



Declaration of the Defendant as Evidence in Criminal Procedure in Kosovo

Emine Abdyli¹

Abstract: The defendant's statement as evidence in the criminal proceedings, both nationally and internationally, plays an important role in the conduct of criminal proceedings on one hand and on the other hand often this statement of the defendant enables the finding of new evidence which help the way to making a right decision and clarifying the truth. In Kosovo, in order for the defendant's statement to be considered as evidence in criminal proceedings, it should be in accordance with the provisions of the Criminal Procedure Code, but it is forbidden to obtain the statement of the defendant by the use of physical and psychological violence. Therefore, any statement that comes as a result of any type of violence cannot be considered as evidence in the criminal proceedings. A guilty plea agreement also plays an important role in relation to the defendant's statement, which will contribute to the quickest solution to court cases. Since Kosovo has begun to apply the new Code of Criminal Procedure in the second decade of this century, we consider that it is of interest to examine this topic in general and novelties regarding the statement of the defendant in particular.

Keywords: defendant; evidence; criminal procedure; statement

1. Introduction

Statement of the defendant as an evidence in criminal proceedings is an important component of the procedure development. His statement, in general, represents an important step towards a possibility of protecting the defendant, especially when this statement is considered as an evidence in a criminal proceeding. The freedom of speech during the statement of the defendant is undisputed and guaranteed by law. Meanwhile, any other action with the purpose of threatening, weakening of the memory or any other benefit from the defendant or from his statement is considered as an unacceptable proof for the court. Given the state of justice system

¹ Teaching Assistant, PhD Candidate, Department of Criminal Law, Faculty of Law, University of Pristina, Kosovo, Address: Agim Ramadani Str.p.n., 10000, Pristina, Kosovo, Corresponding author: emine.abdyli@uni-pr.edu.

in Kosovo and the problems it faces, it is not always possible to ensure that all legal provisions related to the defendant's statement as an evidence in criminal proceedings are respected.

The main reason for approaching this study lies in the necessity for a clear definition of legal conditions, when the defendant's statement is provided as an evidence in criminal proceedings. Another reason to treat this issue is the importance of the statement by the defendant as an evidence in the criminal proceeding and procedural stages through which the defendant is going during the statement.

The reasonability of the study of the defendant's statement as evidence in the criminal proceeding is added by the fact that the new Criminal Procedure Code has begun to be applied in the Republic of Kosovo, so we consider it of interest to consider the subject of the defendant's statement as evidence in the criminal procedure, according to this new Code.

In the course of this paper, special emphasis will be given to the stages of the historical development through which the defendant's position in the criminal prosecution of accusations, inquiries and compositions has passed, then the importance and progress of the defendant's declaration in criminal proceedings until identification of acceptance or not of guilt, in order to give an overview in theoretical, legislative and practical terms.

2. General Historical Overview of the Defendant's Statement as a Proceeding in Criminal Proceedings

The defendant's statement as an evidence in the criminal proceeding plays an important role, especially when his statement leads to clarification of concrete data. Historically, the defendant's position over the centuries has had continuous improvements in order to facilitate procedural progress. During the 20th century, in the legal dispute great efforts are noticed to build a democratization of criminal procedural law, both locally and internationally. During this century, the Albanian criminal justice system involves a number of radical changes, along with the position of the defendant in the criminal proceedings. The main essence of these changes consists in building a fair and impartial judicial system, protecting and preserving the rights and freedoms of the defendant without being influenced by external factors. Meanwhile, in the first years of the XXI century, in post-war Kosovo, with the coming into existence of the Kosovo Constitution, then the

Provisional Criminal Procedure Code (2004) and now the Criminal Procedure Code (2013), the defendant's statement in criminal proceedings is protected and guaranteed by judicial institutions.

During its historical development, the criminal procedure recognizes three basic types: the accuser type, the investigating type and the type of accusator (Sahiti & Murati, 2013, pp. 37-38).

