

PROBABLE OR CATEGORICAL OPINION OF AN EXPERT IN CRIMINAL PROCEEDINGS

Fatmir Tartale

Albanian University, e-mail:fatmirtartale@gmail.com

Abstract

All the data found by the expert, as a result of examination of objects presented by the proceeding for review are reflected in the opinion of the expert, who referred to the second chapter "Types of evidence" of the Code of Criminal Procedure 1), forms for the criminal case, a particular source of evidence. The expert, as a source of evidence on the existence or absence of a particular fact, is related to the problem in what form the conclusion presented in the form categorical or possible. Practice bodies preliminary investigation and that court, both forms of conclusions namely as categorical opinion as well as that probable, given by an expert in the criminal proceedings, according to the phases of its development and the time when it is determined by a decision by the proceeding when it is necessary to develop research or receiving data or assessments requiring special knowledge of technical, scientific or cultural "Article 178 of the Criminal Procedure Code of the Republic of Albania. On the probative value of these forms of judgment, in the literature of procedure and criminality, are presented different views, arguing evaluation or not as evidence of probable thought, to use or not its in criminal proceedings as evidence during the investigation or trial of offenses for which criminal prosecution is initiated, to a certain author or authors, who are suspected of having committed the criminal penalty. Some evaluate the probable procedurals that the allocation of expert opinion is a legitimate phenomenon, a judgment that should 'is recognized in each case the probative value 2), while others oppose in this regard, believes that "opinions based on probability, not be allowed, because, lacking any probative value 3), are harmful to the investigation and judicial review 3). Other authors support the second and say that, when there is sufficient material for this research or tracks are not sufficiently clear, expert formulates conclusions as possible, but not categorically. This cannot serve as the basis for an injunction and punishment 4) So treatment in doctrine and conception of implementation in practice, acceptance or not of the opinion of the expert, as possible or categorical, is extensive and valuable for the development a fair criminal proceedings, objective and comprehensive, which is a reference standard which will implement the Constitution of the Republic of Albania, the Criminal Procedure Code of Albania, and the European Convention on Human Rights.

Keywords: *expert opinion, evidence, probability, categorical, Code of Criminal Procedure, preliminary investigation, judgment, decision.*