

Abstract in English

The aim of this work is to describe the situation and problems of the institutes of law that concern seizure of objects and assets in general in the valid penal law regulations in the Czech Republic. It deals with both theoretical and practical aspects of this legal issue and even gives a description of its historical development. Thus, the whole work focuses on the analysis of applicability of the individual procedural institutes while seizing specific objects. It compares the civil law regulations in which the terms objects, liabilities and other components of assets of persons are defined, with the penal law regulations, which do not always respect the civil law. The author comments on the individual ways of seizure and on the necessity to differentiate between the reasons for the seizure because application of these procedural institutes is always connected with subsequent implementation of the seizure so that the purpose of the criminal proceedings is fulfilled. Objects are seized due to various reasons; seized objects serve as evidence, there is the reparative function of the seized items, which means their return to the injured party, as well as deprivation of the proceeds of criminal activity.

The text of the work is divided into several chapters in which the author comments on all currently valid and effective institutes of seizure and on their connection with other legal regulations. After a brief introduction, the second chapter deals with the concept of seizure of an object and the editing obligation of persons under the jurisdiction of the Czech Republic is discussed. The following third chapter describes the historical development of seizures and the current legal regulations concerning seizures, from the past until the last changes to the valid and effective legal regulations. They were changed frequently and significantly and it was not always to their benefit.

Chapter number four discusses the constitutional rules and international obligations of the Czech Republic concerning seizure of objects. The connection of seizure and protection of basic human rights and freedoms is referred to as well.

In chapter number five the author describes the current legal regulation of seizures in detail, how it is regulated in the basic procedural regulation, which is the act N. 141/1961 Sb., on criminal judicial procedure. In case of the individual procedural institutes regulating the seizure, it deals with the statutory definition of these institutes as well as with practical problems

and ambiguities during their application. The special subchapters thus analyse the institutes of law: securing the claim of the injured (§ 47 et seq.), rendition and seizure of an object (§ 78 et seq.), securing instruments and proceeds from criminal activity and their substitute value and their subsequent handling (§ 79a et seq.), interception and opening of consignment and consignment substitution (§ 86 et seq.), enforcement of pecuniary punishment (§ 344a et seq.), enforcement of forfeiture of property (§ 347 et seq.) and enforcement of seizure of part of property (§ 358 et seq.).

In the following, sixth chapter, the author describes the questions concerning seizure of property regulated by the auxiliary legal regulations, which, being the special regulations, regulate certain individual parts of the penal law. It is namely the act N. 418/2011 Sb., on criminal liability of legal persons and on proceedings held against them, the act N. 104/2013 Sb., on international judicial cooperation in criminal matters and the act N. 218/2003 Sb., on liability of juveniles for illegal acts and on juvenile courts and on amendment to some acts.

Chapter number seven focuses on the interpretation of the act N. 279/2003 Sb., on enforcement of seizure of assets and items in criminal proceedings and on amendment to some acts, including the analysis of the issue of administration of seized assets in practice.

The following chapter, chapter number eight, is a brief excursion to the law of Great Britain, Germany and Poland focusing on the regulation of seizure of objects in these countries and on positive and negative differences between the procedural rules applied in these countries and in the Czech Republic.

Ninth chapter is the conclusion of the whole work in which the author deals with the ascertained problems and questions concerning seizure of assets. He also proposes specific changes to the legislation and modifications of procedures taken by the investigative, adjudicating and prosecuting bodies. The author finds several problems while applying the currently effective legal norms in practice: during procuring evidence and thereby ascertaining the *corpus delicti*, during deprivation of the proceeds of crimes or during seizure of assets for the possible reparation of claims of the injured. The fact that under the Czech law the seizure, as an institute of law, does not have the effect *erga omnes*, but specific acts taken during seizure of assets are directed only towards a person whose assets are seized, is perceived as the main problem. The fragmentation of the legal regulation is also criticised. Great emphasis is put on

issues connected with the overlap of the current penal law regulation of seizure of assets and objects with the civil law and insolvency regulations. The legislator does not sufficiently solve the cases of concurrence of the insolvency proceedings and the needs for seizure of objects and assets especially to prevent drawing off the proceeds from criminal activity or damages, other than proprietary harm or rendition of unjust enrichment to the injured party during the criminal proceedings. Even the setting of the matrimonial property law causes the same interpretation problems, where the institute of community property of spouses often prevents implementation of the purpose of the seizure in the criminal proceedings. The author perceives the change in legislation as the only solution emphasising both the position of the injured and the state in the above proceedings.