REPUBLIC OF AZERBAIJAN

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CONSTITUTIONAL-LEGAL REGULATION OF THE CRIMINAL PROCESS IN THE REPUBLIC OF AZERBAIJAN

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ABSTRACT

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The dissertation research was performed at the "Law" department of the Public Administration Academy under the President of the Republic of Azerbaijan.

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GENERAL CHARACTERISTICS OF THE RESEARCH

Relevance of the research topic. Several factors determined the relevance of the topic chosen for the study.

First of all, it should be noted that the provision of human and civil rights and freedoms is declared as the supreme goal of the state according to Article 12 of the Constitution of the Republic of Azerbaijan. When determining the state's policy in various fields, the issue of realizing this goal comes to the force, and it is its highest goal that directs the state policy.

Simply determining human rights and freedoms without creating conditions for their realization, i.e. remaining on paper and having a formal character, leads to the law not being able to perform its functions at the proper level. Therefore, the legal norms that constitute the subject of all legal fields, especially the criminal procedural law field, should have their own system of guarantees. The provision of these rights by the Constitution, distinguished by its supreme legal force, acts as the basis of such a system of guarantees. Protection of the rights and freedoms of people and citizens and their provision is not only the supreme goal of the state, it is also considered one of the important conditions of social life and acts as one of the constituent parts of the society's value system.

In the former Soviet Union, including the Azerbaijan Soviet Socialist Republic, which was part of that Union for a long time, there was an indifferent attitude to human and civil rights and freedoms. The rights granted to people were often of a formal nature. In the Republic of Azerbaijan, which regained its state independence on October 18, 1991, a number of measures were taken to fundamentally change this situation. Our National Leader Heydar Aliyev, who saved our statehood from the danger of destruction and rendered exceptional services towards the establishment of a legal, secular and democratic state, considering the reliable protection of human and civil rights and freedoms as the main way to integrate into the modern, civilized, democratic world, purposefully introduced new content political, laid the foundation for the implementation of economic and legal reforms.

Under the direct leadership of the National Leader, the first Constitution of the independent Republic of Azerbaijan was adopted by referendum on November 12, 1995. The adoption of the Constitution should be considered as the beginning of the definition of the highest goal of the state in the field of human rights and the formation of a new system of their protection. It is natural that the realization of this goal is impossible without an effective legal framework that regulates the rights and freedoms of people and citizens and the legal mechanism of their provision in various social areas. One of the most important social and legal tasks facing the Republic of Azerbaijan, which is considered a democratic and legal state, is to ensure the rights and freedoms of people and citizens in criminal proceedings and criminal proceedings. It should also be noted that a number of provisions of the Constitution of the Republic of Azerbaijan (for example, articles 63, 64, 65, 67) directly, and some (for example, articles 28, 32, 60, 61, 62, etc.) indirectly criminalize dedicated to ensuring and recognizing people's rights and freedoms in judicial proceedings.

A number of programs have been adopted in order to ensure human rights in criminal justice proceedings, which is one of the main directions of state policy, and with this, it is aimed to organize the fight against crime more effectively and ensure the rights and freedoms of people and citizens at a higher level during the relations existing in this sphere.

Since the organization of the fight against crime is one of the tasks facing the criminal procedural law, among the acts adopted in order to increase the effectiveness of the bodies that carry out the criminal process in this field, National Leader Heydar Aliyev "On measures to strengthen the fight against crime and strengthen the rule of law" dated August 9, 1994 and the Decree dated January 27, 1998 "On some measures in the field of combating economic crime in the Republic of Azerbaijan" and the "State Program on Combating Corruption" (2004-2006) of President Ilham Aliyev, continuing the great leader's political line on the approval" Order dated September 3, 2004 attracts more attention.

Paragraph 3 of the Decree "On measures to strengthen the fight against crime and strengthen the rule of law" adopted in 1994 states that the prosecutor's office, investigative and investigative bodies should be assigned and the judicial authorities should be proposed to commit serious crimes and organized criminals in criminal cases. apply the strictest possible measure to the defendants who are members of gangs or actively participate in crimes committed by them.

However, as a result of the changes in the legal system and the work carried out in the field of human rights protection during the period of the adoption of that Decree, the state's penal policy was softened and the humanization policy was started. From this point of view, the Decree of the President of the Republic of Azerbaijan Ilham Aliyev dated February 10, 2017 "On the improvement of activities in the penitentiary field, humanization of penal policy and expansion of the application of alternative punishment and procedural coercive measures not related to social isolation" is of particular importance.

According to that Order, the measures carried out in the field of modernization of the state administration system and legal reforms require the establishment of the penitentiary service and the activities related to the execution of punishments in accordance with the requirements of the modern era and the organization of efficient management. During the preliminary investigation and court proceedings, the widespread application of pretrial detention for crimes that do not pose a great public threat and are less serious, including in the field of economic activity, as well as the increase in the dynamics of deprivation of liberty for those crimes, leads to an increase in the number of convicts and a burden on penitentiary institutions.

Although the new policy of combating crime founded by our national leader Heydar Aliyev and successfully continued by President Ilham Aliyev has led to a decrease in the level of crime in the country, in order to eliminate the idea that relatively harsh measures should be preferred during the application of punishment

and procedural coercion measures, human rights and the issue of analyzing the constitutional and legal basis of their freedoms and improving the criminal-procedural legislation in this direction remains relevant.

The new Criminal-Procedural Code of the Republic of Azerbaijan, approved in 2000, acts as the basis of the normative legal framework in terms of the regulation of criminal procedural legal relations. The new Code, having its own constitutional and legal bases, ensures a wider regulation of those bases. The new CPM was created as a logical continuation of the political line mentioned above. In addition to defining the fight against crime as a task of criminal proceedings, the Code also provides for numerous legal institutions that develop and specify the constitutional provisions aimed at ensuring the rights and freedoms of people and citizens during criminal proceedings.

Although it was distinguished from the previous codes by its progressiveness, a number of positive changes took place in the new CPM after its adoption. However, a constitutional-legal and scientific analysis of the results obtained with the progress of judicial-legal reforms currently implemented in the Republic of Azerbaijan and in this context, determination of directions for improvement of individual legal norms aimed at ensuring human rights and freedoms in criminal proceedings is required. The fact that the possibility of violation of human rights and freedoms during criminal proceedings is more important than in other areas also makes this issue relevant and reflects the importance of its regulation based on both the Constitution and the international agreements that the Republic of Azerbaijan is a supporter of.

It is no coincidence that in the Decree of the President of the Republic of Azerbaijan "On Deepening Reforms in the Judicial-Legal System" dated April 3, 2019, it is noted that the reforms carried out in all areas to ensure the continuous progress of our country are the beginning of a new stage in the development of the judicial-legal system and in this area deepening of reforms is necessary. The implementation of this Decree, which was adopted in

order to increase the quality and efficiency of justice, can only take place through the effective provision of constitutional rights and freedoms and the consideration of existing international standards in this field. This factor demonstrates the relevance of the research topic.

There is also a need to analyze the judicial practice regarding the provision of rights and freedoms in criminal proceedings. In this field, the European Court of Human Rights, which is one of the international courts, attracts more attention. Thus, the ECtHR resolves the issue of whether any violation is recognized by demonstrating its position on various issues with its decisions.

After the Decree of the President of the Republic of Azerbaijan Mr. Ilham Aliyev "On the modernization of the judicial system in the Republic of Azerbaijan and amendments and additions to some legislative acts of the Republic of Azerbaijan" dated January 19, 2006, the application of the precedent law of the ECHR was put forward. In the Decision of the Plenum of the Supreme Court of the Republic of Azerbaijan dated March 30, 2006 "On the application of the provisions of the European Convention on the Protection of Human Rights and Fundamental Freedoms and the precedents of the European Court of Human Rights during the administration of justice" adopted after this Decree, it was noted that The accession of the Republic of Azerbaijan to the Council of Europe on January 25, 2001, and later ratification of the European Convention "On the Protection of Human Rights and Fundamental Freedoms" is an expression of commitment to democratic traditions, justice, and the provision of fundamental rights and fundamental freedoms for people under its jurisdiction.

It should also be noted that the decisions of the European Court of Human Rights are taken into account in the decisions of the Supreme and Constitutional Courts of the states that are parties to the Convention, which proves that those decisions directly affect the internal law of the state. Therefore, it is necessary to carry out a constitutional-legal analysis of those decisions and the rights and fundamental freedoms provided for in the Convention. This

demonstrates the relevance of the research topic in terms of meeting the requirements of Article 12, Part II and Article 151 of the Constitution of the Republic of Azerbaijan.

Anticipating the requirements of the rights and freedoms of people and citizens defined by the legislation of the Republic of Azerbaijan directly serves to increase the reputation of the bodies that carry out the criminal process in the society and to increase the trust in the courts. It is for this reason that it is urgent to analyze the constitutional guarantees that are of greater importance from the point of view of the criminal process and, as a result of this analysis, take measures to further improve the legislation.

By determining the relevance of the research topic, the above determined its selection as a research object and the necessity of its comprehensive investigation.

The level of scientific development of research. Issues such as the constitutional-legal regulation of the criminal process, as a scientific-theoretical category and the institution of modern criminal-procedural law, have attracted the attention of legal scholars since the relatively recent past. The topic we are considering is dedicated to the problems of the constitutional and legal regulation of the criminal process in the Republic of Azerbaijan.

F.S. Abdullayev, Z.A. Askerov, F.T. Nagiyev, C.H. Movsumov, M.A. Jafarguliyev, F.M. Abbasova, M.S. Gafarov, C.I. Suleymanov, I.M. Rahimov, V.A. Ibayev, K. Gozler, Sh. Unal, The researches of Y. Işiktachin, N. Kunter, H. Karakehya, Y. Unver, M. O. Bayev, O. E. Kutafin and other such scientists are of great importance for the study of the legal essence of issues such as the constitutional-legal regulation of the criminal process in the Republic of Azerbaijan.

