

CONCEPT AND CHARACTERISTIC OF CRIMINAL PROSECUTION ERROR

Abstract:	<i>The article refers to forensic errors, which in turn could be both technical and tactical. Technical errors refer to the processes related to the management of material evidence (detection, fixation, lifting, transportation, preservation, expertise) and the performance of criminal prosecution actions to obtain evidence (following the performance of criminal prosecution actions and special investigative ones, the content of tactics of hearings, confrontations, presentations for recognition, reconstitutions, etc.).</i> <i>The article proposes to reveal the characteristics that are attributed to a criminal prosecution error and their classification as well.</i>
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Introduction

Criminalistics science has a transforming impact on the searching practice of infractions by studying its negative part. In our opinion, among the forensics particular tasks, it is necessary to find an activity that would aim the confrontation of circumstances that impede the efficient development of the infractions research practice and the discovering algorithms and elimination of the "criminal prosecution errors", which are committed within the process of probes' accumulation.

The errors admitted in the criminal investigation activity by persons empowered to investigate the crime or the accumulation of crimes committed by a person or a group of persons, become circumstances that generate conflict situations and the restoration of the rights of those who suffered from illegal acts may cause a negative image to the state's justice system. Such situations are not rare and the admission of errors in the investigation of crimes often depends on the investigators' professionalism, but also on the mastery of the perpetrator regarding the preparation, execution, and concealment of the illegal act consequences.

The article aims to reveal the features which are attributed to a prosecution error, and their classification.

The applied methods and materials used. In the process of the scientific article elaboration, we have guided ourselves by the system of scientific methods for research, namely the systemic method, the deductive and inductive methods, the analyses method, the comparative method, and others. The theoretical-juridical foundation of the scientific article includes the regulations referring to the procedural-criminal doctrine and forensics of the domain that refers to the framework for the accumulation of probes.

The obtained results and discussions. "The prosecution errors" reduce the quality of the infraction's research. These can be obvious and latent. In case the committed errors have not been identified, their impact is more severe on the process of the infractions' research.

1. The prosecution errors can determine the following consequences:
2. Decreasing the number of episodes and number of persons who can be prosecuted;

3. Prosecuting of innocent people;
4. Non-identification of the cases which removes the criminal nature of the act;
5. Suspension of the criminal prosecution when the person who can be charged is not identified;
6. Conducting additional research;
7. Non-justified cease of the criminal prosecution;
8. Adoption of an acquittal, etc.

The data relating to the "prosecution errors" are materialized in the large informational mass, beginning with the primary sources that represent criminal cases, up to "processed information" at different research levels, and secondary materials referring to the shortcomings of the infraction research activity. Referring to this subject, it should be mentioned that the occurrence of tactical errors within the process of infractions' research, their repetitiveness which is conditioned by the actions of similar factors, it makes possible to identify the totality of the legalities that govern the existence of the "prosecution errors".

The appreciation criteria of the prosecution quality are not of sufficient significance and are not founded scientifically. Often, the work of the penal investigation officer is appreciated at the end of the research depending on the obtained results. In this way, the negative statistical data relating to the worsening of the activity indicators of the infractions' research, tactical omissions, and logical and procedural are considered negative.

Nowadays, in the national and international doctrine, the concept of "prosecution error", is not defined neither in the theory science of forensics nor in practical forensics. The first try in this direction was made by the Russian author Ojegov S. who defined the term "error" as the inaccuracy of actions and thoughts³⁶⁵. Thus, we can speak about the existence of an error, in the case when the conditioned by certain rules and legalities action deviating from their limits. The concept of "prosecution error" also is not regulated by national legislation. This thing can be explained by the fact that the laws should contain exact terms, especially in the case when it is about juridical responsibility. Moreover, it is difficult to appreciate the mistaken actions of the penal investigation officer. All these determine the multitude of semantic interpretations.

