

DESCRIPTION FOR THE GENERAL PUBLIC (IN ENGLISH)

Poles spend even 100 mln PLN on counterfeited pharmaceuticals annually, including among others: antibiotics, hormones, anti-asthmatics, anti-allergy drugs, painkillers and slimming products or drugs for erectile dysfunction. Goods counterfeiting, especially medicinal products, could not be limited to the losses of the owners of the rights, it also constitutes an increasing threat to the economy, safety of the country and consumers. Especially threatening is fact that counterfeiting has become a subject of interest of organized crime groups. In Poland the significance and seriousness of the problem of goods and medicinal products counterfeiting, as well as legal penal instruments to prevent it, are not sufficiently recognized by the legislation or the practice. Goods counterfeiting remains beyond the control of the law enforcement, its prevention remains a façade, and the undertaken actions are conducted ad hoc, without a well-thought wider plan. Underestimating the significance of this problem constitutes also the cause and effect of lack of undertaking related scientific research, especially such that would focus on the criminological aspects of the phenomenon. In the meantime, without such research it is impossible to both recognize the actual character of the phenomenon of goods counterfeiting and the related threat, as well as evaluate how in fact the phenomenon is fought in our country, and take up effective actions aimed at its prevention.

The project shall constitute a continuation and expansion of the research conducted earlier by particular members of the team. Nonetheless, this project shall not be solely a simple extension of the research in terms of quantity. It also aims at exploring the two so-far not researched fields of goods counterfeiting, the first being the trade of the counterfeited goods in the cyberspace, in particular in the Polish domain of the internet used both by domestic and foreign entities for electronic trade of counterfeited goods, and the latter being the trade of medicinal products offered by illegal online pharmacies operating both in the open part of the internet as well as the hidden part of it – thanks to the TOR protocol – known as darknet. The phenomenon of counterfeiting of medicinal products and the trade of such goods also has a traditional dimension, related to the conventional reality, which in Poland has not yet been the subject of an empirically oriented interest of the representatives of penal sciences, and especially criminology, the science of penal law, and criminal policy.

The aim of the project is thorough examination of the phenomenon of counterfeiting of goods and medicinal products from the criminological perspective, capturing especially the latest trends (particular in cyberspace), comprehensive examination and evaluation of the penal regulations aimed at preventing medicinal product counterfeiting in the international law, the EU law, and the laws of selected states of Western Europe and comparison of them and the regulations in Polish law, examination of the practices of Polish law enforcement and the judiciary in terms of fighting counterfeiting of goods and medicinal products and determining of the relation between the adopted legal solutions and the practice of the law enforcement and judiciary, and the development of counterfeiting in our country. The obtained results of the research will constitute the basis for preparation of postulates for changes in the Polish law aimed at effective prevention of goods and medicinal products counterfeiting, as well as for preparation of a recommendation for changes in the practice of law enforcement and the judiciary in this regard.

The planned research will be quite innovative and pioneering in Polish circumstances. The literature lacks works on the topic of criminological aspects of goods and medicinal products counterfeiting, as well as empirical research of the practice of law enforcement and the judiciary in terms on cases tried under Article 305 of the act on Industrial Property Law and Article 124 of the act on Pharmaceutical Law. Especially valuable will be the results of the case records studies and the quantitative research (interviews with police officers, customs officers, and prosecutors working towards prevention of the phenomenon of manufacture and trade of counterfeited goods and medicinal products, as well as with the representatives of the Main Pharmaceutical Inspectorate and the General Inspector of Financial Information) that will be conducted on a wider scale, as they will allow us to carefully understand the practices of the authorities of social control and of the judiciary, as well as the character of the cases tried under Article 305 of the act on Industrial Property Law and Article 124 of the act on Pharmaceutical Law. Similarly innovative shall be the research in the legal area, their wide scope, i.e. reconstruction and evaluation of the criminal law solutions regarding prevention of medicinal products counterfeiting on the level of international, EU, British, French, German, and Italian law, and comparing them to the Polish regulations goes beyond the perspective adopted in Polish literature so far.