

THE CRIMINAL PROCEEDINGS RELATED TO CRIMINAL ACTS

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ABSTRACT

In modern democratic societies of human rights considered basic principles without which people cannot live as human beings with dignity and recognize society cannot progress. Precisely, it is given the role of undisputed that they play in the development of the individual and society, an important place to address issues related to ensuring that reserved Human rights, an inseparable part of which is the right to a fair hearing. With due process of law should be understood that process regulated in order to promote or favor in respect of procedural guarantees, following a decision correct and just, based on a reconstruction of the "real, reasonable and controllable specific case or rather, factual allegations that comprise it." (Ferrajoli, Diritto the ragione. Theory del garantismo offense, Rome, 2000, p 8). Criminal proceeding begins with getting aware of the offense (Article 280 of the Criminal Procedure Code of the Republic of Albania.), which serves as the basis for the preliminary investigation. Preliminary investigations constitute one of the most important stages of criminal proceedings. During this phase, the necessary evidences that serve to identify the criminal fact happened, the individualization of the perpetrators of the offense, and security measures for the perpetrators. During the preliminary investigation carried out investigative actions which they considered necessary by the prosecutor in order to verify the accusation; Prosecutor exercises criminal prosecution and represents the accusation in court on behalf of the state. Prosecution performs other duties prescribed by law. Article 148 of the Constitution of the Republic of Albania.

Keywords: Criminal proceedings, related, criminal acts, policy, prosecutor.

INTRODUCTION

With special subject (Commentary of the Criminal Code, Islam H, Hoxha A, Panda, Tirana, 2011, pp 61-77), the offense course-the person who has some quality concrete, specific, and use them for performing offense and committed criminal offenses require the use of these attributes. Special quality of the subject is an essential constituent element of the image of the offense committed by the holder of this quality. The lack of these qualities entity qualifies under another provision criminal offense or does not condemn it at all. With subject to specific works are carried out in the performance of duties by state employees or public service.

Special subject may be a person because of their profession or specific duties imposed by the law. Special subject has the offense of withholding aid from a person who by law or because it was obliged to provide. Servicemen of the armed forces and persons equated to them are subject to special military offenses provided by the Military Criminal Code. It is subject to specific legal person whose criminal responsibility was envisaged for the first time in the Penal Code in force. Criminal Law divides subjects of offense in:

Active subject, who is the offender. Passive subjects are victims of crime or the victim of a criminal. The victim was a certain person or group of persons of any form of their integration, which as a result of crime suffer damage. Ideally the "damage" is any damage, spoilage, loss,

material or moral, and any violation of the rights of person or property. In this corner we have the following breakdown:

Moral damage is a violation of the individual rights of citizens, insult humiliation of honor, personality reduction in the presence of other persons, the exercise of moral suffering. Physical damage is causing bodily harm, damage to health, causing physical suffering. The material damage is expressed in property damage, property or property rights, the respective interests that result in loss or violation of the right to be enjoyed materially.

The procedure before the criminal act

In order to start criminal proceedings be tried condition is detected offenses of theft and the person against whose membership there is reasonable suspicion of having committed criminal autobiographical (the suspect), as well as membership evidence which should lead THIS based question. So, the procedure within which becomes a work of discovery of the offense and its perpetrators called procedure on the pre. Pre-trial procedure is not penal procedure of that in this procedure on the relationship created not criminal-procedural. For this reason in penal procedure does not have the subject in criminal procedural sense (Saleh, Ismet, Criminal Law, the special Pristine, 2009, fq.301). Take part in the pre-criminal procedure on the state prosecutor, the police and the judge of the procedure prior. The initial pre-trial procedure is CRIMINAL PROCEDURE and it is associated closely with the appearance of a work of criminal and penal perpetrators membership a work of (Saleh, Ismet, Criminal Law, the special Pristine, 2009, fq.301). Pre-trial procedure can initiate criminal denunciation and in that case it contributes to the preparation of its. Nonetheless pre-trial procedure cans also consequence after filing criminal denunciation and then the hand helps in the realization of his (Dimitrijević, ET. Al., Krivično processor Pravo, Belgrade, 1986 cit., By Sahiti, Murad, op. Cit., 301) . Thus, when a person has submitted the file criminal authorities prove this assumption STATE suspicion of a work-criminal. So obviously proceedings before paintbrush should give facts, evidence and conditions On the grounds which would lighten the offense and posted, that towards membership suspects start at criminal proceedings, i.e. commencing investigations and in the meantime Of indicted. With the obvious importance is membership mention that this stage should gather evidence, because enables a development more efficient in reviewing key, because if the evidence collected only in consideration the justice would cause discontinuation and postponement of both a frequent it and would impact negatively on CRIMINAL PROCEDURE efficiency. When there is reasonable suspicion that a criminal offense was committed it is that the duty prosecuted offenses, the police take measures for ensuring the necessary break-downs on the perpetrator of a work of offense. Nonetheless, to none person cannot commencing investigations or entitled to trial, only based on assumptions, or relies- that is committed offenses of theft, but has substantiated the facts and concrete evidence. According to CPC hand as a basic condition for the start of formal CRIMINAL PROCEDURE need to exist a reasonable doubt and suspicion (Article 101 para. 1 and 2 and Article 102 parag.1). So, as seen only when there is reasonable doubt or suspicion, may initiate criminal proceedings membership.

