



Considering the Russian Criminal Justice System from the Perspective of System Analysis

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Abstract

Introduction: the article considers a system of Russian criminal justice at the level of interdisciplinary connections, i.e. at the junction of various sciences, based on the research of the Tomsk Scientific School for the Study of Problems of System Analysis (not adapted in the works devoted to the Russian criminal justice system). *Purpose:* to show possibilities of system analysis in relation to criminal proceedings in order to increase its effectiveness and expand possibilities of the theory of criminal procedure law. *Methods:* dialectical method of cognition of phenomena and processes, method of system analysis, method of analysis and synthesis, formal-logical. *Results:* the system owns systemic properties, objects and subjects, as well as “input” and “output”. Relying on the system analysis, which determines different levels of systemic properties in the system, the author defines the criminal justice system as a set of stages interconnected by systemic properties (resulting from criminal procedural activities at each stage) These properties embody an object and allow it to be in the system; its movement in the system; its exit from this system. *Conclusions:* The system analysis has revealed in the system of criminal court proceedings a lack of uniformity in the interpretation of properties of the charge, and, in some cases, its presence (regarding its “binding” to a specific form of preliminary investigation). The mentioned property is set by the legislator extremely superficially and ambiguously, regardless of the volume and result of criminal procedural activity (with the exception of inquiry in short order). As a result, the object is allowed to move to a higher level without achieving specific properties formed in the system. The set of properties cannot be blurred and should provide a clear identification of the object in the system. One or another form of preliminary investigation should be considered as subsystems (as systems) belonging to the system of preliminary investigation, not separated, as the legislator sees it, but united by a single systemic property of the charge with the same substantiating characteristics. In order to eliminate current “non-systemic” practice, it is proposed to amend Part 1.1 of Article 158 of the Criminal Procedure Code of the Russian Federation as follows: “The end of investigation is confirmed for the inquirer by a reasoned conclusion that the suspect has committed a crime; for the investigator by a reasoned conclusion that the accused has committed a crime. The present conclusions indicate the result of the procedural activity in the criminal case, confirm the person’s accusation of the crime committed. They are formulated in the indictment conclusion, indictment act, indictment order from the position of the presence in the criminal case, substantiating these conclusions, indicating the sufficiency of necessary investigative actions and the

sufficiency of the volume of evidence collected". From the above context, as well as from the provisions of Article 446.2 of the Criminal Procedure Code of the Russian Federation, which contradicts systemacity, substantiates the judgment that, without the presence of systemic properties and characteristics (criteria) indicating the properties of an object in the system, it is unacceptable to make a decision on its movement in the system or on its exit from it. We cannot consider a part (stage, subsystem) of the criminal justice system the "formation" (regulated by the norms of the Criminal Procedure Code of the Russian Federation) that is not closed by a systemic property: 1) which implies the absence of the need for a subject of the system to detect and evaluate a systemic property for its belonging to the object; 2) where a subject endowed with the right of systemic influence, establishing the ownership of an object of a new property, does not aim to study systemic properties developed by subjects at previous stages of the system.

Key words: system; properties; criminal proceedings; system analysis; emergence; subject; object; preliminary investigation.

5.1.4. Criminal law sciences.

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Introduction

Nowadays, theoretical research is increasingly taking place at the junction of various sciences. Criminal process science is no exception. In this regard, the criminal justice system, traditionally used by legislators in the formation of the Criminal Procedure Code of the Russian Federation deserves attention. The theoretical model belonging to criminal procedure law contains the term "system" in its conceptual framework, which provides the basis for its study from the standpoint of system analysis.

System analysis is a set of techniques and tools used in the research and construction of complex systems (objects), as well as the development of methods for making and justifying decisions in the design, creation and management of social, economic, human-machine and technical systems. It was formed as an interdisciplinary science in the late 1960s [1].

System analysis as a research method is inherent in mathematical systems, cybernetics systems, information systems, biological systems, management systems, social systems, etc. At the present stage, it is used in branches of the criminal law cycle. Its structural elements are synthesized into the theory of penal law [2]. In the context of system analysis, the management system in investigative bodies is studied [3, pp. 37–51]. System analysis is inseparable

from criminology [4] and is also used in the criminal process to study the criminal justice system. However, at the same time, it is identified with a systematic approach. So, Yu.A. Frolov mentions that "a systematic approach to the study of the criminal justice system serves as a conceptual bridge providing an understanding of basic laws and the specifics of the system development in the process of interaction with the environment in which it exists, and also, features of the internal systemic development factors; formation of an exhaustive understanding of the system of criminal justice, which determines the functioning of this system as a whole, as well as individual structural and functional components included in it; identification of integrative qualities (properties of the system level) of the criminal justice system" [5].

