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The Defendant's Attitude During the Main Trial and Its Impact on the Verdict: An Interdisciplinary Legal-Psychological Analysis

Abstract: The correct evaluation of evidence, particularly the testimony of the accused, who plays a key role in both the pre-trial and trial stages, is an important task that the justice system is seeking to address, not only in Poland, but also internationally. An increasing number of research papers deal with the influence of psychological aspects on the distortion of judgments, such as the impact of the “halo effect” or “pure exposure”. To date, however, the impact of the defendant's attitude on the severity of the punishment has not been systematically studied. In view of the above, this study seeks to verify the research hypothesis, which assumes that the defendant's attitude during the main trial affects the content of the verdict, is related to the punishment imposed, and is also determined by subjective factors.

Keywords: evidence, psychological assessment of credibility, evidence of the defendant's explanations

Introduction

In every court proceeding, the process of evidentiary assessment plays a crucial role in determining the outcome of the trial, including the final verdict. However,

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the Code of Criminal Procedure does not provide precise guidelines on how the credibility of evidence should be evaluated. The principle of free evaluation of evidence, coupled with the legislature's lack of a strict obligation for courts to justify each judgment in detail, creates challenges both for the judge, who must render a fair decision based on an accurate assessment of the evidence, and for those seeking to review the reasoning behind the evaluation process.

Modern forensic psychology has increasingly examined the psychological factors influencing judicial decision-making. Prior study has explored the effects of cognitive biases, such as the halo effect and the mere exposure effect, on the assessment of evidence. However, a key evidentiary element in a criminal trial is the defendant himself. The defendant plays a central role at both the pre-trial and trial stages and serves as a primary and direct source of evidence. Notwithstanding the significance, the potential impact of the defendant's demeanor on the content of the verdict—particularly the severity of the sentence imposed—remains largely unexamined.

Defendants employ various strategies during trial interrogations as part of their defense.

These strategies can generally be classified into three main categories:

- 1) The defendant responds to all questions posed;
- 2) The defendant answers only the questions asked by their defense counsel;
- 3) The defendant refuses to answer any questions.

It is essential to underscore that under criminal procedure, defendants have the right to provide explanations but are under no obligation to do so. They may refuse to testify or decline to answer specific questions without providing a justification. Furthermore, in exercising their right to defense, defendants are permitted to alter or retract their previous statements, and providing false explanations is not subject to criminal liability.

The Rationale for the Study

The impetus for the study arose from a preliminary hypothesis, formulated through observations of court proceedings, suggesting a high likelihood of correlation between an accused who provides coherent and logical responses to all questions and the perception of their greater credibility. While the principle of the presumption of innocence, in its subjective dimension, mandates a neutral stance by judicial authorities—including the court—toward the accused and the content of their statements, the practical application of the principle may differ.

Conversely, it is plausible that a correlation exists between an accused who refuses to answer questions and a presumption—albeit implicit—of guilt, which may, in turn, result in a more severe sentence. This is despite the fact that the Code of Criminal Procedure explicitly grants the accused the right to remain silent. It is important to emphasize that, *de jure*, neither a refusal to admit guilt, a lack of remorse, nor a failure to respond to questions constitutes an aggravating circumstance warranting a harsher sentence. However, within the framework of evidentiary assessment—particularly under the principle of free evaluation of evidence—such factors may influence judicial perception and sentencing outcomes.

Given the fundamental nature of the issue, the concern raised appears well founded. The findings of the study have the potential to provide valuable guidance to both courts and defendants in the strategic selection of defense tactics.

Objectives of the Study

The primary objective of the study is to test the hypothesis that the attitude of the accused during the main trial, based on the three identified behavioral variants, affects the content of the verdict and is correlated with the severity of the sentence imposed, with subjective factors playing a role in the determination. This does not imply a presupposed violation of the accused person's right to remain silent by the adjudicating authority, but rather that the chosen defense strategy carries inherent consequences.

A secondary, overarching aim is to analyze the techniques and methods employed by defendants in exercising their right to defense during interrogations at the main hearing. Additionally, the study seeks to establish whether a correlation exists between an accused person's legal representation and their courtroom demeanor, contrasting this with the behaviors typically exhibited by self-represented defendants.

