

Piotr Łapiński

Higher School of Criminology and Penitentiary Science in Warsaw [piotr.lap@interia.pl]

## Judicial supervision over the process of social rehabilitation of prisoners in the Polish penitentiary system

**Abstract:** In the Polish penitentiary system, penitentiary judges supervise the legality and correctness of executing solitary confinement sentences and temporary detention. An analysis of the regulations defining the scope of this supervision leads to the conclusion that its exercise requires, above all, proficiency in interpreting and applying the law, e.g. for assessing the legality of the prison administration's conduct or in explaining the correct application of specific provisions. The full scope of penitentiary supervision, however, is co-created by tasks that confront penitentiary judges with the necessity of having the competence to assess the correctness of the implemented change-forming interventions towards the detainees. This raises the question of the legitimacy and capacity of penitentiary judges to implement penitentiary supervision to such a broad extent. In the search for answers, opinions of penitentiary educators were obtained regarding the actual areas of supervision exercised by penitentiary judges, the ways in which it is exercised, and the expectations of educators regarding penitentiary supervision, taking into account the process of social rehabilitation implemented by them.

**Key words:** penitentiary supervision, social rehabilitation of prisoners, legality of imprisonment, validity of punishment, penitentiary judge.

### Introduction

One of the key features of modern penitentiary systems, showing the level of care of a given state for the humane treatment of incarcerated persons, is the creation of convenient conditions for the supervision of the execution of isolation

penalties and punitive measures by state and non-governmental institutions. The implementation of such solutions is at the same time a prerequisite for meeting the UN standard of a double inspection system<sup>1</sup> and the recommendations of the European Prison Rules<sup>2</sup>. In a situation where the specifics of isolation punishment and punitive measures make the prison a tightly closed institution, independent inspections are the “eyes and ears of public opinion even if it does not want to see or hear it” needed by a democratic state. (Owers 2010, p. 1546). In the Polish penitentiary system, the supervision over the legality and correctness of executing isolation sentences and temporary detention is exercised by penitentiary judges within the institution of penitentiary supervision. This solution has been legally empowered<sup>3</sup>, which emphasizes its importance for the functioning of the Polish justice system. The scope of penitentiary supervision, on the other hand, has been defined in detail by means of a regulation<sup>4</sup>, the provisions of which and their practical implementation will be analyzed in this study.

The cited regulation in § 2.1 delineates a rather broad and qualitatively diverse catalog of prison administration activities subject to the supervision of penitentiary judges, which is specified in 22 points. However, the areas of prison activity included in this catalog are subject only to the “supervision and judgment”<sup>5</sup> of the penitentiary judge, which may be an unnecessary narrowing in relation to actual needs. Indeed, the provision omits the issue of possible counseling by the penitentiary judge, leaving it only implicit as a possible outcome of supervision and evaluation. From the expected scope of penitentiary supervision thus defined, there emerges at the same time the question of the actual capacity of penitentiary judges to implement it. It also seems legitimate to ask about the current needs of the Polish penitentiary system in terms of organizing the supervision of the process of social rehabilitation of prisoners, especially in the context of various possible forms of taking care of its quality. It would be advisable to start the search for an answer with the already mentioned Article 32 of the Executive Penal Code, which defines the essence of penitentiary supervision at a very general level, according to which penitentiary supervision, apart from the issue of legality, also covers the area of the validity of imprisonment, substitution sentences and

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<sup>1</sup> United Nations Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules), rule 83, [https://www.rpo.gov.pl/sites/default/files/Reguly\\_Mandeli.pdf](https://www.rpo.gov.pl/sites/default/files/Reguly_Mandeli.pdf) (accessed on: December 21, 2020).

<sup>2</sup> According to Rule 9 of the Recommendation of the Committee of Ministers of the Council of Europe Rec (2006)2 to the Member States of the Council of Europe on the European Prison Rules adopted on January 11, 2006, all prisoners shall be subject to regular State control and independent monitoring.

<sup>3</sup> See Article 32 of the Act of June 6, 1997 – Executive Penal Code (i.e. Journal of Laws of 2020, item 523, 568).

<sup>4</sup> Ordinance of the Minister of Justice of August 26, 2003 on the manner, scope and mode of penitentiary supervision (Journal of Laws 2003, No. 152 item 1496, as amended).

<sup>5</sup> Ibid.

temporary detention<sup>6</sup>. Thus, it will be determinative for the scope of penitentiary supervision to interpret the legality and validity referred to here.

The sine qua non of a legally and properly executed sentence of imprisonment must be the act of depriving a person of his or her liberty (beginning the execution of that sentence), which is based on final convictions and rulings directing the execution of that sentence. However, this is only one of many conditions for the legality and validity of the sentence in question. It only allows to assess the correctness of the decision itself on the actual imprisonment (incarceration in penitentiary conditions). Its fulfillment by no means implies that the sentence imposed on a person is being properly executed. It says only that the detention of a particular person was lawful, or rather that it was carried out on the basis of legitimate decisions, since lawful detention is determined by a number of other regulations which specify the validity of the detention.

The proper execution of a sentence of incarceration will undoubtedly be significantly determined by the manner in which the person incarcerated will continue to be treated, including the provision of appropriate living conditions, safety and health care (also seen as conditions for the realization of the process of social rehabilitation), the accuracy of the personal-cognitive diagnosis made, the appropriateness of the choice of methods and means of penitentiary and social rehabilitation proceedings<sup>7</sup>, the realization of any change-forming interventions and the extent and manner of preparation of that person for life outside prison. Thus, supervision focused on correctness should find its expression, among others, in the active shaping of penitentiary methods and means (Kalisz 2014).

