

The Crime of Sexual Intercourse Between Relatives

Abstract

The thesis deals with the crime of intercourse between relatives under Article 188 of the Criminal Code of the Czech Republic. This crime is usually not given much attention. In the Czech environment, there is no work that has yet been comprehensively devoted to this topic, although there are many unclear issues associated with this crime.

The main research question is the analysis of the mentioned article and the question of its usefulness in practice and the question of the need to criminalise incest, especially in the form of consensual sexual intercourse between adults. To achieve the objectives of the thesis, the analytical method and elements of historical and comparative research are mainly used.

The introductory chapter of the thesis deals with the historical development of the legal regulation of the punishment of incest. Emphasis is placed primarily on the regulation in Roman law and then the development of criminal law in the Czech territory from Great Moravia to the present day.

The second part of the thesis focuses on the analysis of the current legislation, both from the theoretical and practical point of view. The systematic classification of the criminal offence, the typical features of the crime and its relation to other provisions of the Criminal Code are analysed. Among the controversial issues are mainly the object of protection, the question of the impact of the regulation on adoptive relatives, the question of attempt and the possible form of criminal cooperation. The impact on the practice of the police and courts is determined from the relevant official statistics and from the analysis of decisions of the courts from 2018-2022.

The third chapter of the thesis deals with non-legal disciplines, namely sexology and genetics, in order to describe incest and its possible harmful effects on the victims, the family environment and the human genome. The possible reasons for the criminalization of incest are thus gradually discussed.

The fourth part deals with a comparison of foreign legal systems, focusing on neighbouring countries and countries whose legal systems are leaders in their region. It also highlights the European inconsistency in the criminalisation of incest. The final chapter of the thesis provides the legislator with proposals for possible changes in the area of incest criminalisation.

Keywords: Criminalization. Incest. Sexual intercourse between relatives.