

DESCRIPTION FOR THE GENERAL PUBLIC

The objective of the conducted research is to build an optimum model framework of the admissibility of evidence in the criminal process, which would be applicable not only in the Polish criminal procedure but also in foreign jurisdictions. According to an initial assumption, a model framework of the admissibility of evidence in the criminal process must be a compromise between unrestricted judicial discretion (which enables a judge to evaluate each examinable piece of evidence on a case-by-case basis) and general admissibility rules included in universally applicable laws. This enables a separate assessment of the reliability and relevance of each piece of evidence and also prevents the introduction of an excessive volume of evidence to proceedings, which might hinder the establishment of the facts of a case and prevent reasonably expeditious adjudication of a case. A larger volume of evidence does not necessarily mean that the facts of a case will be better explained. It may lead, however, to “flooding” a criminal justice body with evidence that brings nothing substantial to the proceedings. Therefore, it is necessary to identify the situations in which the rules on the admissibility of evidence should be laid down in relevant legal provisions and also determine the circumstances in which the matter is best left for the decision of a criminal justice body.

So far, the issue of admissibility of evidence in the criminal process has not been analysed in a comprehensive way. The proposed research is not only significant for legal doctrine but also (and maybe – above all) carries considerable practical importance. The pursuit of the truth, which lies at the core of each criminal trial, may not be accompanied by the lowering of the standard of integrity of the proceedings or violations of human rights and an individual’s dignity, and these values are fundamental for democratic societies. If in the course of criminal proceedings, one accepts a behaviour that is unethical or infringes fundamental rights and freedoms of an individual, this may undermine the authority of a criminal justice body (a court, prosecutor’s office or the police). Transparency of operations performed by criminal justice bodies can be guaranteed by, among other things, the development of a model framework of rules governing the admissibility of evidence and establishing proper relationships between situations in which an adjudicating body decides about admission or exclusion of evidence and those in which a given piece of evidence is automatically excluded because of the need to protect values greater than prosecutorial effectiveness.

The project involves multifaceted research, including legal and comparative studies of the discussed issue. Development of a universal model framework of the admissibility of evidence in the criminal process requires an analysis of legal regulations originating from different jurisdictions and legal traditions. Such an analysis will be performed on the laws of evidence of common law countries (the UK and the USA) and those of civil (continental) law countries (apart from Poland, also Germany, France, Italy and Spain). Although at first glance, the major differences seem to exist between common law and civil law jurisdictions, also continental law systems have materially different evidence admissibility rules. Such differences are especially visible when one compares jurisdictions based on the German tradition with those based on the French tradition.

An analysis of the admissibility of evidence must take into account the paramount objective of evidentiary proceedings, which is – in both civil law and common law jurisdictions – determination of the facts of a case. To be able to attain this objective, evidence must be, above all, reliable. What needs to be determined in the course of the research is whether reliability should be evaluated in respect of a given type of evidence (e.g. by accepting the assumption that witness hearsay evidence is always less reliable than eyewitness evidence) or whether the reliability of each piece of evidence should be assessed separately. Still, although finding the truth is an important objective of criminal proceedings, this objective should not be pursued at all costs. Another aspect that must be investigated is the values that serve as grounds for the exclusion of evidence that is reliable and useful in pending proceedings. It has been initially assumed that these values are the need to protect human rights, as well as integrity and the efficiency of criminal proceedings.