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# LIMITS OF CRIMINAL CASE ADJUDICATION

## SPECIALTY 554.03 – CRIMINAL PROCEDURAL LAW

**Summary of the Doctoral Thesis in Law**

**CHISINAU, 2025**

The thesis was developed within the Doctoral School of Legal and Economic Sciences,

Moldova State University

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The doctoral thesis and summary can be consulted at the Moldova State University Library and on the website of the National Agency for Quality Assurance in Education and Research.

The summary has been sent on 26 february 2025.

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## CONCEPTUAL FRAMEWORK OF THE RESEARCH

***Relevance of the Research Topic***. Respect for human rights in criminal proceedings is essential to ensuring a fair trial, protecting human dignity, and preventing abuse, thus contributing to the strengthening of the rule of law and citizens' trust in the judiciary.

A significant influence on the level of judicial protection of individuals' rights was exerted by the Republic of Moldova's ratification of the European Convention on Human Rights, which establishes guarantees in the field of defending fundamental human rights and freedoms. Thus, according to paragraph 1 of Article 6 of the ECHR „*Everyone is entitled to a fair, public hearing of their case within a reasonable time by an independent and impartial tribunal established by law, which will decide either on the violation of their civil rights and obligations or on the merits of any criminal charge brought against them*...".

The right to a fair trial includes, among other things, the protection of an individual from illegal and unfounded accusations and convictions, as well as the prevention of unjustified restrictions on rights and freedoms. This goal is also ensured by the provisions of Article 325 of the Criminal Procedure Code of the Republic of Moldova, which regulates the limits of adjudicating a case. According to the stated provisions, "the trial in the first instance shall be conducted only regarding the person accused and only within the limits of the charges formulated in the indictment. Changing the charge in court is allowed if it does not worsen the defendant's situation and does not infringe upon their right to defense."

By determining the boundaries and conditions for modifying the charges, the limits of adjudicating a case aim not only to ensure the right to defense for the accused but also to protect them from potential criminal liability in violation of the procedures and requirements set by law. Furthermore, the limits of the criminal case trial also ensure the exercise of rights for other participants in the criminal process, such as the victim, the civil party, the civilly liable party, co-perpetrators, or other individuals involved in the commission of the offense.

Although efforts have been made after the adoption of the current Criminal Procedure Code to improve the procedural-criminal framework regarding the limits of adjudicating a criminal case and modifying the charges in the first-instance court, unfortunately, these regulations have not been effectively implemented. Judicial practice reveals instances of deviation from the legal requirements regarding the limits of the criminal case trial during the modification of the charges in the first-instance court. Additionally, several theoretical aspects remain unresolved.

The complex system of theoretical and practical issues arising in the course of court hearings, during the examination of criminal cases, as well as the modification of charges brought against the

defendant, is essentially regulated by a single procedural rule—Article 325 of the Criminal Procedure Code of the Republic of Moldova.

By limiting the scope of the criminal case trial only to the charges brought against the defendant, the criminal procedure law does not precisely define or describe the essence of these restrictions, and some concepts generate debates and interpretations in practice and specialized literature. For example, what is meant by "the charges brought against the defendant" that constitutes the subject of the case trial, or what is the meaning of the provisions concerning the conditions for modifying the charges in court? Which specific modification of the charges can be considered as aggravating the defendant's situation, thus violating the defendant's right to defense? The procedural categories "more serious charges" and "charges that differ substantially based on factual circumstances," which, as assumed, have defined and developed much broader conditions regarding the non-admission of aggravating the defendant's situation and violating their right to defense, raise theoretical discussions and inconsistent applications in judicial practice.

It should also be emphasized that a particularity of scientific investigations lies in the analysis of isolated aspects related to the limits of adjudicating criminal cases, which mainly focus on the limits of modifying the charges in court, the conditions for such modification, the procedural order, and the procedural status of certain categories of individuals.

The amendments made to the criminal procedure law, the numerous theoretical and practical questions that require in-depth research, as well as the lack of comprehensive studies on the limits of adjudicating criminal cases in the first-instance court, underscore the relevance of the topic addressed in the doctoral thesis. Furthermore, we wish to highlight that the new requirements identified in judicial practice, the ongoing reform of criminal procedural legislation, various scientific interpretations, and the absence of comprehensive scientific research regarding the limits of adjudicating criminal cases, have largely justified the choice of this topic for research.

***Framing of the topic within international, national, regional concerns, the research group's interests, and in an interdisciplinary and transdisciplinary context.***

European integration is a fundamental objective of the internal and external policies of the Republic of Moldova and its Government, playing an important role in strengthening the political and social cohesion of society.

The Association Agreement, signed between the Republic of Moldova, on the one hand, and the European Union and the European Atomic Energy Community and their member states[1], on the other hand, stipulates in Article 2, paragraph (1) the "respect for democratic principles, human rights, and fundamental freedoms as proclaimed in the Universal Declaration of Human Rights and defined by the European Convention for the Protection of Human Rights and Fundamental Freedoms, the Helsinki Final Act of 1975 of the Conference on Security and Cooperation in Europe, and the Charter of Paris for a New Europe of 1990 (...)," while Article 12, paragraph (3) sets out among its objectives: "Respect for human rights and fundamental freedoms will guide all cooperation activities in the fields of freedom, security, and justice."

The Association Agreement recognized the European aspirations and the European choice of the Republic of Moldova, including its commitment to building a profound and sustainable democracy.

Building on the ambitious Association Agreement, on June 17, 2022, the European Commission presented its opinion[2], on the Republic of Moldova's application for EU membership.

Thus, the relations between the Republic of Moldova and the European Union entered a new strategic phase since the European Council recognized Moldova's European perspective and granted it the status of EU candidate country on June 23, 2022.

In this context, the European Commission, in its opinion, outlined nine steps that the Republic of Moldova needs to take in order to progress on the path of EU accession, among which, Moldova is expected to advance in comprehensive justice reform, combat corruption, intensify asset recovery, reform public institutions, and more.

In particular, under the chapter on fundamental rights, the European Commission has noted in point 1.4. c) that more progress needs to be made on the right to a fair trial.

Therefore, the European Union, by taking up and developing the standards of international human rights instruments, has assumed its full responsibility to build a safe and secure community for the benefit of its citizens. To this end, it has adopted a series of directives and regulations designed to regulate as effectively as possible the complexity of fundamental human rights and freedoms.

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[1] Association Agreement between the Republic of Moldova, of the one part, and the European Union and the European Community Atomic Energy Community and their Member States, of the other part. [online] [cited: 01.04.2024]. Available: https://mecc.gov.md/sites/default/files/acordul-de-asociere-rm-ue.pdf .

[2] Opinion of the European Commission on Moldova's application for membership of the European Union [online] [cited: 01.04.2024]. Available: https://neighbourhood-enlargement.ec.europa.eu/system/files/2022-06/Republic%20of%20Moldova%20Opinion%20and%20Annex.pdf .

Given that integration into the European Union is a particularly important national objective, the harmonization of Moldova's legislation with the norms of European Union law is essential for achieving this goal.

The experience of the new Member States of the European Union shows that political and economic measures alone are not enough to become fully-fledged members of the EU; what is fundamentally needed is a comprehensive overhaul of the legislative framework in order to bring it into line with the minimum requirements laid down in the legal acts which form the *acquis* communautaire.

The harmonization of national legislation with the European acquis will contribute to ensuring a fair, efficient and quality justice, ensuring an independent, impartial justice, which is a central postulate of the rule of law. Thus, improving the justice sector remains an essential priority, being of crucial importance for society as a whole and constituting a fundamental condition for the real development of a democratic society in which the rule of law and respect for fundamental human rights and freedoms are supreme values, guaranteed.

***The aim of the paper*** is to carry out a comprehensive study of the limits of the trial of criminal cases from the point of view of guaranteeing the fundamental principles of criminal procedural law, and to optimize the regulatory framework in this area.

