

THE CHALLENGES OF THE PRESUMPTION OF INNOCENCE IN LITHUANIAN CRIMINAL PROCEEDINGS

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Abstract

Although one of the key principles of the criminal procedure law - the presumption of innocence is officially declared as an aspiration in Lithuanian legal regulation and case law, there are still some areas of possible threat to this key principle. Therefore, the purpose of this research paper is to identify and analyse specific problems of ensuring the presumption of innocence in Lithuanian criminal law and criminal procedure law. So, the analysis was based on three main questions: the difficulties of ensuring the presumption of innocence in the Lithuanian criminal procedural law and Lithuanian criminal law and in the context of media. The research was carried out by employing the logical, the systematic, the linguistic, the historical, the comparative and the synthesizing research methods as well as the analysis of legal documents. The results of research analysis revealed specific areas that pose the greatest threat to violation of the presumption of innocence, as grounds for the termination of a criminal case; the general basis for issuing a preventive measure (arrest); complicity where the accomplices are tried in separate cases and media statements that have a direct impact on the impartiality of judges.

Keywords: Lithuanian law, presumption of innocence, criminal law, criminal procedure law

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Introduction

One of the key principles of the criminal process, which is regulated in both Lithuanian and international legal acts, is the presumption of innocence, which ensures the innocence of every person, unless the court finds otherwise. Although this principle is officially declared as an aspiration not only in Lithuanian case law, but also in legal regulation, one can find areas both in Lithuanian criminal proceedings and criminal law, where there is a real threat of violation of this key principle. This is exactly what this study will focus on, focusing on areas such as the termination of the case after the time has come to make a guilty verdict, which leads to the confrontation of two opposing approaches to the assessment of a person's guilt. Also, the institution of complicity causes problems, especially when the circumstances related to an accomplice who is not a participant in the case are examined, because there is a threat that the right to defence and the principles of competition are not ensured for such persons in the criminal process. In addition, issues of the application of pre-trial measures also pose challenges to the presumption of innocence, which obligates the application of procedural coercive measures to a person to a particularly measured extent, so that it does not turn into a punishment. At the same time, it is significant to touch on a broader approach to ensuring the presumption of innocence, when, even before the court's verdict, public opinion already condemns the suspect or when, even after a court verdict, judges are criticized by the public for imposing too lenient a sentence. Currently, this has become the prevailing trend in the Lithuanian mass media, so a broader analysis is needed on this issue. At the same time, in order to carry out this analysis in detail, Lithuanian legal regulation is evaluated, both by analysing the problems arising in case law and by comparing it with international case law. The analysis carried out is relevant, because the aforementioned problematic aspects of the presumption of innocence have not yet been fully explored in the Lithuanian legal doctrine, and some have only just begun to emerge.

The object of the research – the challenges of ensuring the presumption of innocence in Lithuanian criminal law and criminal procedure law.

The purpose of the research is to identify and analyse specific problems of ensuring the presumption of innocence in Lithuanian criminal law and criminal procedure law.

The tasks of the research:

- to analyse the difficulties and problems of ensuring the presumption of innocence in the Lithuanian criminal procedural law;
- to identify main problems of ensuring the presumption of innocence in the Lithuanian criminal law;
- to assess the difficulties of ensuring the presumption of innocence in the context of media and case law of the European Court of Human Rights.

The methods of the research: in order to achieve the purpose and objectives of this research, the following research methods are used: the document analysis method is used in detailing the analysed issues in legal regulation and case law; the systematic analysis and comparative analysis methods are used when comparing legal provisions and case law as well as Lithuanian legal regulation and international case law; the deduction analysis method made it possible to define specific problems arising in legal practice from the general requirements, while the generalization method helps to systematize the entire analysis and to provide structured conclusions.

