Abstract

The presented thesis deals with the alternative punishment of house arrest, which became the part of the system of criminal sanctions when the new Penal Code came into force on 1st January 2010. The purpose of this thesis is to summarize current valid and effective legislation of this institute, to describe its weaknesses, to evaluate the current judicial experience in imposing the punishment of house arrest and to suggest possible improvements of the current legislation considering the final conclusions.

The introductory part of this thesis is divided into two chapters focusing on approaching the basic and the most important terms, especially the term of punishment and its purpose, alternative punishment, restorative justice and its principles. Related subjects such as criminal theory, the principles of sentencing and criminal system are explained to put the issue in a broader context and to clarify them. The first part of this thesis is concluded with the interpretations of the development of alternative punishment in our legislation and the foundations of the new codification of substantive criminal law.

The second part of this thesis is focused in detail on the issue of the legislation of the punishment of house arrest. It is divided into four chapters, whose goal is a detailed analysis of valid and effective legislation and subsequent evaluation of its impact on courts in imposing of the punishment of house arrest in practice. The third chapter deals with the punishment of house arrest in general, stating the foundations of enacting the punishment of house arrest in our legislation and its continuity to the regulation of this institute in the Act No. 117/1852 ñ.z., briefly describing its principles and mentioning the main problematic aspects of its imposing. The fourth chapter focuses in detail on the legislation of the punishment of house arrest in the Penal Code, then in the Law on Juvenile Justice and in the Criminal Procedure Code, while after the summary of current valid and effective legislation and justification of the amendments made, critically contemplates on the effectiveness and suitability of each provision suggesting possible future changes to these provisions. It points out especially the problem of carrying out the supervising of executing the punishment of house arrest, which is currently carrying out wholly by the checks of probation officers without the possibility of electronic monitoring of the convicts, and compares the suitability and effectiveness of secondary punishment of house arrest, which was originally legitimizized as a so-called replacement punishment and currently consists of the relative conversion of house arrest into an imprisonment. The goal of the fifth chapter is to describe the practice of law courts in imposing a punishment of house arrest, referring to the reasons which prevent
the use of this punishment to a greater extent. The sixth chapter deals with the comparison of our legislation to the foreign legislation of house arrest focusing on a detailed comparison of the Czech and Slovak legislation.

The final seventh chapter of this thesis deals with evaluation of the current substantive and procedural legislation of the punishment of house arrest and its deficits in order to propose suggestions de lege ferenda.