

Teaching Syllabus of The Russian Criminal Procedure Law in Transition

- 1. Lecture Hours: 32**
- 2. Laboratory Hours: 2**
- 3. Colloquia Hours: 16**
- 4. Individual Study Hours: 20**
- 5. Credits: 2**
- 6. Prerequisite(s): not required as prerequisite**
- 7. Course Description:**

Topic 1: General and Specific Characteristics of Russian Criminal Procedure

Concept of criminal procedure. Aims and strategies of criminal procedure. Tasks of criminal procedure and their content. Relationship between criminal procedure and operative-search activities.

Forms of criminal procedure: unity and distinction. System of criminal case proceedings: general (main) proceedings; criminal proceedings concerning minors; proceedings involving compulsory medical measures. Criminal procedure and the judiciary. Stage system of criminal procedure. Safeguards of criminal procedure. Main types of criminal procedure. Investigative, adversarial, and Islamic types of criminal procedure. Specific features of Russian criminal procedure.

Concept and significance of Russian criminal procedure law. Regulatory mechanism of criminal procedure. Norms of criminal procedure. Interpretation and application of criminal procedure rules. Admissibility of analogy in criminal procedure. Criminal procedural relationships. Criminal procedural acts and their types and purposes. Relevance of criminal procedure law to other branches of law.

Topic 2: Principles of Russian Criminal Procedure

Concept and system of principles of criminal procedure. Role of principles in protecting human and civil rights and freedoms. Importance of principles for exercising the right to judicial proceedings.

Meaning and characteristics of principles of Russian criminal procedure: publicity of criminal proceedings; comprehensiveness, completeness and objectivity of case examination; respect for the right to a reasonable time; legality of criminal proceedings; administration of justice exclusively by the court; independence of the judiciary; respect for honor and dignity; inviolability of the person; protection of human and civil rights and freedoms in criminal proceedings; inviolability of the home; confidentiality of correspondence, telephone conversations, postal, telegraph and other messages; presumption of innocence; adversarial nature of the parties; ensuring the right of the suspect and accused to defense; freedom to evaluate evidence; language of criminal procedure; right to appeal procedural actions and decisions.

Topic 3: Participants in Russian Criminal Procedure

Participants in criminal proceedings in Russian criminal procedure and their classification. Circumstances precluding participation in Russian criminal proceedings.

Role of the court in Russian criminal procedure. Powers of the court. Judicial authority.

Prosecutor, investigator, and head of investigation agency as participants in Russian criminal procedure. Their powers and interaction. Head of investigative unit, investigative body, and interrogating officer as participants in Russian criminal procedure: their powers, interaction with each other, and interaction with prosecutor and investigator. Victim and private prosecutor, civil claimant, representatives of victim, civil claimant and private prosecutor as participants in Russian criminal proceedings.

Suspect and accused, their legal representatives in Russian criminal proceedings. Right to rehabilitation. Defense counsel in Russian criminal proceedings. Invitation, appointment, replacement, and remuneration of lawyer. Mandatory participation of lawyer, waiver of defense counsel. Civil defendant and their representative in Russian criminal proceedings.

Persons with whom a pre-trial cooperation agreement has been concluded.

Other participants in Russian criminal proceedings: witness, expert, specialist, interpreter.

Topic 4: Evidence and Proof in Russian Criminal Procedure

Evidence law and proof in criminal cases in Russian criminal procedure.

Circumstances to be proved. Limits of proof. Proof as achievement of truth. Collection, verification and evaluation of evidence as a process of proof. Evidence as a means of proof. Relevance, admissibility, reliability and sufficiency of evidence. Types of evidence, classification of evidence. Use of results of operative-search activities in proof. Importance of legal presumptions and pre-judgments in evidence. Subjects of proof and their classification. Issue of burden of proof in criminal proceedings. General and specific features in testimonies of various participants in criminal proceedings. Opinion of expert and specialist as means of proof. Differences between expert opinion and specialist conclusion. Evaluation of expert and specialist conclusions. Concept of physical evidence and its procedural form. Peculiarities of collection, verification and evaluation of physical evidence. Concept and types of "other documents" as means of proof. Peculiarities of collection, examination and evaluation of "other documents". Criteria for distinguishing "other documents" from documents possessing characteristics of physical evidence.