The fundamental research of O.V. Volkolup is devoted to the criminal justice system and problems of its improvement. He considers the system of criminal court proceedings as "an ordered set of interrelated elements – stages and actions, which, having relative independence, organization, orderliness and hierarchy, serve to achieve the goals all criminal proceedings face" [6, p. 11]. Piyuk A.V. represents the system of criminal procedure as "not only the totality of actions of persons involved in a criminal case, and not even only and not so much the

construction of a criminal process in the form of a well-ordered institutional formation with its own structure and internal connections, the quality of consistency defines the criminal process as an formation characterized primarily by the presence and specifics of connections (relations) between its elements, and the connections are interdependent and determining integrative properties of the system as a whole" [7, p. 45].

It is worth mentioning that these definitions are not associated with the properties developed in the system under consideration, which determine the relationship between its stages. Processualists consider the criminal justice system a system, but do not revealing its systemic essence, based on the key concept of emergence, developed by system analysis. Let us emphasize that system analysis is a means of improving and developing the current state of the system.

We take into account several terms used in the literature, such as a systematic approach, a consistency principle, a system analysis and a system method. They are most often used synonymously, but the concepts of system approach and system analysis should be distinguished. So, if the system approach is a principle of cognition, then system analysis is a process that involves the deployment of the principle of consistency into a methodological complex. In addition, system analysis is carried out not only in relation to the functioning and development of certain systems, but also in relation to the totality of facts, events, ideas, etc. [8, p. 12].

Thus, the sphere of system analysis, in the context of behavior of its parts within the whole embedded in the Russian criminal justice system (hereinafter referred to as the criminal justice system, system, model), is still insufficiently studied in domestic legal literature.

For this reason, we try to demonstrate features of the inseparability of system analysis from the criminal justice system in order to more adequately describe the system under consideration on the basis of the research of the Tomsk Scientific School of the Study of Problems of System Analysis (not adapted in the studies devoted to the Russian criminal justice system). Its founders are F.I. Peregudov and F.P. Tarasenko.

Research

There is a rule in system analysis that "the system exists, stands out, and is described as a carrier of qualitatively new properties. Formation of a fundamentally new quality that does not exist without combining parts into a system is called emergence" [9, p. 18]. Emergence is appearance of something new. Emergence is the result of synergism of elements (enhancement of properties). In fact, this is a well-known dialectical law of the transition from quantity to quality [10, p. 292].

Emergence (or systemicity, as equivalent concepts) in the system of criminal justice, as a functioning model, belongs to its object, which, being involved in interacting subsystems (constructed by the norms of criminal procedure law), possesses new qualities (systemic properties) belonging to it.

It is worth mentioning that the system elements are objects and subjects. An important place in the system is occupied by "input" and "output", as well as goals of the system. The elements entering the system are called input elements, and those exiting it are called output elements. In the case when a person becomes a violator of the law, he/she can be considered as an output element of the society and as an input element of the criminal justice system [11, pp. 17, 29, 40].

The concepts of "input" and "output" are standard elements of the model system. The object is considered here as an element interacting with the system, but not identical to it. This does not contradict the integrity of the system: the object acts as its dynamic component, which changes during the "passage" of stages.

Input and output of the system also manifests itself within the system, at the level of connections between stages, combining, as a rule, with the person who violated the law. However, this person is not always "detected" in the criminal justice system. This system functions automatically regardless of this factor. Nevertheless, this position cannot be circumvented when studying the problem posed.

Objects of the system, in our understanding, are persons in relation to whom subjects of the system carry out a systemic effect due to the presence of systemic properties of the object (hereinafter referred to as system properties) developed in the system. Spheres of influence

on objects are limited to the stage of the system in which they are located.

The object may not physically move in the system. The movement of an object is inseparable from a criminal case, which passes from one subject of the system to another, respectively, from one stage of the system to another. A criminal case is a kind of catalyst for systemic properties. It accumulates system properties that characterize an object at each stage of the system. The volume of materials contained in it, based on the completed procedural actions, corresponds to a specific stage. The stage in the system under consideration can be represented as a miniature system. Consequently, the object can be associated with a person in respect of whom a crime report is being checked; a criminal case has been initiated; criminal proceedings are underway; a criminal case has been resolved, etc.

