

Criminal Sanctions and Individualisation of Punishment

Criminal sanctions constitute the legal response to the commission of a criminal offence. While criminal law defines prohibited conduct, it is through sanctions that the law achieves its repressive and preventive functions. From a doctrinal perspective, punishment is not merely a reaction to wrongdoing but also a mechanism for maintaining social order and deterring future offences. The determination of sanctions therefore raises a fundamental legal issue of proportionality and individualisation.

From a legal rule standpoint, criminal sanctions are governed by the principle of legality of penalties, according to which no punishment may be imposed unless it is provided for by law. This principle ensures legal certainty and prevents arbitrary punishment. However, within the limits established by law, the judge retains a margin of appreciation in determining the appropriate sanction.

A key concept in modern criminal law is the individualisation of punishment. This principle requires that the sanction be adapted not only to the gravity of the offence but also to the personality and circumstances of the offender. The doctrine emphasizes that punishment must be both fair and effective, taking into account factors such as intent, motive, and social context.

Aggravating and mitigating circumstances constitute the primary tools through which individualisation is achieved. Aggravating circumstances increase the severity of the penalty, reflecting the heightened seriousness of the offence. These may include violence, premeditation, or recidivism. The jurisprudential approach tends to treat recidivism as a major factor, as it demonstrates persistence in criminal behavior. Mitigating circumstances, by contrast, allow for the reduction of punishment. These include factors such as youth, absence of prior convictions, or difficult personal circumstances. The doctrine highlights that mitigation serves the purpose of humanizing criminal justice, ensuring that punishment is not applied rigidly.

Judicial discretion plays a central role in this process. Judges must balance aggravating and mitigating factors in order to determine a proportionate sanction. The jurisprudential tendency supports a case-by-case approach, rejecting automatic sentencing in favor of individualized justice.

The evolution of criminal sanctions also reflects a shift toward alternative penalties, such as suspended sentences or non-custodial measures. This reflects a broader doctrinal movement toward rehabilitation rather than purely punitive approaches. Criminal sanctions are not applied mechanically but through a process of individualisation that balances legal rules and human considerations. By allowing judicial discretion within the framework of legality, criminal law ensures that punishment remains both proportionate and effective.