***The objectives proposed in the thesis*** are:

- Determining the legal content and formulating the concept of the limits of judgment in criminal proceedings;
- revealing the essence and content of the limits of the judgment of the criminal case, depending on the circle of persons involved in the trial;
- determination and categorization of categories of persons who do not have the status of defendants in criminal cases, but whose unlawful actions are connected with the incriminated act of the defendant, examined in the court of the main proceedings;
- identifying the conditions for the amendment of the indictment in the trial court;
- developing criteria for recognizing the amended indictment as aggravating the defendant's situation or violating his right to defence;
- identification of the particular limits of criminal proceedings, laying down specific requirements for the framework of judicial investigation, sentencing and amendment of the indictment in court, depending on certain categories of cases or persons;
- analyzing the limits of the trial of criminal cases by fair trial standards;

- establishing the permissible limits for amendment of the indictment in the trial court, in line with the requirements of the limits of the criminal trial;
- researching the practice of applying the legal requirements concerning the limits of criminal proceedings in concrete cases and demonstrating, on the basis of empirical study, its importance from the perspective of the right of defense;
- analyze how the limits of judgment are applied in certain categories of cases.

***The research hypothesis*** is based on the fact that the current regulations on the limits of the trial of criminal cases, in particular with regard to the amendment of the indictment in the trial court, are insufficiently developed and their application in practice does not always guarantee that the fundamental rights of the accused are respected. This legislative gap may create uncertainties and risks of abuse, negatively influencing the fairness of the criminal proceedings. It is assumed that a detailed analysis of these limitations, in correlation with international standards, can help to identify solutions for clarifying and improving criminal procedural legislation in order to ensure a fair trial.

***Summary of the research methodology and justification of the chosen research methods.*** The PhD thesis was developed using a set of scientific methods and procedures, including: historical method (for examining the evolution of the concept of the limits of the trial of the case during different periods of time), systematic method (for simultaneously analyzing the limits of the trial of the criminal case in the trial court and the modification of the indictment, both in the sense of aggravation and mitigation), comparative method (for identifying differences and similarities between national legal provisions and those of other states), the logical method (for the use of reasoning and the application of analytical procedures that facilitated the formulation of conclusions and the proposal of recommendations), the textual method (for the grammatical interpretation of terms and concepts in order to correctly understand their meaning), the method of document analysis (for the collection of quantitative and qualitative data) and the case study (for the identification of relevant cases that intersect with the subject of the paper).

***Description of the situation in the field of research.*** The subject of the limits of the judgment of the criminal case has been approached by several theorists, who have studied this institution in its general context, as an essential condition of the stage of the judgment of the case. Among them there are established authors from the Republic of Moldova, such as T. Vizdoaga, I. Dolea, D. Roman, T. Osoianu, Iu. Sedlețchi, M. Poalelungi and others. In addition, various aspects of this topic have also been researched by scholars from other countries, such as A. Crișu, T. Toader, Gh. Mateuț, M. Udroiu, Gr. Theodoru, I. Neagu and others from Romania, as well as G. Agheeva, S. Alekseev, M. Baglai, M.

Bajanov, B. Bezlepkin, V. Daev, T. Dobrovoliskaya, M. Strogovich and others from the Russian Federation**.**

Although the contributions of many researchers to the study of issues related to the limits of the trial of the case in the trial court are undeniable, in the theory of criminal procedure there is no unified vision of the notion and legal content of the institution of the limits of the examination of the criminal case in the trial court. The specialist literature on the subject does not deal in detail with the specific features of the limits of the trial in specific categories of case. Moreover, this topic has not been sufficiently investigated from the perspective of international fair trial standards, and the analysis of the limits of criminal case adjudication has not been carried out in the context of comparative criminal procedural law.

This thesis adds new perspectives to previous research in the field, highlighting recent trends and aspects of the evolution of the science of criminal procedural law in line with the current stages of development of society.

***The scientific novelty of the research*** lies in the fact that, although the limits of the trial are an important guarantee of the right to a fair trial, there are few works that provide a detailed analysis and a comprehensive overview of their essence. Therefore, for the first time in the national doctrine, a fundamental research on the essence and content of the limits of the criminal case trial has been carried out, identifying the role and importance of this institution in ensuring the rights and interests of the person in the examination of criminal cases, including in correlation with international standards of a fair trial.

***Theoretical importance and applicative value of the work.*** Although, the institution of the limits of the judgment of the criminal case, is often confronted in the national judicial practice, as well as in the jurisprudence of the ECtHR, nevertheless, there are relatively few works that would have carried out a broad and multiaspectual analysis of its essence and legal nature. The present work, reveals the legal nature of the limit of the judgment of the case, presents a detailed approach to its content through the prism of international standards.

The scientific results will contribute to the improvement of the Code of Criminal Procedure, and the practical recommendations, supported by arguments in the paper, will be useful for lawyers, judges, prosecutors and prosecuting officers, for a correct and uniform application of judicial practice. The content of the doctoral dissertation can also be utilized in the educational process, both in the initial and continuing training of professionals in the field.

Therefore, the above-mentioned reasoning confirms that the topic addressed is an important one, remaining a current one, in which context it is of both theoretical and practical interest.

***Summary of the thesis chapters.*** The basic content of the PhD thesis is set out in four chapters.

The general conclusions and recommendations of the thesis reflect the main scientific results of the research carried out on the limits of the trial of cases in national criminal proceedings. They summarize the key findings and propose solutions for improving judicial regulation and practice in this area.

**Approval of results.** The research results of the work have been presented at national and international scientific conferences, including abroad, and reflected in scientific articles.

***Publications on the thesis topic.*** 8 scientific papers have been published on the topic of the PhD thesis.

***Volume and structure of the thesis*****:** 254 pages basic text including: introduction, four chapters, general conclusions and recommendations, bibliography of 259 titles; statement on assumption of responsibility; CV of the author.

***Keywords:*** indictment, defendant, indictment, object of criminal proceedings, limits of criminal proceedings, legal classification, prosecutor, court, mitigation, aggravation, right of defense.

## THESIS CONTENT

*Chapter 1*, entitled ***Analysis of the situation in the field of the limits of the judgment of the case***, contains a review of the scientific materials on the topic of the doctoral thesis published in the Republic of Moldova and Romania, but also in other countries, such as the Russian Federation, etc.

Although the subject of the limits of the judgment of the criminal case has been addressed tangentially in the specialized literature of the Republic of Moldova, we have nevertheless managed to identify a number of works and general ideas of several well-known scholars who have demonstrated and continue to demonstrate a certain scientific interest in the institution of the limits of the judgment of the case. The scientific opinions and conceptions formulated by researchers Vizdoagă T., Dolea I., Sedlețchi Iu., Roman D., Osoianu T., Eșanu A., Poalelungi M. and others (Republic of Moldova); Bîrsan C., Udroiu M., Crișu A., Toader T., Mateuț Gh., Theodoru Gr., Neagu I. and others (Romania); Agheeva G., Alekseev S., Baglai M., Bajanov M., Bezlepchin B., Bravilova E., Daev V., Dobrovoliskaya T., Strogovich M. (Russian Federation) and others were analyzed in the content of the doctoral thesis, constituting a solid support in advancing the research and formulating the visions and the subsequent conclusions.

Following the identification of the situation with regard to the limits of the criminal case judgment, the level of investigation of the topic was established, the research objectives were defined and the scientific problem was formulated.

Chapter 2, entitled ***General considerations on the concept of the limits of criminal proceedings,*** is devoted to the concept and content of the limits of criminal proceedings and the limits of criminal proceedings in relation to European standards of a fair trial.

It was noted that the European Convention for the Protection of Human Rights and Fundamental Freedoms provides in Article 6 (3): "Everyone charged with a criminal charge shall have the right: (a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him; (b) to have adequate time and facilities for the preparation of his defense...".[3]

In order to ensure the legality of the criminal proceedings and the respect for the fundamental principles on which its conduct is based, the legislator has provided in the criminal procedural legislation several rules that offer additional guarantees in this regard.