2.1.The Position and the Statement of the Defendant in the Criminal Prosecution Procedure

During the historical development, the position of the defendant and his statement in the criminal procedure have undergone fundamental changes. Despite the development stage, every society has contributed to fighting and preventing criminality by punishing perpetrators. For example, in parastatal social organizations, each criminal offense was considered a private matter or tribunal problem, and later, with the establishment of the state and of the law, in particular with the development of social relations and the awareness of society, all criminal cases were channeled through institutional channels.

Criminal proceedings of the accused type are known in slavery states as well as in early feudalism. This procedure has been found to apply more in ancient Greece and Rome, which lasted until the third century.

With the development of the society, the emergence of state apparatus in the peripheral sense of the word impels, also the slave-owner society recognized the criminal investigation procedure, which was present from the end of the 12th century to the end of the 13th century. With the collapse of the Western Roman Empire, criminal proceedings of an accuser type reappeared, which in the early and developed or classical feudalism created the most perfect form of action. In England and America, this procedure has been uninterruptedly implemented, and by the end of the eighteenth century, that is, in later feudalism, it has moved to continental Europe, leaving room for an inquisitive criminal procedure. In this case, we are dealing with a mixed criminal procedural type. The criminal prosecution procedure has consistently undertaken measures towards its advancement, which is best evidenced by the fact that at first the court decisions became final and there was no right of objection, but later the conditions for legal remedies were created which also allowed the right of appeal (Murati, 2006, pp. 54-55).

The criminal prosecution procedure is conducted between two equal parties - the plaintiff and the defendant. In this procedure, the prosecution is conducted by the plaintiff, while the defense function is done by the defendant himself or through his defender. The position of the defendant in the criminal prosecution was more satisfactory, he was obliged to take part in the proceedings, but if he ignored the process then they acted forcefully. Also, neither the court nor the plaintiff have the right to ask the defendant questions other than the one for which he was summoned, because the burden of proof belongs to the plaintiff.

However, in this case, although the defendant is not obliged to declare the criminal offense he is charged with, he has the right to defense. Whether he is willing to declare or not depends on the will of the defendant. Without conjecture, the defendant constantly expresses his readiness to give as much evidence to court as possible, through which he tries to prove his innocence. The space that the defendant and his defense attorney had to fulfill the criteria more accurately fulfilled the characteristics of the criminal prosecution procedure than the evidence is presented exclusively by the parties (*"iuxta probata et legata iudicibus"*). During the trial parties deal with the support of the evidence and their verification. In other words, the parties to the criminal prosecution have an active role and each party, from its own point of view, may present evidence or respond to the evidence of the other party. In the end, the court, by analyzing and verifying the evidence according to the free belief, decides and by a majority of votes takes the verdict, which results in the conviction of the defendant or his release (Sahiti & Murati, 2013, pp. 37-38).

In the medieval period, criminal proceedings, in the absence of evidence, also applied to torture or, as we call it otherwise, "God's trials" Within this, all the burden of proof fell on the defendant. In order to prove his innocence, he had to overcome challenges, such as: to catch a fried iron, to put his hand in boiling water, and so on. And if he faced them, he was considered innocent, on the contrary he was considered guilty and punished by the court. "God's trials", by nature, were of a repressive and inhuman nature. This form of guilty plea or not, did not apply to clergy, and in very rare cases even to noblemen (Group of Authors, 2007, p. 99).

On one hand, the defendant's position and his ability to declare himself as evidence in the criminal prosecution proceedings was favorable, because the defendant in the course of the trial had the right and the opportunity to provide evidence to the court and try them through his claims, that he is innocent, and, on the other hand, through these evidence and arguments, to oppose the other party.

In addition to the secular right, Albanian customary law recognizes the criminal prosecution procedure. The Lekë Dukagjini Kanun, which has long been implemented in our country and, unfortunately, is still applying in rural areas, both in Kosovo and Albania, has implemented criminal proceedings of an accusatory character and a trial open to the public. According to the Kanun of Leke Dukagjini, the judicial body consisted of the Council of Elders or the Elderly, within which the tribal leaders and the most eminent people of that one entered. Usually, criminal proceedings were initiated by the parties' own initiative. Initially, the panel had an obligation to swear for impartiality, then concretely deal with the disputed issue, attempting to gather evidence and proof in the most objective manner. During the trial stage, the main burden of proof was on the plaintiff, even though the defendant had the right to present his own evidence, denying or accepting the guilty plea (Halili, 1985, pp. 91-93).

