

Defence by the defence counsel in the trial

Abstract

The thesis provides the reader with practical overview of the exercise of the rights and obligations of the defense counsel during the trial phase. The aim of the thesis is, in addition to a comprehensive definition of the rights and obligations of the defense counsel in relation to the trial phase of the criminal proceedings, to also set out controversial issues of interpretation of norms of the criminal procedure and deficits of the criminal procedure regulations and outline their possible solutions with regard to the right of defense.

The thesis is systematically divided into two parts, the first of which deals with a brief and general description of concepts related to the scope of the thesis. These are, in particular, the right of a fair hearing, the institute of a defense counsel and the stages of the criminal proceedings with an emphasis on the concept of trial phase. The second part is designed taking into account the practical nature of the topic and provides a detailed analysis of the exercise of the rights and obligations of a defense counsel in the trial phase. Emphasis is placed primarily on the exercise of such rights and obligations by which the defense counsel has the opportunity to influence the decision of the court in favor of the defendant. Since the nature of the exercise of the mentioned rights and obligations of the defense counsel is closely connected with the tactics of defense, the tactics of defense also has a place in second part of the thesis.

The thesis was drawn up on the basis of the provisions of the Criminal Procedure Code and its commentary literature, textbooks of criminal proceedings, professional monographs and contributions of experts from practice to professional periodicals. The case law of national courts in particular also forms the basis for a number of conclusions presented in the thesis.

Among the controversial issues of interpretation of the criminal procedure norms or deficits of the criminal procedure regulation, which arose during the creation of the thesis and to which the thesis presents possible solutions, either by interpretation or *de lege ferenda* considerations include the right of a defense counsel to comment on the executed evidence, a separate right of the defense counsel to make, in addition to the defendant, a statement on the filed indictment, the institute of the main defense counsel or the definition of the procedure of the defense counsel in securing a witness statement.

Keywords:

right of defense, defense counsel, trial phase