

## THE NEED FOR A DOCTRINE OF JURISDICTION IN CRIMINAL PROCEDURAL SCIENCE (FOR THE POST-SOVIET STATES)

Dmitry Chekulaev\*

**Abstract.** The article presents the author's position on the necessity of further comprehensive study of the institution of jurisdiction in criminal proceedings within the framework of a separate field of research - the doctrine of jurisdiction. It substantiates the need to develop a doctrinally grounded concept of jurisdiction and its types, including the identification, as a separate type of jurisdiction, of the jurisdiction applicable during special periods (jurisdiction under martial law or a state of emergency). The author also argues for recognizing the interbranch nature of jurisdiction, characteristic of civil, commercial (arbitrazh), administrative, and criminal proceedings, as well as the possible necessity of unifying the relevant terminology. Furthermore, the article emphasizes the expediency of scientific and practical research into certain controversial issues, including the scope of the concept of the "prohibition of disputes over jurisdiction", the improvement of the existing procedure for transferring cases according to jurisdiction, and the inclusion of a separate chapter entitled "Jurisdiction" in criminal procedural legislation. Discussions of this kind may prove particularly useful among scholars of the post-Soviet states, which previously existed within a common "procedural space".

**Keywords** - *criminal procedure, jurisdiction, the right to a lawful court, composition of the court, dispute over jurisdiction, judicial system.*

In the Russian pre-reform<sup>1</sup>, post-reform, and Soviet science of criminal procedure, the study of the institution of jurisdiction did not receive sufficient attention for a long time. For example, throughout the entire Soviet period of development, only a very limited number of thematic studies were published, and these related mainly

---

\* **Dmitry P. Chekulaev** - Associate Professor of the Department of Criminal Procedure, Administration of Justice, and Prosecutorial Supervision, Faculty of Law, Lomonosov Moscow State University, Candidate of Legal Sciences (PhD in Law), e-mail: [dm\\_ch@inbox.ru](mailto:dm_ch@inbox.ru), ORCID: 0009-0008-2532-4497



This work is licensed under a Creative Commons Attribution-NonCommercial 4.0 International License.

The article received 11 June 2026,  
reviewed 27 June 2026,  
accepted for publication 29 June 2026

© The Author(s) 2026

<sup>1</sup> Prior to the Great Judicial Reform of 1864 initiated by Emperor Alexander II.

to the period of the 1930s–1950s<sup>2</sup>. A similarly "peripheral", from the standpoint of legal scholarship, approach to the study of the institution of jurisdiction persisted after the adoption in 1958 of the *Fundamentals of Criminal Judicial Procedure of the USSR and the Union Republics* and the subsequently adopted republican codes of criminal procedure, as well as during the first decades following the dissolution of the USSR.

It is possible that the absence of major scholarly works in this field was, to some extent, a tribute to Soviet academic traditions, which regarded jurisdiction, particularly territorial jurisdiction, as a "technical" institution. For example, as the well-known Soviet professor M. A. Cheltsov noted, not every violation of the rules of jurisdiction necessarily entails the unconditional invalidation of the judgment rendered. If the court, by accepting the case for its proceedings, exceeded its powers, its judgment must be quashed. However, if the limits of its powers were not exceeded, that is, where one court accepted for its proceedings a case that should have been heard by another court of the same level, there are no grounds for the mandatory quashing of the judgment<sup>3</sup>.

A similar explanation of the legislator's approach under consideration was provided by the eminent Soviet scholar M. S. Strogovich, who wrote: "The prohibition of disputes between courts regarding the jurisdiction of a particular case proceeds, first, from the unity of the Soviet judicial system and, second, from the inadmissibility of delays in criminal cases (the fate of the accused would remain unresolved while the dispute over the jurisdiction of the case continued)"<sup>4</sup>.

A certain increase in the number of studies devoted to issues of jurisdiction in the early 2020s was associated with the examination of the constitutional foundations of the administration of justice and was carried out through the prism of the right to a lawful court<sup>5</sup>. Thus, many states that had previously formed part of the USSR as Union republics have enshrined in their modern constitutions the right

---

<sup>2</sup> **Kozhevnikov, M. V.** *Jurisdiction of Criminal Cases*. Edited by I. T. Golyakov. Moscow, 1939. 20 p., **Gusev, L. N.** *Jurisdiction of Criminal Cases*. Moscow, 1955. 20 p.

