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**CONDITIONAL EARLY RELEASE FROM SERVING A SENTENCE
IN THE FORM OF DEPRIVATION OF LIBERTY IN THE LEGISLATION
OF POLAND: FEATURES OF REGULATION**

The Polish criminal law doctrine states that parole from serving a sentence by means of deprivation of liberty is an exceptional measure, and serving the sentence in full is the rule.

The Court of Appeal of Krakow in its decision noted that “parole from serving a sentence of imprisonment is an exception to the principle of serving a sentence in full, as it was stated in the guilty verdict. Only the guilty verdict of the court, based on an analysis of the conditions provided for by Art. 77 § 1 of the Criminal Code that the convicted person in the future will obey the law, despite the non-fulfilment of the punishment in full, justifies the departure from this principle” [1, p. 193].

In addition, from the point of view of Polish lawyers, parole is not a probationary term in the formal sense of the word, since it is not a response to an offence with a court sentence of imprisonment. However, it is included, “along with the conditional termination of the criminal case and the conditional suspension of the execution of punishment, in probation measures, which is determined by the conditional nature of the dismissal, putting the guilty person on trial, as well as the establishment of supervision and the establishment of a probationary period” [2, p. 278]. That is, granting a convicted person parole means only a conditional refusal to execute part of the sentence in the form of deprivation of liberty and involving the perpetrator in the process of rehabilitation under conditions of controlled freedom. In modern Polish law, parole is partly regulated by the Criminal Code of Poland and partly by the Executive Criminal Code of Poland. The Polish Criminal Code defines the content and formal conditions of this event, as well as the consequences of a

positive end of the probationary period. The Criminal Executive Code, respectively, includes procedural rules regarding the issuance of a judgment and the procedure for its execution [3, p. 187]. The content of Article 77 of the Criminal Code of Poland allows us to assert that parole from the execution of a sentence of imprisonment also depends on the fulfilment of one important condition, namely a positive criminological prognosis. Such a forecast should consist of the following factors: “the attitude of the convict; properties of the convict; personal conditions of the convict; the way of life of the offender before committing the crime; circumstances of the offence; behavior after the commission of the offence; behavior while serving a sentence” [4, p. 193].

In this case, it should be noted that parole is an expression of only individual prevention. This is possible only when the criminological forecast confirms that the punishment has achieved the intended individual and preventive goals, which means that the convicted person will obey the rule of law and that he will not commit a new crime” [5, p. 151].

However, Polish criminologists call for caution when assessing the positive nature of the criminological forecast: “a socio-criminological forecast, like any other forecast, which is only a prediction of future events, is uncertain” [6]. When evaluating the behavior of the convicted person, the court must take into account the attitude of the convicted person towards the committed and the victim, as well as the actions of the convicted person to eliminate the consequences of the crime committed while in prison. Such actions of the convict also include "work in conditions of deprivation of liberty, the performance of domestic duties, attempts by the convict to compensate for harm or compensate in another form, as well as forgiveness and an attempt to reconcile with the victim" [7, p. eight]. However, the latter may not always be a criterion for the positive behavior of a convict serving a sentence of deprivation of liberty. Thus, the Cracow Court of Appeal, in its decision of 18 December 2002, states that “in accordance with Article 77 § 1 of the Criminal Code, one should not require a convicted person to condemn the crime for which he was convicted, and condition early release from punishment by such a statement. The convict has the

right to appeal the verdict, even if it has entered into force. If the convicted person condemns his crime, this is a signal that deserves early dismissal, but if he does not do this, this does not mean that he does not deserve early dismissal” [8, p. 270]. Thus, Polish legislation has certain differences from Ukrainian regarding the conditions for granting parole by the court to serve the remainder of the sentence of imprisonment set out in Article 77 § 1 of the Criminal Code of Poland. According to this provision, a person sentenced to deprivation of liberty may be conditionally released from serving the remainder of the sentence only if there is a positive criminological prognosis of the convict, assessed by the court on the basis of all such factors related to the convict as his attitude to the crime committed, his personal characteristics and the conditions, circumstances under which the crime was committed, the behavior of the convicted person after it was committed, the behavior during the serving of the sentence, the belief that the convicted person after dismissal will observe the rule of law, in particular, will not commit the crime again. That is why the possibility of using the institution of parole depends on the positive criminological prognosis of the convict, which the court evaluates on the basis of all the above factors. Based on an analysis of all these factors (without the possibility of omitting any of them), the court must conclude that the convicted person after release will behave as expected of him by law. However, it should be borne in mind that when assessing the criminological forecast of the convict, such circumstances as the type of crime committed, the degree of its social danger, the reasoning of a fair nature or the need to form the legal consciousness of the convict, the criminal legal status of the perpetrator, too short a period that has elapsed since the start of a serving sentence, the minimum sentence qualifying for parole, or too long or too short a term remaining until the end of the sentence.

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