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Court Probation in Poland. Potential and Limitations

Abstract: The article deals with the personal and social potential of court probation in Poland. It shows how probation officers can apply methods of creative social rehabilitation in their professional work, by supporting the development of cognitive and creative structures of their wards by means of implemented strategies and methodological recommendations based on the assumptions of the heuristic concept.

Key words: Court probation, personal potentials, social potentials, scientific potentials, creative social rehabilitation, professional identity, methodological recommendations, methodological strategies, cognitive and creative structures in the process of social rehabilitation.

In lieu of an introduction – the birth of court probation

Court probation in Poland, existing for over a hundred years now, undoubtedly draws on both its rich domestic heritage and the historical experience of other countries. In a nutshell, it can be said that both the law introduced in 940 on the territory of present-day England prohibiting the execution of the death penalty on children (under 15 years of age), at the same time ordering that the defendant be placed under the care of a bishop, and the case of the shoemaker from Boston (1841), who, after the appropriate bail, took the offender into his care to train him to become shoemaker, set out the patterns and standards of probation work for the future. The first juvenile court was established in the United States in 1899, with special probation officers as its auxiliary staff. The idea of such

courts quickly spread to other countries. In Europe, the first juvenile courts were established in England (1905) and Denmark, then in Hungary, Austria, Germany, as well as Russia, Portugal, Belgium, France and Switzerland.

In Poland, after regaining independence, as early as in February 1919, the Head of State – Józef Piłsudski – established, by his decree, juvenile courts, the organization and structure of which were determined by a regulation of the Minister of Justice of July 1919. The practical activity of Polish probation officers as an auxiliary body of the courts thus dates back to the first half of the 20th century and was based largely on the experience of Anglo-Saxon countries, but also on the achievements of partitioners of Poland (Austria, Germany and Russia) (sic!).

It is highly probable that the assistance activities undertaken in those times in relation to juveniles were based on a sense of mercy combined with a spontaneous desire to provide real help, and did not bear the signs of greater practical experience based on the achievements of social sciences. What was once attempted to be done spontaneously, today we are trying to define in terms of rational social rehabilitation, educational and care interactions.

In this way, on the one hand, the modern idea of symbiosis of probation with the judiciary was born, bringing with it the search for more and more effective solutions for methodical probation work on the other, based on evolving scientific knowledge, more and more often originating from outside legal sciences. In recent years, the dominant influence on the theory and practice of probation officers interactions has been exerted by interactive and cognitive concepts derived from social sciences, from which the creative social rehabilitation, increasingly common in Polish care practice, draws its foundations. Its basic assumption is the creation of developmental potentials (personal and social) of wards in place of the previous, long-term attempts to correct and eliminate deficits (correction, psycho-correction, socio-correction) (Konopczyński 2006, 2013, 2014).

Probation potentials

In social sciences, the *notion of potential* is defined as objectified *values, features, parameters, resources*, which constitute the basis for the competent implementation of a specific goal or task. Potentials (understood in a broader or narrower sense) therefore significantly affect the success of a specific project and can be divided into two groups: *personal potential*, *social potential* and potential resulting from the adopted scientific cognitive perspective – *scientific potential*.

Personal potential is related to specific characteristics of a person, which can include: identity parameters, personality traits, as well as their experience, knowledge, competences and skills, while social potential is understood as the result of human activity in the social space and is measured by the ability to

positively influence other people. This influence results from interpersonal competences, knowledge, experience, as well as the ability to be with and among people and to support their development in individual and personal, as well as cultural and social aspect. The scientific potential, in turn, based on the possession of contemporary expertise, enables the design and implementation of effective methodological interactions, taking into account the theoretical and practical achievements of social sciences.

The aforementioned potentials may sum up in the so-called *historical potential*, which is an uncomplicated sum of the sets of personal, social and scientific potentials collected within the framework of the century-old experience of probation officers' generations and which constitutes an unquestionable autotelic value, owing to which the probation service has left a permanent trace in the socio-cultural and civilization space of Poland.

