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The intricacies of the terminology in the Polish legislation with regard to the types of narcotic agents and substances or states of intoxication by they

<http://dx.doi.org/10.12775/SIT.2019.001>

1. Introduction

The problem people under influence of narcotic agents or narcotic substances is not a new phenomenon. In recent years, we observe escalating this behaviors. Nearly 88 million people in the European Union acknowledges that at least once in her life tried drugs produced on the basis of cannabis¹.

There is no doubt that the violators of the sobriety duty, through the use of narcotic substances, pose a threat to security. The intoxicated worker is a threat to job security and the intoxicated driver is a threat to road safety. They pose a direct threat to the life and

¹ http://www.emcdda.europa.eu/system/files/publications/8585/20181816_TDAT18001PLN_PDF.pdf, (access: 30.03.2019)

health of not only their own, but also for other people, for example coworkers² or for other road users. The legislature was required to respond to this type of threat by introducing sanctions for people who in the states of intoxication shall take steps as to endanger other people. The problem is that in the established regulations lacks uniformity of terminology and *de facto* it formed doubts as to the scope of the provisions and how to understand the terms. Earlier experience gained with similar issues concerning alcohol led to unambiguous definitions that specify the consumed substances as well as the states of the human organism under the influence of alcohol. Ethyl alcohol consumed by humans is defined by chemists as an organic compound, which is a derivative of ethane C_2H_6 , that includes instead of one hydrogen atom the hydroxyl group $-OH$ ³. No matter what type of alcohol use a man, or is it vodka, wine, or beer, is true to say that he consumed alcohol. Collective name “alcohol”, relating to all substances containing ethyl alcohol is handy both in the process of construction and application of legal provisions. As precise legal definitions are defining the states of a man under the influence of alcohol. The definitions of “state after using alcohol” and “state of alcohol intoxication” are based on the parameterized values that refer to the level of alcohol in the blood or exhaled air, and thus there are no problems by a designation of these states.

Different looks the situation regarding the use of the substances commonly known as narcotic drugs. Chemical components contained in them are varied. This diversity makes it impossible to determine the parametric values of the body of the person under influence of the drug, in a manner analogous to the definition of the states people under the influence of alcohol. The legislature could not opt out of the settlement of this realm, so he was obliged to solve these difficult issues. Studies were carried out in order to check how the legislature coped with this problem and whether the solutions adopted are not reflected on the quality of estab-

² More D. Dörre-Kolasa, in: *Labor Code. Commentary*, A. Sobczyk (ed.), Warsaw 2018, art. 100.

³ <https://sjp.pwn.pl/slowniki/alkohol.html>, (access: 30.03.2019)

lished law. Circled the research problem allowed the formulation of research questions:

- whether on the basis of the applicable law could to determine one collective name to denote all non-alcoholic substances, that abolish the state of sobriety?
- if applicable law defines the states of the people under the influence of other substances than alcohol, it under what criteria?

Research issues define a publication structure. In the first part shows the terminological issues associated with determining the relationships that occur in different groups of non-alcoholic means, that can affect the central nervous system. In the second part defines states of the organism under the non-alcoholic substances, that abolish the state of sobriety. The publication is crowned by the summary, that applies to the terminology relations and contains a conclusions *de lege lata* and *de lege ferenda*. Studies have been carried out with the use of methods of study of law in the form of critical analysis of literature, the method scientific-legal and theoretical-legal.

2. Term used to describe non-alcoholic substances abolishing state of sobriety

Searching for the correct term to refer to non-alcoholic substances abolishing the state of sobriety should start by explaining what dependencies exist between concepts that appear in the legislation. In the Act of 29 July 2005 on counteracting drug addiction⁴, hereinafter referred to as the Polish anti-narcotics Act (p.a-n.a.) includes lists of intoxication drugs⁵ and psychotropic substances⁶

⁴ Uniform text Dz. U. of 2017 item 783, with changes.

⁵ Attachment No. 1 p.a-n.a.

