

The model of the disciplinary liability of convicts in the Polish penitentiary system

Summary

Disciplinary liability of prisoners sentenced to imprisonment is a consequence of the inmates' obligation to comply with the rules established in the prison and the discipline prevailing there. A manifestation of bearing this type of responsibility is the imposition and enforcement of disciplinary penalties against the above-mentioned persons, currently considered by representatives of the science of criminal enforcement law as important means of penitentiary influence. This doctoral dissertation is a detailed characterization of the contemporary model of said liability of convicts, based on the presentation of its most important features and principles. The work analyzes the norms contained in the provisions of the Executive Penal Code and the implementing acts regulating this matter, combined with the current experience of penitentiary practice.

The work was divided into two parts. Within the first of them, seven chapters are devoted to theoretical and dogmatic-legal analysis. The second one, covering only the eighth chapter, presents the empirical research conducted and the results obtained during it.

The purpose of the historical outline included in the first chapter was to introduce the issue of disciplinary punishment of persons sentenced to imprisonment. Within this chapter, five subchapters were distinguished corresponding to particular historical periods during which the principles of disciplinary liability of convicts were developed. The beginnings of disciplinary punishment were described in the context of the birth of Polish penitentiary thought. Then, attention was paid to its development and the development of regulations regarding disciplinary liability of convicts during the partition period. Next, the imposition of disciplinary penalties in prisons in the interwar period, and after World War II until 1989 and since 1989 is described.

The second chapter attempts to define disciplinary punishment and focuses on the basic differences between it and criminal punishment. Within the chapter described, attention was also drawn to the need to define the legal basis for these two types of liability. The third chapter concerns the grounds for applying disciplinary penalties and the directives for their assessment. It includes the definition of a disciplinary offense and examples clarifying it. This chapter also analyzes the degree of guilt and the principle of individualization that determine the penalty. Moreover, special attention was paid to the rights of convicts before a disciplinary penalty was imposed. The fourth chapter contains considerations regarding the statutory and doctrinal catalog of disciplinary penalties, and additionally, postulates regarding possible modifications in this area are formulated. Chapter five was devoted entirely to the procedure for imposing disciplinary penalties, taking into account the entities authorized to impose disciplinary penalties, the principles of imposing disciplinary penalties, including the principle of cumulation, limitation of criminal convictions and execution of penalties, the principle of promptness and the principle of updating, as well as the form of decisions and complaints against decisions imposing a disciplinary penalty. The sixth chapter discusses selected, specific issues related to disciplinary punishment. It describes the dilemmas and difficulties in enforcing the most severe disciplinary penalty, i.e. solitary confinement, as well as specific categories of convicts, for whom the legislator provided for several exceptions to the standard rules of disciplinary punishment and disciplinary punishment of persons under temporary arrest. The last chapter in the theoretical part is devoted to disciplinary punishment in the light of international standards. This chapter also presents some conclusions regarding disciplinary punishment of prisoners from institutions monitoring Polish penitentiary units.

The two-component empirical area of the work consists of the presentation of empirical research conducted in two areas of jurisprudence – both, within the jurisprudence of the European Court of Human Rights, examining complaints of convicts serving sentences of imprisonment in Polish penitentiary units regarding their punishment or disciplinary penalties, and the jurisprudence of selected Polish penitentiary court, i.e. the 5th Penitentiary Department and Supervision over the Enforcement of Criminal Judgments of the District Court in Wrocław in the same scope. Each presentation of the research results was preceded by a description of the research activities, taking into account the selection of materials, the characteristics of the selected research method and the justification for its choice, as well as the definition of research questions and hypotheses.

At the end of the dissertation, there is a summary of the research conducted, and *de lege ferenda* conclusions and postulates are presented. The dissertation also includes

a bibliography, a sample of the research tool used in the form of a questionnaire - a survey for file research, a report on the analyzes of judgments of the European Court of Human Rights, as well as materials obtained in the course of analyzes of the judgments of the above-mentioned body.

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