This potential, identified in the form of material and non-material products developed over the century by tens of thousands of Polish probation officers, forms a kind of cultural and civilizational "social genetic record", allowing for a progressive broadening and deepening of *the historical identity* of probation officers.

An undertaking confirming this identity in the recent period was the adoption by the Sejm of the Republic of Poland of the Act on Probation Officers of 27 July 2001 legitimizing the process of professionalization of the court probation and strengthening this profession in the structure of the judiciary system. A milestone in building a civil society was the establishment of the National Council of Probation Officers as the avant-garde of probation officers' self-government and the chief link of professional self-government.

In the hundred-year history of the Polish institutional public reality, only a few human communities (organizations) with a crystallized and verified *historical identity*, as is the case with the Polish court probation, can be found.

Personal and social potential

We can assume that *personal potential of a probation officer* consists of three main dimensions. Firstly, it is a dimension of professionalism resulting from the level of specialist, higher education. Secondly, it is a dimension of high level of professional identification and low degree of probation staff fluctuation, enabling passing on intergenerational experiences. Thirdly, it is the level of professional competence and skills that is being developed and constantly improved through internal meetings and trainings.

The aforementioned dimensions of personal potential of probation officers are co-created by the parameters of the *professional identity* of the Polish probation officer.

The *social potential of probation officers* is, in turn, a simple sum of interpersonal experiences of the probation officers community, being a constituent of a co-created specific social reality, based on both professional competences and the social consequences resulting from these competences in interpersonal relations with wards, taking place in a specific time and space and constituting a defined reality of social educational interactions. This reality has its framework and its main participants. These are both probation officers and their wards, who over the years, thanks to the probation service, have regained self-confidence and faith in other people by socializing, readapting and reintegrating into society.

Opportunities for development of scientific potential – towards creative social rehabilitation

The *scientific potential* of the court probation service is directly related to the achievements of contemporary social sciences with particular emphasis on the sciences of social rehabilitation. I will devote more attention to this potential in the article, as it provides a measurable opportunity for the further development of this specialized professional organization. This opportunity can be seen in the adoption and implementation of theoretical and methodological assumptions of creative social rehabilitation by probation officers in Poland to a greater extent than before.

The problem of the effectiveness of social rehabilitation is the subject of disputes and discussions both among representatives of the academic community and probation officers as representatives of practitioners dealing with social misfits on a daily basis.

It has been known for many years that despite an increasing range of methodological measures of educational and specialist nature, the effects of social rehabilitation work of probation officers are still not fully satisfactory. This fact is even referred to as a crisis of institutional and non-institutional social rehabilitation (Pytko 2005; Urban 2000; Ambrozik 2016; Konopczyński 2006, 2013, 2014).

At the sources of current explorations and reflections relating to the practical functioning of social rehabilitation methods and forms, lies the view that in designing and implementing various methods and techniques of interactions aimed at making social rehabilitation processes more realistic, we do not fully use the personal and social potentials, directly related to the creation of development processes, inherent in social misfits. I wrote about it as early as in the second half of the 1990s, introducing the concept of creative social rehabilitation into Polish social rehabilitation thought and defining its methodological specificity (Konopczyński 1996, 2013, 2014).

Methods of creative social rehabilitation have an effect on two planes. Firstly, they activate the developmental potentials in social misfits, and secondly, they

create a destigmatization process that enables readaptation and social reintegration. Potentials of defendants developed under interaction with probation officers affect their new relationship with the surrounding social reality, which they begin to see in terms of acceptable and soluble situations. New cognitive-personal skills obtained during interactions allow them to solve life situations in a different manner than before. This is how wards co-create and fill in the framework of their new identity.