Initially, Berdicevski, Kociarov, and Stepicev, within the process of criminal investigation cases related to murder, assigned to the „prosecution error" the findings of the court which conditioned the return of the criminal cases for additional research. In recent works, considerable stress has been laid on the procedural aspects of the "prosecution errors". Thus, Korenevski Iu. examines the concept of "prosecution error" through two meanings. In a broader meaning - it is shortcomings and in a restrained meaning – as incomplete research³⁶⁶.

Regarding the problem of „prosecution error", there should be mentioned the works of the Scientific Research Institute of the Attorney Office of the Russian Federation, where the author team identifies the law errors as wrong facts, unreasonable or illegal of the penal investigation officer associated with a violation of the Penal Procedure Code or of the Penal Code with their subsequent ascertainment in the procedural act by the prosecutor or by the judge³⁶⁷.

The above-mentioned works do not take into consideration the role of the penal investigation officer as the person who practices creative activities in that tactic risks conditions in the system of "person-person" and does not consider their reservations to errors' elimination. This means that the forensic aspect of the "prosecution errors" within the penal prosecution deserves special attention. A prosecution error – is a mistake made by the penal investigation officer or the prosecutor, realized through the incorrect appreciation of the relevant information and making an unjustified decision in a criminal case.

In our opinion, the suggested definition is a laconic one, it has a generalizing level and, at the same time, precision. This reflects the gnoseological essence of the phenomenon, juridical significance, and the main signs of a "prosecution error". The prosecution error can be seen as a specific activity and at the same time, as a result. The peculiarities of these error types are represented by the fact that they are committed by the penal

³⁶⁵ Сергей Ожегов, *Словарь русского языка [Russian dictionary]*, Москва, 1991

³⁶⁶ Юрий Корневский, *Судебная практика и совершенствование предварительного расследования [Judicial practice and improvement of preliminary investigation]*, Москва, 1974, p. 23

³⁶⁷ Александр Соловьев; Семен Шейфер, *Характер, причины и способы устранения ошибок в стадии предварительного следствия [Nature, causes and ways of eliminating errors at the stage of preliminary investigation]*, Москва, 1988, pp. 7-10

investigation officer or by the prosecutor in the conditions of a variety of procedural activities accomplished within a criminal process and criminal prosecution³⁶⁸.

As it is known, the activity accomplished by the criminal prosecution body in a criminal case is strictly regulated by the procedural norms that provide the possibility to make decisions dependent on certain rights and obligations. One of the fundamental obligations is the providence of this quality of the infraction's investigation, where every person who has committed an infraction is to be punished according to his/her guilt and the innocent person should not be held criminally liable and convicted. Among the attributions of the criminal prosecution body, we can find the initiation of criminal:

1) prosecution if the contents of the reporting document or the documents of ascertainment result in the reasonable suspicion that a crime has been committed, propose to the prosecutor the cessation of the criminal prosecution, the dismissal of the criminal case, or the refusal to start the criminal prosecution;

2) Is responsible for the legal accomplishment and in time of the criminal prosecution;

3) Suggests to the prosecutor the submission to the court of proceedings to obtain the authorization to carry out criminal procedural actions, special investigative measures, or the authorization to apply coercive procedural measures, which are carried out only with the authorization of the investigating judge;

4) Summons and hears the people who have the quality of suspects, injured parties, or witnesses;

5) Investigates and fixes, in the established manner, the place of the commission of the crime, carries out searches, collects objects and documents, and carries out, according to the law, other procedural actions;

6) From the moment of registration of the socially dangerous act, directs the special investigative measures for the crime discovery, the search of the traceless disappeared persons, as well as for the goods that were lost because of the crime, etc.

Within the criminal prosecution process, the prosecutor has some tasks as well:

1) starts the criminal prosecution or refuses its starting, or disposes the cessation of the criminal prosecution;

2) cancel the illegal orders, modify or complete the ungrounded order of the criminal prosecution body;

3) applies to the court to obtain the arrest authorization and its extension, authorization for the temporary release of the retained or arrested person, detention, investigation, surrender, search or collection of postal items, interception of communications, temporary suspension of the accused from office, physical and electronic surveillance of the person, the exhumation of the corpse, the video and audio control of the room, the installation of the audio and video recording technical means in the room, the control of informative communications addressed to the suspect, the hospitalization of the person in a medical institution for the performance of the judicial expertise and other actions for which it is requested the authorization of the investigating judge;

4) may carry out any criminal prosecution action;

5) submit notifications to the respective body regarding the immunity lifting of certain persons and their criminal liability;

6) cessation of the criminal investigation, closure of the criminal case, order the removal of the person from criminal prosecution, or apply coercive measures of an educational nature in the cases provided for by law;

7) accuses and hears the accused.

