

System of Protection of Children from Domestic Violence in Poland in the Context of Post-Aggression Suicide Research*

System ochrony dzieci przed przemocą domową w Polsce w kontekście badań samobójstw poagresyjnych

Abstract

In this study, the authors analyzed a system for protecting minors victimized by post-aggression suicide in the context of the preliminary results of pioneering research from Poland for the years 2020-2023, which was commissioned by the Justice Institute; additionally, a nationwide survey of psychologists and psychiatrists on the assessment of this phenomenon was conducted. The aim of the study was to present a resolution of the problem: how the system for protecting minors victimized by post-aggression suicide is functioning and how it can be strengthened, taking into account the preliminary results of file and survey research in this area from Poland. The most common causes of child homicide in post-aggression suicide cases are the perpetrators' psychological problems, relationship problems, and other family problems. These findings confirm the results obtained from the survey of psychiatrists and psychologists. The current system for protecting minors victimized by domestic violence does not provide adequate protection according to the studies conducted on post-aggression suicides in Poland.

KEYWORDS: protection, minor victims, post-aggression suicides, file research, European standards

SŁOWA KLUCZOWE: ochrona, małoletnie ofiary, samobójstwa poagresyjne, badanie aktowe, standardy europejskie

CEZARY KULESZA – full professor, University of Białystok, e-mail: c.kulesza@uwb.edu.pl, ORCID – 0000-0003-0509-327X.

IZABELA URBANIAK-MASTALERZ – PhD, University of Justice, e-mail: izaurbaniakmastalerz@gmail.com, ORCID – 0000-0003-3845-8028.

* The article is financially supported by the Polish Minister of Science under the „Regional Initiative of Excellence” (RID) programme. Minister of Science and Higher Education Republic of Poland.



Ministry of Science and Higher Education
Republic of Poland



Regionalna
Inicjatywa
Doskonałości

1 | Introduction

Minors, both under the Polish legal system and under European and international regulations, are under special legal protection. This is dictated by the need to take the good of the minor into account as the primary objective. Cases involving the legal protection of minors may cover a wide range of cases involving minors. However, a special case arises when minor children are victims of crime. The crimes committed against minors, after all, are very often related to acts of violence and aggression, of which the most serious crimes are murder and suicide, which often end with their death. According to published statistics from the Polish Police, there were more than 5,000 cases of suicide attempts ending in death in Poland each year from 2017 to 2023. In 2023, there were 5,233 cases of suicide that resulted in death in Poland, a number that was more than 200 cases higher than that in 2022. The majority of suicides ending in death each year involved men (more than 4,000), while fewer than 1,000 cases involved women (approximately 800 each year). Among these individuals, more than 100 were aged 13-18 years. In 2023, there were as many as 138 people aged 13-18 years who died via suicide. In contrast, the highest number of suicides in 2023 was committed by individuals in the 40–44 year age group (553 cases) (Police Statistics 2023 (1)[1]). The statistics also include the specific reasons for committing suicide. However, on average, as many as 3,000 cases of suicide are committed for undetermined reasons. A relatively high number, approximately 1,000 cases of suicide on average per year, are committed due to mental illness or mental disorders. Notably, police statistics provide only basic statistics on the perpetrators and causes of suicide and do not distinguish post-aggression suicides. As indicated in the literature, psychiatric-psychological motives are the most common causes of completed suicides[2].

The concept of post-aggression suicide is interpreted differently in doctrine and in psychiatric practice in Poland and worldwide. Current Polish literature points to the need to standardize the terminology used to describe it[3].

1 Statystyka policyjna, „Zamachy samobójcze” (2023). <https://statystyka.policja.pl/st/wybrane-statystyki/zamachy-samobojcze> [accessed: 20.08.2024].

2 *Suicydologia dla prawników i śledczych*, red. Ewa M. Guzik-Makaruk, Ireneusz Sołtyszewski (Warszawa: Wolters Kluwer, 2023), LEX/el.

3 Marta Romańczuk-Grącka, „Samobójstwo rozszerzone, zabójstwo suicydalne a samobójstwo poagresyjne – ocena stanu psychicznego sprawców i jej prawnokarne znaczenie” *Studia Prawnoustrojowe*, No. 64 (2024). <https://doi.org/10.31648/sp.10224>.

In foreign literature, a broad interpretation of the term post-aggression suicide has usually been adopted, pointing to the emotional link between the perpetrator, who is usually a person close to the child-victim (parent, guardian), and the child-victim, emphasizing that, in contrast to extended suicide, the possibility of the child consenting to the act of aggression is irrelevant here; therefore, whether such consent was given should not be examined[4]. Furthermore, it should be noted that in cases involving the death of both the perpetrator and the victim, it is difficult to draw clear conclusions in this regard. Therefore, the term post-aggression suicide used in this article should be understood as an act of aggression by a perpetrator aimed at depriving another person (in this case, a child) of his or her life, followed by the suicide of the perpetrator. Post-aggressive suicide is therefore a broader term than extended suicide, as it does not determine whether the victim consented to his or her murder. Notably, however, in Poland, the use of this term has also been criticized because the term places too much emphasis on the suicidal act in a situation where a homicide has occurred prior to the suicide[5].

Therefore, the aim of this study is a pioneering (as it has not been attempted before in the Polish doctrine) attempt to solve the problem: how the system for protecting minor victims of the crime of post-aggression suicide functions and

4 Elżbieta Bloch-Bogusławska, E. Wolska, Piotr Engelhardt, Ewa Pufal, „Przypadki samobójstw poagresyjnych w materiale Katedry i Zakładu Medycyny Sądowej w Bydgoszczy” *Archiwum Medycyny Sądowej i Kryminologii* 56 (2006): 169-172; Brian M. Barraclough, E. Clare Harris, „Suicide preceded by murder: the epidemiology of homicide-suicide in England and Wales 1988-92” *Psychological Medicine* 32 (2002); C.Y. Chan, Philip S.L. Beh, Roderic G. Broadhurst, „Homicide-suicide in Hong Kong, 1989-1998” *Forensic Science International* 137, No. 2-3 (2003): 165-171; Adam Czabański, „Społeczna charakterystyka samobójstw rozszerzonych” *Poznańskie Zeszyty Humanistyczne* 16 (2011); Paweł Kaliszczak, Jerzy Kunz, Filip Bolechała, „Samobójstwa poagresyjne – problematyka kryminalistyczno-procesowa” *Archiwum Medycyny Sądowej i Kryminologii* 53, No. 3 (2003): 177-186; Peter M. Marzuk, Kenneth Tardiff, Charles S. Hirsch, „The epidemiology of murder-suicide” *JAMA* 267, No. 23 (1992): 3179-3183; Christopher Milroy, „The epidemiology of homicide-suicide (dyadic death)” *Forensic Science International* 71, No. 2 (1995): 117-122; Yoshitomo Takahashi, „Depression and suicide” *Japan Medical Association Journal* 44, No. 8 (2001); Jarosław Stukan, „Samobójstwo poagresyjne z dwoma niecodziennymi zakończeniami – refleksje na temat sprawców i ofiar” *Problemy Kryminalistyki* 307, No. 1 (2020): 25-32.

5 Renata Durda, Beata Gruszczyńska, Magdalena Grzyb, Witold Klaus, Michał Lewoc, P. Szczupaczyńska, Dagmara Woźniakowska-Fajst, Grzegorz Wrona, „*Teraz koniec z Tobą*”. Czarna Księga Ofiar Przemocy Domowej w Polsce 2021 (Warszawa: Niebieska Linia, Instytut Psychologii Zdrowia, 2021), passim.

how its effectiveness can be strengthened, taking into account the preliminary results of file research in this area from Poland for the years 2020-2023 involving a total sample of 19 cases selected from 35 files sent from prosecutors' offices of discontinued pretrial proceedings (due to the suicidal death of the homicide perpetrator), 16 of which directly concerned minor victims. This research was supplemented by data from a nationwide survey of psychiatrists and psychologists regarding their assessment of the phenomenon of post-aggression suicide[6].

