

ESSENCE AND CONCEPT OF "CRIMINAL PROCEDURE LAW"

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Abstract. The purpose of this article is not to reveal the essence of criminal procedural law as a whole as an independent phenomenon of legal reality, but to reveal the essence of the concept of "criminal procedural law", options for its interpretation and presentation of one's vision in the definition of this term.

Key words: criminal procedural law, definition, concept, law, importance.

According to Rustambekova, to the extent that criminal procedural law is an integral part of a unified law, its definition should be based on the definition of law as a whole, taking into account the achievements and generalizations that take place in the formation of this definition. Two main approaches are clearly formulated in the theory of law to his concept. The first is that law is understood as a system of norms (rules of conduct), as rules of conduct. This is the so-called narrow, monistic understanding of law. The second is that law is understood as a measure of individual freedom, again taking into account the problems associated with free will, freedom of choice, the correlation of freedoms and interests of different individuals, etc. This is the so-called pluralistic, broad understanding of law. From the foregoing, we can conclude that law, being normative, regulates the legal freedom of behavior of participants in public relations, is a normative criterion for the legitimacy of this behavior (permitted or prohibited) and, therefore, is revealed as a specific phenomenon in the unity of objective and subjective law. Based on this, criminal procedural law can be characterized as normatively fixed rules of conduct for participants in criminal procedural relations, outlining the scope of their freedom of action in the course of protecting personal interests or the interests of society, the state [2].

In modern literature, there are two trends towards the consideration of the concept of criminal procedural law. Therefore, some authors do not consider this issue at all, replacing it with a question about the concepts of criminal proceedings or criminal process. The second, interpreting criminal procedure law, proceed from the fact that this is a branch of law that regulates the procedure for initiating, preliminary investigation and judicial review and resolution of criminal cases, or that criminal procedure law is a set of legal norms that define tasks, principles, and the circle of participants in the criminal process, their rights and obligations, as well as other provisions of Uzbek legal

proceedings governing the procedure for initiating, preliminary investigation, judicial review and resolution of criminal cases. Thus, Smirnov A.V., Kalinovsky interpret criminal procedure law as “a set of norms regulating social relations in the process of criminal proceedings in resolving procedural issues related to resolving issues from the stage of initiating a criminal case to the stage of execution of a sentence” [3].

It should be noted here that in the legal literature it is often allowed either to identify the essence and content of law, or the authors formulating their definition of law, as Rustambekova notes, do not touch on this issue at all and reduce their definition only to a set of norms, without explaining what meaning in this case: the essence of law or its content is a set of legal acts regulating legal relations that develop in the criminal procedural sphere. Particularly clearly the separation of the concepts of essence and content is manifested, in our opinion, not in material, but in procedural law.

In order to fully reveal the essence of the concept of “criminal procedural law”, it is necessary to consider it from the point of view of dynamics, movement, since all the norms of the industry we are considering are not only a set, a set of certain rules, it is, first of all, a legislative reflection of the process of realization of rights and legal interests of participants in criminal proceedings, the powers of state bodies and officials, the scope of the established freedom of behavior, expression of will, competence. Criminal procedure law is an independent legal block in the structure of law, therefore its essence is revealed in its purpose, specific features, tasks and goals. The Code of Criminal Procedure of the Republic of Uzbekistan refers to the purpose of criminal procedure law: protection of the rights and legitimate interests of persons and organizations victims of crimes; protection of the individual from unlawful and unjustified accusations, condemnation, restriction of his rights and freedoms, as well as, in addition to criminal prosecution and the imposition of a fair punishment on the guilty, the refusal to prosecute the innocent, release them from punishment, and the rehabilitation of everyone who has been unjustifiably subjected to criminal prosecution [1]. Concretizing the statutory purpose of criminal procedure law, it can be noted that it contains rules governing:

- protection of the individual, society, state from criminal encroachments through the implementation of criminal law and regulation of the activities of bodies of inquiry, investigation, prosecutor's office, court;
- consolidation of the powers and functions of participants in the criminal process in the investigation, consideration and resolution of criminal cases;

- implementation of guarantees of individual rights, in particular, ensuring the defendant's constitutional right to protection, inviolability of the person, home, privacy of correspondence, telegraph and telephone conversations, the right to fair justice and other rights;

- the procedure for judicial protection of citizens from encroachments on their life and health, property and personal freedom, honor and dignity, etc.

