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THE EFFICIENCY OF PRE-TRIAL PROCEEDINGS – CURRENT CHALLENGES OF CRIMINAL LAW (BRATISLAVA, 11 – 12 SEPTEMBER 2023) /Jozef Čentéš, Maximilián Kiko

prof. JUDr. Jozef Čentéš, PhD.
Professor
Comenius University Bratislava
Faculty of Law
Department of Criminal Law,
Criminology and Criminalistics
Šafárikovo nám. 6
818 00 Bratislava, Slovakia
jozef.centesh@flaw.uniba.sk
ORCID: 0000-0003-3397-746X

Mgr. Maximilián Kiko
PhD. Candidate
Comenius University Bratislava
Faculty of Law
Department of Criminal Law,
Criminology and Criminalistics
Šafárikovo nám. 6
818 00 Bratislava, Slovakia
maximilian.kiko@flaw.uniba.sk
ORCID: 0000-0002-7576-4000

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On September 11th and 12th, 2023, the international scientific conference "Bratislava Legal Forum 2023" was held under the auspices of the Alumni Club and Faculty of Law of the Comenius University in Bratislava (hereinafter as "conference"). The central theme of the plenary session was "Human at the center of the rule of law". One of the main goals of the conference was to connect the knowledge of legal practice and legal science through their representatives from the domestic and international

environment. In order to reach this goal, the conference was divided into plenary session and parallel discussions in thematically focused sections. The plenary session had two panel discussions. One of them was panel discussion called "Artificial intelligence as a challenge for law, legal education and the rule of law" and second one was panel discussion called "Criminal law and the rule of law" moderated by professor Tomáš Strémy (academic professor and attorney at law). Participants of this panel discussion were doc. JUDr. Eduard Burda, PhD. (Dean, Faculty of Law, Comenius University in Bratislava), JUDr. Petr Angyalossy, PhD. (President, Supreme Court of the Czech Republic), JUDr. Martin Puchalla, PhD. (Chairman, Slovak Bar Association), JUDr. Jozef Kandra (first deputy general prosecutor of the Slovak Republic, General Prosecutor's Office of the Slovak Republic).

Criminal law, criminology and criminalistics had their own section in the conference and the discussion took place in Slovak, Czech and English language. This section was conducted as part of a project supported by the Research and Development Support Agency APVV no. 19-0102 "The efficiency of pre-trial proceedings – research, evaluation, criteria and influence of legislative changes" (hereinafter as "project"). The given section was aptly titled: "Current challenges of criminal law" (hereinafter as "section"). The guarantors of the subject section of criminal law, criminology and criminalistics were important internationally recognised experts in the field of criminal law, Dr. h. c. prof. JUDr. Lucia Kurilovská, PhD. (State Secretary, Ministry of the Interior of the Slovak republic) and prof. JUDr. Jozef Čentéš, PhD. (Head of the Department of Criminal Law, Criminology and Criminalistics of the Comenius University Bratislava, Faculty of Law) who is also the head researcher responsible for the mentioned project. The aforementioned supports the importance and justification of this international scientific conference.

Over 45 contributions were represented by experts from academic circles and legal practice in this section during both days. This quantity and quality of contributions made the section of the conference one of the best and largest in terms of the number of participants. From these contributions, a rational and useful discussion raised, which had an impact on improvements of the efficiency of the pre-trial proceedings of its examination, evaluation, criteria, and the impact of legislative changes.

The first day of the section was opened by prof. JUDr. Jozef Čentéš, PhD. (responsible project researcher). He welcomed the participants and especially thanked important domestic and foreign guests who showed interest and contributed to the high quality of the section by their participation in this international scientific conference. In his speech, he emphasised the importance of this format also from the point of view of linking theoretical knowledge with application knowledge and pointed out the high participation of various legal application professions, among which judges, prosecutors and lawyers were represented. At the same time, he stated that the section is carried out within the framework of the APVV project 190102 "Effectiveness of preparatory proceedings – examination, evaluation, criteria and impact of legislative changes". In this context, prof. JUDr. Jozef Čentéš, PhD. had a contribution with paper "Virtual currencies – some legal and economic aspects and trends in the Slovak republic and the world" in co-authorship with doc. JUDr. Ján Šanta, PhD., LL.M., MBA (University in Trnava, Faculty of Law/Special Prosecutor's Office). Also, he gave the floor to prof. JUDr. Tomáš Strémy, PhD., which led the first day of the conference.

JUDr. Lukáš Turay, PhD. (Comenius University in Bratislava, Faculty of Law), who presented the conclusions of a joint paper with Dr. h. c. prof. JUDr. Lucia Kurilovská, PhD. (Comenius University in Bratislava, Faculty of Law) "Quo vadis criminal policy?", in which they dealt with questions of the current direction of Slovak criminal policy. They drew

attention to three problematic areas, namely recidivism, the absurdity of certain criminal facts and the problem of setting disproportionately harsh penalties. They stressed the need for an honest criminological basis when adopting new legislation and pointed to the problem of the high number of amendments to the Criminal Code, which were often made solely on the basis of feelings, and which added a number of new facts. At the same time, they expressed regret about the outcome of the legislative process of the forthcoming major amendment to the Criminal Code, which was supposed to solve the problems raised.

