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Summary of the doctoral dissertation pt. „Owoce zatrutego drzewa w doktrynie prawa polskiego i amerykańskiego”

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The aim of the doctoral thesis was to reconstruct the stages of the development of theories related to the prohibitions of evidence in Europe and the USA at the beginning of the 20th century. I have analyzed the known Supreme Court rulings. I also examined the voices and justifications of the above-mentioned rulings. I also analyzed official documents and translated sentences from language.

The second research goal was to define the jurisprudence line with reference to the European Convention on Human Rights. To this end, I have defined individual ECtHR judgments together with justifications in the context of the ECHR.

In terms of scientific methodology, I have used theoretical and empirical methods. In terms of theoretical methods, I have used the archive method, which was used to collect source materials in the scope of the chosen topic. I also used the analytical and comparative method to analyze the doctrine in terms of the issue of nationalism and to create a historical background in the detailed scope of the dissertation. From the catalog of empirical methods I used methods: descriptive and explanatory to the critical analysis of archival materials, including press archives, private and public documents. This allowed for a synthetic depiction and definition of theoretical models. I also used the historical-legal method to present the Supreme Court position in the USA. I also used the comparative method to compare ECHR positions from Supreme Court in the USA.

The research work consisted in gathering source materials as part of many library and archival queries in institutions in Poland, Germany and Luxembourg. As part of the work, materials were obtained in paper and electronic version, which were then evaluated and analyzed.

The work contains two basic theses.

While collecting the source material, I focused my reflections on the main hypothesis: Is the evidence obtained through evidence carried out in violation of the law can be used in the criminal trial (secondary illegality - the fruit of a poisoned tree) ?.

In order to answer the question highlighted above, I analyzed the concepts of evidence obtaining prohibitions currently in force in the US doctrine, the ECHR and national courts. Study the views of American courts on the doctrine of the fruit of the poisonous tree to this day.

Three research methods were used in the doctoral thesis: formal - dogmatic, legal - comparative and historical - comparative. Research carried out using the formal - dogmatic method relate to the description and legal analysis of legal instruments.

Analysis of interpretation as "a way to proceed to achieve a specific goal", while interpretations meant "explanation" or translation. The subject of the criminal interpretation was the legal language, and in particular the criminal law provisions specifying criminal responsibility. Regardless of this, the functions of a legal provision were taken into account and examined, closely linked to practical social needs (expectations of criminal policy).

The research covered, in particular, the provisions regulating criminal proceedings in cases ECHR Gafgen v Germany, Jalloh v Germany, Siliadin v France , Scordino v Italy and Supreme Court rulings : Weeks v US, Nardone v US, Mapp v Ohio, Miranda v Arizona.

In the case of the legal and comparative method, the legal instruments described in the proceedings were compared with the normative acts in the USA and Western European countries.

The research conducted in the historical-comparative manner concerned the examination of the legal system and the comparison between the law applicable in Poland in relation to legal regulations in the subject in the US and Europe.

The research concerned the assessment and analysis of the manner and evolution of legal provisions regarding the fruit of a poisoned tree in historical terms in the USA and Western European countries in relation to the currently applicable national regulations. This has contributed to the broadening of horizons - familiarity with foreign institutions - a better understanding of our own legal system

The work contains an introduction, ending and has been divided into six chapters.

The first chapter describes the assumed research goals as well as the research methods used.

In the second chapter, I have brought closer the doctrine of fruit poisoned trees "fruit of the poisonous tree doctrine"

In the third chapter, I described the research material and methods.

The fourth chapter deals with judgments in reference to the amended art. 168a Polish courts. In this chapter I have analyzed the history of introducing changes in art. 168a k.pk. in 2016 For comparison, I cited the opinions of the opponents of the change, ie the Commissioner for Citizens' Rights as well as the opinion prepared by the Sejm Analysis Office.

At the end of the work, the final analysis of the topic was made in the context of the research theses.

The conducted research allowed to formulate final results. The research objectives of the thesis are theoretical and allowed to write problem questions, which I quote here once again for a certain order of this description.

First, "Can the evidence carried out in violation of the law be used in criminal proceedings (the original illegality of evidence - poisoned tree)?" I think I was able to make a credible analysis of the problem.

Second, "Is the evidence obtained through evidence carried out in violation of the law can be used in the criminal trial (secondary illegality - the fruit of a poisoned tree)?" I have tried to prove in my work that I did not. This results from the analysis of the direction in which the doctrine of continental (ECT) and American law is heading.