Załącznik nr 5

Summary of academic accomplishments

1. **Name and surname**: Ewa Kruk

2. **Diplomas and academic/artistic degrees held, specifying the date and place of obtaining them and the title of the doctoral dissertation**:

1991-1995 – studies in the Maria Curie-Skłodowska University in Lublin, Law and Administration Faculty, field of study: law

1995 – master degree examination in the Maria Curie-Skłodowska University in Lublin, Law and Administration Faculty, field of study: law; grade: very good

2004 - public defence of the doctoral dissertation "Conviction during the sitting of I instance court". Promoter: Prof. Dr hab. Edward Skrętowicz, reviewers: Prof. dr hab. Tomasz Grzegorczyk, Prof. dr hab. Ireneusz Nowikowski

2013 – obtaining of the professional title of advocate

3. Information on employment in academic/artistic units:

from 15.12.1995 – assistant in the Department of Criminal Procedure of the Faculty of Law and Administration of the UMCS in Lublin

from 1.06.2004 – assistant professor in the Department of Criminal Procedure of the Faculty of Law and Administration of the UMCS in Lublin

4. Indication of the achievement described in art. 16 section 2 of the Statute from the 14th May 2003 on Academic Degrees and the Academic Title and on the degrees and title in the field of art (Official Journal No 65, position 595)

a) author/authors, title/titles of publication(s), year of publication, name of publishing house

Ewa Kruk, Prosecutor's indictment as a manifestation of executing the right to accuse by the authorised prosecutor in Polish criminal proceedings, Lublin 2016, UMCS Publishing House, pp. 1-411.

b) discussion of the scientific/artistic purpose of the work and of the obtained results with the discussion of their possible implementation

The subject of this book is an attempt to present the institution of an act of indictment and its surrogates seen from the point of view of the right to accuse. At the beginning of the work I have presented the thesis about the existence of a separate personal right to accuse on the part of the prosecutors appearing in Polish criminal proceedings (i.e. the public prosecutor, the auxiliary prosecutor and the private prosecutor). In the case of the public prosecutor this right cannot be identified in any way with the so called understood competence as the range of competence of a public organ set by a statute, since the prosecutor appears before the court in the role of a party making use of strictly procedural rights. The right to accuse is connected with the institutionalised public prosecutor and other subjects, yet in the case of these subjects they can exercise this right only in the situations designated by a statute. According to the rule expressed by art. 45 § 1 of the Code on Criminal Proceedings, the prosecuting attorney is the public prosecutor for all courts. This monopoly in the field of accusation is however not exclusive, as can be seen from the regulation of e.g. art. 45 § 2 of the Code on Criminal Proceedings in the case of other state organs and art. 53 and the provisions grouped in chapter 52 of the code which refer to the victims.

The necessity to demonstrate the right to accuse can be inferred, though not directly, among others from the disposition of art. 17 § 1 point 9 of the Code on Criminal Proceedings, where the "authorised" prosecutor is mentioned. The same right to accuse can also be seen in the right of the public prosecutor and other prosecutors to direct the act of indictment and its surrogates to the court and in the right to support the accusation before the court. I write about the right to accuse in my book seen both from the point of view of the prosecutor's act of indictment as such and the requirements it has to meet and from the point of view of the activities which refer to the act of indictment. Discussing these activities I do not restrict my presentation to the legal activities undertaken by all types of prosecutors, thought these activities designate the main axis of my reflections, but I also discuss those activities of

proceedings organs which, accompanying the activity of the prosecutor, designate its range.

The problem of the right to accuse has not been so far recognised in the criminal procedural law doctrine. Though the issues connected with the act of indictment and its surrogates are constantly present in the doctrinal reflection which can be best seen in, among others, important publications by professor R. Kmiecik (The act of indictment as a written form of the public prosecutor's indictment, Prokuratura i Prawo no. 1-2 from 2010) and by professor K. Zgryzek (Indictments substituting the act of indictment in Polish criminal proceedings [in:] A. Gerecka-Żołyńska et al. (eds.), The accusatory model of criminal proceedings. Book offered to Professor Stanisław Stachowiak, Warszawa 2008), yet the last extensive monograph by professor S. Waltoś was written at the beginning of the 1960s. (The act of indictment in criminal proceedings, Warszawa 1963) and refers to the solutions of the Code on Criminal Proceedings from 1928 which had stopped being binding a long time ago. Because of the subject of the monograph, comparative law elements have not been included and the attention was focused on national Polish regulations. The book discusses first of all the regulations of the Code on Criminal Proceedings from 6 June 1997 and, for obvious reasons, it comprises the effects of two extensive revisions of that code: the one from 27 September 2013 and the one from 11 March 2016. During the discussion of problems connected with the public prosecutor also the institutional regulations of the newly accepted Statute on prosecutors from 28 January 2016 have been taken into account.

The monograph mainly uses the dogmatic method of analysing legal texts and the historical method in those cases when, in order to better present a given procedural institution, it was necessary to show it in the light of its modifications since the codes on criminal proceedings from 1928 and 1969 stopped to be binding.

The monograph is based on detailed analysis of statutory regulations and of regulations of executive acts such as, among others, the regulations on inner proceedings of common prosecuting units from 11 September 2014. Profound analysis also referred to the doctrinal achievements which is reflected by the fact that over 370 of bibliographic sources have been used. As a result of the multitude of sources I had,

however, to make subjective selection of them. The judgments of the Supreme Court and of the Appellate Courts have also been used, as well as – though to a lesser degree – the judgments of the Constitutional Tribunal and of the European Court of Human Rights in Strasbourg.

The monograph's main aim is to make an attempt to present in detail the state of the public prosecution accusation from the moment it is prepared until it is directed to a competent criminal court, yet it also contains reflections on court controlling activities based on art. 337 § 1 and the following ones of the Code on Criminal Proceedings and on the court orders directed to the public prosecutor on the basis of art. 344a or 396a of the Code on Criminal Proceedings which were added in 2016. The monograph contains discussion referring to the static aspects of an act of indictment and its surrogates, which means the problems connected with their content and form, as well as to the dynamic aspects, i.e. a number of procedural activities which can be undertaken in relation to these acts. As far as these are concerned, special emphasis should be put no that part of the work which is devoted to the possibility to withdraw an act of indictment on the basis of art. 14 § 2 of the Code on Criminal Proceedings, as this is the first discussion of this institution in a monograph. Although the main part of the book refers to the prosecutor's act of indictment and the right of the public prosecutor, yet, in order to present the right to accuse thoroughly, also the situation of the nonpublic prosecutors has been discussed with special emphasis on those legal solutions which constitute in this case the *differentia specifica*.

The presented monograph consists of an introduction, nine chapters divided into further editorial units and conclusions containing closing remarks. The analysis of the research problem is commenced by the presentation of basic issues and issues connected with the system position of the public prosecutor, as well as the relationship between the act of indictment and chosen main proceedings principles. As far as the last issue is concerned, an especially important role is played by the relationship between the prosecutor's indictment and the principle of the right to a fair trial and the principle of inqusitory and contradictory proceedings (Chapter I). Chapter II is devoted to the discussion of the classification of prosecutor's indictments so far presented in literature and to the functions of such indictments, with special attention paid to the

