



CERTIFIED TRANSLATION FROM THE POLISH LANGUAGE

SUMMARY

The main objective of this dissertation is to analyse the indictment in the context of the principle of complainability, to analyse the indictment in terms of the formal requirements of an ordinary indictment and its formal control in court.

The model of modern criminal trial is based on the principle of complaint (Article 14 § 1 of the Code of Criminal Procedure), which determines the basic two courses of action. The first is a positive procedural prerequisite, i.e. the existence of a complaint (demand) of an entitled accuser. The second is the obligatory character of the complaint of the entitled accuser, which means that the filing of the complaint imposes an obligation on the court to undertake procedural activity within the scope set by the provisions of the criminal procedural law.

The author's research thesis was to determine, inter alia, whether the currently functioning institutions properly serve the accusatory function, why several types of complaints were introduced, whether the complaint should regulate the subject and object boundaries of the trial, whether it should contain the applicable formal requirements and whether it should be subject to formal control. These issues are presented on the basis of the provisions of the Code of Criminal Procedure of 1928, 1969 and 1997 and the current state of the law, in particular taking into account the amendments of 27 September 2013, 11 March 2016, 19 July 2019 and 7 July 2022. The dissertation repeatedly refers to the views of leading dogmatists in the doctrine and, in these considerations, they have been subjected to scientific discussion on the part of the Author of the dissertation.

The dissertation also captures the development of the ordinary indictment from 1928 to the current state of the law. First of all, the study is based on the historical, dogmatic-legal, theoretical-legal, legal-comparative, historical-legal method and the analysis of statistical data, mainly from the Central Statistical Office and the European Statistical Office Eurostat, the Statistical Office in Gorzów Wlkp. and the analysis of criminal case files in the Regional Court in Gorzów Wlkp.

It should be noted that the Code of Criminal Procedure of 1928 introduced Polish uniform legislation for all the lands constituting the Polish state after the restoration of independence after the partitions. It also defined, inter alia, the model of the first Polish indictment (ordinary

indictment and simplified indictment), the structure of which was not modified in later years. Only its legislative elements were subjected to changes, i.e. the content of its individual elements and the numbering of systematic units (articles). The doctrinally binding written form of the indictment determined that the structure of the indictment obliged the preservation and observance of the layout of its individual elements as defined in the legislation, the layout of which has been preserved without major changes to this day.

Difficulties in the implementation of legal provisions, despite the guarantees provided by the Constitution, Conventions and EU laws, led the Author to refer to the analysis of the criminal process and the indictment in Germany and the United States, as opposing two systems of law: state and common law. Therefore, the dissertation uses a comparative legal method between the Polish, German and American legal systems. The study of the German criminal process was based on the available literature. On the other hand, in the study of the American criminal process, it was very helpful for the author to attend court hearings on 18 May 2016 in criminal cases in the District Court, DeKalb County, Georgia USA conducted by Judge Abby Taylor and to attend court hearings on 19 May 2016 in criminal cases conducted by Judge Jan MC Kenncy of Gwinnett County, in the city of Lawrenceville, State of Georgia USA in the District, County and State Court in Lawrenceville GA USA. It became very interesting to draw attention to the differences between the Polish and the American judicial process, to examine cases at the court stage and to study the form of the indictment filed with the court.

In order to verify the research problems and hypotheses set out in this dissertation, the following order of research results was adopted, which includes three main issues:

1. The first issue concerns the indictment as a complaint which initiates court proceedings in accordance with the principle of complainability set out in Article 14 § 1 of the Code of Criminal Procedure, which is discussed in this dissertation in Chapter I. "The principle of complainability" and Chapter II. "The indictment in the 20th and 21st centuries".

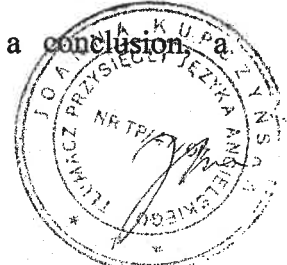
(2) The second issue concerns the mandatory and optional requirements of an ordinary indictment and its control in court, which is discussed in Chapter III. "Formal requirements of an ordinary indictment" and Chapter IV. "Formal control of an ordinary indictment in court".

(3) The third issue relates to self-examination, which is primarily found in Chapter II. "The indictment in the twentieth and twenty-first centuries" point 2, entitled: "Evolution of the ordinary



indictment in Polish criminal proceedings" and in Chapter V. "Concluding remarks in the light of the results of own research (empirical analysis)".

The work consists of five chapters, and each chapter contains sub-chapters culminating in conclusions. The first chapter: "The principle of complaint" deals with the examination of the principle of complaint among the chief procedural principles. In particular, it defines the concept of the complaint principle in abstracto, defines the complaint principle descriptively and analyses its constitutive elements. The principle of complaint is one of the fundamental principles applicable to criminal proceedings. Its opposite principle of ex officio action and types of complaints are also analysed here. The second chapter: "The indictment in the twentieth and twenty-first centuries" deals with the analysis of the indictment: it explains the concept of the indictment, defines its functions, objectives and form. This chapter also covers the evolution of the ordinary indictment, where issues related to changes are examined: the indictment in the Code of Criminal Procedure of 1928, the indictment in the Code of Criminal Procedure of 1969 and the indictment in the Code of Criminal Procedure of 1997 (without the current legal status). The individual chapters that follow deal with the issues discussed according to the current state of the law. In the third chapter: "Formal requirements of an ordinary indictment", the formal requirements of an ordinary indictment with regard to the content of an ordinary indictment (Article 332 of the Code of Criminal Procedure), the list of evidence requested by the prosecutor (Article 333 of the Code of Criminal Procedure) and the pre-trial materials submitted to the court with the indictment (Article 334 of the Code of Criminal Procedure) are analysed. Chapter Four: "Formal control of an ordinary indictment in court" deals with the formal control of an indictment in court: its submission to the court of first instance, the control of formal requirements in accordance with Article 337 § 1 of the Code of Criminal Procedure. and, therefore, the consequences of fulfilling the formal requirements of the indictment and the consequences of failing to fulfil the formal requirements of the indictment (in the case of failure to fulfil the formal requirements, withdrawal of the indictment from the prosecutor and, only after their completion, referral of the indictment to the main trial). Thus, on the basis of Article 337 of the Code of Criminal Procedure, the specific formal conditions of the indictment defined on the basis of Articles 332, 333, 334 of the Code of Criminal Procedure are subject to formal control, as well as the general formal conditions that are required for any pleading (Article 119 of the Code of Criminal Procedure). The last, fifth chapter: "Concluding remarks in the light of the results of own research (empirical analysis)" includes conclusions formed in the course of the literature review and interviews, surveys and statistical analyses conducted. The dissertation is supplemented by an introduction, a list of abbreviations, a conclusion, a bibliography, a list of case law, tables and charts.



This dissertation is based on the state of the law as adopted at the end of March 2024.

Register No 55/2024

I, the undersigned Joanna Kupczyńska, sworn translator of English, entered into Public Register of Sworn Translators by Minister of Justice of the Republic of Poland under the number TP/47/07, hereby certify that translation done by me is true and complete with original document in Polish presented to me.

Gorzów Wlkp., date 18.04.2024

Joanna Kupczyńska
Tłumacz przysięgły j. angielskiego
Certified Polish - English translator
Joanna Kupczyńska
tel. 501 344 213

