

# **Diversions in criminal proceedings**

## **Abstract**

The topic of the thesis is diversions in criminal proceedings which have been firmly rooted in the Czech legal system for many years but there is still space for their development as the amendment to the Criminal Procedure Code from 2020 has shown. The thesis is devoted to diversions in criminal proceedings in their broader concept, which includes conditional discontinuance of criminal prosecution, settlement, criminal order, conditional postponement of filing a motion for punishment, postponement of the case with simultaneous approval of settlement, agreement on guilt and punishment and finally withdrawal from criminal prosecution in the case of juvenile offenders.

The first and the second part of the thesis is rather theoretical and focuses on the explanation of the very concept of diversions in criminal proceedings, their purpose for criminal proceedings and their significance for the Czech legal system as well as on the systematics of diversions in criminal proceedings for better orientation and explanation for other parts of the thesis.

The third part is then devoted to the history of diversions in criminal proceedings, in particular, it explains by what law and for what purpose the given diversion was included in the Czech legal system and how diversions in criminal proceedings were dealt with within the different stages of the Czech (Czechoslovak) state, and therefore also ideological regimes.

The fourth part focuses on the actual diversions in criminal proceedings. The aim of the thesis is to shed light on how they are used and describe their nature but also to assess whether there is space for improvement of the given diversion in criminal proceedings. I have also included *de lege ferenda* suggestions which I consider appropriate to improve the use of diversion or to simplify their application. This section describes the departures as already specifically enumerated above.

Part Five then turns to diversions in juvenile criminal proceedings. This Part describes the differences from the application of diversions in adult offender criminal proceedings and in particular discusses a special departure used only for juvenile offenders namely the withdrawal from prosecution.

The sixth section then focuses on statistics on the use of diversions in criminal proceedings in 2019-2022 with an emphasis on the amendment to the Criminal Procedure

Code in 2020 which has contributed significantly to the increased interest in the use of plea bargaining.

The seventh part is devoted to the legal regulation of foreign diversions in criminal proceedings and their comparison with the Czech legal order. Slovak and Austrian legislation was selected for this work. This part also contains an evaluation of these regulations and possible de lege ferenda proposals for the Czech regulation of diversions in criminal proceedings.

**Klíčová slova: diversion, conditional discontinuance of criminal prosecution, restorative justice**