From the epistemological point of view, the activity realized by the criminal prosecution body is a special type of knowledge about past events. Knowing is accomplished through collecting, verification, and appreciation of the evidence which represents a special category of information. These include any data stated in the procedural acts, obtained during the criminal prosecution actions, and regulated by the criminal procedure law (order, report, indictment).

The errors are committed due to an unjustified decrease in the volume, surface area, and the number of examined objects. As a result, several sources of information remain undiscovered and unexplored, for example, the incorrect determination of the boundaries of the crime scene to be examined. The further development of this situation will determine the existence of incomplete investigations, in other words, the

³⁶⁸ Art.274 alin. (1) Codul de procedură penală al Republicii Moldova [*Code of Criminal Procedure of the Republic of Moldova*], No. 122-XV, 14 martie 2003, Monitorul Oficial al Republicii Moldova, 2013, No. 248-251

information collected is insufficient for the elaboration of versions that reflect the researched fact and the making of a motivated procedural decision.

In the process of information search, some sources are missed due to carelessness and the use of inefficient techniques and means. For example, when applying the investigation procedure by sectors, within the investigation of the crime scene, there is a risk of not discovering some traces, which, in some cases, will not allow the establishment of all the circumstances that must be proven. Similar errors can be made in the process of evaluating the discovered traces and other data when they are given an incorrect interpretation.

Errors are also committed at the time of fixing the observed data. This may be due to the use of prohibited methods and means or the violation of rules established by law. It should be noted that those shortcomings, gaps, and omissions are not prosecutorial errors. For example, the process of developing versions requires the formulation of several versions, only one of which will objectively explain the circumstances and nature of what happened. The others are assumed to be erroneous and after verification simply omitted.

Sometimes, the wrong choice of procedures and methods, as well as the sequence of criminal investigation actions cause delays in the investigation of crimes which, of course, refers to shortcomings, but may not affect the objectivity of decision-making.

Errors, as well, differ from actions taken to prevent a complete, objective, and multilateral investigation, including the making of a correct decision. At the same time, we can find that the error can represent the result of actions to prevent the finding of the truth carried out by a party to the process against the activity carried out by the criminal investigation body. In that situation, the action of the opposing party is not correctly diagnosed, and, under its influence, the version imposed by it is accepted. The criminal investigation body is misled if the actions to prevent the discovery of the truth and the information transmitted are presented as objective data and as actions of conscientious fulfillment of procedural obligations.

Forensic Aspects of Criminal Prosecution Errors

The content of the prosecution errors committed by the criminal prosecution body is determined by the forensic, criminal, and procedural-criminal aspects.

The forensic aspects of the errors are associated with violation of the forensic recommendations in the investigative process of the infraction.

Depending on the structural criterion, in our opinion, criminal prosecution errors are classified into the following categories:

1. technical-technological errors;
2. tactical errors:
 - elaboration and versions' verification errors;
 - organization and planning of the infractions' investigation errors;
 - tactical errors in carrying out criminal prosecution actions.

In our opinion, the indicated groups of errors can occur at any stage of an investigation.

Technical-technological errors occur because of the wrong use of procedures, methods, and technical-forensic means as well. Frequently, they are committed during the investigation of spaces, objects, expertise, and other criminal prosecution actions where it is necessary the use technical-forensic means. Technical-technological errors manifest themselves through insufficient use of the technical-forensic instruments in the process of working with the infraction's traces. In this case, the occurrence of a criminal prosecution error often is because the criminal prosecution action is carried out without the participation of a criminal officer/specialist (medical examiner or another doctor, a specialist in the field of informatics, biology, zoology et cetera).

