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Summary of a doctoral dissertation titled:

The safe conduct in the Polish criminal procedure

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In the Polish criminal procedure a safe conduct gives the privilege of immunity to an accused who is abroad. The safe conduct shall grant the accused the right to remain at liberty until such time as the proceedings have been validly concluded, provided that the accused: appears at the time designated by the court, and in the preparatory proceedings also at the time designated by the state prosecutor, does not leave his chosen place of stay in the country unless permitted to do so by the court, and does not induce witnesses to give false testimony or explanations, or attempt in any other manner to obstruct the criminal proceedings.

The main goal of this dissertation is the attempt to answer the question of the sense of existence of the safe conduct in the Polish criminal procedure. According to the author, the safe conduct plays the essential role in implementing crucial principles of criminal proceedings, in particular principles of substantive truth, directness, concentration of evidence, verbatim, right to be heard, equality of parties, right to defence, and, ultimately, a fair trial. The safe conduct is also vital to protect the interests of the accused and the victim. These values would be all difficult to realise, should the safe conduct be no longer provided for under the Polish Code of Criminal Procedure.

The analysis of the safe conduct presented in this study is of a unique character. The safe conduct is a rarely present institution *in praxi*, including the judicature of the Supreme Court. The issue of the safe-conduct is also rarely subject to any analysis

in the doctrine. This study attempts to fill that gap, presenting a complex and in-depth analysis of this institution. To analyse the main subject in this study a diverse methodology has been adopted, *inter alia*: a legal-historical, legal-dogmatic or legal-comparative method. The legal solution and concepts developed in the doctrine and judicature are presented in the study. The author focuses also on proposals for relevant amendments and presents *de lege ferenda* postulates.

The dissertation is divided into ten chapters.

It begins with an introduction that outlines the research's goal, detailed questions and relevant methodology. It presents the motivation of the author to undertake this subject and determines the challenges encountered during the research.

Chapter one includes a historical outline of the safe conduct. In this chapter the author presents the development of the safe conduct in the ancient and medieval times, and the Polish Noblemen's Republic before the partition. This chapter contains also an analysis of the safe conduct under regulations in force in the Polish areas under German and Austrian rules in the nineteenth century, in particular in the Austrian Code of Criminal Procedure of 1873. This chapter addresses also the development of the safe conduct in the Polish codes after regaining of independence, *inter alia*: codes of criminal procedure of 1928 and 1969.

Chapter two touches upon the safe conduct in laws governing criminal proceedings in Austria, Germany, Switzerland, and Lichtenstein. This chapter presents also the subject of the safe conduct protection, scope of protection, and an agency offering such a protection.

Chapter tree provides a discussion on the feature and functions of the safe conduct. The author approves the view that the safe conduct is a coercive measure but criticises the interpretation according to which the safe conduct belongs to preventive measures and gives the explanation of his point of view. This chapter shows also the role of the safe conduct in meeting essential principles of criminal proceedings and protection of interests of the victim.

Chapter four explains the premises of the safe conduct issue. According to Article 281 of the Code of Criminal Procedure a court may issue a safe conduct to an accused who stays abroad and declares their readiness to appear in court or before the state prosecutor on the designated day. In principle, the presence of the accused at the main hearing is mandatory. However, the authority office may conduct a trial in the absence of the accused. In such a case the court may refuse to grant a safe conduct. This chapter also identifies and discusses conditions required to conduct a trial in the absence of the accused

in preparatory proceedings, proceedings before the court of first instance and appellate proceedings. The issue of legislative amendments to the Code of Criminal Procedure under the Act of 27 September 2013 that broaden the range of possibilities of conducting a trial in the absence of the accused and refusals to grant a safe conduct are addressed herein.

In chapter five the types of proceedings are indicated in which a safe conduct can be issued. According to the author, a court may grant a safe conduct to an accused only in criminal and fiscal criminal proceedings. This chapter explains reasons for unacceptability of the issue of a safe conduct in other proceedings: executive criminal law and minor offences procedure.

Chapter six is devoted to a conditional safe conduct. Pursuant to Article 283 of the Code of Criminal Procedure the issuance of a safe conduct may be conditional on the posting of bail. This chapter also describes bail issues with due consideration given to relevant regulations.

Chapter seven presents the safe conduct procedure. The procedures of issuance and revocation of a safe-conduct are discussed herein. Some consideration is given to issues relating to court jurisdiction as well as to a decision form. Also issues pertaining to the participation of parties in proceedings, openness of proceedings and appealability of the safe conduct are dealt with herein.

Chapter eight provides a discussion on the scope of inviolability under the safe conduct. It lists individuals entitled to obtain a safe conduct, and the subjective scope of protection under the safe conduct.

Chapter nine pertains to prerequisites for revocation of a safe conduct. In principle, a court revokes the safe conduct if the accused does not appear at the time designated by the court, and in the preparatory proceedings also at the time designated by the state prosecutor, or leaves his chosen place of stay in this country unless permitted to do so by the court, and induces witnesses to give false testimony or explanations, or attempts in any other manner to obstruct the criminal proceedings. In this chapter the premises of expiry of the safe conduct are also explained.

Chapter ten is devoted to the institution of a *quasi*-safe conduct. This chapter discusses regulations governing a measure that gives the privilege of immunity to people who are abroad, in relation to pending criminal proceedings, i.e. witnesses, experts. It shows differences between legal solutions provided for in the Code of Criminal Procedure and in international agreements. Furthermore, it reflects the relationships between those solutions, accepting the supremacy of the international law.

The conclusion includes responses to the question outlined in the introduction and presents *de lege lata* postulates. The author focuses also on the analysis of the proposals of legislative

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