The beginning of the procedure offenses, has for consequence the restriction of certain rights has certain the criminal proceedings for criminal offense, of membership which is foreseen sentence being more to many than three years, the consequence of entering the effective date of entry into force Of act count, if the law is not determined otherwise. If criminal proceedings for criminal offense, of membership which is foreseen punishment by the fine or

sentence of imprisonment up to three (3) years, the consequence of takes effect from the day when the judgment takes the form of rigid, except if the is determined otherwise by law (Article 17).

The powers of the police in pre-trial procedure on

In any just society, organized in the state, it belongs POLICE special place in the war against crime. On Indeed, in the fight against crime, the police are in the front lines membership front. For Offences successfully against crime police is called to undertake an activity that membership determined before (Saleh, Ismet, Criminal Law, the special, Pristina, 2009, p. 303). According to CPC hand, the police upon receiving information of a criminal offense to doubt investigate if there is reasonable doubt membership, that a criminal offense that is prosecuted by official the duty be tried conducted. Police investigate offenses and undertakes all measures necessary, that to Discover the location of the perpetrator to ban the perpetrator or his assistant from hiding or fleeing, to Discover and membership preserve traces and other evidence All a work of offense and objects which may be serve as test facilities and collects membership All information, which could be used in penal procedure (CPC Article 70 para. 1 and 2). In order to perform the tasks mentioned above, the police must gather information on any needed by citizens, perform full control of temporary roadways, membership and bundles of their, restricting movement within certain restricted areas, to undertake steps that are necessary grounds for establishing identity persons and objects, that to organize the control of findings person or an object, membership check in the presence of the person responsible specific buildings and premises of public entities and membership review the documents specific to their, sequestration their contraband or items, which could serve as test facilities in penal procedure, except if off for something needed warrant under Article 105, provide good physical examination injured, in accordance with Article 144, membership detect, collect and save traces and evidence from the scene of autobiographical criminal to doubt and I order membership forensic testing that evidence from the laboratory of legal medicine at in accordance with Article 71. To take in question witnesses or suspects eventual membership in accordance with Article 73, previously undertaken steps that are necessary for membership before the end an immediate, danger to the public, steps and actions undertaken to other necessities, as is determined by law. In order all the actions undertaken to substantiated the facts and circumstances of the police investigations draft the report (Article 70 para. 3).

Once membership has reasonable doubt membership that is committed a criminal offense prosecuted under the duty of the official, the police is obliged that in the Twenty four (24) apprenticeships to submit the police report that is a competent, who then decides whether to initiate a penal procedure (CPC Article 70 para. 4). During the operation of a work of investigation and criminal tracking membership and membership perpetrators, the police have the right to stop and collects information from persons in the place of commission of the offense, which may be important for the provide information on any penal procedure, if it is likely that the collection of information from people later will be impossible or would significantly prolong tatted penal procedure or would cause other difficulties. Extend the ban cannot be at more than six hours and it is taken merely to names, addresses and other information that are related to that. Police treats the person detained with dignity and not sends a detention center of the cuff and not puts (Article 72). If there is a risk that a person is armed or tool membership risks which can be used to attack or for themselves injuries, police may agree to an examination of temporary insurance against the person of controlling for weapons (CPC Article 75) . Police may also carry out other criminal activities, membership which contributes to establish the defendant's identity. Consequently, the police may

