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Health protection of prisoners

SUMMARY

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The custodial sentence, despite its ailment, is now largely perceived as one of the basic forms of sanctioning. However, it is necessary to refer to its possible negative consequences, which may directly affect prisoners, as well as the general public and economic. This is due to the fact that the custodial sentence generates financial costs but can also contribute to the breakdown of family ties and emotional deprivation of the prisoners. However, nowadays there is a phenomenon of widespread human rights in the consciousness of each of the members of civilized society. It is largely a result of historical events, cultural development, psychology, sociology and the economy. Thus, compliance with those rights and ensuring their protection by state institutions in the course of imprisonment is intended to be an expression of the humanitarian treatment of prisoners and respect for their human dignity but also counteracting taking it by convicts as a criminogenic factor.

It seems obvious that one should make considerations aimed at increasing the efficiency of imprisonment while using it economically at the same time. These economic aspects should, however, not only concern the financial sphere, but also the possibility of using human capital for both employees of penitentiary units and prisoners who, in the course of joint activities, could build a relationship based on mutual trust aiming at enabling those returned to live in an open society in accordance with the prevailing moral and legal standards. Considerations regarding the custodial sentence may, however, also apply to the limitation of its application as a reaction to a committed crime, or seeking other legal solutions that constitute effective sanctioning, which will not raise controversies even on the basis of respect for human rights. At the moment, however, it seems the most reasonable to consider taking such actions during the execution of the custodial sentence, which will protect these rights, which is also protection of convicts' health. It should be pointed out that this subject is extremely important, since ensuring the implementation of the right to health has not only an expression of respect for human dignity and humanitarian treatment, but also a factor determining the achievement of the purpose of imprisonment. However, it can be concluded that the importance of prisoners' health protection is not perceived at a sufficiently high level in the course of their social readaptation, which should be undoubtedly changed.

This dissertation is thus a cross-sectional analysis of the Polish penitentiary system together with binding international regulations that relate to the protection of prisoners' health. The priority in this case is the characteristics of this system and its legal regulations in the field of the right to health care of prisoners, current conditions prevailing in penitentiary

units and verification of them with the current legal status and implementation of the penalty goals. As a consequence, the emphasis of the considerations has been largely focused on taking into account practical problems related to the health protection of prisoners. This seems extremely important, because in the course of the undertaken analyzes it can be noticed that in literature and doctrine it is difficult to find an emphasis on the need to emphasize preventive actions in the area of health protection of prisoners and very important in this respect - the role of psychologists. Undoubtedly, it should be emphasized that protection of the health of people serving the custodial sentences is one of the basic factors enabling the achievement of the purpose of this punishment - the social reintegration of prisoners.

The topic of this study should be treated as important, for example due to the increasing number of cases handled by the European Court of Human Rights which concern irregularities in the sphere of health protection of prisoners. It is also important that this problem has not been fully discussed so far. There are only few short articles about the topic indicated in the literature. Noteworthy, however, is the activity of the Helsinki Foundation for Human Rights, which seeks to secure and implement the rights and freedoms of people, including the rights of prisoners - also in terms of protection of their health.

In addition, the importance of the indicated problem is influenced by the obligation imposed on state institutions, which are to ensure the guarantee of human rights, and which also manifest themselves in the healthcare of prisoners. It is a subject necessary to subject it to analysis and discussion, also due to the almost total dependence of people deprived of liberty on state institutions.

As a result of the above arrangements, the present dissertation was systematized in order to present the evolution of application and execution of imprisonment, development of human rights and their correlation with criminal law, as well as depict the situation of people deprived of liberty and the Polish penitentiary system in terms of health protection of prisoners and its impact on achievement order to execute the penalty of deprivation of liberty. Thus, in Chapter I of the study, the normative assumptions regarding the penalty of imprisonment, the penitentiary system and the population of prisoners in Poland were subjected to consideration. In order to illustrate the issue concerning the protection of the health of prisoners, in addition to characterizing the penalty of deprivation of liberty, it is also necessary to refer the history of Polish prison. Reflections on the assumptions of normative sentences of imprisonment are also important due to the fact that it is currently the most

severe punishment and the society is most associated with the functioning of the judiciary. The penalty of deprivation of liberty due to its ailment causes a number of negative consequences for prisoners, but also for those who are close to them. Deprivation of liberty in the conditions of penitentiary isolation is undoubtedly an oppression for the perpetrator. Thus, in order to be able to illustrate the merits of imprisonment and the importance of protecting the health of prisoners in the course of its execution, consideration has been given to the purpose and directives of both imprisonment and the principles and objectives of its implementation. It was also deemed necessary to refer to the systems for the execution of this punishment and classification of isolated people in relation to the protection of their health, and to better illustrate the existing health problems characterized the population of prisoners and the participation of society in the course of their social readaptation, which was undoubtedly linked to ensuring effective implementation the right to protect prisoners' health.

