

Theoretical and practical aspects on the conditions for imposing precautionary measures according to the Code of Criminal Procedure of the Republic of Albania

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Abstract

Precautionary measures are procedural actions that deprive or restrict the freedom and rights of the person against whom criminal proceedings are conducted. They are intended to prevent further criminal activity of the perpetrator of a criminal offense, to prevent his avoidance of prosecution, efforts he may make to jeopardize the taking of evidence or its veracity, as well as to guarantee the settlement of obligations arising from the criminal offense. However, in imposing precautionary measures by the court, care must be taken not to infringe on the rights of the persons against whom precautionary measures are imposed, as this would have consequences for all the various procedural actions. Therefore, the court, as a body for guaranteeing the rights of the individual in the criminal process, raises the suspicion that the person may have committed the criminal offense only if on the basis of its internal conviction, then a precautionary measure can be imposed on him, both of a personal and property character. Therefore, the court according to the Albanian criminal procedural law, before imposing the precautionary measure requested by the prosecutor, must take into consideration the conditions and criteria that must exist according to the Code of Criminal Procedure. Only after the court has ascertained the existence of requirements and criteria can it then determine or not the measure requested by the prosecutor or a less severe precautionary measure.

Keywords: precautionary measure, measure revocation, criminal process, prosecutor, defendant.

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