This is because minors victimized by any crime are covered by a system of protection under national regulations, especially the norms contained in the Criminal Code and the Code of Criminal Procedure implementing European and EU standards in this area[7]. There are also other legal acts in Poland that contain provisions aimed, inter alia, at preventing acts of aggression and violence against children. These legal acts include the following:

1. the Act of 29 July 2005 on Counteracting Domestic Violence (Journal of Laws 2024 Item 1673) (hereinafter: ACDV);
2. the Act of 13 May 2016 on counteracting the threat of sexual offences and the protection of minors (Journal of Laws 2026 Item 110);
3. the Act of 25 February 1964 - Family and Guardianship Code (Journal of Laws 2026 Item 236);
4. the Act of 19 August 1994 on the protection of mental health (Dz.U.2024 Item 917, consolidated text of 2024.06.21).

The scope of amendments to certain provisions from parts of the abovementioned acts in Poland occurred as a result of the so-called 'Lex Kamilek', i.e., the entry into force on 15 February 2024 of the Act of 28 July 2023 amending the Act - Family and Guardianship Code and certain other acts (Dz.U.2023 Item 1606 of 2023.08.14). The deadline for the implementation of the entire amendment passed on 15 August 2024.

The assumed research hypotheses are as follows:

6 Izabela Urbaniak-Mastalerz, *Badanie akt postępowań przygotowawczych w sprawach dotyczących samobójstwa poagresyjnego na szkodę małoletnich za okres 2020-2023. Raport IWS* (Warszawa: Instytut Wymiaru Sprawiedliwości, 2024).

7 Cezary Kulesza, *Prawa dziecka pokrzywdzonego przestępstwem w polskim systemie wymiaru sprawiedliwości w świetle standardów europejskich* (2024), LEX/el.

1. The Polish justice system has generally implemented European standards for the protection of children's rights against domestic violence, but its functioning in the sphere of post-aggression suicide prevention is ineffective.
2. There is a link between post-aggression suicide phenomena and perpetrators' mental disorders and their untreated mental illnesses.
3. The reason for the violent behavior of post-aggression suicide perpetrators is the insufficient availability of psychological and psychiatric assistance in Poland.
4. There are no effective systemic solutions in Poland to protect minor victims from post-aggression suicide.
5. So far, the results of file studies on post-aggression suicide in the US for 2003-2009 are similar to those obtained in Poland for 2020-2023.

2 | International standards for the protection of children from domestic violence

The establishment of the United Nations, Council of Europe, and European Union standards relating to child victims is justified on the one hand by the magnitude of crimes committed against children and, on the other hand, by studies indicating the special conditions minors face as victims and witnesses of such crimes, which require appropriate regulation of their protection and interrogation procedures^[8]. For example, the Fundamental Rights Agency's (FRA) Study of Victimization of Women in Childhood revealed that 35% of women reported that they had experienced at least one of the following three forms of abuse by an adult perpetrator before the age of 15: psychological abuse, sexual abuse, and physical abuse. Among all the women surveyed, 12% indicated that they had experienced some form of sexual abuse before the age of 15 or that they had encountered an incident of this type involving an adult perpetrator. This figure corresponds to nearly 21 million women in the EU. In contrast, an average of 27% of women experienced physical abuse from an adult during their childhood—that is, before the age of 15. Approximately 10% of women indicated that they had experienced some form of psychological abuse from an adult

⁸ Cezary Kulesza, „European and EU Standards of Rights and Protection of Child Victims of Crime and Their Implementation in the Polish Criminal Process Through Amendments to the Code of Criminal Procedure in 2020-2023” *Review of European and Comparative Law* 60, No. 1 (2025): 49-72.

family member[9].

In Poland, cyclic surveys of the victimization of children are conducted by the “Empowering Children” Foundation, which publishes reports on these surveys every 5 years. The latest report presents the results of a survey conducted in schools involving a nationwide representative stratified random sample of 2026 adolescents aged 11-17 years[10]. The report shows, among other things, that the majority of children and adolescents (79%) experienced violence or neglect at least once in their lives, whereas in the year preceding the survey, 52% of the respondents reported that the most frequently reported forms of violence were violence perpetrated by peers (66%), violence perpetrated by a close adult (32%), and sexual abuse without physical contact (26%). In addition, 14% of the respondents reported experiencing violence at home, 8% reported experiencing sexual abuse with physical contact, and 8% reported being physically neglected. In recent years, the percentages of those who experienced physical abuse from peers (from 41% in 2013 to 48% in 2023) and psychological abuse (from 28% to 43%, respectively) have increased, whereas the percentage of those who were abused physically by close adults has decreased (from 33% to 24%, respectively).

Before characterizing international standards related to the protection of children from domestic violence, at least two observations must be made. First, these standards with regard to the protection of children from violence are quite often of a general, somewhat declaratory nature and are thus devoid of concrete guarantees of compliance. This statement justifies only a brief characterization of selected general protection standards. Second, the more specific standards, which constitute a model for legislation within European countries, concern the rights of children already involved in the criminal process: as victims or witnesses. They therefore involve situations where the system for protecting children from domestic violence has failed and the criminal proceedings themselves are directed at the person accused of enacting a violent crime. Given the above and the literature on the subject[11], the

9 „Przemoc wobec kobiet”. Badanie FRA z 2014 r. https://fra.europa.eu/sites/default/files/fra-2014-vaw-survey-at-a-glance-oct14_pl.pdf [accessed: 20.08.2024].

10 Katarzyna Makaruk, Katarzyna Drabarek, Anna Popyk, Szymon Wójcik, *Diagnoza przemocy wobec dzieci w Polsce 2023* (Warszawa: Fundacja „Dajemy Dzieciom Siłę”, 2023), *passim*.

11 Kulesza, „European and EU Standards of Rights and Protection of Child Victims of Crime...”, 49-72.

standards on procedural and protective rights in the criminal process will be omitted here.

Furthermore, since the results of the study of post-aggression suicides cited in the following section indicate that, in Polish conditions, the cause of child homicides or suicides was usually domestic violence and not sexual violence, the standards for the protection of children from sexual offences will generally be disregarded.

1. Before moving on to the analysis of European standards of child rights and protection, it is necessary to mention the Convention on the Rights of the Child, sometimes referred to as the Universal Convention on the Rights of the Child, adopted by the UN General Assembly on 20.11.1989 (in force in Poland after ratification by the Act of 27.09.2000, Journal of Laws of 2000 No. 2 Item 11), which set universal legal standards for protecting children from neglect, mistreatment and exploitation while guaranteeing their basic human rights, including the right to survival, development, and full participation in social, cultural, and educational life, which are essential for the individual development and well-being of the child. The Convention recognizes any human being under the age of 18 as a child unless he or she legally attains the age of majority earlier (Article 1 of the Convention) and takes the best interests of children as the priority in all actions (Article 3). The Convention obliges state parties to take effective measures to protect children from certain manifestations of victimization. In particular, Article 19 requires the protection of children from physical or mental violence; injury or neglect; maltreatment or exploitation, including sexual exploitation; Article 34 provides protection from all forms of sexual exploitation and abuse; Article 35 provides protection against the abduction, sale, or trafficking of children; and Article 36 requires the child to be protected from all other forms of exploitation that, in any way, undermine the child's welfare.

The European Convention on preventing and combating violence against women and domestic violence signed in Istanbul on May 11, 2011, is also known as the Istanbul Convention (Journal of Laws 2015, Item 961). Article 3 (b) of the Convention stipulates that "domestic violence" refers to "all acts of physical, sexual, psychological, or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim".

