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THE PRESUMPTION OF INNOCENCE IN THE CRIMINAL PROCEDURAL LEGISLATION OF THE REPUBLIC OF MOLDOVA

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Summary of the Doctoral Thesis in Law

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The Doctoral thesis was developed within the Doctoral School of Legal and Economic Sciences,

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The Doctoral thesis and summary can be consulted at the Library of the Moldova State University and on the website of the National Agency for Quality Assurance in Education and Research.

The summary has been sent on 27 February 2025.

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CONCEPTUAL HIGHLIGHTS OF THE DISSERTATION

The actuality and importance of the topic addressed, framing the topic in the international, national, area concerns of the research collective and in the inter-and transdisciplinary context, presenting the results of previous research on the chosen topic. The actuality and importance of the subject examined in the Doctoral thesis is determined by its complex and multilateral character. The presumption of innocence is one of the most important principles of the criminal trial. Its wording can be found in the text of Article 21 of the Constitution of the Republic of Moldova, where it is mentioned: „Any person, accused of a crime is presumed innocent until his guilt is legally proven in the course of a public judicial process, within which he was ensured all the necessary guarantees for his defence".

The presumption of innocence is also proclaimed in Article 11 of the Universal Declaration of Human Rights, in paragraph (2), art 6 of the European Convention on Human Rights, in art. 14 of the International Pact on civil and political rights and, finally, directly, in Article 8 of the Criminal Procedure Code of the Republic of Moldova, this fact underlines once again the importance of these provisions for the entire criminal process.

The principle of presumption of innocence is based on the assumption of a person's good faith, which has been signalled in Ancient Rome. Subsequently, the modern interpretation of this provision, in the procedural-criminal sense, began when Caesare Beccaria defined the concept of the presumption of innocence in his work „About crimes and punishments", which appeared in 1764. The presumption of innocence has had a tough road to travel for several centuries, but thanks to it, the suspect, the accused, and the defendant can remain innocent, as the pope stated, regardless of the opinion of a particular person or society. Or, the state considers the person innocent in committing the crime, until the contrary will be proved by the competent bodies and will be ascertained by a court decision of final conviction. The person, recognized as a suspect or accused in the criminal case, only needs to have committed a criminal act. In connection with this fact, against the suspect, the accused, and the defendant, based on the provisions of the presumption of innocence, no restrictions of rights and freedoms can be applied, admissible in respect of persons recognized as guilty by virtue of a final judgment of conviction. At the same time, all restrictions on the constitutional rights and freedoms of the suspect, the accused, the defendant are admitted only in cases of obvious necessity and in strict accordance with the provisions of the law. Provisions on the presumption of innocence are intended to help the suspect, the accused, the defendant defend their rights in his confrontation with the law

enforcement bodies, to balance unequal forces in the dispute between the person and the state in terms of proving the circumstances of committing the criminal act.

The absence of the presumption of innocence from the criminal-procedure legislation would obviously lead to the fact that the suspected person, accused in committing a criminal offense, would automatically be associated, with an offender, in whose charge the obligation to prove his innocence is placed, and the doubts that cannot be removed are interpreted exclusively in favor of the prosecution.

Despite the fixation and regulation of the presumption of innocence in procedural-criminal legislation and its enormous significance, we continue to face court judgments of conviction contrary to the requirements deriving from the presumption of innocence; the persons with responsible positions and media speak about the guilt of individuals until it is established by a final court decision of conviction.

Also, to date, in the doctrine and science of criminal procedural law, several issues regarding the correlation of the presumption of innocence with other institutions of the criminal process have not been sufficiently studied, such as, for example, the specifics of implementation of the provisions of this principle in the situation of examination of criminal cases within special proceedings (summation). The issue of the specificity of ensuring the achievement of the presumption of innocence in the event of the death of the person, suspected or accused of committing the crime, is not resolved. Apart from this, the extension of the interaction of criminal investigation bodies with civil society institutions and the media, requires certain normative regulations on the prohibition of declarations of guilt of the person until it is established by a final court decision of conviction.

In these circumstances, for the science of criminal proceedings and the practice of probation in criminal cases, it is important the unconditional recognition and correct perception of the presumption of innocence as a general principle. The above-mentioned talk about the fact that the issue of the realization of the provisions of the principle of the presumption of innocence retains its actuality, and the current content of art. 8 of the Criminal Procedure Code of the Republic of Moldova needs a considerable review and improvement.

Purpose and objectives of the work. The *purpose* of the doctoral thesis is to develop and consolidate the theoretical foundations of the principle of the presumption of innocence and its implementation within the framework of evidence in criminal proceedings, as well as to develop recommendations regarding the improvement of criminal procedural law and judicial practice with reference to the presumption of innocence.

The chosen goal also determined the achievement of the following research *objectives*:

- studying the historical evolution of the notion of presumption of innocence in the criminal process of the Republic of Moldova and other states;

- researching the notion and importance of the presumption of innocence in criminal proceedings;

- determining the consequences deriving from the provisions of the principle of presumption of innocence;

- examining the specifics of the obligation of evidence in criminal cases through the provisions of the principle of presumption of innocence;

- analysis of the issue regarding the interpretation in favor of the suspect, accused, defendant of doubts in proving the accusation, which cannot be removed;

- researching the correlation between the presumption of innocence and the admission of guilt by the suspect, accused, defendant;

- formulating conclusions and recommendations with reference to improving the activity of criminal prosecution bodies regarding the collection of evidence in criminal cases in strict accordance with the provisions of the presumption of innocence.

The object of the research is the legal relations related to the specificity of the realization of the provisions of the presumption of innocence in the criminal trial.

The research hypothesis derives from the fact that, if the presumption of innocence exceeds the limits of its procedural valences, constituting a genuine subjective right of the suspect, accused, defendant, then this right must be respected by all participants in the criminal process, by third persons, and will be protected by the state by national rules, as well as by the rules reflected in the content of international legal acts, from which recital it is necessary to examine the question of the proper application of the provisions of the presumption of innocence in criminal proceedings.

The state of the research methodology and justification of the chosen research methods. The methodological basis of the research is constituted by the materialist methods of perceiving objective reality (deduction and induction, analysis and synthesis, logical, historical, systemic, comparative, structural-functional method, etc.), with the help of which the theoretical interpretation of the materials, used to research this topic was carried out, for the formulation of conclusions and recommendations, regarding the presumption of innocence in criminal proceedings.

The theoretical basis of the doctoral thesis is constituted by the research of several renowned authors in the field of criminal procedural law, who have dedicated their scientific activity to the

analysis of the evolution, content, specificity and importance of the presumption of innocence in criminal proceedings, works reflected in the bibliographic section of the doctoral thesis.

The normative-legal basis of the research includes norms of several international legal acts, provisions of the Constitution of the Republic of Moldova, of the criminal procedural legislation of the Republic of Moldova and other states on the matter of the presumption of innocence, solutions pronounced in cases examined by the European Court of Human Rights, decisions and rulings of the Constitutional Court of the Republic of Moldova and, last but not least, explanatory rulings of the Plenum of the Supreme Court of Justice of the Republic of Moldova.

In the process of the research, a special emphasis was placed on the judicial practice in the Republic of Moldova, through which some gaps and deficiencies have been identified regarding the observance of the provisions of the presumption of innocence in the criminal investigation phase or in the process of examining the criminal cases in the courts.

Approval of results. The results of the investigations carried out were presented at national and international scientific conferences, including abroad, and reflected in scientific articles.

Publications on the topic of the thesis. 9 scientific papers were published on the topic of the doctoral thesis.

Thesis volume and structure: 227 pages of basic text including: introduction, three chapters, general conclusions and recommendations, bibliography of 304 titles; statement of responsibility; the author's CV.

Keywords: presumption of innocence, principle, accusation, defence, evidence, suspect, accused, defendant, judicial process, guilt, court decision, doubts.

CONTENT OF THE DISSERTATION

Chapter 1, entitled **Analysis of the situation regarding the research on the presumption of innocence in the doctrine of criminal procedural law,** includes a synthesis of scientific research that has approached, in a broad or narrow perspective, the issue of the presumption of innocence, as reflected in the specialized literature from the Republic of Moldova and in the legal doctrine from other countries.