⁶ Attachment No. 2 p.a-n.a.

and indicated that the provisions of this Act apply to precursors, narcotic substitutes and new psychoactive substances⁷. All of the agents and the substances, that are enumerate in Polish anti-narcotics Act, impact on the central nervous system⁸. The legal definition, contained in article 3 section 11 p.a-n.a., follows that the term “narcotic addictions” means the permanent or temporary use for purposes other than medical of intoxication drugs, psychotropic substances, narcotic substitutes or new psychoactive substances, and as a result people become to addicted on them. Indicated definition allows you to specify the enumerated in the Polish anti-narcotics Act substances and agents as a narcotics. In other words, to narcotic substances and narcotic agents belong drugs of intoxication, psychotropic substances, narcotic substitutes and new psychoactive substances. The definition doesn't contain precursors, because they serve to the illicit manufacture of narcotic agents and narcotic substances, and therefore unsuitable for taking, so may not lead to addiction⁹.

The term “narcotic agents and narcotic substances” has yet to be check in terms of correctness of lexical. In the Dictionary of Polish language defines the following terms:

- “agent” as a chemical substance, preparation, etc. used for a specific purpose¹⁰;
- “substance” as a chemical element in free state (active substance), or chemical agent composed of simpler substances or splitting at simpler substances (complex substance)¹¹;
- “narcotic drug” as a substance acting on the nervous system that causes sedation, pain relief, dizziness, euphoria, sleep etc.¹²

⁷ Chapter No. 5 Polish anti-narcotic Act.

⁸ Article 4, points 11a and 27 p.a-n.a.

⁹ The definition of precursors is contained in art. 2 point a of Regulation (EC) No. 273/2004 of the European Parliament and of the Council of February 11, 2004 on drug precursors, OJ. WE L item 47 of February 18, 2004.

¹⁰ *Polish Language Dictionary*, ed. W. Doroszewski, <https://sjp.pwn.pl/szukaj/%C5%9Brodek.html>, (access: 30.03.2019).

¹¹ *Ibidem*.

¹² *Ibidem*.

From the point of view of the linguistic, the term “narcotic drug” contains all types of agents and the substances listed in the Polish anti-narcotics Act, because they impact on the central nervous system and trigger off the effects indicated in the lexical definition. Within the meaning of the colloquial, term of “narcotic drugs” are associated only with drugs of intoxication, for example marijuana, cocaine, heroin, amphetamines without psychotropic substances or “ups”. These reasons also the use of the term “narcotic drugs” could mislead people that use this colloquial meaning. For this reason, the term “narcotic substances and narcotic agents” seems better to match. When assessing the proposed term, the advantages of including references to narcotic agents and narcotic substances should be taken into account. The term “chemical agent”, from the point of view of language is the synonymous word for the concept of “chemical substance”. Because the chemical agent is referred in the definition of the lexical as chemical substance, it would seem that the elimination of one of these concepts won’t be wrong doing. In terms of linguistic would agree that the use of the term “narcotic substance” would be sufficient, under the assumption that the chemical agent is composed of chemical substances. In the legal terminology stands out however, the breakdown of the agents and substances. Polish anti-narcotics Act distinguishes two kinds of agents and two types of substances, which is the agents (drugs) of intoxication and psychotropic substances and agents in form of narcotic substitutes and new psychoactive substances. The distinction between agents and substances is also observable in acts of international law, for example in the United Nations Convention on psychotropic substances of 1971¹³ and the United Nations Single Convention on Narcotic Drugs of 1961¹⁴. Assuming that the chemical agents consist of chemical substances, you can imagine that the inert chemical substances for central nervous system only when combined form a narcotic agent. Calling so such a component “narcotic substance” would be inappropriate, because

¹³ Journal of law of 1976 item 180.

¹⁴ Journal of law of 1966 item 277.

the substances that make up the resultant chemical agent may not lead to addiction. Due to the raised arguments, it seems that for the determination of rationed products in Polish anti-narcotics Act the most accurate term is the concept of “narcotic agents and narcotic substances”. Allowable also seems to be using the terms “non-alcoholic substances abolishing state of sobriety”, “non-alcoholic agents and substances affecting to the central nervous system” and “non-alcoholic but addictive agents and substances”. Due to its conciseness, the term “narcotic agents and narcotic substances” seems to be the best solution for collective name, that determine all agents and substances referred in the Polish anti-narcotics Act.

