

Probation, Parole and Penitentiary Law

class 1

Introduction into Polish Penitentiary system



mgr Aleksandra Polak-
Kruszyk



Uniwersytet
Wrocławski

Wydział Prawa,
Administracji i Ekonomii

KATEDRA PRAWA KARNEGO WYKONAWCZEGO

Introduction

I. Characteristics of the classes :

- ▶ class 16 hours - 8 meetings
- ▶ **Student consultation hours** *Wednesday* between 10:30 am and 11:30 am If you have any questions - please feel free to reach out to me and we can discuss that during classes, via e-mail or on MS Teams!
- ▶ **Grading system**- 50% of final Grade - asks individual/group (Each group prepare collaborative assignment and all members receive the same grade.) + 50% - Test (during our last meeting)

Introduction

II. Attendance/Participation and Absences :

- ▶ Student participation is required for a grade - possible 1 absence without explanation
- ▶ Students may be excused because of health problems
- ▶ Students should communicate planned absences to the course coordinator
- excused absences are exceptions to compulsory attendance.

Introduction

III. This is a list of topics we'll cover in the course:

1. Polish penitentiary system:

- ▶ legal definitions, basic documents
- ▶ admission process,
- ▶ security systems
- ▶ work & education
- ▶ prison service structure
- ▶ types of units according to the security level
- ▶ different categories of inmates
- ▶ main rules of the execution of the imprisonment

2. Probation & Parole practices according to the Polish penal law

3. Prisoners' rights- according to the Polish & international law

4. Electronic Monitoring System

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

- **Prison (*penitentiary, penitentiary unit, jail, penitentiary establishment/facility*)-** is a place used for execution of penalty of deprivation of liberty. It is a place **for incarceration of sentenced people (after a verdict made by a court/ verdict is valid).**
- **Arrest/ temporary arrest/pre-trial detention-** place used for detention of suspects **(who are charged by a prosecutor but not sentenced yet)** Pre-trial detention/temporary arrest is one of the preventive measures in Poland. It is the most harsh preventive measure provided in the Polish criminal procedure (e.g. it is used when there is probability that **suspect may escape or hide**)
- **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.

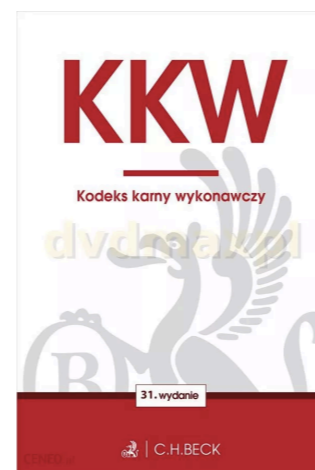
Polish penitentiary system - basic documents

- 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

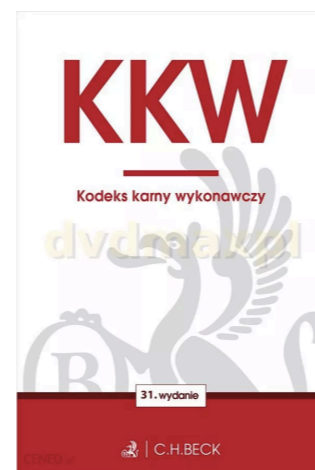
Minister of Justice's Ordinance on the organizational rules of pre – trial detention (Rozporządzenie Ministra Sprawiedliwości z dnia 22 grudnia 2016 r. w sprawie regulaminu organizacyjno-porządkowego wykonywania tymczasowego aresztowania)

- 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/

- 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

Kinds and types of units

- Inmates in Poland are in following kinds 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.

Chart



Prison Systems

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

Systems refer to the way of the execution of penalty of deprivation of liberty
(e.g. in therapeutic system prisoners attend therapies, in programe system
they create special program with tutor)

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
 - E. other undertakings necessary to prepare prisoners to return to the society Performance of programs of interaction is subjected to periodical assessments.
- 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.

Space per one prisoner

- 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).



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.

Minimum nutrition:

- for prisoners under the age of 18 - not less than 2800 kcal / per day
- for the rest- not less than 2600 kcal/ per day
- 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 (e.g. pregnant women or prisoner with diabetes)
- The food standards and types of diets are determined in a ordinance of the Ministry of Justice.

Main rules of the execution of imprisonment

Meals



- **prisoners** are given kitchen utensils (dishes and cutlery) while incarcerated and they are limited **to plastic** spoons, forks and dishes **only** (*to prevent them from hurting other inmates or making suicidal attempt*)

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)

Visit rooms



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.
- 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 children 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/>)

Pregnant women in custody

- * Polish law provides for preferential treatment of pregnant women who are in custody.
- * The leading provision in this matter that shapes the standard treatment for pregnant women, is Article 87 § 3 of the Executive Penal Code, which stipulates that a pregnant woman shall be provided specialist care
- * The laws grant not only special status to incarcerated pregnant women, but also provides them with special conditions after they have given birth.



