

## **Question 5.b.**

### **Section 2 (Code of Criminal Procedure) – Basic Principles of Criminal Procedure**

(3) The public prosecutor is obliged to prosecute all criminal offences which they gain knowledge of, unless the law, directly applicable act of the European Union or a promulgated international treaty binding the Czech Republic stipulates otherwise.

### **Section 163 (Code of Criminal Procedure) – Criminal Prosecution with the Consent of the Aggrieved Person**

(1) Criminal prosecution for criminal offences of Bodily harm (Section 146 of the Criminal Code), Grievous bodily harm out of negligence (Section 147 of the Criminal Code), Bodily harm through negligence (Section 148 of the Criminal Code), Failure to provide assistance (Section 150 of the Criminal Code), Failure to provide assistance by drivers of motor vehicles (Section 151 of the Criminal Code), Threat of venereal disease (Section 155 of the Criminal Code), Illegal restraint under Section 171 (1) and (2) of the Criminal Code, Extortion under Section 175 (1) of the Criminal Code, Breaking and entering (Section 178 of the Criminal Code), Infringement of rights of another (Section 181 of the Criminal Code), Breach of confidentiality of files and other private documents (Section 183 of the Criminal Code), Sexual duress under Section 186 (1) and (2) of the Criminal Code, Theft (Section 205 of the Criminal Code), Embezzlement (Section 206 of the Criminal Code), Unauthorized use of an item of another (Section 207 of the Criminal Code), Unauthorized interfering with a right to a house, apartment or non-residential premises (Section 208 of the Criminal Code), Fraud (Section 209 of the Criminal Code), Legalization of Proceeds from Crime under Section 216 (1) of the Criminal Code, Negligent Legalization of Proceeds from Crime under Section 217 (2) of the Criminal Code, Usury (Section 218 of the Criminal Code), Concealment of items (Section 219 of the Criminal Code), Breach of duty in administration of property of another (Section 220 of the Criminal Code), Negligent breach of duty in administration of property of another (Section 221 of the Criminal Code), Damnification of creditors (Section 222 of the Criminal Code), Damage to an item of another (Section 228 of the Criminal Code), Dangerous threatening (Section 353 of the Criminal Code) and Dangerous pursuing (Section 354 of the Criminal Code) against a person, who is in such a relation to the aggrieved person, that the aggrieved person has the right to refuse testimony as a witness concerning this person (Section 100 (2)), and the criminal prosecution for the criminal offence of Rape according to Section 185 (1) and (2) of the Criminal Code against any person who is or at the time of the criminal offence was related to the victim as their spouse, unmarried spouse or a partner, as well as for the criminal offence of Insobriety (Section 360 of the Criminal Code), if it otherwise shows the characteristic merits of any of these criminal offences, criminal prosecution may be initiated or continued only with the consent of the aggrieved person. If there are several aggrieved persons harmed by a single act, the consent of one of them is sufficient.

(2) If the aggrieved person fails to submit their statement to the public prosecutor or the police authority in writing, it will be recorded in the protocol. The aggrieved person may withdraw his consent to the criminal prosecution by an explicit statement at any time, until the appeal court retires for the final deliberation. However, an explicitly denied consent cannot be granted again.

### **Section 186 (Criminal Code) – Sexual Coercion**

- (1) Whoever forces another person into masturbation, indecent exposure, or other comparable conduct by threat of violence or the threat of other serious injury, or who exploits the person's vulnerability for such behaviour shall be punished by a prison sentence of six months to four years or punishment by disqualification.
- (2) An offender who coerces another person into sexual intercourse, masturbation, indecent exposure, or other comparable conduct by exploiting their addiction or the offender's position and, hence, credibility or influence, shall be similarly punished.
- (3) An offender shall be punished by a prison sentence of one year to five years, if they committed an act referred to in Subsection 1 or 2
  - a) on a child, or
  - b) with at least two persons.
- (4) An offender shall be punished by a prison sentence of two to eight years, if,
  - a) they committed an act referred to in Subsection 1 with a weapon,
  - b) they committed an act referred to in Subsection 1 or 2 on a person serving detention, a prison sentence, protective treatment, security detention, protective or institutional care or in another place where personal freedom is restricted, or
  - c) they committed such an act as a member of an organised group.
- (5) An offender shall be punished by a prison sentence of five to twelve years, if,
  - a) they committed an act referred to in Subsection 1 on a child under the age of fifteen years, or
  - b) they caused serious injury by committing such an act.
- (6) An offender shall be punished by a prison sentence of ten to sixteen years, if they caused death by committing an act referred to in Subsection 1 or 2.
- (7) Premeditation is punishable.