

The Criminal Liability of the Organizer of a Criminal Offence

Abstract

This thesis focuses on one of the modalities of participation - on organizing. The provisions of Section 24 (1) a) of Act No. 40/2009 Coll. of the Criminal Code mentions organizing in the first place, indicating that it is the most serious form of participation. Organizing is also a form of participation which is quite specific to the Czech legal order. Foreign legal regulations often consider the Czech organizer to be the offender. The aim of this thesis was to thoroughly discuss the organizer of a criminal offence, to evaluate the reason for the frequent criticism of his inclusion among the participants of the crime and to suggest how should this legal institute be adapted.

The thesis is divided into seven chapters, the first of which is the introduction and the final is the conclusion. The first part of this thesis deals with the theoretical foundations of participation. It briefly describes the possible approaches to the offender and the fundamentals of the unitary and the differentiated system, including their advantages and disadvantages. The meaningfulness of a differentiated system depends on the successful separation of the key persons involved in the criminal act from the less important ones. The following chapter focuses on the material elements of organizing, especially on its subjective and objective elements, and confirms the frequent claim of legal doctrine on the organizer's dominance over the criminal offence. Incorporating the organizer among mere participants is therefore denying the meaning of a differentiated system. Thus even more questions concerning its dependence on the direct perpetrator of the crime arise. The dependence of the organizer is therefore the topic of the fourth chapter of this thesis. Firstly, the chapter deals generally with accesory of participation, in order to focus then more narrowly on specific problems of the accesory of the organizer and to propose their potential solutions. In my opinion, *de lege ferenda*, it would be a good idea to design organizing as the most serious form of committing a criminal offence that is superior to both offenders and accomplices. The fifth chapter consists of an empirical study of organizing, created for the purposes of this thesis, which illustrates the frequency of offenses committed in the form of organizing, the composition of offenses committed by the organizers and the penalties imposed on the organizers. The last chapter briefly summarizes the Belgian system of participation and how it conceives the person which is the organizer under Czech law. The last chapter is also compares the Belgian and Czech legislation on issues of participation and organizing.

Klíčová slova: Organizer, participation, accessory