

say – equal conditions for all. But the reality of post-Soviet countries? This is a fight of five-year-old children and 25-year-old men.<sup>14</sup>

In the immediate future there will be demand on the world markets for the IT-industry, pharmaceuticals, biotechnology, so, these industries need help from the state. The support of the entrepreneurial, scientific and trade capacities will encourage production of high-tech products with innovative technologies. And hereinafter it will ensure for these products the highest possible markets distribution. But also Ukraine needs strong changes in political life. After five years in the WTO we must have strong position in negotiations of tariff trade barriers. This is the first step for the “place under sun” in regulated of WTO issues.

In conclusion, I would like to note that only a country with an effectively working government and well-developed industry can stand against powerful corporations, to withstand disputes settlement and defend their point of view in the WTO, while developing their independence and economic situation. Right now I know only one such country – China.

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### **NEW WAYS OF POLISH CRIMINAL LAW – A FEW REMARKS ON GENERAL IDEAS OF UNDERGOING CHANGES**

It is trivial to say that most of the legal systems, if not all of them, are constantly experiencing the process of change. It is even possible to say that in a different moments of a time-span, one can observe and analyze different version of the same legal system [1, p. 33–34]. Changes that occur in the certain legal system over time can vary between themselves, based on various factors such as: the scale of the proposed amendment or way of affecting the social life. Suffice to say, that some of the can carry a grave importance and some do not.

Currently the Polish criminal law is undergoing a process of major change. It affect both part of this area of law. Firstly, the so-called “material” one, which defines the principles of criminal liability, the catalog of crimes and possible way of reaction to them. Secondly, the so-called “formal” one, which consists of procedural regulations. In the rest of the paper I will refer to those parts of criminal law as “material criminal law” and “formal (or procedural) criminal law”.

The abovementioned changes in Polish criminal law consists of series of amendments to the Polish Criminal Code and the Polish Code of Criminal Procedure. Part of those amendments are already enacted [2] while part of them is un-

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<sup>14</sup> Елена Полищук. Постсоветские страны проиграли от вступления в ВТО: [Электронный ресурс]. – Режим доступа:

dergoing the legislative procedure [3]. Still there is more to come, as the Ministry of Justice is working on the new propositions. Those amendments in most instance are complex proposition of changes which covers a vast parts of Polish Criminal Code and the Polish Code of Criminal Procedure. They are built on the basis of some general ideas, which refer to the fundamental questions concerning the organization of the criminal law in Poland. That is to say those ideas addresses to the problem of understanding the criminal justice in itself and ways of obtaining it. Therefore the legislative process which currently undergoes in Poland with respect to the criminal law is considered by both the scholars and the representatives of judicature as extremely important.

It is nearly impossible task to cover all major aspects of proposed amendments in such a short paper and without making a brief description of current status of criminal law, both the “material” and the “formal one”. Taking this into consideration, for the purpose of this paper only three important ideas were chosen. In the first place the propositions covering various aspects of “material criminal law” will be presented, and then the characteristics of the amendments in the area of “formal criminal law” will follow. In the area of “material criminal law” one of the most important changes are stated in proposition of amendment from 10<sup>th</sup> December 2013. Two main ideas which arises from its statements are: (1) expansion of consensual ways of criminal case settlement, and (2) the growing flexibility of the criminal sanctions.

The first of them is aimed at allowing the injured party to has a more influence at the course of criminal proceedings. In various instances such person simply has no interest in continuing the trial from many different reasons. Two of them should be specifically outlined: revictimisation caused by taking part in criminal trial and the willingness to receive redress in the first place, not only the sentencing of wrongdoer. The criminal justice which is strongly governed by the state should take into consideration that in many cases of minor crimes there exists a possibility of reaching a satisfactory agreement between the accused person and the injured party. Therefore, the main idea of the changes which proposes the new consensual institution or expands the application of existing ones is the assumption that in some cases the criminal justice is better served according to the will of the parties to the trial than by the state itself.

Second idea is aimed at adjusting the sentenced criminal sanction to both: the act committed and the wrongdoer in more precise manner. That is to say: to met the individual aspects of crime and its perpetrator.

The proposed changes in the area of the “formal criminal law” are somehow connected with the abovementioned ones from the “material criminal law”. However in this instance, they have become an enacted law which is only waiting a *vacatio legis* period to expire to come into full legal force. The main idea

of most changes consisted in this amendment is to change the model of Polish criminal procedure from the to the adversarial one. The adversarial model of criminal trial consists on the statement that there are two opposite parties – the accused person and the prosecutor (or in some cases the injured party) – which arguments on their behalf. That is to say, the prosecutor on the behalf of guilt and the accused person on behalf of exactly opposite thesis. The role of the judge is – in general – narrowed down only to render a judgment and assure that all standards of the criminal trial stated in the Polish Code of Criminal Procedure are met. This adversarial model of proceedings applies mostly to the court of the first instance. Main idea which stands behind this amendment is connected with the principle of verity. It stands on the statement that the parties to the trial have interest in unfolding the exact and therefore truly course of events that led to commitment of a crime. If the verity is to be met in certain criminal court sentence it requires both the accused person and the injured or prosecuting party to take active part in conducting trial.

As it can be seen from the glimpse of the ideas, the currently undergoing process of change in the area of criminal law is most important one in the past 25 years. It is aimed at performing serious change in the way the criminal justice is seen and delivered. The state governed only trial is slowly replaced by the way of proceedings which allows the parties to present and realize their certain interests – which, in some instances, can differ from the states' ones. Because of the fact that the changes are currently underway it is difficult to formulate a precise evaluation of them. Nevertheless it can be stated that they will have a noticeable impact on the image of the criminal law in Poland which we are going to see in the upcoming 10 to 20 years.

#### *Literature*

1. J. Raz, The concept of a legal system, 1997, p. 33–34.
2. Such as the amendment act to the Polish Code of Criminal Procedure, enacted 27<sup>th</sup> September 2013 (available in polish language at: <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20130001247>).
3. Such as the proposition of amendment act to the Polish Criminal Code, stated 10<sup>th</sup> December 2013 (available in polish language at: <http://ms.gov.pl/pl/informacje/news,5628,zmiana-filozofii-karania--nowelizacja-kodeksu.html>).