Topic 5: General Characteristics and System of Pre-Trial Proceedings in Russian Criminal Procedure

Concept of pre-trial proceedings in Russia and its system. Judicial control, prosecutorial supervision and departmental control over legality of pre-trial proceedings. General characteristics of the stage of initiation of a criminal case in Russian criminal procedure. Substance and significance of the initiation stage. Grounds and scenarios for initiating criminal proceedings. Procedure and content of reviewing (verifying) crime reports. Procedure for appealing rejection of crime report. Decisions based on results of review of crime report. Procedure for appealing decisions. Procedure for initiating public prosecution, private-public prosecution and private prosecution criminal cases. Procedure for initiating criminal proceedings against certain categories of persons. General characteristics of the preliminary investigation stage (concept, meaning, tasks). Forms of preliminary investigation (preliminary investigation, general order of inquiry, simplified forms of inquiry) and their features. Stages of preliminary investigation, suspension and resumption of investigation. General conditions of preliminary investigation. Procedural significance

and stages of charging a person as accused. Types of interrogation and inquiry. Characteristics of simplified inquiry. Forms of completion of preliminary investigation and inquiry. Characteristics of termination of criminal case. Termination of criminal case or criminal prosecution in connection with imposition of a criminal penalty measure in the form of judicial fine. Termination of criminal prosecution in connection with compensation for damage. Departmental control and prosecutorial supervision over bodies conducting preliminary investigation. Judicial control over pre-trial proceedings.

Topic 6: Investigative Actions in Russian Criminal Procedure

General characteristics of the system of investigative actions in Russian criminal procedure. Concept and system of investigative actions. General rules for conducting investigative actions. Record of investigative action. Judicial procedure for obtaining permission to conduct investigative action. Participation of interpreter, expert, witnesses in investigative actions. Characteristics of personal investigative actions in Russian criminal procedure and their procedural order. Features of conducting investigative actions using information and telecommunication technologies.

Topic 7: Criminal Case Proceedings in the Court of First Instance

Proceedings in the court of first instance in Russian criminal procedure: concept and system.

General procedure for trial preparation. Powers of the judge regarding criminal case submitted to the court. Issues to be clarified in a criminal case submitted to the court.

Preliminary hearing as a form of trial preparation. Grounds and procedure for holding a preliminary hearing. Types of decisions taken by the judge at the preliminary hearing. Return of criminal case to prosecutor. Suspension of criminal proceedings. Termination of criminal case or criminal prosecution.

General characteristics of the trial stage in Russian criminal procedure. Concept and significance of trial. Stages of trial and their characteristics. General conditions of trial. Features of conducting judicial proceedings using video conferencing.

Concept and significance of sentence in Russian criminal procedure. Types of sentence. Content and form of sentence. Issues to be resolved by the court when passing sentence.

Use of electronic documents and various forms of procedural documents in criminal proceedings.

Issues of enforcement of decisions.

Topic 8: Review of Court Decisions in Criminal Cases

Concept and types of review of court decisions in Russian criminal procedure. Appeal procedure. Right of appeal. Appeals and submissions. Circumstances and limits of appellate review. Subjects entitled to appeal court decisions. Procedure for considering criminal cases on appeal. Grounds for annulment or modification of first-instance court decisions; annulment or modification of acquittal. Appeal against rulings and decisions of the appellate court. Types of decisions of the appellate court. Cassation procedure in criminal cases. Nature, significance and main features of cassation procedure. Circumstances and limits of cassation court proceedings. Subject of cassation. Cassation appeals and submissions. Procedure for considering criminal cases in cassation court. Decisions taken by cassation court. Grounds for annulment or modification in cassation.

