

# MECHANISM FOR ENSURING THE RIGHTS OF PARTICIPANTS IN CRIMINAL PROCEEDINGS: BALANCE OF SOCIO-ECONOMIC AND LEGAL FACTORS

Roman Barannik<sup>1</sup>, Olena Kostiuchenko<sup>2</sup>, Liudmyla Dunaievska<sup>3</sup>

**Abstract.** *Research subject.* The article analyses the mechanism of ensuring the rights of participants to criminal proceedings, focusing on the interconnection of socio-economic and legal factors. The study covers procedural guarantees, institutional powers and the impact of general social conditions on the exercise of the rights of participants in the proceedings. The *methodology* includes a comprehensive approach that combines the analysis of the legal framework, statistical data, as well as theoretical provisions of criminal procedure and economics. The research uses the methods of analysis, synthesis, comparative jurisprudence and economic analysis to assess the impact of economic conditions on the efficiency of criminal justice. The *purpose of the study* is to identify the optimal balance between social, economic and legal factors affecting the protection of the rights of participants to criminal proceedings. Particular attention is paid to the analysis of procedural costs as an indicator of the efficiency of the justice system. The *results* of the study are expressed in the formation of factors that serve to establish a balance between the socio-economic and legal aspects of the mechanism for ensuring the rights of participants to criminal proceedings. *Findings.* It has been proved that for the effective functioning of the mechanism for protection of the rights of participants to criminal proceedings, an integrated approach is required which takes into account both legal and socio-economic aspects. The authors propose the ways to optimise procedural costs by introducing the principles of saving procedural resources and increasing the efficiency of their use. The paper emphasises the role of a stable economy and social policy in the formation of a fair justice system.

**Keywords:** criminal justice, pre-trial investigation, court proceedings, economic balance, social justice, procedural economy, mechanism for ensuring and protecting the rights of participants in criminal proceedings.

**JEL Classification:** K140, K410, Z130

## 1. Introduction

The field of criminal justice is not a standalone entity; rather, it is a component of a broader societal framework. Within this framework, the criminal justice system interacts with and is influenced by economic and social conditions that are characteristic of a given society. The primary objective of the criminal justice system is to ensure justice through the fair and lawful consideration of criminal cases. This objective forms part of a broader social function, which includes maintaining trust in state institutions, shaping legal culture and preventing crime.

The socio-economic conditions in which the criminal justice system operates determine both

its accessibility to citizens and the effectiveness of its procedures. For example, high levels of poverty, unemployment, inequality (Garland, 2023) or underfunding of law enforcement and the judiciary can lead to systemic human rights violations, biased justice or abuse by those in authority. At the same time, a stable economy, a high level of education and an effective social security system can create a favourable basis for the establishment of the principles of fairness, competition and legality in criminal proceedings.

Criminal proceedings serve not only as a tool for responding to criminal offences, but also as a marker of the level of civilised development of society. The effectiveness of its functioning is an indicator

<sup>1</sup> Zaporizhzhia National University, Ukraine (*corresponding author*)

E-mail: [0667202628roman@gmail.com](mailto:0667202628roman@gmail.com)

ORCID: <https://orcid.org/0009-0008-1202-5535>

<sup>2</sup> Taras Shevchenko National University of Kyiv, Ukraine

E-mail: [1966lkos@gmail.com](mailto:1966lkos@gmail.com)

ORCID: <https://orcid.org/0000-0002-2243-1173>

<sup>3</sup> Taras Shevchenko National University of Kyiv, Ukraine

ORCID: <https://orcid.org/0000-0002-8093-3892>



of the degree of realisation of human rights, the rule of law, as well as the level of trust in the state in general. In this context, the criminal process can be seen as a mirror of the socio-economic structure of the state, which allows identifying not only legal but also systemic social problems that require a comprehensive solution. The results of criminal proceedings have a direct impact on the economy and social structure of a state. In particular, bringing a person to criminal liability in some cases can cumulate social injustice and cause economic hardship (Pleggenkuhle, 2018).