The criminal prosecution procedure can be conceived from two perspectives: positive and negative. The positive view is in the favorable position of the defendant, while the negative one often does not only support the guilty but also the unguilty defendant.

2.2. The Position and the Statement of the Defendant in the Criminal Proceedings

The development of social relations in the economic, social and educational aspect, as well as the changes that underwent the state regulations of that time, were some of the factors that provided room for the inquisitive criminal proceedings. The criminal prosecution procedure incorporates three main procedural components: the judge, the prosecutor and the defense counsel of the defendant. According to sources and historical data, the criminal justice system has been labeled as a change, but the most widespread was the term "investigative judge", for the fact that only the defendant and his defense counsel are the target of the trial, while all the other competences are in the hands of a judge - investigators.

The criminal prosecution procedure during the 12th and 13th centuries gradually begins to be replaced with the criminal investigation procedure, which will continue to survive until the end of the eighteenth century in the Western European feudal states, although this procedural form was introduced earlier but was implemented with the slowest steps and for a long time they worked alongside each other. The parties do not stand in the procedural court system, but the defendants have the investigator, who relies on the three main elements of the criminal procedure, whereas the position of the defendant is considered an object against

which an inquisitive criminal procedure is conducted. From the moment when the first signs of suspicion that a person, namely the defendant, has committed a criminal offense, the investigator, based on his official duty, commences his criminal prosecution. In addition to the prosecution, the investigator should also pay attention to the defense of the defendant, although his primary duty consists in the collection of evidence, which results in the authentication and authenticity of the facts on which the defendant's criminal responsibility depends on the basis of which the judicial panel makes a decision. The defendant's position in the criminal prosecution procedure is not at all convenient, but the defender has very limited scope of action, so the defendant in rare cases had the right to defense, especially at the end of the process, when the necessary evidence are collated to issue the judgment. Based on the general investigation, the investigator under his authority had the right to question the defendant without informing him of the charge, and when it came to the special investigation, the charges were read. The statement of the defendant was conducted in a closed environment and was recorded in the minutes, then the minutes were passed to the judicial panel to decide. And finally, the court pronouncing the sentencing judgment, acquittal or defendant was released under trial - leave of the open court, and this form always applied when there was insufficient evidence against the defendant (Sahiti & Murati, 2013, pp. 45-46).

In those state regulations where the criminal justice system has functioned, there was a lack of diagonal functioning between the prosecution and the defender, reserving all the rights in the hands of the judicial apparatus. The defendant's statement, in order to provide evidence at the stage of the investigation, is considered less credible to the investigator's evidence. The criminal indictment procedure has been implemented in the countries of the former communist regime, including Albania, through the 1979 Criminal Procedure Code of Albania. This system has not left without touching even democratic countries such as Greece, France, Switzerland (in some cantons), but over time this system has made progress in respecting the freedoms and rights of the defendant, relaxation of relations between the parties, etc. If we look at the criminal prosecution procedure in a negative way, we say that the whole process has been interconnected through a subject, while the defendant's position is in constant constraints, and if we look at the positive aspect, the court throughout the process is able to standby.

Comparing the defendant's position in the criminal charge with the inquisitory, we note that in the criminal prosecution procedure the position of the defendant is obviously unimaginable, even in situations where the court cannot provide the

defendant's assertion, torture, physical and psychological torture are used (Murati, 2006, p. 64).

2.3. The Position and the Statement of the Defendant in the Mixed Criminal Proceeding

The criminal prosecution procedure, based on the principle of pure indictment, has given space to combining the criminal investigation procedure with the accused, by acquiring the criminal proceedings, when the judge is impartial, the prosecutor is considered a party to the proceedings and the defendant's position begins to advance (Ismaili & Sejdiu, 2009, p. 175).