The final objective is to identify the most effective defense strategies, offering practical insights for both defense attorneys and accused persons facing the critical decision of selecting the most advantageous approach to their defense.

Study Methodology

The study was conducted using an analysis of official court documents. To obtain relevant data, the study employed a methodical review of court records from a sample of $N = 12$ case files, selected from cases adjudicated before the Regional Court of Poznań during the study period (2018–2024). The content analysis encompassed the decision to initiate proceedings, the indictment, the minutes of hearings, and the final judgment in each case.

In defining the general study population, the following criteria were taken into account:

- 1) The period during which the case was adjudicated;
- 2) The nature of the offense to which the case pertained;
- 3) The court in which the case was heard.

The study included only those cases in which a substantive ruling—whether in the form of an acquittal or a conviction—was issued between 2018 and 2024. Specifically, the study comprised criminal cases pending heard the Regional Court of Poznań and adjudicated by judges of the criminal division. Each case under review involved an indictment containing a charge under Article 148 of the Criminal Code, i.e., a charge of murder.

A study questionnaire was employed as a data collection instrument to systematically gather information relevant to the study.

Study Organization and Course of Study

The study project was conducted over a period of nine months. The initial phase involved a comprehensive review of existing literature on the subject, enabling the researcher to become familiar with previously identified issues at the intersection of law and psychology. The review also highlighted the potential for legal professionals to incorporate psychological insights into their work. Accordingly, a thorough examination of selected resources was undertaken before proceeding with the empirical study.

Subsequently, study questionnaires were designed, empirical material was collected, and in the later stages of the project, the data was analyzed and a scientific article was prepared. The purpose of the study questionnaires was to facilitate the collection of essential data for the study.

Before proceeding with the case file review, permission was sought from the President of the Regional Court to obtain file references for murder cases (i.e., cases under Article 148 of the Criminal Code) that had concluded with final judgments before the court between 2014 and 2024. Upon receiving authorization, the researcher was provided with a list of fifty-nine case file references matching the request. From these, twenty-five cases with the most recent final judgments (i.e., cases concluded between 2021 and 2024) were selected, and a request for access to these files was submitted. Permission was granted for access to twelve case files, albeit without the right to make photocopies. The researcher was also informed that access to the remaining files would not be permitted due to an order from the Head of Court Division and ongoing procedural activities within those cases.

Access to Case Files and Study Process

Permission to review case files was granted for the following cases: III K 98/21, III K 87/22, III K 85/21, III K 404/20, III K 514/21, III K 538/22, III K 350/22, III K 207/22, III K 97/20, III K 188/22, III K 295/22, and III K 543/21.

The examination of the files was conducted over two sessions. The first review took place on December 18, 2024, and the second on January 20, 2025. Additionally, an interview with a presiding judge was conducted on January 20, 2025.

During the study, each case file was thoroughly analyzed, and pre-prepared study questionnaires facilitated the systematic collection of data regarding the defendant's behavior during the trial proceedings and the corresponding sentencing outcomes.

Study Findings

Case 1: III K 514/21

In the case, a criminal complaint was filed on June 19, 2021, leading to pre-trial proceedings being initiated on June 21, 2021. The indictment was filed by the prosecutor on November 29, 2021, charging the defendant with an offense under Article 148 § 1 of the Criminal Code.

The defendant, a 26-year-old male, was represented during the trial by a privately retained legal counsel.

At the start of the main hearing, the defendant was duly instructed in accordance with the provisions of the Code of Criminal Procedure. He provided an initial statement upon receiving the instruction and maintained a consistent position throughout the proceedings. He answered all questions addressed to him.

In his final statement, the defendant expressed remorse, stating, "I request the lowest possible penalty. I deeply regret what happened."

On March 15, 2022, the court of first instance sentenced the defendant to eight years' imprisonment.

The defendant appealed the verdict on April 13, 2022, but the sentence was upheld on appeal.

Case 2: III K 404/20

In the case, a criminal complaint was filed on October 22, 2019, and pre-trial proceedings commenced on November 23, 2019. The indictment was submit-

ted by the prosecutor on November 26, 2020, qualifying the offense under Article 148 § 1 of the Criminal Code.

The defendant, a 45-year-old male, was represented by two privately retained defense attorneys.

