

The injured party and his procedural rights in Czech criminal proceedings

Abstract:

The subject of this paper is the injured party and his procedural rights in current Czech criminal proceedings. The aim of this paper is to depict the victims' position comprehensively, with an emphasis on their procedural rights in criminal proceedings. The systematics of the text is chosen in such a way, so that individual situations in which the concerned persons end up and their related rights follow as far as possible chronologically.

The first chapter is concerned with defining the basic concepts and also with sources of the relevant legal regulation. Afterwards, the paper contains the description of the period from committing the crime to the criminal proceedings, mainly from the victims' point of view. Firstly, some statistic data is given to illustrate the likelihood of victimization in the Czech Republic, followed by an enumeration of lawful reaction to it. The list of places, where the victim can find help and support, is mentioned as well as the description of the possible entrances to the criminal proceedings. The following part deals with the way in which the injured party acts in the proceedings – his procedural subjectivity and potential representation, including the related costs. Then, a section concerned with the criminal complaint (report), the required consent with the criminal prosecution, and the ensuing measures follows. The conclusion of the second chapter is devoted to worries of the victims and the protection and care provided to them. The third chapter then deals with the individual procedural rights of the injured party. Firstly the right to information is analysed, because it is essential for the exercise of all the other rights. Afterwards, there are presented the rights that enable the injured party to participate in the proceedings (grouped in a section titled as "the right to be present") as well as his rights to declare his opinion in the case ("the right to be heard"). The third chapter is closed up by a part concerned with the possibilities of the appeal against the specified procedural steps and the made decisions. The fourths chapter is given to rights of an injured party within non-standard, diversion type of proceedings. The last chapter is finally concerned with the compensation for damages, non-material damages and unjust enrichment in so called adhesion proceedings. Although, it is not subject of the adhesion proceedings, the end of the last chapter is devoted to compensation for the costs of the injured party, because the victim is logically feels these as a damage related directly to the prosecuted offense.

Since the case is often referred as a misdemeanour to non-criminal authorities, several words are given to a comparison between criminal proceedings and the offense proceedings.

The current legislation (both criminal and offense) is subject to criticism at time, while some suggestions de lege ferenda are mentioned as well.

Key words: the injured party, victim, procedural rights