role of the act on indictment as the principle type of indictment. A separate chapter, Chapter III, was devoted to detailed analysis of the legal solutions connected with the act of indictment prepared by the public prosecutor while Chapter IV discusses the so called surrogates of an act of indictment. It also contains remarks on the motion for conditional discontinuance of criminal proceedings (art. 336 of the Code on Criminal Proceedings), the motion to start accelerated proceedings (art. 517d of the Code on Criminal Proceedings) and the complaint by the victim addressed to the Police on the basis of art. 488 § 1 of the Code on Criminal Proceedings. Controversies connected with treating the motion to discontinue criminal proceedings and use protective measures (on the basis of art. 324 § 1 of the Code on Criminal Proceedings) as one of these surrogates have also been discussed in this part of the book. Further parts of the book, i.e. chapters form V to IX contain remarks referring to the execution of the right to accuse by different types of prosecutors. Chapter V discusses the activities of the public prosecutor connected with the making of and directing the act of indictment to a competent criminal court, as well as the complex of issues referring to the court control of such an act (art. 40 of the Code on Criminal Proceedings) and the issues connected with new court competences described by art. 344a § 1 and 396a of the Code on Criminal Proceedings, added in March 2016. Chapter VI discusses the problem of broadening the range of indictment during the main trial (art. 398 § 1 of the Code on Criminal Proceedings), while Chapter VII describes the problem of the public prosecutor's right to dispose of the accusatory indictment, which is mainly discussed from the point of view of art. 14 § 2 of the Code on Criminal Proceedings as amended in 2013. The remarks in Chapter VIII refer to the execution of the right to accuse by the auxiliary prosecutor, in the context of the solutions of both art. 55 and 57 of the Code on Criminal Proceedings. Chapter IX refers to the execution of the same right by the victim who acts as a private prosecutor. Also the intervention of the public prosecutor on the basis of art. 60 § 1 of the Code on Criminal Proceedings is presented here. The monograph is closed by a part containing an attempt to summarise earlier reflections and the most important conclusions de lege lata and de lege ferenda.

In the opening remarks in Chapter I some remarks have been made referring to the principles of the functioning of the prosecutor's office in the light of the newly

accepted Statute on prosecutors from 28 January 2016 and it was stressed that, though the task of "prosecuting offences and guarding lawfulness" stemming from art. 3 § 1 of that statute is the obligation of the whole prosecutor's office, yet the execution of that obligation is the charge of the prosecutors who are members of that office. This can be inferred from art. 45 § 1 of the Code on Criminal Proceedings which states that individual prosecutors, and not the prosecutor's office understood as an institutional entity, are entitled to execute the accusation functions before "all courts". The same provision entitles, as an exception, "other state organs" to fulfill the same function. Both the position of the prosecutor's office in the structure of public institutions and the feature of the "other organs", mentioned by art. 45 § 2 of the Code on Criminal Proceedings indicate that this role in proceedings referring to criminal responsibility may be played only by representatives of state organs and not of any other organs. Such a restriction is characteristic for criminal proceedings based on the regulations of the Code on Criminal Proceedings, while such rigours do not characterise the proceedings based on the provisions of the Code on Proceedings in Petty Offences Cases from 2001. This legal act accepts the fulfillment of accusation functions by other – non-state entities – which is expressed by art. 17 § 3 of that code which grants such rights, among others, to territorial authorities' organs and to municipal guards.

After the fundamental differences between the functions of procedural criminal law and the procedural functions and the relationship of the last with the aims of proceedings had been discusses, the Author presented some questions connected with the execution of some of the fundamental proceedings principles. I agree with the opinion that distinguishing procedural functions in not a strictly theoretical legal problem but also has great practical significance. The concentration of the accusation function (criminal prosecution) and judgment in the hands of the same subject led in the past to the development of the inquisitorial process, which cannot be accepted nowadays because of its incompatibility with the requirements of modern law and civil society. This model not only minimised the role of the prosecutor but it also marginalised the importance of the other proceedings parties whose activity was close to zero. Basing criminal proceedings on the three-parties construction and the clear separation of accusation from judgment led to the institutional separation of the

prosecutor who was responsible for the execution of the indictment principle. By the restitution of the Roman principle nemo iudex sine actore the defendant himself became empowered, which in a natural way led to the enlargement of the role of criminal defence. The development of proceedings parties meant that they had to be given a set of proceedings rights which made it possible for them to enter the argument referring to criminal proceedings' object, i.e. the question of the defendant's criminal responsibility. One of such proceedings rights is the prosecutor's right to accuse, understood as the right to charge the defendant with the commission of an offence, to present the charge to the court, to support the accusation during the trial started on the basis of the act of indictment or on the basis of its surrogate admissible in a given case. The main component of the prosecutor's indictment understood in this way is the prosecutor's declaration of will which is postulative and this declaration of will is also the basis of other proceedings activities which are done with the participation of the prosecutor, such as joining trial as an auxiliary secondary prosecutor, withdrawal of the act of indictment by the public prosecutor and the resignation from accusation by the private and auxiliary prosecutors.

The act of indictment and its surrogates, while serving the execution of the accusation functions, are also the only means of taking the defendant to court. As it is observed in the book, though the defendant's right to fair trial is given the central place among other constitutional procedural guarantees by the law scholars, and its placing in the Constitution of the Republic of Poland from 1997 in Chapter II devoted to the freedoms, rights and obligations of persons and citizens makes it a fundamental right, yet the defendant himself cannot on his own direct his case to the court to have his criminal responsibility decided. Hence the thesis presented in the monograph that though art. 6 section 1 of the European Convention on Human Rights does not distinguish a separate right to court given to the public or any other prosecutor, yet it is this participant of criminal proceedings who has the greatest influence on the defendant's possibility to exercise his right to fair trial. One cannot talk about the defendant if there is no accusation. The accusation itself is a right but also a demanded reaction of some state institutions to the fact of offence commission and – whenever the binding law permits it – also of other competent prosecutors. One may infer from

art. 71 § 2 of the Code on Criminal Proceedings, modified in March 2016, that the status of the defendant is formalised and dependent on the existence of one of the activities mentioned in the provision. By this, not the activities of any participants of criminal proceedings are meant, but the activity of the party entitled to bring the indictment to court or the activity of the public prosecutor consisting of filing the motion described by art. 335 § 1 of the Code on Criminal Proceedings or the motion for conditional discontinuance of the proceedings. It is observed by the Author that though art. 71 § 2 of the Code on Criminal Proceedings distinguishes the term "indictment" from the other activities undertaken on the basis of the "motions" mentioned in the same provision, yet in all those cases one may speak about the existence of the prosecutor's separate right to accuse.

Although the role of the prosecutor has been reduced, as it has already been mentioned, to the postulative role, yet the very fact that criminal proceedings are based on the indictment principle leads to the conclusion that the indictment is the sine qua non condition for the right to trial and process referring to criminal responsibility. This topic is also discussed in Chapter II in which the classification of indictments and the reasons why the act of indictment is considered to belong to the group of principle indictments are presented. The interdependence between indictment and the right to a fair trial in the Code on Criminal Proceedings are most fully expressed by art. 331 § 1 and § 3, which impose on the prosecutor the obligation to prepare the act of indictment "on time" since only this way can be terminated the state of suspension in which the defendant is. The opinion accepted here is the one that from the formal point of view the right to fair trial materialises itself at the moment when the act of indictment is sent to court with case files, which causes further controlling activities of the court preceding the main trial. It is observed that even if the court returns the act of indictment which does not meet the formal criteria to the prosecutor to have the defects removed (art. 337 § 1 *in fine* of the Code on Criminal Proceedings), it does not change the fact that the case is pending in court and as a result it does not limit the right to a fair trial and the right to accusation in a given case.

I underline the fact that though according to the jurisdiction of the European Court on Human Rights in Strasbourg emphasis is put on the material aspect of

"indictment", which makes it possible to assume that indictment has taken place even in those cases when it has not taken the shape of an "official informing by a proper organ about the charge of an offence", and its existence can be inferred from "other facts seriously influencing the situation of the suspect", yet the provisions of Polish law describe the prosecutor's indictment in a very detailed way, making it a proceedings document of extended structure and form. This topic has been discussed in detail in Chapter II and will be again mentioned below.