The problems of the constitutional-legal regulation of the criminal process in the Republic of Azerbaijan have been covered in the books dedicated to the interpretation of the Constitution of the Republic of Azerbaijan, textbooks on constitutional law, using the Criminal-Procedural Code, textbooks on the criminal process, textbooks, scientific researches of individual authors in this field.

During the study of the problems of the constitutional and legal regulation of the criminal process in the Republic of Azerbaijan, the works of Turkish, Russian and Western scientists were used as a theoretical and legal source for the justification of the directions for the improvement of the mechanism of the constitutional and legal regulation of the criminal process in the Republic of Azerbaijan.

It should be noted that until now no large-scale work has been written on the constitutional-legal regulation of the criminal process in the Republic of Azerbaijan.

The object of the study was the issues related to the determination of the constitutional-legal basis of the criminal process and the problems of improving the criminal-procedural legislation of the Republic of Azerbaijan.

The subject of the research was the concept and essence of the criminal process, the constitutional and international foundations of the criminal-procedural legislation, the materials of the practice of applying the legislation, various legal literatures dedicated to separate aspects of the studied issues, international court decisions, and the analysis of official statistical data.

The purpose and tasks of the research. The aim of the dissertation research is to study the concept, essence and constitutional-legal foundations of the criminal process, summarizing existing legislation, scientific-theoretical and practical problems in a complex and systematic manner, enriching the theory of criminal-procedural law on the subject, and various issues related to the improvement of criminal-procedural legislation. consists of the development of proposals.

In accordance with the purpose of the research, the following tasks were set and solved:

- Determination of the problems of the constitutional-legal study of the criminal process through the methodological approach;
- Review of the concept and essence of the criminal process in terms of the realization of the positive obligations of the state;

- Comparative analysis of the concepts given to the criminal process and giving a new concept to the criminal process from the constitutional and legal aspect based on the tasks of criminal proceedings;

- Constitutional analysis of the actual problems of procedural and legal regulation of the state's anti-crime policy;

- Investigating the history of the constitutional and legal development of the criminal process in the Republic of Azerbaijan;

- Determination of the constitutional and legal bases of the new Criminal-Procedural Code of the Republic of Azerbaijan;

- Analyzing the democratic-legal values and international legal principles established in the new criminal-procedural legislation;

- Analyzing the constitutional guarantees of individual rights during the implementation of criminal procedural activities;

- Examination of the constitutional and legal objectives of the regulation of criminal proceedings;

- Differentiation of new mechanisms of constitutional-legal guarantees of human and civil rights and freedoms in the new criminal-procedural legislation;

- Investigating the place and role of the new Criminal-Procedural Code of the Republic of Azerbaijan in the legal regulation of the criminal process;

- Investigating directions for improving the provision of human rights and freedoms in criminal proceedings in the era of globalization and conducting their constitutional analysis;

- Determining the legal, social and political basis for the improvement of the CPC within the framework of judicial and legal reforms;

- Proposing suggestions for improvement of the criminal-procedural legislation;

- Determining the importance of criminal-procedural legal norms in the implementation of the state's penal policy.

Research methods. Both general, specific and field methods (systematic analysis, analysis and synthesis, induction and deduction,

analogy, connection between concrete and general, statistical analysis, historical approach, sociological, generalization, comparative law, etc.) were used during the research. .

Provisions submitted to the defense:

1. The concept given by the criminal-procedural legislation to the criminal process differs from the theory and includes procedural actions and procedural decisions. Implementation of these procedural actions and decision-making should take place during the criminal prosecution. However, the definition given to procedural decisions in Article 7 of the CPC is somewhat imprecise. Thus, according to Article 7.0.43 of the Criminal Procedure Code, a procedural decision is made by a judge or judges (excluding sentences) on a criminal case or other material related to criminal prosecution, as well as an investigator, an investigator, or a prosecutor in the cases provided for in the Criminal Procedure Code. and is a procedural act adopted by the order. In Article 7.0.47 of the Criminal Procedure Code, the complaint is defined as a written request addressed to the body that implements the criminal process that procedural actions or procedural decisions are illegal or unfounded. From the above, it is concluded that a procedural decision excludes a sentence and only procedural decisions can be appealed. This may cause a violation of the person's right to appeal to the second court, which is established in Article 65 of the Constitution. Therefore, there is a need to specify the mentioned provisions of CPM. For this reason, we suggest including the judgment in the concept submitted to the complaint.

2. Although the Constitution stipulates that judges must obey the Constitution and laws of the Republic of Azerbaijan, it is determined in the CPM that judges must obey only the requirements of the laws. Therefore, we believe that by amending Article 25.1 of the CPC, it should be directly established that judges obey the requirements of the Constitution and laws of the Republic of Azerbaijan.

3. Article 23.1 of the CPC needs clarification. Thus, in Article 7 of the CPM, which defines the main concepts of the criminal procedural legislation, criminal proceedings are defined as

"proceedings conducted before the trial, as well as in the courts of the first, appeal and cassation instance in accordance with the CPM". If we take this concept into account, we can see that the phrase "criminal proceedings" in Article 23.1 of the CPM is not used in place. Because the result is that the pre-trial proceedings are carried out by the courts in accordance with the CPM. The existence of such misunderstandings during the constitutional-legal analysis makes it difficult to define the concept of the criminal process in its full form. Therefore, we believe that it is more appropriate to replace that phrase with the phrase "criminal court proceedings" used in Part IV of Article 125 of the Constitution.

4. The Constitution of the Republic of Azerbaijan has provided for special regulations regarding criminal proceedings. The reason for this is that the sentence (decision) issued as a result of the criminal proceedings is more important for the subjects affected by it, and in some cases it implies the restriction of their constitutional right to freedom. In this regard, based on the requirements of the Act, which has the highest legal force in the Republic of Azerbaijan, we believe that when defining the concept of criminal proceedings, it is more appropriate to include the duties of criminal proceedings in the concept. Therefore, we believe that the criminal process should be given the following definition: "Criminal process is to protect the person, society and the state from criminal intents, to protect the person from abuse of official powers in connection with actual or suspected crime, to solve crimes as soon as possible, to comprehensively, completely and objectively investigate all cases related to criminal prosecution, to expose and, if necessary, bring the perpetrators to criminal responsibility, to determine the guilt of those accused of committing a crime and punish them, and to carry out justice in order to acquit those who have not been found guilty, as well as is a procedural activity carried out in order to fulfill the duties of applying criminal-legal measures against legal entities for crimes committed by natural persons for the benefit of a legal entity or for the protection of its interests".

5. According to Article 2.3 of the CPM, which is a logical continuation of Article 151 of the Constitution of the Republic of Azerbaijan, which determines the legal force of international acts, the rules of the international agreement are applied when other rules different from the CPM are defined in the international agreements to which the Republic of Azerbaijan is a party. However, in our opinion, here the legislator allowed unnecessary repetition by using the expression "different other rule". Therefore, it would be more appropriate to edit that statement as "different rule".

6. Pursuant to Part I of Article 71 of the Constitution of the Republic of Azerbaijan, it is the duty of legislative, executive and judicial authorities to protect human and civil rights and freedoms established in the Constitution. In this regard, there are a number of problematic issues related to Article 2.4 of the CPM. Thus, according to Article 2.4 of the CPM, normative legal acts that cancel or limit human and civil rights and freedoms within criminal-procedural activities, violate the independence of judges and the principle of adversarial justice, and give certain legal force to evidence in advance are applied. cannot be done. Analyzing that article, it becomes clear that "cannot be applied" actually includes the possibility of adopting those acts. Therefore, in our opinion, the text of that article should be edited in such a way that it prohibits not the application of those normative legal acts, but their adoption.

7. When comparing Article 4.3 of the CPC with Part VII of Article 149 of the Constitution, a number of problems emerge. Thus, in Part VII of Article 149 of the Constitution, it is stated that the force of normative legal acts that improve the legal status of individuals and legal entities, eliminate or alleviate legal responsibility, is applied retroactively. The force of other normative legal acts is not applied retroactively. It follows from Article 4.3 of the CPC that if the newly adopted provision of the criminal procedural legislation significantly changes the conditions of the possibility of evidence, such a change improves or worsens the situation of the accused, and the evidence collected in accordance with the previous provision of the criminal procedural legislation is

subject to the new provision if it does not match, those evidences cannot serve as the basis of the accusation. Therefore, we suggest that the 2nd sentence of Article 4.3 of the CPM be amended as follows: "If the newly adopted provision of the criminal procedural legislation of the Republic of Azerbaijan significantly changes the conditions of the possibility of evidence, the cases where the new provisions worsen the legal status of the participant in the criminal process except that the evidence that does not comply with the new provisions cannot form the basis of the accusation".

8. The purpose of procedural coercion measures is to create conditions for the implementation of the criminal process and ensure the execution of the decision to be made as a result of the trial. However, these measures cannot be taken in every case, as they lead to the restriction of a number of rights and freedoms defined by the Constitution, which declares the provision of human and civil rights and freedoms as the supreme goal of the state. We consider it necessary to determine the existence of the following conditions in order to apply the provisions of the CPC regarding procedural coercive measures and the grounds for their application:

1. presence of criminal suspicion;
2. legality (defined by law);
3. the possibility of correctness in its application;
4. possibility of danger in case of delay;
5. proportionality;
6. decision-making.

9. Pursuant to Article 57.2.1 of the Criminal Procedure Code, the body carrying out the criminal proceedings for damage caused to the persons specified in Articles 56.0.1, 56.0.2, 56.0.5 and 56.0.6 of the Criminal Procedure Code knows the relevant circumstances that exclude criminal prosecution. and it is calculated after 7 (seven) days have passed from the day it should be known. However, in our opinion, such a late determination of the moment of calculation of damages remains on the edge of legal thinking and leads to the emergence of the issue of "responsibility" against the violation of human rights and legal interests protected by constitutional norms,

not from the beginning, but later. Also, the phrase "from the day he knew and should have known" has a certain inaccuracy. So, the date a certain person knows and should know any information cannot be the same. Therefore, it is necessary to separate them from each other not with the conjunction "and" but with the conjunction "or". Therefore, it is more appropriate to edit Article 57.2.1 of the CPM in the following form:

"57.2.1. To the persons specified in articles 56.0.1, 56.0.2, 56.0.5 and 56.0.6 of this Code - after 7 (seven) days have passed from the day when the body implementing the criminal process knew or should have known the relevant circumstances excluding criminal prosecution;".

