

CONFERENCES AND REPORTS

INTERNATIONAL SCIENTIFIC CONFERENCE BALANCE AND PERSPECTIVE OF EU CRIMINAL LAW AND ITS APPLICATION IN THE MEMBER STATES

On 26 September 2022, on the occasion of the Czech Presidency of the Council of the European Union, an international scientific conference called Balance and Perspective of EU Criminal Law and its Application in the Member States, organised by the Faculty of Law of Charles University, the Ministry of Justice of the Czech Republic, the Czech Bar Association, and the Union of Defence Attorneys of the Czech Republic, took place in the ancient premises of the Karolinum in Prague. The aim of the conference was the exchange of scientific knowledge and foreign application experience in the ever-developing and increasingly important field of criminal law of the European Union. The passing of almost 15 years since the adoption of the Lisbon Treaty logically called for the balancing of what has been achieved, where EU criminal law will (or should) go next, as well as what difficulties and emerging challenges the Member States face in connection with the application of EU law in the criminal field. The invitation to the event was accepted not only by leading Czech theorists and practitioners, but also by many foreign guests from various European countries (such as the Netherlands, Austria, Germany, and Poland).

The first part of the conference took place in the Great Hall of Karolinum, the oldest historical building of Charles University in Prague which dates back 14th century, when the university was established. At the beginning of the conference programme, the assembled attendees were welcomed by **Professor Tomáš Gřivna**, Head of the Department of Criminal Law of the Faculty of Law of Charles University as well as attorney-at-law and member of the board of the Union of Defence Attorneys, who opened the programme with a brief yet concise outline of the conference. The floor was then given to **Professor Radim Boháč**, Dean of the Law Faculty of Charles University, who, in his opening speech, reminded the audience inter alia of the constantly growing impact of European legislation on national legal systems in the individual Member States of the EU, as well as of the necessity of such legislation being timely implemented in national legal systems. Prof. Boháč was then followed by **Zuzana Fišerová**, Deputy Minister of Justice for the International and European Cooperation, who set the conference programme in the practical context of the Czech Presidency of the Council of the European Union, including the specification of challenges raised. Zuzana Fišerová also briefly summed up the stages of the legislative process for the adoption of EU legislation, including the roles of individual EU institutions and national bodies participating in its implementation.

The Czech Bar Association was represented by its Vice-Chair **Dr. Martin Maisner**, attorney-at-law, who presented the Bar's activities in the field of EU criminal law and its national implementation, and who also outlined the anticipated tasks and visions for the months and years to come. Dr. Maisner's speech was followed by **Dr. Tomáš Sokol**, President of the Union of Defence Attorneys and attorney-at-law, who drew attention not only to the often controversial harmonisation of the EU legislation from the perspective of a defendant and their defence, but also to the pressing issue of the sometimes different perception of the sense and purpose of the adaptation of Union rules by the European, or rather national, bodies.

Immediately after the opening speeches of the leading representatives of the individual co-organisers of the conference, Prof. Gřivna, the moderator of the conference's morning session, opened the first working panel of the conference called "*European Legislation*". The first person to present

was **Professor Michal Tomášek**, Vice-Dean of the Law Faculty of Charles University and Head of the Department of European Law. Prof. Tomášek pointed out specific difficulties faced by the process of Europeanisation of criminal law today, mentioning at the same time, for example, considerable challenges in achieving the objective of minimum harmonisation of the elements of individual crimes in the past. Issues related to the problematic of a European arrest warrant in the context of the case law of the Court of Justice of the EU, as well as other issues related to the topic of the conference, were also covered. The next contribution focused on the European Public Prosecutor's Office (EPPO), seated in Luxembourg, the creation of which also effectively marked the creation of European prosecution, particularly in the field of the protection of financial interests of the European Union and efficient law enforcement in the European area by means of direct repressive powers against individuals. The European Public Prosecutor's Office and the first year of its operation was dealt with by **Petr Klement**, European Public Prosecutor for the Czech Republic. Petr Klement stated that currently there are hundreds of ongoing criminal cases before the EPPO, and in connection therewith he emphasised how important a step the creation of the Office was primarily for the efficient investigation of intricate economic crime. In the closing contribution in the first block of the conference, **Michal Franěk**, Deputy Minister of Justice for Coordination of Legislation Drafting and Prevention of Corruption, spoke about the implementation of EU legislation in the Czech criminal law, about the European legislative process, and about the harmonisation in both substantive criminal law and criminal procedure.

Before moving to the Blue Auditorium of Prague's Karolinum, where the main working session of the conference took place with simultaneous interpretation, conference attendees were 'culturally refreshed' with a concert by a master organist, which ceremoniously concluded the first part of the debate on the issue of EU criminal law.

