Summary of the doctoral dissertation:

„Premises of application of probation measures under the Penal code of 1997 in a comparative perspective”

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The dissertation constitutes a comprehensive analysis of premises of application of probation measures under the Penal code of 1997, carried out while taking into account the previous works of Polish legal scholars and jurisprudence, as well as regulations of foreign countries.

The work in question contains a thorough description of measures encompassed in Chapter VIII of the Penal code (conditional discontinuation of proceedings, conditional suspension of execution of punishment of deprivation of liberty and conditional early release), including their functions in a legal system and mutual relations from a theoretical and system perspective. The dissertation also comprises an analysis of regulations of similar probation measures which are applied in other countries.

The aim of conducting the research was to fulfill a gap existing in the Polish criminal law doctrine relating to the determination of criminal policy and individual prevention functions of institutions contained in Chapter VIII of the Penal code. In light of the above, the determination of two main research problems has been made. First, it was necessary to establish if the application of probation is generally justifiable in the modern criminal systems as there are many different isolating and non-isolating punishments, as well as sanctions with the elements of probation (such as limitation of liberty or electronic curfew, etc.). Second, in case of finding that probation still has an important role to play, what is the accurate way of establishing the premises of particular institutions so that they are applied properly.

The basis for the research was an assumption that the probation measures in Poland do not function in an effective manner and a legislative intervention and modification of the way the law is applied are necessary to change the current state.

The main aim of the research, of which the present doctoral dissertation is the final effect, was therefore to come up with particular legislative proposals and ideas concerning the application of the law. The materialization of said proposals should make the application of probation measures more efficient in the Polish reality, making it a rational alternative to imposing the punishment of deprivation of liberty or its continued execution. The aforementioned aim of the research has determined the structure of this dissertation which has been divided into five chapters.
The first chapter includes introductory comments relating to the functions and the models of probation in the modern criminal law systems. The main research problems, i.e. what should be the functions of probation and whether its functioning is still justifiable, were defined herein. The second chapter concerns the application of probation measures under the Penal code of 1997. It includes a detailed analysis of premises of conditional discontinuation of proceedings, conditional suspension of execution of punishment of deprivation of liberty and conditional early release. In case of each of these measures, a description of its functioning in the judicial practice since the entry into force of the Penal code, and in particular after the great reform of penal regulations in force from 1 July 2015, has been made.

The third chapter contains a description of application of probation measures in other countries (USA, England, Germany, France, the Netherlands, Denmark, Finland, Norway, Sweden and Brazil).

The legislative proposals as well as relating to the application of law have been set out in chapter four. They emerged after the analysis of issues concerning the functioning of probation measures in Poland as well as in foreign legal systems. The introduction of the proposed changes should lead to a more rational application of probation. It should take place when it is an adequate penal reaction due to criminological needs of a particular offender, which were determined based on the conducted criminological forecasting. The main proposals include constraining and harmonizing the catalogue of prognostic premises of probation measures, liberalization of premises of particular institutions and introduction of a mixed discretionary-obligatory model of conditional early release.

Chapter five comprises a brief summary and the main findings of the dissertation. In case of introduction of respective amendments, the probation measures have a potential to keep having an important function within the criminal justice system in Poland. Namely, they may advance the more effective fulfilment of aims as regards the individual prevention, consisting in preventing an offender from reoffending and allowing them the social reintegration. Their application should also lead to improvement of functioning of the system as well as a significant decrease of its purely financial as well as social costs.