

The crime of embezzlement according to section 206 of Czech criminal code

Abstract – Eng.

This thesis interprets the crime of embezzlement according to section 206 of the Act nr. 40/2009 Coll., Criminal code, as amended, it interprets qualified facts of the crime which protects owners from breach of the trust they demonstrated for the benefit of a third person in order to enable disposition with their property. The demonstrated trust differs embezzlement from other crimes against property among which it belongs. The essential characteristic of the examined crime is entrustment which relating to the established practices of the Supreme Court means handover of the thing into factual control of the offender. The thing may be entrusted either by the owner, or by the other person who has the thing rightfully in own control. The offender becomes criminal liable when both breaching the given trust and appropriating the entrusted thing. The term appropriation, as the obligatory feature of embezzlement, is not defined by the Czech Criminal code, thus it is one of the essential topics of this thesis.

The thesis is divided into nine chapters and these are further divided into sections. The essential chapter is the fourth one as it deals with the qualified facts of the crime. The basis for that chapter is the effective wording of the section 206 of Criminal code and the author's commentary relating to current amendments. Within the following sections of the fourth chapter the author concerns object, physical elements, object of attack, fault element, subject of the crime and qualifying according to section 206 subsection 4 letter b) of Criminal code and put emphasis on embezzlement committed by an attorney-at-law. Apart from capital crimes committed by attorneys-at-law the author describes also another common example of embezzlement, that is embezzlement committed in connection with an innominate leasing contract. The author's purpose is to provide a complex analysis of the embezzlement and examine that in connection with historical and foreign law adaptation context. The thesis contains also statistical data to demonstrate topicality of the chosen topic. The chapter called embezzlement de lege ferenda gives evidence that the author does not only apply the

descriptive ad comparative method, however she also uses analysing approach with adequate critics, based on that the author suggests potential changes of the legislation. In connection with suggested changes the author perceives as a problem that the elements of qualified facts of the crime are not sufficiently defined in the Criminal code in relation to embezzlement and related crimes. The author focuses on concrete cases to demonstrate the given situation and impacts of the legislation.