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УГОЛОВНО-ПРОЦЕССУАЛЬНОЕ ПРАВО ВЬЕТНАМА: ПРИНЦИПЫ ОТВЕТСТВЕННОСТИ ЗА ПРЕСЛЕДОВАНИЕ И РАССМОТРЕНИЕ УГОЛОВНЫХ ДЕЛ

Аннотация: в статье анализируется содержание, определяются границы принципа ответственности за уголовное преследование и рассмотрение уголовных дел в соотношении с другими принципами при установлении основополагающих начал уголовно-процессуального права, выясняется значение и требования, которые предъявляют современные уголовно-процессуальные проблемы к корректировке содержания данного принципа.

Ключевые слова: уголовно-процессуальное право, уголовное дело, обязанность, принцип, преступление, расследование.

CRIMINAL PROCEDURE LAW OF VIETNAM: PRINCIPLES OF RESPONSIBILITY TO PROSECUTE AND HANDLE CRIMINAL CASES

Annotation: the article analyzes the content, defines the boundaries of the principle of responsibility for prosecuting and handling criminal cases in relation to other principles in establishing the fundamental principles of criminal procedure law, and



clarifies the meaning and requirements that modern criminal procedure problems pose for the content of this principle to be adjusted.

Key words: criminal procedure law, criminal case, obligation, principle, crime, investigation.

1. Contents of the principles of responsibility to prosecute and handle criminal cases

The criminal procedure process begins with the prosecution of a criminal case, which provides all of the "inputs" for the phases of criminal case resolution of the appropriate procedure-conducting organizations. However, if not managed appropriately, this "input" source may cause offenders to be left out and will slow down the state's response to crimes, decreasing the efficacy of crime protection and raising the possibility of harm to the rights and interests of those concerned [1, c.87]. As a result, it's important to make fair changes to social ties that develop during the first stages of a criminal case. The criminal justice and interrogation system in Vietnam affirms that the duty to prosecute and manage criminal cases is a core concept of the law and criminal process and that it has been there ever since the criminal procedure legislation was codified in 1988. First acknowledged in the institution "fundamental principles" (Article 13 Chapter 1) of the CPrC (further - CPrC) in 1988 [2], the responsibility for prosecuting and managing criminal cases is still regulated and defined in the second codification, also in the regulation "fundamental principles" (Article 13 Chapter 2) of the CPrC 2003 [3]. By the CPrC 2015, this principle is prescribed as follows: "When detecting acts or signs of crime, within the ambit of their tasks and powers, the competent procedure-conducting agency shall have to prosecute the case and apply the measures prescribed by this Code to identify the crime and handle offenders and legal persons committing crimes." [4]. The case can't be pursued outside of the reasons, rules, and procedures laid out in this code.



The objective standards of criminal procedure serve as directives for the development and implementation of criminal procedure legislation. These standards are responsible for prosecuting and managing criminal cases. The CPrC acknowledges the obligations of the relevant procedure-conducting authorities in the implementation of legislative measures to prosecute criminal cases and carry out criminal prosecutions aggressively and successfully. The following topics are covered under the prosecutorial and case management duty principle:

First and foremost, it is the responsibility, obligation, and duty of a competent procedure-conducting organization to prosecute, handle, and examine criminals for criminal accountability.

Second, criminal proceedings must be opened and follow the legal justifications, directives, and processes when actions displaying indicators of criminality are discovered. The many procedural actions and phases of processes leading up to the criminal prosecution of criminals are referred to as "criminal case management," sometimes known as "criminal case resolution." They must pursue the case in order to handle criminal matters and assess offenders' criminal culpability. However, this concept places a special focus on the duty of prosecuting criminal cases owing to the significance of prosecution and the unique challenges of the prosecution stage.

Regarding the first part of the principle, it is the duty, obligation, and responsibility of the agency authorized to handle the processes to prosecute and manage criminal cases. The obligation of the state is affirmed in this material. When society attained a greater degree of civilization and switched from the accusatorial system to the interrogation process, the state was no longer passive in the function of the judge, according to the history of the interrogation method, but increasingly took on the responsibilities of prosecuting, investigating, prosecuting, and carrying out criminal judgments, becoming the focal point and aggressively initiating criminal proceedings when crimes were discovered. happen. In terms of criminal procedures, "the trial process is a social evolution." "Interrogation processes make social order



