

# **The proportionality of punishment to the wealth of an offender**

## **Abstract**

This thesis focuses on a contentious issue: Should a fine be related to the wealth of an offender? The first chapter presents various philosophical answers to this question, with most of the attention being directed to the division of fines to regulatory and penal by O'Malley. The contribution of law and economics and other theories is emphasized as well.

The second chapter considers the jurisprudence of the Constitutional, Supreme Administrative and Supreme Court of the Czech Republic in relation to the principle of prohibition of fine's liquidation effect on the offender. Based on this analysis, a simplified cheatsheet is presented for government officials to better identify when a fine might have liquidation effect.

Fine in the sphere of criminal law is the subject of third chapter. After discussing the theoretical foundations of day-fine concept, its application at two Czech district courts is analyzed. The results suggest that the day-fine concept exists only on paper. To find out why the concept does not work, I have analyzed all relevant legislation of European states relating to the day-fine concept. Based on this comparative analysis I suggest what should be done to improve current legislation in the Czech Republic.

My last chapter is devoted to fines used in the administrative law. Based primarily on the division by O'Malley, I suggest when and how we should take into account the wealth of an offender. In the end of the chapter a new 'sentencing-guidelines-like' approach taken by the Ministry of Justice when punishing insolvency trustees is described and suggested as an inspiration.

This thesis thus not only analysis, how well are fines used in the criminal and administrative law in the Czech Republic, but it also suggests specific ways how it might be made better.

**Klíčová slova:** equality, pecuniary punishment, day fine, fine, unit fine