

# **ABSTRACT**

## **Error in criminal law**

The aim of this thesis is a comprehensive analysis of the problems of error in criminal law, finding weaknesses in the current legislation and outline appropriate solution. By error any inconsistency of someone's imagination with reality is meant. Knowing the offender's error is a very significant for legal theory, in case of relevant criminal errors it is a very serious consequence for the subjective aspect of the crime. In the Czech criminal law, which is based on the principle of liability for fault, it is an issue, without which this concept was not complete and whose meaning would be fading away. This thesis classifies the problems of error in terms of current legislation, legal doctrine and relevant case law .

The first chapter of this thesis is devoted to an explanation of the term error itself, its theoretical inclusion in the context of criminal law and explains its implications. It focuses on the concept of fault, especially its importance and its components, the two faces of it, which are intent and negligence, or on the concept of guilt. Knowing these two concepts is essential for the next orientation in the issue of errors, and indeed in criminal law at all.

In the second chapter the work focuses on the historical evolution of criminal law concept of error of the offender in our country. My comparison begins in 1918, when the Czechoslovakia became independent, and is divided into separate sections always according to the valid Criminal Code until 2009, when the currently valid Criminal Code was accepted.

The third chapter focuses on the error itself, particularly on the offender's error, which is divided into basic categories. The overall feature of these different criteria for dividing the error is their importance for solving it, whether it is divided by law or legal theory. In this section examples are used to illustrate different types of error.

The fourth chapter examines in detail the different types of perpetrator's error, their consequences and their solutions. In several cases I point out the ambiguity of the law or inconsistency of legal theoretics and I try using a variety of interpretation and argumentation approaches to find a way to deal with these theoretical discrepancies that may have a major impact on the recognition of a possible crime affected by such an error, because ambiguity is harmful for law as a whole, especially the criminal one.

The fifth chapter focuses on differences in dealing with crimes committed by juvenile offenders, stricken by an error, against adults offenders, as it brought by specific legislation.

The sixth chapter reflects the relatively new theoretical concept of criminal law in the Czech Republic, which is the criminal liability of legal persons. Its theoretical solution is very necessary because it is now virtually the only support for the knowledge of the law in this area, because the written law doesn't deal with this issue and case law still doesn't exist. Firstly, the work focuses on explaining the causes and origins of criminal liability of legal persons in our legal system, then it focuses on the construction of the concept of fault and its attribution. I focus on the important, still rarely considered, questions of this issue, especially if an error can be even considered, and what would the consequences be if it does.

Chapter seven focuses on the case where the error is not present on the side of the offender, but on the side of the injured. It shows the ways and cases, where the perpetrator causes injured's error, and the Criminal Code criminalizes such a behaviour.

Finally the eighth chapter provides a comparison approach to an error on the side of the offender with our neighboring Slovak Republic. With this European country we share many years of history and, until recently, our legal systems were united.