It was emphasized that the analysis of various aspects of the presumption of innocence in criminal proceedings has, over time, been a topic of great interest for numerous researchers, both from the Republic of Moldova and from other states: Dolea I., Vizdoaga T., Osoianu T., Ostavciuc D., Negru B., Smochina A., Rusu I., Jitariuc V. (Republic of Moldova), Theodoru Gr., Negru A. I., Udroiu M., Mateut Gh., Volonciu N., Neagu I., Damaschin M., Bîrsan C., Lancranjan A. C., Sava A., Chiritha R. (Romania), Ashworth A., Guinchard S., Buisson J., Pradel J., Beliveau P., Bernardi A., Russo L., Beliveau P., Letendre B., Vauclair M., Declercq R., Fourmont Fr., Israel Yerold H., Wayne R., Merle R., Vitu A., Samaha J., Stefani G., Levasseur G., Bouloc B., Vandermeersch D., Wolchover D. (authors from various Western countries), Larin M.A., Strogovich M.S., Esaulov S.V., Shakheldov F.G., Andreeva O.I., Alekseev I.M., Burdanova S. V., Radchenko V. I., Morkvin V.A., Dryagin M. A., Churilov Yu. Yu., Androsenko V. N., Kondrat I. N. (Russian Federation). However, in the geographical space of the Republic of Moldova, no monographic work dedicated to the presumption of innocence in criminal proceedings has been developed.

Appreciating the efforts of the authors who have dealt with multiple aspects of the presumption of innocence in criminal proceedings, it is mentioned that their works did not reflect the problems of implementing this principle, in the event that the accused or defendant agrees with the accusation brought; the way in which the presumption of innocence is implemented in the event of the death of the suspect or defendant is not investigated. At the same time, in the context of improving the criminal procedural regulatory framework, it is evident that there is a need for thorough research into the specifics of implementing the presumption of innocence within the evidentiary framework, in relation to the criminal prosecution phase and during the trial of criminal cases in court.

Chapter 2, entitled ***Presumption of innocence in criminal proceedings: concept, importance and regulation***, is devoted to aspects relating to *the origin and evolution of the notion of the presumption of innocence in criminal procedure; the notion and importance of the presumption of innocence in criminal proceedings; the essence and importance of the legal consequences resulting from the presumption of innocence*.

The most widespread point of view on the genesis of the presumption of innocence in legal science is that its prototype is represented by the following rule still applied in Roman law – *praesumptio boni viri*[1]. According to this rule, each of the participants in legal relations was considered to be in good faith until the contrary is proven. At the same time, the person's lack of good faith was to be demonstrated by the person invoking it lack[2]. The provisions attributed to the elements of the presumption of innocence were consolidated as independent legal theses long before the emergence of the idea of „presumption of innocence" and separately from it. The history of judicial practice knows cases of normative regulation of several elements that constituted the presumption of innocence of the accused, but without the proclamation of a „unified" principle, in the sense that the accused was considered innocent until his guilt was proven and established by a final conviction. Trials (criminal and civil) were governed by the general presumption of good faith of the participants in the trial (*praesumptio boni viri*). Or, it would be about the accusatory form of the criminal trial, characteristic of Ancient Rome during the Republic[3].

Considering the Middle Ages, the theory of confirming the guilt of the accused stands out, which dominated over the presumption of innocence. In what followed during the XI-XIV centuries, characterized by the weak centralization of state power, an important role was played by the laws of certain large cities. The analysis of these examples of normative regulation of issues regarding the recognition of persons as innocent tells us that, during that historical period, the emphasis was everywhere on the presumption of guilt. The person was automatically recognized as guilty and, in the event of certain suspicions or accusations arising against him, he was required to prove the contrary to the decision-makers.

An impetus for the evolution of the presumption of innocence was the Great French Revolution, through which the revolutionary masses tended to „disassemble" the outdated legal and administrative system. Therefore, formulated in France in 1789, in the Declaration of the Rights of Man and of the Citizen, the presumption of innocence constituted a democratic reaction against the inquisitorial system of criminal trial. However, it was only at the end of the 19th century and the beginning of the 20th century that the presumption of innocence gained recognition in the scientific community, with several consequences deriving from its provisions being normatively materialized.

[1] FOYNITSKY, I.YA. *Criminal Procedure Course*. Volume II. St. Petersburg: Publishing house Alpha, 1996, p. 245.
[2] MORKVIN, V. A. *Legal presumptions in criminal proceedings in Russia.* Dissertation, Candidate of Law. Tyumen, 2008. p. 62.
[3] **BRIA, Iu.** The emergence and evolution of the presumption of innocence in criminal proceedings. In: *Scientific Journal of the Cahul State University „B. P. Hasdeu". Social Sciences.* 2021, no. 2, p. 119.

This paragraph also includes an analysis of the specifics of the evolution of the presumption of innocence in the criminal procedural law of various Western states (Great Britain, France, USA, Germany, Italy), also following the subsequent reflection of these regulations in legal acts of international value.

It is argued that the presumption of innocence represented society's reaction to the negative aspects of the criminal justice process. The more society's interests were affected by the negative aspects of the criminal process (torture, abusive detention and arrest, lack of publicity, etc.), the more consistently multiple premises for the materialization and regulation of the presumption of innocence of the accused emerged[4].

It was found that the respective principle is enshrined in the Universal Declaration of Human Rights (1948)[5], in art. 11, paragraph (1), according to which „Any person accused of committing a criminal act has the right to be presumed innocent, until his guilt is legally established in the course of a public trial in which all the guarantees necessary for his defence have been secured"[6].

The European Convention on Human Rights (1950)[7], in art. 6, paragraph (2), determine: „Any person accused of a crime is presumed innocent until his guilt is legally established".

International Covenant on Civil and Political Rights[8], in art. 14, paragraph (2), inscribe: „Any person accused of committing a criminal offence is presumed to be innocent, as long as his culpability has not been legally established".

Within the EU has been adopted the Directive (EU) 2016/343 of the European Parliament and of the Council from March 9, 2016, on strengthening certain aspects of the presumption of innocence and the right to be trial in criminal proceedings[9], out of the need to strengthen the principle of mutual recognition of judgments and other judicial decisions within the European Union. Ensuring the application of this principle by the EU member states required that the member states trust each other with respect to the fairness of criminal proceedings conducted in national justice systems, and in order

[4] **BRIA, Iu**. The emergence and evolution of the presumption of innocence in criminal proceedings. Op. cit., p. 119.
[5] THEODORU, Gr. *Treatise on criminal procedural law.* Bucharest: Hamanciu Publishing House, 2008, p. 78.
[6] Universal Declaration of Human Rights. UN General Assembly Resolution No. 217 A (III) from 10.12.1948. In: *International treaties.* Vol. I. Chisinau, 2001. p. 11-18.
[7] European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950. Signed by the Republic of Moldova on July 13, 1995, Ratified by Decision of the Parliament of the Republic of Moldova no. 1298-XIII of July 24, 1999. In: *Official Gazette of the Republic of Moldova,*1999, no. 54-55/502.
[8] International Covenant on Civil and Political Rights. Adopted by UN General Assembly Resolution No. 2200 A (XXI) of 16 December 1966, art. 9 para. 4. In: *International treaties that the Republic of Moldova is a party to.* Vol. I. Chisinau, 1998. p. 30-50.
[9] Directive (EU) 2016/343 of the European Parliament and of the Council from March 9, 2016, on strengthening certain aspects of the presumption of innocence and the right to be trial in criminal proceedings. [online], [quoted on 03.01.2025]. Available at: https://eur-lex.europa.eu/legal-content/RO/ALL/?uri=celex%3A32016L0343

to gain this mutual trust, it was necessary to establish minimum procedural guarantees, common to all member states; one of these guarantees being the respect and application of the presumption of innocence in the member states[10].

With reference to the definition of the presumption of innocence it was established that the term „presumption" comes from the Latin *praesumptio,* which from an etymological point of view, assumes: 1) anticipated use; 2) assumption, expectation; 3) early refutation of objections, exclusion and prevention of anticipation; 4) premature use; 5) prejudiced. Therefore, the term „presumption" was polysemantic, but, with the passage of time, it began to be perceived as: 1) assumption, considered true until proven otherwise; 2) presumption of innocence (in criminal legal proceedings, provision according to which a person is considered innocent until proven guilty in accordance with the law). Some opinions of doctrinaires were also analysed, according to which the following rules distinctly arise from the European principle of the presumption of innocence: the burden of proof lies with the prosecuting party; the benefit of the doubt goes to the accused; the right of the accused to adopt a passive attitude; the prohibition of resorting to preventive detention in order to exercise immediate repression; respect for the presumption of innocence in press communications; the prohibition for a court to reveal, during a trial, its opinion or belief regarding the acts of which the accused is accused.

It was concluded that the principle of the presumption of innocence represents the basic guarantee of the realization and defense of the rights of the person in criminal proceedings. The multilateral influence of the presumption of innocence on determining the procedural position of the person is reflected, first of all, in the fact that the presumption determines his initial legal status - the state of innocence, the status of the person who is not recognized guilty of committing a crime, in the order established by law, by a final decision of the court and, respectively, who has all the rights and freedoms guaranteed by law. The presumption of innocence of the person held criminally liable represents a procedural guarantee that ensures their rights and freedoms.

The presumption of innocence influences the entire criminal trial system, but its action is felt most strongly within criminal procedural institutions related, first of all, to proving the guilt of the person in committing the crime and to situations that involve the possibility of restricting the rights and freedoms of persons held criminally liable[11].

