

Summary

ML Krzysztof Wala's doctoral dissertation entitled "The petty offence of indecent act in the context of the other petty offences against public decency" is devoted to a socially important issue which so far has not been much discussed in legal literature. Although the concept of an "indecent act" has been analysed by the doctrine, yet the remarks were concentrated mainly on the concept of an indecent act described in Art. 51 of the Code on Petty Offences. Furthermore, it should be emphasised that the dissertation, besides the extensive dogmatic and empirical analysis of the petty offence of indecent act, refers also to the theoretical aspects of the other offences from Chapter XVI of the Code on Petty Offences.

The aim of the work is to answer three main questions. The first one refers to the definition of public decency as the generic protected value of the petty offences from Chapter XVI of the Code on Petty Offences. The second problem is connected with the shape of the protection of public decency in the context of the binding regulations. The third problem focuses on the question whether such a protection is needed, and if so, if it is sufficient.

The work opens with a preface in which the Author explains the aims and assumptions and points to the research methods used during the composition of the work. Each chapter comprises its own preface whose aim is to introduce the issues discussed in it, as well as a separate summary in which the Author tries to formulate synthetically the conclusions drawn and present the possible *de lege ferenda* postulates.

The first Chapter is devoted to historical issues. The Author discusses in it the period from old Polish law until the coming into force of the binding Code on Petty Offences. Former provisions which were similar to the present Art. 140 of the Code on Petty Offences have been presented as well as different cases adjudicated by the courts in the past, which makes it possible to capture the evolution of public decency over the centuries. In this chapter the Author also presents the process of shaping the binding provision penalising an indecent act.

Chapter II comprises comparative law issues. The Author presents provisions functioning in other countries which are similar to Art. 140 of the Code on Petty Offences. Not only the solutions of the European continental system, but also those adopted in the common law system and in non-European legal systems, have been discussed. This Chapter made it possible to compare the shape of the protection of public decency expressed by the provisions of individual countries and led to the conclusion about some diversity in this sphere.

Chapter III is devoted to the discussion of the issues connected with the petty offence of indecent act from Art. 140 of the Code on Petty Offences and it constitutes the core of the dissertation. The chapter has been divided into two parts – a theoretical and an empirical one. In the first part the author analyses the statutory features of the petty offence of indecent act. He presents the definition of public decency and then discusses the concept of an indecent act (including a punishable and immoral act) as well as the feature of “acting in public”. Then the Author pays attention to the issues concerning the actor of the petty offence from Art. 140 of the Code on Petty Offences, its mens rea, the imposition of punishment and the concurrence of provisions. At the end of this part the Author analyses different examples of acts which can at present be treated as an indecent act. In the second part (the empirical one) the Author presents the results of the file analysis which he conducted, which makes it possible to present the practical importance of the discussed problems. The obtained data covers, among others, problems connected with types of behaviour most often qualified on the basis of Art. 140 of the Code on Petty Offences, the height and type of imposed punishments and issues referring to the profile of an average perpetrator of an indecent act. Furthermore, the Author in this part has also described selected cases of indecent acts which led to a valid punishment of the perpetrator.

Chapter IV is devoted to the dogmatic analysis of Art. 141 of the Code on Petty Offences – the placing of indecent forms of expression in a public place or using indecent words in such a place. The Author discusses the issues connected with the protected value, the actus reus, the actor and the mens rea of that forbidden act. He also discusses the statutory range of punishments and the problems of provision

concurrency. Analysing the petty offence from Art. 141 of the Code on Petty Offences, the Author has emphasised a number of problems it may cause in practice. Within this context he has analysed, among others, problems such as using indecent words in a foreign language or in a sign language, as well as the relationship between Art. 141 and 63a of the Code on Petty Offences which criminalises, among others, the placing of announcements in a place not destined for such a purpose.

In Chapter V the Author conducts the dogmatic analysis of the petty offence from Art. 142 of the Code on Petty Offences – the offering to another person to perform an immoral act in order to obtain material gain (the so called *racolage*). Besides the analysis of the statutory features of this forbidden act the Author also discusses, among others, the international law problems connected with this petty offence. An important part of the remarks refers to the relationship between the terms “immoral act” and the terms “intercourse” and “another sexual activity”, as well as to the definition of “material gain”.

The dissertation closes with concluding remarks in which the Author has tried to synthetically present all the conclusions stemming from the analysis of individual chapters.

Individual chapters are based on the analysis of the opinions of doctrine representatives, as well as on the opinions expressed in the judicature. Furthermore, the Author has made the attempt, while discussing individual issues, to present his own opinion and to justify it.