MOKSLO TAIKOMIEJI TYRIMAI LIETUVOS KOLEGIJOSE, 2022 Nr.18 (2), p. 116-122
ISSN 1822-1068 / eISSN 2335-8904, http://ojs.kaunokolegija.lt/index.php/mttlk/index

PRACTICAL ASPECTS OF IMPLEMENTATION OF THE TERMS OF CRIMINAL PROCEDURE

Nerija Kovalenkovienė, Rasa Šemiotienė

Kaunas University of Applied Sciences

Abstract. The criminal laws of the Republic of Lithuania defend and protect the most important values of human life. One of them is ensuring a proper and speedy criminal procedure, both when a person has been victimized by a criminal act, and also for persons who are being prosecuted. Although this individual right is guaranteed in the Criminal Procedure Code of the Republic of Lithuania (hereinafter referred to as the Code of Criminal Procedure of the Republic of Lithuania), the criminal procedure often lasts too long, violating the right of individuals to a speedy trial. What are the main problems that determine the delay of the investigation, how often is the delay of the procedure determined, and what are the possible consequences if the process is delayed for reasons other than objective ones – this is the main goal and relevance of this study. In this article, in order to determine the main reasons for the delay of both the pre-trial investigation and the judicial examination, an analysis of scientific literature and normative legal acts was carried out, as well as a qualitative study of the analysis of case law, which reveals the theoretical and practical issues of the implementation of criminal procedure deadlines. The scope of the study is the analysis of rulings of the Constitutional Court of the Republic of Lithuania, decisions of the European Court of Human Rights, and decisions of courts of general competence of the Republic of Lithuania in the period from 2014 to 2019 in criminal cases. The decisions made by the courts have been chosen, taking into account the most relevant insights, in order to reveal the problems of the implementation of the terms of the criminal procedure, as well as their observance without violating the rights and freedoms of individuals. In this article, in order to determine the main reasons for the delay of both the pre-trial investigation and the trial, the practice of both the national courts of general competence and the European Court of Human Rights was analysed. This research methodology aimed to analyse the main problem of this research - insufficient legal regulation, which would ensure the duty of law enforcement authorities to quickly and thoroughly reveal and investigate criminal acts, as well as to examine the case in court as soon as possible. The relevance of the issue lies in the possible consequences which arise when the duration of the criminal proceedings is recognized to be too long in Lithuania, in that case, the law provides for a lighter criminal liability for the defendant, which presupposes another possible legal problematic aspect: will the goals of the punishment be achieved if the sentence of the court of law is reduced due to the lengthy criminal procedure? Conclusions have been made regarding the impending consequences that may be caused by the length of the criminal procedure over a rather long period of time.

Keywords: criminal procedure, terms, duration.

Introduction

One of the principles of ensuring a proper criminal procedure is the principle of speed, which law enforcement officials try to implement in the most cost-effective manner during the investigation. This is both an accelerated process and a shortened examination of evidence. However, quite often, despite the fact that officials properly and honestly perform procedural duties and not abuse procedural rights, both the pre-trial investigation and the trial take up to several years. Most of such cases are justified by objective circumstances, but there are cases when, even in the presence of objective circumstances, it is recognized that the investigation lasted too long. Such conclusions are substantiated by increasingly frequent complaints to the European Court of Human Rights, where the aim is to prove a violation of the principle of speed of criminal proceedings. The aim of this study is to analyse the main object of the investigation - the duration of the criminal procedure and, using the analysis of scientific literature, normative legal acts and court practice, to reveal the main circumstances and consequences of the long delay of the criminal procedure. The objectives of the research are to reveal the goals and principles of the criminal procedure - the speed principle, and to analyse the reasons, problems, and consequences of the criminal procedure being too long.