10. Article 202.1 of the CPC states that the time periods specified by this Code during criminal proceedings are calculated in hours, days, months and years. However, as can be seen from Article 59.2 of the CPM, in some cases, the periods are also calculated in weeks. Therefore, in our opinion, it is more appropriate to edit Article 202.1 of the Civil Code in the following form and to make an addition to Article 202.3 accordingly:

"202.1. During criminal proceedings, the time periods specified by this Code are calculated in hours, days, weeks, months and years.

202.3. If the periods are calculated in weeks, the period ends on the corresponding day of the last week.

11. There is a need to clarify the content of Article 1.2.1 of the CPM. It is necessary to expose every person who has committed an act considered a crime by law, because it is one of the important components of the state's crime fighting policy. However, it is impossible to agree on bringing criminal liability to every person who has committed an act considered a crime by law. Thus, a person who committed a crime in an irrational state, that is, according to Article 21.1 of the Criminal Code, was in an irrational state when he committed a socially dangerous act (action or inaction), that is, chronic mental illness, temporary impairment of mental activity, mental retardation or other mental illness As a result, a person who

does not understand the actual nature and public danger of his act (action or inaction) or is unable to control it is not brought to criminal responsibility. According to Part X of Article 71 of the Constitution of the Republic of Azerbaijan, state bodies can operate only on the basis of this Constitution, in the manner and within the limits established by law. Therefore, in our opinion, the content of Article 1.2.1 of the CPM should be clarified and the following redaction should be issued:

"Let it be possible to expose every person who has committed an act considered a crime by law and bring him to criminal responsibility, except for the cases provided by law."

12. According to Article 220.3 of the Criminal Procedure Code, when it is important for a comprehensive, complete and objective investigation of the cases related to criminal prosecution, the investigator or the investigator shall conduct the questioning of the suspect, the accused, the civil plaintiff, the civil defendant and their representatives, witnesses, and the expert examination. cannot unreasonably refuse to grant their written petitions about conducting other investigative actions. This provision creates some misunderstandings. Thus, it follows from the provision that only the written petitions of the specified persons cannot be rejected without grounds. However, Article 220.5 of the Criminal Procedure Code states that the investigator or investigator must issue a reasoned decision to grant the motions or reject them in whole or in part and send this decision to the person who filed the motion immediately. Therefore, the decisions made about the petitions of not only the persons listed in Article 220.3 of the CPC, but also other participants should be justified. If we look at the name of the article (mandatory explanation of the rights of the participants in the criminal process and consideration of their petitions), we see that the full circle of the participants in the criminal process is not defined in the Article 220.3 of the Criminal Procedure Code. Also, it should be taken into account that the requirement to receive a reasoned response to the appeal of the person who applied (petitioned) to the state body is derived from the content of the constitutional norms. Therefore, in

order to eliminate this ambiguity, we suggest removing Article 220.3 of the Civil Code from the Code.

13. According to Article 122.5 of the CPC, the complaint of the participant of the criminal process should be considered without delay and in any case no later than 3 (three) days after the day when the body implementing the criminal process receives it. Complaints of other persons participating in the criminal process are considered by the bodies implementing the criminal process no later than 15 (fifteen) days from the day of receipt of the complaint. The reason for such differentiation of the time periods for consideration of complaints is that the persons who complained as a party to the criminal process can have a greater influence on the development of procedural legal relations. However, when we analyze the text of the Law "On Citizens' Appeals", we can observe that the principles of "unity" and "equality" defined in the criminal-procedural legislation are not expected. It should also be noted that the complaints of other persons participating in the criminal process can in some cases lead to important results in the way of discovering the truth. Therefore, in our opinion, such differentiation in the mentioned article of the CPM should be eliminated or this period should be further shortened and defined as 5 days. Because the requirement to consider everyone's case or appeal within a reasonable time comes directly from the content of Article 60 of the Constitution.

14. Article 280.4 of the Criminal Procedure Code, which appears as one of the additional safeguards of the presumption of innocence provided for in Article 63 of the Constitution of the Republic of Azerbaijan, states that the proceedings in a criminal case are governed by Articles 39.1.1, 39.1.2, 39.1.11 and 39.2 of the Criminal Procedure Code. In the case of termination due to the circumstances provided for in Articles -, it is not allowed to include in the decision the provisions questioning the innocence of the person against whom the proceedings in the criminal case have been terminated. According to Article 39.3 of the Criminal Procedure Code, in the cases provided for in Articles 39.1.1, 39.1.2 and 39.2 of the Criminal Procedure Code, the criminal prosecution is considered

terminated on exculpatory grounds. However, a dispute arises because Article 280.4 of the Criminal Code includes Article 39.1.11 of the Criminal Code (if there are grounds for exempting a person from criminal responsibility by virtue of the provisions of the criminal law) as a basis. For this purpose, either the basis specified in that article (Article 39.1.11 of the CPM) should be removed from its text, or other grounds for termination of criminal prosecution should be added to that article. But, in our opinion, the first option is more convenient and correct. Because it is necessary to take into account that when the criminal prosecution is terminated on exculpatory grounds, the decision must include provisions justifying the complete innocence of the person against whom the proceedings in the case have been terminated and acquitting him.

15. Since it acts as one of the grounds for restricting the right to freedom established in Article 28 of the Constitution of the Republic of Azerbaijan, giving a theoretical understanding to imprisonment is of great importance. Therefore, we propose to give a theoretical understanding of arrest in the following way: "In terms of its legal characteristics, arrest is a preventive measure related to criminal-procedural law, which restricts a person's freedom before the final decision of the court, and is applied only to persons provided by law to ensure its legal goals."

16. Part II of Article 28 of the Constitution of the Republic of Azerbaijan states that the right to freedom can be limited only by arrest, detention or deprivation of liberty in accordance with the law. It is clear from the text of this provision that restriction of freedom can be implemented through 3 measures: arrest, detention and deprivation of liberty. Therefore, the measure of deprivation of liberty constitutes one of the methods of restriction of liberty. However, the controversial point about this provision is that the penalty of restriction of freedom defined as a type of punishment in the Criminal Code of the Republic of Azerbaijan contradicts Article 28 of the Constitution from a terminological point of view. In this regard, in our opinion, it is important to eliminate this point. Because, although in essence the penalty of restriction of freedom is

aimed at restricting the freedom of movement, it is not possible to determine this from the terminological point of view. Also, since the concept of freedom is not only related to action, the terminological expression of the punishment formulated in the form of its limitation is narrower than the issues contained in its meaning. For this reason, we believe that the name of the punishment provided for in Article 52-1 of the Criminal Code should be edited as "Restriction of freedom of movement" in order to avoid any terminological inconsistency with Part II of Article 28 of the Constitution.

17. Although Part I of Article 63 of the Constitution defines as a necessary condition for a person to be found guilty of committing a crime, the presence of a legally binding sentence of the court, Part V of that Article, regardless of whether the person has entered into legal force, with the existence of any conviction of the court against the person is enough. The difference between the mentioned provisions can be explained in this way, if part I of the article envisages the moment when the sentence enters into legal force as the end of the period during which the presumption of innocence operates, while part V of the article simply envisages the passing of the sentence. Of course, the provision of such a norm in the text of the Constitution has certain grounds. It can be thought that when the text of the norm is systematically interpreted, the moment of the end of the presumption of innocence from the meaning of the article is exactly the same as the entry into legal force of the court verdict. However, it should be taken into account that the provisions of the Constitution are directly applicable and they can be applied independently. In such a case, the application of Article 63, Part V of the Constitution will be consistent with the principle of presumption of innocence and thus with the spirit of the Constitution. Because part V of the mentioned article independently reflects the entire content of the presumption of innocence.

18. In Article 178.4 of the Criminal Procedure Code, these problems can be identified when analyzing the provision that this measure is implemented on the basis of the reasoned decision of the body conducting the criminal process or the decision of the court at

the request of the participants of the criminal process. Firstly, although courts are included in the list of bodies that carry out criminal proceedings under Article 7.0.5 of the Criminal Procedure Code, Article 178.4 of the Criminal Procedure Code suggests that a court is not meant as a body that carries out a criminal procedure. This contradicts the requirement that the normative legal act has internal unity. In addition, it can be understood from the text of the provision that the participants of the criminal process can submit the request for compulsory delivery only to the court. However, such an approach should not be considered correct. Thus, the person has the right to apply to the investigator, investigator or prosecutor with a petition about this, and the body implementing the criminal process is obliged to consider such petitions in accordance with the requirements of Article 121 of the Criminal Code.

The second problematic issue that should be emphasized during the analysis of the mentioned Article 178.4 of the CPC regarding forced importation is that such a measure can be carried out by the decision of the investigator and investigator. We believe that such a measure should be implemented only by the reasoned decision of the prosecutor or the court conducting the procedural management of the preliminary investigation. Because forced importation is a procedural coercion measure that is closely related to the freedom and security of a person established by constitutional norms. Therefore, limiting the circle of persons who have the authority to make a decision on forced importation will serve the purpose of ensuring human rights and freedoms.

19. We suggest giving the court the following definition: "The court is a body of authority created in accordance with the law, independent and impartial to other branches of government and parties, acting in accordance with the procedural norms of judicial proceedings."

