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COURT'S INITIATIVE IN THE RESEARCH OF EVIDENCE AT THE COURT TRIAL

The article deals with the issues of the court's initiative in research of evidence at the court trial. The article examines the norms of the Criminal Procedural Code of Ukraine of 2012 that regulate the initiative activity of the court concerning verification of evidence at the trial in contemporary criminal process, as well as the norms of the Criminal Procedural Code of Ukraine of 1960 and the doctrinal approaches of various scholars to determination of the court's role in the research of evidence in criminal proceeding. The author also analyzed such categories as: «activity of the court», «passivity of the court».

The article surveys the models of criminal justice system. One of the important issues of this article is the role of the adversarial process. This process means that each party is responsible for putting its own case: collecting evidence, interviewing witnesses and retaining experts. The author emphasizes that in the court the parties have to present their own evidence and attack their opponents' evidence by cross-examining the

witnesses of the opposite party. Both parties can call only those witnesses, who will advance their cause and both parties are permitted to refute the credibility and reliability of the testimonies of witnesses for the opposite party. The role of the judge is limited to that of a referee ensuring fair play and that the rules on procedure and evidence are followed. It is often compared with a battle with each party fighting their own corner.

In the article it is stressed that the court is still an active participant of the court trial and that fact in some cases contradicts the principle of equality of rights of the parties (the prosecution and the defense) in the adversarial criminal process. The author makes an offer to specify some restrictions for the court activity aimed at parties' due activity in court the court trial, because activity of the court doesn't always correspond to the principle of equality of rights to the parties. The author emphasizes that the current manner of regulation of these problems requires certain amendments and supplements.