the scholarly literature [14]. In particular, according to some researchers, amending the accusation in a direction that significantly differs from the previous one based on the actual circumstances may not necessarily result in a more severe accusation; however, the factual circumstances may differ so substantially that they require the accused’s defense strategy to be entirely reorganized [15].

In our view, the concept of “amending the accusation in a direction that significantly differs from the previous accusation based on the actual circumstances” requires a broader approach both materially and procedurally. Although such changes may not affect the fundamental elements of the crime, they involve factors that influence the essence of the current accusation. Therefore, such changes can be considered to arise in the following cases:

1. When actions are committed constituting a crime of equal, lesser, or greater severity than the initial accusation, but directed against a different object of the crime;
2. When information regarding the time or place of the crime changes, provided that these circumstances are significant for qualifying the crime or increase the social danger of the accused;
3. When the crime was committed with a different purpose, motive, or method, and this purpose, motive, or method constitutes an essential element of the crime;
4. When the actions of the accused correspond to the previously announced composition of the crime but reflect a different form of the act or type of participation in the crime (for example, changing from the direct perpetrator to organizer, instigator, or accomplice).

At the same time, in cases where the prosecutor amends the accusation in a mitigating direction for the accused, the procedural formalities for documenting such amendments—particularly the mechanism for familiarizing the accused and their defense counsel with the changes—cannot be fully reconciled with the existing procedure. Under Article 388 of the Criminal Procedure Code, the



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prosecutor or their deputy must immediately notify the accused and their defense counsel that the case has been sent to the court and inform them of their right to submit requests or present statements at the trial. At this moment, if any amendments have been made to the accusatory conclusion or indictment report (or its annex), a copy of the decision regarding these changes must also be sent. However, this procedural arrangement may not fully guarantee the accused's right, as established in Article 46 of the CPC, to be informed of the nature of the charges against them. In practice, the decision to amend the accusation in a mitigating direction by the prosecutor is transmitted in the form of a notice without formally announcing the accusation. As a result, the accused may not fully understand the content and substance of the revised accusation and may be deprived of the opportunity to respond or to develop an appropriate defense strategy. Therefore, even when the accusation is amended in a mitigating direction, it is necessary to formally announce the new accusation, involve the defense counsel in the process, and provide the accused with the opportunity to present objections.

Once the accusatory conclusion (or indictment report) is approved by the prosecutor, the criminal case is sent to the court for substantive review. At the trial stage, the prosecutor does not have the authority to independently amend the accusation. In this context, according to the third part of Article 409 of the CPC, if circumstances identified during the investigation necessitate a change to the accusation against the defendant, the prosecutor must submit a reasoned statement to the court. The court then has the discretionary authority to either accept or reject the prosecutor's written justification for amending the accusation. From the provisions of criminal procedural legislation, it is evident that each subsequent stage exercises oversight over the preceding one. In this process, participants in the criminal procedure review the legality and justification of the accusation set forth in previous procedural decisions.

Thus, the accusatory conclusion (or indictment report) prepared at the end of the investigation is first examined by the prosecutor based on criteria of legality and justification. During the substantive consideration of the case, the court assesses the groundedness and lawfulness of the accusation approved by the prosecutor. If



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dissatisfied parties file appeals against the court's decision, the higher judicial instances oversee the legality and justification of the judgment rendered.

### **Conclusion:**

Amendment and supplementation of the accusation refer to procedural actions aimed at clarifying the legal characterization of the initial accusation, modifying certain elements of the crime, supplementing the accusation in light of newly established circumstances, removing specific parts of the accusation, or reclassifying the committed socially dangerous act as a more severe or relatively less serious offense. The process of amending the accusation is influenced by both objective and subjective factors.

Based on the conclusions outlined above, we consider it appropriate to interpret the term **“investigator”** in Article 362 of the Criminal Procedure Code as follows: **“an official conducting the initial investigation or inquiry who has the authority to make the decision to involve a person as the accused in a criminal case”**. Such participants include the investigator, inquirer, prosecutor, heads and deputies of investigative departments, units, or groups, as well as heads and deputies of inquiry divisions.

The legal category of “amending the accusation in a direction that significantly differs from the previous accusation based on the actual circumstances” not only represents one of the key institutions in criminal procedural activity but also holds particular significance in terms of ensuring the accused's full exercise of the defense rights guaranteed by the Constitution of the Republic of Uzbekistan and by procedural legislation.

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