

Probation, Parole and Penitentiary Law

class 1

Introduction into Polish Penitentiary system



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KATEDRA PRAWA KARNEGO WYKONAWCZEGO

Introduction

- **Characteristics of the classes** - online class 16 hours
(every Friday I will upload you a video presentation which will be available for you to watch any time and after that i will send you a few tasks to complete regarding that lesson)
- **Class - pass** - to pass this course, students have to complete all tasks shared on MS Teams (it will be one task per week regarding the latest lesson)
- If you have any questions - please feel free to reach out to me and we can discuss that *via* e-mail or on MS Teams!

The purpose of this class

- The purpose of this class is to outline the normative grounds for selected penitentiary systems and systems of alternative measures for the penalty of imprisonment worldwide.
- The goal is to clarify the purposes of executing the penalty of imprisonment and probationary measures, to present modern systems of alternative sanctions (not involving any isolation of the convicts) and major principles of effective crime policy.
- The dogmatic considerations will be supported by a presentation of current practice in that respect.
- The class includes a presentation of the problems related to individualisation of punishment, to effectiveness of modern forms of influence, both outside and inside prison facilities throughout the world, and to the demonstration of the chances and risks for the convicts themselves and for other members of society that are linked to imprisonment.

Legal definitions

- **A penitentiary-** is an institution that houses criminals convicted of serious crimes. Penitentiaries exist on the state and federal levels. They are also called [prisons](#).
- **Prison-** is a place used for confinement of convicted criminals.
- **Probation-** a period of time when a criminal must behave well and not commit any more crimes in order to avoid being sent to prison.
- **Parole-** parole is conditional freedom for a prison inmate. The prisoner who is out from prison, has to live up to a series of responsibilities. Prisoner who doesn't follow the rules risks going back into custody. Parole is a privilege for prisoners who seem capable of reintegrating into society.

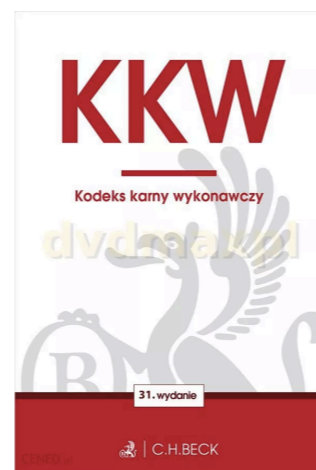
Polish penitentiary system - basic documents

- The basic document that organizes functioning of polish penitentiary system in matters of rights and duties of prisoners is: **Criminal Executive Penal Code (Ustawa z dnia 6 czerwca 1997 r. Kodeks Karny Wykonawczy)**
- The basic act that regulates duties and structure of prison authorities is: **The act of 9th of April 2010 on Prison Service (Ustawa z dnia 9 kwietnia 2010 r. o Służbie Więziennej).**



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Polish penitentiary system - basic documents

- Elaboration and complementation of provisions of criminal executive code can be also found in:

Minister of Justice's Ordinance on the organizational rules of the execution of imprisonment (Rozporządzenie Ministra Sprawiedliwości z dnia 21 grudnia 2016 r. w sprawie regulaminu organizacyjno-porządkowego wykonywania kary pozbawienia wolności)

and in

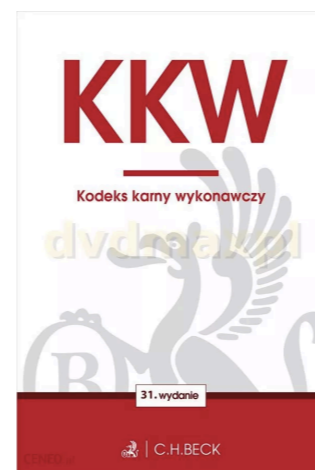
Minister of Justice's Ordinance on the organizational rules of pre – trial detention (Rozporządzenie Ministra Sprawiedliwości z dnia 22 grudnia 2016 r. w sprawie regulaminu organizacyjno-porządkowego wykonywania tymczasowego aresztowania)

- More precise rules of conditions of serving a sentence are delivered by directors of prison units in special internal provisions of the penitentiary unit (known as “Porządki wewnętrzne Zakładu Karnego”).