20. Pursuant to Article 53.7 of the CPC, the person who should be involved as an accused person is subject to criminal liability, except for the cases of hiding from the investigation or court, committing a crime punishable by life imprisonment, as well

as committing crimes against peace and humanity and war crimes. due to the expiration of the terms of involvement, the suspended proceedings on the criminal prosecution in which the perpetrators were identified are terminated. Since issues related to exemption from criminal liability are also regulated by the Criminal Code, there should be compatibility between CM and CPM. However, in paragraph 5 of Article 75 of the Criminal Code, which regulates issues of exemption from criminal liability related to the expiration of the term, it is noted that persons who have committed crimes against peace and humanity, terrorism, terrorist financing, and war crimes, provided for in the relevant articles of the Special Part of this Code, are exempted from this article provisions are not applicable. That is, if those persons are discovered even after the relevant period has passed, they will still be brought to criminal responsibility. However, there are a number of shortcomings in the above-mentioned Article 53.7 of the Civil Code, and the provisions of Article 75.5 of the Civil Code are not taken into account in that article. Therefore, in our opinion, in order to eliminate the contradiction or deficiency between both normative legal acts (because according to Article 8 of the Constitutional Law "On Normative Legal Acts, the non-contradiction of normative legal acts is considered one of the main principles of norm-making activity") 53.7 of the CPM Article should be edited in the following form:

"53.7. In connection with the passing of the periods of bringing the person to criminal responsibility, with the exception of cases of hiding from the investigation or the court, committing a crime punishable by life imprisonment, as well as committing crimes against peace and humanity, terrorism, financing terrorism and war the suspended proceedings on the criminal prosecution in which the perpetrators were identified are terminated".

21. According to Article 53.4 of the CPC, if there are two or more accused persons in a criminal prosecution and the grounds for stopping the proceedings do not apply to all of them, the investigator, prosecutor or court, if it is not possible to objectively consider the proceedings without the participation of all the accused persons, may

suspend a part of the proceedings has the right to separate and suspend the proceedings or to suspend the entire proceedings. Pursuant to Article 50.1 of the Criminal Procedure Code, separation of criminal prosecution proceedings is allowed in all cases that do not prevent comprehensive, complete, objective and timely review of all cases related to criminal prosecution and can be considered separately due to their nature. When we mutually analyze the two mentioned provisions, we are faced with an interesting situation. So, according to the text of Article 53.4 of the CPC, if there are two or more accused persons in the criminal prosecution and the grounds for stopping the proceedings do not apply to all of them, if the investigator, prosecutor or court cannot objectively review the proceedings without the participation of all the accused persons, the following they are right to make one of two choices:

1) to divide a part of the proceedings into a separate proceeding and suspend it;

2) to stop all proceedings.

However, when it is impossible to objectively consider the proceedings without the participation of all the accused persons, it remains unclear what logical basis the legislator used to grant the right to separate a part of it into separate proceedings. Therefore, in our opinion, it is more appropriate to amend the text of the article and establish that the investigator, prosecutor or court has the right to stop all proceedings only. It will also be successful in terms of fully ensuring the constitutional rights to a fair trial.

22. According to Article 277.4 of the Criminal Procedure Code, which defines the procedure for suspending proceedings in a criminal case, the investigator must inform the victim, his representative, civil plaintiff, civil defendant or their representatives in writing of the decision to suspend the proceedings in a criminal case and inform them of the criminal case. must explain the possibility of filing an appeal against the decision to suspend the proceedings in accordance with Article 122 of the Civil Procedure Code. When the proceedings on a criminal case are suspended on the grounds provided for in Articles 53.1.4-53.1.6 of the CPC, the

accused person and his defense attorney are also informed about it. However, since the procedure for providing information is not defined when applying Article 53.1.7 of the CPM, which is one of the grounds for suspending proceedings in a criminal case, in our opinion, the second sentence of Article 277.4 of the CPM should be edited as follows:

"When the proceedings on a criminal case are suspended on the grounds provided for in Articles 53.1.4-53.1.7 of this Code, the accused person and his defense attorney are also informed about it."

23. According to Article 226.4 of the CPC, which defines the rules of summoning for questioning, the detained suspect and the accused person are called by the administration of the place of detention. When analyzing from a linguistic point of view, we can find that there is some ambiguity in this provision and it needs to be clarified. Thus, in the criminal-procedural legislation, a person detained (arrested) and a person detained in prisons have different procedural-legal status. A detained or arrested person is an accused person on whom a preventive measure of detention has been chosen by the court (Article 1.0.2 of the Law "On Ensuring the Rights and Freedoms of Persons Detained in Prisons"). However, it is also clear from Article 7.0.38-1 of the Criminal Code that the persons kept in detention facilities include not only arrested persons, but also arrested persons. Therefore, in our opinion, Article 226.4 of the CPM should be amended in the following form:

"226.4. Suspects or accused persons detained in prisons are called by the administration of prisons.

24. According to Article 464.5 of the CPC, when the issue of reconsideration is set for the purpose of acquitting a convicted person, the death of that convicted person does not prevent the review of the court's sentence or decision in newly opened cases. In this case, it is allowed to submit an application for consideration of the judgment or decision of the court on newly opened cases by the deceased person's spouse or other close relative. However, since the term "spouse" used in the second sentence of this article does not have legal significance, in our opinion, it is more appropriate to

change it, and that sentence should be edited in the following form: it is allowed to be given by the husband (wife) or another close relative". At this time, it should be taken into account that Article 34 of the Constitution of the Republic of Azerbaijan also uses the concepts of husband and wife.

Scientific novelty of the dissertation. The scientific novelty of the research is that it is the first research work of a monographic nature dedicated to the comprehensive study of the problems of constitutional and legal regulation of the criminal process in the Republic of Azerbaijan. The scientific novelty of the research is also determined by the fact that it is the first research work dedicated to the study of the constitutional and legal bases of the issues of regulation of criminal proceedings in the Republic of Azerbaijan, taking into account the provisions of the new criminal procedural legislation that came into force on September 1, 2000.

Scientific innovation is expressed in the sequential study of the constitutional-legal regulation of the criminal process in the Republic of Azerbaijan, in the preparation of a complete list of constitutional-legal issues and in the justification of provisions of scientific and practical importance on the constitutional-legal issues of the criminal process, in determining the directions for solving the problems of the constitutional-legal regulation of the criminal process, as well as found in putting forward proposals aimed at solving the constitutional-legal regulation of the criminal process. In the dissertation, at the same time, a scientifically based system of measures of constitutional and legal regulation of the criminal process was proposed.

One of the issues reflected in the scientific novelty of the research is related to the institution of forced extradition existing in the criminal procedural legislation. Thus, during the analysis of Article 178.4 of the Criminal Procedure Code, it is clear that such a measure can be carried out by the decision of the investigator and investigator. We believe that such a measure should be implemented only by the reasoned decision of the prosecutor or the court conducting the procedural management of the preliminary

investigation. Because forced importation is a procedural coercion measure that is closely related to a person's freedom and security. Therefore, limiting the circle of persons who have the authority to make decisions about forced importation will serve to ensure human rights and freedoms. This innovation is determined within the framework of the basic principle of human and civil rights and freedoms established in Article 24 of the Constitution of the Republic of Azerbaijan, which states that everyone has inviolable, inviolable and inalienable rights and freedoms from the moment of birth, as well as prohibits the abuse of rights. that the proposed change will lead to the strengthening of human rights and freedoms guarantee mechanisms, the cases of rights abuse and the elimination of subjective effects in interference with rights and freedoms.

Another form of manifestation of the scientific novelty of the research is to prohibit the adoption of legislative acts aimed at the cancellation of human rights and freedoms or their limitation. Thus, the current text of Article 2.4 of the CPM is quite flawed in this regard. However, according to Part VI of Article 71 of the Constitution, human and civil rights and freedoms are directly valid in the territory of the Republic of Azerbaijan. It is true that although the Constitution allows the restriction of human and civil rights and freedoms under certain conditions, their cancellation is not allowed. As a guarantee of these provisions, it is stated in Article 155 of the Constitution that proposals on the abolition of human and civil rights and freedoms provided for in Chapter III of this Constitution or on their limitation to a greater extent than stipulated in the international agreements to which the Republic of Azerbaijan is a party cannot be submitted to a referendum. It is also clear from this provision that proposals on the abolition of constitutional human and civil rights and freedoms cannot even be submitted to a referendum. It is also necessary to take into account that the independence of judges and the implementation of justice on the basis of the adversarial principle, as well as the fact that judges consider the case based on the facts, is a constitutional principle. However, when analyzing the text of Article 2.4 of the CPM, it becomes clear that "cannot be

applied" actually includes the possibility of adopting those acts. Therefore, in our opinion, the text of that article should be edited in such a way that it prohibits not the application of those normative legal acts, but their adoption. Because the legislator, while preparing any draft law, should not adopt such a norm after ensuring its compliance with the Constitution through appropriate expertise. At this time, it should also be taken into account that part V of Article 71 of the Constitution of the Republic of Azerbaijan stipulates that no provision of the Constitution can be interpreted as a provision aimed at abolishing human and civil rights and freedoms. This shows that not only the application and acceptance of such provisions, but also their interpretation on this existing basis is not allowed. In our opinion, the current text of Article 2.4 of the CPM may lead to incorrect determination of the direction of the approach to rights and freedoms. Thus, it is inadmissible to provide such a norm, which does not correspond to the meaning of the Constitution, in the CPM, which defines the rules of legal regulation in an area where human and legal freedoms are most in need of protection. The approach in line with our proposed position is also reflected in the Civil Procedure Code of the Republic of Azerbaijan. Thus, in Article 1.3 of that Code, the adoption of legislative acts that cancel or limit the rights and freedoms of people and citizens in the field of civil procedural activity, as well as violate the independence of the court and the principle of adversary of the parties during the implementation of justice, as well as give predetermined force to the evidence the rule regarding impossibility has been determined. Our proposal will also serve to meet a number of requirements of Article 8 of the Constitutional Law "On Normative Legal Acts". According to that article, compliance with the Constitution of the Republic of Azerbaijan and the supremacy of laws, as well as non-contradiction of normative legal acts, are considered as the principles of norm-making activity.

