

## **CRIMINAL LAW REGULATION OF PUBLIC PROCUREMENT**

### **ABSTRACT**

The Objective of this rigorous work is primarily to present the basic features of criminal activities related to public procurement, to analyse the offences that are either directly related to the award of public contracts or to which the Commission may The context of public procurement and, last but not least, the analysis of certain specific means of proof in the case of such offences.

The Rigorous work is thematically divided into seven chapters and possibly other subchapters.

The Subject of the first chapter (Generally for public procurement) is an analysis of the issue of public procurement, the definition of the concept of public procurement, the outline of the basic principles of procurement, the definition of the concept of contracting authority and Supplier and not least an analysis of the types of procurement procedures and their comparison in the framework of the former Public Procurement Act and the current Public Procurement Act.

The Subject of the second chapter (Generally for criminal regulation of public procurement) is to outline the criminal law basis for the following chapters; Therefore, the introduction of offences directly related to the award of public contracts, offences which may arise in connection with the award of public contracts and specific means of proving offences committed in connection with Public procurement procedures.

The Subject of the third chapter (entitled Offences Directly related to the award of public contracts) is an analysis of the facts of the offence (i) of the infringement of the rules on competition under the provisions of § 248 para. 2 Aliena second Penal Code; (ii) Negotiation of a benefit in the award of a public contract, public competition and public auction pursuant to the provisions of § 256 of the Criminal Code and (iii) intrigue in the award of a public contract and the public competition under the provisions of § 257 of the Criminal Code, while analysing Issues related to the offences in question, namely: (i) the issue of the impossibility of committing an offence of infringement of the rules on competition under the provisions § 248 paragraph. 2 Aliena of the second Criminal Code by a legal person; (ii) The issue of the principle of nullum crimen sine lege in relation to the offence of negotiating an advantage in the award of a public contract, public competition and public auction pursuant to paragraph 256 of the Criminal Code and (iii) An analysis of the relevant case law relating to the crime of intrigue in the award of a public contract and a public competition under the provisions of § 257 of the Criminal Code.

The subject of the fourth chapter (called Criminal acts related to the awarding of public contracts in the legislation of Slovakia and Austria) is an outline of the legal regulation of the issue in Slovakia and Austria, including a brief comparison with the legal regulation in the Czech Republic.

The subject of the fifth chapter (called Criminal offences, which may be committed in connection with the awarding of public contracts) is an analysis of the facts of criminal offenses (i) breach of duty in the management of another's property according to the provisions of § 220 of the Criminal Code; (ii) bribery - accepting a bribe according to the provisions of § 331 of the Criminal Code, bribery according to the provisions of § 332 of the Criminal Code and indirect bribery according to the provisions of § 333 of the Criminal Code and (iii) damage to the financial interests of the European Union according to the provisions of § 260 of the Criminal Code. At the same time An analysis of the

problematic issues that apply to the offence in question, namely: (i) The issue of the nature of false documents submitted in relation to the crime of damage to the financial interests of the European union pursuant to § 260 of the Criminal Code and (ii) The issue of the possibility of improper use of funds from the European Union budget in relation to the crime of damage to the financial interests of the European Union under the provisions of § 260 of the Criminal Code.

The subject of the sixth chapter (called Selected procedural law institutes used to detect and prove organized crime committed in connection with public contracts) is the introduction of institutes (i) Interception and recording of telecommunications as provided for in § 88 of the Code of Criminal Procedure and (ii) Monitoring of persons and goods under the provisions of § 158d of the Code of Criminal Procedure and analysis of the issue of admissibility of their use as evidence in criminal proceedings.

The subject of the seventh chapter (called Statistics of criminal activity committed in connection with the awarding of public contracts) is an overview of statistical data on criminal activity committed in connection with the awarding of public contracts, according to the statistics of the Supreme Prosecutor's Office of the Czech Republic in the years 2019 – 2021.