The understanding of the indictment principle is an issue of great practical significance. This principle sets two major directions in which the prosecutor's indictment influences the model of the court phase of criminal proceedings and for the purposes of this work its strict meaning has been assumed, i.e. it is understood as only comprising the court proceedings referring to the main object of the proceedings which is the question of the defendant's criminal responsibility. On one hand the indictment plays the function of a positive proceedings condition which allows for the court phase of a criminal case examination, on the other hand – it obliges the court to undertake certain procedural activities which lead to the judgment. The fact that the prosecutor's indictment is one of the conditions for the admissibility of a criminal process forces the public prosecutor to bring the indictment to court if the conducted preliminary proceedings give proper basis for it. Fulfilling this obligation gives the public prosecutor the possibility to fulfill his obligation stemming from another procedural principle, i.e. the legality principle. In order to fully present the complexity of the relationship between the prosecutor's indictment, the right to accuse and the indictment principle, one cannot consider the last one only in the light of initiating the court phase of criminal proceedings. An equally important manifestation of the indictment principle is also the right of the prosecutor to dispose of the indictment during trial. The double subject area of the indictment principle, recognised by legal scholars, is well represented in the statutory regulation: while the issue of initiating court proceedings on the basis of the indictment of a competent prosecutor and the - functionally connected with it – problem of controlling the formal requirements of the indictment are regulated by art. 14 § 1 and 337 and the following ones of the Code on Criminal Proceedings, the problem of the admissibility of the prosecutor's disposing of

the indictment has been moved to the provisions of art. 14 § 2, 57 § 1, 60 § 3 and 496 § 1 of the Code on Criminal Proceedings.

It is stressed in the work that, since an act of indictment is the material substrate of the argument between the prosecutor representing the infringed legal value and the defendant, then the existence of such an act is at the same time an elementary and preliminary condition for contradictory proceedings. The prosecutor's indictment is called that name not only because it is the measure which makes it possible to execute one of the basic procedural functions, but also because it sets the boundaries of the court process in its principle course. The prosecutor, institutionally separated, is one of the main participants of the argument which is the core of the contradictory principle and therefore he cannot – except for the case indicated in art. 497 § 1 of the Code on Criminal Proceedings – add any other role to this one.

Considering the relationship between the prosecutor's indictment and the contradictory principle I express certain doubts about the justification of the rejection of the reform from September 2013, which assumed clear strengthening of the contradictory character of criminal proceedings. The reform strengthened the position of proceedings parties by enlarging their influence on the result of the court case, which was achieved, among others, by taking away the court's unlimited power of initiating evidence ex officio. Due to this solution, especially the public prosecutor had the unique chance to become the party fully responsible for the outcome of the case which was to be decided mainly on the basis of evidence conducted directly before the court, which was expressed in the reorientation of the whole preliminary proceedings mentioned in art. 297 § 1 point 5 of the Code on Criminal Proceedings and the limitation of the investigation material to be sent to the court together with the act of indictment on the basis of art. 333 § 1 of the Code on Criminal Proceedings. The expression of the will, as early as in January 2016, to abandon the idea of such criminal proceedings and the lack of any profound research or at least professional consultation supporting the decision, leads to the question whether the chance to create a trial model based on the activity and equality of arguing parties and the strengthening of the court's objectivity has not been too hastily wasted. One has to notice, however, that together with the court's "regaining" of the power to conduct evidence ex officio,

a situation has been created in which – since the charge can be proven also on the basis of the evidence conducted by the court ex officio – the prosecutor will be again encumbered with the burden of proof in the material sense, while this burden – during the brief period in which the September modifications were binding – was more "formal" in its nature.

A separate group of problems discussed in Chapter I is connected with the issue of treating the act of indictment and its surrogates, on the basis of art. 17 § 1 point 9 of the Code on Criminal Proceedings, as the so called proceedings condition. Such a way of perceiving the indictment is the natural result of accepting the fact that the court phase can be started and conducted only on the basis of such an indictment, which in turn corresponds with the norm of art. 14 § 1 of the Code on Criminal Proceedings. The way it is expressed in the code makes it necessary to treat the "lack of a competent prosecutor's indictment" mentioned in that provision in the categories of a proceedings formal and negative condition and, as it is observed in the book, this lack may be primary in nature if the court ab inicio conducted proceedings in a case in which no indictment was directed to it or it was directed by an incompetent prosecutor or the lack may be secondary in nature when the indictment was withdrawn on the basis of art. 14 § 2 of the Code on Criminal Proceedings or the prosecutor renounced the indictment in a binding way on the basis of art. 57 § 1 in connection with § 2, art. 491 § 1 or art. 496 § 1 of the Code on Criminal Proceedings. It is emphasised that because of its character annihilating criminal proceedings the condition from art. 17 § 1 point 9 of the Code on Criminal Proceedings – as the so called proceedings obstacle – should be controlled by the court not only at the beginning of the jurisdiction stadium but also during further activities undertaken then. This permanent manner of control is undoubtedly indicated by the possibility of two different reaction of the court to the lack of a competent prosecutor's indictment, i.e. refusal to initiate the proceedings or to discontinue them. The first reaction refers to a situation which arises at the initial stage of criminal proceedings, while the discontinuance is possible in relation to a situation arising in already initiated proceedings.

I finish Chapter I with remarks referring to the boundaries of court's cognition of a case which are set by the content of the act of indictment, and which cannot be

trespassed by the court. The only exception from this rule is indicated by art. 398 § 1 of the Code on Criminal Proceedings, but even in this case the condition for extended case cognition is the prosecutor's public statement that he presents new charges against the defendant alongside the earlier ones, which is discussed in greater detail in Chapter VI. Here I present the thesis that the "boundaries of court cognition of a case" is a narrower concept than the "boundaries of criminal proceedings" and that they designate the circumstances referring strictly to the defendant's criminal responsibility and not other incidental issues. I fully accept the opinion of the judicature that the boundaries – subjective and objective – are designated by a concrete fact described in detail in the prosecutor's indictment and not by the description of the act or its assumed legal qualification.

In Chapter II, alongside the already mentioned classification of indictments, I point to the reasons why the surrogates of an act of indictment are distinguished by legal scholars and I Presented in detail the functions of the act of indictment, distinguishing the following ones: 1) the balance function (with the reservation that it refers only to the public act of indictment), 2) the court proceedings initiating function, 3) the program function, 4) information function. Discussing the obliging function I notice that the positive aspect of this function is expressed by the fact that the court is obliged to consider the case "in the full extent" indicated by the prosecutor's indictment, which is in turn connected with the process indivisibility principle. Analysing the same function from the negative side one should come to the conclusion that it is not possible for the court to decide about things not included in the act of indictment, which can be also seen as the manifestation of yet another principle, i.e. the stability of the object of the process.

Assuming that the quality measurement of a proceedings activity is its correctness, which can be assessed on the basis that it has been conducted by a competent proceedings organ, it has been given the proper content and it conforms to the required modal conditions, in Chapter III I concentrated on the elements which constitute a public act of indictment. The reflections that can be found there consist of detailed analysis of those legal norms which refer to the form, time, place and language of conducting the proceedings activity of preparing an act of indictment

described by art. 331 § 1 of the Code on Criminal Proceedings. The very preliminary comparison of art. 332 and 333 of the Code on Criminal Proceedings with the provision of art. 487 of the Code on Criminal Proceedings leads to the conclusion that the public prosecutor's act of indictment is, among all the other indictments, the most complicated and extended. Although meeting all the requirements of an act of indictment made by the law-maker demands much work from the public prosecutor, it is at the same time fully justified by the importance of offences prosecuted ex officio and it is in harmony with the role and functions ascribed to that act. What is stressed here is the exclusive written or electronic form of an act of indictment, the last one added by art. 56 § 4 sentence 2 of the Law on prosecutors accepted in 2016. In my opinion the written form of the act of indictment is settled by the model of its functions formal control indicated by the law-maker in art. 337 § 1 of the Code on Criminal Proceedings, which mentions, among the patterns of such control, art. 119 of the Code on Criminal Proceedings referring to proceedings documents. Including the act of indictment in the group of proceedings documents, and even in the group of "special proceedings documents", as some authors describe it, makes the signature made under such an act a formal requirement. An act of indictment which has not been signed, though it is treated by some doctrine members as possessing a grave defect, is not ineffective and should be validated in the same way that is correct in case of other "formal" defects.

