

Abstract

This master thesis concerns itself with the alternative procedural measure, the institute of conditional discontinuance of criminal prosecution and some of its relating issues. Conditional discontinuance of criminal prosecution is a type of diversion. It is employed by public prosecutors, or courts, to suspend the further criminal prosecution of those who are accused of committing less serious criminal offence. This is carried on the condition that the accused individual is presented with the opportunity to observe the behavioural rules of proper life throughout the probationary period. Should there be proof of the individual's observation of the rules, the decision regarding his/her case becomes final. However, should the accused fail to observe such rules during the probationary period, then the public prosecutor, or the court, for that matter, rule in favour of furthering his/her prosecution (albeit this rarely takes place in practice).

Conditional discontinuance of criminal prosecution is a type of diversion designed to reduce the burden on law enforcement authorities. It is based on the idea of restorative justice with an emphasis on the victim and his/her interests. The primary objective is to bring the accused to the victim and compensate the damages. Before the ruling, it is not necessary for the accused to make full compensation of the caused damages; it is sufficient if the accused enters into an agreement with the victim on the compensation of damages or takes other appropriate measures for compensation. The core of the principle of restorative justice lies in the fact that the commission of a crime should not be perceived as a conflict between the offender and the state (particularly when the main purpose is to punish the criminal most often by imprisonment), but as a conflict between the offender and the victim whose social relationship was broken by the commission of a criminal offense. Law enforcement authorities should aim the use of conditional discontinuance of criminal prosecution toward this objective; and, at the same time, to try to speed up the criminal proceedings by making a decision on the conditional discontinuance of criminal prosecution at an early stage of the proceedings.

This master thesis consists of six parts. The first part named "Restorative justice" introduces the whole issue and the principles on which the diversions are based on; while the second part deals with the diversions themselves. The third part, which comprises the main

subject, delves into the conditional discontinuance of criminal prosecution in detail. The fourth part compares this institute to the settlement, and the fifth part briefly describes a Slovak conception of conditional discontinuance of criminal prosecution. In the final part I evaluate the current Czech legislation relating to this institute and I suggest some possible changes *de lege ferenda*.