



## Research Article

### THE SCOPE AND TOUCHSTONES OF SIMPLIFIED PROCEDURE

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#### ABSTRACT

The article specifies the material and procedural touchstones, which differentiate the forms of the criminal proceedings. Revealed and substantiated the need for simplified proceedings in criminal cases. The author proposes to introduce a new model of simplified procedure, which would meet the needs of law enforcement practice and would fully ensure the protection of the rights and legitimate interests of persons involved in criminal proceedings.

#### KEYWORDS

Criminal proceedings, differentiation of the procedural form, simplified proceedings

#### INTRODUCTION

The stage of conducting the case before the court is significantly different from the trial by its tasks, subjects and their procedural status, procedural activity, and the characteristics of the implementation of the principles of criminal procedure.

The main purpose of introducing the inquiry form of bringing the case to court into the criminal procedure is to investigate the crimes with a small social risk and not very serious in a simplified form, which allows the investigative body to make a legal decision on this category of criminal cases in a short period of time, and allocate the main forces and tools to serious and



extremely serious crimes. it should also allow focusing on unsolved crimes.

Today, due to the unified conduct of the case before the court, the investigator must conduct a full-scale investigation even in the case of criminal cases, which were revealed at the time of registration, and in which the accused confessed his guilt. As a result, resources that should be spent on unsolved, complex criminal cases are being used for other purposes instead of efficient use of working hours.

However, in the case of certain crimes with a low social risk and not very serious, the case before the court is carried out in the form of an inquiry within a period of 1 month, that is, although it provides for general differentiation, but does not provide for special differentiation, criminal-procedural related to the preliminary investigation when conducting an inquiry in accordance with Article 3813 of the Criminal Procedure Code the norms of legal acts are applied, only instead of an indictment, an indictment is drawn up. That is, we can see that the legislator, while recognizing the correctness of the idea of differentiation based on the social harm of the act, did not carry this idea to the end.

For example, in the form of an inquiry, it is required to draw a person as a suspect, to be accused, to interrogate, to draw up an indictment, although in most European countries this process is limited only to the indictment of a person, in the Russian Federation, the indictment is both the involvement of a person as an accused and the final stage of the investigation. acts as a procedural document.

The form proposed by Gavrilov B.Ya. is reminiscent of the Anglo-Saxon legal system and criminal proceedings in European countries. According to his proposal, it is necessary to conduct the case to the court against

persons who have fully confessed their guilt, and in cases where it is not necessary to carry out all investigative actions, it should be carried out in the form of a report. That is, the suspect should be detained for 48 hours, the criminal case should be sent to the court to confirm the indictment, after the case is brought to the court, the detention period should be extended to 72 hours, and the criminal case should be considered. If the court finds that it is not possible to consider the case in a simplified procedure, it will return it to the prosecutor for investigation in a general procedure.

However, this system requires a complete revision of the system of conducting the case before the court, termination of powers of the investigator to make jurisdictional decisions, replacing the preliminary investigation with an inquiry led by the prosecutor, and changing the system of classification of crimes to a two-level system (crime + misdemeanor).

The criminal-legal model of a criminal act (offense) can be accepted as a material-legal basis for simplifying the process of criminal prosecution.

In the model proposed by A.V.Runovsky, it consists of conducting proceedings in a simplified manner, drawing up a statement reflecting the results of the investigation of information about a minor and moderate crime and the confession of the accused, and attaching to it the materials confirming that the crime was committed by the accused. A reasonable period of time for drawing up a report and sending it to the court should not exceed the next day from the time the police received information about the crime.

In order to differentiate the forms of conducting the case before the court, preliminary investigation and inquiry are different from each other:



- 1) the entity responsible for criminal proceedings;
- 2) subject matter (Inquiry is conducted on criminal cases provided for in the first - third parts of Article 3812 of the Criminal Code);
- 3) terms of proceedings;
- 4) structure (if the stage of involving a person as an accused in the initial investigation is mandatory, it is sufficient to involve a person as a suspect in the form of an inquiry, the indictment drawn up at the end of the inquiry means that the indictment drawn up at the end of the inquiry will be sent or handed over to the person, the indictment will be announced;
- 5) according to the procedural status of the person under criminal prosecution (the investigation is conducted against the suspect, the investigation must appear in the form of an investigation after the indictment of the accused is drawn up);
- 6) procedural form of completion of the investigation (if the preliminary investigation ends with an indictment, the inquiry ends with an indictment)
- 7) it is necessary to distinguish between the prosecutor's control and departmental control mechanisms (the shortness of the investigation period and the simplification of proceedings are compensated by the strengthening of the prosecutor's control).

