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PARTICULARITIES OF THE EVIDENCE IN SUMMARY PROCEEDINGS

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The doctoral thesis and the summary can be consulted at the Central Library of the State University of Moldova and on the ANACEC website (www.anacec.md)

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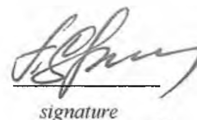

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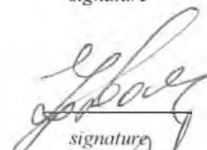

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Contents

CONCEPTUAL FRAMEWORK OF THE RESEARCH 4
THE CONTENT OF THE THESIS 8
GENERAL CONCLUSIONS AND RECOMMENDATIONS 21
BIBLIOGRAPHY 27
THE AUTHOR'S LIST OF PUBLICATIONS RELATED TO THE THESIS TOPIC 29
ADNOTARE 31
АННОТАЦИЯ 32
ANNOTATION 33

CONCEPTUAL LANDMARKS OF RESEARCH

The relevance and importance of the chosen topic, its placement within international, national, and regional research interests, as well as within the interdisciplinary and transdisciplinary context, and the presentation of previous research results related to the chosen theme:

The procedural summary represents a crucial aspect of the judicial system, providing an efficient and rapid way to resolve certain criminal cases. Within these procedures, evidence plays an essential role, providing the basis for judicial decisions to be made as quickly as possible and ensuring access to justice in a swift and accessible manner.

The choice of research topic was determined by current trends to differentiate criminal proceedings based on the offense and harm caused, and efforts to expand the range of opportunities available to the courts. A significant impact on decisions to simplify procedures is the tendency to reduce litigation costs, both in financial resources and in the time required for case examination. In this regard, states, including the Republic of Moldova, are seeking different solutions, and this trend has been reflected in recent legislative changes through the introduction of multiple procedures.

The diversification of criminal procedures based on the accused person or the offense committed is a natural contemporary approach. It is certain that reality necessitates the emergence of new summary procedures aimed at accelerating the judicial process while guaranteeing the rights of individuals.

During the preparation of this thesis, significant changes were made to the Criminal Procedure Code through Law No. 83 of April 14, 2023, and Law No. 245 of July 31, 2023. These amendments included modifications to existing summary procedures and the introduction of two new procedures. Therefore, this thesis is the first to analyze the announced topic, including the new summary procedures introduced in the Republic of Moldova.

According to statistical data established by the Prosecutor's Office of the Republic of Moldova for the year 2022, the application of the simplified procedure established under Article 364/1 of the Criminal Procedure Code, based on evidence collected during the pre-trial phase, remains high, at approximately 57%. It is noted that summary procedures in general have a high applicability rate in the judicial process of the country, thereby underscoring their relevance and importance.

The trend of the Republic of Moldova towards European Union accession has had a positive influence on the evolution of domestic summary procedures. An important role in this regard is played by Recommendation No. R (87) 18 of the Committee of Ministers of the Council

of Europe on Simplification of Criminal Justice (adopted by the Committee of Ministers on September 17, 1987, at its 410th meeting of Prime Ministers), which emphasizes compliance with the standards established by the European Convention on Human Rights regarding the liberty and security of persons, as well as the fairness of criminal proceedings, in matters concerning the simplification of criminal procedure. Simplification aims to reduce the large number of pending criminal cases in courts and eliminate delays in the judicial process.

In the application of summary procedures, a question arises regarding whether the evidentiary basis in these procedures should be similar to general procedures or if some reductions in the evidentiary basis could be allowed, provided that the guarantees of a fair trial are respected. The limits of evidence vary case by case, depending on who gathers it and the stage of the criminal proceedings. It is crucial to accurately determine the limits of evidence during the investigative phase to ensure a just resolution of the criminal case.

A significant contribution to the analysis of the chosen topic, particularly in their works on evidence, means of proof, and summary procedures, has been made by researchers such as: Dolea I., Roman D., Vizdoagă T., Sedlețchi Iu., Osoianu T., Rusu V., Țoncu S., Rotaru V., Vesco I., Tanoviceanu I., Dongoroz V., Volonciu N., Theodoru Gr., Neagu I., Udroiu M., Jidovu N., Larin A., Juikov V.M., Ulianova L., Belkin A., Rîbalov K.a., Vaseaev A., Bocikarev A., Petruhin I.L., Smirnov A.V., Levasseur G., Mueller C., Pradel J., and others.

The purpose of this work is to conduct a comprehensive study of the evidentiary basis within summary procedures and to ascertain whether this basis should be similar to that of general procedures or if certain reductions are permissible, provided that the guarantees of a fair trial are respected.

The research objectives are: Establishing the degree of regulation in the study field; Identifying gaps in the legal framework; Determining the application practice of legal norms; Conducting a comprehensive analysis of the statements of the accused in summary procedures; Assessing the efficiency of summary procedures in criminal proceedings; Defining the concept, essence, importance, and specific characteristics of summary procedures in criminal proceedings; Analyzing compliance with the provisions of fundamental principles of criminal procedure in the adjudication of cases based on summary procedures; Developing proposals and recommendations for amending and supplementing the legislative framework to optimize and streamline the adjudication of criminal cases in summary procedures.

The research hypothesis starts from the premise that evidence is a common institution across all procedures, regardless of their nature (summary or regular). Therefore, the use of evidence is mandatory even in summary procedures. However, within summary procedures,

evidence has specific characteristics, primarily concerning the requirement for cooperation between authorities and the accused person, and typically, it is of a reduced scope.

The synthesis of the research methodology and the justification of the chosen research methods. To establish the scientific-theoretical framework of the present study, we applied the methodology of scientific research, resorting to the following methods: historical, logical-formal, logical-legal, comparative, as well as observation, description, modeling, etc. An analysis of materials addressing the legal, institutional, and functional framework concerning evidence in summary procedures was conducted. Relevant national legislative acts were collected and analyzed through the lens of international standards. National and foreign theoretical works significant to summary procedures were studied, and judicial practice in the field of evidence in summary procedures was analyzed. Interviews and group discussions were conducted.

The empirical basis of the research consists of relevant case law from the European Court of Human Rights (ECtHR), the Constitutional Court of the Republic of Moldova, and cases from court jurisdictions. The content of the study also encompasses a wide range of interviews conducted with justice actors (judges, prosecutors, lawyers), which were reflected upon and analyzed.

The scientific novelty is substantiated by the fact that, for the first time, an analysis of evidence in summary procedures has been conducted, within the context of the new procedures introduced in the Criminal Procedure Code in 2023. The analysis focused on judicial practice, describing for the first time the specificities of evidence in these procedures and providing a comprehensive definition of the term „summary procedure”. The results of this analysis yielded innovative and original conclusions, which are significant for both legal institutions and the improvement of judicial practices.

Theoretical Importance and Applicative Value of the Work. The aim of the doctoral thesis is to explore and highlight the relevance of the results obtained through theoretical investigation into several aspects of criminal procedure: identifying the peculiarities of evidence in summary procedures, defining the concept of summary procedures, and analyzing judicial practice within these procedures, with a focus on identifying gaps and issues encountered. The thesis contributes significantly to innovating knowledge in the field of criminal procedure, particularly emphasizing the peculiarities of evidence. The formulated conclusions have the potential to serve as a reference point for future research and to influence subsequent theoretical discussions among specialists.

The scientific outcomes will prove beneficial in several ways: first, for improving legislation, as they can be integrated into the process of revising procedural-criminal norms; second, for influencing the daily activities of courts, prosecutors, lawyers, and judges. These

recommendations contribute to establishing clear standards for the application of criminal procedural law and the development of coherent jurisprudence. Lastly, they will benefit future legal professionals and students in specialized educational institutions by enriching their knowledge in the field of criminal procedure.

Approval of Results. The findings of the conducted investigations have been presented at national and international scientific conferences, including abroad, and have been reflected in scientific articles.

