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Intertemporal regulations in criminal procedural law

Chapter I. Theoretical and terminological issues.

In the first chapter, the unsatisfactory state of research and the legislator's low regard for intertemporal criminal law were noticed. Positions regarding the understanding of intertemporal law were reviewed. It has been assumed that the intertemporal law will be a set of metanorms established by the legislator or existing as part of the legal culture that determines the application of norms to a specific legal situation containing an old element, or the decision of the legislator which of the norms (old law or new law) applies. In other words, an intertemporal law is a set of principles and rules that allow to decide which standard (former or new) applies in the event of a change in law. Next, a historical analysis of the problem was presented, and it was proved that in Roman law the principle of *lex retro non agit* took effect, and a short review of nineteenth-century legislation pointed to the relationship between the protection of acquired rights with the principle of non-retroaction. Subsequently, the nature of the procedural criminal law norm was analyzed, and it was concluded that such a standard is similar to the classically understood norm and has the form of hypotheses, dispositions and sanctions. The normative concept of time and its application in the criminal process were also analyzed.

Chapter II. An abstract view of intertemporal principles and rules in a criminal process

The second chapter analyzes the intertemporal principles and rules, giving the first higher degree in the hierarchy of importance. In this way, the principle of the current law and the principle of the new law and the rule of trials, the rule of pettification of the court's jurisdiction, the rule of effectiveness of procedural acts, the *in dubio lex nova* rule, the rule of direct action of the law, the *tempus regit actum* rule, the rule of effectiveness of implementing provisions and the principle of choice are distinguished. Intertemporal principles are understood as norms indicating in which circumstances and for what reasons should one's or other methods of action of law in time be preferred. While the intertemporal rules are a set of directives indicating how to solve a situation in which the normative content of a given criminal procedural law norm or legal provision assessed from the point of view of two different time moments differs depending on the time of the assessment.

Chapter III. Intertemporal solutions in Polish law

The third chapter analyzes intertemporal solutions in Polish law. The analysis of constitutional law was based on the jurisprudence of the Constitutional Tribunal, which allowed to define a certain constitutional standard of intertemporal regulations. According to the Constitutional Tribunal, the lack of separation of intertemporal provisions means that the basic rule of direct action of law will automatically operate, which provides to direct action of the new act. Another subject of the analysis was civil law, where it was proved that the provisions introducing the Civil Code in the case of intertemporal problems were applied directly. In administrative law, the basic form of solving intertemporal problems is the principle *tempus regit factum*, which implies the method of further operation of the old law. The administrative law also applies the principle of topicality, which obliges the authority to resolve the administrative matter, taking into account all legal and factual circumstances existing at the time of adjudication.

Chapter IV. The system of criminal procedural law from the perspective of intertemporal solutions

The fourth chapter presents three basic models (CCP of 1928, CCP of 1969 and CCP of 1997) and a number of detailed issues concerning the regulation of intertemporal issues in the criminal trial. It is difficult to determine unequivocally which one best suits the optimal model. It is worthwhile to start the following considerations from the statement that the optimal model is primarily a model that simply exists - whether in each amendment to CCP or in the CCP. Therefore, it is possible to postulate in relation to the legislator that it should publish comprehensive transitional provisions each time it introduces new regulations in the CCP or to introduce a separate chapter in the CCP entitled "Intertemporal regulations". In this work, it is postulated to introduce the second of these solutions.

Chapter V. Final remarks

The first key thesis is about the impossibility of using provisions introducing CCP of 1997 in the event of systemic gaps in the intertemporal regulation and inability to resolve an emerging intertemporal problem. This statement leads, in turn, to the second thesis, the need to incorporate to CCP of 1997 intertemporal rules and principles in the form of a separate chapter.

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