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Goals and Objectives of the Court Sentence

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Abstract: In mutual connection, these provisions make it possible to most clearly understand both the essence of justice in criminal cases and to fully formulate the concept of an act adopted in its course - a court verdict, to reveal its inherent properties and requirements. This is the most important task of the theory of criminal procedure. The only basis for guilt or its absence, as well as the need to bring or exempt from criminal liability and punishment, is a court verdict, which contributes to the fight against crime, strengthening the rule of law and protecting human rights. It is this principle that gives us a real guarantee in strengthening the rule of law, in pursuing a unified criminal procedure policy, in protecting a person from illegal prosecution or non-criminal liability.

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1. Introduction

In the system of fundamental principles of justice, enshrined in the Constitution of the Republic of Moldova, the following should be highlighted. Firstly, justice in the Republic of Moldova is carried out in the name of the law only by the courts, and secondly, any person accused of committing a crime is considered innocent until his guilt is established by law through a public trial, in which he all necessary guarantees for protection are provided (Articles 21, 114 of the Constitution of the Republic of Moldova).

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Expressing the state and public interests, the foundations of the economic and political structure, the court verdict reflects the progressive development of a democratic society. As practice shows, the system of decisions in the sentence always reflects the scope of public duty and the needs of social regulation of the behavior of individuals (Lupinskaya, 1976, p. 64). Characteristic and quite significant is the indication that a person in his relations with the state participates not as an object of the state's activities, but as a subject, equal in rights (Dolea, 2003, p. 271). Judgment is the most important act of justice. By virtue of the law, no one can be found guilty of a crime, and also be subjected to criminal punishment except by a court verdict.

At the present stage, the problems of a judicial sentence are not studied enough: the sentence is taken in its entirety without distinguishing between its individual properties, or only certain aspects of the sentence (for example, punishment) are considered without considering the facts of eliminating all identified violations of the law, compensating for material damage, and taking measures to prevent crimes.

There is a really justified position that it is necessary to systematize all the theoretical and practical potential on the topic under study, so that the topic, which, in our opinion, is the most relevant, in the context of the increased fight against crime, is reflected, especially since the epicenter of attention is the person himself, his rights and freedoms, honor and dignity (Sedletsky, 1988, pp. Ch. I, p. 2).

2. Result and Discussion

In the science of the criminal process, the verdict, as the most important act of justice, is devoted to candidate dissertations of the R. Oganessian (1970), N. Skvortsova (1971), M. Malikov (1973), M. Pastukhova (1983), Iu. Sedletsky (1988), A. Kuciurca (2005), A. Airapetean (2007), S. Toncu (2019) and many others. Some issues of the sentence in the criminal process were studied in the works of G. Ageeva, S. Alpert, G. Bushueva, Yu. Groshevogo, V. Dorohova, V. Nikolaev, R. Iskanderov, A. Koblikova, E. Kutsova, M. Malikova, E. Martynchik, E. Matvienko, S. Miretsky and many others.

At the same time, in the light of the adoption of the new Code of Criminal Procedure of the Republic of Moldova, quite a lot of debatable issues have appeared, such as the concept of a sentence, the types of sentences, the procedure and conditions for applying various grounds for issuing a sentence, the concept and essence of

rehabilitation, the characteristics of new types of sentences and the grounds for their decision and others. The social, educational and moral significance of the verdict, the practice of issuing one or another type of verdict, a comparative analysis of foreign legislation governing the verdict, the factor of the presumption of innocence and rehabilitation in the context of the existence of new types of verdicts needs a new study.

It should be noted that in a democratic state all the purposes of a court sentence meet the needs and interests of society as a whole. Court verdicts support socially useful patterns of behavior of citizens, bring legal norms and regulations to the public.

For these reasons, the study of mechanisms for protecting the rights and freedoms of citizens is an important and urgent task, since human rights and freedoms not only determine the content and meaning of a particular political system, but also call for turning a person from a passive observer into an active participant in all events and actions taking place in the world (Borshevsky, 2005, p. 43).

The more the goals of democratic justice absorb the objectively justified interests of society, the more the socio-political significance of the judgment increases. Moreover, the effect of the sentence should be understood not only as its one-time impact on socio-economic, political, ideological, procedural and production relations, but also as a permanent factor in all parts of the sentence of the court. It is expressed in the settlement of contradictions between personal and public interests.

