

Considerations devoted to the Polish solution of the statutory threat of punishment for counterfeiting money or its surrogate and crimes related to such counterfeiting against the background of European solutions - *de lege lata* remarks and postulates *de lege ferenda*¹

Assistant professor **Maciej BŁOTNICKI**²

Abstract

The article's purpose is to present partial research results devoted to the issue of criminal liability for counterfeit money or its surrogate and crimes related to such imitation. Partial results refer to the issue of the limits of the statutory threat of criminal punishment in various European countries. The analysis presented made it possible to distinguish the models preferred by the legislator for determining the criminal sanction for the indicated crimes. Moreover, those variants of sanctions (taking into account the lower and upper limits of the threat) that are most often used in legislative practice were indicated. The considerations led to the formulation of de lege ferenda postulates in terms of modification of the Polish Criminal Law. The research uses theoretical and dogmatic methods of analyzing the legal text of criminal statutes and the comparative law method.

Keywords: *limits of sanctions, imprisonment, models of responsibility, comparative approach.*

JEL Classification: K14

DOI: 10.24818/TBJ/2022/12/4.06

1. Introduction

The starting point for further consideration is the definition of criminal punishment. This problem has been a challenge to representatives of criminal law doctrine for decades³. This issue was aptly diagnosed by M. Cieślak, who stated that: "(...) No one dealing with criminal law (...) can protect himself from the question: what is the point of this strange game, which is, after all, to make a person suffer and, therefore, to cause suffering? What is the essence of punishment? Moreover,

¹ This article is funded by the National Science Centre in Poland, under the project „Zagadnienie fałszu pieniądza na gruncie polskiej ustawy karnej i w ujęciu prawnoporównawczym” [The issue of money forgery in the Polish criminal code as well as in the comparative law approach] No UMO-2018/29/N-HS5/01091.

² Maciej Błotnicki - Department of Criminal Law and Criminology, Faculty of Law and Administration, UMCS, Lublin, Bar Association in Lublin, Poland, ORCID: 0000-0002-1946-2606, mblotek@wp.pl.

³ D.J. Harding, J.D. Morenhoff, A.P. Nguyen, S.D. Bushway, Short- and long-term effects of imprisonment on future felony convictions and prison admission, *PNAS* 2017, 114 (42), p. 11103-11108; E. FJC van Ginneken, D. Hayes, ‘Just’ punishment? Offenders’ views on the meaning and severity of punishment, *Criminology & Criminal Justice* 2016, 17 (1), pp. 62-73.

what are its purposes and infliction on the grounds of a particular legal system"⁴. Because of the above, it is necessary, however cursory, to explore the phenomenon of sanctions and other means of criminal legal response. Being aware of the various consequences associated with the adjudication, execution, and termination of serving a sentence, there is a need, however cursory, to explore the phenomenon of the system of sanctions and other measures of criminal legal response that can be applied to the offender⁵.

Doctrinal considerations indicate that a criminal sanction is a consequence of committing a crime, provided for based on the legal system, which includes in its scope a measurable ailment and is a manifestation of disapproval of the committed act and its perpetrator⁶. This makes it possible to distinguish between punishment in a broad sense and punishment in a narrow sense. The former refers to any means of criminal response that can be applied to the perpetrator of a criminal act. On the other hand, the narrow understanding of sanctions presupposes an interpretation referring to one or more of the measures provided for in principle in Article 32 of the Criminal Code⁷. All types of penalties should be described in provisions of statutory rank. This is an eloquent manifestation of the guaranteed function of criminal law,

⁴ M. Cieślak, O węzłowych pojęciach związanych z sensem kary [On knotty concepts related to the meaning of punishment], *Nowe Prawo* 1969, no 2, p. 196.

⁵ Ch.E. Loeffler, D.S. Nagin, The Impact of Incarceration on Recidivism, *Annual Review of Criminology* 2022, 5, pp. 135-149; D.S. Kirk, S. Wakefield, Collateral Consequences of Punishment: A Critical Review and Path Forward, *Annual Review of Criminology* 2018, 1, pp. 172-183; H. Wermink, P. Nieuwbeerta et. al., Short-Term Effects of Imprisonment Length on Recidivism on the Netherlands, *Crime & Delinquency* 2017, 64 (8), pp. 1057-1078; P.B. Wood, Exploring the Positive Punishment Effect Among Incarcerated Adult Offenders, *American Journal of Criminal Justice* 2007, 31, pp. 8-15; A. Grounds, Psychological Consequences of Wrongful Conviction and Imprisonment, *Canadian Journal of Criminology and Criminal Justice* 2004, 46 (2), pp. 165-180.

⁶ L. Lernell, Refleksje o istocie kary [Reflections on the essence of punishment], *Państwo i Prawo* 1969, no 1, p. 54; J. Warylewski, O wybranych funkcjach i celach kary pozbawienia wolności [On selected functions and purposes of imprisonment punishment] (in:) H. Machel (ed.) *Wykonywanie kary pozbawienia wolności w Polsce – w poszukiwaniu skuteczności* [Execution of imprisonment in Poland - in search of effectiveness], Gdańsk 2006, p. 19; K. Buchała, *Prawo karne materialne* [Substantive criminal law], Cracow 1980, p. 41; S. Glaser, *Polskie prawo karne w zarysie* [Overview of criminal law], Cracow 1933, p. 256; A. Marek, *Prawo karne* [Criminal law], Warsaw 2007, p. 231; W. Świda, *Prawo karne* [Criminal law], Warsaw 1989, p. 253. For interesting considerations from the point of view of upholding the European Convention on Human Rights standards, in particular Article 5 of the Convention, see. N. Dagan, The Janus face of imprisonment: Contrasting judicial conceptions of imprisonment purposes in the European Court of Human Rights and the Supreme Court of the United States, *Criminology & Criminal Justice* 2020, 21 (5), pp. 633-642; A. McSorley, Deprivation of Liberty Safeguards, *InnovAiT* 2020, 13 (1), pp. 2-7; S. Bardutzky, Legitimosn ustavnosodnega odločanja, *Revus* 2008, 7, pp. 115-120. In turn, the relevant themes in sociological and legal approaches in Anglo-Saxon terms are presented in the work of R. Griffith, see, R. Griffith, Intelligibility criteria and deprivation of liberty authorizations in the community, *British Journal of Nursing* 25(22), pp. 1264-1265.

⁷ W. Wolter, Zasady wymiaru kary w kodeksie karnym z 1969 r. [Principles of punishment in the 1969 Criminal Code], *Państwo i Prawo* 1969, no. 10, p. 521; J. Raglewski, Model nadzwyczajnego złagodzenia kary w polskim systemie prawa karnego (Analiza dogmatyczna w ujęciu materialnoprawnym) [The model of extraordinary mitigation of punishment in the Polish system of criminal law (Dogmatic analysis from the material legal perspective)], Cracow 2008, p. 22.

resulting from the principle of *nulla poena sine lege*⁸. The most significant degree of the ailment above is associated with the application of the penalty of deprivation of liberty⁹.

