

The indirect perpetration

Abstract

The indirect perpetration consists in the commission of a crime through another person who is not criminally responsible. In case of indirect perpetration, such a person is being misused by the indirect perpetrator as a ‚living instrument‘ to actually carry out the criminal act. Without the institution of indirect perpetration, it would not be possible to punish an indirect perpetrator in some cases. In dualistic systems, this legal institution seems necessary as it fills the gap generated by the principle of accessory participation and helps to overcome certain difficulties that arise from the application of criminal law in dualistic systems. Indirect perpetration is hence often indicated as a supplement to the principle of accessory participation.

The aim of this diploma thesis is a detailed description of the indirect perpetration. This is also accomplished through the analysis of its historical development and the comparison of selected foreign legal systems.

The work is divided into three thematic parts. The first part is devoted to the historical development of the indirect perpetration. Individual subchapters are also supplemented by relevant case law pertaining to the topic.

The second part of the diploma thesis is devoted to the current concept of indirect perpetration in Czech criminal law. Individual cases that can be found in the criminal code are analyzed.

The third part of the diploma thesis is devoted to the analysis of indirect perpetration in selected foreign legal systems. Indirect perpetration can not be found in all foreign criminal law systems. This is mainly due to different conceptions of participation. This includes, for example, the Austrian criminal law, which is based on the one-tier principle. Thus, the institute of indirect perpetration is not necessary for this legal regulation, unlike in dualistic systems, which also include the Czech system. Finally, the most important ideas and results of this work are summarized.

Keywords

indirect perpetration, participation, living instrument