Probation officers' interactions resulting from the theoretical and methodological premises of creative social rehabilitation influence two dimensions of shaping their wards' identity parameters: the internal dimension of creation through the development of their personal potentials and the social dimension of creation of social misfits through alternative social self-presentations, i.e. functioning in different life and social roles. This type of cognitive perspective meets the criteria of a heuristic approach (Konopczyński 2006).

The definition of social rehabilitation in heuristic terms can be considered in a two-fold manner. Firstly, as a problem to be solved by the professionals, i.e. the probation officers and secondly, as a problem to be solved by their wards. Defining the notion of social rehabilitation in terms of actions aimed at solving a specific problem makes it possible to define it as a heuristic way for the development of an individual whose development was impeded or blocked. This is to be achieved by methodologically defined social rehabilitation procedures, possible to be implemented under court probation.

We can say that creative social rehabilitation is a set of theoretically justified methods of developing skills of new ways of solving problem situations by social misfits. For such a process to take place, certain internal and external conditions must be met. The former are related to personal parameters and structural factors of the cognitive and creative processes of wards, while the latter are related to the parameters of both the persons managing this process and the administrative, organizational and infrastructural conditions. Both the former and the latter decide on the staged and final effects of the process of social rehabilitation under court probation. Thus, creative social rehabilitation is a science not only about new ways of implementing the process of social rehabilitation change, but above all about a different methodological approach to this problem.

Recommendations and methodological strategies for creative social rehabilitation

In the classical approach to traditional social rehabilitation pedagogy, based on the assumptions of behavioral vision, three categories of methodological recommendations are listed, namely principles, rules and directives (Czapów 1978). The first category, i.e. the principles, constitutes the most general and

broad methodological recommendations, i.e. with a postulated set of general ways of achieving the planned goal, based on respected axiological assumptions. The rules, on the other hand, rationalize the postulated ways of achieving the planned goal, through the selection of adequate and effective means, i.e. specific forms of educational activities. Directives are the most detailed guidelines, often of a specialist and technical nature, for correcting certain disturbed human structures or functions.

In the process of creative social rehabilitation carried out under the court probation we distinguish five basic methodological recommendations. The first one is the *recommendation of diagnosis of potentials*. The classic social rehabilitation diagnosis takes into account the personality parameters of the ward, his/her psychophysical state, predictable forms of behavior, and environmental conditions of the process of his/her social demoralization (Pytko 1986). In the process of creative social rehabilitation it is particularly important to diagnose developmental potentials and their parameters related to cognitive structures of social misfits. We mean here, above all, such structural components as: emotions, motivations, perception, memory, thinking, imagination. By determining the level of development of the above factors, we can design appropriate methods and forms of work and adapt them to the cognitive capabilities of the probation officers' wards. The diagnostic determination of the potentials of social misfits is the starting point for further social rehabilitation measures.

The second methodological recommendation is the *recommendation of complementarity of procedures*. This recommendation will allow the ward undergoing social rehabilitation not only to be adapted to the adaptation functioning in the closest social community, but also to be prepared to act adequately in the wider social circle, and the developmental mechanisms activated in him/her will allow the process of social rehabilitation, readaptation, social reintegration to take place. The complementarity of the process of creative social rehabilitation results in a more complete development of wards, and above all stimulates and develops in them those structures and mechanisms that will enable them in the future to achieve a sustainable social adaptation beyond the usual conformist level of social adaptation.

Probably each probation officer (with education or other degree) has specific expertise and professional experience. Each probation officer in his or her professional activity also represents a specific teleological model (the purpose of his or her activity), based on a specific axiological background. Therefore, probation officers may present different forms of behaviors and reactions during the educational process, based on the represented axiological attitude. These behaviors will be dictated, on the one hand, by an internalized system of values, theoretical knowledge and, on the other hand, professional experience gained in the course of work. The behaviors and reactions of people conducting educational processes within the framework of court probation are also influenced

by professional routine, understood as a set of specific, recurring stereotypes of behavior.