Subjects of the system are officials and authorities endowed with procedural powers related to the implementation of systemic influence (inquirer, investigator, prosecutor, court, etc.). To influence means to achieve the necessary result [12, p. 92].

If we imagine that the criminal justice system includes subsystems of pre-trial and judicial proceedings in a criminal case, then the highest level of consistency in the first subsystem is the property of the charge belonging to the object, confirmed by a reasonable conclusion (made by the appropriate subject: investigator, inquirer) about the commission of a crime by this particular person. Only if an object possesses the accusation property (based on the results of a preliminary investigation, which is a system within the first subsystem), confirmed by characteristics indicating this property, it can be moved (along with the criminal case) to a higher stage of the system. Properties belonging to the object in the second subsystem deserve a separate study.

Systemic effects in the criminal justice system (as a function of the system under consideration) are the types of activities of subjects in the system that are directed to the object when it is in the system, carried out, as a rule, periodically, by fixing results of the system properties formed in the system. This impact consists of results of the procedural activities in a criminal case at a specific stage of the system and

is associated with making a decision to move the object to the next stage of the system, to remove the object from the criminal justice system and put it into another system. This movement may lead to coercion of the object. As an example, we can consider a systemic impact in the form of sending an approved indictment to court, which results in the “transfer” of the object from the preliminary investigation stage to the stage of preparation for the court session. Leaving the system and entering another system may be associated with a guilty verdict, which serves as the basis for the execution of the punishment (Article 7 of the Penal Code of the Russian Federation). If a custodial sentence is imposed, then the object, as an output element of the criminal justice system, is included in the progressive system of execution and serving of imprisonment (hereinafter referred to as the progressive system), in which it (person convicted, released on parole) also moves through stages, but within a different system – a legal paradigm (our separate study will be devoted to the interrelationship of the criminal justice system and the progressive system). This does not at all imply that a suitable object “automatically” leaves the system of criminal proceedings. It remains in it as long as there is a need to implement additional ways of verifying judicial acts related to the imposed punishment for judicial error (passing through stages related to proceedings in the cassation and supervisory instance). At the same time, the mentioned facility is a participant in criminal procedural relations related to the resolution of issues related to the execution of sentences related to the progressive system (changing the type of correctional institution, conditional early release from imprisonment, replacing the unserved part of imprisonment with a more lenient type of punishment).

The above-mentioned displacement is related to procedural coercion, but is not included in it. Unlike the impact caused by procedural coercion, systemic impact can arise from the will of the object (volitional moment) expressed in an effort to improve its position in the system or exit the system without negative consequences for itself (through a legitimate interest belonging to it).

Consequently, the systems included in the criminal justice system, as its subsystems, into

which an object can be moved, depending on its positive aspirations, can be called progressive (for example, a system of a special procedure for making a court decision when concluding a pre-trial cooperation agreement).

Progress can be discussed in relation to the system as a whole, its individual elements to the structure and other parameters of the developing object [13, p. 28].

The position of an object in the system, therefore, cannot be separated from its activity. At the same time, systemic properties must be confirmed by additional characteristics (active assistance in solving a crime, combined with the initiative to conclude a pre-trial cooperation agreement).

In our opinion, the characteristics acquired by an object as a result of applying criminal incentives to it, due to compensation for damage or otherwise making amends for the harm caused by the crime, active repentance, reconciliation with the victim, etc., should not replace its properties acquired in the course of criminal procedural activities.

The context under consideration is consistent with the point of G.S. Rusman. The procedure for applying criminal law incentives in a criminal case is in itself encouraging, expressed in the receipt by all participants in legal relations of benefits in the form of exemption from encumbrances, a full-scale trial in a criminal case; as well as benefits in the form of a mutually beneficial procedural form of satisfaction of existing interests in a criminal case by the subjects of legal relations [14, p. 11]. Encouragement in criminal proceedings is a procedure for granting certain preferences for the positive, approved behavior of a person being prosecuted [15].

Encouragement becomes particularly relevant when an object claims to move to that stage of the system from which it is possible for it to exit the criminal justice system (it differs from "output" that do not depend on encouragement). However, for the "positive" movement of an object in the system, an incentive for state-approved behavior is needed. In itself, encouragement cannot be a driving element in the system under consideration. The idea G.S. Rusman can be developed as follows: in order to apply encouragement in criminal proceedings, a balance is needed between criminal le-

gal characteristics of the object (which serve as an incentive) and the properties that embody its accusation of the crime committed. If this balance is not maintained, and it shifts towards encouragement, then antisystem elements manifest themselves.