[3] Convention for the Protection of Human Rights and Fundamental Freedoms. Adopted at Rome on November 4, 1950. In force since September 3, 1953. [online] [accessed: 10.05.2023]. Available: https://drepturilecopilului.md/files/01_Conventia%20europeana%20a%20drepturilor%20omului.pdf .

The paper emphasized the concept and content of the limits of criminal proceedings, highlighting the fact that the examination of criminal cases in the court of first instance is carried out in strict compliance with the limits set by the criminal procedure law.

By regulating 'the right to know the nature of the crime charged and the reasons for the charge brought against him, the right of defense highlights the particular importance of this right in a fair trial, which is specific to any democratic society."[4]

The procedural-criminal regulatory framework undeniably proves that "the realization of these rights entails the existence of several specific guarantees for the person accused of committing a criminal act, taking into account that, in a broad sense, they include all the procedural rights and rules that give the person the possibility to defend himself against the charges brought against him, to contest the accusations, to prove his innocence, etc."[5]

Article 325 of the Criminal Procedure Code of the Republic of Moldova, with the marginal title *Limits of the judgment of the case*, is undoubtedly included in the set of regulations, according to which "the judgment of the case in the first instance shall be conducted only in respect of the person charged and only within the limits of the charges formulated in the indictment."

That rule "is governed by the adversarial principle, so that the court has a passive role in the dispute between the parties. It follows from the reasoning behind this rule that the court cannot intervene to amend the accusation on its own initiative, being bound in the examination of the case by the limits of the subject matter of the case."[6]

According to the Universal Dictionary of the Romanian language, the notion of limit has several meanings: "a) line of separation, demarcation, edge; b) fixed date, extreme term; c) point up to which one's possibilities, faculties, means can reach; d) point up to which one can afford something; that which cannot be exceeded"[7].

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[4] **POSTICA, A.** Concept and content of the limits of the judgment of the case according to the criminal procedural legislation. In *Studia Universitatis Moldaviae*. Social Sciences Series, 2019, no. 8(128), pp. 188-193. [online] [cited: 10.10.2021]. Available: https://social.studiamsu.md/wp-content/uploads/2019/01/24.-p.188-193.pdf

[5] **POSTICA, A.** The concept and content of the limits of the judgment of the case according to criminal procedural law. Op.cit., p. 189.

[6] **POSTICA, A.** The limits of modification of the indictment in the court of law. In: International Scientific Conference "Perspectives and Problems of Integration into the European Area of Research and Education", 9th Edition, Cahul, June 03, 2022, pp. 121 - 126. [online] [cited: 10.01.2023]. Available: https://conference-prospects.usch.md/files/archive/2022/Volumul_IX-Part_1_2022.pdf.

[7] OPREA, I., PAMFIL, C.-G., RADU, R., ZASTROIU, R. *The New Universal Dictionary of the Romanian Language.* 2nd edition. Bucharest: Ed. Litera International, 2006, p. 742.

From the etymological meaning of the term "limit", the two aspects of the limits of the judgment of the case can be deduced: functional and material. In order to specify them, it is necessary to clarify the content of criminal proceedings.

In law and doctrine, criminal proceedings are defined as:

1) the trial hearing in the court of first instance and in the framework of the appeals;

2) the phase of the criminal trial in which the trial court examines the evidence presented by the parties, decides on the legality and merits of the charges against the accused (proving the offense and the guilt of the offender) and imposes the appropriate punishment.

The trial at first instance "must provide a complete solution to all the essential aspects of the case". It is therefore the duty of the court hearing the case to rule on all the elements of the case, i.e. the "facts" and "persons" mentioned in the document instituting the proceedings. The conflict of criminal law before the court of first instance is objectively confined to the facts giving rise to it and the persons involved. It is brought before the judicial authorities by the prosecutor's referral of the case to the court with an indictment. "Without it being brought before the courts, the conflict of criminal law cannot be tried. This limitation stems from the principle that the court cannot, of its own motion, hear and resolve a conflict of criminal law, the referral of the case to the court, and thus the bringing of the conflict to justice, being an exclusive prerogative of the prosecutor"[8].

It should be noted that art. 325 of the Criminal Procedure Code "does not absolutely limit the court's right to intervene in the factual and legal situation and change it when pronouncing sentence. Therefore, after examining the case, it may recognize that the defendant has committed a lighter crime than the one mentioned in the indictment, it may recognize some mitigating circumstances, even if they were not mentioned, it may establish that there are causes that remove the criminal character of the act, it may free from criminal liability or criminal punishment. In the present case, a fortiori reasoning is applied - once the court can pronounce a judgment of acquittal the more it is permissible for the court not to be bound by the findings in the indictment"[9].

In relation to the European standards of a fair trial, it has been noted that criminal procedural legislation, as an attribute of the rule of law, must aim not only to protect the rights of persons injured by crime, but also to protect the prosecuted persons against being held liable or unlawful conviction or

[8] DONGOROZ, V. ș.a. *Theoretical explanations of the Romanian Criminal Procedure Code. Special Part. Vol. II.* București: Ed. Academiei, 1976, p. 190

[9] DOLEA, I. *Criminal Procedure Code of the Republic of Moldova: Applicative Commentary. 2nd ed*. Chisinau: Ed. Cartea Juridică, 2020, p. 918.

unjustified, and to prevent abuses by judicial authorities and those responsible for the administration of justice.

Article 8 of the Constitution of the Republic of Moldova enshrines an essential constitutional principle, which reflects one of the fundamental rules of international law: States must fulfill in good faith the obligations assumed in accordance with international law. In this regard, the UN Declaration on Principles of International Law of 24 October 1970 emphasizes the obligation to comply in good faith with the commitments undertaken in the UN Charter, as well as with the obligations arising from the generally recognized principles and rules of international law and international agreements, in accordance with the principles of international law.

The international standards of fair trial are therefore the rules of international law containing standards of procedural guarantees for the individual in criminal proceedings, recognized and applied by national laws on a mandatory basis in their own territory.

Ensuring a fair trial means that any person charged with a criminal offense must be tried by an independent tribunal that guarantees both procedural and substantive independence. This is an essential requirement according to the case law of the European Court of Human Rights. The same principles must govern all judicial procedures, measures and criminal procedural acts, both as a whole and in the particular features of each stage. Compliance with these principles must be "the main priority of magistrates, who are responsible for settling cases fairly and thoroughly throughout the criminal proceedings"[10].

The European Court recognizes, in principle, the possibility of modifying the charge in national law, without involving itself in the laws of the Member States. The amendment of the charge in itself, even in the sense of aggravation during the trial, does not infringe the rights of the accused.

According to the position of the European Court of Human Rights, the fundamental rights of the accused are violated when the following three criteria relating to the amendment of the charge are met simultaneously: 1) there are essential differences between the original and the new charge (the criterion of substantial amendment of the charge); 2) the defendant did not foresee the possible amendment of the charge (the criterion of unexpected amendment of the charge); 3) the defendant failed to react to the new charge in an effective and timely manner (the criterion of impossibility of reaction).

[10] STEFANESCU, B. *Legal guarantees of compliance with the procedural-criminal law in the trial activity.* București: Ed. Hamangiu, 2007, p. 152.

The case law of the ECtHR has emphasized the importance of the limits of the trial, in particular in the context of a change in the legal classification of the act. Thus, the European courts recognize the right of the accused not only to be informed of the material facts constituting the charge, but also to be notified in detail of their legal classification, and to be entitled to defend himself in the face of changes to the charge.

It has been concluded that the rules of criminal procedure must regulate the procedural status of the parties involved in the trial, and at the trial stage, these rights are guaranteed by the limits of the criminal trial.

Chapter 3 discusses the ***Limits of criminal proceedings according to the circle of persons***, with particular reference to the *limits of criminal proceedings with regard to the accused person; the limits of criminal proceedings in relation to the procedural-criminal guarantees of co-participants and other persons involved in the commission of the crime who are not defendants in the criminal case*.

