

Zakład Prawa Karnego i Kryminologii

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*Drug abuse in Poland and its control**

Nadużywanie narkotyków w Polsce i jego zwalczanie

Taking into account the data gathered by the police and medical services in Poland after World War II, it is possible to distinguish and analyze four periods in the spread of drug addiction.¹

Evaluating the size of this phenomenon it is assumed that the source of medical information is reliable, since the degree of drug dependency is estimated by medical doctors. The most accurate data are those which give the number of patients treated in psychiatric hospitals and diagnosed as “drug addicts”. This, in turn, makes it possible to eliminate the recounting of the same individual, if he or she was included in records

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¹ More on that E. Bieńkowska, J. Skupiński: *Law as Instrument of Drug Abuse Control* (The Paper presented at the Xth International Congress of Criminology in Hamburg in 1988) Ann. Univ. Mariae Curie-Skłodowska, Lublin 1983, vol. XXXVI, pp. 49–53; A. Bielewicz: *Narkomania jako zjawisko społeczne – historia problemu w Polsce (Drug addiction as a social phenomenon – the history of the problem in Poland)*, „Archiwum Kryminologii” 1988, vol. XV, s. 268–282; M. Filar: *Problem der Drogenkriminalität, [w:] Neue Erscheinungsformen der Kriminalität und ihre Auswirkung auf das Straf- und Strafprozessrecht* (Hrsg. H. J. Hirsch, P. Hofmański, E. W. Pływaczewski, C. Roxin), Białystok/Rajgrad 1995, s. 318–323.

of many different institutions within one year. The police records are considered to be a less reliable source of information because they include data referring to drug abusers suspected of crime; besides, they also include the number of committed crimes directly connected with drugs. It should be taken into consideration that the final verdict, whether a concrete suspect is a drug abuser or not, is given, in many cases, not by fully qualified policemen. Therefore, it can be assumed that a group of drug abusers comprises people who only occasionally take drugs or who are threatened by drug addiction.²

The first of the above mentioned periods defined as "medical", lasted till the end of the 1960s. The term itself is rooted in the very fact that a great majority of drug abusers of the period came from the so-called medical circle (i.e. doctors, pharmacists, nurses) or they sporadically came from patients who remaining under the treatment of somatic diseases gradually got addicted. Hence, that period was perceived as low degree drug addiction and was not treated as a social problem because the number of patients treated in psychiatric hospitals was about 160 per year. Moreover, the number of crimes committed by drug abusers was even lower and thus again, drug addiction was perceived as a medical problem only.³

The second period which began at the end of the 1960s and the beginning of the 1970s is known as "youth period" because drug addiction changed its features at that time and became an element of youth subculture. Drug addiction stopped to be a matter of individual behaviour and became a token of manifestation and identification with a certain subculture. This was connected with the spread of a variety of movements and ideologies, especially the hippie movement, among the Polish youth. That period is characteristic of a rapid increase of drug addiction mainly among the youth.⁴ The increase was proved by a tripled number of drug addicted patients in psychiatric hospitals where there were 222 patients in 1969 and 676 patients in 1974. Besides, the number of crimes committed by drug abusers increased four times: from 34 in 1969 to 146 in 1974. The given data illustrate not only the increase of drug addiction, but they also point to a greater efficiency of the police. Among the

² A. Bielewicz: *op. cit.*, s. 253.

³ K. Frieske, R. Sobiech: *Narkomania. Interpretacja problemu społecznego (Drug Addiction. Interpretation of the Social Problem)*, Warszawa 1987, s. 149–160.

⁴ C. Cekiera: *Toksykomania (Toxicomania)*, Warszawa 1985, s. 78–80; K. Frieske, R. Sobiech: *op. cit.*, s. 165–183.

addictive substances the more and more important role was played by medicines coming from drugstores, laboratories, or chemical plants where they were produced, and thus the access to them was relatively easy.

The wide spread phenomenon of drug addiction made the Polish government work on a way to limit the access to drugs by the use of specially marked prescriptions, a better locking system for drugstores preventing them from burglary, and a better control system over psychotropic and mood-altering drugs. These precautions made young people use the so-called “substitutes”, (that is: harmful chemical substances) for example glue, or medicines sold over the counter which although generally considered as non- stupefying drugs, after preparation or mixing with alcohol could cause or produce intoxication often resulting in sickness and even death.⁵ The aforementioned precautions resulted in a certain control over drug addiction in the period of 1976–1978, and the evidence of this could be found in statistical data showing that the number of patients treated in psychiatric hospitals, at that time, ranged from 680 to 790 per year. The number of crimes was even lower dropping from 1,736 in 1976 to 1,313 in 1978.

At the turn of the 1970s and 1980s third period in drug addiction appears; it is called “poppy period”. The term is associated with the “discovery” of a certain feature of easily available poppy straw and poppy lactescence which, in primitive conditions, makes possible the manufacture of an intoxicating substance containing morphine and heroin. The substance known as “Polish heroin” causes very quick dependency. Of certain relevance, was the fact that poppy cultivation was common at that time and was not legally restricted. Therefore, the access to poppy and using it as a raw material for the manufacturing of stupefying substances did not create serious problems.⁶ The appearance of a new substance led to a remarkable increase of drug addiction as in the years 1979–1984 the number of hospitalized drug abusers in psychiatric hospitals increased from 1,095 to 3,203 (i.e. 192.5%), and the number of crimes directly connected with drug addictions increased from 1,313 to 1,890 (i.e. 44%). Moreover, the number of people found in police records as drug abusers increased from 7,995 to 15,249, that is 90.7%.

