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Special case of temporary suspension of criminal prosecution (§ 159C and § 159D of the Criminal Procedure Code): an effective legal instrument in the fight against corruption or covert introduction of the institution of crown witness?

Szczególny przypadek tymczasowego zawieszenia postępowania karnego (§ 159C oraz § 159D Czeskiego kodeksu postępowania karnego): skuteczny instrument prawny w walce z korupcją czy zakamuflowane wprowadzenie instytucji świadka koronnego?

ABSTRACT: Corruption is one of the most dangerous phenomena of contemporary society. So it is no wonder that the legislator and the whole society are always looking for new ways to effectively combat such negative phenomena. However, corruption has one specific feature, which is high latency, compared to other forms of crime. Given that corruption is characterized by a high degree of latency, it is understandable that traditional means of criminal law are unable to ensure effective detection and prosecution of this type of crime. There is a relatively new procedural legal instrument in the fight against corruption in Section 159c and 159d of the Criminal Procedure Code. However, the question is whether this new provision is not merely a covert introduction of the institution of the crown witness into the Czech legal order.

KEYWORDS: crown witness, cooperating accused, corruption, criminal prosecution, suspension of criminal prosecution

ABSTRAKT: Korupcja to jedno z najniebezpieczniejszych zjawisk we współczesnym społeczeństwie. Nic więc dziwnego, że ustawodawca i całe społeczeństwo nieustannie poszukują nowych sposobów skutecznego zwalczania takich negatywnych zjawisk. Jednak korupcja ma jedną szczególną cechę, którą jest niski poziom wykrywalności w porównaniu z innymi formami przestępczości. Biorąc pod uwagę, że korupcja charakteryzuje się wysokim stopniem utajenia, zrozumiałe jest, że tradycyjne środki prawa karnego nie są w stanie zapewnić skutecznego wykrywania i ścigania tego typu przestępstw. Istnieje stosunkowo nowy proceduralny instrument prawny dotyczący zwalczania korupcji w art. 159c i 159d kodeksu postępowania karnego. Powstaje jednak pytanie, czy ten nowy przepis nie jest zakamuflowanym wprowadzeniem instytucji świadka koronnego do czeskiego porządku prawnego.

SŁOWA KLUCZE: świadek koronny, współpracujący oskarżony, korupcja, postępowanie karne, odroczenie postępowania karnego

1. Introduction

In a democratic legal order, it is essential to guarantee effective protection of not only the personal interests of the physical and legal persons, but also of the interests of the whole society. It is therefore not only a right, but also an obligation of the state to guarantee the protection of society against such a corrupt conduct. Certainly, the protection of individual interests is also ensured by such a procedure. The current criminal legislation responds to acts of corruption nature in both its substantive and procedural areas. The Criminal Code (Act No. 40/2019 Coll.) lays down the features of criminal offenses in several places, the specific feature of which is corruption. The title X of the Special Part of the Criminal Code regulates a separate volume, which contains three corruption offenses: accepting a bribe (§ 331), bribery (§ 332) and indirect bribery (§ 333). Other crimes of corruption character can be found for example in § 226 (2, 4, 5) or § 257 (2, 3) etc. However, in order for substantive criminal law not only to be a declaration of what is not allowed in society, but also to be effectively enforced, it is necessary to go hand in hand with procedural rules. Given that corruption is characterized by a high degree of latency, it is understandable that traditional means of criminal law are unable to ensure effective detection and prosecution of this type of crime. It is therefore necessary to adopt measures that will be able to effectively combat undesirable phenomena in society. However, it is always required that even when the state is struggling with these serious phenomena, the basic principles and ideas on which criminal law is based be observed.

