

THE PRINCIPLE OF LEGALITY AND OPPORTUNITY IN CRIMINAL PROCEEDINGS

Abstract

This diploma thesis deals with the issue of the principle of legality and opportunity in criminal proceedings. The aim of this thesis was to establish the development of exceptions to the principle of legality. The introductory part focuses on the conceptual definition of both principles, how the view of expert criminal law authors on both principles has changed until current definition.

The section on the definition of both principles is followed by their embedding and form in the criminal codes of the years 1873, 1950, 1956, 1961, up to the current version of the Criminal Procedure Code. On what principles were these criminal codes based and what purpose the principle of legality fulfilled, or whether there were exceptions to this principle in the individual criminal codes.

The principle of legality imposes the duty on the prosecutor to prosecute all crimes which he becomes aware of, so the thesis then focuses on this duty and how the principle of legality is related to other general principles.

The main focus of this thesis is to analyse the individual exceptions to the principle of legality that are enshrined in the current version of the Criminal Procedure Code and those that are based on directly applicable legal regulation of European Union and declared international treaties. First, the legal exceptions are divided into four groups and then the individual institutes are discussed in more detail. Their legal anchoring, conditions for the possibility of their application, as well as their possibly problematic form depending on the foundations of the Criminal Procedure Code and how *de lege ferenda* considerations are conducted.

In the conclusion of this thesis, on the basis of obtained knowledge, it is evaluated how the development of exceptions to the principle of legality has been changed over the years, within the individual criminal codes valid on the Czech territory since 1873, and how, if possible, further developments might follow.

Key words: principle of legality, principle of opportunity, exceptions to the principle of legality, prosecution, public prosecutor