The basis of criminal proceedings is the mechanism of ensuring the rights of participants in criminal proceedings, which is defined by Kuchynska O. P. as an interacting complex system that includes a number of components: 1) procedural guarantees; 2) institutional powers of certain officials and bodies; 3) general social conditions (Kuchynska, 2013). Taken together, they ensure the legitimate exercise of the rights of participants in criminal proceedings, and, where necessary, their protection, defence and/or restoration. General social conditions include the factors and factors that directly affect the implementation of this mechanism. Social and economic conditions serve as a prerequisite for the development of criminal justice (Barlow, Barlow, & Chiricos, 1993), and, accordingly, for the proper functioning of other components of this mechanism.

The implementation of the mechanism for ensuring the rights of participants in criminal proceedings is closely linked to the need to pay procedural costs. Procedural expenses are material costs provided for by the CPC of Ukraine that meet the needs of pre-trial investigation and court consideration of criminal cases. They include expenses for legal aid, expenses for the participation of victims, witnesses, experts, transportation and storage of evidence (Voloshanivska, Yepryntsev, & Hanenko, 2023). The basis for procedural expenses is the state budget, which is formed and filled at the expense of taxpayers. Accordingly, taxpayers, who, on the one hand, are a source of funding for criminal proceedings, and on the other hand, are subjects that may be subject to the mechanism of ensuring the rights of participants in criminal proceedings, strive to form an appropriate balance between their expenses and the potential effectiveness of the mechanism of ensuring the rights of participants in criminal proceedings. For this reason, there is a call among economists to analyse criminal proceedings using economic categories (Monzingo, 1977).

## **2. Analysis of the Components of the Mechanism for Ensuring the Rights of Participants in Criminal Proceedings**

The mechanism for ensuring the rights of participants in criminal proceedings is a system of interrelated

elements that ensure the exercise and protection of the rights of persons involved in criminal proceedings.

Procedural guarantees are legal norms enshrined in the criminal procedure legislation that establish the procedure for exercising the rights and freedoms of participants in the proceedings, as well as ensure compliance with the principles of adversarialism, presumption of innocence, right to defence, etc. In the theory of criminal procedure, these include the right to silence, the right to a lawyer, the right to appeal against procedural decisions, the right to be acquainted with the materials of the proceedings, and clearly defined terms of detention and trial.

The institutional powers of officials and bodies are an organisational and legal component that covers the system of pre-trial investigation bodies, prosecutors, courts, as well as the powers of investigators, inquirers, prosecutors, judges, and lawyers. It ensures the effective implementation of procedural guarantees and enforcement of decisions. For example: the powers of the investigator to conduct pre-trial investigation, the powers of the prosecutor to provide procedural guidance, the powers of the investigating judge to exercise judicial control over the observance of the rights, freedoms and interests of persons in criminal proceedings, and the powers of the court to conduct judicial proceedings in cases under consideration.

General social conditions provide the broader context within which the criminal justice system operates. These include economic well-being, citizens' level of legal awareness, trust in law enforcement agencies and the effectiveness of state policy on human rights. This can include ensuring access to free legal aid, adequately funding law enforcement agencies, making the judiciary more open and accountable, and making information about procedural rights more accessible to citizens.

All these components together form an integral system that ensures not only formal but also actual protection of the rights of participants in criminal proceedings. Legislation is a regulator of social relations and a factor of their proper organisation. It is through the system of legal norms that the state ensures predictability, stability and fairness of law enforcement practice. In the context of criminal proceedings, law performs not only the function of a formalised regulatory guideline for the behaviour of participants in the proceedings, but also serves as the basis for building an effective mechanism for protecting their rights.