Supervisory procedure. Nature and significance of supervisory procedure. Subjects entitled to appeal court decisions that have entered into force. Courts considering supervisory appeals or submissions. Procedure for filing and considering supervisory complaints and submissions. Order of consideration of criminal cases in supervisory court. Decisions of supervisory court. Grounds for annulment or modification of court decisions by way of supervision. Limits of supervisory authority.

Resumption of proceedings due to newly discovered circumstances in Russian criminal procedure.

Topic 9: Differentiated Criminal Procedure Procedures

Procedure for applying measures of a criminal law nature in case of exemption from criminal liability.

Characteristics of court proceedings with participation of jurors.

Special proceedings. Special procedure for adopting a court decision upon agreement of the accused with the charge brought. Grounds and conditions for applying special procedure for court decision.

Special procedure in case of pre-trial cooperation agreement. Procedure for filing and considering a petition to conclude a pre-trial cooperation agreement. Peculiarities of conducting preliminary investigation. Peculiarities of court hearing and sentencing of accused with whom a pre-trial cooperation agreement has been concluded.

Proceedings concerning minors. Age and psychological characteristics of minors as basis for consolidating certain features of legal procedure in such cases. Characteristics of subject of proof. Features of investigative actions involving minor suspect or accused. Peculiarities of termination of criminal case and criminal prosecution against minors. Peculiarities of judicial proceedings in cases of juvenile delinquency. Release of minor accused from criminal liability by court with application of compulsory educational measures.

Proceedings on the application of compulsory medical measures. Grounds for proceedings on application of compulsory medical measures. Peculiarities of pre-trial preparation. Grounds for placement in psychiatric hospital. Peculiarities of trial. Appointment, termination, modification and extension of application of compulsory medical measures. Resumption of criminal proceedings against persons to whom compulsory medical measures have been applied.

8. Course Outcomes:

Upon completion, students will be able to:

- Understand the general and specific content of Russian criminal procedure; lay a conceptual foundation for further study.
- Understand the principles of Russian criminal procedure, participants in Russian criminal proceedings, and evidence in Russian criminal procedure, thereby assisting students in understanding the general part of Russian criminal procedure law and enhancing theoretical literacy in the study of criminal procedure.
- Understand the general characteristics and system of pre-trial proceedings in Russian criminal cases, investigative actions in criminal proceedings, proceedings in the court of first instance, and first-instance procedures, thereby enriching the procedural

knowledge base for studying criminal procedure and laying a procedural foundation for understanding and experiencing judicial practice.

-Understand the forms of review of criminal cases and proceedings in the appellate court, thereby enriching the remedial knowledge base for studying criminal procedure and further understanding the means of achieving substantive justice.

-Understand proceedings in the supreme court and supervisory bodies, resumption proceedings, and the special part of Russian criminal procedure, thereby aiding in understanding the dialectical relationship between judicial justice and social justice in the context of political system reform.

9.Grading:

- Prerequisite quiz: 10%
- Homework: 50%
- In class Quizzes: 20%
- Group Presentation: 20%

10.Text & Reference Book:

(1)Bhat , Girish,The Rule of Zakon: The Criminal Cassation Department and Legality in Late Imperial Russia,<http://onlinelibrary.wiley.com/doi/full/10.1111/russ.10710>

(2)SP. Boylan, Coffee from a Samovar: The Role of the Victim in the Criminal Procedure of Russia and the Proposed Victims Rights Amendment to the United States Constitution,
http://heinonlinebackup.com/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/ucdl4§ion.

(3)Stephen C. Thaman,The Jury as Catalyst for the Reform of Criminal Evidentiary Procedure in Continental Europe: The Cases of Russia and Spain,
http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2565908