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Sex, age, education, marital status, number of children, and employment – the impact of extralegal factors on sentencing disparities

Abstract

Countries that have judicial discretion in their legal system usually struggle with sentencing disparities. This is no different in Poland. The current study examined whether extralegal factors such as age, sex, education, marital status, number of children, and having a job impact sentencing disparities. We examined court files from 13 district courts in Poland for two offenses: drug possession and drunk driving. Our findings show that sex, age, and number of children have no or little effect on outcomes, whilst marital status and employment status have small to medium effects on sentencing. The clearest result pattern to emerge from our analyses is that defendants with tertiary education are treated more leniently than those with primary or lower secondary education.

Keywords

Sentencing disparities, extralegal factors, post-communist countries, sentencing

Introduction

Punishment is a very complex and therefore complicated issue (Focquaert, Shaw, and Waller 2020; Apt 2016). It has not only legal but sociological, ethical, and philosophical aspects. Various theories of and approaches to punishment have been created over many centuries. They differ in their identification of the aims and values of punishment and the stress they place on its different functions. However, regardless of which concept and philosophy of punishment is adopted, there is one rule in modern democratic societies that must always be respected: equality before the law (Katzner 1973). In other words, defendants in similar cases should be treated in similar ways, they should receive similar punishments for a similar crime in similar circumstances without mitigating (or aggravating) factors.

The principle of equality before the law refers to avoiding unwarranted disparities in the treatment of citizens in similar circumstances, not only in the written law but also in the law in practice. Legal acts and legal provisions may not directly enable different treatment, but at the same time they can be used in this way. Consequently, there is a rich history of research on

sentencing disparities. This phenomenon was raised in the 1920s in the US by Sellin (Sellin 1928), who indicated a higher probability of sanctions and longer sentences for black people. Since then, sentencing disparities have been examined all over the world, firstly in the US (cf. D'Esposito 1969; Jaros and Mendelsohn 1967; Austin and Williams 1977; Parker 1965), then in the UK (cf. Davies 1974) and other common law countries (cf. Hagan 1977; J. V. Roberts and Doob 1997; Palys and Divorski 1986; Chappell 1983). In recent decades research has also been conducted in civil law countries, especially in Western Europe, mostly in Germany (cf. Albrecht 1994; Albrecht 1997; Frisch 2017; Herz 2020), in the Netherlands (Johnson, Wingerden, and Nieuwbeerta 2010; van Wingerden, van Wilsem, and Johnson 2016; Wermink et al. 2017; 2015; Light and Wermink 2021; Komen and Van Schooten 2009), and in Belgium (Bielen, Grajzl, and Marneffe 2021). During the last decade studies have been carried out in Scandinavia (Sandøy, Østhus, and Bretteville-Jensen 2021; Gottschalk and Rundmo 2014; Kruttschnitt and Savolainen 2009; Vestergaard 2004), and in other countries, like the Czech Republic (Drápal 2018; Drápal and Pina-Sánchez 2019), Poland (Mamak et al. 2020) and China (cf. Gong, Wang, and Li 2019; Wei and Xiong 2020; Qi 2020).

The research revealed sentencing disparities among different courts, counties, and districts (cf. Jose Pina-Sánchez, Lightowlers, and Roberts 2017; Drápal 2018; Mamak et al. 2020; Franklin and Henry 2020; Fearn 2005; Johnson 2006; Ulmer and Johnson 2017; Hamilton 2017) as well as among individual judges (cf. Anderson, Kling, and Stith 1999; Danziger, Levav, and Avnaim-Pesso 2011; Johnson 2006; Myers 1988; Scott 2010; Steffensmeier and Britt 2001; Calaway, Kinsley, and Wadian 2020; Jose Pina-Sánchez et al. 2019). It also focused on verifying the impact of different factors on sentencing, including those connected with the perpetrator, such as criminal history (cf. Jose Pina-Sánchez and Roberts 2015; J. V. Roberts and Hirsch 2010; Ortiz and Spohn 2014), and with the crime, such as aggravating and mitigating circumstances (cf. J. V. Roberts 2011; J. Pina-Sánchez and Linacre 2014; Amirault and Beauregard 2014). These are called legal factors because, according to law, they should be taken into consideration in sentencing.

On the other hand, extralegal factors have also been examined, which should not have an impact on sentencing, such as the sex, race, and age¹ of the perpetrator (Bushway and Piehl 2001; Crow and Johnson 2008; Daly and Tonry 1997; Doerner and Demuth 2010; Everett and Wojtkiewicz 2002; Feldmeyer and Ulmer 2011; Feldmeyer et al. 2015; Franklin and Henry 2020; Freiburger and Romain 2018; King and Light 2019; Koons-Witt 2002; Lehmann 2020;

¹ It has to be noted that age, to some extent, is the legal factor that could impact the sentencing. For example, there may be different regulations for minors who committed crimes.