I present the point of view that an act of indictment written in Polish should always be delivered to the defendant, who cannot resign form its delivery as it is necessary form the point of view of providing him – as a principle condition for a fair trial – with full and clear information about the essence and causes of directing the act of indictment against him. This standard in the case of foreign defendants is raised, which leads to the delivery of such an act together with its translation in accordance with art. 6 section 3 subsection a of the European Convention on Human Rights and art. 14 section 3 of the International Convention on Civil and Political Rights as far as these conventions guarantee to the defendant the right "to be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him". Within the same chapter I also made some remarks referring to the identification

of the defendant (art. 332 § 1 point 1 of the Code on Criminal Proceedings), noticing that it is inadmissible to accept only the form of the defendant's substitute individualisation forms acceptable on the basis of art. 244 § 3 and 2)51 § 1 of the Code on Criminal Proceedings, i.e. "description of the detained person" or "mentioning the person whom the protective measure refers to". The right to accusation at this stage of criminal proceedings can be executed only towards a defendant who is designated by name, which means that a public act of indictment has to contain data referring to the "name and last name of the defendant", and moreover "other data about the defendant and data about using the preventive measures (art. 332 § 1 point 1 of the Code on Criminal Proceedings), as only this way is it possible to precisely delineate the subjective boundaries of indictment. As a result I examined the problem of source documents which make it possible to establish the identity of the accused, quoting the regulations of, among others, the statute from 6 August 2010 on identification cards, the statute from 13 July 2006 on passport documents and the statute from 12 December 2013 on foreigners and analysing the circumstances that may cause the necessity to give the accused the so called substitute identity on the basis of art. 62 section 3 in relation to section 1 and 2 of the statute from 28 November 2014 – Law on civil status.

In spite of my quite substantial skepticism referring to the reform from 11 March 2016 I admit that some elements of that reform deserve approval. This is especially true as far as the obligation to present decision motives for the prosecutor's act of indictment is concerned, since I believe that this part of the act of indictment serves well the purpose of developing the indictment, playing at the same time the reporting and information function. The abolishment of this obligation by the revision from September 2013 deprived the defendant of this important source of knowledge which allows him to fully understand the reasoning of the prosecutor and this brought about the threat of limiting the defendant's right to be informed about the essence and causes of indictment which could finally reduce his right to defence. The decision to resign from the institution described by art. 332 § 1 point 6 of the Code on Criminal Proceedings was really surprising, especially because at the end of the last century the presentation of motives in the act of indictment was strictly connected with the

possibility to properly delineate the boundaries of the criminal court cognition of the case. My full criticism of the resignation in September 2013 from the obligation to present the motives of an act of indictment was not weakened by the fact that the practice of preparing such motives was varied – from complete to very laconic and only mechanically repeating the content of the indictment without its deeper analysis.

Chapter IV discusses in detail the development of the simplified acts of indictment, and some lack of consequence accompanying the forming of this institution is also pointed out. A good example of this is the acceptance – on the basis of the regulations referring to simplified proceedings, abolished in July 2015 - of simplifying the act of indictment and resigning form the preparation of its motives in those cases when the act of indictment was prepared by the Police or another organ mentioned in art. 325d of the Code on Criminal Proceedings (§ 3 of art. 332 of the Code on Criminal Proceedings added in 2003) and omitting at the same time acts of indictment prepared by other organs, not mentioned in art. 325d of the Code on Criminal Proceedings which were entitled, on the basis of separate statutes, to conduct investigations and to support acts of indictment in simplified proceedings. The big revision from 2013 has abolished this type of court proceedings, yet it preserved the possibility of directing and supporting acts of indictment in I instance courts also by organs other the the Police, i.e. organs indicated in the decree of the Minister for Justice, also making the condition that such acts may refer to "cases in which investigation has been conducted". It is correctly stressed by the criminal law doctrine that this means the cases in which such investigation was actually conducted and not the cases in which it was only possible to do it on the basis of art. 325b § 1 of the Code on Criminal Proceedings. I criticise the lack of some enumeration, at least exemplary, of the circumstances in which the public prosecutor should refuse to approve a "police" act of indictment (art. 331 § 1 of the Code on Criminal Proceedings) or to "decide otherwise" in the case of acts of indictment prepared by the organs acting on the basis of art. 325d of the Code on Criminal Proceedings, though such a decision undoubtedly limits the indictment rights of such organs "in cases indicated from the

object and subject of proceedings point of view"[1] (art. 331 § 2 *in fine* of the Code on Criminal Proceedings). A clear defect of the solution of art. 331 § 2 of the Code on Criminal Proceedings is also the lack of indication of the acceptable direction in which such a decision should go ("otherwise"). In the discussed chapter also the other simplified act of indictment is mentioned, i.e. the private prosecutor's act of indictment, yet the main reflections referring to this institution can be found in Chapter IX, in which also the activities of such a prosecutor connected with executing his right to accuse and the right of the public prosecutor to interfere in such proceedings on the basis of art. 60 § 1 of the Code on Criminal Proceedings are also presented. Interesting problems are mentioned in this part of Chapter IV in which the complicated matter of the so called surrogates of an act of indictment is presented. It is emphasised in literature that by these one should understand such acts of will of a competent prosecutor, which "not having (...) the form of an act of indictment" - in another form acceptable by the law express the demand of the prosecutor that the offender should be made criminally responsible before a criminal court. This group of prosecutor's indictments includes: 1) the prosecutor's motion for conviction during a court sitting (art. 335 § 1 of the Code on Criminal Proceedings), 2) the public prosecutor's motion to have the proceedings conditionally discontinued (art. 336 § 1 of the Code on Criminal Proceedings), 3) the motion to have the case decided in accelerated proceedings (art. 517b § 1 of the Code on Criminal Proceedings), 4) the motion to discontinue the proceedings and to apply protective measures (art. 324 § 1 of the Code on Criminal Proceedings). I underline the fact that while treating the motions based on art. 335 § 1, art. 336 § 1 and art. 517b § 1 of the Code on Criminal Proceedings as the substitutes of an act of indictment in uncontroversial in criminal process literature, there is no agreement about the character of the motion based on art. 324 § 1 of the Code on Criminal Proceedings. These controversies do not stop even though the surrogate character of such a motion seems to be indicated by the – done in the September 2013 revision – fact that the provisions of art. 332, 333 § 1 – 4 and art. 334 § 1 of the Code on Criminal Proceedings are to be applied to such a motion as far as its

[1] J. Grajewski, S. Steinborn [w:] J. Grajewski, L.K. Paprzycki, S. Steinborn, *Komentarz do art. 331 k.p.k.*, LEX 2014, t. IV.

content is concerned and art. 331 § 1 and 4 of the Code on Criminal Proceedings – as far as the date of its preparation is concerned (art. 324 § 1a of the Code on Criminal Proceedings).

Chapter V is devoted to the complicated problems of procedural activities which refer to the act of indictment and its other surrogates, and the greatest attention was paid to those aspects of them which have a major influence on the right to accuse and its execution by the public prosecutor. After the discussion of some initial problems the following were then analysed: 1) the preparation and sending the act of indictment to court, 2) preliminary examination of the act of indictment, distinguishing the activities undertaken on the basis of art. 337 and art. 339 of the Code on Criminal Proceedings. I notice here that the very preparation of the act of indictment is a technical activity and does not require making a separate proceedings decision which is only required in the case of discontinuance of proceedings, suspending or complementing the investigation or inquest. Despite such a character of this activity and the instructional character of the restrictions described by art. 331 § 1 and 3 of the Code on Criminal Proceedings, the public prosecutor should prepare the act of indictment on time and when he personally believes that the offence was committed by the person to whom the act of indictment refers. Therefore I do not agree with the opinions of some scholars who claim that the public prosecutor does not need to conform to such a requirement and the act of indictment he presents only describes "the possibility that such a fact took place" and it is only a hypotheses that "needs to be checked". As a result of the March revision, the institutions which were reintroduced into the Code on Criminal Proceedings were discussed, i.e. : 1) sending the case back to the prosecutor in order to have the investigation or inquest completed (art. 344a of the Code on Criminal Proceedings); 2) commissioning the prosecutor to conduct certain evidential activities by the court (art. 396a § 1 of the Code on Criminal Proceedings). Next I discussed other court activities referring to the act of indictment, such as: handing the act of indictment or its surrogates to the parties (art. 338 § 1 of the Code on Criminal Proceedings) and informing the defendant about his proceedings rights which accompanies it, as well as the presentation of the

indictment's charges during trial by the prosecutor (art. 385 of the Code on Criminal Proceedings).