Abbreviations: 1. the CC- the Criminal Code of the Republic of Lithuania; 2. the CPC- the Criminal Procedure Code of the Republic of Lithuania; 3. the Court of Cassation – the Supreme Court of Lithuania, Criminal division; 4. the ECHR – The European Court of Human Rights.

Discussion

Challenges of ensuring the presumption of innocence in criminal procedural aspect

Although a person's guilt can only be recognized by a court's guilty verdict, Chapter VI of the CC provides for the possibility of exempting a person from criminal liability on the grounds provided for in this chapter. Such a possibility provided by the CC to exempt a person from criminal liability after committing a misdemeanour or a crime for the first time is a necessary instrument by which the application of the criminal law is individualized. However, the Senate of the Court of Cassation on June 3rd, 2003 by resolution No. 3 has indicated, that with such a verdict acquitting a person of criminal responsibility and terminating the criminal case, the court, among other things, indicates in the decision the criminal law according to which it qualified the committed act, but the decision to recognize guilt is not taken. Also, in the case law of Lithuanian courts, such as the ruling of the Court of Cassation in case No. 2K-586/2005, the following provision is followed, that the person is not recognized as guilty of committing the act specified in the criminal law by such a judgment. As a result, decisions are also made to change the judgments passed by the courts, in which, upon termination of the case, on the grounds provided for in Chapter VI of the CC, a decision is made to find the accused guilty of committing the relevant criminal act, such as e.g. the judgment of Vilnius Regional Court in case No. 1A-74-312/2023, etc. As a result, the question naturally arises, how can a person be exempted from criminal liability if he cannot even be found guilty? Even more - if there are reasonable doubts about his guilt, having committed the criminal act charged against him - priority should be given to the adoption of an acquittal, even if the person's situation meets all the necessary conditions for exempting him from criminal responsibility on the grounds provided for in Chapter VI of the CC (Baranskaitė, 2008). This is substantiated by the provisions of Chapter VI of the CC stating that a person committing a criminal act for the first time and a full confession of guilt after committing a criminal act are among the conditions on the basis of which the court can exempt a person from criminal liability. In addition, in the legal literature, the concept of exemption from criminal responsibility is interpreted as a conditional or unconditional decision made by the court to refuse to punish a person who has committed a criminal act (Švedas et al, 2020). As a result, this alone presupposes that exemption from criminal liability

is not applicable to a person who has not committed a criminal act, since only a guilty person can be exempted from criminal liability.

In addition, in the case under consideration, it is necessary to separate the concept of "committed a criminal act" from the concept of "guilty" and researchers pay attention to the fact that the wording "person who has committed a criminal act" enshrined in Article 38 of the CC is not identical and equivalent to the term "guilty" enshrined in Article 31 of the Constitution, may imply the conclusion that it does not in itself mean an official finding of the person's guilt in court (Baranskaitė, 2008). As a result, a controversial situation arises, when a person is not found guilty by the court, but the court decides the issue of criminal liability of such a person and even imposes on him the corresponding legal consequences of criminal liability (penal or educational measures). Such a situation calls into question the importance of the aforementioned case law formed by the Court of Cassation, which, as can be seen, is aimed at forming a clearly defined institution of exemption from criminal liability and preserving the presumption of innocence in such procedural situations, however, such a case law formed by the Court of Cassation does not fully correspond to the situation in the real work of the court, which requires the court to be unquestionably convinced of a person's guilt in order to make decisions on his release from criminal liability.