Taking into account the gradation of sanctions adopted by the Polish legislator, from the point of view of the abstract intensity of interference in the rights and freedoms of the subject of the crime, it should be noted that only a sanction of an isolationist nature was used¹⁰. Indeed, the forgery of money under Article 310 § 1 of the Penal Code is punishable by imprisonment for not less than five years or 25 years of imprisonment. On the other hand, the criminal release of imitation money and crimes preceding/preventing the release of counterfeit money into circulation (Article 310 § 2 of the Penal Code) were punishable by imprisonment from one to 10 years. Being aware of the various consequences associated with the adjudication, execution, and termination of serving a sentence, there is a need, however cursory, to explore the phenomenon of the system of sanctions and other measures of criminal

⁸ T. Dukiet-Nagórska, Kilka uwag o zasadzie nullum crimen sine lege w polskim porządku prawnym [Some remarks on the principle of nullum crimen sine lege in the Polish legal order] (in:) K. Krajewski (ed.) *Nauki penalne wobec problemów współczesnej przestępczości. Księga jubileuszowa z okazji 70. rocznicy urodzin Profesora Andrzeja Gaberle* [Penal sciences in the face of problems of modern crime. Anniversary book on the occasion of the 70th anniversary of the birth of Professor Andrzej Gaberle], Warsaw 2007, p. 35 i n; K. Indecki, Zasada nullum crimen sine lege w prawie karnym międzynarodowym [The principle of nullum crimen sine lege in international criminal law] (in) L. Gardocki, M. Królikowski, A. Walczak-Zochowskiej (ed.) *Gaudium in litteris est. Księga jubileuszowa ofiarowana Pani Profesor Genowefie Rejman z okazji osiemdziesiątych urodzin* [Gaudium in litteris est. Anniversary Book Offered to Mrs. Professor Genowefa Rejman on the Occasion of Her Eightieth Birthday], Warsaw 2005, p. 139-158; W. Wróbel, Zmiana normatywna i zasady intertemporalne w prawie karnym [Normative change and intertemporal rules in criminal law], Cracow 2003, p. 102; K. Wojtyczek, Zasada wyłączności ustawy w sferze prawa represyjnego. Uwagi na gruncie Konstytucji RP [The principle of the law's exclusivity in the sphere of repressive law. Observations on the grounds of the Constitution of the Republic of Poland], *Czasopismo Prawa Karnego i Nauk Penalnych* 1999, no. 1, p. 60; A. Zoll, Nowa kodyfikacja karna w świetle Konstytucji [New criminal codification under the Constitution], *Czasopismo Prawa Karnego i Nauk Penalnych* 1997, no. 2, p. 99; M. Szewczyk, Kara pracy na cele społeczne na tle rozważań o przestępstwie i karze. Studium prawnoporównawcze [The punishment of community service against the background of considerations of crime and punishment. A comparative legal study], Cracow 1996, p. 51; Z. Cwiągalski, Nadzwyczajne złagodzenie kary w praktyce sądowej [Extraordinary leniency in judicial practice], Warsaw 1982, p. 17-18; K. Daszkiewicz, Nadzwyczajne złagodzenie kary w polskim kodeksie karnym [Extraordinary mitigation of punishment in the Polish Criminal Code], Warsaw 1976, p. 35; 41.

⁹ D. Gilman, The Sanction of Imprisonment: for Whom, for What, and How, *Crime & Delinquency* 1975, 21 (4), pp. 337-341; H.J. Haley, Does the Law Need to Know the Effects of Imprisonment?, *Canadian Journal of Criminology* 1984, 26 (4), p. 479-485; We should agree with L. Lernell, who points out that the isolationist sanction began to play an increasingly important role in the criminal systems of individual states when: "(...) individual freedom reached a high price on the 'exchange' of social values, and its deprivation of a person could be considered a particularly painful ailment, and thus could be the main weapon in the arsenal of means of criminal repression", see. L. Lernell, *Współczesne zagadnienia polityki kryminalnej: problemy kryminologiczne i penologiczne* [Contemporary issues of criminal policy: criminological and penological problems], Warsaw 1978, p. 207; idem, *Refleksje op. cit.*, s. 42.

¹⁰ B. Crewe, The depth of imprisonment, *Punishment & Society. International Journal of Penology* 2021, 23 (3), pp. 335-341.

legal response that can be applied to the offender. The realization of preparatory activities for counterfeit money, letting imitation money circulate, and the crimes preceding/enabling this, are punishable by imprisonment from 3 months to 5 years (Article 310 § 4 of the Penal Code).

Considering the system of criminal sanctions provided by Polish legislation against the perpetrators of title crimes, it is worth directing attention to the comparative legal threads. Taking them into account allows, on the one hand, to look at the native solutions from a certain distance; on the other hand, it opens the way for formulating reasonable postulates *de lege ferenda*. Moreover, a comparative legal perspective makes it possible to distinguish the legislators' preferred models for the threat of punishment (generally imprisonment) for the most serious attacks on the circulation of money and other means of payment¹¹.

First, it is necessary to note the relatively large stratification of the limits of the statutory threat of punishment provided on the European continent against perpetrators of counterfeit money and its surrogates. A thorough analysis of individual cases will make it possible to verify the adequacy and intensity of the criminal reaction of the Polish legislator against the background of other countries. However, without wishing to anticipate further considerations, we can already signal that Polish solutions are characterized by a significant degree of punitiveness.

2. The preferred models for punishing the perpetrators of counterfeiting or altering money or other means of payment

Taking into account the studied legal orders, one may say that occasionally the legislator decides on applications for short-term imprisonment. On the one hand, this is justified by the importance of money and other means of payment for the proper functioning of economic and consumer circulation, and on the other hand, by the importance of the legal good in its economic, social, and political dimensions. In this regard, only two countries provide for the threat of imprisonment for up to 3 years¹² (Norway¹³ and Estonia¹⁴). The limits of an isolation sanction of no more than five years are provided for in Sweden¹⁵, Finland¹⁶, Lithuania¹⁷ and Andorra¹⁸. In Russia, a penalty of up to six years imprisonment is provided when the forgery involves other means of payment¹⁹.

¹¹ H. Croall, Community safety and economic crime, *Criminology & Criminal Justice* 2009, 9 (2), pp. 165-177; F. Mativat, P. Tremblay, Counterfeiting Credit Cards: Displacement Effects, Suitable Offenders and Crime Wave Patterns, *The British Journal of Criminology* 1997, 37 (2), pp. 165-179; T.M. Avantes, Increasing imprisonment: A future of crime and socio-economic factors?, *American Journal of Criminal Justice* 1993, 17, pp. 19-22.

¹² E. Doleschal, Rate and Length of Imprisonment: How Does the United States Compare with The Netherlands, Denmark and Sweden?, *Crime & Delinquency* 1977, 23 (1), pp. 51-56.

¹³ Look at § 367 (1) sentence 1 Norwegian Criminal Code.

¹⁴ Look at § 333 (1) Estonian Criminal Code.

