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A THREE-TIER CLASSIFICATION OF PROCEDURAL FORM VIOLATIONS IN CRIMINAL PROCEEDINGS: THE DOCTRINAL BASIS OF A PREVENTION MECHANISM

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Statement of the problem. In criminal proceedings, compliance with procedural form is a guarantee of legality; in practice, however, violations of procedural law are either ignored as “insignificant” or are assumed to render evidence automatically inadmissible. In the author’s view, neither extreme approach serves the purpose of procedural form: the first weakens the guarantee, while the second subjects the proceedings to technical objections.

Definition of procedural form. The study adopts the following definition: criminal procedural form is the totality of the rules and procedures established by law for carrying out, formalizing and documenting the legally significant actions of authorized state bodies and participants in the process in the conduct of a criminal case. This definition views form not merely as a requirement to draw up a document, but as the entire chain of carrying out, formalizing and documenting an action.

Three-tier classification. So that the consequences of violations are proportionate to their nature, three tiers are proposed. First, insignificant



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violations: they are remedied and assessed together with the circumstances of the case. Second, material violations: their consequence is determined on the basis of an “impact test”; that is, if the violation caused real harm to the right to defense or undermined the reliability of the evidence, the evidence is declared inadmissible or the decision is set aside. Third, absolute violations: they are defined by a closed list in the law (Article 488 of the Criminal Procedure Code; Resolution No. 24 of the Plenum of the Supreme Court of the Republic of Uzbekistan of 24 August 2018) and entail consequences regardless of impact. The concept of a “serious violation” unites material and absolute violations. Such a system, within a single approach, both strengthens the guarantee and protects against unfounded annulment.

Prevention mechanism. Classification determines the consequence of a violation, whereas prevention requires building a structure into the procedural action itself. For this reason, the study develops proposals on the rule of audio-video recording of investigative actions, subject to the requirement to document exceptions established by law (Article 108¹ of the Criminal Procedure Code); on time-limit and notification requirements at the verification stage; and on amendments to the Plenum’s explanations aimed at unifying judicial practice.

Conclusion

The three-tier classification of violations makes it possible to preserve procedural form both as a formality and as a guarantee: insignificant defects do not halt the proceedings, while absolute violations are never overlooked. In practical terms, the proposal gives courts and investigative bodies a single criterion and serves as the doctrinal basis of the prevention mechanism.