An analogous problem regarding the preservation of the presumption of innocence is observed in cases that are terminated after the statute of limitations for criminal liability has expired on the basis of Article 95 of the CC. More significant steps have been taken to regulate and resolve this issue than in the previously mentioned case, i.e. The Constitutional Court of the Republic of Lithuania in decision in case No. 3/2015-13/2015-15/2015, by which resolved the aforementioned issue in part, recognizing that terminating the case and the court not resolving the question of whether the accused was reasonably accused of having committed a criminal act is contrary to Section 2 of Article 31 of the Constitution of the Republic of Lithuania, and the court based such a decision on the fact that the reputation of the defendant who is not found guilty is harmed, therefore, after the examination and finding that the person did not commit a criminal act, an acquittal must be passed against him. Taking this into account, amendments to Article 3 of the CPC were adopted, which established the provision that upon the expiration of the statute of limitations for the adoption of a guilty verdict, the case must be terminated by a judgment or an acquittal verdict "and if the accused demands the continuation of the criminal proceedings, the court concludes the examination of the case and terminates the criminal proceedings with a judgment or passes an acquittal" (Law on amending No. 2017-19449). Such a change in the law made an important change that every person accused of committing a criminal act has the right to be acquitted. However, the Constitutional Court did not resolve the other part of this problem, i.e. if it is established that a person has committed a criminal act and upon the expiration of the statute of limitations for the adoption of a guilty verdict, the case is terminated without a guilty verdict. In such a situation, when the court finds that a person has committed a criminal act, the risk of violating the presumption of innocence increases, and it ensures that the person will be found guilty only by a guilty verdict. However, in the judgment to close the case, after the statute of limitations has expired, the court must still state that the person was reasonably accused of committing a crime, which brings us back to the same problematic situation as in the case of acquittal. At this point, the significant problem remains that the court must think about how to form the statement that a person is reasonably accused of committing a criminal act, but at the same time not to establish the person's guilt after committing a criminal act. As a result, in such a situation, justifying the final act of the court, there is a risk of violating the presumption of innocence, which is also noted by other legal researchers (Goda, 2018).

Another significant area of the Lithuanian criminal process in which the preservation of the presumption of innocence is at risk - the appointment of arrest as the strictest detention measure until the court's judgment is passed, and it is obvious that it is directly related to the restriction of a person's freedom, since unjustified and too frequent arrest negatively affects the presumption of innocence.

It is necessary to pay attention to the fact that Section 2 of Article 121 of the CPC provides one of the conditions for the application of arrest, that "detention measures can only be imposed if there is sufficient

evidence to suggest that the suspect has committed a criminal act". This condition allows us to assume that the arrest is made only to the person whose guilt after committing the criminal act is beyond doubt, because there is enough evidence to prove it, which would contradict the presumption of innocence. In addition, case law, there are cases when a person is acquitted even after arrest, which would also mean that such a pre-trial detention measure was imposed illegally, in the absence of sufficient data to suggest that the person committed a criminal act.

At this point, it is necessary to note that the condition for the application of detention measures provided for by the CPC - the reasonable belief that a person has committed a criminal act is defined as reasonable suspicion in Point c of Section 1 of in Article 5 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. Meanwhile, according to the ECHR, such as in case No. 32214/03, a fundamental distinction must be made between a clear declaration by the court that a person has committed a criminal act, although there is no final court judgment yet, and a description of the status of suspicion, which is simply a statement indicating that a person is suspected of having committed a crime. Reasonable suspicion means that there are enough facts or information in the case that would convince an objective observer that the suspect may have committed a crime, according to the ECHR decision in case No. 26772/95.

Thus, the data sufficiency criterion specified in Section 2 of Article 121 of the CPC, as a condition for the application of a preventive measure, is an evaluation feature that is evaluated by the court in each case. Therefore, according to the ECHR, such as in case no. 12383/86, when the court decides on the issue of arrest and assesses the "reasonableness" of the suspicion, the prosecuting authorities must provide at least some facts or information that could convince the court that the person is reasonably suspected of having committed a crime. The ECHR has formulated only formal criteria for evaluating the validity of suspicion such as whether witness statements or other specific information were presented to the court, which could lead to suspicion of a person having committed a criminal act, whether there is a sufficient level of consistency, order and clarity in the allegations against the person, whether the case file has been submitted to the national courts for assessment (ECHR decisions in case No. 15172/13 and in case No. 69981/14 etc.).

