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RESEARCH ARTICLE

FEATURES OF SYSTEMATIC APPROACH TO THE PROCESS OF ENSURING INTENSIFIED CRIMINAL PROCEEDINGS

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Abstract

Annotation: This article highlights scientific approach to the production system in criminal procedure and the analysis of the theoretical and conceptual positions of different schools. The author's vision and views of the system on various issues of intensification of criminal proceedings; the classification criteria for constituting structural elements of "proceedings in a special order" in criminal procedure; the analysis of the concept of "comprehensive, full and objective investigation" is presented. The author conducted a scientific debate on the procedural acts, reflecting the feature of the criminal proceedings; put forward constructive solutions regarding the intensification of procedural and legal relations.

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INTRODUCTION

It is well-known that one of the structural elements of the criminal procedure is the production of criminal cases, and we can analyze the opinions of a number of scientists and researchers dedicated for this issue.

In particular, as rightly argues Yakimovich Yu.K., the system of criminal procedure also includes special types of production. These types of production took their place in the criminal procedure as a "special procedure in criminal cases". This is due to the production of various categories of criminal cases (for private prosecution of offenses committed by minors, the application of compulsory medical treatment and so on.) having a specific character established by the Criminal Procedure Law.

Definitely, the production of cases in criminal proceedings gets its development in the manner prescribed in criminal procedural law, as the law specifies a number of separate orders of its production. In science, there are procedural aspects, reflecting the identity and specific features of criminal proceedings by developing definitions and conceptions.

Thus, Mukhitdinov F.M. claims that the criminal procedure law of our country refers to three types of special order of criminal proceedings: 1) primary production; 2) special production; 3) additional production. He writes: "Every type of proceedings in criminal procedure has its own essence. The essence of each of them, primarily manifested in the procedural purpose of a particular type of proceedings, as well as a kind of procedure for the settlement of procedural means to achieve these goals". In particular, the essence of the "main proceedings", according to Mukhitdinov F.M., is focused on "finding the fact of committing or not committing crime, commission

or non-commission of offense by the accused person, whether the actions of a person punishable or not punishable, reasonableness and fairness or unfairness and unreasonableness of punishment. Since these issues are the main issues of criminal procedure, this kind of court proceedings should be called the “main proceedings”.

Based on the above scientific approaches, we can identify the following general criteria for constituting structural elements of “proceedings in a special order” in the criminal procedure:

- a well-defined *orientation* of emerging and developing procedural relations;
- presence of specific procedural *purposes*;
- presence of specific procedural relations with the *complex nature of development*;
- *the person* against whom the proceedings are conducted, has a kind of social and procedural *status*;
- *final decision* on the results of the production has its own specificity.

Thus, despite the fact that these structural elements are closely related to each other and are in a functional relationship, they also have their own independent meaning. In other words, “the direction of development of procedural relations” reflects concept on specific features of the sequence of criminal proceedings or a special order of production. For example, the rules of criminal proceedings in a general order are different from the rules of proceedings in a particular order. Distinctive aspects are connected to the interconnected elements related to the structure of the individual stages of the criminal procedure. If the criminal proceedings in a general way reflects the specifics of the relationship in the sequence of procedural steps of the criminal proceedings, such structural element is not strictly fixed in the criminal proceedings of special order.

With respect to such a structural element of “production” in the criminal procedure as a “procedural purpose”, we can support researcher F.M.Muhitdinov’s opinion, which we cited above.

It should be noted that the purpose of criminal proceedings have structure, that is, they are also built in a hierarchical order. For this reason, the content of Article 2 of the Criminal Procedure Code of the Republic of Uzbekistan can be arranged hierarchically to understand the general purpose of criminal procedural legislation. According to it, the main and final goal of the criminal process is to resolve the issue so that everyone who has committed a crime, would be subjected to fair punishment and no innocent person would be prosecuted or convicted.

To achieve this goal it is necessary: a) to open the crimes promptly and fully; b) to expose the perpetrators, ensuring a correct application of the law in criminal proceedings and the implementation of other basic objectives of the proceedings.

But in connection with these objectives in the structure of “criminal proceedings”, there may occur some changes in criminal procedure. For example, the purpose of the criminal proceedings, in relation to the commission of a socially dangerous act by insane person, is not just punishment of the guilty, but recognizing as an important consideration of the application or not application of compulsory medical measures in respect of that person.

Consequently, the final goal, arising from the type of criminal proceedings, is the criteria for their distinction from the short-term goals that arise in individual stages of the criminal procedure.

The complex nature of procedural relations also recognizes element of structural proceedings as important in the criminal procedure.

Although the criminal procedure law does not use the concept of “procedural complex relationship”, from the order of individual proceedings we can understand this content precisely. Thus, article 91 of the Code specifies the procedure for the use of aids in fixing the evidence, along with the preparation of protocols, sound recording, video recording, filming, photographing, making impressions, plans, schemes, and other ways to display information, thus, the investigator, inquiry officer, the court may draw specialists to assist in application of these methods for securing evidence.

Also, the concept associated with the complexity of the criminal case, exist in the rules of criminal procedure, regulating the order and limits of actions of proof. In particular, Article 95 of the Criminal Procedure Code imposes on the inquirer, investigator, prosecutor and the court to evaluate the evidence according to their inner conviction based on a “... *comprehensive, full* ...” investigation of all the circumstances of the case.

