

Verification Procedure in Preliminary Proceedings

Abstract

This diploma thesis covers the verification procedure, that is the first of the two phases of the stage of criminal proceedings referred to as preliminary proceedings. The goal of the thesis is to provide a comprehensive explanation of the verification procedure, its course, as well as the selected entities involved in it. In the relevant passages related to the selected institutes of the verification procedure, the author defines the rules resulting from other legal regulations, judicial conclusions or conclusions of the professional public beyond the scope of the legal regulation contained in the Criminal Procedure Code. In this context, the author identifies, in relation to the selected institutes, the partial shortcomings of the current legislation, which are being compared with the legislation contained in the current draft of the new Criminal Procedure Code, which is the unfinished result of the efforts to recodify criminal procedural law.

The first part of this thesis presents an introduction to the topic and discusses the issue of criminal proceedings, its purpose, and its division into individual stages. Within the individual stages of criminal proceedings, the stage of preliminary proceedings, its internal division, and its forms are examined closely.

In the second part the core of this diploma thesis is presented. It defines the verification procedure phase, its purpose, the basic principles applied within it, or, on the contrary, excluded, as well as the selected entities of criminal proceedings appearing in the verification procedure. Furthermore, this section presents an overview of selected institutes related to the start, course, and end of the verification procedure. Due to the relevance of the subject, special emphasis is placed on scent traces and the method of scent identification, considering the (un)reliability of its results. In this section, the author critically evaluates the use of scent identification results as evidence in criminal proceedings.

The third part addresses the topic of summary preliminary proceedings as a distinct type of the verification procedure. Considering the purpose of summary preliminary proceedings, related case law, conclusions of the professional public, and conditions set by law for its execution, the author reflects deeply on when summary preliminary proceedings should be conducted and under what circumstances a standard verification procedure should be initiated. In the pertinent sections, the author compares the general regulation of the verification procedure with the regulation of summary preliminary proceedings.

Although the author does not address the overall conceptual shortcomings in the current legislation, focusing instead on specific shortcomings related to selected aspects of the verification procedure, the identification of the partial shortcomings of the current legislation leads to the conclusion that the recodification of the criminal procedure through the adoption of a new code, a one that reflects the current social development, is inevitable.

Keywords:

Verification procedure, preliminary proceedings, summary preliminary proceedings.