

Abstract – The Issue of the Concept of Criminal Custody

This diploma thesis deals with the instrument of criminal custody as a security instrument. This instrument is considered as quite controversial in view of the fact that its usage means the conflict between the interest of the investigating authority to accomplish the purpose of prosecution and person's right to personal freedom guaranteed by the Charter of fundamental rights and freedoms while the accused has to be treated as innocent according to the principle of presumption of innocence.

The goal of this diploma thesis is to provide a comprehensive overview of the current legislation of the instrument of custody and also of the problems connected with custody. The thesis is divided into seven chapters including the introduction and the ending chapter. The second chapter deals with the development of the custody legislation in history and major part of the chapter is focused on the Act's of criminal procedure from years 1873, 1950 and 1961. The third and the fourth chapter pay attention to the current legislation which is included in the Act of criminal procedure no. 141/1961 Coll. The third chapter extensively describes the meaning of the term of custody, custody reasons and the alternative instruments which the custody may be substituted with. The fourth chapter deals with the decision process related to custody, custodial meeting and length of custody.

The instrument of custody related to the prosecution of juvenile individuals is described in separate chapter in view of the fact that the usage of the instrument against a juvenile person is connected with greater risk of negative consequences than in case of adult person.

The sixth chapter summarizes the actual problems of the custody instrument. Attention is paid especially on the electronic control of the accused as a new surrogate instrument included into the Act of criminal procedure by the 2016 amendment, inadequate length of custody, the rights of the accused during the exercise of custody, the right to be heard and the end of the chapter includes short thought about the instrument of obligatory custody.