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BULGARIAN ACADEMY OF SCIENCES



INSTITUTE FOR THE STATE AND THE LAW
DEPARTMENT OF CRIMINAL LAW

ALEXANDRA KRASIMOVA NANOVA

THE MANDATORY DEFENSE IN THE BULGARIAN CRIMINAL PROCEDURE

SUMMARY OF THE DISSERTATION

for obtaining the educational and scientific degree „Doctor“ in law

Sofia
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SUMMARY

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Field of higher education: 3. Social, economic and legal sciences
Professional field: 3.6 Law
Scientific specialty: Criminal procedure

Supervisor: Prof. Dr. Gergana Marinova

Sofia
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The dissertation is the first comprehensive (monographic) scientific study of the institute of mandatory defense. The dissertation it aims to consider all hypotheses of mandatory participation of a defender under art. 70, art. 94, para. 1, art. 94, para. 4, art. 94, para. 5, art. 227, para. 5, art. 372, para. 2, art. 375a, para. 1, art. 375a, para. 3, art. 381, par. 1 and art. 384, para. 2 of Penal Procedure Code of the Republic of Bulgaria. The subject of analysis is the opinions expressed in the Bulgarian legal theory on the essence of mandatory protection. The jurisprudence regarding in the period from 1952 to present day has been examined and analyzed. The regulation of the institute from the Liberation to the present day has been traced and a historical review of mandatory defense, as well as in other legal systems has been made. Suggestions have been made to refine specific provisions or create new ones.

The full volume of the dissertation is 191 pages. The dissertation has a classic structure. It consists of an introduction, the exposition of the dissertation thesis contains three chapters, and a conclusion. The dissertation contains 397 references to 55 Bulgarian and foreign literature sources and many court acts.

The introduction outlines the up-to-date relevance, goals, tasks, object, subject, methods and scope of the research.

The first chapter clarifies its nature and specifics of mandatory defense of the accused.

The second chapter examines hypotheses of absolutely mandatory protection. Participation of the defense counsel in criminal proceedings shall be mandatory in cases where: the accused party is underage, the accused party suffers from physical or mental deficiencies, which prevent him/her from proceeding pro se, the case is concerned with a criminal offence punishable by deprivation of liberty of no less than ten years or another heavier punishment; a request under art. 64 has been made or the accused party is detained, in the proceedings for

placement for examination purposes in a mental health institution, the case is tried in the absence of the accused party, the stand-by defense counsel, proceedings is under Chapter twenty-seven-reduced judicial trial in proceedings before the first instance and proceedings is under Chapter twenty-nine-disposing of the case by virtue of an agreement.

The third chapter deals with hypotheses of conditional defense. Participation of the defense counsel in criminal proceedings shall be mandatory in cases where: the accused party does not have command of the Bulgarian language, the interests of the accused parties are contradictory and one of the parties has his/her own defense counsel and the accused party cannot afford to pay a lawyer fee, wishes to have a defense counsel and the interests of justice so require.

In the conclusion, the scientific results of the research are summarized, and the proposals de lege ferenda are summarized.