

Defence lawyer in criminal proceeding

Abstract

The aim of this rigorous thesis is to analyse the activities of a defence lawyer, his rights and obligations and the limits of criminal defence, both in terms of criminal law and in terms of legal regulations governing the practice of advocacy. The interconnectedness and interdependence of these two levels of legal regulation is already evident in the attempt to theoretically define the position of the defence lawyer and his role in criminal proceedings. The analysis of the interrelation between the two levels of legal regulation is an element that connects the individual parts of the rigorous thesis.

The thesis is divided into five parts. The first part defines the role of the defence lawyer and his position in criminal proceedings from the historical, constitutional and theoretical point of view. The second part critically analyses the necessary defence as an institution through which the right to defence is secured. Part Three is devoted to the issue of the creation and termination of the criminal defence and related topics such as conflict of interest, abuse of the right to freely choose defence lawyer, disqualification of the chosen defence lawyer, revocation of the provision, etc. Part Four discusses selected rights and selected obligations of the defence lawyer arising from the Advocacy Act and the Code of Ethics, as well as from the Criminal Procedure Code. Attention is paid to the scope and content of the rights and obligations of the defence lawyer, as these define the permitted methods and procedures of the defence lawyer in criminal proceedings. Part Four is followed by Part Five, which is devoted to the individual levels of the limits of criminal defence - the limits of the permissible exercise of defence, in terms of ethics, in terms of disciplinary liability, and finally in terms of criminal liability. The topic of the impact of disciplinary and criminal proceedings on the professional life of an advocate is not omitted. Part Five, devoted to the limits of criminal defence, discusses the disciplinary case law of the disciplinary chambers of the Czech Bar Association and the practice of law enforcement authorities with regard to the initiation of criminal prosecutions of lawyers for conduct related to the performance of defence.

The aim of the thesis is to take a practical view of the chosen topic and to offer solutions to some of the dilemmas posed by the everyday practice of criminal defence.

Key words: activities of defence lawyer, limits of criminal defence, practice of advocacy