The criminal proceedings of a mixed character are divided into the pre-trial proceedings (where the investigation and the charge are part) and the main trial. The investigation phase is based on the in-court procedural system, not ignoring even some elements of the accusatory procedural system, while the judicial review supports the principles of the prosecution procedure. The position of the defendant, especially in the investigation phase, faces limitations that differ from one country to another. These restrictions are intended to prohibit any misuse by the defendant. However, the restrictions should be in line with international conventions on human rights and freedoms (Sahiti & Murati, 2013, p. 51).

The position of the defendant in the mixed criminal proceedings differs, especially because of the fact that he is subject to criminal proceedings, possesses the right of presumption of innocence, the right of defense and a host of advantages, which contribute to the maintenance of equilibrium between the parties (Murati, 2006, p. 67).

As you can see, the position of the defendant and the possibility of declaring him in the mixed system is great. In this system, the defendant has the possibility of affirming or denying the offense charged, without being influenced by physical or psychological torture. The defendant himself or herself through the defense has the right to present evidence or facts which will help him in his best interests. Therefore, this combination is considered to be the most appropriate criminal procedure.

3. The Importance of the Declaration of the Defendant as an Evidence in Criminal Proceedings

Historically, the defendant's statement in criminal proceedings or the questioning of the defendant could never be entirely overlooked, although in the Anglo-Saxon system at first the defendant was not questioned in the capacity of the defendant, but later, at the end of the nineteenth century, the defendants initially, having vowed to declare the truth, were allowed to testify before the tribunal (the Great Reindeer) for his cause (Sahiti & Murati, 2013, p. 259).

Because of their importance, both the position and the defendant's declaration in the criminal procedure, over the centuries have undergone serious changes. The importance of declaring the defendant as evidence in the criminal proceedings is indisputable because of the fact that through this statement he can plead guilty and relieve the procedural progress, or deny that he has committed a criminal offense for which he was charged and continue his way towards testimony of innocence. With the development and awareness of society, on the one hand, and with the ongoing changes in the criminal procedure, on the other hand, it is considered that no defendant can be found guilty until a final judgment is taken.

The Criminal Procedure Code of Kosovo has paid great importance to the defendant's statement as evidence in the criminal proceedings. According to this Code, the defendant in the criminal proceedings has a fairly favorable position in all stages of the criminal proceedings, including interrogation in the pre-trial proceedings, the provision of guilty plea agreement during the initial hearing, the possibility of challenging the evidence in the initial hearing as well as the probability of guilty plea by the defendant at the main trial.

3.1. Interrogating of the Defendant in the Preliminary Proceedings (Article 151)

The interrogation of the defendant in the pre-trial proceedings is intended to give the defendant the opportunity, through his statement, affirmation or denial as evidence, to help clarify a criminal case (Sahiti et al., 2014, p. 412).

According to the Code of Criminal Procedure, article 151, paragraph 1, the difference in the weight of the criminal offense by which the defendant is charged is noted. If the offense committed is a punishment of imprisonment of no more than three years, then the defendant is likely to respond in writing, and if the criminal offense committed results in a sentence of imprisonment of over three years, then the defendant is questioned in the pre-trial proceedings before the

indictment is filed (Sahiti et al, 2014, p. 414). Within this, paragraph 2 of this article draws a parallel line between the defendant's obligations to judicial bodies and his rights in relation to these bodies.

The interrogation of the defendant is done by the judicial authorities, by the state prosecutor (Article 152, paragraph 1), but the state prosecutor may give police interrogation rights (Article 152, paragraph 2). In this context, the defendant is informed that in addition to the declaration he has the right to remain silent, ie not to declare (article 152, paragraph 3). Regardless of the defendant's choice, the judicial bodies are obliged that during the conduct of the interrogation the defendant be free and not be affected by other factors which intend to use violence, mistreatment, physical interference, drug use, threats, etc. (Article 257) and affect the change of the defendant's statement. In such circumstances, judicial bodies are obliged to declare the interview or interrogation record to be declared inadmissible. During the interrogation for the first time, the defendant has to show in general his identity (Article 154, paragraph 1), then the formulation and submission of the questions addressed to the defendant must be clear, comprehensible and concise (Article 154, paragraph 4) in order to avoid all possible "capricious" questions (Sahiti & Murati, 2013, pp. 259-262).