Publications on the thesis topic. A total of 11 scientific papers related to the doctoral thesis topic have been published.

The volume and structure of the thesis consist of 215 pages of main text, including: introduction, four chapters, general conclusions and recommendations, and a bibliography comprising 354 titles. Additionally, the thesis includes a statement of responsibility and the author's CV.

Keywords: summary procedure, evidence, proof, means of proof, statements.

THE CONTENT OF THE THESIS

Chapter 1, entitled ***Analysis of the situation regarding evidence in summary proceedings***, includes a comprehensive presentation of both national and foreign doctrines on evidence and summary procedures.

The procedural criminal law doctrine has extensively addressed the issue of evidence from multiple perspectives, with thorough development in this regard. Simultaneously, it has examined the issue of special procedures, where numerous relevant sources also exist. However, to a lesser extent, the doctrine has dealt with the issue of evidence in special procedures in general and in summary procedures specifically.

In the Republic of Moldova, authors such as Dolea I., Roman D., Vizdoaga T., Rotaru V., Țoncu S., Ceachir A., Osoianu T., Orîndaș V., Sedlețchi I., Furdui S., Cerbu A., Sergiu U., Rusu L., Șlicari I., Covalenco E., Guțuleac V., Saharov N., Gorea B.-C., Petrușca S. have analyzed the topic of evidence in special procedures.

Internationally, the subject of this doctoral thesis has been addressed by: Tanoviceanu I., Dongoroz V., Ionescu Dolj I., Mateuț G., Ghingheci G., Pîntea A., Tulbure A.-Ș., Tatu A.-M., Vonciu N., Țuculeanu A., Boroi A., Ungureanu Ș.-G., Jidovu N., Theodoru G., Neagu I., Udroiu M., Gheorghe T.-V., Pop T., Păvăleanu V., Crișu A., Neagu I., Damaschin M., Nicolae E.-A., Kahane S., Volonciu N., Apetrei M., Negru A.-I., Alexandrov A.S., Triușnicova M. K., Juikov V. M., Ulianova L. T., Larin A. M., Belchin A., Strogoivici M., Bebutov C., Foinițchi I., Rîbalov K. A., Vaseaev A. A., Bocicariov A. E., Petruhin I. L., Halicov A., Matchina D. V., Smirnov A. V., Calinovschi C. B., Gusicova A. P., Monid M. V., Avercenco A. C., Sinchin C. A., Notté Al., Pradel J., Bolze P., Marty M.

Upon examining the thesis topic, the degree of investigation was determined, and a scientifically significant problem was formulated. This problem was addressed and resolved through scientific methods applied in research, with clearly defined research objectives achieved in the academic endeavor.

Chapter 2, titled ***Specificities of the correlation between the institution of evidence and the institution of summary procedures in criminal proceedings***, comprises three subchapters: 2.1 General considerations regarding criminal evidence; 2.2 The concept of summary procedures in criminal matters; 2.3 Conclusions for Chapter 2

In that section, evidence was analyzed from the perspective of fairness in criminal proceedings. The roles of the court, prosecution, and defense were examined and described within the context of evidence in summary procedures, along with issues such as access to case materials,

the burden of proof, and the standard of proof. An analysis of summary procedures reveals the court's affirmative obligation to assess the sufficiency of evidence. The court must ensure the principles of criminal procedure are upheld, including the principle of publicity.

The general aspects of evidence have been extensively analyzed throughout the history of legal literature, as evidence lies at the heart of criminal proceedings. As I. Tanoviceanu noted, „the entire evolution of criminal procedural law revolves around the transformations undergone by the system of evidence"[1].

Nicolae Volonciu characterizes evidence as „a bundle of procedural acts formed in the process of invoking and proposing evidence, their admission, and administration"[2].

Regarding the issue addressed in this work, several aspects of evidence are of interest. One primary concern involves the role of the court in evidence within summary procedures: The right to a fair trial obliges the judge to base their reasoning on objective arguments and to preserve the rights of the defense. Additionally, they must clearly state the reasons underlying their decision, allowing the litigant to effectively exercise their right to appeal.

Upon analyzing summary procedures, one notices the positive duty of the court in assessing the sufficiency of evidence. The court must ensure compliance with principles of criminal procedure, such as the principle of publicity, even within summary procedures.

Therefore, the role of the court in summary procedures remains, if not determinant, then certainly crucial in ensuring fairness and legality in the process.

A second aspect of interest is the role of the prosecution: In our view, it takes on a more pronounced discretionary character compared to general procedures, as in some summary procedures, the prosecutor may assess the appropriateness of their application.

Thus, upon general analysis, we observe the pronounced discretionary role of the prosecution in most summary procedures, with the exception being procedures based on evidence collected during the preliminary investigation. Nevertheless, in this procedure, the prosecutor participates in debates and replies, and they also have the right to appeal.

Finally, thirdly, the role of the defense is of interest: It is not diminished in comparison to general procedures. However, the mission of the defense in these procedures is more about ensuring procedural compliance rather than adopting an adversarial stance against the prosecution, as naturally expected.

In this regard, it is essential to recognize that the European Court itself acknowledges the

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[1] TANOVICEANU, I. *Tratat de drept și procedură penală*. Vol IV. P. 609.

[2] VOLONCIU, N. *Tratat de Procedură Penală. Partea Generală.* Vol.I. Ediţia a II-a revizuită şi modificată. Bucureşti, 1996. P.341.

state's obligation to provide qualified legal assistance. The Constitutional Court of the Republic of Moldova, in decision no. 48g/2018, point 40, mentioned that „persons who have requested the consideration of their case under simplified procedures continue to benefit from this right, with certain exceptions. The Court referred to the jurisprudence of the European Court, according to which when criminal charges are brought against the accused through a simplified or accelerated procedure, this entails waiving a series of procedural rights”.

Another important aspect concerning the relationship between evidence and summary procedures pertains to the principle of res judicata in cases involving multiple defendants: This occurs when the case is severed and one defendant's case is examined separately under summary procedure.

This issue has been examined in the jurisprudence of the European Court. According to paragraph 105 of the ECtHR judgment Navalnyy and Ofitserov v. Russia, nos. 46632/13 and 28671/14, dated 23 February 2016, the European Court stated that "evidence admitted in an expedited procedure cannot be transposed into another set of criminal proceedings without their admissibility and credibility being examined and validated in the other proceedings in an adversarial manner, like all other evidence." In determining whether a trial was fair, the ECtHR evaluates the entire procedure, including how evidence was gathered.

Another particularity concerns access to case materials, which apparently does not encounter difficulties in summary procedures.

Another issue concerning evidence in summary procedures pertains to the burden of proof and the standard of proof: The burden of proof refers to the procedural obligation of participants to prove the circumstances that constitute the subject of evidence[3]. In this regard, the burden of proof (onus probandi) remains entirely with the prosecution.

Regarding the standard of proof, we consider that it is not influenced by the procedural form. In doctrine, the standard of proof has been extensively examined in comparative law. However, specialized literature lacks in-depth analysis of the standard of proof in summary procedures. In our opinion, the standard of proof is the same as in general procedures.

For example, the standard of proof concerning co-defendant witnesses (in cases where the case is severed for examination under simplified procedure) can be fully understood by reference to the principle of „in dubio pro reo”, which, in turn, guarantees the presumption of innocence[4].

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[3] VOLONCIU, N. *Tratat de procedură penală. Partea Generală*. Vol. I. București: Paideia, 1996. P.350. ISBN 973-9131-24-7.

[4] **PAVEL-GUZUN, I.** Unele particularități de utilizare a declarațiilor martorilor constatate în practica judiciară. In: *Conferință științifică internațională „Prevenirea şi combaterea criminalității: probleme, soluții şi perspective”,* ediția a VI-a, 25.04.2024. Chișinău, Academia „Ștefan cel Mare” a MAI, 2024.