In the light of the above evidence, it becomes noticeable that, from the mid seventies on, drug addiction in Poland has asquired its own

⁵ E. Bieńkowska, J. Skupiński: *op. cit.*, pp. 80–88.

⁶ M. Filar: *op. cit.*, 355–356.

characteristic features. They consist in taking “substitutes” at first, and later on stupefying substances manufactured from poppy and its derivatives which are of very high toxicity. As the latter substances were home-made and manufactured, first of all, by drug abusers themselves for their own needs and for the needs of their friends it appeared that a Polish drug abuser was at the same time a manufacturer, user, and dealer of stupefying substances. The other distinguishing feature of Polish drug abusers was “polytoxicomania”, that is getting intoxicated with any combined toxic substances they could find.⁷

The aforementioned increase required new and complex legal regulations which could prevent the spread of drug addiction. So far, the act in power was that of January 8, 1951 referring to pharmaceutical items, stupefying substances, and sanitary articles. The Act penalized illicit trading of stupefying substances (Art. 29), and unauthorized use of a stupefying substance in the presence of another person (Art. 30). Besides, the Penal Code of 1969 subjected one to a penalty who “not being authorized supplies another person with a stupefying substance or makes him use it” (Art. 161).

In the conclusion of the Drug Abuse Prevention Act, passed on January 31, 1985, it was stressed that taking into consideration world tendencies and experiences the Act would follow, first of all, the preventive and therapeutic model to combat with that negative phenomenon, while repressive procedures, which were necessary but insufficient means of crime prevention, would be of secondary importance. The Act also included a provision saying that a drug abuser had a free will to decide upon his medical treatment. This, according to the conclusion, reflected experiences of other countries, ethical norms, as well as the need to eliminate “underground” drug addiction. This rule, however, did not refer to drug addicted criminals and youth who had to remain, if necessary, under compulsory medical treatment. The quoted act also said that “penal repression follows the conviction that drug addiction restriction requires the application of severe sanctions, first of all with reference to the dealers of stupefying and psychotropic substances”. The discussed here, legal act, also introduced a system of strict control over poppy cultivation

⁷ S. Redo: *Narkomania. Aspekty prawne i kryminologiczne (Drug Addiction. Legal and Criminological Aspects)*, Toruń 1979, s. 91–95; B. Ślusarczyk: *Z problematyki zjawiska narkomanii (Problem of the phenomenon of drug addiction)*, „Studia Kryminologiczne, Kryminalistyczne i Penitencjarne” 1986, t. 17, s. 73–76; E. Bieńkowska, J. Skupiński: *op. cit.*, pp. 52–53.

because of the fact that poppy used as food was at the same time a common and easily available raw material for home-manufacturing of stupefying substances.⁸

The Act covered the following crimes:

■ illicit cultivation of poppy or cannabis and the seize or stealing of poppy lactescence, opium, poppy straw, resin of herb and cannabis as well as their seize or stealing for the reason of their possession are penalized up to 2 years of deprivation of liberty, liberty restriction or a fine (Art. 26. 1 and 2).

■ illicit manufacturing of stupefying and psychotropic substances or conversion of those substances or poppy straw are penalized up to 3 years of deprivation of liberty (Art. 27.1). If the crime refers to a "large quantity" of drugs or is committed for material profit and personal gains the perpetrator can be sentenced up to 5 years of deprivation of liberty and a fine (Art. 27.2).

■ manufacturing, storing, selling or buying of the devices whose features indicate that they can be used to illicit manufacturing or conversion of intoxicants as well as the adoption of other devices to the manufacturing process are threatened by a penalty of up to 2 years of deprivation of liberty, liberty restriction and a fine (Art. 28).

■ Art. 29.1 concerns drug smuggling and trafficking, both stupefying and psychotropic substances, and penalizes the perpetrator up to 5 years of deprivation of liberty and a fine. This type of crime could be also considered as "a petty offense" and then the perpetrator can be subjected to a penalty of up to 1 year of deprivation of liberty, liberty restriction or a fine (Art. 29.2). But in the case of a "large-scale" drug trafficking for material profit and personal gains the perpetrator has to be sentenced to not less than 3 years of deprivation of liberty and a fine (Art. 29.3).

■ illicit sale of poppy lactescence or poppy straw, and also stupefying and psychotropic substances is threatened by a penalty of up to 8 years of deprivation of liberty and a fine (Art. 30.1). This article also distinguishes a "less serious" type of crime which is penalized by up to 1 year of deprivation of liberty or a fine (Art. 30.2). But in the case of "large-scale" trafficking, the penalty for a violation of law is up to 10 years of deprivation of liberty and a fine (Art. 30.3).

⁸ More on the Act – T. L. Chruściel, L. Korozs: *Zapobieganie narkomanii w świetle polskiego prawa (Prevention of Drug Addiction in the Light of Polish Law)*, Warszawa 1988, s. 11–24.

■ providing another person with an intoxicant or inducing him/her to take it is punishable up to 3 years of deprivation of liberty (Art. 31).

