

ABSTRACT
of the dissertation by Maral Tleugabylovna Abzalbekova on the topic
"Validity and reasonableness of judicial decisions in criminal proceedings"
submitted for the degree of Doctor of Philosophy (PhD) in the specialty
6D030100– "Jurisprudence"

The relevance of the dissertation research topic. Every decision made in criminal proceedings is an extremely important legal act that directly affects the fate of a person, the rights and freedoms of citizens. Questions about the guilt or innocence of the defendant, about the punishment imposed on him, about the satisfaction or refusal to satisfy the demands and petitions of the parties to the process - all this is finally resolved by a court decision. Therefore, the legality, validity and fairness of sentences, resolutions and other decisions taken in criminal proceedings are not only a requirement of legality, but also a guarantee of fair justice. Well-reasoned, comprehensively motivated judicial decisions act as the main barrier against randomness and arbitrariness in justice, laying the foundation for establishing fair justice and public confidence in the judicial system.

The higher the quality of judicial acts, the more fully the rights and legitimate interests of citizens are protected and the higher the authority of the judiciary becomes.

That is why the study of the validity and motivation of decisions taken in criminal proceedings is an urgent task for legal science and practice. The validity of decisions in criminal proceedings is understood to mean their compliance with the factual circumstances of a particular case, and their adoption based on a comprehensive assessment of all evidence.

The purpose of the dissertation research. The main purpose of the research is to provide a comprehensive theoretical substantiation of the validity and motivation of decisions in criminal proceedings, as well as to develop scientifically sound proposals aimed at improving criminal procedure legislation and improving judicial practice in this area. In other words, the purpose of the dissertation is to identify effective ways to ensure the evidence and motivation of judicial acts in criminal cases and to form a conceptual framework that facilitates their practical implementation.

Research objectives. To achieve the purpose of the study, the task was set to study the theoretical and legal foundations of criminal court decisions, their concepts, essence and types. The content of the concepts of "reasonableness" and "motivation" has also been clarified, their interrelation and evaluation criteria have been determined.

The study analyzed the Criminal procedure legislation and judicial practice of the Republic of Kazakhstan, considered the level of implementation of the requirements for the validity and reasonableness of judicial acts. Through the study of appellate and cassation judicial practice, the shortcomings and problems of law enforcement that are often found in court decisions have been identified.

International standards and foreign experience were also studied, effective legal mechanisms were proposed based on their comparison with the national legal

system. As a result of the research, scientifically based recommendations and practical recommendations were developed aimed at improving criminal procedure legislation, improving the quality and motivation of judicial acts.

The object and subject of the dissertation research topic. The object of the study. The object of the study is the criminal procedural activity that develops during the adoption of judicial decisions in criminal proceedings, as well as the totality of legal relations that arise during the implementation of this procedural activity. The subject of the study is a set of legal norms, theoretical concepts and practical mechanisms used in relation to the validity and motivation of decisions in criminal proceedings.

Research methods.

The methodological basis of the research is a harmonious complex of general scientific and private scientific methods characteristic of legal research. The methodological basis of the research was formed by a set of methods of social science and special legal cognition. In the course of the research, the general scientific dialectical method was used, the validity and motivation of court decisions were considered as an interconnected and constantly evolving legal phenomenon. Using the historical and legal method, the formation and evolution of the requirements for judicial acts in criminal proceedings were studied, especially the features of development from the Soviet period to legal reforms in independent Kazakhstan.

The method of system analysis made it possible to consider court decisions as the most important element of criminal proceedings and to identify their relationship with the institutions of evidence, prosecution and defense. In addition, based on the comparative legal method, the requirements for the motivation of judicial decisions in the Criminal procedure legislation of foreign countries are compared with the practice of the Republic of Kazakhstan and effective legal mechanisms corresponding to international standards are identified.

The main provisions to be defended.

1. The author's conceptual distinction between "reasonableness" and "motivation". The thesis scientifically proves that the validity of a criminal judicial act is the sufficiency of evidence and compliance with the rule of law, whereas motivation is the duty of the court to explain the decision logically and consistently. For the first time, the criteria applicable to these two categories have been systematized.

2. The methodology of content analysis of judicial acts based on 12 indicators. The coding scheme developed by the author, shown in Appendix A, allowed using NVivo/SPSS to study 500 sentences and rulings for 2019-2024; this method is proposed as a universal tool for quantifying the quality of court decisions.

3. Systemic gaps identified empirically. According to the results of the study, 37 percent of first instance cases do not provide a full response to the counterarguments of the parties, and in appeals, 18 percent of sentences are overturned for this reason; at the same time, regional differences, for example, 24 percent in the Karaganda region versus 11 percent in Almaty, are statistically significant at $p < 0.05$.

4. Legislative proposal on amendments to the CPC. A draft of specific editorial changes has been prepared to articles 31, 388, 395-397 of the Code of Criminal Procedure, providing for the introduction of the concept of "reasonableness of a decision" and the procedural consequences of its non-compliance; these amendments should ensure that unmotivated sentences cannot pass the appeal filter.

5. The model structure of the judicial act. A four-part model adapted to the IRAC approach is proposed: "Factual circumstances → Applicable law → Analysis of evidence and counterarguments → Conclusion". In pilot testing, it was proved that using this model increases the motivation index from 1.38 to 1.71; the model is ready to be included in the methodological recommendations of the Supreme Court.

6. KPI system for monitoring the quality of judicial acts. An evaluation matrix has been developed that includes such metrics as the "motivation index", "counterargument response rate", and "percentage of decisions upheld on appeal", and it is proposed to create a permanent quality analysis unit at the Supreme Court.

