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ANALYSIS OF CRIMINAL PROCEDURAL PRINCIPLES IN FIRST INSTANCE COURTS IN THE REPUBLIC OF MOLDOVA

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Within a democratic state and the rule of law a separate and very important role is played by the courts. The judiciary is the third power in the state, whose duty is to determine cases of violation of the rules of social coexistence, to resolve disputes arising between the subjects of the law, as well as other duties provided by the legislation in force. The courts are the main subject of the criminal process, because they fulfill the duties of judging and resolving criminal cases. The trial in the first instance is a stage that takes place after the criminal investigation stage and is the most important for the simple reason that it decides whether the person will be limited in certain of his rights or not. The basic purpose of this paper is the study regarding the presentation of evidence in court, focusing on the judicial analysis of the principles of the criminal process.

Keywords: *judicial power, subjects of the law, procedural activity, trial in the first instance, evidence.*

ANALIZA PRINCIPIILOR DE PROCEDURĂ PENALĂ ÎN TRIBUNALELE DE PRIMĂ INSTANTĂ DIN REPUBLICA MOLDOVA

În cadrul unui stat democratic și de drept un rol separat și foarte important îl ocupă instanțele judecătorești. Puterea judecătorească este a treia putere în stat, datoria căreia este de a constata cazurile de încălcare a regulilor de conviețuire socială, de soluționarea litigiilor apărute între subiecții legii precum și alte atribuții prevăzute de legislație în vigoare. Instanțele judecătorești reprezintă subiectul principal al procesului penal, deoarece îndeplinesc atribuții de judecare și soluționare a cauzelor penale. Judecata în prima instanţă este o etapă care se efectuează după etapa de urmărire penală şi este cea mai importantă din simplu motiv că această instanță hotărăște dacă persoana va fi limitată în anumite drepturi ale sale sau nu. Scopul de bază al prezentei lucrări este studiul referitor prezentarea probelor în instanța de judecată, accentuându-se pe analiza de judecată a principiilor de procedură penală.

Cuvinte-cheie: *puterea judecătorească, subiecții legii, activitate procesuală, judecată în prima instanţă, probe.*

ANALYSE DES PRINCIPES DE PROCÉDURE PÉNALE DANS LES TRIBUNAUX DE PREMIÈRE INSTANCE DE LA RÉPUBLIQUE DE MOLDOVA

Dans le cadre d'un État démocratique et légal, les tribunaux jouent un rôle distinct et très important. Le pouvoir judiciaire est le troisième pouvoir de l'État, dont le devoir est de constater les cas de violation des règles de cohabitation sociale, de régler les différends survenant entre les sujets de droit, ainsi que d'autres devoirs prévus par la législation en vigueur. Les tribunaux sont le principal sujet de la procédure pénale, car ils exercent les fonctions de statuer et de résoudre les affaires pénales. Le jugement de première instance est une étape qui se déroule après l'étape de l'enquête pénale et est la plus importante pour la simple raison que ce tribunal décide si la personne sera limitée dans certains de ses droits ou non. L'objectif principal de cet article est l'étude de la présentation des preuves devant les tribunaux, en se concentrant sur l'analyse des principes de procédure pénale.

Mots-clés: *pouvoir judiciaire, sujets de droit, activité procédurale, procès en première instance, preuves.*

АНАЛИЗ УГОЛОВНО-ПРОЦЕССУАЛЬНЫХ ПРИНЦИПОВ В СУДАХ ПЕРВОЙ ИНСТАНЦИИ В РЕСПУБЛИКЕ МОЛДОВА

В демократическом и правовом государстве отдельную и очень важную роль играют суды. Судебная власть является третьей властью в государстве, в обязанности которой входит определение случаев нарушения правил общежития, разрешение споров, возникающих между субъектами права, а также другие обязанности, предусмотренные действующим законодательством. Суды являются основным субъектом уголовного процесса, поскольку выполняют функции по рассмотрению и разрешению уголовных дел. Судебное разбирательство в первой инстанции является стадией, которая осуществляется после завершения уголовного преследования и остается наиболее важной по той простой причине, что именно данная инстанция решает, будет ли лицо ограничено в определенных его правах или нет. Основной целью данной статьи является исследование представления доказательств в суде с упором на судебный анализ принципов уголовного судопроизводства.