Objectives and principles of the speedy principle of criminal proceedings

The criminal procedure must be ensured by the legality of equality before the law and the court, presumption of innocence, public and fair trial, impartiality and independence of the court and the judge, separation of functions of the court and other state institutions (officials) participating in the criminal procedure, guaranteeing the right to defence and other principles. It is also necessary to strive to ensure the protection of the rights of victims of criminal acts; the legal regulation of the criminal procedure must not create conditions for delaying the investigation of criminal acts and the trial of criminal cases, as well as conditions for the participants in the criminal procedure to abuse procedural or other rights (Resolutions of the Constitutional Court of January 16, 2006, January 24, 2008, June 8, 2009). In the aforementioned rulings, the Constitutional Court of the Republic of Lithuania continues the importance of

implementing the principles of the criminal procedure and advocates the speed of the criminal process: "From the provisions of Paragraph 1, Article 118 of the Constitution, prosecutors have the duty to organize a pre-trial investigation and lead it in such a way as to collect objective, detailed information about the criminal act and the person, suspected of having committed this act, which would, inter alia, create legal prerequisites for the court to determine the objective truth in a criminal case and make a correct decision regarding the guilt of a person accused of committing a criminal act". Additionally, in the Constitution of the Republic of Lithuania (Article 118), it is stipulated that *the prosecutor has and must protect the rights and legitimate interests of the individual, society and the state in cases established by law.* This norm of the law is precisely supplemented by the practice provided by the Constitutional Court, which indicates that the prosecutor is not only obliged to protect the interests of society and the state, as soon as possible i.e., through Article 176 of the Criminal Code of the Republic of Lithuania. examine the pre-trial investigation within the stipulated terms, collect objective information about the possibly committed criminal act and the person, giving the court a prerequisite for making a correct decision.

So, returning to the specific norms regulating the duration of the criminal procedure, one of the most important moments is the quick completion of the pre-trial investigation. This principle is basically reflected in Article 176 of the Criminal Procedure Code of the Republic of Lithuania, stating that the duty of the prosecutor organizing the pre-trial investigation is that "The pre-trial investigation must be conducted within the shortest time possible, but no longer than:

1) for a criminal offence - within three months;
2) for minor, serious and careless crimes - within six months;
3) for major and very serious crimes - within nine months."

It can be seen that the law indicates that the pre-trial investigation must be carried out within the shortest possible time limit, and also defines the acts according to their degree of complexity and provides for a minimum - three and a maximum - nine months. It is true that the mentioned deadlines can be extended at the request of the prosecutor in charge of the investigation. Priority investigation is also provided for cases when suspects are arrested, or the suspects or victims in the process are minors.

In addition, the principle of speed of the procedure is also widely described not only in the rulings of the Criminal Code of the Republic of Lithuania or the Constitutional Court, but also in the rulings of the European Court of Human Rights and the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter - the Convention), where Article 6 of it emphasizes that "*In determining the civil rights and duties of every individual or the criminal charge against them, they have the right to have their case examined in the shortest possible time under conditions of equality and publicity by an independent and impartial court established in accordance with the law."*

This article does not define a specific time limit, but requires the completion of criminal proceedings within a "reasonable" time. However, the right to a trial within a reasonable and acceptable shortest period of time is derived from Article 6 of the Convention, which is supplemented by Article 44, Part 5 of the Criminal Code of the Republic of Lithuania, which essentially repeats Article 6, Part 1 of the Convention and states that *"every individual accused of committing a criminal offense has the right , so that their case will be correctly examined by an independent and impartial court in the shortest possible time under conditions of equality and publicity."*

Thus, after reviewing the main normative legal acts that regulate the implementation of the principle of speed of criminal proceedings in Lithuania, it can be seen that the importance of the speed of the process is clear enough, and even in some cases imperatively detailed in the legal acts with the highest legal authority, but at the same time exceptions to the law are presented, due to the speed of the process can take a very long time, thus inevitably violating the guarantee provided by the law for the interested participants in the process.