The study of several reports about the investigation at the crime scene drawn up by criminal investigation officers, from different districts of the country and sectors of the municipality of Chisinau, proves that forensic technical means are rarely used when investigating the crime scene, for example, ultraviolet light, infrared, vacuum cleaner for micro-traces, etc., which would ensure the discovery and detection of micro-objects, micro-traces, et cetera.

The technological error represents incomplete implication of the subjects in the process of infractions' trace seeking, violation of technological recommendations concerning trace selection, and of the samples for comparative examination as well. This type of error is a latent one. For example, if the forensic

recommendation concerning soil accumulation is not respected, it becomes difficult to determine the explosion method and mechanism. Technical-technological errors occur at the accumulating stages, investigation, and keeping of relevant information from the forensic point of view.

Errors in Versions' Elaboration and Verification

The initial information about the infraction that is obtained by the criminal prosecution body is often incomplete, fragmentary, and uncertain. When some information is missing, when any explanation seems to be probable, it is possible to elaborate a version only in the case where a small but enough initial data is accumulated.

In this way, the criminal prosecution body can elaborate simultaneously on more versions on the ground of the same data which are incomplete. The elaboration of a version and the concentration only on one direction, searching for samples, can turn out to be a late statement of the fact that the version is wrong. Nevertheless, the criminal prosecution body should elaborate on more plausible versions relying on theoretical-practical recommendations and their own experience.

The error in the development of typical versions is expressed by the fact that arguments that have not been proven justify an implausible version.

Errors driven by passion for the typical version. When the data is incomplete, the typical versions are usually used. They become a priority in the investigation of the criminal case, but in some cases, their elaboration is not justified.

For example, in the case of a murder investigation and the existence of the typical criminal investigation situation: there is a victim, but it is not known who the perpetrator is and where he is, more concrete versions are not developed, which would probably refer to the perpetrator's characteristics: personality characteristic of the perpetrator, the reason for the crime, skills, inclinations, habits, place of residence and stay, level of education, the presence of any pathologies, etc., data that would significantly enhance the process of searching for and apprehending the perpetrator.

The concluded consequences – are conclusions concerning the investigated phenomena that occur because of preparing, perpetration, and hiding an infraction, as well as events that do not have a criminal nature. If we develop the version according to which the was found out the crime place, then the logical consequence is the conclusion the subject has left traces that should be discovered and examined. If there are not any traces, then the reliability of the version will decrease, it will be weakened but not rejected.

The existence of this error does not allow the complete verification of the reliability of the suggested version. This error determines the information loss and erroneous implementation of the law – restraining the probation limits³⁶⁹.

Because the version has a supposing character and often it is an inference through analogy, the conclusion of which is hypothetical and uncertain, the exists the risk of committing the following errors, for example, logical conclusions that result from the developed versions take the place of the „evidence” that is missing, being accepted as primary data. At the same time, the transition from a logical criminal prosecution action (logical investigation of an infraction) to a logical foundation is ignored. This means that the investigative actions that need to be carried out to investigate the crime are replaced by those that are possible, and what requires further verification is accepted as truth. The amplification of a version, likewise, can replace its credibility. In the deductive process of the development of versions, there are used ambiguous and unequivocal inferences³⁷⁰. In the process of establishing consequences, the existent errors manifest themselves as unclear inferences derived from the versions that are accepted as unequivocal. For example, a version that is not confirmed is substituted with its rejection (the unreal version). So, to verify the alibi, it is not sufficient only to establish the negation of the version –it is necessary to gather evidence that rejects it.

The error of ”combining the objective liaison with an accidental coincidence of facts”³⁷¹, is the most dangerous for the process of elaboration and verification of the versions. For example, the presence of a person at the crime place; the creation of traces by this person; public threats that are addressed to the victim; the

³⁶⁹ Алексей Эйман, *Логика доказывания [Logic of proof]*, Москва, 1971, p. 110

³⁷⁰ *Idem*

³⁷¹ Лиди, Карнеева, *Привлечение к уголовной ответственности. Законность и обоснованность [Bringing to criminal responsibility. Legality and validity]*, Москва, 1971, p. 90

discovery of the gun that was used in the infraction's perpetration at the crime place, and it belongs to a certain person etc. These coincidences need to be verified.