The problems discussed in Chapter VI complete some of the remarks already made at the end of Chapter I and they refer to the possibility of broadening the object of indictment during trial (art. 398 § 1 of the Code on Criminal Proceedings), which is called an exceptional situation by law scholars. The admissibility of the so called intermediate proceedings can be supported by the need to preserve the unity of the process and the efficiency of the proceedings and it also raises no doubts that such proceedings are the emanation of the same right to accuse which leads to the preparation and directing to court of the act of indictment on the basis of art. 331 § 1 or 2 of the Code on Criminal Proceedings. I believe that the solution of art. 398 § 1 of the Code on Criminal Proceedings broadens the right to accuse by giving the prosecutor the ability to react adequately to a changed procedural situation. In my opinion art. 398 § 1 of the Code on Criminal Proceedings forces the court to consider in every case if there appears the necessity to conduct preparatory proceedings which is one of the conditions for intermediate proceedings, therefore I argue with opposite opinions according to which the public prosecutor in entitled to such consideration in the first place. I also point to the fact in this part of the work that the broadening of accusation during trial by making an oral statement by the prosecutor is a legally accepted exception from the written form of an act of indictment and that it leads to the result that in this respect it plays the role described by art. 17 § 1 point 9 of the Code on Criminal Proceedings, which is also true of all the acts presented on the basis of art. 398 § 2 of the Code on Criminal Proceedings. I also express the opinion that the possibility to examine the extended accusation by the court, mentioned by art. 398 § 1 of the Code on Criminal Proceedings, does not mean discretion but the court is obliged to examine the accusation in its new boundaries just as it has the obligation to examine any other formally appropriate indictment presented by a competent prosecutor.

In my opinion the modification of art. 14 § 2 of the Code on Criminal Proceedings, made in September 2013 led to a situation in which it was possible to understand the indictment principle in a broader way and to the statement that in its

present shape it shows stronger connections with the contradictory principle, while before 1 July 2015 it was more favourable to the execution of another principle, i.e. the legality one. The above situation is the result of the introduction into the Code on Criminal Proceedings of a totally new institution of a binding withdrawal of the act of indictment by the public prosecutor. I understand this to be an attempt to strengthen his position and right to accusation. I distinguish two types of such withdrawal, i.e. 1) withdrawal of an act of indictment before the court proceedings during trial have started; 2) withdrawal of an act of indictment during the trial before the I instance court. I agree with the opinion that the introduction to the Code on Criminal Proceedings of the institution of a binding withdrawal of an act of indictment is one of the main conditions for giving the argument to the parties of criminal proceedings. Due to the resignation from the institution of renouncing from the indictment, the reorientation of indictment principle has been achieved – from a principle referring only to the initiation of court proceedings to a principle comprising also the problem of supporting the accusation before the court. These problems are analysed in detail in Chapter VII of the book in which the withdrawal of an act of indictment was confronted with the no longer binding renouncing from the indictment. I believe that the withdrawal of an act of indictment expresses the attitude of the prosecutor to the case itself. I point to some defects of the solution accepted in art. 14 § 2 of the Code on Criminal Proceedings, like the lack of required precision in the description of the bases of such a decision of the prosecutor and the fact that the withdrawal of an act of indictment "before the beginning of the court proceedings during trial" is not in accordance with art. 64 § 2 of the Statute on prosecutors. This is so because this provision describes the possibility to withdraw the act of indictment by the prosecutor "when the results of court proceedings do not confirm the indictment", and it is obvious that such "results" become known only during the court proceedings and never before them.

Chapter VIII is devoted to the problems connected with the execution of the right to accuse by the auxiliary prosecutor, pointing to the fact that, depending on the character of such a prosecutor, the execution of that right can be achieved through independent presentation of the act of indictment (art. 55 § 1 of the Code on Criminal

Proceedings), making a statement about acting as an auxiliary prosecutor (art. 54 § 1 of the Code on Criminal Proceedings) or possibly making a statement about joining the proceedings as an auxiliary prosecutor (art. 54 § 2, 2nd sentence of the Code on Criminal Proceedings). From this point of view I also present the implications of art. 57 § 1 of the Code on Criminal Proceedings. I criticise the arbitrary character of the court decision made on the basis of art. 56 § 1 of the Code on Criminal Proceedings. This is hard to accept if one considers the far reaching consequences of such a decision and the weakness of the solution which is to make amends to the prosecutor for removing him from the proceedings (vide art. 56 § 4 of the Code on Criminal Proceedings). I also make the observation that the court's ability to decide on the basis of art. 56 § 2 of the Code on Criminal Proceedings is an activity supplementing the formal control of the act of indictment by the president of the court on the basis of art. 337 of the Code on Criminal Proceedings and I ask here an important question about the degree to which the decision made on the basis of art. 56 § 1 of the Code on Criminal Proceedings is binding for the close relatives of a dead auxiliary prosecutor or for the persons who were maintained by him (art. 58 § 1 of the Code on Criminal Proceedings). I do not think that the auxiliary subsidiary prosecutor acts in the public interest, and even so, this is most often not conscious. In my opinion, the fact that the subsidiary act of indictment has to conform, according to art. 55 § 2 of the Code on Criminal Proceedings, to the requirements indicated in art. 332 and 333 § 1 of the Code on Criminal Proceedings, does not make this indictment a public one. Due to the character of the cases examined on the basis of a subsidiary act of indictment I am in favour of maintaining the requirement that it should be prepared by a professional. This requirement has not been abolished by the September revision by replacing the obligation, present in art. 55 § 2 of the Code on Criminal Proceedings, that the act should be written by an attorney, by a new obligation that it should be prepared by a plenipotentiary. I notice that the aim of the revision was not to de-professionalise the person entitled to prepare and sign the subsidiary act of indictment but to make more precise the character of the legal relationship between that person and the victim.

Chapter IX, the last one, is devoted to problems connected with the execution of the right to accuse by the victim acting as a private prosecutor. The solutions of art. 59

§ 1 of the Code on Criminal Proceedings undoubtedly broaden the right to accuse of the victim in the cases indicated by the Criminal Code, yet it should be noticed that even depriving him of that independent right and maintaining at the same time the criminalisation of the same group of offences would have to lead to a situation in which such indictments would have to be taken over by some other, most probably – the public, prosecutor. Proceedings initiated on private accusation is the second, after proceedings initiated on the basis of art. 55 § 1 of the Code on Criminal Proceedings, special case in which the victim can initiate court criminal proceedings. Yet, otherwise than in the case of the victim who acts as an auxiliary subsidiary prosecutor, in cases of offences prosecuted on private indictment, the victim appears before the court immediately as a proceedings party. The statute allows the victim to use two equal and alternative forms of indictment, i.e. 1) directing to the court an act of indictment described by art. 487 of the Code on Criminal Proceedings; 2) presenting an indictment to the Police on the basis of art. 488 § 1 of the Code on Criminal Proceedings. I believe that the choice between the written and oral form of the indictment described by art. 488 § 1 of the Code on Criminal Proceedings is to be made exclusively by the victim, the statute does not prefer any of them and the sequence in which they are mentioned is of no significance. I oppose the idea of granting the Police, who received the indictment described by art. 488 § 1 of the Code on Criminal Proceeding, any rights referring to its preliminary control since only the court is entitled to examine it according to the general rules – yet not the ones indicated in art. 337 of the Code on Criminal Proceeding, which refers to ordinary acts of indictment, but the ones indicated by art. 120 of the Code on Criminal Proceeding.