■ Art. 32 covers the crimes penalized by Art. 31 and also crimes connected with giving an intoxicant to another person, making the access to it easier, or inducing to take a drug in order to obtain financial or personal gains; all these crimes subject to a penalty of up to 10 years of deprivation of liberty (Art. 32.1). But if the crime is qualified as a “less serious” type, then the perpetrator is sentenced to up to 2 years of deprivation of liberty (Art. 32.2).

It is necessary to underscore that the Act depenalized the taking of an intoxicant without a doctor’s consent in the presence and company of another person. Of certain importance and also controversial is the fact that the act did not penalize the possession of stupefying substances, which was decided consciously and purposely. Bearing in mind drug abusers, a “normal” behavior in their case is drug taking which must be preceded by drug possessing, then its penalization would remain in disagreement with the preventive and therapeutic model of the Act. Nevertheless, it does not mean, despite some insinuations present in the mass media, that drug possession in Poland is legal because according to art. 13 of the Act, their illegal possession was banned by the administrative law, and in the case of possession the drugs were subject to destruction or were taken by the State without compensation.⁹

Following the device: “treatment instead of punishment”, the Act was devised to foresee certain procedures to be undertaken in the case of drug addicted criminals. Namely, on the basis of Art. 34, a sentenced, in connection with drug abuse, individual whose penalty was suspended had to undergo compulsory medical treatment and rehabilitation in a medical or rehabilitation center and had to remain under supervision of an appointed, by the court, person, institution, or non-profit organization. Following the recommendations of the supervising person or institution as well as those of the treatment or rehabilitation center, the court could put into effect the suspended sentence if the convicted person within the period of his sentence suspension, did not undertake the compulsory

⁹ A. Gaberle, M. Ostrowska: *Prawo karne wobec narkomanii. Uwagi na tle ustawy z dnia 31 I 1988 r. (Penal Law on Drug Addiction. Remarks on the Drug Prevention Act of 31 Jan. 1988)*, „Ruch Prawniczy, Ekonomiczny i Socjologiczny” 1985, nr 4, s. 115–117; K. Krajewski: *Problematyka kryminalizacji posiadania środków odurzających i psychotropowych w ustawodawstwie polskim (Problem of penalisation of possession of stupiefying and psychotropic substances in Polish legislation)* „Państwo i Prawo” 1994, nr 8, s. 8–11.

treatment or violate the rules of the medical treatment center. Besides, if a person was deprived of his liberty in connection with drug abuse and the penalty was not suspended, the court could also sentence him to compulsory medical treatment prior to putting him to prison. The period of time the convicted person had to remain under treatment was never given in advance but it could not be longer than 2 years. The court decided about the termination on the basis of the results of treatment. After the period of treatment had terminated the court decided whether the sentence was to be put into effect.¹⁰

Revising the discussed here Act, one of its author remarked that, in the Polish reality, "it was a liberal act created in non-liberal times".¹¹ Nevertheless, some articles of the Act, especially those referring to compulsory treatment of addicted criminals, limited number of medical treatments, or to deprivation of liberty in the case of all crimes under the Act, were sometimes criticized.¹²

Before characterizing the practical functioning of the Act, let us evaluate the statistical data of drug abuse and its general tendencies on the basis of medical and police records.

The change in the political system in Poland in 1989 was followed by a greater intensity of drug abuse. As a result of the opening of the Polish borders, easier international contacts and introducing the convertibility of zloty there appeared an organized illegal manufacturing of additive substances (mainly amphetamine) and their increased trafficking and smuggling, especially that international gangs of drug traffickers displayed greater interest in Poland as a convenient transit country.¹³ Medical statistical data over the first three years of the period of

¹⁰ More on that – J. Szumski: *Prawnokarne sposoby reakcji wobec osób uzależnionych od alkoholu i narkotyków na tle projektów legislacyjnych (Legal and penal ways of reacting to alcohol and drug depended persons in the context of various legislative projects)*, (in:) *Problemy nauk penalnych. Prace ofiarowane Pani Profesor Oktawii Górniok* (red. L. Tyszkiewicz), Katowice 1996, s. 203–217.

¹¹ K. Krajewski: *Problematyka narkotyków i narkomanii w ustawodawstwie polskim (Problem of drugs and drug addiction in Polish legislation)*, (in:) P. Robson: *Narkotyki (Drugs)*, Kraków 1997, s. 234–235.

¹² A. Gaberle, M. Ostrowska: *Kara pozbawienia wolności a zapobieganie narkomanii (Penalty of deprivation of freedom and prevention of drug addiction)*, „Palestra” 1986, nr 5–6, s. 66–75; J. Szumski: *Too Lenient Penalties?*, „Polityka” 1994, nr 15, s. 8; K. Krajewski: *W kwestii kryminalizacji posiadania środków odurzających i psychotropowych (Question of penalisation of possession of stupiefying and psychotropic substances)*, „Państwo i Prawo” 1992, nr 8, s. 50–53.

¹³ M. Filar: *op. cit.*, s. 356–357.