It is necessary to have doubts about the amount of the accumulated evidence and, as much as possible, especially if the infraction has been committed in unclear conditions, to enhance the amount of evidence, because the belief that the person is guilty "breaks" the vigilance. Zelenkovski calls this error the use of ambiguous primary data for the version's elaboration³⁷².

The errors committed within the process of version verification occur because not all the elaborated versions are verified, or their verification is not completed. The verification and the rejection of the false versions represent a condition for the completeness and exhaustiveness of the preliminary research; otherwise, the investigation conclusions become unconvincing (weak). For example, if there is not a complete verification of the alibi, it often serves as the basement for additional research.

The non-verified or incomplete verification of versions may influence the sentence. The error of mixing versions consists of a particular version being confused with another general one. Meanwhile, the confirmation of the version does not mean the confirmation of the general version. For the verification of a general version, it is necessary to develop and check all the versions. As it is known, the general versions explain the content and the essence of the infraction. But the versions – refer to the origins and the individual content of facts (for example, the scope of the perpetrated act).

The increase of the main version's reliability is realized in the case when the other versions, more probable, are rejected. The investigation of the empirical materials probes the fact that, as a rule, among the materials of the case, there is missing data that infirm other versions. They were probably verified, but there are no documents that can confirm this thing in the materials of the criminal case. The errors referring to versions are more frequently committed to searching and evaluating the relevant criminal information. The version precedes the investigation plan and determines its content and structure. It means that version errors cause planning errors.

The study of criminal cases demonstrates that the most frequent mistakes are committed at the initial stage of the infraction investigation when the investigation task force components and the specialists are selected. In our opinion, an irremediable error is an investigation at the crime place without the participation of a medical examiner or a simple doctor, a forensic investigator, or the policeman who knows and who is responsible for the area where the infraction has been committed. The organizing errors manifest themselves, as well, in the non-qualitative selection of the investigation task force team members, and of the other participants in the criminal investigation actions and the incorrect distribution of the responsibilities between them. The erroneous behavior of the investigation task force members, during the carrying out the criminal investigation actions, can be observed, but there is no reaction on behalf of the criminal investigation officer.

In the process of the infraction investigation, frequently there are committed management errors. The management actions refer to the establishment of limits, infraction investigation terms, and the consecutiveness of the carried-out actions (for example forwarding the charge, issuance of orders – order regarding the application of a preventive measure and ordering to close the criminal prosecution).

In this case, errors represent the adoption of certain decisions and carrying out unexpected actions which imply bureaucracy, loss of the possibility to accumulate sufficient probes, violation of human rights, etc. One of the most frequent errors, in our opinion, that refer to the management of the infraction's investigation is the adoption of certain decisions and/or carrying out some premature or late actions. In particular, the effectiveness of the investigation task force group depends on the opportunity of its creation. The time wasted can reduce the quality of the initial investigation phase. It must be realized that among the phenomena that determine the non-discovery of infractions, especially the serious ones, particularly serious ones, is the incompetence of investigative operative groups.

Analyzing the criminal cases, we ascertain a "rigid" connection between the moment of the expertise disposal and the deadlines of the criminal prosecution. The factors that can influence the deadlines of the criminal prosecution can be both objective if the expertise is not disposed of at the right time, imply waiting

³⁷² Сергей Зеленковский, *Установление и использование данных о личности потерпевшего при расследовании убийств: Дис. ... канд. юрид. наук [Establishment and use of data on the identity of the victim in the investigation of homicide: dissertation of candidate of legal sciences]*, Одесса, 1982

periods (forensic psychiatric expertise in inpatient conditions), if there were discovered new circumstances, and subjective if there were committed planning errors that refer to the expertise disposal.