The legislation formulates the content of the mechanism for ensuring the rights of participants in criminal proceedings by regulating its key components such as institutional, procedural, guarantee and control elements. Each of these components operates on the basis of clearly defined rules that not only establish the procedure for the actions of the parties

to the proceedings, but also create safeguards against human rights violations. Thus, in this context, law is not only a regulatory tool, but also a mechanism for legitimising and institutionalising the principles of the rule of law, justice, equality, adversarialism and the presumption of innocence.

In addition, the law ensures the dynamism and adaptability of the mechanism for ensuring rights, as it allows for changes in the legal framework in accordance with the challenges of time, international standards and social transformations. Thus, the role of law is not only to create a legal framework, but also to ensure a balance between the interests of the state in the fight against crime and the need to protect the rights and freedoms of persons involved in criminal proceedings.

### **3. Economic and Social Factors in the Implementation of the Mechanism for Ensuring the Rights of Participants in Criminal Proceedings**

Speaking about the implementation of the mechanism for ensuring the rights of participants to criminal proceedings, the following economic factors can be identified: 1) the cost of implementing the mechanism; 2) procedural savings in the implementation of the mechanism; 3) economic benefits of the mechanism.

As for social factors, it is possible to distinguish: 1) ensuring social justice; 2) implementing the idea of a welfare state.

The cost of implementing the mechanism involves an analysis of the financial costs of investigative, procedural and organisational actions necessary to guarantee the rights of all participants in the proceedings. The cost includes the salaries of the state's participants in criminal proceedings, material support, expert examinations, free legal aid, etc.

Procedural savings in the implementation of the mechanism reflects the efficiency of resource allocation in criminal proceedings, avoidance of duplication of functions, reduction of time for consideration of cases without compromising the quality of proceedings and observance of human rights.

The economic benefit of the mechanism may be manifested in a reduction of state expenditures on detention in pre-trial detention centres, prevention of erroneous decisions, reduction of the number of appeals and reviews of cases, as well as preservation of the productive potential of a person who could be unfairly prosecuted.

Ensuring social justice involves equal access to justice and protection of rights regardless of social status, financial situation or any other characteristic of a person. Social justice is a cornerstone of public trust in the justice system.

The implementation of the idea of a welfare state obliges this state to provide decent conditions for the protection of human rights, to facilitate the reintegration of persons in conflict with the law, and to prevent social exclusion or discrimination in the course of criminal proceedings.

Undoubtedly, the conduct of criminal proceedings is inextricably linked to the need for the state and its authorised bodies to provide sustainable funding for all related expenses. Analysing the items of the state budget of Ukraine, as of 2025, the expenditure figures for the functioning of the bodies involved in the implementation of the mechanism will be as follows (The Law of Ukraine "On State Budget of Ukraine for 2025", 2024):

- The National Anti-Corruption Bureau of Ukraine (2.179 billion UAH);
- The State Bureau of Investigation (3.456 billion UAH);
- The Bureau of Economic Security of Ukraine (1.234 billion UAH);
- The Security Service of Ukraine (41.324 billion UAH);
- The National Police of Ukraine (104.695 billion UAH);
- The Office of the Prosecutor General (18.15 billion UAH);
- The High Anti-Corruption Court (507.7 million UAH).

In the criminal justice system, procedural costs have not only technical but also legal, economic and social significance. They represent a set of resources aimed at the implementation of criminal proceedings from the moment of the pre-trial investigation to the execution of the final procedural decision. These costs accumulate not only direct financial expenses, but also the value of organisational, human, time and material and technical resources necessary to ensure the legal, reasonable and timely resolution of a criminal case.

Procedural costs include, in particular, the costs of pre-trial investigation bodies (National Police, SBI, SSU, NABU, BES), prosecutors, the judiciary, expert institutions, probation authorities and other entities involved in the criminal process. In particular, this includes remuneration of the relevant employees, expenses for their official activities (transport, communications, technical means, specialised equipment), maintenance of the material and technical base, protection and preservation of material evidence, conducting examinations, engaging translators, witnesses, specialists, as well as ensuring the procedural participation of victims, defendants, and lawyers.

