University Warmińsko-Mazurski in Olsztyn

Faculty of Law and Administration

Dorota Charkiewicz, MA

Summary of the doctoral dissertation entitled: "*Protection of the household inviolability in the Polish penal code",* prepared under the scientific supervision of dr hab. Krystyna Szczechowicz, prof. UWM.

The aim of this doctoral dissertation is to analyze the provisions on the crime of violation of the household inviolability in the Penal Code. The analysis shall be performed in the theoretical aspect – specialist literature and judicial decisions will be scrutinised, but the study will also cover forensic research and statistical data. Research hypothesis was built through formulating the general research problem along with the detailed problems. The aim is to verify and confirm the thesis in the doctoral dissertation.

There are more and more factors which constrain human freedom. Some of the most impactful phenomena include widespread globalisation, computerisation, introducing ever newer technological solutions facilitating tracing every human movement, intense infringement of individual freedoms through various Internet programs, interactive tracking maps, consumer nudging programs, candid recording of individuals by means of various software, biodata recording and tracking. In this context, penal regulations concerning the protection of human freedom in terms of one's household freedom are important strongholds for protecting human freedom in general and specifically, in terms of protecting one's household freedom.

The main research problem was to answer whether the legal solutions included in the Polish Penal Code relating to providing protection are sufficient or need strengthening. The protection was analysed with reference to an individual in terms of criminal protection of the inviolability of one's household, both in terms of their statutory shape in their practical application. The

research problem, including detailed problems, has made it possible to make and verify the research hypothesis assuming that legal solutions included in the penal code within the scope of protection against the tort of trespass to land are comprehensive both in the field of their legal shape, and the practical usage, and thus they provide appropriate reaction from the criminal law.

Various cognitive methods were used in the doctoral thesis, the most productive of which proved to be formal and dogmatic (static technological and dynamic dialectic), legal and historical, statistical research and forensic research.

The formal and dogmatic method consisted in a direct analysis of source documents, examination of specialist literature on the subject, linguistic analysis of the texts of legal acts concerning the formulated research problem. The provisions of art. 193 of the Polish Penal Code concerning trespassing made the basic subject to be analysed. However, other provisions were also analysed, e.g. relevant articles of the Code of Criminal Procedure, the Code of Petty Offenses, the Code of Conduct in cases of petty offenses, the provisions of the construction law, the Civil Code, the Code of Civil Procedure and a number of other specific legal acts.

The historical method presents the temporal outline of the crime of violating the household inviolability. In the case of the comparative method, horizontal legal solutions functioning in selected criminal codes of other countries of the world were presented. Thirdly, the statistical method of data analysis covered current statistical data in combination with historical statistical data obtained from various institutions: the Ministry of Justice, the Institute of Justice or the Police.

The scope of research with the applied empirical method consisted in examining the files of court cases legally terminated by the Court in Piaseczno, the Court in Nowy Dwór Mazowiecki and the Court in Grodzisk Mazowiecki in the field of crimes under Article 193 of the Polish Penal Code between 2010 and 2019.

The work is comprised of an introduction, a conclusion and the main body divided into five chapters.

The first chapter contains fundamental terminology occurring in the crime of violating the household inviolability and the historical outline of the protection of household inviolability from the regulations existing in first Polish legal provisions, through solutions that existed in

Poland in the penal codes of partitioning states, regulations in the Polish penal code of 1932, the Polish Penal Code of 1969.

The second chapter shows how the problem of the tort of trespass is presented in the Constitution and in the international law, and various laws are compared.

The third chapter discusses criminal and material aspects of the crime of violating the household inviolability, such as the hallmarks of the crime, the subject of protection, the subject aspect with a detailed analysis of the perpetrator's executive activities, and the subject of the offense (including a house, an apartment or fenced area). The subsequent part presents the subject of the crime and the analysis of whether the owner might be a perpetrator of the crime of violating the household inviolability. Issues relating to strikes and demonstrations related to the exercise of workers' rights were also discussed. Then, the subjective side of the act and the perpetrator's behaviour were discussed, as well as situations excluding the unlawfulness of the act and guilt in the field of domestic violation, also in terms of other branches of law: such as civil or administrative law.

The four chapter presents the system of criminal sanctions and the procedure of prosecuting the perpetrator of the crime of violating the inviolability of the apartment. Criminal threats and various possible types of punishments imposed on perpetrators of this crime were discussed. The institution of the convergence of the provisions of various other laws with the provisions on the crime of violating the home miracle is presented.

The fifth chapter presents the crime of violating the household inviolability in statistical and empirical terms (analysis of court files). Statistical data from the 1940s to the present were presented, having been sourced from the Ministry of Justice, the Institute of Justice and the Police. The analysis of statistical data resulting from the direct analysis of the files of all court cases was performed whose validly closed for the period 2010-2019 from the Court in Piaseczno, the Court in Nowy Dwór Mazowiecki and the Court in Grodzisk Mazowiecki.

At the end of the work, the final analysis of the topic in the context of the research hypothesis was made.