The scientific novelty of the research is also reflected in the evaluation of the norms provided for in the CPM in such a way that they can meet the constitutional requirements as much as possible

and making suggestions for improvement. One such assessment is related to Article 140 of the CPC. Article 140.0.4 of the CPC requires the opinion of experts in the field of medicine and psychology to determine the age of the victim, suspect or accused in the absence of documents of reaching a certain age limit. It is true that according to Article 228.1 of the CPC, a minor witness can be questioned regardless of his age if he can provide important information for the case orally or in other form. Considering this factor, it does not seem so important to require documents that the witness has reached a certain age. However, looking at the other clauses of that article, it becomes clear that determining the age of the witness has a procedural significance. Thus, the requirement to interrogate a minor witness under the age of 14, and at the discretion of the investigator, up to 16 years old, provided for in Article 228.2 of the CPC, with the participation of a teacher, and if necessary, a doctor and his legal representative, emphasizes the importance of determining the age of the witness in various situations. . According to paragraph 4 of the same article, a witness under the age of 16 is told only about his duty to tell the truth, but he is not warned about the criminal responsibility for refusing to testify, refusing to testify, and knowingly giving false testimony. As can be seen, determining the age of the witness is also important in relation to liability issues. In addition, when we take into account the requirement that the court decision should be based on the law and evidence, which is reflected in Part III of Article 129 of the Constitution of the Republic of Azerbaijan, we believe that since the testimony of a witness is considered as one of the types of evidence, and from the constitutional point of view, both the accused (suspect) and since it has the character of being able to affect the rights of the victim, the procedural rules provided during its acquisition should also be perfectly regulated. Therefore, for this purpose, it is considered appropriate to propose changes to Article 140.0.4 of the CPC and edit it in the following way: "age determination if the witness, victim, suspect or accused person does not have documents of

reaching a certain age limit - medical and the opinion of experts in the field of psychology;"

Theoretical and practical significance of research. The theoretical importance of the research is in deepening the scientific theoretical knowledge about the essence of the criminal process and its main institutions, the constitutional foundations of the criminal process, the criminal-procedural guarantees of the protection of democratic values and human rights, the steps to be taken in the direction of improving the legislation through the study of the world experience in the conditions of globalization, and the legal awareness of this it is expressed in the direction that it can lead forward. The provisions and scientific results of the dissertation can be useful when delivering lectures on the criminal-procedural law course in law faculties of higher educational institutions, conducting seminars, as well as preparing textbooks, textbooks, educational programs and monographs on criminal-procedural law and constitutional law.

The practical importance of the research work is that the results and suggestions reflected here will not only help the correct application of the law in practice, but will also be useful for the improvement of criminal procedural legislation and judicial practice. The provisions and results of the research work can also be used in scientific research and law enforcement activities.

Approval of research results. The dissertation work was performed and discussed at the "Law" department of the State Administration Academy under the President of the Republic of Azerbaijan. The provisions of the dissertation submitted for defense and the proposals aimed at improving the legislation were discussed and approved in a scientific seminar with the participation of the professors and teachers of the "Law" department of the State Administration Academy under the President of the Republic of Azerbaijan.

The main scientific results of the dissertation and the provisions submitted for defense were brought to the attention of the legal community at both national and international level conferences and symposia. So, in 2021, the author's "International Legal Security

Mechanisms of State Sovereignty and Territorial Integrity" conference, "5. "International Engineering and Technology Management Congress", the conference of the Constitutional Court of the Republic of Azerbaijan dedicated to the 98th anniversary of the birth of the National Leader of the Republic of Azerbaijan Heydar Aliyev on "Modern theoretical and practical approaches in the field of protection of human rights and freedoms in the 21st century", the Ministry of Internal Affairs of the Republic of Azerbaijan In the materials of the conference "Actual problems of the criminological study of regional crime" held in 2017 at the Police Academy, the II international conference "History of science and interdisciplinary studies" and other conferences, as well as the "Public administration: theory and practice" of the Academy of Public Administration under the President of the Republic of Azerbaijan ", as well as "Law", "Transportation Law", "Scientific News of the Police Academy", "Scientific collection" of the Forensic Expertise Center of the Ministry of Justice of the Republic of Azerbaijan, "Geplat: Caderno Suplementar", "Entrepreneurship, Economy and Law", "Mester", His reports, speeches and theses have been published in "Yüzüncü Yıl University Faculty of Economics and Administrative Sciences Journal", "European Journal of Law and Political Sciences" and other prestigious journals.

Among the main provisions of the dissertation, in the process of teaching the subjects "Constitutional Law" and "Criminal Process" at the undergraduate level of the Police Academy of the Ministry of Internal Affairs of the Republic of Azerbaijan, the National Aviation Academy, "Criminal Process" before the doctoral students of the Law and Human Rights Institute of ANAS and employees of the State Migration Service. was used during lectures on "constitutional-legal foundations".

Through a survey conducted among a certain contingent of the country's legal scholars, judges, employees of the prosecutor's office and other law enforcement agencies, lawyers and other persons with higher legal education, the attitude to the proposals and

considerations related to the improvement of the criminal-procedural legislation was studied.

The main provisions of the dissertation, scientific results, as well as legislative proposals are reflected in numerous scientific works of the author published in 2014-2023.

The structure of the dissertation consists of an introduction defined according to the goals and objectives of the research, methodology, four chapters covering 13 sub-chapters, conclusion, list of used literature and appendices.

Introduction 49965, Chapter I 150617, Chapter II 128742, Chapter III 100194, Chapter IV 87862, Conclusion 12965, as a whole, the volume of the dissertation consists of 569737 characters.

MAIN CONTENTS OF THE WORK

In the introduction, the relevance of the dissertation research is justified, the purpose and main tasks of the work, its methodological basis, theoretical and practical importance are determined, the degree of problem development, the scientific novelty of the work, the provisions put forward for defense, and also the approval results of the research are indicated.

Chapter I is called "Historical-methodological foundations of the constitutional-legal study of the criminal process in the Republic of Azerbaijan" and consists of four paragraphs. In the first paragraph, called "theoretical and practical problems of the constitutional-legal study of the criminal process in the Republic of Azerbaijan: methodological approach", the importance of the methodological approach to problematic issues and its features are examined, the theoretical and practical problems of the constitutional-legal study of the criminal process in the Republic of Azerbaijan are analyzed within the framework of the goals of the criminal process.

The method is a set of certain tools for understanding the essence of the object, that is, any field of law.

It is possible to include the following in the scope of the main methods used during the constitutional-legal analysis of the criminal process:

- - Analysis;
- - Synthesis;
- - Deduction;
- - Induction;
- - Analogy;
- - Comparison;
- Historical approach method.

The author states that each of the mentioned methods has a special importance during the investigation of the criminal process. For example, in order to understand the essence of preventive measures, studying each of them separately meets the requirements of the analysis method, but on the contrary, summarizing each preventive measure and understanding their general essence meets the requirements of the synthesis method. It is possible to show the interaction of the method of deduction and induction as the interaction of the general and special parts of the criminal process.

The comparative method is one of the most widely used methods in criminal procedure science. The method of comparison, which is an indispensable tool for the development of any field of law, allows to distinguish between the criminal process of foreign countries and the national criminal process and reveal the positive and negative aspects. The comparison can be aimed at differentiating both the process of application of procedural legal norms and their expected results.

Since law is a field of science formed in thought, it is impossible for it to suddenly change revolutionary, to create completely new tendencies. This allows us to conclude that law is, in a certain sense, a field of science that "develops out of the filter of history". According to the author, the greatest contribution of the historical approach method to the criminal process is the prediction of the development of legislation. The implemented judicial and legal reforms are based on historically existing legal traditions.

The author notes that the first issues to be studied during the implementation of the criminal process are whether any deed reflects the signs of a crime and whether an act reflecting the signs of a crime is a crime or not. In order to solve the mentioned issues, the implementation of the criminal process should be based on theoretical provisions, and it is possible to talk about its validity only if it is based on such provisions. The material side of this process (theoretically) belongs to criminal law, and the procedural side (practically) belongs to the subject of regulation of criminal-procedural law.

In the second paragraph, which is called "The concept, essence, importance and constitutional foundations of the criminal process in the Republic of Azerbaijan", the author examines both the theoretical and legal concept of the criminal process, its essence and importance within this concept, as well as what are its constitutional foundations.

The concept of "criminal process" is one of the basic and guiding concepts of both criminal procedural legislation and criminal procedural law. Criminal-procedural law and legislation defines as its purpose the issues related to the study and regulation of the issues included in the scope of this concept. However, despite this, the concept given to the criminal process in the criminal-procedural legislation differs from the concept given in the criminal-procedural law.

While analyzing the theoretical concepts given to the criminal process, the author referred to the works of C.H.Movsumov, M.Jafarguliyev, F.M.Abbasova, I.S.Abbasova, A.V.Smirnov and a number of other authors. The concept given by the criminal procedural law to the criminal process differs from the theory and includes procedural actions and procedural decisions.

In the criminal process, human and civil rights and freedoms established by the Constitution, which is one of the main principles of criminal proceedings, are guaranteed as human and citizen rights and freedoms. The author evaluated and analyzed the principle stated in Article 12.1 of the Constitution of the Republic of Azerbaijan as a

logical continuation of Article 71, Part I of the Constitution of the Republic of Azerbaijan. At this time, the author referred to the works of I. Jafarov, V. Y. Chirkin, Z. Askerov, F. Nagiyev and other authors.

The characteristics of constitutional norms, such as having supreme legal force and direct application, create conditions for the formation of certain directions in the development of other legal fields.

The author considered it more appropriate to include the duties of criminal proceedings in the definition of criminal proceedings. So, at this time, it is possible to determine which functions are directly aimed at the implementation of the concept of "criminal process" and which activities are carried out for the fulfillment of its duties. During such activities, which can directly affect human rights and freedoms, it is especially important to define and understand his duties. Therefore, the author defined the criminal process in the following way: "Criminal process protects the person, society and the state from criminal intent, protects the person from abuse of official powers in connection with actual or suspected crime, solves crimes quickly, prosecutes to comprehensively, completely and objectively investigate all related cases, to expose and, if necessary, bring the perpetrators to criminal responsibility, to determine the guilt of the persons accused of committing a crime and to punish them and to acquit those who have not been found guilty, as well as to carry out justice for the benefit of the legal entity or for the protection of his interests, it is a procedural activity carried out in order to fulfill the duties of applying criminal-legal measures against legal entities for crimes committed by natural persons".