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General Director of Prison Service/ Directors of Penitentiary Units

- Polish penitentiary system is governed by Minister of Justice.
- It is responsible for Prison Service – an uniformed and armed formation – governed by General Director of Prison Service (Dyrektor Generalny Służby Więziennej)
- General Director of Prison Service is nominated by Prime Minister on application by Minister of Justice. General Director of Prison Service leads a Central Board of Prison Service.
- He is responsible for 15 Circuit Inspectors of Prisons Service who are in charge of Penitentiary Units on their jurisdiction.
- Penitentiary Units are run by **directors** who are nominated (and dismissed) by General Director of Prison Service on application by proper Circuit Director.
- The scope of activities of Director of Penitentiary Unit makes him oblige in particular to:
 - 1) coordination of penitentiary actions carried inside Penitentiary Unit and supervising them
 - 2) assuring proper and lawful execution of prison sentence and preliminary detention and assuring security and order in Penitentiary Unit
 - 3) supervising schools and medical units running inside Penitentiary Unit
 - 4) rational using financial resources
 - 5) assuring appropriate staff and developing their qualifications
 - 6) determine amount of worksites in Penitentiary Unit
 - 7) realization of duties presented in other acts

Types of units

- Inmates in Poland are in following types of units (art. 69 Executive Penal Code):
 - 1) for young offenders
 - 2) for people serving sentence for the first time
 - 3) for penitentiary recidivists
 - 4) for people serving military arrests
- This units can be organizes as (art. 70§1 Executive Penal Code):
 - 1) closed-type units
 - 2) semi open-type units
 - 3) open-type units
- The most important differences between those types are (art. 70§2 Executive Penal Code):
 - 1) the level of security,
 - 2) level of isolation of inmates and their rights and duties connected with their opportunities to move inside and outside the Unit.

Prison Systems

- Prisoners are sorted into one of three systems (art. 81 Executive Penal Code):
 - 1) the programme system (or *so-called* the program ward)
 - 2) therapeutic system (or *so-called* therapeutic ward)
 - 3) regular system (or *so-called* regular ward)

The program system

- The program system - guides prisoners in “structured activities”.
- A prisoner in cooperation with his tutor maps out a plan.
- Then, the plan is submitted for approval to a penitentiary commission. The program included in this plan is based on results of conversations carried out between the prisoner and his or her personal examiner.
- A program of interaction (concerning the prisoner) specifies, in particular:
 - A. types of employment and education available for convicted persons
 - B. ways of communication between convicted persons and other persons, in particular their family and other people nearest to them
 - C. ways of spending the time reserved for work
 - D. possibilities of fulfilling duties of the prisoner
- Programs may be altered in case of progress in the behavior and work of the prisoner.
- The performance of the program depends mostly on the tutor.

Therapeutic system

- Therapeutic system- In some prisons, there are therapeutic units/ wards for prisoners with non-psychotic mental disorders or sexual disorders, mentally ill or disabled and prisoners addicted to drugs or alcohol. Such prisoners are detained in a closed penitentiary institution with conditions adjusted to their needs.
- Convicts are sent to such units after previous diagnosis and stay there only for the duration of the therapy. The medical staff in such units includes psychologists, a therapists and educators. Inmates can enjoy a large range of activities and individual therapies.
- Prisoners are provided range of therapies including: pharmacotherapy, psychotherapy, addiction therapy, therapy meetings and even art therapy (including drama therapy).

Main rules of the execution of imprisonment

Allocation

- According to one of the last amendments to the Executive Penal Code, there is no obligation for prison authorities to allocate the prisoners close to their homes

(such provisions existed prior to the amendment - **art. 100 previous version of Executive Penal Code** - *Prisoners shall be allocated, as far as possible, to prisons close to their homes or places of social rehabilitation.*)
- Prisoners have to be allocated closely, as close as possible, only in the period of 6 months before the end of their sentence. Only those who have permanent custody of their children (who stay in residential care facilities) shall be, if possible, allocated in the closest prison to their children's whereabouts during the entire time of their imprisonment.

Untried prisoners

- Untried prisoners are separated from those who have been sentenced. This rule applies also to prisoners serving sentence who are also in pre – trial detention in another case.