In turn, in the second chapter of the dissertation, a reflection was made on issues directly related to health protection during the execution of the prisoners. Thus, both the European law and the national scope of the right to health were analyzed, its multidimensionality and significance in the course of imprisonment. In order to illustrate these issues more fully and to indicate the areas that concern prisoners' health, an attempt was made to define both the term of physical and mental health, as well as the concept of disability. However, in order to identify existing problems in the area of protection of prisoners' health by state institutions, it was also considered necessary to characterize standards and forms of health protection together with the outline of the functioning and tasks of prison health care in this subject.

Following the above considerations, Chapter III of the study analyzes the protection of the health of prisoners in the light of international standards. They impinge on the situation prevailing in Polish penitentiary units, as they show patterns of behavior and, to a large extent, the existing problems in the health care of prisoners and their scale. As a result, state institutions should adhere to specific guidelines in order to implement universally prevailing requirements and rules in order to protect the health of prisoners effectively, while respecting their dignity, as well as observing the principle of humanity and human rights. For these reasons, a number of legal acts have been subject to reflection, such as the Universal Declaration of Human and Citizens' Rights, the European Convention and the Protection of Human Rights and Fundamental Freedoms, but also the Standard Minimum Rules of Conduct

with Prisoners and European Prison Rules. The purpose of completing the undertaken research and identification of problems existing during the execution of the penalty of deprivation of liberty with regard to the health protection of prisoners, the activities of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the situation of persons deprived of liberty and standards for the protection of their health according to the case law of the European Court of Human Rights were analyzed.

Chapter IV of the dissertation, in turn, considered the protection of the health of people deprived of liberty in the light of Polish internal law and an attempt to verify the actual situation of prisoners in relation to legal regulations, including based for reports from the Supreme Audit Office and the Helsinki Foundation for Human Rights. First of all, it was necessary to discuss the fundamental guarantees and principles of protection of the rights of prisoners in relation to the Constitution of the Republic of Poland with special emphasis on respect for dignity and observance of the principle of humanity. They are the main guidelines for dealing with every human being, including those deprived of liberty. At the same time, dignity as a kind of subjective right constitutes the basic rights of people, including their right to health protection. However, the subject of this study should be considered throughout the whole of criminal law. For these reasons, it became necessary to analyze the occurrence of possible health problems of the perpetrator of the act under the penal code. In the course of criminal proceedings, the court may face insanity or penalties limited to the extent of the perpetrator of the act, which may be for no fault, and thus no crime.

The state of health of a person who has committed a crime may, however, also result in a ruling against one of the safeguards. In any case, prisoners' health problems may also occur in the course of penitentiary proceedings and concern both the physical and psychological sphere, and due to the obligation on state institutions to provide prisoners with the implementation of their right to health, it became necessary to discuss the rights of individuals isolated in this subject. This is important because it should be recognized that the implementation of the purpose of imprisonment depends on the state of health of the detainee and penitentiary activities undertaken against him or her. It may be justifiable to adjudicate in certain situations against a convicted one of the subsequently discussed incidental proceedings. However, it was also considered necessary to analyze the possibility of using compulsory medical actions towards prisoners due to the limitation of their autonomy, which, however, may seek to protect their health and life, but also to achieve the

purpose of imprisonment. For these reasons, as well as wanting to illustrate the situation of isolated people, the chapter IV of the study also addressed the subject of possible overcrowding of penitentiary units, its consequences and an attempt to identify preventive and remedial measures in the event of its occurrence. Nevertheless, during the penitentiary proceedings there may be various types of dysfunctions in the health care of prisoners, which was submitted for consideration based on the mentioned reports of the Supreme Audit Office, the HFHR, as well as the judgments of the ECtHR.

After making a dogmatic analysis of the normative material in the health protection of prisoners and showing the problems existing in this topic, it was considered necessary to conduct empirical research to verify the current conditions prevailing in penitentiary units with the current legal status and implementation of the penalty goals. Thus, in Chapter V of the dissertation, the subject and purpose of the research were elaborated, and research problems and hypotheses were formulated. The chosen method, technique and research tool was also characterized. For the purposes of this dissertation, two sheets of questionnaires were prepared, addressed to the penitentiary units, as well as to those detained in them. Then, the objects in which the empirical research was carried out: the current External Branch in Lubliniec of the Herby Detention Center and the Detention Center in Piotrków Trybunalski, were characterized. Next, the results of the surveys carried out with data analysis, verification of research problems and hypotheses, as well as *de lege ferenda* applications were presented in detail.

Incidentally, the analysis of the right to health protection of people deprived of liberty has been analyzed. This means that the subject of the research is the implementation of the right to health protection of prisoners sentenced to both imprisonment, imprisonment of 25 years and the penalty of life deprivation of liberty. It is important, however, that the implementation of this law must also apply to people, who are arrested temporarily, because of their equally special character as inmates and the responsibility of state institutions for respect for their human dignity and humanitarian treatment. At the same time, the term "social adaptation" of inmates used in the course of the considerations is also related to their reintegration, however, due to the correctness of the stylistic and legible language, a kind of mental shortcut was used for the recipient.

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