The judgment of criminal cases is determined by the circle of persons and the content of the accusation.

Setting the limits of criminal proceedings according to the circle of persons involved presupposes that the criminal proceedings are primarily conducted in relation to the accused, i.e. the person against whom an indictment has been issued in the criminal proceedings. He or she is the main subject of the trial, and the court will focus on the facts forming the charge and the evidence presented against him or her.

However, during the course of the trial, circumstances may arise where it is necessary to examine the involvement of other persons, not just the defendant. For example, there may be a need to investigate whether other persons participated with the defendant in the commission of the crime, even if these persons were not originally included in the case or were not established in the trial hearings. These persons could be involved in the same criminal act, and the court has to determine whether they had a role in the commission of the crime or whether their actions may influence the criminal nature of the defendant's actions.

As prejudicial facts indissoluble from the crime examined in the court hearing may be the unlawful actions/actions of other persons which caused the defendant to commit the crime or which exclude the criminal nature of the crime before the court (e.g. self-defense, extreme necessity) or those which may reduce the defendant's punishment (e.g. committing the crime in a state of distress). Illegal actions of persons whose identification has a bearing on proving the offense under examination (e.g. knowingly making false statements, use of illegal methods of criminal prosecution, etc.) may be

attributed to the case. The necessity of examining the unlawful actions of these persons at the trial arises from the interconnectedness of their actions in the commission of an offense or several offenses, which are comprised of single factual circumstances and indispensable of the same legal consequences. Incorrect ascertainment or incorrect determination of the fact of an offense (or only in respect of one person) may lead to an unlawful and unfounded judgment in another case (or in respect of another person).

The commission of crimes by these individuals together with the defendant sometimes puts us in the situation of being unable to distinguish each person's actions, making it impossible to examine the act solely concerning the defendant. Establishing the fact that a crime was committed in collaboration with another person and identifying their role will influence the method and severity of the sentence applied to the defendant. Examining in court the actions of individuals who do not have the status of defendants would violate the limits of criminal case examination and the rights of these individuals. In this regard, it is necessary to establish the boundaries for examining the illegal actions of these individuals. It is also essential to clarify the issue related to the possibility, necessity, and rationality of their participation in the criminal case trial regarding the co-participant. Additionally, it is crucial to determine the limits within which the illegal actions of these individuals can be reflected in the sentence and whether it is admissible to mention their names in the context of the investigated crime during the court session. All these aspects are interconnected and, therefore, must be analyzed comprehensively[11].

Regarding the identification of the categories of persons previously mentioned in the content of the sentence, these can be divided into two categories: individuals who can be named in the sentence (in the wording of the accusation) with the indication of their name, in connection with the crime committed, and individuals who cannot be named in the text of the sentence pronounced in relation to the co-participant in the crime.

The first group includes individuals for whom criminal prosecution has ceased, those who have been convicted, and those deemed legally irresponsible in the order established by law. Indicating their name does not violate the principles of criminal procedure, nor does it infringe upon their rights, as they have already been recognized as persons who committed the crime by the prosecutor's order. Furthermore, after presenting the essence of the accusation (Article 366, paragraph (1) of the Criminal Procedure Code of the Republic of Moldova), the sentence must also include the grounds upon which their prejudicial actions are not subject to examination in that specific court session.

[11] BRAVILOVA, E. A. *Limits of Criminal Proceedings. PhD Thesis for obtaining the scientific title of Candidate of Legal Sciences.* Ekaterinburg, 2004, pages 55-56.

The second group includes persons who have been removed from criminal prosecution, those for whom the criminal case has been separated, and those who enjoy diplomatic or parliamentary immunity. Indicating their names in the sentence in relation to the committed crime is inadmissible.

In the sentence (in the formulation of the charge), it is reasonable to indicate only the first letter of the names of the persons involved, which will prevent their identification as specific individuals while also allowing for a clear distinction from other persons. This approach will help avoid the use of lengthy and complicated phrasing in the text of the sentence, ensuring a more concise and clear expression.

In conclusion, the regulation of the limits of criminal proceedings, based on the group of individuals involved, underscores the fundamental importance of the accused person's right to know the nature of the act they are accused of, the reasons behind the accusation, and their right to a defense. The exercise of these rights requires specific guarantees, as, in a broader context, they encompass a range of rights and procedural rules that allow the accused to defend themselves against the accusations, challenge the charges, and demonstrate their innocence.

In Chapter 4, entitled ***The limits of examining the case based on the content of the indictment formulated in the indictment act,*** are analyzed, especially: *the concept, structure, and content of the accusation formulated in the indictment act; the characteristics, concept, and particularities of the limits of modifying the accusation in court; the prohibition of worsening the defendant's situation – an inherent condition of modifying the accusation in court; the inadmissibility of violating the defendant's right to defense when modifying the accusation in court; the particularities of the limits of examining the case in certain categories of cases.*

The precise determination of the moment when a "criminal accusation" can be considered to exist is of great importance because, from that point onward, the rights guaranteed by Article 6 of the European Convention on Human Rights (ECHR) are ensured. The term "accusation" in a narrow sense includes three essential elements: 1) the factual circumstances (description of the committed crime); 2) the legal formulation of the accusation; 3) the legal qualification (the specification of the article, paragraph, or point in the penal provision that establishes responsibility for the act in question). These three components must consecutively reflect the essence of the offense attributed to a specific individual.

To clarify the limits of criminal proceedings based on the content of the accusation, it is necessary to define the concept of "accusation." In the specialized literature, there are various viewpoints regarding the material-legal structure of the accusation. Thus, Strogovici M., Davâdov P., Dobrovolskaia T., and other authors argue that the accusation includes both the formulation of the charge and the legal qualification of the incriminated act. In their view, the term "accusation" refers to socially dangerous and

illegal behaviors identified within criminal processes, which constitute the elements of a crime, correlated with the actions of the accused individuals.[12]

The accusation "must be distinguished in material (substantial) and procedural senses. The material (substantial) sense of the accusation encompasses all socially dangerous and illegal acts established in the case and incriminated according to criminal law, for which the person is condemned, while the procedural sense refers to the legal activity of competent bodies and individuals aimed at exposing the perpetrator in the commission of the incriminated act and substantiating their criminal responsibility for the purpose of convicting them."[13]

In specialized literature, accusation also has other meanings: procedural-criminal function; activity of the accuser in court[14]; procedural legal report[15] etc. And yet, most authors, along with other meanings of incrimination, speak of incrimination as a "statement", "sentence", "content of the prosecution activity", "formulated provisions" in which the essence of the incriminated act is described to a specific person, i.e. its legal-material importance is emphasized. This is not by chance, since the concept of 'indictment' can be interpreted in this way only in accordance with the rules of criminal procedure governing the procedure for formulating, amending and supplementing the indictment[16].

It is of particular importance to determine precisely the moment from which it is possible to speak of an accusation in criminal matters, since it is from that moment that the right laid down in Article 6 of the ECHR is guaranteed. In accordance with the case-law of the ECtHR, 'in interpreting the concept of charge in criminal matters, the acquisition of the status of suspect occurs ex lege when the conditions are fulfilled which require the judicial authority to establish the existence of a criminal charge, to order the continuation of the criminal proceedings against the suspect and to inform him of his rights"[17] .

At the same time, "the formulation of the indictment is the exclusive prerogative of the prosecutor, who is responsible for the indictment and the submission of the indictment in the criminal prosecution process and the indictment, the operative part of which, with regard to the charge against the person, constitutes the subject-matter of the proceedings before the court."[18]

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[12]STROGOVICH, M. S. *Course on Soviet Criminal Procedure.* Moscow, 1958, p. 428; DAVYDOV, P. M. *The Accusation in Soviet Criminal Procedure.* Sverdlovsk, 1974, pp. 39-40; FRANTSIFOROV, Yu. V. *The Accusation as a Means of Ensuring the Rights and Legal Interests of the Accused in Criminal Proceedings.* PhD dissertation in law. Saratov, 1998, pp. 22-23; BOBYLEV, M. P. *The Accusation as the Subject of Criminal Justice in Contemporary Russia.* Op. cit., p. 13.

