DEVELOPING AND IMPROVING FEATURES OF LEGAL PROCEEDINGS IN ANCIENT GREECE

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Abstract. The historical and legal analysis of judicial proceedings, the ancient states of Europe existing in the conditions of a socio-political system have important to value in understanding and further improvement of the operating legal mechanisms as, they in the time had quite thought over bases, and their efficiency was quite often connected with talent and intellectual potential of participants of process. In this article, with historical and legal positions of the analysis of the organization and development of criminal justice in the state of Ancient Greece, the types of proceedings in criminal matters and their inter difference signs, their locations, and the values in the intensification of criminal proceedings. Throughout the long history of the development of the Athenian state the order of intensification trials aimed at improving the effectiveness of review and resolution of criminal cases acquired specific properties.

Keywords: Ancient Greece, criminal proceeding, court of Areopagus, laws of the Gorteen, epilates courts, grafe cases, state crimes, dicke cases, private crimes.

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Society of Greece, formed under the influence of socio-cultural consciousness of the ancient East and introduced the concept of democratic values to the world civilization, was created as a result of association of the cities policies of the Balkan region, on the basis of Theseus, Solon and Cleisthenes's socio-political reforms which are carried out in the XII-VI centuries B.C. (Sazhina and Tagunov, 2005, pp. 46). In particular, only owing to Theseus's reforms four cities were united in the uniform state.

In the state of Ancient Greece the main source of the right was made by the customs created in the process of the public relations. However, during the period after combination of policies the place of customs was taken by the hand-written right (Ivanov, 2012, p. 62). It is in these written sources; including the judicial laws of Gortin (Sats et al., 1989, p. 98) were streamlined procedural relationships proceedings of Greece. In Greece, the judicial system consisted of courts at various levels; they were under the jurisdiction of strictly defined cases. So, to the jurisdiction of the so-called court of the Areopagus were classified as crimes such as murder, grievous bodily harm, and arson of property or poisoning. In this court was strict procedures for handling cases, the judicial Board heard the case in the last three days of each month only in the evening outside on the Main reason for the consideration of the case in the evening was that the judges were not supposed to see the face of the accused and should not have to tarnish his honor by the presence in the same room with the accused (Kuchma, 2001, p. 112).

The Prosecutor and the accused, standing on stones against each other, expressing their own thoughts, while previously they were sworn in, holding the entrails of animals. A verdict in the trial was declared on the third day after forensic speech of a Prosecutor.

The accused in order to reduce the negative consequences of the sentence against himself had to leave the country within three days before adjudgement (Kuchma, 2001, p. 113).

If we consider the form of the proceedings from the standpoint of the requirements of intensification consider this a form of accelerated or simplified procedure, the procedure is somewhat complex. Because, if the criminal case was submitted to the court in the first days of the month, the parties were forced to wait for a meeting of the Board of the Areopagus in the last three days of the month, a verdict was announced only on
the third day of the proceedings. If you consider that a feature of the criminal process was associated with the presence of the indictment proceedings, the cases in such a manner demanded quite a considerable time.

One more type of legal proceedings in the state of Ancient Greece was called court of ephetaes, in this court the crimes in the form of careless murder committed by free citizens, and also the murders committed by slaves were considered. Also, such tasks as hearing of cases about property crimes and supervision of execution of the sentences pronounced by other courts, management of places of serving of punishments belonged to duties of courts of ephetaes (Tomsinov, 2002, p. 61).

Besides, in practice of legal proceedings of Greece there was one more type of judicial proceedings, it meant trial of matter in an order of court of helion. The court of helion considered the majority of criminal cases; it was carried out 5000 geliast, annually chosen or defined by means of white or black stones. The court of geliast in our concept is close to juries.

However, the court of helion also decide the validity or invalidity of draft laws to the interests of the policy, on appeal, reviewed complaints against the verdicts of the lower courts.

In addition, although in accordance with the laws of the policies Athens criminal process mainly took the form of private prosecution, the function of criminal prosecution is divided into two types. First, the proceedings on cases related to public interest (the state) – “Grafe” (“column”); secondly, the proceedings in cases involving private individuals – “Dike” (“dice”).