Mustard 2001; Stacey and Spohn 2006; Steffensmeier and Britt 2001; Steffensmeier and Demuth 2006; Steffensmeier, Kramer, and Streifel 1993; Parks and Nowacki 2020; Lehmann and Gomez 2020; Cassidy and Rydberg 2020; Kramer and Ulmer 1996). There is no reason to differentiate sentencing according to the race, sex, or age of the perpetrator; however, research has shown statistical differences in sentences according to such factors. As an example, some research concluded that black Americans are likely to be sentenced more harshly than white Americans (cf. Doerner and Demuth 2010; Mustard 2001; Everett and Wojtkiewicz 2002). The same pattern was described for male and female defendants (cf. Starr 2015; Mustard 2001).

Disparities are an inevitable part of law because they are an effect of the discretionary power of judges. Discretion is a natural feature of law and one which has been considered by philosophers of law since the 1930s (cf. Kelsen 2009; Caytas 2012; Dworkin 1963; Vila 2013; Steiner 1976; Mallett 2014; Himma 1999; Ranchordás and de Waard 2015; Raz 1998). The law is written in legal language, which is merely a modification of natural language. Both languages, especially the latter, are open-textured (Hart, Raz, and Bulloch 1994; see also current polemic article - Schauer 2011), which means that they use imprecise phrases and can change over time; therefore, there will always be room for interpretation. The scope of judicial discretion in sentencing differs across different legal systems. In many countries, especially in Europe, judges have wide discretion in sentencing. On the other hand, some countries, like the US and UK, have responded to revealed sentencing disparities by reducing judicial discretion through the adoption of stricter sentencing guidelines (cf. Frase 2019; Mitchell and Ross 2012; J. V. Roberts 2019). However, where there is judicial discretion, there will always be disparities. Differences in the decision-making process can be caused by various factors. Those factors can be external, such as education, local court customs, or even time of day (Danziger, Levav, and Avnaim-Pesso 2011), but they can also be internal, such as moral or political beliefs (cf. Cohen and Yang 2019). Disparities can also have their roots in cognitive errors and heuristics (cf. Tversky and Kahneman 1974; Kahneman 2013), which also have an impact on legal studies (cf. Goldstein and Hogarth 1997; Stelmach, Brozek, and Kwiatek 2016; Colwell 2005; Gigerenzer 1991). It is crucial to remember that as regards judicial discretion and therefore sentencing disparities there are two main values in eternal conflict: the individualization of justice and sentencing on the one hand and the consistency of the legal system and equality before the law on the other (Krasnostein and Freiberg 2013).

The presented studies aimed to verify the impact of extralegal factors, such as sex, age, education, marital status, number of children, and employment. Although sentencing disparities

have been revealed in Poland (Mamak et al. 2020), their causes have not. Identifying such disparities is a crucial step toward considering the means to reduce them.

The article is structured as follows. The next section will be devoted to showing the Polish legal context, after which the methodology used will be explained. In the practice section, the results will be discussed, and the paper will end with conclusions.

Polish legal context

This section will briefly present the Polish legal context. The key legal concepts will be outlined to ensure a better understanding of the outcomes of this research.

In this research, we focus on the impact of sex, age, education, marital status, number of children, and employment on sentencing. None of these should be bases for unequal treatment. The Polish rules regulating criminal proceedings derive from the Polish constitution and specific acts such as the Criminal Code and the Code of Criminal Procedure. On the constitutional level, “equality under the law” (Article 31.1 Polish Constitution) should be applied not only at the level of making law but also of applying it (Tuleja et al. 2019). The same article of the Polish constitution which introduces equality under the law contains a rule against discrimination, according to which “no one shall be discriminated against in political, social or economic life for any reason whatsoever” (Article 31.2 Polish Constitution). The codes of criminal law and criminal proceedings need to be interpreted in accordance with the Polish Constitution (cf. Gutowski and Kardas 2016). The judge imposing punishment should not discriminate, and the sex, age, education, marital status, number of children, and employment of the defendant should not mean that they will automatically be in a worse position. However, it is possible to differentiate between defendants on the basis of age. According to Article 54 § 1 of the criminal code, “While imposing a penalty on a juvenile or a young adult, the court aims primarily at educating the perpetrator,” which allows younger perpetrators to be differentiated from older adults. This does not mean that younger perpetrators should be treated more leniently, but there is a normative basis for considering other aims of punishment (Wróbel W. in: Barczak-Oplustil et al. 2016); older adults, on the other hand, should be treated similarly, and their age should not play a role in adjudication.

We focus in this paper on two crimes – drunk driving and possession of drugs. These are crimes prosecuted *ex officio*, which means that the public accuser “is obliged to institute and conduct preparatory proceedings” (Art. 10 § 1 of the Code of Criminal Procedure) in every case where there is information that a crime has been committed. The Polish criminal procedure system enshrines the legal principle of legalism (Waltoś and Hofmański 2020). Drunk driving

is a crime enumerated in the Criminal Code (Art. 178a § 1). The second crime, drug possession, is addressed in the Act on Counteracting Drug Addiction (Art. 62 § 1 and 3). We examined the judicial outcomes of cases of these crimes in which the judge decided on guilt and punishment.

