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Classification of crimes in the sphere of administration of justice

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Abstract: This article investigates different classification of crimes in the sphere of justice, highlights the concept of "classification of crimes". As well as the author developed the classification of crimes in the sphere of administration of justice. The relevance of the topic of research is determined by the fact that the formation of state power in the Russian Federation in the post-Soviet period is characterized by the primary rights and freedoms of the individual, the securing of guarantees of mutual responsibility of the government and the individual. Thus, not only recognition but also respect and protection of the rights and freedoms of man and citizen are direct responsibility of the government. As a legal category, the state power is a socio-legal environment by the means of its organization, functioning and activity engaged in the socio-political, economic and legal space and the ordering of social relations. The judiciary has its specifics, as is a form of government, which is being institutionalized in the justice system. And under Chapter 7 of the Constitution of the Russian Federation judicial system, which is designed to administer justice in the country and represents a form of state activity, aimed at the consideration and resolution of various social conflicts related to actual and alleged violation of the law and legal regulations. Thus, the social purpose of courts is to ensure the legal regime in society. And in administering justice, as bearers of authority the courts themselves operate on the basis of the laws governing them.

Key words: Crimes against administration; Crimes against justice; Criminal code; Criminal-law protection

1. Introduction

The formation of state power in the Russian Federation in the post-Soviet period is characterized by the primary rights and freedoms of the individual, the securing of guarantees of mutual responsibility of the government and the individual. Thus, not only recognition but also respect and protection of the rights and freedoms of man and citizen are direct responsibility of the government.

As a legal category, the state power is a socio-legal environment by the means of its organization, functioning and activity engaged in the socio-political, economic and legal space, and the ordering of social relations.

2. The main part

The integral part (branch) of state power is the judicial power that is contained in article 10 of the Constitution of the Russian Federation, designed to administer justice.

Judicial power is characterized by certain signs, the totality of which reveals its concept. First of all, it is special state bodies - the courts, the special position of which in the state mechanism is defined by tasks, responsibilities and the specific nature of the activities in which rights and freedoms of citizens, rights and legitimate interests of the various bodies, institutions and organizations are affected. The judicial power implements their powers through constitutional, arbitration, administrative, civil and criminal proceedings.

Thus, the social purpose of courts is to ensure the legal regime in society. And, in administering justice, as bearers of authority, the courts themselves operate on the basis of the laws governing them.

Occupying a special position in the state mechanism, which is determined by the specific conditions and procedure for its activities and peculiarities of the functions it is not included in any other system of state bodies. Although the authorities make the laws according to which courts are organized and work their activity has only organizational and procedural nature and carried out in strict compliance with the principle of independence of judges and their subordination only to the law. The independence of the judiciary is determined by the fact that in the administration of justice the courts are independent from the legislative and executive power. They perform their functions independently, guided only by the powers vested in them by law. And their decision in the matter shall be binding throughout the Russian Federation.

A mandatory feature of the judiciary is the authoritative nature of court powers which manifests itself in the compulsion of all

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requirements and court orders for all state bodies, other legal entities and citizens. Enforcement of court decisions and compliance with its requirements is ensured by the power of the state. And if justice is the work of courts on consideration and resolution of the court cases, the judicial authority is the right of the judiciary to which they are entitled under the law, i.e. the exercise of authority.

Administering justice in the form of procedural activities, the judicial power is intended to exercise judicial review that follows from the content of article 46 of the Constitution of the Russian Federation, according to which every citizen is guaranteed a judicial protection of his rights and freedoms. The judiciary has its specifics, as is a form of government, which is being institutionalized in the justice system.

Administering justice, the judiciary is in need of state protection from undue interference in the exercise of its functions, but on the other hand, it has to be guided only by law. In this regard, an important role in the protection of the legitimate activities of the judiciary plays a criminal law, designed to protect normal functioning and authority of the judiciary from criminal attacks. Meanwhile, as practice shows, criminal assault in the justice system is not excluded.

Providing a legal basis for the normal functioning of the judiciary, the state provides its criminal-legal protection from criminal attacks. The current criminal legislation dedicated a separate Chapter 31 of the Criminal code "Crimes against justice", which includes norms defining criminal assault that is likely significantly affect normal functioning and authority of the judiciary. However, without singling out the judiciary as an independent object of criminal-legal protection, these rules, as it should derive from the title of this Chapter basically equate it to a procedural law enforcement, which, although contribute to the administration of justice, but they are unable to carry it out. At such approach of the legislator, the judiciary loses its independence that it could hardly be considered correct.

