

**ROZHODOVACÍ PRAXE APELAČNÍHO SOUDU
A CONSTITUTIO CRIMINALIS JOSEPHINA (1687–1727)**

Disertační práce

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Keywords: court of appeal; legal history; 17th century; criminal law; decision-making practice; sources of law; early modern period

Abstract

This thesis deals with the change in the decision-making practice of the Prague Court of Appeal in criminal cases in connection with the new criminal code *Constitutio Criminalis Josephina* of 1707. The thesis first analyses the current state of research, followed by an analysis of the internal structure of the court, including the mechanisms of selection and recruitment of new councillors. Significant space is also devoted to the relevant legislation for the work of the Court of Appeal and for criminal law in general in the period from the late 16th century, when the Koldin's Municipal Code was published, to the early 18th century, when *Josephina* was published.

The focus of the work is an analysis of the thousands of decisions handed down by the Court of Appeal in criminal cases, in three areas: offences against life, property crime and sexual offences. The basic source were the *orthels bücher*, books kept at the Court of Appeal, from which decisions (sentences) were recorded, especially in criminal cases - thousands of entries in Czech, German and sometimes also Latin. In each of the above-mentioned areas of law, two or three offences were selected, for which an analysis of the legal situation (their anchoring in criminal legislation) was first carried out, followed by the collection and analysis of individual decisions in these cases. The decisions were collected over a period of twenty years prior to the publication of *Josephine* and twenty years thereafter; in sum, this is a forty-year series of decisions, on which the changes that have occurred over time are clearly visible. The starting point, then, is a quantitative analyse of the state of the law and the state of judicial practice.

The analyses carried out show that the Criminal Code of Joseph I was of considerable importance and was to some extent a turning point in the development of criminal justice. There was a reduction in dehumanizing punishments and expulsion penalties, which replaced forced labour, and at the same time there was a straightening out of the hitherto divergent penal policy in relation to men and women. This process can be described as a *rationalisation* of the criminal process, which was made possible by the publication of the new Code of Criminal Procedure and reflected the interests of the monarch, the owners of the manors and early modern society as a whole.