

CONFERENCES AND REPORTS

International Scientific Conference “Criminal Procedure Law – the Future and the Past”, Prague, 10th November 2016

On 10th November 2016, the Department of Criminal Law of Charles University Faculty of Law organized one of the most significant events in the field of criminal science in recent years. The international scientific conference “Criminal Procedure Law – the Future and the Past” was held to commemorate the scientific works of Prof. Antonín Růžek (8. 2. 1916 – 26. 11. 2007), a significant figure in the field of criminal procedure in former Czechoslovakia and a former Head of the Department of Criminal Law and a Vice-Dean of Charles University Faculty of Law, whose centennial birth anniversary came to pass in 2016. The conference took place in the historic premises of the Patriotic Hall of Carolinum, the main seat of Charles University in Prague, and was attended by high-profile experts in the field of criminal law and other related disciplines from Czech and Slovak Republic.

Conference contributions were thematically focused on the fields of Prof. Růžek's interest and the impact of his work to the current criminal law science and practice. Particularly close attention was paid to his legacy in connection to the current recodification works on the new Code of Criminal Procedure. The issues were discussed not only from the perspective of criminal law but also in consideration of other legal disciplines, such as constitutional law, administrative law or legal history. The main topics addressed were the fundamental principles of criminal proceedings, issues of criminal prosecution, role and responsibilities of a public prosecutor, evidence, identity of act, principle of *ne bis in idem*, position of preliminary hearing within the overall structure of criminal proceedings, and other important issues.

The conference was ceremonially started by the Dean of Charles University Faculty of Law, **Prof. Jan Kuklík**, and by the Head of Criminal Law Department, **Prof. Jiří Jelínek**, who warmly welcomed the attendees and paid tribute to the legacy of Prof. Růžek in the field of criminal procedure. The first session devoted to the fundamental principles of criminal proceedings was opened by **Prof. Vladimír Kratochvíl** (Masaryk University) who briefly addressed the applicable fundamental principles of criminal proceedings and *de lege ferenda* outlined his idea about their role in the upcoming new Code of Criminal Procedure. Following speech, delivered by **Prof. Jiří Jelínek** (Charles University), was focused on the accusatory principle in criminal proceedings and the legacy of Prof. Růžek in this area. He expressed his opinion on the current applicability of this principle in Czech criminal proceedings and further elaborated on the possible use of private and subsidiary indictment in the upcoming new Code of Criminal Procedure. **Prof. Šámal** (President of the Supreme Court of the Czech Republic), further analyzed selected fundamental principles and their role in the upcoming new Code of Criminal Procedure and described the legislative works on the new Code during his service as the Chairman of the recodification committee. **Prof. Jaroslav Fenyk** (Vice-President of the Constitutional Court of the Czech Republic) then addressed the issue of formal burden of proof in criminal proceedings and expressed his negative opinion about the inclusion of formal burden of proof of a public prosecutor in the upcoming Code of Criminal Procedure. **Prof. Jaroslav Ivor** (Paneuropean University) presented the principle of material truth from the perspective of Slovak legislation and pointed out to its unclear form in the pre-trial stage of criminal proceedings.

The final part of the first session was devoted to the principle of *ne bis in idem* and related issue of identity of an act. **Prof. Dagmar Čísařová** (Police Academy of the Czech Republic) reminded the scientific conclusions of Prof. Růžek on this issue and expressed an opinion that the adoption of the new Criminal Code in 2009 without a new Code of Criminal Procedure was a fatal mistake. **Associate Prof. Tomáš Gřivna** (Charles University) discussed the practical difficulties related to this principle in tax crimes and presented recent case law of the European Court of Human Rights applicable to

this issue. **Prof. Jozef Čentés** (Comenius University) subsequently addressed this issue from the perspective of Slovak criminal courts.

