

Abstract

The topic of this diploma thesis is the settlement in criminal proceedings, one of diversions, or also alternatives to typical course and outcome of criminal proceedings. The settlement was incorporated into the Czech Criminal Procedure Code by the amendment n. 152/1995 Sb. with the effect on 1st September 1995.

The settlement is an institute of criminal procedure law originating in restorative justice principles and its goal is to restore affected relationship between the defendant and the victim. Then proceedings of the settlement should not serve only to compensate the victim, as is sometimes perceived by the public, but also to clarify causes of the conflict during the active participation of both parties and to assume personal responsibility for the crime committed which may have significant effects in terms of criminal prevention. Despite the fact that the settlement is a form of diversion beneficial to the defendant (it leads to cessation of prosecution), victim (it is faster to obtain the compensation) and society (prevention from committing other crimes, relieving courts in favour of complex and serious crimes), it is rarely used in practice.

In the first chapter I generally deal with the concept of diversions in criminal proceedings, their fundamental characteristics and common features together with individual forms of diversion constituent of Czech Criminal Procedure Code. The core of this thesis is the second chapter, dedicated to the settlement. At the beginning of this chapter I have tried to approach the nature and essence of settlement, mainly through its major functions, the concept of restorative justice and historical development of this institute in the Czech criminal proceedings. The next part is dedicated to the statutory framework of settlement in detail with regard to the current judicature of Supreme Court of the Czech Republic and to the institute of the Probation and Mediation Service whose skilled staff play an important role in the process of negotiation. To conclude the chapter I present court and the public prosecutor's office statistics concerning the application of settlement in practice and attempt to analyse fundamental problems of current legislature as well as to put forward proposals *de lege ferenda* that could contribute to more frequent use of settlement which is certainly desirable. The third chapter is about a comparison of the settlement and *la médiation pénale*, a similar institute embodied in French Criminal

Procedure Code. In the end I sum up the most important findings of the thesis together with my view on current legal framework of settlement including considerations *de lege ferenda*.