In the process of creative social rehabilitation it is necessary to present open attitudes to new, often unconventional behaviors and reactions of wards. The implemented methods of creative social rehabilitation assume searching for and activating the developmental potentials of social misfits, entailing specific psychological and social consequences. The activation of structures and mechanisms of cognitive and creative processes causes the wards of the probation officers to reorganize these processes and, consequently, to react differently to social problem situations. Creative social rehabilitation forces the flexibility of pedagogical attitudes by being open to changes in attitudes and behavior. The probation officer involved must be open to new professional experience, often unconventional and beyond the previous experience. Therefore, the principle of flexibility of pedagogical attitudes is one of the factors that make this process effective.

Another methodological recommendation in the process under discussion is *recommendation of an adequate method selection*. Meeting this recommendation means an appropriate (diagnostically confirmed) way of selecting the wards with whom specific social rehabilitation work methods are implemented. It is known that the defendants have different personal characteristics and predispositions resulting from their life experiences conditioned by the process of socialization (Zacharuk 1991). Their cognitive structures are therefore at different stages and phases of development. Therefore, appropriate criteria for the selection of particular methods and forms of social rehabilitation interactions and their adjustment to the personal predispositions of a ward are a guarantee of successful probation activities.

It is easy to imagine a situation where an inadequately chosen method can cause emotional, intellectual or cognitive blockage of a social misfit, instead of stimulating his/her development. The limitations here can be both intellectual deficits (like intellectual disabilities) and cognitive deficits resulting from previous educational experiences, past illnesses or often an addiction to psychoactive substances. The dynamics of the development of cognitive and creative processes in social misfits within the framework of social rehabilitation interaction with probation officers are also strongly influenced by the previous socialization experiences, especially if they were related to so-called one-dimensional, impoverished or pathological socialization (Giddens 2006; Ambrozik 2016; Konopczyński 2014).

The last methodological recommendation in the process of creative social rehabilitation is *the recommendation of creating a ward*. In practice, it means developing and strengthening the new internal self-image by the defendant undergoing social rehabilitation. The aim is to induce the process of internalization of new visualized identity parameters of a social misfit. The point is, among

other things, that the wards of the probation service subject to methodological interventions should be perceived in an institutional or open environment not as criminally stigmatized individuals, but as persons presenting, creating new, socially accepted ways of functioning. This is intended to lead to a change in the self-perception of wards, and thus start the process of fulfilling social roles with new identity content. It is also connected with the social (external) perception of wards by other participants of the interaction (people from closer and further social circle)

By *strategy* we mean the theory and practice of preparing and conducting specific operations (Kopaliński 2003). In the case of creative social rehabilitation, this means, on the one hand, a set of theories and statements, and, on the other hand, a set of organizational assumptions necessary for the implementation of the social rehabilitation process under probation. Therefore, the methodological strategies can be divided into two main groups: *definitional* and *operational strategies* (Konopczyński 2006, 2014).

The *definitional strategies* concern the selection of a set of concepts and theories justifying the substantive purposefulness of the undertaken methodological activities, while *operational strategies* define the organizational framework of the process of creative social rehabilitation. The former are therefore theoretical in nature and take precedence over the latter, which are technical in nature.

The *definitional strategies* cover the whole of the social rehabilitation space, referring to the overall theoretical justification of the creative social rehabilitation process. The effect of creative social rehabilitation is to be, on the one hand, the identification and development of potentials of social misfits, and on the other hand, their creative readaptation and social reintegration. This is to be done by changing the parameters of identity of social misfits and thus changing their social image. The effect of their social stigma is to be obliterated and a new, socially and culturally accepted visualization of their personal and social identity parameters is to be created.

The methods of creative social rehabilitation in their theoretical layer refer to interactive and cognitive concepts as well as to the theory of creative processes (Nęcka 2005). Through the analysis of the latter theory, those structures and components of cognitive and creative processes that should be stimulated and developed when implementing probation work methods we are interested in can be identified.

