

Urgent and non-repeatable actions

Abstract

The graduation thesis focuses on the ambivalent institute of urgent and non-repeatable actions, which combines two contradictory requirements. On the one hand, a balance needs to be struck between the demand to protect the state, society and the legitimate interests of individuals and legal entities and to ensure a fair trial for the person against whom criminal proceedings are being conducted, on the other. The purpose of the urgent and non-repeatable actions is to enable the authorities involved in criminal proceedings to secure perishable evidence, even at the cost of infringing the rights of the defense. However, this distortion should be compensated to the defense by providing increased protection and furthermore, urgent and non-repeatable actions should be performed only when the legal conditions are fulfilled. The main goal of the thesis is a comprehensive analysis of urgent and non-repeatable actions in the sense of the Code of Criminal Procedure and highlighting controversial issues and problems that arise in practice.

The graduation thesis is composed of four chapters, each of them dealing with different aspect of urgent and non-repeatable actions.

Chapter 1 is subdivided into two parts. Part 1 describes the historical development of urgent and non-repeatable actions since 1961. Part 2 examines the legal definition of urgent and non-repeatable actions, their purpose and function. In addition, this part illustrates which procedural actions can be performed as actions urgent or non-repeatable and conditions that must be met when performing them.

Chapter 2 is subdivided into two parts and presents the issue of urgent and non-repeatable actions during the pre-trial proceedings. Part 1 describes the pre-trial proceedings in detail. Part 2 investigates the different role of urgent and non-repeatable actions in each type of pre-trial proceedings.

Chapter 3 consists of four parts, each one focuses on one procedural action, that is usually performed as urgent or non-repeatable. Part 1 concentrates on house search and search of other premises and parcels, particularly with emphasis on justification of urgency or non-repeatability of the search in the order for performing it. Part 2 examines the same questions in relation to interception and recording of telecommunications. Part 3 analysis questioning a witness and identification by recognition when these are performed as urgent acts according to § 158a of the Code of Criminal Procedure. Part 4 describes identification by recognition as non-repeatable

actions. Actions were examined by means of an case-law, including case-law of the European Cour of Human Rights. This chapter finds weak spots in legislation and main controversial practical issues, notably in terms of probative force of the results of these actions. It also provides some feasible solutions.

Chapter 4 presents the concept of urgent and non-repeatable actions in the draft of the new Code of Criminal Procedure and thus follows on the third part. Its aim is to evaluate the extent to which it reflects the problems that practice brings and, if necessary, to suggest possible improvements.

Inferences are clearly summarized in the conclusion, that mentions results of the researched questions.