Therefore, regarding the standard of proof, there can be no doubts - the court evaluates the evidence according to its own conviction, and in case doubts arise regarding the probative material, the judge will apply the general procedure and will decide, as the case may be, on acquittal.

Thus, the intimate conviction is based on the actual circumstances of the case, combined with the awareness that the judge's conviction has not been influenced by factors other than the probative force of the data presented by the parties.

In our opinion: 1. Summary procedures are, in certain aspects, regulated by special procedural-criminal norms, as usually expressly provided in the Criminal Procedure Code; 2. Some summary procedures include an element of negotiation; 3. Another criterion characterizing these procedures relates to the principle of rationality, including the reduction of deadlines; 4. Summary procedure involves a certain determinative discretion in the criminal investigation phase; 5. Summary procedures entail examination of substantive aspects of the case; 6. Summary procedures imply, in one form or another, a waiver of certain procedural guarantees, which, however, must not generally affect the fairness of the process; 7. Summary procedures necessarily involve judicial oversight; 8. In some summary procedures, recognition of the committed act or cooperation acceptance is a condition for application; 9. Acceptance of a summary procedure generally entails compensation for the accused person, manifested in the reduction of sentence or manner of execution; 10. Application of special procedures presupposes the existence of specific procedural acts for the respective procedure; 11. Summary procedure cannot be applied in conjunction with the general procedure; 12. Summary procedure typically results in reduced evidentiary burden.

Thus, in our view, summary procedures are institutions of criminal procedure that regulate the investigation and adjudication process of criminal cases. They include discretionary elements of negotiation and compensation, driven by the principle of procedural economy. Summary procedures involve waiving certain procedural rights while ensuring fairness of the process and judicial oversight in examining the substance of the case. They typically feature reduced evidentiary burdens and often require cooperation from the accused.

Chapter 3, titled ***Statements of the Accused as Determinative Evidence in Summary Procedures*** comprises 4 subchapters: 3.1 General Considerations Regarding the Statements of the Suspect, Defendant/ Accused in Criminal Proceedings; 3.2 The Concept of Determinative Evidence; 3.3 Statements of the Defendant/ Accused in Summary Procedures; 3.4 Conclusions on Chapter 3.

I. Tanoviceanu stated that „the statements of the accused can constitute evidence in the

respective justice system and sometimes even clear evidence of guilt, i.e., sufficient in itself"[5].

„By their nature, statements made by a suspect, defendant, or accused are primarily used to defend legitimate interests, constituting a right rather than an obligation. Besides serving as a means to exercise the right to defense, the statements of the perpetrator can provide useful information for resolving the criminal case. These statements contain not only factual data but also certain opinions, assumptions, etc., which do not have probative value but can be used as versions regarding the existence or non-existence of circumstances that either eliminate the accusation or mitigate responsibility"[6].

„If statements given by the defendant or accused at different stages of the criminal proceedings are contradictory, the judicial authority retains only those it deems credible (which are corroborated by other evidence). The timing of when these statements were given (whether during the investigation phase or during trial) does not matter"[7].

Alexandru Pîntea specifies that „Given that the suspect or accused is the person who knows the circumstances in which the crime was committed best, their statements carry great significance in the fair and thorough resolution of the case"[8].

At the conference „Domestic Legal Science through the Prism of European Values and Traditions", author Iurie Mărgineanu discussed statements, including those of the suspect or accused, in criminal proceedings[9]. Thus, he indicates that „Traditionally, statements from the suspect, defendant, or accused are divided into several modalities: a) statements admitting guilt; b) statements denying guilt; c) statements regarding other persons.

The tactical procedures of interrogation must be chosen considering the specific characteristics of the case and the individual character traits of the accused, with the appropriate application of general procedures and rules".

Both the suspect and the accused benefit from the presumption of innocence, despite their different procedural positions.

In the application of summary procedures, statements admitting guilt serve not only as evidence but also as a condition for accepting the procedure. Therefore, these statements acquire

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[5] TANOVICEANU, I. *Tratat de drept penal și procedură penală* în cinci volume. Vol V. Editura: Curierul judiciar, 1927, p.44.

[6] DOLEA, I., ROMAN, D., SEDLEȚCHI, I., VÎZDOAGĂ, T. et al. Drept Procesual Penal. Chișinău: Cartier Juridic, Ediția 1, iunie 2005. 947 pagini, p.282-287. ISBN 9975-79-343-6.

[7] PARASCHIV, C.-S. *Drept procesual penal*. București: Lumina Lex, 2002. 766 pagini, p. 219. ISBN: 973-588-561-1.

[8] PINTEA, A. *Drept procesual penal, partea generală și partea specială*. București: Lumina Lex, 2002. 559 pagini, p.192.

[9] MĂRGINEANU, I. Declaraţiile în procesul penal, ordinea procesuală şi tactica de audiere. In *Conferința Ştiinţa juridică autohtonă prin prisma valorilor și tradiţiilor europene*. Chişinău, 16 octombrie 2018. P. 183-197. CZU: 343.13/.14.

the status of determinative evidence.

The origins of the „sole or decisive rule” stem from the judgment of the European Court of Human Rights (ECtHR) in Unterpertinger v. Austria, case number 9120/80, dated November 24, 1986, paragraph 33. This rule provides arguments for why it should be applied: if a conviction of the accused is based solely or predominantly on the testimony of witnesses whom they could not cross-examine at any stage of the proceedings, their right to defense is unjustifiably restricted.

In the case of Khawaja and Tahery v. United Kingdom, the Court observed that the term „exclusive” in the context of single evidence against an accused did not seem to raise difficulties, with the main criticism focusing on the term „determinative”. In this context, the term „determinative” carries more significance than „probative”. Moreover, it implies that it is not sufficient for the evidence to simply show that without it, the likelihood of a conviction would be lower than the likelihood of an acquittal; practically all evidence could be categorized this way. In practice, the term „determinative” must be interpreted narrowly, indicating evidence of such relevance or importance that it is capable of deciding the outcome of the case”[10].

Udroiu Mihail, in his work „Syntheses of Criminal Procedure - General Part”[11], refers to the „exclusive or determinative test in relation to statements”.

According to established case law of the European Court, the autonomous concept of „witness” under European law includes any person who provides a statement that may serve as a basis for the decision to convict (victim (Gani v. Spain, paras. 47-50), civil party (Bricmont v. Belgium), expert (Brandstetter v. Austria), co-accused (Ferrantelli and Santangelo v. Italy)).

„In a consistent case law until 2011, the European Court of Justice held that a court may use a statement given by a witness during criminal proceedings without the witness being re-examined in a public hearing, provided there is a valid reason for the witness's absence, and when the conviction is not solely or decisively based on the statement of the witness who could not be heard by the court.

The exclusive and decisive evidence, evidence of such relevance and importance that it determines the outcome of the case, cannot form the basis for a conviction if it was not administered under conditions of adversarial proceedings. For a conviction based on witness testimonies who do not appear in court, there must be sufficient counterbalancing elements (guarantees and measures provided by law that allow for a fair and equitable assessment of the reliability of the evidence), as well as reasoning from the court regarding the justifiable cause for

[10] DOLEA, I. *Codul de Pocedură Penală al Republicii Moldova, partea specială (comentariu aplicativ).* Op.cit., p. 113.

[11] UDROIU, M. *Sinteze de procedură penală- Partea generală*, Volumul I, Ed. a 2-a reviz. și adăug. București: Editura C. H. Beck, 2021. 858 pagini, p. 544-545. ISBN: 978-606-18-1084-0.

non-appearance and omission of the hearings of those witnesses”[12].