Causes and consequences of the duration of criminal proceedings

Although the mechanism for controlling the pre-trial investigation deadlines of the Criminal Code of the Republic of Lithuania is more regulated by law in relation to the suspect, the opportunity to seek the principle of speed of the process is also provided for the victim. Comparing these participants in the procedure interested in the outcome of the case, although the goal of both is the speed of the process, the goals of this principle are certainly not similar. As for the victim, of course, he or she aims for the pre-trial investigation to be carried out in the shortest possible time, and within that period of time, the criminal act committed against them will be clarified, the person who committed the criminal act will be identified, and justice will be served in the case as soon as possible. The suspect, of course, has their own goals, which are certainly not related

to the administration of justice. Most of the time, the aim is to terminate the investigation, and only in exceptional cases, the suspect wants a quick prosecution and even agrees to an abbreviated evidentiary investigation, thus allowing the investigation to be completed as soon as possible and not prolonging the trial.

Nevertheless, regardless of whether a complaint about the delay of the case is submitted to the judge of the pre-trial investigation, in accordance with Article 215 of the Criminal Code of the Republic of Lithuania, or the victim, suspecting that the investigation has been unreasonably delayed, submits a complaint to the higher prosecutor of the prosecutor controlling the investigation, all the circumstances of the duration of the pre-trial investigation are decided in essence, and if signs of delay in the investigation are detected, it is usually in the further actions of the officers of the pre-trial investigation institutions.

In the formative case law of Lithuanian courts, when deciding on a possible violation of pre-trial investigation deadlines, the decisions made by the European Court of Human Rights are often followed first. The main and key decisions are the following: Case Slezevicius v. Lithuania (Claim No. 55479/00), where the claimant claimed that the criminal proceedings against him lasted too long, in violation of Paragraph 1 of Article 6 of the Convention. On January 24, 1996, the case was filed (old version of the Criminal Procedure Code, valid until May 1, 2003), and on April 18, 2000, the district prosecutor informed the claimant that the case against him was terminated, and the preliminary investigation was suspended, in the absence of a composition of crimes (Clause 2, Part 1, Article 5 of the Code of Criminal Procedure) according to two charges and without proving the claimant's guilt (Part 1, 2, Article 233 of the Code of Criminal Procedure point) under the other three charges. According to the claimant, the criminal proceedings against him started on January 24, 1996 and are still going on, as the case was dismissed only due to the lack of elements of the crime and partly due to lack of evidence. According to the claimant, the duration of the procedure violated the "shortest possible time" requirement as established in Part 1 of Article 6 of the Convention.

According to the Court's practice, the acceptability of the duration of the process must be assessed taking into account the specific circumstances of the case and the criteria formulated in the Court's practice, specifically the complexity of the case and the behaviour of the claimant and the authorities during the investigation of the case, and the Court notes that the domestic authorities of the state did not conduct the investigation of this case diligently, nor thoroughly: the courts three times (in 1997, 1998 and 1999) refused to hear the case on its merits, finding that the allegations against the petitioner were vague and speculative. In addition, there have been 5 procedural disputes for a long time, involving courts of general and constitutional competence, due to prosecutors' complaints about the conclusions of the courts that the investigation was conducted improperly and that the case cannot be tried in court. However, no clear charges were ever made and no trial took place. Taking into account these circumstances and not having information about the fact that the claimant is responsible for the delay, the court determines that the duration of the process was too long and did not meet the "shortest possible time" requirement. Therefore, paragraph 1 of Article 6 of the Convention was violated.

Under the case *Girdauskas v. Lithuania (Claim No. 70661/01*), the petitioner complained that the criminal proceedings against him were unfair and excessively long, which violated Article 6 of the Convention. The court notes that despite the fact that the criminal proceedings against the suitor were started on May 15, 1995, in reality, the period in question began only on June 20, 1995, when the Convention entered into force for Lithuania. In addition, the Court notes that the proceedings are now pending before the Supreme Court. So far, it has lasted more than 8 years and 5 months. According to the Court practice, the reasonableness of the length of the court proceedings must be assessed taking into account the specific circumstances of the case and the criteria developed in the Court practice, specifically the complexity of the case and the behaviour of the claimant and the authorities during the examination of the case. The Court considers that the case may be considered complex due to, inter alia, the nature of the alleged crimes, i.e., due to a financial violation committed by the suitor. However, taking into account the fact that the case has been pending for more than 8 years and 5 months, the Court believes that the Government should have justified such a long period of time since the start of the trial. However, the Government did not explain the delay in the hearing of the case. Specifically, the Court points out that the procedure was suspended for over four years from 1997 to 2001, due to the audit of the claimant’s company. It follows that the internal authorities did not show diligence in handling the case. The Court considers that this situation is unacceptable from the point of view of Paragraph 1 of Article 6 of the Convention. Therefore, Paragraph 1 of Article 6 of the Convention was violated.