[13] VIZDOAGA, T. *The Exercise of Prosecution in the Court of First Instance: Issues and Perspectives. Author's Abstract of the PhD Thesis in Law. Chișinău, 2002*, p. 4.

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[15] DAEV, V. K. K the concept of accusation in soviet criminal procedure. In: *Pravovedenie*, No. 1/1970, p. 85

[16] BRAVILOVA, E. A. *Limits of Judicial Proceedings.* Op.cit., c. 106.

[17] *Criminal Procedure Code. Commentary by Articles. /* Coord.: M. Udroiu. Vol. 2. Bucharest: C. H. Beck Publishing House, 2015. 1691 p. ISBN 978-606-18-0409-2, p. 238.

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The charge formulated in the indictment may be subject to change during both the prosecution and the judicial phases. The criminal procedure law is based on the principle of the variability of the charge, setting clear requirements and limits for changing the charge, as well as a well-regulated procedural order. Thus, at the stage of criminal prosecution, the law allows the charge to be amended in compliance with the specific procedural order, whereas at the judicial stages, and especially during the examination of the criminal case by the court of first instance, amendment of the charge is permitted only under the conditions expressly provided for by law and within the strict limits set.

The aggravation of the accused's situation (as a condition deriving from the provisions of criminal law) occurs only if the changes to the factual and legal signs and to the framing of the offense lead to much more serious legal and criminal consequences than those envisaged by the original charge. At the same time, the requirement of inadmissibility of the breach of the rights of the defense (as a rule of criminal procedure) is not met where, as a result of the change in the legal and factual signs, the accused is deprived of the means of defense provided for by the criminal procedure law.

## GENERAL CONCLUSIONS AND RECOMMENDATIONS

*The results obtained in the present doctoral thesis are reflected in the following:* the concept and content of the limits of the judgment of the criminal case were determined, in accordance with the criminal procedural legislation, and the essence of the limits of the judgment of the criminal case was revealed (125, p. 62 - 78); the content of the accusation formulated in the indictment as an element of the limits of the judgment of criminal cases was analyzed (126, p. 123 - 143); the theoretical and practical guarantees of respect for the defendant's right to defense in the context of the modification of the indictment in the court of law in the sense of aggravation were identified (127, p. 189 - 208); the limits of the trial of the case in the first instance were analyzed, as a guarantee of respect for the fundamental principles of criminal procedure (128, p. 62 - 78); the limits of the amendment of the indictment in the trial court were identified, in particular the conditions relating to the amendment of the indictment in the trial court were pointed out (129, p. 143 - 189); the special limits of the trial of criminal cases were analyzed, by establishing the specific requirements for the judicial investigation, sentencing and amendment of the indictment in the trial court (129, p. 208 - 223); the principle of non-aggravation of the defendant's position, in case of amendment of the indictment in court, was explored, especially in the light of the standards of due process (130, p. 169 - 189); the permissible limits for amendment of the indictment in court were established. (130, p. 169 - 189).

As a result of the complex research on the subject of the doctoral thesis, the ***important scientific problem*** of conceptualizing the institution of the limits of the trial of criminal cases was solved, which led to their clarification for theorists and practitioners in the field of criminal procedure. The work provides a systematic approach to the conditions and criteria that define these limits, including in relation to the indictment, its modifications and the involvement of different categories of persons in the criminal trial. Thus, the research contributes to the consolidation of the doctrine of criminal procedure by formulating and arguing proposals of lege ferenda, aimed at improving the current regulations and ensuring a more coherent and effective application of the principles of criminal procedure.

The solution of the important scientific problem has been demonstrated by the **conclusions** drawn on the basis of the research hypothesis as follows:

1. *The limits of the criminal* represents the procedural framework within which the court can examine the facts, evidence, and relevant circumstances in a given criminal case. These limits constitute a necessary procedural framework to ensure a fair trial and to protect the fundamental rights and freedoms of the persons involved, especially the defendant's right to defense (See: Chapter 2, Subchapter 2.1.).

2. The object and limits of case adjudication are closely linked to its foundation – the accusation. While the object of adjudication reflects the content of the case, i.e., what is examined, the limits of adjudication establish how this content may be modified. If the object answers the question “what?”, the limits indicate “how?” the trial will proceed. Thus, the object of a criminal case is represented by the accusation formulated, while its limits determine the boundaries within which the accusation can be investigated and modified (See: Chapter 4, Subchapter 4.1.).

3. Modification of the initial accusation is allowed only if the new accusation does not differ substantially from the initial one, and the accused is guaranteed the right to react effectively and within a reasonable timeframe to the changes in the accusation. Therefore, modifications should not be made unexpectedly, ensuring that the defendant’s right to defense is respected (See: Chapter 2, Subchapter 2.2.).

4. It is deemed inadmissible for a judgment to indicate the role of an organizer or other specific actions attributed to a co-participant who is not a defendant in the case, especially when such actions are related to the manner and reason for committing the crime, which are characteristic only of that person. The court does not have the right to specify in the judgment the higher or lower level of activity of a co-participant in a crime in relation to a person already convicted or released from criminal liability on legal grounds (See: Chapter 3, Subchapter 3.2.).

5. Regarding the mention of certain categories of persons in the content of the judgment, they can be divided into two distinct groups: persons who can be named in the judgment in the context of the accusation formulation, with their names indicated in connection with the committed crime, and persons who cannot be named in the judgment text regarding a co-participant in the crime.

The first group includes persons against whom criminal prosecution has been discontinued, persons who have been convicted, and those who have been declared legally irresponsible. The mention of their names in the judgment does not contravene the principles of criminal procedure nor violate their rights, as they have already been recognized as perpetrators of the crime by the prosecutor's ordinance. Furthermore, after presenting the essence of the accusation, according to Article 366 (1) of the Criminal Procedure Code of the Republic of Moldova, the judgment must mention the grounds on which their prejudicial actions are not part of the respective court hearing.

The second group includes persons against whom criminal prosecution has been dropped, persons for whom the criminal case has been separated, or those who benefit from diplomatic immunity. The mention of their names in the judgment in relation to the committed crime is inadmissible (See: Chapter 3, Subchapter 3.2.)..

6. The grounds on which these persons do not or have not had the status of a defendant in the case must be reflected in the judgment after presenting the essence of the accusation, in an appropriate manner, by indicating the first letter of their last name. This ensures the respect of the principles of criminal procedure and the protection of their rights, avoiding full identification, which could harm their reputation or rights.

Furthermore, it is inadmissible to indicate the full name of these persons in witness statements, statements from the injured party, defendants, or in the presentation of other evidence in the content of the judgment. This could lead to the unjustified public exposure of persons who are not defendants or for whom a favorable procedural measure has been applied, thus potentially violating their fundamental rights (See: Chapter 3, Subchapter 3.2.)

7. When presenting the accusation in the content of the judgment, it is recommended to use expressions such as: "with persons unidentified by the criminal investigation authorities" or "in co-participation with one of the persons unidentified by the criminal investigation authorities." These formulations are essential to properly reflect the fact that, during the criminal procedure, certain persons involved in the crime were not identified or were not included in the case file as defendants (See: Chapter 3, Subchapter 3.2.).

8. The modification of the accusation refers to introducing changes to the content of the initial accusation, made by the competent authorities, in accordance with the procedure established by law. These modifications can affect both the content and the scope of the accusation and may result in a change in the legal classification of the act or other consequences for the defendant. Criminal procedural law allows for the modification of the accusation, but this possibility is strictly regulated so as not to aggravate the defendant's situation or violate their right to defense (See: Chapter 4, Subchapter 4.2.).

9. The right to defense is considered violated when the modification of the accusation affects the factual circumstances of the case. This occurs particularly in situations where the factual circumstances are replaced with new ones or when additional circumstances are introduced. Such modifications can lead to a significant change in the accusation, and the defendant may not have sufficient opportunities to respond to the new information, potentially hindering their effective defense.