1986–1994 show a slight decrease (by about 10%) as compared with the year 1996. But since 1991 there has been a steady increase by 30–59%. Assuming that the number of 2,938 abusers treated in 1986 is equal to 100, hence in the year 1994 the number of 4,673 treated abusers was equal to 159, and that means an increase by 59%. The increase results not only from a larger number of drug abusers but also from the fact that more of them reported to be treated for AIDS.¹⁴

From the above mentioned data it is now estimated that there are about 20–40 thousand drug abusers in Poland, assuming that every year 10–20% of them come for treatment. Thus, their number is much lower than that reported by the mass media, sometimes dramatizing the situation.¹⁵

It is worth mentioning that three fourths of hospitalized drug abusers are those addicted to opiates taken as one substance only, or in combination with other substances, 8.9% are those addicted to inhaling substances, and 2% are those taking, new on the Polish market, additive substances such as amphetamine, cannabis, or halucinogens.

Police statistical records show that a number of drug abusers suspected of committing a crime, which was 5,395 in 1986, had a falling tendency. It had been increasing steadily since 1994 reaching in 1995 the number of 3,597, which is 33.3% lower than in the first year of the analyzed period (Tab. 1). A similar tendency was noticed in the case of committed crimes, the number of which being 6,662 in the year 1996 had been dropping up to the year 1993 to rise again up to 4,987 in the year 1995 which means a decrease by 25.1% as compared with the initial year. The falling tendency is undoubtedly due to a limited activity of the police in pursuit of the crimes connected with drugs and in detection of their perpetrators. Only the number of persons recognized by the police as drug abusers or as possible drug abusers who entered into conflict with the law, rose slightly from 16,838 up to 18,200, that is by 8.1% over the discussed period.¹⁶

¹⁴ J. Sierosławski: *Ilu naprawdę mamy narkomanów? (How many drug addicts do we really have?)*, „Świat Problemów” 1996, nr 8–9, s. 10–11.

¹⁵ J. Sierosławski: *op. cit.*, s. 10.

¹⁶ *Informacja Komendy Głównej Policji: Rozmiary narkomanii i przestępczości z nią związanej w Polsce w latach 1992–1995 (Information of the main police headquarters: Size of drug addiction and criminality in Poland in the years 1992–1995)*, „Serwis Informacyjny Narkomania” 1996, nr 4, s. 17–19.

Table 1. Person suspected by police of committing crimes penalised by the Drug Abuse Prevention Act.

Year	Total		Type of crime													
			Art. 26		Art. 27		Art. 28		Art. 29		Art. 30		Art. 31		Art. 32	
	No.	value	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
86	5395	100.0	4705	87.2	500	9.3	50	0.9	2	0.0	53	1.0	37	0.7	48	0.9
87	4005	74.2	3663	91.5	261	6.5	23	0.6	0	0.0	24	0.6	20	0.5	14	0.3
88	2246	41.6	1838	81.8	314	14.0	18	0.8	4	0.2	31	1.4	22	1.0	19	0.8
89	1295	24.0	1085	83.8	179	13.8	6	0.5	3	0.2	12	0.9	10	0.8	0	0.0
90	504	9.3	357	70.8	120	23.8	11	2.2	1	0.2	6	1.2	8	1.6	1	0.2
91	2021	37.5	1706	84.4	257	12.7	22	1.1	6	0.3	14	0.7	10	0.5	6	0.3
92	2101	38.9	1621	77.1	369	17.6	28	1.3	17	0.8	30	1.4	16	0.8	20	0.9
93	4088	75.8	3577	87.5	331	8.1	39	0.9	21	0.5	39	0.9	15	0.4	66	1.6
94	3672	68.1	3033	82.6	368	10.0	31	0.8	13	0.3	57	1.5	53	1.5	116	3.1
95	3597	66.7	2733	76.0	364	10.1	39	1.1	71	2.0	132	3.7	86	2.4	172	4.8

Therefore, the information concerning the drug abuse based on medical and police records is in contradiction. Although the medical data are more reliable, we still cannot answer the question about the real size of the phenomenon and its dynamics since no epidemiological research has been carried out in Poland lately.

The above-quoted data refer to two groups of crimes, namely those penalized in the Act of Drug Abuse Prevention which make about four fifths of law violation by drug abusers, and also those known as common offenses which are penalized in the Penal Code: among them are theft of private property (Art. 203), theft of social property (Art. 199–202), burglary (Art. 208), robbery, extortion (Art. 209–211), and forgery of prescriptions (Art. 265). The total number of crimes included in the first group decreased from 6,260 in 1986 to 4,284 in 1995, that is by 31.6%, whereas the number of common offenses increased from 402 in 1986 to 703 in 1995, that is by 74.9% (Tab. 2).

Analyzing the types of crimes penalized in the Act of Drug Abuse Prevention, it can be observed that a great majority of them, almost 70%, are those which violate the prohibition of poppy cultivation (Art. 26). Another group of crimes, i.e. 15–20%, are those which refer to manufacturing and converting intoxicants (Art. 27) but it can also be noticed that the number of crimes in this group decreased by about 10% in the last 2 years. The number of crimes connected with manufacturing, storing, selling or buying of the devices whose features indicate that they can be used for the illicit manufacturing or converting of the intoxicants (Art. 28) is very low, that is about 2%. It is worth mentioning

Table 2. Confirmed crimes penalised by the Drug Abuse Prevention Act.