Further, the ECHR has also clearly formulated the rule in case No. 18731/91 that the facts giving rise to suspicion must not be at the same level as those necessary to justify a conviction or even an accusation that is presented at a later stage of the criminal proceedings. According to ECHR, a standard of proof is used to convict a person - removal of any reasonable doubt as to the person's innocence, however, a mere reasonable suspicion that the person has committed a criminal act is sufficient to initiate criminal proceedings against a person (ECHR decision in a case No. 57404/08). This rule also applies when arresting a person. Lithuanian case law also explains that the statement of suspicion does not have the same requirements for the sufficiency of evidence as for the adoption of a guilty verdict (see the ruling of the Court of Cassation in case No. 3K-3-395-469/2015). Consequently, reasonable suspicion is a lower standard than evidence to establish a person's guilt. Therefore, when imposing a detention measure and assessing the validity of the suspicion, the court does not consider the data in the case-file as evidence that the person committed a criminal act, since this happens at a later stage of the process. In addition, this is confirmed by cases that even after arrest, a person can be acquitted. As a result, the Court of Cassation in its case law adheres to the principal provisions that the acceptance of an acquittal or the termination of the pre-trial investigation is not in itself recognized as a basis for stating that the initiation of a criminal case, the application of a detention measure and other procedural actions were illegal *ab initio* (see the ruling of the Court of Cassation in case No. E3K-3-353-313/2019).

Thus, in the presence of such significant specificity, when assessing the possibility of applying a preventive measure (arrest), more attention must be paid and the data in the file in this matter must be evaluated extremely responsibly, precisely to a lower standard than the evidence used to admit a person's guilt, so as not to threaten to violate the presumption of innocence in a criminal case.

Challenges of ensuring the presumption of innocence in the criminal material aspect

The Criminal Procedure Law sets certain limits on the trial of a criminal case in court, i.e. Section 1 of Article 255 of the CPC states, that "the case is considered in court only for those accused and only for those criminal acts for which it was transferred for examination at the trial", therefore, the court decides on the issue of guilt only for those persons who are accused in this case and other procedural actions are carried out. And the threat of violation of the presumption of innocence will be challenged in situations where prosecutors separate cases against accomplices for the speed of the process or for other purposes (Point 1 of Section 4 of Article 170 of CPC). There are procedural decisions made by the court in which, when incriminating complicity, it is also mentioned about the criminal act committed by another accomplice, although he is not accused in that case. In this case, the person is not guaranteed the right to defend himself during a fair trial.

Meanwhile, the ECHR points out that in a complex criminal process involving several persons who cannot be tried together, references in the judgment to the participation in the criminal act of third parties who may later be tried separately may be necessary in assessing the guilt of those who are being tried. Such a situation arising from the presumption of innocence, the ECHR, in case No. 17103/10, substantiates on a more significant aim to determine the circumstances of the case as accurately as possible, relevant to the assessment of the legal responsibility of the accused, including the facts related to the participation of third parties. However, the participation of such third parties in a criminal act should be mentioned only if it is unavoidable, which was indicated in ECHR case No. 56795/13, where an additional safeguard is also indicated in order to preserve the said presumption intact – the duty to assess whether safeguards have been applied to ensure that the decisions made in the proceedings against such an accomplice who is not a party to the proceedings in that case do not prejudice the fairness of the subsequent proceedings against him. And this means that in such a case, the court should avoid providing more information than is necessary in order to assess the legal responsibility of those persons who are accused in the ongoing process (ECHR decision in case No. 17103/10). However, the case law formed by the ECHR in the case under consideration makes it even more difficult to solve this issue in practice, since it is not required by the formal implementation of such criteria, but it is associated with a very responsible selection of concepts and assessments, i.e. ECHR in a case No. 46632/13 had noted, that although the indictment in the case was formulated in such a way as to leave no doubt as to the identity of the appellants as accomplices, where they were named as the accused's "partners in crime" and only their initials were used, but still its conclusions about the participation of the appellants as accomplices, in the commission of a criminal act expressed itself in terms that cannot be described as anything but detrimental". This case law formed by the ECHR is directly reflected in the case law of Lithuanian courts, i.e. regarding the formulation of the facts in the matter under consideration, the Court of Cassation already clarified in the case law review No. A-1 of June 25th, 2009, stating that the judgment cannot contain wordings that would establish the guilt of other persons for committing criminal acts, except for persons already convicted or released from criminal liability. However, facilitating the resolution of this issue, the Court of Cassation in case No. 2K-257-697/2022 has clarified, that when making statements in the judgment about persons who are not accused in the case, in the judgment, describing the criminal act, when they are known, it is possible to write "with the person whose case is excluded" and this does not violate the presumption of innocence. However, such case law formed by the Court of Cassation only solves a part of the discussed problem by establishing certain guidelines for the appropriate selection of the wording of the accusation, however, there still remains a significant problematic issue regarding the selection of appropriate wording in the argumentation part of the judgment, as well as complicating the process of proof, in order not to violate the presumption of innocence.