On the other hand, modifications that solely relate to the legal formulation or the legal classification of the act do not necessarily infringe upon the right to defense. In these cases, modifications can have two effects: they may improve the defendant's situation by applying a more favorable legal norm or by changing the legal classification to a less serious offense, or they may aggravate their situation if the change leads to a more severe accusation.

It is essential that any modification be brought to the defendant's attention in a timely manner and that they are given the opportunity to prepare a response to the new accusations or arguments (See: Chapter 4, Subchapter 4.2.2.)..

10. Modifying the circumstances of the accusation can have a significant impact on the defendant's right to defense, even when the changes do not affect the essential elements of the offense. For example, changing the place, time, or manner in which the crime was committed can create difficulties in the defendant's defense, even if these circumstances are not obligatory elements in the construction of the offense. In such cases, the defendant may be placed in a disadvantageous position, unable to contest the changes or address the new accusations, which would violate their right to defense.

When the modifications do not substantially affect the offense's composition, and the evidence is clear enough to demonstrate the defendant's guilt, it is not considered that the right to defense is violated. The essential criterion for determining whether the right to defense is respected is whether the modification of the accusation could raise doubts about the defendant's guilt concerning the alleged facts (See: Chapter 4, Subchapter 4.2.).

11. In the case of individuals extradited for trial in their country of origin, any modification of the charges must comply with the regulations established by international treaties, ensuring full respect for

their rights. This is to prevent the aggravation of their situation and avoid violating their right to defense. In such situations, modifications that significantly alter the nature of the alleged offense require the consent of the state that carried out the extradition, which involves an additional procedural step (See: Chapter 4, Subchapter 4.3.).

12. The limits of judging criminal cases in which prosecution is initiated based on the prior complaint of the victim are essential, being determined by procedural-criminal requirements that ensure the victim's right to file a complaint and the defendant's right to know the legal grounds of the accusation. At the same time, it is important that the process allows the defense to prepare effectively. At first glance, the lack of a clear specification in the complaint regarding the applicable criminal law norm can constitute a significant deficiency, potentially affecting the defendant's right to defense. This issue can be remedied through procedural acts of formulating the charges (See: Chapter 4, Subchapter 4.3.).

**Description of personal contributions, highlighting their theoretical significance and practical value.** *Personal contributions* The contributions consist of clarifying and deepening the concept of "limits of criminal case adjudication," providing a detailed understanding of the legal regulations that establish what can be judged in a criminal trial. Through the analysis of this topic, an original contribution is made both from a theoretical and practical perspective, with the goal of developing a clear vision of how the limits of case adjudication influence the criminal process. The study proposes a detailed analysis of these limits, particularly addressing the impact of modifying the accusation and the protection of the defendant's rights, thus contributing to a better understanding of the balance between the efficiency of the criminal process and the protection of the fundamental rights of the parties involved. From a practical standpoint, the research offers concrete solutions for improving the efficiency of the criminal process and ensuring the respect of the defendant's fundamental rights, having a significant impact on the criminal justice system. These solutions aim to optimize judicial procedures, ensuring that by modifying the accusation, under Article 325 of the Criminal Procedure Code of the Republic of Moldova, the defendant's situation is not aggravated, and the right to defense is not violated. The research results in pertinent conclusions.

***The scientific novelty and originality*** is argued by the fact that the theoretical and scientific-practical aspects of the limits of criminal case adjudication have been analyzed. The study of the elements and aspects of the subject in question, which has been only partially investigated so far, has facilitated the identification of the main issues in the field and led to findings that bring a significant contribution, characterized by novelty and originality. These results are particularly important for improving the

existing legislative framework. In this regard, the conducted research meets the criteria of scientific novelty and originality.

***The legal and empirical basis*** of the study is constituted by constitutional norms and provisions of the Criminal Procedure Code, as well as by the regulations of international instruments relating to fundamental rights and freedoms. It also relies on relevant case law from national courts and the European Court of Human Rights (ECHR)

***The scientific foundation*** of the research is formed by works and studies published by scholars in the field of criminal procedural law and human rights from the Republic of Moldova and other countries, providing a global and interdisciplinary perspective on the issues analyzed in this study. These sources contribute to a deeper understanding of the concept of limits in criminal case adjudication and the identification of best legal practices in this field.

***Theoretical significance.*** This thesis is one of the few works focusing on the legal content of the limits of criminal case adjudication, with essential implications for its essence and the conditions for its realization, from the perspective of applying procedural guarantees.

***Practical value.*** The author's proposals will contribute to the improvement of the Criminal Procedure Code, and the practical recommendations, supported by arguments within the work, will be valuable for lawyers, judges, prosecutors, and criminal investigators to ensure the correct and uniform application of judicial practices. Additionally, the content of the doctoral thesis can be utilized in the educational process, both in initial and continuing training for professionals in the field.

***Implementation of scientific results***. The scientific results of the doctoral thesis have been implemented in the scientific and educational processes at the Faculty of Law of the State University of Moldova, as well as in the judicial activity of a judge at the Chișinău Court, Buiucani branch. Subsequently, the research findings have been reflected in seven (7) publications in specialized journals both nationally and internationally, as well as in abstracts from presentations at various national and international scientific conferences.

***Indicating the limits of the obtained results and identifying unresolved issues*** lies in the development and deepening of scientific research on the limits of criminal proceedings, with a focus on judicial practice. Subsequently, it is important to research and study the experience of other countries that have progressed in the field, to identify the innovations applied, and to take the best practices for the Republic of Moldova, in particular, in the context of harmonization of national legislation with the EU regulatory framework.

As a result of the scientific investigation of the institution of the limits of the trial of criminal cases, we present the following set of de *lege ferenda* recommendations:

1. Regarding the procedural position of individuals in respect of whom criminal proceedings have been terminated based on grounds of non-rehabilitation, Article 285 of the Criminal Procedure Code of the Republic of Moldova should be supplemented with paragraphs (11) and (12) as follows:

*„(11) The suspect or the defendant, in respect of whom a decision to terminate the criminal proceedings has been issued, has the right to participate in the trial session concerning the co-participant in the crime, to make statements or to refuse to do so, and to submit complaints regarding the actions of the court if they violate or restrict their rights. If the suspect or defendant agrees to make statements, they must be warned that they will be questioned about any circumstances they are aware of and that their statements will be used as evidence in the criminal case, including in situations where they later retract those statements.*

*(12) The suspect or defendant, in respect of whom the criminal proceedings have been terminated, from the moment the order to this effect has been issued, may be summoned and heard as a witness in the criminal case*".

2. Regarding the procedural status of persons in respect of whom the criminal case has been separated, we consider it reasonable to amend Article 2791 of the Criminal Procedure Code of the Republic of Moldova by adding paragraph (4) with the following wording:

„(4) *The defendant in whose case the criminal proceedings have been separated, upon request, may be summoned to attend the hearing held in the case of the co-participant in the crime. They have the right to attend the hearing, make statements, refuse to make statements, and submit complaints regarding the actions of the court that violate or restrict their rights. If the defendant agrees to make statements, they must be warned that they will be questioned about any circumstances known to them and that their statements will be used as evidence in the criminal case, even if they later renounce these statements*".

3. Regarding individuals convicted for committing a crime in co-participation with the defendant, we propose the addition of paragraph (7) to Article 321 of the Criminal Procedure Code of the Republic of Moldova, with the following content::

„ (7) *In the court hearing, at the request of the parties, the person convicted for the crime committed in co-participation with the defendant may be summoned. They have the right to attend the hearing, ask the defendant questions, make statements, refuse to make statements, and file complaints regarding the actions of the court insofar as these violate or restrict their rights*".

4. We consider it reasonable to amend Article 368 of the Criminal Procedure Code of the Republic of Moldova by adding paragraph (4) with the following wording:

„(4) *At the request of the parties, as well as in case of inability to directly participate in the hearing, the statements of the co-participant in the crime, who has been convicted, made during the criminal investigation and in the hearing, may be read out in the court session*".