“A comprehensive, complete and objective examination” of all the circumstances of the case creates a notion of complexity related to the volume of the criminal case. Based on the extent of materials of criminal case, we can conclude how the requirements concerning the comprehensive, complete and objective investigation of all circumstances of the case were met. This, in turn, indicates the degree of complexity of the consideration and production of the criminal case.

Some authors say that the concept of complexity of the relations of criminal procedure is quite common, in some cases, it is used as an important element in the structuring of the criminal process. This study is not an exception in this respect.

For example, “another criterion for structuring the criminal procedure is the complexity of the production of the criminal process, in other words, the proceedings against the accused (the suspect or defendant) persons, based on the nature of the offense (public danger), can be carried out in a complex, simplified or ordinary forms”.

However, these authors did not disclose the aspects of relationship between the complexity of the case and the concepts of the nature of the offense.

In this regard, it should be noted that the concept of the nature of the acts committed by the accused in the literature is often interpreted as the degree of public danger of the act. So, likewise argue the authors cited by us.

Of course, the degree of public danger of the act is closely linked with the terms of the circumstances, subject to proof in a criminal case. It is logical that with increasing degree of social danger of the offense, the mechanism of evidence of the case is more complicated. For example, you need to check the arguments of the suspect, the defendant in the case, bring the matter a lot of witnesses, experts and specialists, holding various types of forensic and other investigative proceedings, ultimately based on the findings of the investigation and decisions of the court.

However, not all criminal cases that have a high degree of public danger can be recognized as complex in terms of investigation and trial. On the procedural position of the concept of complexity of the case it is connected not only with the above circumstances, and include the following aspects:

- specificity of the social, as well as the procedural status of the suspect, the accused and the victim (participation of minor, insane in a criminal case etc.);
- reaction of the suspect, accused or defendant to the charges (failure of sincere repentance to the crime, the resisting to the actions of the investigation and the court in establishing the truth in the case and so on.);
- proceedings against one person for several episodes of the case, or in respect of a few individuals;
- complexity of the mechanism of proof (the limitations of collecting evidence; specificity of kinds of circumstances, subject to proof of certain categories of crimes, etc.).

The “possession of a person of a specific social and procedural status” relating to the structuring of cases in the criminal procedure, is representative of the complexity of the criteria in criminal proceedings, but it is an important property of the systems lies in the fact that it is the basis for determining the type of the criminal proceedings. Since maintenance of production against a minor or insane person who is involved in the orbit of the criminal procedure, should be based on their procedural, on the whole, the social status.

The peculiarity of the final decision in the case, considered to be an important element to reflect the structural criminal proceedings. Because the specificity of the legal act, the final criminal proceedings - the decision lies in the fact that it reflects the information on the existence of “individually specified legal enforcement authority” in criminal proceedings.

There is also a view that “under the decision taken at the pre-trial stage, the act of official authorized person is understood. There conducted the production of the preliminary investigation or the supervision of the investigation, legally binding and taken a particular procedural issue on the basis of their inner convictions”.

Joining the author's opinion, we should highlight two of its important aspects. Indeed, the decisions made in the criminal process, firstly, recognized by inner convictions of officials who accepted the act; secondly, they are binding on all legal entities and individuals involved in the orbit of the criminal process. Its procedural value is determined just like that.

In the literature, opinions are given concerning the procedural acts of legal significance. In particular, according to Tajibayev A.Yu., in criminal proceedings court makes different decisions, that is, “Sentences”, “determinations”, “decisions”. Their significance lies in the fact that through the adoption of the act is not only permitted on the merits of the substantive conflict that ends the case, but are being resolved many other issues related to the administration of justice.

Such procedural decisions, in other words, the procedural acts, reflecting the feature of the criminal justice process - decisions are the materialization of the object of interest of the participants of the process. Institution of appeals against the decisions of the inquirer, investigator, and prosecutor applies to all participants in the criminal process and serves as the restoration of violated rights and interests.

Naturally, this applies equally to the court decision.

So, based on the analysis of the above judgments we can have two important aspects of the decision, rendered in the criminal case. First, the final decision taken in a criminal case, respectively, completing the procedural relations arising at a certain stage of the proceedings; Second, simultaneously with the completion of certain procedural relations, the decision becomes the basis for the emergence of new relations in the next procedural stage of the criminal process.

Thus, in the context of structural criminal proceedings a decision in the criminal case has an important place. This demonstrates the importance of the role and specificity of the final decision in a criminal case in solving the problems of intensification of criminal procedure relations.

In conclusion we note that the particular teachings about the nature of the structure of criminal proceedings based on the issues put forward in the process of learning and development on their decision. As a result of the analysis of issues concerning the criminal procedure we can draw the following conclusions:

- systematic analysis of the scientific object is an effective process for resolving problems associated with the object;
- system of criminal procedure in our country is based on two key structural elements: 1) phases, and 2) the criminal proceedings;
- these structural elements in close relationship reflect systemic relations to solve the problems of intensification of criminal procedure relations.

In summary, we can conclude that based on the direction of resolving the problems of intensification of criminal procedure relations is connected with the development of the above-mentioned criminal proceedings.