Pregnant women in custody

- * It is important to ensure that a pregnant or breastfeeding woman receives appropriate specialist care.
- * The doctor determines the scope and frequency of health services that are provided to a convicted pregnant woman, as well as recommendations concerning dietary food, time and conditions of taking a walk or a bath by a pregnant convicted woman.



Pregnant women in custody

- * Pregnant women is transferred two months before the her date of delivery to the hospital gynaecological and obstetric ward in the special penitentiary unit.
- * In addition, a convicted pregnant or breastfeeding woman has the right to a longer walk and to additional purchases of foodstuffs allowed for sale in the prison.
- * Some disciplinary punishments are prohibited for this group of prisoners: deprivation of the possibility to receive food parcels for up to 3 months, deprivation or restriction of the possibility to buy food articles for up to 3 months and placement in an solitary confinement for up to 28 days.



„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, people are criminally responsible **after they turn 17.**
- They can be held responsible when they turn 15 only in cases of committing most serious crimes **(and when they turn 14 years old in case of committing brutal murder)**
- Therefore, as a general rule, there are no people younger than 17 in Polish prison facilities.
- * For prisoners who turned 17 years old (exceptionally 15) there are special types of ***prisons called for young offenders.***
- * Persons aged from 13 to 17 years old who have committed a serious crime are placed in:

“YOUTH DETENTION CENTRES” or so called **„HOUSES OF CORRECTION”**

- 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 rules of the execution of imprisonment

According to the polish Criminal Code:

Juvenile (*nieletni*) = a person not yet considered as adult in criminal law (before turning 17)

Minor (*młodociany*)- a person before turning 21 years old (in first instance court verdict before turning 24 years old)

According to the polish Executive Penal Code:

Young offender- young prisoner in prison for adults (*młodociany w kkw*)

- aged from 17 years old to 21 years old (in case of serious crime even from 14-15 years old)

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 31.7.2021)
- Total prison population rate per 100,000 inhabitants: 183
- Female prisoners: 4.4 % (at 31 July 2021)
- 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).
- Occupancy level (based on official capacity): 85.4% (at 31.7.2021 - not including prisoners temporarily outside the prisons)

Long-term prisoners

- ▶ There is no legal definition of long-term punishment and long-term prisoners
- ▶ Scientist can't agree on that
- ▶ Whilst there is no official definition of how long a person needs to spend in prison to be classified as a 'long-term' prisoner or „long-term” penalty, The Council of Europe decided that **all sentences over 5 years of imprisonment or more imprisonment should be considered as long-term penalties**