Assoc. Prof. Radovan Blažek, PhD. (Comenius University in Bratislava, Faculty of Law) in his paper entitled "The rights of the accused juvenile in the context of Directive 2016/800" analysed the scope of the rights of accused juvenile under Directive 2016/800 and compared them with the scope of rights of accused juvenile in the Code of Criminal Procedure. This Directive was transposed into the legal order of the Slovak Republic by an amendment to the Code of Criminal Procedure, Act No. 161/2018 Coll. Based on a detailed analysis, the author of the paper found that the content of the amendment contained only one provision, namely Section 121(5) of the Code of Criminal Procedure. In his speech, he pointed out the insufficient scope of the rights of accused juvenile in the Code of Criminal Procedure compared to the Directive, from which it can be inferred that all the provisions of the Directive have not been transposed into the Code of Criminal Procedure, since the provisions do not correspond to each other. In conclusion, he stated that in connection with the consequences that may result from this, proceedings could be initiated by the European Commission for incorrect transposition of the directive into the legal order of the Slovak Republic.

On the topic "Theoretical and methodological starting points for the legalization of proceeds from criminal activity" came forward with his contribution professor Tomáš Strémy, PhD. (Comenius University in Bratislava, Faculty of Law), in which he dealt with this issue from a global perspective and subsequently moved to the conditions of the Slovak Republic by discussing the facts themselves regulated in the Criminal Code. In the context of that offence, he also dealt with the mandatory penalty of forfeiture of property, which in his view is too severe.

Team of authors (JUDr. Ing. František Vojtuš, PhD., Mgr. Petra Dražová, PhD.) represented by doc. JUDr. Marek Kordík, PhD., LL.M. (Comenius University in Bratislava, Faculty of Law) in paper "Follow the money" principle in the investigation", dealt with the principle of monitoring financial flows in connection with decision-making practice. This principle is enshrined in (European union) Directive no. 4 AML (beneficial owner), a different person who is kept in databases, and it is the "one who gets something out of it". It either holds 25% of the voting rights or is entitled to appoint a management, controlling or statutory body. In the presented paper, the authors believe that the condition of 25% share is unnecessary and should focus on the specific power rights of the potential beneficial owner. If this cannot be determined, the statutory body shall be considered the beneficial owner. It also pointed out specific application problems in investigating and finding the ultimate beneficial owner related, for example, to the issue of tax havens, but also to the use of trusts, funds, and family foundations, as well as overly complicated ownership structures, fragmented or circular ownership.

Another speaker was JUDr. Stanislav Mihálik, PhD. (Comenius University in Bratislava, Faculty of Law) with a paper entitled "How to continue with the sanctioning of driving under the influence of an addictive substance", in which he discussed the punishment of the crime of endangerment under the influence of an addictive substance from the perspective of the status quo, a qualitative analysis of legislative proposals and proposals *de lege ferenda* in relation to the prosecution of the said crime. In the paper,

the author pointed to the legislative proposal for a short-term prison sentence, which leads to success in terms of radical change, because the increase in the penalty rate does not affect the psychological state of the potential offender.

The second day of the section was opened again by prof. JUDr. Jozef Čentěš, PhD. He welcomed the attendees and then gave the floor to Dr. h. c. Prof. JUDr. Lucia Kurilovská, PhD., who headed the section. Dr. h. c. prof. JUDr. Lucia Kurilovská, PhD (Comenius University in Bratislava, Faculty of Law) and JUDr. Patrícia Krásná, PhD., LL.M. (Academy of the Police Force in Bratislava) focused on "Peculiarities of child pornography investigation." In their speech, they outlined the most important specifics that need to be examined in order to make the investigation more effective from the point of view of *de lege ferenda*. As the Internet environment continues to flourish, it is necessary to adapt to these realities. First of all, it is necessary to unify the legislation relating to the storage and transfer of data on the Internet to law enforcement authorities. An important milestone is to connect the theoretical with the application level and to link the connections that will make the investigation of child pornography more effective (e.g., victims are neglected, a small number of publications are devoted to victims and their specific needs, etc.). Finally, they stated that it is necessary to improve and streamline expert examination, to increase cooperation and promptness in the investigation of child pornography, since cooperation between experts very often occurs.

Authors JUDr. Jakub Ľorko, PhD. and Mgr. Lenka Mikiľossyová (Comenius University in Bratislava, Faculty of Law) in their paper entitled "Current penological knowledge from drug crime" focused on three areas with the aim of acquiring new criminological knowledge about convicted drug offenders. They devoted themselves to criminal analysis with an emphasis on the multiplicity of criminal activity, which was greatest between section 171 and section 172 of the Criminal Code. The authors also dealt with the length of imprisonment, for Section 171 of the Criminal Code it is most often 1-2 years and for Section 172 of the Criminal Code it is 6-10 years. Most of the convicts are in the minimum level of guarding. Another evaluation criterion was age analysis, or gender, when most of the perpetrators are men. Most drug crimes are committed in the Trnava region. The last criterion was educational analysis i.e., the highest educational attainment. Most drug offences were committed by offenders who had completed primary school. In conclusion, the authors dealt with the results.

Finally, Dr. h. c. prof. JUDr. Lucia Kurilovská, PhD. thanked all participants who, through their participation and subsequent discussion, contributed to the high quality of the section at this conference and expressed her conviction about the high contribution of this event in the context of current issues that criminal law is currently facing.