

Sažetak doktorskog rada pod naslovom „Privilegij protiv samooptuživanja u kaznenom postupku u Bosni i Hercegovini“ doktorandica Neira Raković

U ovome radu autorica opisuje osnovnu i specifičnu ulogu te važnost privilegija protiv samooptuživanja u kaznenome postupku kako za osumnjičenika, odnosno optuženika, tako i za ostale sudionike te cjelokupan kazneni postupak. Autorica polazi od povijesnoga razvoja privilegija protiv samooptuživanja u međunarodnim dokumentima o ljudskim pravima, počevši od *Magna Carta Libertatum*, *Habeas Corpus Act* pa sve do novijih, kao što su *Direktiva EU*, koja uređuje zaštitu pretpostavke nevinosti i prava okrivljenika da aktivno sudjeluje u sudskome postupku, i dr. koje se odnose na privilegij protiv samooptuživanja, poimanja njegovih pojedinosti u suvremenome kaznenoprocenome pravu. U nastavku rada autorica iscrpno i detaljno ukazuje na odnos privilegija protiv samooptuživanja s drugim pravima osumnjičenika i postulatima kaznenoga postupka, odnosno kako privilegij protiv samooptuživanja utječe na pravilo tereta dokazivanja u kaznenome postupku kao i u odnosu na pravo na pravedan i pošten postupak te u odnosu na pravo osumnjičenika/optuženika na obranu tijekom postupka. U nastavku opisuje ulogu i značaj privilegija protiv samooptuživanja u svim fazama kaznenoga postupka, od istrage do pravosnažnoga okončanja postupka. Jedan dio rada posvećuje komparativnoj analizi uloge i značaja privilegija protiv samooptuživanja u nacionalnim zakonodavstvima zemalja u regiji te Austrije i Njemačke. Ključan dio rada odnosi se na analizu sudske prakse Europskoga suda za ljudska prava (ESLJP), koja određuje ulogu i smisao privilegija protiv samooptuživanja, analizu sudske prakse Ustavnoga suda BiH značajnu za privilegij protiv samooptuživanja uz usporedbu s praksom ESLJP-a. Na kraju rada autorica daje vlastitu prosudbu o ulozi i važnosti privilegija protiv samooptuživanja u kaznenome postupku uopćeno i s aspekta analizirane sudske prakse ESLJP-a, kao najviše i najznačajnije instancije u zaštiti ljudskih prava zajamčenih ključnim europskim dokumentom za zaštitu ljudskih prava.

Ključne riječi: privilegij protiv samooptuživanja, kazneni postupak, Europski sud za ljudska prava

The Content of the Doctoral Dissertation Entitled „ The Privilege Against Self-Incrimination Criminal Proceedings in Bosni and Herzegovina“ PhD student Neira Raković

In this paper, the author describes the basic and specific role and importance of the privilege against self-incrimination in criminal proceedings, both for the suspect and the accused and for other participants as well as for the criminal procedure as a whole. The author starts from the historical development of the privilege against self-incrimination through international human rights documents, starting with Magna Carta Libertatum, Habeas Corpus Act and continuing through more recent instruments, such as EU Directive regulating the protection of the presumption of innocence and the right of the accused to actively participate in judicial proceedings, among others, which relate to the privilege against self-incrimination, the concept of this privilege, and its specifics in contemporary criminal procedural law. Subsequently, the author comprehensively and in detail highlights the relationship of the privilege against self-incrimination with other rights of the suspect and with principles of criminal procedure, i.e., how the privilege against self-incrimination affects the rule of the burden of proof in criminal proceedings, its relation to the right to have proceedings conducted impartially and in accordance with procedural rules, and in relation to the suspect's / accused's right to defense during the proceedings. The paper further describes the role and significance of the privilege against self-incrimination and at all stages of criminal proceedings, from the investigation to the final conclusion of the proceedings. One part of the paper is devoted to a comparative analysis of the role and importance of the privilege against self-incrimination in the national legislation of the countries in the region, as well as Austria and Germany. The key part of the author's work focuses on the analysis of the case law of the European Court of Human Rights (ECtHR), which determines the role and purpose of the privilege against self-incrimination, the analysis of the case law of the Constitutional Court of BiH significant for the privilege against self-incrimination, with a comparison to the ECtHR practice. At the end of the paper, the author provides her own assessment of the role and importance of the privilege against self-incrimination in criminal proceedings in general and from the perspective of the analyzed court proceedings of the ECtHR case law as the highest and most important instance in the protection of human rights guaranteed by the key European human rights instruments (ECHR).

Key words: privilege against self-incrimination, criminal procedure, European Court of Human Rights