The higher the level of consistency, the greater number of interconnections between basic elements (subsystems of the criminal justice system) and the more intense these connections. The system provides greater advantages in achieving goals when the level of its consistency is high [16].

When studying the problem posed, attention should be paid to the statements of processualists who consider consistency not in "connection" with the criminal justice system as a set of stages related to each other by systemic properties, but in the perspective of criminal proceedings presented in the form of stages of criminal procedural activity.

It is worth recalling that criminal proceedings are the activities of state bodies, officials and other participants in criminal proceedings carried out in accordance with the procedure established by law to initiate, investigate, review and resolve a criminal case, aimed at achieving the purpose of criminal proceedings [17, p. 20].

In this regard, V.G. Glebov clarifies that the consistency of criminal proceedings is determined by the logic of procedural activity, which, like any type of social activity, has a beginning, intermediate stages and possible completion options, which is manifested in the presence of several levels of connections of its constituent elements. The basis, the lower level of criminal procedural activity are procedural decisions and actions, which, being in connection with each other to solve specific tasks, form separate parts (legal institutions) of the criminal process, for example, involving a person as an accused, closing preliminary investigation, preparatory part of the court session, etc. [18, p. 12].

At the same time, criminal procedural activity is understood as a system of actions of all participants in the criminal process in pre-trial and judicial proceedings, provided for by the criminal procedure law and aimed at establishing the truth in criminal cases, as well as fulfilling the tasks of criminal proceedings [19, p. 31].

Criminal procedural activity is expressed in a system of successive procedural actions that form stages of the criminal process. Criminal proceedings are conducted through a sequential transition from one stage to another, violation of this procedure is not allowed. A prerequisite for the transition of a case to the next stage is the solution of the tasks of the previous stage, each subsequent stage is based on the results of previous activities [20, p. 25].

Undoubtedly, criminal procedural activity, as a system, has its inherent properties and expresses the consistency of criminal proceedings. But this consistency is not supported by systemic properties that should belong to the object in the system. Consequently, relying on system analysis, which determines a different level of systemic properties in the system, one cannot equate the system, symbolizing criminal proceedings, with each other through the manifestation of criminal procedural activity (its effectiveness at any stage of the system, including within its subsystems) and systemacity (emergence) belonging to the criminal justice system expressed by a set of stages, each of which is characterized by the presence of its own level of systemic properties inherent in the object. Therefore, different essential understandings of consistency cannot be identical.

If we state the presence of systemic properties that determine the transfer of an object to another stage of the system, where its properties can be changed to another level of consistency, then the system of criminal court proceedings will differ significantly in its structure from the system that is traditionally used in criminal proceedings (this issue will be studied separately). Based on the above, the criminal justice system, in its most general form, can be represented as a set of stages interconnected by systemic properties (resulting from criminal procedural activity at each stage). These properties embody an object and allow it to be in the system; its movement in the system; its exit from this system.

Without the presence of systemic properties and characteristics (criteria) indicating properties of an object in the system, it is unacceptable to make a decision about moving it in the system or exiting it. If this is possible, then there appear antisystem elements.

The use of the concept of “antisystem” is justified in cases when centralization (monopoliza-

tion, integration) does not have a positive effect and even has a negative effect. An antisystem is a system with a negative level of consistency, i.e. it is a combination of a certain set of elements due to their interaction into a whole that prevents the achievement of goals [21].

The defense of the accused cannot be called an anti-system, since procedural actions of participants in criminal proceedings on the part of the defense are not presented in the law as a system. So, there are prerequisites for their unsystematic behavior in the system. In the system, objects are, in fact, opposed to subjects of the system. However, if an object is deprived of its function, the system will stop working and its balance will be lost.

In our opinion, the property of the charge (it can be linked to the exit of the object from the system of preliminary investigation) follows from the completion of the preliminary investigation. The completion of preliminary investigation, in the context of moving an object to another system, must be unequivocally confirmed by the ownership of the charge property by this figure. At the same time, this property cannot belong to the accused until the end of preliminary investigation, as it (this property) has not yet been definitively discovered or confirmed by the sufficient level of investigative actions and the volume of evidence collected (the accusation is not a systemic property, it is an intermediate attribute of preliminary investigation; there is no reasonable conclusion about the commission of a crime by the accused). The fact that a person is involved as the accused does not indicate that the proof has been completed. The indictment is the quintessence of accusing a person of a committed crime, the result of all procedural activities related to the evidence at the preliminary investigation.

