

Criminal liability of Corporations

Abstract

Criminal liability of corporations is still a current topic of Czech legal theory and practice. In order to properly grasp this new institute within the Czech legal system, it is necessary to understand the very nature and basics of legal entities, their formation and further existence. Historically, legal entities have been perceived differently and a relatively complex legal-philosophical path has led to the inference of any liability for wrongdoings or torts. Although the criminal liability of corporations is not unknown to continental law, its decline during the 18th and 19th centuries has led to the disappearance of the legal continuity. That is why it may seem today that the introduction of direct criminal liability of corporations is something completely new and absolutely unknown to countries of continental legal tradition.

In this work, the author presents a number of historical arguments as to why this is not the case and demonstrates that this institute was known throughout the legal systems throughout Europe. For a better understanding of the whole issue, the interpretation is guided from the very philosophical and legal-historical foundations of corporate theories, through their later development and finally to application by recent law.

The core of the research is formed by the analysis of the Act No. 418/2011 Coll. on the criminal liability of legal persons and proceedings against them, as amended (hereinafter referred to as the "TOPO Act"), with an emphasis on the analysis of guaranteed constitutional rights and their application, including an extensive statistical section summarizing the current application practice in figures. It will also be clear from the detailed descriptions of the individual institutes of the TOPO Act that the problems of the legislator's imperfect work and the choice of non-traditional approaches to the whole codification of the criminal liability of corporations pose problems. Examples include the negative enumeration of offenses that a legal entity cannot commit, or the total unpreparedness of procedural rules of criminal law that do not reflect the introduction of direct criminal liability of corporations.

At the end of the thesis, the author analyzed foreign legislation with an emphasis on Asian countries, whose legal regulation of criminal liability of corporations has so far been wrongly neglected by the Czech academic literature.