Notably, in the definition of domestic violence, the Convention does not require the acts of violence to be intentional, and the concept of intentional

conduct refers only to specific manifestations of violence that parties to the Convention should treat as crimes, particularly those in Article 33 (psychological violence), Article 34 (stalking), Article 35 (physical violence), or Article 36 (sexual violence, including rape). The Convention obliges parties to ensure that, in providing protection and support to victims, due attention is given to the rights and needs of children who witness all forms of violence covered by the Convention. Measures of protection and support should include age-appropriate psychological assistance and social support for children witnessing all forms of violence and should be undertaken while taking into account the best interests of the child (Article 26). This regulation is, in a sense, a concretization of the general obligation to adopt regulations or other solutions necessary to protect the victim from further acts of violence and is set forth in Article 18 of the Convention. It refers to the protection and support that should be offered to children witnessing all forms of violence covered by the Convention. The regulation of Article 27, which obliges parties to the Convention to adopt measures to encourage persons who witness acts of violence falling within the scope of the Convention or who have reasonable grounds to suspect that such an act may be committed or that further acts of violence may be expected to report this to the appropriate organizations or authorities, should be considered important from the point of view of the effectiveness of the prosecution of individuals who have engaged in acts of violence against children. In turn, Article 28 of the Convention stipulates that parties are required to take the necessary measures to ensure that confidentiality rules imposed by domestic law on persons in certain professions do not, in appropriate circumstances, prevent them from reporting to competent organizations or authorities a reasonable suspicion that a serious act of violence falling within the scope of the Convention has been committed or if further acts of violence may be expected. Article 49 contains a general obligation of state parties to the Convention to ensure that the pretrial investigation and prosecution of all forms of violence covered by the Convention are conducted without undue delay and, at all stages of the criminal proceedings, with respect to the rights of the victim. In addition, the parties are obliged to ensure the effective detection and prosecution of the crimes specified in the Convention. The explanatory report to the Convention points out that effective prosecution means first and foremost establishing the relevant facts, interviewing all available witnesses, and conducting forensic examinations on the basis of a multidisciplinary approach and using a state-

of-the-art investigative methodology to ensure a comprehensive analysis of the case (*Explanatory Report*, 2011, p. 43). Parties should provide or arrange for specialist women's support services to all women victims of violence and their children and take the necessary legislative or other measures to establish appropriate, easily accessible shelters in sufficient numbers to provide safe accommodations for and to reach out proactively to victims, especially women and their children (Articles 22 (2) and 23)). Other regulations oblige the parties to provide measures for prompt response, prevention, and protection against such crimes (Article 50), to assess and manage the risk of death of victims and repeat victimization (Article 51), and to use summary prohibitions (Article 52), prohibitions, and orders (Article 53); additionally, Article 55 stipulates the obligation to prosecute crimes of violence regardless of the actions of the victim. In addition, the Convention stipulates the obligation of parties to apply measures to protect victims (Article 56), to provide them with legal assistance (Article 57), and to set statutes of limitations sufficient and commensurate with the gravity of the crime in question to allow effective prosecution once the victim has reached the age of majority (Article 58).

The Council of Europe strategy for the rights of the child (2022-2027)

The Council of Europe Strategy 2022-2027 is the result of an extensive process involving consultation and active engagement with various stakeholders, including children (the Council of Europe strategy for the rights of the child (2022-2027)). It is on the basis of a survey of children that the strategy proposes the following:

- Continue training law enforcement officers and all relevant groups of officials and professionals in the justice system on the rights of the child and child-friendly justice.
- Issue recommendations to all police stations to identify and respond to the conduct of law enforcement officers that do not conform to national law and the rights of the child, such as acts of violence or discrimination against children, and strengthen accountability.

3 | Implementing European standards for the protection of children from domestic violence in the Polish legal system

With respect to the implementation of the Istanbul Convention in the Polish legal system, it should be noted that, in the Polish literature, mainly analyses of the Criminal Code regulations are noted^[12]. On the other hand, from the point of view of the aim of the present study concerning the prevention of domestic violence as a result of which children become victims of post-aggression suicides or make suicide attempts, it is important to carry out a brief analysis of the amendments to the Act of 29 July 2005 on Counteracting Domestic Violence (cited later as ACDV) (Consolidated text: Journal of Laws 2024 Item 424). At the outset, it should be noted that, following the amendment of 22.06.2023, both in the title of the Act and in its content, the concept of ‘family violence’ was replaced with the concept of ‘domestic violence.’ The definition of domestic violence amended by this amendment (art. 2 (1)) now has an enumerative structure and states that domestic violence can be understood as a single or repeated intentional act or omission, using physical, psychological, or economic advantages and violating the rights or personal interests of the person suffering domestic violence, in particular, by the following acts:

- (a) endangering that person's life, health, or property;
- (b) violating their dignity, bodily integrity, or freedom, including sexual freedom;
- (c) causing harm to their physical or mental health, causing them to suffer or experience harm;
- (d) limiting or depriving that person of access to financial resources or the opportunity to work or become financially independent,
- (e) seriously invading a person's privacy or causing that person to feel threatened, humiliated, or harassed, including by means of electronic communication. It should be added that this list is exemplary (the wording “in particular”), which means that any other behavior that constitutes a single or repeated intentional act or omission, uses physical, psychological or economic advantages, violates the rights or personal interests of the person

¹² Sławomir Hypś, „Implementation of the Istanbul Convention into National Criminal Legislation in Poland” *Review of European and Comparative Law* 55, No. 4 (2023): 221-242.

suffering domestic violence, and which is not expressly mentioned in points a-e, constitutes domestic violence. Although this definition uses the concept of “intentional acts or omissions”, as aptly noted in the literature, it is not the intentional guilt mentioned in Article 9 § 1 of the Criminal Code but only intentional acts^[13].

In conclusion, it should be noted that the notion of domestic violence used in this Act is broad, as it includes both acts of violence that are criminal offences (e.g., offences against the family and guardianship - Chapter XXVI of the Polish Criminal Code) and other violent behaviors that do not constitute crimes. This is very important from the point of view of the problem of the present study, as the studies cited below show that acts of violence (related to post-aggression suicides or resulting in the suicide of children) can be committed by persons who, owing to mental disorders, sometimes cannot be attributed guilt as a necessary element of the crime. Among the instruments of the ACDV aimed at counteracting domestic violence, the “blue card” procedure provided in Articles 9d-9h should be mentioned. According to Article 9d, intervention in the family (or partnership) is undertaken on the basis of the “blue card” procedure and does not require the consent of the person experiencing domestic violence or the person committing domestic violence. This procedure comprises all activities undertaken and carried out by persons from the diagnostic and assistance group referred to in Article 9a(11) (obligatory involvement of a social worker and a police officer and, optionally, other persons indicated in Articles 9a(11a)-(11d) of the ACDV, e.g., an educator, psychologist, therapist, or court superintendent) in connection with a justified suspicion of domestic violence. The “blue card” procedure is initiated by completing a “blue card” form in the event of a suspicion of violence against a person being aroused in the course of official or professional activities or as a result of a report made by a witness of domestic violence. The detailed rules for the “blue card” procedure and templates of “blue card” forms are defined by the Ordinance of the Council of Ministers of 6.09.2023 (Journal of Laws 2023 Item 1870). Victims of domestic violence should be provided with at least basic intervention, therapeutic support services, and living needs within specialized support centers, which are aimed at ensuring their safety and providing help and support according to their needs adapted to their life situation. Such assistance and support should be provided by specialists in the field of domestic violence prevention who are

¹³ Sylwia Spurek, *Przeciwdziałanie przemocy domowej. Komentarz*, 6th ed. (2023), LEX/el.

designed to provide a high-quality service guarantee and who are employed in a specialist support center for persons experiencing domestic violence, including psychologists, educators, social workers, lawyers, and therapists (Art. 4 (1) and (2) of the ACDV).