Main rules of the execution of imprisonment

Meals

- The meals should have adequate nutrition and correspond with prisoner's age, employment and, if possible, his or her religious or cultural requirements.
- Prisoners have a right to get a meal **three times a day**, including at least one hot meal. The prison director determines mealtimes. The interval between the meals should not be longer than six hours.
- The prison doctor may develop a special diet for prisoners whose health requires it. The food standards and types of diets are determined in an ordinance of the Ministry of Justice.

Main rules of the execution of imprisonment

Visits

- The length of a visit is 60 minutes (art. 105a Executive Penal Code)
- Frequency of visits depends on the type of prison (security level).
 - **Open-type prison** has no limitations as to the number of visits (art. 92 Executive Penal Code)
 - **Semi open-type** prisons allow 3 visits per month, which, upon consent of a prison director, can be used consecutively (art. 91 Executive Penal Code)
 - **Closed-type** prison allow 2 visits per month, which, upon consent of a prison director, can be used jointly as well (art. 90 Executive Penal Code).
- Prisoners who are under 21 years old, are entitled to one additional visit per month.
- A prison guard does not restrict direct contact between the prisoner and visitor, but supervises all visits (art. 105a§5 Executive Penal Code)
- **Consent of a prison director is necessary if a visitor is not a relative or other close person to the prisoner (art. 105a§4 Executive Penal Code)**

Main rules of the execution of imprisonment

Visits

- A person held in pre-trial detention can also be granted permission for a visitor if the institution of detainee residence consents.
- Prisoners who are holding a permanent custody of their children are allowed to have an additional visit with their children (art. 106a§3 Executive Penal Code)
- Standard visits take place in rooms where dozens of tables and chairs are placed.
- Prisoners who were designated as dangerous detainees might only be able to visit through glass. In this case, they communicate with the visitor *via* telephones, which are controlled by guards (art. 88b§1 Executive Penal Code)
- A prisoner can also be rewarded with [the right to additional or longer visits, the right to a visit without supervision, or the right to visit in a separate, more private compartment without supervision](#) (Art. 138 § 1 sub 1,2,3,7 Executive Penal Code)

Main rules of the execution of imprisonment

Female prisoners

- According to the Polish Executive Penal Code *male prisoners* are kept separately from *female prisoners* (art. 86§ 1 Executive Penal Code)
- However, some prisons have both male and female wards. In those prisons, prisoners are kept separately but they can meet while walking on nearby walking fields.
- Female prisoners are serving their sentences in semi open-type units (except of dangerous women - they are serving their sentences in closed-type units)
- A convicted woman is allowed to enjoy warm water at least once a day, as well as warm bath twice a week - which is more often than male prisoner.
- A general rule provides that infants can stay in prison before turning 3 in special “House of the Mother and Child” (art. 87 § 4 Executive Penal Code)
- In Poland there are two units with such conditions - in Grudziądz Prison and in Krzywaniec Prison.

Main rules of the execution of imprisonment

Female prisoners

- The personnel of prison in Grudziądz, which is trained on the requirements of maternity and childcare, consists of a paediatrician, psychologist, nurse, tutor and dietician.
- All child-care specific premises should be retrofitted to seem like normal domestic conditions are present.
- There should be at least sleeping rooms for mother and children, facilities for grooming and education classes, premises for health benefits, cooking premises, sanitary premises, utility rooms, personnel rooms and infirmary premises.



(House of the mother and child in Grudziądz,

source:<https://netka.gda.pl/grudziadz-dzieciatka-skazane-za-winy-doroslych/>)

„Dangerous prisoner” regime

The „N” status

- They are aggressive and deeply demoralized prisoners- the most dangerous perpetrators of crime and the persons directly involved, and often holding managerial positions, within the framework of organized crime
- According to the Executive Penal Code **Dangerous prisoners are those offenders whose criminal behavior and attitude are considerably dangerous to order and security in a penal institution, in particular (At. 88a §1 Executive Penal Code):**
 1. those who intend to escape,
 2. those who organized or participated in serious collective actions disturbing order and security,
 3. those who committed an act of open aggression upon a prison officer or a civilian employee and still show such tendencies,
 4. those who systematically insinuate or perform acts of terror towards fellow prisoners"
- Dangerous prisoners serve their sentence **in closed-type units**. There exist neither special maximum security prisons for dangerous prisoners nor even special wards for them.
- A dangerous prisoner is put in a "maximum technical security" cell, which has all furniture and equipment firmly fixed to the walls and the floor of the cell. The prison administration is using the CCTV to monitor his or her cell.

