

# The goal setting of modern criminal proceedings subject to regulatory consolidation

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**Abstract.** The article deals with the correlation of some of the most significant categories of criminal procedure activity: "purpose", "purpose" and "tasks". The authors conclude that without goals and objectives, it is impossible to imagine any organized, well-coordinated and planned activities, especially those regulated by law. The goal organizes the participants in the criminal procedure activity, advises them about the result, while the tasks help them to exercise their powers. The unity of purpose and objectives, which forms the goal-setting of criminal proceedings, attaches cohesion and coherence to the actions of numerous subjects, i.e. builds a capable system. Therefore, any process, including law-making and law enforcement, can and should be characterized from the point of view of its purpose and objectives. This indicates the objective need to establish not only the purpose, but also the goal setting in the law. The attempt to concentrate the tasks of the criminal process solely on the protection of the rights and legitimate interests of the individual (Article 6 of the Code of Criminal Procedure) seems unproductive. This provision is true, but it is not sufficient, since it does not take into account the state tasks that are initially present in such branches of public law as criminal procedure law and the criminal proceedings regulated by it. The criminal process cannot fulfil its purpose without taking into account the tasks of criminal law. By implementing them, criminal law and criminal procedure protect, among other objects, the life, health, interests and freedoms of citizens, as well as public order, public security, the constitutional system of the state, peace and security of mankind.

## 1 Purposefulness of criminal procedure activity

Criminal-procedural activity is characterized by purposefulness. This follows from the very essence of activity, as a specifically human form of active attitude to the surrounding world, the content of which is its expedient change and transformation. Every activity includes the goal, the means to achieve it, the result and the process. A consciously formulated goal is always the basis of an activity, although the basis of the goal itself lies outside of this activity, in the sphere of human ideals and values [1].

### 1.1 Consolidation of goal setting in regulatory acts

#### 1.1.1 Fixing the purpose and objectives in the Criminal Procedure Code of the RSFSR of 1960

The goal is objectively inherent in the criminal process. At the same time, in the texts of domestic criminal procedure laws, there is traditionally no direct reference to the "goal", and in the doctrine there is no unity in the

approaches to determining the main determinant of the type of activity under study.

Thus, in article 2 of the Criminal Procedure Code of the RSFSR of 1960, the category "tasks of criminal proceedings" was used. They were called: rapid and complete detections of crimes, exposing the perpetrators and ensuring the correct application of the law so that everyone who commits a crime is justly punished and no innocent person is prosecuted and convicted (part 1). It was noted that criminal proceedings should contribute to strengthening the rule of law and order, preventing and eliminating crimes, protecting the interests of society, the rights and freedoms of citizens, educating citizens in the spirit of strict compliance with the Constitution and laws, and respect for the rules of the hostel (part 2).

In the scientific and educational literature of this period, the "goals" of the process were simultaneously characterized. For example, Professor A. M. Larin, in addition to tasks, distinguished two types of goals: the direct (specific) goal of the criminal process in specific cases and that coinciding with the goal of the entire state and society [2]. Professor V. T. Tomin, when analyzing part 2 of Article 2 of the Criminal Procedure Code of the RSFSR, in addition to the purpose of the proceedings in

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each individual criminal case, also identified higher-level determinants, but called them tasks [3].

### ***1.1.2 Lack of goal setting in the Criminal Procedure Code of the Russian Federation***

In article 6 of the Criminal Procedure Code of the Russian Federation, the legislator evaded the designation of the tasks of the criminal process. He defined the "purpose of criminal proceedings" as the protection of the rights and legitimate interests of persons and organizations who have suffered from crimes; the protection of an individual from illegal and unfounded accusations, convictions, restrictions on his rights and freedoms (part 1). It is provided that the criminal prosecution and the imposition of a fair punishment on the guilty meet the purpose of criminal proceedings to the same extent as the refusal of criminal prosecution of the innocent, their release from punishment, the rehabilitation of everyone who was unreasonably subjected to criminal prosecution (part 2).