<sup>3</sup> **Cheltsov, M. A.** *Criminal Procedure*. Moscow, 1948. P. 440. It is noteworthy that a similar approach was also adopted by pre-revolutionary scholars. Thus, **V. K. Sluchevsky** discussed in detail the various procedural consequences of a court's violation of the rules of **territorial or subject-matter jurisdiction**. In his opinion, a violation of the former type of jurisdiction "does not constitute an absolute ground for recognizing the validity of the judgment rendered." However, a judgment delivered in violation of the latter type of jurisdiction (subject-matter jurisdiction) "must never acquire the force of a lawful judicial decision and is subject to annulment." (Sluchevsky, V. *Textbook of Russian Criminal Procedure. Judicial Organization and Judicial Proceedings*. St. Petersburg, 1913. Pp. 254–256).

<sup>4</sup> **Strogovich, M. S.** *Course of Soviet Criminal Procedure*. Moscow, 1958. P. 149.

<sup>5</sup> **Kondrashin, P. V., & Popova, E. I.** *The Right to a Lawful Court in Criminal Proceedings: A Monograph*. Edited by Yu. P. Garmayev. Moscow, 2024.

to a lawful court through the requirement of compliance with the rules of jurisdiction. For example, Chapter 2 of the Constitution of the Russian Federation, entitled "Rights and Freedoms of Man and Citizen" and not subject to amendment, provides that no one may be deprived of the right to have his or her case examined by the court and the judge to whose jurisdiction it has been assigned by law (Article 47(1)). At the constitutional level, the Republic of Kazakhstan provides that "no person may, without his or her consent, have the jurisdiction established for him or her by law altered" (Article 77(3)(3) of the Constitution of the Republic of Kazakhstan). Pursuant to Article 31(2) of the Constitution of Georgia, "everyone has the right to have his or her case examined only by the court within whose jurisdiction the case falls".

A logical continuation of the growing interest in the institution of jurisdiction was the organization of major academic events. For example, in March 2024, the Faculty of Law of Lomonosov Moscow State University hosted an international conference devoted exclusively to a single issue - the jurisdiction of criminal courts. Among the participants was a distinguished plenary speaker representing the Armenian school of criminal procedure, Professor S. A. Dilbandyan<sup>6</sup>. In substantiating the need for holding such a specialized academic conference, the prominent Russian scholar Professor L. V. Golovko figuratively emphasized that the institution of jurisdiction had long been underestimated, being perceived by many as a purely technical institution that did not deserve close scholarly attention<sup>7</sup>.

The existing vacuum in the doctrinally systematized study of jurisdiction in criminal proceedings, as well as the deficiencies in the conceptual framework, is currently being addressed by contemporary scholars, including representatives of leading academic research institutions. For example, in 2026, E. E. Konovalova, a researcher at the Institute of State and Law of the Russian Academy of Sciences, published a comprehensive monograph advocating the following approach to the issue under consideration: the right to have one's case examined by the court and the judge to whose jurisdiction it has been assigned by law should, in the context of criminal proceedings, be characterized as the right of participants in criminal proceedings who are vested with the right to judicial protection to have their

---

<sup>6</sup> **Dilbandyan, S. A.** Subject-Matter and Other Types of Jurisdiction under the Criminal Procedure Code of the Republic of Armenia. In: *The Institution of Jurisdiction in Criminal Proceedings: Proceedings of the First All-Russian Scientific and Practical Conference "Current Issues of Russian Criminal Procedure," Moscow, 29 March 2024.* Moscow, 2024. Pp. 96–104.

<sup>7</sup> **Golovko, L. V.** Preface. In: *The Institution of Jurisdiction in Criminal Proceedings: Proceedings of the First All-Russian Scientific and Practical Conference "Current Issues of Russian Criminal Procedure," Moscow, 29 March 2024.* Moscow, 2024. P. 2.

criminal case examined by a court determined on the basis of the rules established by criminal procedural law and founded upon clear and unambiguous criteria<sup>8</sup>. However, the efforts of individual scholars alone are clearly insufficient to ensure a comprehensive study of the phenomenon of jurisdiction and its significance for the administration of justice.

It appears necessary to place before procedural science the task of intensifying efforts aimed at the multidimensional study of the institution of jurisdiction within the framework of a separate Doctrine of Jurisdiction. By this term, we propose to understand a purposeful scholarly endeavor directed at the comprehensive study of jurisdiction at the present stage of development of judicial organization and procedural legal relations, as well as the formulation of doctrinally substantiated recommendations concerning both the application of the rules on jurisdiction (recommendations for law enforcement practice) and their further improvement (legislative proposals) in criminal proceedings as well as in other forms of judicial proceedings.

The following may be proposed as separate areas of scholarly research within the framework of a unified Doctrine of Jurisdiction.

### **1. Development of a scientific and practical definition of jurisdiction in criminal proceedings**

In contemporary procedural scholarship, there is no consensus regarding the concept of jurisdiction and the constituent elements encompassed by this concept. Nor does the legislator provide a statutory definition of jurisdiction, rightly leaving its formulation to legal doctrine.