Ключевые слова: *судебная власть, субъекты права, процессуальная деятельность, судебное разбирательство в первой инстанции, доказательства.*

Introduction

Consideration of a criminal case in the first instance is a stage of the criminal process that occurs after the completion of the criminal prosecution and the appointment of the case for trial, that is, it involves the study of the materials of the criminal case in court. In order to most correctly resolve cases in the court of first instance, it is necessary to comply with the stages of the criminal process, especially in the study of all circumstances based on the materials of the criminal case, taking into account the analysis of the principles of the criminal process.

Only if the stages of the criminal process are observed at all stages (the beginning of criminal proceedings, criminal prosecution (charge stage) and trial), can the defendant be found guilty of a crime. Without the completion of the previous stages of the criminal process, the trial cannot proceed. By resolving these issues, the court dispenses justice. Thus, confirming the legality and validity of the actions of the conclusions and decisions of the prosecution.

It is the judicial investigation that is the most important and complex part of the trial on the merits, and the establishment of the truth largely depends on its correct conduct. Undoubtedly, the principles of the criminal process are manifested here.

Main ideas of the research

Analyzing the concept of the system of principles of the criminal process, two aspects should be borne in mind: knowledge of its constituent elements and interdependence in the implementation of criminal proceedings.

At first glance, the system of principles of criminal proceedings should be considered the one that is considered by the legislator, in particular, the provision of the Code of Criminal Procedure of the Republic of Moldova (hereinafter - CPC RM), art. 7 - 28. In fact, the system of principles in the science of criminal procedure law cannot and should not be different from the system of procedural law.

The principles of the criminal process never appear in isolation in a trial. At the stage of accusation and trial, the principles of the criminal process are applied in constant interaction and interdependence. The content of each principle is determined by the presence of basic rules, just as the consistent application of one of them is impossible without strict adherence to all [1, p. 960].

The basic principles of the criminal process are understood as general rules, in accordance with which the entire course of the criminal process is regulated [2, p. 73].

The principles specific to the stage of trial

are the basic rules enshrined in law that govern all activities carried out in court from the moment criminal proceedings begin to end, ensuring the consistent implementation of the principle of criminal procedure.

The general conditions for the trial of the case are set out in Art. 314-343 of the Code of Criminal Procedure of the Republic of Moldova and are the general rules for trial in the first instance and appeal proceedings.

The doctrine of criminal procedure law notes that in the perimeter of the trial of a case on the merits, in an appeal and in cassation, there can be no deviations from these general rules, unless a special rule provides for a deviation [3, p. 134].

Oral trial of the case, provided for by Article 314 of the Code of Criminal Procedure of the Republic of Moldova, is opposed to the accusation, which is carried out in writing. The principle of oral proceedings is that the entire stage of the trial is conducted orally. This principle indirectly guarantees that both the persons involved in the case and the public in the courtroom are aware of the progress of the trial by direct perception.

The judicial duel itself is an oral duel, the purpose of which is to convince the court of the validity of the arguments and statements presented. Orality is necessary for the discursive essence of judicial (conventional) truth, judicial truth is the result of litigation [4, p. 324].

In this direction, one should agree with the opinion that orality implies a constant and lively discussion and dialogue on all aspects of a criminal case.

It follows from the content of the principle of orality that it is necessary to hear orally the accused, the victim (injured party), the civil party, the party bearing civil liability, witnesses and experts, and all other evidence is subject to examination and verification in the same manner. Participants in a criminal case are always given the opportunity to verbally express their opinion on any issue that arises in the course of the trial, as well as to make representations.

