

Limits of interference with constitutionally guaranteed rights and freedoms in criminal proceedings

Abstract

The presented thesis deals with one of the key issues of criminal procedural law, namely the limits of interference with constitutionally guaranteed rights and freedoms in criminal proceedings. The regulations of criminal proceedings in the Czech Republic, a democratic state governed by the rule of law, must, while preserving the tools for effectively combating crime, contain such guarantees of a fair trial that the full protection of the rights and freedoms of the persons being prosecuted is ensured. In view of the increasing standard of protection of fundamental rights and freedoms on the one hand and the increasing sophistication of criminals as a result of globalisation and the rapid development of modern technology on the other, this creates an extremely difficult task for the legislator. This thesis presents a detailed analysis of the issue.

Recent developments in the Czech jurisprudence made apparent certain gaps in the legislation of criminal proceedings, specifically in the area of “evidence“ and in the related area of interception. For this reason, the first out of the five chapters of the thesis discusses the establishment of the practice of fair trial in the Czech Republic, which puts an emphasis on guaranteeing both international law standards and those at the constitutional and statutory level. The second chapter deals with the key issue of evidence in criminal procedure. The presenting of evidence has proved to be an important stage for ensuring that the standard of fair trial is upheld during the criminal process. Chapter three highlights the issue of interception and its basis in the current regulation. Recent developments in case law revealed the gaps in legislation related to interception to be the Achilles heel of the Czech criminal procedure, especially when considering the legal standing and position of the person who is being subjected to the criminal proceedings.

Since the above-mentioned problems have not been solved by the legislator yet, but have only been given *ad hoc* case law solutions, there is a constant cycling of problems into new areas such as the interception of attorney-client communications, the admissibility of private recordings as evidence in criminal procedure, the possibility of using a recording from another criminal case, etc. These issues are described in chapter four of the thesis. In order to guarantee the rights and freedoms of those in the criminal justice system, the solution to these gaps in legal regulations should not be only temporary. Instead, the legislator should aim to adopt comprehensive legislation that would respond to new institutes of legal life, which may emerge over time, but that would at the same time be fully respectful of the rights and freedoms of the persons concerned. The fifth chapter deals with such *de lege ferenda* proposals to the current situation.

Key words:

fair trial, criminal proceedings, admissibility of evidence, interception