7. Competence-based training standards for judges, prosecutors, and defense lawyers. A set of modules has been developed, including the technique of writing a court decision, assessment of evidence, human rights and judicial rhetoric; a model of continuous professional development through the institute of mentoring and the CLE-points system has been proposed.

Description of the main research results.

As a result of the dissertation research on the problem of validity and motivation of decisions in criminal proceedings, a number of new scientific results were obtained and formulated. It seems advisable to group scientific novelty on three interrelated levels:

1. Interpretative innovations

a) author's, structurally refined definitions of the concepts of "validity" and "motivation";

b) a systematic list of criteria designed to assess the validity and reasonableness of a judicial act.

2. Procedural proposals

(a) Scientifically based proposals to amend articles 388, 395-401 of the Code of Criminal Procedure, as well as to include the principle of reasonableness among the general principles of the Code;

b) development of standard methodological letters and practical recommendations for the appellate and cassation instances concerning the construction of the descriptive and motivational part of the verdict and the requirements for a full response to the arguments of the parties.

3. Management-digital solutions

a) a metric model for assessing the quality of judicial decisions, including KPIs and a "motivation index";

b) development of an open database of court decisions, unified standards for publication and automated anonymization based on CCJE Opinion No. 11/2008 and CEPEJ 2024 Guidelines;

c) a structural and functional model of the judicial decision-making process by a judge, including rational, intuitive and mixed types, as well as a mechanism for distinguishing them from template texts through NLP screening.

All the listed elements of scientific novelty allow us to consider the topic of the dissertation from a new angle and identify aspects of the validity and motivation of decisions in criminal proceedings, which in previous studies received insufficient attention. The author's suggestions and conclusions not only complement the legal doctrine, but are also focused on obtaining results of practical importance.

Substantiation of the importance and novelty of the results obtained.

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The practical significance of the research is determined by the fact that its results can be directly used to improve law enforcement practice in criminal proceedings, in legislative activity, as well as in the educational process. The results obtained have scientific novelty and practical significance and are as follows:

1. The scientific novelty of the first study lies in the fact that, for the first time in legal terms, the concepts of "validity" and "motivation" of judicial decisions in criminal proceedings are systematically distinguished, their content, criteria and interrelation are determined, and a new theoretical model for evaluating judicial acts is proposed. Establishing a clear legal distinction between "reasonableness" and "motivation." A draft on amendments to the regulatory resolution of the Supreme Court of the Republic of Kazakhstan dated April 20, 2018 No. 4 "on the verdict of the court" has been prepared. This project consists of 19 articles. Appendix A.

2. Implementation of the twelve-indicator content analysis methodology as a national monitoring tool. Coding scheme in Appendix B with NVivo/SPSS 2019-2024 500 judgments have been analyzed and it has been shown that they are suitable for quantifying the quality of judicial acts. Appendix B.

3. Check sheets for judges (checklist). Another practical tool for increasing the motivation of a court verdict is the development and implementation of checklists. A checklist is a list of ordered questions and items used to verify a particular process or document. The introduction of such a tool may be proposed by the Supreme Court on its own initiative and sent to all courts. Checklists should be placed on each judge's desk as a teaching aid, even if they are not a mandatory document.

4. The author proposed to supplement the legislation. Targeted improvement of the Criminal Procedure Code of the Republic of Kazakhstan (articles 31, 388, 395-397). It is proposed to directly include in the Code the concept of "reasonableness of a decision" and the procedural consequences of its non-compliance.

5. Implementation of the model structure of the judicial act (IRAC). The text of the criminal verdict/resolution should be unified according to a model consisting of four parts: the circumstances of the case → applicable law → analysis of evidence and counter-motives.

6. In order to systematically evaluate and improve the quality of judicial acts, it is proposed to introduce a KPI-based monitoring system. This system is based on an assessment matrix consisting of several main indicators aimed at a comprehensive assessment of the substantive and structural quality of judicial decisions.

7. Formation of competency-based learning standards, a system of continuous improvement of professional knowledge of the mentor and lawyers. Introduce training modules for judges, prosecutors and defense lawyers: sentencing techniques; evaluation of evidence; human rights (AC EAC/UN No. 32); Judicial rhetoric.

Compliance with scientific development directions or government programs. The dissertation is devoted to priority areas of science development, approved by the Higher Scientific and Technical Commission under the Government of the Republic of Kazakhstan; the Concept of Legal Policy of the Republic of Kazakhstan until 2030, approved by Decree of the President of the Republic of Kazakhstan dated October 15, 2021 No. 674; The Concept for the development of higher education and science in the Republic of Kazakhstan for 2023-2029, approved by Resolution of the Government of the Republic of Kazakhstan dated March 28, 2023 No. 248; to the National Development Plan of the Republic of Kazakhstan until 2029, approved by Decree of the President of the Republic of Kazakhstan dated July 30, 2024 No. 611; to the draft of the Head of State Kassym-Jomart Tokayev "Kazakhstan in the era of artificial intelligence: current problems and its solution through radical digital changes " corresponds to the main directions of the Message to the people of Kazakhstan.

Description of the doctoral student's contribution to the preparation of each publication. The presented research results completely coincide with the main direction of the author's scientific interests and are the result of long-term and systematic research activities. The main provisions of the dissertation have been tested in 14 scientific articles published during the development of the educational program. Of these, 2 articles have been published in peer-reviewed scientific publications included in the Scopus database, 4 articles have been published in scientific publications recommended by the Committee for Quality Assurance in Science and Higher Education of the Ministry of Science and Higher Education of the Republic of Kazakhstan, and 8 articles have been published in collections of materials from international scientific and practical conferences.