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Summary of the doctoral dissertation: “Psychiatric detention imposed as a preventive measure in the aspect of file research”

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The doctoral dissertation contains an analysis of legal regulations concerning enforcement of psychiatric detention understood as involuntary placement of an insane offender in a psychiatric hospital. Analysis of psychiatric detention consists of considerations about substantive law provisions, as well as procedural and executive law provisions. Such an approach to the problem provides comprehensive illustration of the situation of the insane offender, who is placed in a psychiatric hospital under the provisions of the criminal law.

The dissertation is divided into three main chapters. First one presents the history of preventive measures. Due to the fact that the development of the concept of preventive measures has been already widely discussed in the literature, historical issues have been reduced to a minimum, with a broad reference to existing literature. This chapter also presents goals of the application of preventive measures as a means of reacting to danger of offenders, and presents their characteristics distinguishing them from penalties and other means of penal coercion.

The second chapter is the dogmatic analysis of current legal provisions in the field of imposition and enforcement of psychiatric detention. This part is intended to be comprehensive (with exception to the topics related to the state of insanity, opinions and the role of psychiatrists and psychologists in the proceedings, who are heard as expert witnesses, and patients' rights in the psychiatric hospital – also in those cases the method of reference to the literature was used), because when the thesis was prepared, there was hardly any literature available concerning the provisions that came into force on July 1st 2015. The literature and the rulings of the appeal courts and the Supreme Court issued before July 1st 2015 were used in the analysis to the extent to which they may be considered as valid.

Second chapter is divided into three smaller sections: first discusses the conditions that must be fulfilled in order to apply the abovementioned preventive measure and the rules, which should be abided by the court while making a decision to impose psychiatric detention (the principle of necessity, proportionality and *ultima ratio*). The new regulations of Criminal Code required some detailed interpretation (e.g. understanding of the terms “offender” and “offense”

under new provisions concerning psychiatric detention), although their legislative content has been transferred from the repealed art. 93 and 94 of the Criminal Code. Some attention was also paid to the issue of application to the preventive measures the principle of *lex retro non agit severior* and institution of prescription. In the second section issues of a procedural nature were presented with particular emphasis on ensuring insane offender his procedural rights. Insane offender, who is mentally ill or mentally retarded, is in fact incapable of properly taking care of his or her own interests. For that reason a special attention was paid to the matters of right to defense. The third section discusses issues related to the enforcement of psychiatric detention, especially placing insane offender in an appropriate psychiatric hospital and releasing him or her from the hospital, as well as problems related to the dual status of the offender - both the perpetrator of an offense, and the patient.

Results of analysis of court cases in which detention was introduced in 2006-2011 are important part of the dissertation. Results were developed on the basis of the files of almost 200 cases conducted in 13 district courts in various Polish cities. Presentation of the results of file research has been preceded by a detailed presentation of methodology. The results are presented in the third chapter of the dissertation. This part of the dissertation was designed to be a contribution to further discussion about the legal regulations concerning preventive measures. It is hard to have a discussion about the law without knowledge of how it is applied in practice, and so far in Poland no results of extensive research on the abovementioned subject were presented. File research showed, among other things, that in practice lots of problems have occurred: detention has been introduced to offenders who committed crimes very petite in character, mainly in cases related to the crimes against liberty and family and care, courts often evaluates the entire criminal activity of the offender as a whole, despite the fact that it consists of several relatively insignificant crimes; the social harmfulness is related to the whole picture of offender's behavior which has no legal grounds; offenders did not participate in the court trial, although there were no clear contraindications; justification of detention were very limited and short, courts were justifying the probability of future commitment of a crime based mostly on expert witnesses opinions and sometimes only disguised the justification of the decision into literal re-writing the text of the statute; time from imposing detention to its enforcement was too long; too much time elapsed from a decision to dismiss the offender from the hospital to the actual discharge.

At the end of the second chapter of the dissertation *de lege ferenda* conclusions were presented. At the end of the third chapter there are conclusions of the file research regarding the functioning of institution of psychiatric detention in practice.