In the Polish criminal law, the legislator refers to the nomenclature contained in the Polish anti-narcotics Act. For example, in article 178 Polish criminal code (c.c.)¹⁵, 178 a § 1 c.c. or 180 c.c. among the necessary features of the crimes indicated is the status of the offender referred to as “being under the influence of agents of intoxication”. A way, how did legislator composed these provisions, allows you to correlate them with the relevant provisions of the Polish anti-narcotics Act in the part relating to the agents of intoxication. This way the interpretation excludes from the scope of the prohibited behaviors of activities under the influence of other narcotic agents and narcotic substances listed in the Polish anti-narcotics Act, i.e. psychotropic substances, narcotic substitutes and new psychoactive substances. The Polish Supreme Court stood, however, of the view that the concept of a narcotic drugs within the meaning of article 178a c.c. includes not only the substances (agents) from Polish anti-narcotics Act advisable but also other substances of natural or synthetic origin, acting on the central nervous system, the use of which causes the reduction of efficiency in terms of driving¹⁶. In justification of the indicated judgment stated, court referring to the functional interpretation stated, that the *ratio legis* of articles 178 § 1 and article. 178a

¹⁵ The Act of June 6, 1997 – Criminal code, uniform text in Journal of law of 2017 r. item 2204, with changes.

¹⁶ Order of the Supreme Court of March 28, 2007, Ref. Act II KK 147/06, Legalis.

concerns protecting traffic safety before the behaviour drivers to driving in a state of reduced efficiency of psychomotor or distortion of mental processes. These effects can be caused by the ingestion of alcohol or other means, not necessarily as an agents of intoxication as defined in the Polish anti-narcotics Act, but for example psychotropic substance mentioned in this law act.

Greater differentiation occurs in the Act of 20 May 1971 r – Code of trespasses (c.o.t.)¹⁷, in which the legislature uses diverse nomenclature. For example, in the article 86 § 2 c.o.t. or w 87 §§ 1 i 2 c.o.t. the legislature has placed among the constituent elements of these types of trespasses the state after using a agents acting similar like alcohol. Construction of provisions of offences allows you to adopt, that the term “substances acting similarly to alcohol” is the autonomous normative category, containing among their designations all substances and agents listed in the Polish anti-narcotic Act and additionally the other specifics acting on the central nervous system that cause the effects the same as those generated by alcohol. On this issue drew the attention of the Polish Supreme Court in the judgment of 4 October 2013, which stated that in the current state of the law, the court hearing the case of crime against the security of the communication committed under the influence of narcotic agents or narcotic substances, every time must determine whether the chemicals has had a real impact on psychomotorics of a vehicle driver in a degree similar to, as being under the influence of alcohol¹⁸. As pointed out in the justification of that judgment, in virtually every case of this agent (substance) in the human body, it will be necessary to make the findings of the inquiry in terms of the behavior of the test person at the time of the events, often combined with expert opinion¹⁹. The judges of the Polish Supreme Court stated in this respect that agents acting similar to alcohol they are not just those listed in § 2 paragraph 1–5 of the regulation the Minister of Health of 11 June 2003 on

¹⁷ Uniform text in Journal of law of 2018 item 618, with changes.

¹⁸ Judgment of the Supreme Court of October 4, 2013, Ref. Act IV KK 136/13, Legalis.

¹⁹ Ibidem.

the list of agents acting similar to alcohol and the conditions and how to test for their presence in the body²⁰.

The expressed position by the Polish Supreme Court raises doubts. Phrases used to determine specifying transport misconducts correspond to the provisions of the Act of 20 June 1997 – the Law on road traffic²¹. In the Act, the legislator uses the same term – “agent acting similar like alcohol”. In accordance with article 129 (j) of paragraph 5 The law of road traffic the competent minister of health was required to determine by regulation the list of these agents and the conditions and how to test for their presence in the humane being body. That provision became the basis for issue of a regulation of the Minister of Health on July 16, 2014, regarding the list of agents acting similar like alcohol and the conditions and how to test for their presence in the human being body²². As is apparent from that regulation agents acting similar like alcohol are opioids²³, amphetamine and its analogs, cocaine, tetrahydrocannabinols²⁴ and benzodiazepines²⁵. All of these agents and the substances identified by the Minister of Health are covered by the provisions of the Polish anti-narcotics Act, and so belong to the narcotic agents and narcotic substances. Agents acting similar like alcohol are among the narcotic agents and narcotic substances listed in Polish anti-narcotics Act, exactly they are listed in attachment No 1 containing the list of agents of intoxication and attachment No 2 containing the list of psychotropic substances.

As I have previously pointed out earlier, the legislature has not demonstrated to the consequence in terms of terminology, as in other provisions of trespass used different determine the state after using means or substances other than alcohol, although acting similarly. In accordance with article 70 § 2 c.o.t. punishment of

²⁰ Journal of law of 2003 No. 116, item 1104, with changes.

