



**WYDZIAŁ PRAWA  
i ADMINISTRACJI**  
Uniwersytet Łódzki

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**The structure of insanity in criminal law with consideration  
of psychopathological aspects**

(Konstrukcja niepoczytalności w prawie karnym z uwzględnieniem  
aspektów psychopatologii)

**SUMMARY**

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## Summary

The Ph. D. dissertation is dedicated to the structure of insanity analysis, based on current criminal law legislation with consideration of psychopathological aspects. As the subject is strictly associated with the issues of criminal responsibility of perpetrators committing prohibited acts, who experience mental health problems, the work analyses the premises, which - based on applicable law - lead to exclusions of criminal responsibility, as well as these, which justify leniency.

Accomplishing considerations in the prescribed area, could not be possible without understanding issues of insanity and diminished capacity, depicted in criminal law doctrine. For this reason, the work is trying to find answers to questions:

- What should be understood by concepts of insanity and diminished capacity?
- What lies beneath legally defined concepts considered the sources of exclusion or limitation of sanity?
- Do the reasons indicated in the law, desired for the limitation or complete reduction of the perpetrator's ability to recognize the meaning of the act or to direct conduct at the time of taking it, comply with the medical terms used in the diagnostic classification systems?
- Is the mixed psychiatric-psychological model of insanity adopted in Polish criminal law appropriate and, above all, compatible with the characteristics of the causes that may trigger it?
- Should insanity be regarded as a circumstance excluding guilt or perhaps the one resulting in the absence of an act?
- What is the relationship between the abolition of the perpetrator's ability to recognize the meaning of the undertaken behaviour or directing it, and the issue of intentionality and inadvertence?
- Are the legal provisions governing the exclusion or limitation of sanity contained in the Penal Code the same as those included in the Code of Petty Offences and the Penal Fiscal Code?
- Considering knowledge of contemporary psychopathology, is it reasonable to assess sanity by gradation?

- Is it right to distinguish between diminished capacity and greatly diminished accountability?
- Where is the line between limited and significantly limited or disabled sanity?
- Is there an alternative solution that, in the light of the indications of modern knowledge in the field of psychiatry and psychology would be more appropriate and would make it possible to abandon the assessment of sanity based on its gradation?

To find answers to the above questions particular chapters of the dissertation were dedicated to investigating the depicted issues, which relate to the perpetrator's ability to recognize the meaning of the undertaken behaviour or the possibility of controlling it. Following the traditional scheme of the dissertation, the first chapter presents the history of the evolution of the legal regulations, which for the years were defining rules of incurring criminal liability for perpetrators whose behaviour was violating the rules of conduct. It discusses the importance of developing knowledge in the field of psychiatry, psychology and sexology including the issue of incurring criminal liability by mentally disturbed perpetrators of prohibited acts in the law. In addition, the first chapter of the dissertation analyses the provisions of the law specifying the principles of incurring criminal liability by people experiencing mental health problems, which were used in antiquity, the Middle Ages and modern periods in the lands of Europe.

The first chapter of the dissertation also discusses the rules determining the criminal liability of perpetrators of prohibited acts, who committed such in connection with experienced mental health problems, which were shaped by the provisions of the law in force in the 19th and early 20th centuries in Polish lands. In the first chapter of the dissertation, the construction of adopted insanity based on the provisions of the Criminal Code of 1932 and the Criminal Code of 1969 were also examined, and legal provisions that specified diminished capacity were analysed. It also included an analysis of the legal provisions defining limited sanity under the Criminal Code of 1932 and the Criminal Code of 1969, as well as consideration of the influence of old normative regulations on the shape of legal provisions that currently regulate the principles of incurring criminal liability by mentally disturbed perpetrators of prohibited acts. The analysis of the evolution of regulation, over the years defined the rules of criminal liability by perpetrators of prohibited acts experiencing mental health problems, carried out in the first chapter of the work, made it possible to notice the changes that took place under the

influence of developing knowledge in the field of psychiatry and clinical psychology as well as political transformations that were observed in their area.

The second chapter of the dissertation is devoted to research on the sources of insanity, which are distinguished, based on the applicable penal acts. In detail, it discusses the reasons that may result in the abolition or limitation of the sanity of the perpetrator of the prohibited act, such as mental illness, mental retardation, or other mental disturbance. A significant part of the second chapter of the dissertation is devoted to considerations concerning another disturbance of mental activities as an atypical source of limitation or exclusion of the sanity of the perpetrator of a prohibited act. This fragment of the work discusses the impact of personality disorders, as well as chemical and behavioural addictions on the sanity of the perpetrator of a prohibited act as another disturbance of mental activities. Research conducted in the area of insanity causes, allowed us to notice, *inter alia*, some discrepancy between the nomenclature used in the currently applicable penal acts and the one used in the diagnostic classification systems, i. e. the Diagnostic Criteria DSM – 5, The International Statistical Classification of Diseases and Related Health Problems, ICD 10 and ICD - 11, which led to conclusions regarding the need to update sources of insanity and diminished sanity.

The third chapter of the dissertation analyses the institution of insanity in the light of the provisions of substantive criminal law. It discusses the grounds for excluding the criminal liability of insane perpetrators of prohibited acts under provisions of the Criminal Code, the Code of Petty Offenses, and the Penal and Fiscal Code. In addition, it examines the relationship between the exclusion of a person's ability to recognize the meaning of the undertaking behaviour or conducting it, and features of the subjective party and the element of culpability, as well as considering whether insanity should not be recognized as circumstance less leading to the exclusion of culpability, but as the one causing no deed. The considerations are undertaken based on the third chapter, bringing to the mind that insanity should not be regarded as a circumstance causing the lack of an act, allowing for the development and the proposition of a previously unknown solution.

The fourth chapter of the dissertation is dedicated to discussing the institution of diminished capacity in the context of the provisions of substantive criminal law, i. e. the Penal Code, the Code of Petty Offenses and the Fiscal Penal Code. It analyses the principles of incurring criminal liability by perpetrators of crimes and offences, including those of a fiscal nature, with diminished capacity at the time of their perpetration.

Referring to the knowledge present in psychopathology, the fourth chapter of the work consists of considerations on the correctness of assessing sanity based on its gradation, which has led to the development of a new solution, according to which the sanity assessment, based on gradation, should be abandoned and such ailments of psychological nature should be distinguished, which if they appear - due to their impact on the intellectual and volitional sphere of a person, it would justify the application of a milder sentence to the perpetrator of illegal behaviour.

The dissertation completed with a summary presents the most important conclusions and answers to the questions constituting the main subject of the considerations of the scientific work.

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