photograph and fingerprints taken membership of the person to doubt when re- suspicion that he committed criminal autobiographical. The state prosecutor may authorize the police officer who publishes across the picture when it is necessary for the determination of identity suspects and in other cases, when the effective conduct membership PROCEDURE (Article 76 para. 1 and 2). Police, with the assistance of a doctor or nurse-qualified, for exceptional cases, it's in itself, may collect samples from the suspect 143,144,145 article if it is urgent. The state prosecutor informed immediately collecting samples of such membership. Also, police may require a suspect to take an alcohol test samples through membership or membership breathing, while the rejection of membership suspects for acquiring these samples constitutes acceptable test facilities. The suspect should be observed regarding this in advance. None sample should not be forcibly taken without court order (Article 76 parag.4 and 5). Upon collection of the evidence by the aggrieved party, suffering party shall inform the police of his rights under Article 62 of the CPC-hand. The person against whose membership is taken to any measure of whether, has the right to submit a complaint to the competent state prosecutor within three days from Enterprise had actions. The state prosecutor may decide without delay verify validation appeal and if proves that the actions or measures implemented violate the criminal law or code of conduct of the police, then the acting in accordance with the law and notify the person who has submitted a complaint (Article 77 para. 2 and 3).

Arrest and detention

In Chapter X of among others include several forms of arrest. Thus, under Article 162 when a person is caught in flagrancy during the commission of the offense prosecuted under the duty official or is in pursuit of autobiographical crime to perpetrate, police or any person Other is authorized to arrest temporary basis without court order (Saleh Ismet, criminal Law, the special, Pristina, 2009, p. 306). Regarding the arrested person, the police act in agreement with Article 163 and 164 mi CCK hand. In addition, the police can arrest and detain a person when supplemented conditions set out in Article 164 para. 1 mi CPC hand.

The state prosecutor, as more quick-that is possible and not later than six (6) hours from the time of arrest, the state prosecutor of free person membership arrested the decision on the ban with the personal data type of a work of offense and the basis law (Article 164 paragraph 5). Within 24 h apprenticeship after the arrest, the state prosecutor, the judge presents preliminary PROCEDURE membership request for detention. Demand for detention must be in accordance with Article 165 of the CPC membership hand. Judge of the procedure prior holds the Session hearing, as more time that it is possible but not later than 44 hours and decide whether the defendant will be held in custody, then within 44 hours from the hearing, issues a decision determining whether or not membership detention (Article 164 para. 7.10 and 11).

Criminal report against perpetrators of criminal acts

According to CPC hand, increase criminal report offenses against criminal and offenses in general. The offense materialized with criminal report membership by the police or other authority that is obliged to report criminal autobiographical. Criminal report knowledge is the main source of criminal autobiographical, who mostly followed and criminal. In other words, criminal report acts whereby it is notified state prosecutor for criminal and criminal autobiographical. Criminal report form is not the foreseen by law. The reason for this is that citizens with contribute in detecting offense and criminal and that without any formality

specially membership report crimes and criminal (Saleh, Ismet, Criminal Law, the special, Pristina, 2009, p. 306). POLICE activity is to investigate criminal autobiographical, tracing a work of criminal membership criminal and securing the evidence. The whole this activity finalist with criminal report, which they have this body shall prosecutor State. Report criminal POLICE, and send to writing prosecutor of state together with objects, drawings, the pictures, reports obtained, records of the measures and actions to perpetrate, the recordings official statements taken and other materials which may be contribute in the implementation to efficiently procedure (Article 81 subsection 2). After filing criminal report it hand when police investigate that there are new facts and evidence or traces criminal-membership a work of theft, it is an obligation of membership that continuously collects information on any necessary and those with a ratio afford the prosecutor of the State, as reported supplement of prior criminal. Also, the police prosecutor sends a report of the State specially when the measures and actions undertaken, evidence collected and the data provided, the basis for report assure not criminal, and if this does not justify the existence of doubt membership, that is done offenses- The thief (Article 81 parag.3 and 4). POLICE addition, all public bodies are obliged to report criminal offenses that are prosecuted that official the duty, for which they are informed or of which consider knowledge to mono pick other manner. Upon filing criminal reported hand, public bodies present evidence and act measures to preserve traces of the offenses , items with which, to or with the help of whose membership is committed offenses of theft (Article 78 para 1 and 2nd).

