

Abstract

Thesis title: Urgent and unrepeatable acts

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Urgent and unrepeatable acts are procedural acts of criminal proceedings that have two opposite aspects. On the one hand, there is an interest in combating crime, and an urgent or unrepeatable act can help law enforcement authorities to obtain evidence that might not be possible to prove at later stages of the criminal proceedings (whether after the prosecution or the proceedings before court), if the law enforcement authorities did not intervene without undue delay. On the other hand, the urgent and unrepeatable acts could be a significant interference with the rights of the defense, especially in cases where they are carried out before the prosecution begins. This is why there are special provision on the requirements for urgent or unrepeatable acts in the Criminal Procedure Code.

The aim of the thesis was to analyze selected questions within the topic of urgent and unrepeatable acts, which are currently discussed mainly due to their insufficient legal regulation, and to propose *de lege ferenda* solution, if possible. These sub-themes included: (i) the requirements of the urgent and unrepeatable acts, in particular with regards to the misconduct of law enforcement authorities in meeting the requirement of proper justification of the urgency and unrepeatability; (ii) the admissibility of evidence which were carried out as an urgent and/or unrepeatable act and which were not obtained (fully) legally (iii) a search of a attorney's premises or other premises in which the attorney practices advocacy, addressing issues arising from the current legislation, as well as the relation of the search of the attorney's premises and the principle of confidentiality.

With regards to the question of requirements, it was found that the legal regulation is not entirely sufficient, especially in cases of interviewing a witness or carrying out a recognition according to § 158a of the Criminal Procedure Code. The solution could be strengthening the role of a judge in interrogating a witness under § 158a of the Criminal Procedure Code, in particular, the judge could intervene in the interrogation on a substantive and not only formal point of view, ask the witness questions and verify his credibility, and review the prosecutor's conclusion, whether the act is urgent or unrepeatable.

With regards to the second question, it was found that there is no legal regulation except for one provision contained in Section 89 (3) of the Criminal Procedure Code. At least minimum legal regulation on the defects of evidence would be convenient: (i) defects which result in absolute inapplicability of evidence (ii) defects which result in relative inapplicability of evidence and (iii) defects which are not desirable, but if they are not substantial and they are balanced by other safeguards to guarantee legality vis-à-vis the person concerned, then they would not result in the inadmissibility of evidence. However, if the third group of defects were contained in the legal regulation, it could support the law enforcement authorities not to act in accordance with the legal procedure set by law.

With regards to the last chapter about search of the attorney's premises, it was proposed, *de lege ferenda*, an amendment of the current legal regulation, particularly a judge's presence together with an expert in cybernetics when carrying out the search of the attorney's premises.

Key words: urgent and unrepeatable acts, admissibility of evidence, search of the premises, where the attorney practices advocacy