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Prejudice in Criminal Case

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ABSTRACT

The study of the legal system of foreign countries is characterized by the fact that the issues of prejudice and precedent are interrelated, and their positive and negative sides are reflected on the example of national legislation. The article explains the pre-judicial significance of court decisions when using evidence and their proof and the procedure for their use.

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The objectives of the study are to determine the prospects for improving national legislation related to the use of the institution of prejudice in criminal proceedings, as well as to prepare legal proposals and recommendations from this institution.

The level of scientific novelty of the research results lies in the study of theoretical, legal and practical issues from the point of view of the science of criminal procedure law to improve the legal guidelines for the application of the institute of prejudice in criminal procedure law.

Materials and Methods

The following tasks are envisaged: 1) observance of the obligatory nature of justice decisions; 2) preservation of the social value of documents of the justice authorities; 3) following the authority of the judiciary [1].

Results

The criminal procedure legislation of Austria and, France and Germany plays an important role in continental law. With freedom of speech, a high degree of codification and doctrinal commentary are universally recognized in the criminal courts of France, Germany and Austria. In the criminal procedural legislation of these countries, the concept of prejudice is not given, but it seems that decisions of the court and other bodies are taken by the court without evidence at the time of criminal proceedings. In this way, we can see the authority and importance of the decisions of the courts and other bodies.

If we study the Austrian criminal procedure legislation, then the principles in them are more precisely directed political and legal decisions in criminal cases. In Austrian criminal procedure law, Austrian scholars have divided the classification of principles into types according to a number of criteria. One of the most basic classifications are the views of W. Platzgummer. Accordingly, these principles were divided into three groups: the judiciary; initiation of a criminal case ; _ in criminal proceedings [2].

The system of independent assessment of evidence based on inner conviction, which spread to Europe, arose in 1789 in France after the revolution. In Austrian criminal justice, this principle was first introduced in 1848. It has been in use since May 23, 1873.

When an Austrian court decides on the basis of the principle of an independent evaluation of evidence, it can only decide on the basis of evidence that has been examined and proven in court. The court must carefully examine each piece of evidence separately and check for accuracy. It is also important to pay attention to the relationship between the evidence.

The main task of judges in the study of evidence is to assess their reliability. The only way to carry out this process is the inner conviction of the judges. Internal conviction is closely related to the worldview of judges, life experience, professional knowledge and skills. In practice, the basic rules for assessing evidence have been developed by Austrian judges.

Evidence in accordance with Austrian criminal procedure law is a source of knowledge. These include information in a court decision or in criminal proceedings and when establishing the truth, whether there are circumstances that are important for the proper resolution of the case.

There is no list of evidence in the current Austrian criminal procedure legislation. That is, the law is limited to the evidence obtained for the correct resolution of the case.

According to the Austrian Code of Criminal Procedure, evidence is required in all cases related to the establishment of a person's guilt and sentencing. In some cases, it is necessary to prove the correctness of the application of criminal procedural sanctions (Austrian Criminal Procedure Code §3, 258). However, you can

accept other circumstances and evidence without evidence. They may be: specific facts, i.e. information obtained by any reasonable person through a newspaper, gazetteer or map, the media or other sources; information important for the criminal case, known to everyone from life experience; natural physical laws and other information [3].

The circumstances are known to all, or the court may be admitted without proving known evidence.
Analysis.

Evidence is divided into objects and persons as a source of information. Evidence means the collection, examination and evaluation of evidence by the court. There are
2 stages of proof:
1. Free proof by the bodies of inquiry;
2. Evidence by the court [4].

The purpose of proof in the criminal procedure legislation of Germany is to establish the truth. The subject of proof is the main fact, evidence, supporting facts and evidence, as well as circumstances. The burden of proof rests entirely with the court. At the preliminary investigation stage, the burden of proof lies with the prosecutor 's office. By law, the police body (as it is called in Germany) is not a body of inquiry. However, according to article 163 of the German Code of Criminal Procedure, the police are obliged to investigate the circumstances of the crime and take appropriate measures to prevent the occurrence of circumstances that impede the investigation of these cases.

According to article 161 of the German Code of Criminal Procedure, police officers are obliged to comply with the requirements and instructions of the prosecutor's office. If the prosecutor considers it necessary to conduct a judicial investigation, the prosecutor submits a petition to the local court.

The principle of formality in the German Code of Civil Procedure (Article 152, Part 1 of the German Code of Criminal Procedure), the principles of criminal prosecution (Articles 151,155,264 of the German Code of Criminal Procedure), the principles of legislation (Article 152, Part 2 of the German Code of Criminal Procedure) and the principle of mandatory investigation of all criminal cases (2, Ch. 2 I street 244).

The principle of obligation is that the court, regardless of its duties, must independently examine all the circumstances of the criminal case. In addition, the petitions and explanations of the parties in this process should not matter to the court. In addition, the court may examine all the evidence that it considers relevant to the case (Article 244 part 2 of the German Code of Criminal Procedure).