¹⁵ Look at Chapter 14 § 6 (1) Swedish Criminal Code.

¹⁶ Look at Chapter 37 § 1 sentence 1 Finish Criminal Code.

¹⁷ Look at Article 213 (1) sentence 1 Lithuanian Criminal Code.

¹⁸ Look at Article 431 (1) (a) Andorra's Criminal Code.

¹⁹ Look at Article 187 (1) Russian Criminal Code.

More often, in the case of counterfeit money or its surrogate, European legislators opt for imprisonment not exceeding eight years (Ukraine²⁰, Belarus²¹, the Czech Republic²², Hungary²³, Russia²⁴, Latvia²⁵, and Slovenia²⁶). It is noteworthy that an analogous threat of sanction is also envisaged in Cyprus - concerning counterfeit foreign money²⁷. On the European continent, it is noticeable that in the case of the analyzed types of criminal acts, the application of an isolation penalty of no more than ten years imprisonment seems to prevail. This type of sanction is provided for in the legislation of the Netherlands²⁸, Malta²⁹, Slovakia³⁰, San Marino³¹, Austria³², Liechtenstein³³, Croatia³⁴, Bosnia and Herzegovina³⁵, the District of Brcko³⁶, Kosovo³⁷, Romania³⁸, North Macedonia³⁹, and Greece⁴⁰. Interestingly, the same threat of punishment is also provided for under the Criminal Code of Belgium⁴¹, except that, it applies to the conversion of money or its surrogate. In contrast, eight European countries provide for a prison sentence of no more than 12 years as part of the statutory threat. They are Italy⁴², Spain⁴³, Portugal⁴⁴, Denmark⁴⁵, Iceland⁴⁶, Serbia⁴⁷, Montenegro⁴⁸, and Turkey⁴⁹.

It is worth noting that in the case of five countries, it can be observed that the formation of a criminal sanction for forgery of money or its surrogate at a ceiling

²⁰ Look at Article 199 (1) sentence 1 Ukrainian Criminal Code.

²¹ Look at Article 221 (1) sentence 1 Criminal Code of Belarus.

²² Look at § 233 (2) Czech Criminal Code.

²³ Look at Article 389 (1) (a) Hungarian Criminal Code.

²⁴ Look at Article 186 (1) Russian Criminal Code.

²⁵ Look at Article 192 (2) sentence 1 Latvian Criminal Code.

²⁶ Look at Article 243 (1) sentence 1 Criminal Code of Slovenia.

²⁷ Look at Article 349 sentence 3 Cyprus Criminal Code.

²⁸ Look at Article 208 Criminal Code of the Netherlands.

²⁹ Look at Article 188B (1) sentence 1 Criminal Code of Malta.

³⁰ Look at § 270 (2) sentence 2 Criminal Code of Slovakia.

³¹ Look at Article 401 sentence 1 Criminal Code of San Marino.

³² Look at § 232 (1) Austrian Criminal Code.

³³ Look at § 232 (1) Liechtenstein Criminal Code.

³⁴ Look at Article 274 (1) sentence 1 Croatian Criminal Code.

³⁵ Look at Article 205 (1) sentence 1 Criminal Code of Bosnia and Herzegovina.

³⁶ Look at Article 205 (1) sentence 1 Brcko District Criminal Code.

³⁷ Look at Article 302 (1) Kosovo Criminal Code.

³⁸ Look at Article 310 (1) Criminal Code of Romania.

³⁹ Look at Article 268 (1) Criminal Code of North Macedonia.

⁴⁰ Look at Article 207 (1) sentence 1 Greek Criminal Code.

⁴¹ Look at Article 163 Criminal Code of Belgium.

⁴² Look at Article 453 (1) sentence 1 Criminal Code of Italy.

⁴³ Look at Article 386 (1) (1) Criminal Code of Spain.

⁴⁴ Look at Article 262 (1) Criminal Code of Portugal.

⁴⁵ Look at § 166 sentence 1 Danish Criminal Code.

⁴⁶ Look at Article 150 (1) Criminal Code of Iceland.

⁴⁷ Look at Article 241 (1) Serbian Criminal Code.

⁴⁸ Look at Article 258 (1) Criminal Code of Montenegro.

⁴⁹ Look at Article 197 (1) sentence 1 Turkish Criminal Code.

not exceeding 15 years imprisonment (Germany⁵⁰, Bulgaria⁵¹, and Albania⁵²). The above enumeration should be supplemented by such countries as Belgium⁵³ and Luxembourg⁵⁴, where this sanction is provided for the criminal forgery of the object of an executive act. The sanction, which exceeds 15 years of imprisonment by its intensity, is exceptional and is not often applied by European legislators. Currently, it can be spotted in France⁵⁵ and Monaco⁵⁶. In addition, in the case of counterfeiting native currency, a penalty carrying 15 years of imprisonment is applied in Cyprus.

The above argument should be supplemented by several issues related to the determination by the countries of the European continent of the lower limit of the statutory threat of punishment for counterfeiting of money or its surrogate. From this point of view, observations of a comparative legal nature related to determining the lower limit of punishment may prove invaluable in verifying the application of adequate criminal repression. With the above in mind, attention should be focused on those cases where the minimum threshold for isolated criminal sanction has been relatively strictly defined.

First, attention should be paid to that group of countries that take a prison sentence of not less than three years as a starting point. These include the Czech Republic, Italy, Andorra, and Portugal. In addition, Ukraine can be included in this group regarding the type of counterfeit money. On the other hand, no less than four years of imprisonment is the sanction provided for under San Marino's legislation. An isolation sanction of not less than five years is applicable in Albania, Belgium, and Luxembourg. The latter two countries sanction the criminal alteration of money or other means of payment in the indicated dimension.

It is noteworthy that it is unfamiliar to European legislation to define the lower limit of criminal sanctions more severely than those discussed so far. Slovakia, for example, provides imprisonment for less than seven years for committing counterfeit money. In Spain, these types of criminal acts are criminalized under the threat of imprisonment for eight years. In turn, ten years of imprisonment - as the lower limit of the statutory threat - is the sanction provided for under the legislation of Monaco, Belgium, and Luxembourg. The last two countries include the punishment for counterfeiting money or its surrogate.

Interestingly, some countries regulate the upper limit of the statutory threat of sanction for the type of forgery of money or other means of payment in a comparable way to the Republic of Poland. This observation is particularly applicable after modifying the limits of term imprisonment included in Article 32, point 3 of the Penal Code (Article 37 of the Criminal Code). These include Monaco (up to 20 years imprisonment) and France (30 years imprisonment).

⁵⁰ Look at § 146 (1) (1) German Criminal Code.

⁵¹ Look at Article 243 (1) Criminal Code of Bulgaria.

⁵² Look at 183 sentence 1 Albanian Criminal Code.

⁵³ Look at Article 160 Criminal Code of Belgium.

⁵⁴ Look at Article 160 Luxembourg Criminal Code.

⁵⁵ Look at Article 442-1 French Criminal Code.

⁵⁶ Look at Article 77 Criminal Code of Monaco.

