

relevant for broader criminal law perspectives, including for law enforcement activities and judicial processing of criminal law cases in road traffic.

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CRIMINAL OFFENCES AGAINST THE JUDICIARY IN THE CRIMINAL CODE OF THE REPUBLIC OF SLOVENIA

Criminal offences against the judiciary are listed in Chapter Twenty-Eight of the Criminal Code (hereinafter: the CC-1). These criminal offences are intended to protect the judiciary as a separate branch of power with its specific tasks. Protection is intended for criminal justice and partly also for other branches of the judiciary. The common feature of all criminal offences listed in that Chapter is that they prevent, inhibit or even threaten the work of judicial authorities and the performance of their tasks or the implementation of the measures and decisions of judicial authorities. The purpose of the criminal law protection is to ensure the smooth work of judicial authorities and the correct and lawful functioning of the judiciary. It used to be considered that the incriminations listed in this Chapter were intended to protect the work of domestic judicial authorities. Now, due to the integration processes in Europe (and worldwide), the distrust of foreign countries and decisions of their judicial authorities is being replaced by an increasing cooperation between countries and by the recognition of foreign court decisions. In the changed circumstances, the subject of protection is no longer only the domestic judiciary, but also the operation of international courts, of which one of the constituent parties is the Republic of Slovenia, and foreign judicial authorities (particularly of the countries with which the Republic of Slovenia maintains closer ties (such as the EU and the Council of Europe).

The criminal offences referred to in the aforementioned Chapter take the following forms:

1) obstruction of judicial authorities in the prevention of criminal offences – by means of a criminal offence of failure to inform authorities of preparations for a crime pursuant to Article 280 of the CC-1;

2) obstruction of judicial authorities in the detection of a committed criminal offence and the perpetrator – by means of a criminal offence of failure to provide information of crime or perpetrator pursuant to Article 282 of the CC-1 and partly by means of a criminal offence of false reporting of crime pursuant to Article 283 of the CC-1;

3) activation of judicial authorities in the wrong place or diversion of activities in the wrong direction – by means of a criminal offence of false

reporting of crime pursuant to Article 283 of the CC-1;

4) leading the judicial authorities into error with regard to evidence and the producing of evidence which are important for making the decision – by means of a criminal offence of tampering with evidence pursuant to Article 285 of the CC-1 and by means of a criminal offence of obstructing judicial and other state authorities pursuant to Article 286 of the CC-1;

5) unlawful, partial and unfair trial – by means of a criminal offence pursuant to Article 288 of the CC-1;

6) obstruction of execution of the decisions of judicial authorities or failure to comply with these decisions – by means of criminal offences referred to in Articles 287 and Articles 289 to 293 of the CC-1 (violation of the secrecy of proceedings, prevention of return to work, violation of the prohibition to exercise profession, escape from confinement, mutiny of confined persons and enabling escape from confinement).

The criminal offences referred to in this Chapter are mainly general, some of them special (such as false deposition, unlawful, partial and unfair trial). The criminal offence of failure to inform authorities of preparations for a crime and the criminal offence of failure to provide information of crime or perpetrator are genuine offences of omission. The criminal offence of failure to inform authorities of preparations for a crime and the criminal offence of failure to provide information of crime or perpetrator and criminal facilitation preclude the punishability of a spouse, a cohabitation partner, a partner in same sex civil partnership, a straight-line relative, brother or sister, an adoptive parent or an adopted child. If any of the aforementioned persons is not punished, no punishment is imposed on their spouses or cohabitation partners or partners in same-sex civil partnership. One should also point to the problems associated with the expansion of the circle of persons precluded from punishment, in particular to the problems of identifying cohabitation.

The failure to provide information of crime or perpetrator also precludes the punishment of the perpetrator's counsel, physician or confessor.

The criminal offences listed in this Chapter are not particularly statistically relevant. They account for a mere 0.63% of the total criminal offences adjudicated by courts in the Republic of Slovenia in the period 2000-2016. The most frequently committed criminal offences in every-day life are false depositions and violations of the secrecy of proceedings.

Although there are not many criminal offences against the judiciary and they are not statistically relevant, it is an important category of criminal offences, the suppression of which ensures a smooth operation of judicial authorities and a correct and lawful functioning of the judicial system. It is the correct and lawful functioning of the judicial system that is extremely important for the functioning of a democratic state which is based on the separation of powers into legislative, executive and judicial branches.

Literature

1. Criminal Code of the Republic of Slovenia (CC-1), Official Gazette of the Republic of Slovenia No. 55/08; 66/08; 39/09 (CC-1A); 91/11 (CC-1B); 54/15 (CC-1C); 38/16 (CC-1D) and 27/17 (CC-1E).

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MANDATORY ELEMENTS OF THE CRIME OF HUMAN TRAFFICKING ACCORDING TO THE CRIMINAL CODE OF GEORGIA

The crime of human trafficking, often described as modern form of slavery is proscribed in various universal and regional instruments and national legislations of most democratic countries.

In Georgian criminal code, the crime of human trafficking is envisaged in in the chapter of crimes directed against human rights and freedoms (Chapter 23). Article 1431 (par. 1) [1].

From the legal definition of the crime of human trafficking stipulated in criminal code of Georgia, five basic elements can be identified:

- a) Sale and purchase (or other illegal transaction).
- b) Recruitment.
- c) Coercion (or deception).
- d) Limitation of freedom/control of the victim.
- e) Exploitation.

For the proper qualification of crime of human trafficking it is important to identify which of these elements are mandatory and which of them are optional. Thus, we can consider these elements from this angle.

- a. Sale and purchase, or any other unlawful transaction

From the text of art. 1431 of the criminal code of Georgia, it is clear that the sale or purchase (or any other unlawful transaction) is not a mandatory but optional element of human trafficking. Thus, the human trafficking can take place without sale/purchase or any other illegal transaction.

- b. Recruitment

According to Georgian criminal code, this element can be expressed in recruitment, concealing, hiring, transporting, transferring, harboring or receiving of a human beings (using methods listing in the law coercion, threat, blackmail, etc). These actions are exhaustively listed in the law.

While these actions constitute the conduct element of the crime of human trafficking (alternative to sale and purchase), they should be accompanied by