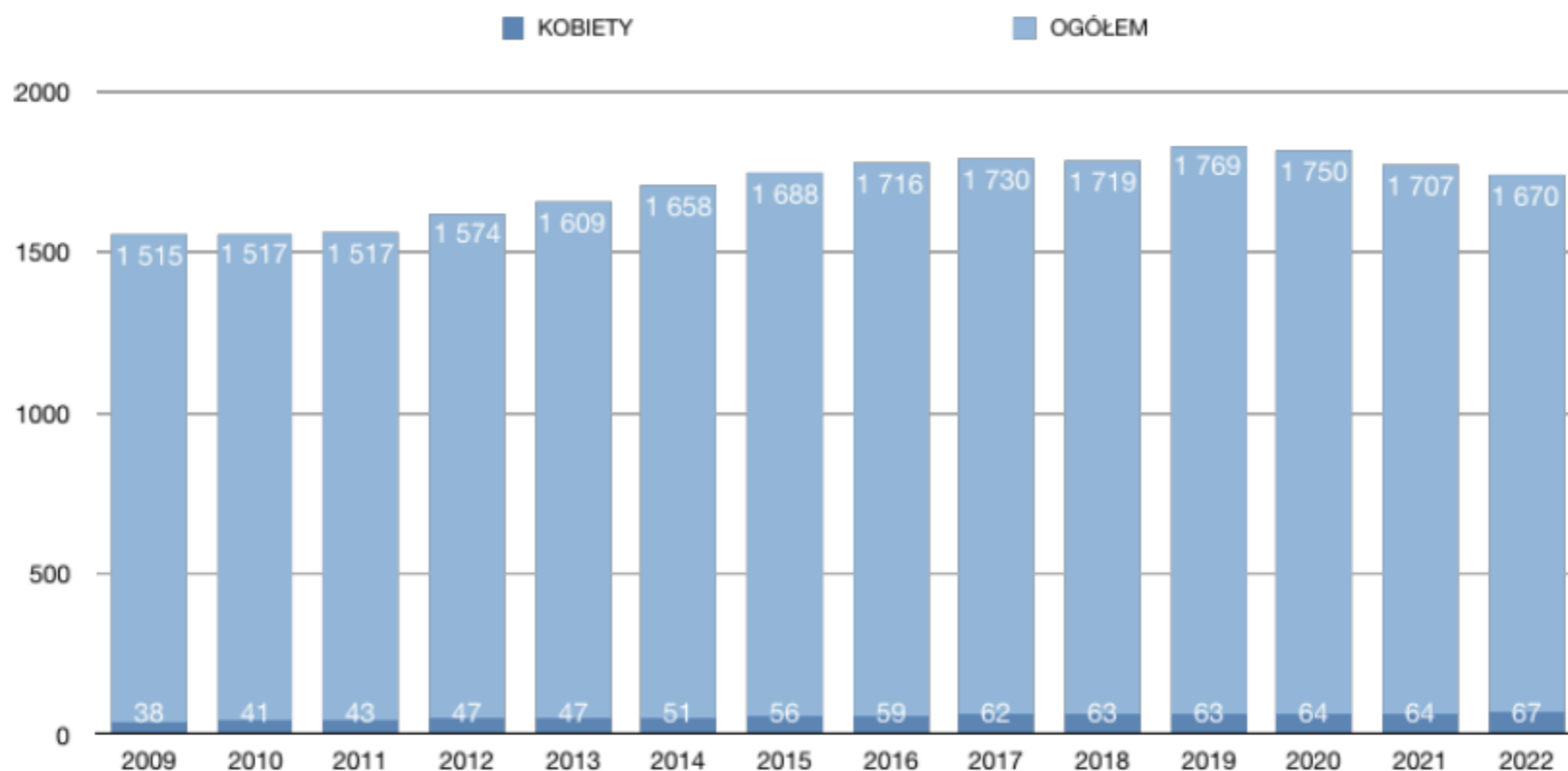
Long-term prisoner

We have to remember that the number of long-term prisoners in the world is growing.

- ▶ This trend is confirmed by the US data (available on the website of the Bureau of Justice Statistics) as well as by European records (data sent by all member states for the Council of Europe Annual Penal Statistics SPACE I).
- ▶ The same tendency can be observed in Poland. Polish statistics (kept by the Central Board of Prison Service) show an increase in the number of long-term prisoners, especially those serving the longest sentences.

25 years of imprisonment

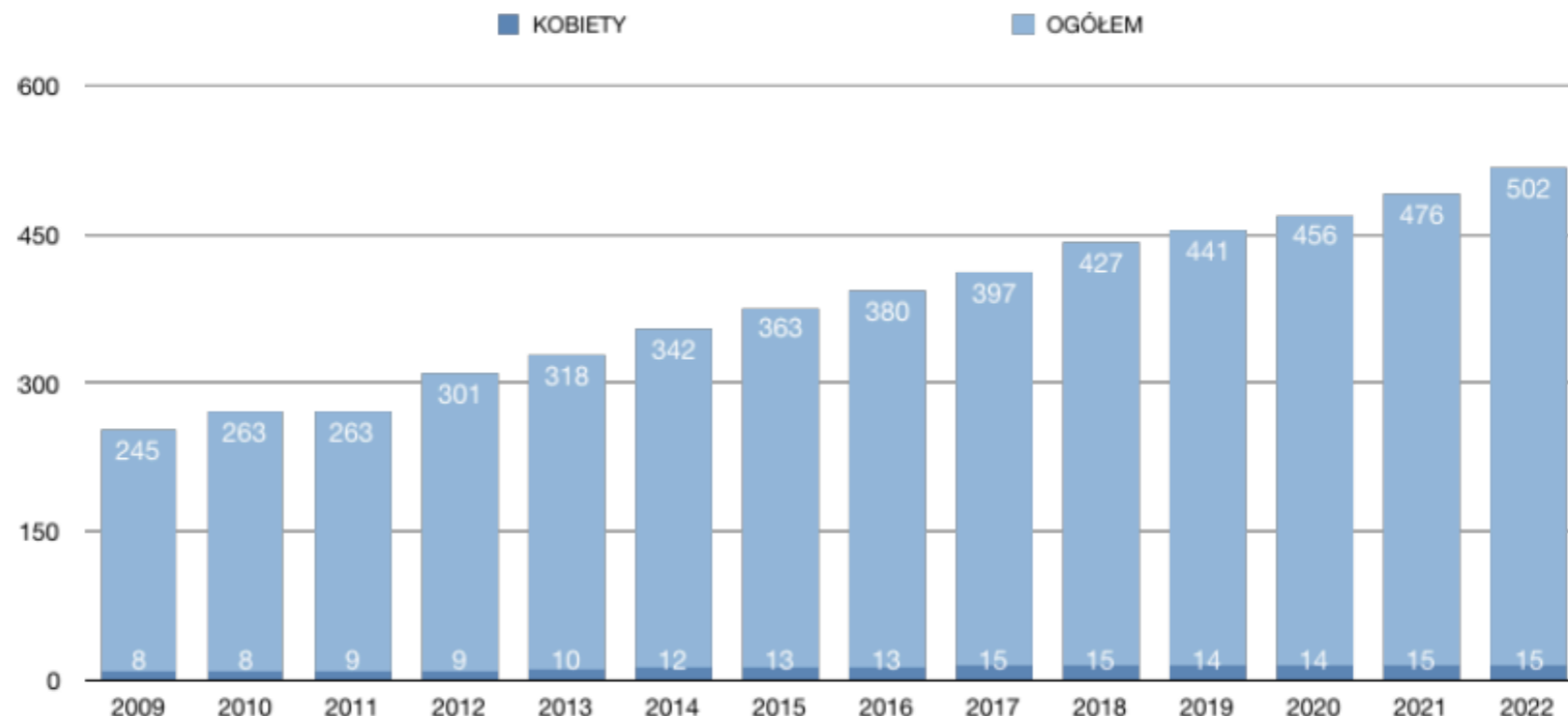
- According to the data provided by Central Board of Prison Service as of 31 December 2022, **1 670 prisoners** were serving life sentence **(including 67 women)**.
- What is more in the years 2009 – 2022 the number of life sentenced prisoners has increased by 155 prisoners (10%).



