

# **Diploma thesis Eyewitness identification in the light of the case law of the Czech courts**

## **Abstract**

The diploma thesis deals with the traditional criminalistic institute called eyewitness identification, as it is regulated by the Czech legal regulation in Section 104b of the Act No. 141/1961 Coll., Czech Criminal Procedure Code. The diploma thesis is divided into five parts, which are concentrated into three larger units.

The first part describes the individual attributes of eyewitness identification, such as the subjects involved in the eyewitness recognition, functions, elements and phases of eyewitness recognition, as well as the definition to other so-called special methods of evidence.

The second part compares the Czech legal regulation of eyewitness identification with foreign legal regulations, specifically with Slovak, Italian, Polish and English legal regulation. Within the framework of the comparison it also points to those provisions in foreign legal regulation which, according to the opinion of the author of the thesis, represent more precise and perfect legal regulation.

The third part includes an analysis of the decisions of the Czech courts (both constitutional court and the general courts) concerning eyewitness identification, where these decisions have significantly influenced the Czech criminalistic practice. An example of this would be a decision which clearly stated that the person being identified is obliged to undergo the eyewitness identification in the regime we could call a "passive regime". Another decision that may be mentioned is the question of the sufficient similarity of the fillers to the person being identified.

The fourth part of the diploma thesis describes academic reflections on some selected controversial areas of the regulation of the eyewitness identification, such as the possibility of imposing an injunction on the suspected person not to fundamentally modify his appearance in an attempt to thwart the possibility of performing eyewitness identification.

In the fifth part, the legislative development of the Czech Criminal Procedure Code as a whole is described in brief, together with a focus on the development of the legal regulation of the eyewitness identification itself. Subsequently are analysed the proposals of the recodification group, which had the task of preparing a completely new Criminal Procedure Code that would correspond to the needs of modern Czech criminal procedure. Unfortunately, during the creation of the diploma thesis, it became clear that there was no political consensus on such a procedure and instead it was decided that the development will consist of only partial amendments. Even though the author of the diploma thesis considers the bill reduced to sections to be a good piece of legislation and therefore analyses its individual provisions and expresses his opinion on them. With a few exceptions, he recommends

incorporation of the proposed sections in the amendment considerations. The author himself then presents some of his own amendment proposals beyond the scope of the analysis, which he is convinced would further improve the regulation of the eyewitness identification.

### **Key words**

Eyewitness Identification - Special Method of Evidence - Criminalistic Method of Identification