²¹ Uniform text in Journal of law of 2017 item 1260, with changes.

²² Journal of law of 2014 item 948.

²³ A group of substances that act on opioid receptors, e.g. codeine, morphine, heroin.

²⁴ The main psychoactive substance in cannabis.

²⁵ A group of drugs with anxiolytic, sedative, sleeping, etc.

detention or a fine shall be the person who, contrary to the obligation of sobriety is after using, inter alia, agent of intoxication or other similarly acting substances or agent and take in this state professional activities or public service. Lawmaker does not refer in description of trespass characteristic features to agents acting similar like alcohol but the agent of intoxication or other similarly acting substance or agent. It seems that the legislator write the provisions joints it with the regulations of the Polish anti-narcotics Act by pointing directly to an agent of intoxication, and indirectly to a psychotropic substances, new psychoactive substances and narcotic substitutes. So you can assume that the disposition of provision art. 70 § 2 c.o.t. applies to the states after using narcotic agents or narcotics substances listed in the Polish anti-narcotics Act.

Analysis allows you to specify scope of meaning terms mentioned in law and relating to narcotic agents and narcotic substances, which if you take and take in this state, certain activities may involve the criminal offence or a trespass. Chart 1 shows the relationships ranges of meaning components belonging to the narcotic agents and narcotic substances.

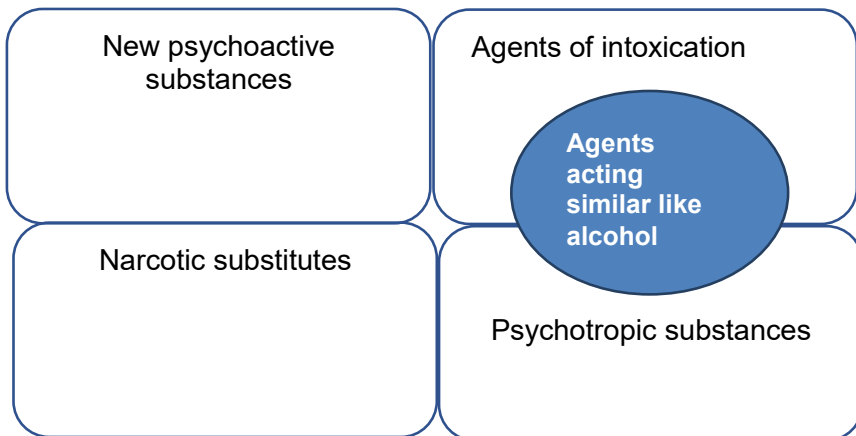


Chart 1. Narcotic agents and narcotic substances

Source: own study.

It should be noted that the range of meanings of the term “narcotic agents and narcotic substances” is much wider than the scope of the concept of “agents acting similar to alcohol” used by the legislator. Although the importance of this second lexical term is wider, then its legal importance was limited by the Minister for Health in the regulation of 16 July 2014 to selected of intoxicated agents or psychotropic substances.

3. States of organism resulting from impacts on the body narcotic agents or narcotic substances

When analyzing the provisions of the criminal code, the code of trespass, law of road traffic or bill of accident insurance cannot be left without a word of comment the diverse requirements of the condition of the body of a man who has taken narcotic agents or narcotics substances and committed an offence or trespass. The legislator in certain types of offences points to the state after using these agents or substances, and some on the state of being under their influence. Unfortunately, in any of the acts not clarified parametrically, on how to carry out a demarcation line between this states, as the legislator did it with regard to alcohol. In the Act of October 26, 1982 on Upbringing in Sobriety and Counteracting Alcoholism, hereinafter referred to as the Polish anti-alcohol Act (p.a-a.a.)²⁶, it is determined that the condition after alcohol use occurs when the alcohol content in the body is or leads to a blood concentration of 0.2‰ to 0.5‰ alcohol or the presence of breath in the air from 0.1 mg to 0.25 mg alcohol in one liter of exhaled air²⁷. It follows from the quoted provisions of the Polish anti-alcohol Act that a person whose alcohol level is lower than 0,2‰ concentration in the blood or its presence in exhaled air does not exceed

²⁶ Uniform text in Journal of law of 2016 item 487, with changes.

²⁷ Article 46 point 2 p.a-a.a.