For several years, the professional public has been arguing over whether an institution of the so-called crown witness can be capable of effectively contributing to the fight against the most serious forms of crime.¹ The intention to

¹ The institution of the Crown Witness is not unknown to many European legal systems (Italy, France, Poland, Belgium, Spain, etc.) in which it is regulated in different forms. It has

regulate the institution of the so-called crown witness was stated for the first time in a proposal initiated by the Ministry of the Interior and prepared in collaboration with the Ministry of Justice of 22 November 2002. According to this proposal, there was a new section inserted named ‚Proceedings against the offender in extraordinary cases‘. This provision was to regulate the institutions of temporary suspension of prosecution, suspension of prosecution, provisions on proceedings against the cooperating accused and temporary suspension of prosecution in connection with the offender who decided to cooperate with law enforcement authorities. In 2004, a bill was tabled by a group of deputies (Parliamentary Press no. 802), which, nevertheless, did not pass the legislative process. The next step in the attempt to introduce a crown witness was the factual intention of the Criminal Procedure Code of 2007. In January 2010, another proposal was re-submitted, as part of the Anti-Corruption Measures Act (the so-called anti-corruption package). The crown witness also appeared in the framework of the bill amending the Criminal Procedure Code (Parliamentary Press no. 99).

Hendrych’s Law Dictionary defines the term „crown witness“ as the perpetrator of an offense promised not to be prosecuted or to be slightly punished, if they testify to other accomplices by their testimony.”² Thus, it does not mean testimony crown witness in the sense of the medieval crown of evidence as the main and decisive evidence, which was the confession of the accused attained by torture, that is to say, by the use of tortures. Black’s Law Dictionary defines the term King’s (Queen’s) evidence as follows: ”if several persons are accused of a crime and one of them testifies against their own companions on the promise that she will be pardoned, then this testimony is accepted as royal or state.”³

So far, none of the efforts to introduce the crown witness has been successful. In the legal order of the Czech Republic, the provision of Section 178a of the Criminal Procedure Code only regulates the institution of the cooperating accused. Although the term *crown witness* may be encountered in the decision-making activities of the courts, in this case the term has a completely different meaning than the one based on the above definitions. The crown witness in the speech of the Constitutional Court of the Czech Republic, for example, should be considered the person who provided the testimony which was the main pillar of evidence for finding the guilt of the accused, for example Resolution No. 2350/11, Resolution No. 1387/10, Resolution No. 72/08.

The arguments against the adoption of the legislation of the crown witness include in particular:

become a traditional institution in Italy, where such a person is referred to as collaboratore; the pentiti designation may also be encountered. The crown witness legislation in the UK is based on the Serious Organized Crime and Police Act 2005. A person whose testimony is in accordance with the Act can be provided a so-called immunity from prosecution needed to clarify the crime.

² Hendrych D. et al., *Law Dictionary*, C. H. Beck, Praha 2001, p. 283.

³ Black H.C. et al., *Black’s Law Dictionary. Part II*, Victoria Publishing, Praha 1993, p. 802.

- adopting this institution will contribute to breaking the principles of legality and officiality, the principles governing criminal proceedings, namely in favor of the principle of opportunity;
- the question of how to prevent the accused from abusing this possibility of handling accounts between offenders;
- violation of the principle of equality of citizens guaranteed by Article 1 of the Charter of Fundamental Rights and Freedoms and the principle of equality of all parties pursuant to Article 37 (3) of the Charter on the ground that the crown witness is one of the accomplices who receives special privileges, directly from the authorities, while other accomplices are punished for the same conduct;
- the crown witness institution favors the party at the charge of the other party to the proceedings—the defense party.

The provision on the cooperating accused is a projection of several international standards into the Czech legal order (for example The Resolution of the Council of the European Union No. 497Y0111 (01) of 20 December 1996). This does not mean that the accused is not criminally liable at all, but it is an opportunity to reduce the level of this punishment.

2. Specific provisions on the temporary suspension of criminal prosecution

On 1 July 2016, an amendment to the Criminal Procedure Code implemented by Act No. 163/2016 Coll. came into effect. This amendment introduced the provisions of § 159c and § 159d of the Criminal Procedure Code regulating a special case of temporary suspension of criminal prosecution (§ 159c) and the subsequent decision on non-prosecution of a suspect (§ 159d).