It is true that the law-maker uses the term "act of indictment" only referring to the activity described in art. 487 of the Code on Criminal Proceeding, yet the indictment function can be attributed also to the indictment presented with the help of the Police. In both cases the private prosecutor should describe the act as a historical event to which he attributes the fulfillment of the statutory features of a given offence and present evidence confirming his accusation. Seen from this point of view, the private act of indictment is similar to the public one. As a result of the private prosecutor's unprofessional character, the requirements his act of indictment should

meet have been reduced, which makes it one of the simplified acts of that type. The simplification is visible in the exemption from the indication of the defendant by name and from the requirement to indicate the legal qualification of the act described by the act, which does not refer, however, to the public prosecutor acting on the basis of art. 60 § 1 of the Code on Criminal Proceeding.

I present the opinion that the activities commissioned to the Police by the court on the basis of art. 488 § 2 of the Code on Criminal Proceeding cannot be treated as even a minimal investigation and I am also not in favour of omitting the role of the private prosecutor here. One should remember that in the light of art. 435 § 2 of the Code on Criminal Proceeding from 1969 there was a binding rule according to which it was the party who presented the act of indictment who should indicate to the court the activities that should then be commissioned to the Police. Omitting the role of the private prosecutor in the process of indicating to the Police what activities should be undertaken on the basis of art. 488 § 2 of the Code on Criminal Proceeding is a breach in the victim's domain referring to proceedings initiated on private indictment and during the brief period when the revision from September 2013 was binding it was difficult to see that it was in accordance with the basic assumptions of the revision referring to the contradictory principle and equality of the parties.

The book also describes some problems referring to the so called mutual indictment, which as an institution of exceptional character has been discussed separately in subchapter 4.1 in Chapter IX. The proximity of this institution with the German Wiederklage based on § 388 Abs. 1 StPO is indicated, as well as the criticism of this institution for its alleged lack of functionalism. I myself am quite convinced about the justification of further preservation of this institution, especially because it does not restrict in any crucial way the right to accuse of that victim who first presented an act of indictment concerning an offence prosecuted on private indictment. There is no doubt about the fact that as a result of presenting a mutual indictment the conditions in which that right is to be executed get changed. The victim who until that moment played the role of a private prosecutor will have not only to formulate charges of the accusation and support them with evidence (the active party) but also defend

himself from charges turned against him (the passive party), which may require the presentation of totally new evidence or the revision of his accusation "line".

There are also reflections in the book referring to the problem whether the institution from art. 60 § 1 of the Code on Criminal Proceeding can be interpreted in the light of the legality principle, though I believe that the interference by the public prosecutor is not a manifestation of that principle in the meaning given to it by art. 10 § 1 of the Code on Criminal Proceeding. Although the prosecutor has the obligation to assess the public interest objectively, and not at his own discretion, in a given case, yet the lack of any means to force him to take a given proceedings activity favours the interpretation that he is fully independent in this respect. The book is closed with remarks referring to the private prosecutor's right to renounce the indictment and two form of this are indicated: 1) the narrow one (sensu stricto) which refers only to the proper renouncing of indictment (art. 496 § 1 and 2 of the Code on Criminal Proceeding); 2) the broad one (sensu largo) which refers not only to the proper renouncing of indictment but also to all the forms of agreement in court or mediation proceedings. I emphasise the fact that the decision to renounce the indictment made by the private prosecutor, as an act fully autonomous and uncontrolled by the court, is a manifestation of the full independence of this proceedings party. I stress the fact that the possibility, on the basis of art. 496 § 1 of the Code on Criminal Proceeding, of renouncing the indictment by the private prosecutor until the moment of "a valid termination of proceedings" may be a controversial solution, but it also favours the termination of proceedings started on private indictment at the lowest social costs. Allowing the renouncing of indictment until that moment means tolerating a situation in which – when the conditions set by art. 496 § 1 if the Code on Criminal Proceeding are met, the private prosecutor, by making a statement that he resigns from accusation may undermine the sentence already passed in the case. This may lead to the surprising conclusion that the law-maker puts more emphasis on a conciliatory termination of proceedings started on private indictment than on the stability of jurisdiction.

Discussion of other academic, research and artistic achievements

a) Authorship or co-authorship of academic publications in journals included in the Journal Citation Reports (JCR) database

This database includes only English and American journals. Those journals which refer to law are devoted to the common law system which is totally different from the Polish one and the institutions and terminology of these systems are incompatible. The ERIS list does not contain law journals. Therefore, as a result of the specificity of my branch of science, I have not published papers in those journals.

b) Evaluation criteria for academic and research achievements in fields of knowledge including:

1) Authorship or co-authorshil of monographs, academic publications in international or domestic journals in the given field of knowledge other than those included in the database or on the list mentioned in § 3;
2) Authorship or co-authorship in the given field of knowledge of: collective works, collection catalogues, documentation of research works, expert opinions, works and artistic works;

The achievements mentioned in both points will be discussed together because the form in which the results of research were published belongs to the two fields and the issues discussed were often belonging to the two categories.

My research interests focus around w few main fields. The first one is the problem of consensual decisions in criminal cases. This was discussed in the monograph: The convicting sentence of the I instance court issued on the basis of art. 335 of the Code on Criminal Proceedings, published by the publishing house Zakamycze, Kraków 2005, ISBN 83-7444-046-5, pp. 174 and in a few scientific

papers. The monograph is devoted to the institution of conviction without trial regulated by art. 335 in connection with art. 343 of the Code on Criminal Proceedings and it is a modified version of my doctoral dissertation.

The main topic of the monograph was the problem of criminal proceedings agreements reached on the basis of art. 335 and 343 of the Code on Criminal Proceedings. These provisions, after their revision by the statute from 10 January 2003, significantly extended the possibility to use the consensual ways of finishing criminal proceedings, especially through conviction without trial. The introduction of this institution into the Polish criminal proceedings was to simplify and accelerate the proceedings since their excessive length and the visible "crisis" of the justice system have constantly been criticised. Therefore the main motive of the introduction of consensual decisions in criminal cases was to relieve the courts from the necessity to examine in the traditional, time-consuming and costly procedure the ever growing number of criminal cases.

There have been serious differences about the understanding of the essence of this institution in the criminal proceedings doctrine and in the prosecutor and court practice. The aim of the monograph was to dispel the existing doubts and to present the Author's own propositions referring to the regulation of the discussed provisions. The dogmatic analysis was supplemented by empirical research, i.e. court files analysis referring to cases in which the institution of conviction without trial was used, also with the use of statistical data coming from the Ministry for Justice. The application of these three research methods (formal-dogmatic, empirical and statistical) made it possible to present the discussed topic thoroughly.

The institution of conviction without trial was presented against the background of the sentence which conditionally discontinues the proceedings and the court order sentence which are also issued during the court's sitting. In all the three cases it has to be established that an offence has been committed and that the defendant's perpetration of it and his guilt are beyond doubt. I was trying to demonstrate that the joint requirement that the circumstances of the case should be obvious and that it is the prosecutor who presents the motion to convict the defendant without trial point clearly to the fact that the institution described by art. 335 of the Code on Criminal

Proceedings can be applied only when the defendant pleads guilty. Only then is it possible to assume that, if the circumstances of the commission of the offence are clear, also the testimony of the defendant leads to no doubts. I have also explained the differences between the so called classic court proceedings and deciding cases in such a proceedings and the philosophical and theoretical theory of Jurgen Habermas. This theory is considered to be a contemporary theory of the law and society and it assumes that discourse is the basis for organising social relations. The analysis of the solutions of Polish law was conducted also from the comparative law point of view and the regulations of chosen European countries and the common law system were presented (among others, the regulations in: Italy, Spain, the Czech Republic, Slovenia, Germany, Austria and the USA).