As can be seen from these decisions made by the European Court of Human Rights, the main criteria that can justify a long pre-trial investigation are the complexity of the case and the specific circumstances of the case, and circumstances such as the inability to make a clear decision, transfers of the case from one institution to another, even such investigations, such as the long duration of the audit, cannot be the circumstances that would justify a rather long duration of the pre-trial investigation.

Based on these decisions, the judicial practice of our country is also formed. However, decisions are not always favourable to the claimant.

In the case under consideration, it was determined that the total duration of the criminal procedure was two years, ten months and two days (of which: pre-trial investigation - one year, one month and 22 days (from 19/03/2015 to 11/05/2016, when the indictment and the criminal case were transferred to the court); trial of the case in court – one year, eight months (from 16/05/2016 to 22/01/2018). Such duration of the criminal process is not treated as long in the practice of the European Court of Human Rights (ECHR). When evaluating the duration of the pre-trial investigation, the court found that the duration of the pre-trial investigation corresponded to the complexity of the criminal case and the plaintiff's own behaviour in the process.

The plaintiff's arguments regarding the illegal actions of the prosecutor's office, manifested in insufficient control of the pre-trial and judicial investigation, non-answers to the responses written by the plaintiff, are imprecise, declarative, not based on any evidence, and therefore considered unproven.

The court evaluated all the criteria formed in the practice of the ECHR, i.e., both the complexity of the specific case, the behaviour of the appellant, the behaviour of the authorities in organizing the case procedure, and the significance of the process for the appellant. The court did not deviate from the uniform judicial practice, according to which the totality of the circumstances determining the duration of the case should be assessed, in order to determine not the duration of the process in general, but its reasonableness. The court clearly stated the circumstances that do not give rise to the civil liability of the state - that is, the plaintiff did not prove the illegal actions of the pre-trial investigation officers and the prosecutor (Vilnius District Court Decision No. 2A-506-656-2019). Thus, from the analysis of this case, it can be seen that, according to the judges, the pre-trial investigation was not delayed - the procedural actions were carried out according to objective possibilities and promptly, taking into account the scope of the pre-trial investigation, the specifics and procedure of performing psychiatric examinations. The analysed duration of the pre-trial investigation is not very long, the pre-trial investigation can be continued as long as it is necessary to achieve the goals of the criminal proceedings. It should be noted that a longer period of pre-trial investigation than the one provided by law is not in itself a criterion on the basis of which it is possible to establish the illegality of actions (inaction) as a condition of state civil liability, and no other, potentially illegal, actions of pre-trial investigation officers or the prosecutor were presented.

Another important aspect is the fact that persons who are convicted of committing a criminal act and the court recognizes that the pre-trial investigation and the entire duration of the process take unreasonably too long, the convicted person has the opportunity to request a mitigation of the sentence. According to Part 3 of Article 54 of the Criminal Code of the Republic of Lithuania, "*If the imposition of the punishment provided for in the sanction of the article clearly contradicts the principle of justice, the court, guided by the purpose of the punishment, may impose a lighter punishment with reasons*." And here the Supreme Court of Lithuania forms judicial practice, which must be followed by the lower courts as well. In the complaint to the Supreme Court of Lithuania, it is emphasized that the sentences given to his convicts were reduced due to the excessively long duration of the procedure. However, the assessor (prosecutor's office) claims that the lower courts did not assess all existing factors that determined the length of the criminal proceedings, nor did they take into account the conclusion formed by the court of cassation, taking into account the practice of decisions made by the ECHR regarding violations of Paragraph 1 of Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