What was the reason for the new legislation? The Criminal Code of 1961 (Act No. 140/1961 Coll.) has regulated a specific case of extinction of criminality for selected types of corruption since its adoption. Section 163 of the Criminal Code defined the conditions of effective regret, which resulted in the cessation of criminality of acts classified as bribery (Section 161) or indirect bribery (Section 162). However, this provision has not been taken over by the new Criminal Code (act No. 40/2009 Coll.), even in a modified form, and with effect from 1 January 2010 the conduct of providing or promising a bribe for which the offender asked became, without exception, a criminal offense. The reasons for this action by the legislature are summarized in a document of the Ministry of the Interior “Analysis of the Institute of Effective Regret in Corruption Cases”.⁴

⁴ Available at http://www.korupce.cz/assets/protikorupcni-strategie-vlady/na-leta-2011_2012/A2a---analiza-ze-dne-1--unora-2012---predlozeno-vlade.pdf.

The Czech Republic has been criticized several times for the existence of effective regret in bribery cases in the individual rounds of evaluation that the Group of States Against Corruption (GRECO) carried out, and therefore effective regret in bribery cases has been removed from the legislation or not taken over to the new Criminal Code. In short, international obligations require that the so-called effective regret be exercised only by the person who has been asked for the bribe and that he or she notify the law enforcement authorities before or immediately after granting the bribe and that the waiver blame must not be automatic, mandatory and complete without the control and judgment of the court. Furthermore, as requested by international organizations, a bribe should not be automatically returned to its provider. However, the legislation contained in Section 163 of the Criminal Code did not meet these requirements.

Moreover, it should be noted that the institution of effective regret has hardly been used in application practice. According to police statistics from 2002–2010 (it does not include statistics for the last quarter of 2010), the procedure under Section 163 of the Criminal Code was used by the police only in 6 cases out of a total of 924 detected offenses under Sections 162 and 163. Courts in the years 2005–2010 did not decide in any way. As regards the frequency of effective regret, it can be concluded that, at the time of its effectiveness, it was not a significant identifier of the termination of a known offender's criminal case. One of the reasons for the high latency of this type of infringement is that corruption is a phenomenon that is beneficial to both sides of the infringement. It is advantageous for those who apply for a bribe, but also for those who offer it. Both parties thereby obtain certain benefits which are the object of the conduct and therefore logically cannot have an interest in bringing the conduct to the attention of law enforcement authorities. However, there may be other reasons for the sporadic use of the aforementioned provision, such as the question of assessing the subjective aspect of a crime, etc.⁵

However, shortly after the adoption of the new legislation (the Criminal Code 2009), suggestions began to appear that the provisions on effective regret should be returned to the Criminal Code 1961.⁶ However, given the international obligations and the above-mentioned facts, which undoubtedly result from them

⁵ For more see: Gřivna T., *Effective remorse for corruption offenses*, in: *Days of Law 2011*, ed. J. Kotásek, Masaryk University, Brno 2012, p. 56–63.

⁶ Compare for example: *ibidem*; Kopecký J., *Corruption lacks a clause on effective remorse, a police officer said in Chamber of* [online]. iDnes.cz, 4. března 2014 [cit. 27. června 2018]. Available at https://zpravy.idnes.cz/u-stihani-korupce-chybi-ucinna-litost-postezoval-si-policista-p73-/domaci.aspx?c=A140304_125053_domaci_kop. Janoušková N., *Means of combating bribery de lege ferenda I.*, *The institute of effective remorse in the field of bribery* [online]. Právní prostor, 15. února 2016 [cit. 27. června 2018]. Available at <https://www.pravniprostor.cz/clanky/trestni-pravo/prostredky-boje-proti-uplatkarstvi-de-lege-ferenda-i-institut-ucinne-litosti-v-oblasti-uplatkarstvi>.

for the Czech Republic, it was necessary to look for other options to resolve the situation, since the legal situation after 1 January 2010 seemed unacceptable not only from the perspective of law enforcement authorities. Due to the fact that according to the current regulation, cases of passive and active corruption are criminal, the person who promises / gives a bribe just because he was asked for it by another person is not motivated to report such conduct (Explanatory Memorandum to Act No. 163/2016 Coll).

