

## Analysis of the legal qualification in Albania

Ina Rama

### Abstract

Article 375 of the Albanian Code of Criminal Procedure which provides that *“With the final decision, the court may give the fact a different definition from that made by the prosecutor or the accusing victim, lighter or heavier, provided that the offense is within its competence”* will be addressed in this paper, in particular by the provisions of Article 332/d of the Albanian Code of Criminal Procedure which regulates the rights of the parties and the court at the pre-trial stage, according to which the role of the Court is orienting and suggestive with regard to changes in the legal qualification but not decision-making, role and competence which is attributed to the court only in the final decision after review.

This wording of this provision in this form was made after the changes that the Criminal Procedure Code underwent, initially with law no. 8813 dated 13.06.2002 and then with law no. 35/2017 date 30.03.2017, changing in this definition the moment when the court has at its disposal to change the legal qualification of the fact.

In the previous wording of the provision this right of the court was foreseen to be exercised at any moment of the judicial process. As the unchanged provision did not stipulate that the court had to rule with a final decision, the court had the right to make the legal change even during the examination of the case. In these cases, in implementation of the position held in decision no. 51 dated 30.07.1999 of the Constitutional Court, the court was obliged to communicate to the parties the new determination of the criminal fact and give them the opportunity to prepare for the change made. Main objective of this article is the analysis of the legal qualification in Albania.

**Keywords:** legal qualification, Albania, Albanian Criminal procedure Code.

Full Text: [PDF](#)



This work is licensed under [Creative Commons Attribution 3.0 License](https://creativecommons.org/licenses/by/3.0/).

European Journal of Economics, Law and Social Sciences ISSN 2519-1284 (print) ISSN 2510-0429 (online)

Copyright © IIPCCCL-International Institute for Private, Commercial and Competition law