Only one country - besides the Republic of Poland - explicitly singles out the removal of the sign of remission as part of the criminal activity. That country is Slovenia. In the case of committing the crime in question, the sanction provided is a fine or imprisonment of up to one year.

3. The preferred model for punishing perpetrators of putting counterfeited money or its surrogate into circulation

Next, it is essential to note the range of sanctions provided for perpetrators of letting imitation money or its surrogate circulate. Here, too, the use of relatively lenient criminal sanctions is rare. Among the most liberal in this field are countries such as Switzerland⁵⁷, Norway⁵⁸, and the District of Brcko⁵⁹, which provide for the threat of a sentence of up to 3 years imprisonment. On the other hand, the threat of a sentence not exceeding five years imprisonment is provided for under the legislation of Sweden⁶⁰, Finland⁶¹, the Czech Republic⁶², Slovenia⁶³, Lithuania⁶⁴, Belgium⁶⁵, Andorra⁶⁶, Austria⁶⁷, and Liechtenstein⁶⁸. Some of the countries of the European continent provide for the threat of up to 10 years imprisonment in case of letting the imitation circulate (the Netherlands⁶⁹, Slovakia⁷⁰, San Marino⁷¹, France⁷², Monaco⁷³, Croatia⁷⁴, Bosnia, and Herzegovina⁷⁵, Montenegro⁷⁶, Moldova⁷⁷, Greece⁷⁸, and Malta⁷⁹). Also included in the above enumeration is Luxembourg when the perpetrator's behavior includes letting a converted means of payment circulate⁸⁰.

⁵⁷ Look at Article 242 (1) Swiss Criminal Code.

⁵⁸ Look at § 367 (2) sentence 1 Criminal Code of Norway.

⁵⁹ Look at Article 251 (1) sentence 2 Brcko District Criminal Code.

⁶⁰ Look at Chapter 14 § 10 Swedish Criminal Code.

⁶¹ Look at Chapter 37 § 1 sentence 1 Finish Criminal Code.

⁶² Look at § 237 (1) sentence 2 Czech Criminal Code.

⁶³ Look at § 270 (2) sentence 2 Criminal Code of Slovenia.

⁶⁴ Look at Article 213 (1) Lithuanian Criminal Code.

⁶⁵ Look at Article 169 Criminal Code of Belgium.

⁶⁶ Look at Article 431 (1) (b) Andorra's Criminal Code.

⁶⁷ Look at § 233 Austrian Criminal Code.

⁶⁸ Look at § 233 (1) (2) Liechtenstein Criminal Code.

⁶⁹ Look at Article 209 sentence 1 Criminal Code of the Netherlands.

⁷⁰ Look at § 219 (1) sentence 3 Criminal Code of Slovakia.

⁷¹ Look at Article 401 sentence 2 Criminal Code of San Marino.

⁷² Look at Article 442-2 French Criminal Code.

⁷³ Look at Article 78 sentence 2 Criminal Code of Monaco.

⁷⁴ Look at Article 274 (1) sentence 2 Croatian Criminal Code.

⁷⁵ Look at Article 205 (1) sentence 2 Criminal Code of Bosnia and Herzegovina.

⁷⁶ Look at Article 258 (2) sentence 2 Criminal Code of Montenegro.

⁷⁷ Look at Article 236 (1) sentence 2 Criminal Code of Moldova.

⁷⁸ Look at Article 208 sentence 1 and 2 Criminal Code of Greece.

⁷⁹ Look at Article 188B (2) Criminal Code of Malta.

⁸⁰ Look at Article 176 sentence 2 Luxembourg Criminal Code

Interestingly, some countries provide harsher punishment than the Republic of Poland for perpetrators of the crimes in question⁸¹. For example, countries such as Italy⁸², Spain⁸³, Portugal⁸⁴, Denmark⁸⁵, Iceland⁸⁶, and Turkey use a sanction of imprisonment for a term not exceeding 12 years within the typifying provision⁸⁷. In turn, a penalty of up to 15 years imprisonment is provided for under the legislation of Germany⁸⁸ and Albania⁸⁹. Luxembourg is also included in this group as we are talking about the circulation of counterfeit means of payment⁹⁰.

In addition, it is worth referring to the determination of the lower limit of the statutory threat under the various typifying provisions. In this context, it is surprising to see a relatively large number of countries that provide stricter (sometimes even significantly) than the Republic of Poland rigor associated with the minimum threshold of criminal law response. The motivation for this state of affairs can be sought in the sometimes-appearing thesis that this letting go is the quintessence of counterfeiting activity. At the release of imitations into circulation, the greatest threat to the regularity of the circulation of money and securities materializes, and the abstract danger is transformed into a concrete one.

A stricter ceiling on the lower limit of sanctions for letting imitation money or its surrogate circulate is provided for in twelve European countries. Imprisonment for not less than two years is provided for in the legislation of Hungary⁹¹, Belarus⁹², Malta, and Turkey. The threat of an isolation sanction of not less than three years imprisonment is the criminal responsibility for letting a counterfeit circulate in Italy and Portugal. One year long is the minimum sanction threshold in San Marino's legislation. In contrast, a penalty of 5 years or more imprisonment is applied in Monaco and Luxembourg. It is worth noting, however, that the latter criminalizes in this way the letting into circulation of counterfeit money or its surrogate. Imprisonment of not less than seven years is the criminal consequence provided under the Slovak Criminal Law for the perpetrator of releasing an imitation currency into circulation. No less than eight years of imprisonment is the lower limit of the statutory threat in Spain. The most severe threat from the point of view of the minimum threshold of criminal reaction is provided for by the legislation of France and Luxembourg (as far as the latter country is concerned, this sanction is provided for the release into circulation of counterfeit currency sign or its surrogate). We are talking about imprisonment for not less than ten years.

⁸¹ B.R. Crank, B.K. Payne, White-collar offenders and the jail experience: a comparative analysis, *Criminal Justice Studies* 2015, 28 (4), pp. 380-391.

⁸² Look at Article 453 (1) (3) sentence 1 Criminal Code of Italy.

⁸³ Look at Article 386 (1) (1) Criminal Code of Spain.

⁸⁴ Look at Article 264 Criminal Code of Portugal.

⁸⁵ Look at from §§ 167 to 169 Danish Criminal Code.

⁸⁶ Look at from Article 151 to 153 Criminal Code of Iceland.

⁸⁷ Look at Article 197 (1) sentence 2 Turkish Criminal Code.

⁸⁸ Look at § 146 (1) (3) German Criminal Code.

⁸⁹ Look at Article 183 sentence 2 Albanian Criminal Code.

⁹⁰ Look at Article 168 sentence 2 Luxembourg Criminal Code

⁹¹ Look at Article 389 (1) (b) Hungarian Criminal Code.

⁹² Look at Article 221 (1) sentence 2 Criminal Code of Belarus.

