

Defence by the defence counsel in the trial

Abstract

The aim of this thesis is not only to analyse the legal regulation concerning the defence counsel and the defence in the main trial, and to provide the reader with a *de lege lata* view on this issue, but also to provide *de lege ferenda* considerations for some legal institutes. The thesis also provides the reader with a comparison of the current legal regulation and the current version of the draft of the new Criminal Procedure Code (as of 14 October 2022) on selected criminal procedure issues.

The content of the thesis is divided into an introduction, four parts and a conclusion. The introduction briefly justifies the choice of this topic and sets out the objectives to be achieved in the thesis. The importance of the right to a defence and the importance of the person of the defence counsel is emphasised. The first part of the thesis defines the right of defence, emphasises the fundamental human rights and freedoms in criminal proceedings and the basic principles of criminal procedure, among which the principle of ensuring the right of defence is emphasised. The second part of the thesis is devoted to the person of the defence counsel. First, it defines the institution of the defence counsel in general terms, then it deals with specific forms of representation by a defence counsel and his rights and obligations. The third part of the thesis briefly defines the stages of criminal proceedings and then deals with the defence in the main trial, which is the core of this thesis. The fourth part of the thesis focuses on the variations in juvenile, legal entity and fugitive defense, and a brief definition of these proceedings.

The thesis has been prepared on the basis of the provisions of the relevant legislation, in particular the Criminal Procedure Code, the commentary literature on these legal provisions, textbooks on criminal procedural law and articles in specialized periodicals. Important sources are also the draft new Criminal Procedure Code (as of 14 October 2022) and the case law of national courts.

A comparison of the current legislation and the current version of the draft of the new Criminal Procedure Code has revealed a number of controversial issues on which I express my opinions - both positive (e.g. on the obligation of the court to record in the waiting list the indication of the appointment and revocation of the appointment of a lawyer and the obligation to provide the lawyer with an extract from the waiting list upon his request, setting the time limit for the delivery of a copy of the indictment or the maximum time for closing argument and last word), as well as negative (e.g. with regard to the division of counsel into principal and

subsidiary counsel, the court's question of whether the defendant feels guilty or not guilty, or the waiver of counsel under section 36b of the Code of Criminal Procedure for certain grounds of necessary defence).

Keywords

defence, defence counsel, trial