Russian criminal procedural textbooks advance the view that the concept of *jurisdiction* denotes: (a) the aggregate of the characteristics of a criminal case by means of which, from among the entire range of courts empowered to hear criminal cases, and in accordance with the rules established by law (types or criteria of jurisdiction), the specific court that must examine the criminal case as a court of first instance is determined; and (b) the rules governing the determination of the lawful composition of the court for the examination of that case<sup>9</sup>.

A similar approach to the concept of jurisdiction is adopted by Tajik scholars, who define jurisdiction as "the characteristics of a criminal case established by law, on the basis of which the question is resolved as to which court, and in what

---

<sup>8</sup> **Konovalova, E. E.** *Jurisdiction in Criminal Proceedings: Problems of Theory, Legislation, and Practice: A Monograph.* Moscow, 2026. Pp. 14–15.

<sup>9</sup> **Course of Criminal Procedure.** Edited by L. V. Golovko. Moscow, 2024. Pp. 658–665.

composition, is competent to examine the particular case"<sup>10</sup>. The Belarusian scholar S. V. Boriko defines jurisdiction as "the aggregate of the legal characteristics of a criminal case by virtue of which it is subject to examination at first instance by a particular court"<sup>11</sup>.

Not all scholars agree with this approach, expanding the concept of criminal procedural jurisdiction to encompass proceedings other than those conducted before the court of first instance. For example, according to S. V. Bekhalo, "the purpose of the institution of criminal jurisdiction has a 'cross-cutting character'"<sup>12</sup>. In the legal literature, views have also been expressed advocating the application of the institution of jurisdiction to the determination of the court competent to examine complaints during pre-trial proceedings pursuant to Article 125 of the Criminal Procedure Code of the Russian Federation<sup>13</sup>, as well as at the stage of execution of judicial decisions ...of the sentence<sup>14</sup>. I. S. Dikarev<sup>15</sup> writes of the "levels of criminal jurisdiction". A distinctive "conciliatory" approach is proposed by E.E. Konovalova, who argues that, in a broad sense, jurisdiction should be understood as the aggregate of the characteristics of a criminal case specified in criminal procedural legislation, on the basis of which, through the application of established rules, the specific court competent to consider a matter falling within its jurisdiction is determined. In a narrow sense, jurisdiction should be understood as the aggregate of the characteristics of a criminal case on the basis of which,

---

<sup>10</sup> **Criminal Procedure of the Republic of Tajikistan: A Textbook**. Edited by N. S. Manova, Yu. V. Frantsiforov, and R. R. Yuldoshev. Dushanbe, 2017. P. 361.

<sup>11</sup> **Boriko, S. V.** *Criminal Procedure: A Textbook*. Minsk, 2004. P. 218.

<sup>12</sup> **Bekhalo, S.V.** The Institution of Criminal Jurisdiction. *Russian Justice*. 2019. No. 2. P. 103.

<sup>13</sup> **Andreeva, O.I., Gertsen, P.O., & Rukavishnikova, A.A.** Compliance with Jurisdiction as a Condition for the Realization of the Right to a Lawful Court in Judicial Appeals against Decisions Rendered during Pre-Trial Proceedings. *Bulletin of the Samara Law Institute*. 2023. No. 1 (52). Pp. 17–20; **Kalinovsky, K. B.** Change of Jurisdiction of Motions and Complaints in Pre-Trial Proceedings. In: *The Institution of Jurisdiction in Criminal Proceedings: Proceedings of the First All-Russian Scientific and Practical Conference "Current Issues of Russian Criminal Procedure," Moscow, 29 March 2024*. Moscow, 2024. Pp. 181–187.

<sup>14</sup> **Kachalov, V.I.** On the Territorial and Personal Criteria of Jurisdiction in Resolving Issues Arising during the Execution of a Sentence. *Justice of the Peace*. 2017. No. 5. Pp. 28–31; **Pupysheva, L. A.** Jurisdiction over Issues Related to the Execution of a Sentence. In: *The Institution of Jurisdiction in Criminal Proceedings: Proceedings of the First All-Russian Scientific and Practical Conference "Current Issues of Russian Criminal Procedure," Moscow, 29 March 2024*. Moscow, 2024. Pp. 191–195.

<sup>15</sup> **Dikarev, I.S.** Levels of Jurisdiction in Criminal Proceedings. In: *The Institution of Jurisdiction in Criminal Proceedings: Proceedings of the First All-Russian Scientific and Practical Conference "Current Issues of Russian Criminal Procedure," Moscow, 29 March 2024*. Moscow, 2024. Pp. 59–62.

through the application of established rules, the court of first instance competent to examine the criminal case on its merits is determined<sup>16</sup>.