Perhaps, through the definition of "purpose", an attempt is made to consolidate the determinants of the higher-level criminal process, which were previously distinguished as a kind of goals (or tasks). However, the category of "appointment" is wrong to define the result of the criminal process. It indicates the initial prerequisites, reflects the social order of society; it is a form of expression of social needs that demonstrates what criminal procedure activities are needed for [4].

Let us note that this approach is mostly an exception to the rule. Our analysis of the texts of codes and other federal laws regulating the basic areas of state activity allowed us to identify other options for solving the issue of normative consolidation of goal-setting. There are several of them.

### ***1.1.3 Approaches to the normative consolidation of goal setting in the legal acts of the Russian Federation***

Thus, a number of legal acts fix the tasks of the legal relations regulated by them (for example, Article 2 of the Arbitration Procedure Code of the Russian Federation, Article 2 of the Civil Procedure Code of the Russian Federation, Article 2 of the Federal Law on Enforcement Proceedings). In others, there are tasks of the act itself (in particular, Article 2 of the Criminal Code of the Russian Federation, Article 1.2 of the Code of Administrative Offenses of the Russian Federation; Article 1 of the Federal Law on the Detention of Suspects and Accused of Committing Crimes; Article 1 of the Fundamentals of the Legislation of the Russian Federation on Culture). Third is the tasks of the relevant officials (Article 6 of the Tax Code of the Russian Federation, Article 1 of the Federal Law on Bailiffs, etc.). A common option is also to fix the purpose and (or) tasks in the text of the normative act (Article 1 of the Labor Code of the Russian Federation, Article 2 of the Civil Procedure Code of the Russian Federation, Article 1 of the Criminal Executive Code of the Russian

Federation, etc.). It should be mentioned that in a number of codes (for example, the Civil Code of the Russian Federation, the Housing Code of the Russian Federation, the Land Code of the Russian Federation, the Forest Code of the Russian Federation, etc.) there is no indication at all of the goals, objectives, and the purpose.

The above allows us to conclude that at present, the Russian legislator does not have a single approach to fixing goal-setting in law. One of the reasons for this is the lack of a scientifically-based solution to this issue. The indicated problem requires a solution. For this purpose, it is necessary to find out the validity of the establishment of goal-setting in law, to determine the possibility of fixing the "purpose", "goals" and "tasks" in the normative act.

## **1.2 Ratio of the categories "purpose", "purpose" and "tasks"**

### ***1.2.1 "Purpose" category***

In the special literature, it is noted that the purpose indicates what this item is usually needed for people. It is most often implemented on a regular basis, and not only by this particular object, but also by the entire class of objects created by people specifically for performing some useful action. The unique feature of this concept is also shown in the expression to use something for its intended purpose, where the purpose is a property of the thing itself" [5]. Therefore, the designation, being a reflection of the social value of the law, plays an important role in its creation, and therefore, under certain conditions, it can be fixed in it.

At the same time, only an external assessment of the criminal process as a branch of legal practice can be expressed through social assignment. It does not have the property of purposefulness, since it is not able to organize the law enforcement officer for a strictly defined result [6]. The "purpose" "blurs the guidelines for criminal procedure activities; the goal is replaced by the "background" on which this activity should proceed [7].

### ***1.2.2 The importance of anchoring the "goal"***

In this regard, we consider the correct position of scientists who note that the formulation of "appointment" is insufficient, point to the need to consolidate the purpose (s) of the criminal process in the text of the law. For example, A.V. Agutin writes that the goal acts as one of the regulators of normal procedural activity. Without goal-setting, it is impossible, since the setting of goals in legal proceedings acts as its internal determination [8]. A similar opinion is held by Yu. V. Derishev. He notes that the correct definition of goals and setting goals as a process of setting goals for the entire criminal process and its part – pre-trial proceedings-has always been relevant, and in the context of modern judicial and legal reform is of particular importance [9]. L. M. Volodina notes that "the effectiveness of the application of the law should be determined through the achievement of goals" [10]. A

similar opinion is shared by I. G. Smirnova: "an adequate formulation of the targets of criminal proceedings should be recognized as a necessary prerequisite for its effectiveness" [11].