Thus, when making statements about the complicity of the accused in the judgment, statements cannot be made about the actions of persons not tried in the case, which would unofficially convict them. According to the ECHR, such statements must not go beyond "a description of the state of suspicion" (see ECHR decision in case No. 32214/03). A fundamental distinction must be drawn between a clear declaration by a court that a person has committed a criminal offense in the absence of a final conviction, and a statement

that someone is merely suspected of having committed a criminal offence. And this means that the court has to draw up an indictment in a balanced and especially responsible way when choosing wording, separating the finding of a crime in the case against the accused persons and the description of the illegal actions of accomplices (who are not tried in the case together), which not only significantly complicates the criminal process itself, but also creates real risks of violating the presumption of innocence.

On the other hand, when analysing complicity with unidentified persons, it can be observed that the same provision is followed in case law, that the actions of an unidentified person must also be described in the judgment, because only in this way, the accused person can be accused of complicity (see ruling of the Court of Cassation in case No. 2K-P-9/2009). However, if we were to assess the situation through the provision of Section 1 of Article 26 of the CC, that accomplices are only liable for criminal acts committed by the perpetrator, then the examination of cases, when the case of a person who played the role of an assistant is examined separately from the perpetrator of the criminal act, is impossible, because the question of the criminal legal assessment of the actions is inseparable from the criminal legal assessment of the actions of other accomplices. As a result, it is reasonable to doubt the trial of other accomplices, such as an organizer or instigator, if the perpetrator is unidentified and a court judgment has not been passed against him.

However, in the matter under consideration in case No. 46632/13, ECHR has expressed an important requirement not to separate cases, so that *res judicata* is not associated with facts recognized in a case in which persons were not parties, because otherwise, not only the presumption of innocence may be violated, but the accused will not be given the right to defend himself. Nevertheless, the ECHR to some extent legitimizes the prejudicial significance of individual cases, noting, that courts dealing with separate cases must remain compatible, since any conflicting findings in related cases may undermine the validity of the decisions made by both courts. Meanwhile, in Lithuanian law, since according to Article 20 of the CPC, such data obtained in accordance with the procedure prescribed by law are considered as evidence, and the court can recognize the data as evidence only after they have been verified by the steps of the process specified by the CPC, and after they have been examined at a court hearing. As a result, there are reasonable doubts as to whether the court, when determining the guilt of the accused, can rely on the evidence passed in the case of his accomplice. As already mentioned, the court judgment describing the actions prohibited by the criminal law of a person accused in another case does not in itself allow to state that the presumption of innocence has been violated in relation to such a person. However, as noted in the case law formed by the Court of Cassation, it is very important not to give prejudicial significance to such procedural decisions when examining another case and solving issues of the guilt of other persons (accomplices), i.e. seek to rely not on the judgments passed against other accomplices and the circumstances established in them as evidence, but to evaluate only the content of statements and other evidence given by such persons and witnesses in the context of the evidence collected in the criminal case under consideration (see rulings of the Court of Cassation in cases No. 2K-56-788/2019, No. 2K-47-697/2023 etc.). And this further complicates the process of decision-making and argumentation itself, on the one hand, in order to make a court judgment based on all possible facts of the case, fulfilling the real justice in the case, and on the other hand, in order to preserve the presumption of innocence.

