

# Methodological bases for fixing the goal-setting of criminal procedural activity in the Criminal Procedure Code of the Russian Federation

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**Abstract.** The article provides a philosophical and legal analysis of the categories "goal" and "tasks", which together form the goal-setting of the activity. The need to set a goal arises when the subject enters into any activity and therefore needs its optimal organization. After setting the goal, the further ordering of complexly organized types of practice causes the need for its fragmentation into parts, concretization in relation to individual stages of work, i.e. setting a number of tasks for the performer. They reflect not only the purpose of the activity, but also the specifics of its implementation in relation to specific conditions. Various options for fixing goal-setting in the current legislation are being considered. It is noted that the legislator does not have a unified approach to resolving this issue, which negatively affects both the quality of the adopted laws and law enforcement practice. As a result, the methodological foundations for determining the goal-setting of criminal proceedings in the Criminal Procedure Code of the Russian Federation are formulated and proposed.

## 1 Introduction

In scientific research, it is customary to associate activity with a certain form of activity: change, movement, transformation, etc. But not every activity is an activity, because the latter must be subordinated to the goal. This is a special kind of activity that occurs to achieve a certain goal. "... if there is a goal in movement, then it is an action" [1, p. 242]. As a result, the key element of any human activity is the goal. It is believed that "if motives and interests only encourage activity, then the goal "constructs" a specific activity, determining its characteristics and dynamics" [2, pp. 10-21].

The need to set a goal arises when the subject enters into any activity and therefore needs the optimal (most effective) organization of it. To do this, first of all, the final result is specified, which makes the practice purposeful, purposeful, expedient. Therefore, the goal is associated with one or another form of ideas about the future result of activity. After setting the goal, the further ordering of complexly organized types of practice causes the need for its fragmentation into parts, concretization in relation to individual stages of work, i.e. setting a number of tasks for the performer. They reflect not only the purpose of the activity, but also the specifics of its implementation in relation to specific conditions.

An appeal to the current domestic legislation in terms of its codified acts and the most significant Federal Laws

is necessary to identify the general and special in the issue of defining goal-setting in it.

Thus, a number of Federal laws and Codes of the Russian Federation fix the tasks. At the same time, the object of their application differs and, accordingly, we are talking about the tasks of the regulatory legal act itself, the activities regulated by it or the relevant officials. For example, in Article 2 of the Civil Procedure Code there are tasks of civil proceedings [3]. Article 1 of the Fundamentals of the Legislation of the Russian Federation on Culture sets out the tasks of the legislation of the Russian Federation on culture [4]. Article 2 of the Arbitration Procedure Code of the Russian Federation identifies the tasks of judicial proceedings in arbitration courts [5].

In art. 1. 2. the tasks of the legislation on administrative offenses have been introduced in the Code of the Russian Federation on Administrative Offenses [6]. The Criminal Code also indicates the tasks of criminal legislation (Article 2) [7]. Article 3 of the Code of Administrative Proceedings of the Russian Federation lists the tasks of administrative proceedings [8]. Article 1 of the Federal Law on the Detention of Suspects and Accused of Committing Crimes specifies the tasks of this Federal Law [9]. Article 2 of the Federal Law on Enforcement Proceedings highlights the tasks of enforcement proceedings [10]. In the Tax Code of the Russian Federation, in Article 6 of Chapter 2, there are tasks of tax authorities [11]. Article 1 of the Federal Law on Bailiffs stipulates their tasks [12].

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Much less often, when fixing a goal setting, a goal is used along with tasks. Thus, Article 1 of the Labor Code of the Russian Federation includes both the goals of labor legislation and its tasks [13]. Article 2 of the Civil Procedure Code of the Russian Federation defines the tasks of civil proceedings, and further in the same article it is stated that civil proceedings should contribute (which is essentially the goal-author's note) to strengthening law and order, preventing offenses, forming a respectful attitude to the law and the court [3]. Art. 1 of the Criminal Executive Code of the Russian Federation contains the goals and objectives of the criminal executive legislation of the Russian Federation [14].

In this series, the Criminal Procedure Code of the Russian Federation stands out, which in Article 6 fixed the purpose of criminal proceedings. At the same time, the appointment is directly or indirectly found in other sources. For example, Article 1 of the Law "On the Police" establishes the appointment of the police. The air code of the Russian Federation does not have an article specifically dedicated to goal setting, but there is a preamble to the Code [15]. It stipulates that this Code establishes the legal basis for the use of the airspace of the Russian Federation and activities in the field of aviation, i.e., in fact, we are talking about the purpose of the Code.