Year	Total		Type of crime													
			Art. 26		Art. 27		Art. 28		Art. 29		Art. 30		Art. 31		Art. 32	
	No.	value	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
86	6260	100.0	4879	77.9	817	13.0	135	2.1	7	0.1	126	2.0	202	3.2	94	1.5
87	4709	75.2	3765	79.9	583	12.4	75	1.6	2	0.0	34	0.7	172	3.6	78	1.6
88	3177	50.7	1940	61.1	1003	31.5	63	2.0	4	0.1	38	1.2	74	2.3	55	1.7
89	2278	36.4	1115	50.7	568	24.9	32	1.4	5	0.2	25	1.1	484	21.2	9	0.4
90	1105	17.7	382	34.6	557	50.4	34	3.1	1	0.1	10	0.9	116	10.5	5	0.4
91	2468	39.4	1712	69.3	589	23.9	60	2.4	6	0.2	24	1.0	47	1.9	30	1.2
92	2442	39.0	1631	66.8	521	21.3	94	3.8	23	0.9	45	1.8	62	2.5	66	2.7
93	5457	87.2	3577	65.5	1280	23.4	123	2.2	21	0.4	207	3.8	51	0.9	198	3.6
94	4000	63.9	3040	76.0	387	9.7	85	2.1	20	0.4	107	2.7	181	4.5	180	4.5
95	4284	68.4	2780	64.9	392	9.1	97	2.3	69	1.6	215	5.0	329	7.7	402	9.4

that this very low percentage value remains in disproportion to the percentage of crimes connected with illicit manufacturing which, however, could not be possible without certain equipment and devices. It seems strange that the detection of the former type of crime is easier. The percentage of detected crimes connected with drug trafficking (Art. 29) is the lowest, since only in 1995 its value exceeded 1%. A very marginal role in the discussed types of crimes, is that played by illicit sale of stupefying and psychotropic substances (Art. 30). Till 1993 the percentage of this type of crime was about 1% and only recently, especially within the last three years, its percentage reached the value of 3.8–5%. Also a very marginal role is played by the crimes which, in turn, are connected with providing another person with an intoxicant or inducing him/her to take it (Art. 31). The percentage value increased recently and in the years 1994–1995 it was 4.5% and 7.7% respectively. And finally, a similar tendency can be observed in the last group of crimes which refer to giving an intoxicant to another person, making the access to it easier, or inducing an individual to take a drug in order to obtain financial or personal benefits (Art. 32), here, for most of the time in which the Act was in power, the percentage of crime was about 1.5% and only within the last three years its percentage reached the following values: 3.6%, 4.5%, and 9.4% respectively (Tab. 2).

With reference to the types of common offenses committed by drug abusers, it can be observed that prevailing type here is theft of private and social property with burglary and its percentage during the analyzed period oscillated within 60%. The second position is taken by theft of

Table 3. Types of crimes connected with drugs penalised by Penal Code

Year	Total		Type of crime									
			Art. 203		Art. 199–202		Art. 208		Art. 209–211		Art. 265	
	No.	value	No.	%	No.	%	No.	%	No.	%	No.	%
86	402	100.0	26	6.5	43	10.7	228	56.7	2	0.5	103	25.6
87	346	86.1	57	16.5	28	8.1	215	62.1	1	0.3	45	13.0
88	260	64.3	36	13.8	15	5.8	181	69.6	2	0.8	26	10.0
89	403	100.2	38	9.4	19	4.7	303	75.2	2	0.5	41	10.2
90	650	161.7	69	10.6	60	9.2	495	76.1	7	1.1	19	2.9
91	618	153.7	92	14.9	53	8.6	407	65.8	9	1.4	57	9.2
92	571	142.0	79	13.8	37	6.5	400	70.0	13	2.3	42	7.3
93	665	165.4	80	12.0	25	3.7	395	59.4	12	1.8	153	23.0
94	1455	361.9	89	6.1	18	1.2	441	30.3	45	3.1	862	59.2
95	703	174.9	67	9.5	29	4.1	405	57.6	17	2.4	185	26.3

private and social properties ranging in percentage from about 15 to 20%. But within the last three successive years the higher percentage of crime can be traced in prescription forgery where the last three percentage values were the following: 23%, 59.2% and 26.3%. Robberies and extortions played a marginal role in the 1990s (between 0.3–3%). Summing up, it can be said that common offenses committed by drug abusers are not exceptionally dangerous since here predominate offenses directed at property (about 80–85%), while the violent crimes, make up only a small part of the discussed group of crimes (Tab. 3).

Similar was the structure of crimes under the Drug Abuse Prevention Act among which two were always predominant, that is violation of the prohibition of poppy cultivation (Art. 26) and illegal manufacturing of intoxicants or psychotropic drugs (Art. 27), both amounting to about 85%. The proportion of the first type of crime to the other one was always (except for the year 1990) several times higher. The percentage of crimes committed under Art. 29 (illegal import or transit of intoxicants or psychotropic drugs) was 1.6% in 1995 but it did not exceed 1% for the whole previous period. The percentage of crimes threatened by the most severe penal law sanctions (up to 10 years of deprivation of liberty for sharing the addictive substances, enabling their taking or inducing them with the purpose of making material profit or personal gain) oscillated within 1.5% to reach in the years 1994–1995 – 4.5% and 9.4% respectively. Similarly the percentage of crimes (incurring the penalty up to 8 years of deprivation of liberty for trafficking in intoxicants or

psychotropic drugs) oscillated within 2% but increased to 5% in 1995 (Tab. 2).