Challenges of ensuring the presumption of innocence in the media context

Moving on to another aspect of the presumption of innocence, it should be mentioned that the coverage of current events in the media is an exercise of the freedom of speech guaranteed by Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. However, the ECHR requires authorities to do so with all the discretion and prudence necessary to respect and preserve the presumption of innocence (ECHR decision in case No. 15175/89). The Constitutional Court in its decision of December 29th, 2004 also emphasized, that public persons should generally refrain from naming a person as a criminal until the person's guilt after committing a criminal act has been proven in the prescribed manner. Meanwhile, a total of four cases against Lithuania were examined at the ECHR, in which the appellants claimed that the statements of public figures and state officials in the media about

the appellants and the criminal acts committed by them caused a violation of the presumption of innocence against them. However, only in one of them - in case No. 48297/99, the ECHR found a violation of Section 2 of Article 6 of the Convention, when the statements made by the Speaker of the Seimas in the media were evaluated as statements by a public official regarding the appellant's guilt, which encouraged the public to believe in his guilt and formed an opinion on the facts of the criminal act before they were evaluated by the judicial authorities. In other ECHR cases, significant evaluation guidelines were formulated for the resolution of the issue under consideration, as in case No. 21837/02, it is noted that it is not enough to simply state that articles were published in the media that had a negative impact on the fairness of the trial, since specific articles must be submitted for this. Meanwhile, in other case No. 57435/09, the ECHR indicated a whole series of significant assessment criteria such as that the resignation of the heads of the relevant authorities, a few days after the accident, cannot be regarded as an admission of guilt by the individual, as well as the opinion expressed in the media by the representatives of other public authorities about the assumption of political responsibility by the heads of responsible public authorities for the general situation in a certain area, in which they did not specifically discuss the issue of individual criminal liability. Also, according to the ECHR, there is no risk of violation of the presumption of innocence in the situation where in the statements of the heads of public authorities one can find phrases that establish the guilt of a person, if before that the guilty person himself has admitted to having committed a criminal act, which in itself could not influence the courts hearing the case. Taking into account that more than 10 years have passed, it can be said that today, the officers know how to avoid accusing a public person of a crime by formally including wording such as "the person is suspected", "who may have committed a crime" in their speech.

Despite the above-mentioned assessments, however, at the moment, headlines about criminal acts that attract a high level of public interest appear very often in the media, the media often writes articles about the accused, in which he is directly identified as guilty and his guilt is evaluated, without receiving a final court judgment on the matter. Meanwhile, the ECHR regarding media publications, in case No. 57435/09, formulated a clear rule, that even in the presence of such evaluations of a person's guilt and such designations in the media, it is necessary to take into account whether the charges against a person were determined by professional judges who, due to their professional training and experience, would not be influenced by the media. As a result, when evaluating such a situation according to the case law of the ECHR courts, the principle of presumption of innocence would be recognized as violated if there were objective data that the court made a biased decision, as noted in the ECHR case No. 20899/03. Thus, even after intense negative publicity, a fair trial can still be held. In a democratic state, high-profile criminal cases will inevitably receive media comments, but this, according to the ECHR, cannot mean that any media comment will inevitably violate the accused's right to a fair trial, as indicated in case No. 31411/07.