The aim of the initiation of the 'blue card' procedure is to prevent domestic violence perpetrators from contacting victims of domestic violence according to the law, as well as to provide corrective-educational and psychological-therapeutic programs to domestic violence perpetrators (Art. 4(3) of the ACDV)[14]. Furthermore, as Article 12 (1) of the ACDV states, persons who, in connection with the performance of their official or professional duties, become aware of potential domestic violence prosecuted ex officio are legally obligated to immediately notify the police or the public prosecutor. On the other hand, persons witnessing domestic violence should notify the police, the public prosecutor, or any other entity acting to prevent domestic violence. Notably, according to Article 11a, amended by the amendment of 26.07.2023, a civil court may require a person committing domestic violence to leave the flat, and the new Article 11aa provides that this court may prohibit such a perpetrator from approaching the person suffering from domestic violence, prohibit contact with him or her, or prohibit him or her from entering a certain facility. Unlike the preventive measure under Article 275a of the Code of Criminal Procedure, the court applies the civil procedure. These provisions do not require that the behavior of the perpetrator of domestic violence constitutes a criminal offence. From the point of view of the considerations of the present study, it is worth mentioning Article 12a(1) of the ACDV, which provides that in the case of a threat to the life or health of a child in connection with domestic violence, a social worker shall provide protection to the child by placing the child with another person not cohabiting with the child, according to Article 115 § 11 of the Criminal Code, who guarantees that the child will be safe and properly cared for, such as a foster family, a family foster home, or institutional foster care. Notably, the amendment to the ACDV was made by the Act of 28.07.2023. "Lex Kamilek" added two new paragraphs, to its Article 12a after paragraph 4, paragraphs 4a and 4b, stipulating that before making the decision referred to in paragraph 1, the social worker, in agreement with a police officer and a doctor, paramedic, or nurse, shall assess the risk to the

14 Monika Horna-Cieślak, Paulina Masłowska, Olga Trocha, *Metodyka reprezentacji małoletniego pokrzywdzonego w sprawach przestępstw seksualnych* (Warszawa 2024), 169-170.

child's life or health in the questionnaire, and if the child is provided with the protection referred to in Article 4(1), the child shall be provided with the support of a psychologist. The model of the risk estimation questionnaire will be determined by the minister in charge of social security in agreement with the minister in charge of health and the minister in charge of internal affairs by means of a regulation issued on the basis of the new paragraph 8 added by the amendment "Lex Kamilek" to Article 12a. In the opinion of the authors of the amendment from 28.07.2023, the development of a questionnaire—a tool for the correct diagnosis of the child's condition and situation, and thus for the estimation of the risk of danger to life or health—will greatly facilitate services when intervening and ensure an equal standard of protection for minors nationwide and a comparable level of interventions, regardless of whether they are undertaken by persons with extensive or less experience (Explanatory Memorandum of the draft law 2023).

In addition, the Anti-Violence Act of April 30, 2020 (Journal of Laws 2020, Item 956) amended the Police Act, to which the provision of Article 15aa was added, pursuant to which a police officer has the right to detain a person committing domestic violence according to the provisions of the Act on Counteracting Domestic Violence, who poses a direct threat to human life or health. If, on the other hand, such a threat to life and health is not direct, the officer has the right to order the person committing domestic violence, according to the provisions of the ACDV, who poses a threat to the life or health of the person affected by this violence, to immediately leave the jointly occupied apartment and its immediate surroundings, or place a ban on approaching the apartment and its immediate surroundings. The amendment to the Police Act in the described scope enables an effective and, above all, immediate reaction to the perpetrator of domestic violence to protect those affected. On the basis of the ACDV, the government's National Strategy for Counteracting Domestic Violence and the relevant provincial and municipal strategies have been developed (Spurek, 2023).

The Law of 19 August 1994 on the Protection of Mental Health (consolidated text, Journal of Laws 2024, Item 917) significantly reduces the possibility that persons with mental disorders will endanger their own lives. Indeed, in a situation where persons with mental disorders may endanger or are directly endangering their own life or the lives of others, officials may 1) use direct coercion (Article 18 of the Act); 2) perform a psychiatric examination without his or her consent; 3) transport the person to a hospital without his or her consent;

4) admit the person to a psychiatric hospital without his or her consent; and 5) use necessary therapeutic measures without his or her consent. As noted in the literature, these regulations do not prohibit a person from attempting to take his or her own life (the addressees of the norms contained in these regulations are not individuals capable of committing suicide); however, they indirectly limit the possibility of a person taking his or her own life. However, bearing in mind that, according to the preamble to the Mental Health Act, “mental health is a fundamental personal good of a human being, and the protection of the rights of persons with mental disorders is one of the duties of the state”, they should not be regarded as regulations aimed at indirectly prohibiting people from attempting suicide or as regulations aimed at preventing suicide but only as regulations aimed at protecting the rights of persons with mental disorders^[15]. In addition, the solution currently adopted in practice creates problems in dealing with patients who are affected by disorders other than mental illness and who behave in a manner specified in Article 23(1) of the cited Act. Making such a diagnosis precludes hospitalization for observation when it is known that the patient is not mentally ill. Moreover, not placing a person in a psychiatric hospital may pose a real threat to the safety of the person himself or herself or others^[16]. Moreover, forced placement in a psychiatric hospital is subject to judicial review. This is because, according to Article 25 of the Act on Mental Health, on the basis of the notification received, the guardianship court shall initiate proceedings concerning the admission to a psychiatric hospital of a person listed in Articles 22-24 (para.1). The guardianship court may also hear the case at the request of the person or the person's statutory representative, the person's spouse, relatives in the direct line, siblings, or the person having actual custody of the person or ex officio (art.25(2)). In the context of European standards, it is also important to note the ECtHR case law relating to the involuntary detention of mentally ill persons and emphasizing that physical freedom is a fundamental individual right. The Court points out that while Article 5(1) of the Convention provides a catalog of exceptions that may limit this right (sub-paragraphs (a) to (f)), these exceptions must be interpreted narrowly and cannot under any circumstances allow for arbitrary deprivation of liberty,

¹⁵ Konrad Burdziak, *Samobójstwo w prawie polskim* (2019), LEX/el.

¹⁶ Beata Janiszewska, *Zgoda na udzielenie świadczenia zdrowotnego. Ujęcie wewnątrzsistemowe* (Warszawa 2013); Błażej Kmiecik, „Prawno-etyczne wyzwania hospitalizacji psychiatrycznej pacjentów po próbach samobójczych” *Prawo i Medycyna*, No. 2 (2015).

and internment procedures must be in accordance with national law (ECtHR judgment of 28 May 2013 in *Baran v. Poland* (Application no. 53315/09), and ECtHR judgment of 20 February 2018 in *X v. Russia* (Application no. 3150/15) HUDOC).

Owing to the limited scope of this study, criminal law regulations against domestic violence resulting in the murder of children within the framework of post-aggression suicide and the suicide of child victims of domestic violence are not analyzed here. However, it is worth mentioning the provision of Article 207 § 3 of the Criminal Code, which stipulates that if the consequence of the abuse of persons mentioned in § 1-2 (persons closest to, in a relationship of dependence with, or incapacitated by age, mental, or physical condition) is that the victim attempts to take his or her own life, the perpetrator is subject to a penalty of deprivation of liberty for a term of between 2 and 12 years. In turn, Article 190a § 3 of the Penal Code stipulates that if the consequence of acts under § 1 and 2 of the Penal Code (stalking and identity theft) is that the victim attempts to take his or her own life, the perpetrator is subject to a penalty of deprivation of liberty of 12 years. Regarding the functioning of the 'blue card' procedures, police statistics show that in 2023, 54,029 forms initiating this procedure were submitted, indicating 51,631 persons who were experiencing domestic violence, including 17,039 minors, whereas only 611 children were placed in foster families or foster care^[17] (Police Statistics, 2023²).

4 | Results of post-aggression suicide file research in Poland from 2020-2023

This paper uses a mixed quantitative and qualitative research method, both broadly and narrowly analyzing the examined files and materials from 19 pretrial cases as part of a study commissioned by the Justice Institute on post-aggression suicides against minors for the years 2020-2023. To perform the analysis, an initial categorization of the types of cases received by the Justice Institute was carried out, which included selected background information. This background information was then analyzed in more depth. The data included the total number of cases; the number of cases with minor victims; the identified perpetrator of the offense against a minor, along with the

¹⁷ Statystyka policyjna, „Przemoc w rodzinie” (2023). <https://statystyka.policja.pl/st/wybrane-statystyki/przemoc-w-rodzinie> [accessed: 01.08.2024].

relationship to the minor; the number of deaths of minors; and the ages of minor victims. Included in this category of cases were those that involved a suicidal act by an adult after the homicide of a minor.

