

The system of probation in the reintegration of charges. Case study

Introduction

This article shows the Polish system of probation being not only a penal sanction and a specific legal institution, but above all, a considerably developed system of benefits, actions and services rendered to charges being under the probation officer's supervision.

The contemporary model of a probation officer, in particular after the introduction of legal regulations expected for a long time i.e. the Act on Probation Officers, (which is undoubtedly a great success in both micro- and macro-scale) and probation related to that is a considerable investment in humanity as it gives a chance to build, and not eliminate human personalities, attitudes or behaviour.

This article is based on the available literature of the subject, but above all on my personal observation as I have a long-standing experience within this scope of working as a probation officer.

The process of individual rehabilitation which the probationers are subject to in all circumstances is a subject of my particular interest. The philosophy of the probation officer's work is based on humanitarian and egalitarian principles since a major role is played by an individual subject to probation, who deserves respect, human dignity and taking actions which have exclusively constructive goals.

Nowadays, when the minimum age limit of committing the most serious crimes has drastically fallen down, when the collapse of authorities and relativism of values is commonly experienced and there is a growing social demand for large-scale prevention - the job of a probation officer is becoming increasingly topical, and its role is indisputable.

The function and actions of probation officers definitely go beyond the judiciary scope and that is why probation should be considered in the context of the whole system of crime prevention since the role of probation officers is an integral element of the preventive system.

A search for better, more effective and more efficient forms and methods of exerting an influence on those who violated fundamental norms and rules of social intercourse is currently a great challenge for the further development of the idea of probation.

2. The institution of a probation officer – an origin and development

A probation officer within a local community plays an important role in crime prevention and the rehabilitation of offenders. S/he can fulfil her/his role socially or professionally as a court employee. A few years ago a professional probation officer supervised several probationers whereas currently it is a common thing for one probation officer to supervise several dozen probationers, and quoting after A. Siemaszko even up to 400 probationers¹. Such a load causes rehabilitation work to be increasingly superficial, frequently illusory. The probation officer is more and more often deprived of the instruments of influence and ceases to be an appropriate partner for numerous institutions.

Legal regulations enforced so far have definitely not survived the test of time. The creation of one, exhaustive and clear source has become particularly justified. The idea was to develop a legal regulation that should be the Act on the Profession of a Probation Officer. The beginning of legal custody emerged probably out of heart impulse or natural reaction of John Augustus – a shoemaker from Boston. In 1841 he put up bail for a criminal and guaranteed the court that the charge given under his supervision will not return to crime and thus gave rise to humane combating the crime, at the same time revealing the essence of the system of custody.

In Poland – similarly to England – theory was 30 years ahead of practice. The Polish Criminal Code of 1932 provided for the supervision of sentenced people with a conditionally suspended penalty of imprisonment. The supervision could be exercised by trustworthy people or institutions. In 1957 the regulation of the Minister of Justice dated February 29 set out the institution of a social probation officer for supervising those for whom the court granted a parole. It was a so-called social auxiliary court body. In 1965 the legal regulation on the status of a professional probation officer for adults was issued. Since that time probation officers have been appointed at provincial courts. Six years later – in 1971 the regulation of the Minister of Justice dated April 2 became a basis for the organisation of custody for adults, and at the same time created a responsible, factual court body executing court sentences.

¹ Siemaszko A.: *Atlas of Crime in Poland 2*, Warsaw 2001, p. 18.

The number of social probation officers was becoming greater and greater each year; after a few years there were several thousands of them. The situation was clear that the mere work of community volunteers was not enough since there were no coordinators and organisers of their work. Judges burdened with judicature could not face that task. Therefore, it became necessary to appoint professional probation officers. Besides, at that time the Polish judicature aimed at executing measures in the conditions of freedom. At the time the suspension of executing the penalty of imprisonment simultaneously taking into account economic problems and imposing some obligations appeared to be more beneficial than passing an absolute penalty of imprisonment with respect to people punished for the first time, uncorrupted persons and offenders whose deeds represented acts of low degree of damage to society.

It is above all social probation officers who have shaped a model of court custody. They worked out in practice their own forms and methods of dealing with probationers.