However, if we turn to individual norms of the Criminal Procedure Code of the Russian Federation devoted to the end of preliminary investigation, we can find a lack of uniformity in the interpretation of properties of the charge and in some cases of its presence (regarding its “binding” to a specific form of preliminary investigation).

So, the systemic property of accusation, which consists in a reasonable conclusion about the commission of a crime by the accused, is not fixed in Part 1 of Article 215 of the Criminal

Procedure Code of the Russian Federation. This rule highlights characteristics (the availability of sufficient evidence collected and all investigative actions performed in the criminal case) for the preparation of an indictment (not for a reasonable conclusion about the commission of a crime by the accused – emphasis added). The subject of formation of these “properties” is the investigator, who extrapolates them to the indictment. It is impossible to agree with such a practice. In our opinion, an indictment cannot be drawn up unless, first of all, the investigator has come to a reasonable conclusion about the commission of a crime by the accused.

The system of inquiry in short order, in contrast to preliminary investigation, unambiguously interprets the property of prosecution with a reasoned conclusion about the commission of a crime by the suspect, confirmed by the sufficiency of investigative actions and the volume of evidence collected (Part 1 of Article 226.7 of the Criminal Procedure Code of the Russian Federation). Only after this conclusion, at the end of the inquiry, the inquirer is obliged by the legislator to draw up an indictment.

The legislator has neither assigned the inquiry system a systemic property that the object should have nor specified the scope of characteristics indicating this property.

Consequently, unsystematic construction of the model of the preliminary investigation system in the norms of the Criminal Procedure Code of the Russian Federation has led to the emergence of conditions for spontaneous law enforcement. The property of the charge in this system is set by the legislator extremely superficially and ambiguously, regardless of the volume and result of criminal procedural activity (with the exception of inquiry in short order). This characteristic is expressed in the indictment conclusion, indictment act, indictment order. The court has to evaluate these procedural documents – “bearers” of the prosecution’s properties in the form that corresponds to the position of subjects of the preliminary investigation system. Such a practice, at this stage of the system, distorts the consistency, pushes the investigator, the inquirer to search for arbitrary evidence of the need to end preliminary investigation.

In addition, it should be pointed out that an object can be moved, without having a confirmed accusation property, from the system of

preliminary investigation to the system of termination of a criminal case or prosecution and the imposition of a court fine during pre-trial proceedings in a criminal case (Article 446.2 of the Criminal Procedure Code of the Russian Federation). A reasonable conclusion about the commission of a crime by the suspect, the accused, is not required.

Preliminary investigation has not been completed in this period. Such a transfer is connected with the conclusion established by the investigator, the inquirer during preliminary investigation that the suspect or the accused of committing a crime suffered minor or moderate damage or otherwise made amends for the damage caused by the crime (in accordance with Article 25.1 of the Criminal Procedure Code of the Russian Federation, it serves as the basis for resolving the issue of termination of criminal proceedings or criminal prosecution in connection with the appointment of a criminal law measure in the form of a court fine). In accordance with Part 2 of Article 446.2 of the Criminal Procedure Code of the Russian Federation, the appropriate conclusion is expressed in the decision to file a petition to the court for terminating a criminal case or criminal prosecution against this person and the appointment of a criminal law measure in the form of a court fine to this person (hereinafter referred to as the petition).

The appearance of the said petition is a kind of evidence of the result (outcome) of criminal procedural activity in a criminal case. Not the fact of termination of a criminal case or criminal prosecution, but the subsequent event related to the payment of a court fine may indicate the onset of positive or negative legal consequences for a person, from the point of view of termination or continuation of criminal prosecution [22, p. 223].

According to Article 446.2 of the Criminal Procedure Code of the Russian Federation, criminal incentives prevail over the systemic property of the charge, which may not belong to the object. The petition to be sent to court is not “far away” from a reasonable conclusion that a person has committed a crime. Moreover, the judge does not aim to study this property in the context of the need for a person to bear criminal responsibility (from which, subsequently, he/she needs to be released in connection with the payment of a court fine). Paragraph 2 of Part 5 of Article 446.2

of the Criminal Procedure Code of the Russian Federation stipulates that the judge during judicial review of the petition is limited only to studying the information about the participation of a person in a committed crime. If an appropriate “compliance” is found, as we understand it, the court comes to the conclusion that a person has committed a crime, otherwise, what else can be the basis for its decision to release a person from criminal responsibility and impose a court fine on him/her?

