

Résumé

The presented thesis deals with the new legal institute of criminal procedural law, the “*agreement on guilt and punishment*”. The aim of the Czech legislator, when constructing the Czech version of the otherwise traditionally Anglo-Saxon concept of conciliation proceedings, was mainly to simplify and speed up the criminal trial, because according to his/her conclusion the present legislation does not use every opportunity to ensure the accused the full right to a speedy and fair trial. Despite the certainly legitimate need to ensure criminal proceedings in a way so as to ensure “quick” justice, the question is, considering the still ongoing debate of not only professionals, whether an agreement on guilt and punishment is the right tool to deliver this. The agreement on guilt and punishment is generally an Anglo-Saxon concept, it is thus a product of legal culture different in principle from the domestic one, and for it to be able to work effectively in such different conditions, it was necessary to somewhat overlook the traditional idea of a criminal trial as we know it in the standard form. Before its codification the proponents of this legal institute argued that the conciliation proceedings will support the activity of procedural parties, simplify the proceedings, in particular regarding the evidence, that the criminal proceedings will therefore be economical and at the same time effective, and last but not least, that the adoption of the agreement on guilt and punishment is a reflection of the society’s transformation to the society of *dialogue*. The opponents of the implementation of agreements on guilt and punishment, on the other hand, argued that particularly the question of guilt and punishment cannot be the subject matter of any agreement, that the credibility of the confession, with regard to a possible calculus, can be quite doubtful, or also that thanks to the “agreed” punishment its ethical dimension is lost, and finally, that the application of this institute leads to a massive collision with a variety of traditional principles of criminal law, such as the principle of material truth, unfettered evaluation of evidence, the possibility of public and oral evidence and naturalness. This work, however, solves the raised issue, as well as a number of other aspects, especially in terms of the potential barriers of effective applications in the form of conditions of admissibility to negotiate an agreement on guilt and punishment. The outcome of the thesis are then, in response to the raised problems (especially in the special part of the thesis), considerations leading to, for example, the question of whether an agreement on guilt and punishment has its place in a Czech criminal process? And if so, if the conditions for its application are set properly or even, whether the whole concept of the agreement on guilt and punishment shouldn’t be based on principles, such as restorative justice etc.

