

Abstract

The Master's Thesis deals with the issue of the choice of a defence counsel and attorney for a legal entity in criminal proceedings in the context of the right to a fair trial and the right to defence of a legal entity. Defence of a legal entity in criminal proceedings is exercised by persons authorised to act on its behalf. If those persons find themselves in the incompatible procedural position of an accused, a witness or a victim in the same case, they are excluded by law from all acts on behalf of the legal entity in criminal proceedings on the grounds of a presumption of conflict of interests. The title of the Master's Thesis is based on the conclusions of the case law of the Constitutional Court which case law, in order to preserve the right of defence of a legal entity, also grants a person in an incompatible procedural position of an accused or a witness the right to choose a defence counsel or an attorney for the legal entity, subject to other conditions described in this Master's Thesis.

I get focused in the introductory part on the description of the rudiments of criminal liability of legal entities, I mention the legal regulation which is used in the Master's Thesis and I summarize what is its content. Subsequently, I deal with the definition of individual persons authorised to act on behalf of a legal entity in criminal proceedings, I also deal with the status of these persons and with the scope of rights and duties in criminal proceedings against a legal entity. The theoretical part is then completed with a discussion regarding the right to a fair trial, including the right to defence as interpreted, applied and cultivated by the European Court of Human Rights as well as by the Constitutional Court.

The focus of this Master's Thesis consists in the analysis of individual rulings of the Constitutional Court and in their subsequent detailed analysis, taking into account relevant professional and commentary literature as well as knowledge from the work of prosecution offices. On the basis of the analysis carried out, I take the liberty of mentioning my thoughts of further possible judiciary developments and indicating possible legislative solutions which will take into account the conclusions of the Constitutional Court. A change in the legal regulation seems desirable in order to preserve legal certainty for accused legal entities and to unify the procedure of investigative, prosecuting and adjudicating bodies as the interpretation of the Constitutional Court which is in accordance with the Constitution already considerably differs from the linguistic interpretation of the law.

Key words:

criminal proceedings against a legal entity, conflict of interests, defence of a legal entity