On the basis of the above-quoted data three conclusions can be drawn. The first one, which is not optimistic, says that as a result of a limited range of police abilities in detecting criminals, the agencies of justice usually deal with petty criminals who simultaneously are drug addicts or those who are threatened by drug dependency. Hence, very seldom the agencies of justice deal with perpetrators of the most serious crimes. The second conclusion makes possible to remark that the image of "drug" crimes as presented by the two sorts of statistical data, is far from the stereotype of a "drug addict" perceived as a dangerous criminal. Finally, the third conclusion clearly shows that the formerly discussed changes, in relation to the drug abuse problem in Poland, did not find much reflection in the police records.

As far as the characteristics of perpetrators is concerned, we are sorry to say that, with only one exception, no criminological research studies have been carried out. So, we have to rely upon only rather sparse data gathered in the police records.

As was mentioned before, in the years 1986–1995 the number of people, qualified by the police as drug dependent or threatened by drug dependency who broke the law, ranged from 17 to 18 thousand. Within the first three years of the mentioned period the sub-population which predominated consisted of people who were threatened by drug dependency (about 53–51%). But starting with 1992 the majority were people entirely drug dependent (about 64–62%). The age of the sub-population which was predominant, were young and very young people as about one out of ten was younger than 17 years of age, and on the whole, about two thirds of them were younger than 24. About three fourths of them were men. Almost all of them (96–91%) lived in cities which seems to be quite natural since the areas most threatened by drug addiction are the cities of Warsaw, Katowice, Gdansk, Wroclaw, Cracow, and Scyecin. Nevertheless, the drug abuse phenomenon is becoming more and more vivid in small towns and tourist centers. A significant majority of the examined population were people coming from the working class (74–66%), only every fourth subject came from intelligentsia, and almost 5% of them came from the rural area. In spite of the young age of the examined subjects the number of high-school students was relatively low. Besides, the number of students was gradually decreasing, that is from about 24% in the years 1986–1989 to about 13–16% in the years

1993–1995. A similar tendency could be observed among employed people while the biggest group was made up by those who neither studied nor worked and whose percentage increased from about 52% to about 69% in the analyzed period. It is also important to mention that among the suspects, the percentage of recidivists was relatively high, since it was 27.4% in 1986, and about 40% in the years 1993–1994, although in the last examined year it decreased to 31.1%.¹⁷

It is recommended that the data presented here be supplied with the results of the only empirical studies on penal policy, because the specific stable aspects of drug abuse in Poland, makes the results very likely to be authoritative and actual. It appears from the studies that the crime of illicit poppy cultivation was the domain of farmers who did not show any symptoms of social misconduct or drugs dependency while the illicit manufacturing of intoxicants was the domain of young people who in 43% were drug addicts. Unfortunately, with reference to the remaining part of the examined convicts, neither psychiatric nor psychological investigations had been carried out.¹⁸

The characteristic features of penal policy focused on perpetrators of crimes under the Drug Abuse Prevention Act are to be presented on the basis of judicial statistics data together with a prior presentation of the types of crime for which the perpetrators were sentenced. It is clear that the statistical data must reflect the types of crime detected by the police. Therefore, in the years 1986–1995 among the suspects who had to undergo the hearing before the court the largest group were those sentenced for illicit poppy cultivation or illicit manufacturing of stupefying substances, and the group made up about 70–75% of all convicted individuals. It should be added that the group sentenced for poppy cultivation was much larger than the group sentenced for manufacturing. The rest of the convicted persons, a relatively small group, were people penalized for all other offenses concerned by the Act, including the most serious ones. It is very characteristic that either the increase or decrease in the number of poppy cultivation convicts was directly connected with either the decrease or increase in the group of illicit manufacturing

¹⁷ *Ibid.*, s. 19–23.

¹⁸ E. Janiszewska-Talago: *Orzecznictwo sądowe w sprawach o przestępstwa z ustawy o zapobieganiu narkomanii (Court Decisions in Cases of Crimes Penalised by the Drug Abuse Prevention Act)*, „Zeszyty Naukowe Instytutu Badania Prawa Sądowego” 1988, nr 30, s. 138–146.

Table 4. Persons sentenced for crimes penalised by the Drug Abuse Prevention Act.

Year	Total		Type of penalty							
			Deprivation of liberty		Suspended depriv. of liberty		Limitation of liberty		Fine	
	No.	value	No.	%	No.	%	No.	%	No.	%
86	1134	100.0	198	17.5	228	20.1	163	14.4	545	48.1
87	1400	123.4	159	11.4	207	14.8	255	18.2	779	55.6
88	774	33.0	103	13.3	143	18.5	112	14.5	414	53.5
89	591	52.1	76	12.9	160	27.1	53	9.0	301	50.9
90	231	20.4	30	13.0	62	26.8	14	6.1	125	54.1
91	421	37.1	32	7.6	111	26.4	8	1.9	270	64.1
92	993	87.6	72	7.3	210	29.2	17	1.7	694	69.9
93	2235	197.1	97	4.3	250	11.2	17	0.8	1871	83.7
94	1862	164.2	97	5.2	249	13.4	32	1.7	1484	79.7
95	1864	164.4	100	5.4	268	14.4	29	1.6	1465	78.6

convicts but not in the group of the remaining perpetrators of other offenses concerned by the Act.