Thus, law enforcement authorities can get into evidence-based need. They will not be aware of such conduct at all, and corruption will all the more remain unpunished. In the absence of the possibility of favoring an active bribe, law enforcement authorities are in a disadvantaged position, since bribers, although they in some cases committed a crime solely through the abuse of the influence of the bribed, are not motivated to notify or cooperate with law enforcement authorities or cooperate with law enforcement authorities in criminal proceedings against the recipient of a bribe.

3. Legislation de lege lata

The text is as follows:

§ 159c

- (1) The police authority shall decide on the temporary suspension of criminal prosecution of a suspected criminal offense in insolvency proceedings pursuant to Section 226 (2), (4) or (5) of the Criminal Code, infringement of competition rules pursuant to Section 248 (1, letter e) (3) or (4) of the Criminal Code; plaits when awarding a public contract pursuant to Section 257 (1, letter b), (2) or (3) of the Criminal Code; plaits when public auction pursuant to Section 258 (1, letter b), (2) or (3) of the Penal Code, bribery under Section 332 of the Penal Code, indirect bribery under Section 333 (2) of the Penal Code or obstruction of justice under Section 347a (2) of the Penal Code, if the suspect has provided or promised benefit solely because he has been asked to do so, voluntarily and without undue delay, notify the public prosecutor or police authority, inform the police authority of the facts known to him of the crime of the person who applied for the bribe, property or other benefit, and undertakes to give a complete and truthful statement of facts in both the pre-trial and trial cases.

Decisions on temporary suspension of criminal prosecution under paragraph 1 shall not be possible if a bribe, property or other benefit was provided or promised in connection with the exercise of the authority of an official referred

to in § 334 par. a) to c) of the Criminal Code or an official referred to in § 334 par. d) of the Criminal Code, if it is an official holding office in a legal entity in which the foreign state has a decisive influence.

§ 159d

If the facts that preclude the decision to temporarily suspend the prosecution are not subsequently found and the suspect has fulfilled his obligations under Section 159c (1), the prosecutor decides not to prosecute, otherwise decides that the suspect has not met the conditions under Section 159c (1). A complaint having suspensive effect is admissible against this order.

A decision may be taken not to prosecute the suspect until the criminal prosecution of the person who applied for a bribe, property or other benefit of the suspect has been lawfully terminated, if the time limit for appeal has expired or the appeal has been decided and or after the case has been legally postponed or otherwise settled, if the person who applied for a bribe, property or other benefit of the suspect cannot be prosecuted.

The state prosecutor shall deliver the resolution on the non-prosecution of the suspect to the Supreme Public Prosecutor's Office as soon as it becomes final.

After the decision on failure to comply with the conditions pursuant to Section 159c (1) becomes final, the police authority shall immediately commence criminal prosecution.

Range of offenses to which the provisions of § 159c of the Criminal Procedure Code refer is exhaustively defined. These are a total of seven crimes whose common feature is a bribe, property or other benefit. Another common feature of these acts is the interest of society in impartial, selfless and orderly procurement of matters of general interest, resp. the proper exercise of the powers of officials.

The cumulative conditions of the application of § 159c of the Criminal Procedure Code are given below:

- a) the suspect provided or promised a bribe⁷, property or other benefit⁸ simply because s/he was asked to do so;

⁷ Pursuant to Section 334 (1) of the Criminal Code means an unjustified advantage consisting in direct property enrichment or other advantage which the bribed person receives or is supposed to receive or with the consent of another person, and to whom s/he is not entitled.

⁸ As used herein, property or other benefit means any benefit (arg. „Or other benefit“). It usually consists of direct property gains (eg money or benefits in kind), but it may also be of a different kind (mutual services, intercourse, obtaining a suitable and well-paid job, etc.) – see Šámal P. et al., *Criminal Code II*, 2. ed., C. H. Beck, Praha 2012, p. 2393.

