

# **The Right of Defence in the Criminal Proceedings and its Limits**

## **Abstract**

The thesis deals with one of the fundamental human rights of a person against whom the criminal proceeding is being conducted, namely the right of defence and its limits in the criminal proceedings in the Czech Republic, because only by exercising the right of defence as a partial element of the right to a fair trial, it is possible to achieve a fair and lawful decision in the matter.

The first chapter of the thesis deals not only with the national legislation on the legal and constitutional level, but also with the enshrinement of the right of defence in the international human rights agreements, specifically in the European Convention of Human Rights and in the International Covenant on Civil and Political Rights, and in the regulations of the European Union.

The next part of the thesis discusses the various components of the right of defence which include material defence, formal defence including the compulsory defence and the duty of the authorities participating in the criminal proceedings. The chapter is further supplemented by all important rights of the accused which can be exercised within the various stages of the criminal proceedings, including, for example the accused's right to comment on all facts which he is accused of, the right to make motions and file applications or appeals, the right to search in a file or the right to have a lawyer and consult with him.

The third chapter of the thesis mentions the tactics of the defence, its means, its methods and discusses the question of what is part of the permissible tactics of defence. In this chapter I further distinguish between the active carrying out of defence which also includes the issue of the interrogations of the accused and of the witness, and the passive carrying out of defence including the prohibition of coercion to self-blame.

With the issue of the limits of defence and the boundary between legitimate defence and criminal liability for a crime is dealt with in the final chapter of the thesis, which further lists the individual selected crimes that the accused may commit in his defence by lying and analyses them from this point of view.

The thesis also includes the case law of The European Court of Human Rights, The Constitutional Court and The Supreme Court of the Czech Republic.

**Key words: right of defence, limits of the right of defence, criminal proceedings**