The third paragraph of Chapter 1 is called "Actual problems and solutions of the procedural-legal regulation of effective crime fighting policy: constitutional analysis". Here, the author has studied the rules of criminal-procedural legal regulation intended for the implementation of the policy of effective fight against crime, which problems they are aimed at and what purpose they serve in solving those problems from a constitutional point of view.

The author emphasizes that since crime is characterized as a negative social event for society, its expansion creates great obstacles to the protection and provision of human rights and freedoms. Since Article 12 of the Constitution of the Republic of Azerbaijan declares the provision of human and civil rights and freedoms and a decent standard of living to the citizens of the Republic of Azerbaijan as the supreme goal of the state, the state must fight crime and carry out effective activities to reduce its level.

Increasing the effectiveness of crime prevention requires the correct and timely identification of negative traditions that significantly increase the burden of society and the creation of possible social, economic, political, cultural, organizational and legal opportunities for their elimination, efficiency, systematicity, consistency and requires regularity.

The procedural regulation of the fight against crime is based on the Constitution of the Republic of Azerbaijan. Thus, many articles of the Constitution directly determine the provision of people's safety and the duty of state bodies to perform these tasks. The author refers to its 12th, 24th, 27th, 31st, 58th, 71st and other provisions in the Constitution for effective fight against crime.

The author states that one of the most important legal bases for the implementation of the fight against crime is the Criminal Procedure Code of the Republic of Azerbaijan. A number of articles of that normative legal act directly define specific requirements for the fight against crime. First of all, it should be noted that the focus of the criminal procedural legislation of the Republic of Azerbaijan on the possibility of exposing and bringing to criminal responsibility every person who has committed an act considered a crime by law is of particular importance for the performance of the general warning function.

The author notes that arresting a criminal is also a crime fighting activity. In this regard, detention, which is one of the procedural coercive measures provided for in the CPC, is of particular importance. However, the author emphasizes that the most

important procedural tool for effectively fighting crime is preventive measures, which are a type of procedural coercive measures.

In addition to the above, the author emphasized the importance of the Laws "On the Prosecutor's Office" and "On the Police" within the effective fight against crime, signed by the National Leader Heydar Aliyev, "On measures to strengthen the fight against crime, strengthening the rule of law and the rule of law" of the President of the Republic of Azerbaijan dated August 9, 1994. He considers his decree as one of the most successful normative legal acts adopted for this purpose.

Since the law is a system, the fight against crime should be carried out in a systematic manner, not only procedural regulation, but also material regulation should be carried out in an effective form.

In the fourth paragraph called "History of the constitutional-legal development of the criminal process in the Republic of Azerbaijan", the development of the legal regulation of the criminal process in our country is studied through the historical method from the constitutional-legal point of view, and a number of important acts adopted for the purpose of the development of the criminal process are examined.

The method of the historical approach is based on following the chronology of the development of any field of law and revealing the regularities in the causes of changes. It is the method of the historical approach that makes it possible to predict the future development of the criminal process.

Criminal-procedural legislation has passed a rich historical stage of development. As a result of this development, a national legislative framework has been formed that regulates the implementation of justice in our modern era.

Many of the existing institutions in the criminal process are a "product" of ancient times. In the Middle Ages, Islamic law began to spread widely in Azerbaijan. At the time when Islamic law began to spread, one of the main characteristics of Muslim judicial proceedings was the absence of the institution of lawyers. In the

10th-12th centuries, a lawyer's institution was already formed next to the Sharia courts. The establishment of this institute was a logical result of the development of Muslim law and the further improvement of existing legal practice. During the Mongol period, the judicial process in Azerbaijan was based on the principle of collegiality. Until the occupation of Azerbaijan by Russia, the Muslim legal system maintained its presence in the country and continued to improve. However, as a result of Russia's occupation of Azerbaijan in the first half of the 19th century, the administrative and judicial system in Azerbaijan underwent major changes, and judicial reforms began to be carried out successively.

The years 1918-1920 left a special mark in the history of the Azerbaijani people due to the existence of the Azerbaijan People's Republic. During this period, the ancient traditions of state structure and statehood were revived, and the first republic in the Muslim East was established. Since its creation, the Ministry of Justice of the APC had to deal with the restoration of reconciliation departments and investigative departments. By the decision of October 1, 1918, the APC government abolished all judicial and investigative bodies established by the Russian authorities, as well as other bodies and commissions performing judicial functions, and the Baku District Court was restored along with its subordinate departments. The Regulation "On the Judicial Chamber of Azerbaijan" was approved by the Government on November 14, 1918.

After the occupation of APC, Azerbaijan was formally independent for a while, but then "voluntarily" joined the USSR. After the termination of the existence of the independent state, like all the organs of the APC, the court, prosecutor's office and investigative bodies were abolished.

As a result of the collapse of the USSR, all the allied republics, including the Republic of Azerbaijan, declared their independence. It was after this historical event that the situation in the field of legal science changed fundamentally, as in all spheres of social life and various spheres of science. The recognition of the Republic of Azerbaijan as a subject of international law and the

transition to another socio-economic formation made it necessary to make drastic changes in the whole life of the society, especially in the field of law.

On November 12, 1995, the Constitution of the independent and sovereign Republic of Azerbaijan was adopted, which plays an indispensable role in the formation of the national state, the development of the legal system and national legislation. In chapter VII, included in the Constitution under the title "Judicial Power", the institution of judicial power has been broadly explained, and the foundations of the organization of the prosecutor's office have been included in this chapter and defined in the constitutional form.

In the nearly 40-year period when the Criminal Procedure Code, which was in force until September 1, 2000, was applied in the Republic of Azerbaijan, it was subject to many additions and changes, but it could not meet the demands of radical innovations in society. Since that systematized act, which contains all the signs of the Soviet legal ideology, could not fully respond to the modern concept of human rights and freedoms, it could not serve as the basis of the legal basis of the judicial and legal reforms being implemented in our country. Therefore, one of the most important measures implemented in the course of judicial reforms was the adoption of the updated Criminal Procedure Code.

The current Criminal Procedure Code of the Republic of Azerbaijan was adopted on July 14, 2000 and entered into force on September 1, 2000. The main peculiarity of that code is that it contains the main provisions on judicial proceedings that have been completely revised in the Republic of Azerbaijan.

Making additions and changes to the CPM is a legitimate process, because a country that has just regained its independence is implementing legal reforms related to state building, and such changes in legislation are taking place in connection with this. It is the presence of such changes that develops the country's legal system.

Chapter II is called "The place and role of the new criminal procedural legislation of the Republic of Azerbaijan in the fight against crime" and consists of three paragraphs. The first paragraph called "Constitutional-legal foundations of the new Criminal-Procedural Code of the Republic of Azerbaijan" is dedicated to the features of constitutional legal norms, their principle value, principles of criminal procedure, as well as issues such as the right to liberty and the presumption of innocence.

Any society's thinking about freedom and other such individual rights originates from the Constitution of that country. The constitution gives various assurances to the people about the form in which the state will be governed.

The author states that the new CPM, having its own constitutional and legal bases, includes articles that regulate those bases in a broader form. More important than such grounds are those related to the right to liberty and the presumption of innocence. Thus, these provisions listed in the list of basic human and citizen rights in the Constitution have already risen to the level of principles in the Criminal Procedure Code and determine the main directions of the criminal procedure legislation.

The author shows that the principles of criminal procedure differ from other norms of criminal procedural law. Thus, the principles of criminal procedure are determinative (directive) and general criminal-procedural legal norms. The sign of generality exists because the principles are concretized in relatively more specific procedural norms related to separate institutions of the criminal process and its various stages. The author considers the principles of the criminal procedure as provisions that form the basis of the constitutional-legal status of the person.

The right to freedom, which is one of the most important bases of the constitutional-legal status of the individual, is established in Article 28 of the Constitution of the Republic of Azerbaijan. The right to freedom acts as one of the initial rights that is important for ensuring other rights. The author emphasizes that problems related to the provision of the right to freedom arise mainly

when a person is arrested. It is commendable that the new CPM of the Republic of Azerbaijan has given a legal definition to arrest, but the legislation of many states does not provide for such a definition. The author also gives a theoretical understanding of arrest and believes that arrest is a preventive measure of criminal procedure law that restricts a person's freedom before the final decision of the court in terms of its legal characteristics, and is applied only to persons provided by law to ensure its legal goals.

The author referred to the case law of the European Court of Human Rights in order to define the essence of the right to freedom and its guarantees in a better and more practical way, analyzed the decisions that have already become "key cases" in the mentioned issue, and clarified various controversial and obscure issues.

In the criminal procedural legislation, the presumption of innocence at the level of the constitutional principle acts as one of the guarantees of the rights and freedoms of other people and citizens. The presumption of innocence is one of the most important general rules of modern criminal procedural law. The author states that it is a constitutional obligation not to treat a person whose guilt has not been determined by a court decision. The author emphasizes that the mass media currently pose certain threats in terms of ensuring the presumption of innocence, defines the means of preventing these threats and puts forward his opinions. The author states that the presumption of innocence creates an obligation not only for the authorities, but also for the mass media.

The author is not only researching the theoretical issues related to the presumption of innocence, but also studying its practical aspects by referring to important court decisions in this field. In particular, he evaluates it alongside the burden of proof and states that the presumption of innocence places the burden of proof on the prosecution.

The second paragraph of Chapter II is called "Analysis of democratic-legal values and international legal principles in the new criminal-procedural legislation of the Republic of Azerbaijan". The

author states that democratic legal values have their pluralism. However, there are some of them that are more often used in criminal proceedings, and it is more appropriate to analyze their situation in the new criminal-procedural legislation. In this regard, the author emphasizes that, in addition to freedom, democratic values such as fairness, equality, openness, and protection are also of great importance in terms of criminal justice proceedings.

Equality is one of the greatest democratic values not only in the criminal-procedural legislation, but in the legislation of the Republic of Azerbaijan in general. There is an idea about the right of equality that this right applies to everyone in the same way and no discrimination is allowed. This approach is accepted unambiguously from the constitutional legal point of view. However, the mentioned opinion does not prevent the application of positive discrimination during criminal-procedural activity. The author states that the equality of women and men should be interpreted as making women equal to men. It is possible to achieve effective results when the right to equality is applied together with other legal principles.

