

Public procurement-related crimes (in Czech republic)

(summary of the dissertation)

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In his paper, the author focuses on the area of public procurement-related crimes in the Czech Republic. As there has been no comprehensive coverage on the subject so far, the paper's primary ambition is to sum up the current state of knowledge while critically considering particular resources (mainly legislation and practice of courts), overlapping significantly into the area of daily practice of detecting such crimes and gathering evidence.

In the first chapter, the author provides definitions for key terms and examines the term *procurement* from the perspectives of its legal definition as well as its interpretation based on court practice. Furthermore, the chapter specifies what is to be understood as procurement-related crime, placing this type of crime within the broader context of economic crime. At the same time, it offers answers to the related criminological questions and presents statistical data provided by the Police of the Czech Republic and the Czech Ministry of Interior.

The second chapter gives the reader a historical overview of this area of law mainly from the perspective of criminal law. Covering the timeframe of 1918 (when the previous legislation was adopted) until the present day, it comments on the development of the legislation from the early years up to the 1960's Criminal Code (Act. no. 140/1961 Sb.) which had been in force only a short time ago.

The third chapter makes an inevitable excursus into the area of public procurement. The author focuses primarily on selected terms and processes related to the subjects of the crimes as defined in Section 248 Subsection 2 item 2 and Sections 256 and 257 of the Criminal Code (Act. no. 40/2009 Sb.). Legal tools and institutes enhancing transparency of procedures within the public procurement including the Contract Register Act are described. In view of the *ultima ratio* approach, the text also comments on the liability for malpractice in submitting tenders pursuant to the Public Procurement Act no. 134/2016 Sb.

Forming the fundamental part of the paper, the fourth and fifth chapter is dedicated to a detailed theoretical and practical analysis of the bodies of the current procurement-related crimes as set by the current Criminal Code (Act no. 40/2009 Sb.) including related court practice and a brief overview of the situation in selected neighbouring jurisdictions (Slovakia, Austria). Among other topics, the author further comments on the abuse of insolvency proposals in procurement proceedings.

Finally, the sixth chapter analyses the institutes of procedural law which may contribute to the detection of organized public procurement-related crime as well as to gathering necessary evidence. The author has picked several legal tools such as legal interception pursuant to Section 88 CPC, special covert investigation techniques pursuant to Sections 158b through 158e CPC (sham transfer, surveillance, the use of an undercover agent) and temporary postponement of criminal prosecution pursuant to Sections 159c through 159d CPC and the State's evidence pursuant to Section 175a CPC. Having put the latter two to criticism, the author makes a brief excursus into international legislation, finally adding his suggestions on possible future improvements (*de lege ferenda*).