4. The preferred model for punishing the perpetrators of crimes preceding/enabling the release of imitation money into circulation

Next, it is necessary to pay attention to the limits of the criminal sanction provided for the other crimes stipulated in Article 310 § 2 of the Criminal Code (the types preceding/enabling letting go). Furthermore, verify the view presented by the Polish legislator against the background of other European countries. Among the countries that typify perpetrators' behavior regarding imitation of money or its surrogate, short-term imprisonment is not among the most common. Suffice it to point out that only two countries provide for the threat of an isolated criminal sanction for a term not exceeding three years (Norway⁹³, Sweden⁹⁴).

In contrast, the statutory threat of a sentence of up to 5 years imprisonment is provided under the legislation of Finland⁹⁵, the Czech Republic⁹⁶, Latvia⁹⁷, Portugal⁹⁸, Estonia⁹⁹, and Malta¹⁰⁰. However, there is no doubt that it is far more common and practiced to establish a stricter framework for criminal sanctions. Ten countries provide for the threat of imprisonment for a term not exceeding eight years (Belarus¹⁰¹, Lithuania¹⁰², Ukraine¹⁰³, Slovakia¹⁰⁴, Russia¹⁰⁵, Slovenia¹⁰⁶, Kosovo¹⁰⁷, Romania¹⁰⁸, and Bulgaria¹⁰⁹). As mentioned earlier, Cyprus should also be added to the countries where the prohibited behavior involves foreign currency signs¹¹⁰. It should be emphasized that the most common sanction on the European continent is, at most, ten years imprisonment. This type of threat can be found in the legislation of the Netherlands¹¹¹, Monaco¹¹², Slovakia¹¹³, Austria¹¹⁴, Liechtenstein¹¹⁵, Bosnia

⁹³ Look at § 367 (1) sentence 2 Norwegian Criminal Code.

⁹⁴ Look at Chapter 14 § 7 Swedish Criminal Code.

⁹⁵ Look at Chapter 37 § 1 sentence 2 Finnish Criminal Code.

⁹⁶ Look at § 233 (1) Czech Criminal Code.

⁹⁷ Look at Article 192 (1) Criminal Code of Latvia.

⁹⁸ Look at Article 266 Criminal Code of Portugal.

⁹⁹ Look at § 334 (1) sentence 1 Estonia Criminal Code.

¹⁰⁰ Look at Article 188C Criminal Code of Malta.

¹⁰¹ Look at Article 221 (1) sentence 1 Criminal Code of Belarus.

¹⁰² Look at Article 214 (1) sentence 3 Lithuanian Criminal Code.

¹⁰³ Look at Article 199 (1) sentence 2 Ukrainian Criminal Code.

¹⁰⁴ Look at § 270 (1) Criminal Code of Slovakia.

¹⁰⁵ Look at Article 186 (1) sentence 3 Russian Criminal Code.

¹⁰⁶ Look at Article 243 (2) Criminal Code of Slovenia.

¹⁰⁷ Look at Article 302 (2) (2) Kosovo Criminal Code.

¹⁰⁸ Look at Article 313 (1) sentence 2 Criminal Code of Romania.

¹⁰⁹ Look at Article 244A (1) Criminal Code of Bulgaria.

¹¹⁰ Look at Article 350 sentence 1 (c) (1-2) Criminal Code of Cyprus.

¹¹¹ Look at Article 209 sentence 2 Criminal Code of the Netherlands.

¹¹² Look at Article 78 sentence 2 Criminal Code of Monaco.

¹¹³ Look at § 270 (1) Criminal Code of Slovakia.

¹¹⁴ Look at § 232 (2) Austrian Criminal Code.

¹¹⁵ Look at § 232 (2) Liechtenstein Criminal Code.

and Herzegovina¹¹⁶, the District of Brcko¹¹⁷, Serbia¹¹⁸, Montenegro¹¹⁹, North Macedonia¹²⁰, and Greece¹²¹. It is worth noting that it is relatively rare that legislators choose to structure the sanction so that it exceeds ten years' imprisonment. Three countries sanction pre/post imitation behavior under a penalty not exceeding 12 years imprisonment (Italy¹²², Denmark¹²³, Turkey¹²⁴). In contrast, the application of an isolationist criminal sanction of up to 15 years can be observed in German Criminal Law¹²⁵. An isolated position is that of the Cypriot legislator, who also provided the threat of life imprisonment for the perpetrators of the discussed group of crimes¹²⁶.

At this stage of consideration, it is worth devoting a few words to the issue of the lower limit of sanctions for behavior intended to allow the circulation of imitation money or its surrogate. It should be recalled at this point that the Polish legislator used the sanction of deprivation of liberty in the amount of one to 10 years. It is noteworthy how European legislators set the minimum threshold of criminal law response to the disclosed criminal act. The discourse should begin by pointing out that only nine European countries provide for a stricter lower limit of sanctions than the Polish legislature. Most of them, however, by only one year. Indeed, the threat of imprisonment for not less than two years can be found in the legislation of Belarus, Montenegro, Romania, Bulgaria, and Turkey. A higher ceiling of sanctions is symptomatic of the criminal laws of Ukraine, Italy, and Slovakia, where the type is criminalized with a penalty of at least three years imprisonment. In the latter case, the sanction applies when the object of the executive action is currency. If the perpetrator's behavior involves other means of payment, the lower limit of punishment under the Slovak legal order is set by imprisonment for not less than seven years.

5. The preferred model for punishing the perpetrators of the preparation of the crime of counterfeit money or its surrogate and letting imitations go into circulation and the crimes preceding/enabling it

An attempt to verify the severity of the statutory threat in the case of the implementation of preparatory acts of forgery and other crimes related to the imitation of money or its surrogate, which are stipulated in Article 310 of the Criminal Code, also requires attention. (Article 310 § 4 of the Criminal Code). In

¹¹⁶ Look at Article 205 (2) Criminal Code of Bosnia and Herzegovina.

¹¹⁷ Look at Article 250 (1) sentence 1 Brcko District Criminal Code.

¹¹⁸ Look at Article 241 (2) Criminal Code of Serbia.

¹¹⁹ Look at Article 258 (2) (1) Criminal Code of Montenegro.

¹²⁰ Look at Article 268 (2) Criminal Code of North Macedonia.

¹²¹ Look at Article 207 (1) sentence 2 Criminal Code of Greece

¹²² Look at Article 453 (1) (3) sentence 2 Criminal Code of Italy.

¹²³ Look at § 166 (2) Danish Criminal Code.

¹²⁴ Look at Article 197 (1) sentence 3 Turkish Criminal Code.

¹²⁵ Look at § 146 (1) (2) Criminal Code of Germany.

¹²⁶ Look at Article 350 sentence 2 Criminal Code of Cyprus.

this context, it is worth bearing in mind, on the one hand, the views of other countries, where it was advocated to sanction the admission of this stage of *iter delicti*. On the other hand, the EU context is expressed in the various directives. Such a broad spectrum will make it possible to carry out the indicated task.

