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**The Crime of Non-Alimony in Polish Criminal Law. The Justifiability  
of Maintaining Criminal Liability under Article 209 of the Penal  
Code.**

**Summary.**

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The doctoral dissertation entitled "*The Crime of Non-Alimony in Polish Criminal Law. The Justification for Maintaining Criminal Liability under Article 209 of the Criminal Code*" examines the legitimacy, proportionality, and necessity of criminalizing the failure to pay alimony obligations in the Polish legal system. The research addresses the multifaceted nature of the offence regulated under Article 209 of the Polish Criminal Code, which was significantly amended by the Act of 23 March 2017. Despite its social importance and high statistical prevalence, the offence of non-alimony has not yet been comprehensively analyzed in contemporary Polish legal scholarship. The dissertation therefore seeks to fill this gap by conducting a multidimensional analysis encompassing legal-dogmatic, constitutional, historical, and social perspectives.

The main research objective of the dissertation is to determine whether maintaining criminal liability for non-alimony under Article 209 of the Criminal Code remains necessary, useful, and proportionate in light of Article 31(3) of the Constitution of the Republic of Poland. The research further aims to assess the actual role of criminal law in ensuring the enforcement of alimony obligations, and to evaluate whether penal sanctions effectively serve the protective function intended by the legislator, or whether they instead undermine the economic and social interests of both the obliged and entitled parties.

The work adopts a formal-dogmatic methodology as its primary research approach, supplemented by historical, statistical, and sociological analyses. The formal-dogmatic method enables an in-depth examination of the normative framework and scholarly interpretations of Article 209 of the Criminal Code, as well as its historical evolution. The statistical analysis compares the number of reported and adjudicated cases before and after the 2017 amendment, thereby assessing its practical effectiveness. Additionally, a social attitude survey was conducted to evaluate the public perception of persons evading alimony obligations and to explore whether society views criminal punishment as a justified and necessary response.

The dissertation is composed of an introduction, nine substantive chapters, and a conclusion.

The introduction outlines the research background, the scope of the problem, and the relevance of the topic to both criminal law and social policy. It emphasizes the increasing scale of non-alimony in Poland, which constitutes one of the most frequently prosecuted offences against family and guardianship obligations.

Chapter One presents the historical development of criminal liability for non-alimony, tracing the evolution of the offence from the Criminal Codes of 1932 and 1969 to the 1997 Code prior to the 2017 reform. This historical analysis allows the author to identify legislative

tendencies and shifting rationales for penalizing non-alimony across different socio-political contexts.

Chapter Two examines in detail the 2017 amendment to Article 209 of the Criminal Code, which removed the requirement of endangering the entitled person's ability to meet basic living needs. As a result, criminal liability now arises solely from the failure to pay arrears equivalent to at least three monthly instalments. The chapter discusses the governmental justification for the amendment, the views expressed in legal doctrine, and statistical data illustrating its practical consequences.

Chapter Three focuses on the structural analysis of the offence of non-alimony. It discusses the protected legal interest, including its constitutional and social dimensions, as well as the subject, the objective, and the subjective elements of the offence. This part forms the dogmatic core of the dissertation, providing the theoretical basis for assessing the necessity of maintaining criminalization.

Chapter Four analyses the system of penalties and penal measures applicable to offenders under Article 209 of the Criminal Code. It explores the preventive and compensatory functions of punishment, as well as the impact of penal sanctions on the offender's ability to fulfil alimony obligations. Particular attention is given to the "non-punishability clause" introduced in Article 209 § 4–5, which exempts offenders from liability upon repayment of outstanding arrears.

Chapters Five to Seven discuss specific doctrinal issues, including the *stacial* and *phenomenal* forms of the offence, concurrence of crimes, and the interplay between Article 209 and other statutory provisions. These sections aim to clarify interpretative ambiguities and delimit the scope of criminal liability.

Chapter Eight moves beyond criminal law and reviews non-penal mechanisms for enforcing alimony obligations. It analyses civil enforcement proceedings, the mechanisms established by the Act of 7 September 2007 on assistance to persons entitled to alimony, and Poland's international obligations under the Convention on the Rights of the Child. These instruments are evaluated as potential alternatives to criminal prosecution, better aligned with the principle of criminal law as *ultima ratio*.

Chapter Nine constitutes the doctrinal and constitutional culmination of the dissertation. It assesses the admissibility of criminalizing non-alimony under the constitutional limitation clause in Article 31(3) of the Polish Constitution. The analysis examines the proportionality of criminal sanctions by considering their usefulness, necessity, and proportionality *sensu stricto*. The chapter concludes that criminalization may be constitutionally questionable in its current

form, given the lack of empirical evidence for its deterrent effect and the potentially counterproductive impact of imprisonment on the debtor's capacity to pay.

The conclusion synthesizes the findings of the preceding chapters and formulates both *de lege lata* and *de lege ferenda* recommendations. The author argues that the persistence of criminal liability for non-alimony should be reconsidered in light of constitutional proportionality, the social purpose of alimony enforcement, and the availability of civil and administrative instruments capable of achieving the same objectives with less infringement of individual freedoms. The dissertation thus proposes a reorientation of state policy toward strengthening enforcement mechanisms, promoting social responsibility, and prioritizing child welfare over penal repression.

The conducted research demonstrates that while non-alimony constitutes a significant social problem requiring effective legal responses, criminal law should not serve as the primary instrument for resolving socio-economic deficiencies. The dissertation concludes that the justification for maintaining the offence of non-alimony in Article 209 of the Polish Criminal Code remains, at best, debatable, and that the principle of proportionality should guide any future legislative reforms in this area.