We mean the *emotions* which are a structural component of the creative process and which can trigger or, on the contrary, even block this process. There are two groups of *emotions* associated with the creative process: *positive cognitive emotions* and *negative cognitive emotions*. Positive emotions include: curiosity, fascination, passion, while negative emotions include: indifference, boredom, dislike. Among the positive emotions, we can distinguish a group of philocreative emotions, which influence the creation of innovative and extraordinary ideas. This

group of emotions includes: curiosity, joy and interpersonal sympathy. From the operational point of view, positive emotions facilitate the introduction of an abstract level of conceptual knowledge, thus triggering the mechanism of perceiving and associating distant facts and phenomena. This mechanism allows for conceptual synthesizing and applying analogies. Positive emotions also facilitate access to the memory archives, opening up long-term memory. Taking into account the important role of emotions in the creation of creative processes of social misfits, the methods of creative social rehabilitation include specific techniques and ways of modelling them (stimulating positive emotions and extinguishing negative emotions). It concerns the method of social rehabilitation theatre, the method of rehabilitation through sport, and methods supporting the process of social rehabilitation: drama, art, music, sociodrama and psychodrama (Nęcka, 2005; Konopczyński 2006, 2014).

Another structural component of the creative process is *motivation*, which can be divided into *autonomous* and *instrumental*. In principle, each of its types affects the effectiveness of the social rehabilitation process. Autonomous cognitive motivations are self-contained and spontaneous. They result from curiosity and interest in a particular situation or event. This type of motivation is particularly useful at the beginning of the creative process of social rehabilitation, because it causes internal readiness of wards to undertake tasks and activities resulting from methodological procedures. Instrumental motivations, on the other hand, enable the implementation of methodological interactions by providing strong stimuli during their duration. This usually takes place more or less in the middle of methodological interventions, when autonomous motivations weaken or disappear. The (first-order) definitional strategy takes into account the motivational factors in its respective scopes of structural impacts (Nęcka 2005; Konopczyński 2006, 2014).

Another factor taken into account in defining the definitional strategy of the creative social rehabilitation process is *perception*. We understand it as a process of perceiving people, social phenomena, and the whole surrounding animate and inanimate reality. The perception can be divided into: *allocentric* and *physiognomic*.

The first kind of perception is basically the basis of human activity and consists in not subjectively categorizing the surrounding reality. Physiognomic perception, in turn, categorizes the external world and assigns metaphorical and subjective meanings to the objects within it. We can say, in a nutshell, that the first kind of perception objectifies the surrounding reality, while the second kind subjectifies it. The strategic importance of perception mechanisms in the process of creative social rehabilitation is related, on the one hand, to the need to develop a mechanism of *allocentric* perception in social misfits (they are usually characterized by the dominance of physiognomic perception), and on the other hand, to a change in their perception of themselves through their social environment (Nęcka 2005; Konopczyński 2006, 2014).

The role of *memory* in the process of creative social rehabilitation is, on the one hand, to organize content knowledge in the structures of long-term memory, and on the other hand, to create the content of this knowledge. This is done through mechanisms of remembering, storing and recalling. It is assumed that the process of social rehabilitation change is based on selective information codification, characterized by the alternation of characteristics attributed to a given object or phenomenon or defining these objects or characteristics unconventionally. It is also important to change the structure of knowledge, consisting in the so-called phenomenon of brainwave, i.e. a violent decoding of the essence of the problem, making it possible to create a new solution. (Nęcka 2005; Konopczyński 2006, 2014).

Another strategic area in the methodology of creative rehabilitation is *thinking*, defined as the process of seeking optimal solutions to the problem. Creative thinking is characterized by an active approach to problems, in order to redefine or replace them. The most important features of creative thinking are: analogies, overcoming stereotypes and metaphors. The methodology of creative social rehabilitation takes into account in its scope the structures of thinking as a strategic area that requires specific forms of creative social rehabilitation interactions (Nęcka 2005; Konopczyński 2006, 2014).

