

Streszczenie pracy w języku angielskim

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Abstract of the most substantial issues of the doctoral dissertation "Concept of time and its meaning in the substantive criminal law" written under the guidance of Prof. dr hab. Andrzej Zoll.

The subject matter of the study is an in-depth analysis of the time concept with reference to the substantive criminal law, in the context of its many-sidedness and complexity, as well as its practical influence on the perception of individual law-and-penal institutions. The main objective of the dissertation is to find out an effect this seemingly obvious issue has on the process of wide-ranging criminal methodology, as well as showing its spectrum in the context of interaction between individual standard structures. The competent decoding of time recognition, often appearing within legal texts implicitly or imprecisely, has a fundamental influence on comprehension and, in consequence, the appropriate applying of individual institutions under the criminal law. This task is being made difficult by the legislator repeatedly using time notions in an imprecise way, which can cause their divergent defining on the grounds not so much linguistic as purpose. This circumstance involves a significant influence on the practical aspect. An analysis of these most questionable issues and proposals of their interpretative and system solutions are the guidelines of this study, especially in alignment with practice. In this respect, the fourteen chapters of the dissertation provide an analysis of individual time issues to be found in relation to the substantive criminal law. Chapter 1 discusses fundamental questions connected with the time of the commission of a forbidden act under penalty in the context of Article 6 (1) and Article 1 (1) of the Polish Penal Code (non-retroactivity principle), comprehension and mutual correlation of such notions as the time of the commission of an act, the time of the commission of a forbidden act, and the time of the commission of an offence. Also, there have been discussed intertemporal rules associated with normative amendments (Article 4 of the Polish Penal Code). Chapter 2 concentrates on the time

distinguishing features of a forbidden act appearing both subjectively and objectively. In this context, also special liability of the co-operating persons for the act committed by the person having a subjective time feature has been discussed (Article 21 (2) of the Polish Penal Code), as well as special liability of the guarantor (Article 2 of the Polish Penal Code) resulting from the time of committing by omission a forbidden act with criminal consequences. Chapter 3 takes into consideration the issue regarding the time of committing a forbidden act with reference to acts being extended over a period of time (lasting offence, offence committed by multiple acts, continuous act – Article 12 of the Polish Penal Code - with special taking the "short time intervals" feature into account). Chapter 4 analyzes the issue connected with the time of committing a forbidden act and the time of the effect taking place with reference to crimes above all substantive but also formal. Chapter 5 considers the issue connected with the time of committing a forbidden act with reference to causative and noncausative phenomenon forms (Article 18 of the Polish Penal Code). This issue has been combined with discussing the time delimitation of the forms of criminal cooperation, i.e. aiding and abetting, accompliceship and handling stolen goods. Chapter 6 is dedicated to the phase forms of a forbidden act in the context of the time dynamics of the act and the time delimitation of the phases of the commission of a forbidden act, i.e. intention, punishable preparation, attempt and perpetration in the end. Chapter 7 concentrates on the issue regarding the time defining the limits for accepting extensive excess considered under the countertype of necessary defence (Article 25 of the Polish Penal Code). Chapter 8 analyzes the issue concerning the time of the commission of a next offence and its meaning in the context of individual law-and-penal institutions:

- probation (conditional redemption of proceedings, conditional suspension of the penalty and conditional early release from serving the rest of the penalty),
- juridical relapse into crime (general and special in the context of Article 64 (1) and Article 64 (2) of the Polish Penal Code),
- aggregate penalty and aggregate sentence in the context of Article 85 of the Polish Penal Code (concurrence of offences),
- series of offences (Article 91 of the Polish Penal Code),
- expunction of the sentence (Article 108 of the Polish Penal Code).

Chapter 9 analyzes not only the issue of the age of both the perpetrator and the aggrieved party but also that appearing in view of the penal law concerning such notions as: a child, a minor, a minor being below the age of 15 years, a person below the age of 18 years, a perpetrator who is not at the age of 18 years, and a juvenile. Also the statutory definition of a juvenile included in Article 115 (10) of the Polish Penal Code has been subjected to a detailed analysis, especially in the context of the linguistic structure based on the time elements as well as interpretative doubts with reference to the issue of the perpetrator reaching the age of 24 years at the time of the trial in the first-instance court.

Chapter 10 takes up the issue concerning insanity and impaired sanity of the perpetrator (Article 31 (1 and 2) of the Polish Penal Code) with reference to the acts extended over a period of time when the states of mental disturbance do not demonstrate permanent character and do not coincide with the duration of a forbidden act committed by the perpetrator.

Chapter 11 takes into consideration the institutions of amnesty, abolition and pardon in the context of their time extension. Chapter 12 concentrates on discussing the issue of the passage of time and its influence on the evaluation of the social harmfulness (culpability) of an act, as well as nonstatutory countertypes in a special way conditioned by the time elements. Chapter 13 considers the issue of the passage of time in the context of the statute of limitation to the punishability of offences (Article 101, Article 102 of the Polish Penal Code) and the statute of limitation to the execution of a sentence (Article 103 of the Polish Penal Code). The issue of the period of limitation (Article 104 of the Polish Penal Code) and the statute of limitation not being applied (Article 105 of the Polish Penal Code) has also been taken up. The passage of time has been analysed by Chapter 14 in the light of the expunction of the sentence (Article 4 (4), Article 76, Article 106, Article 107, Article 336 (5) and Article 337 of the Polish Penal Code), also the question of *lex specialis* has been taken into consideration - Article 106 a of the Polish Penal Code – with regard to the expunction of the sentence not taking place by virtue of the law in relation to some types of offence.

The study developed according to the above scheme represents in its concept thorough

research into the substantive criminal law, however it also refers to procedural, constitutional, as well as criminalological aspects.

On account of the subject matter of the dissertation, the research constitutes on the one hand a set of legal provisions and norms provided under the criminal law, and on the other hand – the views of science and judicial decisions according to which the author does this comparative, analytic and legal research, trying above all to highlight all inaccuracies and ambiguities appearing on the part of the legislator, pointing out how they can influence comprehension of legal texts and - in consequence - how they translate into practice, which is a crucial matter for the author. Applying the descriptive as well as analytical method towards the achievements of doctrine and judicature, the author consequently represents not only her own views but also the proposals of specific changes in relation to regulations currently being in force.

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