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BAN ON DRIVING MOTOR VEHICLES
IN THE POLISH CRIMINAL LAW**I. Introduction**

A ban on driving motor vehicles has existed in the Polish criminal law for over 55 years now and over the period it has evolved substantially and played an important role of a repressive measure towards those who committed crimes in road traffic. It was regulated for the first time in Act of 10 December 1959 on fighting against alcoholism¹, in which it was a penalty additional in character. There were two types of the penalty: (1) a loss of the right to drive motor vehicles (Article 31 § 1) and (2) a ban on awarding someone the right (Article 31 § 6). The ruling on the penalty was obligatory in case a driver was found guilty of a crime committed in connection with the infringement of a vehicle driver's duties being in the state of insobriety. It was ruled for a period from six months to ten years.

The Criminal Code of 1969 laid down an additional penalty of a ban on driving vehicles that could be adjudicated in case of a conviction of a driver for a crime against the safety in land, water or air traffic (Article 43 § 1) and the ruling on the ban was obligatory if the perpetrator of the above-mentioned crime was in a state of insobriety at the moment of committing the crime (Article 43 § 2). The penalty was adjudicated for a period of one to ten years (Article 44 § 1). Act of 10 May 1985 amending some provisions of the criminal law and the law on petty offences² laid down "an additional penalty of a ban on driving motor vehicles or other vehicles", broadening the objective scope of the right to driving non-motor vehicles.

The Criminal Code of 1997 changed in the catalogue of penal measures and included a ban on driving vehicles (Article 39 point 3), which was in the form of a ban on driving specified types of vehicles (Article 42 § 1), a ban on driving all types of vehicles or a certain type of motor vehicles (Article 42 § 2). Its adjudication was possible in the event the person participating in road traffic had been convicted for a crime against the safety in traffic, especially when the

¹ Journal of Laws No. 60, item 434.

² Journal of Laws No. 23, item 100.

circumstances of the crime indicated that driving a vehicle by that person created danger in traffic (Article 42 § 1), and obligatory in the event the perpetrator was in a state of insobriety, under the influence of another intoxicating substance at the moment of the crime or fled from the scene of crime (Article 42 § 2). It was a fixed-time measure ruled for a period of one to 10 years (Article 43 § 1).

Act of 14 April 2000 amending Act – the Criminal Code³ introduced a possibility or obligation of ruling a ban on driving all vehicles forever (Article 42 § 3 and 4 of the CC). Its adjudication was possible in the event the perpetrator of a crime referred to in Article 173 or 174, which resulted in the victim's death or serious damage to health, or at the moment of the crime referred to in Article 177 § 2 or in Article 355 § 2 was in a state of insobriety or under the influence of another intoxicating substance or fled from the scene of crime (Article 42 § 3 of the CC), and the ruling was obligatory in the event of the next conviction of the driver for driving a motor vehicle in the above-mentioned conditions (Article 42 § 4 of the CC).

Act of 12 February 2010 amending Act – the Criminal Code⁴, Act – the Penalties Execution Code and Act – the Law on the protection of the environment⁵ repealed the optional ruling on a ban forever and substituted it for an obligatory one unless it was an extraordinary case justified by special circumstances (Article 42 § 3 of the CC).

Act of 25 November 2010 amending Act – the Criminal Code laid down a broader objective scope of the fixed-time ban on driving vehicles ruled obligatorily introducing a ban on driving all vehicles or the specified types of vehicles (Article 42 § 2 of the CC).

Act of 20 March 2015 amending Act – the Criminal Code and some other acts⁶ raised the minimum ban on driving ruled obligatorily to three years (Article 41 § 2) and the maximum ban in all cases to 15 years, and a ban ruled forever was substituted for a ban for life (Article 42 § 3 and 4 of the CC) and a crime under Article 178a § 4 of the CC was added to crimes carrying the obligation to rule it for life.

II. Legal character of the ban

A ban on driving vehicles is laid down in the Criminal Code in point 3 of Article 39 containing the catalogue of penal measures (Article 39 point 3), which decides about its character; it is a penal measure. The Criminal Code does not treat penal measures as punishments/penalties but quite the opposite, attributes a different importance to them. However, like a punishment/penalty,

³ Journal of Laws No. 48, item 548.

⁴ Journal of Laws of 2011, No. 17, item 78.

⁵ Journal of Laws No. 40, item 227.

⁶ Journal of Laws of 2015, item 541.

they are a response to a crime and constitute afflictions for the perpetrator⁷. Sometimes the affliction of the penal measure exceeds that of a punishment/penalty. Penalties as well as penal measures fulfil the same function⁸. It is rightly highlighted in the doctrine that the division of the means of response to crime into punishments/penalties and penal measures is erroneous from both the linguistic and the logical point of view. The superior concept of ‘penal measures’ and a subordinate concept of ‘punishment/penalty’ do not constitute a dichotomy⁹.

Apart from that, a ban on driving has characteristic features of:

- a) a preventive measure towards a perpetrator who committed a forbidden act being in the state of insanity. Its application in this character is admissible under Article 99 § 1 of the CC – in the event the perpetrator committed a forbidden act in the state of insanity (Article 31 § 1 of the CC) and other prerequisites for stating that are met;
- b) a probation measure in case of conditional discontinuation of the criminal proceeding. Its ruling as such may be made for a period of two years (Article 67 § 3 of the CC). The argument for treating it as a probation measure is the legal basis for adjudicating it, that is Article 67 § 3 of the CC, which lays down probation measures and different applications. The ruling of it is always optional, also in a situation when its adjudication as a penal measure is obligatory and may be ruled for a considerably shorter period. The Supreme Court rightly stated: “A ban on driving motor vehicles in a situation when the criminal proceeding is conditionally discontinued remains optional. Article 67 § 3 of the CC *in fine* in the scope of adjudicating this measure is a special provision in relation to Article 42 § 2 of the CC and exempts the application of the latter in the scope it covers, thus in case of conditional discontinuation of the proceeding”¹⁰;

⁷ M. Szewczyk, *System środków karnych w projekcie nowego kodeksu karnego* [System of penal measures in the new Criminal Code Bill], [in:] S. Waltoś (ed.), *Problemy kodyfikacji prawa karnego. Księga ku czci Prof. M. Cieślaka* [Criminal law codification issues – Book to honour Professor M. Cieślak], Kraków 1993, p. 153; A. Błachnio-Parzych, *Samoistny środek karny jako instrument racjonalnej polityki karnej* [Independent penal measure as an instrument of rational criminal policy], [in:] J. Jakubowska-Hara (ed.), *Alternatywy pozbawienia wolności w polskiej polityce karnej* [Alternatives to imprisonment in the Polish criminal policy], Warszawa 2009, p. 143.