It was not easy for professional probation officers to gain a stable and due position within the court community. Creating own workshop and specifying own methods of work became indispensable in the early years after establishing this position. Only the regulation of the Minister of Justice of 1986 (O.J. No. 43 dated December 16, 1986 on Probation Officers) explicitly set out educational and rehabilitation functions of court custody, yet it was permanently criticised since it had not regulated the status of probation officers and had established their rights and duties in a not really precise way, and it had not formulated the causes due to which a probation officer might have been suspended from his her / duties or even dismissed from her / his position. Only after fifteen years, on July 27, 2001 the Sejm of the Republic of Poland passed the first in the Polish history act on probation officers. It should be stressed that members of parliament approached the issue of passing the act as a priority and introduced a number of significant changes to this vocational group. It is worth stating that the above act allowed to change the face of a seemingly invisible executive court institution, and enabled the construction of the entirely professional probation system adapted to existing needs, that is the Court Probation Service.

3. The probation officer's working conditions (case study)

As a rule, the probation officer works in the environment referred to as the most difficult, dangerous, criminogenic, and pathological. While doing his job s/he must be aware that very often a highly-corrupted man is at the same time a shrewd, clever and intelligent individual whose not all criminal acts will be reflected in a repressive punishment. Moreover, he is an

organiser of the educational process which should be aimed at the charge respecting social norms considered as desired as well as improving his interpersonal interaction to such an extent that he could solve his life problems unaided and strive for his own, optimal development.

The probation officer cannot make use of stereotypes or set phrases such as: “serial recidivist”, “sentenced for the first time”, “offender”, “maintenance payer”, or “probationer”. S/he must be entirely aware of the humanity of her/his charge, who needs help, yet not always is able to make use of it, or s/he just does not want to.

Sanguine and phlegmatic personality types are predestined to work with sentenced people; people who are able to understand the value of work with socially maladjusted persons and are convinced that they can devote their whole life to this job. The probation officer’s chief qualities should be cognitive thoroughness, inquisitiveness, considerable sense of responsibility, good interpersonal skills. Apart from being a legal guardian, s/he should have authority, practical experience, predisposition, passion, and humane attitude towards another man. Maria Grzegorzewska² claimed that not every man may become a probation officer since this work cannot be “drudged”. The driving force behind probation officers’ activity should be a deep, humanistic trend, a concern for not only the charge’s fate, but above all, social life the charge must re-enter.

In his everyday activity the probation officer encounters environments where there are considerable educational gaps resulting from inappropriate socialisation (both primary and secondary) as well as material shortages difficult to be satisfied, or other problems particularly difficult to solve. Such experiences may lead to shaking the belief in the effectiveness of using probationary measures the probation officer has at her / his disposal and. This fact determines the need of a good knowledge of educational influences which are provided for by legal norms and working methods based on the theory of rehabilitation.

The probation officer is able to make an appropriate, individualised programme of educational influence only when he has got to know the personality of a sentenced person and established the degree of his moral corruption. Moreover, s/he must show a complete knowledge of her / his charge’s life story during which her / his personality has been shaped and, as a result of a number of other life factors, has been disturbed.

² Grzegorzewska M.: *Selection of Letters*, Warsaw 1964.

The probation officer's task in such circumstances is to introduce the charges into a normal life within a local community and eliminate from their consciousness a complex that everybody else despises them, nobody needs them, their return to honest life is impossible. What occurs most frequently is the following situation – the smaller degree of the charge's moral corruption, the deeper the complex and lower self-esteem. Objectively justified treatment of an individual not obeying legal norms is often perceived by her / him as unfair and unjust, which as a consequence may give rise to a long-lasting aversion and hatred for the society. It confirms the fact that such a person automatically lands in a criminogenic environment with a feeling that this other, "normal" local community turned its back on her / him.

The probation officer should play a responsible role in creating her / his own system of combating crime among all charges residing within the area of activity.

Working as a probation officer in the District Court in Zwoleń, I "handle" a whole range of situations with my charges, which are connected with the violation of law and order, breaking the rules and norms of social intercourse, alcoholism, poverty, and unemployment.

The case of Paweł K. is one of those where the low degree of damage to society of an offence committed, the lack of appropriate rehabilitation, loneliness, and above all the feeling of lack of acceptance on the part of the family and friends led him to the court.

