

# **The Urgent and the Non-Repeatable Actions**

## **Abstract**

Urgent and non-repeatable actions are a special group of procedural actions of authorities involved in criminal proceedings. The criminal code provides a precise definition of urgent and non-repeatable actions, but in layman's terms, an urgent action must be carried out before the initiation of criminal prosecution, because otherwise it will lose its evidentiary value, and a non-repeatable action cannot be repeated in court proceedings. There is no exhaustive (enumerative) list that would determine which action is urgent or non-repeatable. The urgency and non-repeatability of an action are therefore always determined in each case according to the factual circumstances and relation to a specific person within the framework of application practice, even though judicial decision-making practice provides guidelines for such an assessment.

Pre-trial criminal proceedings can be divided into two parts, the part before the initiation of criminal prosecution and the part after the initiation of criminal prosecution. From point of view of the authorities involved in criminal proceedings, the most essential feature of urgent and non-repeatable actions is that they can be carried out even before the initiation of criminal prosecution and the evidence obtained by them can (e.g., in the form of a protocol on the execution of the action) under other conditions serve as means of evidence in a proceeding before the court. A suspect before the initiation of the criminal prosecution has fewer rights than an accused after the initiation of criminal prosecution. It is not only for this reason that it is important to correctly assess which action is urgent or non-repeatable and which is not. Determining the urgency and non-repeatability of the action is essential, as it often affects the evidentiary applicability of the facts ascertained through them.

In my thesis, I proceed from a general description to more specific topics. After a short introduction, in the first part, I define urgent and non-repeatable actions and present individual criteria for their assessment. In the second part, I deal with the differences in the implementation of urgent and non-repeatable actions in respective phases of criminal proceedings. In the third part, I confront the Czech institute of urgent and non-repeatable actions with the decision-making practice of the European Court of Human Rights. In the fourth part, I present the criteria for assessing the admissibility of evidence obtained through urgent and non-repeatable actions in court proceedings and point out selected procedural defects of these actions. In the fifth part,

I describe the consequences of the ideological conflict between the interest in detecting criminal activity and the right to defence due to limited application of the adversarial principle relating to urgent and non-repeatable actions.

Regarding more casuistically conceived parts of this work, in the most comprehensive sixth part, I describe a selected segment of decision-making practice regarding identity parade (police line-up), house search, witness questioning, wiretapping (interception and recording of telecommunications) and scent identification of persons. Subsequently, in the seventh part, I make a comparison between the Czech and the Slovak regulations, where I draw out the individual differences with a selection from the Slovak judicial decision-making practice. As part of the consideration of future legislation, in the eighth part, I analyse the relevant sections of the presumably upcoming re-codification of the criminal code concerning the urgent and non-repeatable actions, also regarding the solution of selected problems of the current legislation. In the end, I perform a synthesis of the knowledge within the framework of the entire work.

## **Keywords**

urgent and non-repeatable actions, pre-trial criminal proceedings, initiation of criminal prosecution