The fight against criminality is established primary task to Organ STATE (Saleh, Ismet, Criminal Law, the special, Pristina, 2009, p. 307). Successful membership of the fight against crime also plays an important role citizens SOCIETY respectively. Every person has the right to report criminal autobiographical official who prosecuted the duty and obligation to support the case do this acts of non-reporting criminal-membership of a work of theft constitutes criminal offense (Article 79 para. 1).

Decisions of the State Prosecutor regarding criminal report

The state prosecutor, after the admission of criminal reporting, appreciates his reliability depending on the conditions determined Chat CPC hand can be set:

1. throws criminal reporting - The state prosecutor based in paragraph 1, Article 82 membership CPC ruling throws hand with criminal reporting membership received from the police or other sources within the thirty (30) day was, if the report is the clear that: there is no doubt rea- of a work of offense - Chat theft, has passed the limitation period for prosecution, the offense - theft is included in the amnesty or pardon, the suspect enjoys immunity and his removal is not possible or It is not approved by the competent authority or other circumstances exist which exclude membership tracking. The state prosecutor immediately after casting a criminal reporting it sends a copy of the ruling membership POLICE. The state prosecutor within eight days from the dumping of criminal reported announces membership of throwing reported issue and hand reported reasons (Saleh, Ismet, Criminal Law, the special, Pristina, 2009).

2. requires additional information - If the state prosecutor, the criminal report may not specify if claims included in membership are accessible, or data in the criminal report not sufficient basis for initiating the investigation, particularly when it is criminal unknown, or if the prosecutor only has heard that the criminal offense was committed, the state prosecutor if there is in a position themselves to undertake actions for making membership information, it

requires police that membership collects data necessary (Saleh, Ismet, Criminal Law part special, Pristina, 2009). Police forced membership act according to requirements of the legal avenues prosecutor. Also, the state prosecutor may gather themselves such break-downs or other public bodies with First, by including the conversation with witnesses, injured membership and their legal representatives. Police immediately forced to report prosecutor of the State on the measures under the guidelines introduced to him, and if they have not been able to them, then the prosecutor immediately report a membership of state, for reasons of inability to hand such measures (Article 83 para. 1, 2 and 3). Often data provided by report criminal, not for solving dilemmas whether to throw reporting or would had started investigations. This could happen to criminal reported anonymous or unknown persons from membership cannot be high demand that supplementary financial statements, or when there is no criminal, but disseminating news that is already committed criminal offense has come to the state prosecutor. So, to the situation state prosecutor like membership requires supplementary information from the police. By virtue of Article 83 para. 6 prosecutor government hierarchy and other public bodies are obliged, that membership carefully in collecting or providing data logging taking care that not to dignity and reputation of the person who is to refer to the data provided such (Saleh, Ismet, Criminal Law part special, Pristina, 2009).

3. Starting the investigations - If the state prosecutor after admission reported after collecting criminal or complementary forms of the evidence convinced that rea- suspicion that the person has committed a criminal autobiographical - Chat theft, prosecuted and that the duty official in which case the issue should be investigated, he takes a decision for the initiation of investigations and implements them.

Procedural format - criminal acts committed by the police

More time is noted that the police, the state prosecutor and the judge of the procedure preliminary exercise their activities in pre-trial procedure on procedural membership. By all these subjects, police operates more dense and overarching, towards the criminal and intelligence membership criminal a work of its membership. But the actions that the police undertake investigative actions respectively are largely informal actions (Saleh, Ismet, Criminal Law, the special, Pristina, 2009, p. 310). These actions are not regulated in a detailed manner with the legal provisions, but are undertaken primarily to criminal tactics according to regulation and the circumstances of the specific case. While these actions are not governed exclusively by the provisions on CRIMINAL PROCEDURE, these actions do not can be taken contrary to law, because activity POLICE must be in accordance with the law, primarily to, because with these actions may violate Chat human rights. In order not violating the rights and freedoms of human actions POLICE informal membership, they should be supported in the Constitution and law. Formal and informal actions on each other, they will vary. Informal actions are much more intricate, they are regulated by provisions of Articles 70-78 mi CPC hand, to the rules and regulations of policing POLICE (Saleh, Ismet, Criminal Law, the special, Pristina, 2009, p. 310).

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