According to the jurisprudence formed by the Supreme Court of Lithuania, the excessively long duration of the criminal procedure and the violation of the right to trial in the shortest possible time can be one of the grounds for reducing the punishment according to the sanction limits of the relevant article of the special part of the Criminal Code (Clause 5, Part 2, Article 41 of the Criminal Code). In the event that, taking into account the circumstances of the violation of the requirement of the shortest possible criminal trial time, it is established that the excessively long duration of the trial is an exceptional circumstance, a milder punishment may be imposed (Paragraph 3 of Article 54 of the Criminal Code).

Such judicial practice corresponds to the practice of the European Court of Human Rights, in which

mitigation of the sentence, applied taking into account the violation of the requirement of the shortest possible time, is considered a suitable and sufficient means of legal defence due to the excessively long duration of the process, as a result of which the person who used it loses the status of a victim under the Convention. At the same time, it should be emphasized that both, according to the ECHR and according to the practice of national courts, the possibility of reducing the sentence due to the length of the criminal procedure is not linked to the length of the process itself, but to the circumstances of the specific case, its unjustified excessively long duration, which leads to a violation of Part 1 of Article 6 of the Convention, Article 2 of the Criminal Procedure Code, Paragraph 5 of Article 44, which enshrine the right of the accused to the shortest possible trial. The criteria on the basis of which the ECHR evaluates whether the duration of the procedure meets the requirements of the Convention are usually the complexity of the case, the behaviour of the person being persecuted in the criminal procedure, the actions of the institutions in organising the case process, the meaning of the proceedings for the person being persecuted (Lithuanian Supreme Court Decision No. 2K-99-895/2019).

As can be seen from the circumstances of the presented case, the lower courts imposed lighter sentences on the convicts, claiming that the principle of justice was violated, but the position of the Supreme Court of Lithuania is different, and the judicial practice in solving such issues is on the side of the investigation. The mere fact that the investigation lasted more than two years is not a reason to believe that the principle of speed of the procedure was violated. In frequent cases, the process is prolonged due to the complexity of the case and the handling of complaints, which are important in assessing whether the procedure was unreasonably delayed.

In another case of the Supreme Court of Lithuania, a similar statement on the same issue was made, by naming specific circumstances that could have an impact on mitigating the sentence of the convicted person due to the excessively long duration of the procedure. In the complaint to the Supreme Court of Lithuania, it is emphasized that, according to the practice of the Lithuanian courts, the unjustifiably long duration of the criminal procedure, which violates the right of a person to the shortest possible trial process, taking into account the totality of the circumstances of the case, can be considered as an exceptional circumstance and is recognized as the basis for imposing a lighter punishment than the one provided by law. According to the judgements of the ECHR and the practice of Lithuanian courts formed by the provisions of their interpretations, the possibility of mitigating the punishment due to the length of the criminal procedure is not only related to the length of the process, but also to the determination of the specific circumstances of the case, which determined the unreasonable and excessively long duration of the procedure. Thus, the decision on the mitigation of the sentence taking into account the duration of the proceedings must be taken only after consistently evaluating the reasonableness of this duration according to the criteria established in the practice of the ECHR: the complexity of the case, the behaviour of the person persecuted in the criminal proceedings, the actions of the institutions in organising the proceedings, the significance of the proceedings for the persecuted person. The jurisprudence of the ECHR has repeatedly stated that in cases where it is recognized that there were unjustified procedural delays in the case, one of the appropriate and sufficient means of legal defence due to the excessively long duration of the procedure is the reduction of the sentence for the accused. It should be noted that in judicial practice it is recognised that more than eight years of the case until the judgement is passed is objectively too long a process.