In view of the broad range of opinions expressed in the legal literature, it appears that the following issues may be placed on the scholarly agenda: the expediency of extending the concept of *jurisdiction* to all stages of criminal proceedings requiring judicial participation; the inclusion, within the concept of jurisdiction, of the rules governing the determination of the proper composition of the court as its integral component<sup>17</sup>; and the relationship between jurisdiction, the right to a lawful court, and access to justice.

## 2. Doctrinal development of the types of jurisdiction and the criteria for their determination

The types of jurisdiction have been discussed by many prominent pre-revolutionary and Soviet scholars, and at first glance this issue would appear to have been adequately developed in legal scholarship. Thus, N. N. Rozin distinguished subject-matter jurisdiction (including certain of its "special cases", for example, where subject-matter jurisdiction is determined by an express provision of law or depends upon the identity of the accused)<sup>18</sup>, territorial jurisdiction (determined by the place where the criminal offence was committed)<sup>19</sup>, and jurisdiction based on the connection between cases (various combinations of subject-matter and territorial jurisdiction designed to "achieve the practical convenience of having all criminal offences committed by one accused examined by a single court, or likewise having the common case involving several accomplices to the crime examined by the same court ...offence")<sup>20</sup>. The same classification was adhered to by the eminent Russian scholar of criminal procedure I. Ya. Foinitsky<sup>21</sup>.

During the Soviet period of legal scholarship, three types of jurisdiction were likewise generally distinguished: (1) subject-matter (or generic) jurisdiction; (2) territorial (or local) jurisdiction; and (3) personal jurisdiction<sup>22</sup>. Some

<sup>16</sup> **Konovalova, E. E.** *Op. cit.* P. 31.

<sup>17</sup> It should be noted that there is an ongoing scholarly debate in which many authors deny that the composition of the court constitutes an element of the concept of jurisdiction. For a more detailed discussion, see: Konovalova, E. E. *Jurisdiction in Criminal Proceedings: Problems of Theory, Legislation, and Practice: A Monograph.* Moscow, 2026. Pp. 13, 29–31.

<sup>18</sup> **Rozin, N. N.** *Criminal Procedure.* St. Petersburg, 1914. Pp. 200–207.

<sup>19</sup> *Ibid.*, pp. 207–208.

<sup>20</sup> *Ibid.*, pp. 208–211.

<sup>21</sup> **Foinitsky, I. Ya.** *Course of Criminal Procedure.* Vol. II. St. Petersburg, 1910. Subject-Matter Jurisdiction, pp. 85–135; Territorial Jurisdiction, pp. 135–145; Jurisdiction Based on the Connection of Cases, pp. 145–158.

<sup>22</sup> **Strogovich, M. S.** *Course of Soviet Criminal Procedure.* Vol. I. Moscow: Nauka, 1968. P. 268.

contemporary authors, both Russian and from other CIS countries, distinguish only two types of jurisdiction - generic (subject-matter) jurisdiction and territorial jurisdiction<sup>23</sup>.

However, are two, or even three, types of jurisdiction sufficient to determine without error the proper court for the examination of every particular criminal case? For example, the well-known Russian *Course of Criminal Procedure* identifies, in addition to the above-mentioned types, alternative jurisdiction at the discretion of the prosecutor, jurisdiction based on the connection between cases, jurisdiction determined by the specific nature of the content of the criminal case, discretionary jurisdiction, and exclusive jurisdiction<sup>24</sup>.

The issue of the types of jurisdiction requires further scholarly research with a view to developing new classification criteria and, possibly, the subsequent improvement of legislation.

### 3. Jurisdiction during special periods (martial law and a state of emergency)

At the highest constitutional level, the majority of post-Soviet states have provided that the fundamental rights and freedoms of individuals and citizens may not be restricted even during the operation of a special legal regime (a state of emergency or martial law)<sup>25</sup>. For example, under the Constitution of the Russian Federation, such rights include: the right to life (Article 20); the right to human dignity (Article 21); the right to judicial protection of rights and freedoms (Article 46); the right to have one's case examined by the court and the judge to whose jurisdiction it has been assigned by law, as well as the right to trial by jury (Article 47); the right to receive qualified legal assistance (Article 48); the right of victims to access to justice and compensation for damage suffered (Article 52); as well as a number of other rights.

As a rule, issues relating to the restriction of citizens' rights under special legal regimes, as well as issues concerning the possible alteration of jurisdiction, are regulated in the post-Soviet states by separate legislative acts<sup>26</sup>. Thus, in the Russian Federation, pursuant to Article 7(8) of the Federal Constitutional Law "*On Military Courts of the Russian Federation*," the jurisdiction of military courts, as

---

<sup>23</sup> Criminal Procedure of the Republic of Tajikistan. *Op. cit.*, pp. 361–364; Konovalova, E. E. *Op. cit.*, p. 33.