If any of the persons summoned is unable to express his own thoughts orally, he is invited, if possible, to put his thoughts in writing, and written statements are read out at the hearing. With the participation of an interpreter, translations are made orally.

In addition to the direct provision of Article 314 of the Criminal Procedure Code of the Republic of Moldova, oral presentation during the trial is also provided for by other criminal procedural norms: Articles 367-371 of the Criminal Procedure Code of the Republic of Moldova, hearing and reading statements in a court session; Article 380 of the Criminal Procedure Code of the Republic of Moldova, giving the last word to the accused; Article 340 of the Code of Criminal Procedure of the Republic of Moldova, pronouncement of the verdict in open court. The principle of oral proceedings is interconnected with the principle of publicity and lies in the fact that the perception of all evidence in the courtroom occurs orally, as mentioned above. During the trial of a case, a witness may use written materials when giving testimony only in exceptional cases. A witness may use written materials when giving evidence in cases where the testimony is related to some digital or other hard-to-remember data. These materials are submitted to the court, to the persons participating in the trial, and may be attached to the case on the basis of a court ruling.

Orality is a separate and independent principle of the process and extends its effect to both original and derivative evidence. In accordance with paragraph (2) of Article 25 of the Civil Procedure Code of the Republic of Moldova (hereinafter referred to as CPC RM), the hearing of the case is held orally and in the same judicial composition. In case of replacement of one of the judges during the consideration of the case, the trial is carried

out from the very beginning. This process is called the removal of a judge [5].

Orality in the process of considering a case allows you to fulfill the tasks facing the judge: to correctly consider and resolve cases, since thanks to orality it is easier to assess the reliability of evidence, ask the necessary questions and get answers. The oral process has an educational and preventive effect on the citizens present in the court session [6, p. 24].

Consistency as a general condition for the trial of a case means that procedural actions must be performed directly before a judge or, if necessary, a collegium. The principle of indivisibility is the obligation of the court to directly perform all procedural and procedural actions that fill the content of the trial. The Court is in direct contact with all the evidence and on all aspects of the case.

In accordance with the principle of non-disclosure, the court re-examines the evidence obtained at the prosecution stage and, at the request of the parties, may order the receipt of new evidence. As noted in the literature, the conviction of a judge can be based only on the direct perception of evidence and only on “what is directly seen and heard” [7, p. 214].

Immediacy lies in the obligation of the court to directly perform all procedural and procedural actions that give substance to the hearing. This principle is enshrined in Article 289 of the Criminal Procedure Code of the Republic of Moldova and requires that all actions and procedures carried out at this stage be performed directly before the court. This is necessary in order for the court to have direct contact with all the evidentiary materials for the most correct resolution of the case.

The absence of a trial means that the decision is made solely on the basis of the evidence examined in court. According to the Code of Civil Procedure of the Republic of Moldova and the Code of Criminal Procedure of the Republic of Moldova, the court must base its decision only on evidence examined in court. If there is evidence or enforcement of the court decision by another court, the evidence obtained must be made public. Otherwise, they cannot be relied upon in making a decision. There are several exceptions to the immediacy of criminal proceedings, some of which have already been mentioned: court order, provision of evidence, examination of witnesses in court. In the case of a court decision, another court (not the one that hears the case) conducts certain procedural actions (for example, examination of material evidence, interrogation of witnesses, etc.).

The investigating officer and the prosecutor collect evidence before the start of the trial and send it to the court where the case will be heard. During the consideration of the case, in general, all collected materials that serve as evidence, and during the trial, must be read out in the courtroom. When the case is adjourned, the court has the right to cross-examine the witnesses present. When the hearing of the case is resumed, these testimony shall be read out at the court session. At the same time, it is not excluded that, for example, a witness who testified during the taking of evidence or during the adjournment of the case may appear in court to give oral testimony [8, p. 49].