Also, the defendant has the right to translation (Article 153, paragraph 1), and in cases where the defendant is deaf or dumb, the interrogation is conducted through qualified sign language translators or in writing (Article 153, paragraph 2).

3.2. The Agreement with the Accused on the Acceptance of Guilty Plea during the Initial Review (Article 247)

Negotiating an agreement with the defendant to plea guilty during the initial hearing and reaching it is one of the most important phases in which further proceedings can be avoided.

The agreement with the defendant on guilty plea during the initial hearing is regulated by Article 247, Criminal Procedure Code, 2013.

Based on paragraph 1 of this article, it is noted that we must be careful along the road when the plea agreement is filed together with the indictment. In this case, this agreement is also regulated by paragraph 15 of Article 233, within which, when the written plea agreement is negotiated before the indictment is filed, then a separate indictment is filed in parallel with the plea agreement. Together, these two acts are sent in sealed envelopes and sealed so that during the initial hearing before a single

trial judge or presiding judge may serve as a hearing for the examination of the plea agreement.

According to paragraph 2 of the same Article, the situation is regulated when the defendant is declared innocent when he pleads guilty or if the court convicts the defendant after the main trial, despite the guilty plea agreement.

According to paragraph 3, during this phase the indictment examination, upon the request of the prosecutor, should be carried out under strict security measures.

Meanwhile, according to paragraph 4, the time limit within which the plea agreement can be considered by the court is determined. This agreement can be considered until the conclusion of the main trial and not after the conclusion of the main trial (Sahiti et al, 2014, pp. 643-644).

3.3. Guilty Plea by the Defendant during the Initial Review (Article 248)

Historically, pleading guilty by the defendant during the initial consideration of importance was escalating. The admission of guiltiness, according to the criminal investigation procedure, was considered a complete test or queen of evidence. Whereas, under the contemporary American criminal procedure, in the case of guilty plea, the proceedings immediately begin examining the measure of the punishment. However, in some other criminal proceedings, guilty plea must be confirmed by other evidence (Sahiti et al, 2014, pp. 646-647).

The guilty plea by the defendant during the initial hearing is provided for in Article 248 of the Criminal Procedure Code, on the basis of which the defendant pleads guilty voluntarily, being aware of the further consequences.

Within the terms of paragraph 1 and subparagraphs 1 to 4 of this Article, the defendant expresses his readiness to voluntarily plead guilty, taking into account the other possible consequences, also guilty plea must be in accordance with all other legal proceedings.

As a consequence, according to paragraphs 2 and 3, after guilty plea, guilty verdicts are verified by the competent persons. In case the trial panel is not convinced of the truthfulness of the guilty plea, it then renders a decision refusing the guilty plea and initiates the initial hearing as if it had not happened at all.

However, according to paragraph 4 if a single trial judge or the presiding judge is found guilty, then the procedure is extended until the sentence is pronounced or the sentence is suspended until the termination of co-operation between the judge

defendant and state prosecutor, all this applies when there is a chance for a new fact to emerge.

The paragraph 5 allows the defendant to plead guilty even after the initial hearing, changing his statement. (Article 248, Criminal Procedure Code, 2013)

When guilty plea is considered valid, we have, for example, the case of the Yugoslav Army Chief of Staff, General Dragolub Ojdanic, who before the Hague Tribunal pleaded guilty to the crimes committed against Albanian civilians in 1999 and was convicted with only 15 years of imprisonment. (*“Allegation of guilt for crimes committed against the Albanian civilian population in Kosovo by former Yugoslav Army Chief of Staff, General Dragolub Ojdanić, by human rights activists is interpreted as being seen from two prisms. First, Ojdanic, with guilty plea, is believed to have mitigated his sentence imposed by The Hague Tribunal. The second and most important effect, however, is to plead guilty to crimes committed against Albanian civilians in Kosovo by Serbian state military apparatus during the 1999 conflict. Lastly, after a lengthy judicial process, the Hague Tribunal had announced that Serbian General Dragolub Ojdanic pleaded guilty to a sentence imposed on him for 15 years in prison for crimes committed against Kosovo Albanians in 1999”* <http://www.albeu.com/> (Ojdanic’s guilt testified the Serb crimes in Kosovo, <http://www.albeu.com/kosove/fajesia-e-ojdaniqit-deshmoi-krimet-serbe-ne-kosove/99303/>, 03/02/2013, time 19:58)