⁸ M. Szewczyk, *Kilka uwag na temat funkcji środków karnych na tle obowiązującego kodeksu karnego* [A few comments on the function of penal measures against the background of the Criminal Code in force], [in:] L. Leszczyński, E. Skrętowicz, Z. Holda (ed.), *W kręgu teorii i praktyki prawa karnego. Księga poświęcona pamięci prof. A. Wąska* [In the circle of theory and practice – Book to commemorate Professor A. Wąsek], Lublin 2005, p. 355.

⁹ T. Bojarski, *Nowe środki karne i formy załatwiania spraw karnych. Uwagi na tle nowego prawa karnego* [New penal measures and forms of dealing with criminal cases – Comments against the background of the new criminal law], [in:] T. Nowak (ed.), *Nowe prawo karne procesowe. Zagadnienia wybrane. Księga ku czci Prof. Wiesława Daszkiewicza* [New criminal procedure law – Selected issues – Book in honour of Professor Wiesław Daszkiewicz], Poznań 1999, pp. 134–135.

¹⁰ Ruling of the Supreme Court of 29 January 2002, I KZP 33/01, OSNKW 2002, No. 3–4, item 15, with a gloss of approval by M. Gajewski, *Monitor Prawniczy* 2003, No. 15, pp. 708–710 and comments of approval by R.A. Stefański, *Przegląd uchwał Izby Karnej Sądu Najwyższego w zakresie prawa karnego mate-*

c) an educational measure referred to in Article 6 point 7 of Act of 26 October 1982 on the proceeding in cases against minors¹¹.

A ban on driving vehicles may also be adjudicated simultaneously with a penalty or in case of a renouncement of inflicting a punishment, and then it plays the role of a penalty.

Adjudicated additionally to a penalty, it supplements its aims, especially with respect to general or specific prevention. The type of the ruled penalty does not matter; it may be ruled together with a fine, a non-custodial sentence, imprisonment, 25 years' or life imprisonment.

Its application, like the renouncement of inflicting a punishment, is admissible in every case a court decides to use this measure, but the Criminal Code sometimes requires that the decision of a renouncement of inflicting a punishment should depend on the adjudication of a penal measure. Thus:

- a court may renounce inflicting a punishment if the crime carries up to three years' imprisonment or a more lenient penalty, and the social harmfulness of the act is not high; it also adjudicates a penal measure, and the aim of the penalty will be met due to the use of this measure (Article 59 of the CC);
- if the act carries more than one penalty, i.e. a fine or a non-custodial sentence or imprisonment, the extraordinary mitigation of punishment consists in the renouncement of inflicting a punishment and adjudicating a penal measure (Article 60 § 7 of the CC);
- in the event a motion to issue a sentence during the sitting (Article 335 of the CPC) or to issue a sentence without the evidentiary proceeding (Article 338a and Article 387 § 1 of the CPC), the court may decide to renounce inflicting a punishment and adjudicate only a penal measure, a forfeiture or a compensational measure if the misdemeanour the accused is charged with carries a punishment of up to five years' imprisonment (Article 60a of the CC).

The renouncement of inflicting a punishment, regardless of the adjudication of a penal measure, may take place in cases laid down in the statute and towards a minor if there are educational reasons to do that (Article 60 § 1 of the CC) and towards a perpetrator cooperating with other persons in the commission of a crime if he revealed and provided the law enforcement agency with information about the persons participating in the commission of the crime and other essential circumstances of its commission (Article 60 § 3 of the CC), especially when the role of the perpetrator in the commission of the crime was minor and the information provided contributed to the prevention of another crime (Article 61

rialnego, prawa karnego wykonawczego, prawa karnego skarbowego i prawa wykroczeń za 2002 r. [Review of resolutions of the Criminal Chamber of the Supreme Court on criminal material law, penalty execution law, penal fiscal law and petty offences law of 2002], *Wojskowy Przegląd Prawniczy* 2003, No. 1, pp. 70–72.

¹¹ *Journal of Laws* of 2014, item 382; see R.A. Stefański, *Zakaz prowadzenia pojazdów* [Ban on driving vehicles], Warszawa 1990, pp. 33–36.

§ 1 of the CC). In the last case, the renouncement of inflicting a penal measure is also possible even if its adjudication were obligatory (Article 61 § 2 of the CC).

Such a measure must be – in accordance with Article 56 in connection with Article 53 of the CC – adequate to the level of guilt and social harmfulness of the act, and implement preventive and educational aims, which it is to achieve towards the accused and in the scope of developing the legal awareness of the society.

III. Prerequisites of ruling a ban

A ban on driving vehicles – in accordance with Article 42 § 1 of the CC – may be ruled *verba legis* “in case a person taking part in the traffic is convicted for a crime against the safety in transport”. This means that its adjudication depends on two conditions, i.e. firstly, the convict must take part in the traffic, and secondly, the convict must commit a crime against the safety in transport.

1. Person participating in traffic

A person participating in traffic is not only the one that drives a vehicle but also the one that takes part in traffic in another way, e.g. a pedestrian¹². A phrase used in Article 42 § 1 *in fine* of the CC: “especially if the circumstances of the committed crime indicate that driving a vehicle by the person is a threat to the safety in transport,” constituting a directive on the adjudication of this measure, may suggest that the provision refers to a driver¹³. This supposition is not right because a threat to the safety in transport that may be inflicted by driving a vehicle by a person who is another participant of traffic. The justification for the Criminal Code Bill explains that it refers to such circumstances as a lack of skills to drive a vehicle, a flagrant negligence in following the rules of safety precautions, a chronic condition or collapse in connection with age¹⁴. These may refer not only to a driver. The historic interpretation, which cannot be disregarded, supports this opinion. In Article 43 § 1 of the CC of 1969, the additional penalty in the form of a ban on driving motor vehicles or other vehicles was limited *verba legis* to “a person driving a motor vehicle or another vehicle”. The legislator, having

¹² Z. Sienkiewicz, *Niektóre zagadnienia nowej regulacji zakazu prowadzenia pojazdów* [Some issues of a new regulation of a ban on driving vehicles], [in:] L. Bogunia (ed.), *Nowa kodyfikacja prawa karnego* [New codification of criminal law], vol. II, Wrocław 1998, p. 52; R.A. Stefański, *Podmiot zakazu prowadzenia pojazdów* [Subject to a ban on driving vehicles], *Prokuratura i Prawo* 1999, No. 7–8, pp. 113–117; K. Łuczarski, *Nowa regulacja podmiotu zakazu prowadzenia pojazdów* [New regulation on the subject to a ban on driving vehicles], [in:] L. Bogunia (ed.), *Nowa kodyfikacja karna prawa karnego* [New codification of criminal law], vol. VII, Wrocław 2001, p. 16.

¹³ A. Marek, *Prawo karne* [Criminal law], Warszawa 2009, p. 282.

¹⁴ *Nowe kodeksy karne – z 1997 r. z uzasadnieniami* [New Criminal Codes of 1997 with justification], Warszawa 1998, p. 144.

decided not to use the phrase “a person driving a vehicle”, did it consciously and the interpretation of the phrase “a person participating in traffic” as the one carrying the same meaning would be in conflict with the legislator’s intention.