#### *1.2.3 Goal as a legal reference point*

According to V. L. Havel, "the goal initially has a normative character, it is a certain law of activity, which without its presence can neither begin nor last" [12]. A legal reference point becomes a legal goal. It breaks away from the consciousness of the legislator, is objectified in law and becomes common to the subjects of legal relations. It is considered that "the normativity of a legal goal is generally obligatory, since the absolute majority of goals in law is not just an indication of the desired result, but of a mandatory given aspiration. This quality makes it an effective regulator of social relations" [13].

Agreeing with the opinion of scientists, it should be added that the goal is necessary, first of all, for the one who carries out the activity, who is responsible for its progress and results.

The specifics of criminal proceedings, among other things, is that it is a long-term, multi-stage activity consisting of separate procedural actions. Each of its executors – the court, the prosecutor, the preliminary investigation body – acts on its own segment of the criminal process at certain stages of the proceedings, which have their own specific purpose. In order to combine their work into a single whole, to make it systematic and complete, it is necessary to define a single goal of the criminal process. Moreover, "it must be recognized by the subjects of criminal procedure. Without a clearly formulated goal, it is impossible to achieve an effective result in any branch of human activity, including in criminal procedure" [14].

#### *1.2.4 Tasks of the criminal process*

A mandatory element of the goal-setting of any law enforcement activity is also its tasks. Properly formulated tasks allow us to give the law enforcement officer and other subjects a clear and complete idea of what type of criminal process they will work and interact with. In the theory of the criminal procedure, tasks are called intermediate results on the way to achieving goals. The solution of certain tasks is assigned to a specific law enforcement agency. Their tasks act as means to achieve the goal [15]. According to Professor M. P. Polyakov, "the model of a perfect criminal process cannot be developed without a clear understanding of its purpose and prioritization by identifying and grading tasks ..." [16]. Tasks are the continuation of a goal from the abstract to the concrete. In relation to the goal, the tasks are more specific in nature. Each of them is related to the goal, is formed within its framework, and concretizes the last one.

### **1.3 The importance of goal setting for law enforcement and law-making activities**

Thus, without goals and objectives, it is impossible to imagine any organized, well-coordinated and planned activities, especially those regulated by law. The goal organizes the participants in the criminal procedure activity, guides them about the result, while the tasks help them to exercise their powers. The unity of purpose and objectives, which forms the goal-setting of criminal proceedings, gives the actions of numerous subjects cohesion and coherence, i.e. builds a capable system. Therefore, any process, including law-making and law enforcement, can and should be characterized from the point of view of its purpose and objectives. This indicates the objective need to establish not only the purpose, but also the goal setting in the law.

### **1.4 The importance of goal setting in public proceedings**

The need for normative consolidation of the goal-setting of domestic criminal proceedings, among other things, is due to its historically established public nature. It is well known that the same goal can be achieved in different ways. In the field of the criminal procedure, the defining principles are public and private. In private-claim proceedings, it is not necessary to indicate the general purpose of criminal procedural activity, since the parties defend opposite interests. The role of the state here is mainly to establish the "rules of the game" for the subjects of legal relations.

In public proceedings, however, officials of State bodies are of public interest, and they need to determine the final outcome of the work. The society expects quite definite results from the criminal proceedings, which are of great importance for it. Khashimov R. A. rightly writes about this: "the fact of normative consolidation of goals in criminal proceedings indicates the public-law nature of the branch of criminal procedure law, since it is public-law relations that are characterized by an indication of the results that are pursued by the state in the implementation of law enforcement activities within the relevant branch of law" [17].

## **2 An approach to the normative consolidation of the goal setting of modern criminal proceedings**

A clear definition of the goals and objectives of criminal proceedings (along with the correction of the wording of its purpose) is of great importance for the criminal process, which is a form of application of the criminal law. As is known, within the framework of this activity, the competent authorities certify compliance with or the legality of the use of criminal law norms; establish the legality, expediency of the implementation of the norms of the Criminal Code of the Russian Federation, the fairness of the criminal law impact. And they also resolve legal issues arising in connection with the implementation of the criminal law [18]. Therefore, by

formulating the purpose, goals and objectives in the Criminal Procedure Code of the Russian Federation, it will be necessary to eliminate the current "gap" between criminal substantive and procedural legislation.

