

Description for the general public

The aim of this project is the comparative law analysis on prejudice in Polish and Russian criminal procedure system. One has to do with prejudice when the court in criminal proceedings encounters earlier judicial judgment or administrative decision, which relate to a matter that is the subject of consideration in the ongoing trial. Therefore, it is essential to determine the relation of the criminal court to the prior ruling, i.e. whether the court is bound by the ruling or whether the court may determine in a different way issues mentioned in this determination and the consequences of the chosen solution. As an example, one can point out the following issue: can a defendant be convicted of bigamy, if earlier the court in civil proceedings ruled to annul one of the marriages that the accused entered into?

This issue is regulated differently in both countries. In Poland the court in criminal proceedings is bound only by final determination of a court establishing legal rights or legal relationships (e.g. divorce judgment), whereas in Russia the court, the prosecutor, the investigator and the inquirer are bound by the factual circumstances coming from a final judgment or a decision of the court in civil, criminal (with some exceptions), administrative and arbitration proceedings. The differences in both legal systems are undeniable, therefore, it is necessary to explain these differences, in particular in the light of history of law that in certain parts is similar to each other in both countries.

The dogmatic studies will be carried out within this project, which will involve the analysis of the relevant Polish and Russian legal acts, literature, the case law of the courts of higher level and Supreme Courts of Poland and Russia, as well as the Polish Constitutional Tribunal and the Russian Constitutional Court. An important objective of the research will also be a reference to the case law of the ECtHR in the context of the principle of fair trial, the presumption of innocence, the right to defense and the principle of hearing within reasonable time (Article 6 of the ECHR). By means of the above it will be possible to identify, how Polish and Russian legislator regulates prejudice in criminal procedure and whether these regulations comply with the conventional standard. Then, the historical law analysis will be conducted, i.e. there will be examined the origins of this institution, its historical development and there will be pointed out changes that occurred in subsequent criminal procedure legal acts in this regard. By contrast, the comparative legal research will involve determining the differences and similarities, as well as determining why these differences exist and finally indicating any possible changes of current law in both countries. Furthermore, the objective of this study will also be pointing out preferences and overarching principles guided by legislators in Poland and Russia.

It should be emphasized that comparative law analysis regarding prejudice in Polish and Russian criminal procedure has never been conducted, so this project will allow to better understand the processes that occurred in this scope in both countries, which will also be helpful within this type of study in other European countries.