

The evidence by witness and expert in Czech and French criminal procedure

The subject of my thesis is a comparison of the status of a witness and an expert in a Czech and French criminal procedure. I have chosen this theme because I am interested in criminal law and I also pursue studying French law. During this activity I found an institute of assisted witness which is completely unique and unknown in a Czech legal environment, which has led me to a thought of studying two for me the most interesting means of evidence used in a criminal procedure.

This thesis is divided into eight parts, it starts with a brief introduction into evidence proceedings in Czech (the first part) and also in French legislation (the second part), in the third part I focus on the status of a witness in Czech legislation, the fourth part contains a French regulation and the fifth is a comparison of those two. I have chosen the exact same system so on, in the part six I deal with a Czech legal regulation of an institute of an expert in criminal procedure, seventh part deals with an expert in French criminal procedure and finally in eighth part there is again a comparison of those two.

In the first and second part I offer a brief introduction, in which I outline what the evidence proceedings in a criminal procedure, what can serve as an evidence and what is a subject to evidence from the perspective of the Czech and also the French law.

The first thing in a third part, in which I focus on a witness in criminal procedure, is a determination who the witness is and who can be a witness in a criminal procedure. Then I concern with rights and duties which the witness owns and must fulfil during the proceedings. Next chapter deals with a course of an examination of the witness and with questions connected with an examination, e.g. tactics of examination. In the next chapter there is possible to find out specifics of a situation when the witness is a minor. Next important aspect is also a protection of a witness who is jeopardized because of a provision of a testimony. We can also find out conditions and methods of providing the protection. I affiliated two particular chapters in addition to a Czech part-the chapter named Status of a witness in the light of The European Convention for the Protection of Human Rights and Fundamental Freedoms which also relates to a French part and there is also a chapter about crown witnesses who as an institute are not used in Czech Republic. As the last chapter in this part there is one which is aimed to an institute of a cooperating witness as it is used in Czech legal order.

Other part of this thesis deals with a French regulation. As in the third part the person of a witness is defined, as well as his rights and duties, then course of examination of a witness is described and so are possibilities of his protection. I tried to emphasize differences of Czech and French legislations. The chapter about assisted witness, particular and unique institute of French penal law, is elaborated in detail. It is possible to find out which historical circumstances led to a creation of this institute, who can become assisted witness and how, which rights and duties are connected with this status and other information.

Another part of my thesis is devoted to a reciprocal comparison of Czech and French legislation. The main differences in the status of a witness in criminal procedure are pointed out.

In a part six I focus on a Czech legal regulation of an institute of an expert in criminal procedure. I describe who can act as an expert and under which conditions, I define the institute experts and institutes him approaching (expert opinion, expert assistance). Then I analyse the process of joining an expert into proceedings and also situations which might occur. Other issue that I deal with is an expert opinion. Specifically, I describe the process of its drawing up, its requirements, how it is introduced in proceedings and also how it is evaluated in by the authorities in criminal proceedings, particularly by court. One of the chapters is a treatise on the law of a financial reward of an expert. Following chapters deal with the responsibility of experts, both private as well as public responsibility. At the end of the sixth part, I included a chapter on current efforts on amendments to the expert legislation and also about a government bill on experts, expert offices and expert institutions.

Part seven is devoted to the French legal regulation of an institute of an expert. As in the section dealing with an expert in the Czech Republic I define who is an expert, what conditions must be met for the performance of expert activities and the process of joining an expert into criminal proceedings. Then I describe how is an expert opinion governed by French law, what is the process of its development, as well as its introduction in proceedings and subsequent evaluation. Just as in the Czech part I devote to the topic of responsibility of an expert.

The eighth part is again a comparison of the two laws, where the intention was to describe the main differences between the Czech and French expert legislation.