more secure than denunciation proceedings." [5, c.101]. The state's interests are where the new role of the state initially originates. Criminals break the social order established by the state to safeguard the interests of the state itself as well as relationships between people (private affairs). The state's social duty, or obligation, to society and its citizens is further shown by the fact that it is the primary target of criminal prosecution and case management. Since the state is now "responsible," it must prosecute and manage criminal cases and offenders (via the relevant authorities in the apparatus the state put up and authorized); this is no longer an activity, arbitrary behavior. As a duty and a necessity, the prosecution of a criminal case must be carried out actively, completely, and promptly; otherwise, it will result in the omission of the criminal, the failure to control the crime, and the failure to act against the criminal's interests. There will be no security for the nation, the community, or the individual. This concept "concurrently maintains that no agency, organization, or person may prosecute or manage crimes apart from competent procedure-conducting agencies." In other words, Vietnam's criminal process does not allow private prosecution and does not provide the authority to prosecute or prosecute offenses to anybody other than qualified authorities.

Regarding the second tenet of the principle, it is necessary to adhere to the legal justifications, directives, and processes when addressing criminal cases in general as well as when prosecuting them specifically. This requirement is intended to achieve the "dual goal" of preventing the risk of abuse of power by competent procedure-conducting agencies in the administration of criminal law and criminal proceedings. The "dual goal" refers to ensuring the effectiveness of legal proceedings as well as the effective use of procedural resources in the fight against crime. High procedural efficiency is necessary to achieve the first goal, which is to ensure the effectiveness of the proceedings [6, c.94]. With a high conviction rate, the gap between crimes committed and crimes discovered, between prosecution (input) and conviction and punishment (output), is minimal; criminals and offenders should not be disregarded. Only when procedural resources are not wasted on incidents that are



essentially minor violations can they be used effectively in the battle against crime. or may be dealt with in another way (redirect handling). If the issue of whether or not there is an indication of a crime is addressed correctly and early on, the criminal prosecution stage may, if done properly, considerably assist in accomplishing the aforementioned aim. Correctly answering the aforementioned question will guarantee that the legal system deals with the proper issues with the proper parties, while an early response will activate the criminal procedural machinery and prompt it to conduct an immediate investigation and take preventative action. Otherwise, this device will immediately cease and divert its efforts to other situations.

The second goal is to prevent any unauthorized interference with people's private lives. To achieve this, procedural power must be limited and controlled so that civil relationships and commercial transactions are not made illegal and initial investigative steps are not taken, as well as other pointless coercive and deterrent measures [7, c.58]. Open an inquiry based on a "complaint" from the public or any knowledge of a crime that has happened if procedures are permitted in order to "initiate the right to prosecute" (the It is certain that such criminal investigations will begin. Because there is now insufficient knowledge of the crime and it is still required to take prompt investigation action, there is a very real danger of procedural power abuse during the prosecution stage.

2. How other criminal procedural law principles in Vietnam relate to the obligation to prosecute and manage criminal cases

With the aforementioned meanings and contents, the responsibility for prosecuting and handling criminal cases can be regarded as one of the qualitative principles of the criminal control procedure model. This principle calls for the procedural apparatus to actively and proactively solve crimes, effectively control crimes, and not abandon criminals. Additionally, the CPrC's rules on grounds, orders, and procedures must be followed in the prosecution of all cases, including criminal ones, according to the principle. The idea of accountability for processing criminal matters and carrying out prosecutions is not new. However, it is clear from an



objective perspective that this principle—namely, the principle of guaranteeing the case's socialist legality—has both its own point and a point of junction with the principles of finding the case's objective truth. criminal process, legal standards for exercising the power to prosecute, and control over court operations

A basic and significant concept of the criminal process, the burden of evidence, is the topic of the principle of assessing the truth of the case, which is referenced in Article 15 of the CPrC 2015. The authorized procedure-conducting authorities are in charge of proving the offense, according to Article 15 of the CPrC 2015. The onus is on the accused to establish his innocence, although this is not required. When deciding that the subject of this obligation is the competent procedure-conducting agency, the aforementioned content corresponds with the first content of the principle of responsibility to prosecute and manage criminal cases.

However, we wish to highlight the idea of "duty to prove the blame" when it comes to the topic of demonstrating responsibility. The burden of proof falls on the party making the assertion rather than the party refuting it, or, in other words, on the claiming party rather than the negative party. Instead of concentrating simply on the responsibility of the accused to gather evidence to prosecute the offenders, we wish to stress both the need to accept and settle the case as well as the obligation to prevent and punish procedural apparatus offenses [8, c.245]. In addition to emphasizing the notion of "responsibility," the concept of responsibility for prosecuting and managing criminal matters also highlights the need to do so without dodging, disregarding, postponing, or acting irresponsibly. The obligation to include offenders in the agencies responsible for conducting the proceedings is a key component of the concept of responsibility for initiating and managing criminal cases, which is not covered by the principle of ascertaining the truth of the case.