The Supreme Court rightly decided that: “The present legal state does not require that a perpetrator towards whom a penal measure in the form of a ban on driving all vehicles or special types of motor vehicles (Article 42 § 2 of the CC) is to be ruled should be a person driving a motor vehicle. It requires, however, that a perpetrator should be a person participating in traffic. In accordance with the Law on road traffic, these are pedestrians, drivers and persons in or on a vehicle that is on a road”¹⁵.

The adjudication of a ban on driving vehicles does not depend on whether the perpetrator possesses a driving licence or not. The binding standpoint of the Supreme Court is that a ban “cannot be limited only to persons who have a permission to drive but must also refer to persons who at the moment of committing a crime did not have such a permission. Such persons should be deprived of the possibility of obtaining such a permission for a period ruled by court”¹⁶. The latest decision is confirmed in Article 12 item 1 point 2 of Act of 2 January 2011 on persons driving vehicles¹⁷ laying down a ban on issuing a licence for a person who was convicted and banned to drive motor vehicles for a period and in the scope specified in the valid sentence.

2. Crimes against the safety in transport

A ban on driving vehicles may be ruled only towards such a participant of traffic that committed a crime against the safety in transport. It does not refer to crimes laid down in Chapter XXI of the CC entitled the same but other crimes committed with the use of a motor vehicle.¹⁸ The crimes specified in Article 42 § 1 of the CC

¹⁵ Sentence of the Supreme Court of 16 January 2007, V KK 415/06, Prokuratura i Prawo 2007, No. 5, item 4, sentence of the Supreme Court of 8 February 2007, III KK 478/06, KZS 2007, No. 6, item 19, sentence of the Supreme Court of 1 December 2004, IV KK 277/04, Prokuratura i Prawo 2005, No. 7–8, item 1, sentence of the Supreme Court of 21 November 2001, III KKN 280/02, unpublished; M. Leciak, *Obowiązek orzeczenia zakazu prowadzenia pojazdów mechanicznych wobec nietrzeźwych pieszych sprawców wypadków* [Obligation to adjudicate a ban on driving motor vehicles towards drunk pedestrians – perpetrators of accidents]. Gloss to the sentence of the Supreme Court of 1 December 2004 file no. IV KK 277/04, Paragraf na Drodze 2006, No. 10, pp. 5–12.

¹⁶ Resolution of the full Criminal Chamber of the Supreme Court of 28 February 1975, V KZP 2/74, OSNKWW 1975, No. 3–4, item 33, thesis 24, sentence of the Supreme Court of 6 January 1977, N 20/76, OSNKW 1977, No. 3, item 31; T. Leško, *Środki karne w projekcie kodeksu karnego z 1968 r.* [Penal measures in the Criminal Code Bill of 1968], *Wojskowy Przegląd Prawniczy* 1968, No. 4, p. 451; A. Dziergawka, *Zakaz prowadzenia pojazdów a cofnięcie uprawnień do kierowania nimi* [Ban on driving vehicles vs. withdrawal of authorisation to drive them], *Paragraf na Drodze* 2008, No. 4, p. 6.

¹⁷ *Journal of Laws* of 2015, item 155.

¹⁸ Sentence of the Court of Appeal in Krakow of 5 August 1999, II AKa 102/99, Prokuratura i Prawo 2000, No. 1, item 18, with a critical gloss by J. Kulesza, *Przegląd Sądowy* 2000, No. 9, pp. 138–142, resolution of the Supreme Court of 24 August 1972, VI KZP 19/72, OSNKW 1972, No. 11, item 167 with a gloss by K. Buchała, *Nowe Prawo* 1973, No. 4, pp. 614–617 and comments by H. Rajzman, *Przegląd orzecznictwa*

are defined as a collective subject to protection, i.e. the safety in transport that is endangered by a crime. The contents of Article 42 § 1 of the CC includes a general clause making it possible to classify crimes referred to in Chapter XXI of the CC as well as other crimes that endanger the safety in transport as crimes against the safety in transport¹⁹. In the doctrine, it is rightly indicated *mutatis mutandis* that Article 42 § 1 of the CC does not refer to the specified types of crimes but to the actual acts that, because of their consequences and circumstances of their commission, are crimes in traffic²⁰. The characteristic feature of these crimes is the fact that they are connected with the safety in land, water or air traffic²¹. The element that enacts a given crime as a crime against the safety in traffic is the violation of the principles of safety in traffic. Any crime committed as a violation of the principles of safety in traffic may be treated as a crime against the safety in transport, e.g. a manslaughter committed with the use of a vehicle²². The objective part of a road accident – as it is emphasised in the doctrine – consists in the violation of administrative norms regulating the flow and safety in traffic resulting from technical conditions, experience and the situation on a road²³. The commission of a crime against the safety in transport as such is not enough to adjudicate a ban on driving. The perpetrator's conduct must indicate that he disregards the principles of safety in traffic and due to that creates a threat to traffic²⁴.

Sądu Najwyższego w zakresie prawa karnego materialnego [Review of rulings of the Supreme Court in the field of criminal material law] (2nd half of 1972), *Nowe Prawo* 1973, No. 7–8, p. 1059; sentence of the Supreme Court of 6 April 1970, RW 265/70, OSNKW 1970, No. 7–8, item 79 with comments by K. Mioduski, *Przegląd orzecznictwa Izby Wojskowej Sądu Najwyższego w zakresie powszechnego prawa karnego materialnego za rok 1970* [Review of rulings of the Military Supreme Court in the field of common criminal material law of 1970], *Wojskowy Przegląd Prawniczy* 1971, No. 2, p. 246; resolution of the Supreme Court of 6 August 1970, VI KZP 9/70, OSNKW 1970, No. 11, item 139 with comments by H. Rajzman, *Przegląd orzecznictwa Sądu Najwyższego w zakresie prawa karnego materialnego* [Review of rulings of the Supreme Court in the field of criminal material law] (2nd half of 1970), *Nowe Prawo* 1971, No. 3, p. 394, resolution of the full Criminal Chamber of the Supreme Court of 28 February 1975, V KZP 2/74, OSNKW 1975, No. 3–4, item 33

¹⁹ J. Waszczyński, *Kary dodatkowe w nowym kodeksie karnym* [Additional penalties in the new Criminal Code], *Państwo i Prawo* 1969, No. 10, p. 533; M. Leonieni, *Kary dodatkowe w kodyfikacji karnej z 1969 r.* [Additional penalties in the criminal codification of 1969], *Nowe Prawo* 1969, No. 11–12, p. 1625; J. Bafia, *Kodeks karny. System kar* [Criminal Code – System of penalties], Warszawa 1970, p. 33; R.A. Stefański, *Zakaz...* [Ban...], p. 89.

