

CIZOJAZYČNÉ RESUMÉ

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The theme of my thesis is the Role of European Convention on Human Rights²¹² (ECHR) and jurisprudence of the European Court for Human Rights (ECtHR) in the Czech Criminal Procedure.

The criminal procedure is a very specific area where there is a conflict with the state power to penalize crimes and the protection of human rights. Within entire criminal procedure there is a certain limitation of human rights. However, there should be a limitation in law or in the right itself. It is necessary to have in mind that the criminal procedure intervenes in the life of accused and of all their family background.

The aim of this thesis is to analyse the particular clauses of the ECHR which have the effects on the criminal law and to compare these obligations with the Czech legal projection, especially to the constitutional statutes (Constitution of the Czech Republic and Bill of Fundamental Human Rights and Freedoms). I also focused on the judgments of ECtHR which execute control over observance of the Convention. The protection of human rights in European Union takes place in my work as well. I examined changes in this field after the force of the Treaty of Lisbon.

The work is divided into 9 chapters. The first chapter is an introduction to the problems and presents the main topic.

The historical backgrounds and the legal application of the Convention with relation to the Czech legal environment are investigated in the second chapter. The Convention was drawn up within the Council of Europe in Rome in 1950 and entered into force in 1953. Czech Republic became a member of the Council of Europe in 1993. The ECHR is the part of the Czech legal order, due to an article 10 of the Constitution²¹³. Several Protocols belong to the Convention. Some of them extend the rights, others govern the procedural rights.

²¹² The whole title The Convention for the Protection of Human Rights and Fundamental Freedoms.

²¹³ Article 10 of Constitution : „Promulgated international agreements the ratification of which was approved by the Parliament and which are binding upon the Czech Republic

The third chapter portrays the fundamental human rights in the Convention with respect to the criminal procedure. The basic human rights are possible to split into two elementary groups: the absolute rights that can not be limited under any circumstances, such as the right of life, the prohibition of torture, the prohibition of slavery and forced labour and the principle of no punishment without law, and the limited rights that may be limited only under explicit and certain circumstances, such as the right of liberty and security and the rights which may be limited by state organs or by the basic rights of others but only in the measure of necessary, e.g. the right of respect for private and family life etc.

The fourth chapter concerns with the requirements set by the Convention to the Czech criminal procedure. It deals one by one with the rights important for the criminal process: the right to a fair trial, limits and guaranties the right to liberty and security, the principle of no punishment without law, limits and guaranties the right of respect for private and family life, the right of appeal in criminal matters, the right of compensation for wrongful conviction and the right not to be tried or punished twice.

The guaranty of protection of human rights, which the ECtHR provides, is the main inquiry of the fifth chapter. Everyone who feels that their rights have been violated under the Convention by a state can litigate in front of the European Court. This effectiveness forms that the respondent state had accepted the compulsory jurisdiction of the Court. The chapter concerns itself also in the history of the Court, its composition, the procedure before the ECtHR and the effect of its jurisprudence in the national legal order.

The sixth chapter describes four interesting cases against the Czech Republic.

The changes in the jurisprudence practice of the Constitutional Court and amendments to the Czech law due to the judgments of ECtHR are the general contents of the seventh chapter. The modifications are

shall be a part of the legal order; where the international agreement provides for something else than what is provided by law, the international agreement shall apply."

conducted since states try to avoid the further violation under the Convention.

Finally, the eight chapter analyses the European protection of human rights in the EU. The main attention is concentrated on the European sources of law in the ambit of human rights, chiefly the Chapter of Fundamental Rights of the European Union, which is not legal binding yet. However, this should be changed when the Treaty of Lisbon comes in force. The Treaty of Lisbon brings an essential transformation for the European Union in the current form.