

Doctoral thesis:

Author: Aleksandra Paluch-Gęgała

Title: The principle of necessity in the application of detention in a psychiatric hospital as a preventive measure

Abstract:

The work is devoted to the principle of necessity in the application of a preventive measure consisting of placing the offender in a psychiatric institution. This principle, also called the *ultima ratio* principle, has its prototype in the Polish Constitution and is associated with the subsidiary nature of criminal law. The work presents the topic in a broader historical context related to the genesis of preventive measures in Polish law; axiological, showing it as a way of weighing conflicting values: public safety and personal freedom; purposeful, indicating the therapeutic nature of psychiatric detention, as well as empirical, presenting the current state of research on the need to protect society against perpetrators of offenses who exhibit mental disorders. The last chapter contains the results of research of case files conducted in regional and district courts in Poland. It presents data on offenses committed by perpetrators in the conditions of insanity referred to in Article 31 § 1 of the Criminal Code, in respect of which a preventive measure in the form of psychiatric detention was issued, information on the acts committed by them, analyses regarding the duration of psychiatric detention, and the criteria by which the courts recognize detention as necessary.

Wrocław, 30.09.2019., Aleksandra Paluch-Gęgała