[10] PETREA, A. *The presumption of innocence as a fundamental right.* Bucharest: Legal Universe Publishing,2024, p. 101.
[11] JITARIUC, V., **BRIA, Iu**. The purpose and object of the evidence in criminal cases in the light of the provisions of the presumption of innocence. In: *Scientific Annals of the "Stefan cel Mare" Academy of the Ministry of Internal Affairs of the Republic of Moldova. Legal Sciences* [online]. 2022, no. 16, p. 171.

Regarding the identification of the legal consequences resulting from the presumption of innocence, the text of the provisions of art. 8 of the CPC was analysed, from which it was deduced: 1) the burden of proof lies with the prosecution; 2) combating, refuting the arguments invoked in defence of the suspect or accused is also placed on the shoulders of the prosecution; 3) the sentence of conviction cannot be based on assumptions; 4) the accused person is not obliged to prove his innocence; 5) all doubts in proving the accusation, which cannot be removed, are interpreted in favor of the suspect, accused, defendant.

Regarding the connection between the presumption of innocence and other provisions of criminal procedural legislation, it was established: 1) prohibition of placing the burden of proof on the suspect, accused, defendant (art. 8 CPC); 2) ensuring the right to defence of the suspect, accused, defendant (art. 17 CPC); 3) the admission of guilt by the accused can be used as the basis for the accusation, only if it is confirmed by all the evidence administered in the criminal case (art. 103 CPC); 4) the trial is conducted only with regard to the accused and only with reference to the accusation brought against him/her (art. 325 CPC); 5) establishing the requirement regarding the inadmissibility of pronouncing a conviction based on assumptions and the possibility of pronouncing it only under the conditions in which, during the court hearing, the defendant's guilt in committing the crime was proven (art. 384, 385 and 389 CPC).

Briefly summarizing the entire spectrum of consequences deriving from the provisions of the presumption of innocence, it was concluded:

1) Law enforcement agencies and responsible persons conducting criminal investigations, as well as media representatives, are not entitled to comment on the guilt of the suspect or accused until the conviction, pronounced by the court, enters into force (until it becomes irrevocable). This consequence is reflected, in part, in art. 8 paragraph (1) Criminal Procedure Code of the Republic of Moldova;

2) No innocent person may be held criminally liable and convicted. Close relatives and other interested participants in the criminal proceedings, as well as other persons, have the right to object to the termination of criminal proceedings in respect of deceased suspects or accused persons;

3) No one may be recognized as a suspect or accused except on the grounds, under the conditions and in the order provided for by law. This consequence warns law enforcement agencies and responsible persons conducting criminal investigations about the inadmissibility of accusing a person without sufficient grounds;

4) During the criminal trial, the circumstances that expose or may acquit the suspect or accused must be established; the circumstances that aggravate or mitigate liability, as well as those that may determine release from criminal liability and criminal punishment. This consequence is reflected in several criminal procedural norms (art. 96, 296, 385, 389, 394 etc. Criminal Procedure Code of the Republic of Moldova);

5) The obligation to prove the guilt of the suspect or accused is placed exclusively on the prosecution. This means that the court, the prosecutor, the criminal investigation body are not entitled to impose the obligation to prove innocence on the suspect or accused, as well as to compel him to make statements (art. 8, para. (2) Criminal Procedure Code of the Republic of Moldova);

6) The suspect or accused is not obliged to prove his innocence, and the silence of the suspect or accused does not represent an admission of guilt by him or a circumstance that would confirm the accusation. The first part of this consequence is provided for in Art. 8, para. (2) of the Criminal Procedure Code of the Republic of Moldova, and the second has no normative setting. But, despite this fact, according to the presumption of innocence, the accused is considered innocent until the court pronounces the sentence of conviction, and his silence does not influence, in any way, the determination of guilt;

7) The accused's admission of guilt can be used as the basis for a conviction only if this admission is confirmed by the evidence collected in the criminal case. The admission of guilt by the accused does not constitute an admission of the accused's guilt by the state. This consequence derives from the provisions of art. 103, paragraph (2) of the Criminal Procedure Code of the Republic of Moldova;

8) The denial of the accusation does not have priority over other evidence, and will be examined on a mandatory basis. However, this consequence can be justified by the fact that the admission of guilt represents in itself ordinary evidence, a consequence which is also based on the provisions of art. 103, paragraph (2) of the Criminal Procedure Code of the Republic of Moldova;

9) All doubts that cannot be removed, both regarding the circumstances that confirm and those that refute the accusation, are to be interpreted in favor of the suspect, accused, defendant. Paragraph (3) of Article 8 of the Criminal Procedure Code of the Republic of Moldova specifies that precisely “doubts in proving the accusation” that cannot be removed under the conditions provided for by the criminal procedural law are interpreted in favor of the suspect, accused, defendant;

10) No court decision can predetermine the issue of the guilt of persons who did not participate in criminal trials as defendants.

In this way, we can see that, although the presumption of innocence only tells us that the suspected person, accused of committing a crime, is presumed innocent, as long as his innocence is not proven in a public criminal trial, during which he will be provided with all the guarantees necessary for his defence, and will not be established by a final court decision of conviction - a much greater number of consequences derive from this provision than those that are directly found in the text of Article 8 of the Criminal Procedure Code of the Republic of Moldova.

The consequences deriving from the presumption of innocence broaden and concretize its provisions. Thanks to them, the criminal procedural law clearly sets out the rules that law enforcement agencies and responsible persons conducting criminal investigations, as well as other participants in the criminal process, are to be guided by in order not to violate the provisions of the presumption of innocence.

But not all consequences of the presumption of innocence are subject to normative fixation. Thus, the consequence of the inadmissibility of statements regarding the innocence of the person by mass media representatives, until his/her guilt is established by a final court decision of conviction, is not found in the Criminal Procedure Code of the Republic of Moldova. However, we will mention that, with regard to media sources, all moments (claims) related to the consequence of the inadmissibility of statements regarding the innocence of the person by their representatives are resolved, for the most part, through civil proceedings, and not under criminal procedural aspects, a moment that must represent the subject of future scientific research (and not only), in order to identify appropriate solutions and adjustments in this regard.

Chapter 3, with the title ***The principle of the presumption of innocence in the prejudicial and judicial phases of the criminal proceedings,*** discusses the following issues: *presumption of innocence and burden of proof in the prejudicial and judicial phases of the criminal proceedings; interpretation of doubts in probing the accusation in favor of the suspect, the accused, the defendant; presumption of innocence and recognition of guilt by suspect, accused, defendant.*

Regarding the *presumption of innocence and burden of proof in the prejudicial and judicial phases of the criminal proceedings*, the study focuses on a number of findings: the term „the task of proof" is an interpretation of the Latin expression *onus probandi* (the task of proving), assuming the obligation to prove their own claims in a judicial dispute. The legislator recognised the accused, *a priori*, as a weak, vulnerable part of the criminal proceedings, putting him in a – position as far as possible – favourable to him, and, which is absolutely natural, being consistent with the provisions of a contradictory criminal trial. It is also difficult to overestimate the value of the presumption of

innocence. It not only demands that the person be considered innocent, but also imposes a specific pace of probation, which is an important element in the mechanism of the adversarial criminal process. The presumption of innocence determines that the burden of proof cannot be placed on the defendant. Once the accused considers himself innocent until the entry into force of the court judgment, the reversal of the presumption is placed on the bodies that invoke the guilt of the person. The presumption of innocence determines the rule on the interpretation of all doubts in favor of the accused. The rule on the interpretation of doubts in favor of the accused raises several procedural issues in the matter of evidence. Art.8 par. (3) CPC RM, does not expressly provide who has the task of removing doubts. This obligation arises from the very nature of the *burden of proof*. The overthrow of the presumption of innocence is in a mutual connection and conditioning with the demonstration of guilt by evidence. In the absence of certainty, the presumption of innocence is guaranteed by the principle *in dubio pro reo.*

Therefore, the realization of the consequence regarding the lack of the obligation of the suspect, accused, defendant to prove his innocence and, respectively, the obligation of proving the accusation by the prosecution, which derives from the presumption of innocence, consists of the following: 1) the obligation to prove the circumstances that constitute the object of evidence in criminal cases lies entirely with the prosecution; 2) the suspect, the accused, the defendant, their defence attorney are not obliged to prove their innocence; 3) the suspect, accused, defendant cannot be forced to make statements or present the evidence they possess; 4) The refusal of the suspect, accused or defendant to participate in evidentiary proceedings cannot have negative consequences for them, neither in terms of their recognition as innocent, nor in terms of establishing the category and measure of punishment.