Reflecting the position of the legislator and theoretical research of problems of protection of the normal functioning and authority of the judiciary are held together with procedure activity of law enforcement bodies. There were no independent studies of criminal-law protection of the judiciary. And the desire in some measure to correct the inaccuracy of the legislator, the researchers are trying to get out of the situation by introducing the concepts of justice in the narrow sense and justice in the "wider sense" that it is impossible, in our view, to recognize persuasive because justice can be neither "tight" nor "wide" concept. It is only the judiciary and nothing more. And therefore the judiciary as an object of criminal legal protection is a separate problem to be in its independent study.

Political power like any other power means the ability and right to exercise their will against the other, to command and control others. However, it is unlike other forms of power has its specificity, which in:

1) The supremacy and binding effect of its decisions for all society and for all other forms of government, putting them in reasonable limits or eliminating them;
2) Universality, i.e. publicity, when political power operates on the basis of law on behalf of the society;
3) The legality of the use of force and other means of ruling within the country;
4) Monocentricity, i.e. the existence of a national centre, i.e. a system of government bodies of decision-making;
5) The widest range of methods of conquest, retention and realization of power.

The state power is materialized through state bodies which is organized part of the state mechanism with the authority defined by the competence and necessary means to implement challenges facing the state in the specific area of state leadership of society. However, their system, the formation order, the competence, the interaction process is subject to the features of forms of the state.

The public authority has a number of features which allow relating it to the state. So, only public authority is created and operates on behalf of the state in accordance with the laws and regulations and performs only his peculiar tasks and functions with its own competence.

The Constitution of the Russian Federation in article 3 determines that the state authorities act as a mechanism to implement democracy and usurping state authority shall be prosecuted by law. Thus, the constitutional principles of organization and activity of state bodies are: the principle of separation of powers, according to which unified state power in the Russian Federation is based on the separation of legislative, executive and judicial (article 10), but the bodies of these branches, though independent, but closely interact with each other; the principle of differentiation of subjects of conducting and powers between Federal public authorities and subjects of Federation (article 5 and article 11); the principle of checks and balances arising from the content of the Constitution of the Russian Federation, manifested in the legal interpenetration of the bodies of the various branches of government within the competence of each other.

Therefore, as a socio-political organization, the state exercises public power, i.e. affects what is happening in the society processes and the behavior of people in the public interest. At the same time, the Constitution of the Russian Federation establishes that the person, his rights and freedoms are the supreme value, ensuring the state protection of the rights and freedoms of man and citizen. It follows that the law enforcement functions of the state, the purpose of which is to ensure and protect the right and freedoms of individuals and legitimate interests of public and private organizations are among the most important. But, however, the performance of these functions presupposes the establishment of

legal rules governing not only the behavior and implementation of guaranteed to all citizens of their rights and freedoms but also establishing for them the duties.

For the implementation of its functions, the state creates the system of state bodies, forming the state power in its essence exercising it in different forms.

According to the part 1 of article 11 of the Constitution of the Russian Federation the state power is exercised by the President of the Russian Federation, Federal Assembly (the Federation Council and State Duma), the government of the Russian Federation and the courts.

The judiciary in accordance with the provisions of Chapter 7 of the Constitution of the Russian Federation is represented by judicial system, which is designed to administer justice in the country, presenting a view of state activity, aimed at the consideration and resolution of various social conflicts related to actual or alleged violation of the law and legal regulations. In this case, justice is characterized by several specific features, which consist in the fact that it is undertaken only on behalf of the state by the special state bodies - the courts by consideration of civil, criminal, administrative and arbitration cases and materials in procedure established only by law.

And recognizing the administration of justice only by the court many authors emphasize, rightly, that justice as the work of the court is the resolution of a particular criminal, civil and administrative cases and the application in the manner determined by the procedural rules, the state compulsion to the guilty who have committed various offenses, including crimes. Therefore, we cannot consider right the position of N.G. Ivanov, in our opinion, who believes that justice is a form of state activity aimed at the correct resolution of criminal cases and the application of a fair measure of responsibility. On the other hand, the act of justice, in his opinion, is not the exclusive domain of the judiciary. The fallacy of these judgments is that in the process of justice not only criminal cases are resolved but also other, for example, civil, administrative etc. The act of justice is an act of the court only and no other public authority cannot administer justice.