The second panel, called "*European Application Practice*", was opened by a video message from **Věra Jourová**, Vice-President of the European Commission, who looked at the issues through the prism of the European Commission and pointed out the controversial aspects of selected issues, speaking for example about the topical issues of combatting crime in the online environment or the increasing importance of Eurojust and Europol when investigating (more serious) crime which involves a cross-border dimension. Subsequently, practical experience with EU criminal law was presented from the perspective of two major European organisations, namely the Council of Bars and Law Societies of Europe (CCBE) and the European Criminal Bar Association (ECBA). The experience was presented by **Associate Professor Ondrej Laciak**, Chair of CCBE Criminal Law Committee, by **Miroslav Krutina**, Vice-Chair of the ECBA, representing Dr. Vincent Asselineau, Chair of ECBA, and by Prof. Dr. Holger Matt from Johann Wolfgang Goethe University of Frankfurt am Main. The penultimate presenter in the second block was **Dr. Michal Bobek**, the emeritus Advocate General of the Court of Justice of the EU and a Judge of the Supreme Administrative Court of the Czech Republic, who spoke about his own experience from the CJEU in the field of criminal law within the wider context of the rule of law and its democratic principles. The morning programme was closed by **Dr. Wouter van Ballegooij**, a representative of the criminal section of the European judiciary whose contribution focused on European legislation concerning violations of restrictive measures of the Union and the implementation of the Directive on the fight against fraud in the Union's financial interests by means of criminal law (Directive (EU) 2017/1371).

After a lunch break, the conference continued with the afternoon session which focused on *the application of EU criminal law in the individual Member States*. The line-up of panellists was varied in terms of both the professional focus of individual speakers and the countries in which they are active. The first afternoon block, moderated by Miroslav Krutina, was opened by **Dr. Ute Hohoff**, Judge of the 3rd Criminal Panel of the Federal Court of Justice, who presented on the application of EU criminal law in the Federal Republic of Germany. She was followed by a representative of the Republic of Austria, namely **Professor Babek Oshidary**, Judge of the Austrian Supreme Court, who at

the same time works at the University in Salzburg, whose contribution focused on practical aspects associated with the European Public Prosecutor's Office in the context of the Austrian domestic law. **Professor Elżbieta Hryniewicz-Lach** from Adam Mickiewicz University in Poznan then dealt with the problematic of references for preliminary rulings and the decision-making practice of the Court of Justice of the EU, including the follow-up case law of the Polish national courts, particularly the Polish Constitutional Court. The third panel was closed by a representative of the Federal Republic of Germany, the aforementioned **Professor Holger Matt**, who, in addition to other purely criminal issues transcending national borders, also addressed in his speech the issue of a European arrest warrant.

After a short refreshment break, the conference continued with the last expert block which was moderated by JUDr. Václav Vlč, a member of the Board of the Union of Defence Attorneys, and was opened by a contribution from a representative of the Slovak Republic, **Associate Professor Libor Klimek**, attorney-at-law, who at the same time works at Matej Bela's University in Banská Bystrica. He focused on the situation of EU criminal law in Slovakia, particularly on specific issues in the Slovak practice which sometimes, as he put it, stem from insufficient knowledge of European law. Doc. Klimek also mentioned a mechanism of mutual recognition of judgments in criminal cases *de lege ferenda*. Doc. Klimek's speech was followed by the contributions of two Czech representatives. The aforementioned **Professor Tomáš Gřivna**, discussed, inter alia, the issue of the high latency and low clear-up rate of cybercrime, which is also realized by the EU, and he called attention to the legislation currently being prepared, namely a proposal for a regulation on European production and preservation orders for electronic evidence in criminal matters, and a proposal for a directive laying down harmonised rules for the appointment of legal representatives for the purpose of gathering evidence in criminal proceedings. **Miroslav Krutina**, attorney-at-law, eventually focused on the implementation of EU criminal law in the context of the right to defence, and also called attention to problematic aspects of interpretation and translation. The last speaker in the working session of the conference was a representative of the Netherlands, **Dr. Rosa van Zijl**, attorney-at-law and a member of the Criminal Law Committee of the CCBE, who aptly evaluated the substantive and procedural aspects of the application of EU criminal law in the Dutch context; she supported the information presented with plentiful statistics and case law.

After the end of the working session, the attendees were invited to a closing toast, with informal discussions taking place, which brought the day's event to a close. Many Czech and foreign guests came to the international conference *Balance and Perspective of EU Criminal Law and its Application in the Member States* — indeed, more than two weeks before the conference, capacity had been exceeded and thus the organizers to stream the entire event. From the point of view of the author of this report, it can be unequivocally stated that the conference fully met its objectives and made a significant contribution to the critical analysis of existing issues in EU criminal law. The numerous reflections of the leading Czech and foreign experts in the field shared at the conference will be presented in the planned conference proceedings.

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