It has been shown that „„„guilty pleas” - statements in which the suspect, accused, or defendant admits to committing the alleged act and explains the circumstances of the offense - have probative value not solely from the admission of guilt itself, but from the factual details provided by the perpetrator. A guilty plea will be convincing only when the accused, aware of the prospect of liability for the crime committed, exposes the circumstances of the offense. If the accused, while admitting guilt, is unable to explain the circumstances of the offense, their statements cannot carry probative value. The cause of a guilty plea in this case could be a legal misinterpretation of their own actions or a deliberate false admission of guilt aimed at avoiding punishment for a more serious offense or at evading responsibility for another person, etc. A guilty plea supported by statements regarding the committed act will be probative when confirmed by the entirety of evidence in the criminal case. The fact of a guilty plea does not entitle the prosecuting authority to interrupt the process of evidence gathering, nor the court to cease examining other evidence in the case”[13].

„The court's ability to reject the request for a simplified procedure constitutes a guarantee of the right to a fair trial. Therefore, mere acknowledgment of the charges is not sufficient to ensure an effective trial conducted within the bounds of legality and impartiality; it represents only a procedural condition. What is crucial is establishing the guilt of the defendant regarding the acts attributed to them”[14].

In summary proceedings, statements made by the suspect or defendant have a distinctly specific character.

The Supreme Court of Justice, in decision no. 13 of December 16, 2013, regarding the application of Article 364/1 of the Code of Criminal Procedure by the judicial courts, states that „The sufficiency of evidence shall be examined by the judge in terms of conclusiveness, relevance, and utility of the evidence gathered, since the rule that evidence obtained illegally cannot be used in criminal proceedings applies to any procedure, whether general or special. Insufficiency of evidence cannot be supplemented or covered by the defendant's confession of the facts. When this condition is not met, the court will reject the request for simplified procedure. If insufficiency of evidence is only identified during deliberation, the case shall be remanded for trial under the

[12] Ibidem.

[13] DOLEA, I., ROMAN, D., SEDLEȚCHI, I., VÎZDOAGĂ, T. et al. *Drept Procesual Penal,* Chișinău: Cartier Juridic, Ediția 1, iunie 2005. 947 pagini, p.284. ISBN 9975-79-343-6.

[14] ȚONCU, S. Noțiunea, evoluția și esența procedurii judecării cauzei pe baza probelor administrare în faza de urmărire penală. In: *Conferința Promovarea valorilor sociale în contextul integrării Europene*, Chişinău, Universitatea de Stat din Moldova, 4 mai 2018. p. 50-52. CZU: 343.1/.2.

general procedure”.

Therefore, in this regard, in our opinion, two fundamental issues arise, which concern us, even though one of them is not directly related to the present investigation. As mentioned above, firstly, we are interested in the possibility of using statements made by the defendant under the witness rule in other disjoined cases. Secondly, we are concerned with the admissibility of such statements if, after the defendant's hearing, at a later stage, the court rejects the request for examination under Article 364/1 of the Criminal Procedure Code of the Republic of Moldova and decides to proceed with the case under the general procedure.

Regarding the first issue, we find the answer in both the jurisprudence of the European Court and the Constitutional Court.

In the Navalnyy and Ofitserov case, the Constitutional Court mentioned that „the presumption of innocence principle is not violated when individuals previously judged under a simplified procedure are summoned to give statements in a separate criminal case. The statements of these individuals cannot have pre-established probative value; they must be evaluated in conjunction with other evidence”.

The second issue concerns, as mentioned earlier, the probative value of the defendant's statements made under Article 364/1 of the Criminal Procedure Code of the Republic of Moldova, in cases where subsequently, for various reasons, the court decides to switch to the general procedure. In our opinion, in such cases, the statements made earlier cannot be used in the general procedure. This means that once the case moves to the general procedure, the person must be heard under the rules applicable to the defendant, including respecting the right to remain silent.

Similarly, we believe that the court cannot switch to the general procedure if it determines that the classification given in the indictment is more lenient than the classification resulting from the analysis of the evidence. This would contradict the provisions of Article 325 of the Criminal Procedure Code.

Therefore, in our opinion, there needs to be a guarantee that evidence obtained from the defendant's confession of the act should not be admissible if the court subsequently rejects the application to proceed under the procedure provided in Article 364/1 of the Criminal Procedure Code of the Republic of Moldova. A similar situation is observed within the framework of a guilty plea agreement.

Chapter 4, titled ***The Relationship Between Determinative Evidence and Other Evidence in Summary Procedures*** comprises 5 subchapters: 4.1 Statements of the aggrieved party and witnesses as a means of evidence in summary procedures; 4.2 Use of specialized knowledge in summary procedures; 4.3 Specifics of administering material evidence and data obtained from

special investigative activities; 4.4 Adjacent aspects obtained in empirical research related to the investigated subject matter; 4.5 Conclusions for Chapter 4.

The first of the principles developed by the European Court of Human Rights (ECtHR) regarding Article 6 concerns the autonomous concept given by the Court to the term „witness” and the positive obligations resulting from this concept for the states. The second principle addresses the manner in which statements of interested witnesses are collected and the weight that should be attributed to such statements in the issuance of judgments.

The term „witness” has an autonomous meaning within the framework of the Convention, regardless of legal classifications in national law.

The concept includes co-defendants (see, for example, Trofimov v. Russia), victims (Vladimir Romanov v. Russia), and experts (Doorson v. Netherlands).

In the article authored by Igor Dolea and Valeria Caraman, the particularities of the concept of „witness” from the perspective of the European Court of Human Rights were highlighted[15].

„Witness statements directly contribute to establishing the truth and therefore to resolving criminal proceedings to the extent that they reveal factual elements that can serve as evidence to determine the existence or non-existence of a crime, to identify the person who committed it, or to recognize essential circumstances of the case. These statements fulfill this function either on their own, when there are no other means of proof available, or in conjunction with other evidence when it exists. During the examination of witnesses, necessary data are also recorded for assessing their statements, including information about the witness's personal details, relationships with the suspect, accused, defendant, or victim, relationships with other witnesses, as well as other relevant circumstances”[16].

The Constitutional Court, in decision no. 48g/2018, paragraph 40, stated that „the presumption of innocence principle is not violated even when individuals previously judged under a simplified procedure are summoned to give statements in a separate criminal case. The statements of these individuals cannot have pre-established probative value; they must be evaluated in conjunction with other evidence”.

Regarding the aggrieved party, we should begin by noting that their statements play an important role in summary procedures, even though the position of the aggrieved party is not decisive for the outcome of the trial.

Naturally, particular importance is given to hearing the testimony of the injured party,

[15] DOLEA, I., CARAMAN, V. Particularități privind admisibilitatea declarațiilor martorilor absenți la judecarea cauzei penale. In: *Studia Universitatis Moldaviae (Seria Ştiinţe Sociale),* Nr. 3(153), 2022. P.15. ISSN 1814-3199.

[16] DOLEA, I., ROMAN, D., SEDLEȚCHI, I., VÎZDOAGĂ, T. et al. *Drept Procesual Penal.* Chișinău: Cartier Juridic, Ediția 1, iunie 2005. 947 pagini, p.288-295. ISBN 9975-79-343-6.

alongside listening to witnesses and the accused. The injured party is not merely a witness obligated to provide statements. This is also a right of the party where naturally it asserts certain entitlements.

„Because the parties (the injured party, the civil party, and the civilly liable party) have an interest in the case, the evidentiary value of their statements is equal to that of the accused's statement. Thus, the statements of the injured party, the civil party, and the civilly liable party made during the criminal proceedings may contribute to establishing the truth, only to the extent that they are corroborated by facts or circumstances resulting from the entirety of the evidence available in the case”[17].

Authors Tudor Osoianu and Victor Orîndaş indicate that „Statements of the injured party and the civil party are generally the primary source of information for law enforcement agencies, the data provided by them serving to collect evidence about the act and the perpetrator”. Judicial practice uses, as appropriate, the statements of witnesses and injured parties. In some cases, courts refer to statements made during criminal investigation, while in others they hear from witnesses. Generally, injured parties are heard in court.

From the analysis of reviewed cases, when the case is severed, the conclusion is drawn that courts typically use as crucial evidence the statements given as witnesses by co-perpetrators involved in the commission of the offense.