²⁰ K. Buchała, Gloss to the resolution of the Supreme Court of 24 August 1972, VI KZP 19/72, *Nowe Prawo* 1973, No. 4, p. 616.

²¹ K. Buchała, *Przestępstwa przeciwko bezpieczeństwu w komunikacji drogowej* [Crimes against the safety in road transport], Warszawa 1973, p. 18.

²² This kind of case really took place (L.K. Paprzycki, *Zabójstwo, samobójstwo, czy wypadek drogowy?* [Manslaughter, suicide or road accident?], *Paragraf na Drodze* 2009, No. 2, pp. 44–56; A. Grześkowiak, K. Grześkowiak-Gracz, *Analiza zamiaru ewentualnego na przykładzie jednej sprawy* [Analysis of an eventual intention exemplified by one case], *Palestra* 2010, No. 1–2, pp. 24–39).

²³ T. Cyprian, *Ocena strony przedmiotowej wypadku drogowego* [Assessment of the subjective aspect of a road accident], *Palestra* 1961, No. 5, p. 53; A. Bachrach, *Przestępstwa drogowe w projekcie kodeksu karnego* [Road crimes in the Criminal Code Bill], *Państwo i Prawo* 1969, No. 1, p. 88.

²⁴ Sentence of the Supreme Court of 10 October 1988, V KRN 217/88, OSNPG 1989, No. 4, item 52. Also R.A. Stefański, Gloss to the sentence of the Supreme Court of 25 August 1989, V KRN 195/89,

3. Prerequisites of the adjudication of a ban for life

The condition for adjudicating a ban on driving motor vehicles for life – in accordance with Article 42 § 3 of the CC – is:

- 1) a commission of a crime of driving a motor vehicle in the land, water or air traffic being in a state of insobriety or under the influence of an intoxicative substance (Article 178a § 1 of the CC):
 - a) by a perpetrator who was earlier convicted for driving a motor vehicle being in a state of insobriety or under the influence of an intoxicative substance (Article 178a § 1 of the CC) or for the crimes of: causing a catastrophe in transport (Article 173 of the CC), causing the direct danger of a catastrophe in transport (Article 174 of the CC), which results in a person's death or a severe damage to health, causing an accident in transport (Article 177 § 2 of the CC) or an accident in transport committed by a soldier driving an armed motor vehicle (Article 355 § 2 of the CC), committed in a state of insobriety or under the influence of an intoxicative substance (Article 178 § 4 of the CC); crimes under Article 177 § 2 and Article 355 § 2 of the CC resulting in a person's death or severe damage to health;
 - b) in the period of a binding ban on driving motor vehicles adjudicated in connection with the conviction for a crime (Article 178a § 4 in fine of the CC); or
- 2) that a perpetrator who at the time of committing a crime of causing a catastrophe in transport (Article 173 of the CC), a crime of an accident in transport (Article 177 § 2 of the CC) or an accident in transport committed by a soldier driving an armed motor vehicle (Article 355 § 2 of the CC), which resulted in a person's death or severe damage to health, was in a state of insobriety or under the influence of an intoxicative substance or fled from the scene of crime.

The commission of a crime of causing the direct danger of catastrophe (Article 174 § 1 or 2 of the CC), which results in a person's death or a severe damage to health does not constitute a prerequisite of the adjudication on a ban on driving for life. The lack of such a provision in Article 42 § 3 of the CC leads to absurd situations. In the event a perpetrator unintentionally caused a danger of a catastrophe, in which another person died or was seriously injured, the act is classified in accordance with Article 174 § 2 of the CC and thus cannot constitute grounds for the adjudication on a ban on driving all types of vehicles for life, and if he did not cause a danger of a catastrophe but just a road accident under Article 177 § 2 of the CC, the adjudication of the ban would be obligatory. Thus, causing a direct danger of a catastrophe, which undoubtedly constitutes a more dangerous consequence, is a more favourable classification.

Problemy Praworządności 1990, No. 10–12, p. 159; A. Marek, *Kodeks karny. Komentarz* [Criminal Code – Commentary], Warszawa 2010, p. 145.

IV. Objective scope of the ban

Article 42 of the CC clearly determines the prerequisites of the adjudication on the discussed ban and refers it to driving specified types of vehicles (Article 42 § 1 of the CC), driving all vehicles or specified types of vehicles (Article 42 § 2 of the CC) or driving all motor vehicles (Article 42 § 3 and 4 of the CC).

The objective scope of the optional ban is determined in Article 42 § 1 of the CC in general terms as a ban on driving specified types of vehicles, which means that it may refer to various types of vehicles. There are no statutory restrictions on adjudicating on e.g. a ban on driving motor vehicles, which would cover all types of motor vehicles in all types of traffic zones²⁵. One cannot approve of the statement that all motor vehicles cannot be treated as specified types of vehicles²⁶. The shape of the objective scope of the ban can be the result of a far-reaching differentiation based on a narrower or a broader criterion for differentiating specific types of vehicles. The objective scope of the ban depends on the danger that a perpetrator may cause in traffic as a driver. The scope should be proportional to the danger, i.e. the higher level of danger, the broader scope. The limitation of the objective scope differentiation in road traffic to a group of vehicles that require that a driver be in possession of a specific category of licence does not have a normative justification²⁷. In the event a ban does not cover all entitlements the accused possesses, confirmed in a licence, he loses only those referred to in the ban. The Supreme Court rightly judged that: “a court adjudicates on a ban on driving vehicles determining what types of vehicles are banned and this court ruling constitutes the basis for an administrative organ to withdraw the authorisation to drive them in the scope determined by the court. The organ cannot broaden or narrow the ban ruled by the court”²⁸. Undoubtedly, the ban should refer to the vehicle the perpetrator drove when the crime was

²⁵ R.A. Stefański, *Zakres przedmiotowy zakazu prowadzenia pojazdów* [Subjective scope of the ban on driving vehicles], *Prokuratura i Prawo* 1999, No. 11–12, p. 14; J. Wojciechowski, *Kodeks karny. Komentarz. Orzecnictwo* [Criminal Code – Commentary – Rulings], Warszawa 1997, p. 102.

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²⁷ J. Błaszczyk, *Orzekanie środka karnego w postaci zakazu prowadzenia pojazdów mechanicznych (art. 42 KK). Uwagi krytyczne* [Adjudicating a penal measure in the form of a ban on driving motor vehicles (Article 42 of the CC) – Critical comments], *Paragraf na Drodze* 2002, No. 1, p. 6; W. Zalewski, [in:] J. Długosz, M. Królikowski, J. Lachowski, A. Sakowicz, R. Skarbek, A. Walczak-Żochowska, W. Zalewski, R. Zawłocki, S. Żółtek, *Kodeks karny. Część ogólna. Komentarz do artykułów 32–116* [Criminal Code – General issues – Comments on Articles 32–116], (ed.) M. Królikowski, R. Zawłocki, vol. II, Warszawa 2010, p. 142.