The court noted that there was no unjustified delay in the procedural case during the pre-trial investigation or during the trial in the first and appellate instances, the duration of the criminal trial in this case is based on the procedural decisions made in the order established by the Criminal Procedure Code, the extremely large number of procedural actions performed during the pre-trial investigation (recognition of testimony, expert examinations, interviews, confrontations, etc.). judging by what was stated, that court hearings in the first instance were usually postponed due to the non-appearance of the defendants themselves, the court hearing the case took active steps in order to ensure the fastest and most efficient court procedure possible, therefore there was no unjustifiably long trial or pre-trial investigation in this case (court decision No. 2K-252/2014 of the Supreme Court of Lithuania).

As can be seen from the trial decision, not only the issue of the complexity of the case is emphasized, but all the circumstances of the investigation are evaluated. It was also noted that in many cases the process was stopped due to the non-participation of the convicts themselves in the procedure, which is also a very important argument in order to make a decision on whether it is possible to impose lighter sentences on the convicts due to the longer process.

Conclusions

The principle of speed of the process obliges law enforcement officers and courts to perform all procedural steps and make decisions as quickly as possible. It is the timely performance of procedural actions and the adoption of procedural decisions that guarantee the proper implementation of this principle.

1. The analysis of court practice clearly shows the reasons why investigations last from one to several years. However, such long terms are often not due to malicious delaying of the investigation by the officials, but usually due to objective reasons, such as conducting expert examinations, waiting for requests for legal assistance and translations, analysis of telephone calls, complex and large-scale investigations that require a particularly large number of pre-trial investigations, investigation actions, as well as, in individual cases, the writing of various complaints by the suspects themselves, non-attendance at meetings, which in individual cases can prolong the investigation much longer than the execution of the actions themselves.
2. Another important aspect is the fact that persons who are convicted of committing a criminal act and the court recognizes that the pre-trial investigation and the entire duration of the procedure take unreasonably too long, the convicted person has the opportunity to request a mitigation of the sentence. If the imposition of the punishment provided for in the sanction of the article would clearly contradict the principle of justice, the court, guided by the purpose of the punishment, may impose a lighter punishment with reasons.

References

1. The Constitution of the Republic of Lithuania. Valstybės žinios. No. 220-0, 1992
2. The Criminal Code of the Republic of Lithuania. Valstybės žinios. No. 89-2741, 2000
3. The Criminal Procedure Code of the Republic of Lithuania. Valstybės žinios. No. 37-1341, 2002
4. The European Convention on the Protection of Human Rights and Fundamental Freedoms. Valstybės žinios., No.40-987,1950. Available at: https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.19841
5. Order No. I-300 by General Prosecutor's Office of October 5, 2012 "Regarding Order No. I-142 by the Prosecutor General of the Republic of Lithuania of October 15, 2010 "Regarding the Amendment of the Description of the Procedure for Controlling the Terms of the Pre-trial Investigation". Valstybės žinios. No. 118-5966, 2012. Available at: https://e-seimas.lrs.lt/portal/legalAct/lt/TAD/TAIS.384020/asr
6. Resolution of the Constitutional Court of the Republic of Lithuania of January 16, 2006 "On the Compliance of Article 131, Part 4, Article 234, Part 5, Article 244, Part 2, Article 407, Article 408, Part 1, Article 412, Part 2 and 3, Article 413, Part 5, Article 414, Part 2 of the Code of Criminal Procedure of the Republic of Lithuania to the Constitution Regarding the Request of the District Court of Siauliai Region of the Claimant to Investigate whether Article 410 of the Code of Criminal Procedure of the Republic of Lithuania does not Contradict the Constitution of the Republic of Lithuania ". Valstybės žinios, No. 7-254, 2006
7. Resolution of the Constitutional Court of the Republic of Lithuania of September 19, 2000 "On the Compliance of Articles 1181, 1561, Article 267, Clause 5 and Article 3171 of the Code of Criminal Procedure of the Republic of Lithuania with the Constitution of the Republic of Lithuania". Valstybės žinios, No. 80-2423, 2000
8. Resolution of the Constitutional Court of the Republic of Lithuania of January 16, 2006 "On the compliance of Article 131, Part 4, Article 234, Part 5, Article 244, Part 2, Article 407, Article 408, Part 1, Article 412, Part 2 and 3, Article 413, Part 5, Article 414, Part 2 of the Code of Criminal Procedure of the Republic of Lithuania to the Constitution regarding the Request of the District Court of Šiauliai Region of the Claimant to Investigate whether Article 410 of the Code of Criminal Procedure of the Republic of Lithuania does not Contradict the Constitution of the Republic of Lithuania". Valstybės žinios, No.7-254, 2006
9. Resolution of the Constitutional Court of the Republic of Lithuania of September 19, 2000 "On the Compliance of Articles 1181, 1561, Article 267, Clause 5 and Article 3171 of the Code of Criminal Procedure of the Republic of Lithuania with the Constitution of the Republic of Lithuania". Valstybės žinios, No. 80-2423, 2000
10. European Court of Human Rights, Panel Decision in Principle of November 13, 2001. Case Šleževičius v. Lithuania (Claim No. 55479/00)
11. European Court of Human Rights, Panel Decision in Principle of December 11, 2003. Case Girdauskas v. Lithuania (Claim No. 70661/01)
12. Decision of the Panel of the Criminal Cases Division of the Supreme Court of Lithuania of June 2, 2014. No. 2K-252/2014
13. Decision of the Panel of the Criminal Cases Division of the Supreme Court of Lithuania of April 12, 2019. No. 2K-99-895/2019
14. Decision of the Panel of Judges of the Vilnius District Court of April 9, 2019. Case No. 2A-506-656-2019

