

ABSTRACT

Participation of the Counsel in the Preliminary Proceedings

A right of defence is one of basic rights of democratic state of law. It is contained in various international treaties and also in our constitution, namely in article 40 of Charter of Fundamental Rights and Basic Freedoms. In case of criminal procedure it is further adjusted in Criminal Procedure. Representation by a defence counsel is one of the main ways how to fulfill a right of defence. A defence counsel becomes essential component of criminal procedure.

Especially in preliminary procedure is defence counsel and his services irreplaceable. For that reason I decided to examine the role of defence counsel in preliminary procedure.

My diploma thesis consists of five chapters, whilst first chapter is introduction and last conclusion.

First chapter is an introduction into topic of right of defence and role of defence counsel in criminal procedure. It also deals with legal sources of right of defence and its brief history form 1873 Criminal procedure until recent Criminal procedure.

In second chapter of my thesis I deal with right of defence in general and with different concepts in several subheads. Therefore subheads deal with problems of representation by defence counsel and subsequent mandatory defence. Subheads also deal with chosen and appointed defence counsel. Expenses of defence are also briefly dealt with.

The core of my thesis is chapter three, which deals with role of defence counsel in preliminary procedure itself. Subheads consist of general legislation of preliminary procedure, role of defence counsel in it and various approaches of body of law in criminal procedure before and after prosecution. Large area focuses on defence of person who is held in custody and finds himself in more complicated situation than person prosecuted out of custody. Agreement on guilt and punishment is also shortly mentioned.

Fourth chapter investigates special kind of preliminary procedure, shortened preliminary procedure, its process and specifics of defence in it.

Fifth and last chapter contains conclusion of my thesis.