- b) the suspect has notified the public prosecutor or the police authority of this fact voluntarily and without undue delay;
- c) the suspect has notified the police authority of facts known to her/him about the criminal activity of the person who applied for this bribe, property or other benefit;
- d) the suspect undertakes to give a complete and truthful statement of facts in both the pre-trial and trial proceedings.

The decision to suspend the prosecution pursuant to paragraph 1 may not be suspended:

- if a bribe, property or other benefit was provided or promised in connection with the exercise of the authority of an official referred to in § 334 par. a) to c) of the Criminal Code;
- if a bribe, property or other benefit was provided or promised in connection with the exercise of the authority of an official referred to in § 334 par. d) of the Criminal Code;
- in the case of an official holding a legal entity in which the foreign State has a decisive influence.

4. Compliance of Temporary Suspension of Criminal Prosecution under Section 159c and Section 159d of the Criminal Procedure Code with the basic principles of criminal proceedings

The notification of its own crime is the impulse to initiate criminal proceedings and subsequently the criminal prosecution. Therefore, if all the statutory conditions set out in Section 160 (1) of Criminal Procedure Code are met, the law enforcement authority should immediately decide to initiate criminal prosecution. The provisions of Section 2 (3) of Criminal Procedure Code require that the public prosecutor is obliged to prosecute all crimes of which s/he becomes aware unless the law or a promulgated international treaty binding on the Czech Republic requires otherwise (principle of legality). In the present case, therefore, there is generally an obligation to prosecute a person who informs the law enforcement authority of his or her unlawful conduct.

However, the current Criminal Procedure Code provides for a number of exceptions to the principle of legality (for example, the very wording of § 160 (3 and 4)). Furthermore, other exceptions in favor of the principle of opportunity are laid down, for example, in § 307, § 309, § 172 (2, letter c) etc.

It follows from the above that it is not possible to automatically take a negative stance on the new provisions of the Code of Criminal Procedure, pointing

out that the provision does not / will not be in line with the current guiding principles of the criminal process, which must be categorically insisted. It is necessary to look at the new institution from the point of view of its necessity in the legal order and hence the justifiable ground for breakthrough into the fundamental principles. It is therefore appropriate to ask whether Sections 159c and 159d of the Criminal Procedure Code constitute such a reason. Corruption is undoubtedly an undesirable phenomenon, the consequences of which disrupt the functioning of key areas of society, such as the economy, the global development, etc., and in the worst case scenario may also be a reason to cripple the functioning of a democratic legal order. There is therefore a need for legal instruments capable of effectively combating the phenomenon. There are two conflicts of interest. On the one hand, it is the state's interest in detecting criminal activities and the fair punishment of the perpetrators, on the other it is the interest in respecting the individual's fundamental rights, the principle of equality before the law, etc.

In the specific case, therefore, it is necessary to consider which of these interests to prioritize and for what reason. As mentioned above, corruption is an extremely undesirable phenomenon. Given the high latency of this type of behavior, it is evident that in most cases the law enforcement authorities are not aware of the crime at all, and, if they become aware, they often run into probative need. It would therefore be welcome if the actors of corruption acted to report the crime and testify. However, this necessarily implies that the persons concerned must be motivated to do so. But what can be a sufficient impulse for the person who committed the crime himself to report his actions, even knowing that his unlawful activity would never be detected? Moreover, by his „conscious” action, this person will no doubt lose the opportunity to achieve what was inherent in the corrupt „pact”. Last but not least, in order to benefit from the law enforcement authorities, he must testify to the other party's criminal offenses. The above-mentioned impacts must be effectively compensated by the state. The question, however, is what the sufficient motive for offenders is if we ignore such motives as revenge. Undoubtedly, this impulse can be a promise that the person will not be exposed to the criminal consequences of his or her unlawful conduct. However, this also implies that the legal conditions for action by law enforcement authorities should be set so that they do not cause concern to the perpetrator as to whether they actually benefit from impunity from the state and, on the other hand, the state must also be sure that it provides the benefit in exchange for obtaining relevant and valuable information to facilitate the detection and punishment of the perpetrators.