An important topic of the monograph was the analysis of the institution of conviction without trial seen from the point of view of the main principles of criminal proceedings, i.e. the efficiency principle, material truth principle, indictment principle and contradictory principle, as well as the directness principle and the presumption of innocence. This was necessary since the main principles of criminal proceedings indicate not only the shape of the model criminal proceedings but also the boundaries of acceptable activities of the proceedings participants. I came to the conclusion that the need to achieve effectiveness and desired speed of proceedings cannot be chosen over the other main principles which also need to be respected.

I also made the attempt in the monograph to decide some of the controversies present in criminal proceedings doctrine referring to the conditions of conviction without trial which are examined both by the court and the prosecutor. In this respect one of the most important element of agreement is the confession of guilt by the defendant. Although it does not guarantee the certainty that the offence took place, since the confession may be the result of many, not always honest reasons, yet one cannot approve of the opinion that the requirement of pleading guilty should be explicitly expressed in the statute. In my opinion this requirement can be inferred from the logical interpretation of art. 335 § 1 and 2 of the Code on Criminal Proceedings. When the defendant does not plead guilty in spite of the fact that the evidence is clearly against him, the prosecutor should not even consider the conviction without

trial. Similarly, the refusal to testify by the defendant is also an obstacle which makes it impossible to assume that the circumstances of the commission of the offence are clear. It is difficult even to imagine that the prosecutor, who does not know the testimony of the defendant (suspect), proposes that he should agree to the motion for conviction without trial. Hence the conclusion that the defendant has to testify since it is necessary to limit the possible evidence activities and to apply the institution of the agreement in this way.

An equally important problem discussed in the monograph was the substantial law character of the provisions of art. 335 and 343 of the Code on Criminal Proceedings. This delineates the acceptable, within the institution of conviction without trial, range of punishments and penal measures, which cannot be stepped over. The court accepting the motion of the prosecutor applies to the defendant (also if he is a recidivist) the "privileges" granted by the discussed provisions.

The book discusses also in detail the importance of mediation for the decision taken be the court on the basis of art. 343 of the Code on Criminal Proceedings. This leads to the conclusion that the agreement reached before a mediator is a civil law contract and cannot be treated as a court contract, therefore its execution can also be demanded in separate civil proceedings. Yet the agreement may become a court one if the parties make a statement to the protocol on the basis of art. 343 § 5 of the Code on Criminal Proceedings.

Other problems, crucial from the point of view of the shape of conviction without trial, analysed in the monograph were the preliminary sitting of the court on the basis of art. 339 § 1 point 3 of the Code on Criminal Proceedings and the substantial court sitting referring to the conviction without trial. The discussed problems comprised the court composition during that sitting, the party equality principle, the obligation of the court to act according to the motion, the position of the victim, the range of evidence proceedings and the burden of proof, as well as the legal character of the decision not to accept the prosecutor's motion to convict the defendant without trial. Stating that there are defects which make the prosecutor's motion impossible to accept is equal to its rejection (in the form of a court decision). The court neither "rejects" not "leaves it without examination". The result of issuing a decision

not to accept the motion is the examination of the case according to the general rules. As these can go in different directions (e.g. the conditional discontinuance or court order sentence), the law-maker has not explicitly pointed to the examination of the case during a trial.

The above described reflections were supplemented with remarks referring to the conditions for issuing a convicting sentence and to the sentence itself. The doubts that may appear here are connected with the fact that according to art. 174 of the Polish Constitution a sentence has to be pronounced publicly. Therefore some doubts appear in connection with art. 418a of the Code on Criminal Proceedings in which it has been formulated in an unclear way how the parties and other persons may get informed that the "content of the sentence is available publicly by placing its copy in the court's secretariat". Even before the January 2003 revision was accepted, it seemed that it was a better idea to make the court publish information about sentences issued during its sittings (so not during a trial) on some "announcement board". In my opinion, when a sentence is issued not during the trial, the information that the sentence's content (in a given case) is publicly available in the court's secretariat for 7 days should be placed on an announcement board in the court building. I also discussed the consequences of changes introduced in the revision from 2003 referring to the abolishment of the reformationis in peius interdiction in the situation when the appeal to his own advantage was submitted by the defendant convicted without trial. The resignation from the interdiction was to – in the case of a consensual termination of proceedings – refer to those cases in which the defendant was going to breach the contract which he entered out of his own free will. Yet taking decision to his disadvantage when the appeal is only to his advantage is a breach of the constitutionally guaranteed right to defense (art. 43 section 2 of the Constitution).

The monograph is closed with the analysis of the institution of voluntary plea bargaining on the basis of art. 387 of the Code on Criminal Proceedings and the aim of it was to indicate the special features of this institution when compared with conviction without trial and the assessment of the importance of both of them for the efficiency of criminal proceedings.

The same topics are also covered by the following papers: "The importance of mediation proceedings in Polish criminal procedure" [in:] Problems of the revised criminal procedure, G. Artymiak, Z. Ćwiąkalski (eds.), Kraków 2004, pp. 437-445, "Mediation and the interest of the justice system [in:] The concept of interest in legal sciences, the law and court judgments in Poland and Ukraine", A. Korybski, M. W. Kostycki, L. Leszczyński (eds.), Lublin 2006, pp. 199 -203 and "Proceedings agreements and consensuality in the light of art. 335 and 387 of the Code on Criminal Proceedings" [in:] The assessment of the functioning of proceedings agreements in the criminal justice practice, C. Kulesza (ed.), Warszawa 2009, pp. 54-61.

The second field of research is connected with the crucial problems of court proceedings institutions and their importance for the whole criminal proceedings. The following publications discussed these issues: "Starting proceedings on private indictment", Studia Prawnicze i Administracyjne 2015, nr 3, pp. 25- 36, "Resumption of court proceedings in Polish and Italian criminal proceedings. Chosen problems" [in:] Special means of contesting court decisions from the comparative point of view, D. Gil (ed.), wyd. KUL, Lublin 2013, pp. 203-224, "Compensational discontinuance of criminal proceedings on the basis of art. 59a of the Code on Criminal Proceedings", Przegląd Prawno-Ekonomiczny 2015, nr 33, pp. 30-40, "The separate opinion of a judge in Polish criminal proceedings. Chosen problems" [in:] The practice and theory of criminal law. A Book dedicated to the memory of Prof. A. Wąsek, L. Leszczyński, E. Skrętowicz, Z. Hołda (eds.), Lublin 2005, pp. 703-707, "The principle of public sentencing and its limitations [in:] The principles of court proceedings in the light of the last revisions, D. Gil, E. Kruk (eds.) , wyd. KUL, Lublin 2016 (in print) and also a chapter in the System of Criminal Procedural Law: "Exclusion of a judge" [in:] The System of Criminal Procedural Law. Courts and other organs of criminal proceedings, Z. Kwiatkowski (ed.), vol. V, chapter V, point 5.1. - 5.3. subpoint 5.3.1. - 5.3.3., Wolters Kluwer, Warszawa 2015, pp. 520-585.

The third field of my scientific interests after I obtained the doctor degree is connected with the problems of the position and rights of the participants of criminal proceedings, also seen from the point of view of using the coercive measures. The result of my research in this sphere are the following articles: "The psychiatric and