Two areas of the People's Procuracy's responsibilities in the area of criminal process are mentioned in the principles for exercising the power to prosecute and monitor judicial actions (Article 20 of the CPrC 2015). In particular, the substance of the obligation to prosecute and manage criminal cases under this concept highlights



the duty to investigate criminal culpability and deal with individuals and legal organizations committing crimes as the content of the principle.

However, it may be claimed that exercising the right to prosecute and monitor judicial actions is the premise that establishes the status, function, and obligations of the People's Procuracy, a significant institution charged with carrying out procedures. In order to ensure that all criminal acts, offenders, and legal entities violating the law are detected and dealt with promptly and strictly, "the Procuracy exercises the right to prosecute and supervise the observance of the law in criminal proceedings, to decide on accusations, and to detect law violations." "Do not unduly upset innocent people while allowing crooks and offenders to get away with it." The state has the authority to bring charges. The state designates a department within its administrative structure to carry out the prosecution portion of this right. To put it another way, it is the responsibility and role of a certain state agency—the People's Procuracy in Vietnam—to exercise the right to bring legal action. In order to assess the offender's criminal culpability, present the offender for trial before the Court, and provide for their protection, the exercise of the right to prosecution entails carrying out the appropriate formalities in accordance with the rules of the criminal process legislation. rebut that accusation." [9, c.102]. The CPrC 2015 places emphasis on the People's Procuracy's exclusive duty to exercise the power to "decide on charges" in criminal cases. This is an "exclusive" and significant responsibility for the people's accuracy, with the need to ensure that not only the law is correct and the crime is not missed, but also that the right person, the right crime, and the right to refrain from unfairly blaming innocent people are all taken into account.

All criminal process activities must be conducted in line with the rules of the CPrC in order to uphold the concept of maintaining socialist legitimacy in criminal proceedings (Article 7 of the CPrC 2015). This includes refraining from addressing the causes of crime and from prosecuting, investigating, or ruling on grounds other than those set out in the CPrC.



Requesting competent procedure-conducting authorities to carry out procedural actions to resolve criminal matters is one manner in which this concept connects with the idea of responsibility for prosecuting and managing criminal cases. Legal requirements, directives, and procedures must be followed while handling information regarding crimes and prosecution. Criminal procedural law's various elements are covered under the broad premise of securing communist legitimacy in criminal procedures. The integrated value of the CPrC is the source of this principle's comprehensive character. Respecting the laws of the CPrC also entails respecting all of the criminal procedures' included principles, goals, and requirements. Legal Procedure. The obligation to prosecute and manage criminal matters, as stressed by the responsibility to prosecute and handle criminal cases, is not covered by the premise of maintaining communist legality in criminal procedures. criminal instances where evidence of criminal activity is found (requiring the initiative, activeness, and efficiency of the competent procedure-conducting agencies, but not only the compliance with the law of these agencies).

3. The obligation to prosecute and manage criminal matters, as well as the prerequisites for modernizing criminal procedural legislation

A competent procedure-conducting agency must be in charge of prosecuting and managing criminal matters according to the concept of accountability for criminal cases. This principle emphasizes the prosecution—the procedural stage—while also affirming the benefits and values of the criminal control procedural model throughout the full criminal case handling procedure. This fundamental tenet of criminal procedure law has been made explicit in both the creation and implementation of the laws. However, in order to improve the criminal procedural legislation as well as this concept in the contemporary environment of judicial reform and international integration, a number of concerns must be addressed.

In particular, as follows:

First, regarding the identification of the Court as the agency in charge of prosecuting and managing criminal cases, the principle of including the Court among



the competent procedure-conducting agencies places the Court in charge of prosecuting and managing criminal cases when it notices acts exhibiting criminal behavior. Accordingly, Article 153 of the CPrC 2015 provides that "the court (Trial Panel) shall make a decision to prosecute a criminal case or request the Procuracy to prosecute the criminal case if it shows during the trial at the court hearing that the offense was neglected." If we are thinking about the need to combat crime and not overlook it, then the fact that this court has jurisdiction is vital.[10]

However, prosecution is the first step in the impeachment process, and the court is acting in the accuser's role. Instead, the court should act as the subject being judged, standing in a detached and impartial position between the subject and the prosecution. accusers and defendants in exonerations. The awarding of the court's power to prosecute the case and other powers used during a criminal case's trial (such as returning files to seek more investigation, gathering and augmenting evidence, etc.) exhibit unique features. elements of the questioning process that make it difficult to distinguish between the subjects and the numerous criminal procedure functions provided. With this concept in mind, the court is not adhering to the trend of increasing litigation and inserting the litigation element into the conventional interrogation technique model in Vietnam in the context of the present judicial reform. The CPrC 2015 nevertheless specifies that the court also has the right to prosecute the case, acting as an impartial third party between the accuser and the acquitted to guarantee litigation in the trial. Criminal is a regrettable restriction. The obligation to prosecute criminal cases is the focus of the failure to separate the Court from other procedurally competent institutions, which should be taken into account for proper adjustment.

