

Abstract

The study “The Position of the Defence Counsel in Pre-trial Proceedings” examines the status of the defence attorney in the preliminary procedure, i.e. in the pre-trial phase of criminal proceedings. First, the text deals with more significant amendments to the Criminal Procedure Code and with the development, purpose and various forms of the preliminary procedure. In the following part, the study provides a brief outline (model) of the course of the preliminary procedure and offers elementary definitions of fundamental institutes of this procedure. The second part of the study focuses at first on an analysis of fundamental principles of criminal procedure. Out of those principles, most detailed attention is paid to the right to the defence counsel and to the attributes of such right.

The third part of the study describes the various requirements imposed on the defence attorney, the defence attorney's rights and obligations, the institute of legitimate defence and discusses finally the most fundamental interference into the accused's right to free election of a defence attorney – expulsion of the defence attorney. This part of the study also provides a more detailed analysis of the client's - defence attorney's privilege and discusses the specific features of the defence of a legal entity. The study also deals at various instances with the advocacy tariff. In his frequent polemics with the law, the author endeavoured to present varying opinions of legal experts on the disputable points of the current or historical legislation and quoted in this respect the case law of Czech courts and of the European Court of Human Rights.