

# **Protective treatment and preventive detention**

## **Abstract**

In this thesis I deal with the institutes of protective treatment and preventive detention. Since mental illnesses have accompanied mankind since time immemorial, working with people who suffer from it and have committed a crime or otherwise criminal act in relation to it will always be relevant. In the overall focus of the thesis, I draw attention to current regulation, case law, and the often contradictory intended purpose of the legislation and its realistic impact in application practice. These are criminal sanctions, but they have one important element in contrast to punishments, namely that there is an attempt to have a therapeutic effect on the inmate. Given that both institutes interfere with fundamental human rights, I felt it to be necessary to give a cursory glance at foreign legislation. The whole work is supported by various case law which gives a more concrete view of the statutory application. The first chapter is devoted to protective measures in general, which are compared with the second criminal sanction, namely sentences. This chapter also addresses the issue of expert opinions. This chapter is loosely followed by a chapter on protective treatment itself, which provides a closer look at the imposition, enforcement and types of protective treatment in our country. In this section I also give attention to the psychiatric literature. The focus here is also on patients and their mental illnesses for which they end up in protective treatment or preventive detention. The following chapters focus on the application practice, firstly, I deal with protective treatment in the Bohnice Psychiatric Hospital and then I give a summary of the shortcomings that the Ombudsman sees. The necessity of providing a practical view of the institution thus serves to understand whether the institute works in practice as intended by the legislator. The last two chapters of the thesis are devoted to preventive detention, which is relatively new in this country, although it has been used in neighbouring Germany since the 1930s. For this reason, in the last chapter, I give an overview of the German regulation, which can serve not only as inspiration but can also be used to draw critical conclusions as to whether our regulation is sufficient compared to that of another country. I conclude with a summary of the findings mentioned in the previous chapters and a personal perspective on the issue.