

The scientific objective of the project is to assess the admissibility of surgical and pharmacological castration as a means of criminal law response to sex offenders. The project will examine and compare models of castration in selected states in the USA and European countries. The research will include an analysis of international and European regulations, legal and constitutional conditions, as well as a comparison and evaluation of particular national and state regulations.

The research project is the first attempt in Poland to undertake a comprehensive study of the issue of surgical and pharmacological castration from a comparative legal perspective, taking into account issues of human rights, constitutional law and criminal law, as well as medical and ethical concerns. The proposed study involves an analysis of the legal and human rights standards relating to the prohibition of torture, other cruel, inhuman or degrading treatment or punishment. Their proper identification and interpretation will enable the determination whether surgical or pharmacological castration, from a human rights perspective, can be an element of criminal policy in the context of preventing and combating sexual crime. Then, the project will examine constitutional considerations in the United States of America, Denmark, Germany, the Czech Republic and Poland. Regardless of the existence of acts of international law, the constitutional framework relating to the issue of punishment and the application of penalties differs among countries. Their structure and content determines the admissibility of pharmacological and surgical castration in each country. Proper identification of constitutional standards and norms will enable the analysis and comparison of statutory regulations, which directly relate to the castration institution. The aim of the project in this area is to examine the nature of castration as a means of legal and criminal reaction. Depending on the adopted model, castration may be a formal condition of probation measures (parole/probation), a protective measure of a therapeutic nature or an alternative to imprisonment. In some jurisdictions, castration is performed by orchiectomy, in others, only drug therapy is permitted. The consent of the offender is also a differentiating element. In certain systems castration is allowed only with the consent of the offender, in others it is a mandatory measure, mostly for repeat offenders of sexual crimes. The research assumes analysis of particular models, and then verification and evaluation of specific solutions. The dogmatic study of international and national regulations will be supported by the analysis of literature, court decisions and publications on medical and psychological aspects of castration. Negative consequences for physical and mental health, as well as ethical doubts in terms of standards of medical ethics, have a fundamental impact on the assessment of the admissibility of castration as a means of combating sexual crime.

The conduct of the proposed research is justified by the state of the American, European and domestic literature. First of all, the issue of castration is definitely more often the subject of research conducted by doctors, psychologists or sexologists, much less by lawyers. Legal studies on castration are rare and usually limited to national regulations or selective comparative studies. The proposed study is therefore the first attempt to comprehensively examine the issue of admissibility of castration, both in light of the norms of national law (constitutional and statutory), as well as taking into account the comparative legal perspective and human rights issues, which will fill the gap existing in the science of criminal law.

Finally, it should be noted that sexual crime is a serious social problem and a challenge for criminal policy. In view of the crisis of imprisonment and its inefficiency, the science of criminal law has been looking for alternative solutions for years. Pharmacological or surgical castration was supposed to be an effective means of combating sex crimes. However, regardless of the effects and effectiveness of castration, it is first necessary to determine whether the structures of criminal law have a place for measures involving interference in the corporality and the sphere of drive of the perpetrator? Can crime control justify the use of surgical or pharmacological methods? Can political-criminal considerations be placed above human dignity and the convict's right to humane treatment? Are the postulates of using castration a manifestation of penal populism? The proposed research is a unique and original study in the Polish legal sciences, allowing to determine whether castration is an effective punishment, a therapeutic measure or a dehumanizing torture. Moreover, in view of the development of neurobiology and behavioral sciences, the proposed study will be an important contribution to the discussion on the further direction of criminal law development, including proposals for medical and therapeutic interventions against sex offenders.