

branom retroaktivnosti i pravnom sigurnosti, ali se pokazuje kao nužnost. Ako bi prihvatili kao tautologiju da je pravni sustav savršen, za posljedicu bi imali pretvaranje sudaca u *viva vox legis*, odnosno one koji su živi glas zakona.

U radu su analizirani stavovi Europskog suda za ljudska prava u pogledu dopuštenosti prilagodbe zakona sudskom interpretacijom u odnosu na načelo zakonitosti. Osobito bi bilo korisno analizirati stavove sudova u Bosni i Hercegovini u pogledu popunjavanja pravnih praznina stvaralačkim tumačenjem i utjecaj takvog tumačenja na pravnu sigurnost i poštivanje načela zakonitosti. Takva analiza svakako zahtijeva opsežan rad i istraživanje, multidisciplinarni pristup, kao i poteškoće pri istraživanju sudske prakse, prvenstveno zbog složene strukture Bosne i Hercegovine koja podrazumijeva postojanje ustavnih sudova na razini entiteta i države, kao i nepostojanje vrhovnog suda na državnoj razini.

## THE INTERPRETATION, LEGAL GAPS AND PRINCIPLE OF LEGALITY

*In this article, author analyzes relation between interpretation, legal gaps and principle of legality. The interpretation is one stage in application of legal norm. Legal norms are prescribed abstractly for an indefinite number of cases. Therefore, during the process of applying legal norm, as a previous request, there is request for interpretation. The interpreter's task is to determine possible content of legal norm and to apply these meaning which it fits the best in concrete case. The Jurisprudence has developed rules/methods of interpretation to be applied in interpretation process. Interpretation process requires use a several methods of interpretation in order to determine which of possible meaning is the best in concrete case. However, apart from determining possible content of legal norm, in the legal system sometimes appear such cases that means legal gap. In those cases, interpreter should co-create existent legal norm to make it applicable without violation principle of legality. Also, principle of legality has been discussed by European court of human rights. In this paper author suggest that the court use discretionary powers but only if such discretionary decisions do not violate fundamental legal principles of legal system.*

**Key words:** *interpretation, methods of interpretation, legal gap, principle of legality, European court of human rights.*