<sup>24</sup> For a detailed discussion of the types of jurisdiction and the rationale for their classification, see: *Course of Criminal Procedure*, ed. by L. V. Golovko. *Op. cit.*, pp. 855–862.

<sup>25</sup> *Ibid.*, pp. 208–211.

<sup>26</sup> For example, in Belarus—the Law of the Republic of Belarus “On the State of Emergency”; in Kazakhstan—the Law of the Republic of Kazakhstan “On the State of Emergency”; and in Russia—the Federal Constitutional Laws “On the State of Emergency” and “On Martial Law.”

well as the procedure for the administration of justice by such courts during mobilization and wartime, are to be determined by the relevant federal constitutional laws. However, the corresponding federal constitutional laws have not been adopted, which *de facto* renders the implementation of this legal provision impossible. Nor has the authority granted to the Supreme Court of the Russian Federation by the federal constitutional laws (Article 16(2) of the Federal Constitutional Law "On Martial Law" and Article 35(3) of the Federal Constitutional Law "On the State of Emergency") to alter territorial jurisdiction where the administration of justice by courts operating in the territory in which martial law or a state of emergency has been declared is impossible, found its legislative continuation in the Criminal Procedure Code of the Russian Federation.

The absence of legislative regulation governing these specific features of the administration of justice during special periods diminishes the guarantees for the exercise of the constitutional right to judicial protection and the right to a lawful court, both of which are not subject to restriction even under a regime of martial law or a state of emergency<sup>27</sup>. It therefore appears necessary to undertake a doctrinal elaboration of a new type of jurisdiction - jurisdiction applicable during the declaration of martial law or a state of emergency (jurisdiction of special periods). Such a type of jurisdiction may constitute a complex form of jurisdiction, combining the institutions of subject-matter (generic), personal, and territorial jurisdiction<sup>28</sup>.

#### **4. On the expediency of establishing specialized courts for certain categories of criminal cases and on the jurisdiction of military courts**

The constitutions of the majority of post-Soviet states prohibit the establishment of extraordinary courts<sup>29</sup>. Such an approach can only be welcomed. At the same time, the question of the necessity of further developing judicial systems through the establishment of specialized criminal courts for certain categories of offences may

---

<sup>27</sup> For a more detailed discussion, see: **Chekulaev, D. P., & Khimichev, M. V.** "Changing the Territorial Jurisdiction of Criminal Cases under Martial Law. Article 1. On the Implementation of the Right to a Lawful Court and the Right of Citizens to Access Justice under Martial Law". *Military Law Journal*, 2023, No. 5, pp. 22–25.

<sup>28</sup> **Chekulaev, D. P.** "Jurisdiction during Special Legal Regimes (Martial Law and the State of Emergency) as a New Type of Jurisdiction in the Criminal Procedure of the Russian Federation". *Bulletin of Economic Security*, 2025, No. 2, pp. 159–162.

<sup>29</sup> For example, Belarus has adopted the Law of the Republic of Belarus "On the State of Emergency"; Kazakhstan has enacted the Law of the Republic of Kazakhstan "On the State of Emergency"; and Russia regulates these matters through the Federal Constitutional Laws "On the State of Emergency" and "On Martial Law."

arise on the scholarly agenda, which would inevitably entail an expansion of the concept of jurisdiction.

Such specialized courts have been established, for example, in France for the adjudication of terrorism-related cases<sup>30</sup>. The jurisdiction of the special political courts, which are institutionally separate from the ordinary courts, includes the examination of criminal cases concerning charges of high treason brought against the President of France (the High Court of Justice), as well as criminal cases involving incumbent and former ministers accused of offences committed in the course of performing their official duties (the Court of Justice of the Republic)<sup>31</sup>. In Armenia, a specialized branch of anti-corruption courts has been established. If at least one of the proceedings concerns a corruption-related offence, the criminal case is examined by the Anti-Corruption Court<sup>32</sup>.

From both doctrinal and practical perspectives, it appears useful to conduct a scholarly discussion on the expediency of establishing specialized courts within the judicial system for the examination of certain categories of criminal cases, whose jurisdiction could be determined, for example, on the basis of the personal status of the accused (such as senior executive officials, members of representative bodies, or judges) or on the basis of the category of offences, including criminal cases concerning terrorism or certain crimes against the peace and security of mankind, among others.

In some states, the jurisdiction of military courts is being expanded to include the examination of certain categories of criminal cases unrelated to military service. This phenomenon requires separate scholarly examination.

For example, in the United States, the jurisdiction of military courts has been extended to persons implicated in the terrorist attacks of 11 September 2001. Subsequently, President George W. Bush issued an order providing that all cases involving persons accused of terrorism should be heard not by ordinary civilian courts but by military courts, a measure that, according to legal scholarship, "was generally met with understanding" within American society<sup>33</sup>.

