

Culpability in Criminal Law

Abstract

The topic of the thesis is culpability in criminal law. Culpability is understood as a state of offender's mind in relation to circumstances which establish an offence. Culpability is a fundamental institute of criminal law because there is no offence without fault. The thesis is divided into eight parts including the introduction and the conclusion.

Culpability is a mandatory attribute of a subjective aspect of a criminal offence which, together with other elements, creates a body of crime. Therefore the remaining conditions of criminal liability are described in the first part of the thesis, followed by different attributes of a subjective aspect of an offence called a motive and an aim. The second part of the thesis is dedicated to the substance of culpability including the principle of liability for fault. Furthermore components of culpability, its content, intensity and construction of culpability in bodies of crimes are discussed as well as other possible concepts of culpability whereas the concept of culpability which is based on two forms applies in Czech Republic. The second part concludes with the issue of evidence of culpability and explanation about intention as a necessary prerequisite of indirect perpetration, complicity and participation. The third part of the thesis deals with particular liability for fault of legal persons which was formulated by the Act on Criminal Liability of Legal Persons. The fourth part of the thesis includes historical development of culpability and it is divided according to the criminal codes which used to be in force in the territory of Czech Republic since foundation of Czechoslovakia until the current Criminal Code was passed. Individual forms of culpability, both fundamental and derivative, are introduced in detail by the fifth part of the thesis, i.e. the forms of direct and indirect intention and of conscious and unconscious negligence. Special attention is paid to differences between these forms whereas the most problematic remains distinction of indirect intention and conscious negligence. The fifth part concludes with the matter of gross negligence. In the final part of the thesis the issue of emptying of a subjective aspect which is related especially to the offence of Unauthorised Obtaining, Forgery and Alteration of Means of Payment is considered.