²⁸ Ruling of the Supreme Court of 26 February 2014, I KZP 29/13, OSNKW 2014, No. 7, item 52 with a gloss of approval by M. Zbrojewska, LEX/el. 2014 and a partially critical gloss by R.A. Stefański, WPP 2015, No. 1, pp. 131–138.

committed²⁹. It would be irrational to exempt the vehicle the perpetrator drove when he committed a crime from the ban.

The opinions of the judicature and in literature are unanimous that a ban on driving vehicles may be ruled even if the authorisation to drive them is not obligatory. According to the Supreme Court, “Based on Article 42 § 1 of the CC, it is admissible to adjudicate on a ban on driving a specified type of vehicle, the driving of which does not require the possession of authorisation confirmed in a document issued by an administrative organ”³⁰. It is an inapt standpoint. The essence of the ban is to prohibit a driver who creates danger in traffic participating in it from driving a vehicle. Thus, it refers to vehicles that require that the drivers have adequate theoretical knowledge and practical skills. A competent organ may confirm this. The lack of an obligation to possess such authorisation *eo ipso* means an acknowledgement that driving them does not constitute a threat to traffic. Moreover, also pragmatic arguments speak for the limitation of a ban on vehicles that require that a driver have authorisation to drive. The control of the execution of a ban on driving can be efficient only in situations when a driver is obliged to have a document confirming the authorisation to drive it.

The objective scope of an obligatory ban is determined in a different way. Adjudicated in this mode, it may have the form of a ban on driving “all vehicles” or “specified types of vehicles” (Article 42 § 2 of the CC). The ban on driving all vehicles covers all the vehicles in all the traffic zones. Choosing the other option, a court may narrow the ban to driving one type of vehicles, e.g. motorcycles, or a few types, e.g. motorcycles and cars.

A ban on driving vehicles for life refers to driving all types of vehicles (Article 42 § 3 and § of the CC); a court cannot exempt authorisation to drive any particular types of motor vehicles from the ban.

²⁹ Sentence of the Supreme Court of SN 10 June 1991, II KRN 57/91, with a gloss by R.A. Stefański, PS 1994, No. 3, pp. 83–91; sentence of the Supreme Court of 20 January 2010, IV KK 395/09, *Legalis*, Sentence of the Supreme Court of 14 January 2009, V KK 364/08, OSNwSK 2009, item 167, sentence of the Supreme Court of 7 January 2008, II KK 225/07, OSNwSK 2008, item 6, sentence of the Supreme Court of 1 April 2008, V KK 33/08, *Prokuratura i Prawo* 2008, No. 9, item 17. J. Błaszczki, *Orzekanie* [Adjudication], p. 6; W. Zalewski, [in:] M. Królikowski, W. Zalewski, R. Zawłocki, *Kodeks karny* [Criminal Code], vol. II, 2010, p. 141; A. Dziergawka, *Zakaz prowadzenia pojazdów a cofnięcie uprawnień do kierowania nimi* [Ban on driving vehicles vs. a withdrawal of the authorisation to drive them], *Paragraf na Drodze* 2008, No. 4, pp. 14–16.

³⁰ Resolution of the Supreme Court of 26 September 2002, I KZP 20/02, OSNKW 2002, No. 11–12, item 92, with a critical gloss by Z. Sienkiewicz, *Przegląd Sądowy* 2003, No. 10, pp. 143–151 and a gloss of approval by W. Marcinkowski, *Prokurator* 2003, No. 1, pp. 93–97 and critical comments by R.A. Stefański, *Przegląd uchwał Izby Karnej Sądu Najwyższego w zakresie prawa karnego materialnego, prawa karnego wykonawczego, prawa karnego skarbowego i prawa wykroczeń za 2002 r.* [Review of resolutions of the Criminal Chamber of the Supreme Court in the field of criminal material law, penalty execution law, penal fiscal law and petty offences law of 2002], *Wojskowy Przegląd Prawniczy* 2003, No. 1, pp. 66–69, resolution of the Supreme Court of 22 November 2002, I KZP 34/02, *Biuletyn SN* 2002, No. 11, p. 17.

V. Adjudication mode

A fixed-term ban on driving is adjudicated in the optional or obligatory mode. A ban on driving all vehicles for life is adjudicated in the obligatory mode. However, it may be relatively obligatory and absolutely obligatory. The adjudication on a ban is relatively obligatory in case a perpetrator at the moment of committing a crime referred to in Article 173 of the CC, which resulted in a person's death or severe damage to health, or at the moment of committing a crime referred to in Article 177 § 2 or Article 355 § 2 of the CC was in a state of insobriety or under the influence of an intoxicative substance or fled from the scene of crime (Article 42 § 3 of the CC). The obligatoriness of its adjudication is alleviated by a clause that lays down that a court may renounce inflicting this measure for life if *verba legis* "there is an extraordinary situation justified by special circumstances". The absolutely obligatory adjudication on a ban on driving occurs in the event the perpetrator commits a serious crime against the safety of transport being in a state of insobriety or under the influence of an intoxicative substance or fees from the scene of crime for the second time (Article 42 § 4 of the CC).

The circumstances resulting in an obligatory adjudication on the fixed-term ban include the commission of a crime in a state of insobriety or under the influence of an intoxicative substance or fleeing from the scene of crime (Article 42 § 2 of the CC).

1. State of insobriety

A state of insobriety is a legal category defined in Article 115 § 16 of the CC and Article 46 item 3 of Act of 26 October 1982 on upbringing in sobriety and preventing alcoholism. According to these regulations, a state of insobriety takes place when: (1) the content of alcohol in blood exceeds 0.5 per mille or leads to the concentration exceeding that level; or (2) the content of alcohol in 1 dm³ of the exhaled air exceeds 0.25 mg or leads to the concentration exceeding that level.

A state of insobriety must be distinguished from a state after the consumption of alcohol, which is defined in Article 46 item 2 of the cited Act. A state after the consumption of alcohol occurs when: (1) the content of alcohol in blood is from 0.2 to 0.5 per mille; or (2) the content of alcohol in 1 dm³ of the exhaled air is from 0.1 to 0.25 mg.

The definition of a state of insobriety indicates two alternative criteria, i.e. the content of alcohol in blood and the content of alcohol in the exhaled air. The examination of the exhaled air is an indirect analysis of blood flowing through pulmonary alveoli. The consumed alcohol is resorbed from the human gastrointestinal tract to blood, and with it to all the tissues and body fluids. In the pulmonary alveoli, biological gas-exchange with the blood takes place following

the principles of physics. The amount of alcohol in the exhaled air is strictly connected with its proportional content in blood; the higher level of alcohol in blood, the higher level of alcohol in the exhaled air³¹.