0.1 mg and these values do not show an increasing tendency is a sober person who does not remain under the influence of alcohol. *A contrario* a person whose alcohol level is higher than 0.2‰ of blood concentration or its presence in exhaled air exceeds 0.1 mg, or although these values are lower but their level increases and leads to a concentration exceeding those values is a person who he is under the influence of alcohol. These people include the people in the state after using alcohol or state of alcohol intoxication.

On the basis of legal construction used by the legislator in the criminal legislation, it can be assumed that the person after taking narcotic agents or narcotic substances are equivalent to those with blood alcohol concentrations to 0.2‰, people after using narcotic agents or narcotic substances are the equivalent of people able to after using alcohol, and people under the influence of narcotic agents or narcotic substances are equivalent to those in the state of alcohol intoxication. The legislator has not demonstrated to the consequence in the nomenclature and he made terminology confusion. A person is under the influence of alcohol, when it is in one of the states defined parametrically in the Polish anti-alcohol Act, that is, or is able to after using alcohol or in the state of alcohol intoxication. This nomenclature should look similarly for narcotic agents and narcotic substances. The term “a person under the influence of narcotic agents or narcotic substances” should refer to people in the state after using these agents or substances and intoxicated persons by these agents or substances. So, however, is not. To determine the state of narcotic intoxication, which is equivalent to alcoholic intoxication, the legislature used the term “state under the influence” or narcotics and completely crisis has impaired persisted in the doctrine of the understanding of this term in relation to the alcohol issues. The terminological chaos introduced by the legislator caused a need to take a position on this issue by the Polish Supreme Court, which in the judgment of 7 February 2007²⁸. The judgment contained the statement that

²⁸ Judgment of the Supreme Court of February 7, 2007, Ref. Act V K 128/06, Legalis.

the state under the influence of a narcotic is such a state that it effects on the central nervous system, especially the disruption of psychomotor activities-the same effect as alcohol consumption, causing the state of alcohol intoxication. From this state differs state after using an agents acting similar to alcohol, that-in terms of effects is the equivalent of state after using alcohol. This is characteristic feature of trespasses referred to in articles 86 § 2, 87 § 1 i 2 and 96 § 1 c.o.t.

In this situation the person remaining in the state after using narcotic agents or narcotic substances and person in the state of narcotic intoxication, called by the legislature under the influence of narcotic agents or narcotic substances, should be distinguished another collective name. The appropriate term seems to be the concept of "person in a state under acting narcotic agents or narcotic substances". Carried out establish terminological lead to the conclusion that in cases of trespasses that relate to their necessary features to the state after using the narcotic agent or narcotic substance is not enough to state in the body of the perpetrator the presence of one of narcotic agents or narcotic substances. If the person with the concentration of alcohol in the blood to 0.2‰ is considered a sober person is also the person with trace amounts of the narcotic agents or narcotic substances may not be regarded as a person in the state after using these agents or substances. It seems reasonable to assume that for the recognition of the condition of the person in the state after using narcotic agents or narcotic substances, you need to prove that the level of this substance had an impact on the functioning of the organism, like alcohol on the human body when person has 0.2‰ of alcohol in the blood or 0.1 mg alcohol in 1 dm³ in the exhaled air. The findings suggest that not every disclosure in the body of the test person narcotic agents or narcotic substances will be entitled to consider that the tested person remains able in state under taking narcotic agents or narcotic substances at the level of the state after using these agents or substances. It may happen that a person after taking narcotic agents or narcotic substances will be considered a sober person, for example when he once takes a small amount of these agents or substances, that will not cause any reaction in the human body.

Similar dilemmas regarding of evidence results will be with the state of the person under the influence of narcotic agents or narcotic substances, which the condition is equivalent to state of alcohol intoxication. Distinguish the indicated states is legally relevant because everyone does not commit the crime, also referred to in the provisions of art. 178, 178 a § 1 or 180 c.c., who, although used a agents of intoxication but no remains under their influence. Procedural authorities becomes before the problem of the evidence nature, which way to carry out the demarcation line between the state of after using narcotic agents or narcotic substances and a state of drug intoxication, called by the legislator as state of under influence of narcotic agents or narcotic substances? Probably individually in each case the expert, e.g. toxicologist doctor, will be required to determine the state of the suspect at the time of the offence in order to determine whether he was under the influence or only after using the narcotic agents or narcotic substances. Just as in the crimes, also in article 87 § 1a c.o.t. liability the perpetrators of trespass requires to establish, that he was under the influence of the agent acting similar to alcohol. Not enough for responsibility so that blamed suspect only about using, e.g. narcotic agents or narcotic substances, in this case state authority should demonstrate that he remained under their influence and that this influence their effect was comparable with the effects state of alcohol intoxication in the meaning of the Polish anti-alcohol Act.