In addition, procedural costs include funds allocated for the implementation of measures to ensure criminal proceedings: temporary seizure of property, seizure of property, summons, detention, house arrest, etc. Their implementation also requires significant financial, organisational and human resources.

Thus, procedural costs are not only an element of financing the activities of law enforcement agencies

and the judiciary, but also an indicator of the efficiency of the criminal justice system as a whole. Excessive or inefficient costs may indicate a systemic imbalance, violation of the principles of procedural economy, or the need to reform certain procedures and institutions. Procedural economy is the implementation of fast, efficient and rational criminal proceedings by preventing the repetition of investigative and other procedural actions, as well as cost optimisation (Voloshanivska et al., 2023).

The economic consequences of criminal proceedings, which are directly related to the implementation of the mechanism for ensuring the rights of participants in criminal proceedings, remain completely unclear and undisclosed in the context of Ukraine. The proper implementation of the mechanism for ensuring the rights of participants in criminal proceedings is a key condition for the legality, fairness and efficiency of criminal proceedings. Violation or formal application of such mechanisms may lead to significant negative consequences, including bringing to criminal liability persons who are not subject to it or applying to a person a more severe sanction than is provided for by the circumstances of the case.

The consequences of such situations go beyond the legal plane and penetrate the social and economic spheres. A person subjected to unlawful criminal prosecution loses social inclusion, trust in the legal system, and economic stability. Loss of employment, restrictions on the right to movement, social stigma are all direct or indirect consequences of imperfect or unlawful application of the rights protection mechanisms.

#### **4. Balance of Social and Economic Factors in the Implementation of the Mechanism for Ensuring the Rights of Participants in Criminal Proceedings**

The balance of social and economic factors in the implementation of the mechanism for ensuring the rights of participants in criminal proceedings is an optimal balance between social aspects (interests of the individual, society, access to justice, etc.) and economic aspects (costs of the law enforcement system, funding of legal aid, efficiency of resource use), which is aimed at guaranteeing fair, equal and effective protection of the rights of persons involved in criminal proceedings without violating the principles of the rule of law and social justice. It can be defined as a system of rules and approaches.

Financing of criminal proceedings should properly ensure the exercise of the rights of its participants. Effective exercise of the rights of participants in criminal proceedings requires not only legal entrenchment of such rights, but also proper financial support. The costs of legal aid, translation for persons who do not speak the

state language, expert examinations, transportation of defendants, and access to justice all require predictable and stable funding from the state. Insufficient budgetary funding leads to formal or limited exercise of rights, such as the right to defence, the right to be heard, and the right to a fair trial. Thus, funding is not only an administrative category, but also a direct element of the human rights protection mechanism.

In criminal proceedings, investigating authorities, prosecutors and courts should anticipate the economic and social consequences of their decisions, forming a proper balance between them and the need to implement legal norms. The criminal justice system should not only be fair, but also effective in terms of economic and social impact. The decision to take a person into custody, for example, should take into account not only the gravity of the crime, but also the potential social consequences – loss of employment, family destabilisation, and an increased social burden on the state. Similarly, in the case of sentencing, it is necessary to assess whether general and special prevention has been achieved by using the least costly means (alternative punishments). Thus, law enforcement should include an impact assessment model to achieve a balance between the values of law and the realities of socio-economic life.

Criminal proceedings should assess the costs of the activities of the authorities and institutions, as well as the benefits obtained as a result of criminal proceedings. Criminal prosecution should be not only effective in terms of establishing the truth and restoring justice, but also reasonable in terms of costs. The state should develop approaches to assessing the cost-benefit ratio in criminal proceedings. This includes the costs of investigations, procedural support (examinations, interrogations, court hearings), detention, etc. At the same time, the potential "benefit" should also be assessed such as restoration of justice, reduction of recidivism, and increased trust in justice. This approach will allow avoiding unnecessary procedural actions and focusing on cases where the public interest is a real priority.