However, if we come to such a conclusion, we are de facto dealing with the possibility of legal constituting of the institution of the crown witness, which has been rejected in the Czech legal environment for many reasons in the long term. A characteristic feature of the crown witness institution is the promise of im-

punishment for active cooperation with law enforcement authorities, which, however, has always been and is associated with assistance to detect and punish more serious forms of crime. The provision of a cooperating accused also requires that there must be a criminal proceeding for serious crime (Section 178a of the Criminal Procedure Code).⁹

The newly formed institutions fundamentally breaking the constant principles of the criminal process must always be justified by their necessity, when the public interest in detecting and punishing the offense outweighs the interest of the individual.

Bribery under Section 332/1 of the Criminal Code is an offense, under Section 332/2 it is a crime. Indirect bribery offense, according to Criminal Code, Section 333 of the Code, is an offense in both of its paragraphs. The offense of machinations in insolvency proceedings is an offense in paragraphs 2 and 4, only in paragraph 5 it is a crime. Breach of regulations on rules of economic competition is an offense in paragraphs 1a and 3, the offense is only the conduct referred to in paragraph 4. The criminal offense of public auction is a violation in paragraph 1, and then it is a crime. The offense of obstructing justice under Section 347a (2) is an offense.

With the current wording of § 159c of the Criminal Procedure Code it is therefore clear that the legislator has linked the promise of impunity to cases of less serious type. Moreover, there is no doubt that the corruption in question does not necessarily have to be linked to organized crime, which always goes hand in hand with the efforts to establish a witness institution. However, the legislature does not make this distinction and provides the same benefit to offenders who are not 'unorganized' as well as to offenders acting in an organized manner. This phenomenon, where non-standard procedures are used to detect ordinary crime, is completely undesirable and unacceptable when the same process cannot be used, for example, in the context of serious organized drug crime, violent crime, etc. I believe that streamlining the procedures for detecting corruption cannot justify the promise of impunity for the perpetrators of these crimes. The adoption of § 159c and § 159d of the Criminal Procedure Code created a significantly unequal position among the perpetrators of selected types of corruption and other perpetrators, often serious organized crime, who, despite active cooperation with law enforcement authorities and knowing that they may put themselves or their loved ones at risk, cannot achieve impunity for their actions. The benefits that the legislature offers to cooperating defendants cannot stand comparison with the promise of impunity.¹⁰

⁹ In its original form, however, it had to be a particularly serious crime. This condition was amended by Act No. 193/2012 Coll.

¹⁰ § 41 let. m) of the Criminal Code – mitigating circumstance, § 46 (2) of the Criminal Code – abandonment of punishment, § 58 (4) of the Criminal Code – extraordinary reduction of imprisonment.

However, the temporary postponement of the prosecution cannot succeed even in comparison with other conditions. Pursuant to § 159c (1) of the Criminal Procedure Code the suspect is obliged, inter alia, to inform the police authority of facts known to him about the criminal activity of the person who applied for this bribe, property or other benefit, and to undertake to give a complete and truthful testimony of these facts. Pursuant to Section 178a (1) of the Criminal Procedure Code the prosecutor in the indictment can identify the accused as cooperating if the accused informs the prosecutor of facts that are capable of significantly contributing to the investigation of the crime committed by members of the organized group in conjunction with the organized group or in favor of the organized criminal group and promises to give a complete and truthful statement about these facts in the pretrial proceedings and in the proceedings before the court.

Impunity is offered to those who „only“ report facts known to them about the crime of the other party to the corruption pact, and the cooperating accused wants his testimony to contain facts capable of significantly contributing to the elucidation of the crime. The demands placed on the suspect, on the one hand, and the accused on the other, are incomparable in terms of quality and relevance to the further progress of the law enforcement authorities, which confirms me again in the resolution that this institution has no place in the criminal trial.

