

Summary

Originally Anglo-Saxon criminal process concept in the form of plea bargaining also constituting the topic of this thesis has become a phenomena within a number of civil law countries in the last decades. This alternative way of solving criminal cases consists simply of the possibility for an agreement between the prosecutor and accused through plea bargaining if the accused, under certain conditions, admits committing the offense and agrees with the proposed punishment. When looking at foreign but also domestic legal literature we may, without any exaggeration, consider plea bargaining as a controversial institute. On one side are the proponents with their strongest argument being the acceleration and simplification of the criminal proceedings. However, on the other side, their opponents refer mainly to the flagrant inconsistency of this institute with the fundamental principles of continental criminal proceedings. In the first part of this thesis the author examines the agreements in criminal proceedings in general, focusing on their origin, historical development and various basic forms in which the agreements in criminal proceedings are presented in the world. Special section is devoted to plea bargaining regulation in the Czech Republic where this institute was introduced by an Amendment to the Criminal Procedure Code No. 193/2012 Sb., effective from September 1st 2012. Similar institution – summary procedure - was introduced in Switzerland along with the new Swiss Code of Criminal Procedure effective since January 1st 2011. The author critically examines both institutes separately, then compares them to each other and highlights their shortcomings and weaknesses. The aim of this work is to lay down arguments in favor of and against agreements in criminal proceedings and attempt to give an answer to two basic questions: Does plea bargaining have a place in the Czech and Swiss legal system and moreover will this institute bring higher degree of justice to these countries?