While in the cases when the panel refuses to accept guilt, we have, for example, the case of the attacker at the "Alfa" Police Station in Prizren because there are very low penalties for criminal offenses committed. (*“The guilty plea agreement between the defense and the State Prosecution related to the attacker of “Alfa” Police Station in Prizren, Sh.H, known by the nickname “Sheki”, was rejected. The Serious Crimes Judge, A.S, rejected the agreement because the proposed punishment under this agreement was very mild. “I will give you an additional deadline for correcting the agreement. Regarding the sentences on punishment, I am not satisfied with the punishments proposed by the Prosecution, for that reason I will give you an additional term and if you do not revise your agreement within the legal deadline I will consider that the agreement is not reached and we will go to court”, said the judge. Upon refusal by the court, the defense counsel of the accused, lawyer N.Q, renounced the plea agreement and agreed to go to court. After reading the indictment, the Accused Sh. H. pleaded guilty to two criminal offenses, while for two others he pleaded not guilty. Sh.H. (34 years old) is charged by the Basic Prosecution of Prizren for the commission of four criminal offenses:*

causing general danger, using a weapon or dangerous tool, keeping in possession, control or unauthorized possession of weapons and annihilation or damage to property. For all these criminal offenses very high penalties are foreseen, but the accused Sh.H., with the plea agreement, was imposed a unique sentence of two years in prison and a fine of EUR 3,000”) Petrit Kryeziu, The court rejected the acceptance of guilt from the raider of the police station in Prizren, <http://kallxo.com/gjykata-refuzoi-marveshjen-e-pranimit-te-fajesise-per-sulmuesin-e-stazione-policor-ne-prizren/>, 06/02/2015, time 17:57)

3.4. The Objection of the Evidence by the Defendant at the Initial Hearing (Article 249)

The objection of the evidence at the original hearing is another possibility for defending the defendant, especially when they are not in compliance with criminal procedural rules and laws.

The objection of the evidence by the defendant at the initial hearing is provided for in Article 249 of the CPC.

Within the terms of paragraph 1 and subparagraphs 1-3 of this Article, the defendant has the right to challenge the evidence set forth in the indictment. The objection of the evidence by the defendant is done in cases where the evidence was obtained illegally by the police, the prosecutor or by another government body when the evidence is not in compliance with the provisions of the Criminal Procedure Code or even when the court assesses that a certain test does not have a real basis and is institutionally considered irrelevant.

Under paragraph 2, the State Prosecutor has two alternatives regarding the response to the objection of evidence in written and verbal form.

Whereas, according to paragraphs 3 and 4, for the challenged evidence, the single trial judge or presiding trial judge issues a written ruling that justifies the granting or exclusion of the evidence. Excluded evidence is separated from other evidence and is closed and cannot be used in criminal proceedings, except in the case of an appeal against the decision on admissibility.

However, paragraph 5 of the same Article, all other evidence, for which there was no objection, is admissible for the further judicial procedure, except in cases where the particular evidence violates the rights guaranteed by The Constitution of the Republic of Kosovo.

And finally, according to paragraph 6, all parties have the right to appeal against the decision taken by the single trial judge or presiding judge regarding the acceptance or exclusion of the specified evidence. Such a complaint must be filed within 5 days from the date of written receipt of the ruling (Article 249, Criminal Procedure Code, 2013).

3.5. Accepting Guiltiness by the Defendant at the Main Trial (Article 326)

The guilty plea by the defendant at the main trial is the second possibility to plead guilty to a criminal offense. At this stage, guilty plea is made by the defendant's free will, not as a result of the plea bargaining agreement (Sahiti et al., 2014, p. 793).