Compensation for damage or otherwise making amends for the harm caused by a crime, and the absence of objections on his/her part to the termination of a criminal case or criminal prosecution in accordance with Article 25.1 of the Criminal Procedure Code of the Russian Federation does not always imply that it was this person who has committed the crime and may be criminally responsible for it. In our opinion, in the cases specified in Article 76.2 of the Criminal Code of the Russian Federation, only the person who has been brought to criminal responsibility and then released from it as a result of paying a court fine can be released from criminal liability [23, pp. 36–37]. Understanding the essence of bringing to criminal liability is somehow related to the procedural act that the investigator makes when there is enough evidence indicating the guilt of a suspect in committing a crime [24, p. 87].

Logically, the court, by releasing a person from criminal responsibility, releases him/her from the charge which has not yet been established during preliminary investigation. The discovery of this property is therefore beyond the scope of preliminary investigation and is within the prerogative of the court.

Obviously, systemic properties symbolize the procedural form typical of a particular stage of the system. In this regard, we consider it appropriate to quote O.V. Volkolup’s statement that the procedural form of a particular stage depends on the results of previous stages [25, p. 28]. In the case under consideration, dependence at the system level (the presence of systemic properties belonging to an object, at the exit from the system and at the entrance to another system) is not traced.

Conclusions

We cannot consider as a part (stage, subsystem) the criminal justice system a “formation”

(regulated by the norms of the Criminal Procedure Code of the Russian Federation) that is not closed by a systemic property, 1) which implies the absence of the need for a subject of the system to detect and evaluate a systemic property for its belonging to an object; 2) where the subject with the right to systemic influence, establishing the ownership of an object of a new property, is not aimed at studying systemic properties developed by subjects at previous stages of the system.

In our opinion, the set of properties cannot be blurred and must ensure a clear identification of the object in the system. When the legislator ignores these provisions, the object of the system is also in a kind of delusion and disorientation. As a result, the object can move to a higher level without achieving specific properties formed in the system. The object, regardless of its relation to the system, in our opinion, has the right to its position in it [26, p. 62].

One or another form of preliminary investigation should be considered in the form of subsystems belonging to the system of preliminary investigation, not separated, as the legislator sees it, but united by a single systemic property of the charge with the same substantiating characteristics.

Let us imagine, how systemic property of the charge belonging to preliminary investigation system may look in the law. For it, it is required to add Part 1.1 to Article 158 of the Criminal Procedure Code of the Russian Federation in the following wording: “The end of investigation is confirmed for the inquirer by a reasoned conclusion that the suspect has committed a crime; for the investigator by a reasoned conclusion that the accused has committed a crime. The present conclusions indicate the result of the procedural activity in the criminal case, confirm the person’s accusation of the crime committed. They are formulated in the indictment conclusion, indictment act, indictment order from the position of the presence in the criminal case, substantiating these conclusions, indicating the sufficiency of necessary investigative actions and the sufficiency of the volume of evidence collected”. At the same time, in Part 1 of Article 215, Part 1 of Article 225, Part 1 of Article 226.7 of the Criminal Procedure Code of the Russian Federation, the wording of the norms should be amended (supplemented)

with reference to the proposed provisions of Part 1.1 of Article 158 of the Criminal Procedure Code of the Russian Federation. It is also important to change legal norms regulating the assessment of the above-mentioned “prosecution” documents by the prosecutor for determining whether their substantive component corresponds to materials of the criminal case and the property of the charge established by the investigator or the inquirer.

The systemic property obtained by the results of criminal procedural activity, as a rule, is inseparable from the procedural status of the object, relative to its movement in the system. In the case described above, the property of the charge is associated with the accused (after the prosecutor approves the indictment). There may be other options in the system. Upon exiting a system that closes at a specific stage, the

procedural status belonging to the object may not coincide with the systemic property. This occurs when, the investigator, using the tool of extending terms of preliminary investigation, is not ready to make a reasonable conclusion about the commission of a crime by the accused, and therefore, to draw up an indictment. The non-involvement of a person in the commission of a crime is not a systemic property, it serves to terminate criminal prosecution and remove the object from the criminal justice system.

As we can see, system analysis has revealed a number of contradictions in the criminal justice system that need to be resolved. The stated positions have not yet gained completeness, and are debatable. Nevertheless, they are a reason for further research that contributes to the development of the science of criminal procedure.

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