

The crime of fraud and special kinds of fraud

ABSTRACT

When choosing a subject matter for my diploma thesis I focused on what might be useful even from the point of view of my future practice. In this context, fraud of all different kinds is something we can meet with on daily basis and that is the reason why I decided to study in detail and treat this particular phenomenon.

The entire thesis has been divided by me into six chapters with each of them splitting further into sub-chapters. I wished to treat the subject matter in most comprehensive way and so the thesis contains both historical and descriptive aspects as well as methodological ones, with an emphasis on the use and interpretation applied by courts and specific institutions.

Chapter One stands for an introduction into the subject matter seen from a historical perspective. The first sub-chapter summarizes re-codification works of penal law from 1989 up to the present time while the subsequent sub-chapters deal with the very term of criminal offence of fraud in respect of its evolution and major amendments.

The essence of Chapter Two consists of an analysis of legal attributes of the criminal offence of fraud pursuant to Art. 209, Penal Code (Art. 250, former Penal Code). The individual sub-chapters present general characteristics, definition of terms such as error and its usage, mislead and concealment of ultimate facts or enrichment of oneself or somebody else. Since a countless number of different modes of committing fraud may be involved in the wording of the provision relating to criminal offence of fraud, the next sub-chapter reveals also the methodology of fraud investigation, common ways of committing fraud, common clues, various investigation settings and last but not least particularities in terms of investigation initiations.

Chapter Three describes an insurance fraud pursuant to Art. 210, Penal Code (Art. 250a, former Penal Code). In order to grasp the subject matter properly, the terms insurance industry and contract of insurance are explained first, followed by definition of basic legal attributes of this specific criminal offence, differentiation of perpetrators, prevention of insurance fraud from the point of view of insurance companies and also study of

methods used while investigating insurance fraud because in a way, they are quite specific, too.

Outline of Chapter Four contains, same as two precedent ones, an analysis of basic legal attributes forming the perpetrator's typology; judicature of the Supreme Court is stated and listed in particular sub-chapters for purposes of illustration.

Chapter Five is limited in scope because it is dedicated to fraud relative to grant allocation according to Art. 211, Penal Code, that was introduced as separate merits into the Czech penal law only by the new Penal Code N° 40/2009, Collection. In general, this case merits structure is similar to the one of credit fraud it had been previously part of in the Act N° 140/1961, Collection. For that reason the judicature applicable to this criminal offence is only available in the extent of the above mentioned criminal offence.

The Czech Republic's adhesion to the European Union and development of modern technologies bring about not only positive but negative effects, too. Criminal acts are being committed across national borders and that underlines the importance of international cooperation when identifying and persecuting the perpetrators who are not only attacking the interests of individuals any more but they are in fact undermining the interests of entire communities. The last chapter is therefore reserved for protection of financial interests of the European Union, current level of harmonization of criminal law within the EU and some important documents that have retained their crucial significance in terms of further evolution of efforts targeted at unification of legal norms applicable to the fight against any fraud dealing, across the member states.

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