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ACTUAL CIRCUMSTANCES OF CRIMINAL PROCEEDINGS AND THEIR ESTABLISHMENT BY COURT OF THE FIRST INSTANCE

The article is devoted to research of the content of concept of the actual circumstances of criminal proceedings, and also procedure of their establishment by court of the first instance in the course of judicial review.

Such research has as independent relevance, and within consideration of the questions connected with functioning of the mechanism of formation of the validity of the judgment in competitive process, compliance of the made judgment to the requirements established by the criminal procedural law.

The actual circumstances of criminal proceedings which are established by court of the first instance in the course of judicial review, are defined by the author as set of actual data which characterize circumstances of the act which is a subject of judicial review, and also system of the proofs provided to court and investigated by it in confirmation of existence or absence of such circumstances. Establishment of the actual circumstances of

criminal proceedings is recognized as a necessary condition of removal by court of the lawful, reasonable, motivated and fair judgment.

The valid conclusion that establishment of the actual circumstances of criminal proceedings by court of the first instance in the course of judicial review happens within judicial proof as sets made by the parties of criminal and legal dispute and the court, the procedural actions provided by the law which define process of removal by court of the total decision on business is formulated also.

It is specified that trial (judge) as the subject of proof, making the judgment and stating in it the conclusions and decisions, has to not only own the current legislation and correctly be able to apply it, but also to be able to reason the theses, to explain disputed issues, to prove the position, to convince respondents of legality, validity and justice of the decision made by it.