**INSANE PERPETRATORS AND PUBLIC SAFETY IN POLAND**

# (…)

# The idea of insanity and public safety

Sanity and insanity (key terms in the Polish Penal Code) are of crucial importance for the issue of criminal responsibility, whereas the manner of treating insane perpetrators affects the social perception of the sense of justice and broadly understood public safety.

Generally speaking, an insane perpetrator does not commit a crime, whereas establishing his/her degree of sanity at the moment of committing the prohibited act is of substantive significance in view of criminal sanction itself, the possible conviction or decision on applying preventive measure, that is also – overall – for maintaining and promoting public safety.

Polish law treats the state of sanity as a rule, thus defining normal health states seems impracticable as a huge majority of adults is sane and bears criminal responsibility. Defining physiological states, particularly those relating to human mental sphere, is difficult as they cover a wide range of types and variants as well as many concepts and terms which are not fully definable[[1]](#footnote-1).

E. Krzymuski attempted to define the issue of sanity. In his opinion, sanity is a human ability, entirely independent from the fact of committing a crime, defined by two powers:

1. The power to be duly aware of the link between one’s actions and a legal norm sanctioning the prohibited act,
2. The so-called autonomy of will, i.e. the power to independently control one’s actions with the use of such motives that the law is to trigger in persons being under its rule.

In this sense, the term “power” could be the equivalent of “ability", whereas the idea of the autonomy of will could correspond to the process of norm internalisation[[2]](#footnote-2).

Of another opinion on the issue of sanity is C. Znamierowski who believes that a sane person is one that understands what is morally good or bad, what is ordered and prohibited by the applicable norms. He/she can plan a malicious act and wilfully implement it having prospective awareness of its criminality as well as can control his/her impulses by own will. Any person mentally sound is, therefore, sane[[3]](#footnote-3).

From a medical point of view, it is easier to define sanity by way of negation, assuming that sanity is present wherever it is not abolished or significantly limited. This definition, although it is not entirely accurate, meets, however, the requirement of legal provision[[4]](#footnote-4).

Discussion on the issue of insanity should not be pursued without reference to the provisions of Polish Penal Code, as the definition of insanity, while serving the criminal law, must relate, to a smaller or higher degree, to the penal legislature.

1. Z. Falicki, L. Wandzel, Psychiatria sądowa dla studentów wydziału prawa [Court psychiatry for law students], Białystok 1990, p. 205-206. [↑](#footnote-ref-1)
2. Z. Marten, Wstęp do psychologii sądowej [Introduction to court psychiatry], Katowice 1990, p. 92-93. [↑](#footnote-ref-2)
3. C. Znamierowski, Wina i odpowiedzialność [Fault and responsibility], Warsaw 1957, p. 108. [↑](#footnote-ref-3)
4. Z. Falicki, L. Wandzel, op. cit., p. 207. [↑](#footnote-ref-4)