Analysing the legal provisions regarding the interpretation of irrefutable doubts in favor of the suspect, accused or defendant, it is observed that, initially, the activity of criminal investigation bodies is based on certain doubts, which, during the procedure, are confirmed or refuted, combated. The transition from doubts to confidence and certainty, from assumptions to categorical and substantiated conclusions, from probability to accuracy, is a characteristic of cognitive practice and of researching the circumstances of criminal cases, in particular. The process of transitioning from probable to authentic knowledge in criminal cases is a complex and challenging endeavour.

The irremovable doubts that persist must be objective in nature and result from the impossibility of expanding the evidentiary information regarding the circumstances of the case, in the context of continuing the evidence in the criminal trial. Thus, it targets those situations in which, from

an objective point of view, sufficient evidence cannot be collected to establish the presence or absence of the necessary factual data, and in this regard, the defendant must be acquitted, according to the principle of the presumption of innocence. Moreover, the lack of evidence in the indictment must determine the termination of the criminal prosecution in the criminal prosecution phase, and failure to comply with this rule cannot be justified by objective reasons, but represents, in fact, an error of the criminal prosecution body.

The importance of doubts in the process of establishing the truth is twofold: On the one hand, they draw our attention to the „blank spots" in understanding the facts and events being researched, thus protecting us from premature and reckless conclusions, and on the other hand, they stimulate us to search for the information we are missing. In this context, the consequence of the presumption of innocence regarding the interpretation of doubts that cannot be removed in favor of the suspect, accused or defendant is achieved within the framework of the evidence, in accordance with the following principles: 1) only doubts that cannot be removed must be interpreted in favor of the suspect, accused or defendant; these doubts, arising both with regard to the circumstances that confirm the accusation and those that refute or contest it, will be interpreted in their interest; 2) this rule protects the rights of the suspect, accused and defendant, while preventing and excluding, at the same time, unfounded accusations by the competent bodies, including those, based on their own doubts; 3) the criminal investigation must be carried out to the maximum extent, in which all doubts are removed or excluded from the arguments supporting the accusation, which will be interpreted in favor of the suspect, accused or defendant.

Regarding the *presumption of innocence and the admission of guilt by the suspect, accused, defendant*, referred to in *subchapter 3.3*, the position is argued that only to the extent that there is evidence regarding the person that he committed a crime and an accusation is made against him, during the criminal investigation, at the end of which, following the administration of the evidence, the guilt of the respective person will be proven or not and, consequently, a solution will have to be adopted, contained in the form of an ordinance, as the case may be, to remove him from criminal prosecution or to terminate the criminal prosecution, or the indictment with the referral of the case to court.

Regarding the statements of the accused or defendant, it has been established that they are important in the criminal process, especially because they also contain the defences that he intends to make, as well as the indication of the evidence with which he could prove them. From the moment the statements of the accused or defendant contain such defences, the investigative bodies and the

prosecutor are obliged to verify them and administer the indicated evidence, in order to ascertain their validity. Obtaining statements from the accused or defendant is an obligation for the criminal investigation body, prosecutor and judge, but at the same time, they also constitute a right for the accused. In cases where the suspect or accused admits guilt, the criminal prosecution body, having the right to guide investigations and make decisions regarding the conduct of criminal prosecution actions, can often end up analysing the circumstances of the crime in a superficial manner, overlooking details of major importance.

According to the provisions of Art. 8, paragraph (1) of the CPC RM, the rule applies according to which the accused is considered presumed innocent, even when he admits guilt. Furthermore, the presumption of innocence continues to be valid until it is rebutted by overcoming two essential components: 1) guilt must be proven; 2) guilt must be established by a final court decision of conviction. Until guilt is proven and established by a final court decision of conviction, the accused or defendant must be considered innocent, and all the consequences of the presumption of innocence must be applied in his case. The presumption of the veracity of a court decision implies that a decision in a criminal case is considered to be in accordance with the truth until it is overturned by a higher court, having its roots in the famous rule of Roman law *res judicata pro veritate habetur* (the court decision is recognized as truthful).

It is requested to mention that the presumption of innocence does not prevent the investigating authorities or the prosecutor from being certain of the person's guilt; otherwise, this would prevent ensuring the quality of the criminal investigation, the rapid and complete discovery of crimes, the identification of perpetrators, etc.

Of particular interest is the issue of the connection between the presumption of innocence and the examination of criminal cases in special procedures. The examination of criminal cases under special procedures is possible in the following situations:

1) in case of a request by the defendant regarding the trial of the criminal case based on the evidence administered during the criminal investigation phase (art. 364^1 the Criminal Procedure Code of the Republic of Moldova);

2) in case of conclusion by the accused, defendant of a plea agreement (Section I, Chapter III, Title III, Articles 504-509 of the Criminal Procedure Code of the Republic of Moldova);

3) by concluding a cooperation agreement (Section II, Chapter III, Title III, art. 509^1-509^9 of the Criminal Procedure Code of the Republic of Moldova).

In the case of examining the question of the correlation between the presumption of innocence and the special procedures for the examination of criminal cases, some uncertainties and difficulties may arise, because the recognition by the accused, the defendant of his guilt is the condition for the application of these special procedures. At the same time, in accordance with the provisions of the presumption of innocence, the accused, the defendant must continue to be considered innocent.

The admission of the commission of the crime by the suspect, accused or defendant does not constitute, in any case, a basis for confirming their guilt. The presumption of innocence guarantees that they maintain their status as innocent persons until a final decision is rendered by the court, and in certain cases (such as those of reconciliation between the parties) until a respective decision is made by the prosecutor. In this regard, it is important to note that the admission of guilt by the suspect, accused or defendant represents their right, which may entail positive consequences for them, but does not constitute an obligation.

GENERAL CONCLUSIONS AND RECOMMENDATIONS

The results obtained in the process of developing this doctoral thesis materialized in the following: the degree of regulation of the field of study has been established (3, pp. 110-121; 120, pp. 8-14; Chapter 1); were identified the gaps in the legal framework regarding the presumption of innocence (7, pp. 364-370; 119, pp. 8-14; Chapter 2 and 3); was presented and analysed the historical evolution of the principle of the presumption of innocence in criminal proceedings (3, pp.110-121; 73, pp.74-80; 120, pp. 8-14; Chapter 2); were analysed the connection of the principle of the presumption of innocence with other principles of criminal procedure and the consequences deriving from this principle (5, pp. 112-117; 7, pp. 364-370; Chapter 2); were analysed the specifics of applying the presumption of innocence in case of recognition of guilt by the accused, defendant and the particularities of adopting criminal procedural decisions in such cases (134, pp. 58-66; Chapter 3); the burden of proof was described within the pre-trial and judicial phases of the criminal trial and the specifics of interpreting doubts in proving the accusation in favor of the suspect, accused, defendant were investigated in detail (7, pp. 364-370; 72, pp. 170-185; 8, pp. 354-363; Chapter 3); some investigations have been carried out in comparative criminal procedural law on the matter of the presumption of innocence (100, pp. 74-80; 120, pp. 8-14; Chapter 2); conclusions were drawn up and multiple proposals and recommendations were presented regarding the amendment and supplementation of the criminal procedural law of the Republic of Moldova (art. 8 Criminal Procedure Code of the Republic of Moldova), in order to effectively apply this principle in strict accordance with the law (3, p. 120; 5, p. 117; 7, p. 369-370; 8, p. 363; 72, p. 184; 134, p. 66; 150, p. 13; The conclusions at Chapter 2 and Chapter 3).

Research into the theoretical and practical aspects of the topic led to the following results:

1) the periodization of the basic stages of the emergence and consolidation of the notion of the presumption of innocence in the criminal process was carried out: a) the presumption of good faith of citizens (ancient period); b) presumption of guilt (Middle Ages); c) recognition of the presumption of innocence in the legislation of some states (process started after the Great French Revolution of 1789); d) recognition of the principle of the presumption of innocence at the international level;

2) proposals have been put forward to define the concept of the presumption of innocence in criminal proceedings;

3) the idea was promoted that the presumption of innocence and its consequences represent the basis of evidence in the criminal trial, ensuring the equality of the parties under the conditions of an adversarial trial;

4) the circle of consequences deriving from the presumption of innocence was mentioned, exposed and expanded, with several aspects being discussed in this regard (law enforcement bodies and persons with responsible positions, as well as media representatives, are not entitled to express themselves regarding the guilt of the suspect, accused, defendant, until it is established by a final court decision of conviction; close relatives of the suspect, accused, deceased defendant, as well as other interested persons have the right to object to the termination of the criminal prosecution; the silence of the suspect, accused, defendant and his removal from the defence does not represent an admission of guilt or a circumstance confirming the suspicion or accusation; the admission by the suspect, accused of his guilt does not represent an admission of their guilt by the state; the denial of the accusation does not have priority over other evidence, and will be examined on a mandatory basis; in favor of the suspect, accused, defendant, not only the doubts regarding their guilt, but also all the doubts that cannot be removed must be interpreted; no court decision can predetermine the resolution of the issue regarding the guilt of the person who did not previously participate as a defendant in the examination of the criminal case);

5) it was argued that the obligation to provide help and assistance to criminal prosecution bodies in investigating the criminal act, in exposing and prosecuting co-participants in the crime, which appears to the accused, defendant in the case of application of special procedures, does not represent placing the burden of proof on the shoulders of the defence and does not contradict the provisions of the presumption of innocence;

6) it was argued that such a consequence of the presumption of innocence, such as the interpretation of all doubts that cannot be removed in favor of the suspect, accused, defendant (both with regard to guilt and with regard to the circumstances that counter the accusation), ensures a complete, objective examination of the criminal case in all aspects;

7) it was found that the application of special procedures (summary) with regard to the accused, the defendant, who agrees with the accusation brought, presupposes the recognition of guilt by them, but, at the same time, specifying that such recognition represents a right, and not an obligation of the accused, the defendant;

8) the materialization of a vast complex of conclusions and recommendations regarding the completion and improvement of criminal procedural norms related, in particular, to the specifics and conditions of implementing the provisions of the presumption of innocence within the framework of criminal procedural evidence.

