

## **Summary: Counsel in the Criminal Proceedings**

The objective of my thesis is to describe the position of a defense counsel during a criminal procedure and analyze the currently valid law governing the counsel's position in the criminal proceedings, and how is law applied in real life and also describe duties and obligations of defense counsel.

I choose this topic, because during studies of criminal law I was intrigued by the complexity of criminal trial and by the role of the defense counsel in it. I wanted to gain deeper knowledge of rights and obligations of the defense counsel and research limits of criminal defense.

Fair trial is considered as one of the fundamental basics of democratic state. The objective of criminal trial is to reach a proper and rightful verdict as a result of fair trial. Criminal trial could be considered fair only if both sides, the defendant and the prosecutor, are both provided with equal rights. Defendant is often a person without thorough legal knowledge and thus is considered to be in disadvantaged position. As opposed to prosecutor, defendant finds himself in new, unknown position, and his basic rights and his future life are endangered. To remedy this situation, defendant can be in criminal proceedings represented by defense counsel, who is professional, has experience and legal knowledge and is able to balance the inequality between defendant and prosecutor and other authorities acting in criminal proceedings.

The thesis is divided into 8 chapters. After the brief introduction to the topic and presentation of the objectives of the thesis (chapter one) follows the chapter describing a general concept of the defense right and relating issues such as the formal and material defense and basic duties of the authorities, acting in criminal proceedings. Chapter three is dedicated to description of the sources of defense right in international contracts and in Constitution, and to other sources of law. The core of the thesis rests in chapter four which focuses on the defense counsel, his relationship with his client, his position in criminal proceedings, his rights and obligations and also limits of their use. General principle states, that all activities of the defense counsel should be conducted in a way that benefits the defendant but at the same time must be in accordance with laws and ethical principles. Chapter five looks at institute of compulsory defense, which was significantly changed by new law in 2012 by enabling the defendant to in certain cases disclaim compulsory defense.

The next chapter sums up the ways to terminate the contract between the defense counsel and his client. Seventh chapter attempts to explore question about tactics of the defense and its limits and highlights some ethical issues. Conclusion of this thesis is dedicated to the evaluation of currently valid law in its sufficiency or insufficiency and to currently discussed subject, that being the update of the Czech Criminal Procedure Code. The current Criminal Procedure Code was adopted in 1961 and since then has been changed more than 60 times. The main objective of the recodification is to make procedure faster and more effective.