Despite the fact that, following the interviews, diametrically opposite opinions were expressed, we consider correct the position according to which, in the case of applying summary procedures, all evidence in the case, including that of the injured party and the witness, is thoroughly analyzed in the judgment.

Courts refer to certain means of evidence other than statements, even though not every time do they conduct a proper analysis of these in their judgments. In our opinion, this dualistic approach creates issues from the perspective of justifying judicial decisions.

„In most cases, when specialized knowledge is required, law enforcement or the court calls upon experts. There are situations in criminal cases where the presence of specialists is urgently needed due to the risk of evidence disappearing or facts changing”[18].

„Findings are means of evidence with the same probative value as other means of evidence and are evaluated in conjunction with other evidence. Specialists conducting technical, scientific,

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[17] BOROI, A., UNGUREANU, Ş.-G., JIDOVU, N. *Drept procesual penal, ediția a II*-a. București: All Beck. 466 pagini, p.150. ISBN: 973-655-222-6.

[18] NEAGU, I. *Tratat de drept procesual penal. Partea generală*. București: Gobal Lex, 2004. P.24. Citat după DOLEA, I., ROMAN, D., SEDLEȚCHI, I., VÎZDOAGĂ, T. et al. *Drept Procesual Penal*. Chişinău: Cartier Juridic, Ediția 1, iunie 2005. 947 pagini, p.300. ISBN 9975-79-343-6.

and forensic findings cannot assume the responsibilities of law enforcement or regulatory bodies; they must limit themselves to addressing strictly specialized issues arising in criminal cases"[19].

In the work on *Criminal Procedural Law*, it is indicated that „Technical-scientific and medico-legal findings are conducted through simplified procedures compared to expertise, which is necessitated by the urgent clarification of certain facts or circumstances of the case... If the criminal prosecution authority, ex officio, or the court upon request by either party finds that the technical-scientific or medico-legal report is incomplete or the conclusions are imprecise, an expertise examination shall be ordered"[20].

„The technical-scientific findings are primarily conducted by specialists or technicians who operate within or alongside the institution to which the criminal prosecution authority belongs or even within other bodies. In the case of traffic accidents, technical-scientific findings are ordered to determine the positions of the vehicles before and during impact, the adherence of the road surface, and the visibility conditions. Technical-scientific findings are also necessary in cases of crimes against labor protection[21]"[22].

In this regard, courts use the results of alcohol testing with specific equipment as evidence, usually in cases of suspicion of committing the offense under Article 264/1 of the Penal Code.

Put simply, in our view, once a device is used, the action can be attributed to technical-scientific findings. On the other hand, the action is carried out by a police officer conducting the test, not by a specialist in the field. In this aspect, specialized literature has not mentioned opinions.

In our opinion, the person conducting the testing should have specific knowledge regarding the correct use of the equipment, even if they are a police officer conducting the test.

There is a continued development of categories of findings that are relatively unconventional for the national procedural system but are already accepting innovations. We are referring to psychological assessments.

In judicial practice, several situations requiring expertise have been established, as mentioned in various decisions of the Supreme Court Plenum.

We reiterate that by the decision of the Constitutional Court no. 2 of February 9, 2016, it was indicated that the Supreme Court of Justice (CSJ) cannot impose Plenum decisions on the

[19] DOLEA, I., ROMAN, D., SEDLEȚCHI, I., VÎZDOAGĂ, T. et al. *Drept Procesual Penal*. Chișinău: Cartier Juridic, Ediția 1, iunie 2005. 947 pagini, p.300. ISBN 9975-79-343-6.

[20] Ibidem.

[21] NEAGU, I. *Tratat de procedură penală*. București: ed.PRO, 1977. P.297. Citat după BOROI, A., UNGUREANU, Ș.-G., JIDOVU, N. *Drept procesual penal*, ediția a II-a. București: All Beck, 2002. 466 pagini, p.167. ISBN: 973-655-222-6.

[22] BOROI, A., UNGUREANU, Ș.-G., JIDOVU, N. *Drept procesual penal*, ediția a II-a. București: All Beck, 2002. 466 pagini, p.167. ISBN: 973-655-222-6.

courts.

In our opinion, there is no legal basis for such an approach, and a purely formalistic approach would be unacceptable.

Therefore, according to Article 157(1) of the Criminal Procedure Code of the Republic of Moldova, „Material evidence includes documents in any form (written, audio, video, electronic, etc.) originating from official individuals or legal entities if they contain or certify circumstances of importance to the case”.

Author Nicolae Vonciu points out that „The importance of material evidence lies in the fact that these „silent witnesses”, as they have been aptly named, know how to 'speak' and provide sometimes more accurate and complete indications than actual witnesses. Moreover, there is no suspicion of bad faith concerning these objects, unlike some witnesses who may show dishonesty. However, this does not exclude the possibility that some material evidence may be counterfeited or altered by interested parties to lead the judiciary to erroneous conclusions”[23].

According to Article 158, „Corpse delicti are recognized as objects in cases where there are grounds to assume that they have served to commit the crime, retain traces of criminal actions, or have been the objective of these actions, as well as money or other valuables, objects, and documents”.

It has been shown that „documents are separate means of evidence that differ from the records of investigative and judicial acts, as well as from physical evidence. Documents contain data that can be recognized as derivative evidence. Records differ from documents in that they are drawn up within a legal action, whereas documents are drawn up outside the criminal proceeding by persons who may not be subjects of the criminal process. Physical evidence, unlike records, represents the original source regarding certain circumstances”[24].

In practice, it is often observed that video recordings are frequently used as evidence in summary procedures. In some cases, courts also utilize official documents as evidence.

The administration of physical evidence can be conducted through several procedural methods expressly provided for in the Criminal Procedure Code: on-site investigation, search, seizure of objects, as well as presentation by the participants in the proceedings, following their prior hearing.

We observe that the legislator's approach in enumerating records of proceedings is not exhaustive. This is a method we support, considering the evolution of evidence in the era of

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[23] VOLONCIU, N. *Tratat de procedură penală, partea generală*, Vol. I, ediția a III-a, revizuită și adăugită. București: Padeia, 2000. 520 pagini, p.374. ISBN 973-9131-01-8.

[24] DOLEA, I., ROMAN, D., SEDLEȚCHI, I., VÎZDOAGĂ, T. et al. *Drept Procesual Penal.* Chișinău: Cartier Juridic, Ediția 1, iunie 2005. 947 pagini, p.323-336. ISBN 9975-79-343-6.

technological and scientific progress. However, it is necessary to exclude situations of nullity of acts as provided by Article 251 of the Criminal Procedure Code of the Republic of Moldova.

Factual data obtained through special investigative activities have a specific character compared to other means of evidence. This justifies the legislator's stance conditioning the admissibility of such data in evidence only if they have been obtained and verified through the means specified in paragraph (2) of Article 93 of the Criminal Procedure Code of the Republic of Moldova.

From the sociological research conducted in our current work, we have found that the majority opinion suggests that in summary procedures, it may not be necessary to use costly evidentiary procedures such as the results of special investigative activities. However, this tool cannot be entirely excluded, and decisions will be made based on specific circumstances, while adhering to the principles of subsidiarity and proportionality.

Upon general analysis, we observe that in the sentences pronounced, courts cite both evidence demonstrating guilt and those pertaining to aggravating and mitigating circumstances. We consider this approach appropriate, as the court possesses considerable discretion in determining the punishment, even if legal norms suggest the necessity of reducing the sanction.

It is evident that judicial practice cannot be identical, nor can the court assess the same factual circumstances identically with regard to defendants. This is because when determining the sentence, all defining elements of the defendant's personality are considered in their entirety. These include aggravating and mitigating circumstances, the defendant's behavior before, during, and after the commission of the offense, the defendant's attitude towards the victim (if applicable), and the nature of the crime itself.