At the beginning of the main hearing, the defendant was duly instructed in accordance with the Code of Criminal Procedure. He provided an initial statement after receiving the instruction and maintained it throughout the proceedings, answering all questions posed to him.

In his final statement, the defendant stated, "I agree with my defense attorneys. I believe I am ready to reintegrate into family life and live without alcohol. The psychologists in Łódź, where I was hospitalized, helped me a great deal. I miss my family deeply and wish to apologize for what happened." (The defendant became emotional and wept.)

On September 15, 2021, the court of first instance sentenced the defendant to six years' imprisonment. Both the defendant and the prosecutor filed appeals on November 22, 2021, and November 17, 2021, respectively. Following appellate review, the sentence was increased to twelve years' imprisonment.

Case 3: III K 98/21

In the case, a criminal complaint was originally filed on April 4, 1994. Pre-trial proceedings commenced on April 5, 1994, but were discontinued due to the inability to identify the perpetrator. A subsequent investigation was initiated on February 28, 1995. The indictment was ultimately filed by the prosecutor on February 26, 2021, with charges under Article 148 § 1 of the Criminal Code, in conjunction with Article 11 § 1, Article 168 § 1, and Article 10 § 2 of the Criminal Code.

The defendant, a 53-year-old male, was represented by two court-appointed public defenders.

During the trial, the defendant was instructed in accordance with the provisions of the Code of Criminal Procedure. However, he refrained from providing any statements and responded only to questions posed by his defense counsel.

In his final statement, he expressed remorse, stating, “I deeply regret what happened. I want to clarify that I had no intention to rape or murder Z.M. I sincerely apologize to her family and ask for their forgiveness. I also request leniency from the Court.”

On May 27, 2021, the court of first instance sentenced the defendant to twenty-five years’ imprisonment. The defendant filed an appeal on July 5, 2021, but the appellate court upheld the original sentence.

Case 4: III K 87/22

In the case, a criminal complaint was filed on December 24, 2020, and pre-trial proceedings commenced on December 29, 2020. The indictment was filed by the prosecutor on March 9, 2022, charging the defendant under Article 148 § 1 of the Criminal Code.

The defendant, a 41-year-old male, was represented by a privately retained legal counsel.

At the outset of the trial, the defendant was duly instructed in accordance with the provisions of the Code of Criminal Procedure. However, he declined to provide any statements and refused to answer any questions throughout the proceedings.

In his final statement, he asserted, “I regret what happened. It was an accident—I never intended to kill anyone. I am not a murderer, as the prosecutor claims. I am not a bad person.”

On May 9, 2022, the court of first instance sentenced the defendant to twenty-five years’ imprisonment. The defendant filed an appeal on June 14, 2022, but the appellate court upheld the original sentence.

Case 5: III K 85/21

In the case, a criminal complaint was filed on March 13, 2020, and pre-trial proceedings commenced on March 13, 2020. The indictment (against two persons, A.W. and M.K.) was filed by the prosecutor on February 22,

2021, charging the defendant under Article 148 § 1, Article 207 § 1a kk, Article 207 § 2 of the Criminal Code in conjunction with Article 160 § 2 of the Criminal Code in conjunction with Article 11 § 2 of the Criminal Code (A.W) and Article 207 § 1a and Article 207 § 12 of the Criminal Code in conjunction with Article 160 § 2, Article 157 § 1 and Article 11 of the Criminal Code (M.K).

The defendant (A.W.), a 22-year-old female, was represented by a privately retained legal counsel.

The defendant (M.K.), a 23-year-old male, was represented by a privately retained legal counsel, too.

At the start of the main hearing, defendants were duly instructed in accordance with the provisions of the Code of Criminal Procedure. They both gave explanations at the beginning of the main hearing, but A.W. changed them after the taking of evidence. They answered selectively to the questions put to them.

In her final statement, she asserted, "I don't want to say anything," while he stated "I move for acquittal."

On March 21, 2022, the court of first instance sentenced the defendant to fifteen years' imprisonment (A.W) and four years and six months' imprisonment (M.K.). The defendants (A.W. and M.K.) and the prosecutor filed appeals on April 30, 2022, April 25, 2022 and April 21, 2022, respectively. Following appellate review, the sentence was increased to twenty-five years' imprisonment (A.W.), and six years' imprisonment (M.K.).