(Source: Central Board of Prison Service DAIA).

Life sentence

- Life prisoners are treated basically in the same way as the other prisoners. Exception- they have to be placed in closed-type units after admission **(they can be transferred to semi-open type unit after 20 years, and to open-type unit after serving 25 years of imprisonment)**
- According to the 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.
- **From October 1, 2023, Polish court can make a verdict sentencing for life imprisonment without the possibility of parole at all.**
- According to the data provided by Central Board of Prison Service as of 31 December 2022, **502 prisoners** were serving life sentence **(including 15 women)**.
- What is more in the years 2009 – 2022 the number of life sentenced prisoners has increased by 104%.



(Source: Central Board of Prison Service DATA).

Long-term prisoners

The depth and weight of loneliness in prison can be intense.
Loneliness is one of „the pains of imprisonment”

- ▶ Sense of being physically alone and separated from loved ones
- ▶ Experience of abandonment and hopelessness (social exclusion)
- ▶ Disruption and empty time
- ▶ Boredome
- ▶ Guilt and shame (they feel remorse)

- Incarceration is a time when relationships are broken
- Inmates may find making new friends in prison difficult
- Prisoners who are withdrawn in themselves, have little or no contact with others, will certainly be lonely

- ▶ Mental and physical health can be severely affected by loneliness and social isolation, especially in prison.

Long-Term Prisoners

- ▶ Criminology literature rarely addresses long-term prisoners – they relate to very narrow issues such as their contacts with the outside world or work.
- ▶ There is little focus on the length of imprisonment itself, which comes up only as a secondary issue in various studies on murderers who typically serve long-term sentences
- ▶ In the US there are many articles dedicated to long-term prisoners and their specific problems, different from the problems of prisoners with shorter sentences.

Although all inmates suffer from restricted contact with family and friends outside the prison, long-term prisoners fear that such relationships will be completely lost.

- ▶ Long-term inmates are also concerned about their physical and mental condition while in prison as they sense that they have lost control over experiences that make life worth living.
- ▶ Another issue is possibility of continuing education or work - which easier for short-term prisoners.

How to help prisoners survive long-term incarceration?

- ▶ Long-term prisoners who can work during incarceration feel less lonely
- ▶ As well as those who are involved in education
- ▶ It's important to use such restrictive, intensive isolation measures (like solitary confinement) as rarely as it is possible (only when it is necessary)
- ▶ It's also important to monitor their mental wellbeing

- ▶ **Rehabilitation process of long-term inmates should:**
 1. maximize their opportunities for choice within the prison environment,
 2. create opportunities for the inmate to cultivate meaningful experiences and activities while in prison,
 3. and provide opportunities for the inmate to maintain contact with life and relationships outside the prison