The author states that procedural equality means that everyone in the country is subject to the same criminal and criminal-procedural norms. In addition, the author analyzes the cases of positive differentiation defined in the legislation.

One of the highly valued democratic values in a legal state is justice. Justice and law are concepts so close that they affect each other's content. The author notes that justice with its multi-directional structure is one of the highest principles of law. From this point of view, justice can be considered the main norm of law. At the same time, the author accepts that the concept of justice is not definitive and can change from society to society and from time to time. Each society has its own legal regulation according to its structure, characteristics and conditions. Therefore, the concept of justice is also variable. Justice must not only be done, it must also be seen to be done.

Within the framework of the concept of justice, the author notes that the right to a fair trial contained in Article 6 of the

European Convention on Human Rights is a right that provides the minimum elements of a fair trial and is an integral part of the western legal system by ensuring the principles defined in that article from the point of view of individuals.

Analyzing the right to a fair trial from several aspects, the author notes that the purpose of the right to a fair trial is to ensure that the "decision" defining the rights and duties of the parties is made by an "independent" and "impartial" body of a "judicial" nature.

The third paragraph of Chapter II is dedicated to the investigation of the issues of "Constitutional guarantee of individual rights in the implementation of criminal-procedural activity". In this paragraph, the author examined the place of the constitutional guarantees of other individual rights, which were not explained in the previous paragraphs, but which are important, in the new criminal-procedural legislation, and made analyzes emphasizing their importance.

One of the constitutional principles that has a special place is the principle of non bis in idem. This principle, which prohibits repeated convictions for a crime, is established in Article 64 of the Constitution of the Republic of Azerbaijan. That constitutional principle is also reflected in Article 34 of the CPM and is more widely regulated. The author has analyzed the main directions of the historical development of that principle, and examined the state of its determination in international acts as well as domestic legislation.

Speaking about the constitutional principles of human rights and freedoms, the author notes that Article 67 of the Constitution defines the rights of a person arrested, imprisoned and accused of committing a crime. Those rights are the rights that are necessary to fulfill the duties of the criminal proceedings and ensure justice reaches its goal by forming one of the bases of the criminal procedural legislation. Those rights were not only stipulated in the CPM in the legislation, a separate law was adopted for this purpose, and they were also established in Article 6, Clause 3 of the European Convention on Human Rights.

The author shows that another important provision in terms of ensuring human rights and freedoms is provided in Article 61 of the Constitution. That article establishes the right to receive legal assistance. The purpose of the article, which is established as a principle in Article 19 of the CPC, is to ensure the right to defense of everyone during the criminal process by establishing the provisions related to the right of defense in the criminal procedural law. The author states that one of the criteria of the right to a fair trial is that the accused can be provided with a defense attorney from the first stage of the criminal proceedings. The author emphasizes that the right to receive legal aid includes a number of additional rights, and shows, for example, the right to guarantee the confidentiality of communication with a defender. The author notes that it would not be correct to consider the right to legal aid as a right only for the accused or suspect. Because the Constitution also defines the existence of the right of everyone to receive quality legal assistance. In terms of distinguishing the right to receive legal assistance for the circle of persons in criminal proceedings, the most interesting points are related to the witness.

The author particularly emphasizes the issue of openness of the proceedings as one of the main means of ensuring the principles of equality and competition in criminal proceedings.

The author also touches on the issues of using illegal evidence within the framework of constitutional principles, commenting on three different approaches to the use of such evidence, and concludes that our legislation expresses a position of absolute rejection of illegal evidence. However, it is clear from the text of Article 125 of the Criminal Procedure Code that in some cases, evidence obtained by illegal means may be evaluated as evidence.

Chapter III is called "Constitutional-legal nature and specific features of the new criminal-procedural legislation of the Republic of Azerbaijan" and consists of three paragraphs. In the first paragraph, called "Constitutional-legal objectives of the regulation of criminal

proceedings", the author examines the constitutional-legal objectives of the regulation of criminal proceedings. For this, first of all, the author analyzes the concept of "legislative system" and defines theoretical and legal concepts related to it.

The author emphasizes that the reason for existence and the main task of a legal state is to create a fair and safe social structure based on human rights and to be able to continue it permanently. Various means are needed to ensure this. One of such tools aimed at ensuring rights and freedoms is the Criminal Procedure Code.

The author states that the legislator should protect the fundamental rights of the accused and other persons participating in the process while defining the procedural norms in order to regulate the criminal-procedural activity, and on the other hand, should create conditions for effective prosecution of the accused. For this reason, the state's power to punish is a power that needs to be balanced with the principle of the rule of law.

The author states the purpose of modern criminal proceedings in a general way and states that its purpose is to reveal the material truth without harming the basic rights of the persons involved in the process and thus achieve a resolution of the dispute. However, analyzing the issue in some detail, he notes that there are 3 important goals of criminal justice:

- to reveal the material truth;
- ensure justice;
- obtaining and maintaining legal peace.

The author concludes that the purpose of criminal procedural legislation is not only to protect the rights of suspects or accused persons. Indeed, the dominant strategy in modern criminal procedural law is to establish a balance between maintaining social stability and respecting the basic rights and freedoms of individuals, to discover the truth, and to judge and apply fair sanctions in accordance with the principle of fair trial. The real goal of the mentioned strategy is to bring out the truth, but it is also an important condition to bring out the truth while observing the right to a fair trial. The criminal justice system should be built on this balance.

Today, the main safeguards that will ensure balance are not only in the CPC, but also in the Constitution and international legal documents.

In the second paragraph of Chapter III, which is called "New mechanisms of constitutional-legal guarantees of human and civil rights and freedoms in the new criminal-procedural legislation of the Republic of Azerbaijan", those issues are studied in the context of the duties of criminal proceedings.

The author notes that in order to clarify the nature of the new criminal procedural legislation of the Republic of Azerbaijan, one of the main issues that should be taken into account is the duties performed by criminal proceedings. Tasks are formed in accordance with the set goal, and through their fulfillment, the goal is realized.

The author emphasizes that during the analysis of the essence of the duties of our new criminal procedural legislation, a number of its features are revealed. Unlike the previous criminal-procedural legislation, it is the main feature of our new criminal-procedural legislation that more space is given to democratic values and many guarantees are provided for their effective application in practice. Anticipating the requirements of international documents and principles of international law, the new criminal-procedural legislation, which envisages a new and more effective guarantee system of human rights and freedoms, has included progressive norms as a result of improving the negative aspects of the previous legislation. One of the most important features of our new criminal-procedural legislation is related to the introduction of the institution of litigation in criminal proceedings.

In the third paragraph of chapter III, called "The place and role of the new Criminal Procedure Code of the Republic of Azerbaijan in the legal regulation of the criminal process", the importance of the legal regulation of the criminal process is studied, the place and role of the new Criminal Procedure Code of the Republic of Azerbaijan in the legal regulation of the criminal process are examined in detail.

It is important to clarify the role of the Criminal-Procedural Code in the legal regulation of the criminal process and its place in the criminal-procedural legislation.

The adoption of the Constitution of the Republic of Azerbaijan on November 12, 1995 was the most important step towards its transformation into a legal state. According to Article 7 of the Constitution, it was established that the state of Azerbaijan is a legal state. A new wave of legal reforms had to be implemented to ensure the reality of this provision. The legal reforms carried out on the eve of admission to the Council of Europe mainly included mechanisms for the protection and provision of human rights. The new Criminal Procedure Code of the Republic of Azerbaijan was a "product" of this period. The new Criminal Procedure Code, which was approved on July 14, 2000 and entered into force on September 1, 2000, became a great historical event in the development of the criminal procedural legislation of the Republic of Azerbaijan.

The CPC of the Republic of Azerbaijan, which entered into force in 2000, differed from the previous code in a number of features and proposed a completely new concept of criminal proceedings. With the new code, progressive and new institutions were brought into the sphere of criminal proceedings, the previously known institutions were regulated in a more detailed and advanced manner, and a number of institutions were abolished.

The new CPM prioritized the provision of human rights and freedoms during criminal proceedings. In order to prevent the restriction of the rights of persons who are not guilty of committing a crime as a result of the illegal actions of the officials of the bodies carrying out criminal proceedings, the institute of judicial control was established. The new CPC introduced the concept of criminal prosecution into the legislation, distinguishing it from the criminal process. The new Criminal-Procedural Code envisages a three-stage, and in exceptional cases four-stage (for example, newly opened cases) system of court consideration of criminal cases and other materials related to criminal prosecution.

The author evaluated the interaction of the new Criminal Procedure Code of the Republic of Azerbaijan with other laws from two aspects.

The Criminal-Procedural Code consists of two parts, general and special, eleven sections, 59 chapters and 525 articles. The General part of the Criminal-Procedural Code includes the applicable norms related to the regulation of all types of relations included in the Code. The general part defines the main provisions, persons involved in court and criminal proceedings, evidence and proof, procedural coercive measures, property issues in criminal proceedings, confidentiality and time limits during criminal proceedings. The Special part of the CPC includes norms regulating the features of pre-trial proceedings for criminal prosecution, proceedings in the first instance court, proceedings in the courts of appeal and cassation instances, proceedings against certain categories of persons, issues related to special proceedings.

Chapter IV is called "Problems of improving the Criminal-Procedural Code of the Republic of Azerbaijan: looking into the future in the context of the development concept" and consists of three paragraphs. In the first paragraph, entitled "Legal, social and political foundations of the improvement of the Criminal Procedure Code of the Republic of Azerbaijan in the era of globalization", the author first examines how the process of globalization affects the legal regulation and in this context determines the legal, social and political foundations of the improvement of the Criminal Procedure Code of the Republic of Azerbaijan.

The author distinguishes the following general directions of the direct impact of the globalization process on law:

1) Rise of the idea of "Human norms";

2) Creation of international legal organizations and courts;

3) Internationalization of the rule of law.

Improving legislation is an inevitable process. Because the inconsistency of the norms of the criminal-procedural legislation or their failure to meet the requirements of the time can create

conditions for the arbitrariness of the officials conducting the investigation and carrying out justice.

