

Sentencing in practice

Abstract

This rigorous thesis is dedicated to principles applied during imposing a sentence on natural persons charged with a criminal offense. It focuses on the area of judicial discretion within legal limits for imposing particular sentences. It examines the purpose of sentences, especially with regard to its preventive (educational) as well as repressive function in relation to the offender. The thesis deals with the factors that a judge should take into account when considering the type of sentence and penalty with respect to both the preventive and repressive purpose of the sentence. The purposes are expanded on in the parts concerning imprisonment, financial penalty and expulsion.

The thesis consists of eight chapters. The first one provides a general introduction to the principles of imposing sentences and the system of sentences, including the issue of a sentence purpose. In the second chapter, the author examines the application of principles of imposing sentences in relation to one offender. In this part, the author concentrates on cumulative sentences, in particular alternative ones, i.e. those with a predominantly educational function. Likewise, the author considers the effect of this type of sentences on correcting the behaviour of the offender who commits criminal offenses repeatedly, and also the limits of courts in case of considering the offender's criminal record when imposing other sentences.

In the third chapter, the author looks into applying principles of imposing sentences in simplified proceedings. The aim is to evaluate the specifics of this type of procedure related to the application of these principles stemming from its difference and related to certain specifics that concern prosecuted suspects. Apart from that, the author briefly addresses the development of the legislation of a simplified proceeding since 1.1. 1970 in order to gain a better understanding of the implementation of this institute in the Czech legal order.

In chapters five to eight, the author deals with specific types of sentences, i.e. imprisonment, financial penalty and expulsion. Drawing on his experience as a judge, he aimed to point to the possibility of incorrect judicial discretion, which can lead to an inappropriately chosen sentence or a cumulative one. As regards imprisonment, the author examined the institute of parole and house arrest as means of "mitigating" an imposed sentence, depending on how the sentence purpose has been fulfilled so far, the purpose being correcting the behaviour of the offender, and also depending on the offender's ability to live an upright life after the end of the imprisonment.

Keywords: criminal punishment, expulsion, fine, imprisonment, purpose of punishment