

## Introduction

Since the restoration of the penalty of life imprisonment of 19 November 1995 to 31 December 2011 in Poland, 304 offenders have been legally sentenced, almost always the perpetrators of aggravated killings.

The penalty of lifelong deprivation of liberty was introduced by the amendment to the Penal Code of 20 July 1995 and for the first time it was pronounced on 23 February 1993, more than 24 years ago. It was imposed on a man who had been sentenced to 25 years' imprisonment for murder and had committed two murders during a robbery during temporary leave from prison.

The catalogue of the killers we examined, their crimes, and the crimes preceding them committed during or after them, the people “associating” around the death and the catalogue of victims killed in various ways, for various motivations, leaving hundreds of relatives and thousands of days not spent with them, smaller and larger achievements, and finally the catalogue of almost invisible prison officers responsible for punishment, which is endless – is rich and has provided us with not just criminological knowledge, but also knowledge about human nature, its pride and, at the same time weakness, about taking life and giving hope for a life better than ever, though “behind bars”, of relationships, both those lost and those creating new identities and values; knowledge of the work of the prison service, whether behind the scenes, without the results of that work – because that depends on the will of the offender and other hostile or friendly people, but the diligent work according to the purpose of every prison sentence no matter how long it lasts – to isolate and exclude.

Since 2012, under the leadership of Prof. *Andrzej Rzepliński*, our research team has been looking at the murderers sentenced to this extreme punishment, from the first to the last ruling until 31 December 2011. When this investigation was started, there were 301 perpetrators, and as of the date of publication, there are 299. One was acquitted after serving 12 years of life imprisonment. In the case of another, the Supreme Court quashed the ruling of life imprisonment because the defender provided evidence that the sentenced person could not have committed the murder for which he was convicted and that the offender was another man, whose trial was held in May 2016 before the District Court in Suwałki.

Thus, in our research group, there were 299 sentenced by law. In June 2017 there were 407, and about 25 killers are sentenced every year to life imprisonment. Their number is stabilising. The average period of stay for someone sentenced to this punishment will be about 40 years – that is, until the day of his death or achieving conditional release from incarceration. In all – unless the legislature changes Art. 148 of the Penal Code and the Executive Penal Code regulations, which may have an impact on the length of the sentence served – this average time spent in prison for life will be between 30 and 35 years, taking

into account the policy of penal courts. A longer term of isolation will affect those for which the court has raised the threshold for early dismissal pursuant to Art. 77 § 2 of the Penal Code. In our sample, this applies to every third offender.

At the time (as of 30 June 2017), the penalty was being served by 297 convicts, including 12 women<sup>1</sup>. In total, these 299 perpetrators killed 507 people. Most of them are people with a criminal history. In the criminal records, there are no stays in a juvenile offenders' unit recorded. Such data could be obtained from psychological reviews. Unfortunately, new criminal records – after the removal of penalty – do not contain this information.

A relatively large number of cases are those in which the court imposed life imprisonment in connection with Art. 258 of the Penal Code, which were committed in organised criminal groups, which – despite the intense killing and sowing of terror – the court called a band. 21 convicts killed on commission, for money. 86 committed homicide as if they were serial killers, and 71 were multiple killers – in one place and time they killed at least two people (most often the homicides were gang-related or family-related). 12 of those sentenced to life imprisonment are brothers. As with complicity, we have different arrangements for agreement and participation in the crime. We surveyed 7 foreigners – all from the former USSR – sentenced to life imprisonment and 5 Polish killers sentenced to that punishment by foreign courts for a murder committed in another country (England, Belgium, Germany).

In our research sample, there were at least 7 perpetrators sentenced to life imprisonment in two separate cases – and there is no verdict on the total sentence – therefore the prison system shows that the end of their punishment is 31 December 3000.

The variety of data and nuances concerning the research group and of all those “serving” them could be studied for another quarter of a century.

By organising the data and referring to the research methodology, our research team has attempted to answer the question of whether and what **the nature of killers** is – life prisoners – and what creates it? Who were they prior to the killings, usually aggravated (committed with premeditation, particular cruelty, or in combination with armed robbery, rape, armed kidnapping or explosives), were dependent on them or not necessarily because of poor social conditions, pathology in the family home, emotional or self-control disorders, or the harm the world or family or society dealt them when they were children?