Second, the prosecution of criminal cases has a conflict between procedural theory and practice. According to the idea, criminal proceedings must be filed as soon as indicators of crime are discovered. The decision to pursue a criminal case is made when there are indications of a crime, which is the theoretical end point of the prosecution phase be filed as soon as indicators of crime are discovered. The decision



to pursue a criminal case is made when there are indications of a crime, which is the theoretical end point of the prosecution phase. When compared to the conclusion of previous procedural stages, the truth of the case is clarified in the least amount at the conclusion of the criminal case prosecution stage because the objective aspect of prosecuting the case is only the standard of evidence imposed for this stage of the proceedings, which is the first, is just to ascertain whether or not there are indications of a crime [11]. Even yet, some people hold the belief that "the choice to pursue a criminal case is the first milestone that permits the performance of legal actions and the implementation of investigative activities." "There is no case if there is no decision to prosecute."

However, procedural practice misunderstands the standard of proof required at the conclusion of the prosecution stage, which calls for much more clarity than the standard of determining "with signs of crime," i.e., increasingly demanding levels of performance in identifying, accusing, pursuing, and adjudicating criminals and offenders. There is a good aspect to this, requiring the appropriate authorities to pursue legal action to increase their feeling of accountability for managing and prosecuting criminal matters, but there is also a drawback that, if not well managed, will result in formal implementation. This adheres to the idea of decreasing input (reducing the number of denunciation statistics and crime reports, delaying the time of receiving denunciations and information, and extending the actual time for handling denunciations and information). Reporting crimes to assure security and clarity for future judgments about the prosecution of criminal cases as well as other procedural choices The aforementioned fact emphasizes the unrealistic aspect of the crime control model, which always calls for a high rate of criminal prosecution as well as a high rate of crime control. Only the previous legal standards are applied in operating a field where there is always a need for differences and objections between subjects performing different and even opposing functions in criminal proceedings. This is known as the prescriptive approach to the absolute value asymptotic standard of proof (determining the truth of the case comprehensively and completely).



Third, the duty to prosecute is delegated in each instance where criminal behavior is found. This task must be carried out without delay, and no crime must go unpunished. However, prosecution in particular, and criminal handling in general, are not appropriate in the current environment, where "the law has gradually become a tool for the people to resolve conflicts, a tool for the people to deal with conflicts, and to seek benefits for individuals, communities, and businesses." In the current criminal justice system, humanity, adaptability, and the economics of procedural actions are all being questioned. unintentional humaneness in the criminal policy imposed on offenders in less severe instances or under excessively demanding conditions; adaptability and adaptability in handling criminal cases as outlined in handling and re-directing offenders under the age of 18. In some situations, it may be possible to avoid negative outcomes, recover corrupt assets, and come to an amicable agreement regarding the criminal liability and civil rights of commercial legal entities committing economic and environmental crimes.

In these situations, flexibility in prosecuting and handling criminal cases should also be shown. The standards are also met by the enlargement of the scope of prosecution at the victim's request, including private prosecution as in several nations throughout the globe in situations of minor violations of a person's personal or property rights. on the financial aspects of litigation [12]. When crimes are uncovered, certain instances may not need to be prosecuted and treated as criminal cases in order to respect the mediation between the parties in particular kinds of criminal cases, including sex crimes and domestic violence.

The criminal strategy of actively battling crime while not giving up on offenders is therefore expressed in the principle of responsibility for prosecuting and managing criminal matters. The precise points and intersections of this principle convey the impression that crime control and the function of competent procedural authorities are requirements that are consistently upheld in Vietnamese criminal processes. Together, on the front lines of preventing and combating crime, we carry out the responsibility of determining the criminal culpability of criminals. The



establishment of the fundamental rules of criminal procedural law requires the existence of the prosecutorial accountability principle. However, part of the contents centered around the concept of law due to the background of judicial reform in the direction of growing litigation and new requirements on humanism, adaptability, and flexibility, as well as the economics of procedural activities. This regulation should also be taken into account and modified if necessary.

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