

Title of the Diploma Thesis:

Criminal Liability of Legal Persons

Abstract:

Through this diploma thesis, the author presents a comprehensive summary of the phenomenon of criminal liability of legal persons, to the individual contexts of which presents his considerations. He discusses this phenomenon from many points of view, which correspond to the structure of his diploma thesis, as it forms its individual parts. These aspects are the legal theoretical background of this issue; the historical development of the phenomenon, including common law and civil law culture; legislative developments in the Czech Republic; positivist analysis of the applicable substantive legislation contained in Act No. 418/2011 Coll., On Criminal Liability of Legal Entities and Proceedings against them; a comparative analysis of the substantive legislation of the Czech and Slovak Republic and the subsequent summarization of the application of this new form of liability in the practice of the Czech courts.

The stated goal of this diploma thesis is a comprehensive acquaintance with relevant aspects of this phenomenon, whereas focus of this diploma thesis is, in addition to the analysis of the valid substantive legislation of the Czech Republic in this area, especially on the above-mentioned comparative analysis of this legislation with the corresponding substantive legislation of the Slovak Republic, and also the summarization of the application of this institute in the practice of the Czech courts.

While studying the relevant literature and sources of law, the author comes up with several interesting findings, especially concerning the last two accentuated parts of the diploma thesis.

The comparative analysis showed that although the legislation of the Slovak Republic is essentially the same as the legislation in the Czech Republic, when it also enshrines the true, derived, concurrent, independent and subjective criminal liability of legal persons, the individual parameters of both legislations show some differences. Among the most important differences identified by the author in the Slovak legislation compared to the Czech legislation are, in particular, the narrower personal scope of the law due to the broader definition of substantive exceptions; significantly smaller extent of criminalization; freer determination of the group of persons whose actions can be attributed to a legal person; the absence

of an institute of general exculpation from legal liability; the transfer of criminal liability conditional on the dissolution of a legal person; and the monism of criminal sanctions.

The examination of relevant statistics concerning criminal proceedings against legal persons in the period of 2012-2019 also revealed number of important findings. The author considers as the most important findings consistently increasing number of initiated criminal prosecutions, which positively correlates with the number of indictments filed and the number of legally convicted legal persons; developments in the structure of penalties imposed, from the imposition of a sentence of the publication of a judgment to the imposition of a penalty of dissolution of a legal person, while the predominant imposition of penalty of prohibition of activity and financial penalty; the almost unchanged structure of offenders, where commercial corporations completely dominating as offenders in each reference year of the period in question; and consistently the most frequent conviction for the criminal offense of non-payment of tax, social security contributions and similar mandatory payments pursuant to Section 241, followed by fraud pursuant to Section 209 of Act No. 40/2009 Coll., the Criminal Code.

In conclusion, the author states that the institute of criminal liability of legal persons has undoubtedly established not only in the civil law culture as a whole, but especially in the legal order of the Czech Republic, while expressing conviction about the future growing importance of this form of liability.

Key words:

Criminal Liability of Legal Persons, Imputability, Construction of Criminal Liability