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**THE RIGHT TO PRIVACY OF PRISONERS IN THE POLISH
PENITENTIARY SYSTEM IN THE CONTEXT OF
INTERNATIONAL STANDARDS FOR IMPLEMENTING
PENALTY**

SUMMARY

Doctoral dissertation prepared
in the Department of Executive Criminal Law
Under the direction [of] Prof. Dr. Aldona Nawój-Śleszyński
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The aim of the doctoral dissertation is to analyze the issue of privacy and the right to privacy of persons deprived of their liberty, including persons under temporary arrest.

The result of the dissertation undertaken is to verify and confirm the research theses that were set forth in the work. In particular, the work analyzes the "limits" beyond which, even in the case of persons deprived of liberty, one can claim a violation of the right to privacy. From the point of view of the subject matter undertaken, it is extremely important that with regard to people deprived of freedom, it is difficult to determine what in their case is still private, and what is no longer protected with regard to this good, due to the essence of the ailment that is deprivation of freedom, and therefore the taking away of one of the most important, if not the most important good for a person.

The issue of the right to privacy of people deprived of liberty is a very topical issue in the 21st century, in which more and more influence is exerted on the protection of the sphere of privacy, autonomy, intimacy, as well as not crossing certain boundaries. People living in the current era are particularly vulnerable to various types of violations in the sphere of their right to privacy, which also applies to people deprived of their liberty.

The heightened importance of protecting the right to privacy has also been influenced by the great data protection reform carried out in 2018 within the European Union. With regard to persons deprived of liberty, Directive 2016/680 relating to the protection of personal data on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection and prosecution of criminal offenses and the execution of sentences, on the free movement of such data, is of particular importance. Without adequate protection of personal data, it is difficult to consider that the protection of the right to privacy proceeds at an adequate level, hence one chapter of the work is devoted to the topic of personal data protection, especially also due to the significant interest of the author of the work in this issue.

At the beginning of the work, in order to inspire the reader with the subject matter covered, several non-fiction book positions were pointed out, which presented excerpts from interviews with people deprived of freedom, who indicated how prison isolation interferes with their right to privacy. This shows that the problem of violation of the privacy of people deprived of liberty is a matter not only realistically existing,

but, above all, unregulated, and the right to privacy is one of the fundamental rights of every human being, even those who have been deprived of their freedom.

In the pages of this work, moreover, its author has tried to wade through the processes of "maturation of the right to privacy" in the prison system, given that any first mention of the right to privacy of persons deprived of liberty began to become apparent only in the 20th century.

The dissertation consists of an introduction, seven chapters divided into smaller editorial units, as well as a summary of own research and final conclusions and *de lege lata* and *de lege ferenda* postulates, and takes into account the state of the law, literature and case law as of June 2023. The work runs to 464 pages.

The first chapter of the work presents the problems of defining the right to privacy, seen from different perspectives and on the basis of various views expressed - by representatives of science - depicting in what someone's privacy can manifest itself. In addition, an attempt was made to show the limits of privacy, beyond which it can be assumed that someone's autonomy has been unlawfully violated, which also applies to people deprived of freedom.

In the second chapter, the historical development of prisoners' rights was presented, in view of the future emergence of legal regulations relating to the protection of privacy. There were also references to the evolution of the prison system, from very primitive rooms used only to hold prisoners, to 21st century penitentiary units, where efforts are being made to eliminate the most pathological phenomena that the prison system has long been trying to deal with.

The third chapter of the work discusses national and international standards and legal acts that directly or indirectly address issues related to the privacy of persons serving a sentence of imprisonment.

The fourth chapter presents the issue of the right to privacy in relation to different groups of people deprived of their liberty, starting with those serving their sentence for the first time, to juveniles, recidivists or, finally, women, including mothers, who, under conditions of solitary confinement, combine serving their sentence with raising young children. Differences in greater or lesser space for disposing of the right to privacy may also result from the type and type of prison in which the imprisonment is carried out.

The fifth chapter outlines the various situations in which persons deprived of their liberty may find themselves and their impact on their ability to exercise their right

to privacy, for example, in connection with visiting relatives, issues of overcrowding in housing cells, or when making telephone calls.

The issues of particular relevance - from the point of view of the author of the work - in the sixth chapter revolve around issues related to the protection of the right to privacy, due to the great reform of personal data protection that swept the countries of the European Union in 2018 and triggered an exponential increase in complaints and claims related to irregularities in the processing of personal data. Among other things, legal acts regulating the protection of personal data were presented, and an attempt was made to explain how ensuring an adequate level of personal data protection can positively contribute to better protection of the right to privacy of persons deprived of their liberty. The right to privacy under data protection law appears to be a particularly promising issue due to the fact that the ever-increasing awareness of society, will create more and more situations in which due protection of data by the state will be expected.

The final, seventh chapter of the work was devoted to presenting the results of the research obtained by examining a portion of the prison population and staff who have a different perception of the privacy of persons deprived of their liberty than the inmates themselves in penitentiary units. The research problems concerned many areas of the lives of people deprived of their liberty, from the state of awareness of having the right to privacy, to the understanding of what privacy is, to what extent it can be respected under conditions of solitary confinement, to the examination of those spheres in which the problem with respecting the right to privacy was most often identified. The attitudes of penitentiary staff toward prisoners' privacy were also examined, which led to some rather surprising results. Indeed, while for the deprived prisoners themselves the issue of violation of their privacy was a problem concerning various areas of functioning, from the perspective of the prison staff it was possible to get the impression that the fact of deprivation of liberty was a natural consequence of imprisonment, with which the offender should have reckoned before deciding to commit a crime.

The questionnaires of the questionnaires were addressed to prisoners serving sentences of recidivism, although the topic of the dissertation refers to the entire population of people deprived of liberty. The choice of the author of the work in this regard was dictated, on the one hand, by the state of the epidemic, which overlapped with the realization of the research at the most difficult time, and it was necessary to focus the research to the maximum extent on the specific area of the respondents, and on the other hand, on the basis of the experience of previous research carried out by the

author of the work, it could be considered that recidivists are the group of people deprived of liberty who are most willing to take part in the research, give the most honest and comprehensive answers, as well as are willing to articulate their opinions on the investigated issue in the most daring way. In addition, the survey was attended by people who are prison staff, who expressed their opinions and views on the right to privacy of persons deprived of liberty in a very interesting way.

In addition, the study included issues related to the extensive amendment of the Executive Penal Code on August 5, 2022, i.e., the Law of August 5, 2022 on Amendments to the Law - Executive Penal Code and Certain Other Laws. Some of the changes that have occurred as a result of the amendment may, unfortunately, further restrict the right to privacy of persons deprived of their liberty, among other things, the correspondence of convicts serving a sentence of imprisonment in an open-type prison may now be subject to censorship by the prison administration, which did not function before the amendment.

Since the issue of the right to privacy is a very developing area, the author of the paper sees opportunities for continued research and hopes to improve the conditions under which prisoners serve their sentences. This may involve, in particular, taking appropriate responses to the violations of their privacy reported by persons deprived of their liberty as a result of the still incomplete sanitary corners in their cells, or introducing such a system of imprisonment as to permanently eliminate multi-person cells.

The work concludes with a final analysis of the topic in the context of the research theses undertaken.