Judicial power since its occurrence is closely connected with the law has the legal form of expression. It ensures the right of the judiciary stability and uniformity. And on the basis of law the judiciary is called upon to perform their functions, and the law itself should become an element of the judiciary. At the same time, the judiciary has an impact on the nature of law, the degree of which depends on the legal system of the state.

Judicial power is characterized by certain signs, the totality of which reveals its concept. First of all, it is only a special state body - the courts, the special position of which in the state mechanism is defined by challenges, responsibilities and the specific nature of the activities in which affected the rights and freedoms of citizens, rights and legitimate interests of the various bodies, institutions and organizations. And for the exercise of judicial authority, the law gives to courts the appropriate powers.

Exercise judicial power on the basis of the procedural laws and in accordance with them that reglementary procedure for the consideration and resolution of cases in courts. While the exact compliance with the procedural requirements and detailed regulation of the judicial process is a guarantee for the correct establishment of all actual circumstances of the case and making a lawful and reasoned decision on it.

The Constitution of the Russian Federation determines the court as an independent body of the state. Occupying a special position in the state mechanism, which is determined by the specific conditions and procedure for its activities and peculiarities of the functions performed, it is not included in any other system of state bodies. And, although the authorities make the laws under which courts are organized and work, their activity is only organizational and procedural in nature and carried out in strict compliance with the principle of independence of judges and their subordination only to the law.

The independence of the judiciary is determined by the fact that in the administration of justice the courts are independent from the legislative and Executive power. They perform their functions independently, guided only by the powers vested in them by law. And their decision in the matter shall be binding throughout the Russian Federation.

A mandatory feature of the judiciary is the authoritative nature of court powers, which manifests itself in the compulsion of all requirements and court orders for all state bodies and other legal persons and citizens. The courts have the right to request any information, documents and items relevant to the case, and to require the holding of departmental examinations, inspections and audits.

The enforcement of court decisions and fulfill their requirements is ensured by the power of the state. So, if it is necessary, the relevant authorities and officials have the right to apply coercive measures for implementation the requirements and the court's decision and in the state mechanism there are special bodies and officials charged with implementation of decisions. The same responsibility has various institutions and organizations.

Thus, justice is an activity of the court on the proper consideration and resolution in the procedure of criminal, civil, and other cases and legal issues and application in accordance with the law of the state coercion to offenders or, conversely, justify the innocent in order to strengthen law and order, prevention of offences, protection from encroachment of the constitutional system, rights, freedoms and interests of citizens, organizations, society and the state.

And if justice is the work of courts on consideration and resolution of the court cases, the

judicial authority is the right of the judiciary to which they are entitled under the law, i.e. the very exercise of power.

Thus, the exercise of judicial power is wider than justice, because it is not limited only to cases but also includes the generalization of judicial practice, analyses judicial statistics, resolution of complaints concerning the lawfulness and reasonableness of detention and extension of detention, limitations on certain constitutional and other rights of citizens.

The administration of justice is based on certain principles that should be understood is enshrined in the Constitution of the Russian Federation and other laws the guidelines, i.e. the rules, the ideas, the requirements of a General nature, expressing the essence of justice, forming a single system that defines the organization and functioning of the judiciary, and employees of the tasks facing the court. The principles of judiciary are made up of:

1) Implementation of justice only by court;
2) The administration of justice in strict accordance with the law;
3) The existence of special provisions on the procedure for the appointment of judges;
4) Providing citizens the right to judicial protection;
5) Equality of citizens before court and the law;
6) Securing the independence of judges and their subordination only to the law;
7) Judicial cases provided by law, the line of ships;
8) Participation in the administration of justice representatives of the people;
9) Open proceedings in all courts;
10) Language of proceedings;
11) The equality of parties and adversarial process;
12) Ensuring that the suspect or defendant the right to be protected;
13) Presumption of innocence;
14) Humanism;
15) Protection of citizens' health, freedoms, honor and dignity of the individual;
16) Judicial review.

