The conditional discontinuation of criminal prosecution

Abstract

This thesis examines the institute of conditional discontinuation of criminal prosecution in Czech criminal law. The aim of the thesis is to analyze the legal regulation of this institute, its historical development, the conditions for its application, and its practical use in judicial practice. Emphasis is placed on legislative development, case law, and comparisons with similar institutes in foreign legal systems, particularly within continental and Anglo-Saxon law.

The first part of the thesis focuses on the theoretical foundations of conditional discontinuation of criminal prosecution, its purpose, and its significance within criminal policy. A detailed analysis is conducted on how this institute fulfills the fundamental principles of criminal law. The analysis also includes a comparison with other forms of diversions in criminal proceedings, such as settlement (narovnání) or plea agreements. Furthermore, the thesis reflects on the broader context of restorative justice and seeks to answer whether the practical application of conditional discontinuation of criminal prosecution in the Czech legal environment is carried out effectively.

The second part of the thesis provides a detailed examination of the legal regulation of conditional discontinuation of criminal prosecution in Czech law. It analyzes the specific conditions that must be met for its application, including the severity of the offense, the role of the public prosecutor and the court in deciding whether to use this diversion, and the impact of the defendant's confession on the decision-making process. A significant portion of this chapter is also dedicated to the issues of damage compensation and the restitution of unjust enrichment as key factors influencing the possibility of applying this institute.

The third part of the thesis focuses on the practical application of the institute, analyzing the decision-making activities of public prosecutors and courts, the factors influencing these decisions, and the overall effectiveness of this measure. It also includes an overview of the most common reasons for granting or rejecting conditional discontinuation of criminal prosecution. Additionally, a detailed statistical study on the frequency of the use of this institute in Czech criminal proceedings in recent years is presented.

The fourth part of the thesis presents a comparative analysis of conditional discontinuation of criminal prosecution in selected legal systems, including Germany, Austria, France, the United Kingdom, the United States, and Slovakia. The thesis focuses on differences in the approach to

conditional discontinuation of criminal prosecution, the conditions for its application, and its impact on both defendants and victims. Special attention is given to possible legislative inspirations and the suitability of adopting certain foreign models into the Czech legal environment.

The final part of the thesis discusses potential de lege ferenda proposals that could contribute to increasing the effectiveness of this institute and its broader applicability in Czech law. The thesis analyzes the possibility of extending the applicability of conditional discontinuation of criminal prosecution to legal entities, tightening conditions for specific criminal offenses, and introducing new control mechanisms to ensure compliance with the conditions set for this diversion. Furthermore, the thesis reflects on the principle of the presumption of innocence and its compatibility with the use of this institute.

Key words

Conditional discontinuation of criminal prosecution, diversions in criminal proceedings, criminal policy, restorative justice, criminal law