psychological opinion in Polish criminal proceedings. Chosen problems" (co-author E. Skrętowicz) [in:] A book in honour of Professor A. Kaftal, G. Rejman, B.T. Bieńkowska, Z. Jędrzejewski, P. Mierzejewski (eds.), Warszawa 2008, pp. 299-306, "Awarding the monetary compensation ex officio. Chosen problems" [in:] Substantial criminal law and procedural aspects of compensation in the light of the criminal codifications from 1997 and proposals for modifications, Z. Ćwiąkalski, G. Artymiak (eds.), Warszawa 2010, pp. 282-293, "EAW – European Arrest Warrant. Chosen problems" (co-author: A. Nowosad) [in:] The europeisation of public law – system issues, vol. I, part III, chapter XIV, E. Wójcicka, B. Przywora, M. Makuch (eds.), Częstochowa 2015, pp. 217-239, "Procedural law instruments and the effectiveness of their execution in preventing family violence" [in:] Chosen problems of substantial and procedural law. Theory and practice, Vol. III, K. Knoppek, J. Mucha (eds.), Poznań 2015, ss. 167-180, "Family violence and the victim and the protection of his rights in the light of the procedure of the "Blue card" and the civil "order to live the house", Annales nr 1, 2016, "Underage victim in criminal proceedings" [in:] The problems of reforming the procedure in juvenile cases, T. Bojarski (ed.), Lublin 2009, pp. 99-106, "The participation of the victim in criminal proceedings and the execution of the right to information and being listened to in the light of the provisions of the Directive of the European Parliament and Council 2012/29/UE (art. 4 i art. 10) – chosen aspects" [in:] Polish courts in the face of the UE law achievements, D. Gil (ed.), Wydawnictwo KUL, Lublin 2015, pp. 109-124, "The problem of unjust indictment seen form the point of view of the State Treasury's responsibility for damages", Przegląd Legislacyjny 2013, nr 4 (86), pp. 9-24, "The basis of using provisional detention in the light of modifications of the Code on Criminal Proceedings", Przegląd Prawno-Ekonomiczny nr 34 (1), 2016, (in print). This thematic group also includes commentaries to court decisions: "Commentary to the Supreme Court decision from 18 December 2013, I KZP 24/13", Przegląd Prawno-Ekonomiczny2015, nr 33, pp.122-124 and "Commentary to the Supreme Court decision from 5 March 2014, IV KK 341/13", Ius Novum 2016, nr.1, pp. 162 – 165.

The fourth field of research refers to the problems of special proceedings. I published a chapter in a textbook: „Injunction proceedings" [in:] K. Dudka (ed.),

Special and separate proceedings in criminal proceedings, Warszawa 2012, pp. 66-86, a chapter in the System of Procedural Criminal Law: "Injunction proceedings" [in:] The System of Criminal Procedural Law. Special proceedings, T. Prusak (ed.), vol. XIV, chapter IV, Wolters Kluwer, Warszawa 2015, pp. 390-474 and a chapter: "Appeal proceedings", pp. 170-178, as well as chapters (together with T. Bojarski and E. Skrętowicz) in Commentaries: Commentary to the statute on proceedings in juvenile cases, T. Bojarski (ed.), 4th edition, Lexis Nexis 2014, pp.105- 147 (co-author E. Skrętowicz), pp. 148- 169 (co-author T. Bojarski), pp. 244-255 (co-author E.Skrętowicz), pp. 170 -178, chapter entitled "Appellate proceedings", pp. 200 – 214 and chapters (together with T. Bojarski and E. Skrętowicz) in Commentaries: "Commentary to the statute on proceedings in juvenile cases. Revised and supplemented edition". T. Bojarski (ed.), 5th edition, Wolters Kluwer 2016, pp.123-169 (co-author E. Skrętowicz), pp. 170-198 (co-author T. Bojarski), pp. 283-293 (co-author E. Skrętowicz), pp. 200-214.

The above discussed field of research is connected with the next one devoted to the problem of indictment and its importance for criminal proceedings. The main result of research in this field is the habilitation dissertation: "Prosecutor's indictment as a manifestation of executing the right to accuse by the authorised prosecutor in Polish criminal proceedings", Lublin 2016, pp. 1-411 and the following papers: "Mutual indictment in Polish criminal proceedings" [in:] Problems of court law application. A book offered to Professor Edward Skrętowicz, I. Nowikowski, J. Kosowski (eds.), Lublin 2007, pp. 347-354, "Indictment in accelerated proceedings" [in:] Inquisitory model of criminal proceedings. Book offered to Professor Stanisław Stachowiak (co-author E. Skrętowicz), A. Gerecka – Żołyńska, P. Górecki, H. Paluszkiewicz, P. Wiliński (eds.), Warszawa 2008, pp. 323-325, "Motion for conditional discontinuance of criminal proceedings. Chosen problems" [in:] Theoretical and practical problems of contemporary criminal law. A book offered to Professor T. Bojarski, I. Nowikowski, A. Michalska-Warias, J. Piórkowska-Flieger (eds.), Lublin 2011, pp. 867-878, "Indictment in proceedings started on private prosecution", Ius Novum 2012, nr 4, pp. 28-42, "Modification of an act of indictment seen from the point of view of the legality principle" (co-author I. Nowikowski), [in:] The legality principle in criminal

proceedings, B. Dudzik, J. Kosowski, E. Kruk, I. Nowikowski (eds.), Wydawnictwo UMCS, Lublin 2015, pp. 185-208, "Withdrawal of an act of indictment and the rights of the auxiliary prosecutor [in:] The roles of the participants of court proceedings – yesterday, today and tomorrow (co-author I. Nowikowski), D. Gil, E. Kruk (eds.), Vol. I, Wydawnictwo KUL, Lublin 2015, pp. 17-32, "The indictment principle in Polish criminal proceedings", Studia Iuridica Lublinensia, 2016, nr 1, pp. 199-221.

3. Heading international or domestic research projects or participation in such projects - none

4. International or domestic awards for academic or artistic activity:

2004 – level III UMCS Rector's individual award for outstanding scientific and didactic work

2013 – bronze medal for long-term service granted by the President of the Republic of Poland

5. Papers presented at domestic or international thematic conferences:

1. Mediation and the interest of the justice system, Conference: "The concept of interest in legal sciences, the law and court judgments in Poland and Ukraine", Lublin 8-9 April 2005, I Lublin – Kiev Law Seminar (international conference);
2. Underage victim in criminal proceedings, Conference: "The problems of reforming the procedure in juvenile cases", Lublin 18-19 September 2008;
3. Proceedings agreements and consensuality in the light of art. 335 and 387 of the Code on Criminal Proceedings, Conference: "The assessment of the functioning of proceedings agreements in the criminal justice practice", Białystok 17-19 April 2008;
4. Resumption of court proceedings in Polish and Italian criminal proceedings. Chosen problems, Conference: "Special means of contesting court decisions from the comparative point of view", KUL Stalowa Wola 11 March 2013;

5. The indictment principle in Polish criminal process, Conference: "Law principles in the branch structure of the law system", Lublin 12 June 2014;
6. Modification of an act of indictment seen from the point of view of the legality principle (co-author I. Nowikowski), Conference: "The legality principle in criminal proceedings", Nałęczów 15-16 May 2015 (international conference);
7. Withdrawal of an act of indictment and the rights of the auxiliary prosecutor, Conference: "The roles of the participants of court proceedings – yesterday, today and tomorrow", KUL Sandomierz, 13 April 2015;
8. The participation of the victim in criminal proceedings and the execution of the right to information and being listened to in the light of the provisions of the Directive of the European Parliament and Council 2012/29/UE (art. 4 i art. 10) – chosen aspects, Conference: "Polish courts in the face of the UE law achievements", KUL Sandomierz, 21 – 22 April 2015;
9. European Arrest Warrant. Chosen problems (co-author: A. Nowosad), Conference: "The europeisation of public law – system issues", Częstochowa, 27 May 2015;
10. Legal instruments of preventing family violence, Conference: "Criminal law protection of family violence victims", KUL Stalowa Wola, 19 October 2015;
11. The principle of public sentencing and its limitations, Conference: "The principles of court proceedings in the light of the last revisions", KUL Sandomierz, 35 April 2016;

c) Evaluation criteria referring to achievements in the field of didactics and learning popularisation and international cooperation:

1. participation in European programmes or other international or domestic programmes – none
2. participation in international or domestic academic conferences or participation in the organisational committees of such conferences (Appendix no. 9)
3. heading projects conducted in cooperation with scholars from other Polish or foreign institutions, and in case of applied research – with entrepreneurs – none
4. participation in editorial committees and academic boards of journals – none

5. membership in international or domestic academic organisations or societies – none
6. achievements in the field of didactics and learning or art popularisation – Appendix no. 8
7. academic tutelage of students or physicians during specialisation – Appendix no 8
8. academic internships in foreign or domestic scientific or academic institutions: - none
9. participation in expert or contest committees – none

Lublin, May 4, 2016