

## **Abstract:**

### **The crime of habitual drunkenness under s. 360 of the Criminal Code**

The purpose of this thesis could be summarized as a complex analysis of a crime of habitual drunkenness under s. 360 of the Czech Criminal Code. The described crime (sometimes named ‘*rauschdelikt*’) represents one of possible approaches to a problematic question: How to hold a perpetrator who has committed a crime in mental state of insanity (irresponsibility), in which he had induced himself by use of alcohol, narcotics or similar substances, liable? As far as conformity with elementary principles of criminal law (such as ‘*nullum crimen sine culpa*’) is concerned, the crime of habitual drunkenness seems to be the most suitable answer to the previous question.

The crime of ‘*rauschdelikt*’ is an old legal institute that is specific in many aspects. I have chosen the topic within the context of recent recodification of substantive criminal law. A previous regulation of this crime was often criticised for many reasons (e.g. improper title, too stringent penal sanction etc.). Thus we can now review if those criticised deficiencies have been set right.

The thesis is divided into ten chapters. Chapter One is introductory and defines basic terminology used in the thesis, such as ‘insanity’, ‘culpability’ and so on. The third subchapter places the crime of habitual drunkenness into a wider scope of criminal acts committed in state of intoxication. Chapter Two provides information on history of legal regulations of the crime of habitual drunkenness from oldest roots to present. Chapter Three describes various conceptions of ‘*rauschdelikt*’. Each of the conceptions leads to different conclusions and has straight impact on perpetrator’s liability.

A focus of the thesis can be found in Chapter Four which describes a current positive legal regulation of the crime of habitual drunkenness under s. 360 of the Criminal Code. Chapter Four is divided into five subchapters which characterize the facts of the crime. What is specific to this criminal act is that *mens rea* refers only to the infliction of insanity, not committing a crime in state of insanity.

Chapter Five is addressed to a sanction and its inadequacy. Chapter Six briefly reports on a near institute ‘*actio libera in causa*’ which also holds a perpetrator, who has committed a

crime in mental state of insanity, liable, but this once by course of general principles. Chapters Seven and Eight explore particular questions addressed to ‘participation in the crime’ and ‘concurrence of crimes’. Chapter Nine compares Czech legal regulation of *rauschdelikt* with selected foreign regulations. The last chapter concludes with several suggestions *de lege ferenda*.

The conclusion of the thesis focuses on comparison of the crime according to previous legislation with the regulation of the new Criminal Code which has come into force on 1<sup>st</sup> January 2010 and enunciates that many deficiencies, although previously criticised, have not been reformed.