„Dangerous prisoner” regime

The „N” status



- Prisoners who have been assigned the status of “**dangerous detainee**” wear different clothing (which is bright orange or red)

Main rules of the execution of imprisonment

Young prisoners

- In Polish law, minors are criminally responsible after they turn 17. They can be held responsible when they turn 15 only in cases of committing most serious crimes. Therefore, as a general rule, there are no people younger than 17 in Polish prison facilities. Juveniles who committed a crime while being between 13 and 17 can be placed in a so-called House of Correction, which is a type of a juvenile prison. Houses of Corrections are institutions that are entirely independent from adult prison facilities.
- For prisoners who turned 17 years old there are special types of units called *units for young offenders*.
- As a rule, such *young prisoners* are being kept separately from the older ones. However, if there is an educational reason, the Executive Penal Code permits the placement of a young prisoner with an adult one.

Main types of punishment of prisoners

Polish law provides several different disciplinary sanctions

Those include the following (Art. 143§1 Executive Penal Code) :

1. reprimands;
 2. withholding rewards;
 3. refusal to participate in any cultural, educational or sport event (for up to 3 months);
 4. prohibition of food parcels (for up to 3 months);
 5. prohibition of shopping in a cantina (for up to 3 months);
 6. refusal of direct contact during visits (for up to 3 months);
 7. work remuneration reduction (for up to 3 months);
 8. and placement in solitary confinement (for 28 days).
- Disciplinary punishment must take into consideration in light of individual circumstances, type of guilt, character traits, attitude, current state of health and educational purposes.
 - Before sentencing, the blamed prisoner should give his or her statement, along with witnesses and the person calling for punishment
 - A prisoner can appeal to the penitentiary court. The judge who analyses the case can withhold execution of the punishment for the period of time essential to elucidate the circumstances, waive the decision or redirect the case to the prison director to be readdressed.

Solitary confinement

Solitary confinement is one of the disciplinary measures used in Polish prisons.

