The crime of theft under s. 205 of the Criminal Code

Theft is a traditional offence against a property and it is the most frequent offence in Czech Republic. A statistic of the thefts committed in 2011 compared to the other offences against a property is attached to this dissertation work.

Every criminal offence in Czech Criminal law must be established by a statute. Theft is regulated in section 205 of the Criminal Code. Theft is unique for its duality of body of an offence. Subsection 1 regulates the basic form of the theft, whilst subsection 2 regulates recidivism. The following subsections 3-5 deal with circumstances in which more severe sanctions might be applied.

The basic element of theft is wrongfulness. Only a wrongful act might be regarded as a crime. The wrongfulness might be presumed from various statutes and branches of law other than Criminal law (e.g. Civil law, Constitutional law).

The other element of a theft is its body of an offence. It consists of an object, objective side, subject and subjective side. The object of the theft is value against which the offender’s action is aimed. Theft’s object is proprietary right of an owner. Objective side generally consists of a conduct, result and causality. The objective side of the theft according to subsection 1 is “appropriation of thing belonging to another by taking possession of it”. The objective side of recidivism in subsection 2 is “appropriation of thing belonging to another whilst the appropriator was convicted or punished in the last 3 years for like offence”. The subject of the theft includes requirements on an offender. Everyone is capable of committing a theft. Everyone means any person of sound mind who has attained 15 years of age (however persons who have not attained an age of majority must have sufficient level of reasoning and morals). Subjective side of a theft is intentional culpability. Theft is an intentional offence which cannot be committed by negligence.

As I had an opportunity to study criminal law in Ireland, I would like to briefly mention the regulation of theft in Irish jurisdiction. Irish theft is regulated in section 4 of the Criminal Justice (Theft and fraud offences) Act 2001. “A person who dishonestly appropriates a property without consent of its owner with the intention of depriving the owner of it shall be held liable for a theft.” However, a statute is not an exclusive legal source of Irish theft, common law is still applied and it serves as an interpretation authority in the Irish courts to this day. The biggest difference between the Czech and Irish law of theft is that the Irish theft doesn’t encompass only the traditional offence of larceny as the Czech theft does. The Irish theft consists of actions which would be deemed as an embezzlement or damaging property in
Czech Criminal law. The body of an offence is therefore much wider and includes actions which would be judged as a various crimes in Czech jurisdiction.