Data

Background to the research

In 2015 a major criminal law reform was introduced in order to solve the principal issues faced by the Polish judiciary (Barczak-Oplustil et al. 2015): the much higher number of prisoners than the Polish prison system could handle; the high level of discrepancies in the penalties imposed for the same acts adjudicated in different courts; and the statistical structure of penalties imposed in given courts, which in practice meant the willingness to decrease the number of imposed sentences with the punishment of deprivation of liberty and increase non-isolational penalties (like fines) (“Justification of the Bill, the Polish Sejm, No. 2393” 2014). The data gathered by the Polish Ministry of Justice showed that even though the most common punishment handed down by the Polish courts was a deprivation of liberty which was suspended in the judicial sentence (60%), the number of prisoners in Poland was among the highest in Europe. This phenomenon was of interest to legal scholars in Poland and was described in one article under the significant title “The paradoxes of Polish criminal policy: how we overcrowd prisons by overusing probation” (Mycka and Kozłowski 2013). Ministry of Justice data also showed that for the same act, and on the basis of the same provisions, sentences differed enormously (different types and dimensions of penalties), depending on which court (based in which city) ruled. The purpose of the 2015 reform was to reduce the disparities between courts and to increase the number of more lenient, non-custodial penalties (fines or limitations of liberty) in relation to suspended deprivation of liberty (Sejm RP 2014). However, the Ministry of Justice did not make a detailed analysis of the reasons for the disparities in sentences among Polish courts.

The original subject of the current research was the analysis of the execution of suspended deprivation of liberty based on the files of court cases in various Polish cities and a comparison of the situation before and after the 2015 reform. A report published in 2017 in Poland concerning that analysis and comparison showed persistent notable discrepancies in adjudication among Polish courts (Mamak, Kucyper, and Płóciennik 2017). These discrepancies are the main focus of this study, which aims to re-analyze the data presented in the report in order to assess the impact of individual factors related to perpetrators on the type of sentencing decisions issued by courts, taking into account all types of penalties that can be imposed in Poland.

Although subsequently reduced to two, initially, the study concerned three types of crimes described in the Polish legal system: drunk driving (Article 178a § 1 of the Criminal Code), property theft (Article 278 § 1 of the Criminal Code)², and drug possession (Article 62 § 1 of the Act on Counteracting Drug Addiction). These types of crime were selected for study on the basis of the following criteria:

- 1) they are among the most frequently committed crimes in Poland, which gives a sufficiently large number of cases for analysis,
- 2) they are relatively simple cases, usually committed in similar circumstances, so they should be easy to compare,
- 3) taking into account the preceding assumption, there should not be major discrepancies in penalties for such crimes imposed by different courts,
- 4) it is possible to adjudicate all types of penalties for these crimes (deprivation of liberty, limitation of liberty and fine), which allows for the comparison of their statistical structure in different courts.

In order to ensure that the study was representative, it was necessary to collect data from various regions of Poland. The primary factors limiting the choice of court were the need to obtain consent to examine the files and convenience, for example the availability of accommodation close to the court or gaining access to it. Of the selected courts, 14 from 13 cities located in nine (of 16) Polish provinces consented to examination of the files; therefore, the files from these courts were considered in this study.

Source of the data

This study was conducted solely on the basis of authentic court files, which is essential for studying sentencing disparities between courts (Belton and Dhimi 2015). The data presented in this study covers only the cases that were actually subject to a court decision. Therefore, the data does not include cases which ended other than with a court decision, *inter alia* by discontinuance of the proceedings by the prosecutor conducting the case.

This study does not use data published by the Polish Ministry of Justice due to the lack of detail in such data. The Ministry data contains only basic information, such as the number of cases for which a given penalty was imposed for a certain crime in a given period and area. However, there is no complete information about the age, gender, or previous sentences of a given perpetrator or the circumstances of the crime. Therefore, the data for this study was

² The data concerning this crime are excluded from further deliberations for the reasons indicated in the following section.

collected independently so that we could analyze various factors related to a given case, namely the age, sex, marital status, education, and employment status of a perpetrator.

The data was collected between February and May 2017 by 37 law students from the Department of Criminal Law at the Jagiellonian University, most of whom were in the final year of their studies. The data concerned cases, where the criminal act was conducted between 2014 and 2016 in equal amount of cases before and after of 2015 reform. In order to standardize the results, a special questionnaire was prepared containing 87 questions verified by Jagiellonian University researchers. The students collected the data by means of a standard form that they themselves completed. Individual cases for examination were selected from the list presented by the secretariat of each court considered. The cases were selected randomly by pointing the n-th case (4th, 5th, etc.) from the list. The aim of every student was to select and examine 100 cases, including, as far as possible, an equal number of the three prohibited acts that were the subject of investigation. The number of cases examined depended on the number of case files relating to individual crimes available in a given court. In total, data from approximately 3,500 cases was collected, including approximately 1,500 cases of drunk driving and approximately 1,000 property theft and drug possession cases each. It can be pointed out that according to the statistics of the Ministry of Justice of Poland, those prohibited acts are among the most commonly committed in Poland, and between 2014 and 2016, there were approximately 48 300 convicts for drunk driving, 24 100 convicts for theft and 8 200 convicts for drug possession general in Poland (Ministry of Justice of Poland 2019).