The study will only take into account the data concerning A.W., because only she was responsible for the criminal act under Article 148 of the Criminal Code.

Case 6: III K 543/21

In the case, a criminal complaint was filed on April 1, 2021, and pre-trial proceedings commenced on April 2, 2011. The indictment was submitted by the prosecutor on December 13, 2021, qualifying the offense under Article 148 § 1 of the Criminal Code.

The defendant, a 32-year-old male, was represented by a court-appointed public defender.

At the outset of the main hearing, defendants were duly instructed in accordance with the provisions of the Code of Criminal Procedure. The defendant did not provide a full explanation during the trial, claiming that the explanations read out to him from the preparatory proceedings explanations were not his. On several occasions, he explained certain points in a fragmentary manner, contradicting what he had explained in the preparatory proceedings. However, he refrained from providing any statements and responded only to questions posed by their defense counsel.

In his final statement, he asserted, “I don’t want to say anything.”

On April 13, 2022, the court of first instance sentenced the defendant to twenty-five years’ imprisonment. The defendant filed an appeal on May 18, 2022, but the appellate court upheld the original sentence.

Case 7: III K 538/22

In the case, a criminal complaint was filed on January 15, 2022, and pre-trial proceedings commenced on January 17, 2022. The indictment was submitted by the prosecutor on December 5, 2022, with charges under Article 148 § 1 (point 1 and 2), and Article 197 § 3 (point 1) of the Criminal Code in conjunction with Article 197 § 4 of the Criminal Code in conjunction with Article 11 § 2, Article 157 § 2, Article 291 § 1 of the Criminal Code in conjunction with Article 12 § 1 and 245 of the Criminal Code.

The defendant, a 60-year-old male, was represented by a court-appointed public defender.

At the beginning of the main hearing, the defendant was duly instructed in accordance with the Code of Criminal Procedure. He provided an initial statement after receiving the instruction but changed this several times. Mostly, he answered the questions put to him.

In his final statement, he asserted, “I move for acquittal.”

On October 13, 2023, the court of first instance sentenced the defendant to twenty-five years' imprisonment. Both the defendant and the prosecutor filed appeals on November 27, 2023, and November 12, 2023, respectively. Following appellate review, the sentence was increased to life imprisonment.

Case 8: III K 305/22

In the case, a criminal complaint was filed on March 6, 2022, and pre-trial proceedings commenced on March 6, 2022. The indictment was submitted by the prosecutor on August 9, 2022, qualifying the offense under Article 148 § 1 of the Criminal Code.

The defendant, a 33-year-old female, was represented by privately retained legal counsel.

At the outset of the trial, the defendant was duly instructed in accordance with the provisions of the Code of Criminal Procedure. However, she declined to provide any statements. She maintained her explanations from the pre-trial proceedings and answered all questions addressed to her.

In her final statement, she asserted, "I am requesting the lowest possible sentence because I was defending myself and did not plan it."

On March 8, 2023, the court of first instance sentenced the defendant to twelve years' imprisonment. The defendant appealed the verdict on April 12, 2023, but the sentence was upheld on appeal.

Case 9: III K 295/22

In the case, a criminal complaint was filed on October 31, 2021, leading to the initiation of pre-trial proceedings on October 31, 2021. The indictment was filed by the prosecutor on July 4 2021, charging the defendant with an offense under Article 148 § 1 and Article 190 § 1 of the Criminal Code.

The defendant, a 40-year-old female, was represented by a court-appointed public defender.

At the beginning of the main hearing, the defendant was duly instructed in accordance with the Code of Criminal Procedure. She provided an initial statement after receiving the instruction and maintained it throughout the proceedings, answering all questions posed to her.

In her final statement, she asserted, “I am not asking for anything.”

On January 4, 2023, the court of first instance sentenced the defendant to eight years’ imprisonment. Both the defendant and the prosecutor filed appeals on February 6, 2023, and February 3, 2023, respectively. Following appellate review, the sentence was increased to eight years and one month’ imprisonment.

Case 10: III K 207/22

In the case, a criminal complaint was filed on March 11, 2022, and pre-trial proceedings commenced on March 12, 2022. The indictment was submitted by the prosecutor on May 14, 2022, with charges under Article 148 § 1 of the Criminal Code in conjunction with Article 13 § 1 of the Criminal Code.

