

# **Decision-making of the supervising prosecutor in pre-trial proceedings**

## **Abstract**

This thesis deals with the decision-making activities of the supervising prosecutor in the pre-trial proceedings. Specifically, the thesis focuses on the withdrawal of criminal prosecution, conditional withdrawal of criminal prosecution and settlement. The aim of the thesis is to analyse these instruments and to point out some problematic aspects that occur and are argued by the professional public. The thesis also includes a comparison with the German legislation and the draft of the new Criminal Procedure Code. The thesis also concludes by offering possible solutions to the controversial issues analysed. The work is based mainly on the current Czech legislation, case law of the Czech courts and on expert articles and other literature.

The first chapter is devoted to pre-trial proceedings as such. This chapter explains the purpose of pre-trial proceedings, their functions and individual stages. The second chapter deals with the position of the public prosecutor in pre-trial proceedings. Here, the exercise of supervision and oversight, their differences and relationship are presented. Furthermore, this chapter also deals with the cases where the public prosecutor is conducting the investigation himself. The last part of this chapter is then devoted to the principle of legality and the principle of opportunism.

The third chapter of this thesis is devoted to the individual instruments, i.e. the withdrawal of criminal prosecution, conditional withdrawal of criminal prosecution and settlement. For each of these instruments, we will find a brief description, their development and, most importantly, a section dealing with the problematic aspects associated with the said instrument.

The fourth chapter offers a foreign comparison of the selected instruments, which are compared with their equivalents in German law. This is followed by chapter five, which analyses the draft of the new Criminal Procedure Code and compares it with the current legislation. The last chapter summarises the *de lege ferenda* proposals and own assessment of the current and proposed legislation.

**Key words:** withdrawal of criminal prosecution, conditional withdrawal of criminal prosecution, settlement, public prosecutor.