The Family Code of the Russian Federation uses a very original technique. Thus, Article 1 defines the main principles of family legislation, which states that family legislation proceeds from the need to strengthen the family, build family relations on feelings of mutual love and respect, etc. [16].

Currently, the legislation uses the following options for determining its goal-setting:

1. Lack of goals and objectives.
2. Indirect definition of the purpose or objectives in one of the articles of the law.
3. Fixing the purpose and (or) tasks in the text of the Code.
4. Fixing the purpose of the code.

In addition, the spheres of application of these concepts are different: the law itself, the activity regulated by it, or the competence of the state bodies that carry it out.

Thus, the legislator does not have a single approach to determining the purpose and goal-setting in law. The situation in which the same categories are defined in some laws, but not in others, or when they have different objects of application is unnatural, introduces disharmony in the process of law-making and law enforcement. Therefore, this requires its correction. It seems that the reason for this situation is the lack of a methodological basis for solving this issue.

## 2 Results

Before proceeding to its justification, it should be found out whether it is advisable to consolidate goal-setting in criminal procedure law at all? Throughout history, not a single domestic criminal procedure code (the Charter of

1864, the Code of Criminal Procedure of the RSFSR of 1922, 1923 and 1960, the Code of Criminal Procedure of the Russian Federation of 2001) contained an indication of the purpose. The tasks were defined only in the Code of Criminal Procedure of the RSFSR in 1960, and the assignment appeared in the Code of Criminal Procedure of the Russian Federation in 2001. At the same time, these categories have never been used together in the criminal procedure law.

Meanwhile, it is impossible to imagine any organized, well-coordinated and planned activity without goals and objectives. Purposefulness is a priori inherent in activity. This follows from the very essence of this phenomenon as a specifically human form of activity, the content of which is the expedient change and transformation of the surrounding world [17, p. 151]. Therefore, the question of the normativity of the goal, along with the tasks, has been raised more than once in the criminal procedure literature.

Thus, in the monograph "Problems of evidence in the Soviet criminal process" it is stated that "in the criminal process, as in any other sphere of public life, there are people who strive for certain goals..." [18, p. 57]. Most modern researchers also point to the need to consolidate the goal in the text of the law [19]. "The goal", A.V. Agutin writes, "acts as one of the regulators of procedural activity. At the same time, normal procedural activity is impossible without goal-setting. Goal-setting in legal proceedings acts as its internal determination..." [20, p. 201].

A similar opinion is shared by representatives of the Omsk school of processualists. In his doctoral dissertation, Yu. V. Derishev notes that "the correct definition of goals and setting tasks as a process of goal-setting (or searching for the true purpose) of the criminal process and its part – pre-trial proceedings - in the conditions of modern judicial and legal reform, the formation of new criminal procedure legislation is of particular importance, although it has always remained relevant" [21, p. 66].

According to V. L. Havel, "...the goal initially has a normative character, it is a kind of law of activity, which can neither begin nor last without its presence" [22, p. 214]. A landmark fixed in law becomes a legal goal. It breaks away from the consciousness of the legislator, is objectified in law and becomes common to all subjects of legal relations. It is believed that "the normativity of a legal goal is generally mandatory, since the absolute majority of goals in law is not just an indication of the desired result, but of a mandatory set aspiration. This quality makes it an effective regulator of social relations" [23, p. 51].

It follows from the goal-setting theory that it is the goal that is the initial (key) element of the purposefulness of human activity. As you know, the goal determines the means. An attempt to build funds without a goal is doomed to failure. Means always represent the goal of activity, and therefore any object or process will be a means only insofar as it will serve the goals of a person. This circumstance is pointed out by some processualists. "The criminal process", G. A. Pechnikov writes, "in which there is no common goal, undergoes a

metamorphosis – the means become the goal" [24, p. 346].

Structuring criminal procedural activities with the help of tasks alone is ineffective. The number of tasks can vary, while the goal is always the same. The goal organizes the participants of criminal procedural activity, directs them regarding the result, while the tasks only help them to realize their powers. The unity of goals and objectives forms the goal-setting of criminal proceedings. Only in this case, it is possible to give cohesion and coherence to the actions of numerous subjects, i.e. to build a capable system. If the emphasis is on practical tasks, then the motivational aspect of the activity is reduced, which makes the work of the law enforcement officer incomplete. This makes it necessary to concentrate goal-setting to the final reference point – the goal.