Meanwhile, some discovered traces lose their qualitative characteristics, reducing in this way, artificially and unjustified the possibility of probing the guilt or innocence of the person. The hurry differs from the delay and it is due to impatience and resistance. This is a kind of „laziness” of thinking that leads to the cessation of information appreciation and the adoption of a premature decision. The management errors expressed themselves through a decreased control of the activity of the criminal prosecution officers’ group who carry out the prosecution actions, the inconsistency of plans that involve the performance of criminal prosecution actions, and special investigative measures. These errors can be called communication errors. They manifest themselves through the lack of coordination between the actions of the prosecuting officer and the investigating officer. The presence of these errors determines the poor use of the possibilities of subdivisions specialized in investigative activity by the criminal investigation officer. The lack of planning, violation of principles, and failure to follow the sequence of planned actions represent "latent" shortcomings of criminal prosecution. The necessity of planning should not even be discussed. We would like to draw attention to the planning preparation for the crime scene examination in the case of seeking the crime traces. The traces can determine the crime investigation and the establishment of the perpetrator.

Thus, the error manifests itself through an examination plan of the sectors where the infraction traces are.

The lack of plans based on functional versions. It is also a frequent shortcoming that leads to an incomplete investigation of the crime or its non-discovery. The above-mentioned errors involve the occurrence of technical-technological and tactical errors, which appear in the stages of collecting, assessing, and administering relevant information from the forensic point of view.

The tactical errors of criminal prosecution actions are the most frequent. They occur when there are not respected the provisions and recommendations of the forensics tactics. As Tvetkov has mentioned, tactical errors have "more sides" and can manifest themselves through the substitution of the criminal prosecution actions and insufficiency of detailing the declarations³⁷³. The errors that Tvetkov has indicated are only a small part of those that were met in forensic practice.

Tactical errors include, first, the fact that criminal investigation actions are not carried out during the investigation of crimes, the necessity of which is imposed by the typical criminal investigation situation. They are manifested by the absence of hearing the persons whose statements are important for the criminal prosecution, as well as the lack of other criminal prosecution actions. Likewise, witnesses, victims, or experts are not heard. The declarations of the persons directly determine the necessity of carrying out other criminal prosecution actions such as reconstruction of the fact, verification of statements at the crime scene, presentation for recognition, etc. Generalizing the criminal prosecution practice, we find that in several situations they are not carried out, even though they are necessary for the accumulation and verification of evidence. Separately, it is necessary to mention the non-compliance with the recommendations regarding the use of special knowledge, especially regarding expertise. Even though during the research samples are taken and some objects can be identified, no expertise is available.

The next type of tactical error is conducting prosecution actions without considering the circumstances of the crime. They are best highlighted during the conduct of the experiment in the criminal investigation procedure when the reproduction of the situation or other circumstances in which the act occurred was not ensured. They are based on the deficient study of the infraction commitment mechanism and the non-compliance with tactical-criminological recommendations. For example, it has experimented on the case of person X, who entered through the window and committed the crime of murder there. Not having the anatomical features of the offender, the criminal investigation officer took a man of medium build and, during a series of experiments, found out that entering through the window there should have created a mess on the table where it would not be impossible to step. When the perpetrator was apprehended, his statements contradicted the test's results. The repeated experiment confirmed the offender's statements and refuted the

³⁷³ Сергей Цветков, *Тактические ошибки следователя, их выявление и использование защитником на предварительном следствии и в суде // Тактика, методика и стратегия профессиональной защиты [Tactical errors of the investigator, their identification and use by the defense counsel at the preliminary investigation and in court // Tactics, methodology and strategy of professional defense]*, Екатеринбург, 2002, pp.117-121

research results. In the given case, the perpetrator's physical training and skills were not taken into consideration and could not be considered as well.

The following error manifests itself by making tactical decisions not based on the data collected during the investigation of a criminal case. Moreover, according to the criminal investigation officer, a real possibility of obtaining the necessary information exists. The boundary of these errors is quite large. For example, to decide on searching, in the case it cannot be delayed or when there is no basis.

