ABSTRACT

The question of free will, determinants of free action and responsibility is one of the most thrilling questions of the mankind. Moreover, the free will problem is closely connected to regulation and hindsight judgement of man behaviour so the law is concerned with the problem as well. However, a legal concept of free will is missing in the Czech law or legal theory. The author is therefore concerned with the fact that there is no satisfactory legal definition of free will even though legal responsibility is impliedly based on free action and free will. The Czech law defines just the freedom of action in negative terms, i.e. as an action of will free from circumstances limiting or precluding legal responsibility.

The aim of the thesis is to summarize knowledge of social psychology regarding free will and assess whether the Czech law does impose the right standard of freedom of will in comparison to scientific experiments and findings. Furthermore, there are philosophical theories of free will introduced in the thesis and consequently these theories are questioned and examined for the purpose of defining legal concept of free will.

At the end of the psychological part of the thesis one comes to the conclusion that the social determinants such as peer pressure, conformity and obedience to authority are capable of having a significant impact on human free action and therefore they should be more reflected in the Czech legal system.

The main contribution of the philosophical part of the thesis is to help the law to formulate a defendable, coherent and well-reasoned legal concept of free will. The ideal legal concept of free will would consider the will to be free if there was no circumstance limiting or precluding the control of the agent over his action. However, this presumption needs to be corrected in the phase of punishing by realisation that the free will is probably just an illusion.

Key words: free will, free action, agent, legal responsibility, determinants, circumstances limiting or precluding free action