The legislator totally disregards the influence of alcohol on a human organism; it is absolutely unimportant for the determination of a state of insobriety³². As the Supreme Court noticed: “Individual tolerance to alcohol does not justify the adoption of different sobriety thresholds. Alcohol tolerance depends on so many imperceptible and changeable factors that defining it by court in every individual case is not possible. There is also no argument for treating persons driving a vehicle being in a state after the consumption of alcohol in a privileged way, especially as these persons cannot be sure whether in a given situation their organism will not be affected by the consumed alcohol”³³. What is important is the fact of reaching or exceeding the above-mentioned thresholds. It is not right to express an opinion that the influence of alcohol on a human body cannot be disregarded³⁴ because the legislator stipulated that introducing the minimum content of alcohol for the state after the consumption of alcohol. “When a state after the consumption of alcohol, having exceeded a certain limit, changes into a state of insobriety, it does not mean – as the Supreme Court rightly noticed – it stops being a state after the consumption of alcohol”³⁵.

2. State under the influence of an intoxicative substance

A state under the influence of an intoxicating substance, unlike a state of insobriety, is not defined in the context of the Criminal Code, neither is it defined in Act of 29 July 2005 on preventing drug addiction³⁶. It results in substantial

³¹ J. Markiewicz, *Alcomat Siemens* — nowe rozwiązanie dla doraźnej kontroli trzeźwości [Siemens' breath alcohol tester – a new solution for an instant sobriety check], *Zagadnienia Wykroczeń* 1985, No. 3, p. 16; W. Gubała, *O alkoholologii sądowej (uwagi biegłego)* [On court alcoholology (expert witness' comments)], *Palestra* 1991, No. 1–2, p. 4; *ibid.*, *Toksykologia alkoholu. Wybrane zagadnienia* [Alcohol toxicology – Selected issues], Kraków 1997, pp. 42–46; J. Markiewicz, W. Gubała, *Kilka uwag w sprawie analizy stężenia alkoholu w powietrzu wydychanym w związku z głosem dr W. Grzeszczyka* [A few comments on the analysis of the concentration of alcohol in the exhaled air in connection with a gloss by W. Grzeszczyk, PhD], *Problemy Praworzadności* 1990, No. 4–5, p. 55.

³² R.A. Stefański, *Stan nietrzeźwości w ustawie* [State of insobriety in a statute], *Problemy alkoholizmu* 1983, No. 4, p. 10.

³³ Resolution of the full Criminal Chamber of the Supreme Court of 28 February 1975, V KZP 2/74, OSNKW 1975, No. 3–4, item 33, thesis 7.

³⁴ A. Skowron, *Wokół stanów związanych z użyciem alkoholu* [On the state connected with the use of alcohol] (Part 1), *Paragraf na Drodze* 2007, No. 2, p. 18.

³⁵ Ruling of the Supreme Court of 7 June 2002, I KZP 14/02, Prokuratura i Prawo 2002, No. 9, item 16, with comment of approval by R.A. Stefański, *Przegląd uchwał Izby Karnej Sądu Najwyższego w zakresie prawa karnego materialnego, prawa karnego wykonawczego, prawa karnego skarbowego i prawa wykroczeń za 2002 r.* [Review of resolutions of the Criminal Chamber of the Supreme Court in the field of criminal material law, penalties execution law, penal fiscal law and petty offences law of 2002], *Wojskowy Przegląd Prawniczy* 2003, No. 1, pp. 122–123.

³⁶ Journal of Laws of 2012, item 124 as amended.

interpretational difficulties, especially as referring to the state connected with the use of intoxicative substances, the Petty Offences Code uses a concept of “a state under the use of another substance” (Article 70 § 2, Article 86 § 2, Article 87 § 1 and 2 of the POC) and “a state under the influence of another intoxicating substance” (Article 33 § 4 of the POC), and in the Law on road traffic “a state after the use of another substance acting in a way similar to alcohol” (Article 45 item 1 point 1, Article 129 item 2 point 8 letter a, item 4b point 1 and Article 135 item 1 point 1 letter a), in the Criminal Code “a state under the influence of an intoxicative substance” (Article 42 § 2 and 3, Article 47 § 3, Article 178 § 1, Article 178a § 1 and 4, Article 179, Article 180). Interpreting “a state under the influence of an intoxicative substance”, it is necessary to distinguish it from “a state after the use of another substance acting in a similar way to alcohol” and indicate the criteria differentiating the two. It is difficult because there is no indicator similar to the content of alcohol in a human body measured per mille or in mg/dcm³. There are opinions in literature that the complexity of alterations that intoxicative substances undergo in a human body and the consequences of addiction in the form of tolerance and symptoms of withdrawal do not allow for establishing a threshold for the concentration level or a range of thresholds for the concentration of the active compound ingredients of these substances in blood.³⁷ The current state can change because the participants of the conference entitled “Substances acting similarly to alcohol – Interpretation of drivers’ blood tests for the needs of court proceeding” in Cracow on 28–29 November 2012 were for establishing thresholds for a state under the influence of some intoxicating substances³⁸. During another conference, analytical limits and thresholds values for a state after the use and a state under the influence of substances were established in a way similar to alcohol for the need of developing opinions for courts³⁹.

The meaning of the concept of an intoxicative substance is not clear either. There are two standpoints in the doctrine in this area:

³⁷ M. Kała, *Środki podobnie działające do alkoholu. Zagadnienia analityczne i interpretacyjne światła prawa* [Substances resulting in effects similar to alcohol – Analytical and interpretational issues in the light of law], [in:] *Wypadki drogowe. Vademecum biegłego sądowego* [Road accidents – Expert witness’ handbook], Kraków 2006, p. 1048.

³⁸ M. Kała, *Rozpowszechnienie używania środków psychoaktywnych przez kierowców w Europie i prawne kryteria regulujące obecność tych środków w organizmie kierowcy* [Spread of psychoactive substances use among drivers in Europe and legal criteria for regulating the presence of these means in a driver’s organism], [in:] *Konferencja: Środki podobnie działające do alkoholu. Interpretacja wyników badań krwi kierowców dla potrzeb sądowych* [Conference on Substances acting similarly to alcohol – Interpretation of drivers’ blood tests for the needs of court proceeding], Kraków, 28–29 November 2012, pp. 15–27.

³⁹ M. Kała, „Wizja zero” w bezpieczeństwie ruchu drogowego [Vision Zero in the road traffic safety], [in:] *30th Conference of Polish Court Toxicologists on Środki działające podobnie do alkoholu w praktyce toksykologa sądowego* [Substances acting in a way similar to alcohol in a court toxicologist’s practice], Augustów, 15–17 May 2013, Conference materials, pp. 15–17.