E. B. Mizulina rightly writes about this: "... since criminal proceedings are a type of human activity that presupposes the purpose and means of its implementation, it is quite reasonable to build its model on the basis of a target purpose" [25, p. 48]. Professor M. P. Polyakov agrees with her, who believes that "a model of a perfect criminal process cannot be developed without a clear understanding of its purpose and prioritization by identifying and gradating tasks ..." [26, p. 22].

Tasks are the continuation of a goal from the abstract to the concrete. In relation to the goal, the tasks are more specific: each of them is related to the goal, is formed within the framework of the goal, specifying the latter. Adhering to this position, L. M. Volodina notes: "...it remains indisputable: the effectiveness of the application of the law should be determined through the achievement of goals, and much depends on how these goals are defined" [27, p. 43].

Agreeing with the opinion of these 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 specificity of criminal proceedings, among other things, is that it is a long-term, multistage activity consisting of separate procedural actions. Each of its performers – the court, the prosecutor, the investigator, the inquirer – acts at its own segment of the criminal process, at various stages of the proceedings, in which there is a specific goal. In order to combine their work into a single whole, to make it systematic and complete, it is necessary to determine a single goal of the criminal process. "It must be realized by the subjects of criminal procedural activity. Without a clearly formulated goal, it is impossible to achieve an effective result in any branch of human activity, including in criminal procedure" [28, p. 19].

The need for normative consolidation of the purpose of domestic criminal proceedings, among other things, is due to its publicity. It is well known that the same goal can be achieved in different ways. In the field of criminal procedure, they are two methods: public and dispositive. In adversarial proceedings, where dispositivity operates, it is not necessary to indicate the general purpose of criminal procedural activity, since the parties defend opposite interests, and the court does not have its own

position. The role of the state in the sphere of private law is mainly reduced to the establishment of "rules of the game" for the subjects of legal relations.

In public proceedings, officials of state bodies are of public interest, and they need to determine the final result of the work. Society expects quite definite results from criminal proceedings that are important for it. R. A. Rightly writes about this. Khashimov: "the fact of normative consolidation of goals in the criminal process indicates the public-legal nature of the branch of criminal procedure law, since it is public-legal 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" [29, p. 10].

### 3 Conclusion

Thus, the goal is objectively inherent in criminal procedural activity. Since the Code of Criminal Procedure was created primarily for State bodies and their officials, it must necessarily indicate the purpose of all criminal proceedings. The appearance of the goal in the law will allow one, firstly, to give coherence and organization to the work of the law enforcement officer. Secondly, this orients it relative to the final result, thereby strengthening the motivational aspect of the activity. Thirdly, this allows one to determine the system of tasks necessary to achieve the goal. According to the apt expression of I. G. Smirnova: "an adequate formulation of the objectives of criminal proceedings should be recognized as a necessary prerequisite for its effectiveness" [30, p. 152].

In this case, the goal should be in one of the first articles of the Code. We do not support the position of the legislator on the consolidation of goal-setting together with the principles of criminal justice. This approach is methodologically incorrect. As you know, these categories have different contents and meanings, and therefore can not be in the same chapter. Their combination introduces a certain confusion in the activities of the law enforcement officer.

Firstly, it remains unclear what this provision is a principle or a goal. Secondly, the organizing role of the goal in this case is significantly reduced, since it is among other provisions, and finally, fixing the goal implies its detailing in the form of tasks, which is difficult to do in the midst of other principles. As a result, a separate article should be devoted to goal-setting, which is among the first in the Code. This position corresponds to its significance, and will strengthen the motivational aspect.

It seems that the need to consolidate the tasks in the text of the Code of Criminal Procedure of the Russian Federation is due to the following factors. First, the methodology of goal-setting, according to which only with the help of goals and objectives, it is possible to organize any activity, including criminal procedure. At the same time, we cannot limit ourselves to pointing out the purpose of the criminal process, since it is always abstract and is located in the future, while the work of

state bodies is concrete and is carried out in the present. Tasks meet this condition. But fixing some tasks without specifying the goal is not enough, because state bodies do not get a proper idea of the specific direction of their actions. The unity of goals and objectives, their mutual definition in the law are an obligatory prerequisite for the streamlining of criminal procedural activities.

