

## Male circumcision under Polish criminal law

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### ABSTRACT

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**Introduction:** Male circumcision is not widely discussed in Poland. This article is the first paper on circumcision in the light of Polish criminal law and anticipates a problem that can happen in the practice of the Polish criminal justice system in the next years. The author has discussed selected issues concerning male circumcision. The subject of deliberations has been circumcision of Jewish infants, taking place on the Polish territory.

**Purpose:** To examine whether circumcision of infants is prohibited in Polish criminal law and whether a person carrying out neonatal circumcision for religious reason is punishable for a criminal offence.

**Materials and methods:** The English- and German-language literature and other online available data relating to male circumcision have been examined. The provisions of the Polish Penal Code and other legal acts have been analysed. Moreover, judgements of the Polish courts and the Polish criminal law literature have also been the subject of research.

**Results:** In Poland, there is no special legislation on male circumcision, in particular, there is no special criminal offence of circumcision. However, a person performing infant circumcision completes the elements of criminal offence consisting of causing bodily injury.

**Conclusions:** In Polish criminal law, the customary justification of circumcision excludes the unlawfulness of the conduct of the person (called *mohel*) carrying out Jewish infant circumcision for religious reason. In the case of Jewish neonatal circumcision, we deal with so-called secondary legality of the committed act. In the final assessment in the aspect of criminal law, the conduct of a *mohel* is not unlawful and thus is not punishable as a criminal offence.

**Key words:** male circumcision, removal of foreskin, penalization of Jewish infant circumcision, criminal offence consisting of bodily injury, mistake of law, circumstance excluding unlawfulness

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