In this case, law in general, and criminal procedural law in particular, appears before us as a “voluminous”, “living” law. At the same time, the essence of criminal procedural law is precisely the activity of forming, developing and changing the sphere of legal reality that is associated with the investigation, consideration and resolution of criminal cases. At the same time, the criminal process is a mechanism, a procedure for the implementation of this activity. Bojenov V.P., Sattarova M.M., Rasulova N. adhere to a similar position on the above interpretation of the criminal process, saying that “the criminal process ... is only part of the entire activity of the court, prosecutor, investigator, interrogator, bodies of inquiry in the preparation and resolution of criminal cases, namely, its external legal form [1].

For a correct understanding of the essence of criminal procedural law, it is necessary to pay attention to the inadmissibility of mixing the concepts of “criminal process” and “criminal procedural law”. As Rustambekova noted, “being interrelated concepts, criminal procedural law and criminal procedure can neither be identified nor mixed” [2]. Criminal procedural law is the state will expressed in the relevant legal norms, aimed at regulating by a certain method the behavior of people in the field of public relations that arise and develop in criminal proceedings. As for the process itself, it is understood as the legally regulated procedure for the activities of participants in legal proceedings and the corresponding legal relations. The content and nature of criminal procedure law determines the content and nature of the criminal process. In practice, there is a discrepancy between the application of the norms of criminal procedure law and their content. The confusion of these concepts in such cases may mean the recognition as lawful of all actual actions to investigate, consider and resolve criminal cases, regardless of their actual compliance with legal requirements. Which is unacceptable even in the conditional meaning that Smirnov A.V. and Kalinovsky K.B., noting, “Since the term “criminal process” is used as an abbreviation for criminal procedural law, it is quite possible to talk about criminal process in the sense of criminal procedural law” [3].

Although there is no common opinion about the concept of the sources of criminal procedure law, many theorists conclude that the concept under study

should be considered as an external form of expression of legal acts that regulate the rules of conduct for participants in criminal procedure relations. Therefore, for example, A.V. Smirnov says, “the source of law in the legal sense is usually understood as one or another external form of expression of legal norms” [3]. Others argue that it is paramount to understand the source of law as a source of information about the rules that must be observed in criminal proceedings, and this circumstance “obliges to see in the concept of “source of criminal procedure law”, first of all, a set (system) of legal acts, containing information about the relevant norms (rules of conduct). The key words in these definitions are the following: "an external form of expression of legal norms" and "a set (system) of legal acts". There is a problem of discrepancy between the views of the legislator and theorists of criminal procedure law.

The following statements can serve as an example: “The law is a form of expression of criminal procedural law, its norms. This determines the relationship between the criminal procedural law and the criminal procedural law... The order of criminal proceedings can be regulated only by the law, which is the only source of criminal procedural norms” [1]. And “the only way to express the content of criminal procedural law is a normative act denounced into the form of law” [2], “the question of the sources of criminal procedure law is inextricably linked with one of the most important principles of justice — the independence of judges and their subordination only to the law. Therefore, law, acts of executive, administrative, can only establish the procedural order of the activities of courts and other bodies cannot regulate the process of administration of justice, the procedure for resolving criminal cases by the court. In other areas of law ... sources of legal norms, within certain limits, can also be by-laws, but in the field of legal proceedings this cannot be” [3].

Analyzing the above, we can conclude that the essence of criminal procedural law revealed, first, through its purpose, which is manifested in activities aimed at realizing its goals and objectives. Thus, criminal procedural law is a legally regulated activity for the investigation, consideration and resolution of criminal cases, carried out within the framework of the principles of criminal proceedings, during which the rights and legitimate interests of persons participating in it are realized.

References:

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