The selected and abovementioned background information on the examined cases was analyzed mainly via a quantitative method involving specific calculations. By means of qualitative research, it was possible to assess the existing situation established by law enforcement authorities at the time of the events, including the situation of the minor and the perpetrator, as well as their health and emotional states, established motive of the perpetrator and the behavior of the minor during the dangerous situation, legal protection measures for minors applied in the examined case, and the scope of the area and place where the event took place, as well as the psychiatric treatment, criminal record and previous suicide attempts of the perpetrator. The information collected was examined via content analysis of a number of documents from the case files.

The research was based on the methodology adopted by Logan, Walsh, Patel, and Hall 2013[18], which covered the 3-year period 2003-2009, and 129 cases reviewed for a similar range of completed post-aggression suicide offences against minors within the USA.

Table 1. Descriptive characteristics of child victims, their relationships with perpetrators, and the mechanisms of their deaths from the range of child homicides committed

	Number	Percentage
Polish citizenship	17	81%
Mixed citizenship (half-Polish)	2	10%
Foreign citizenship	2	10%
Male	9	43%
Female	12	57%
Age up to 5 years	6	29%
Ages 6-10	14	67%
Ages 11-13	1	4%
Ages 14-17	0	0%
In a parent-child relationship	21	100%
Weapon used—firearms	1	5%
Weapon used—sharp/blunt tool	13	62%
Weapon used—arson	3	14%
Weapon used—hanging/strangulation	1	5%
Weapon used—drowning	2	9%
Weapon used—jump from height	1	5%

18 J. Logan, S. Walsh, N. Patel, J. Hall, „Homicide-followed-by-suicide incidents involving child victims” *American Journal of Health Behavior* 37, No. 4 (2013); J. Logan, H.A. Hill, M. Lynberg Black, A.E. Crosby, D.L. Karch, J.D. Barnes, K.M. Lubell, „Characteristics of perpetrators in homicide-followed-by-suicide incidents: National Violent Death Reporting System – 17 US states, 2003-2005” *American Journal of Epidemiology* 168, No. 9 (2008).

Total	21	100%
-------	----	------

Source: own study.

Table 2. Descriptive characteristics of child homicide offenders by gender

	Total		Male offender		Female offender		p value
	Number	Percentage	Number	Percentage	Number	Percentage	
Polish citizenship	15	94%	10	62%	6	38%	0.447
Foreign citizenship	1	6%	1	10%	0	0%	
Age 19-34	1	6%	0	0%	1	16.6%	0.169
Age 35-49	12	75%	7	70%	5	83.3%	
Age 50-64	3	18%	3	30%	0	0%	
Age over 65	0	0%	0	0%	0	0%	
Married	11	69%	7	70%	4	66.6%	0.585
Single	1	6%	0	0%	1	16.6%	
Divorced or separated	4	25%	3	30%	1	16.6%	
Relationship with the child - parent/ surrogate parent	16	100%	10	100%	6	100%	
Weapon used - firearms	1	6%	0	0%	1	16.6%	0.049
Weapon used - sharp/blunt tool	11	69%	9	90%	2	33.3%	
Weapon used - arson	2	12%	2	20%	0	0%	
Weapon used - hanging/strangulation	1	6%	0	0%	1	16.6%	
Weapon used - drowning	2	12%	0	0%	2	33.3%	
Weapon used - jump from height	1	6%	0	0%	1	16.6%	
Health condition - depression	5	31%	1	10%	4	66.6%	0.032
Health status - mental health problems	3	19%	1	10%	2	33.3%	
Addiction to alcohol or drugs	3	19%	3	30%	0	0%	
Consumption of alcohol or other substances immediately prior to the incident	3	19%	3	30%	0	0%	
Suicidal thoughts	3	19%	3	30%	0	0%	
Stressors - financial problems	1	6%	1	10%	0	0%	0.522
Stressors - work-related problems	1	6%	0	0%	1	16.6%	
Stressors - relationship problems	3	19%	1	10%	2	33.3%	
Stressors - other family problems	4	25%	2	20%	2	33.3%	
Mental health treatment records	3	19%	1	10%	2	33.3%	0.709
Attempted suicide	2	12%	1	10%	1	16.6%	
Mental health treatment	0	0%	0	0%	0	0%	
Premeditated action	13	81%	10	100%	3	50%	0.590
Left a letter or note	4	25%	2	20%	2	33.3%	
Prior criminal record of the offender for other criminal acts	3	19%	3	30%	0	0%	
Psychiatric or psychological opinions issued in the case against the perpetrator	6	38%	4	40%	2	33.3%	
Information reported to the authorized authorities on possible criminal activity of the offender	3	19%	3	30%	0	0%	
Care orders issued in the case by family court	6	38%	4	40%	2	33.3%	
Total perpetrators	16	100%	10	62%	6	38%	

Source: own study.

Table 3. Characteristics of post-aggression suicide events according to the gender of the perpetrator

	Total		Cases with a male perpetrator		Cases with a female perpetrator		p value
	Number	Percentage	Number	Percentage	Number	Percentage	
Place of incident house/apartment	10	63%	8	50%	2	12%	0.062
Place of event - public place	6	37%	2	12%	4	25%	
Place of event - other	0	0%	0	0%	0	0%	
All cases in total	16	100%	10	62%	6	38%	

Circumstances surrounding incidents involving only parents of perpetrators							
Any intimate-partner problems of parents	3	18%	3	18%	0	0%	0.068
Violence against a partner with violence against a child	2	12%	2	12%	0	0%	
Violence against a child alone	2	12%	2	12%	0	0%	
Perceived compassion killing by parents	1	6%	0	0%	1	6%	
Related to the mental health of parents	3	19%	1	6%	2	12%	
Parental burden	2	12%	0	0%	2	12%	
Parental abuse of children	2	12%	2	12%	0	0%	
Other unknown circumstances	1	6%	0	0%	1	6%	
All cases in total	16	100%	10	100%	6	100%	

Source: own study.

The p-value in the tables is calculated using the chi-square independence test method and Fisher's exact test, in which the obtained p-values below 0.05 mean that the data are statistically significant and dependent. Data from the considered sample below this value are strong enough to conclude that there is a relationship and some dependence between categorical variables in the studied category.

The data presented in the tables show that the victims of child homicides committed by post-aggression suicide perpetrators are most often children of Polish citizenship (80%), in the age range of 6-10 years (67%), and the weapons used for committing the homicide are sharp or blunt tools (62%). Only in one case did the perpetrator use a firearm.

The typical perpetrators of child homicides were Polish citizens (94%), aged 35-49 years (75%), and male (62%). The perpetrators were most often married (69%), and in all cases, they had a parent or foster parent relationship with the child (100%). They used a sharp or blunt instrument most often (69%). The primary factors for homicide and post-aggression suicide included depression and mental health problems (combined 50%). These problems were predominant in women (83.3%), as depression affected 50% of the women perpetrators, and other mental health problems affected 33.3% of the women perpetrators. Stressors related to the marital relationship or other family problems also played an important role, which together affected 44% of the perpetrators, whereas the figure for women was 66.6%. For male perpetrators only, alcohol dependence (19%) and the presence of suicidal thoughts (19%) also played significant roles; 3 perpetrators (30%) had previous convictions for other offences, and similarly, for 3 men (30%), there were reports of offences that did not, however, result in criminal proceedings. Although 3 (19%) perpetrators had a history of mental illness, they were not receiving treatment. The guardianship court orders restricting their parental authority were ineffective for 6 offenders (38%). With respect to the characteristics of the suicide incidents, the majority

(10) took place at home/residence (63%), whereas 6 took place in public places (37%). The circumstances surrounding the incidents were exclusively those of the perpetrator parents and, in the case of males, 3 were related to any intimate-partner problems of the parents (18%) and 2 were related to violence against the child (12%). In 3 cases (19%), the incidents were related to the parents' mental health, and 2 (12%) cases involved parental burdens (only on the mothers' side). Notably, in the majority of cases, the perpetrators of the homicides acted premeditatively (100% male and 50% female).

