

Criminal Law and Criminal Procedure in Cyprus
Volume I: General Principles – Theft Crimes
[Ποινικό Δίκαιο και Ποινική Δικονομία στην Κύπρο,
Τόμος Ι: Γενικές Αρχές – Τα Εγκλήματα της Κλοπής]

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There is a new book ‘on the block’ and it is a nice attempt to see Cypriot law ‘out of the box’. *Criminal Law and Criminal Procedure in Cyprus - Volume I: General Principles - Theft Crimes*, written in Greek by Dr Artemis Savvidou, was published by Hippasus Publications in 2021. The monograph, which constitutes the author’s PhD thesis (written under the supervision of Professor Stephanos Pavlou, Law School of Democritus University of Thrace), approaches the whole spectrum of theft crimes in Cypriot Criminal Code, trying to be comparative as it examines the crime in the Cypriot legal order (which is a mixed legal system, a combination of common and continental law legal system) while referring to the Greek provision. The book is prefaced by Prof. Pavlou, as well as Dr Charis Papacharalambous, Associate Head in the University of Cyprus.

The book is divided into seven main (not isomeric) parts; the structure brings in mind the way that the Greek Doctrine has decided to deal with criminal provisions during their analysis through the decades. However, the writer decides to extend her analysis both to substantive and to procedural criminal law, and even more to general and special parts of each Code. The book is completed with an annex including the provisions of Cypriot and Greek law and it is accompanied by the list of court decisions that are invoked (Cypriot, Greek, European Court of Human Rights) and bibliography.

The first part of the book (A. The criminal law of Cyprus in its historical development, pp. 29–48) is structured concerning the peculiarities of the Cypriot legal system that emerged through the centuries and the different eras (before and after Cyprus’ Independence) and referring simultaneously to the Ottoman rule, the English rule and the Law of necessity. We think that this introduction is more than necessary given that criminal law is a deeply political law reflecting the era that shapes it.

The second part (B. The crimes of theft in the criminal code - The crucial provisions, pp. 49-56) just includes the relevant provisions (and that is why its necessity is questionable).

The third part (C. The structural principles of the Cypriot criminal and criminal procedural law, pp. 57-78) extremely briefly describes some of the most important principles in the Cypriot legal order; such as Fauerbach's well-known principle of legality ('*nullum crimen nulla poena sine lege*'), the prohibition of retroactive application of law against the accused, *res judicata*/'*ne bis in idem*', the principle of proportionality, the evidence of innocence/'*in dubio pro reo*' principle. Obviously, the reference to the principles is epigrammatic, like a revision or a need to again point out the fundamental context of a criminal trial -in general terms.

In the fourth part of the monograph (D. The structure of the criminal rule –*actus reus, mens rea*– under Common law and Cypriot law in general, pp. 79-100), the author introduces the reader to basic concepts of common law (as they have been adopted in Cyprus). As a result, the part is divided in two main sections, regarding the two prominent elements of the crime: *actus reus* and *mens rea*. Both are presented briefly (their meaning and content) while separate space is devoted to some special issues such as causation omissions, contributory negligence as well as intention, recklessness, negligence and transferred intent. We would like to underline the importance of this part for anyone that comes from another legal order, despite its length.

On the other hand, we expected a somehow more extensive analysis and comparative presentation in the fifth part of the monograph (E. The protected legal interest, pp. 101-106) which is the cornerstone in any substantive criminal law study. Of course, we cannot ignore the fact that 'legal interest's doctrine' is a German-orientated theory that has been adopted in the majority of 'civil law' countries. Nonetheless, instead of legal interest (or simultaneously with it) there is always the 'harm principle' to be checked to justify (or neglect) the criminalisation of every single behaviour (related to the basic crime).

The sixth part of the thesis (F. Interpretation of the crime of theft, pp. 107-272) depicts a great and ambitious effort to include whatever somebody might wish to examine when the analysis of the crime of theft is considered. As a result, the chapter refers firstly to the definition of the crime and then to the main pillars of the criminal structure: *actus reus* and *mens rea*. In the context of *actus reus*, the writer deals with the theft's object, the discrimination and the categories of 'object', its characteristics

(valuable, mobile, foreign) as well as the delimitation of theft's act (meaning especially the possession and removal of the object as well as the owner's consent). In *mens rea's* context, the writer seems to devote inevitably less lines to explain the kind of 'dolus' that is required. 'The criminal sanction' follows, with a specific devotion to 'the totality principle' and to the 'flexibility' of penalties and sanctions. There is no point in underlying the extremely complicated issues that arise from such criminal subjects; and that is why it is preferable to avoid demanding further analysis by the writer.

The following four sections are also disproportionately presented (in terms of length, showing their different importance). Under the title of fifth section (Specific Issues) the author initially lays out some extremely interesting problematics, such as the defenses (self-defense, necessity, superior orders, consent, insanity, diminished responsibility, intoxication, mistake, mistake of fact, mistake of law, duress per minas, marital subjection); it is crucial to underline that all the aforementioned definitions in English/Latin are attributed to the author that adopts them.

In my opinion, terms as error of law/error of fact that are widely approved in English terminology could substitute for the author's translation, others had to be developed in one place only in the book (that is a matter for 'consent' and –generally speaking– it would be preferable to develop the problematic of less, using the criterion of relevance with the specific crime of theft). Among the next chapters we select 5.2 (Preliminary offenses in the Penal Code) and 5.3 (Participation) as essential to the completeness of such a substantive presentation, so much so that even a greater analysis and the addition of separate examples based on case studies would be more than welcome. Lastly, if we had to choose a crucial subchapter of the greatest part (F) that would be F.6 which refers to aggravated forms (theft of a will, theft of material transmitted by post, theft of animal/products, theft in transit, theft by public officers, theft by secretaries and servants, theft by directors, theft after a previous conviction etc.).

The seventh part of the book (G. The crime of theft in its procedural treatment) is a way to speak for the crime holistically and approaching the legal practitioners as well; that is why there is no doubt that the book is useful not only to academics but also to Cypriot barristers/legals. In this part, even somebody who is not familiar with the Cypriot criminal procedure could find preliminary (or sometimes deeper) answers related to the trial, detention, warrant of arrest etc.

The monograph is completed with an annex including Cypriot and Greek provisions and a table with the relevant decisions, as already mentioned.

To sum up, the book manages to examine and analyse the crime of theft in Cyprus, providing an integrated view of the issue with a comparative view, filling the gap between the notion of Criminal Justice in common law and the way that countries of continental law deal with any crime (*in abstracto* and *in concreto*). Dogmatically, it could further examine some issues (and omit others); but, most of all, it could also prove useful to the reader to find a conclusion or some concentrated *de lege lata* and/or *ferenda* proposals at the end of the book. It is, nevertheless, beyond any doubt that the book is a complete ‘manual’ for a legal practitioner and scholar.

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