Only cases with a high degree of similarity in terms of procedures and legal factors were selected for the final examination. We selected types of crimes for the research, which *in abstracto* are committed similarly, and there are not many differentiating factors. In the case of drunk driving, the information about the crime is usually revealed by the police during routine sobriety checks. In the case of the possession of drugs, the police typically find out about the crime during random checks (for example near the nightclubs during the nights). What is more, cases with mitigating and aggravating circumstances or recidivism were excluded from the study (see the literature cited in the introduction). We also rejected other cases with factors that could bias the study results, such as cases of non-singular legal classifications, that is, cases in which the perpetrator committed multiple acts or multiple crimes (see [Vibla 2015](#)). Cases for which there were inconsistencies in the questionnaire or missing data were also excluded from the study. For example, there was no date of the sentence, or the dates of the procedural steps were mixed up.

After elimination of the abovementioned cases that were irrelevant to the study, 1,236 driving under the influence cases and 641 drug possession cases remained for final examination. We decided not to examine the property theft cases, because too few remained after elimination. Most of the property theft cases were excluded due to recidivism (more than 500 cases) and additional legal classifications (over 160 cases). After all exclusions, 1,877 cases qualified for the final study.

We employed two-level multinomial logistic regression models to examine the effects of extralegal factors on rulings in driving under the influence and drug possession cases. The second-level units were courts, and the first-level units were cases “nested” (grouped) within courts. The term “nested” means that low-level units are grouped within upper-level units e.g., cases within courts, students within schools, employees within companies (Raudenbush and Bryk 2002). The intercepts at court level were random effects, while other effects were fixed. It was important to account for between-court variance because previous work showed considerable disparities in rulings between courts (Mamak et al. 2020). In the null models (i.e., without predictors) the intraclass correlation coefficients (ICC) were 16% in driving under the influence cases and 23% in drug possession cases (ICC computed using the latent variable method). This indicates that this proportion of disparities in rulings was due to the specifics of courts (most likely judges’ subjectivism) and not solely the crime case specifics or characteristics of the charged person. In 2015 a Polish criminal law reform was introduced to limit sentencing disparities. In drug possession cases the disparities were, indeed, lower after the reform. However, in driving under the influence cases the disparities increased after the reform (see Mamak et al. 2020). For this reason, in all models employed in this study we controlled whether the ruling was made before or after the reform. We only interpreted effects which proved to be significant to at least $p < 0.05$ level and reported odds ratio (OR) along with heteroscedasticity-consistent standard errors. For interpretation of OR we employed the cut-off proposed by Chen, Cohen, and Chen (Chen, Cohen, and Chen 2010). The analyses were performed using the Stata /MP16.1 ‘gsem’ command.

Results

The descriptive statistics are presented in Table 1.

[INSERT TABLE 1 HERE]

[INSERT TABLE 2 HERE]

Table 2 reports the results for age and its possible influence on sentencing. No significant effects were observed, except that the chances decreased by 3% with each year of age of limitation of liberty (as compared to discontinuance of the proceedings) in driving under the influence cases. When other socio-demographics were controlled for (see Table 8), age proved to have very small effects on rulings only in drug possession cases: a 6% increase in the chance of a fine being imposed and an 8% increase in the chance of suspended deprivation of liberty relative to discontinuance of the proceedings.

[INSERT TABLE 3 HERE]

Table 3 reports the results for sex and its possible influence on sentencing. No effect on driving under the influence cases or drug possession cases was observed for females or males.

[INSERT TABLE 4 HERE]

Table 4 reports the results for education and its possible influence on sentencing. We observed a clear pattern of the effects of a defendant having completed upper secondary (small to medium effects) or tertiary (large effects) education as compared to primary or lower secondary education. In driving under the influence cases the chances of limitation of liberty or suspended deprivation of liberty dropped by 70%–80% as compared to discontinuance of the proceedings for those with upper secondary education and by 95%–98% for those with tertiary education as compared to those with primary or lower secondary education. In drug possession cases this pattern was only seen in the case of tertiary education: Those who had completed tertiary education had a 90% lower chance of limitation of liberty (large effect) and a 66% lower chance of suspended deprivation of liberty (small effect) relative to discontinuance of the proceedings than those with primary or lower secondary education. The effects also held when other socio-demographics were controlled for (see Table 8). In driving under the influence cases defendants with tertiary education had a lower chance relative to discontinuance of the proceedings: by 90% for a fine, 97% for the limitation of liberty (for those with upper secondary education the chances were 72% lower), and 94% for suspended deprivation of liberty. In drug possession cases the effects of tertiary education held in the case of limitation of liberty (89% lower chance) and suspended deprivation of liberty (80% lower chance).