The defendant, a 41-year-old female, was represented by a privately retained legal counsel.

In his final statement, he asserted, “she pleads that he did not mean to kill the victim and for the lowest possible sentence.”

At the beginning of the main hearing, the defendant was duly instructed in accordance with the Code of Criminal Procedure. He provided an initial statement after receiving the instruction and changed his explanations to a minor extent throughout the proceedings, answering all questions posed to him.

On July 28, 2022, the court of first instance sentenced the defendant to twelve years’ imprisonment. The defendant appealed the verdict on October 3, 2022. Following appellate review, the sentence was increased to ten years and one month’ imprisonment.

Case 11: III K 188/22

In the case, a criminal complaint was filed on December 15, 2021, and pre-trial proceedings commenced on December 15, 2021. The indictment was submit-

ted by the prosecutor on April 19, 2022, with charges under Article 148 § 1 of the Criminal Code.

The defendant, a 58-year-old male, was represented by a court-appointed public defender.

During the trial, the defendant was instructed in accordance with the provisions of the Code of Criminal Procedure. However, he refrained from providing any statements and responded only to questions posed by their defense counsel.

In his final statement, he asserted, “I am asking the court not to give me so much because I will not live to see it. I want to say that he did not give me the money I had earned. That is all.”

On September 7, 2022, the court of first instance sentenced the defendant to twenty-five years’ imprisonment. The defendant appealed the verdict on October 13, 2022. Following appellate review, the sentence was increased to fifteen years’ imprisonment.

Case 12: III K 97/20

In the case, a criminal complaint was filed on July 3, 2019, and pre-trial proceedings commenced on March 11, 2020. The indictment was submitted by the prosecutor on March 11, 2020, with charges under Article 148 § 1 of the Criminal Code.

The defendant, a 31-year-old female, was represented by a privately retained legal counsel.

At the outset of the main hearing, the defendant was duly instructed in accordance with the provisions of the Code of Criminal Procedure. She only made a preliminary statement after the inquest, when the public was excluded. She answered all questions directed to him.

In her final statement, she asserted, “She puts in like a defender. She states that she regrets what happened and thinks about it every day and says it will be with her for the rest of her life.”

On September 21, 2020, the court of first instance sentenced the defendant to twelve years’ imprisonment. Both the defendant and the prosecutor filed

appeals on November 16, 2020, and November 13, 2020, respectively. Following appellate review, the sentence was reduced to eight years' imprisonment. Subsequently, the public prosecutor filed a cassation, after which the sentence was increased to ten years' imprisonment.

Conclusions

In the cases reviewed, the primary charge was the commission of an offense under Article 148 of the Criminal Code (murder). In certain instances, additional charges were brought, including rape or abuse. The majority of defendants (eight) were male, while four were female. The youngest defendant was 22 years old, and the oldest was 60. Half of the defendants (six) retained a private legal counsel, whereas the remaining six were represented by court-appointed public defenders. A key observation is that the defendants represented by privately retained attorneys generally received lower and more varied sentences than those represented by public defenders (see Charts 3 and 4).

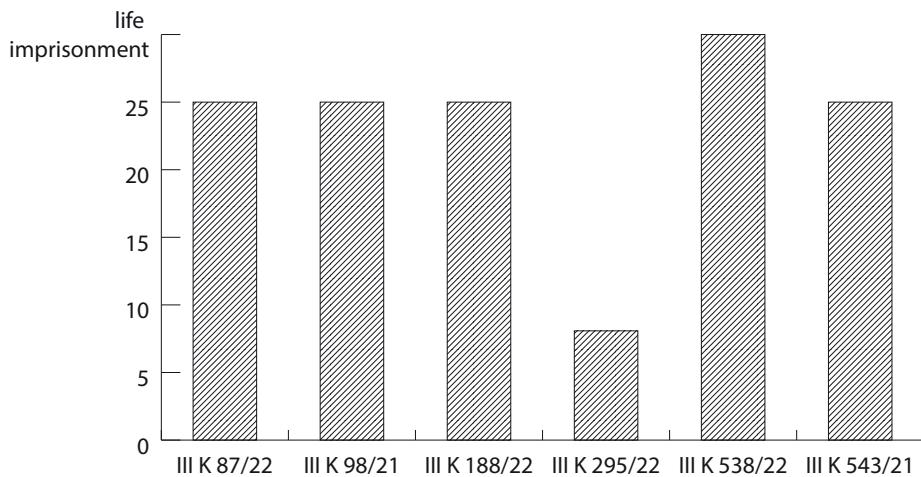
Sentencing Trends

It was determined that the average sentence imposed for murder, calculated by equating life imprisonment to 30 years for statistical purposes, amounted to 16.91 years' imprisonment.