Administering justice the court acts as a public authority i.e. issues legally binding decisions, which are acts of law-making activities. However, justice is associated with the procedural form, as judicial activity is directed on research of actual data, materials, evidence, interrogation of a significant number of persons with mandatory security of their rights when participating in case. These actions of the court are held in order to ensure the imposition of a lawful and reasoned decision. Therefore, the implementation of justice is strictly regulated by the procedural legislation, which means the administration of justice in a certain form - the form of judicial process. In procedural legislation, defines all the actions of the court and participants of process. The foregoing allows us to accept the view that justice acts as a constitutional special form of activity of the state in the exercise of judicial power. It is expressed in the protection and security of courts of General jurisdiction and arbitration normal functioning of social relations involving citizens, enterprises and organizations of Justice includes a mechanism for judicial resolution of disputes about law, and other conflicts by sending a civil, arbitration, criminal and administrative proceedings in a special procedure with the application on the basis of the law of state coercion in order to restore and protect the legitimate rights and interests of the individual and of civil society.

However, administering justice in the form of procedure in criminal, civil, administrative and arbitration proceedings, judicial power is intended to exercise judicial review that follows from the content of article 46 of the Constitution of the Russian Federation, according to which every citizen is guaranteed judicial protection of his rights and freedoms. The decisions and actions (inaction) of bodies of state power, bodies of local self-government, public associations and officials can be appealed in court.

Classification is a fundamental operation in scientific knowledge, the basis of the process of organizing knowledge, representing the division system, characterized by certain properties: a) the sequence of division made on the basis of characteristics significant for the solution of the challenge; b) targeting the distribution of objects in groups, to between classifications can be judged on their properties; c) the ability to further formalize processes.

For correct classification it is important to select a sign of characteristics relevant to the majority of the essential properties of the divisible whole. And, the construction of the classification of crimes must arise from:

1) The internal relations of signs of crimes, giving them certain integrity, forming a particular type of crime;
2) External links of certain types of crimes to each other;
3) The linkages and relationship of crime with other offences.

The classification of crimes is an important operation in scientific knowledge, the basis of the process of organizing knowledge presenting a system of division characterized by certain properties: a) the sequence of divisions made on the basis of characteristics that are essential for solving the task; b) targeting the distribution of objects in groups that they can be judged on their properties between classifications; c) the ability to formalize further processes. In criminal law the classification is a tool of theoretical purpose of reality by which its essence is revealed and the separation of objects that constitute a single system. The determination of different criminal phenomena is on the basis of classification and determined their conformity to empirical data (Kuznetsov et al., 2012; Kuznetsov, 2011).

Classifications of crimes against justice which were done during the period of validity of the Criminal code of the RSFSR of 1960 differed considerably. So, it was suggested that signs of the subject of these crimes should be based on it.

However, the literature suggests classifying the system of crimes against justice by the object of offence but not the subject (Garanina, 2011). And in this regard, there is a categorical statement of E.M. Zatsepina that "division of crimes in groups in the criminal-law classification is only possible under this criterion (object) that predefined by the basis of the separation of relevant crimes in the chapters of the Special part of the Criminal code of the Russian Federation" (Zatsepina, 2013).

According to the classification of the object of the crime the literature identifies the following groups: 1) offences against the relations to implement the constitutional principles of justice in accordance with its objectives and tasks (articles 292-301, 305 of the Criminal code); 2) obstructions of justice in accordance with its objectives and tasks (articles 294-298, 311 of the Criminal code); 3) crimes that violate the procedure of obtaining evidence of a case (articles 302-304, 306-309 of the Criminal code); 4) obstructions of justice for the timely prevention and detection of a crime (articles 310, 316 of the Criminal code); 5) offences against relations for implementation of a judicial act (articles 312-315 of the Criminal code) (Rarog et al., 2007; The Criminal Code of the Russian Federation of 13.06.1996 63 -FZ (ed. by 12.30.2015)).

Other authors emphasize: 1) crimes against justice expressed in infringement of the procedure justice activity by obstructing that activity; 2) crimes against justice expressed in infringement of the procedure of justice activity by the trespass to the person of employees of justice; 3) crimes against justice expressed in infringement of the procedure of justice activity and committed by justice personnel; 4) crimes against justice expressed in infringement of the procedure of making judicial decision.

Thus, disputes about classifications show that theoretical research in this area is still not exhausted.