[INSERT TABLE 5 HERE]

Table 5 reports the results for marital status and its possible influence on sentencing. Small to medium effects were observed only in driving under the influence cases. Married defendants had a 45% lower chance of receiving a fine and a 77% lower chance of limitation of liberty relative to discontinuance of the proceedings than those who were single. When other socio-demographics were controlled for (see Table 8), married defendants had a significantly lower chance (75%) of limitation of liberty relative to discontinuance of the proceedings in driving under the influence cases.

[INSERT TABLE 6 HERE]

Table 6 reports the results for number of children and its possible influence on sentencing. We noted small effects in cases of driving under the influence: a 53% lower chance of resolving a case by limitation of liberty for defendants with two children and a 48% lower chance for those with three or more children as compared to resolving a case with discontinuance of the proceedings. A small effect was observed in cases of drug possession for those with one child: a 106% higher chance of receiving a fine rather than discontinuance of the proceedings. When other socio-demographics were controlled for, all these effects vanished.

[INSERT TABLE 7 HERE]

Table 7 reports the results for employment status and its possible influence on sentencing. Defendants with a job had a 79% lower chance of limitation of liberty rather than discontinuance of the proceedings in driving under the influence cases (73% lower when other socio-demographics were controlled for) and 76% lower chance of the same (74% lower when controlling for other socio-demographics) in drug possession cases. These should be regarded as medium effects. We observed a small (44%) effect (34% when other socio-demographics were controlled for) in regard to a lower chance of receiving suspended deprivation of liberty rather than discontinuance of the proceedings for defendants with a job in driving under the influence cases. Moreover, a very small effect was noted for those with a job, who had a 65% higher chance of receiving a fine than discontinuance of the proceedings. (This effect vanishes when other socio-demographics are controlled for; see Table 8.)

[INSERT TABLE 8 HERE]

Discussion

Our findings show that some extralegal factors which, in theory, should not have an impact on the situation of the offender influenced the results of court findings.

The clearest pattern to emerge from our analyses is that defendants with tertiary education were treated more leniently than those with primary or lower secondary education. This effect proved consistent in both driving under the influence cases and drug possession cases. Courts were less likely to impose limited or suspended deprivation of liberty or even fines on defendants with tertiary education or at least secondary education. The most common outcome for better-educated defendants was discontinuance of the proceedings.

The second important finding is that defendants with a job (as compared to unemployed ones) were more likely to have proceedings discontinued than be punished with limitation of liberty. This proved true for both types of analyzed crime charges. It is, on the one hand, understandable, given that a sentence could devastate an individual's chance of finding job (see e.g. Jacobs 2015). What is more, some professions in Poland require a clean criminal record; for example, a sentence for intentional crime (and both crimes considered, drunk driving and possession of drugs, are intentional) means automatic job loss for academics and schoolteachers. The discontinuance of proceedings means that the person is not sentenced so there is no information in the criminal register, and the person can keep their job. Hence, it is understandable that judges try to avoid the collateral consequences of sentencing. On the other hand, doing so means that a person with no job is not treated with the same compassion, and their employment prospects worsen. This seems unfair: They are already unemployed and criminality complicates their situation, which could impact the chances of recidivism (see e.g. Raphael and Winter-Ebmer 2001).

The third area of evidence we found concerning the influence of extralegal factors on rulings is that married defendants were less likely to be punished with limitation of liberty than single ones. However, this effect was significant only in driving under the influence cases.

Certain factors examined did not significantly impact adjudication, namely sex, age, and number of children. Other research suggests sex used to be a factor that impacted process outcomes (cf. Parks and Nowacki 2020), but no significant differences were found in our research, and this claim is, at the least, doubtful. Age was a quasi-extralegal factor because, as

mentioned before, Polish criminal law allows the youngest offenders to be treated differently (which does not mean more harshly or leniently). However, no significant differences were revealed considering the age of the perpetrators.

Despite the fact that we covered different extralegal factors in our study, more research in the area is required. For example, we did not consider the factor of race, ethnicity or nationality on the impact of extralegal factors on sentencing, although in other jurisdictions, especially the US, differences have been demonstrated (cf. Bridges 2018; Fekete 2018; Everett and Wojtkiewicz 2002; Baumer 2013). We had no such data at hand. However, this does not mean that there is no racial, ethnical or national diversity in Poland and that people do not commit crimes (Rzeplińska 2000). It is worth exploring this topic in further research, especially considering the legal situation of Roma people living in Poland, who are both victims of crimes and offenders (see e.g. Szyszlak and Szyszlak 2013). Nevertheless, it is important to note that Poland is a relatively homogenous country (Okólski 2010); 98.2% inhabitants declared Polish nationality primarily or exclusively in the 2011 census.