The first most frequently incurred penalty was a fine, ranging to about 80% of penalties in the years 1994–1995. The second position was taken by conditionally suspended deprivation of liberty which was imposed more and more seldom (decrease from about 20% to about 14.5%), because the fine was given more frequently. The percentage of limitation of liberty was playing a less and less important role, decreasing from about 15–18% in the first years of the Act in effect to little less than 2% in the last two years. It was directly connected with a long lasting tendency not to incur this penalty by the court, not only in the case of perpetrators of “drug” offenses. Finally, the percentage of the most severe penalty, that is deprivation of liberty, was constantly showing a falling tendency, as it was 17–13% in 1990, and only about 5% in the years 1994–1995 (Tab. 4). Since the Polish penal policy, despite significant lessening after the political system transformation, is still severe in comparison with other European countries,¹⁹ there is no wonder that penalties incurred on the basis of the Drug Abuse Prevention Act were perceived as liberal.²⁰

¹⁹ J. Jasiński: *Main Trends in Penal Policy*, (in:) *Problems of Social Maladjustment and Crime in Poland* (ed. J. Jasiński), Ossolineum 1979, pp. 265–294; B. Gruszczyńska, M. Marczewski: *Recorded Crime and Penal Policy*, (in:) *Crime Control in Poland* (ed. J. Jasiński and A. Siemaszko), Warszawa 1995, s. 15–19.

²⁰ M. Filar: *op. cit.*, s. 370.

Table 5. Persons sentenced under Art. 26 of the Drug Abuse Prevention Act.

Year	Total		Type of penalty							
			Deprivation of liberty		Suspended depriv. of liberty		Limitation of liberty		Fine	
	No.	value	No.	%	No.	%	No.	%	No.	%
86	688	100.0	5	0.7	32	4.7	125	18.2	526	76.5
87	1005	146.1	7	0.7	37	3.7	204	20.3	757	75.3
88	478	69.5	4	0.8	16	3.3	56	11.7	400	83.7
89	321	46.7	8	2.5	11	3.4	21	6.5	280	87.2
90	115	16.7	2	1.7	4	3.5	2	1.7	107	93.0
91	259	37.6	0	0.0	4	1.5	3	1.2	252	97.3
92	685	99.6	1	0.2	9	1.3	6	0.9	669	97.7
93	1875	272.5	7	0.4	17	0.9	10	0.5	1841	98.2
94	1501	218.2	8	0.5	28	1.9	27	1.8	1438	95.8
95	1464	212.8	4	0.2	21	1.4	25	1.7	1412	96.4

Unfortunately, the materials included in the judicial statistics contain only information referring to the penalties for the two aforementioned and most frequently committed crimes (Art. 26 and 27). And they also contain the data with reference to individuals declared guilty of all the other offenses of the Act.

Starting with the penal policy imposed on perpetrators being sentenced for illicit poppy cultivation, we can see that they were sentenced, almost exclusively, to a fine whose percentage oscillated between 93 and 98% after the year 1990, while the percentage of the penalty of liberty restriction and the percentage of the penalty of conditionally suspended deprivation of liberty decreased to 1.8–1.7% and 1.9–1.4% respectively. The percentage of the penalty of deprivation of liberty, which was always low, also decreased and, in the last two years of the analyzed period, reached the level of 0.5 and 0.2% (Tab. 5). Hence, we can see that the penal policy was definitely liberal which pertains to the fact that the penalty incurred for illicit poppy cultivation was associated with farmers who never revealed any symptoms of demoralization. More severe penalties were incurred on perpetrators illicitly manufacturing stupefying or psychotropic substances, although in their case the tendency to lessen repression could be observed, as well. This tendency can be illustrated by the data showing the percentage of penalties in the years 1994–1995 when perpetrators were sentenced as follows: about 25–16% to deprivation of liberty, about 69–75% to suspended penalty

Table 6. Persons sentenced under Art. 27 of the Drug Abuse Prevention Act.

Year	Total		Type of penalty							
			Deprivation of liberty		Suspended depriv. of liberty		Limitation of liberty		Fine	
	No.	value	No.	%	No.	%	No.	%	No.	%
86	312	100.0	147	47.1	149	47.8	13	4.2	3	1.0
87	250	80.1	113	45.2	110	44.0	20	8.0	7	2.8
88	187	59.9	70	37.4	92	49.2	22	11.8	3	1.6
89	190	60.9	38	20.0	123	64.7	17	8.9	17	6.3
90	88	28.2	23	26.1	48	54.5	7	8.0	10	11.4
91	114	36.5	22	19.3	80	70.2	3	2.6	9	7.9
92	222	71.1	47	21.2	163	73.4	5	2.3	7	3.2
93	245	78.5	49	20.0	184	75.1	5	2.0	7	2.9
94	220	70.5	51	25.2	151	68.6	2	0.9	16	7.3
95	192	61.5	30	15.6	145	75.5	3	1.6	14	7.3

of deprivation of liberty, only about 7% to a fine, and 1–1.5% to liberty restriction (tab. 6).

If we ignore the data showing the penalties for the two discussed above offenses, then we will be able to determine the penal policy applied to all other perpetrators among whom there were those sentenced for the most serious crimes. Because of the obvious reasons they experienced the most severe repression, since more or less every third or fourth perpetrator was sentenced to deprivation of liberty, about 40–50% of them were sentenced to deprivation of liberty with conditional suspension of execution, about 10–20% of them were sentenced to fine, and only about 2% of perpetrators were given the penalty of a liberty restriction.