Distinctions between modes of production on the these cases were as follows:

– process of "Grafe" was excited only on the criminal cases connected with the state interests, judicial proceedings of affairs in an order of "Dike" were initiated only on the questions connected with interests of individuals;
– process of "Grafe" was excited by any person which doesn't have the private interest, production as "Dike" was carried out directly-faced which interests were broken;
– in the process of "Grafe" recognition of the claim of the accuser reasonable, in practice didn't bring it any material interest (because, the penalty collected with guilty got directly to the state treasury), at process as "Dike" recognition of the claim, meant satisfaction of material interest of the execution creditor;
– in the process of "Grafe" the person which excited charge was compelled to finish business, otherwise, the penalty in a large size was imposed on the accuser (in certain cases to 1000 dirhams).

By production of matter in an order of "Dike" the person had the right to refuse the claim at any stage and wasn't responsible for it;
– if from the face which excited process of "Grafe" the state tax it wasn't collected, the person which excited process of "Dike" had to pay the state tax (Kuchma, 2001, p. 130).

The Polis of Athens proceedings were connected with this peculiarity of their structural units is based depending on the degree of public danger of crimes and punishments. In addition, the intensity of the proceedings was often linked with such aspects of the case.

In Greece state, proceedings, mainly, was based on the competition of the parties, for this reason, we have ensured the right of every free citizen to go to court with the statement. This right was given only to men, women and children in court to defend the heads of families – men (Kuchma, 2001, p. 120).

The Polis of Athens, the question of intensification of the criminal proceedings was resolved in accordance with the existing form of private prosecution. It was primarily in writing had to be transmitted to Thesmothetai (Pikus and Sokolov, 1951, pp. 112-113), the arguments of the pre-application were considered with participation of the parties, the Prosecutor was required to prove her claims. Then began the stage of judicial investigation, trial, this stage was called anacrusis.

The composition of the judicial Commission (i.e., judicial Board) for the implementation of the proceedings according to the statement, the date, time and place of the trial were determined by the smothetae. The rate of production of the trial often depended on the degree of importance of requirements statements to the public interest. A statement about the murder of a man is often considered the day of receipt of application or the next day. The trial began with a review of the judicial Commission with the contents of the received application, the next stage of the proceedings was allowed important for the early consideration of the case of organizational issues, including, mortgage, termination of the trial by eliminating the damage caused and other matters (Krasheninnikova, 2007, p. 78).

The proceeding in such order was important for trial intensification.
After observance of similar requirements of legal proceedings the judicial commission passed to an anacrusis, i.e. trial on the merits. In judicial proceedings of Athens Polis, as well as in all forms of accusatory production the problem of proof of guilt or innocence was assigned to the parties. Therefore, the parties were obliged to provide immediately to court of the proof, the proving requirements specified in the statement, thus proofs were provided to court in the sealed pottery.

The fate of the case was directly related to this evidence, the court had to consider by the parties to evidence in the litigation of the case. If the Prosecutor is the plaintiff failed to provide evidence proving its case, the claim was rejected, and was used against him a measure of financial responsibility if the defendant-Respondent could not provide to the court evidence of his innocence, the court had convicted him and used against him the punishment. But, in some cases an important procedural issue of proof was taking the oath, testimony, given under oath could be taken into account by the court (Pikus and Sokolov, 1951, pp. 78-87).

After compliance with such requirements of the proceedings, i.e. at the end of anacrusis moved on to the next stage of courtroom – trial stage of the debate. This stage was considered to be the Central stage of the proceedings, acted at Athens state, to prepare for the parties were granted a few days. On the appointed day, during the trial, the parties have consistently taken the floor for debate. The first was made by the Prosecutor, the accused was further expressed his opinion about the lawsuit, their performances were provided equally (Batyr, 2004, p. 112).

At the same time, according to Draconian law adopted approximately in 621 year B.C., in legal proceedings of Greece could take place and reconciliation of the parties, this circumstance was important for an intensification of criminal trial. As, the claimant's reconciliation (or his close relatives, in case of death of the victim – N. H.) and the victim influencing a process intensification, meant immediate judicial proceedings (Surikov, 2000).

Thus, throughout the long history of the development of the Athenian state the order of intensification trials aimed at improving the effectiveness of review and resolution of criminal cases acquired specific properties, first of all, peculiarities of occurrence of procedural relations were urging citizen to the immediate consideration of the claim in court, secondly, the reasons of the trial in the adversarial and the burden of proof on the Prosecutor and the accused, the resolution of the case by the court in the framework presented their evidence, gave rise to accelerated implementation of the trial; third, a confession of guilt meant instant dismissal; fourth, leaving the accused outside the country in reserved for the announcement of the verdict, did not allow consideration of the case at the next stage, and it was recognized at the end. A proceeding with such proceedings, of course, was accelerated. Its effectiveness is largely dependent on the intensity of the trial of that time and those conditions.

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