---

<sup>30</sup> **Golovko, L. V.** "The Institution of Jurisdiction in Criminal Procedure: The Boundary Between the Value-Based and Technical Dimensions." In: *The Institution of Jurisdiction in Criminal Procedure. Op. cit.*, p. 13.

<sup>31</sup> *Ibid.*, p. 13.

<sup>32</sup> **Dilbandyan, S. A.** "Subject-Matter and Other Types of Jurisdiction under the Criminal Procedure Code of the Republic of Armenia." In: *The Institution of Jurisdiction in Criminal Procedure. Op. cit.*, p. 101.

<sup>33</sup> *Military Courts in the Contemporary World*. Edited, with a Preface by **A. Ya. Petrochenkov**. Moscow, 2011. P. 22.

The Russian Federation has followed a similar path of expanding the subject-matter jurisdiction of military courts. Since 2010, criminal cases concerning terrorist offences, the list of which is quite extensive<sup>34</sup>, have been subject to examination at first instance by the courts of the second tier of the military court system (district and naval military courts) and in the only composition of the court established imperatively by law - a panel of three professional judges (Article 30(2)(3) of the Criminal Procedure Code of the Russian Federation), without the possibility of trial by jury.

The well-known Russian scholar in the field of military justice, Professor I. S. Dikarev, substantiates the legitimacy of assigning certain categories of criminal cases unrelated to military service to the subject-matter jurisdiction of military courts by reference to historical traditions<sup>35</sup>. However, critical observations should not be disregarded. Thus, according to I. A. Gizatullin, the comparatively small number of military courts in the country and the high likelihood of their geographical remoteness from the place of residence of the participants in the proceedings create organizational and financial difficulties<sup>36</sup>.

The issues of the establishment of military courts and the determination of their jurisdiction are resolved differently by the states established on the territory of the former USSR. In some states, military courts operate on a permanent basis and constitute an integral part of their judicial systems (Kazakhstan, Russia, Tajikistan, and Uzbekistan). Other states (Armenia since 1995, Belarus since 2014, Kyrgyzstan since 2016, and Ukraine since 2010) have abolished military courts both in peacetime and during wartime. In Georgia, pursuant to Article 59(3) of the Constitution, the establishment of military courts is permitted only during martial law and solely within the system of ordinary courts. Such diversity makes scholarly and practical discussions concerning the jurisdiction of military (and other

---

<sup>34</sup> In addition to the offence of a terrorist act itself (Article 205 of the Criminal Code of the Russian Federation), this category includes facilitating terrorist activities (Article 205<sup>1</sup>), public incitement to engage in terrorist activities (Article 205<sup>2</sup>), undergoing training for the purpose of carrying out terrorist activities (Article 205<sup>3</sup>), organizing or participating in a terrorist organization (Article 205<sup>4</sup>), and several other terrorism-related offences, as well as an act of international terrorism (Article 361 of the Criminal Code of the Russian Federation). Criminal cases concerning certain other offences—namely, encroachment on the life of a state or public official (Article 277), violent seizure or violent retention of power (Article 278), armed rebellion (Article 279), and attacks against persons or institutions enjoying international protection (Article 360)—also fall within the **exclusive subject-matter jurisdiction** of military courts where such offences are connected with terrorist activities.

<sup>35</sup> Dikarev, I. S. “Special Procedure before Military Courts in Cases Involving Terrorism-Related Offences: Historical Parallels.” *Rule-of-Law State: Theory and Practice*, 2022, No. 4 (70), pp. 130–137..

<sup>36</sup> Gizatullin, I. A. “The Institution of Jurisdiction as an Element of the Procedural Mechanism for Ensuring Access to Justice.” *Lex Russica*, Vol. 79, No. 5, p. 38.

specialized) courts among researchers from the post-Soviet states even more relevant and compelling.

### **5. On the expediency of unifying jurisdiction-related concepts in procedural legislation (administrative, commercial, civil, and criminal proceedings), conducting joint research into the phenomenon of jurisdiction together with scholars representing other branches of procedural law, and refining and expanding the terminology of criminal procedural science**

From both scholarly and practical perspectives, the issue of the joint study of the institution of jurisdiction together with representatives of other branches of law is also of considerable interest, as is the possibility of expanding the concepts employed in criminal procedure by taking into account the developments of other procedural sciences and legislation. For example, in Russia, within civil procedural branches of law, the legislator has abandoned the concept of *podvedomstvennost* (allocation of matters among different jurisdictional bodies) and instead employs the concept of competence when determining the subsystem of courts authorized to administer justice in a particular civil, commercial (*arbitrazh*), or administrative case and, accordingly, the appropriate type of judicial proceedings. The specific court competent to hear the case is then determined in accordance with the rules of jurisdiction established by the relevant procedural codes.