- 1) Intoxicating substances are ones that are defined in Act on preventing drug addiction⁴⁰. In accordance with Article 4 point 26 of Act on preventing drug addiction, an intoxicative substance is any substance of natural or synthetic origin that affects the central nervous system defined in the list of intoxicative substances in Annex 1 to the Act. The substances include, inter alia: acetorphine, anileridine, fentanyl, heroine, coca leaves, poppy straw concentrates, poppy straw extracts, morphine, nicomorphine and normorphine. The assumption of the coherence of the legal system is to be an argument for the adoption of this interpretation because, if the legislator defines a concept, it should be binding for its interpretation in other legal regulations unless the legislator decides otherwise.
- 2) These are not only substances defined in Act on preventing drug addiction but also all kinds of substances of natural or synthetic origin that have a negative impact on the central nervous system, resulting in a state of stupor, e.g. psychotropic substances or substances substituting for intoxicative substances⁴¹.
The Supreme Court rightly assumed that “the concept of an intoxicative substance as referred to in Article 178a of the CC covers not only intoxicative substances specified in Act of 29 July 2005 on preventing drug addiction (uniform text, Journal of Laws of 2012, item 124 as amended), but also other substances of natural or synthetic origin affecting a central nervous system, the use of which results in the reduction of skills in driving a vehicle”⁴².

⁴⁰ M. Dąbrowska-Kardas, P. Kardas, *Odpowiedzialność za spowodowanie wypadku komunikacyjnego w świetle regulacji nowego kodeksu karnego z 1997 r.* [Liability for causing an accident in transport in the light of the new Criminal Code of 1997], part II, *Palestra* 1999, No. 3–4, p. 42; K. Krajewski, *Pojęcie środka odurzającego na gruncie kodeksu karnego*, *Państwo i Prawo* 2003, No. 11, pp. 33–35; K. Buchała, *Zbiegnięcie kierującego pojazdem mechanicznym z miejsca zdarzenia* [Fleeing of a driver from the scene of accident], [in:] *Rozważania o prawie karnym. Księga pamiątkowa z okazji siedemdziesięciolecia urodzin Prof. A. Ratajczaka* [Criminal law considerations – Book commemorating Professor A. Ratajczak’s 70th birthday], (ed.) A.J. Szwarc, Poznań 1999, p. 48; E. Kunze, *Przestępstwo prowadzenia pojazdu w stanie nietrzeźwości lub pod wpływem środka odurzającego (art. 178a KK)* [Crime of driving a vehicle in the state of insobriety on under the influence of an intoxicating substance (Article 178a of the CC)], [in:] *Nauka wobec współczesnych zagadnień prawa karnego w Polsce. Księga pamiątkowa ofiarowana Prof. A. Tobisowi* [Science towards contemporary issues of criminal law – Commemorative book presented to Professor A. Tobis], (ed.) B. Janiszewski, Poznań 2004, p. 155.

⁴¹ R.A. Stefański, *Prawna ocena stanów związanych z używaniem środków odurzających w ruchu drogowym* [Legal evaluation of the states related to the use of intoxicating substances in road traffic], *Prokuratura i Prawo* 1999, No. 4, pp. 19–20; K. Łucarz, A. Muszyńska, *Pojęcie środka odurzającego w prawie karnym* [Concept of an intoxicating substance in criminal law], *Państwo i Prawo* 2008, No. 6, pp. 91–126.

⁴² Resolution of the Supreme Court of 27 February 2007, I KZP 36/06, OSNKW 2007, No. 3, item 21, with glosses of approval by R.A. Stefański, *Państwo i Prawo* 2007, No. 8, pp. 130–135; T. Huminiak, *Paragraf na Drodze* 2007, No. 6, pp. 5–12; R. Małek, *Wojskowy Przegląd Prawniczy* 2007, No. 4, pp. 96–100; K. Wojtanowska, *Prokuratura i Prawo* 2008, No. 12, pp. 141–153; K. Łucarz, A. Muszyńska, *Przegląd Sądowy* 2008, No. 3, pp. 122–128; J. Dąbrowski, *Wojskowy Przegląd Prawniczy* 2009, No. 2, pp. 128–133, a partly critical gloss by G. Kachel, *Gdańskie Studia Prawnicze – Przegląd Orzecznictwa* 2008, No. 2, pp. 139–142 and a critical gloss by A.T. Olszewski, *Prokuratura i Prawo* 2008, No. 12, pp. 154–159 and comments of approval by R.A. Stefański, *Przegląd uchwał Izby Karnej Sądu Najwyższego w zakresie prawa karnego materialnego i prawa wykroczeń za 2007 r.* [Review of resolutions of the Criminal Chamber of the

The recognition of the presence of an intoxicative substance or its metabolite is not sufficient to assume that it caused trouble with psychic actions in the same way as the content of alcohol in blood exceeding 0.5 per mille. Although any dose of opiates, tetrahydrocannabinol, amphetamine and cocaine affects a human organism in a negative way, the intensity of the influence depends on the amount of the substance administered. Only the amount of the substance causing trouble with psychic actions that is characteristic of the state of insobriety makes it possible to state that we deal with a state under the influence of an intoxicative substance. Intoxicative substances, depending on the type, show different influence on a human organism, but the more of the substance administered, the stronger its influence because of the higher concentration. The burden of proof, unlike in case of insobriety, is transferred onto the external symptoms of being under the influence of an intoxicative substance. In order to state that a person is in the state under the influence of an intoxicative substance it is necessary to recognise the presence of a particular intoxicative substance in the organism and external trouble with psychic actions, similar to those caused by the amount of alcohol defined as a state of insobriety. The Supreme Court rightly judged that a state under the influence of an intoxicative substance is such a state that results – in terms of the influence on the central nervous system, especially trouble with psychomotor actions – in the same effects as the consumption of alcohol resulting in a state of insobriety⁴³.

3. Fleeing from the scene of incident

Starting with the linguistic meaning of the word ‘to flee’, it is rightly indicated in the doctrine that ‘fleeing from the scene of incident’ means “a person’s intentional activity aimed at leaving a certain place in order to escape from something”⁴⁴. The Supreme Court rightly interpreted this concept stating that “fleeing from the scene of incident as referred to in Article 145 § 4 of the CC of 1969 (Article 178 of the new CC) takes place when a perpetrator leaves the scene of accident in order to avoid responsibility, especially prevent or hamper the establishment of his identity, the circumstances of the accident, including the state of insobriety (in the light of Article 178 of the CC as well as a state under the influence of an intoxicative substance)⁴⁵.

Supreme Court in the field of criminal material law and petty offences law of 2007], *Wojskowy Przegląd Prawniczy* 2008, No. 1, pp. 133–137, ruling of the Supreme Court of 28 March 2007, II KK 147/06, KZS 2007, No. 9, item 9.

⁴³ Sentence of the Supreme Court of 7 February 2007, V KK 128/06, KZS 2007, No. 6, item 39, with a gloss by R.A. Stefański, *Przegląd Sądowy* 2008, No. 6, pp. 152–158, ruling of the Supreme Court of 31 May 2011, V KK 398/10, Prokuratura i Prawo 2011, No. 12, item 3.

