

# ABSTRACT

## **Criminal liability in public procurements**

The thesis deals with the criminal liability in public procurements. Public procurement is a very complex and organized activity, the criminal assessment of which, however, cannot reliably lead to satisfactory results on the basis of existing doctrine. The primary goal of this work is therefore to identify the roles and extent of criminal liability of individual actors in the decision-making process of public administration and on this basis to analyze which type of negotiations concerning public procurement may be punished under a special part of the Criminal Code. The importance of effective prosecution of criminal offenses relating to public procurement results from the fact that amount of funds in public procurement correspond to tenth of gross domestic product.

For easier orientation of the reader, a formal structure was chosen so that, as far as possible, it comes as close as possible to the standard criminal law teaching on elements of a crime. Specifically, the chapters are divided into actions in public administration, its criminal relevance, the consequence in public administration, the subject, the subjective aspect, circumstances precluding illegality and finally to crimes related to public procurement.

From the material point of view, the work gradually divides roles of actors in the decision-making process of public administration on the basis of interpretation made in individual chapters of the work, first according to the criminal relevance of types of actions, then in terms of criminal cooperation and finally, in case of subjective element of crime, according to various stages of decision-making. The criminal law relevance of conduct in public administration is first divided according to whether the conduct was made within the “intentional” part of the decision-making process of public administration, it can also be said the political part, or whether it was done within the “implementation” part, also referred to as economic or executive part. Subsequently, the work according to different hierarchical levels of decision-making processes of public administration describes the possibilities of their criminal qualification in terms of independent offenses and criminal cooperation. Finally, three type roles (stages) are identified in the decision-making process of public administration, namely the roles of clerk, professional leadership and political leadership, on the basis of which the thesis represents three constructs for assessing subjective definitional element in the decision-making process of public administration. On these general starting points of criminal assessment of actions in public administration, individual elements of criminal offenses directly related to public procurement are analyzed.

As the main contribution of the work can be considered the addition of the doctrine with the basic rules of comprehensive assessment of criminal liability in decision-making processes of public administration. From the application point of view, the benefit of the thesis lies in the fact that the theoretical conclusions are illustrated by numerous examples from court practice based on a detailed analysis of the decision-making activities of the Czech Supreme Court. Finally, the work also offers legislative suggestions for inspiration, especially, but not exclusively, when in the analysis of the individual elements of criminal offenses draws attention to the fundamental problems of current legislation.

### **Key words:**

criminal liability; public procurement; decision-making process;