Today, the inquiry differs from the preliminary investigation only in terms of duration, except for the structure of the indictment.

The indictment must replace the indictment and the indictment, which is being drafted today during the investigation, because the indictment repeats the contents of the indictment. For this reason, it is necessary to acquaint the parties with the materials of

the criminal case, not before the indictment is drawn up, but after it is drawn up.

In addition, it does not make sense to investigate the criminal cases that were not revealed by the inquiry, because after the identification of the person who committed the crime, if it is determined that he has committed repeated or several crimes, the criminal case by itself is transferred to the preliminary investigation.

In order to simplify the procedure for introduction of criminal case materials, it is necessary to introduce the case materials only if there is a request from the participants of the proceedings.

After the participants of the process are introduced to the materials of the criminal case, it is appropriate that the indictment be sent to the prosecutor with the case materials for approval, and the prosecutor should have wider discretionary powers compared to the preliminary investigation.

In particular, it is appropriate that the prosecutor has the right to study the materials submitted with the indictment and return them for further investigation or preliminary investigation.

The "certainty of the crime", which is one of the main criteria for the selection of the form of investigation, means that the suspect confesses his guilt, the nature and amount of damage caused by the crime, as well as there is no objection to the qualification of the act in the decision to initiate a criminal case.

However, in contrast to other simplified forms, which provide that the person does not deny the announced accusation, the report form of the case before the court is not related to the attitude of the person who committed the crime.

The special feature of the report form of the case proceeding to the court, which distinguishes it from other simplified forms, is that the time for starting the preliminary investigation is calculated not from the time of initiation of the criminal case, but from the time of registration of information about the crime.

Two important issues in the criminal process can be solved by introducing the protocol form of the accusation at the stage of proceeding to the court. The first is to consider and resolve non-socially dangerous, minor crimes in short procedural terms, with little effort, that is, saving time and material resources; the second - to bring the decision of punishment as close as possible to the time of the crime.

According to D.T. Kurbanov, the grounds for consideration of the case in the form of a report: 1) the commission of a non-socially dangerous crime; 2) the fact that the crime was committed in front of many people; 3) the procedure for determining the circumstances of a crime and collecting information about the person who committed the crime and his guilt is not very complicated; 4) lack of need to use investigative and coercive measures; 5) as soon as a crime is committed, it is possible to determine its circumstances with the help of rapid search activities or immediately; 6) entered that the person who committed the offense is not against consideration and resolution of the case in a simplified procedural form.

A simplified form of inquiry is used in cases where the defense does not deny the accusation and the state recognizes the right to impose criminal liability on the guilty person. A simplified form of inquiry can be conducted under the following conditions:

- the consent of the suspect and the victim to conduct proceedings in this form;

- the act falls into the category of crimes with a low or low social risk;
- that there are no grounds for starting proceedings in a separate category (in the case of a minor or a coercive measure in the medical field, reconciliation or plea agreement);
- the identity of the person who committed the crime at the time of the proceedings;
- this person does not deny his guilt, qualification of his act, available evidence, amount and nature of the crime.

That is, in the case of the above circumstances, the interrogator must explain to the suspect the right to choose the general procedure or the simplified procedure. If the person gives his written consent to conduct proceedings in a simplified manner, the application of this procedure serves to guarantee the procedural rights of the person.

The simplified form of inquiry is a procedural form that is used for crimes of low social risk and not very serious, which are exposed at the time of registration, regardless of the discretion of the participants of the process, and its specific features include the absence of the stage of initiating a criminal case, the limitation of the subject and means of proof.

However, the simplified procedure cannot be applied to the following cases:

1. When there is information that the crime was committed by a minor.
2. In the case of other persons who have difficulty in exercising the right to self-defense when there are grounds for applying coercive medical measures or due to physical disability or mental disorder.



3. If two or more crimes are committed, one of which is considered a serious or extremely serious crime.

4. If the material damage caused to the victim, the person who suffered moral, physical or property damage as a result of the crime was not compensated;

5. If the person who committed the crime opposes the simplified procedure;

6. If it is not possible to determine the circumstances of the crime committed within 10 days from the reporting of the crime.

7. If there are grounds for criminal proceedings of a separate category.

Proceedings in the simplified order of inquiry must be completed within 10 days from the time of receipt of the complaint or information about the crime.