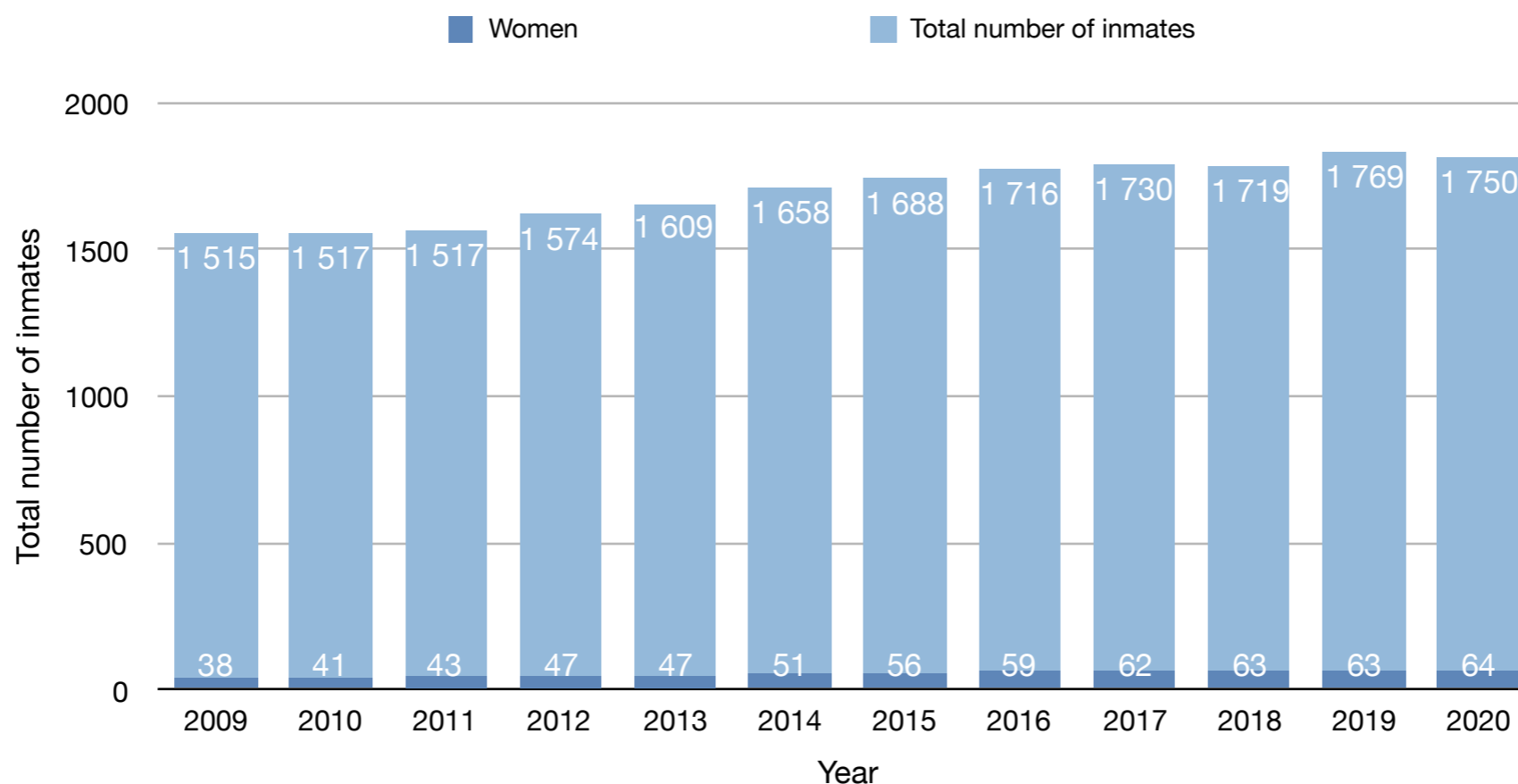
- It can be applied to the prisoners for up to 14 days (pre-trial detainees) or 28 days (prisoners)
- It may be imposed on a prisoner who seriously violated prison orders or discipline.
- During solitary confinement the prisoner is deprived of the possibility to:
 1. contact other prisoners and his or her family
 2. participate with other prisoners in religious events
 3. take part in cultural and educational activities
 4. work
 5. purchase food or tobacco products
 6. receive food parcels
 7. use his own clothing or footwear.
- The cells for solitary confinement have to be placed in the part of the prison where the prisoner's movement is limited, and in an area adjacent to the supervision room. Cell furnishings are limited to only a bed, cabinet, stool and table. The furniture shall be firmly affixed to the floor.

Prison population trend in Poland

- Total population of the country: 69.374 thousand people (at 31.7.2020)
- Total prison population rate per 100,000 inhabitants: 183
- Female prisoners: 4.4 % (at 31 July 2020)
- Official capacity of prison system: 81 127 places. According to *an ordinance of the General Director of Prison Services*, in certain cases, the cell's surface should be measured and calculated (e.g. in new prisons, after cell renovation).
- The space for one prisoner should be **at least 3 square meters** (art. 110 § 2 Executive Penal Code). However, in certain circumstances, the Executive Penal Code allows putting a prisoner in a smaller cell, as long as there is **not less than two square meters per prisoner** (art. 110 § 2a Executive Penal Code).
- Occupancy level (based on official capacity): 85.4% (at 31.7.2020 - not including prisoners temporarily outside the prisons)

