

Abstract: Criminal custody as an *ultima ratio* instrument

This thesis deals with a criminal custody which is considered as the most serious instrument within criminal procedural security measures which should be used by law enforcement authorities only in the most extreme cases when all of the legal conditions are strictly fulfilled. One of the purposes of this thesis is to explicate, through personal freedom and presumption of innocence both guaranteed by the Czech Constitution and both significantly affected by custody, the importance of using this instrument only in situations without any other solution when it is impossible to reach the purpose of criminal proceedings by using some of the more lenient measures, it means to use the custody just as an *ultima ratio* instrument. A crucial part of this thesis pays attention to the individual legal conditions of current effective legislation that should ensure observance of this principle also in practice. In the mentioned part the procedure of the authorities deciding on custody is analysed in detail that authorities firstly must resolve the question if the prosecution of a specific person is justified and if a certain specific degree of suspicion is achieved proving that this one perpetrated an offence. After that it is necessary to investigate the existence of concrete facts justifying some of the risks exhaustively enumerated in the Criminal Procedure Code (flight risk, collusive and preventive custody) and then the competent authority must these facts properly substantiate, this issue is analysed in the chapter dealing with the reasons for the custody. As well as these questions the competent authority must consider if it is possible to substitute the custody for some of the subsidiary measures discussed in a separate chapter (a guarantee, a promise of the accused, a supervision of a probation officer, an interlocutory injunction, a bail and a placement in the care of a trusted person), and if the conditions are fulfilled, it is necessary to impose them instead of placing the accused in custody. This thesis also deals with the issue of deciding on custody associated with the right to a fair trial, the duration of custody which can not be exceeded and the right of the accused to be released are as well discussed.