Thus, there was completed a short description of different types of errors, which form the structural classification, and this list is open. The tactical errors are based on the wrong definition of the methods and the wrong choice of techniques and means of the implementation method by the persons involved in the criminal investigation. The technical-technological errors and those referring to versions, oftener than other errors, lead to failures in identifying the subject of the offense. Organisational errors and criminal prosecution planning affect the quality of the evidence and can determine additional research. At the same time, tactical and version errors are committed mostly in criminal cases.

The Discovery of Errors and Their Elimination by the Criminal Investigation Officer at the Initial Investigation Stage

The errors committed should be identified and eliminated if it is possible. For this purpose, the criminal investigation officer, the manager, and the prosecutor should possess special techniques and methods. Through correction methods of errors, it should understand the action system designated for selecting and implementing the means and methods of the errors' elimination. The set of actions for prosecution error correction includes two stages: error diagnostics and their elimination.

The diagnosis represents the prosecution case investigation for identification of the committed errors. It is expressed through a system of actions that includes error searching and their evaluation at the preliminary investigation stage and determines the program for error elimination. Thus, the diagnosis of the error integrates rationality and practicality, being a product of the professional thinking of the criminal investigation officer.

The diagnosis represents the prosecution case investigation for identification of the committed errors. It is expressed through a system of actions which includes error searching and their evaluation at the preliminary investigation stage and determines the program for error elimination. Thus, the diagnosis of the error integrates rationality and practicality, being a product of the professional thinking of the criminal investigation officer. Error seeking is the first stage of the diagnosis that refers to the discovery and the study of the initial evidence, concluding and „main”, and around them, the auxiliary ones are grouped. It is an evaluation of the own investigation according to the quality criteria, which include:

- a) the analysis of the content of the existent criminal investigation situation (taking into account if there is or there is not any suspect);
- b) verification (both mental and activity) of the reliability of the received information, special attention should be paid to the criminal investigation actions where the criminal investigation officer was not present;
- c) the establishment of the opportunity, completeness, and quality of the criminal investigation actions and the special investigation measures, taking into account the entropy of the relevant information from the criminal point of view and the perpetrator's capacity to steal from the criminal investigation or to impede the finding out the truth;
- d) a study of the reliability, the validity of the conclusions, compliance with the logical rules in their construction, as well and procedural norms.

At the seeking stage, it is recommended to use the reflection method³⁷⁴, which makes it possible to highlight the latent index that distorts the truth. The observation method at the error-seeking stage is also efficient. It allows for analyzing the participants' behavior and studying, as well, the existent information in the relevant documents of the case. The following method used for error discovery is an abstraction. Its essence is a mental abstraction from the qualities, connexions, and unessential objects and simultaneous selection, fixing of one or more aspects of these objects that are interesting for the criminal investigation officer³⁷⁵. In this case,

³⁷⁴ Александр Каминский, *Рефлексивный анализ и моделирование как средства преодоления тупиковых ситуаций расследования [Reflexive analysis and modeling as means of overcoming investigative deadlocks]*, Ижевск, 1998, pp. 3-6

³⁷⁵ Лидия Карнеева, *Привлечение к уголовной ответственности. Законность и обоснованность [Bringing to criminal responsibility. Legality and validity]*, Москва, 1971, pp. 23-28

it is preferable to use an isolating abstraction, which consists of the fact that some circumstances or their properties are mentally emphasized from the object of study, which is studied as something independent³⁷⁶. At the same time, it is recommended to concentrate the attention on those positions that refer to the category of the prosecution errors, making abstraction from the other shortcomings enclosed in the materials of the criminal case.

The comparison is also one of the methods that are used at the seeking stage. The compared objects play a different role during their comparison. One of the traits of the object that is known and leads to doubts serves as a comparison model. Such an object is called in the literature „the model”, and the second object which is compared to the model is called the „prototype”. The model represents the probation object. In the presence of the circumstances provided by the law, which need to be established and, taking into consideration the specifics of the criminal case, it is possible to create a mental model of the fact. A prototype, in this case, will serve the version that was probated by the criminal investigation officer. At the same time, it is recommended to concentrate the attention on those positions that refer to the category of the prosecution errors, making abstraction from the other shortcomings enclosed in the materials of the criminal case.

