Slovenia. Perhaps a pointed scientific comparison between the (theory of) general parts of the substantive criminal legal systems of Slovenia and Ukraine could be a productive good start in the given direction.

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SIMPLIFIED FORMS OF CRIMINAL PROCEEDINGS IN SLOVENIA

Criminal law performs in contemporary society two mutually opposed functions. On the one hand it is an instrument of protection of the existing social and legal order. It protects besides special values, proper to a given society, also values considered as general human values (for example life, physical integrity, property). These two elements represent a protective function of criminal law. On the other hand, criminal law should protect people against arbitrary and unlawful interventions of the state apparatus. This function is called the guarantee function of criminal law [1].

In spite of the growing importance of the protection of human rights and the strengthened guarantee function of criminal law, a constantly increasing number of processed cases and the unreasonably long duration of court proceedings forces us to look for the simplified forms of processing which would lead to more expeditious and efficient ways of handling the cases before a court.

Simplified forms of processing in the Slovene Criminal Procedure Act (hereinafter CPA) [2] can be divided to a summary proceedings and simplified forms of treatment before the court and to simplified forms of processing in the pre-trial procedure.

The simplified forms of processing in criminal matters before a court consist of the procedure for the issue of punitive order (Articles 445.a to 445.e of the CPA) and the guilty plea agreement (Articles 450.a to 450.č of the CPA).

Among the simplified forms of processing in the pre-trial procedure are provided the settlement procedure (Article 161.a of the CPA) and the suspension of criminal prosecution (Article 162 of the CPA).

Summary proceedings before the district court and the presented simplified forms of processing in criminal matters before the court and simplified forms of processing in the pre-trial procedure may actually contribute to a more expeditious and effective solving of criminal matters, yet some solutions seems in my opinion questionable.

Although it is explicitly stipulated in the third paragraph of Article 161.a of the CPA that the settlement may be implemented only with the consent of the suspect and injured party, it is known from the practice that in some cases the suspect and

injured party were forced to make a settlement. With regard to the fact that it is essential for the settlement that each of the parties involved in the settlement procedure makes some concession, the question arises why the injured party should concede to a perpetrator. It also seems questionable why the state should put the injured party in the situation in which he is supposed to negotiate with a person who intentionally caused him an aggravated bodily harm or even grievous bodily harm. And finally, the injured party's refusal of the conclusion of agreement is as a rule considered going in favour of the suspect.

The dismissal of crime report for the reason that the suspect paid upon the order of the public prosecutor certain contribution in favour of some public institution or some charity fund, reminds me of the sale of indulgences, which is in my opinion completely inadmissible.

The provisions regarding the settlement and suspension of criminal prosecution show that the public prosecutor can exercise the sentencing policy even before the case comes before the court (if the defendant complies with the instructions of the prosecutor and performs the tasks that he imposed on him, the case will not even be brought to the court, because a crime report will be dismissed by the prosecutor). These provisions are in my opinion very questionable, because they mean that the public prosecutor sets »sentencing frameworks« in each individual case, what represents a relatively large risk for the violation of the principle of equality before the law.

The most questionable among the simplified forms of processing seems to me the guilty plea agreement. The listed provisions of the CPA on the admission of guilt are in my opinion very problematic and probably even unconstitutional at least for two reasons. Provisions, by which the judge is limited to the formal examination of plea agreement, and in respect of sentencing, to the motion of public prosecutor, deprive the judge of his basic function – that is a function of judging; this is by no doubt problematic by itself, because the judge cannot exercise the function for which he was elected. What seems even more problematic is that the public prosecutor and defendant (or his defence counsel) set the "sentencing frameworks" in each particular case, which implies that they create an *ex post facto* paradigm for each individual case. Such a conduct necessarily results in the violation of equality before the law, which constitutes one of the basic legal principles of every legal order.

Simplified forms of processing in criminal matters will perhaps contribute to the faster and more effective solution of cases, but I doubt that they will promote better justice and increase a trust of people in the administration of justice.

Literature

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