

DESCRIPTION FOR THE GENERAL PUBLIC

1. State the objective of the project

The aim of the project is to answer some of the questions related to contraventional liability: How should the criminal liability for committing trivial prohibited acts (contraventions) be formulated? In what cases does this liability make sense (is it justified in a democratic state)? In what manner the provisions stating the rules governing this liability should be formulated? How do the current provisions interact with the civilization and cultural conditions of the 21st century society? The general purpose of the research project is to develop a new model of the law of contraventions, considering various relevant contexts: constitutional (position of the law of contraventions within the criminal liability system), normative and dogmatic (content of current provisions), concerning criminalization standards and legislative (description of prohibited acts and penalties). Developing systematic and comprehensive solutions for contraventional liability will be possible through a discussing substantive, procedural and executive issues.

2. Describe the research to be carried out

First of all, we will analyze the basics, functions and characteristics of liability for committing trivial prohibited acts (contraventions), which is a variation of the liability based on assignment of guilt to a citizen, and imposition of sanction. We will pay attention to the way in which the law of contraventions functions within the constitutional and international perspective. We will determine what similarities and differences between various forms of criminal liability (for crimes, for contraventions), and also for liability assigned on a different basis (administrative sanctions). In the second place, we will examine particular institutions of the general part of the law of contraventions, such as the subjective elements of prohibited act, stages of perpetration and forms of joint-perpetration, concurrences of provisions, the structure of contravention, the catalog of penalties and penal measures. We will compare the characteristics of similar institutions found in the Code of Contraventions and in the Criminal Code, describing the differences between them. Next, we will begin a comparative study, developing the criteria for comparing contraventional liability and particular legal institutions functioning in different legal systems in a globalized world. In the next phase of research, we will analyze particular types of contraventions, such as a public indecency, theft of flowers from someone else's garden or consumption of alcohol in a public place. We will develop criteria for the selection of representative types of group of contraventions taking into account factors such as: the type of legal interest protected by the provision, frequency of the commissioning of the prohibited act, the differentiation of the elements constituting the prohibited act, the punishability of the stages and forms of perpetration, or the severity of penalties. Subsequently, empirical research will be carried out - we will examine 3600 cases from 4 District Courts for Krakow, moreover, courts in Wieliczka, Zawiercie, Bielsko Biała, Tarnów and Białogard; selected in regard to the frequency of occurrence of a given contravention, and thus providing differentiated research material. The collected information will be used to develop the basic principles of the new comprehensive model of the law of contraventions (including theoretical, constitutional, normative, linguistic, and legislative context). Synthesis of the collected material will finish the project.

3. Justification for choosing research topic

Beginning with the preliminary studies of the problems of the law of contraventions, we have collected the literature of the subject covering 1583 items in Polish language. This is all available literature on the Polish law of contraventions. Preliminary analysis of the material revealed a number of loopholes and doubts regarding the principal institutions of the general part of law of contraventions, affecting the criminal liability of individual, such as liability in cases of omission, or joint-perpetration; whether the perpetrator can be held liable for several contraventions in one proceedings; when does the attempt to commit a contraventions begins; what is the meaning of the social harmfulness of the contravention, etc. For nearly 50 years after the entry into force of the current Code of Contravention there has been no comprehensive verification of the liability model for this type of prohibited act. It can be said that, during all those years, the environment surrounding the law of contraventions have profoundly changed – civilizational, cultural, normative and scientific context, connected with the development of the criminal law doctrine, theory of law, theory of freedoms and civil rights in technological societies of 21st century –however, the approach to contraventional liability for has not changed. Despite the lack of formal changes in the provisions, the entry into force of the 1997 Constitution of Republic of Poland has had an impact on the meaning and content of the Code of Contraventions, but these changes have not been duly noted in scientific studies and case-law. For years in the study of contraventions has been repeated the same thesis, formulated in the 1980's in a completely different legal and social situation. What is equally important, the current model of contraventional liability been affected by the procedural model based on the functioning of Boards of Adjudication. This has influenced the way in which certain institutions of the law of contraventions has been understood, and up to this day it has never been verified. On the other hand, the interpretation of the law was determined by the practice of the Boards of Adjudication. The indicated problems require a completely new, comprehensive research approach combining various methods of legal analysis.