Furthermore, all defendants represented by privately retained attorneys actively participated in their trials by responding to all questions posed. However, the strategies adopted varied among these defendants:

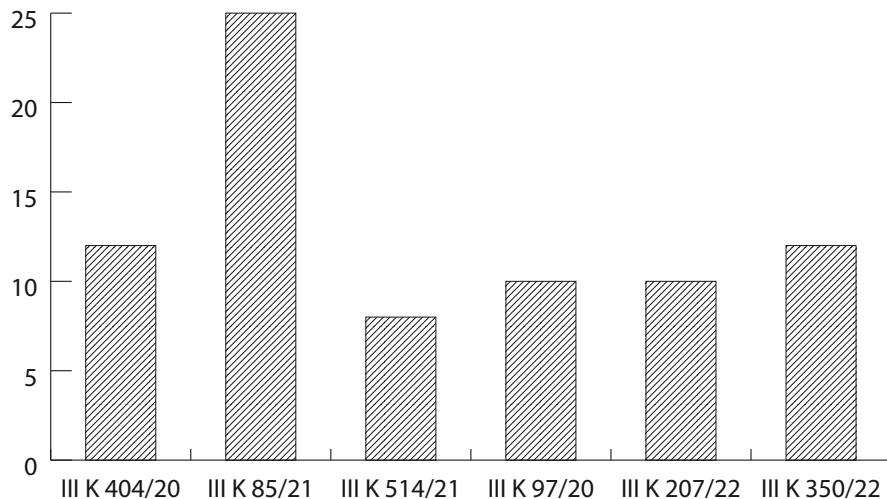
- Three defendants only answered their defense counsel's questions;
- One defendant refused to answer any questions;
- Two defendants answered all the questions posed.

Chart 1: Sentencing Outcomes for Defendants Represented by Public Defender



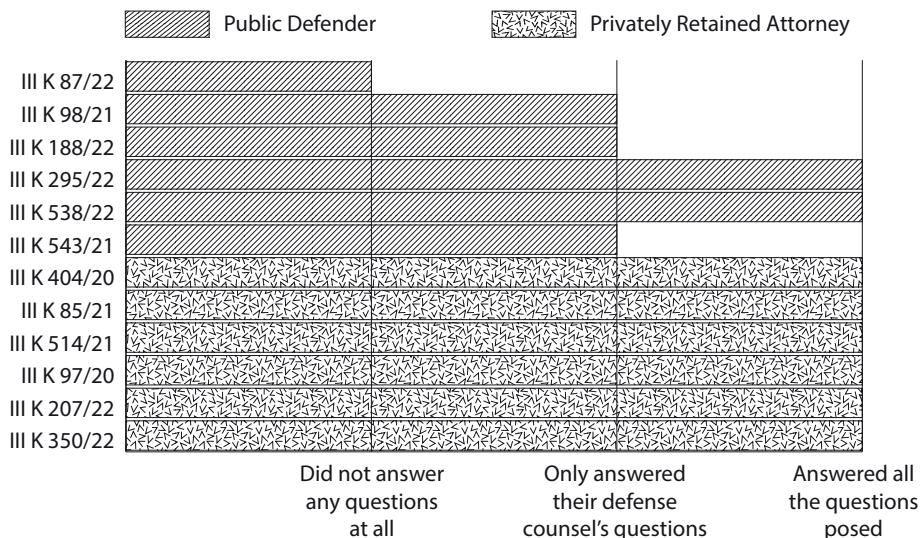
Source: own compilation based on the author's research

Chart 2: Sentencing Outcomes for Defendants Represented by Privately-Retained Attorney



Source: own compilation based on author's research

Chart 3: Comparative Analysis of Defendant Conduct Based on Legal Representation—Public Defender vs. Privately Retained Attorney



Impact of Defendant Conduct on Sentencing

A comparison of sentencing outcomes indicates that a defendant who refused to answer any questions (III K 87/22) was sentenced to 25 years' imprisonment. Likewise, two of the three defendants who answered only their defense counsel's questions (III K 543/21, III K 98/21) also received 25-year sentences. The third such defendant (III K 188/22) initially received a 25-year sentence, later reduced to 15 years on appeal.