First of all, it should be pointed out that the two legal orders do not provide for imprisonment as a criminal-legal consequence against the perpetrator of the ascertained phase of the pre-commitment of the criminal act. However, this does not mean the absence of sanctions of an isolationist nature. Indeed, custodial sentences are provided for in the legal orders of Greece¹²⁷ and Hungary¹²⁸. However, it is worth specifying that, in the latter case, the indicated sanction is provided for the realization of the *sui generis* stage form of offenses involving a substitute payment instrument.

The first of the countries to provide for a sanction of imprisonment for the indicated offense is Portugal¹²⁹. According to Criminal Law, preparatory acts are sanctioned under a penalty not exceeding one year. A penalty not exceeding two years' imprisonment is provided in nine European countries (France¹³⁰, Monaco¹³¹, Andorra¹³², Austria¹³³, Liechtenstein¹³⁴, Norway¹³⁵, Finland¹³⁶, Estonia¹³⁷, and Slovenia¹³⁸). It is worth pointing out already at this point that this sanction is *ex aequo* the most famous criminal law consequence provided for in European legal orders. In turn, imprisonment for a term not exceeding three years was considered effective and adequate for six legal orders (Slovakia¹³⁹, Switzerland¹⁴⁰, Croatia¹⁴¹, Bulgaria¹⁴², Albania¹⁴³, and Hungary). It is worth noting, however, that under Hungarian Criminal Law, the indicated sanction applies to the perpetrators of preparatory acts for title crimes when they involve money¹⁴⁴.

When it comes to the reaction for committing the indicated stage form of the crimes in question, *ex aequo*, the most popular is the penalty, which does not exceed five years' imprisonment in its scope. This threat can also be found in nine legal

¹²⁷ Look at Article 211 Criminal Code of Greece

¹²⁸ Look at Article 392 (3) Criminal Code of Hungary.

¹²⁹ Look at Article 271 Criminal Code of Portugal.

¹³⁰ Look at Article 442-5 French Criminal Code.

¹³¹ Look at Article 82 Criminal Code of Monaco.

¹³² Look at Article 432 Andorra's Criminal Code.

¹³³ Look at § 239 Austrian Criminal Code.

¹³⁴ Look at § 239 Liechtenstein Criminal Code.

¹³⁵ Look at § 369 Criminal Code of Norway.

¹³⁶ Look at Chapter 37 § 4 Finnish Criminal Code.

¹³⁷ Look at § 340 Criminal Code of Estonia.

¹³⁸ Look at Article 248 (1) Criminal Code of Slovenia.

¹³⁹ Look at § 272 (1) and § 219 (1) Criminal Code of Slovakia.

¹⁴⁰ Look at Article 247 (1) and (2) Swiss Criminal Code.

¹⁴¹ Look at Article 283 (1) Croatian Criminal Code.

¹⁴² Look at Article Article 246 (1) and (3) Bulgarian Criminal Code.

¹⁴³ Look at Article 185 Criminal Code of Albania.

¹⁴⁴ Look at Article 389 (3) Criminal Code of Hungary.

orders (the Netherlands¹⁴⁵, Turkey¹⁴⁶, Italy¹⁴⁷, Germany¹⁴⁸, the Brcko District¹⁴⁹, Kosovo¹⁵⁰, Serbia¹⁵¹, Romania¹⁵², and Malta¹⁵³). Only three countries provide stricter limits to the statutory threat: Cyprus¹⁵⁴, North Macedonia¹⁵⁵, and Montenegro¹⁵⁶. However, it is necessary to make a necessary distinction. While in the legislation of North Macedonia and Montenegro, the legislature's view of the criminalization of preparatory acts is uniform (punishment of up to 10 years imprisonment), the same cannot be said of the Cypriot legislation. There, the elements constituting the *differentia specifica* are the nature of the object of the executive action. If the preparation involves behavior involving foreign currency, the perpetrator is liable under a penalty not exceeding eight years' imprisonment¹⁵⁷. On the other hand, when the pre-preparation stage is related to domestic money, the sanction is life imprisonment¹⁵⁸.

When analyzing the criminal threat for implementing preparatory activities for title crimes, it is essential to note each state's lower and upper thresholds for sanctions. Only six states provide for stricter statutory threat limits than the Republic of Poland. The legislation of Serbia and the Brcko District has set the minimum threshold for criminal responsibility at no less than six months imprisonment. The Albanian Criminal Code, on the other hand, provides for the threat of imprisonment for a term of not less than one year. The one-month longer specified penalty is the lower limit of the statutory threat in Malta (13 months' imprisonment). The most far-reaching from the point of view of the intensity of the criminal sanction is the criminal laws of Montenegro and North Macedonia, where the lower limit of the sanction is set at 2 and 3 years imprisonment, respectively.

6. Discussion and conclusions

6.1 The impact of comparative legal analysis on the statutory threat for counterfeit money in Poland

The remarks mentioned above allow *de lege lata* to conclude that the threat of imprisonment from 5 to 25 years of imprisonment provided for under domestic criminal law should be considered highly severe against the background of the legal orders of the countries of the European continent. This remark applies to the statutory threat's lower limit and the maximum provided under the criminal sanction. Suffice

¹⁴⁵ Look at Article 214 Criminal Code of the Netherlands.

¹⁴⁶ Look at Article 200 Turkish Criminal Code.

¹⁴⁷ Look at Article 461 Criminal Code of Italy.

¹⁴⁸ Look at § 149 (1) German Criminal Code.

¹⁴⁹ Look at Article 254 (1) Brcko District Criminal Code.

¹⁵⁰ Look at Article 304 (1) Kosovo Criminal Code.

¹⁵¹ Look at Article 244B (1) and (2) Criminal Code of Serbia.

¹⁵² Look at Article 314 (1) Criminal Code of Romania.

¹⁵³ Look at Article 188D (a-b) and (e-g) Criminal Code of Malta.

¹⁵⁴ Look at Article 350, sentence 1 (c) (3-5) Criminal Code of Cyprus.

¹⁵⁵ Look at Article 274B (3) Criminal Code of North Macedonia.

¹⁵⁶ Look at Article 262 (1-3) Criminal Code of Montenegro.

¹⁵⁷ Look at Article 350, sentence 2 Criminal Code of Cyprus.

¹⁵⁸ Look at Article 350, sentence 3 Criminal Code of Cyprus.

it to say that only two countries provide similar sanctions limits to the Republic of Poland, taking into account the upper limit of the statutory threat (Monaco, France). In turn, the setting by the Polish legislator of the lower limit of sanctions at the ceiling of 5 years appears to be a manifestation of excessive punctilios of the legal system. This is justified by the fact that only four countries of the "old continent" more severely included this limit of punishment. With the above in mind, *de lege ferenda* modification of the framework of criminal sanctions for crimes stipulated in Article 310 § 1 of the Criminal Code should be postulated. It seems that lowering the lower limit of the statutory threat will be a procedure that is appropriate and justified from the point of view of both the purposes and functions of punishment and the practice of applying the law¹⁵⁹. Accordingly, the criminal offenses in question should be punishable by imprisonment for 3 to 20 years. The indicated limits of sanctions will not only realize the intended purposes and functions. However, they will also remain in compliance with the requirements of harmonization of the minimum criminal sanction expected by the EU legislator in the context of criminal law protection of money and means of payment.