5 | Discussion

As indicated in the literature, an essential area of research in child homicide is the identification of risk factors associated with child murder. A structured study of the characteristics that can lead to child homicide can allow early detection and implementation of effective prevention strategies[19]. In presenting the risk factors, this article relies on the classification of factors related to the characteristics of victims, perpetrators, and incident characteristics used by Logan et al.[20], which in turn was modeled on the classification developed by P. J. Resnick[21]. Among the various classifications of filicide risk factors, the one modeled by Dutton consists of four different levels (i.e., ontogenetic, microsystem, exosystem, and macrosystem) of factors related to individual perpetrators and their environment. At the ontogenetic level, risk factors refer to an individual's developmental history, including risk factors related to learned behavior, cognition, and emotional responses to stressors. The microsystem refers to the family as a unit, which includes relationship dynamics, patterns of family interaction, and a history of family violence. The third level examines the exosystem, which consists of a variety of formal and informal social structures, such as the workplace, support groups, friendships, and other institutions. Finally, the macrosystem level refers to society, which includes cultural values and beliefs. The factors

19 Lavinia Barone, Alessandra Bramante, Francesca Lionetti, Massimiliano Pastore, „Mothers who murdered their child: an attachment-based study on filicide” *Child Abuse & Neglect* 38, No. 8 (2014): 1468-1477. <https://doi.org/10.1016/j.chiabu.2014.04.014>.

20 Logan et al., „Homicide-followed-by-suicide incidents involving child victims”.

21 Phillip J. Resnick, „Child murder by parents: a psychiatric review of filicide” *American Journal of Psychiatry* 126 (1969): 325-334.

analyzed in this study generally fall within the ontogenetic and microsystem levels. The dominance of mental health risk factors indicated in this study, the phenomenon that most acts of child homicide are committed by men, who, compared with women, show more aggression and have criminal histories, is confirmed by studies in Western countries, primarily the USA and the UK. Equally important seem to be stressors at the microsystem level related to marital and other family problems[22]. Earlier reflections on the Polish Mental Health Act pointed out, among other things, the problem of reconciling the protection of the freedom of mentally ill persons from managing their own life or health or the lives of others through internment in a treatment facility and the protection of their personal freedoms. Notably, research findings indicate that homicide and suicide prevention are greatly facilitated by research that focuses more on violence prevention than on suicide prevention programmes[23].

On the basis of the results of research into risk factors for child homicide in Western European countries, Canada, and the USA, a series of synthesized recommendations for child homicide prevention policy and practice are proposed, which include, among others, the introduction of data collection and monitoring systems, multidisciplinary child death review teams (*Child Death Review Teams*), parent education, women's services and women-friendly policies, and a series of recommendations for future research into the phenomenon. From an institutional perspective, it is appropriate to mention here the existing multidisciplinary child death review teams (CDRDs) in most US states, the domestic violence death review committees (DVDRC) in Canada[24], and the child practice reviews in the UK[25] (Rees et al. 2021). Notably, Chapter 4c of the aforementioned Act of 13 May 2016 on Counteracting

22 Agata Debowska, Daniel Boduszek, Katie Dhingra, „Victim, perpetrator, and offense characteristics in filicide and filicide-suicide” *Aggression and Violent Behavior* 21 (2015): 113-124; Logan et al., „Homicide-followed-by-suicide incidents involving child victims”.

23 Emma E. Fridel, Gregory M. Zimmerman, „Examining Homicide-Suicide as a Current in the Stream Analogy of Lethal Violence” *Social Forces* 97, No. 3 (2019): 1177-1204.

24 Peter G. Jaffe, Marcus Juodis, „Children as victims and witnesses of domestic homicide: lessons learned from domestic violence death review committees” *Juvenile and Family Court Journal* 57, No. 3 (2006): 13-28.

25 A.M. Rees, R. Fatemi-Dehaghan, T. Slater, R. Swann, Amanda L. Robinson, „Findings from a Thematic Multidisciplinary Analysis of Child Practice Reviews in Wales” *Child Abuse Review* 30 (2021): 141-154.

the Threat of Sexual Offences and the Protection of Minors, introduced by the “Lex Kamilek” amendment of 28.07.2023, contains the requirements and procedure for analyzing incidents in Poland resulting in the death of minors or serious damage to their health. In a situation where there is a justified suspicion or it has been established that an intentional act as defined in the Criminal Code has been committed by a parent or a legal or actual guardian to the detriment of a minor, resulting in death or serious injury to the health of a minor, the incident may be analyzed, referred to in the Act as “specific incident analysis”, with the aim of assessing the protection of minors from harm and determining actions for improving its functioning and allowing for prevention of similar incidents in the future (Article 22d(1)). However, this provision is optional, which means that such an event may or may not be subject to such an analysis. Considering the need to strengthen the protection of minors, making this analysis obligatory would be appropriate. However, the analysis of a specific event is conducted independently and separately from criminal proceedings, the aim of which is to establish guilt and responsibility for committing a criminal act. In the course of the analysis of a specific event, the guilt and responsibility of persons for the commission of a prohibited act other than to the detriment of a minor or a disciplinary offense related to the circumstances of the analyzed event, as well as the responsibility of institutions or other bodies, shall not be established (Article 22d(2)). The independence of the conduct of such proceedings from the criminal process is ensured by the transparency of the action by the specially created incident analysis team, which is composed of permanent experts.

Notably, according to the Polish literature^[26] on extended suicides in relation to the total number of suicides in Poland in the period 1991-2005, only 12 cases of extended suicides were verified and briefly analyzed during these 15 years, which is a much smaller number than that obtained for the period 2020-2023, even though the period studied was longer than the present one. This indicates the increasing scale of this problem in Poland. In addition, in contrast to the present study, the authors of the earlier 2006 study did not rely on pretrial files but only on press reports of extended suicides.

Notably, because the amended legislation was implemented only as of 15 August 2024 on the basis of ‘Lex Kamilek’, which is part of the Polish system for the protection of minors, assessing the functioning and effectiveness of the

²⁶ Aleksander Araszkiewicz, E. Pilecka, „Samobójstwa rozszerzone na tle ogólnej liczby samobójstw w Polsce w latach 1991-2005” *Suicydologia* 2, No. 1 (2006).

system for the protection of minor children in this regard was not possible. The study was therefore supplemented by a nationwide survey on the phenomenon of suicide and post-aggression suicide conducted by means of an online survey questionnaire in August and September 2024 among psychologists and psychiatrists from Poland on a sample of 100 persons. Among other things, this survey revealed that psychiatrists and psychologists considered depressive states—38 respondents (38%), personality disorders—18 respondents (18%), nervous breakdowns—20 respondents (20%), and alcohol consumption—13 respondents (13%)—to be the main reasons for suicide. When asked about instances of their misdiagnosis and opinions regarding the potential perpetrator posing a threat to themselves or others, the largest group of respondents (33%) said that such cases never happened, 32 (32%) said that such situations rarely happened, and 25 (25%) said that such situations very rarely happened. Moreover, when asked about the effectiveness of the help provided by the Polish psychiatric and psychological system, the vast majority—74 (74%)—of the respondents felt that the system was not effective. On the other hand, when asked about their opinions on the current regulations in Poland and their prevention of suicide and post-aggression suicide to the detriment of minor children, the majority, 53 (53%), of the respondents answered negatively, indicating that the regulations do not provide adequate protection for minors, whereas a relatively large number, 36 (36%), answered that it was difficult to say.

