

Abstract

The purpose of my thesis is to provide an analysis of the principle of contradictoriness and its application in criminal proceedings. I have decided to use the term “contradictory proceedings” even though The European Court of Human Rights that developed the concept usually uses the term “adversarial proceedings”. The reason consists in the difference between adversarial proceedings as a special kind of criminal proceedings which is typical for countries within the Anglo-American legal culture and adversarial/contradictory proceedings as a wider concept of proceedings which is based on a respect for the rights of people charged with criminal offences and which can be (and actually is) used both within the Anglo-American legal system and the legal system of the countries in the continental Europe. In this sense, the correct translation into Czech language is “*kontradiktorní řízení*”.

The thesis is composed of six basic chapters. Chapters One and Two provide introduction, presenting some theoretical approaches to what contradictory proceedings could or should be.

Chapter Three is subdivided into three subchapters. First two of them examine the evolution of adversarial and inquisitorial models of criminal proceedings, dealing with their similarities and differences. The third one summarizes why both of the systems can be contradictory.

As the principle of contradictoriness have been inferred from the right of a person charged with a criminal offence to a fair trial regulated in the Article 6 of The European Convention for the Protection of Human Rights and Fundamental Freedoms, chapters Four and Five, the substantial parts of this work, are concentrated on relevant judgments of European Court of Human Rights. The related Czech statutory regulation is described together with the explication of rights based on The Convention.

Particularly, Chapter Four, consisting of three subchapters, firstly focuses on the significance of The Convention and then shifts its attention to the right to a fair trial regulated both in The Convention and in the related Czech legal regulations. Chapter Five, composed of three subchapters as well, concentrates on different principles or rights closely related to the principle of contradictoriness – the principle of equality of arms, the right of the accused to be present at the hearing and the right to examine the witnesses in a contradictory way.

Conclusions are drawn in the Chapter Six. In this last chapter, I summarize what the principle of contradictority is and how important role it plays in criminal proceedings. Chapter Six also includes several suggestions of improvements within the Czech legislation regulating criminal procedure so that the requirements of the principle of contradictority are met in a better way.