6.2 The impact of comparative legal analysis on the statutory threat for letting imitation money circulate in Poland

In verifying whether the upper limit of sanctions provided for in Polish Criminal Law is adequate from the point of view of achieving the assumed goals and functions, attention should be paid to what other European countries have done in this field. The argument in this context will be limited to pointing out those countries that have shaped the maximum term of imprisonment more severely than the Republic of Poland. Based on six legislations, one can state the threat of an isolation sanction not exceeding 12 years (Italy, Spain, Portugal, Denmark, Iceland, and Turkey). In contrast, imprisonment of up to 15 years is provided for in the criminal laws of Germany, Albania, and Luxembourg. The only country where harsher sanction limits can be found is Cyprus, and this is because the punishment for letting the native currency circulate is life imprisonment.

Considering the above remarks, one may be tempted to conclude that the threat of punishment envisaged for perpetrators of counterfeiting fits relatively well into the sanctions model preferred by European legislators. Indeed, a sanction not exceeding ten years imprisonment is the most common, and it seems that this kind of threat constitutes an adequate criminal response. Moreover, the formulation of sanctions by the Polish legislator at the indicated level meets the requirements of minimum harmonization of penalization for the circulation of imitation money or its surrogate. *De lege ferenda* - because of the successive changes in the Criminal Law from the point of view of increasing penalization - it should be postulated to leave this sanction unchanged¹⁶⁰.

¹⁵⁹ D.C. May, B.K., Applegate, R. Ruddell, et al., Going to Jail Sucks (And It Really Doesn't Matter Who You Ask). *American Journal of Criminal Justice* 2014, 39, pp. 250-261.

¹⁶⁰ E.A. Fattah, Making the Punishment Fit the Crime: The Case of Imprisonment. The Problems Inherent in the Use of Imprisonment As a Retributive Sanction, *Canadian Journal of Criminology* 1982, 24 (1), pp. 1-8.

6.3 The impact of comparative legal analysis on the statutory threat for crimes preceding/enabling the release of the imitation into circulation in Poland

Considering the arguments raised, it is fair to say that the Polish solution for determining the criminal sanction for behavior other than letting go, as stipulated in Article 310 § 2 of the Penal Code, is in line with the prevailing view in Europe. Most countries sanction these crimes under a penalty not exceeding ten years' imprisonment. Accordingly, the sanction provided in domestic legislation is nothing peculiar in light of the paradigm that stands out among many countries. However, the question remains open as to whether shaping the limits of the statutory threat for committing behavior preceding/enabling the release of an imitation into circulation, in the same way as for introducing a counterfeit into circulation, is an appropriate procedure from the point of view of the adequacy of the criminal response. It seems to be without any risk of error to state that behavior intended to enable the introduction of a counterfeit into circulation is characterized by a lesser degree of criminality than the act indicated in principio in the content of Article 310 § 2 of the Criminal Code. Given the above, *de lege lata* is misunderstood to provide for exact limits of sanctions in both cases, taking into account their gravity and general-abstract degree of severity. It seems desirable to provide for a different, more lenient punishment for behavior intended to enable the release of a forgery into circulation.

In formulating the postulate *de lege ferenda*, it is necessary to signal the necessity of specifying the behavior consisting in accepting, storing, transporting, transferring, sending, or assisting in the disposal or concealment of money, other means of payment or a monetary sign or document specified in Article 310 § 1 of the Penal Code in order to circulate, in a separate editorial unit of the legal text. Consequently, liability under the penalty of imprisonment of 6 months to 8 years should be associated with its commission. A sanction of this kind will constitute adequate repression and reaction to the revealed criminal act. In addition, its size will follow the expectations of the EU legislator from the point of view of minimum harmonization considering criminal sanctions.

6.4 The impact of comparative law analysis on the statutory threat for preparing counterfeit money or its surrogate or letting an imitation go into circulation or crimes preceding/enabling the release of the imitation into circulation in Poland

Taking into account the above analysis, one may be tempted to conclude that *de lege lata*, the sanction provided for the realization of the stage form of Article 310 § 4 of the Criminal Code, is, in principle, a typical criminal consequence for European countries provided for the perpetrator who commits the preparation of the title crimes. Indeed, a penalty not exceeding five years' imprisonment is *ex aequo* (with imprisonment of up to 2 years), the most common consequence provided for in the various criminal codifications. This could lead prima facie to the conclusion

that the sanction provided by the Polish legislator is free from the need to modify it. However, this is not the case, and penalization modification appears necessary. Taking into account the fact that the behaviors stipulated in Article 310 § 4 of the Penal Code are carried out in the deep foreground of the criminal acts of Article 310 § 1 or § 2 of the Penal Code, the sanction of imprisonment of 3 months to 5 years seems to be a relatively harsh repression against their perpetrators. With this in mind, *de lege ferenda* should be postulated to shape the sanction provided for in Article 310 § 4 of the Criminal Code at a ceiling not exceeding two years of imprisonment. The rigor of the isolationist criminal sanction will realize all the assumed goals and fulfill the functions attributed to criminal punishment. Moreover, the change in the statutory threat in the proposed form will continue to meet the standards of minimum harmonization outlined in the directives binding on the Republic of Poland.

Bibliography

1. Arvanites T.M., Increasing imprisonment: A function of crime or socio-economic factors?. *American Journal of Criminal Justice* 1993, no 17, DOI: 10.1007/BF02887627.
2. Bardutzky S., Legitimnost ustavnosodnega odločanja, *Revus* 2008, no 7, DOI: 10.4000/revus.90.
3. Buchała K., Prawo karne materialne [Substantive criminal law], Cracow 1980.
4. Crank B.R., Payne B.K., White-collar offenders and the jail experience: a comparative analysis, *Criminal Justice Studies* 2015, 28 (4), DOI: 10.1080/1478601X.2015.1060971.
5. Cieślak M., O węzłowych pojęciach związanych z sensem kary [On knotty concepts related to the meaning of punishment], *Nowe Prawo* 1969, no 2.
6. Crewe B., The depth of imprisonment, *Punishment & Society. International Journal of Penology* 2021, 23 (3), p. 335-341, DOI: 10.1177/1462474520952153.
7. Dagan N., The Janus face of imprisonment: Contrasting judicial conceptions of imprisonment purposes in the European Court of Human Rights and the Supreme Court of the United States, *Criminology & Criminal Justice* 2020, 21 (5), DOI: 10.1177/1748895820911967.
8. Croall H., Community safety and economic crime, *Criminology & Criminal Justice* 2009, 9 (2), DOI: 10.1177/1748895809102551.
9. Ćwiąkański Z., Nadzwyczajne złagodzenie kary w praktyce sądowej [Extraordinary leniency in judicial practice], Warsaw 1982.
10. Daszkiewicz K., Nadzwyczajne złagodzenie kary w polskim kodeksie karnym [Extraordinary mitigation of punishment in the Polish Criminal Code], Warsaw 1976.
11. Doleschal E., Rate and Length of Imprisonment: How Does the United States Compare with The Netherlands, Denmark and Sweden?, *Crime & Delinquency* 1977, 23 (1), DOI: 10.1177/001112877702300105.
12. Dukiet-Nagórska T., Kilka uwag o zasadzie nullum crimen sine lege w polskim porządku prawnym [Some remarks on the principle of nullum crimen sine lege in the Polish legal order] (in:) K. Krajewski (ed.) *Nauki penalne wobec problemów współczesnej przestępczości. Księga jubileuszowa z okazji 70. rocznicy urodzin Profesora Andrzeja Gaberle* [Penal sciences in the face of problems of modern crime. Anniversary book on the occasion of the 70th anniversary of the birth of Professor Andrzej Gaberle], Warsaw 2007.