GENERAL CONCLUSIONS AND RECOMMENDATIONS

The obtained results of the present doctoral thesis are reflected as follows: the degree of regulation of the study area was established (244 pp.74-75, 249 pp.181-184, 253, 254, Chapter 1); gaps in the legal framework were identified (248 pp.303, 249 pp.184-185, 252, 253, 254, Chapters 2, 3, 4); the practice of applying legal norms was established (244 pp.75-76, 245 pp.133-134, 246 pp.151-152, 249 pp.185-186, 250 pp.371, 252, 254, Chapters 2, 3, 4); complex analyses of statements made by the accused person in summary procedures were conducted (247 pp.181-182, 251, 253, Chapter 3); the efficiency of summary procedures in criminal proceedings was assessed (249 pp.177-181, 250 pp.369, Chapters 2, 4); the concept, essence, importance, and peculiarities of summary procedures in criminal proceedings were defined (244 pp.77-84, 246 pp.152, Chapter 2); compliance with the provisions of fundamental principles of criminal procedure in cases tried under summary procedures was analyzed (246 pp.142-143, 253, 254, Chapters 2, 4); proposals and recommendations were developed for amendments and supplements aimed at optimizing and enhancing the efficiency of adjudicating criminal cases under summary procedures (244 pp.84, 248 pp.306-307, 249 pp.186-187, 252, 253, conclusions in Chapters 3, 4).

Following a comprehensive investigation of the doctoral thesis topic, ***the significant scientific issue*** concerning the development of tools for identifying summary procedures within special procedures has been resolved. Additionally, the determination of the burden of proof concerning an individual's guilt within such procedures has been addressed. This achievement has led to clarification for theoreticians and practitioners in the field of criminal procedural law regarding the criteria for identifying summary procedures within other procedures and establishing standards of proof from the perspective of ensuring the right to a fair trial.

The significant scientific issue has been demonstrated through the conclusions drawn based on the research hypothesis, as follows:

1. Summary procedures have the following characteristics: Summary procedures are, in certain aspects, regulated by special criminal procedural norms, typically expressly provided for in the Criminal Procedure Code; Some summary procedures involve an element of negotiation; Another characteristic of summary procedures relates to the principle of rationality, including the reduction of timeframes; Summary procedure involves a certain discretion, particularly in the preliminary investigation phase; Summary procedures entail examination of substantive aspects of the case; Summary procedures involve, in one form or another, a waiver of certain procedural guarantees, although generally not affecting the fairness of the process; Summary procedures require mandatory judicial oversight; In some summary procedures, a condition for application is the recognition of the committed act or acceptance of cooperation; Acceptance of a summary

procedure generally entails a benefit for the accused person, such as a reduced sentence or modified mode of execution; Application of special procedures necessitates specific procedural acts corresponding to the respective procedure; Summary procedure cannot be applied in conjunction with the general procedure; Summary procedure typically involves a reduced evidentiary burden, which does not, however, lower the standard of proof.

Thus, our definition of summary procedures is as follows: summary procedures are institutions within criminal procedure that govern the investigation and adjudication of criminal cases, incorporating discretionary elements of negotiation and compensation driven by the principle of procedural economy. They typically involve the cooperation of the accused and entail a waiver of certain procedural rights, while ensuring fairness of the process and judicial oversight in examining the merits of the case, accompanied by a reduced evidentiary burden (Personal contribution, See subchapter 2.2)

2. Evidence is a common institution across all procedures, regardless of their nature; therefore, utilizing evidence is mandatory even in summary procedures. However, within summary procedures, evidence carries certain specificities, primarily concerning the condition of accepting cooperation between authorities and the accused person (See subsection 2.1).

3. Within the realm of evidence, the roles of the procedural subjects in summary procedures exhibit certain particularities: The prosecutor plays a crucial role; the role of the court remains fundamentally decision-making in summary procedures; and the role of the defense is not diminished compared to general procedures (See subsection 2.1)

4. Analyzing the connection between evidence and summary procedures regarding the principle of res judicata, it is observed that in cases involving multiple defendants, the evidence accepted in a summary procedure can be transferred to another set of criminal procedures, except in expressly prohibited situations, as stipulated in Article 523^7 paragraph (3) of the Criminal Procedure Code of the Republic of Moldova (See subsection 2.1).

5. In summary procedures, access to case materials does not encounter difficulties. However, the absence of a deadline given to the defense for submitting requests regarding the completion of the criminal investigation raises questions regarding the observance of the principle of equality of arms (See subsection 2.1).

6. Regarding the standard of proof, it is not influenced by the form of the process; we consider it to be the same as in general procedures. Evidence is sufficient when, evaluated as a whole, it allows the judicial body to form an opinion or conviction that is apt to be relevant. Evidence in summary procedures also carries specific characteristics. Thus, in most summary

procedures, the statement of the accused person is crucial, even if not exclusive (See subsection 2.1).

7. In summary procedures, the statement admitting to the act is not only important as a means of evidence but is also mandatory, constituting a procedural requirement. The statement of the accused plays a decisive role in most summary procedures, its importance being such that it can influence the decision rendered in a particular criminal case (See subsections 3.1, 3.2).

8. In summary procedures, the judge cannot rely exclusively on the statement of the accused to make a decision regarding a conviction sentence. Their responsibility is to analyze the entire body of evidence (See subsection 3.3).

9. Statements made by a person, given prior to the rules of witness examination in simplified procedure, cannot be used in the general procedure (procedure resumed following the court's dismissal of the accused's request) (See subsection 3.3).

10. If the court determines that the legal classification in the indictment is more lenient than that resulting from the evidence examined, it is not entitled to switch to the general procedure (See subsection 3.3).

11. The presumption of innocence is not violated when individuals previously judged in simplified procedure are called to testify in a separated criminal case, as their statements do not carry predetermined probative value and must be evaluated in conjunction with other evidence (See subsection 4.1).

12. In the case of applying summary procedures, the judgment must thoroughly analyze all evidence in the case file, including that of the injured party and witnesses (See subsection 4.1).

13. In summary procedures, traditional means of evidence are utilized, sometimes involving specific equipment. These can be considered as technical-scientific findings. In such cases, these actions must be conducted by a specialist in the field who possesses specialized knowledge (See subsection 4.2).

14. There is a recognized need to review judicial practice regarding the conduct or non-conduct of expert examinations in summary procedures, especially in cases where criminal procedural norms do not mandate such expertise but where practice imposes it (See subsection 4.2).

15. Considering the diversity of evidence alongside advancements in technical and scientific fields that influence evidentiary standards, it is appropriate for the Legislature's stance to favor an expanded methodology rather than an exhaustive enumeration of documents.

The Supreme Court, in developing consistent practice, should emphasize clarifying the terminology used in judgments regarding physical evidence (See subsection 4.3)

16. The results of special investigative activities cannot be completely excluded, as empirical research has shown, due to their status as costly evidence-gathering procedures. Each case will be handled based on specific circumstances, adhering to the principles of subsidiarity and proportionality (See subsection 4.3).

17. Upon analyzing judicial practice and empirical research, it has been observed that courts, in their rulings, generally refer to evidence that confirms both the act and guilt, as well as evidence related to aggravating and mitigating circumstances. This is considered appropriate practice because the court has a considerable margin of discretion in determining penalties, even if legal norms suggest the need for reducing sanctions (See subsection 4.4).

Description of personal contributions with emphasis on their theoretical significance and practical value.

The personal contributions consist of a detailed study of the specifics of evidence in summary procedures, identifying and highlighting the characteristics of summary procedures in criminal proceedings. A definition of summary procedures was provided. The statements of the accused person underwent a comprehensive examination, emphasizing their critical role as evidence in the examined procedures. Similarly, other evidence within the summary procedures was subjected to detailed scrutiny, with a focus on judicial practice and highlighting encountered challenging situations.

The thesis includes proposals for a clearly innovative approach to amending and supplementing the existing legal framework of criminal procedure, aimed at ensuring fairness in criminal proceedings and enhanced protection of the accused person. Arguments were presented to support the conclusions on the necessity of legislative changes, derived from judicial practice, scientific research in the field, and the opinions of practitioners (prosecutors, judges, and lawyers).

