

Restrictions on personal freedom in theory and practice

Abstract

The subject of this rigorous thesis is the connection of the theoretical and practical concept of permissible interference with the personal freedom of an individual in criminal proceedings, with an emphasis on the protection of the fundamental rights and freedoms of the person concerned. The basis of the thesis is the description and more detailed definition of some specific institutes of criminal law, in the form of detention, arrest, detention and imprisonment, which seriously interfere with personal freedom and are directly connected with the imprisonment of persons. The rigorous thesis compares and analyzes the legal embedding of the above-mentioned criminal law instruments at the national and international level with their application in real life practice and points out some fundamental differences that occur when they are used by law enforcement authorities. Attention is primarily paid to the degree of compliance with the guarantees of permissible interference with personal freedom by public authorities, the legitimacy of individual interference and also their adequacy and proportionality in relation to the goal pursued by these means. The rigorous work examines whether these criminal law institutes are applied rationally, whether they are not overused or whether they are not applied excessively by the competent authorities, in such cases the work is supplemented with examples from practice. The compliance of the legal regulation of these instruments in the criminal law regulations with human rights standards is also assessed, primarily with the Charter of Fundamental Rights and Freedoms and the Convention for the Protection of Human Rights and Fundamental Freedoms. Possible gaps in the current Czech law are pointed out, which are supplemented by *de lege ferenda* proposals, eliminating or at least mitigating the alleged legal deficiencies. The relevant jurisprudence of the Constitutional Court of the Czech Republic and the European Court of Human Rights is also highlighted, including an assessment of the extent to which it is reflected by law enforcement authorities. In conclusion, the effectiveness of imprisoning people and the effectiveness of the Czech criminal system is critically evaluated, taking into account the very purpose of conducting criminal proceedings and the related function of criminal repression.

Key words: personal freedom, detention, arrest, custody, imprisonment