

**UNIVERZITA KARLOVA V PRAZE**

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# **DISERTAČNÍ PRÁCE**

TRESTNĚPRÁVNÍ NÁSTROJE BOJE S ORGANIZOVANÝM ZLOČINEM

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## English summary

This dissertation thesis addresses the issue of organised crime and the selected primarily criminal-law tools intended for the fight against organised crime. The thesis consists of four parts divided into individual chapters and sections.

Having mainly a criminological focus, the introductory part defines organised crime and groups aimed at commission of such crime. It analyses certain definitions available from the Czech and foreign literature, compares them and discusses whether it is possible to define organised crime uniformly and universally. Afterwards it specifies the basic features of organised criminal groups, provides their characteristics and includes a brief excursion into selected criminal organisations. The first part also describes the historical development of certain criminal groups up to now and examines, in particular, the causes and the circumstances of the organised crime expansion in the Czech Republic after 1989, its main activities in our country and other issues. It refers to the legislation which was very insufficient at that time, the non-readiness of the security units and certain other factors that facilitated the entry of the organised crime into the Czech environment. The first part is concluded with a list and a brief characteristics of legislative, institutional and political tools intended for the fight with organised crime.

The second part of the thesis examines, in particular, the issues of the Czech substantive criminal law and its relation to organised crime. It contains a list of the provisions of the Czech Criminal Code relating to organised crime and, above all, an analysis of the legal definition of an organised criminal group provided in section 129 of Act No. 40/2009 of the Collection of Laws of the Czech Republic (Coll.), Criminal Code, and a criminal penalty for participation in such a group. It compares the former legal regulation under Act No. 140/1961 Coll. in effect in the Czech Republic until 31 December 2009, and suggests some possibilities of alteration of the legal regulation which has currently been in effect. It describes the differences between an *organised group* and an *organised criminal group* as the Czech legal order differentiates them and sanctions them differently. The thesis also pays attention to certain examples from the Czech judicial practice in prosecution of organised crime, and points out at some of its problematic aspects. A large room is devoted to the sanctions imposed for organised crime

under the Czech Criminal Code and, in particular, to the considerations on the possibilities of the property sanctions for organised crime that are beyond the scope of the criminal law. In this connection the thesis contains a number of theoretical and practical considerations on the institute of confiscation of the property of unclear origin, and a reference to certain foreign legal regulations that use similar tools. A rather detailed analysis is made in relation to the Slovak legal regulation which, although not put into practice due to its unconstitutional features, certainly was a remarkable attempt.

The third part refers to certain procedural tools of the fight with organised crime, as known in the Czech Criminal Procedure Code, i.e. Act No. 141/1961 Coll. However, the key issue of this part is the analysis of the institute of the material witness as the tool used in certain foreign legal orders. This institute was enacted in a considerably modified form with effect from 1 January 2010 in the Czech legal order as a “*collaborative accused*”. In this connection we may expect a number of practical and theoretical issues arising from application of this institute. A deeper thought is given, in particular, to the limits of the privileges to be provided to the material witness for his assistance in investigation of organised crime, and to their clear warranty. Another procedural institute not yet regulated in the Czech law, or more precisely, regulated in a rather reduced form, discussed in this part is the institute of *agent-provocateur*. In this connection the thesis contains certain legal-philosophical considerations on the conformity of this institute with the generally accepted role of the state in the modern world as the main impediment for enactment of a possibility of provoking an individual’s decision to commit a criminal offence by a state power body.

The final part is focused on the organised crime on the international scale and points out at certain basic milestones of the efforts of the international community in this field. It mentions the role of the United Nations and certain other international organisations, and contains a brief analysis of selected international treaties made under their auspices. The thesis also includes familiarization with certain efforts of the European Communities to protect the single European area from organised crime. In this connection the activities of the European Union are focused in particular on money laundering and prevention of corruption. The end of the part is focused on the criminal responsibility of corporations as the tool intended for the fight against organised crime.

The conclusion of the dissertation thesis contains the overall résumé, foreign-language summary and a list of the literature used.

- 1) organized crime – organizovaný zločin
- 2) collaborative accused – spolupracující obviněný
- 3) organised criminal group – organizovaná zločinecká skupina
- 4) organised group – organizovaná skupina