The strategic area of the methodology of creative social rehabilitation is also *imagination*. We can define it as a certain ability of the mind to create and use images, that is, selected, selective types of cognitive representation. We distinguish between two types of imagination: *reproducible imagination* and *creative imagination*. The former is a common everyday cognitive activity, while the latter enables the realization of creative acts and consists in creating new content and cognitive combinations in the mind. Creative social rehabilitation assumes the development of the imagination of social misfits by activating the mechanisms of creative imagination as one of the fundamental strategic objectives of the process of social rehabilitation change. Developed creative imagination can definitely make the social readaptation of a social misfit real, while at the same time enabling them to transform their identity (Nęcka 2005; Konopczyński 2006, 2014).

Let us now proceed to *creative social rehabilitation strategies*. Among them we distinguish *action strategies* and *organizational strategies*. The former are related to pedagogical and specialist activities, while the latter are related to the organizational procedures of the rehabilitation process (Konopczyński 2006, 2014).

The *action strategies* therefore concern personal factors, while the *organizational strategies* – administrative and organizational factors. The scope of the action strategies includes: the quality of professional preparation of staff, involvement in conducted activities, subjective and objective availability, proper division of roles. On the other hand, the scope of organizational strategies includes: infrastructural solutions, providing the necessary means and equipment, taking care of administrative legality of activities and proper social climate.

The methodological operational strategies assume in their assumption layer a high quality of professional methodological preparation for conducting specific forms of interactions. This preparation should be understood as specialized preparation for the implementation of specific methods of creative social rehabilitation rather than professional education, which should be an obvious attribute of a probation officer. To conduct classes within the framework of the rehabilitation theatre method or the method of rehabilitation through sport, one needs professional competences other than pedagogical or psychological ones. Such competences cannot be acquired during classical pedagogical, legal or psychological studies. They can be gained either through special post-graduate studies, courses and specialist training or as a result of one's own intensive educational and methodological work.

The proper division of roles consists in the assignment of tasks and responsibilities to persons participating in the implementation of creative social rehabilitation activities, enabling an efficient and undisturbed course of the social rehabilitation process. This includes both the assignment of tasks to those who cooperate, in educational terms, with the teacher in charge of the methodological classes and to the wards. Appropriate division of roles during the implementation of creative social rehabilitation methods is one of the most important substantive factors guaranteeing the success of the project. This division in the case of social misfits should be based on premises taking into account the diagnosis of development potentials and the level of development of structures responsible for them (emotions, motivation, perception, memory, thinking, imagination).

The functional strategies are an important factor in the effective implementation of the social rehabilitation process. Personal factors usually play a decisive role in educational processes. Similarly, in the process we are interested in, the effectiveness of the project depends on the quality of work, commitment, availability and proper division of roles, i.e. equipping the wards of probation officers with new, alternative personal and social competences.

Methodological organizational strategies include both infrastructure and equipment factors, as well as administrative and organizational factors. In order for activities related to the implementation of creative social rehabilitation methods to be properly carried out, certain facilities (infrastructural) conditions must be met. This depends on the type of method used. Different conditions will be needed to apply the social rehabilitation theatre method or the method of rehabilitation through sport, and different ones to support the process of rehabilitation through music, art or drama. As these methods generally involve group work (even if some activities are individualized, they are performed as part of group work), a group size of six to sixteen people is assumed (twenty-four people for some techniques). Therefore, appropriate facilities and infrastructure (for example, a theatre room or a suitably adapted room, sports field or hall, etc.) must be available. In addition, specific aids and technical measures are necessary to implement creative social

rehabilitation methods. They also depend on the type of method used. We can talk about such means as: certain small theatrical props, paints, brushes, crayons, paper, balls, costumes, musical and playing equipment, etc.