13. Fattah E.A., Making the Punishment Fit the Crime: The Case of Imprisonment. The Problems Inherent in the Use of Imprisonment as a Retributive Sanction, *Canadian Journal of Criminology* 1982, 24 (1), DOI: 10.3138/cjcrim.24.1.1.
14. Gilman D., The Sanction of Imprisonment: for Whom, for What, and How, *Crime & Delinquency* 1975, 21 (4), DOI: 10.1177/001112877502100405.
15. Glaser S., Polskie prawo karne w zarysie [Overview of criminal law], Cracow 1933.
16. Griffith R., Ineligibility criteria and deprivation of liberty authorisations in the community. *British Journal of Nursing* 2016, 25 (22), DOI: 10.12968/bjon.2016.25.22.1264.
17. Grounds A., Psychological Consequences of Wrongful Conviction and Imprisonment, *Canadian Journal of Criminology and Criminal Justice* 2004, 46 (2), DOI: 10.3138/CJCCJ.46.2.165.
18. Haley H.J., Does the Law Need to Know the Effects of Imprisonment?, *Canadian Journal of Criminology* 1984, 26 (4), DOI: 10.3138/cjcrim.26.4.479.
19. Harding D.J., Morenhoff J.D., Nguyen A.P., Bushway S.D., Short- and long-term effects of imprisonment on future felony convictions and prison admission, *PNAS* 2017, 114 (20), DOI: 10.1073/pnas.1701544114.
20. Indeck K., Zasada nullum crimen sine lege w prawie karnym międzynarodowym [The principle of nullum crimen sine lege in international criminal law] (in) L. Gardocki, M. Królikowski, A. Walczak-Zochowskiej (ed.) *Gaudium in litteris est. Księga jubileuszowa ofiarowana Pani Profesor Genowefie Rejman z okazji osiemdziesiątych urodzin [Gaudium in litteris est. Anniversary Book Offered to Mrs. Professor Genowefa Rejman on the Occasion of Her Eightieth Birthday]*, Warsaw 2005.
21. Kirk D.S., Wakefield S., Collateral Consequences of Punishment: A Critical Review and Path Forward, *Annual Review of Criminology* 2018, 1, DOI: 10.1146/annurev-criminol-032317-092045.
22. Lernell L., Współczesne zagadnienia polityki kryminalnej: problemy kryminologiczne i penologiczne [Contemporary issues of criminal policy: criminological and penological problems], Warsaw 1978.
23. Lernell L., Refleksje o istocie kary [Reflections on the essence of punishment], *Państwo i Prawo* 1969, no 1.
24. Loeffler Ch.E., Nagin D.S., The Impact of Incarceration on Recidivism, *Annual Review of Criminology* 2022, 5, DOI: 10.1146/annurev-criminol-030920-112506.
25. Marek A., Prawo karne [Criminal law], Warsaw 2007.
26. Mativat F., Tremblay P., Counterfeiting Credit Cards: Displacement Effects, Suitable Offenders and Crime Wave Patterns, *The British Journal of Criminology* 1997, 37 (2), DOI: 10.1093/oxfordjournals.bjc.a014153.
27. May, D.C., Applegate, B.K., Ruddell, R. et al., Going to Jail Sucks (And It Really Doesn't Matter Who You Ask). *American Journal of Criminal Justice* 2014, 39, DOI: 10.1007/s12103-013-9215-5.
28. McSorley A., Deprivation of Liberty Safeguards, *InnovAiT* 2020, 13 (1), DOI: 10.1177/1755738019885398.
29. Raglewski J., Model nadzwyczajnego złagodzenia kary w polskim systemie prawa karnego (Analiza dogmatyczna w ujęciu materialnoprawnym) [The model of extraordinary mitigation of punishment in the Polish system of criminal law (Dogmatic analysis from the material legal perspective)], Cracow 2008.
30. Szewczyk M., Kara pracy na cele społeczne na tle rozważań o przestępstwie i karze. Studium prawnoporównawcze [The punishment of community service against the background of considerations of crime and punishment. A comparative legal study], Cracow 1996.

31. Świda W., Prawo karne [Criminal law], Warsaw 1989.
32. Warylewski J., O wybranych funkcjach i celach kary pozbawienia wolności [On selected functions and purposes of imprisonment punishment] (in:) H. Machel (ed.) Wykonywanie kary pozbawienia wolności w Polsce – w poszukiwaniu skuteczności [Execution of imprisonment in Poland - in search of effectiveness], Gdańsk 2006.
33. Wermink H., Nieuwbeerta P. et. al., Short-Term Effects of Imprisonment Length on Recidivism on the Netherlands, *Crime & Delinquency* 2017, 64 (8), DOI: 10.1177/001128716687290.
34. Wexler, L.S. International criminal law comes of age, *Criminal Law Forum* 1997, 8, DOI: 10.1007/BF02677757.
35. Wojtyczek K., Zasada wyłączności ustawy w sferze prawa represyjnego. Uwagi na gruncie Konstytucji RP [The principle of the law's exclusivity in the sphere of repressive law. Observations on the grounds of the Constitution of the Republic of Poland], *Czasopismo Prawa Karnego i Nauk Penalnych* 1999, no. 1.
36. Wolter W., Zasady wymiaru kary w kodeksie karnym z 1969 r. [Principles of punishment in the 1969 Criminal Code], *Państwo i Prawo* 1969, no. 10.
37. Wood P.B., Exploring the Positive Punishment Effect Among Incarcerated Adult Offenders, *American Journal of Criminal Justice* 2007, 31, DOI: 10.1007/s12103-007-9000-4.
38. Wróbel W., Zmiana normatywna i zasady intertemporalne w prawie karnym [Normative change and intertemporal rules in criminal law], Cracow 2003.
39. van Ginneken E. FJC, Hayes D., 'Just' punishment? Offenders' views on the meaning and severity of punishment, *Criminology & Criminal Justice* 2016, 17 (1), DOI: 10.1177/1748895816654204.
40. Zoll A., Nowa kodyfikacja karna w świetle Konstytucji [New criminal codification under the Constitution], *Czasopismo Prawa Karnego i Nauk Penalnych* 1997, no. 2.