The problem of non-standardization the level of narcotic agents or narcotic substances in the human body drew the attention of M. Jakimowicz by the way of analyzing issues of employee benefits in respect of accidents at work. Article 21 of paragraph 2 of the Act of 30 October 2002, the social insurance in respect of accidents at work and occupational diseases²⁹, hereinafter referred to as the Act on accidents, points to the state under the influence of agents of intoxication or psychotropic substances as the same state like a state of alcohol intoxication. This provision indicates, that it is the state, which has the impact on the central nervous

²⁹ Uniform text in Journal of law of 2017 item 1773, with changes.

system, especially of interference psychomotor activity, and it has the same effects as alcohol consumption, causing the state of alcohol intoxication³⁰. According to Jachimowicz, “there is a lack of objective gauge setting out the content of intoxication’s agents and psychotropic substances in the body that causes psychomotor impairment corresponding with a state of alcohol intoxication. There is no parameter such like in matter of alcohol, which is the level of alcohol content in the organism expressed in ‰ or in mg/dm³. The body tests usually are limited to the establishment of presence in the body of the agents of intoxication or psychotropic substance, and their kind. It is also possible to quantify the agents of intoxication or psychotropic substance found in the body, but because of the lack of steady meter, it may have only importance for determine the extent of the impact of this measure or substances on the disturbances in consciousness of the insured person”³¹. The quoted author aptly stresses in his publication, that for the determination of the state under the influence of a agents of intoxication or psychotropic substance are important to evidence for example the testimony of witnesses of the accident at work, to determine how looked the behavior of the insured person and, on this basis, can be drawn conclusions as to the degree of his consciousness disorders³². In cases from the employment relationship, it is not necessary to stipulate the concentrations of certain substances in the body of the employee, as is the case in criminal proceedings and in proceedings in cases of trespass³³. The employer has the ability to command the state after taking narcotic agents or narcotics substances in organism of employee by all means of evidence³⁴. If an employee will be tested for content of narcotic agents or narcotic substances in the body, then the employer will

³⁰ M. Jachimowicz, *Accidents at work and occupational diseases. Insurance and civil services*, Warszawa 2013, pp. 165–166.

³¹ *Ibidem*, p. 166.

³² *Ibidem*.

³³ L. Florek, in: *Labor Code. Commentary*, ed. L. Florek, Warszawa 2017, p. 372.

³⁴ *Ibidem*.

have convincing evidence about his state and he can support the additional evidence in the form of the relationship of associates about a behavior had the tested employee. In the case of refuse by the employee participate in the study, these additional evidence becomes evidence essential, so he should ensure their appropriate preservation and documentation.

4. Conclusions

The Polish legislature chose not to introduce a definition of the legal covering all agents and substances of rationed by Polish anti-narcotic Act. Taking into account the aspects of legal language, the official language and colloquial language, it seems that the term “narcotic agents and narcotic substances” is a concept that within its elements refers to all agents and substances listed in the Polish anti-narcotic Act and can become the equivalent of the term “alcohol” functioning on the basis of the Polish anti-alcohol Act. In view of the lapidary form of the term “narcotic agents and narcotic substances” it should be used when creating the provisions relating to the issue of narcotic drugs, in particular where the legislature’s intention to be referencing all of the agents and all of the substances listed in the Polish anti-narcotic Act, which are taken by people and produce the effect of addiction.