Another element of the organizational strategy is shaping an optimal social climate around the methods used. By social climate we mean here a set of attitudes of people from the closest social circle that sum up to our intentions and actions. These persons may be both participants in the process of social rehabilitation education (other educators and specialists cooperating with us in the course of classes, participants of classes, wards) and those who do not actively participate in the implementation of social rehabilitation work methods. The right social climate around the methods implemented has a motivating effect on the participants and can create new external social evaluation of them, thus also changing their internal image. A negative climate, on the other hand, may lead to weakening of the motivation of wards and, consequently, to their resignation from classes.

Summarizing the areas and methodical scopes of creative social rehabilitation process, we can state that the overall social rehabilitation space should be taken into account when designing them. Both the definitional and operational strategies include a space for developing the potential of socially maladjusted wards. Through the use of creative social rehabilitation, this space significantly widens and deepens, enabling them to create new identity parameters. We can achieve this goal by following the methodological recommendations and resulting methodological strategies.

The methods of creative social rehabilitation are universal in nature, so they can be used both in institutional and open environments. However, they have certain criteria and restrictions on their use. The most important include a ward's right to choose classes and professional competences of probation officers. The basic premise behind this category of methods is that the participation in the proposed activities is always optional and voluntary. This should be kept in mind when designing work and organizing task groups. Professional competences concern not only those who design and conduct classes but also those who support specific types of methodological classes.

As it seems, creative social rehabilitation has a chance to open new dimensions of Polish probation officers' interactions, both in terms of greater effectiveness and an increase in the range of new methodological solutions. Within the framework of creative social rehabilitation, a heuristic space is created in which a meeting between a ward and his/her future takes place, arranged by the probation officer and persons cooperating with him/her. There is no longer any room for a deviant past, and its burdensome indicators are being replaced by new personal and social competences being acquired.

Court probation constraints

Unfortunately, probation officers' professional mission is still based on the assumptions of the 'bankrupt' 20th century behavioral vision, based on the philosophy of educational function of punishment and reward. The resulting perspective is oriented towards the 'formal and administrative' direction of the professional activity of probation officers, and the proponents of such thinking and acting probably do not take into account the fact that it is in contradiction with the contemporary, verified in practice scientific knowledge.

In addition to the unquestionable potentials and resources of the probation service in Poland, as described above, there are also limitations which affect the quality of its work and have specific substantive consequences. From among the constraints of the professional mission of Polish court probation, I chose the most important, in my opinion, two:

The first constraint results from the administrative model of probation service functioning adopted years ago, and thus formal and administrative evaluation of probation officers' work and the effects of their activities. This involves perceiving probation officers not as personalized experts in educational and social rehabilitation work (e.g. as the social system sees psychologists or doctors), but as an immanent, administrative part of the justice system, subordinate to particular levels of judicial power. This results in the phenomenon of '*institutionalization*' of probation officers, at the cost of implementation of social rehabilitation as well as socialization and educational tasks.

The significant reduction in the number of Attendance Centers – a wise and substantial exemplification of the probation social rehabilitation thought – made years ago, as well as the gradual reduction in the number of legal guardians, are examples confirming not the development, but unfortunately the reduction in the potential of court probation in Poland.

The second constraint is the still unresolved and unconstructive dispute between lawyers and representatives of social sciences, both within the academic community and among probation officers-practitioners. This dispute concerns both the essence and the effects of the social rehabilitation process.

Lawyers generally treat the very fact of serving a criminal punishment as the basis for starting an inherent 'corrective' process, basing their thinking on the so-called volitional concept and retributive justice. In this way, the process of social rehabilitation is narrowed down to the register of penalties provided for by codes and regulations, turning them into specific organizational and administrative activities. It seems that this is where, among others, the notion of *probation supervision*, and not *social rehabilitation* or *social interventions*, originated from.

