

The problems of judicial expertise in criminal proceedings

Abstract

The diploma thesis focuses on forensic expertise and the current state of the subjects performing expert activities in the Czech Republic. Its aim is to prove empirically that the number of experts is insufficient. The thesis also focuses on possible problems that may arise in connection with the absence of experts, expert offices and expert institutes not only in practice but also in the court proceedings themselves. In order to comprehensively identify the state of expert subjects, the thesis uses analytical, normative and empirical approaches of scientific research using mainly static methods and qualitative interviews.

The outflow of forensic experts is a long-term phenomenon. The current number of experts is the lowest in the last 20 years. At the same time, the list of experts includes fields and sectors in which no expert is registered. Their absence is reflected, for example, in the need for more frequent use of ad hoc experts, which can be problematic. It has a negative impact on the right to a fair trial, in particular on the so-called 'equality of arms', as only public authorities can bring in persons performing one-off expert activities. There is also a problem of undermining the professionalisation of expertise, as ad hoc experts do not have to meet all the conditions that are imposed on persons registered in the list of experts (e.g. passing an entrance examination).

The absence of forensic experts is also reflected in the criminal proceedings themselves. Due to the formation of monopolies, there is no critical discussion among experts. Therefore, miscarriages of justice may occur more frequently as the judge relies on flawed expert reports. The absence of experts also impacts on the speed of proceedings with regard to finding suitable experts and the need for clarification or completion of expert reports in the absence of a person who consistently maintains his or her expertise and knowledge of the law.

A fundamental finding of the thesis is the issue of the double-trackedness of the list of experts. Until the end of 2025, the list will contain persons registered under both the old and the new legislation. If the experts do not re-register at the end of this transitional period, their expert qualifications will expire. Those registered under the old legislation are the vast majority. Based on the information gathered for the purposes of this thesis, the further decline of expert entities threatens to be critical and may pose a major risk to the functioning of the expert profession in the Czech Republic.

Keywords:

Expertise, fair trial, list of experts.