

Discussion on the Connection between Supervision System and Criminal Proceedings Code

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Abstract: After the reform of the supervisory system, the connection between the supervisory system and the Criminal Proceeding Code has attracted wide attention from the theoretical circles and the society, especially the supervisory committee, which is mainly responsible for the investigation of illegal administrative laws and regulations, and the related duties of criminal investigation. Therefore, the supervision system and the Criminal Proceeding Code need to be better connected. However, according to specific practice, the connection between the supervision system and the Criminal Proceeding Code is not simple, and the influence of many difficult factors cannot be underestimated, which also makes it difficult for the supervision system to link up with the Criminal Proceeding Code. This article will make a concrete analysis of the connection between the supervision system and the Criminal Proceeding Code, and put forward reasonable suggestions.

1. Introduction

The connection between the supervisory system and the *Criminal Proceeding Code* is not only a theoretical issue, but also of great significance to the performance of the functions of the supervisory committee and the development of specific work in practice¹. But we should also clearly see that the reform trend of the supervision system is very obvious, and the connection between the supervision system and the *Criminal Proceeding Code* is not simple. Especially when it comes to the convergence of duty crime supervision power and general inspection power, there will be more pressure on the supervision system to approach the *Criminal Proceeding Code*. The convergence of the two powers will also be affected by many factors. In view of this, it is necessary to find an effective way to link up the supervision system with the *Criminal Proceeding Code*.

2. Brief Introduction of the Connection between the Supervisory System and the Criminal Proceeding Code

The connection between the supervisory system and the Criminal Proceeding Code is actually an inevitable requirement of running the country according to law in an all-round way. Even if the supervisory system is a special system, it also needs to maintain a high consistency with the relevant laws². In the new era, the supervisory system has become the basis for guiding the supervisory committee to better carry out relevant work. On the one hand, in the criminal investigation of duty-related crimes, the supervisory committee should follow the requirements of the supervisory system, and at the same time, it should not violate the basic requirements of the Criminal Proceeding Code. This requires that the supervisory system and the Criminal Proceeding Code should be well connected. From the view of the necessity of linking up the supervision system and the Criminal Proceeding Code, the linking up of the two is also an inevitable requirement to further improve the supervision system. Especially when the work of supervision needs to be carried out in depth, a better connection between the supervision system and the Criminal Proceeding Code can help to deal with many specific issues reasonably, legally and efficiently.

3. Difficulties in Connecting Supervision System with Criminal Proceeding Code

Although the urgency and necessity of the connection between the supervision system and the

Criminal Proceeding Code are very obvious, the connection between them is not simple. Whether in theory or in practice, the connection between the two will be affected by many factors. On the one hand, the connection between the supervisory system and the *Criminal Proceeding Code* requires better handling of the logical relationship between procedure and evidence, especially when there are some differences between the supervisory committee's functional performance procedure and the procedure of the *Criminal Proceeding Code*, the connection of the logical relationship between procedure and evidence is particularly important. On the other hand, the supervision system is the “product” under the influence of the “Supervision Law”. The connection between the supervision system and the *Criminal Proceeding Code* is also the connection between the “Supervision Law” and the *Criminal Proceeding Code*, which further increases the difficulty of the connection between the supervision system and the *Criminal Proceeding Code*.

4. Specific Suggestions on Connecting Supervision System with Criminal Procedure Law

4.1 Coordinating the Logical Relation between Procedure and Evidence

The connection between the supervisory system and the *Criminal Proceeding Code* should be carried out under the model of “the duality of procedural evidence”, which is also the necessary choice to narrow the differences between the two and to better deal with the logical relationship between procedure and evidence. In this process, the evidence itself should have certain independence, and the evidence collected by the supervisory organs should be recognized and adopted in the relevant procedures of the *Criminal Proceeding Code*, which is the concrete manifestation of the integration of evidence. The duality of procedure means that the supervisory organs should stand side by side with the judicial organs, and the supervisory organs should perform their related functions in accordance with the Supervisory Law and the supervisory system. As the supervisory power does not belong to the judicial power at the level of the Constitution, it should be regarded as a special administrative power. In fact, the rights of supervision and trial in the *Criminal Proceeding Code* are a kind of judicial power. In this state, the convergence of the supervision system and the *Criminal Proceeding Code* needs to give better consideration to the procedural differences, and the two cannot be confused for the purpose of convergence. It is also feasible to link up the supervision system with the *Criminal Proceeding Code* based on the model of “duality of procedural evidence”.

4.2 Attention Should Be Paid to the Legal Connection between the Supervision Law and the Criminal Proceeding Code

The connection between the supervision system and the *Criminal Proceeding Code* is actually the connection between the *Supervision Law* and the *Criminal Proceeding Code*. Article 4 of the *Supervisory Law* distinguishes the power of inspection from the executive power and judicial power in the general sense. However, as a basic law, both the content of the *Supervision Law* and the original legislative intention of the *Supervision Law* are closely related to the *Criminal Proceeding Code*, which makes the connection between the law and the supervision system become a specific way to link up with the *Criminal Proceeding Code*. In the connection of the *Supervision Law* and the *Criminal Proceeding Code*, the connection of jurisdiction of cases from different legal perspectives and the connection of examination and prosecution should be the basic content. When there are some differences between the *Supervision Law* and the *Criminal Proceeding Code*, we can weaken the different influence of law through the reform of the supervision system. From the perspective of comprehensive rule of law, the legal status of the *Supervision Law* and the *Criminal Proceeding Code* cannot be challenged, but the connection between the supervision system and the *Criminal Proceeding Code* can be carried out through some ways of institutional adjustment.

4.3 Enhancing the Coordination of Compulsory Measures Such as Detention

The trinity of the Party, the government and the law has basically taken shape. Under the supervisory system, the supervisory organs can adopt coercive measures such as detention, which

also needs to be well coordinated with other criminal coercive measures in the *Criminal Proceeding Code*. For example, it is a compulsory measure under the supervision system to leave some persons suspected of duty crimes in fixed places, but it is not a criminal compulsory measure. However, with the deepening of the case, it is possible to take some substantive criminal compulsory measures for the relevant personnel, which also makes the compulsory measures in the supervision system should be better linked with the criminal compulsory measures in the *Criminal Proceeding Code*. Specifically, the supervisory organ has the right to take lien measures, but after handing over to the inspection organ, the inspection organ should consider comprehensively whether to take criminal coercive measures and what kind of criminal coercive measures to take, based on the actual situation, and at the same time provide reference for the coercive measures taken by the supervisory organ. In the process of the reform of the supervision system, we should also focus on the coordination between the compulsory measure of detention and the compulsory measure of criminal procedure in the *Criminal Proceeding Code*.

5. Conclusion

Although it is difficult to link up the supervisory system with the *Criminal Proceeding Code*, and it will be affected and restricted by many factors, the supervisory system must be well connected with the Criminal Procedure Law under the situation of anti-corruption. In the future, the connection between the supervision system and the Criminal Procedure Law should not be carried out blindly. Especially in the process of the reform of the supervision system, the national level should clearly focus on the convergence of the two targeted. At the same time, the supervision system should be appropriately reformed so as to meet the relevant requirements and provisions of the *Criminal Proceeding Code*. Avoiding improper convergence operation has a negative impact on the operation of the supervision system or the implementation of the *Criminal Proceeding Code*.

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