

GENERAL CONDITIONS OF THE CRIMINAL CASE

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Keywords: initiation of criminal proceedings, stage of criminal procedure, stage of initiation of criminal procedure, general conditions of criminal procedure, principles of criminal procedure, general conditions of the criminal procedure stage.

Principles are the fundamental provisions defining the activities of all subjects of criminal procedure relations. Principles of criminal procedure in different ways affect the criminal procedure.

One of the forms of influence of principles on the criminal process is their reflection in specific rules of law. However, in addition to the legal category of "principle", there is a legal category of "general conditions", which acts as an intermediary between a general principle and a specific rule of law. A.S. Alexandrov points out that the ratio of the criminal procedure principle, general condition and specific legal norm can be explained as follows: principles, being ideas of the greatest degree of generality, appear in legal norms indirectly, refracting through the general conditions of the stage [1, p. 168-234].

According to K.I. Migushina, general conditions differ from the principles in terms of regulation [2]. Principles of the criminal process - the ideas that are most common to the criminal justice system, in turn, the general conditions are the ideas of the least generality, and manifest themselves in the criminal process in accordance with the specificity inherent in the corresponding stage.

General conditions are a kind of intermediate link between the principles and specific legal regulations, they are based on the principles of the criminal process, act as an environment for their implementation, in order to achieve the objectives of the process stages [3, p.44].

For the purposes of this work, the existence of a criminal case in the system of modern Russian criminal justice is presumed.

The current criminal procedure code (hereinafter referred to as the Code of Criminal Procedure) [4, p. 9] is directly enshrined in Chapter 21 of the general conditions of a preliminary investigation, and Chapter 35 regulates the general conditions of a procedure. Such a significant block in the system of pre-procedure proceedings as a stage of initiating a criminal case is unjustifiably deprived of legal regulation in part in the absence of a normative fixing of general conditions for initiating a criminal case, which could be reflected in Chapter 7 of the Code of Criminal procedure of the Russian Federation. At the same time, the absence of direct legislative consolidation of the general conditions of the stage of initiation of a criminal case cannot indicate their absence.

The following tasks are inherent in the initiation of a criminal case:

- acceptance and registration of the message on any committed or preparing crime;
- Establishment of compliance of the received message about the crime or the crime being prepared to the requirements of Art. 141 - 143 Code of Criminal procedure, as well as Art. 20 Code of Criminal procedure;

- Establishing the adequacy of data indicating the signs of a crime;
- identification of grounds for refusal to initiate proceedings;
- making the final procedure decision [5, p.201].

Since the activities of the subjects in the process of initiating a criminal case are aimed at achieving the tasks formulated and inherent in this stage of the process, it would be logical to define the scope of general conditions conducive to the fulfillment of the tasks and the principles of the criminal process.

Such conditions may be:

1. The initiation of a criminal case (denial of such) by an authorized subject. According to this rule, the participants act at the stage of initiating a criminal case in accordance with the terms of reference granted to them, the limits of investigative jurisdiction (jurisdiction over private prosecution cases). This general condition is a reflection of the principle of legality, and is aimed at the implementation of the task of making the final procedure decision

2. The decision to initiate a criminal case may take place if there are two factors - the motive and the grounds. This general condition makes it possible to eliminate from investigative practice the conduct of a preliminary investigation in criminal cases, which are subject to subsequent termination in the absence of corpus delicti. Reflects the principle of legality, aims to implement the tasks of identifying signs of a crime, the grounds for refusing to initiate a criminal case, the establishment of compliance of the received message about a crime that has been committed or is being prepared to the requirements of Article 140 - 143 of the Code of Criminal procedure of the Russian Federation.

3. Prohibition of investigative actions except as expressly provided for in part 1 of article 144 of the code of criminal procedure. The article describes a number of investigative and procedural actions, such as obtaining samples for comparative research, appointment and production of forensic examination, production of inspection of the scene, documents, objects, corpses, examination, through which the investigator, the investigator checks the received reports of the committed or impending crime. This General condition is aimed at the implementation of the principles enshrined in art. 7, 9, 10, 12, 13 code of criminal procedure, as a General rule, the production of all investigative actions associated with the restriction of rights and freedoms of the individual and is not possible to initiate criminal proceedings. In order to create conditions for the possibility of making a legal decision on the initiation of criminal proceedings, the legislator establishes a closed list of investigative actions, the conduct of which is permissible before the initiation of criminal proceedings.

4. The obligation to accept and register a report of any crime committed or about to be committed, as well as the obligation to initiate criminal proceedings. The effect of this rule is derived from the principle of publicity and is manifested in the fact that the law directly obliges the prosecution to carry out criminal prosecution when detecting signs of a crime regardless of the will of other participants in the process and excludes the dependence of the decision on the discretion of the bodies themselves and the desire of interested persons [6]. Aimed at the implementation of the task of acceptance and registration of reports of a crime, as well as the initiation of criminal proceedings.

5. Short-term stage of initiation of criminal proceedings. This General condition guarantees compliance with the principle of a reasonable period of criminal proceedings and is aimed at fulfilling the task of making a legal final procedural decision.

The absence of normative consolidation of the General conditions of the stage of initiation of criminal proceedings should not be regarded as their absence. The normative consolidation of the General conditions of the stage of initiation of criminal proceedings is necessary for the unrestricted and uniform application of the criminal procedure law. The possibility of respecting the guaranteed rights and freedoms of a person who has fallen into the orbit of the criminal process is possible only with a detailed and meaningful criminal procedure law, in which there is no room

for abuse arising from the possibility of expanding the current of a provision. At the present stage of development of legal science and legal technology is not enough simple Declaration of principles that are not reflected in the specific rules of law.

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