Following the complex research of the topic of the doctoral thesis, the important ***scientific problem was solved***, which consists of identifying and analysing the consequences of the presumption of innocence in the criminal process through the provisions of national and international regulations, which is likely to contribute to the more efficient protection of the suspect, accused, defendant from unfounded and abusive convictions, contrary to the provisions of the presumption of innocence.

The important scientific problem was demonstrated by the conclusions drawn based on the research hypothesis, as follows:

1. The evolution of the presumption of innocence has a long history, and the main stages of its formation and consolidation are the following: a) the presumption of good faith of the person (in the ancient period of world history); b) presumption of guilt (during the Middle Ages); c) recognition of the presumption of innocence in certain states (starting with the Great French Revolution of 1789); d) recognition of the presumption of innocence at the international level (in the contemporary stage, by implementing the provisions relating to this principle).

2. Changes in society, as it has evolved, have led to a constant development of the notion of the presumption of innocence, both from a practical perspective and in the doctrine of criminal procedural law. Currently, this represents an essential legal mechanism, which significantly contributes to the protection of the suspect, accused and defendant against unfounded and abusive convictions.

3. In the Republic of Moldova, in the last three decades, unlike other states (such as Romania, the Russian Federation, etc.), no monographic scientific studies dedicated to the subject of the presumption of innocence in criminal proceedings have been developed. In this context, the present work aims to fill this doctrinal gap in the field of criminal procedural science in the Republic of Moldova.

4. Persons interested in establishing the guilt or innocence of the deceased, who were involved in the trial, may request proof of the circumstances and the establishment of their guilt, in accordance with the principle of presumption of innocence. This will avoid situations in which criminal prosecution of suspected, accused or indicted persons is terminated, although they did not commit crimes.

5. Numerous consequences arise from the provisions of the presumption of innocence, some of which are specified in Article 8 of the Criminal Procedure Code of the Republic of Moldova. These include interpreting in favor of the suspect, accused or defendant the irrefutable doubts in proving the

accusation, as well as placing the burden of proof and refuting the arguments invoked in the defence on the shoulders of the prosecution.

6. Some consequences of the presumption of innocence are regulated in other criminal procedural norms, which do not directly refer to this principle. These include ensuring the right to defence of the suspect, accused or defendant, examining the criminal case exclusively with regard to the accused person and only in relation to the accusation made, etc. There are also consequences that are not expressly regulated in legal norms, but which represent logical conclusions resulting from their interpretation. For example, no innocent person can be held criminally liable and convicted.

7. Criminal prosecution bodies, persons with public dignity involved in the criminal trial, as well as the mass media cannot make statements regarding the guilt of the suspect, accused or defendant, until this is established by a final court decision of conviction.

8. No innocent person may be held criminally liable and convicted. Close relatives and other interested participants in the criminal proceedings have the right to object to the termination of the criminal proceedings in respect of the deceased suspect, accused or defendant.

9. The consequences deriving from the presumption of innocence broaden and concretize its provisions. Thanks to them, the law clearly establishes the rules that must be followed by representatives of law enforcement agencies conducting criminal proceedings, as well as other participants in the process, in order not to violate the presumption of innocence.

10. The burden of proving the guilt of the suspect, accused or defendant lies exclusively with the prosecution. The criminal investigation body, the prosecutor and the court do not have the right to transfer the burden of proof to the accused or other participants in the criminal process.

11. The suspect, accused or defendant is not obliged to prove his guilt, and his silence cannot be interpreted as an admission of guilt or as a circumstance confirming the accusation. The suspect, accused or defendant is considered innocent until the court pronounces its sentence, and his silence does not influence in any way the establishment of guilt.

12. No court decision can predetermine the decision regarding the guilt of persons who did not participate in the examination of criminal cases with defendant status.

13. The refusal of the suspect, accused or defendant to participate in the evidentiary hearing must not have negative consequences for him, neither in terms of the recognition of his innocence, nor in terms of determining the nature and extent of the punishment.

14. In cases, where the accused, the defendant benefits from his right to have the criminal case examined in a special procedure, he assumes certain obligations that limit his ability to exercise the rights deriving from the presumption of innocence.

15. The criminal investigation must be carried out to the maximum extent possible, in which all doubts are to be removed or excluded from the arguments confirming the accusation, and are to be interpreted in the interest of the accused.

16. The interpretation in the interest of the accused of doubts that cannot be removed, both regarding the circumstances that confirm and those that refute the accusation, aims to ensure a complete, objective investigation in all aspects of the criminal case.

17. The admission of guilt by the suspect, accused or defendant does not constitute an admission of guilt by the state. In the event of the suspect, accused or defendant's admission of guilt, the evidence is not this admission, but the facts communicated during their hearing.

18. The admission of guilt by the accused or defendant cannot constitute the basis for the accusation, without being confirmed by other evidence. Criminal investigation bodies are obliged to carry out the criminal investigation in full, even in the situation where the suspect or defendant, through the statements made, fully admits his guilt.

19. The admission of guilt by the suspect or accused should not lead to a decrease in the volume of criminal prosecution actions, but only to influence their focus and direction.

20. The application of special procedures for examining criminal cases, as well as the termination of criminal prosecution (criminal trial) in connection with the reconciliation of the parties, are impossible without the recognition of guilt by the accused or defendant. However, the recognition of guilt is their right, not an obligation.

Description of personal contributions, emphasizing their theoretical significance and practical value. *Personal contributions* materialized in the complex and substantial research of the provisions of the principle of the presumption of innocence in criminal proceedings, identifying and specifying its features and characteristics. We managed to analyse the process of emergence and evolution of the principle of the presumption of innocence in the criminal process of the Republic of Moldova and other states, we exposed its notion, we analysed its importance and, last but not least, we focused on those consequences that derive from the provisions and content of the presumption of innocence. We also subjected to a complex examination the correlation between the presumption of innocence and the burden of proof within the judicial and pre-trial phases of the criminal trial; we reported on the conditions and specifics of the interpretation of doubts in proving the accusation in

favor of the suspect, accused, defendant and, finally, we also focused on the specifics of the application of the provisions of the presumption of innocence, in case of recognition of guilt by the suspect, accused, defendant.

The research was completed with multiple proposals relevant to the doctrine and practice of criminal proceedings and with a wide range of recommendations regarding the amendment and completion of the text of Article 8 of the Criminal Procedure Code of the Republic of Moldova, in order to streamline the protection of persons suspected, accused, or indicted of committing criminal acts. In this regard, multiple views and opinions from the doctrine of criminal procedural law were invoked, and a fundamental analysis of the practical activity of law enforcement agencies was also carried out in the matter of compliance with and appropriate application of the provisions of the principle of the presumption of innocence in criminal proceedings.

The novelty and scientific originality of the work is determined by the complex nature of the research into the theoretical and scientific bases of the application and implementation of the provisions of the principle of the presumption of innocence in criminal proceedings. Also, for the first time in the criminal procedural doctrine of our country, the specifics of implementing the provisions of the presumption of innocence in cases where the accused or defendant admits their guilt, requesting the examination of criminal cases according to special procedures (summation) were investigated. Among the most important research results that characterize the novelty and scientific originality of the doctoral thesis, the following moments can be highlighted: the basic historical stages of the emergence and consolidation of the presumption of innocence were identified and analysed; the notion of "presumption of innocence" was defined; a specific system of consequences deriving from the provisions of the presumption of innocence was analysed and proposed; several theoretical conclusions have been formulated regarding the correlation between the presumption of innocence and the burden of proof; a substantial analysis of theoretical opinions and judicial practice was carried out on the specifics of interpreting doubts in proving the accusation in favor of the suspect, accused, defendant - all these moments serving, in their entirety, as a basis for submitting certain recommendations *de lege ferenda*, in order to supplement, amend criminal procedural norms and streamline the appropriate application of the provisions of the principle of presumption of innocence in the activity of law enforcement agencies.