6 | Limitations

The research presented in this paper (supplemented by a questionnaire survey) is a pioneering attempt to study the phenomenon of post-aggression suicides in Poland. As mentioned earlier, the analysis conducted in 2006 was very cursory and was based on press reports of such suicides. Only analyses of selected cases from psychiatric practice are found in the literature. The authors recognize the weaknesses of the research and analysis carried out, resulting not only from the rather modest research sample but also from the method adopted, which does not allow, on the basis of the criminal case file, the motivation of the deceased perpetrator or the risk factors for child homicide in post-aggression suicides to be established with certainty. However, analyzing files sent at the request of the Justice Institute by prosecutors' offices from all over Poland was, in the absence of an IT system for collecting such data, the only possible method. The authors, in the absence of previous such research in

Poland, relied on the American methodology adopted in the study by Logan et al., which may not fully correspond to the Polish reality.

7 | Conclusions and recommendations

According to a preliminary study of cases from Poland for the years 2020-2023, which was commissioned by the Justice Institute and involves domestic violence, including post-aggression suicide cases, the current legal system did not (thus far) provide effective protection for the minors killed in the cases studied.

The reasons for this state of affairs may be various and interrelated or sometimes independent of each other. As indicated earlier, the legal system not only in Poland but also worldwide is a system that can be compared to a system of “interconnected vessels”. Individual regulations containing protection measures in various legal acts, however, are essentially independent of each other. This means, therefore, that there are insufficient and adequate legal regulations, which directly order authorized bodies to act when a situation is not directly within their competence. For example, the conduct by law enforcement authorities during criminal proceedings for theft or robbery, where the suspect is the parent of a minor, does not constitute a premise for the investigation of the safety of a minor in the family by a family court. It would also be difficult to expect the procedural authorities to intervene every time unless the victim is a minor. However, it would be worth considering the introduction of certain norms that oblige the authorities to investigate the current safety of a minor without delay, even when the minor is not a victim in the case, but on the basis of (even) preliminary signals or information obtained that the safety of the minor could be threatened to some extent. It would also be advisable to postulate some connection between the activities of the above-described team for the analysis of incidents resulting in death or serious injury to health, which could complement criminal proceedings introduced by the Law of 28.07.2023.

Specifically, in the course of the analysis of a particular incident, a relevant report is drawn up containing a number of pieces of information, in particular, indicating the circumstances of the death of the minor or his or her serious injury, information regarding the situation of the minor before his or her death or serious injury, including his or her care and educational situation, information on the nature and type of activities of state and local self-

government institutions or other bodies, institutions, and facilities, indicating the legal basis for the activities of the competent bodies or institutions, analyzing the activities of the competent bodies or institutions, particularly with respect to the way in which the powers granted are actually exercised and the obligations incumbent upon them and the response to threats to the life or health of minors, to determine whether there are deficiencies in the protection of minors, which hinder the detection and proper response to cases of abuse of minors, and to draw conclusions and formulate recommendations to the competent authorities or institutions aimed at improving the protection of minors from abuse (Art. 22d(3)).

Such reports and even preliminary information (even if only in the form of relevant alerts linked to persons) should therefore be visible in the system for the prosecuting authorities and the judiciary, particularly in family cases for better and more effective protection of minors. Given that various criminal acts may be committed to the detriment of a minor, including primarily offences of abuse (Article 207 of the Penal Code), exposure to danger (Article 160 of the Penal Code), manslaughter (Article 155 of the Penal Code), homicide (Article 148 of the Penal Code), and leading to suicide (Article 151 of the Penal Code), it was necessary to extend the conceptual scope of post-aggression suicides to suicidal acts following violent actions. After all, suicide, especially when committed after an act of aggression by another person, also leads to the death of a minor.

On the basis of a preliminary analysis of the submitted case files of post-aggression suicide pretrial proceedings for the period 2020-2023, it appears that:

1. There is no system in place to monitor the status and course of treatment of persons with mental illness, those with mental disorders, those who are undergoing treatment or suffering from depression, or those who have attempted suicide. This information is unquestionably at the disposal of institutions (hospitals, centers), which could be, in the event of their discovery about the cessation of treatment, automatically and systemically transferred to law enforcement authorities or psychiatric hospitals to verify whether there is a threat to the health and life of others. Indeed, as follows from Article 23 in connection with Article 31 and Article 33 of the Mental Health Protection Act, a mentally ill person may be admitted to a psychiatric hospital without his or her consent when his or her behavior to date indicates that, owing to this illness, he or she is directly endangering his or her own life or the life or health of others,

which may occur if treatment is not undertaken or discontinued. Obviously, such a postulate must take into account the protection of the freedom of mentally ill persons guaranteed by the ECHR, although ECtHR case law also allows for restrictions on this freedom in the name of individual prevention applied to mentally ill persons who may pose a significant risk to themselves or others[27].

2. Previous reports of persons' fear of acts of aggression to law enforcement authorities have not always been sufficiently verified, resulting in refusal to initiate proceedings or discontinuation of proceedings. The accepted reports of fear for safety are understood by the police in Poland as family conflicts and are therefore sometimes underestimated, which may contribute to the existence of a broader problem of post-aggression suicide. In the meantime, however, such cases should be considered in need of immediate and wider verification, as these cases usually involve underage children who may be victims of homicide connected with post-aggression suicide.

3. The availability and quality of psychological and psychiatric support for those in need is too low, which results in violent behavior, including suicides and post-aggression suicides against minor children. This is also confirmed by the survey conducted. The opinions on the harmlessness of perpetrators given in other criminal cases (concerning theft, robbery and abuse of other family members) turned out to be wrong in several cases. Many perpetrators had not been diagnosed earlier, despite the subsequently identified significant mental disorders that led to a post-aggression suicide incident against a minor. If such information is received and such signals are noticed even by immediate family members, they should also use the institution of Article 23 in connection with Article 31 and Article 33 of the Mental Health Protection Act, the existence of which people in Poland are not aware of, and owing to which it would be possible to obtain a psychiatric diagnosis and, above all, the protection of minor children.

4. There is a lack of proper cooperation between different authorities and institutions, and there are no common registers of the dangerous behavior of potential perpetrators. There should be regulations linking the mode of the previously described "blue card" with criminal proceedings, as well as a mode linking the guardianship orders issued in the case of minors with the law enforcement authorities and the mode of cessation of treatment with the

27 Arkadiusz Lach, *Prewencja indywidualna w procesie karnym* (Warszawa: Wolters Kluwer, 2020), 82-84.

obligation of law enforcement authorities to verify the safety of household members, especially minors.

5. It is necessary to establish a centralized information system that collects detailed data on perpetrators and fatal victims of domestic violence (with a particular focus on children) to identify the risk of such crimes on the basis, in the case of children, of reports drawn by the incident analysis team, criminal case files, and police statistics.

6. Despite these limitations, the authors hope that the research cited here will stimulate further in-depth research into the problem of post-aggression suicide.

The assumed hypotheses were confirmed by the conducted research.

Bibliography

- Araszkiewicz Aleksander, E. Pilecka, „Samobójstwa rozszerzone na tle ogólnej liczby samobójstw w Polsce w latach 1991-2005” *Suicydologia* 2, No. 1 (2006).
- Barone Lavinia, Alessandra Bramante, Francesca Lionetti, Massimiliano Pastore, „Mothers who murdered their child: an attachment-based study on filicide” *Child Abuse & Neglect* 38, No. 8 (2014): 1468-1477. <https://doi.org/10.1016/j.chiabu.2014.04.014>.
- Barraclough Brian M., E. Clare Harris, „Suicide preceded by murder: the epidemiology of homicide-suicide in England and Wales 1988-92” *Psychological Medicine* 32 (2002).
- Berman Alan L., „Dyadic death: a typology” *Suicide and Life-Threatening Behavior* 26, No. 4 (1996): 342-350.
- Bloch-Bogusławska Elżbieta, E. Wolska, Piotr Engelhardt, Ewa Pufal, „Przypadki samobójstw poagresyjnych w materiale Katedry i Zakładu Medycyny Sądowej w Bydgoszczy” *Archiwum Medycyny Sądowej i Kryminologii* 56 (2006): 169-172.
- Burdziak Konrad, *Samobójstwo w prawie polskim*. 2019, LEX/el.
- Chan C.Y., Philip S.L. Beh, Roderic G. Broadhurst, „Homicide-suicide in Hong Kong, 1989-1998” *Forensic Science International* 137, No. 2-3 (2003): 165-171.
- Czabański Adam, „Społeczna charakterystyka samobójstw rozszerzonych” *Poznańskie Zeszyty Humanistyczne* 16 (2011).
- Debowska Agata, Daniel Boduszek, Katie Dhingra, „Victim, perpetrator, and offense characteristics in filicide and filicide-suicide” *Aggression and Violent Behavior* 21 (2015): 113-124.
- Durda Renata, Beata Gruszczyńska, Magdalena Grzyb, Witold Klaus, Michał Lewoc, P. Szczupaczyńska, Dagmara Woźniakowska-Fajst, Grzegorz Wrona, „Teraz