In our opinion, for the correct classification of crimes against judicial authority and procedural activity of law enforcement agencies that should facilitate the implementation of justice as provided for in Chapter 31 "Crimes against justice" of the Criminal code, it should be guided by the object of a crime and the subject of its committing. Therefore, we believe that it is necessary to introduce following groups of the considered infringements based on the current version of Chapter 31 of the Criminal code "Crimes against justice" containing norms protecting against crime not only the judiciary but also the procedural activity of law enforcement agencies facilitating the administration of justice:

1) Crimes against the judicial power and procedural activities of preliminary investigation agencies committed by persons engaged in this activity. Among them may be: bringing obviously innocent to criminal responsibility; illegal exemption from criminal responsibility; illegal detention, detention or custody; coercion to give testimony; falsification of evidence; making a knowingly unjust judgment, decision or another judicial act;

2) Crimes against the judicial power and procedural activities of the court and preliminary investigation agencies committed by persons who are participants of this activity. Crimes of this group should include: falsification of evidence; false testimony, conclusion of expert or incorrect translation; the refusal of witness or victim from giving testimony; the disclosure of data of preliminary investigation;

3) Crimes against the judicial power and procedural activities of preliminary investigation bodies committed by persons who must facilitate it according to law. These crimes include: disclosure of information about security measures of judges and participants in criminal proceedings; illegal actions against property subjected to inventory or arrest or forfeiture; failure of sentence, court decision or other judicial act; concealment of crimes;

4) Crimes against judiciary's functions and procedural activities of preliminary investigation agencies committed by any person. They can include: the obstruction of justice and conduct of the preliminary investigation; infringement on life of a person administering justice or preliminary investigation; threat or violent actions in connection with the administration of justice or conduct of preliminary investigation; bribery or coercion to testify or to evasion from evidence or to wrong translation;

5) Other crimes against the judicial power and procedural activities of preliminary investigation agencies committed by any person. They can include: contempt of court; libel against a judge, juror, Prosecutor, investigator, person conducting inquiry, bailiff; provocation of a bribe or commercial bribery; false denunciation;

6) Crimes against execution of a sentence or other judicial act committed by detained, arrested and convicted persons. They include: escape from places of imprisonment, arrest or custody; evasion of serving of imprisonment.

However, our classification is not entirely exact because as it follows from the title of Chapter 31 of the Criminal Code law enforcement agencies cannot give functions of justice which only the judiciary has although at the same time it must be admitted the agencies combating crime will undoubtedly facilitate the administration of justice. So the authors start from the premise that justice is not only implemented by court but also by law enforcement agencies. And realizing the error of legislator some of them try to correct it so that in addition with a narrow concept of justice which only characterizes the activity of a court, in their view there is a concept of justice in the broad sense which is also implemented by law enforcement agencies. Of course, this approach seems to us wrong.

On the basis of our proposed change of name of Chapter 31 of the Criminal Code, all offenses in this chapter can be divided into three groups:

1. Crimes in the sphere of implementation of justice by judicial authority (p. 1 and p. 3 of Art. 294, Art. 295, p. 1 and p. 3 of Art. 296, Art. 297, p. 1 and p.

3 of Art. 298, p. 2 of Art. 301, p. 1 of Art. 303, Art. 305, p. 1 and p. 3 of Art. 307, Art. 308, Art. 309, Art. 311 of the Criminal Code of the RF);

2. Crimes in the sphere of procedural activities of preliminary investigation agencies (p. 2 and p. 3 of Art. 294, Art. 295, p. 2, p. 3 and p.4 of Art. 296, p. 2 and p. 3 of Art. 298, Art. 299, Art. 300, p. 2 and p. 3 of Art. 301, Art. 302, p.2 and p. 3 of Art. 303, Art. 304, Art. 306, Art. 307-310 and Art. 311 of the Criminal Code of the RF);

3. Crimes committed in the execution of judicial decisions (p. 2 of Art. 312 , Art. 313 -315 of the Criminal Code of the RF).

In our opinion, acts provided for in Articles 157, 177, 282.2 and 312 of the Criminal Code should also be in this group as they also infringe on the activities of the agencies implementing the execution of judicial decisions.

3. Conclusions

We can make up the following conclusion that crimes against justice are socially dangerous acts that infringe on the established procedure of administration of justice and consideration of materials and cases, not well as its credibility during the trial. However, analysis of the crimes against justice shows that infringing on social relations which ensure the normal procedural activity and authority of the court and at the same time they may infringe on other social relations ensuring the privacy, health, honor and dignity of the members of this procedural activities as well as their rights and legitimate interests.

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