The legal and empirical basis of the study is represented by: a) the provisions of Article 8 of the Criminal Procedure Code of the Republic of Moldova; b) the provisions of Article 21 of the Constitution of the Republic of Moldova; c) regulations on the presumption of innocence, reflected in

international acts to which the Republic of Moldova is a party (art. 11, paragraph (1) of the Universal Declaration of Human Rights of 1948; art. 6, para. (2), European Convention on Human Rights of 1950; in art. 14, para. (2) of the International Covenant on Civil and Political Rights); d) the criminal procedure regulations of other states regarding the presumption of innocence; e) relevant national and international jurisprudence (practice) in relation to the application and implementation of the provisions of the presumption of innocence in criminal proceedings.

The scientific basis is based on specialized works, published in the Republic of Moldova and other states, which address the subject of the presumption of innocence in criminal proceedings. During the research on this topic, we also focused on empirical information that was made available to us by law enforcement agencies (in particular, by the courts).

The theoretical significance and practical value of the thesis. *The theoretical significance* of the work is found in the scientific substantiation and argumentation of the conclusions regarding the essence and importance of the presumption of innocence, in the revision and consolidation of the conceptual material, in the reconceptualization of legal regulations and judicial practice regarding the implementation of the provisions of this principle within the framework of criminal procedural evidence, which contributes to the development of the science of criminal procedural law, thus serving as a foundation for subsequent scientific research on the principle of the presumption of innocence. In the same vein, the results of scientific research can be applied in the practical activity of law enforcement agencies, and can contribute to the improvement of the provisions of criminal procedural law regarding the proper and informed application of regulations regarding the presumption of innocence. Last but not least, through the research carried out, it becomes truly possible to highlight and eliminate gaps in this field and solve problems that have arisen in practice, relating to the application of the principle of the presumption of innocence in strict accordance with the provisions of the law.

At the same time, *the practical value of the thesis* consists in the materialization of pertinent conclusions, capable of improving regulations on the presumption of innocence, strengthening the protection of the rights and freedoms of persons accused of committing criminal acts, until their guilt is established by a final court decision of conviction, a decision taken in a public judicial process, where all the necessary guarantees for their defence will be ensured, in strict accordance with the provisions of the law. The conclusions and recommendations of the paper can exert a positive influence on the activity of judicial bodies, requiring compliance with established regulations and standards, in order to properly apply the norms relating to the presumption of innocence, in strict

accordance with the requirements imposed by the provisions of criminal procedural law and international normative acts.

Data on approval of results. The scientific research carried out in the process of developing the doctoral thesis is reflected in 11 (eleven) publications by the author (in specialized journals in the country, abroad, in abstracts of communications from national and international scientific conferences, within various scientific and scientific-practical events, namely: **1)** The purpose and object of evidence in criminal cases through the lens of the presumption of innocence provisions. In: Scientific Annals of the "Stefan cel Mare" Academy of the Ministry of Internal Affairs of the Republic of Moldova. Legal Sciences. No. 16/2022; **2)** The emergence and evolution of the presumption of innocence in criminal proceedings. In: Scientific Journal of the Cahul State University „B. P. Hasdeu". Social Sciences. No. 2 (14)/2021; **3)** The presumption of innocence in doctrinal and normative sources in the United States of America. In: Materials of the Scientific Conference "Prospects and Problems of Integration into the European Research and Education Area". Volume IX. Part I. USC. Cahul, 2022; **4)** The presumption of innocence and its role in the adoption of criminal procedural decisions. In: Romanian Journal of Forensic Science. March 2023, Volume XXIV, No. 1 (133); **5)** The presumption of innocence and its connection with other principles of criminal procedure. In: Materials of the National Scientific Conference "The Role of Science in Reforming the Legal and Political-Administrative System". Edition VI, December 10, 2020. Cahul, 2020; **6)** The Presumption of Innocence in the System of Legal Presumptions. In: Journal of the National Institute of Justice, No. 4(63)/2022; **7)** The purpose and object of evidence in criminal cases through the lens of the presumption of innocence provisions. In: Scientific Annals of the "Stefan cel Mare" Academy of the Ministry of Internal Affairs of the Republic of Moldova. Legal Sciences. no. 16/2022; **8)** Compliance with the provisions of the presumption of innocence when applying criminal procedural coercive measures. In: Proceedings of the International Scientific and Practical Conference "Science. Education. Culture", dedicated to the 31st anniversary of Comrat State University, February 11, 2022. Section 4. Law and Political Sciences. Volume 1. Comrat, 2022; **9)** The balance between the presumption of innocence and the initiation of criminal prosecution. In: Materials of the National Scientific Conference of Doctoral Students, dedicated to the 75th anniversary of USM "Contemporary Research and Evaluation Methodologies", April 23, 2021. Chisinau, 2021; **10)** The presumption of innocence and its connection with other principles of criminal procedure. In: Materials of the National Scientific Conference "The Role of Science in Reforming the Legal and Political-Administrative System". 6th Edition, December 10, 2020. Cahul, 2020; **11)** Burden of proof and interpretation of

doubts under the provisions of the presumption of innocence. In: Proceedings of the International Scientific and Practical Conference "Science. Education. Culture", dedicated to the 31st anniversary of Comrat State University, February 11, 2022. Section 4. Law and Political Sciences. Volume 1. Comrat, 2022.

The indication of the limits of the results obtained, with the establishment of the remaining unresolved issues, is reflected in the consolidation and diversification of scientific research in the field of the principle of the presumption of innocence in criminal proceedings, with obvious implications in the practical side regarding the appropriate application of the provisions of Article 8 of the Criminal Procedure Code of the Republic of Moldova. The results materialized from this research can be found in: the analysis of the emergence and evolution of the presumption of innocence in the criminal process of the Republic of Moldova and other states; defining the notion of "presumption of innocence"; identifying its importance and the consequences deriving from the presumption of innocence in criminal proceedings; positioning the presumption of innocence in relation to the burden of proof in criminal proceedings; the specifics and conditions of interpreting doubts in proving the accusation; the implementation of the provisions of the presumption of innocence in case of recognition of the accusation by the accused, defendant.

However, in an immediate perspective, we believe that it would be necessary to research and conduct a substantial analysis, from a theoretical and practical perspective, of the provisions of the presumption of innocence according to the criminal procedural legislation of other states, both from the Romano-Germanic and Anglo-Saxon legal systems.

Recommendations:

1. Supplementing art. 8 of the Criminal Procedure Code of the Republic of Moldova, with paragraph (5), in the following wording: "*Criminal prosecution bodies and persons with public dignity are not entitled to express themselves regarding the guilt of the suspect, accused, defendant, until the moment when the sentence of conviction pronounced against him becomes irrevocable".*

2. Exclusion from the text of paragraph (3) of article 8 of the Criminal Procedure Code of the Republic of Moldova of the phrase "*in proving the accusation*", which determines which doubts must be interpreted in favour of the suspect, accused, defendant, setting out this text in the following wording: "*All doubts that cannot be removed under the terms of this Code shall be interpreted in favour of the suspect, accused, defendant*".

3. Supplementing paragraph (3) of article 8 of the Criminal Procedure Code of the Republic of Moldova with the text "*The rule regarding the interpretation of doubts in favour of the suspect, accused, defendant acts with respect to all evidence, both in defence and in prosecution*".

BIBLIOGRAPHY

1. **BRIA, Iu.** The emergence and evolution of the presumption of innocence in criminal proceedings. In: *Scientific Journal of the Cahul State University „B. P. Hasdeu". Social Sciences.* 2021, no. 2, pp. 110-121. ISSN 2345-1858.

2. *European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950.* Signed by the Republic of Moldova on July 13, 1995, Ratified by Decision of the Parliament of the Republic of Moldova no. 1298-XIII of July 24, 1999. [online] [quoted on 14.08.2024]. Available at: https://www.echr.coe.int/docume nts/convention_ron.pdf

3. Universal Declaration of Human Rights. UN General Assembly Resolution No. 217 A (III) from 10.12.1948. In: *International treaties*. Vol. I. Chisinau, 2001, pp. 11-18.

4. Directive (EU) 2016/343 of the European Parliament and of the Council from March 9, 2016, on strengthening certain aspects of the presumption of innocence and the right to be trial in criminal proceedings. [online], [quoted on 03.01.2025]. Available at: https://eur-lex.europa.eu/legal-content/RO/ALL/?uri=celex%3A32016L0343

5. International Covenant on Civil and Political Rights. Adopted by UN General Assembly Resolution No. 2200 A (XXI) of 16 December 1966, art. 9 para. 4. In: *International treaties that the Republic of Moldova is a party to.* Vol. I. Chisinau, 1998. p. 30-50.