5. Based on the analysis of the notions 'modification of the charge,' 'aggravation of the defendant's situation,' and 'violation of the defendant's right to defense,' we recommend completing Article 325 of the Criminal Procedure Code of the Republic of Moldova with paragraph (3) in the following wording: „*Completion, modification, or exclusion of the factual circumstances of the charge, as well as changing the legal classification of the act, is not allowed when such changes lead to unfavorable legal consequences for the defendant, including in situations where they restrict the defendant's legal defense options, with the aim of obtaining an acquittal or reducing the sentence*".

This addition will allow us to clarify the broad content of the terms 'inadmissibility of aggravating the defendant's situation' and 'inadmissibility of violating the defendant's right to defense,' which apply not only with reference to Article 325 of the Criminal Procedure Code of the Republic of Moldova concerning the limits of the trial, but also in other procedural norms regulating different stages of the criminal process. The extent of the interpretation of these conditions may generate formal precedents, lacking substance, regarding the violation of the limits of the criminal case trial, which do not pose a real danger, but a potential one. For example, we cannot consider a violation of the principle of inadmissibility of aggravating the defendant's situation or his right to defense simply due to the increase in the number of injured parties in a hearing, as long as there is no change in the extent of the damage caused.

6. Also, as de *lege ferenda*, we propose the addition of paragraph (4) to Article 325 of the Criminal Procedure Code of the Republic of Moldova with the following content:

*„The public prosecutor, until the conclusion of the judicial investigation, may modify the accusation in the sense of attenuation by:*

*a) excluding from the legal classification of the act the elements of the offense that aggravate the penalty;*

*b) reclassifying the act according to the penal law provision that prescribes a milder punishment, provided that this does not worsen the defendant's situation and does not violate the right to defense, with the condition of granting the right to be informed of the new accusation and providing time to prepare the defense.*

*The modification of the accusation in the sense of attenuation is made through a reasoned order, indicating the legal grounds. This order is presented in the court hearing to the defendant and their defense counsel*".

7. We propose the completion of Article 323 of the Criminal Procedure Code of the Republic of Moldova with paragraph (6) in the following wording:

„*The issues examined by the court during the process are set forth in the rulings, which must be pronounced during the court hearing. In case the injured party (parties) is absent, they will be notified about the issuance of the ruling.*

*The ruling regarding the modification of the accusation under the conditions of Article 325 paragraph (3) of the Criminal Procedure Code of the Republic of Moldova is made in the deliberation chamber, with a note made in the minutes of the court hearing regarding its pronouncement*".

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# ADNOTARE

**POSTICĂ Aureliu. „Limitele judecării cauzei penale”. Teză de doctor în drept la specialitatea 554.03 - Drept procesual penal. Chișinău, 2025.**

***Structura tezei:*** Introducere, patru capitole, concluzii generale și recomandări, bibliografia din 259 titluri, 234 pagini de text de bază. La tema tezei au fost publicate 8 (opt) lucrări științifice.

***Cuvinte-cheie*:** învinuire, acuzat, inculpat, rechizitoriu, obiect al judecării cauzei penale, limitele judecării cauzei, încadrare juridică, procuror, instanță de judecată, atenuarea situației, agravarea situației, drept la apărare.

***Scopul lucrării*** constă în realizarea unui studiu amplu al limitelor judecării cauzelor penale prin prisma garantării principiilor fundamentale ale dreptului procesual penal, și optimizarea cadrului de reglementare din acest domeniu.

***Obiectivele cercetării:*** determinarea conținutului juridic și formularea noțiunii de limite ale judecării cauzei în procesul penal; dezvăluirea esenței și conținutului limitelor judecării cauzei penale în funcție de cercul de persoane participante la proces; determinarea și clasificarea categoriilor de persoane care nu au statut de inculpați în cauzele penale, însă ale căror acțiuni ilegale au legătură cu fapta incriminată inculpatului, examinată în instanța de judecată; identificarea condițiilor referitoare la modificarea învinuirii în instanța de fond; elaborarea criteriilor referitoare la recunoașterea învinuirii modificate ca agravând situația inculpatului sau încălcând dreptul acestuia la apărare; identificarea limitelor speciale ale judecării cauzei penale, și anume, care sunt cerințele speciale în raport cu hotarele cercetării judecătorești, darea sentinței și modificarea învinuirii în instanță pe anumite categorii de cauze sau în privința unor anumite categorii de persoane; analiza limitelor judecării cauzelor penale prin prisma standardelor internaționale ale unui proces echitabil; identificarea unor criterii juridice internaționale în materia posibilei modificări a învinuirii în instanța de fond; identificarea și analiza modelelor de modificare a învinuirii în instanța de fond; stabilirea granițelor admisibile pentru modificarea învinuirii în instanța de fond în contextul cerințelor raportate la limitele judecării cauzei penale; cercetarea practicii de aplicare a cerințelor legale referitoare la limitele judecării cauzei penale în spețe concrete și demonstrarea, în baza studiului empiric, a importanței pe care o are din perspectiva dreptului la apărare; caracterizarea realizării limitelor judecării cauzei pe anumite categorii de dosare.

***Noutatea și originalitatea științifică*** constă în faptul că au fost analizate aspectele teoretice și științifico-practice ale limitelor judecării cauzei. Studiul elementelor și aspectelor subiectului în cauză, care a fost până în prezent doar parțial investigat, a facilitat identificarea principalelor probleme din domeniu și a condus la formularea unor constatări ce aduc o contribuție semnificativă, caracterizată prin noutate și originalitate. Aceste rezultate sunt deosebit de importante pentru îmbunătățirea cadrului legislativ existent. În acest sens, cercetarea realizată respectă criteriile de noutate și originalitate științifică.

***Problema științifică importantă soluționată în domeniul de cercetare*** constă în conceptualizarea instituției limitelor judecării cauzei penale, ceea ce a condus la clarificarea acestora pentru teoreticieni și practicieni din domeniul procedurii penale. Lucrarea oferă o abordare sistematică a condițiilor și criteriilor care definesc aceste limite, inclusiv în ceea ce privește învinuirea, modificările acesteia și implicarea diferitelor categorii de persoane în procesul penal. Astfel, cercetarea contribuie la consolidarea doctrinei procesual-penale, prin formularea și argumentarea unor propuneri de *lege ferenda*, menite să îmbunătățească reglementările actuale și să asigure o aplicare mai coerentă și eficientă a principiilor procesului penal.

***Semnificația teoretică*:** Teza reprezintă una dintre puținele lucrări care ține în vizor analiza conținutului juridic al limitelor judecării cauzei penale, cu implicații esențiale asupra esenței, condițiilor de realizare prin prisma aplicării garanțiilor procesual penale.

***Valoarea aplicativă*:** Propunerile autorului vor contribui la îmbunătățirea Codului de procedură penală, iar recomandările practice, susținute de argumente în cadrul lucrării, vor fi utile avocaților, judecătorilor, procurorilor și ofițerilor de urmărire penală, pentru o aplicare corectă și uniformă a practicii judiciare. De asemenea, conținutul tezei de doctorat poate fi valorificat în cadrul procesului educațional, atât în formarea inițială, cât și în cea continuă a profesioniștilor din domeniu.

***Implementarea rezultatelor științifice***. Rezultatele științifice ale tezei de doctorat au fost implementate în procesul științifico-didactic din cadrul Facultății de Drept a Universității de Stat din Moldova, precum și în activitatea de Judecător în cadrul Judecătoriei Chișinău, sediul Buiucani.

## ANNOTATION

**POSTICĂ Aureliu. "Limits of Judging a Criminal Case". Doctoral thesis in law, scientific specialty 554.03 - Criminal Procedure Law. Chișinău, 2025.**

**Thesis structure:** Introduction, four chapters, general conclusions and recommendations, bibliography with 259 titles, 234 pages of main text. Eight scientific papers have been published on the thesis topic.

