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THE PHENOMENON OF PENAL POPULISM IN POLAND

Our lecture's purpose is to show the phenomenon of penal populism and negative consequences of law changes implemented under the influence of this trend. Our case study is Poland. Criminal law is an area of law particularly exposed to political manipulation aiming at gain electorate, instead of fulfilling duties it should serve. In society, law itself is identified neither with administrative nor with civil, but with criminal law. Moreover, this picture is being popularized by public media, because in the context of law the most is being said about crimes and repressive function of law connected with changes in Code of Petty Offences or criminal courts sentences.

For those reasons the majority of people consider protection and administering justice as the fundamental functions of law, because they ensure the sense of security, which is one of the basic human needs situated at the bottom of Maslow's hierarchy of needs. In common opinion discerning politicians are rigorous legislators. This socio-legal mechanism is often used, to this point, that it became a subject of description for criminal law specialists and law sociologists from all over the world and was called penal populism. The term was created by criminal law specialist J. Pratt.

As professor M. Filar noticed, this mechanism divides into four stages.

1. A spectacular case of crime violating a precious good, for example health or freedom of expression, is being seized upon by the media. Usually the issue exists for a long time as pedophilia or cruelty to animals.

2. It results in politicians' decisions to implement a change in criminal law allowing to intensify the protection of that good, often by increasing the maximum penalty or creating a new type of prohibited act within an existing one. Arising projects of amendments to criminal rules lead to redundant casuistry.

3. During the discussions on the draft media are publicizing different cases of similar crimes, while politicians are exaggerating the problem. The social message is as follows: those changes are necessary and justified.

4. Subsequently a project reaches the Marshall of the Parliament and during voting process is supported by the majority due to the high risk of losing electoral votes. It should be mentioned that this campaign is often accompanied by a politi-

cal and economic issue of a much higher significance, from which politicians want to divert public attention away, for instance to cover failures.

In recent years this phenomenon often has occurred in Poland. As examples we can point to fates of the amendments reinforcing provisions on the criminal liability of child sex offenders or the amendments to the bill on the protection of animal rights as well as to amendments reinforcing the protection of public officials outside of the service.

An Effect of legislator's acts of populism on the criminal law system is a threat to its consistency. It is reflected in a case from the 1990s, when the seizure of a motor vehicle with intention of short usage was punished more severely than if this car was stolen. Similarly, establishing rules difficult to apply in practice as introducing to polish system such circumstances of an extraordinary penalty enhancement for misdemeanor as its hooligan character. The existence of a dead letter causes a higher inflation of law and increased sanctions in fact remain unchanged.

It has also social impact. Proposals for amendments are accompanied by media and political message that polarizes the society. Division between exemplary citizens and bad criminals like corrupt officials may have a pejorative influence on resocialization of people previously convicted of those crimes and might contribute to deepening pathologies.

In conclusion, it is worth to note that penal populism is an example of a phenomenon revealing the influence politics has on criminal law. The former socialist countries are in particular exposed to it due to the historical usage of a penalty as a mean of combating „authority's disobedience". Of course other countries also have to face this issue.

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