Another aspect of the research was **the language and content of judicial statements** of convictions for the most severe punishment in Poland. We have looked at the legal issues involved in adjudicating the highest punishments, the role of court experts and the

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<sup>1</sup> One subject died naturally due to age and illness, and one as a result of the provisions of the Regional Court (*Sąd Okręgowy*) – for a kidney donation to his mother – earned a break in the penalty and did not attend at its end date of 2014. We think this is a wonderful example of an 11-year game with the court (in this period he attempted a break in the penalty), when he convinced the prosecutor to support his request for a break. Analysis of the documents indicates that the mother could not be subjected to the treatment described by the convict because she was ill with cancer, and kidneys are not transplanted in such cases. The doctors forgot to inform the DC in Elbląg, that kidney transplant was not an option. This offender was subject to life imprisonment for the murder of 2 people, including a pregnant woman whom he knew was pregnant. These were gangster fights in Warsaw.

function of the penalty of lifelong deprivation of liberty from the perspective of the judges and, therefore, the justification of that penalty.

The following research questions were asked:

1. What, from the judge's point of view, is of interest in the case of aggravated killings? Is it the trial itself, the parties involved, the media interest, the crime, the guilt, the punishment? What is the specific nature of these cases, in particular, to what extent is this trial specific in terms of the judge's preparation?
2. What do the judges look for in these cases when deciding about crime, guilt and punishment? How do they see cases where the trial is based on circumstantial evidence (e.g. evidence could not be secured at the scene of the incident)?
3. What is the impact of the trial parties on the judges? (Our findings show that very rarely do prosecutors appeal and demand an increase in the conditional release threshold, while lawyers in more than half of the cases demand acquittal.)
4. How do judges assess the role of experts – both forensic physicians and psychiatrists and psychologists? Are experts important to the judges and why?
5. When does the judge come to the idea of "life imprisonment" and do the judges see a gulf between the penalty of 25 years of imprisonment and life imprisonment?
6. Do the judges think about the fact that they have sentenced someone to spending their whole life in prison? In what terms do the judges describe the sentence of life imprisonment and what are the justifications for it?
7. Do the judges treat the justification of life imprisonment as a signal sent to the administration executing the sentence regarding the particular treatment of the convicted person? For example, does the fact that those sentenced to life imprisonment with the passage of time also gain a "right" to advance in a subgroup, passes, and conditional release, influence their understanding of life imprisonment when it is decided?

In the end, our research curiosity was aimed at the particular, interesting **process of serving out the punishment**. What do those sentenced to life imprisonment take into prison? What brings them, their families, prisoners and society the prospect of the length of the sentence and the process of its execution? Around this same topic, we posed the following research questions: Is the process of execution of this indefinite punishment characterised by something special? What is its course? What are the "critical" moments that affect this course? On what factors does it depend and who influences them? What are the differences between the execution of this penalty and the remaining prisoners, including long-term ones?

In conclusion, the overall purpose of our research was:

- a criminological analysis of aggravated killings and their perpetrators,
- analysis of the judgeship of life imprisonment, and
- analysis of the execution of this penalty at various time phases from the perspective of those involved (prisoner, prison staff, families of perpetrators and victims, representatives of the judicial system and society).

The specific objectives were:

1. An analysis and criminological synthesis of aggravated killings and their perpetrators. The Penal Code of 1997 distinguishes 8 types of aggravated

killing. Previous studies have shown that homicides are committed in different circumstances, from different impulses and motives, by one or more groups of perpetrators, using different tools or weapons, by perpetrators who differ in personality disorders and social equipage. The analysis of all these elements provided not only a detailed description of the killings committed over several decades, but also the ability to look at the relationships between them, the changes and the characteristics of the killings committed in the changing social, economic and political conditions. The synthesis of the research material enabled the categorization and description of the perpetrators' profiles and the identification of the correctness between the mentioned factors.

2. Examining trends or changes in the ruling of life imprisonment over almost 20 years of its validity and verifying the validity of arguments "for" the imposition by the courts of sentences of life imprisonment.
3. Providing empirical evidence that perpetrators/prisoners are an internally differentiated group, both as to the offences and aggravating circumstances that determined the severity of their punishment, and their conduct in the course of the punishment and its effects upon them.
4. Describing and synthesising the contents and the course of life imprisonment. In pursuing this goal we sought answers to the following questions: What does the course of serving/execution of life imprisonment look like? What elements contribute to the content of life imprisonment during its execution? Who has an influence on this?
5. To investigate whether Polish prisons and their staff are prepared to deal in a nuanced fashion with the extreme group of life prisoners, to prevent the negative side effects of long-term isolation, to manage their time and risk properly and whether in the policy and manner of its execution, the prison service is attempting to reduce the social costs of life imprisonment.