Second, we should not lose sight of the practical, applied nature of the criminal process, which implies the need to detail the goal into separate components, which contributes to a clear understanding by the law enforcement officer of what he has to do. Therefore, from the point of view of pragmatism, the expectations of practice, the tasks in the Criminal Procedure Code of the Russian Federation are more necessary and more important than the goal. This conclusion follows from the philosophy of the concept of "task" as a more or less concretized goal, taken in unity with the means and conditions for its implementation [31, p. 36]. The problem, as a rule, has the foundations for its solution (algorithm), which cannot be said about the goal [32, p. 254].

Third, the need for tasks is caused by the fact that they are a kind of link between the abstract-theoretical goal and the type of legal proceedings of the state. They show criminal procedural features, signs of a specific model of the criminal process. The goal, being a general category, does not reflect this relationship. It follows from this that the tasks reflect the essential properties of the criminal proceedings of the country. According to them, in particular, it is possible to judge what is the nature of a particular type of criminal process.

And, finally, fourth, the specifics of criminal proceedings as a complexly organized process requires setting a certain number of guidelines for the law enforcement officer so that he can successfully implement his function at each stage and eventually achieve the desired result. If we were talking about a one-time act of the subject, then we could limit ourselves to the only element of goal-setting – the goal. However, in the criminal process, there are several subjects at each stage, which requires detailing the goal through tasks.

Therefore, the allocation of criminal procedural activities in the goal-setting, along with the goal, its tasks and their consolidation in the Code is an objective need to streamline public relations that develop in criminal proceedings.

The above is enough to start forming the foundations of the legislative definition of the purpose and objectives in the Code of Criminal Procedure of the Russian Federation. It seems that we should start by clarifying the object of the goal-setting application. Referring to the term "criminal procedure" allows us to conclude that it is traditionally used in one of four meanings and is used to denote science, a branch of law, an academic discipline and a type of law enforcement activity. In addition, the subjects who implement it are also different: they are a scientist, a legislator, a teacher and a law enforcement officer.

Therefore, it is necessary to clearly distinguish between objects and their goal-setting. This is not always done in the legal literature, which hinders the

understanding of the issue under consideration. In this regard, the position of P. S. Elkind differs favorably, which, considering the question of the goal, separated criminal procedural law and criminal procedural activity [33, p. 29]. This approach was continued by L. M. Volodina, who separately defined in her work the social purpose of criminal procedure law (as a branch of law), which she understands as "the regulation of the procedural order, the appropriate form of protection of human rights, his legitimate interests, somehow involved in the orbit of criminal justice, the creation of conditions for his fair protection" [34, p. 49].

So, the object of the application of the categories "goal" and "tasks" is a criminal procedural activity as a kind of the law enforcement process. This is a particularly complex type of human practice, consisting of many separate actions, stages and productions, extended in time, multi-subject and constantly reproducible.

After that, you should specify the level of the object under study. Guided by the principle of consistency, the criminal process can be considered at two levels: macro – as an element of a more general system, and micro – as a criminal proceeding. At the same time, individual criminal procedural proceedings, stages, institutions and, finally, procedural actions can also be subjected to research. Each of these elements has its own purpose, tasks regarding the system as a whole. In this article, criminal procedural activity is considered at the highest possible degree of generality, as an independent structural component of state-power activity. This corresponds to the logic of scientific knowledge "from the general to the particular", according to which it is first necessary to determine the role and meaning of the part as a whole, and only then proceed to the study of its content.

A. A. Kozyavin points out this circumstance: "A functional study of the criminal procedure system reveals the need to consider the goals of the system at two levels: the level of the entire system (social purpose) and at the level of proceedings in a specific criminal case (target function)" [35, p. 185]. In this regard, the point of view existing in the science of criminal procedure law is interesting, according to which the internal (procedural) and external (social) goals of criminal proceedings are distinguished. "At the same time, internal goals mean the goals of a specific criminal case... External goals are those goals for which criminal proceedings are created in society, regulated by the state" [36, p. 38]. Yu. V. Darovskikh expresses an almost similar opinion, believing that "it is advisable to talk about two relatively independent directions (blocks) of the tasks of the criminal process. The first block defines the so-called general social tasks, through which the implementation of criminal law policy takes place..." [37, p. 71].

The above makes it necessary to make another clarification that is significant for this study. We are talking about the addressee of the purpose and objectives of criminal procedural activity. These categories are addressed directly to the law enforcement officer. These are the methodological bases for fixing the goals and

objectives of criminal proceedings in the Criminal Procedure Code of the Russian Federation.

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