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Preface

Przedmowa

Our domestic criminal justice systems in Europe differ a lot when it comes to the design of their criminal procedure in the pre-trial, trial and post-trial phase, going from adversarial to semi-inquisitorial and inquisitorial nature. Naturally so, one would say, as they are part of the hard core of the punitive dimension (*ius puniendi*) of the Sovereign States. Within the jurisdiction of the Sovereign, it does not matter that much that the authorities empowered with judicial investigative and prosecutorial powers, the judicial powers themselves, and the applicable procedural safeguards and fundamental rights are different from choices in jurisdictions of other Sovereigns. However, this myth of absolute sovereignty is quite behind us. First of all, Sovereign States do need each other in an increasingly way to address transnational issues of crime control. Already at the end of the 19th century, they signed and ratified many bilateral treaties with the aim of gathering evidence abroad (mutual legal assistance) and with the aim to obtain extradition of suspects for standing trial or of convicted for the execution of their prison sentence. In the 1920s and 1930s, more and more States were willing to sign and ratify multilateral suppression treaties against transnational crimes, such as piracy on the high seas, counterfeiting of currencies and terrorism, in which they did agree on common definitions of offences and jurisdiction criteria in order to facilitate judicial cooperation in criminal matters, especially in the area of transnational serious crimes that did harm a lot their interests.

After World War II, multilateral cooperation in the criminal justice field increased a lot. First, the Council of Europe produced (1) multilateral conventions on extradition and mutual legal assistance in criminal matters (the so-called mother conventions), (2) multilateral suppression conventions and (3) the European Convention of Human Rights and the related jurisdiction of the European Court of Human Rights (ECtHR). Even if we are in a framework of intergovernmental cooperation, all these conventions and the case-law of the ECtHR will produce very important rules and standards that have a substantial impact on criminal justice, including criminal procedure.

The integration model of the European Communities, and later the European Union, will have an even stronger impact. This does not come as a surprise, as the integration model is based on common areas (internal market, customs union, monetary union, area of freedom, security and justice), the achievement of common policy goals (from the common agricultural policy to consumer and environmental protection) and, above all, compliance with key values of a political union, such as the rule of law and compliance with fundamental rights standards in a democratic setting. Even if the EU integration leaves discretion to Member States when it comes to procedure (the so-called procedural autonomy) it does not stand in the way of harmonizing national (criminal procedure) when necessary for the achievement of the policy aims of the EU (including enforcement) and its related core values. Also, the establishment of new European agencies in the field of criminal justice, such as the European Public Prosecutor's Office, requires further adaptation of the national criminal procedure, both at the pre-trial and trial level.

Finally, the fight against impunity of atrocity crimes and serious violations of human rights did lead after World War II to new forms of international criminal justice, including criminal investigations, prosecutions and adjudication in international criminal tribunals or courts for the alleged violations of international core crimes. The model of the International Criminal Court is based on complementarity, meaning that domestic jurisdiction should comply in the first line with the international obligations (conventions and customary law) in the field. This has of course also an impact on the domestic criminal procedure, as it must be able and capable to offer effective solutions that do comply with international human rights standards.

In the light of these developments, I want to congratulate the colleagues of the Law School of Maria Curie-Skłodowska University, especially Barbara Dudzik and Marek Kulik, together with the support of the Dean, the Director of the Institute of Legal Sciences and the Rector, for the organization of an international congress on "The Impact of European and International Law on Criminal Procedure" on 12 and 13 October 2023. The choice of the topic is of great actuality and shows that European States and their legislative, executive and judicial authorities must adapt their design of the criminal procedure to new standards of crime control and due process, not only for complying with the European and international legal order, but also to be able to provide security and fundamental rights protection to their citizens.

This interesting conference results in the publication of its elaborated proceedings in this issue of "Studia Iuridica Lublinensia". I highly recommend the reading of the content, not only to academic scholars, but certainly also to legislators and practitioners.

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