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Addressing Mitigating Circumstances During Penalty Imposition

Article provides scientific approaches towards solution of problems concerning addressing mitigating circumstances during penalty imposition.

In order to ensure adequate addressing of mitigating circumstances during penalty imposition it must be firstly admitted that these circumstances are only one of the elements of the legal

norms system regulating the penalty imposition. That is why this element should not be improved separately but with respect to other related elements (aggravating circumstances, guilty person identifying data, degree of criminal act etc). Mitigating circumstances must be analyzed through evaluation of their relevance to socially dangerous actions. It is proved that no detalization of mitigating circumstances aspects in ranking system is required as provide unreasonable «pricing» of each separate circumstance.

In order to find an optimal solution for improvement of the penalty imposition procedure and ensuring adequate addressing of mitigating circumstances we offer to develop the potential of law enforcement instead of legislative bodies. It is directly connected with the court procedure. Court practice analysis in terms of indictment may be used as empirical base to formulate conclusions on consistence/inconsistence of mitigating circumstances addressing in specific cases of penalty imposition. Examples of grounded addressing of such circumstances could have been used in court practice as well in analogous cases. In other words, we consider that one of the solutions to improve the addressing of mitigating circumstances during penalty imposition is to adapt the practice of judicial precedent in this part to the requirements of state court system.

Keywords: penalty imposition; mitigating circumstances; court discretion; improvement of criminal justice system.