At the same time, some scholars specializing in civil procedural law have expressed the view that there is an excessive "fetishization of jurisdiction"<sup>37</sup>, arguing that jurisdiction is not a value-based institution but rather a largely technical one, devoid of any "sacred component"<sup>38</sup>. It is difficult to agree with such approaches. We find more persuasive the position advanced by the prominent Russian scholar of criminal procedure, Professor S. B. Rossinsky, who argues that the existence of the institution of jurisdiction is determined by the constitutional foundations of the Russian state and is intrinsically linked to the special role of the judiciary in ensuring the legal protection of the population<sup>39</sup>.

The proposed topics for scholarly discussion are preliminary and by no means exhaustive. As the Doctrine of Jurisdiction continues to develop, new issues will

---

<sup>37</sup> **Terekhova, L.** "The Fetishization of Jurisdictional Rules in Civil Procedure." *Arbitration and Civil Procedure*, 2009, No. 6, pp. 9–12.

<sup>38</sup> **Sharipova, A. R.** "The Significance of Jurisdiction in Criminal and Civil Procedure." *Legal Science and Practice: Bulletin of the Nizhny Novgorod Academy of the Ministry of Internal Affairs of Russia*, 2024, No. 3 (67), p. 263.

<sup>39</sup> **Rossinsky, S. B.** "Investigative Jurisdiction of a Criminal Case: A General Condition of the Preliminary Investigation or a Set of Organizational and Administrative Rules?" *State and Law*, 2023, No. 10, pp. 73–74.

undoubtedly emerge that will require profound doctrinal reflection and subsequent scholarly analysis<sup>40</sup>.

The exchange of views among scholars from different states within the framework of a common concept, or Doctrine of Jurisdiction, may prove particularly valuable where it concerns the discussion of issues of jurisdiction by members of what was, until relatively recently, a unified Soviet academic community, historically characterized by a common model of the administration of justice and shared traditions of legal education.

The outcome of such scholarly analysis may consist of proposals for the further development of the criminal procedural legislation and, possibly, the legislation on the judicial system of those states that formerly constituted republics of the USSR, with a view to ensuring the objective examination of every criminal case by a competent, impartial, and non-arbitrarily designated national court.

At the same time, recommendations of this nature may be submitted to the legislator by representatives of criminal procedural scholarship, taking into account the historical, legal, and social traditions common to all post-Soviet states.

### **Conflict of Interests**

The author declares no ethical issues or conflicts of interest in this research.

### **Ethical Standards**

The author affirms this research did not involve human subjects.

### **Reference List**

1. **Andreeva, O. I., Gertsen, P. O., & Rukavishnikova, A. A.** Compliance with jurisdiction as a condition for the realization of the right to a lawful court in judicial appeals against decisions rendered during pre-trial proceedings. *Bulletin of the Samara Law Institute*. 2023. No. 1 (52). Pp. 16–22.
2. **Bekhalo, S. V.** The institution of criminal jurisdiction. *Russian Justice*. 2019. No. 2. Pp. 101–105.
3. **Boriko, S. V.** *Criminal Procedure: A Textbook*. Minsk, 2004. 320 p.
4. **Gizatullin, I. A.** The institution of jurisdiction as an element of the procedural mechanism for ensuring access to justice. *Lex Russica*. Vol. 79. No. 5. Pp. 33–46.

---

<sup>40</sup> These include, in particular, debates concerning the scope of the concept of the “prohibition of jurisdictional disputes”; the determination of jurisdiction in criminal cases involving offences committed remotely through the Internet, as well as offences involving the misappropriation of non-cash funds; the improvement of the existing procedure for transferring criminal cases to the competent court; the excessively broad application in certain jurisdictions of legal provisions governing changes in the territorial jurisdiction of criminal cases; and the need to introduce a separate chapter entitled “Jurisdiction” into the criminal procedure codes of those states (including Russia) whose legislation does not currently contain such a chapter, among other issues.