Thus, the Criminal Procedure Code of the Russian Federation essentially stipulates that criminal proceedings and all their means should be aimed at ensuring the correct application of the provisions of the Criminal Code of the Russian Federation for the protection of human and civil rights and freedoms. This also includes property, public order and public safety, the environment, the constitutional system of the Russian Federation from criminal encroachments, strengthening the rule of law and the prevention of crimes.

## **2.1. The relationship and subordinate role of the criminal process in relation to criminal law**

### *2.1.1 Subordinate role of the criminal process in relation to criminal law*

This approach is due to the subordinate role of criminal proceedings in relation to criminal law. As you know, criminal procedure without criminal law is pointless, while criminal law without criminal process is powerless [19]. The position that criminal procedure is inseparable from criminal law and is intended to "bring it to life" was shared by pre-revolutionary and Soviet scientists-processualists [20, 21] and currently has significant support in the scientific community [22, 23].

### *2.1.2 Exposing the person who committed the crime*

The relationship between substantive and procedural criminal law allows us to identify a single system-forming requirement for any criminal procedure activity, namely: the identification of the person who committed the crime and bringing him to criminal responsibility. Indeed, at all times and among all peoples, the activities of State bodies in the field of criminal justice are limited to establishing the existence of a crime in the actions of a particular person.

### *2.1.3 Fair criminal impact*

However, it is not enough to establish the guilt of a person in the commission of a crime. It is also necessary to apply a fair criminal law impact to it. "The punishment and other measures of a criminal nature applied to a person who has committed a crime must be fair, that is, correspond to the nature and degree of public danger of the crime, the circumstances of its commission and the identity of the perpetrator" (Article 6 of the Criminal Code of the Russian Federation). When passing a guilty verdict, the court applies the norms of the Criminal Code of the Russian Federation, thereby contributing to the restoration of social justice, the correction of convicts and the prevention of the commission of new crimes, i.e. the realization of the goals of punishment established by Article 43 of the

Criminal Code of the Russian Federation. According to Part 1 of Article 297 of the Criminal Procedure Code of the Russian Federation, the verdict of the court must be not only lawful and justified, but also fair.

### *2.1.4 Restoration of the rights and freedoms of a person wrongly accused of committing a crime*

At the same time, if we limit ourselves only to this requirement, then criminal proceedings are entirely reduced to an accusation aimed at exposing suspects and accused persons. This requirement was absent in the Code of Criminal Procedure of the RSFSR, because it was considered that in the Soviet criminal process, bringing an innocent person to criminal responsibility is in principle impossible. Meanwhile, some processualists even then said that the stronger the fight against crime, the more thoroughly the investigation and judicial review of the criminal case should be conducted. If it is required that no criminal escapes the punishment he deserves, it is equally important that no innocent person should be prosecuted and convicted [24].

In a legal society, anyone who has suffered from the illegal actions of persons engaged in criminal procedure activities has the right to count on their rehabilitation. This is the usual practice of civilized countries, when the state is responsible for its actions before society and the citizen. The significance of this provision is enhanced in public criminal proceedings, where the full power belongs to State bodies. Therefore, if a person is wrongly accused, they are obliged to take all measures to restore his rights and freedoms.

Therefore, it is advisable to reflect that the purpose of criminal proceedings is such a result of the application of the norms of the Criminal Code, in which persons who have committed acts prohibited by criminal law are subjected to fair criminal legal influence and no innocent person is convicted and / or restricted in their rights and freedoms, etc.

## **3 Conclusions**

Thus, the appearance in the law of the goals and objectives of criminal proceedings will adequately reflect the subject-system relations of the legislation of the criminal-legal block, give coherence and organization to the work of the law enforcement officer, orient him relative to the final result, thereby strengthening the motivational aspect of the activity. At the same time, the correctness of the formulation and accuracy of the formulation of the determinants of criminal proceedings will be a necessary condition for the legislative bodies to further improve the legislation in the direction of "creating" an optimal procedural form that ensures the achievement of a legitimate, reasonable and fair result.

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