The author notes that, like any process, it is very important that the improvement of the legislation is based on certain foundations. Such grounds can be divided into the following 3 groups: legal, social and political.

The author shows that it is necessary to define a subtle difference between improving legislative acts and changing their provisions. Thus, changing the legislative provisions cannot mean its improvement in every case. In order to ensure the improvement of the legislation, a number of rules are used in the preparation of legal norms, adoption of normative legal acts and their further systematization. Those rules are analyzed by the author.

According to the author, as a criterion for evaluating the improvement, the factor of how effective it is to ensure the rights and freedoms of people and citizens should be taken into account.

The author states that the legal basis for the improvement of the CPM is the need to fulfill the obligations assumed by the Republic of Azerbaijan by joining various international organizations or supporting various agreements. The author also admits that it is possible to evaluate the obligation to fulfill obligations taken before international organizations or when joining any agreement as a political basis for improvement.

One type of legal relationship is formed between the state bodies carrying out criminal-procedural activities, between the state bodies and individual individuals and legal entities involved in the preliminary investigation and trial of the criminal case. The author considers such relations as a link in the system of social relations. He notes that individuals and legal entities act as one of the parties of criminal-procedural legal relations. Therefore, since these legal relations are formed with the participation of various members of the society, the normative-legal base that regulates it should originate from the thinking of that society. In this part, the author analyzes the concept of legal thinking, differentiates the legal thinking of society and professionals, emphasizes the importance of the formation of

professional legal thinking for the activity of the bodies that carry out the criminal process.

The author especially shows that some of the series of reforms initiated by the great leader, our national leader Heydar Aliyev and successfully continued by his worthy successor, the President of the Republic of Azerbaijan, Mr. Ilham Aliyev, also cover the legal field. The importance of the implementation of these reforms is that the state recognizes that the establishment of relations with its citizens is through state bodies. In order to achieve the goal set by Article 12 of the Constitution, regular reforms in this field and continuous improvement of the activities of the bodies that carry out the criminal process in order to provide people with better quality justice should be emphasized. At this time, the author analyzes a number of Decrees of the President of the Republic of Azerbaijan.

The author also attributes the political importance of improving the CPM to the fact that it directly enables the establishment of rule of law, respect for human and civil rights and freedoms. Implementation of the criminal process on the basis of more advanced norms not only increases the reputation of the bodies that carry out the criminal process, but also helps to ensure the successful fulfillment of the tasks facing the criminal justice process, to restore social justice more effectively and to increase people's confidence in the law enforcement agencies.

As a result, the author comes to the conclusion that the process of improvement of the Criminal Procedure Code of the Republic of Azerbaijan should be implemented taking into account the legal, social and political bases not separately, but as a system.

In the second paragraph of chapter IV called "The main directions of improvement of criminal-procedural law norms in the Republic of Azerbaijan: constitutional analysis", the main directions of improvement of criminal-procedural law norms are studied within the framework of constitutional norms.

The author notes that any legal act adopted for the purpose of improving the legislation must not necessarily contradict the Constitution. The author clarifies the question of what methods are

used to ensure the supremacy of the Constitution and states that in modern liberal democratic regimes, a number of mechanisms aimed at determining the conformity of laws with the Constitution have been formed in order to implement the principle of the supremacy of the Constitution. As such mechanisms, he distinguishes institutions of political control and judicial control.

Depending on the characteristics of the legislation, the author, who divides the implementation of constitutional control in individual countries into 2 types, initial and subsequent, believes that the implementation of initial constitutional control is more efficient when improving legal norms.

The author states that the principles that must be followed when the rule-making activity is carried out are provided for in Article 8 of the Constitutional Law "On Normative Legal Acts". Those principles are of great importance for the more efficient implementation of the activity during the implementation of constitutional control. In addition to analyzing those principles, the author puts forward his proposals by showing certain problematic issues related to them.

During the constitutional-legal analysis of the improvement of criminal-procedural legal norms, it becomes clear that the "Law on the implementation of human rights and freedoms in the Republic of Azerbaijan" adopted on December 24, 2002, which acts as a logical continuation of the legal reforms implemented in the direction of ensuring human rights and freedoms in the Republic of Azerbaijan on the regulation of holding" the Constitutional Law of the Republic of Azerbaijan is very important due to the range of issues it regulates. This adopted Constitutional Law aims to align the implementation of human rights and freedoms in the Republic of Azerbaijan with the Convention "On the Protection of Human Rights and Fundamental Freedoms". The author expresses his position regarding a number of provisions provided for in the framework of that Constitutional Law and identifies controversial issues.

For social development, the state should not only take care of its citizens and people, but also create the most effective conditions

for ensuring their rights and freedoms. This is one of the main points to be considered during the improvement of the criminal-procedural legal norms. In this regard, the author states that despite the fact that the rights and freedoms of the accused in the criminal process must be ensured at a high level, special provisions for the victim are also provided in the legislation in order to realize the social function of the state.

The improvement of criminal-procedural legal norms should be implemented in the direction of strengthening the legality and democracy of the state. The idea of the state's adherence to law is also established in Part II of Article 7 of the Constitution. The concept of law is based on the fact that law coordinates and limits the state in terms of the interests of the individual and society as a whole.

The author emphasizes that the fact that a person is active in defending his rights is closely related to the democracy of the state.

The author comes to the conclusion that the main directions of improvement of criminal-procedural legal norms serve the fulfillment of a single goal. For the more effective implementation of the state's highest goal, such improvements are needed as the nature of social relations changes, and the state's highest goal plays a direct role in determining the main directions of the improvements.

In the third paragraph of chapter IV called "Place and role of criminal-procedural law norms in the implementation of penal policy in the Republic of Azerbaijan", the penal policy of the state and the importance of criminal-procedural legal norms in the implementation of this policy are analyzed.

The author states that in democratic states limited by law, the careful determination of legal values that are required to be protected by criminal sanctions or security measures is considered one of the main tasks of the state in terms of specifying the boundaries of the penal policy to be applied. The state fulfills the duty of ensuring compliance with the rules of law, creating legal stability, and protecting society and individuals against legal violations with the power of punishment.

The author shows that modern constitutions have chosen the way to define the basic principles of criminal law directly in the constitution in order to fully realize the principle of the rule of law and to further secure basic rights and freedoms. These principles contained in the Constitution form the limits of the state's power to punish. Such provisions are provided in the Constitution of the Republic of Azerbaijan. Although such provisions are established in different articles in Section II of the Constitution, they have a single purpose. The goal here is to create legal conditions for the implementation of the state's penal policy and to achieve this through the maximum provision of human rights and freedoms. In order to achieve this goal, both criminal law and criminal-procedural legal norms contain more detailed regulations.

The author emphasizes that the Decree of the President of the Republic of Azerbaijan, Mr. Ilham Aliyev, signed on February 10, 2017, "On the improvement of activities in the penitentiary field, humanization of the penal policy and the expansion of the application of alternative punishment and procedural coercive measures not related to social isolation" plays an important role in determining the state's penal policy. is one of the playing acts. The said Decree is analyzed by the author and its important points are examined.

In our modern era, as a result of promoting respect for human rights and freedoms, important reforms are being implemented in the field of law. The principles of humanism play an important role in the basis of these reforms. So, since those provisions are directly aimed at the protection of people and the protection of their interests, this principle occupies one of the most important places when determining the state's penal policy.

The criminal procedural policy of the Republic of Azerbaijan means the law-making activity of the state, applying the criminal procedural law in compliance with the principles established in the Constitution, fighting crime by eliminating the causes and circumstances of the crime, and one of the main directions of the law enforcement activity of the competent state bodies. .

The author examines the problematic issues that exist in judicial practice regarding the choice of preventive detention measure, as well as the issue of extending its term.

The author states that since punishment acts as a continuation of a series of procedural coercive measures, the policy of humanizing punishments should encourage the humanization of procedural coercive measures as well. Although the Criminal Procedure Code of the Republic of Azerbaijan envisages a wide system of procedural coercive measures, unfortunately, some of them are generally not applied and the practice of their application is not formed. The most widely used preventive measures are detention and restraining orders. The author shows the bail preventive measure as one of the non-appealable procedural coercive measures and points out the problematic issues related to it and suggests ways to eliminate them.

The author emphasizes that when creating legal norms, the legislator should take into account their applicability. It is true that, in some cases, it is not a negative thing to leave different evaluation criteria to the responsibility of the body that carries out the criminal process. However, the degree of certainty of such criteria is also important. Thus, even though the norm in Articles 166.2 and 167.1 of the CPM is the evaluation criterion for the guarantor to be a "trustworthy" person, since the concept of "trust" itself is abstract, it is also important to determine the criteria on which it will be evaluated.

Emphasizing the judicial verdict as one of the institutions that is of great importance to be touched in the procedural aspects of the implementation of the state's penal policy, the author demonstrates his author's position by evaluating the practical issues related to it from the perspective of legislation.

In the final part of the dissertation, the main results obtained as a result of the current research are summarized and the conclusions of the work are shown.

The main provisions of the dissertation research are reflected in the following published scientific works of the author:

1. Legal regulation of the relationship between the legislative and executive authorities // «Pravious reforms in post-Soviet countries: achievements and problems». International Scientific and Practical Conference, March 28-29, 2014. Chisinau, 2014, pp. 31-33
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4. Domestic and international mechanisms of legal protection of children's rights // Collection of scientific works "Current issues of forensic expertise, criminology and criminology", No. 61. Baku, 2014, pp. 198-203.
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6. Features of the historical development of legislation in the field of national security in the Republic of Azerbaijan and directions for improvement // "State management: theory and practice" scientific-theoretical journal. Baku, 2014, No. 3(47), pp. 203-208.
7. Law enforcement agencies. Subject program for bachelor's training // Baku, 2014. 18 p.
8. Basics of investigative methodology of corruption crimes. Teaching materials // Baku, "Science and Education", 2014. 172 p.
9. Definition, essence and criminalistic characteristics of corruption crimes. Monograph // Baku, "Science and Education", 2014. 196 p.
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