**Keywords:** accusation, accused, defendant, indictment, subject of the criminal case, limits of judging the case, legal classification, prosecutor, court, mitigating the situation, aggravating the situation, right to defense.

**The purpose** of this work is to conduct an extensive study of the limits of criminal case adjudication through the lens of guaranteeing the fundamental principles of criminal procedural law and optimizing the regulatory framework in this field.

**Research objectives:** determining the legal content and formulating the concept of "limits of judging the case in criminal proceedings"; revealing the essence and content of the limits of judging a criminal case depending on the circle of participants in the process; determining and classifying categories of persons who do not have the status of defendants in criminal cases, but whose illegal actions are related to the criminal act of the defendant, examined by the court; identifying the conditions for modifying the accusation in the court of first instance; developing criteria for recognizing a modified accusation as aggravating the defendant's situation or violating their right to defense; identification of the special limits of criminal case adjudication, namely, what are the special requirements in relation to the boundaries of judicial investigation, pronouncement of sentence, and modification of the charge in court for certain categories of cases or concerning certain categories of persons; analysis of the limits of criminal case adjudication through the lens of international fair trial standards; identification of international legal criteria regarding the possible modification of the charge in the court of first instance; identification and analysis of models for modifying the charge in the court of first instance; establishing the permissible boundaries for modifying the charge in the court of first instance within the context of requirements related to the limits of criminal case adjudication; research on the practice of applying legal requirements regarding the limits of criminal case adjudication in specific cases and demonstrating, based on empirical study, the importance of this from the perspective of the right to defense; characterization of the implementation of the limits of adjudicating cases for specific categories of cases.

**Scientific novelty and originality** consist in the fact that the theoretical and scientific-practical aspects of the limits of judging a criminal case have been analyzed. The study of the elements and aspects of the subject, which has been only partially explored so far, facilitated the identification of key issues in the field and led to the formulation of findings that make a significant contribution characterized by novelty and originality. These results are especially important for improving the existing legislative framework. In this regard, the research meets the criteria of scientific novelty and originality.

**The important scientific problem** addressed in the field of research consists in the conceptualization of the institution of the limits of judging a criminal case, which led to their clarification for both theorists and practitioners in the field of criminal procedure. The paper provides a systematic approach to the conditions and criteria that define these limits, including with regard to the accusation, its amendments, and the involvement of various categories of individuals in the criminal process. Thus, the research contributes to strengthening criminal procedural doctrine by formulating and arguing proposals for de lege ferenda (future legislation), aimed at improving current regulations and ensuring a more coherent and efficient application of the principles of criminal procedure

**Theoretical significance:** The thesis represents one of the few works that focus on analyzing the legal content of the limits of judging a criminal case, with essential implications for the essence and conditions of its realization through the application of criminal procedural guarantees.

**Practical value:** The author's proposals will contribute to improving the Criminal Procedure Code, and the practical recommendations, supported by arguments in the thesis, will be useful for lawyers, judges, prosecutors, and criminal investigators, in ensuring the correct and uniform application of judicial practice. Additionally, the content of the doctoral thesis can be used in educational processes, both in initial and continuous training of professionals in the field.

**Implementation of scientific results:** The scientific results of the doctoral thesis have been implemented in the scientific and educational process at the Faculty of Law of the State University of Moldova, as well as in the activity of a Judge at the Chișinău Court, Buiucani District.

# АННОТАЦИЯ

**ПОСТИКА Аурелий. «Пределы судебного разбирательства». Диссертация на степень доктора права по специальности 554.03 — Уголовно-процессуальное право. Кишинев, 2025.**

**Структура диссертации:** Введение, четыре главы, общие выводы и рекомендации, библиография из 259 источников, 234 страниц основного текста. По теме диссертации опубликовано 8 (восемь) научных работ.

**Ключевые слова:** обвинение, обвиняемый, подсудимый, обвинительное заключение, предмет судебного разбирательства уголовного дела, границы судебного разбирательства, правовая квалификация, прокурор, судебная инстанция, смягчение ситуации, ухудшение ситуации, право на защиту.

**Цель работы** заключается в проведении обширного исследования ограничений рассмотрения уголовных дел с точки зрения обеспечения фундаментальных принципов уголовного процессуального права и оптимизации нормативной базы в этой области.

**Цели исследования:** определение юридического содержания и формулировка понятия «границы судебного разбирательства в уголовном процессе»; раскрытие сути и содержания границ судебного разбирательства уголовного дела в зависимости от круга участников процесса; определение и классификация категорий лиц, не обладающих статусом обвиняемых в уголовных делах, но чьи незаконные действия связаны с преступлением, инкриминированным подсудимому и рассматриваемым в суде; определение условий изменения обвинения в суде первой инстанции; разработка критериев признания измененного обвинения как ухудшающего положение подсудимого или нарушающего его право на защиту; идентификация специальных ограничений в процессе рассмотрения уголовного дела, а именно, какие специальные требования существуют в отношении границ судебного расследования, вынесения приговора и изменения обвинения в суде для определенных категорий дел или в отношении определенных категорий лиц; анализ ограничений рассмотрения уголовных дел с точки зрения международных стандартов справедливого судебного разбирательства; выявление международных юридических критериев возможного изменения обвинения в суде первой инстанции; выявление и анализ моделей изменения обвинения в суде первой инстанции; установление допустимых границ для изменения обвинения в суде первой инстанции в контексте требований, связанных с ограничениями рассмотрения уголовного дела; исследование практики применения юридических требований, касающихся ограничений рассмотрения уголовных дел в конкретных случаях, и демонстрация, на основе эмпирического исследования, важности этого с точки зрения права на защиту; характеристика реализации ограничений рассмотрения дела по определенным категориям дел.

**Научная новизна и оригинальность** заключается в том, что были проанализированы теоретические и научно-практические аспекты границ судебного разбирательства уголовного дела. Исследование элементов и аспектов рассматриваемой темы, которая до настоящего времени была лишь частично изучена, позволило выявить основные проблемы в этой области и сформулировать выводы, которые вносят значительный вклад, характеризующийся новизной и оригинальностью. Эти результаты особенно важны для улучшения существующей законодательной базы. В этом смысле проведенное исследование соответствует критериям научной новизны и оригинальности.

**Важная научная проблема**, решаемая в исследуемой области, заключается в концептуализации института пределов судебного разбирательства уголовного дела, что привело к их разъяснению как для теоретиков, так и для практиков в области уголовного процесса. Работа предлагает систематический подход к условиям и критериям, которые определяют эти пределы, включая обвинение, его изменения и участие различных категорий лиц в уголовном процессе. Таким образом, исследование способствует укреплению уголовно-процессуальной доктрины через формулировку и аргументацию предложений по de *lege ferenda*, направленных на улучшение существующих норм и обеспечение более последовательного и эффективного применения принципов уголовного процесса.

**Теоретическое значение:** Диссертация является одной из немногих работ, которая фокусируется на анализе юридического содержания границ судебного разбирательства уголовного дела, с важными последствиями для сути и условий его реализации через применение гарантий уголовно-процессуальных прав.

**Практическая ценность:** Предложения автора будут способствовать улучшению Уголовно-процессуального кодекса, а практические рекомендации, аргументированные в рамках работы, будут полезны адвокатам, судьям, прокурорам и следователям для правильного и единообразного применения судебной практики. Кроме того, содержание докторской диссертации может быть использовано в образовательном процессе как при начальной, так и при постоянной профессиональной подготовке специалистов в данной области.

**Реализация научных результатов:** Научные результаты докторской диссертации были внедрены в научно-образовательный процесс на факультете права Государственного университета Молдовы, А также, в деятельности судьи в рамках Кишиневского суда, Буюканский сектор.

**POSTICA Aureliu**

**LIMITS OF CRIMINAL CASE ADJUDICATION**

**Specialty *554.03 – Criminal procedural law***

**Summary of the Doctoral Thesis in Law**

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