The legislature has not demonstrated to the consequence in the nomenclature and introduced the terminological confusion in the legislation in reference to states of organism after taking narcotic agents or narcotic substances. The term “a person under the influence of narcotic agents or narcotic substances” is reserved for people in state of narcotic intoxication and should refer also to persons in the state after using these agents or substances too. Unfortunately for the determination of the state of narcotic intoxication, which is lexical equivalent to state of alcoholic intoxication, the legislature used the term “state under the influence” and completely he perturbed understanding of this term in the doctrine with regard to the issue of alcohol. In the current state of the law, people in the state after using narcotic agents or narcotic

substances and in the state of narcotic intoxication, called by the legislature “people in state under the influence of narcotic agents or narcotic substances” should be distinguished with a different name. In this publication proposes to adopt the term “person in a state after taking narcotic agents or narcotic substances”, which covers the scope of the person in the state after using as well as the people in the state under the influence of narcotic agents or narcotic substances. Ultimately, it would be sorting out the wording of the provisions, if legislator would introduce of a term “state of narcotic intoxication” as the equivalent of “state of alcohol intoxication” in place of “state under the influence of narcotic agents or narcotic substances”. The introduction of the proposed changes would to standardize the terminology with that used in the Polish anti-alcohol Act. People after taking the narcotic agents or narcotic substances can be divided into people sober and in the state under the influence of narcotic drugs. However, among people in the state under the influence of narcotic substances, it would be distinguished the person in the state after using the narcotic agents or narcotic substances (the equivalent of the state after using alcohol), and a person in the state of narcotic intoxication (the equivalent of the state of alcohol intoxication).

STRESZCZENIE

Zawiłości terminologii w polskim ustawodawstwie w odniesieniu do rodzajów substancji odurzających lub stanów odurzenia

W polskim systemie prawnym bycie pod wpływem narkotyków co do zasady nie jest karalne. Jednakże występują okoliczności, w których stan po ich zażyciu powoduje pociągnięcie osoby do odpowiedzialności karnej, pracowniczej lub dyscyplinarnej. Sprawy takie dotyczą osób prowadzących samochody pod wpływem narkotyków czy odurzonych pracowników przystępujących w tym stanie do czynności zawodowych. Pomimo poważnych konsekwencji prawnych, które wiążą się z naruszeniem obowiązku zachowania trzeźwości, polski ustawodawca wykazuje się niekonsekwencją w stosowanej terminologii, zarówno w zakresie rodzajów substancji wywołujących stan odurzenia, jak i stanów, które te środki wywołują. W artykule

zamieszczono wyniki badań dotyczących poprawności terminologicznej i zakresu znaczeniowego pojęć używanych przez polskiego ustawodawcę na określenie zakazanych substancji wywołujących stany odurzenia oraz na oznaczenie tych stanów, które są wynikiem zażywania narkotyków bądź innych środków. W podsumowaniu zawarto wnioski *de lege lata* i *de lege ferenda*, które służyć mają poprawie jakości tworzonego prawa w sferze objętej badaniami.

Słowa kluczowe: środki odurzające; substancje psychotropowe; środki zastępcze; nowe substancje psychoaktywne; stan odurzenia narkotycznego; stan pod wpływem środków lub substancji narkotycznych; stan po użyciu środków lub substancji narkotycznych; stan po zażyciu środków lub substancji narkotycznych

SUMMARY

The intricacies of the terminology in the Polish legislation with regard to the types of narcotic agents and substances or states of intoxication by them

In the Polish legal system condition of a man under the influence of drugs, as a rule, is not punishable by law. However, there are circumstances in which the state of human organism after their taking causes pulling people to the criminal, order, or disciplinary responsibility. The cases apply to people driving cars under the influence of drugs or intoxicated workers, which in this state of their organism do the accession to professional activities. In spite of the serious legal consequences that involve violation of the obligation to maintain sobriety, the Polish legislator has inconsistency in terminology, both in terms of the types of substances causing intoxication and states of human organism that these agents cause. The article contains the results of the research about the correctness of the terminology and the scope of the meaning of terms used by the Polish legislature to specify the prohibited substances causing states of intoxication and the designation of those states that are the result of the using of narcotic agents and substances. The summary are contain the proposals *de lege ferenda* and *de lege lata*, that can serve to improve the quality of the created legal acts in the area covered by the research.

Keywords: narcotic agents; narcotic substances; psychotropic substances; narcotic drugs; narcotic substitutes; new psychoactive substances; state

of narcotic intoxication; state under the influence of narcotic drugs; state after using narcotic drugs; state after taking narcotic drugs

BIBLIOGRAPHY

Dörre-Kolasa D., in: *Labor Code. Commentary*, ed. A. Sobczyk, Warszawa 2018.

Florek L., in: *Labor Code. Commentary*, ed. L. Florek, Warszawa 2017.

Jachimowicz M., *Accidents at work and occupational diseases. Insurance and civil services*, Warszawa 2013.