Under the effect of immediacy, there is a general rule for obtaining evidence in the trial of cases, according to which the court investigating a criminal case is personally obliged to take note of the evidence in court. Evidence in the trial consists in the correct study of all the circumstances of the criminal case, on the basis of which the case will be resolved on the merits and the information contained in the sources of information will be taken into account.

The beginning of the production of the effect of immediacy, its consistent application during the trial of the case, in particular, ensures the elimination of distortions at the time the court receives the information necessary to resolve the case and ensures that the judge forms a firm and strong inner conviction regarding the guilt

of the defendant and the establishment of other facts in the case. Therefore, the significance of the commencement of proceedings, considered as an essential condition, one of the guarantees for establishing these facts and obtaining material truth in this case, is obvious and generally recognized.

Taking into account the essence of the principle of non-discrimination, its restriction should be allowed only in exceptional cases provided for by law and justified, as a rule, by the impossibility of applying this principle in certain situations. Meanwhile, the Code of Criminal Procedure of the Republic of Moldova allows such restrictions in a number of cases, not all of which can reasonably be considered exceptional.

First of all, the announcement of the testimony previously received from the victim, the witness is carried out in the event of the following reasons for the non-participation of the victim or witness (death, serious illness preventing the appearance in court, etc.) - this is a completely justified restriction on the commencement of the production of the effect of non-involvement in connection with impossibility of its implementation in such a situation. A ban on the use of available sources of information about the facts of the case, even indirect ones (the protocol of the previous interrogation or confrontation), in a situation where the primary source of information is unavailable (the inability to obtain evidence directly from the person) would be an even greater obstacle to the true establishment of the facts of the case.

In several complaints, the Court defined the principle of adversarial process as follows: the duty of the judge is to ensure that all elements that can affect the outcome of the dispute on the merits become the subject of adversarial discussion between the parties [9].

In the criminal process, the contradictory interests and positions of the prosecution and the defense are usually obvious and manifest themselves in the confrontation of opinions and arguments about how the conflict of the criminal law on the merits should be resolved before the court. Inconsistency puts the court before the need to perceive evidence through a filter of opinions expressed orally in the court session by all parties that have conflicting interests in resolving a criminal case. Thus, the proof takes place in the presence of the parties, under their control and as a result of their direct participation.

The judge, assessing the circumstances of the case, is not obliged to refer to their plausibility or improbability. He must assess their credibility on the basis of the evidence presented. No decision in a criminal case can be based on assumptions. All doubts about the proof of the accusation, which cannot be eliminated under the conditions of the criminal procedure law, must be interpreted in favor of the suspect, the accused or the defendant [10, p. 64].

Article 24 (2) of the Criminal Procedure Code of the Republic of Moldova states that the court should not speak in favor of the prosecution or the defense and should not express interests other than the interests of the law. This means that in adversarial proceedings the court is impartial. Another legal provision (art. 26 (2) of the Code of Criminal Procedure) states that the judge examines materials and criminal cases in accordance with the law and his own conviction, based on evidence examined in the relevant judicial procedure. Therefore, when resolving the case, the court will take into account the evidence presented by the parties. Establishing the truth will depend on the ability of the prosecution and defense to present evidence. The parties in criminal proceedings are free to choose their position, ways and means of maintaining it. Since the court is not a body charged with solving a crime, exposing the offender and collecting evidence of guilt, it cannot act in any way for or against one of the parties to

the process. The only interest promoted by the court is the interest of the law. If necessary, the court is obliged to assist either party in obtaining the necessary evidence, if asked to do so in an application or petition.

As a condition of a fair trial, the Court has always been and continues to be interested in how contracting states enforce the adversarial principle. In a number of cases, the European Court of Justice has ruled on situations and conditions that require certain behavior from the authorities in order for the proceedings to be truly adversarial.

So, in the case of *Popovich v. Moldova* [11], the European Court established the need to examine evidence in the presence of both parties. In a broader sense, the principle of equality of arms in an adversarial process, guaranteed by the ECtHR, applies both at the pre-trial stage (with a wider or narrower application) and at the trial stage of the criminal process.

