

Remote Criminal Proceedings as Implication to Rethink the Principles of Criminal Procedure

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Abstract : This paper aims to present postdoc research on remote criminal proceedings in court. In this period, when most countries have introduced the possibility of remote criminal proceedings in their procedural laws, it is not only possible to identify the weaknesses and strengths of the legal regulation but also assess the effectiveness of the instrument used and to develop an approach to the process. The example of some countries (for example, Italy) shows, on the one hand, that criminal procedure, based on orality and immediacy, does not lend itself to easy modifications that pose even a slight threat of devaluation of these principles in a society with well-established traditions of this procedure. On the other hand, such strong opposition and criticism make us ask whether we are facing the possibility of rethinking the traditional ways to understand the safeguards in order to preserve their essence without devaluing their traditional package but looking for new components to replace or compensate for the so-called "loss" of safeguards. The reflection on technological progress in the field of criminal procedural law indicates the need to rethink, on the basis of fundamental procedural principles, the safeguards that can replace or compensate for those that are in crisis as a result of the intervention of technological progress. Discussions in academic doctrine on the impact of technological interventions on the proceedings as such or on the limits of such interventions refer to the principles of criminal procedure as to a point of reference. In the context of the inferiority of technology, scholarly debate still addresses the issue of whether the court will not gradually become a mere site for the exercise of penal power with the resultant consequences - the deformation of the procedure itself as a physical ritual. In this context, this work seeks to illustrate the relationship between remote criminal proceedings in court and the principle of immediacy, the concept of which is based on the application of different models of criminal procedure (inquisitorial and adversarial), the aim is to assess the challenges posed for legal regulation by the interaction of technological progress with the principles of criminal procedure. The main hypothesis to be tested is that the adoption of remote proceedings is directly linked to the prevailing model of criminal procedure, arguing that the more principles of the inquisitorial model are applied to the criminal process, the more remote criminal trial is acceptable, and conversely, the more the criminal process is based on an adversarial model, more the remote criminal process is seen as incompatible with the principle of immediacy. In order to achieve this goal, the following tasks are set: to identify whether there is a difference in assessing remote proceedings with the immediacy principle between the adversarial model and the inquisitorial model, to analyse the main aspects of the regulation of remote criminal proceedings based on the examples of different countries (for example Lithuania, Italy, etc.).

Keywords : remote criminal proceedings, principle of orality, principle of immediacy, adversarial model inquisitorial model

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