Conducting further sentencing disparity research in Europe is particularly important due to the fact that most of the literature to date focuses on and describes the American environment, which substantially differs from the European one. The problem of sentencing disparity, based on theoretical reasons and available empirical data, seems to be global and independent from culture, including especially legal ones. Identifying details of sentencing disparities can be helpful in the process of striving for consistency in the legal system. It must be pointed out that reducing sentencing disparities and enhancing consistency of the system is becoming a popular issue not only in the Anglo-Saxon world but also in other European jurisdictions (cf. Herz 2020; Frisch 2017; Drápal 2018; Mamak et al. 2020). The problem of sentencing disparities was also noticed by the Council of Europe, which almost 30 years ago, after researching the issue (Council of Europe 1974) recommended the taking of appropriate measures to avoid unwarranted sentencing disparities (Council of Europe 1993). It can be stated then that the awareness of sentencing disparities and striving to avoid them is rising in European countries and will be more widely discussed in the future.

Trying to mitigate the disparities, it is desirable for the Polish Supreme Court to take an active role, and there is a possibility for the Prosecutor's Office to use sentencing guidelines (with the reservation that this should be done by a Prosecutor's Office which is not influenced by politics) (also Drápal 2018). We also asserted in a previous study that judges should have broader access to a national database of judicial decisions. We also mentioned that the education of future judges should be standardized. The National School of Judiciary and Public

Prosecution was established in 2009 with the aim of revolutionizing the process of educating judges and prosecutors (Zoll 2010). We believe that the curriculum should pay more attention to the circumstances in which disparities may occur so future judges can be aware of them. Moreover, we urge that existing judges should also be trained, familiarized with the outcome of research, and guided concerning ways in which they can render more just sentencing decisions.

Despite all such potential initiatives, we are aware that there is no possibility of eliminating disparities because if a system is based on discretion, disparities will exist. What is achievable, however, is ensuring more equal and just sentences in individual cases.

Table 1. Descriptive statistics of the variables used in the analyses

	Driving under the influence n (%)	Drug possession n (%)
Reform		
Before	709 (57.36)	320 (49.92)
After	527 (42.64)	321 (50.08)
Age (n; M; SD)	1236; 40.14; 13.01	641; 24.67; 6.52
Sex		
Female	77 (6.23)	28 (4.37)
Male	1159 (93.77)	613 (95.63)
Education		
Primary & lower secondary (ISCED 1-2)	186 (15.05)	249 (38.85)
Vocational (ISCED 3)	464 (37.54)	104 (16.22)
Upper secondary (ISCED 3-4)	442 (35.76)	236 (36.82)
Tertiary (ISCED 5)	144 (11.65)	52 (8.11)
Marital status		
Single	467 (37.78)	573 (89.39)
Divorced/separated	119 (9.63)	14 (2.18)
Married	650 (52.59)	54 (8.42)
Number of children		
None	556 (44.98)	547 (85.34)
One	249 (20.15)	68 (10.61)
Two	284 (22.98)	23 (3.59)
Three or more	147 (11.89)	3 (0.47)
Has a job		
No	378 (30.58)	311 (48.52)
Yes	858 (69.42)	330 (51.48)
Outcome		
Discontinuance of proceedings	80 (6.49)	164 (26.8)
Fine	558 (45.29)	205 (33.5)
Limitation of liberty	140 (11.36)	103 (16.83)
Suspended deprivation of liberty	454 (36.85)	140 (22.88)

Note. †p < 0.1; *p < .05; **p < .01; ***p < .001

Age

Table 2. Trial outcomes regressed on age with additional control for before/after reform. Results of the multilevel multinomial logistic regression

	Driving under the influence OR (Robust SE)	Drug possession OR (Robust SE)
Fine		
After the reform (Ref. = Before)	0.32** (0.117)	2.372*** (0.491)
Age	0.989 (0.009)	1.043† (0.025)
Intercept	35.406*** (17.226)	0.466 (0.313)
Limitation of liberty		
After the reform (Ref. = Before)	0.623 (0.274)	2.401** (0.645)
Age	0.973** (0.008)	0.942 (0.04)
Intercept	11.446*** (6.309)	2.662 (3.169)
Suspended deprivation of liberty		
After the reform (Ref. = Before)	0.12*** (0.05)	0.638* (0.133)
Age	0.998 (0.013)	1.035† (0.02)
Intercept	28.811*** (19.331)	0.723 (0.414)
Level 2 (courts) variance	0.686 (0.374)	1.048 (0.670)
Intraclass correlation coefficient	0.172	0.242

Note. †p < 0.1; *p < .05; **p < .01; ***p < .001

Sex

Table 3. Trial outcomes regressed on sex with additional control for before/after reform. Results of the multilevel multinomial logistic regression

	Driving under the influence	Drug possession
	OR (Robust SE)	OR (Robust SE)
Fine		
After the reform (Ref. = Before)	0.317** (0.118)	2.473*** (0.528)
Female (Ref. = Male)	0.589 (0.346)	0.954 (0.433)
Intercept	24.303*** (9.155)	1.308 (0.461)
Limitation of liberty		
After the reform (Ref. = Before)	0.612 (0.272)	2.175** (0.574)
Female (Ref. = Male)	0.612 (0.464)	2.633 (1.697)
Intercept	4.217*** (1.398)	0.671 (0.285)
Suspended deprivation of liberty		
After the reform (Ref. = Before)	0.118*** (0.05)	0.656* (0.138)
Female (Ref. = Male)	0.314 (0.221)	1.239 (1.002)
Intercept	29.208*** (10.894)	1.637 (0.651)
Level 2 (courts) variance	0.710 (0.411)	1.030 (0.661)
Intraclass correlation coefficient	0.177	0.238