The European Convention on Human Rights provides for two types of guarantees: on the one hand, substantive rights and, on the other hand, procedural rights designed to ensure the realization of rights of the first category. Article 6 is such a provision, its main purpose is to indicate how the trial should be conducted in the event of a challenge to civil rights or a criminal charge [12, p. 227].

In addition, in the case of *Popović v. Moldova,* the European Court also raised the question of whether Art. 6 substantive right, that is, the right of access to a court. The Court stated that if the case file were to be interpreted as relating only to proceedings already pending in court, the State party could, without violating the basic principles of criminal procedure, remove from their jurisdiction the resolution of certain categories of disputes of a personal nature in order to transfer their organs dependent on the government. That is, according to the European Court, the presence in Article 6 of the European Convention on Human Rights, a detailed description of procedural guarantees protects the only thing that actually allows you to exercise the right of access to a court. Thus, Article 6 of the European Convention on Human Rights guarantees the right of every person to have access to a court. However, this right is limited to the right to a fair trial, that is, to the challenge of criminal charges. Moreover, its content is not the same in civil and criminal cases.

If in civil cases the content of the right of access to a court does not cause any particular problems, then in criminal cases a number of clarifications need to be made. According to the case law of the European Courts, it follows that the right of access to a court has two fundamental characteristics: it must be an effective, but not an absolute right, and the establishment by the state of a system of free legal aid, both in civil and criminal cases.

For example, in *Airey v. Ireland* [13], the European Court found that the right of every person to have access to a court is complemented by the duty of the state to facilitate access, so that it is not enough to have a negative obligation not to interfere with access to court in any way to comply with this requirement, but sometimes states are obliged to provide genuine social and economic rights.

And in the case of *Silver v. Great Britain* [14], the European Court provided that the right to effective access to a court may imply the right to contact and communicate confidentially with a lawyer in order to prepare a legal action (especially in the case of persons deprived of their liberty). To the extent that access to a lawyer is unreasonably denied or restricted, this may amount to a de facto barrier to access to a court. Thus, the European Court accepts restrictions on contacts between a detainee and his lawyer only in exceptional cases.

Although Art. 6 of the European Convention on Human Rights does not guarantee access to justice for free (high costs of legal proceedings, high fees for the subject of proceedings, or

other legal costs that are disproportionate to the financial capabilities of the applicant), may de facto be a deterrent to free access to justice [15].

The complexity of procedures and the lack of clarity as to the legal nature of certain actions can also be barriers to effective access to court. Non-execution of a court decision may indirectly deprive the right of access to a court of meaning [16].

Following similar reasoning, we came to the conclusion that the annulment of a final and irrevocable judgment, which may prejudice the right of access to a court.

The quality of the public defender's services may also raise questions about access to justice. Indeed, the state cannot be held responsible for all the shortcomings in the protection of the public defender, but according to Art. 6 para. 3 lit. (c) of the European Convention on Human Rights, the state is obliged to provide "assistance" through a public defender to persons who do not have the means to hire one [17].

In some cases, a person may be restricted in their right to access to justice. Restrictions may be placed on the exercise of this right, since the right of access, by its very nature, requires regulation by the state, which may vary in time and space depending on society's resources and human needs [18].

Such restrictions must comply with several principles. They must pursue a legitimate aim and not affect the very essence of the right. It is also necessary to ensure reasonable proportionality between the aim pursued and the means chosen [19].

The first category of restrictions under the European Convention on Human Rights is: in the case of mentally alienated persons; in the case of persons convicted of abusing the right to apply to the court; in the case of minors or in bankruptcy proceedings. In each case, the authorization must come from a judicial authority and in accordance with certain objective and predetermined criteria.

As for the Republic of Moldova, it should be noted that the Constitution in Article 54, paragraph (3) does not allow the restriction of this right, directly indicating that: "... the restriction of the rights proclaimed in Art. 20-24 is not allowed" [20].

