

Basic principles of criminal proceedings and the right to a fair trial

Abstract

This dissertation deals with the basic principles of criminal proceedings from the point of view of the right to a fair trial. The basic principles of criminal proceedings are certain legal principles, the leading legal ideas underlying the criminal proceedings. They are a manifestation of a legal, political and legal philosophical approach to criminal proceedings. As a result, the basis on which the organization of criminal proceedings and the regulation of the activities of its bodies are built. They express the legislator's opinion on the most efficient organization of the criminal process. The meaning of the basic principles is mainly concentrated in their functions. The text of the thesis is divided into three major chapters, which are further divided into sub-capitals and sections. The second chapter is devoted to the conceptual definition of both the democratic state law and its attributes, the legal principle, and two basic models - the continental system and the adversary system. Then follows a chapter that deals in detail with the concept, meaning, functions and system of the fundamental principles of criminal proceedings. It also deals with exceptions to the basic principles, the classification, the nature of the list of these principles and the question of their explicit anchoring. In this chapter, the importance of the basic principles for criminal proceedings is stressed in many places, where the general function (s) of the basic principles is to define a framework in which the whole system of legal norms of criminal procedural law is in operation, namely the establishment of legal (legitimate) (justifiable) interference with human rights and the fundamental freedoms of law enforcement bodies by law enforcement. The following chapter deals with the principles of proper legal process, presumption of innocence, legality and opportunity, official, reasonableness, speed, material truth, search, free evaluation of evidence, cooperation with civic associations, defendants, public, verbal, immediacy, the defense, the rights of the victim and the adversarial principle. Particular attention is paid to the principles of legality and opportunity and the principle of contradictory. The thesis concludes that it is from the formal point of view that the basic principles of criminal proceedings need to be explicitly and concentrately modified at the beginning of the recodification under preparation. The thesis presents arguments in favor of leaving the continental concept of the criminal process, and the corresponding principles. The basic principles are the constitutional limits of criminal proceedings.

Keywords:

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