

‘The policy of conditional early release in contemporary Poland: a decision-making perspective’

In Poland, the number of people in prison compared to the total population is among the highest in Europe. Even though fewer people have been getting prison sentences over the last decade or so, the overall number of inmates hasn't gone down nearly as much. One reason for this is that courts have been granting fewer conditional early releases. As time goes on, a smaller share of those applying for parole get it. Notably, the law governing conditional release has not changed significantly since 1997 – certainly not to an extent that would explain such a significant shift in the statistics. This suggests that factors other than formal legal provisions have contributed to the growing reluctance to grant early release. The aim of this research project is to examine the policy and practice of conditional early release in contemporary Poland, with particular focus on how experts involved in the process of granting conditional release make their decisions. The study seeks to identify what – beyond the law – affects the decisions of key actors responsible for granting conditional release and how these influences manifest in practice.

Researchers emphasise a significant lack of research on judicial decision-making in Central and Eastern Europe, particularly at the stage when a sentenced individual is already serving their sentence. Research on sentencing and punishment are more common, as depriving someone of their liberty seems more significant than the moment when they regain it. There is also a gap in research concerning the decisions made by other state officials involved in sentence enforcement. While these individuals do not issue rulings like judges, their day-to-day, even small actions influence judicial outcomes and, ultimately, the state's sentencing policy. For example, their negative opinion on prisoner can lead to early release denial. Existing research suggests that these decisions are shaped by a range of factors, including personal values and beliefs, emotional responses, character traits, age and professional experience, as well as broader influences such as the political climate, negative media portrayals of prisoners and former inmates, and public opinion.

Studies conducted both in Poland and internationally indicate that when judges have a lot of freedom in deciding concerning conditional release, numerous problems arise. The absence of clear decision-making guidelines may result in violations of the rights of convicted individuals – for instance, the right to a fair trial. On the other hand, if the rules are too strict, they can lead to decisions that don't take a prisoner's unique situation into account. In Poland, concerns have been raised for over two decades regarding the inconsistent approach of courts to conditional release and the varying interpretations of the relevant legal provisions, as reflected in case law. Judges often refer to factors that should not be considered in such proceedings, like the character of crime. Another ongoing problem is that the reports written by prison staff about inmates are often of poor quality — yet judges still use them to make important decisions. As a result, decisions on conditional release are frequently unreliable and may even be used to ‘correct’ an earlier sentence – for instance, by denying conditional release to someone who may otherwise qualify for it. Meanwhile, deciding to give someone their freedom back is just as important as the decision to take it away in the first place. That's why it's essential for the parole process to follow the law carefully.

The study employs a variety of research methods. The theoretical component will include a historical analysis, legal analysis, as well as a statistical analysis of Polish penal policy and the application of conditional early release. It will also review previous studies on the relationship between expert decision-making in criminal proceedings and state penal policy. An analysis of 320 court case files related to conditional release, finalized in 2024, will be conducted, along with in-depth interviews with 45 experts, including prison rehabilitation officers, prison directors and penitentiary judges. The court file review will examine the factors practitioners cite to justify their decisions on conditional release, identifying those that influence decisions positively or negatively. It will also explore what makes some people more likely to be granted early release. The interviews will focus on the experts' perspectives on the measure of conditional release – how it is currently defined in law, how they interpret the legal framework, the challenges they encounter during the decision-making process and the motivations that guide their decisions.