Similarly, the Constitutional Court of the Republic of Moldova, in one of its decisions, also stated that free access to justice as a fundamental right is undeniable, absolute, since no law can restrict access to justice, as indicated in Art. 20 par. (2) of the Constitution RM [21].

Subsequently, the court revised its position, ruling: "To the extent permitted by Article 4 of the Constitution of the Republic of Moldova, apply and interpret the constitutional provisions on human rights and freedoms in accordance with international acts to which the Republic of Moldova is a party, in the light of Article 6 (1) of the European Convention on human rights, and in the light of the case law of the European Court of Justice, the right of access to a court cannot be an absolute right, but may be subject to restrictions, including those of a procedural nature, if they are reasonable and proportionate to the aim pursued" [22].

For our part, we support the point of view that allows for the restriction of access to justice, but at the same time we believe that restrictions on this fundamental right should be based on general principles, and therefore pursue a legitimate aim and not affect the essence of the right itself. It is also necessary to ensure a reasonable balance of proportionality between the aim pursued and the means chosen.

A clear explanation of the restrictions can also be found in the case-law of the European Court of Justice, which provides for permissible restrictions on free access to justice. In this regard, one of the acceptable forms of restriction of access to justice are: the condition of prior permission to initiate

proceedings in court; procedural conditions for filing a claim; terms of commission of various procedural actions; limitation periods [23]; statute of limitations or penalties for non-compliance, the obligation to be represented by a lawyer in higher courts [24].

Access to justice can also be limited by establishing barriers to unfair appeal. In particular, restrictions on the permission to file an appeal and the permission to file a claim in a court of first instance under certain circumstances, that is, the establishment of additional procedures and due process requirements. The same applies to the imposition of a fine for filing a dubious claim, which is completely devoid of the possibility of appeal [25, p. 234].

Along with the establishment of certain restrictive Berbers, restrictions may also be established for reasons of national security. An example of a permissible restriction, this time for reasons of national security, is the case of *Klass v. Germany* ” [26]. The subject of debate was the law on wiretapping of persons suspected of terrorist activities, which provided that the person who was the target of wiretapping was not notified of this and therefore could not apply to the competent authorities to check the legality of this measure. However, the right of access to justice was not violated, since the person concerned should have been immediately informed of the national security reasons that prevented notification.

In the Republic of Moldova, in this context, the Constitutional Court ruled that the establishment by law of special rules of procedure and the procedure for exercising procedural rights when considering disputes of a certain category of officials does not contradict the principle established by Article 20 of the Constitution of the Republic of Moldova - free access to justice, since these rules arise from the need to exercise exclusively political actions [27].

Taking into account that certain economic and social circumstances may affect access to justice and the position of the parties in the process (since the initiation and conduct of the process requires costs and special knowledge), we believe that the state should provide a coherent system of legal assistance that can provide persons with low income access to justice and successful participation in all stages of the process.

Free access to justice cannot be considered to be limited by the collection of fees, and it is quite normal that citizens who directly benefit from the work of the courts should share in covering their costs. However, high court fees, bail, the cost of the subject matter of the proceedings and other legal costs that are disproportionate to the financial capabilities of the applicant may actually be a deterrent to free access to justice.

In general, the right to access to justice imposes obligations on the legislative and executive authorities, as well as on the judge [28, p. 15]. To achieve a fair and full guarantee of effective access to justice [29, p. 357], the state has three obligations: the obligation to create courts; competently consider the case both factually and legally; providing reasonable conditions for access to court (at least in criminal cases). In short, in order to ensure strict observance of the right of access to justice, the state must endow the courts with two qualities: efficiency and accessibility [30, p. 157].