For the world of social scientists (pedagogues, psychologists, sociologists) things are quite different. In their interpretation, the social rehabilitation process does not fit into the legal landscape. The process of identity, personality and social change of social misfits is not an inherent result of criminal punishment, which often makes it difficult or impossible, causing uncontrolled defensive reactions, nor is it subject to stereotypical organizational and administrative actions.

Social rehabilitation pedagogy treats rehabilitation as a process of beneficial and permanent change of personal parameters of social misfits in their individual and social dimension.

This change is not subject to routine and stereotypical administrative views as it is spread over time and within social space. Nothing in our lives happens 'right away' and 'here and now' as we would like it to, and the effects of educational, socialization or social rehabilitation work are always postponed in time. Sometimes these effects do not occur at all, as happens in the work of doctors or therapists, and this fact should not be regarded as an aberration of the probation system, but as an unsuccessful or impossible attempt to provide social rehabilitation and readaptive assistance.

However, there is no doubt that further development and professionalization of the probation service should be pursued, while at the same time increasing the number of posts in order to reduce the number of wards per professional probation officer and legal guardian. In this respect, the institution of social guardianship should also be maintained, as it provides a platform for voluntary activity for people who feel the need to become 'community activists', and for those who intend to become professional probation officers in the future, as social guardianship can perform the selection functions for future professional service perfectly.

In shaping the contemporary court probation, greater emphasis should be placed on the development of its care and compensation as well as educational and social rehabilitation functions than, as is currently the case, on sustaining its supervisory and sanctioning as well as supervision and instructional functions. After all, it is for this purpose that the legislator has decided that graduates of pedagogical, psychological and sociological studies, who are prepared for educational and social rehabilitation work, and not for supervision and instructional one, can work as probation officers.

A very important task is to expand the register of probation measures, and at the same time to develop within the probation service specializations appropriate to the existing needs. The existing division of professional specializations seems to be outdated and out of step with reality. It is also important to remember to improve the system of security of probation officers, for example by obliging administrative services responsible for the security of citizens and the state to strengthen systemic cooperation.

Contemporary knowledge resulting from the achievements of social sciences based on interactive and cognitive concepts indicates that the most effective way

of both preventing pathological phenomena and re-socializing individuals who are in conflict with the law is to support comprehensive personal and social development of individuals showing social maladjustment syndrome, instead of previous attempts at repression and coercion to change negative attitudes and behaviors (Ambrozik 2016; Konopczyński 2014).

If, in accordance with the indications of social sciences, we treat the process of social rehabilitation as a process of initiating and improving the skills of functioning in social, life and professional roles, then the form of probation work, as well as its current conditions, require deeper reflection and perhaps wider and deeper modification.

Instead of being a person supervising the wards' functioning, probations officers should be co-creators and coordinators of their life, social and professional roles, i.e. co-creators of their new biography, and their creating educational activity should replace the existing methods of administrative supervision. Probation officers should therefore perform an educational role.

Pedagogy defines the educator as a guide to the world of social roles and values, who is an unquestionable authority to provide advice and help in solving life problems. An educator is someone who accepts us and indicates directions of personal and social development in accordance with our individual potential and axiological assumptions. From the perspective of modern social sciences, the probation officer should be, as far as possible, a pedagogue and an educator, and not a person in charge of the fate of his/her ward. Probation officers should certainly not serve as an 'extended arm of the law', aimed at using behavioral 'punishment and reward' methods.

Criminal punishment and its social mutations – this is how, unfortunately, probation supervision is often interpreted – have their limits of psychosocial nature, which, if crossed, give the opposite effect. Social stigmatization, which is supposed to stop people from criminal activities, on the one hand usually becomes a natural part of social life (Wacquant 2009), while on the other hand a social theatre of appearances, a kind of game in which social actors try to outsmart one another (Konopczyński 2013, 2014).

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