

Resumé in english

The submitted rigorous thesis deals with problems of penal order as specified in the current legal regulation of § 314e and following, Act No. 141/1961 Sb., Criminal Procedure Code. In general, the penal order represents a legal institute, which is used by bodies responsible for criminal proceedings, mostly by court, to offer, upon their findings, interested parties to solve a criminal case of low seriousness without having public hearings before a court. The proposal is submitted in writing and contains at least a verdict of guilty and sanction verdict. If the interested parties agree with the submitted proposal, expressly or tacitly, the proposal will be legally binding. The penal order may be also considered a type of decision in criminal proceedings, which has its dual nature. At first, it is a procedural offer made to an accused, and if it is accepted, then the penal order transforms itself into a decision on merits.

The thesis is divided into four chapters:

In the first chapter the emphasis is put on an introduction of the penal order in a broader context with aim to subscribe its purpose and I try to subsume it under such terms as judicial decision, special type of proceedings and diversion.

The second chapter is dedicated to the historical development of legal regulation of the penal order in its modern form, ie. from the middle of 19th century until the early 90s of 20th century.

The dominant part of the thesis is represented by the third chapter dealing with the current legislation of the penal order in the Czech Republic. In this chapter are discussed in close detail the conditions for issuance of the penal order, reflection of the fundamental principles in this kind of decision, and overlooked in this regard is not even the case-law of the European Court of Human Rights. Further it focuses on the content requirements of the penal order and on the specific procedures that happen prior to the issuance of the criminal order and deviate from the standard criminal procedure. Addressed is also the issue of sanctioning through the penal order with special focus on the coherence of the sanctioning with legal regulation of the substantive criminal law, especially with the fundamental principles and with the specific conditions for imposing particular sanctions. Furthermore I address the specific questions of delivering the penal order and concerning the institute of objection. A special section is dedicated to the injured person, whose position in the penal order proceedings is weaker, when compared to its position in the standard criminal proceedings. Finally, the very last part of the chapter analyzes the possibility to redress an effective penal order by extraordinary legal remedies.

The fourth part of the work analyzes the legislation concerning penal order in the Federal Republic of Germany, where the modern type of this decision-making has the longest historical tradition.