

Securing the participation of criminally accused person in criminal proceedings with focus on criminal custody

Abstract

The thesis deals with each individual option how to secure the participation of prosecuted person for criminal proceedings to the extent which is necessary for the criminal procedure to fulfill its purpose. This is why there is a focus on the “ultima ratio” principle when it comes to application of such institutes. It is an indispensable part of criminal procedure where certain personal rights come into a conflict with the effectivity of prosecution. The core of this thesis is built on legal and constitutional acts of the Czech Republic considering decision-making practices of Czech courts and also the European court of human rights supported by the conclusions found in legal literature.

The first part of the thesis deals with the historical course beginning in the pre-hussite era until the present day. It deals with the former laws and their evolution which led to the present laws.

Second part contains the introduction and analysis of individual institutes meant to secure participation of prosecuted person during the criminal proceedings excluding custody law. Each of these institutes is subject to thorough examination in consideration of its respective purpose and legal conditions.

The third part contains detailed description of the so called material custody law which determines the grounds on which a person can be taken into custody.

The fourth part concerns about the formal custody law which determines rules of who is authorized to decide if an accused person is taken into criminal custody, the maximum length of the criminal custody, revisions of criminal custody legitimacy and decisions about further criminal custody duration. The formal custody law can be called a tool through which the material custody law can be practiced.

The fifth and last part is about a brief comparison of Slovenian and German custody law.

The thesis should be able to thoroughly describe the rules concerning each individual institute meant to ensure the participation of prosecuted person during the criminal proceedings with focus on criminal custody.

Key words:

Procedure criminal law

Securing institutes

Criminal custody