5. Act No. 287/2018 Coll.

On 1 February 2019 the amendment to the Criminal Procedure Code came into effect. The aim was to increase the motivation of entities to report cases of passive corruption. The existing legislation (the legal status from 1 July 2016) was beneficial only for those who promised a bribe after being asked to do so by another person. However, this was not the case for those who, when applying for a bribe by the other person, were on time and provided a bribe and immediately made this announcement.

The afore-mentioned amendment thus extended the use of Section 159c of the Criminal Procedure Code to persons who not only promised to provide a bribe, property or other benefits, but also to those who have already committed the crime. If I have concluded above that the provision in question is not justified, I must take the same position on the amendment adopted. It is just another step to enable the practice of unjustifiably opening the notional scissors between the perpetrators of corruption and the perpetrators of other crimes.

In addition, the amendment also extended the range of offenses for which the application of § 159c of the Criminal Procedure Code is possible – new § 347a (2) of the Criminal Code, i.e. the crime of obstructing justice, which is also corrupt.

6. Conclusion

Corruption is undoubtedly one of the most dangerous phenomena of contemporary society. So it is no wonder that the legislator and the whole society are always looking for new ways to effectively combat such negative phenomena, and how to prevent them or to penalize those who commit the infringement. However, corruption has one specific feature, which is high latency, compared to other forms of crime. This is due to its nature, because corruption is beneficial for both parties, and so law enforcement agencies often do not even know about the situation and if they do, they do not have people willing to give a testimony and cooperate on the given behavior. One possible way, therefore, is to modify such legal institutions and procedures that offer certain benefits to criminals in exchange for their willingness to cooperate.

The provisions of § 159c and subsequently § 159d of the Criminal Procedure Code seem to be this motivating element of the current legislation. Although it may seem at first glance that the legislature has found an effective legal instrument for combating corruption, it is also necessary to look at the legislation in terms of the basic principles and principles on which the Czech criminal process is built. However, we must then necessarily conclude that the provisions in question are capable of assisting law enforcement authorities in detecting and clarifying corruption offenses, but they are not coherent with existing ideas, which are a pillar of the current criminal process. This inconsistency cannot be justified by the need to deal with manifestations of corruption in contemporary society either. It is not possible to give up the basal foundations of the legislation solely on the basis of the fact that the company does not have and does not know better means and ways. In addition, it should be recalled that this is 'only' corruption, as opposed to more serious forms of crime whose detection cannot be followed by the procedure outlined above.

When we look at the statistics, we find that the offenses at issue in this institution are rather the exception in terms of the final convictions of their perpetrators. In 2010–2018, for example, there was no final conviction for a criminal offense under Section 226 of the Criminal Code, while 31 persons were lawfully convicted for a crime under Section 248 of the Criminal Code. Most often in this period the court convicted the perpetrators of the crime of bribery (for example only in 2014 there were 101 convicted natural persons). The criminal offense of bribery is an exception in the given list of offenses also in the sense that it is the only offense for which a legal person was also convicted of a final judgment (in 2016 there were two convictions, in 2017 – one conviction). The low numbers of persons convicted of corrupt conduct are undoubtedly due to the high latency of this type of conduct, but even this fact, in my opinion, cannot lead the legislature to take non-systemic measures. Moreover, it should be noted that the damage to the case in the present situation does not lead to

official police statistics on the use of § 159c of the Criminal Procedure Code. The Supreme Public Prosecutor's Office has not registered any case of the use of the provisions of Section 159d of the Criminal Procedure Code. This fact, however, has no relevant informative value in terms of meeting its conditions and the duration of its effectiveness.

In conclusion, it can be summarized that the provision on the temporary suspension of criminal prosecution under § 159c and § 159d of the Criminal Procedure Code is not in line with the existing basic principles of criminal proceedings and this fact is not justified by the need to effectively penalize corruption. Moreover, in my opinion, this is a covert introduction of the institution of the crown witness, which has been rejected for a long time for the reasons discussed above.

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