

Abstract – The issue of pre-trial detention in criminal procedure

The topic of this diploma thesis is the issue of pre-trial detention in criminal procedure. The institute can be described as a securing institute of criminal procedural law that significantly affects the right to personal freedom of the individual, which conflicts with other human rights.

In light of these violations of fundamental rights, it is not surprising that the institute is often discussed and is thus a sensitive topic. It is therefore often the subject of disputes, which are held in front of the Constitutional Court of the Czech Republic and other international courts.

This thesis is divided into six chapters, wherein, the first part deals with the description of the institute of pre-trial detention itself, and discusses the principles that are related to it.

The second chapter briefly describes the historical development of the institute of pre-trial detention on the territory of the Czech Republic since 1961, when the new Criminal Procedure Code was adopted. It emphasises the amendments No. 265/2001 Coll., and No. 459/2011 Coll., which both brought a significant change in the legal system of pre-trial detention.

The third chapter focuses on the existing legislation based on case law in the Czech Republic and international courts. This chapter, among other things, discusses the elemental reasons for detention and the criminal law institutes replacing the pre-trial detention, while attempting to highlight the problems associated with the individual institutes. Furthermore, with regard to formal detention, among other things, it focuses on the decision-making process and pre-trial detention time limits.

The fourth part is devoted to analysing what I consider to be: the fundamental problems that accompanies the pre-trial detention; presumption of innocence; the fundamental human rights of the prisoners; the right to be heard; compensation in case of unlawful detention; and institutes set up to control the system.

The penultimate chapter deals with juvenile proceedings, especially with regard to the differences from the general rules, contained in the special law on juvenile justice. Meanwhile, this further suggests specific problems that are linked to juvenile delinquency.

The final chapter provides suggestions and recommendations for amending the legal regulation in light of the problems previously described.