ABSTRACT

Precautionary measures in the form of therapy and addictions therapy in the Criminal Code of 1997

The issue of precautionary measures covers not only the science of criminal law but also the auxiliary sciences, which, in the context of studies on precautionary measures should include criminology, forensic psychiatry dealing with mental disorders occurring in offenders and forensic psychology. The opinion is also expressed that application of precautionary measures is not a requirement of criminal law but rather a requirement of criminal policy searching for effective crime prevention measures.

As of July 1, 2015, the legislator expanded the catalogue of precautionary measures including in the criminal code of 1997 the therapeutic non-custodial precautionary measures in the form of therapy and addictions therapy.

The core goal of the dissertation is presenting the practice of applying therapy and addictions therapy by courts in criminal proceedings and enforcement proceedings during the period from the effective date of provisions introducing those institutions to the legal order until December 31, 2020 on assumption that both those precautionary measures in the current format given to them by the legislator do not function appropriately and do not accomplish the expectations formulated for them.

Consequently, the goal of the dissertation is also determination of the existing problems concerning application and enforcement of the discussed precautionary measures and proposing adequate statutory amendments aiming at eliminating difficulties found in practice.

The dissertation aims at showing that *de lege ferenda* concerning application of therapeutic precautionary measures should first focus on the offender's therapy and protection of the public should be the secondary objective.

As correctly noticed by J. K. Gierowski, the treatment of sick and suffering from mental disorders offenders committing forbidden acts represents an important and sensitive indicator of public awareness and sensitivity[1].

[1] J. K. Gierowski, *Psychiatria sądowa w Polsce – aktualny stan i perspektywy*, Pal. 2003, Nr 7-8, p. 104.

The introduction defines the dissertation goal and research hypotheses.

Chapters one and two of the dissertation contain the theoretical considerations. Chapter three presents the research methodology. Chapter four presents the results obtained from empirical studies and analysis of those results. Chapter five of the dissertation contains the evaluation of therapy and addictions therapy functioning in law application practice.

Chapter one is the most extensive. Its title is *Therapeutic precautionary measures in criminal law.* It contains the genesis of the precautionary measures concept, systematics of them, and the position of precautionary measures in the system of criminal reaction measures with particular focus on their relation to the penalty. Moreover, the therapeutic precautionary measures provided in the criminal codes od 1932 and 1968 as well as those provided in the criminal code of 1997 until June 30, 2015 and those functioning as of July 1, 2015 after amendment introduced by the Act on amendment of the Act – Criminal Code and some other acts of February 20, 2015 (Journal of Laws or 2015, item 396) are discussed. The chapter discusses also the therapeutic measures applied based on other acts as well as the goal of application and execution of therapeutic precautionary measures.

Chapter two – *Legal bases for application of therapy and addictions therapy in the Criminal code of 1997* contains the discussion on general principles of application and execution of therapy and addictions therapy, specification of categories of offenders in case of which both those precautionary measures may be applied, premises for imposing them and time of application. Moreover, the therapy and addictions therapy are discussed in detail in it.

Chapter three of the dissertation – *Research methodology* discusses the research methods, techniques and tools assumed.

Chapter four – *Therapy and addictions therapy in the light of conducted research* presents analysis of the therapies and addiction therapies applied by district and regional courts in Poland during the period from 2015 until 2020 based on the statistical data as well as the regional and district courts in Warmińsko-Mazurskie Region in criminal proceedings before the courts of first instance and in enforcement proceedings based on the results of court files study. The studied population of offenders in case of which therapy and addictions therapy was applied in studied cases were characterised. The practice of imposing and execution of therapy and addictions therapy was discussed based on the data from files and in

the light of the questionnaire based studies conducted covering judges, psychiatrists, sexologists, therapists and psychologists.

Chapter five – *Evaluation of therapy and addictions therapy functioning in law application practice* contains the discussion on the genesis of therapeutic non-custodial precautionary measures in Polish legal order, evaluation of the rationale for introducing them and proposals *de lege ferenda* as well as the summary containing reference to the research hypotheses formulated at the beginning of the dissertation.