Paweł K., the probationer, is 22 years old. He finished his education at the primary level, and he actually managed to complete compulsory education, but at the age of 16 he was forced to look for some way of earning a living. During this period of life, when young people continue their education and are supported by the family and friends – Paweł K. lost his father, who got drowned while doing his duties, and two years later became a typical example of a social orphan since his mother Barbara left the house and has not returned so far. As the probationer claims his mother got lost in mysterious circumstances, however, she has not been pronounced dead so far.

When the charge was twelve years old (just after his father's death), his "further" family from a local village took care of him. He stayed with this family until he has finished primary school and then went to the region of Grójec and Warsaw to look for gainful employment. During this time he did military service and committed an offence under art. 338 § 2 of the Criminal Code (failure to return from a special leave to a home army unit), where by virtue of the judgement passed by the Military Garrison Court in Lublin he was sentenced to four months of imprisonment with a conditional suspension of its execution for the period of 3

(three) years. Moreover, the court put him on probation of a military superior, and after completing military service – the probation officer's probation. This sentence was the first conflict with the law which occurred during military service done by Paweł K.

From the course of the inquiry at domicile conducted with the charge I could unambiguously conclude that the lack of the probationer's regular contacts with the probation officer (while at large) did not result from the insubordination of the sentenced towards the probation officer or probation as such.

Paweł K. is an individual featured by considerable introversion, withdrawal, low self-esteem, mistrustfulness of the world and people. These qualities personify the probationer as a person who lived in total alienation during his childhood and adolescence, was deprived of hearth and home, and above all, appropriate personal models. A similar situation was in the charge's adopted house where he suffered privation and the lack of appropriate care of foster guardians, which undoubtedly influenced greatly the further development of the young man's character and personality.

Three sisters of the probationer's missing mother live together at the place where he resides – each of them has some mental deficiencies and shows typical manifestations in behavioural patterns as well as attitudes towards all legal norms. There is no chance for the family consolidation, love or understanding.

As Paweł K., the charge, claims – he does not remember having any closer relationship with his aunts. It should be added that two sisters of his mother have been put on probation of a local family probation officer.

Concluding the above, Paweł K., the probationer, being deprived of appropriate socialisation and having finished primary school finally found his own place, work as well as “room and board”.

According to the employer and his family – Paweł K. is an employee who respects his job, does his duties in a conscientious and reliable way, and is a peaceful man.

During my visit I found out that the charge did not have any identity card and was not insured. The employer could not answer why he had not taken responsibility for the employer-employee relationship regarding the insurance of Paweł K. He laconically explained that he could not afford to employ a sentenced person legally. However, he claimed that he paid him for his work under a mutual (informal) contract. By the way, such an illegal form of employment for casual work is fairly typical in today's state of nationwide unemployment.

To sum up, Paweł K. must undoubtedly obey the obligation imposed upon him by the Military Garrison Court, and he will certainly contact his social probation officer more systematically, in fact he must be present in his place of residence at least once a month. However, a second aspect having in a way a constructive influence on the process of rehabilitation of the charge is that he has a job which is a kind of therapy for him since thanks to this fact he has his own source of income; he is not dependent of his educationally failing aunts, further family and local neighbours. In addition, a job in a different region minimises the charge's contacts with the underworld and thus prevents him from infringing upon the legal order.

4. Conclusion

Nowadays, in the face of such a great care of the respect for human rights, in particular an individual right to freedom, the prestige of probation should be increasingly high. It should also create a chance for probationers to live within the society. As a result of common actions of numerous assisting institutions probation gives a chance of the reintegration of charges. The development of the idea of probation, that is, a professional activity of numerous entities for socially dysfunctional people is the only appropriate direction that should be pursued.

The system of probation is the most rational, humane and ethical way of counteracting the return of crime and averting numerous social pathologies.

And instead of a few more words of a theoretical conclusion, let me quote the words of a doctor for whom medicine was a true vocation, the doctor of children as they called him, the doctor of their slight bodies and sensitive souls, and most of all a tutor – Janusz Korczak who wrote:

If a sentence is not meant to be revenge, if prison aspires to be a school, I wish to accompany my charge during the final exam not only to support him, but also to control myself; I have made mistakes that I cannot foresee, or foreseeing – avert³.

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