

ABSTRACT

This dissertation is divided into a general part (chapters 1 through 6) and a specific part (chapter 7). The general part contains chapters devoted to the historical development of public prosecution and the office of the public prosecutor with an emphasis on developments in civil proceedings, primarily after 1989. Further attention is dedicated to a current expert discussion of the constitutional position of the office of the public prosecutor within the system of state power.

Explanations are also given for the independence and impartiality of the office of the public prosecutor in a qualitative comparison with the independence and impartiality of the courts.

The following part of the dissertation focuses on a description of the framework of the office of the public prosecutor, including the new institution of the Institute of the European Public Prosecutor. The subsequent chapter is concerned with the organisation and staffing of the non-criminal division of the public prosecutor's office on all levels. This is followed by a chapter devoted to the legal sources amending and relating to the non-criminal activity of the office of the public prosecutor.

A substantial part of the general part of this dissertation consists of a description of the role of the office of the public prosecutor in civil proceedings, distinguishing a type of its participation as a specific entity as part of its authority to intervene in existing proceedings on the one hand, and as a participant in the proceedings as part of exercising its authority to make proposals on the other hand.

Another subject of detailed discussion are the issues surrounding the jurisdiction of the office of the public prosecutor in civil proceedings, including competency disputes regarding matters of jurisdiction. The general part also deals with the terms 'public interest', or rather the term 'substantial public interest' from the perspective of the judicature, expert literature, and practical application. More specifically, public interest is always specified more closely when dealing with the individual types of civil proceedings as part of the specific part of the dissertation. The general part contains a chapter dedicated to the sources of findings on the basis of which the office of the public prosecutor initiates its procedural activities.

An entire section is dedicated to the execution of evidence in civil proceedings from the point of view of the office of the public prosecutor. The author specifies individual procedural actions which the office of the public prosecutor is entitled to undertake. A similar treatment

is employed in the case of the question whether the office of the public prosecutor is obligated to utilise findings from criminal proceedings in civil proceedings. A thorough explication was carried out in order to answer the question whether utilising findings from criminal proceedings represents an unauthorised encroachment upon the subject's right to a fair trial, or, as the case may be, whether it represents a breach of the principle of equality of arms in civil proceedings.

The general part of the dissertation concludes with an exposition regarding the ordinary and extraordinary remedial measures which the office of the public prosecutor is authorised to action.

The specific part of the dissertation concerns itself with the concrete types of civil proceedings in which the office of the public prosecutor participates. Particular attention is thereby directed towards those areas which are considered to be most material in practice and where the participation of the office of the public prosecutor is most effective, taking into consideration the intensity of the public interest in each individual set of proceedings.

For this reason, a substantial part of the specific part of the dissertation concerns proceedings in matters relating to rights of custody, proceedings relating to legal capacity, proceedings in matters of proclaiming the admissibility of admitting or retaining a person in a medical care institution, proceedings relating to proclaiming the inadmissibility of retaining a person in a social care institution, proceedings relating to insolvency, proceedings pursuant to Section 42 of the Public Prosecution Act, and others. Above all, the proceedings relating to insolvency are seen to have extraordinary potential for active intervention on the side of the office of the public prosecutor, both with overlap into criminal proceedings and with a focus on preventing intimidatory insolvency proposals.