6. JITARIUC, V., **BRIA, Iu.** The purpose and object of the evidence in criminal cases in the light of the provisions of the presumption of innocence. In: *Scientific Annals of the "Stefan cel Mare" Academy of the Ministry of Internal Affairs of the Republic of Moldova. Legal Sciences* [online]. 2022, no. 16, pp. 170-185 [quoted on 11.01.2024]. Available at: https://ibn.idsi.md/sites/default/files/imag_file/170-185.pdf.

7. PETREA, A. *The presumption of innocence as a fundamental right.* Bucharest: Legal Universe Publishing, 2024, p. 354. ISBN 978-606-39-1434-8.

8. THEODORU, Gr. *Treatise on criminal procedural law.* Bucharest: Hamanciu Publishing House, 2008. p. 1062. ISBN 978-973-1836-86-7.

9. MORKVIN, V. A. *Legal presumptions in criminal proceedings in Russia.* Dissertation, Candidate of law. Tyumen, 2008.p. 243.

10. FOYNITSKY, I.YA. *Criminal Procedure Course.* Volume II. St. Petersburg: Publishing house Alpha, 1996, p. 607. ISBN 5-87062-032-5.

LIST OF PUBLICATIONS ON THE DISSERTATION TOPIC

1. BRIA, Iulia. The presumption of innocence and its connection with other principles of criminal procedure. In: Materials of the National Scientific Conference "The Role of Science in Reforming the Legal and Political-Administrative System". Edition VI, p. 112-117, Cahul, December 10, 2020. ISBN 978-9975-88-037-4. 978-9975-88-072-5. [online] Available at: https://ibn.idsi.md/ro/vizualizare_articol/153748

2. BRIA, Iulia. The balance between the presumption of innocence and the initiation of criminal prosecution. In: Materials of the National Scientific Conference of Doctoral Students, dedicated to the 75th anniversary of USM "Contemporary Research and Evaluation Methodologies", p. 42-47, Chisinau, April 23. 2021. ISBN (pdf): 978-9975-159-17-3. ISBN: 978-9975-159-16-6. [online] Available at: https://ibn.idsi.md/ro/vizualizare_articol/154330

3. BRIA, Iulia. The emergence and evolution of the presumption of innocence in criminal proceedings. In: Scientific Journal of the Cahul State University „B. P. Hasdeu". Social Sciences. No.2(14), p. 110-121, Cahul 2021. ISSN 2345-1858 / ISSNe 2345-1890. [online] Available at: https://ibn.idsi.md/ro/vizualizare_articol/150418

4. BRIA, Iulia. Compliance with the provisions of the presumption of innocence when applying criminal procedural coercive measures. In: Proceedings of the International Scientific and Practical Conference "Science. Education. Culture", dedicated to the 31st anniversary of Comrat State University, Vol.1, Section Law and Political Sciences, p.359-363, Comrat, February 11, 2022. ISBN 978-9975-83-176-5; 978-9975-83-177-2. [online] Available at: https://ibn.idsi.md/ro/vizualizare_articol/152961

5. BRIA, Iulia. Burden of proof and interpretation of doubts under the provisions of the presumption of innocence. In: Proceedings of the International Scientific and Practical Conference "Science. Education. Culture", dedicated to the 31st anniversary of Comrat State University, Vol.1, Section Law and Political Sciences, p.364-370, Comrat, February 11, 2022. ISBN 978-9975-83-176-5; 978-9975-83-177-2. [online] Available at: https://ibn.idsi.md/ro/vizualizare_articol/152962

6. JITARIUC, Vitalie; **BRIA, Iulia**. The presumption of innocence in doctrinal and normative sources in the United States of America. In: Materials of the Scientific Conference "Prospects and Problems of Integration into the European Research and Education Area". Volume IX, Part 1, p.74-80, Cahul, June 3, 2022. ISSN 2587-3563. E-ISSN 2587-3571. [online] Available at: https://ibn.idsi.md/ro/vizualizare_articol/166043

7. VIZDOGA, Tatiana; **BRIA, Iulia**. The presumption of innocence in the system of legal presumptions. In: Journal of the National Institute of Justice, No. 4(63), p. 8-13, Chisinau 2022. ISSN 1857-2405. [online] Available at: https://ibn.idsi.md/sites/default/files/imag_file/8-13_21.pdf

8. JITARIUC, Vitalie; **BRIA, Iulia**. The purpose and object of evidence in criminal cases through the lens of the presumption of innocence provisions. In: Scientific Annals of the "Stefan cel Mare" Academy of the Ministry of Internal Affairs of the Republic of Moldova. Legal Sciences, No.

16, p. 170-185, Chisinau 2023. ISSN 1857-0976. [online] Available at: https://ibn.idsi.md/ro/vizualizare_articol/174442

9. RUSU, Lucia; **BRIA, Iulia**. The presumption of innocence and its role in the adoption of criminal procedural decisions. In: Romanian Journal of Forensic Science, no.1, p. 58-66, Bucharest 2023. ISSN 1454-3117 / ISSNe 2069-2625. [online] Available at: https://ibn.idsi.md/ro/vizualizare_articol/179690

10. VIZDOGA, Tatiana; **BRIA, Iulia**. The presumption of innocence in doctrinal and normative sources in Western Europe (19th-20th centuries). In: The Journal of the National Institute of Justice, No. 4(67), p. 8-14, Chisinau 2023. ISSN 1857-2405. [online] Available at: https://ibn.idsi.md/ro/vizualizare_articol/197385

11. BRIA, Iulia. The impact of the presumption of innocence on the distribution of the burden of proof in criminal proceedings. In: Romanian Journal of Forensic Science, no. 4, p. 354-363, Bucharest 2023. ISSN 1454-3117. [online] Available at: https://ibn.idsi.md/ro/vizualizare_articol/194410

ADNOTARE

BRIA Iulia „Prezumția de nevinovăție în legislația procesual penală a Republicii Moldova". Teză de doctor în drept la specialitatea: 554.03 - Drept procesual penal. Chișinău, 2025

Structura tezei: introducere, trei capitole, 227 de pagini de text de bază, concluzii generale și recomandări, bibliografie din 304 titluri, anexe.

Cuvinte-cheie: prezumție de nevinovăție, principiu, acuzare, apărare, probatoriu, bănuit, învinuit, inculpat, proces judiciar, vinovăție, hotărâre judecătorească, presupuneri, dubii.

Scopul cercetării îl reprezintă dezvoltarea și consolidarea bazelor teoretice ale principiului prezumției de nevinovăție și ale realizării acestuia în cadrul probatoriului în procesul penal, precum și elaborarea recomandărilor privind perfecționarea legii procesual-penale și a practicii judiciare cu referire la prezumția de nevinovăție.

Obiectivele lucrării țin de: studierea evoluției istorice a prezumției de nevinovăție în procesul penal al Republicii Moldova și al altor state; cercetarea noțiunii și importanței prezumției de nevinovăție în procesul penal; determinarea categoriilor și conținutului consecințelor care derivă din prevederile principiului prezumției de nevinovăție; examinarea specificului obligativității probatoriului în cauzele penale prin prisma prevederilor principiului prezumției de nevinovăție; analiza problemei referitoare la interpretarea în favoarea bănuitului, învinuitului, inculpatului a dubiilor în probarea învinuirii, care nu pot fi înlăturate; cercetarea raportului dintre prezumția de nevinovăție și recunoașterea vinovăției de către bănuit, învinuit, inculpat; formularea de concluzii și recomandări cu referire la perfecționarea activității organelor de urmărire penală în ceea ce privește realizarea probatoriului în cadrul cauzelor penale în strictă conformitate cu prevederile prezumției de nevinovăție.

Noutatea și originalitatea științifică este determinată de caracterul complex al cercetării bazelor teoretico-științifice ale aplicării și realizării prevederilor principiului prezumției de nevinovăție în procesul penal. De asemenea, pentru prima dată în doctrina procesual-penală din țara noastră a fost cercetat specificul realizării prevederilor prezumției de nevinovăție în cazurile în care învinuitul, inculpatul își recunosc vinovăția, solicitând examinarea cauzelor penale conform unor proceduri speciale (sumare).

Rezultatele obținute se concretizează în tezele științifice principale prezentate pentru susținere și, de asemenea, se regăsesc și în ***problema științifică importantă soluționată,*** care constă în identificarea și analiza consecințelor prezumției de nevinovăție în procesul penal prin prisma prevederilor reglementărilor naționale și internaționale, fapt de natură să contribuie la eficientizarea protecției bănuitului, învinuitului, inculpatului de la condamnări neîntemeiate și abuzive, contrare prevederilor prezumției de nevinovăție.