The second session was devoted to the question of evidence in criminal proceedings. It was opened by **Prof. Ivan Šimovček** (Trnava University) who addressed the issue of violations of the right to a fair trial in obtaining, producing and evaluation of evidence. **Associate Prof. Jana Tlapák Navrátilová** (Charles University) presented the impact of the controversial decision of the Constitutional Court of the Czech Republic No. 4/14 from 19 April 2016 that deals with the court jurisdiction in pre-trial proceedings and concludes that the evidence obtained in pre-trial proceedings that is based on the decision of unlawfully appointed judge will not be admissible. **Prof. Jozef Záhora** (Paneuropean University) in contribution devoted to eavesdropping in criminal proceedings pointed out the inappropriate wording of Slovak legislation regarding the admissibility of eavesdropping obtained as evidence in other criminal proceedings. **Associate Prof. Alexandr Nett** (Palacky University) discussed the question of obtaining evidence by a defense attorney. **Associate Prof. Sergej Romža** (Pavol Jozef Šafárik University) focused on the subject and scope of evidence in custody hearing. **Dr. Olga Sovová** (Police Academy of the Czech Republic) then closed the second session with her contribution addressing the issue of evidence in medical disputes.

The third session was devoted to the current issues of criminal prosecution. It was opened by the speech of **Prof. Jan Musil** (Judge of the Constitutional Court of the Czech Republic), who discussed the position of preliminary proceedings within the overall structure of criminal proceedings. The issue of preliminary proceedings was also the topic of the speech of **Associate Prof. Peter Polák** (Paneuropean University) and **Associate Prof. Jaroslav Klátik** (Matej Bel University). **Dr. Jiří Říha** (Charles University) *de lege ferenda* presented the possible arrangement of impounding measures in the new Code of Criminal Procedure, including the institutes for securing the attendance of witnesses. **Prof. Oto Novotný** (Charles University) then closed the third session with his contribution devoted to diversions in criminal proceedings.

The fourth session was devoted to other legal disciplines relating to criminal law. The presentations were focused mainly on constitutional, administrative or international law. The session was opened by the speech of **Prof. Aleš Gerloch** (Charles University) who addressed the constitutional safeguards of criminal proceedings in the Czech Republic and elaborated on the possibility of including the constitutional arrangements of a public prosecutor into judicial power or constituting it as a separate branch of state power. **Prof. Karel Klíma** (Metropolitan University) introduced the right to a fair trial in the light of European Court of Human Rights and further addressed the relationship between the decision-making practice of the ECHR and the Constitutional Court of the Czech Republic. **Associate Prof. Martin Kopecký** (Charles University) closed the fourth session with a speech addressing the procedural conflicts of qualification of an act as a crime or as an administrative delict.

The last session was devoted to the historical aspects of criminal law. **Prof. Michal Skřejpek** (Charles University) introduced the extraordinary criminal juries and the concept of retroactivity in Roman law. **Associate Prof. Ladislav Soukup** (Charles University) dedicated his speech to the organization and jurisdiction of military courts in Czechoslovakia after 1948. **Dr. Vladimír Pelc** (Charles University) summarized the excellences of Czechoslovak criminal law doctrine in the first half of the 20th century and stated the reasons why the doctrine particularly focused on procedural questions. The last two contributions were focused on the historical period connected with the life of Prof. Růžek. **Dr. Ivana Bláhová** (Charles University) informed about the recodification of criminal procedure at the time of the so-called Legal Biennial and the role of Prof. Růžek who worked during this period at the criminal department of the Ministry of Justice of Czechoslovakia. **Dr. Jiří Šouša** (Charles University) then described the interwar concept of teaching at the Faculty of Law of Charles University in Prague and the course of Prof. Růžek's studies. The conference was closed by the speech of **Prof. Jelínek** (Charles University) who summarized its outcomes and thanked the attendees for their participation.

Due to the time constraints and a great interest of the scientific community, it was not possible to present all contributions at the event. However, all contributions will be published in a collective monograph “Criminal Procedure Law – the Future and the Past” in cooperation with Leges publishing. The conference itself offered a unique opportunity to listen and discuss the opinions of high-profile experts from Czech and Slovak Republic on topical issues of criminal procedure. It also proved that many of the issues addressed by Prof. Růžek over a half century ago are still very topical and may serve as a basis for solving the current issues in both the theory and practice. Prof. Růžek’s conclusions about the notion of an act, identity of an act, introduction of subsidiary indictment or the expansion of accusatory principle to preliminary proceedings are thus very inspirational even in current times. This is very important especially in relation to the ongoing legislation works on the new Code of Criminal Procedure, the concrete form of which has not been found for more than 25 years. The conference brought up ideas and suggestions relevant not only from the perspective of *de lege ferenda*, but applicable also to the practice. It can be concluded that the Czech criminal procedure surely needs more similar opportunities to solve all of its contentious issues.

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