

# **The crime of defamation under Art. 184 Criminal Code**

## **Abstract**

This thesis deals with the wording and the role of the crime of defamation in criminal law. Since it is a minor offense due to the objective aspect of a criminal offense and the type of object it protects, and it has repeatedly been considered for removal from the Criminal Code for the last 15 years, the author posits whether the existing factual basis of defamation in criminal law is dispensable.

The first chapter of this thesis deals with the fundamental right of preservation of human dignity, personal honor, and good reputation. The introduction and differentiation of the enumerated institutes are followed by a summary of the historical development of penal regulation regarding preservation of honor. It aims to record how the definition of the crime of defamation developed starting from the beginning of the First Republic to the present day, and at the same time to explore the most important reasons that led the legislators to retain the crime of defamation in the Criminal Code after the Velvet Revolution.

In the central part of the thesis are following two chapters where the author deals with the current wording of the preservation of dignity and reputation in the Czech legal order and detailed characteristics of the factual basis of the crime of defamation. The author points out the shortcomings in the private law and public law wording that has emerged in practice and seeks to identify possible legal solutions. Finally, the author concludes that private law protection on its own, without the use of institutes and tools typical of public law in the case of defamation, does not provide sufficient guarantee of a fair protection of the personality right of honor and reputation, and it is, therefore, advisable to preserve the crime of defamation as part as part of the Criminal Code. The author dismisses any concerns regarding possible misuse of the factual basis of defamation by injured parties and regarding over-burdening of law enforcement authorities by referencing the available statistical data of the Police Presidium of the Czech Republic, which, in her opinion, are evidence to the contrary.

At the end of the thesis, the author critically contemplates suggestions concerning the possible future protection of honor in penal law and the introduction of new procedural institutes of the penal law, the application of which should be taken into account especially in cases of minor offenses. The author believes that strengthening the position of a victim by new institutes, such as a private action, a secondary indictment or the initiation of criminal

prosecution upon the suggestion of the victim, is not an advisable solution. That is because these institutions constitute exceptions to the application of the main procedural principles and their legislation is not, in the author's view, capable in practice of achieving the objectives their authors seek to achieve. The author agrees with the introduction of a new factual basis that would protect the reputation of legal entities in addition to the current one protecting individuals. This proposal is based mainly on the current lack of legislation which results in a state where legal persons can commit libel and be convicted, but they can be victims of libel, often with severe or existence-threatening consequences, they can only resort to protection under civil law.

**Klíčová slova: crime of defamation, personal honor, good reputation.**