

# **Criminal offence of subsidy fraud under Section 212 of the Criminal Code and damaging the financial interests of the EU (Section 260 of the Criminal Code)**

## **Abstract**

This thesis deals with the criminal offence of subsidy fraud under Section 212 of the Criminal Code and the offence of damage to the financial interests of the European Union under Section 260 of the Criminal Code. This topic is particularly relevant, especially in the context of subsidy fraud cases, which have received considerable media attention.

In the first three chapters of this thesis, a comprehensive analysis of the elements of both these offences is carried out, first the common elements in the first chapter and then the specific elements in the following chapters. The scope of these offences is explained, their historical development is outlined and the related legislative framework is presented including comparisons with foreign legislation. For a better understanding, general modalities of conduct that may fulfil the elements of these offences, including the relevant legal qualification, are listed in tables. In the case of the criminal offence of damaging the financial interests of the European Union, the role of the institutions involved in the investigation and prosecution is also presented. Chapter 4 is based on an analysis of selected case law which explains the interrelationship between Section 212(1) and 212(2) of the Criminal Code and Section 260(1) and 260(2) of the Criminal Code. The fifth chapter briefly summarizes the opinion of the Criminal Chamber of the Supreme Court, which resolved the question of the possibility of the concurrence of subsidy fraud and damaging the financial interests of the EU. The sixth chapter presents the current approach to the issue of the amount of damage. The seventh chapter deals with the application of the principle of subsidiarity of criminal repression and extraordinary reduction of the term of imprisonment in practice in connection with the prosecution of these criminal offences, including several examples.

The predominant methods used in this thesis are description, analysis and induction. Great emphasis is placed on recent domestic case law, which is used to put the more theoretical passages of the thesis in a practical context. The text contains the author's view on the issue, especially in the parts where ambiguities in interpretation are described, as well as several *de lege ferenda* considerations.

In the conclusion, a brief assessment of the current state of the relevant legislation is made and some of the premises for the future fight against this type of crime are highlighted.

**Key words:** Subsidy fraud, Damaging the financial interests of the EU, Misuse of public funds