That is, in terms of providing reasonable conditions for access to a court, the obligation of the state is to ensure the effectiveness of the procedure (which implies access to a court that recognizes itself as competent to decide, avoid denial of justice, consider the complaint from all aspects of fact and law), as well as actual access to court services, in terms of time (the physical time available to initiate a case) and bringing to the attention of the content of the harmful act. And finally, through the provision of free legal aid in certain situations (when

the cases are complex, involve complex legal issues, or have strong emotional consequences for the parties).

According to some researchers, with whose opinion one should agree, effective access to justice implies, first of all, that access to justice must be effective.

That is, the state must grant access to justice to any person so that he can satisfy his interests, which he pursued by referring the dispute to the judge. A procedure in which the person in question would not be able to fully hear his case before a judge is not a procedure that meets the condition of effective access to court. Secondly, effective access to justice implies the obligation of states to give the court full jurisdiction so that it can consider the case on the merits, both on questions of fact and on questions of law [31, p. 181].

In this context, the Constitutional Court of the Republic of Moldova ruled: "Since, according to Article 114 of the Constitution, justice is carried out in the name of the law only by the courts, they must have all procedural prerogatives for a fair resolution of the case, without unjustified restrictions on actions, so that when the final goal is reached, the court decision does not became illusory".

Effective access to justice is lacking in the first place when a person is not allowed to take a case to a judge on a non-criminal matter and justice is denied. For example, the ECtHR has held in numerous judgments that the case law of national courts, which states that the courts do not have jurisdiction to rule on certain land claims against the state, is a gross violation of the right of access to justice, since it is not effective until the person concerned unable to achieve satisfaction of their interests before the judge.

At the same time, the European Court recognized that the right to appeal to a court is only one of the aspects of the right to access to justice. The absence of such a right would become illusory, and the legal order of the state would not allow the execution of a court decision. Therefore, the European Court unconditionally recognized that the right to access to justice also entails the right to seek enforcement, where necessary, of judgments.

Moreover, the European Court recognizes the possibility of a temporary suspension of the execution of judgments in cases, but only if such a suspension is based on considerations of public policy, and the period of time for which it is valid is reasonable and proportionate reasons.

Thus, effective access to justice undoubtedly implies not only the possibility for the judge to resolve the dispute by decision, on the merits, but also the possibility of enforcing the decision to the extent that it is favorable. If the decision is not executed, it cannot be said that the case of this person was resolved, since an unexecuted decision is just a piece of paper that has no value in terms of actually resolving his interests. Therefore, in order to be able to speak about respect for the right of access to justice, it is important that the person concerned has the opportunity to satisfy his legitimate interests before a judge.

The right to access to justice is an integral element of the whole complex of procedural guarantees. In other words, in the absence of effective access to justice, all other procedural guarantees are useless and devoid of legal meaning, since they flow from free access to a court.

That is why the trial in the first instance is aimed at verifying the legality and validity of the act of transferring the case to the court and making one of the decisions that can be taken in a criminal case: a guilty verdict, an acquittal, termination of criminal prosecution.

Moreover, the trial is the main stage of the criminal process and includes two procedural phases, in which the prosecution prepares for trial, and the execution of the judgment enforces what the court has decided. The resolution of the case consists of procedural activities carried

out by the court with the active participation of the prosecutor and the parties in order to ascertain the truth about the crime and the defendant referred to it for consideration. The purpose of the trial coincides with the purpose of the criminal process (art. 1 of the Criminal Procedure Code of the Republic of Moldova).

Conclusions

Criminal procedure is an activity regulated by law, carried out in a criminal case by judicial authorities with the participation of parties and other persons as bearers of rights and obligations, in order to timely and fully establish crimes and bring the perpetrators to criminal responsibility, to ensure the rule of law and protect legal the interests of the individual. The judicial investigation is the most important part of the judicial stage, during which the court, in accordance with the principles of adversarial criminal procedure, examines all the evidence available in the case file in order to establish all the circumstances of the crime. The work of the court and the parties during the investigation and obtaining evidence constitutes the content of the judicial investigation and creates the basis for other subsequent stages of the trial, depending on the legality and validity of the verdict.

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