

Summary of the doctoral dissertation

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Dissertation thesis: "The new model of total penalty – selected substantive issues".

Promoter: Prof. zw. dr hab. Andrzej Zoll

The subject of the doctoral thesis is devoted to institution of total penalty, which is primarily described in the IX section of k.k. As the title of the work indicates, the main subject of research and scientific deliberations are selected substantive issues, which in the author's opinion are important and controversial.

One of the substantial reasons for choosing this topic were lack of compromise between members of the criminal law doctrine and judiciary towards many essential, often fundamental, issues connected with the objective institution. Lack of agreement towards the total penalty's legal nature, its purpose and function in the system, led to long-standing disputes. Opinion that total penalty was an institution which primary goal was to improve the convicted legal situation, which was deeply rooted in legal views that were expressed on grounds of Penal Code of 1932¹, led to many disagreements, mainly concerning interpretation of art. 89 k.k. Due to indicated discrepancies on fundamental issues, furthermore further amendments of the the k.k., especially from February 2015, the need for a deep analysis should be considered necessary.

The purpose of the dissertation is a dogmatic analysis of section's IX k.k. regulations as well as section's 60 k.p.k. and other reduction mechanism that function in the universal system of polish criminal law. In the III chapter of the doctoral thesis the author undertook an analysis of art. 89 k.k. regulation from the positions of theory of law. The decision to include these types of considerations were as follows. In literature it is repeatedly indicated that they bring clarity and possibility for verification. The establishment of the directive character of art. 89 § 1 k.k. led the author of the thesis to critically question the prevailing interpretation paradigm which was presented by polish Supreme Court of the grounds of k.k. from 01.09.1998 to 07.06.2010. In the dissertation there was also adopted latest achievements of theory of legal text interpretation. The author stands on a position that every word of the legal text has to be interpreted (according to the *omnia sunt interpretanda* rule) and it has to go through every rule of interpretation. Author rejects once presented in the literature jurisdiction principles *clara non sunt interpretanda* and *interpretatio cessat in claris*.

The dissertation consists of three chapters and many subsections. The work begins with a chapter devoted to the total penalty's legal nature, its purpose and function in the system and directives. First chapter begins with a historical introduction to the above issues,

¹ Decree of the President of Poland of July 11th 1932 – Penal Code (Dz.U. 1932, no. 60, sec. 571 with further amendments).