25 years of imprisonment

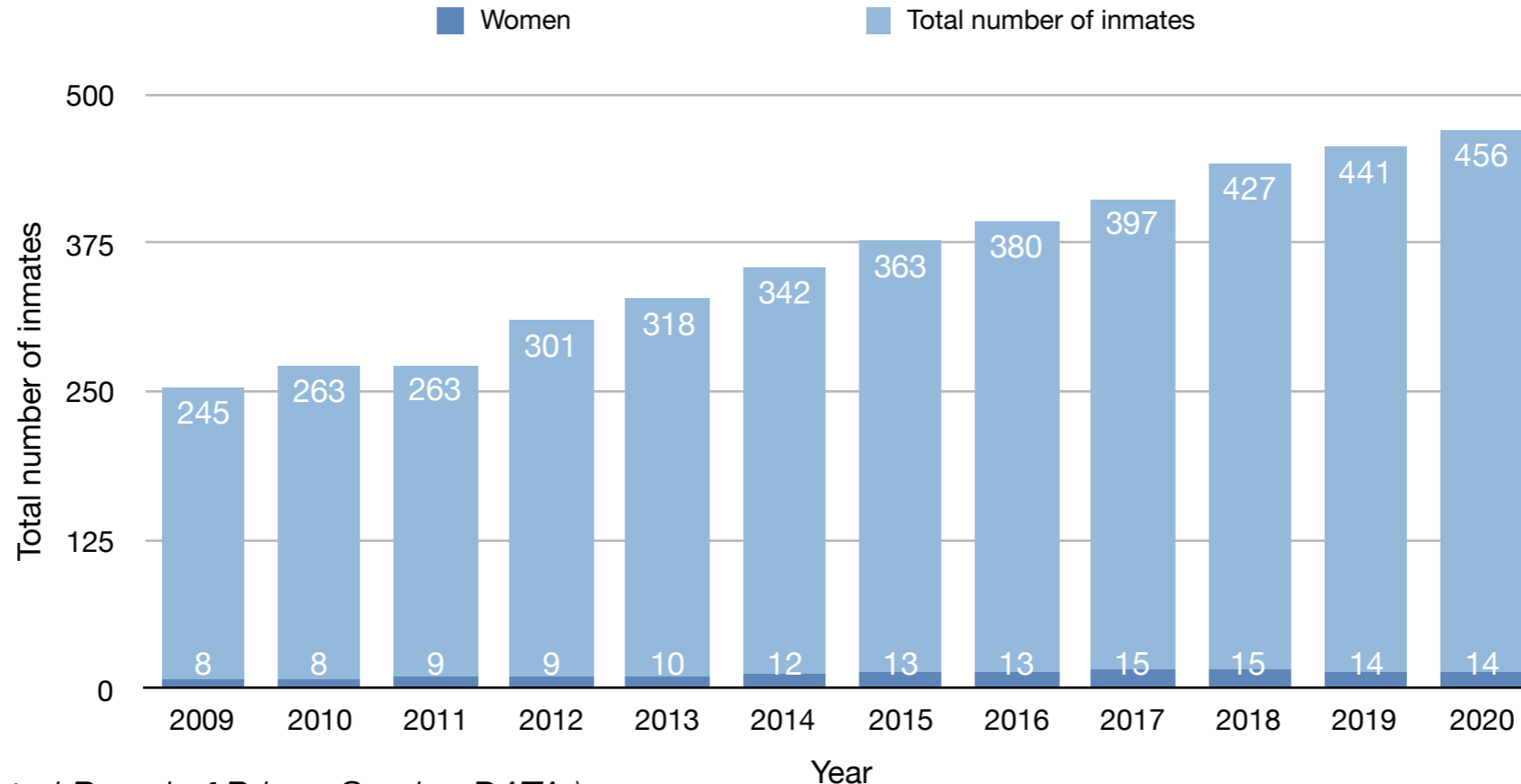
- According to the data provided by Central Board of Prison Service as of 31 December 2019, **1 769 prisoners** were serving 25 years of imprisonment **(including 63 women)**.
- What is more in the years 2009 – 2020 the number of prisoners serving 25 years of imprisonment has increased by over 200 prisoners.



(Source: Central Board of Prison Service DATA) .

Life sentence

- There are no alternative measures for prisoners serving life sentence provided in the criminal justice system. Life prisoners are treated in the same way as the other prisoners.
- Are such prisoners serving actual life sentence? As it is stated in Polish penal system life prisoners have a possibility of a parole after serving 25 years of their sentence. However, the court may push back the possibility of a parole past 25 years.
- According to the data provided by Central Board of Prison Service as of 31 December 2019, **441 prisoners** were serving life sentence (**including 14 women**).
- What is more in the years 2009 – 2020 the number of life sentenced prisoners has increased by almost a half.



(Source: Central Board of Prison Service DATA) .

Task to complete

PLEASE DO TASK 1
regarding this lesson

which i shared with you on MS Teams



and send it back to me by 9 october

- Send it back to me : e-mail aleksandra.polak2@uwr.edu.pl
- We will also have interesting materials (including videos) with all links

that I'll share with everyone shortly !