

The paper particularly addresses a research problem that boils down to a question about the optimal direction and scope of shaping the offence of stalking, reflecting as accurately as possible the nature of the penalised phenomenon and providing the addressees of the legal norm with a real possibility of predicting a violation of the law. The main purpose of the dissertation was to confirm, against the background of the anti-stalking legislation of the Anglo-Saxon countries, the thesis that the regulations on stalking contained in the Polish criminal code, among other things, do not constitute an adequate tool to counteract the phenomenon of stalking. The indirect intention of the study was to conduct a comparative legal analysis of anti-stalking regulations, especially criminalising stalking — in Poland and Anglo-Saxon countries, such as: England and Wales, Scotland, Ireland, as well as Canada, New Zealand, selected Australian states and territories and states of the USA, with particular emphasis on the elements of the crime of stalking. The aim of the study was also to show that the Polish offence of stalking requires thorough legislative changes, including outlining the direction of its proper shaping. A research thesis was formulated that the anti-stalking regulation in the Polish criminal code violates the principle of *nullum crimen sine lege certa*, depriving the addressees of the norm contained in it of the possibility of recognising the risk of punishment (failure to meet the requirement of predictability). As part of the study, a thesis was also put forward that the Polish offence of stalking does not fully reflect the nature of stalking, especially does not reflect the complex nature of this phenomenon, including sophisticated methods of behaviour of the perpetrator, often consisting of legal, and *prima facie* even desirable, actions. Additionally, a research thesis was formulated that the consequences of the stalker's behaviour are adequately reflected in the general category of mental (emotional) anguish, corresponding to the Anglo-Saxon concept of emotional distress, which is the framework result of the perpetrator's activity, which may include even the most negative effect of persecution in the form of arousing a sense of fear or danger in the harassed person. A research thesis was also put forward in the dissertation that the requirements of *mens rea* in the offence under Art. 190a § 1 of the Polish criminal code are too high, inadequate to the nature of all varieties of the penalised phenomenon. The research was conducted primarily on the basis of the formal-dogmatic method in the context of comparative law. In addition to the research of individual legal regulations, an analysis of both Polish and Anglo-Saxon court jurisdiction and literature was also taken into account. To a lesser extent, the functional method was used, based on the study of similar functions performed by specific legal institutions in different countries. For practical reasons, the dissertation contains some elements of comparative historical law, in order to show the mechanism of formation of anti-stalking institutions in individual countries. The structure of the dissertation, apart from a separate introduction and conclusion, includes eight chapters. The first chapter is devoted to the issue of the direction of development of anti-stalking legal regulations, it contains, among others, the most important aspects of their formation in individual Anglo-Saxon countries. Attention was also paid to the *ratio legis* of introducing the crime of stalking into the Polish criminal code, taking into account the problem of compliance of this regulation with the principle of criminal law-*ultima ratio*. The second chapter covers the specificity of the crime of stalking. Attention was drawn to the difficulties in defining it related to the atypicality of this crime. The most important features of stalking were analysed, such as the encirclement and control of the victim, the continuity of the perpetrator's behavior, the repetitiveness and persistence of his actions. The issue of the relationship between stalking and emotional abuse was also considered, as well as the issue of the context of the perpetrator's actions. Attention was drawn to the apparent harmlessness of individual actions that make up the stalker's behaviour. Against the background of Anglo-Saxon anti-stalking regulations, the thesis concerning the failure to fully reflect the nature of the phenomenon of stalking in the Polish criminal code was verified there. The third chapter presents an analysis of persistent harassment in terms of anti-stalking regulations. Both the conduct element in the form of harassment and the associated element of persistence in the sense

of actus reus were considered. Objections were raised to the wording of “persistent harassment” contained therein, presenting *de lege ferenda* postulates in this respect. The fourth chapter refers to the issue of victim response of stalking, understood as the result of the perpetrator's behaviour towards the victim. Against the background of the Anglo-Saxon solutions, the elements of the prohibited act under Art. 190a § 1 of the criminal code in the form of arousing a sense of danger justified by the circumstances and a significant violation of privacy were analysed, paying attention to both subjective and objective criteria for assessing these elements. The question of the rightness of introducing an alternative result element in the form of a significant violation of the victim's privacy was analysed. A thorough assessment of the amendment to the Polish criminal code of 31 March 2020 was carried out, through which additional alternative result elements in the form of a sense of humiliation or anguish justified by the circumstances were introduced into the crime of stalking. This chapter verifies the above-mentioned thesis about the possibility of an adequate reflection of the effect of a stalker's activity using the general category of psychological anguish, which is the equivalent of Anglo-Saxon “emotional distress”. With regard to the alternative result elements of the prohibited act under Article 190a § 1 of the criminal code *de lege ferenda* postulates were also submitted. In the fifth chapter, *mens rea* elements of stalking were analysed, taking into account the differences between Anglo-Saxon and Polish solutions in terms of general principles of constructing *mens rea* requirements. It is characteristic for Anglo-Saxon regulations to relativise *mens rea* requirements to individual actus reus elements, while in the Polish criminal code, as a rule, they are related to the whole prohibited act. Attention is drawn, among others, to examples of anti-stalking Anglo-Saxon regulations, where — unlike in the Polish counterpart — the requirements of *mens rea* in relation to the result element of inducing a sense of fear are significantly limited. This chapter verifies the thesis concerning too high *mens rea* requirements for the offense under Art. 190a § 1 of the Polish criminal code, inadequate to the nature of all possible varieties of stalking. Referring to Anglo-Saxon solutions, *de lege ferenda* postulates were raised in the field of *mens rea*, but not only in relation to the offence of stalking itself, but also to the solutions included in the general part of the Polish criminal code. Chapter six is devoted to the subject of cyberstalking. The problem of the relationship between cyberstalking and traditional stalking was analysed. Due to the specificity of the perpetrator's activities in cyberspace, considerations were made as to the advisability of introducing a separate regulation of cyberstalking, taking into account specific solutions in this regard in Anglo-Saxon countries. Chapter seven deals with the relationship between stalking and other types of behaviour. Particular attention was paid to the similarity of the construction of the offence of criminal threat and the offence of stalking in a variant involving the induction of a sense of danger. Emphasis was also placed on the relationship between stalking and coercion, in connection with which legislative changes were proposed — not only within the scope of Art. 190a § 1 of the Polish criminal code, but also Art. 191 § 1 of this code. Based on examples of Anglo-Saxon anti-stalking regulations, the relationship between stalking and harassment was presented. The relationship between violence and the crime of stalking was also highlighted. The eighth chapter examines, among others, the structure of anti-stalking legal regulations in terms of comparative law, emphasizing the diversity of varieties of stalking crime. It also contains a complementary assessment of the regulation of stalking in the Polish criminal code in terms of compliance with the principle of *nullum crimen sine lege certa*. In particular, the jurisprudence of the Constitutional Tribunal was referred to, within which the so-called constitutional standards of the specificity of criminal law regulations were developed. The research thesis concerning the failure by the Polish anti-stalking regulation to meet the requirements of the principle of maximum specificity of a prohibited act was finally verified. As a consequence, *de lege ferenda* postulates were formulated, subjecting to consideration the possible clarification of the content of the offence of stalking in the Polish criminal code. The issue of overlapping laws, criminalising stalking and other prohibited acts, was also

discussed. The annex to the dissertation contains the postulated content of the provisions of stalking or harassment offence and other regulations of the Polish criminal code related to the phenomenon of harassment or stalking or the current content of Art. 190a § 1 of this code.