

Abstract of the doctoral dissertation entitled "Aggregate penal measure in Polish criminal law" prepared under the supervision of Prof. dr. hab. Jerzy Lachowski

The subject of the dissertation is the issue of an aggregate penal measure. The complex character of this institution results mainly from the necessity of comparing the extensive list of penal measures provided for in Article 39 of the Criminal Code with the content of Article 90 of the Criminal Code. The primary aim of this dissertation is to assess the current solutions adopted by the legislator relating to the imposition of an aggregate penal measure both in sentencing and aggregate judgments. The above issues have not yet been discussed in legal literature. In order to verify whether the currently binding regulatory framework on the aggregation of penalties should be assessed positively, the following research questions were analysed:

- a. Which of the penal measures listed in Article 39 of the Criminal Code are subject to aggregation, and what is their common denominator?
- b. What does the "appropriate application of the provisions on aggregate penalty" referred to in Article 90 § 2 of the Criminal Code mean?
- c. Under what circumstances may an aggregated penalty measure be imposed - what are the procedures for imposing it, and what are the prerequisites?
- d. To what extent can a cumulative penalty measure be imposed, and what directives does the court take into account when imposing this penalty?
- e. Is the Polish regulation on an aggregate penal measure adequate in comparison to the norms binding in selected European legal systems; if not, what specific changes are required?

The dissertation primarily uses the dogmatic analysis method and draws on historical and comparative methods.

The dissertation consists of an introduction, five chapters and a conclusion. The first chapter deals with the evolution of legal regulations concerning an aggregate penal measure, including the issue of aggregating additional penalties on the grounds of the Penal Code of 1932, the regulations on the aggregation of additional penalties under the Penal Code of 1969 and the issue of aggregating penal measures under the Criminal Code of 1997. The second chapter is

the most important part of this thesis as it discusses the prerequisites for adjudicating an aggregate penal measure divided into positive and negative prerequisites. This chapter juxtaposes the regulations on an aggregate penalty with the regulations on the aggregation of penal measures. The analysis of these regulations enabled determining which of the penal measures may and may not be aggregated. The third chapter of this dissertation concerns the level of the aggregate penal measure, including the limits of the aggregate penal measure and the directives for the level of the aggregate penal measure. The aggregate penal measure, as a rule, may be imposed both in sentencing and aggregate judgments. Therefore, the fourth chapter of the thesis discusses both modes of imposing a penal measure. The fifth chapter briefly references regulations on aggregate penal measures in selected European legal systems, i.e. the Czech Republic, Germany, France, Denmark and Sweden. The analysis of the regulations in place in these countries aimed to determine whether the Polish regulation on an aggregate penalty measure is unique when compared to penal provisions in force in neighbouring countries, namely the Czech Republic and Germany, Scandinavian countries, Denmark and Sweden, as well as France, the country where the institution of the concurrence of crimes and an aggregate penalty was born.

The analysis of the current regulations enabled answering the research questions and generally positively assessing their formulation by the legislator. However, in conclusion, several *de lege ferenda* remarks were made in this respect.

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-Fereus

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