

## Abstract

Dissertation thesis titled „Significance of principle of public in criminal trial“ deals with the principle of public in criminal procedure in the widest sense of the word. The thesis explains what is meant by this principle, what its functions are or what the consequences of its non-compliance by authorities acting in criminal procedure can be found. By the fact that this work mentions also the aspects of informing the public about criminal procedure as well as about possibilities of defence in case of non-compliance of mentioned principle by authorities acting in criminal procedure, it also interferes, besides criminal substantive and procedural law, in constitutional, press or protection of personality laws.

The text of dissertation thesis is divided into nine chapters. In the introduction part the area of topics mentioned in following chapters is defined. In chapter titled „History of literature connected to the topic“ there are important publications, articles from academic periodicals, as well as graduate theses which in the past somehow affected the chosen topic, mentioned. The third chapter summarizes development of legislation about publicity of criminal trial as well as some of the related aspects, from the beginning of the Czech statehood till present.

Beginning with the fourth chapter the work is focusing on current legal provisions of principle of public. After summarizing its significance as legal principle of civilised state based on rule of law there are its particular functions such as function of transparency, function of control, function of public defence and educational function specified. Consequently, in the same part, there is the relationship of the given principle to other principles of the criminal trial explained. The following part analyses the position of public in particular stages of the criminal procedure. Naturally the main focus of this work is given to the stage of trial proceedings, i.e. on the main trial. At this point the work uses many concrete cases from practice how the principle of public is being violated. According to the systematics of work, the realisation of the principle of public itself in front of the court is closely connected to the right of public, especially the media, for information about criminal procedure. Linked to these passages there is a short excursion into civil and administrative procedural rules to compare the pursuing the principle of

public in procedural provisions in these areas of law. This chapter is closed by the essay considering the possibility of using individual means for defending public against the violation of principle of public by particular authorities acting in criminal procedure.

Sixth chapter analyses unsatisfactory state of informing about criminal procedure in the Czech Republic, tries to find the causes (especially in non-existing effective self-regulation of journalists, newspaper publishers and licensors of other media) of this situation. Next topic of this chapter is the regulation of information quota about the criminal procedure by provisions of civil substantive law as well as regulations of journalist's association or ethical codices on the concrete newspaper editor's office level. On the other side in consequent part the work tries to draw the attention to exceptional difficulty of high-quality work of journalist, who tries to inform the general public about some criminal phenomenon of the most serious character. The conclusion is dedicated to possible consequences of incorrect information about criminal prosecution of particular person, i.e. sanctions for committing administrative tort or for some of selected crimes.

Next passage tries to briefly inform about legal institutes from chosen topic of the work in three selected countries (in Slovakia, Germany and the USA). In all three cases there is stated the constitutional formulation of publicity of court trial, detailed information about selected legal institutes of general law and also some interesting court decisions. In specific environment of law system of the USA there is also briefly mentioned the history and development of the area of film broadcasting from the court room of jury courts followed by brief excursion to opinions on this practice. Each of the three sub-chapters includes short summaries of legislation, practice as well as interesting legal institutes, which could act as interesting impulse *de lege ferenda* in the Czech Republic. Subsequent to this chapter about law systems in these countries is essay about „Convention for the Protection of Human Rights and Fundamental Freedoms“ and its application. Besides stating the right for public hearing of certain case in this international convention and some interpretation aspects connected to mentioned provisions of this convention the thesis further points out and briefly describes several selected decisions of the European Court of Human Rights specifying limits of principle of public in understanding of this

convention. Recommendation of Council of Europe Rec(2003)13, also stated in chapter 8, can be considered as entirely fundamental impulse *de lege ferenda*. Besides translation this part also contains several general remarks to its observance in legal system of the Czech Republic'.

Findings from previous chapters then graduate in the ninth chapter, which summarizes conclusions from previous passages and also evaluates normative acts and decrees of the Czech Republic in the area of chosen topic of the dissertation thesis. This evaluation part is further divided into six sub-chapters elaborating further the particular issues mentioned in the thesis.

First of the closing sub-chapters evaluates legislation and practice in the area of Informing the public and, particularly, media about current criminal procedure. Due to the fact that this area of law regulation was recently affected by very radical law change, the thesis concentrates on these amendments of law of criminal procedure. The thesis holds very critical approach to these amendments from particular, in detail stated, reasons. The thesis does not concentrate only on critics of particular amendments; it also outlines *de lege ferenda* completely different solution of affected area. The thesis concretely holds dissenting attitude to wide range of possibilities of authorities acting in criminal procedure to make the conditions for journalists informing about current criminal cases more difficult. As crucial approach of the thesis can be considered the disagreement with legislative preferences towards administrative or criminal law sanctions of journalist, who obviously harms someone else in his media outputs. Group of these measures is recommended to be replaced by effective civil law protection. Imperfect regulation of amount of information about particular participants of the criminal procedure is possible, according to the mentioned conclusions, to replace by mandatory ethical code of conducts of professional organizations of journalists and licensors of the media. Passage about legislative set-up is followed by the sub-chapter about possibilities of improvement of practice in the area of cooperation between media and justice.

In the rest of closing passages of the thesis there are analyses of aspects of protection of personality of the accused ahead of adjudging of eventual verdict of guilt, personality protection of accused juvenile and keeping of the principle of public

in criminal procedure. The thesis does not avoid recommendations de lege ferenda in other areas of law besides criminal procedural law, if these changes correspond to the topic of this thesis.