The Following Conclusions can be Drawn from this Article
the conclusion of the court should not be limited to the opinion of the participants in the process, in particular, the opinion of the defendant. That is, the court must consider each case independently.

In criminal proceedings, unlike in civil proceedings, if the defendant does not appear in court, his guilt will not be eliminated and he will not be convicted.

the court must require other evidence, in addition to the evidence obtained on petitions. In this case, the prosecutor and other participants in the process independently obtain evidence and give a legal assessment [5].

The court decides on the strength of evidence on the basis of its internal conviction and on the basis of evidence established during the trial. (Germany JPK 261-modda).

German criminal proceedings, there is an oral principle according to which all materials relevant to the case must be heard by the participants in the process. The verdict is issued on the basis of evidence and other circumstances presented, examined and heard by the participants in the process during the trial. At the same time, the court should be open. The principles of publicity and orality allow the defendant to understand the crime committed and prove that the act was committed by the same person, as well as to prove the justice of the punishment imposed by the court and the fairness of the trial.

Prejudicial cases have the following important features: 1) are determined by a court verdict and ruling. Such cases are determined by judicial decisions taken by courts in the framework of criminal, civil, economic and administrative proceedings; 2) cases are valid from the moment a court verdict and ruling having prejudicial value enter into legal force until these decisions and rulings are legally canceled; 3) pre-trial cases are accepted without additional verification by judges, prosecutors, investigators and interrogators.

The significance of prejudice in criminal proceedings lies in the fact that the court acquires knowledge about the circumstances that were previously the subject of a judicial investigation, and with the help of known circumstances, other events are revealed through the verdict that has entered into force.

This, in turn, is a logical consequence of the presumption of fairness of a court decision that has entered into legal force, relieving the court of the obligation to investigate and prove legal facts. A certain feature of the prejudice is that it is directly related to the circumstances identified in the case, and consists of the circumstances that are important for the resolution of the criminal case and identified earlier. From a legal point of view, prejudicially established circumstances are considered true, since they follow from a court decision that has entered into legal force. Prejudicedly established circumstances can be accepted without additional investigation only if the court, prosecutor, investigator, interrogator applying them do not cause suspicions and conflicts [6].

In criminal proceedings, three types of prejudice can be distinguished in criminal proceedings, depending on the subject making the procedural decision: 1) prejudice used by the interrogator, investigator; 2) prosecutor's prejudice; 3) prejudice applied by the court.

Conclusion

The main difference between free proof and forced proof is that it is not provided for by law and does not have procedural forms. Therefore, free evidence in court is more common, because it is not necessary to simply accept the evidence set out in the law and follow the rules for its application. All these cases are considered on the basis of the internal confidentiality of the court. There is no fixed procedure.

But facts known to everyone or facts known only to the court, and legal presumptions do not require proof.

Commonly known facts include facts and information known to a reasonable person and obtained from reliable sources available

to everyone. They are not related to criminal content or questions of guilt. This includes events and phenomena in society, nature, culture and politics.

Facts known to the court are facts that must be understood by the court through other processes in the course of judicial activity. They, in turn, often consist of such circumstances as the composition and elements of the crime, the question of guilt, types of punishment.

In German criminal justice, a sentence is a judgment that includes a specific consequence and is issued on the basis of a trial. In this case, the verdict is a document that completes the main stage of the criminal process (Article 260 of the Criminal Code of Germany).

The legal force of a judgment means the meaning and duration of the judgment rendered. As soon as the decision enters into force, there is no need to change it, and it begins to apply its binding character in practice.

The official entry into force of the decision takes place only in the following cases: if the deadline for filing an appeal or complaint has expired; persons authorized to file a complaint refused to file a complaint; if this decision is rendered by the court of cassation.

The legal force of the decision may be canceled in the following cases: if the court returns the case for a new trial; if the missed appeal period is restored; overturns the verdict on appeal.Unlike the criminal procedural legislation of Uzbekistan, in Germany the verdict comes into force even if the content of the verdict is incorrect or procedural errors are made. The defendant can protect his rights only by filing a complaint if he is aware of these errors. This condition also applies in the event of a gross violation of procedural norms.

The verdict is declared invalid in the following cases: if a sanction (punishment) not provided for by law is applied; a court verdict against a minor who is subject to criminal liability; punishment is imposed on a person who has not committed a crime; if the person has previously been convicted in this case; if the deceased has been sentenced.

In German criminal procedure legislation, the issue of prejudice is also not formulated in one word. However, when considering criminal cases by the court, the court recognizes the facts established in other court proceedings as unproved. But only a court decision that has entered into force will be accepted as evidence. That is, it is accepted without evidence. In Germany, as in Austria, prejudice is not defined a. And in this country, the question of the application of prejudice is the exclusive prerogative of the court [7-11].

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