

Organized Crime in the International Context

Abstract

This thesis examines the influence of supranational law (i.e. international and European law) on the Czech criminal regulation of participation in an organized criminal group. The primary objective of this thesis is to determine to what extent is this regulation in compliance with the requirements imposed upon the Czech Republic by the UN Convention against Transnational Organized Crime (UNTOC) and the Framework Decision 2008/841/JHA on the fight against transnational organized crime. The secondary objective is to clarify whether these requirements are appropriate in terms of harmonization across different states. In order to achieve these objectives, the thesis uses a detailed analysis of the Czech, European and international law, whereupon it compares them.

The thesis finds that the Czech criminal regulation of participation in an organized criminal group is not compliant with the transnational legal requirements due to its excessively strict requirements as to the structure of such a group. The main reason for this is the feature of internal organizational structure contained in the definition of an organized criminal group which, in the light of the case law, requires, *inter alia*, the structure to be based hierarchically. This requirement is in direct contradiction with the obligations of international and European law. One of the reasons for this discrepancy might as well be the form and content of the requirements imposed upon the Czech legislator. In this respect, the harmonization efforts are undermined by the form of the legal instrument used in the defining of the requirements for the member states by the European Union which is the Framework Decision. The ambiguity as to the legal enforceability and binding nature of this instrument has allowed the Czech Republic to avoid the obligation to adjust the definition of an organized criminal group to match the definition of a criminal organization in the Framework Decision 2008/841/JHA on the fight against transnational organized crime.

The thesis contributes to a closer understanding of the relationship between national and supranational law, using the example of organized crime, while at the same time it provides suggestions for potential legislative changes that could help to harmonize this area more effectively.