It appears that harsher sentences were imposed on defendants who either refused to answer questions entirely or answered selectively. This suggests that courts may perceive such behavior as an attempt to construct an alternative narrative, potentially leading judges to view the defendant's statements as a premeditated defense tactic, thereby undermining credibility. Moreover, cooperation with the court, particularly by answering all questions, is generally regarded as a mitigating factor in sentencing.

In contrast, defendants who engaged fully in the trial process, whether represented by private counsel or public defenders, generally received lighter sentences. In most of these cases (III K 295/22, III K 350/22, III K 207/22, III K 97/20, III K 404/20, III K 514/21), the sentences did not exceed 12 years. Notably, each of these defendants expressed remorse during sentencing.

Cases Involving Severe Social Harm

Two cases—III K 85/21 and III K 538/22—were distinguished by the extreme social harm of the offenses:

- In case III K 85/21, the indictment included charges under Article 148 § 1, Article 207 § 1a, Article 207 § 2, Article 160 § 2, and Article 11 § 2 of the Criminal Code.
- In case III K 538/22, the indictment cited violations of Article 148 § 2 (points 1 and 2), Article 197 § 3 (point 1), Article 197 § 4, Article 11 § 2, Article 157 § 2, Article 291 § 1, Article 12 § 1, and Article 245 of the Criminal Code.

In these cases, despite the defendants' active participation in trial proceedings, the court imposed sentences of 25 years' imprisonment and life imprisonment, respectively.

- The first case involved a 22-year-old woman who, in an effort to avoid conflict with her landlord, sought to quieten her crying infant by smothering the child with a quilt. On one such occasion, the child suffocated and died.
- The second case concerned a 60-year-old man who raped and killed a woman he had met that evening, inflicting severe injuries, including trauma to the vagina and anus and the displacement of intestines outside the abdominal cavity.

Both defendants initially provided statements after being instructed but later altered their testimony. The male defendant changed his version of events multiple times, while the female defendant modified her statements following

the presentation of evidence. Neither defendant expressed remorse or apologized. During final submissions, the female defendant declined to comment, while the male defendant simply requested acquittal.

The court may have interpreted the lack of remorse and refusal to acknowledge culpability as an indication of the defendants' indifference to their crimes and a potential risk of recidivism. The gravity of these offenses warranted special condemnation, and in such cases, even cooperative behavior during the trial may not mitigate sentencing due to the high likelihood of reoffending. Conversely, when the social harm of an offense is less severe, and a defendant demonstrates remorse and regret, rehabilitation remains a viable prospect.

Defense Representation and Sentencing Disparities

An analysis of Charts 1 and 2 reveals that defendants represented by private attorneys generally received more lenient sentences. Since all such defendants chose to answer questions during their trials, it appears that their active engagement played a significant role in sentencing outcomes.

One potential explanation for the discrepancy is the long-standing issue of inadequate compensation for public defenders, which has been the subject of debate within the legal profession. It is plausible that court-appointed attorneys, due to their low remuneration, may adopt less engaged defense strategies. Advising a defendant to remain silent or answer only selective questions may require less preparation and familiarity with case files. The approach, however, undermines the constitutional right to an effective defense and raises concerns about the fairness of legal representation.

Summary of Key Findings

- 1) Both the defendant's attitude and level of engagement during trial proceedings significantly influence sentencing outcomes. Subjective factors, particularly the defendant's cooperation and participation, are pivotal in judicial decision-making.

- 2) Defendants employ diverse defense strategies, including full engagement, selective responses, or complete silence. The study indicates that defendants with private attorneys tend to answer questions, while those with public defenders often adopt alternative tactics.
- 3) The most effective defense strategy appears to be full cooperation with the court, including providing consistent testimony, answering all questions, and expressing remorse for the offense. Such behavior is associated with more favorable sentencing outcomes.