Pursuant to paragraphs 1 and 2 of Article 326, the defendant makes a guilty verdict under his/her free belief, whereby the single trial judge or presiding judge may also obtain the opinion of the state prosecutor, defenders and defendants.

According to paragraphs 3 and 4, if the trial panel finds that guilty plea was not made in accordance with the provisions of the Code, the plea of guilty is deemed null but if the trial panel finds that the guilty plea has been made in accordance with the legal provisions, then the procedure continues with the final word of the parties.

Meanwhile, paragraph 5 points out the situation when dealing with several defendants at the same time. In this case, we can face the situation when a defendant pleads guilty, while others claim innocence. The trial continues for defendants who have not pleaded guilty, and until the conclusion of this hearing cannot be made the punishment of those who have pleaded guilty.

Also, paragraph 6 also foresees the situation when the defendant makes admission under the plea agreement, then the trial panel should consider the mitigating circumstances under Articles 233 and 247 of this Code (Articles 326, Criminal Procedure Code, 2013).

4. Conclusion

As a conclusion of what has been said so far, we can conclude that the defendant's declaration in the criminal proceedings over centuries and decades has been of particular importance for the development of all phases of criminal proceedings. Respect for the right of the defendant to be declared paves the way for a fair

decision and in accordance with the provisions of the Code of Criminal Procedure of Kosovo.

The defendant's declaration in criminal proceedings can be considered as evidence in this proceeding only if the competent authorities have respected the legal provisions regarding the interrogation of the defendant upon receipt of this statement. This is because the fact that a statement from the defendant can be obtained through the use of physical or psychological violence cannot be considered as evidence in the criminal proceedings.

An important role in the statement of the defendant is the provision of a plea agreement on his part. This procedural stage would contribute to the swiftest development of the criminal procedure as well as to the final decision, but this admission may be considered as evidence in criminal proceedings only if the relevant legal provisions have been respected. Therefore, the acceptance or not of guilt by the panel is another challenge in itself, which requires special attention and treatment for each indictment point.

Starting from the large number of cases in general, and of unresolved cases, in particular, we see that the institution of negotiating the guilty plea agreement is not being applied sufficiently by the judicial bodies in the Republic of Kosovo. The application of this institution would contribute to finding the roots and the quick resolution of court cases, which have remained unfinished for a long time.

Apart from accepting guilty by the defendant, we have the objection of the evidence as another procedural form. This form is encountered when it is verified that the competent bodies possess evidence that is in contravention of the legal rules. However, the time lost to the verification of these evidence or their exclusion directly affects the further procedural efficiency. Therefore, the manner and tactic of taking evidence is another important element in the criminal procedure.

5. References

- Group of Authors (2007). *The History of State and Albanian Law*. Tirana.
- Halili, R. (1985). *Criminal Sanctions under customary law in Kosovo*. Pristina.
- Ismaili, H. & Sejdiu, F. (2009). *History of Legal and State Institutions*. Pristina.
- Kryeziu, Petrit (2015). *The court rejected the acceptance of guilt from the raider of the police station in Prizren*, <http://live.kallxo.com/>, <http://kallxo.com/gjykata-refuzoi-marreshjen-e-pranimit-te-fajesise-per-sulmuesin-e-stazione-policor-ne-prizren/>.

Murati, R. (2006). *Review of criminal proceedings due to new facts and evidence*. Prishtina.

Sahiti, E. & Murati, R. (2013). *Criminal Procedure Law*. Pristina.

Sahiti, E.; Murati, R. & Elshani, XH. (2014). *Commentary - Criminal Procedure Code*. Pristina.

(2013). Criminal Procedure Code, CODE No. 04/L-123, G.Z. No. 37/28 DECEMBER 2012.

Ojdanic's guilt testified the Serb crimes in Kosovo (2013). <http://www.albeu.com/>,
<http://www.albeu.com/kosove/fajesia-e-oidaniqit-deshmoi-krimet-serbe-ne-kosove/99303/>