Consequently, the immediate consequence of the resolved case and the preventive effect of the sentence are determined by the scope of criminal liability, and the results of the impact of the sentence are associated with the ideological and moral qualities of the procedural decisions of the courts within the limits of the charges brought by the criminal prosecution authorities.

The decision of the verdict, its presentation requires a lot of work and concentration. The variety of life situations studied, the individual characteristics of the defendants and other persons participating in the trial give each case its own special features, excluding the possibility of a template solution. The verdict is passed in a difficult situation of a deliberation room, in conditions when the points of view of judges on the decisions being made are clarified and a clash of opinions is possible, when a decision must be made without delay, and a great responsibility for the fate of a person leaves its mark on the activities of judges. In such an environment, only an impeccable knowledge of the law, thorough and comprehensive pre-trial

preparation, as well as constant work to improve the level of professional skills allow judges to pass sentences that are correct in essence and perfect in form.

By decisively condemning the perpetrators of the crime and eradicating harmful acts, the judiciary can and should prevent a single case of conviction of the innocent. This is a very real dual task of the criminal process, entrusted to the courts by law. No matter how complicated the circumstances of the case under consideration, the court is obliged to fully, comprehensively and objectively understand all the facts, accurately determine the legal signs of the established facts and make the only correct, lawful and justified decision.

What great importance the legislator attaches to the educational impact of the sentence, and this can be seen from the fact that in a number of cases the court is given the right to pass a guilty verdict with the release of the convicted person from punishment, with the use of a suspended sentence. In these cases, the legislator recognizes the educational impact on the convict of a guilty verdict as sufficient and considers it unnecessary to impose a sentence or immediately enforce the sentence upon conditional conviction.

The basic principles of the criminal process - publicity, the right of the accused to defense, the national language of legal proceedings, publicity, immediacy, established by the legislator in order to properly administer justice, are serious guarantees for the issuance of just sentences.

The result of the meeting of judges, procedurally fixed in the verdict, really reflects the worldview of judges, their sense of justice, the ability to practically apply their knowledge, everyday experience in resolving a particular case, the level of professional skills, the ability to state and motivate decisions. And this obliges judges to constantly improve their knowledge, master practical work skills, use positive experience and draw the right conclusions from the analysis of judicial practice materials.

Not haste, but quickness of thinking, based on a comprehensive, complete and objective understanding of the case materials, ensures the efficiency and high quality of work of judges when passing a verdict.

Analyzing the above, we note that there are no simple criminal cases in the judiciary. Each case is not a faceless judicial incident, but a complex conflict between a person and society, in which the fate of people is decided.

The courts of the Republic of Moldova are entrusted with a difficult, but honorable and important task - to carry out in court the legal protection of the rights and legitimate interests of a person in a democratic society.

To solve this problem, it is necessary not only to have a high level of knowledge of the current legislation of the Republic of Moldova, but to correctly apply them in each specific case, to have life experience, to know the psychology of a person, to be able to look into his soul, understand him, understand all the complexity of events and give them correct, reasonable assessment, i.e. establish the objective truth of the case. This goal is achieved only when, during the proceedings in a criminal case, all the facts and circumstances that are essential for the resolution of this case are established with sufficient completeness and reliability (Strakhovskiy & Karpov, 2005, p. 42).

Establishing the truth in criminal cases is the only basis for issuing a just verdict, a verdict that meets all the positions of criminal procedural law - ensures the successful achievement of such goals as protecting society from crime through the implementation of criminal law, protecting the rights and legitimate interests of citizens who have fallen into the sphere of justice (Zazhitsky, 2005, p. 67).

It can be said without exaggeration that the new Code of Criminal Procedure of Moldova synthesizes world experience in the development and implementation of legal proceedings. As a result, norms and legal institutions unknown to the legislation of Moldova appeared in the Code in the past, and most of the previously existing ones received further development, new, deeper content.

If the Code of Criminal Procedure of the Republic of Moldova of 1961 fixed 12 principles by the time of its termination, then in the new Code of Criminal Procedure the legislator, seeking to bring criminal proceedings in line with the generally recognized norms and principles of international law, first of all, the European Convention for the Protection of Human Rights and fundamental freedoms, by the provisions of the Constitution of the Republic of Moldova, elevated to the rank of principles 22 fundamental ideas (Milushev, 2004, p. 16).