On April 24th, 1997, after a stormy discussion on penalization of drugs possession, a new Drugs Prevention Act was passed, and came into effect on October 15th. Taking into consideration crimes and penalties, the act was not a revolutionary one. Therefore, we will focus our attention on the responsibility for drugs possession. Hence, according to Art. 48 of the new Act “anyone, who against the Act regulations possesses stupefying or psychotropic substances, is subject to the penalty of deprivation of liberty for up to 3 years”. In the case of a “petty offense” the penalties are lessened to one year of deprivation of liberty, liberty restriction, or the penalty of a fine. But if the subject matter of a crime is a “large quantity” of substances, the perpetrator is subject to the penalty of up to 5 years of deprivation of liberty and a fine. But a

Table 7. Persons sentenced for the others crimes penalised by the Drug Abuse Prevention Act.

Year	Total		Type of penalty							
			Deprivation of liberty		Suspended depriv. of liberty		Limitation of liberty		Fine	
	No.	value	No.	%	No.	%	No.	%	No.	%
86	134	100.0	46	34.3	47	35.1	25	18.6	16	10.6
87	142	106.0	39	27.5	60	44.2	31	21.8	15	10.5
88	109	81.3	17	15.6	35	32.1	34	31.1	11	10.1
89	80	59.7	30	37.5	26	32.5	15	18.7	9	11.2
90	28	20.9	5	17.8	10	35.7	5	17.8	8	28.6
91	48	35.8	10	20.8	31	64.6	2	4.2	9	18.7
92	86	64.2	24	27.9	38	44.2	6	7.0	18	20.9
93	115	85.8	41	35.6	49	42.6	2	1.7	23	20.0
94	141	105.2	38	26.9	70	49.6	3	2.1	7	5.0
95	208	155.2	66	31.7	102	49.0	1	0.5	39	18.7

perpetrator is not subject to a penalty if he or she “possesses stupefying or psychotropic substances in very small quantities and for his or her own use”. It seems that the presented above regulations bring positive changes. The new regulations facilitate the police work in detection of crimes committed by manufacturers and traffickers and make possible renouncing inflicting penalties on petty criminals manufacturing drugs for their own use. It is obvious that it will be difficult to decide what amount of drugs can be qualified as “a small quantity”, but it has to be accepted that with reference to the discussed here problem there are no ideal solutions.

Another important and novel solution in the case penalty incurred is found in Art. 57. It says that if a drug abuser who has committed a crime, penalized up to 5 years of deprivation of liberty, will undergo an anti-drug medical treatment in a medical center, then the prosecutor may suspend the criminal procedure until the treatment is completed. Resolving the prosecution, the prosecutor considering the results of the treatment as positive may propose a motion of conditional discontinuance. But if the results of the treatment are considered to be negative, the prosecution is continued and such a decision of the prosecutor can only be appealed against by the perpetrator.

The present discussion can be completed with one more optimistic element. On the basis of the Amendment on the Police Act, the police were equipped with privileges so far unknown in Polish law, such as: controlled purchase, controlled bribe (as a form of police provocation),

and also secretly controlled delivery in order to facilitate fighting against organized crime, including the “drugs” crime. In general, the controlled purchase is a camouflaged way in which the police or their secret agents get possession of objects or things connected with crime. The controlled bribe in the police is giving a certain sum of money in return for information about the crime. Finally, the last privilege is a secret control of storing and trading the goods after they had been known or suspected as coming from a crime. One can hope that all these changes will contribute to a greater efficiency in detecting the perpetrators of most serious crimes connected with drugs.

STRESZCZENIE

Przedmiotem artykułu jest charakterystyka dynamiki i struktury narkomanii w Polsce oraz prawnokarnych reakcji na to zjawisko. Charakterystykę tę przeprowadzono na podstawie materiałów statystyki policyjnej, dotyczących stwierdzonych przestępstw popełnionych przez narkomanów i statystyki medycznej, obejmującej osoby hospitalizowane z powodu uzależnienia od środków psychotropowych. Analiza powyższa pozwoliła skonstatować, że – wbrew wiedzy potocznej i informacjom *mass mediów* – polska „scena narkotyczna” po transformacji ustrojowej nie uległa poważniejszym zmianom, przynajmniej w świetle materiałów statystycznych, będących najprawdopodobniej odzwierciedleniem ograniczonego zakresu ścigania przez policję, jak również, że wizerunek „przestępczości narkomańskiej” odbiega od stereotypu narkomana jako osoby groźnej dla społeczeństwa. Ponadto dała ona podstawę do wniosku, iż w tryby machiny wymiaru sprawiedliwości wpadają najczęściej sprawcy drobnych przestępstw, uzależnieni od środków odurzających, natomiast niezwykle rzadko dostają się tam żerujący na cudzym nałogu sprawcy najpoważniejszych przestępstw. Z tego też względu politykę wymiaru kary wobec sprawców „przestępstw narkomańskich” można uznać za racjonalną, gdyż rzadkie odwoływanie się przez sądy do kar pozbawienia wolności uzasadnione jest relatywnie niewielkim ciężarem gatunkowym tych czynów, a zwłaszcza faktem, iż dopuściły się ich osoby uzależnione.