

Abstrakt a klíčová slova v anglickém jazyce

Damaged and diversions in criminal proceedings

Abstract

This rigorous thesis analyses the issue of the position of the injured party in the proceedings on diversions. The current legislation provides for a total of five types of diversion, which are the criminal order, the agreement on guilt and punishment, conditional discontinuance of criminal prosecution, settlement and withdrawal from criminal prosecution in juvenile proceedings. Each of these types of diversion allows the offence under consideration to be dealt with in a specific manner which differs in several respects from standard criminal proceedings. The application of these institutes is intended to achieve a quicker and more cost-effective handling of the criminal case in question. Due to the comprehensiveness of the topic of the damage's position in diversion proceedings, this thesis focuses only on the institute of conditional discontinuance of criminal prosecution and the institute of settlement. According to the findings from the current practice, these types of diversions are typical representatives of the concept of restorative justice, whose principles and goals are inspired by diversion in criminal proceedings.

The first chapter of this thesis is devoted to the person injured by the unlawful conduct of the accused, i.e. the damaged. In the introduction of this chapter, it is first defined what kind of subject can be considered as a person injured by a criminal offence. It then discusses the position of the injured person in criminal proceedings, including a definition of their rights, in particular the right to be informed and the right to be represented in criminal proceedings. Last but not least, this chapter also briefly discusses previous legislation on criminal procedure which has had an impact on the status of the damaged in criminal proceedings. The chapter concludes by defining the difference between the concepts of damaged and injured party. Here the important differences that distinguish these concepts from each other are discussed.

The second chapter of the rigorous thesis focuses on the concept of restorative justice from which the departures are based. This section deals with the definition of restorative justice, its principles and objectives. At the same time, relevant legislation at the international or supranational level dealing with the concept of restorative justice is mentioned. Furthermore, this chapter deals with the central concept of this thesis, which is diversion in criminal proceedings. This concept is defined here, including its characteristics and objectives. At the same time, this chapter also mentions important documents that deal with the issue of diversion in criminal

proceedings. This chapter then concludes with a classification of diversions in criminal proceedings.

The third part of this thesis is devoted to my chosen deviation in criminal proceedings, which is the institution of conditional suspension of criminal prosecution. In the introduction of this chapter, this institute is first characterised and then all its legal conditions are defined, which are both defined at a general level and discussed in detail in this chapter. The next part of this thesis focuses on the position of the injured party in the proceedings in which this type of diversion is applied. At the same time, the issue related to the use of this institute in practice is also mentioned here, including the indication of positive and negative aspects. The chapter concludes with a discussion of the legal regulation of this type of diversion in foreign states, namely Slovakia and Austria.

The fourth part of the thesis deals with another type of diversion, which is the institution of settlement. As in the previous chapter, this institute is defined here, including the legal conditions for the use of this institute. Due to the fact that this type of diversion has the most common elements with the concept of restorative justice, these common features are discussed here in more detail. The next part of this chapter is devoted to the position of the injured party in the procedure for approval of the settlement. This section first defines the persons who may act as aggrieved persons in settlement approval proceedings. Next, this passage of the thesis is devoted to the participation of the injured party in the settlement proceedings. Last but not least, this chapter also deals with the use of the institution of settlement in practice, including an indication of the positive and negative aspects of this type of diversion. The conclusion of the fourth chapter focuses on the comparison of the institute of settlement with foreign legislation, specifically with the institute of conciliation enshrined in Slovakia.

The last chapter of this thesis focuses on *de lege ferenda* proposals aimed at improving the legal regulation of these institutes as well as at making them more usable in practice. The main purpose of this chapter is to highlight the negative aspects of these institutes and to suggest possible options that could contribute to greater applicability of these institutes as well as to strengthening the position of injured parties in these proceedings.

Klíčová slova: damaged, suspended prosecution, settlement