By assuming the research hypotheses, we assumed that:

1. Firstly, the perpetrators of the aggravated killings sentenced to life imprisonment had as a rule been punished and had killed at least two people. In addition, they are older than average prisoners, worse educated, and as a rule come from broken families, operate outside the labour market, and have a disturbed personality.
2. Secondly, in the approach and handling of life imprisonment in their punishment, the standard approach is the same as for the other prisoners, although they are expected to spend the rest of their lives there, which is approximately 40 years. This routine is due to opportunism and the lack of professional preparation of officers, even if individualisation were required by the humane and rational execution of this punishment.
3. Thirdly, the Polish state does not have a predetermined practice of applying a general plan in dealing with this special category of prisoners, their families, and the families of their victims. Rational execution of life imprisonment depends on a given case, knowledge, the sacrifice and preferences of a specific officer, sometimes another person having access to a prisoner. When the punishment is to last to the end or nearly the end of the life of the sentenced killer, no one

is responsible for the effects of penitentiary isolation for at least for a quarter of a century.

4. Fourthly, the life prisoners themselves see the need to diversify dealings with them. They want to be treated differently than the rest of the prison population, because they cannot ignore the unmarked end of their sentence – the high probability that they will spend the rest of their lives in jail. To ensure a minimum of autonomy, they are more receptive to communicating with prison staff. Life prisoners, unlike the rest – because of this “lifeness” – more often plan their lives in prison and make efforts to make their plan real. The internal diversity of this group of prisoners, due to the time they have already lived in isolation, in some cases longer than 15 years, and in some cases just beginning, will enable this hypothesis to be verified.

Our research material, which allowed us to realise our goals and verify the hypotheses (verdicts with justification, appeals and cassation of defenders, the opinions of court experts, often all case files with photographic documentation) and prison files (several hundred volumes), interviews with judges, prisoners, forensic experts gathered during our thematic seminars, hundreds of international or national court rulings on life imprisonment and prisoners, several hundred media releases in the press and other public media, qualitative interviews with 26 life prisoners, 142 correspondence surveys with these prisoners, materials from the Office of the Ombudsman, to which 165 respondents turned (more than half of the respondents, and many of them repeatedly) and their correspondence with NGOs and universities (Helsinki Foundation for Human Rights, Association for Legal Intervention, The Art. 42 of the Executive Penal Code Clinic acting at the Department of Criminology and Criminal Policy of the University of Warsaw).

From the angle of the group surveyed we have analysed Polish and international law, the rules and criteria for imposing this extreme penalty, formulated or applied by the courts of other countries and constitutional and international courts<sup>2</sup>.

As a methodology we used the quantitative and qualitative analysis of the research material (judgments, opinions, prison records, official documents), analysis of content (justifications for judgments and media information, mainly press), free interviews with a representative group of prisoners and prisoners, judges, advocates and group interviews, correspondence surveys, and analysis of source texts.

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This is the first volume of monographs on aggravated killers, life prisoners, their loved ones, immersed in crime or punishment, prisoners who confront the everyday effects of this profound punishment and about the victims of crime. There is the least information

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<sup>2</sup> In examining this aspect of the execution of life imprisonment, we verified whether this execution in Polish prisons is consistent with the standards of the Council of Europe (Council of Europe Recommendation (23) on the exercise of the prison administration of life imprisonment and other long-term custodial sentences, 9 October 2003; the European Prison rules of 11 January 2006; Council of Europe Recommendation No. (82) 16 on the award of passes of 24 September 1982; the Council of Europe Recommendation (22) on the conditional release of 24 September 2003; and the judgments of the Constitutional Court and European Court of Human Rights.

about these in this volume. We focused on the criminological aspects of aggravated killing and its perpetrators, consequently sentenced to life imprisonment.

This does not mean that we did not see people being torn from their lives at the best of times – the fate of the victims of the murders we surveyed or the indirect victims of the injustices, i.e. their loved ones. We did not have enough time to look at their profiles and fates in this first period of the survey. Their harms and the life before them will be handled in the next stage of research and the next volume of our publication.