These principles of criminal justice allow the court to comprehensively and fully consider a criminal case and issue a fair, lawful, reasonable and reasoned sentence, restore the violated right, punish the criminal on behalf and in the name of the law, protect the interests of the whole society from such encroachments in the future.

In accordance with Article 1 of the Code of Criminal Procedure of the Republic of Moldova, the task of criminal proceedings is to protect the individual, society and

the state from crimes, as well as to protect the individual and society from illegal actions of officials in the investigation of alleged or committed crimes, so that everyone who commits a crime is punished to the extent of his guilt, and not a single innocent person was prosecuted and convicted.

This task is achieved by passing a just verdict, because it is the verdict of the court that is the authoritative act that completes the criminal proceedings. Thus, the tasks of the criminal process, or rather their solution, are fully shifted to the verdict.

The decisive indicator of improving the activities of the judiciary can only be a lawful and justified decision of each case, ensuring the legality of the verdict of the judiciary - the most important act of justice.

However, this does not exhaust the role of the verdict of the court. Under the conditions of full implementation of the democratic foundations of legal proceedings, the verdict has a great socio-political and educational value.

The socio-political significance of the judgment of the court is expressed in the fact that the court pronounces the judgment "in the name of the law". In the verdict of the court, the state expresses its attitude to criminal acts and to the person who committed them; the execution of the sentence is ensured by the whole force of state power.

Recently, more and more often, along with the recognition of the verdict as the most important act of justice, the verdict is defined as an act of criminal justice (Cuciorca, 2005). Criminal justice can be defined as a functional system, i.e. a system that does not have a single organizational basis, but is united by a special type of activity, the final result of which is designed to satisfy a certain social need (Mikhailovskaya, 2005, p. 111). Thus, a sentence is an act designed to satisfy a certain social need, i.e. punish the guilty or acquit the innocent.

The decision of the court in a criminal case is enforced from the date of its recognition as final. This means that the sentence is subject to precise and binding execution. Neither individuals, nor organizations, nor public authorities can not obey him. The circumstances established by the court decision, the evaluation of the facts by the court are recognized as true until the sentence that has entered into legal force is canceled or changed.

The verdict of the court, which has entered into legal force, is the law for this case. The verdict of the court is of great educational value. It creates and strengthens people's conviction that every crime will be solved, the perpetrator will be exposed

and justly punished, and the causes of the crime and the conditions conducive to the commission will be identified and eradicated.

It would not be superfluous to point out that the educational impact of the court is achieved on the condition that the verdict reveals and proves the wrongfulness of the act, its public danger, exposes the person who committed the crime, investigates the circumstances characterizing his personality, as well as the crime.

In the criminal procedural literature, along with the goal and task, the effectiveness of the sentence is noted (Malikov, 1980), which, in my opinion, is a derivative of the above and is expressed in the ability to have a positive impact on social relations. Therefore, the study of this problem is of great theoretical and practical importance. It allows us to find answers to the questions under what conditions it is possible to obtain the effectiveness of acquittals, convictions and other verdicts of the courts, how to create these conditions and how to increase their effectiveness in specific conditions, thereby gradually creating a practically applicable definition of the concepts of “criminal justice efficiency”, “the effectiveness of the judgment”.

Despite this relevance, so far the concept of efficiency sentence subjected to a special study is not enough. Nevertheless, along with the purpose and task of the sentence of the court, derivatives should be singled out if they qualitatively change the attitude towards the object under study.

It should also be noted that the verdict is the most important procedural document that crowns pre-trial and judicial proceedings (Radyuk, 2005, p. 13), and the goals and objectives that are considered in the Russian language in one synonymous series (Alexandrova, 1989, p. 481), from an etymological point of view, are not only interdependent, but also interchangeable incarnations leading to a single result.

Analyzing the above material, the following goals and objectives can be distinguished, which are intended to ensure a court sentence:

- protection of the rights and legitimate interests of individuals and organizations victims of crimes;
- protection of the individual from illegal and unjustified accusations, condemnation, restriction of his rights and freedoms;
- criminal prosecution and fair punishment for the guilty;
- release of the innocent from punishment;
- refusal to prosecute the innocent;

- rehabilitation of everyone who has been groundlessly subjected to criminal prosecution.

Summarizing, we note that the verdict as an institution of procedural law is the most important act of justice, in which the procedural function of the court is realized in the most complete form - the function of resolving a criminal case (Bandurin, Gromov, & Ivensky, 2005, p. 34).

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