

LEGAL CONCEPT OF UNLAWFUL EVIDENCE IN CRIMINAL PROCEDURES IN BOSNIA AND HERZEGOVINA WITH REFERENCE TO COMPARATIVE LAW

Summary: *The paper discusses the legal concept of unlawful evidence in criminal legislation in Bosnia and Herzegovina from a theoretical, legal and practical aspect. After the theoretical explanation of the notion of "unlawful evidence", the positive legal provision on unlawful evidence in criminal proceedings in Bosnia and Herzegovina and the legal consequences of their use are analyzed with a comparative analysis of the legal concept in the most important legal systems of the European continental system and the Anglo-saxon legal circle (USA). The paper further points to the two most significant theoretical and comparative system for the exclusion of unlawful evidence - the absolute and the relative system of exclusion of unlawful evidence. In the last chapter, there is a comprehensive overview of the jurisprudence of the European Court of Human Rights and the Constitutional Court of Bosnia and Herzegovina on the issue of illegal evidence. By normative analysis of domestic legal norms on which the institute of unlawful evidence was founded, in establishing their exact meaning and sense, and by parallel comparison with comparative systems, with reference to the current court practice regarding the legal consequences of the use of unlawful evidence in criminal proceedings, the author ultimately - which is the aim of the paper, expresses its position and points to the necessity of changing the legislation when it comes to the absolute form of exclusion of unlawful evidence and standardizing the so-called relative exclusion based on proportionality, which is in line with the dominant trends in the development of this institute in comparative law.*

Keywords: *unlawful evidence, absolute and relative exclusion of unlawful evidence, proportionality, comparative law.*