#### **5. Conclusions**

The mechanism of ensuring the rights of participants in criminal proceedings is an important tool for implementing not only the tasks of criminal justice, but also the establishment and proper functioning of social and economic factors of existence and activities of the state.

For proper implementation, a balance must be struck between the economic, social and legal prerequisites for the implementation of this mechanism. This balance is defined through the prism of three factors: 1) ensuring proper financing of criminal proceedings; 2) forecasting social and economic



consequences of actions and decisions within criminal proceedings; 3) assessment of expenses incurred within criminal proceedings.

Such an approach to criminal proceedings will not only ensure the rights of participants in criminal

proceedings, but also optimise its financial and material component, which will result in improved use of economic resources by the state, the establishment of social justice, and the reduction of discrimination factors.

## References:

- Barlow, D. E., Barlow, M. H., & Chiricos, T. G. (1993). Long economic cycles and the criminal justice system in the U.S. *Crime, Law and Social Change*, 19(2), 143–169. Available at: <http://link.springer.com/10.1007/BF01915553>
- Garland, D. (2023). The Current Crisis of American Criminal Justice: A Structural Analysis. *Annual Review of Criminology*, 6(1), 43–63. Available at: <https://www.annualreviews.org/doi/10.1146/annurev-criminol-030722-035139>
- Monzingo, J. E. (1977). Economic Analysis of the Criminal justice System. *Crime and Delinquency*, 23(3), 260–271. Available at: [https://heinonline.org/hol-cgi-bin/get\\_pdf.cgi?handle=hein.journals/cadq23&section=38&casa\\_token=S--fpkuNiSkAAAAA:2cJ0mgbyi0gAoqOP1oeYYc6SyZ-v2gibZOsBVNPSU-OxO8ssGWyp20ga8VEWcfLRCd\\_rssIm](https://heinonline.org/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/cadq23&section=38&casa_token=S--fpkuNiSkAAAAA:2cJ0mgbyi0gAoqOP1oeYYc6SyZ-v2gibZOsBVNPSU-OxO8ssGWyp20ga8VEWcfLRCd_rssIm)
- Pleggenkuhle, B. (2018). The Financial Cost of a Criminal Conviction: Context and Consequences. *Criminal Justice and Behavior*, 45(1), 121–145. Available at: <https://journals.sagepub.com/doi/10.1177/0093854817734278>
- Voloshanivska, T., Yepryntsev, P., & Hanenko, I. (2023). Procedural costs in criminal proceedings initiated in connection with criminal offences committed by minors: the impact of reasonable allocation on the economic system of the country. *Baltic Journal of Economic Studies*, 9(5), 81–86. DOI: <https://doi.org/10.30525/2256-0742/2023-9-5-81-86>
- Kuchynska, O. P. (2013). *The Role of the Principles of Criminal Proceedings in the Mechanism of Ensuring the Rights of its Participants* (Dissertation for the degree of Doctor of Juridical Sciences). Taras Shevchenko National University of Kyiv, Kyiv.
- The Law of Ukraine "On State Budget of Ukraine for 2025" (2024). Bulletin of the Verkhovna Rada (BVR), 2025, No. 15-17, Art. 40. Available at: <https://zakon.rada.gov.ua/laws/show/4059-20>
- Kostiuchenko, O., Akhtyrskaya, N., Miroshnykov, I., & Dunaievskaya, L. (2023) Observance of individual rights in criminal proceedings during martial law (Observancia de los derechos individuales en los procesos penales durante la ley marcial). *CUESTIONES POLÍTICAS* Vol. 41 N° 76: 482–501. DOI: <https://doi.org/10.46398/questpol.4176.28>

Received on: 12th of April, 2025

Accepted on: 24th of May, 2025

Published on: 25th of June, 2025