⁴⁴ M. Dąbrowska-Kardas, P. Kardas, *Kryminalizacja ucieczki sprawcy wypadku drogowego z miejsca zdarzenia w świetle nowelizacji k.k. z 12 lipca 1995 r.* [Incrimination of fleeing of a perpetrator of a road accident from the scene of accident in the light of the amended Criminal Code of 12 July 1995], part I, *Palestra* 1996, No. 3–4, p. 23.

⁴⁵ Sentence of the Supreme Court of 15 March 2001, III KKN 492/99, OSNKW 2001, No. 7–8, item 52, with glosses of approval by J. Satko, *Orzecznictwo Sądów Polskich* 2001, No. 12, pp. 639–640;

VI. Time limits for a ban

A ban on driving vehicles is adjudicated for a period from one to 15 years (Article 43 § 1 of the CC), but – as it was indicated earlier – obligatory ban (Article 42 § 2 of the CC) cannot be ruled for a period shorter than three years (Article 43 § 2 and Article 43 § 1 of the CC).

A court may, after half of the period for which the measure was adjudicated, treat it as served if the convict complied with the legal order and the penal measure was executed for at least a year (Article 84 § 1 of the CC). This is not applicable to the ban adjudicated in the obligatory mode (Article 84 § 2 of the CC) and ruled for life, because in such a case the prerequisite of serving half of the period cannot be met.

In case of a ban for life, a court may – based on Article 84 § 2a of the CC – treat it as served if the convict complied with the legal order and there is no threat of committing a crime similar to that for which the measure was adjudicated and the penal measure was executed for at least 15 years.

As far as a ban adjudicated for life is concerned (Article 42 § 3 and 4 of the CC) and one ruled in the obligatory mode (Article 42 § 2 of the CC), it is possible to mitigate the ban within the penalties execution proceeding. In accordance with Article 182a § 1 of the PEC, if a ban on driving vehicles was executed for at least half of the adjudicated period, and in case of a ban forever or for life for a period of at least 10 years, a court may adjudicate the execution of a penal measure in the form of a ban on driving vehicles that are not equipped with a breath alcohol ignition interlock device if the perpetrator's attitude, characteristic features and condition as well as conduct during the execution of the penal measure convince the court that driving vehicles by the person does not inflict danger for transport (Article 182a § 1 of the PEC). The convict may drive a vehicle for which the driving authorisation was covered by the ban but only with the installed BAIID.

A ban modified in this way does not refer to vehicles used to learn to drive and take driving examinations if the convict is a learner or an examinee subject

S. Hoc, *Wojskowy Przegląd Prawniczy* 2002, No. 1, pp. 147–150 and K.J. Pawelec, *Jurysta* 2002, No. 1 and approving comments by S. Zabłocki, *Przegląd orzecznictwa Sądu Najwyższego – Izba Karna* [Review of rulings of the Supreme Court – Criminal Chamber], *Palestra* 2001, No. 7–8, pp. 191–192, sentence of the Supreme Court of 30 March 2005, WA 3/05, OSNwSK 2005, No. 1, item 639, rulings of the Supreme Court of 27 August 1968, RW 948/68, OSNWK 1968, No. 12, item 143, with a gloss of approval by A. Bachrach, *Państwo i Prawo* 1969, No. 10, pp. 703–708, sentence of the Supreme Court of 18 May 2009, III KK 22/09, *Krakowskie Zeszyty Sądowe* 2010, No. 10, p. 12, with a gloss of approval by R.A. Stefański, *Paragraf na Drodze* 2010, No. 10, pp. 21–25, ruling of the Supreme Court of 21 October 2009, V KK 176/09, *Prokuratura i Prawo* 2010, No. 3, item 4, with a gloss of approval by R.A. Stefański, *Przegląd Sądowy* 2010, No. 6, pp. 115–121, sentence of the Supreme Court of 1 March 2011, V KK 284/10, OSNKK 2011, No. 5, item 45, with glosses of approval by R. Małek, *Ius Novum* 2011, No. 3, pp. 156–161, R.A. Stefański, *Prokuratura i Prawo* 2011, No. 11, pp. 176–182, W. Kotowski, *Paragraf na Drodze* 2011, No. 11, pp. 5–15, sentence of the Supreme Court of 17 January 2012, V KK 389/11, *Prokuratura i Prawo* 2012, No. 4, item 2.

to the regulations of Act of 5 January 2011 on persons driving vehicles or Act of 6 September 2001 on road transport⁴⁶ (Article 182a § 2 of the PEC).

If the convict had flagrantly violated the legal order with regard to the safety of road traffic, especially committed a crime against the safety in transport, a court may quash the execution mode for the ban on driving vehicles not equipped with BAIID (Article 182a § 3 of the PEC).

BAN ON DRIVING MOTOR VEHICLES IN THE POLISH CRIMINAL LAW

Summary

The article discusses the issue of a penal measure of a ban on driving vehicles in the Polish criminal law. It analyses such issues as the evolution of the ban, its legal character, ways of adjudicating, prerequisites, objective scope, optional and obligatory adjudication modes, a fixed-term ban, a ban for life and rationale for shortening the ban or limiting its objective scope.

ZAKAZ PROWADZENIA POJAZDÓW W POLSKIM PRAWIE KARNYM

Streszczenie

Przedmiotem artykułu jest środek karny zakazu prowadzenia pojazdów w polskim prawie karnym. Analizie zostały poddane takie zagadnienia jak: ewolucja tego zakazu, jego charakter prawny, sposoby orzekania, przesłanki, zakres przedmiotowy, tryb orzekania fakultatywny i obligatoryjny, okres terminowego zakazu, zakaz dożywotni, a także przesłanki ich skrócenia lub ograniczenia ich zakresu przedmiotowego.

⁴⁶ Journal of Laws of 2013 item 1414, as amended.

L'INTERDICTION DE CONDUIRE LES VOITURES DANS LE DROIT PÉNAL POLONAIS

Résumé

Le sujet de l'article concerne le moyen pénal de l'interdiction de conduire des voitures dans le droit pénal polonais. On a analysé les questions suivantes: l'évolution de cette interdiction, son caractère légal, les façons de décider, les prémisses, le cadre du sujet, le mode de décider facultatif et obligatoire, le temps de l'interdiction, l'interdiction à vie, ainsi que les prémisses de raccourcir ou de limiter leur cadre du sujet.

ЗАПРЕТ НА ВОЖДЕНИЕ ТРАНСПОРТНЫХ СРЕДСТВ В ПОЛЬСКОМ УГОЛОВНОМ ПРАВЕ

Резюме

Предметом статьи является уголовная мера в виде запрета на вождение транспортных средств в польском уголовном праве. Анализу подвергнуты такие вопросы, как: эволюция данного запрета, его правовой характер, способы вынесения приговоров, предпосылки, пределы действия закона в отношении объектов, факультативный и облигаторный порядок вынесения приговоров, срок временного запрета, пожизненный запрет, а также предпосылки для их сокращения либо ограничения их пределов действия в отношении объектов.