- koniec z Tobą". *Czarna Księga Ofiar Przemocy Domowej w Polsce 2021*. Warszawa: Niebieska Linia, Instytut Psychologii Zdrowia, 2021.
- Emmerson Ben, Andrew Ashworth, Alison Macdonald, L.-T. Choo, M. Summers, *Human Rights and Criminal Justice*. London, 2012.
- Fridel Emma E., Gregory M. Zimmerman, „Examining Homicide-Suicide as a Current in the Stream Analogy of Lethal Violence” *Social Forces* 97, No. 3 (2019): 1177-1204.
- Guzik-Makaruk Ewa M., Ireneusz Sołtyszewski, red., *Suicydologia dla prawników i śledczych*. Warszawa: Wolters Kluwer, 2023, LEX/el.
- Horna-Cieślak Monika, Paulina Masłowska, Olga Trocha, *Metodyka reprezentacji małoletniego pokrzywdzonego w sprawach przestępstw seksualnych*. Warszawa, 2024.
- Hypś Sławomir, „Implementation of the Istanbul Convention into National Criminal Legislation in Poland” *Review of European and Comparative Law* 55, No. 4 (2023): 221-242.
- Jaffe Peter G., Marcus Juodis, „Children as victims and witnesses of domestic homicide: lessons learned from domestic violence death review committees” *Juvenile and Family Court Journal* 57, No. 3 (2006): 13-28.
- Janiszewska Beata, *Zgoda na udzielenie świadczenia zdrowotnego. Ujęcie wewnątrzsistemowe*. Warszawa, 2013.
- Kaliszczak Paweł, Jerzy Kunz, Filip Bolechała, „Samobójstwa poagresyjne – problematyka kryminalistyczno-procesowa” *Archiwum Medycyny Sądowej i Kryminologii* 52, No. 3 (2002).
- Kaliszczak Paweł, Jerzy Kunz, Filip Bolechała, „Samobójstwa poagresyjne – problematyka kryminalistyczno-procesowa” *Archiwum Medycyny Sądowej i Kryminologii* 53, No. 3 (2003): 177-186.
- Kmiecik Błażej, „Prawno-etyczne wyzwania hospitalizacji psychiatrycznej pacjentów po próbach samobójczych” *Prawo i Medycyna*, No. 2 (2015).
- Kulesza Cezary, „European and EU Standards of Rights and Protection of Child Victims of Crime and Their Implementation in the Polish Criminal Process Through Amendments to the Code of Criminal Procedure in 2020-2023” *Review of European and Comparative Law* 60, No. 1 (2025): 49-72.
- Kulesza Cezary, *Prawa dziecka pokrzywdzonego przestępstwem w polskim systemie wymiaru sprawiedliwości w świetle standardów europejskich*. 2024, LEX/el.
- Kunz Jerzy, Filip Bolechała, Paweł Kaliszczak, „Sądowo-lekarska problematyka zabójstwa z samobójstwem sprawcy («dyadic death»)” *Archiwum Medycyny Sądowej i Kryminologii* 52, No. 3 (2002).
- Lach Arkadiusz, *Prewencja indywidualna w procesie karnym*. Warszawa: Wolters Kluwer, 2020.
- Logan J., H.A. Hill, M. Lynberg Black, A.E. Crosby, D.L. Karch, J.D. Barnes, K.M. Lubell, „Characteristics of perpetrators in homicide-followed-by-suicide

- incidents: National Violent Death Reporting System – 17 US states, 2003-2005” *American Journal of Epidemiology* 168, No. 9 (2008).
- Logan J., S. Walsh, N. Patel, J. Hall, „Homicide-followed-by-suicide incidents involving child victims” *American Journal of Health Behavior* 37, No. 4 (2013).
- Makaruk Katarzyna, Katarzyna Drabarek, Anna Popyk, Szymon Wójcik, *Diagnoza przemocy wobec dzieci w Polsce 2023*. Warszawa: Fundacja „Dajemy Dzieciom Siłę”, 2023.
- Marzuk Peter M., Kenneth Tardiff, Charles S. Hirsch, „The epidemiology of murder-suicide” *JAMA* 267, No. 23 (1992): 3179-3183.
- McAuliff Bradley D., J. Lapin, S. Michel, „Support Person Presence and Child Victim Testimony: Believe It or Not” *Behavioral Sciences and the Law* 33 (2015).
- Milroy Christopher, „The epidemiology of homicide-suicide (dyadic death)” *Forensic Science International* 71, No. 2 (1995): 117-122.
- Rees A.M., R. Fatemi-Dehaghan, T. Slater, R. Swann, Amanda L. Robinson, „Findings from a Thematic Multidisciplinary Analysis of Child Practice Reviews in Wales” *Child Abuse Review* 30 (2021): 141-154.
- Resnick Phillip J., „Child murder by parents: a psychiatric review of filicide” *American Journal of Psychiatry* 126 (1969): 325-334.
- Romańczuk-Grącka Marta, „Samobójstwo rozszerzone, zabójstwo suicydalne a samobójstwo poagresyjne – ocena stanu psychicznego sprawców i jej prawnokarne znaczenie” *Studia Prawnoustrojowe*, No. 64 (2024). <https://doi.org/10.31648/sp.10224>.
- Siemaszko Andrzej, „Wiktyimizacja «nowymi» przestępstwami”, [in:] Justyna Włodarczyk-Madejska, Paweł Ostaszewski, Joanna Klimczak, Andrzej Siemaszko, *Nękanie, oszukiwani, hakowani. Nowe i tradycyjne wymiary wiktyimizacji*. Warszawa, 2020, 80-82.
- Spurek Sylwia, *Przeciwdziałanie przemocy domowej. Komentarz*, 6th ed. 2023, LEX/el.
- Statystyka policyjna, „Przemoc w rodzinie” (2023). <https://statystyka.policja.pl/st/wybrane-statystyki/przemoc-w-rodzinie> [accessed: 01.08.2024].
- Statystyka policyjna, „Zamachy samobójcze” (2023). <https://statystyka.policja.pl/st/wybrane-statystyki/zamachy-samobojcze> [accessed: 20.08.2024].
- Stukan Jarosław, „Samobójstwo poagresyjne z dwoma niecodziennymi zakończeniami – refleksje na temat sprawców i ofiar” *Problemy Kryminalistyki* 307, No. 1 (2020): 25-32.
- Takahashi Yoshitomo, „Depression and suicide” *Japan Medical Association Journal* 44, No. 8 (2001).
- Urbaniak-Mastalerz Izabela, *Badanie akt postępowań przygotowawczych w sprawach dotyczących samobójstwa poagresyjnego na szkodę małoletnich za okres 2020-2023. Raport IWS*. Warszawa: Instytut Wymiaru Sprawiedliwości, 2024. DOI: 10.13140/RG.2.2.35166.70729.

Uzasadnienie projektu ustawy z 28.07.2023 r., druk sejmowy nr 3309, Sejm IX kadencji.
Warszawa, 11.05.2023.



This article is published under a Creative Commons Attribution 4.0 International license.
For guidelines on the permitted uses refer to
<https://creativecommons.org/licenses/by/4.0/legalcode>