The scientific novelty and originality of the thesis lie in the analysis of evidence within summary procedures in relation to the new summary procedures introduced in the Code of Criminal Procedure in 2023. For the first time, evidence was analyzed from this perspective, with a strong emphasis on judicial practice. The thesis also provided the first comprehensive description of the characteristics of evidence in summary procedures and offered a complete definition of the term „summary procedure".

The analysis of this subject matter led to the formulation of conclusions that are novel and original, which are significant for certain legal institutions and for improving the practical activities of judicial authorities. Therefore, the research conducted and concluded with the elaboration of the doctoral thesis meets the requirements for scientific novelty and originality.

The legal and empirical basis of the study consists of: a) Provisions specified in articles such as 364/1, 504-509/2, 509/3-509/10, 510-512, 513-519, 523/1-523/7, and others from the Criminal Procedure Code of the Republic of Moldova (CPP RM); b) Judicial practice concerning the examination of cases under summary procedures; c) Relevant legal frameworks of other states regarding the examination of cases under summary procedures; d) International jurisprudence, particularly decisions of the European Court of Human Rights.

Each of these components forms a crucial part of the foundation upon which the study is built, providing both the legal framework and empirical data necessary for analysis and conclusions.

The scientific basis of the study consists of works published by authors from the Republic of Moldova, as well as researchers from other countries. In developing the doctoral thesis, empirical information provided by and obtained from the Prosecutor's Office of the Republic of Moldova, the Chisinau Court, and legal practitioners has been utilized.

The theoretical significance of the thesis lies in the relevance and utility of the findings obtained throughout the investigation, focusing on the theoretical aspects related to: Identifying the specificities of evidence in summary proceedings; Defining the concept of summary procedures; Analyzing judicial practice regarding summary procedures, highlighting gaps and issues that arise in practice.

The doctoral thesis aims to make significant contributions to the field of knowledge in criminal procedure, with a specific focus on the particularities of evidence. The formulated conclusions have the potential to serve as a reference point for future research and to influence subsequent theoretical discussions among specialists.

The practical value of the thesis lies in directing its conclusions towards improving relevant legislation and thereby enhancing the performance of the procedural subjects involved in the prosecution and adjudication of cases under summary procedure. The arguments presented can also be valuable in educational and scientific contexts. The applicability of the work is based on the following aspects: 1. Suggestions for improving legislation can be integrated into the process of revising the procedural-criminal normative framework; 2. Practical recommendations, supported in the thesis, could influence the daily activities of courts, prosecutors, defense lawyers, and judges, contributing to the establishment of clear standards for the application of criminal procedural law and the development of coherent jurisprudence; 3. The content of the thesis can be used by future legal professionals and students in specialized educational institutions.

Data regarding the approval of results. Scientific investigations have been reflected in 11 (eleven) publications authored in national specialty journals and in abstracts of presentations at

national and international scientific conferences, while the research findings have been presented and discussed at various scientific and scientific-practical events, being exhibited at the National Scientific Conferences with international participation 'Integration through Research and Innovation' (State University of Moldova, Chișinău, in 2020, 2021), the Scientific-Practical Conference with international participation: „State, Security, and Human Rights in the Digital Era" (State University of Moldova, Chișinău, 2020), the International Conference „Criminalistics and its Contribution to the Development of Human Society" (Faculty of Law, „Alexandru Ioan Cuza" University Iași, 2024), the International Scientific Conference „Crime Prevention and Combat: Issues, Solutions, and Perspectives" (Academy „Ștefan cel Mare" of the Ministry of Internal Affairs, Chișinău, 2024), and the International Scientific Conference „Crime - Criminal Liability - Punishment. Law and Criminology" (State University of Moldova, Chișinău, 2023).

Setting out the limits of the results obtained, identifying unresolved issues, resides in the development and deepening of scientific investigations concerning the issue of evidence in summary procedures, with a focus on judicial practice. The results obtained in the research process conducted in this paper are confined, at the same time, to the analysis of the historical evolution of summary procedures and the multi-aspectual analysis of the peculiarities of evidence in summary procedures, defining their characteristics and highlighting the concept of summary procedures. It is important to study the experiences of other states that have made progress in this field, to identify applied innovations, and to adopt practices that could be beneficial to the Republic of Moldova.

Recommendations:

Therefore, we propose the following legislative amendments:

- Article 364^1 of the Criminal Procedure Code (CPP) and Article 509 CPP should include a guarantee that ensures evidence obtained from the accused's confession of guilt will not be admissible if the court rejects the application for the procedure specified in Article 364^1 CPP RM or Article 509 CP.
- Article 90 CPP should be amended to include the following sentence: „The person whose case has been examined under simplified procedure may be heard under the general procedure, under the standard conditions applicable to witness testimony".

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   Available at: https://ibn.idsi.md/sites/default/files/imag_file/20.%20p.%20177-188.pdf .

2. **PAVEL-GUZUN, I.** Considerations regarding the application of the conditional suspension of criminal prosecution procedure. In: National Law Review [type B journal]. 2022, no. 1(247), pp. 125-135. ISSN 1811-0770, CZU 343.12, DOI https://doi.org/10.52388/1811-0770.2022.1(247).11.

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3. **PAVEL-GUZUN,** I. Considerations regarding the application of the procedure for investigation and trial of flagrant crimes. In: National Law Review [type B journal]. 2022, no. 2(248), pp. 140-153. ISSN 1811-0770, CZU 343.13, DOI https://doi.org/10.52388/1811-0770.2022.2(248).14.

   Available at: https://ibn.idsi.md/sites/default/files/imag_file/140-153_0.pdf.

4. **PAVEL-GUZUN, I**. Considerations on the reform of summary procedures in criminal proceedings. In: National Law Review [type B journal]. 2024 (2023), no. 2(250), pp. 73-84. ISSN 1811-0770, E-ISSN 2587-411X, CZU 343.1, DOI https://doi.org/10.52388/1811-0770.2023.2(250).08.

   Available at: https://ibn.idsi.md/sites/default/files/j_nr_file/RND-nr.-2_2023_pt-site-tipar_compressed.pdf.

5. **PAVEL-GUZUN, I.** Specifics of using witness statements in summary procedures. In: „Supremacy of law” Journal [type B journal]. 2023, no. 2, pp. 74-84. ISSN 2345-1971, E-ISSN 2587-4128. CZU 343.14, DOI https://doi.org/10.52388/2345-1971.2023.2.08.

   Available at: https://uspee.md/wp-content/uploads/2024/07/SD-nr.-223-full-text.pdf.

ADNOTARE

Pavel-Guzun Irina, „Particularitățile probatoriului în cadrul procedurilor sumare", Teză de doctor în drept, Chișinău, 2024

Structura tezei: Introducere, patru capitole, Concluzii generale și recomandări, Bibliografia din 354 titluri, 214 pagini de text de bază. La tema tezei au fost publicate 9 (nouă) lucrări științifice (publicații, conferințe).

Cuvinte-cheie: procedură sumară, probatoriu, probă, mijloc de probă, declarații.

Scopul lucrării constă în realizarea unui studiu multiaspectual al probatoriului în procedurile sumare, în special, analiza practicii judiciare, pentru identificarea lacunelor existente și propunerea unor soluții.

Obiectivele cercetării vizează: - analiza viziunilor doctrinare asupra probatoriului în procedurile sumare; - stabilirea gradului de reglementare a domeniului de studiu; - identificarea lacunelor cadrului legal; - stabilirea practicii de aplicare a normelor legale; - analiza complexă a cauzelor instituirii procedurilor sumare; - aprecierea eficienței procedurilor sumare în procesul penal; - definirea noțiunii, esenței, importanței și particularităților procedurilor sumare în procesul penal; - identificarea locului, rolului și justificarea social-juridică a procedurilor sumare în procesul penal; - analiza respectării prevederilor principiilor fundamentale ale procesului penal la judecarea cauzelor pe baza procedurilor sumare; - elaborarea de propuneri și recomandări privind modificarea și completarea cadrului legislativ, în vederea optimizării și eficientizării activității de judecare a cauzelor penale în proceduri sumare.

