

Intervention (the In-Person Presence) of the Public Prosecutor During Trial in the Czech Context

Abstract

The public prosecutor, although long over-looked by doctrinal and empirical research, is a vital element that guides the dynamics and the outcome of criminal proceedings. Nevertheless, prosecutorial intervention (the in-person presence) during trial has not yet been theoretically explored or empirically studied. Therefore, we do not know whether prosecutors approach this subject in a principled and consistent manner, with respect to its original purpose.

Based on theoretical premises, I first analyse the elements that influence the role of the public prosecutor, and then I apply these to the Czech criminal justice system. I conclude that, regarding the conceptual role of the Czech prosecutor, which prosecutor attends the court hearing is significant. I then propose a theoretical framework, which reflects both the purpose of the institute of intervention and the specifics of the prosecutor's role during trial.

In the empirical section of this master's thesis, I explore the practices adopted at district prosecutors' offices across the prosecution system. For this purpose, I develop four research questions that are directed both (i) at the level of the public prosecution service and (ii) at the practice maintained at a selected district prosecutor's office.

Looking at the prosecution as a body, I find that the extent and the ways in which this institute is being applied vary importantly across the districts. The head prosecutors who are in charge of deciding which prosecutor will attend trial consider a myriad of factors, but do not apply them in a principled and transparent manner. As a result, the institute of intervention isn't being applied consistently and in accordance with its original purpose.

Examined through the lens of a selected district prosecutor's office, I then conclude that the lead prosecutor is a key actor, as they can significantly influence the maintained practice. Significant change in their approach can be a powerful, if not directly determining, factor leading to a change in the way this legal institute is applied.

This text is one of the first to analyse the subject matter in a comprehensive way and hopes to spark a discussion on the topic at hand, offer solutions to problematic aspects of intervention, and highlight areas that need to be examined more closely.

Key words: Public Prosecutor, Prosecutorial Intervention (the In-Person Presence) During Trial, Organization of the Public Prosecution, Principle of Mutual Substitutability, Role of the Prosecutor During Trial, Empirical Research