A method for seeking the prosecution errors at the initial investigation stage represents the development of all possible versions that characterize the committed fact comprehensively. The belief of the criminal investigation officer regarding the correctness of the conclusions comes when other versions, except the proven one, turn out to be incorrect. The errors' identification in the versions is carried out through the analyses of the collected evidence during the investigation. The examination of all versions and obtaining the conclusion that the event that happened is explained by another unexplored version should determine the conclusion that the event was not completely investigated. The seeking methods of the errors should be used in combination, avoiding the use of only one version.

The search for an error ends with its discovery, and then comes the second stage of diagnosis evaluation of the situation of the prosecution error. If a prosecution error is found, it is necessary to determine the moment of its appearance and to identify its consequences. It should be considered that the error could appear in parallel or could provoke another error. It is necessary to identify what investigation actions and what special investigation measures that error influenced. In case the criminal case is represented by many episodes and accused persons, it is necessary to make a scheme that could allow an adequate appreciation of the situation.

The second stage of the actions set for correcting prosecution errors is their elimination. This stage includes:

1. The localization of the criminal prosecution error

It is related to the immediate suppression of the error's influence on the research.

2. The deletion or the neutralization of consequences of the prosecution error

This stage is associated with the identification of appropriate elimination methods. The implementation of error elimination methods committed during the initial investigation should be the following:

- a. the fact of the existence of the error;
- b. methods of error elimination are directed to the restoration of the violated rights of citizens;
- c. the basis (if necessary, procedural) for the subject's use of one or another method of liquidation. It is necessary to distinguish between procedural and forensic error correction methods.

Procedural methods include:

- supplementing and modifying the charge/blame;
- changing and supplementing the accusation;
- change, revocation, or cessation, where applicable, of the preventive measure;
- modification in procedural documents, correction of material errors, removal of obvious omissions, etc.

Forensic methods include:

- performing the hearing and repeated expertise;
- cancellation of criminal prosecution situations correlated with prosecution errors;
- carrying out additional criminal investigation actions (for example, exhuming the corpse) et cetera.

In other words, forensic error correction methods consist of identifying the circumstances that make it possible to eliminate the erroneous situation.

³⁷⁶ Петр Пузиков, *Анализ и синтез – от мысли к вещи вещи [Analysis and synthesis - from thought to thing]*, Минск, 1969, pp. 16–18

3. The elimination of the error consequences (if any). The subsequent stages of the algorithm can be performed in a time gap from the previous ones.

4. The analysis and elimination of the causes of error occurrence.

5. Prevention actions for erroneous criminal situations. In this aspect, it is necessary to highlight the general preventive measures and the individual preventive measures. Thus, the error correction should be carried out based on clear definitions of concepts, and a unified classification system, considering the principles that characterize the risky professional actions performed by the persons involved in the investigation of the crime.

In this regard, we support the opinion of the author Riabokoni V. who mentioned that errors are a natural tendency of the knowledge process during the investigation of the crime. They cannot be eliminated, but by properly organizing the work, they can be significantly reduced³⁷⁷. A critical understanding of the mistakes made is a condition for acquiring professional experience, without which it is impossible to improve the quality of the investigation.

Conclusions

Summarizing what has been stated we formulate some conclusions of a consultative nature.

- The prosecution error – an unintentional mistake made by the criminal investigation officer or prosecutor expressed by incorrect assessment of relevant information and, making an unjustified procedural decision in a criminal case.

Depending on the structural criterion, the prosecution errors are classified into:

1) technical-technological errors;

2) tactical errors:

- errors in the development and verification of the versions;
- errors in the organization and planning of crime investigations;
- tactical errors in carrying out criminal prosecution actions.

- The prosecution error can occur at any stage of the criminal case investigation.

- The prosecution error correction algorithm forms a unique system designed to ensure the legality of the initial investigation.

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³⁷⁷ Владимир, Рябокони, *Следственные ошибки и пути их устранения [Investigative errors and ways to eliminate them]*, Москва, 1997, p. 12

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