

Zmiany w kodeksie karnym są najłatwiejszym, najprostszym (pozornie) i najbardziej ekonomicznym (czyt. tanim) sposobem (moim zdaniem pseudosposobem) walki (moim zdaniem pozorowanej) z seksualnym wykorzystywaniem, w szczególności małoletnich. Dlatego tak dużo tych nowelizacji w rozdziale XXV Kodeksu karnego i zapewne omawiana tutaj nie była ostatnią. Racjonalne i poważnie traktowane rozwiązywanie problemów seksualnego wykorzystywania wymaga posiłkowania się instrumentarium karnoprawnym jedynie subsydiarnie, a nie jak obecnie, używając go jako głównego a często jedyne oręża.

Jarosław Warylewski

SIXTH AMENDMENT OF THE CRIMINAL CODE IN RESPECT TO SEXUAL OFFENSES (LAW OF 4 APRIL 2014)

On 17 December 2013 a draft law amending the Criminal Code and certain other laws was submitted to the Sejm by the government. The amendment concerned mainly Chapter XXV of the Criminal Code, which is devoted to sexual offenses. If it enters into force, it will be the sixth in turn amendment of this small chapter, consisting of articles from 197 to 205. At the same time, it is the most often amended chapter of the specific section of the Criminal Code, arousing a particular interest of both the government and the parliament. However, such interest is not a good thing for the regulation, because all previous changes, despite one adopted in 2004 which corrected two obvious errors (one in art. 200 and the other one in art. 202 of the Criminal Code), not only spoiled the libertarian concept of sexual offences proposed by professor M. Filar, but also "suffered from" numerous legislative bungles. Unfortunately, this applies to the recent draft as well.

The implementation of more effective regulations within chapter XXV of the Criminal Code and other related provisions would deserve the acceptance in the situation, which would require such regulation. Criminological diagnosis of sexual offences in Poland since the enactment of the Criminal Code in 1997 has not provided any arguments that the protection of sexual freedom and decency under the provisions adopted in 1997 is insufficient. The Author critically assesses most amendments of chapter XXV of the Criminal Code, including the last one presented in the article, and he considers that they fit the penal populism and the ideologisation of criminal law.