

Criminal law aspects of police provocation

Abstract in English

This diploma thesis deals with definition of possibly the most exact limit between legal entry of prosecuting authorities to the factual act of the crime and inadmissible police provocation. Following this determination of the limits, which is the main aim of the thesis, it gives the tightest definition of police provocation, it solves possible criminal law consequences of police provocation and it brings a brief analysis of admissibility of further forms of behaviour that can result in an intention of other person to commit a crime. For this purpose the thesis is divided into 4 chapters.

The first chapter deals with the problem of police provocation in a broader context of fight against organized crime. It is highlighted the necessity of really careful consideration of the tools and the amount of their usage when fighting organized crime so that their deployment means tolerable rate of interference with human rights and freedoms.

The second chapter follows, which deals with general introduction of tools used to fight not only organized crime. These are operational and investigative acitons and supportive operational and investigative actions, using which there most often comes to police provocation. In case of operational and investigative action of the agent and supportive operational and investigative action of the informant suggestions *de lege ferenda* are made to introduce possible improvement of their law regulation.

The aim of the first two parts of the third chapter is to analyse partial case law of European Court of Human Rights and Constitutional Court of Czech Republic and their approach to police provocation. And based on that the third chapter comes up with the definiton of police provocation. The third part is based on the results of the previous two parts and determines the criminal law consequences arising from police provocation.

The fourth chapter of the thesis is devoted to assessment of admissibility of particular forms of behaviour, which can lead to crime provoking. For that purpose treatment of a private person in relation to a perpetrator is being analysed and that in two modifications – based on police instructions and unbeknown to police. Two subchapters lead us to foreign understanding of methods close to provocation that serve to perpetrator detection. The aim is to consider their possible usage in context of Czech law. The last subchapter introduces the test of reliability as a special GIBS tool to prove resistance of particular security corps members and employees to their possible infringement. Based on the standpoint of Supreme Court of Czech Republic is concluded

if the results of the test of reliability can be used as an evidence in criminal proceedings. An outline of necessity to use means of criminal proceeding instead of test of reliability is also given.

Key words:

police provocation, operational and investigative activity, agent, informant, private person's provocation to a crime, Mr. Big, test of reliability