SUMMARY

The crime of unlawful deprivation of liberty
– legal, criminological and forensic aspects

Personal freedom is one of the fundamental human rights. It is understood as the ability of an individual to make decisions according to his or her own will, including the ability to change his or her place of residence. A person may be deprived of this freedom only on the basis and within the limits of the law. The limits of the deprivation of liberty are set both by international and national law.

Depriving an individual of personal freedom, especially in an unlawful manner, is one of the forms of limiting liberties and rights which a person experiences most acutely. The State is the entity obliged to respect and uphold the rights of the individual. In addition, it must ensure that adequate legal regulations are in place to protect against unlawful behavior by others. The offence of unlawful deprivation of liberty is penalised by the legislator in Article 189 of the Criminal Code.

The main aim of this thesis is to provide a description of the crime in question from the legal, criminological and forensic aspects. The main utilitarian aim is the possibility of using the obtained results of empirical research for the needs of criminological research, as also in the work of law enforcement authorities and the administration of justice - including the provision of knowledge concerning the *modus operandi* of perpetrators and the possibilities of detection and evidence.

Undertaking the subject matter of the research was mainly determined by a limited number of recent studies addressing the issue of the crime of unlawful deprivation of liberty, especially the lack of publications taking into consideration the research of files in the current legal state. The analysis of the crime in its legal and criminological aspect, as well as the forensic aspect has not yet been discussed in any of the publications covering both the previous and the current legal state.

The first chapter of the dissertation is devoted to methodological aspects. The dissertation defines the subject and aim of the research, formulates research problems in the form of specific questions and derives research hypotheses. The research methods used in the dissertation are presented with a detailed description of the structure and course of the research.

The theoretical part of the dissertation is presented in the second and third chapter. The fourth, fifth and sixth chapters present the results and analysis of the conducted empirical research.

The second chapter, entitled “Personal liberty as an object of legal protection”, addresses the issue of work objectification. The chapter explains what is meant by the concept of personal freedom. It also discusses the development of the human right to personal freedom, and the protection of this right on the basis of international sources of human rights protection, as well as the internal standard of protection. National regulations within the sphere of regulations legalising deprivation of liberty were also presented.

The third chapter entitled “Legal analysis of the crime of unlawful deprivation of liberty”, is based on available literature, judicial decisions and the results of our own research. The statutory elements of the offence under the article 189 of the Criminal Code is also discussed. The chapter presents the amendments to the content of the regulation, the issue of confluence of the provisions of the act, as well as touches upon the problem of interpretation of the element of particular torment.

The fourth chapter, “The criminological portrayal of the crime of unlawful deprivation of liberty in the light of file research”, begins the research part of the dissertation, which presents the crime in the criminological aspect. On the basis of the conducted file research, the perpetrators of the crime of unlawful deprivation of liberty were characterised, as well as the motives of their actions were presented, according to which the types of perpetrators of the crime under Article 189 of the Criminal Code were specified. The chapter further describes the victimological aspects of the prohibited act in question, including the typology of victims, their role in the victimization process and the relations between them and perpetrators. On the basis of the conducted file research, an authorial division of types of victims has been proposed.

The fifth chapter presents the “*Modus operandi* of the perpetrators of the crime of unlawful deprivation of liberty in the light of file research”. Analysing the stages of a crime, the aspect of planning the act and preparation for the crime was presented at the beginning. Then, the focus was placed on indicating the circumstances of committing the act - the characteristics of the perpetrators' actions at the moment of unlawful deprivation of liberty, the places of attack and detention, the circumstances of releasing the victim and the time of unlawful deprivation of liberty. On the basis of the obtained research results, the mark of torment in the actions of perpetrators has also been analysed. Moreover, it has been indicated which of the actions, in the opinion of the judiciary, fulfil the characteristics of a crime. The

fifth chapter ends with a review covering the problem with regard to the occurrence of a dark crime number of unlawful deprivation of liberty.

The title of sixth chapter is “The specificity of selected detection and evidence activities in the light of file research” which presents the forensic dimension of the research problem. The chapter describes the origins and the moment of obtaining the initial information about the event, as well as the resulting guidelines for law enforcement bodies in connection with obtaining this information. The next part of the chapter is strictly devoted to the process of collecting evidence for the reconstruction of the event and determination of the degree of torment of the victim. The importance of personal sources of evidence, inspection of the place of the event and digital traces revealed in the course of proceedings were emphasized. Reference was also made to the issues of operational and exploratory activities and the use of the effects of these activities in proceedings for a crime under Article 189 of the Criminal Code.