Note. †p < 0.1; *p < .05; **p < .01; ***p < .001

Education

Table 4. Trial outcomes regressed on education with additional control for before/after reform. Results of the multilevel multinomial logistic regression

	Driving under the influence	Drug possession
	OR (Robust SE)	OR (Robust SE)
Fine		
After the reform (Ref. = Before)	0.258** (0.113)	2.43*** (0.514)
Education (Ref. = Primary & lower secondary (ISCED 1-2))		
Vocational (ISCED 3)	0.735 (0.344)	1.322 (0.703)
Upper secondary (ISCED 3-4)	0.397† (0.197)	0.929 (0.215)
Tertiary (ISCED 5)	0.1*** (0.038)	0.756 (0.334)
Intercept	72.107*** (39.762)	1.314 (0.557)
Limitation of liberty		
After the reform (Ref. = Before)	0.469 (0.228)	2.326** (0.695)
Education (Ref. = Primary & lower secondary (ISCED 1-2))		
Vocational (ISCED 3)	0.502 (0.224)	0.372 (0.273)
Upper secondary (ISCED 3-4)	0.204** (0.121)	0.588 (0.235)
Tertiary (ISCED 5)	0.018*** (0.01)	0.097** (0.08)
Intercept	21.587*** (10.99)	1.053 (0.542)
Suspended deprivation of liberty		
After the reform (Ref. = Before)	0.091*** (0.046)	0.661† (0.148)
Education (Ref. = Primary & lower secondary (ISCED 1-2))		
Vocational (ISCED 3)	0.928 (0.384)	1.362 (0.82)
Upper secondary (ISCED 3-4)	0.302* (0.183)	0.844 (0.336)
Tertiary (ISCED 5)	0.054*** (0.024)	0.341** (0.124)
Intercept	91.312*** (35.637)	1.777 (0.636)
Level 2 (courts) variance	0.819 (0.476)	0.982 (0.600)
Intraclass correlation coefficient	0.199	0.230

Note. †p < 0.1; *p < .05; **p < .01; ***p < .001

Marital status

Table 5. Trial outcomes regressed on marital status with additional control for before/after reform. Results of the multilevel multinomial logistic regression

	Driving under the influence	Drug possession
	OR (Robust SE)	OR (Robust SE)
Fine		
After the reform (Ref. = Before)	0.322** (0.118)	2.46*** (0.519)
Marital status (Ref. = Single)		
Divorced/separated	0.827 (0.399)	1.374 (1.074)
Married	0.552** (0.112)	0.988 (0.55)
Intercept	32.762*** (11.488)	1.298 (0.45)
Limitation of liberty		
After the reform (Ref. = Before)	0.623 (0.279)	2.266** (0.632)
Marital status (Ref. = Single)		
Divorced/separated	0.827 (0.365)	No obs.
Married	0.235*** (0.054)	0.607 (0.354)
Intercept	8.212*** (2.715)	0.736 (0.311)
Suspended deprivation of liberty		
After the reform (Ref. Before)	0.121*** (0.05)	0.649* (0.142)
Marital status (Ref. = Single)		
Divorced/separated	1.376 (0.723)	1.409 (1.195)
Married	0.665 (0.192)	0.632 (0.331)
Intercept	32.681*** (12.248)	1.699 (0.688)
Level 2 (courts) variance	0.673 (0.369)	1.010 (0.649)
Intraclass correlation coefficient	0.170	0.235

Note. †p < 0.1; *p < .05; **p < .01; ***p < .001

Number of children

Table 6. Trial outcomes regressed on number of children with additional control for before/after reform. Results of the multilevel multinomial logistic regression

	Driving under the influence OR (Robust SE)	Drug possession OR (Robust SE)
Fine		
After the reform (Ref. = Before)	0.321** (0.119)	2.406*** (0.484)
Number of children (Ref. = None)		
One	0.971 (0.366)	2.056** (0.55)
Two	0.754 (0.204)	0.951 (0.407)
Three or more	0.944 (0.311)	No obs.
Intercept	24.957*** (9.866)	1.247 (0.433)
Limitation of liberty		
After the reform (Ref. = Before)	0.619 (0.274)	2.224** (0.633)
Number of children (Ref. = None)		
One	0.565 (0.237)	1.192 (0.52)
Two	0.466** (0.127)	0.499 (0.359)
Three or more	0.519* (0.146)	1.201 (1.777)
Intercept	5.611*** (2.097)	0.704 (0.301)
Suspended deprivation of liberty		
After the reform (Ref. = Before)	0.12*** (0.05)	0.651* (0.132)
Number of children (Ref. = None)		
One	1.19 (0.437)	1.564 (0.546)
Two	0.787 (0.245)	1.128 (0.57)
Three or more	1.038 (0.401)	No obs.
Intercept	27.098*** (9.412)	1.601 (0.653)
Level 2 (courts) variance	0.691 (0.382)	1.033 (0.660)
Intraclass correlation coefficient	0.174	0.239