As for the social media and public statements in it, it is a human right to express one's beliefs freely, and it is enshrined in Section 1 of Article 25 of the Constitution of the Republic of Lithuania. However, when discussing important issues of general interest in society, including discussing ongoing legal proceedings, the rights of other persons (honour and dignity, professional reputation, etc.) must be respected, as noted in the ruling of the Court of Cassation in case No. 2K-217-511/2016. However, society tends to judge and ignore all circumstances and this is very much reflected in today's media. It is problematic to assess whether the public opinion expressed on social networks that the suspect is really guilty and there is no doubt about it, even though the pre-trial process is still underway, violates the presumption of innocence. Especially since the presumption of innocence must be observed by official persons, but also by the media, as this is indicated in the laws regulating its activities, such as Section 3 of Article 19 of the Law on the provision of information to the public of the Republic of Lithuania or Article 31 of the Lithuanian Code of Ethics for Public Information. At the same time, it should be noted that the possible violation of the presumption of innocence caused by the society is not directly discussed either in the case law of Lithuanian courts or in the case law of the ECHR, although it could be legally established that society has violated the presumption of innocence only if it would affect the judicial process.

Thus, the constant threats posed by the media to the presumption of innocence by naming a person guilty in the headlines before a guilty verdict is formally not considered cases of violation of the presumption of innocence as long as such media statements did not directly affect the impartiality of judges, and there is no objective possibility to reliably assess such a causal relationship, although such an indirect influence is often evident.

Conclusions

1. After the analysis, several areas of the criminal process where there is a risk of violation of the presumption of innocence of a person have been observed. The grounds for terminating a criminal case are the most questionable, both when a person is released from criminal liability and when the case is terminated when the statute of limitations for the adoption of a guilty verdict has expired, since a controversial situation arises when a person's guilt cannot be established after committing a criminal act, however, the court is still required to have an unequivocal conviction of the person's guilt in order to properly assess the possible existence of grounds for the person's acquittal, which has priority over the aforementioned grounds. Although it is to be welcomed that the aim is to form a clearly defined institution of exemption from criminal liability, the risk of violating the presumption of innocence increases when formulating such procedural decisions and laying out in them formulations about a person's guilt.
2. Another significant problem in the field of criminal proceedings, which endangers the presumption of innocence of a person, is the basis for issuing a detention measure (arrest), provided for in Section 2 of Article 121 of the CPC, requiring sufficient evidence to suggest that the suspect has committed a criminal act. This is what complicates the judicial process, when formulating the statement that a person is reasonably accused of having committed a criminal act, and at the same time not establishing the person's guilt after committing a criminal act, the case data must be extremely responsibly evaluated, precisely according to lower standards than the evidence that recognizes the person's guilt. However, this threat to the presumption of innocence remains, because it requires a clear definition of the difference between the assessment of the description of the suspected state and the clear finding of the person's guilt after committing a criminal act.
3. After the analysis, a significant area of criminal law was observed, which poses a risk of violating the presumption of innocence of a person - complicity, when accomplices are tried in separate cases, since the court must be balanced and especially responsible in choosing wordings that would not establish the guilt of accomplices not participating in the case, however, at the same time, the criminal actions of such persons must be assessed in order to incriminate complicity, which complicates the process of sentencing and argumentation itself, on the one hand, in order to make a court judgment based on all the data of the case, and on the other hand, in order to preserve the presumption of innocence. This process is made even more complicated by the fact that in each case singled out by the accomplices, the court must re-examine the evidence, but evaluate it in the context of the evidence already examined in the case of the accomplices.
4. The media constantly poses a threat to the presumption of innocence, naming a person guilty in the headlines before a guilty verdict has been passed, are not formally considered cases of violation of the presumption of innocence as long as such media statements did not directly affect the impartiality of judges, and there is no objective possibility to reliably assess such a causal relationship. Meanwhile, hostile public opinion formed on the basis of the media is not directly discussed in either the case law or the case law of the ECHR, but its assessment should be subject to the same standards as the media itself.

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