Semnificația teoretică a lucrării se regăsește în fundamentarea și argumentarea științifică a concluziilor referitoare la esența și importanța prezumției de nevinovăție, în revizuirea și consolidarea materialului conceptual, în reconceptualizarea reglementărilor juridice și a practicii judiciare privind realizarea prevederilor acestui principiu în cadrul probatoriului procesual-penal, fapt care contribuie la dezvoltarea științei dreptului procesual-penal, servind, în acest fel, în calitate de fundament pentru cercetările științifice ulterioare în materia principiului prezumției de nevinovăție

Valoarea aplicativă *a tezei* constă în materializarea unor concluzii pertinente, capabile să îmbunătățească reglementările în materia prezumției de nevinovăție, să consolideze protecția drepturilor și libertăților persoanelor acuzate de comiterea faptelor infracționale până la constatarea vinovăției lor printr-o hotărâre judecătorească de condamnare definitivă, hotărâre luată în cadrul unui proces judiciar public, unde vor fi asigurate toate garanțiile necesare apărării acestora, în strictă conformitate cu prevederile legii.

Implementarea rezultatelor științifice. Concluziile și recomandările formulate în cadrul tezei de doctorat sunt relevante pentru procesul de elaborare și perfecționare a reglementărilor referitoare la prezumția de nevinovăție în procesul penal, reprezentând, în același timp, o „călăuză" pentru lucrătorii practicieni, în vederea aplicării corespunzătoare a prevederilor referitoare la acest principiu general al procesului penal. Acestea au fost prezentate la diferite conferințe științifice naționale și internaționale, inclusiv de peste hotarele Republicii Moldova, găsindu-și, de asemenea, și o reflectate în textul materialelor științifice publicate.

ANNOTATION

BRIA Iulia BRIA „The presumption of innocence in the criminal procedural legislation of the Republic of Moldova". Doctoral thesis in Law, Specialty: 554.03 - Criminal Procedural Law. Chisinau, 2025

Structure of the dissertation: introduction, three chapters, 227 pages of basic text, general conclusions and recommendations, bibliography of 304 titles, annexes.

Key words: presumption of innocence, principle, accusation, defence, evidence, suspect, accused, defendant, judicial process, guilt, court judgment, presumptions, doubts.

The purpose of the study is to develop and strengthen the theoretical foundations of the principle of presumption of innocence and its realization in the evidentiary part of the criminal trial, as well as to develop recommendations for the improvement of the criminal procedure law and judicial practice with reference to the presumption of innocence.

The research objectives are: to study the historical development of the presumption of innocence in the criminal process of the Republic of Moldova and other states; to research the concept and importance of the presumption of innocence in the criminal process; to determine the categories and content of the consequences that derive, flow from the stipulations of the principle of presumption of innocence; to examine the specificity of the obligatory nature of the evidence in criminal cases through the prism of the provisions of the principle of presumption of innocence; analysing the problem of interpretation of doubts in the evidence of the accusation that cannot be removed in favor of the suspect, the accused, the defendant; investigating the relationship between the presumption of innocence and the admission of guilt by the suspect, the accused, the defendant; formulating conclusions and recommendations on improving the work of criminal prosecution bodies in terms of conducting evidence in criminal cases in strict conformity with the provisions of the presumption of innocence.

The novelty and scientific originality are determined by the complex nature of the research on the theoretical-scientific bases of the implementation and realization of the provisions of the principle of presumption of innocence in criminal proceedings. Also, for the first time in the doctrine of criminal procedure in our country, the specifics of the presumption of innocence in cases when the accused admits his guilt, requesting the examination of criminal cases according to special (summary) procedures, were investigated.

The obtained results are concretized in the main scientific theses presented for submission and are also *reflected in the important scientific solved problem*, which consists in identifying and analysing the consequences of the presumption of innocence in criminal proceedings through the provisions of national and international regulations, which is likely to contribute to the effectiveness of the protection of the suspect, defendant, defendant from unfounded and abusive convictions, contrary to the provisions of the presumption of innocence.

The theoretical significance of the work is to be found in the scientific foundation and argumentation of the conclusions regarding the essence and importance of the presumption of innocence, in the revision and consolidation of the conceptual material, in the reconceptualization of the legal regulations and judicial practice regarding the realization of the provisions of this principle in the framework of the criminal-procedural evidence, which contributes to the development of the science of criminal-procedural law, thus serving as a foundation for further scientific research on the principle of presumption of innocence.

The practical value of the dissertation lies in the materialization of relevant conclusions able to improve the regulations on the presumption of innocence, to strengthen the protection of the rights and freedoms of persons accused of committing criminal acts until their guilt is established by a final judgment of conviction, a decision taken in a public judicial trial where all the necessary guarantees for their defence will be ensured in strict accordance with the law.

Implementation of scientific results. The conclusions and recommendations formulated in the doctoral dissertation are relevant for the process of elaboration and improvement of the legal regulations on the presumption of innocence in criminal proceedings, and at the same time, they represent a "guide" for the practicing professionals in order to properly apply the provisions on this general principle of criminal proceedings. These have been presented at various national and international scientific conferences, including abroad, and have also been reflected in the academic publications.

АННОТАЦИЯ

БРИЯ Юлия « Презумпция невиновности в уголовно-процессуальном законодательстве Республики Молдова ». Диссертация на соискание ученой степени доктора права по научной специальности: 554.03 - Уголовно-процессуальное право. Кишинев, 2025

Структура диссертации: введение, три главы, 227 страниц основного текста, общие выводы и рекомендации, библиография из 304 наименований, приложения.

Ключевые слова: презумпция невиновности, принцип, обвинение, защита, доказательства, подозреваемый, обвиняемый, подсудимый, судебный процесс, виновность, судебное решение, предположения, сомнения.

Цель работы заключается в развитии и укреплении теоретических основ принципа презумпции невиновности и его реализации в рамках доказательств в уголовном процессе, а также в разработке рекомендаций по совершенствованию уголовно-процессуального законодательства и судебной практики в отношении презумпции невиновности.

Задачи работы включают: изучение исторической эволюции презумпции невиновности в уголовном процессе Республики Молдова и других государств; исследование понятия и значения презумпции невиновности в уголовном процессе; определение категорий и содержания последствий, вытекающих из положений принципа презумпции невиновности; рассмотрение особенностей обязательности доказательств в уголовных делах через призму положений принципа презумпции невиновности; анализ проблемы интерпретации сомнений при доказательстве обвинения, которые не могут быть устранены в пользу подозреваемого, обвиняемого, подсудимого; исследование соотношения между презумпцией невиновности и признанием виновности подозреваемым, обвиняемым, подсудимым; формулирование выводов и рекомендаций по совершенствованию деятельности органов уголовного преследования в части реализации доказазывания в уголовных делах в соответствии с положениями презумпции невиновности.

Научная новизна и оригинальность работы обусловлены комплексным характером исследования теоретико-научных основ применения и реализации положений принципа презумпции невиновности в уголовном процессе. Также впервые в процессуально-уголовной доктрине нашей страны было исследовано специфику реализации положений презумпции невиновности в случаях, когда обвиняемый, подсудимый признают свою виновность, требуя рассмотрения уголовных дел в порядке специальных (суммарных) процедур.

Полученные результаты конкретизируются в основных научных положениях, представленных для защиты, а также в важной научной проблеме, решенной в работе, которая заключается в выявлении и анализе последствий презумпции невиновности в уголовном процессе через призму положений национальных и международных нормативных актов, что способствует повышению эффективности защиты подозреваемого, обвиняемого, подсудимого от необоснованных и злоупотребительных осуждений, противоречащих данному принципу.

Теоретическая значимость работы заключается в научном обосновании и аргументации выводов относительно сущности и значения презумпции невиновности, в пересмотре и укреплении концептуального материала, в реконцептуализации правовых норм и судебной практики по реализации положений данного принципа в рамках уголовно-процессуальных доказательств, что способствует развитию науки уголовно-процессуального права, служа тем самым основой для последующих научных исследований в отношении данного принципа.

Практическая ценность *диссертации* заключается в реализации соответствующих выводов, способных улучшить правовое регулирование презумпции невиновности, укрепить защиту прав и свобод лиц, обвиняемых в совершении преступлений, до установления их виновности посредством окончательного судебного приговора, вынесенного в ходе публичного судебного разбирательства, в котором будут обеспечены все необходимые гарантии их защиты в строгом соответствии с положениями закона.

Внедрение научных результатов. Выводы и рекомендации, изложенные в диссертации, имеют значение для процесса разработки и совершенствования правовых норм, касающихся презумпции невиновности в уголовном процессе. Они были представлены на различных национальных и международных научных конференциях, включая и за пределами Республики Молдова, и нашли свое отражение в тексте опубликованных научных материалов.

BRIA Iulia

THE PRESUMPTION OF INNOCENCE IN THE CRIMINAL PROCEDURAL LEGISLATION OF THE REPUBLIC OF MOLDOVA

Specialty 554.03 – Criminal procedural law

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