Abstract

This paper examines the criminal aspects of corruption in the private sector. Corruption in the private sector may be understood in a narrow sense as corruption committed in relation to business activities or it can be defined more broadly as all corrupt behaviour which is not related to public authorities and their activities. The aim of this paper is to analyse the legal framework of private sector corruption in the Czech Republic and to propose some useful changes in the Czech legislation which may lead to better prosecution and punishment of private sector corruption.

The author provides a brief introduction into the topic in the first chapter of this paper. The second chapter firstly deals with the terminology connected with private sector corruption and corruption in general. The author then analyses the criminological aspects of private sector corruption and its negative consequences. She emphasizes the potential impact of private sector corruption on the economic situation of individuals and societies as well as national economies. The conclusion of the second chapter includes an analysis of international obligations of the Czech Republic regarding the punishment of private sector corruption (mainly obligations arising from the membership of the United Nations, the Council of Europe and the European Union).

In the third chapter, the author examines the criminal legislation on private sector corruption as stipulated by Act No. 40/2009 Coll. of the Criminal Code of the Czech Republic. The author mostly analyses bribery crimes (Accepting Bribes – paragraph 331, Bribery - paragraph 332 and Indirect Corruption – paragraph 333 of the Criminal Code). Moreover, the author explores the basic legal terminology related to bribery offences such as the definition of a bribe, the procurement of matters of general interest and the definition of a business activity. This chapter also includes an analysis of a number of other crimes that have their foundations in corrupt behaviour, e.g. Breach of Regulations on Rules of Economic Competition, paragraph 248 of the Criminal Code. In the conclusion of the chapter, the author identifies several proposals for changes in the current legislation.

The aim of the fourth chapter is to scrutinize corporate criminal liability for bribery offences, especially the concept of attributing a crime committed by a natural person to a legal person. The author emphasizes the influence of Act No. 183/2016 Coll. which amended Act 418/2011 Coll. on Corporate Criminal Liability. This amendment made crucial changes in the attribution of criminal liability to a legal person with regards to bribery offences.
The fifth and final chapter deals with the control of private sector corruption both by repressive instruments of law and preventive measures mostly included in soft law and individual compliance programs. Repressive measures include the sanctioning of corruption by criminal law, measures of criminal proceedings stipulated by the Criminal Procedure Code (e.g. the institute of a crown witness which is in the Czech legislation defined as a cooperating accused person, the use of an agent or the interception of telecommunications in criminal proceedings) and other legal measures (e.g. the so-called reliability test). Preventive measures are mostly focused on compliance programs at the individual level because the Czech Republic has not yet adopted any nationwide legal action that would facilitate the introduction of compliance programs for business organizations as such.

The conclusion of the paper lists all recommendations de lege ferenda which the author considers necessary for improving the effectiveness of fighting private sector corruption.

**Key words:** private sector corruption, bribery, control of corruption