5. **Golovko, L. V.** The institution of jurisdiction in criminal proceedings: boundaries between the value-based and technical dimensions. In: *The Institution of Jurisdiction in Criminal Proceedings: Proceedings of the First All-Russian Scientific and Practical Conference "Current Issues of Russian Criminal Procedure,"* Moscow, 29 March 2024. Moscow, 2024. Pp. 5–14.
6. **Golovko, L. V.** Preface. In: *The Institution of Jurisdiction in Criminal Proceedings: Proceedings of the First All-Russian Scientific and Practical Conference "Current Issues of Russian Criminal Procedure,"* Moscow, 29 March 2024. Moscow, 2024. Pp. 3–4.
7. **Gusev, L. N.** *Jurisdiction of Criminal Cases.* Moscow, 1955. 20 p.
8. **Dikarev, I. S.** Special procedure before military courts in cases concerning terrorist offences: historical parallels. *Rule-of-Law State: Theory and Practice.* 2022. No. 4 (70). Pp. 130–137.
9. **Dikarev, I. S.** Levels of jurisdiction in criminal proceedings. In: *The Institution of Jurisdiction in Criminal Proceedings: Proceedings of the First All-Russian Scientific and Practical Conference "Current Issues of Russian Criminal Procedure,"* Moscow, 29 March 2024. Moscow, 2024. Pp. 52–64.
10. **Dilbandyan, S. A.** Subject-matter and other types of jurisdiction under the Criminal Procedure Code of the Republic of Armenia. In: *The Institution of Jurisdiction in Criminal Proceedings: Proceedings of the First All-Russian Scientific and Practical Conference "Current Issues of Russian Criminal Procedure,"* Moscow, 29 March 2024. Moscow, 2024. Pp. 96–104.
11. **Kalinovsky, K. B.** Change of jurisdiction over motions and complaints during pre-trial proceedings. In: *The Institution of Jurisdiction in Criminal Proceedings: Proceedings of the First All-Russian Scientific and Practical Conference "Current Issues of Russian Criminal Procedure,"* Moscow, 29 March 2024. Moscow, 2024. Pp. 181–188.
12. **Kachalov, V. I.** On the territorial and personal criteria of jurisdiction when resolving issues arising during the execution of a sentence. *Justice of the Peace.* 2017. No. 5. Pp. 28–31.
13. **Kozhevnikov, M. V.** *Jurisdiction of Criminal Cases.* Edited by I. T. Golyakov. Moscow, 1939. 20 p.
14. **Kondrashin, P. V., & Popova, E. I.** *The Right to a Lawful Court in Criminal Proceedings: A Monograph.* Edited by Yu. P. Garmaev. Moscow, 2024. 183 p.
15. **Konovalova, E. E.** *Jurisdiction in Criminal Proceedings: Problems of Theory, Legislation and Practice: A Monograph.* Moscow, 2026. 168 p.
16. **Course of Criminal Procedure.** Edited by L. V. Golovko. Moscow, 2024. 1041 p.
17. **Pupysheva, L. A.** Jurisdiction over issues related to the execution of a sentence. In: *The Institution of Jurisdiction in Criminal Proceedings: Proceedings of the First All-Russian Scientific and Practical Conference "Current Issues of Russian Criminal Procedure,"* Moscow, 29 March 2024. Moscow, 2024. Pp. 189–196.
18. **Roizin, N. N.** *Criminal Procedure.* St. Petersburg, 1914. 546 p.

19. **Rossinsky, S. B.** Investigative jurisdiction in criminal cases: a general condition of preliminary investigation or a set of organizational and managerial rules? *State and Law*. 2023. No. 10. Pp. 71–78.
20. **Sluchevsky, V.** *Textbook of Russian Criminal Procedure. Judicial Organization and Judicial Proceedings*. St. Petersburg, 1913. 670 p.
21. **Strogovich, M. S.** *Course of Soviet Criminal Procedure*. Moscow, 1958. 703 p.
22. **Strogovich, M. S.** *Course of Soviet Criminal Procedure*. Vol. I. Moscow, 1968. 470 p.
23. **Terekhova, L.** The fetishization of jurisdictional rules in civil proceedings. *Arbitrazh and Civil Procedure*. 2009. No. 6. Pp. 9–12.
24. **Criminal Procedure of the Republic of Tajikistan: A Textbook**. Edited by N. S. Manova, Yu. V. Frantsiforov, and R. R. Yuldoshev. Dushanbe, 2017. 494 p.
25. **Foynitsky, I. Ya.** *Course of Criminal Procedure*. Vol. II. St. Petersburg, 1910. 573 p.
26. **Chekulaev, D. P.** Jurisdiction during special periods (martial law and a state of emergency) as a new type of jurisdiction in the criminal procedure of the Russian Federation. *Bulletin of Economic Security*. 2025. No. 2. Pp. 159–162.
27. **Chekulaev, D. P., & Khimichev, M. V.** Changing the territorial jurisdiction of criminal cases under martial law. Part I. On the implementation of the right to a lawful court and the right of citizens to access justice under wartime conditions. *Military Law Journal*. 2023. No. 5. Pp. 22–25.
28. **Sharipova, A. R.** The significance of jurisdiction in criminal and civil procedural law. *Legal Science and Practice: Bulletin of the Nizhny Novgorod Academy of the Ministry of Internal Affairs of Russia*. 2024. No. 3 (67). Pp. 260–265.