

## REVIEWS AND ANNOTATIONS

### **Jiří Jelínek. *Trestní odpovědnost právnických osob v České republice – Problémy a perspektivy*. Praha: Leges, 2019, 384 s. [Corporate Criminal Liability in the Czech Republic – Problems and Perspectives, Prague: Leges, 2019, 384 pp.]**

In July this year, publishing house Leges started issuing the brand-new book under a name: Corporate Criminal Liability in the Czech Republic – Problems and Perspectives written by Jiří Jelínek.

Jiří Jelínek is Professor and Head of the Department of Criminal Law at the Charles University, Faculty of Law. He is an experienced author with a long history of writing well-known university textbooks concerning substantive and procedural criminal law as well as numerous professional monographs and articles in this field of law. He is also a member of the Legislative Council of the Government of the Czech Republic, member of the Scientific Board of the Law Faculty of Charles University and two more universities (Faculty of Law of the Pan-European University in Bratislava and Metropolitan University Prague). This year, he was awarded the Václav Mandák Prize for the best published professional article in the Advocacy Bulletin as a part of the Lawyer of the Year award.

The book consists of 384 pages and presents that the topic has not yet been fully described despite the fact that several publications have been already written on the subject since the introduction of corporate criminal liability in the Czech Republic. The uniqueness of the book lies within its aspiration to supplement the authoritative interpretation of the legislation contained in textbooks and commentaries with alternative views on some selected problems.

The publication is divided into twelve chapters which makes orientation easier. The first chapter is devoted to the most recent issues of corporate criminal liability. The author provides an answer to the widespread question why corporate criminal liability is still so actual. In doing so, he warns of persistent controversies, unfulfilled expectations and continuous legislative activity.

The second chapter presents reasons for enactment of corporate criminal liability in the Czech Republic. International context is not forgotten as well as shortcomings of criminal liability of solely natural persons. On the other hand, the author does not overlook the difficulties with the concept of fiction of legal entities. Subsequently, Chapter Three introduces in detail international instruments on the corporate criminal liability.

For correct understanding of the corporate criminal liability in the Czech Republic is good starter Chapter Four which describes historical context of corporate criminal liability in the Czech Republic and its legislative process in past years. Chapter Five follows with the description of very concept of Czech corporate criminal liability. Special attention is paid to answers on the questions of concurrency and independency of corporate criminal liability, elements of subjective liability, or whether is corporate liability original or derived.

Special attention the book pays to the new institute of so-called exculpation of legal entity in separate Chapter Six. In my opinion this chapter will be very useful for legal practice since it concerns many incentives to reflect on legal interpretation such as valuable practical observations. The author provides a worthwhile overview of all opinions available so far on the interpretation of all legal standard of due care of legal entity to exonerate its liability. On this basis author presents among others his interpretation of actual importance of (non)existence of compliance programs which is particularly thorny issue.

After all, remarkably detailed work with resources is constant quality across the whole work. Every reader will appreciate that the work is not focused solely on the author's interpretation but represents a broad storehouse of different views on current topic. The reader is thus not only enriched with the views of the author, but he also gets a concrete picture of all branches of opinion.

The following Chapters Seven and Eight discuss the extent of criminalization of legal entities and passage of criminal liability to a legal successor. Extent of criminalisation is discussed topic which

has led to recent recodification. Therefore, it can only be acknowledged that the book deals with this topic. Legal succession of criminal liability is then a very problematic issue for trade especially for the area of transformation of legal entities. The importance of both areas highlights added value of the book consisting of consideration of international context which is not overlooked and allows a useful comparison.

A specific feature of this publication represents Chapter Nine by describing peculiarities of criminal liability of health service providers. It is a rare topic with serious impacts on society in its full extent since it might influence the systematic approach to practical provision of health care in the Czech Republic. With detailed reasoning the author concludes that the risk of criminal liability of health service provider is very low in relation to intentional crimes. On the other hand, it is point out that criminal liability might be very serious risk in cases of negligent crimes especially when the health care is provided not *lege artis*.

For experts, especially judges and legislators, might be also inspiring Chapter Ten and Eleven where author comments on theoretical and practical problems of sanctioning of legal entities in the Czech Republic and legal problems of criminal proceedings against legal entities. The author aptly warns against risks connected to the absence of specific criteria for imposing sanctions on legal entities. Practise will certainly appreciate a very detailed analysis of the punishment of the publication of the sentence. The analysis of problematic aspects of criminal proceedings against legal entities should also be indispensable for practise. The author solves practical problematic questions such as ensuring the participation of accused legal entities in criminal proceedings and who can in criminal proceedings act on their behalf. This is one of the fundamental legal issues of the modern criminal proceedings especially regarding the fact that representative of legal entity might be also a natural person in risk of criminal proceeding himself. Also, it is very actual topic regarding that law enforcement authorities sometimes appoint to the legal entity a guardian who claim damages after members of legal entity but on the other hand this legal entity can in such proceeding incriminate itself from committing a crime.

Particularly interesting is the last chapter which opens a discussion about recodification and its appropriate form and content. The author defines fourteen issues that require urgent recodification. All those issues are based on the detailed analysis made in previous chapters. Nevertheless, the author appropriately repeats the basic argumentation on these issues so the reader will get a comprehensive picture of the critical areas of current legislation.

Finally, elaboration of factual register deserves recognition since it makes easier already so good navigation across the whole book.

It can be summoned up that reviewed book is a significant contribution to criminal law. Such conclusion justifies not only high professional level of legal analysis but also useful insights of the author concerning problematic aspects of corporate criminal liability in the Czech Republic. In my point of view, the book with its comprehensible professional language has potential to become a widely sought tool for studying, application and legal transformation of the Czech corporate criminal law.

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