BAUDŽIAMOJO PROCESO TERMINŲ ĮGYVENDINIMO PRAKTINIAI ASPEKTAI

Santrauka

Lietuvos Respublikos baudžiamieji įstatymai gina ir saugo svarbiausias žmogaus gyvenimo vertybes. Viena iš jų – tinkamas ir greitas baudžiamojo proceso užtikrinimas, tiek nukentėjus asmeniui nuo nusikalstamos veikos, tiek ir asmenis, kurių atžvilgiu vyksta baudžiamasis persekiojimas. Nors ši asmens teisė užtikrinta, tiek nacionaliniuose, tiek tarptautiniuose teisės aktuose, neretai baudžiamasis procesas trunka per ne lyg ilgai, pažeisdamas asmenų teisę į greitą procesą. Kokios pagrindinės problemos, lemiančios tyrimo užtrukimą, kaip dažnai nustatomas proceso vilkinimas ir kokie padariniai galimi procesui užtrukus ne dėl objektyvių priežasčių – pagrindinis šio tyrimo tikslas ir aktualumas. Šiame straipsnyje siekiant nustatyti pagrindines tiek ikiteisminio tyrimo, tiek teisminio nagrinėjimo užtrukimo priežastis buvo analizuota tiek nacionalinių bendrosios kompetencijos teismų, tiek Europos žmogaus teisių teismų praktika. Šia tyrimo metodika siekta išanalizuoti pagrindinę šio tyrimo problematiką – nepakankamą teisinį reguliavimą, kuris užtikrintų teisėsaugos institucijų pareigą greitai ir išsamiai atskleisti ir ištirti nusikalstamas veikas, o taip pat kaip įmanoma greičiau išnagrinėti bylą teisme. Padarytos išvados dėl gresiančių padarinių, kuriuos gali sukelti baudžiamojo proceso trukmė per ne lyg ilgą laiką.

Reikšminiai žodžiai: baudžiamasis procesas, terminai, trukmė.

Information about the authors

Nerija Kovalenkovienė. Kaunas University of Applied Sciences, Business Faculty, Department of Management and Law, lecturer. Field of research interests: law.
E-mail address: nerija.kovalenkoviene@go.kauko.lt

Rasa Šemiotienė. Kaunas University of Applied Sciences, Business Faculty, Department of Management and Law, lecturer. Field of research interests: English philology, management, law.
E-mail address: rasa.semiotiene@go.kauko.lt