

Complaint in Criminal Proceedings

Abstract

The thesis on the topic of the complaint in criminal proceedings deals with the aspects of the review of the resolution, constituting the most frequent form of the decision in criminal proceedings. In seven chapters, the author analyses the legal regulation of the admissibility of the complaint, entitled persons, time limits and the methods of review of the contested decision, which follows an introduction to the historical development of the institute and its international anchorage.

The discussion of contemporary and past problems of interpretation is compared with the proposed recodification of the Code of Criminal Procedure, the requirement to preserve the fundamental rights of the accused and the conceptuality with the existing expert doctrine. The reader is presented with the case-law of the Supreme Court and the Constitutional Court, which is criticized in terms of its departure from the text of the law itself, where such a situation leads to unpredictability of the law and in some cases may even endanger the right of the accused to a substantive defence.

Based on practical examples, the author urges the regulation of the most problematic aspects of the complaint procedure. In particular, she focuses on the difficulties of distinguishing methods of notification of resolutions according to their merits, the blanket complaint, consensual methods of resolving criminal matters and the impact of prosecutor's interference on the subsequent review of the decision. At the same time, she strongly discourages the introduction of concentration in the complaint procedure, which would limit the possibility of applying novelties to the stage when the decision is made by the first-instance authority. On the same grounds, she questions modification of the decision to initiate criminal prosecution.

She appreciates the recodification as such, precisely in view of the fundamental development of the case-law and considers it to be the only solution to the problems of the complaint proceedings. However, she believes that aspects other than those identified so far should be revised and therefore proposes amendments to them.

Key words: remedial measure; notice of resolution; cassation