Noutatea şi originalitatea științifică constă în faptul că a fost analizat probatoriul în cadrul procedurilor sumare, în raport și cu noile proceduri sumare, introduse în CPP în anul 2023. Pentru prima dată, a fost analizat probatoriul sub acest aspect, punându-se accent pe practica judiciară. Pentru prima dată, au fost descrise particularitățile probatoriului în procedurile sumare și s-a dat o definiție completă a noțiunii „procedură sumară". Analiza acestui subiect a condus la formularea unor concluzii care poartă un caracter de noutate și originalitate, acestea fiind importante pentru anumite instituții de drept, cât și pentru îmbunătățirea activității practice a organelor judiciare.

Rezultatele obținute se concretizează în tezele științifice principale, promovate spre susținere, și în **problema științifică importantă soluționată,** care constă în *elaborarea instrumentarului de identificare* a procedurilor sumare și de determinare a nivelului de probare a vinovăției persoanei în cadrul unor asemenea proceduri, ceea ce a condus la clarificarea pentru teoreticienii şi practicienii din domeniul dreptului procesual penal a criteriilor de identificare a procedurilor sumare în cadrul altor proceduri și a constatării standardului probei din perspectiva asigurării dreptului la un proces echitabil.

Semnificația teoretică: Pentru prima dată a fost realizată o cercetare complexă privind probatoriul în cadrul procedurilor sumare, cu accent asupra particularităților, noțiunii, activității practice și importanței acesteia.

Valoarea aplicativă: Rezultatele obținute pot servi drept temei pentru modificarea legislației procesual penale în domeniu, vor fi utile în procesul didactic, de formare inițială și continuă a specialiştilor în domeniu, precum şi pentru aplicare în practică de către organele de drept, inclusiv de instanțele de judecată.

Implementarea rezultatelor științifice: Rezultatele analizelor efectuate au fost prezentate la conferințele științifice naționale și internaționale, inclusiv peste hotare, au fost reflectate în articole științifice.

АННОТАЦИЯ

Ирина Павел-Гузун, „Особенности доказывания в упрощенных процедурах", Докторская диссертация по праву, Кишинёв, 2024

Структура диссертации: Введение, четыре главы, общие выводы и рекомендации, библиография из 354 наименований, 214 страниц основного текста. По теме диссертации опубликованы 9 научных работ (публикации, конференции).

Ключевые слова: упрощенная процедура, доказательственное, доказательство, средство доказывания, заявления.

Цель работы: заключается в проведении обширного исследования в отношении доказательственной базы в упрощенных процедурах, в основном – анализ практики судебного разбирательства для выявления существующих пробелов и выработки решений.

Цели исследования: направлены на анализ доктринных взглядов на доказательственную базу в упрощенных процедурах; определение степени регулирования исследуемой области; выявление недостатков правового каркаса; определение практики применения правовых норм; комплексный анализ причин введения упрощенных процедур; оценку эффективности упрощенных процедур в уголовном процессе; определение понятия, сущности, важности и особенностей упрощенных процедур в уголовном процессе; определение места, роли и социально-правового обоснования упрощенных процедур в уголовном процессе; анализ соблюдения принципов уголовного процесса при разбирательстве дел на основе упрощенных процедур; разработку предложений и рекомендаций по внесению изменений и дополнений с целью оптимизации и повышения эффективности судебного разбирательства уголовных дел в упрощенных процедурах.

Научная новизна и оригинальность: заключаются в анализе доказательственной базы в рамках упрощенных процедур относительно новых упрощенных процедур, введенных в УПК в 2023 году. Впервые была проанализирована доказательственная база с этой точки зрения, с акцентом на судебную практику. Впервые были описаны особенности доказательственной базы в упрощенных процедурах и дано полное определение понятия „упрощенная процедура". Анализ этой темы привел к формулировке выводов, имеющих новизну и оригинальность, что важно для определенных правовых институтов, а также для улучшения практической деятельности судебных органов.

Полученные результаты выражаются в основных научных тезисах, защищенных к защите, и в **важной научной проблеме**, решенной в разработке инструментария идентификации упрощенных процедур в рамках специальных процедур и определения уровня доказывания вины лица в таких процедурах. Это привело к уточнению для теоретиков и практиков в области уголовного процесса критериев идентификации упрощенных процедур в рамках других процедур и определению стандарта доказательств с точки зрения обеспечения права на справедливое судебное разбирательство.

Теоретическое значение: впервые было проведено комплексное исследование доказательственной базы в рамках упрощенных процедур, с акцентом на их особенностях, понятии, практической деятельности и важности.

Прикладная ценность: полученные результаты могут служить основанием для изменения уголовно-процессуального законодательства в данной области, будут полезны в учебном процессе, как для начального, так и для дополнительного обучения специалистов в данной области, а также для применения на практике судебными органами, включая суды.

Реализация научных результатов: результаты проведенных анализов были представлены на национальных и международных научных конференциях, в том числе за рубежом, отражены в научных статьях.

ANNOTATION

Pavel-Guzun Irina, „Specific Features of Evidence in Summary Procedures", Doctoral Thesis in Law, Chisinau, 2024

Thesis Structure: Introduction, four chapters, general conclusions and recommendations, bibliography with 354 titles, 214 pages of main text. Nine scientific works (publications, conferences) have been published on the thesis topic.

Keywords: summary procedure, evidence, proof, means of proof, statements.

Purpose of the Thesis: involves conducting an extensive study on evidence in summary procedures, primarily analyzing judicial practices to highlight existing gaps and propose solutions.

Research Objectives: aim to analyze doctrinal views on evidence in summary procedures; determine the degree of regulation in the study area; identify legal framework gaps; establish the application practice of legal norms; analyze the causes of instituting summary procedures; assess the efficiency of summary procedures in criminal proceedings; define the concept, essence, importance, and peculiarities of summary procedures in criminal proceedings; identify the place, role, and socio-legal justification of summary procedures in criminal proceedings; analyze compliance with the fundamental principles of criminal procedure in adjudicating cases based on summary procedures; develop proposals and recommendations for modification and supplementation to optimize and streamline the adjudication of criminal cases in summary procedures.

Scientific Novelty and Originality: lies in the analysis of evidence in summary procedures in relation to the new summary procedures introduced in the Criminal Procedure Code in 2023. For the first time, evidence has been analyzed from this perspective, focusing on judicial practice. For the first time, the peculiarities of evidence in summary procedures have been described, and a comprehensive definition of the term "summary procedure" has been provided. The analysis of this subject has led to the formulation of conclusions that are novel and original, which are important for certain legal institutions as well as for improving the practical activities of judicial bodies.

The obtained results materialize in the main scientific theses promoted for defense and in the significant **scientific problem solved**, which consists of developing tools for identifying summary procedures within special procedures and determining the level of proving guilt in such procedures. This has led to the clarification for theoreticians and practitioners in the field of criminal procedural law of the criteria for identifying summary procedures within other procedures and determining the standard of proof from the perspective of ensuring the right to a fair trial.

Theoretical Significance: for the first time, a comprehensive study has been conducted on evidence in summary procedures, focusing on its peculiarities, concept, practical activity, and importance.

Applicative Value: the obtained results can serve as a basis for amending procedural - criminal legislation in the field, will be useful in the didactic process, for the initial and continuous training of specialists in the field, as well as for application in practice by legal authorities, including the courts.

Implementation of Scientific Results: the results of the analyses conducted have been presented at national and international scientific conferences, including abroad, and reflected in scientific articles.

PAVEL-GUZUN Irina

PARTICULARITIES OF THE EVIDENCE IN SUMMARY PROCEEDINGS

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