

1.3 Changes in the Czech Criminal Law Since 1989

1.3.1 Introduction

The democratic social and economic reforms which were introduced in Czechoslovakia after the „Velvet Revolution“ in November 1989 has been subsequently reflected in Czechoslovak and, since 1993, Czech legislation. As to the criminal law, the reform of this branch of law started in 1990. At present, 16 years after November 1989, we can say that the criminal law is still developing. We can distinguish two phases of the reform. The first one is the phase of amendments, the second is the phase of recodification. Concerning the first phase, numerous amendments to the Criminal Code and Criminal Code of Procedure have been accepted during the last decade. This survey deals with the most important changes of Criminal Substantive Law, both previous and presupposed, then it maps and analyses the most important amendments to the Czech Criminal Code and outlines the direction of the future development in connection with new codification.

1.3.2 The Most Important Amendments to the Criminal Code

We can say that individual amendments have concerned both general and special parts of the Criminal Code. Although, the basis of criminal liability has also been amended, the largest changes have occurred in the sphere of criminal law sanctions and in the special part of the Criminal Code. It is not possible to describe all of these changes. Therefore, we are going to provide a brief survey which includes the most essential changes.

The system of penalties and protective measures was changed to a certain extent by **the Amendment No. 175/1990 Coll.** The regular penalties were deprived of the so-called „corrective measure“ consisting in the sentenced person's duty to work in a job determined by the court for the duration of imprisonment and 10 to 25% of the wages belonged to the State. The former exceptional death penalty was substituted with the exceptional life imprisonment and imprisonment for the term of 15 up to 25 years should be regarded as exceptional, too (Section 29). As to the further changes, it is necessary to mention the extension of the possibility to impose a suspended sentence of imprisonment and the possibility to impose another penalty – especially pecuniary penalty – instead of imprisonment and the extension of the types of penalties that can be imposed on juveniles – prohibition of activity, expulsion.

This amendment abolished about 33 criminal offences in the special part of the Criminal Code, which were based on the ruling ideology of the Communist party, for example Instigation, Subversion of the Republic, Leaving the Country, Speculation, Dishonouring the Socialistic State, the extended protection of socialistic proprietorship etc.

The Amendment No. 557/1991 Coll. introduced the new conception of criminal liability in the case of the culpable insanity, that means such cases, when the wrong-