Note. †p < 0.1; *p < .05; **p < .01; ***p < .001

Has a job

Table 7. Trial outcomes regressed on employment status with additional control for before/after reform. Results of the multilevel multinomial logistic regression

	Driving under the influence	Drug possession
	OR (Robust SE)	OR (Robust SE)
<hr/>		
Fine		
After the reform (Ref. = Before)	0.32** (0.118)	2.318*** (0.484)
Has a job (Ref. = No)	1.052 (0.26)	1.646* (0.328)
Intercept	21.93*** (9.68)	1.004 (0.42)
<hr/>		
Limitation of liberty		
After the reform (Ref. = Before)	0.619 (0.283)	2.619** (0.77)
Has a job (Ref. = No)	0.212*** (0.041)	0.237*** (0.053)
Intercept	10.18*** (3.702)	1.086 (0.445)
<hr/>		
Suspended deprivation of liberty		
After the reform (Ref. = Before)	0.12*** (0.051)	0.663† (0.142)
Has a job (Ref. = No)	0.557*** (0.06)	0.915 (0.208)
Intercept	40.172*** (14.058)	1.717 (0.626)
<hr/>		
Level 2 (courts) variance	0.689 (0.366)	1.013 (0.644)
Intraclass correlation coefficient	0.173	0.235

Note. †p < 0.1; *p < .05; **p < .01; ***p < .001

Table 8. Trial outcomes regressed on socio-demographics with additional control for before/after reform. Results of the multilevel multinomial logistic regression

	Driving under the influence OR (Robust SE)	Drug possession OR (Robust SE)
Fine		
After the reform (Ref. = Before)	0.249** (0.113)	2.153*** (0.44)
Age	1.002 (0.019)	1.065* (0.033)
Female (Ref. = Male)	0.815 (0.449)	0.723 (0.3)
Education (Ref. = Primary & lower secondary (ISCED 1-2))		
Vocational (ISCED 3)	0.854 (0.411)	0.839 (0.446)
Upper secondary (ISCED 3-4)	0.423† (0.212)	0.59† (0.164)
Tertiary (ISCED 5)	0.101*** (0.037)	0.401† (0.192)
Marital status (Ref. = Single)		
Divorced/separated	0.803 (0.354)	0.699 (0.605)
Married	0.51 (0.271)	0.651 (0.542)
Number of children (Ref. = None)		
One	1.327 (0.789)	1.719 (0.888)
Two	0.9 (0.306)	0.632 (0.453)
Three or more	0.961 (0.299)	No obs.
Has a job (Ref. = No)	1.244 (0.361)	1.573 (0.532)
Intercept	81.331*** (81.463)	0.323 (0.274)
Limitation of liberty		
After the reform (Ref. = Before)	0.478 (0.24)	2.527*** (0.668)
Age	0.996 (0.019)	1.02 (0.052)
Female (Ref. = Male)	1.054 (0.812)	3.52† (2.273)
Education (Ref. = Primary & lower secondary (ISCED 1-2))		
Vocational (ISCED 3)	0.789 (0.424)	0.59 (0.412)
Upper secondary (ISCED 3-4)	0.276* (0.181)	0.852 (0.314)
Tertiary (ISCED 5)	0.026*** (0.015)	0.112* (0.108)
Marital status (Ref. = Single)		
Divorced/separated	1.065 (0.474)	No obs.
Married	0.25** (0.132)	1.221 (0.898)
Number of children (Ref. = None)		
One	1.175 (0.745)	1.212 (0.962)
Two	0.983 (0.345)	0.797 (0.782)
Three or more	0.946 (0.327)	1.386 (2.018)
Has a job (Ref. = No)	0.27*** (0.062)	0.256*** (0.09)
Intercept	79.635*** (79.822)	0.807 (1.114)

Suspended deprivation of liberty		
After the reform (Ref. = Before)	0.088*** (0.046)	0.629* (0.136)
Age	1.002 (0.026)	1.077* (0.031)
Female (Ref. = Male)	0.485 (0.329)	1.052 (1.008)
Education (Ref. = Primary & lower secondary (ISCED 1-2))		
Vocational (ISCED 3)	1.063 (0.501)	1.143 (0.711)
Upper secondary (ISCED 3-4)	0.327† (0.208)	0.673 (0.272)
Tertiary (ISCED 5)	0.059*** (0.029)	0.2** (0.101)
Marital status (Ref. = Single)		
Divorced/separated	1.455 (0.763)	0.646 (0.413)
Married	0.628 (0.419)	0.452 (0.325)
Number of children (Ref. = None)		
One	1.509 (0.849)	1.489 (0.945)
Two	0.839 (0.34)	1.13 (0.757)
Three or more	0.837 (0.258)	No obs.
Has a job (Ref. = No)	0.665* (0.132)	0.792 (0.308)
Intercept	140.546*** (154.246)	0.412 (0.295)

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