According to this procedure, the time limit is reduced due to the fact that the procedural period is calculated from the time of the notification of the crime, and the general period for the investigation and investigation is determined.

It is desirable that the scope of proof in the simplified procedure of the inquiry should be limited to investigations and procedural actions that cannot be delayed and may lead to the disappearance of crime traces and evidence if not carried out.

This is because evidence in most criminal cases is collected within days of the crime.

In particular, it is not required to check the evidence that was not questioned by the participants of the proceedings, to carry out additional investigative actions (re-interrogation of the persons who gave the

explanation) if the factual circumstances of the case are determined by the case materials.

In the course of the simplified procedure, it is possible to request additional documents, explanations, personal search and seizure, inspect the scene of the incident, carry out an expert examination, appoint an inspection, and give orders to carry out rapid search activities.

If grounds for conducting other investigative actions are determined, the case should be investigated in a general manner.

At the same time, it is advisable to take into account the following procedural guarantees when conducting proceedings in the simplified order of inquiry:

1. Mandatory participation of the defender in obtaining the person's consent for proceedings in a simplified procedure.

2. Explanation of the right not to give an explanation in relation to himself and his close relatives.

3. Guaranteeing the right to appeal against the actions and decisions of the officials responsible for conducting the case during the simplified procedure.

Proceedings in a simplified manner end with the drawing up of an indictment based on the identified circumstances and the introduction of the person who committed the crime and his defense with case materials, or a decision to hold an inquiry in a general manner.

The document should be a single procedural document instead of a criminal case, recognition as a victim, civil plaintiff and civil defendant, involvement as an accused, indictment.



In the document, the time and place where the document was drawn up, the surname, first name, patronymic, date of birth, details of the committed crime, time, place, method, circumstances that need to be proven according to Article 82 of the Criminal Code, the responsibility for the act is provided in the document. Article, the attitude of the person to his guilt and his consent to conduct proceedings in the simplified procedure, the motions given after being introduced to the case materials are indicated.

The collected materials, as well as the list of persons to be summoned to the court session, are attached to the document.

The prosecutor must consider the case materials within 3 days after receiving them and make one of the following decisions:

approval of a simplified procedure and sending materials to the court;

refuse to confirm the document and return the case for general investigation;

termination of proceedings.

It is necessary for the court to independently determine the scope of the court proceedings regarding the simplified form of inquiry. That is, the court can limit itself to questioning the defendant or examine other evidence. However, the information describing the person of the defendant and necessary to be taken into account in sentencing must be checked in full.

Today, the main trend of reforms in the criminal process is related to the change in the balance of public and dispositive methods in the regulation of criminal-procedural relations in criminal court proceedings.

In the criminal proceedings, discretion is expressed in the use of the rights defined in substantive and procedural law by persons interested in the result of the criminal case within the framework of the law, causing the beginning, movement or completion of criminal-procedural relations. Including, if the person who is being held criminally responsible has the right to choose if the state gives him such an opportunity, that is, if he confesses or agrees to the announced charge, if he understands the danger of his actions for society and compensates the damage caused to the victim, is there any point in conducting a complicated and expensive case for the state? ?

Although private prosecution in criminal proceedings is fundamentally different from public prosecution, the current JPK envisages the differentiation of private prosecution only at the stage of initiation of criminal proceedings. That is, in accordance with Article 325 of the Criminal Code, in the first part of Article 105, in Article 109, in the first part of Article 110, in Article 111, in the first part of Article 118, in the first part of Article 119, in the first part of Article 121, in Article 136 of the Criminal Code, criminal proceedings on the crimes provided for in the first and second parts of Article 139, the first and second parts of Article 140, the first part of Article 141, and Article 149 shall be initiated only on the basis of a complaint filed by the victim requesting to bring the culprit to justice. However, in addition to the initiation of a criminal case, the private prosecution has its own characteristics in terms of the procedural status of the parties, the procedural order of the trial and the termination of the case.

In the scientific literature, four types of criminal prosecution are distinguished: public, private-public, private, public-private criminal prosecution, and criminal prosecution in the order of public prosecution is initiated and carried out by the state; criminal

prosecution in the order of private-public prosecution means the appeal of the victim is the basis for initiating a criminal case and is subsequently prosecuted by the state; criminal prosecution in private prosecution means the appeal of the victim serves as a basis for initiating and terminating a criminal case; Public-private criminal prosecution means criminal prosecution initiated by officials and state bodies and which can be terminated at the initiative of the victim.

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