

English summary of Rigorosum thesis

NE BIS IN IDEM

The main goal of this thesis is to define and present effects of one of the major criminal proceedings principles – „ne bis in idem“. The principle, which implies, that accused person can not be prosecuted again for the same criminal offence. Namely application in judicial decisions of different courts (internal as well as international) is to be touched at most by this thesis.

This thesis at first place explain the essence and importance of the principle ne bis in idem as the fundamental rule of criminal proceeding. This thesis also does not forget to make analyses of relevant legal rules applicable in the legal system of the Czech republic and also relevant rules contained in international treaties dealing with basic human rights and other applicable international treaties valid namely within European Union in respect of ne bis in idem principle.

In the Czech republic namely the Act No. 141/1961 Coll., on criminal proceeding and Declaration of basic rights are analysed re ne bis in idem principle and international aspect of the ne bis in idem principle is searched namely in European Convention on human rights and its Protocol No. 7. But other treaties such as International Covenant on Civil and Political Rights are also not left behind. Legal theoretical background of ne bis in idem principle is followed in many chapters of this thesis.

This thesis is strongly focused on description and analyses of judicial decisions of Supreme Court of the Czech republic and some judicial decisions of European court for human rights. Substantial part is devoted to decision of the Czech Supreme Court No. 11 Tdo 738/2003, which changed the existing perspective of Czech courts re ne bis idem principle in relation to cases where criminal proceeding taken against person started after such person was penalized in the previous administrative proceeding. This decision has caused great controversy in legal expert community and many publications of different criminal legal experts occurred. Some conclusions of this controversy is also described in this thesis.

Final chapter of this thesis deals with impacts of Act. No. 265/2001 Coll. This act has given new procedural definition to the term of continuation of the criminal offence. This amendment had substantial impact on the existing way of handling with individual offences within the continuation crimes. Subsequent impacts on ne bis in idem principle are analysed.