

Criminal Aspects of Pornography

Summary

The main purpose of this thesis is to introduce the phenomenon of pornography in terms of criminal law, to point out flaws in the current relevant criminal legislation in the Czech Republic and to propose a possible solution in a form of potential legislative changes. The thesis is composed of five chapters. The first chapter deals with definition issue of vague legal term of “pornography” and other related terms (“child pornography”, “hardcore pornography”). Furthermore, it briefly describes attitudes to the term of pornography in the legal systems of Slovakia and the United States of America and examines the issue of so called virtual pornography. The second chapter provides an overview of the related most important international instruments such as anti-pornography treaties concluded in the early 20th century as well as modern United Nations and Council of Europe treaties and European Union legal documents aiming at combat sexual exploitation of children and child pornography. The third chapter outlines historical development of the Czechoslovak and Czech criminal regulation of pornography in the former Austro-Hungarian criminal codes, recodification draft bills from the era of the First Czechoslovak Republic, socialist criminal codes of 1950 and 1961 and later amendments passed after 1989. The fourth chapter examines the current relevant criminal legislation in the Czech Republic and provides detailed analysis of the facts of the crimes under s. 191 to s. 193a of the Czech Criminal Code: dissemination of pornography, production and other treatment of child pornography, abuse of a child to pornography production and attending pornographic performances. The chapter includes a description of the aggravated circumstances and concentrates on contemporary Czech case law regarding term publicly accessible computer network and its relation to e-mail. The last part of this chapter focuses on the relation of the aforesaid crimes to other provisions of the Czech Criminal Code and some other laws of the Czech legal system. The final chapter contains a summary of all *de lege ferenda* considerations, recommendations and proposals, including a hypothetical statutory text of relevant provisions of the Czech Criminal code. Obviously, the existing criminal legal regulation of pornography in the Czech Republic is not flawless and does not deal with some important related issues. Taking into account the increasing problem of child pornography and international commitments of the Czech Republic, it can only be recommended that legislators pay more attention to the area of criminal regulation in future.