Summary of the dissertation

„EVALUATION OF THE EVIDENCE AND THE EVIDENCE MEANS IN THE CRIMINAL PROCEEDINGS“

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The dissertation is the first detailed examination of the evaluation of the evidence in criminal cases under the current Criminal Procedure Code.

Chapter One focuses on some of the existing theories of assessment in the criminal process, its subject, object and aim. The court, the prosecutor and the investigating authorities evaluate the evidence in a criminal case not only because it is necessary for a specific procedural decision, but also because of their statutory duty to prove. The disclosure of objective truth and the substantiation of its content, outlined by the object of proof, is the purpose of the evaluation activity.

Chapter Two presents the reasoned opinion that the theory-based principle (method) for evaluating evidence by internal belief does not fully represent the process of building it. The basic requirements for the assessment of the body of evidence are located in the provisions of the Code of Criminal Procedure (Articles 13, Article 14 and Article 107) and apply equally to the evaluation activity of all procedural bodies. The evaluation of evidence is a mixed activity - the procedural subject is free to assess and at the same time obliged to comply with the requirements of the law and the rules of logic.

The evaluation of the evidence in the criminal process is the intellectual and cognitive activity of the procedural authority, conducted as part of the prove process, in order to reveal the objective truth about the circumstances of the criminal case. The person, through certain mental processes, guided by legal requirements and rules of logic forms an attitude toward the facts, evidence and

evidentiary means in the case for their ability to satisfy at aim. This evidentiary (cognitive) evaluation is both concomitant and conclusive, depending on the tasks of the evaluating entity.

Chapter Three examines the procedurally relevant qualities (relevance, admissibility, reliability and sufficiency) of the evidence presented by the means of evidence and their information value. These qualities of the evidence are checked (evaluated) as interdependent building blocks of a structure – the probative value. It is necessary to distinguish between the two main steps - first, building certainty about the circumstances (facts) of the case based on the assessment of evidence and secondly, decision-making prosess based on own firm conviction, those circumstances and law.

Chapter Four concentrates on the criterion for the correctness or incorrectness of the evidentiary assessment given by the procedural authority. The criterion must be whether its formation complies with the basic requirements of the CCP - objectivity, comprehensiveness and completeness in conducting the investigation, aiming at establishing the objective truth by all possible procedurally acceptable means, according to the requirements of art. 107, para. 5 of the CCP and without adopting the preliminary determination of the power and significance of any of the evidence in view of the particular procedural task.

The final part of the thesis justifies the proposal that the assessment as a stage of proof and the main procedural indicators of the evidence and the evidential means that produce it, need to be explicitly stated by the Criminal Procedure Law. It is necessary to modify the criteria for attestation of prosecutors and investigators so that as a criterion for the correctness of the decisions of the prosecutor and the investigator would not be if another procedural authority has made a different assessment of the evidence the criminal case at a later stage.