

# **Principles of criminalization: what criteria should we consider when deciding if certain actions should be criminalized?**

## **Abstract**

This thesis addresses the issue of criminalization and the principles that should guide the decision on whether to criminalize certain conduct. The first part of the thesis defines criminalization and examines its ethical and social aspects while highlighting the reasons for the existence of criminal law.

An analysis of the foreign theoretical literature provides the perspectives of prominent authors such as Ashworth, Horder, Simester, Von Hirsch, Duff, Husak, Hörnle, and others, and their key principles of criminalization, including the harm principle, the wrongfulness principle, the individual autonomy principle, the welfare principle, and the minimalism principle. From this analysis comes the development of a checklist for criminalization that provides practical guidance for assessing the appropriateness of punishing a given act.

In creating the checklist, I have tried to identify common points of experts, and include these in my checklist. It applies only the most basic principles on which a significant number of legal theorists agree. At the same time, in my thesis, I also work with the view that it is not possible to develop a single universal principle that could answer all questions of criminalization because such a principle would be too general and would not be able to provide specific solutions for the whole range of possible actions.

The results of this thesis conclude that the principles of criminalization are well applied in Czech criminal law, but the criticism is that the wording of the facts of criminal offenses is too general. The thesis proposes a further exploration of topics such as the need for more theories of criminalization according to groups of protected objects and the review of criminal offenses from the perspective of constitutionality.

Overall, the thesis provides a comprehensive view of the issue of criminalization and combines theoretical aspects with their application in the Czech legal environment. The proposed checklist is a useful tool for assessing whether criminalization is appropriate.

**Keywords: [principles, criminalization, policies]**