All the above-mentioned areas of penitentiary practitioners' activities, resulting from the functioning of the penitentiary system by virtue of the Regulation referred to above, are subject to penitentiary supervision in Poland. It should also be stated that in the performance of all tasks related to penitentiary supervision (including those relating to personal identification or rehabilitation activities), proficiency in the interpretation and application of criminal law is essential (e.g. to clarify the intent and application of specific regulations, or to assess the legality of the conduct of prison administration). This is by no means to say that such proficiency exhausts all the needs of penitentiary supervision. Having the competencies appropriate for an experienced criminal lawyer may prove insufficient to carry out penitentiary supervision to the full extent outlined by law. The literal scope of penitentiary supervision consists of tasks that require

<sup>6</sup> This provision also applies to other penalties and punitive measures less relevant to the considerations undertaken here.

<sup>7</sup> „Conducting penitentiary and social rehabilitation activities towards persons sentenced to imprisonment (...)” is the first statutory task of the Prison Service (see: art. 2.2 item 1 of the Act of April 9, 2010 on the Prison Service, Journal of Laws of 2010, No. 79, item 523), the realization of which, in the opinion of the author, determines both the correctness of execution of isolation sentences and the sense of the existence of the prison system in general.

penitentiary judges to evaluate the correctness of the change-forming interventions carried out with respect to the detainees. Thus, § 2.1 of the above mentioned regulation determines that penitentiary supervision consists, inter alia, in the inspection and evaluation (...) of the course of the convicted persons' social rehabilitation process<sup>8</sup>, (...) determination of individual programmes of influence and the methods of their realization<sup>9</sup> and (...) of the accuracy of the undertaken activities aimed at preparing the convicted person for life after release from prison<sup>10</sup>. Because of the crucial relevance of these areas to the effectiveness of social rehabilitation proceedings for individual wards (Byrne 2020; Sztuka 2018), their supervision requires particular professionalism and diligence, including the ability to interpret the data obtained through supervision in an individualized manner.

Expert, appropriately thorough supervision should also reveal the actual social rehabilitation effectiveness of the particular institution being supervised. British experience, gathered from independent prison inspections, reveals significant discrepancies between prison managers' beliefs about the dynamics and range of activities carried out in these prisons for inmates and the facts established during visits, which has been called the virtual prison phenomenon (Hardwick 2016)<sup>11</sup>. Experience in managing penitentiary work and specific psychopedagogical competences may significantly influence the accuracy of assessments of another important determinant of the effectiveness of social rehabilitation, referred to as the social climate of the social rehabilitation institution (Ostrowska 2008). This skill, in turn, is necessary in providing opinions on the social rehabilitation activities carried out in individual penitentiaries located in the area supervised by a particular penitentiary judge.

From the perspective of the quality of the processes of social rehabilitation, therapy, re-education/education and social readaptation of persons incarcerated in prisons and the post-penitentiary assistance organized for them, it is highly justified to have an efficient mechanism of external supervision of them within the scope defined by the provisions on penitentiary supervision cited here. However, the idea of entrusting this mission to penitentiary judges seems unconvincing. The complexity of the factors influencing the assessment of the realization of the process of social rehabilitation and other change-forming interventions reveals not only the need to supervise these processes but also the need for psychopedagogical and expert methodological support for its realizers<sup>12</sup>.

<sup>8</sup> See § 2.1 item 2 of the regulation.

<sup>9</sup> See § 2.1 item 4 of the regulation.

<sup>10</sup> See § 2.1 item 21 of the regulation.

<sup>11</sup> Prison management's beliefs about other areas of prison operation are also sometimes misguided, for example, when it comes to the internal cleanliness of the prison (see: Hardwick 2016, p. 646).

<sup>12</sup> See: *Readaptacja społeczna skazanych na wieloletnie kary pozbawienia wolności*, Informacja o wynikach kontroli NIK, KPB-4101-006-00/2014, reg. no.177/2015/p/14/044/KPB, Available on the Internet, accessed on: March 7, 2020, <https://www.nik.gov.pl/plik/id,9730,vp,12100.pdf>.

Supervision of the correct execution of imprisonment in the methodical aspect, referring directly to the process of social rehabilitation, requires both psychopedagogical competence and appropriate personal and volitional dispositions. In the case of the managerial staff of the Prison Service (obliged to supervise the correctness of the execution of punishment, also in the methodological aspect), psychopedagogical competences are acquired as a result of directional and professional education and professional practice (Machel 2007). The professional path of penitentiary judges, on the other hand, provides them with a unique and invaluable catalog of experiences and competencies, but a very different one, when working on behalf of the penitentiary system.

This observation of the difficulties in exercising penitentiary supervision over the process of social rehabilitation of inmates is confirmed by the results of the research conducted by T. Kalisz (Kalisz 2010), which show that in the hierarchy of priority control tasks within the institution of penitentiary supervision, penitentiary judges rank the tasks relating to social rehabilitation activities relatively low, and in particular those relating to the legitimacy and effectiveness of the applied methods and means of penitentiary influence. In research conducted among penitentiary judges, this researcher identified categories of tasks indicated for inspection within the institution of penitentiary supervision, directly related to the process of social rehabilitation, such as “performance of penitentiary tasks and social rehabilitation activities of the prison and the course of the process of social rehabilitation of convicts” and “legitimacy and effectiveness of the application of methods and means”. It is these categories of tasks that respondents ranked very low among priority tasks, but much higher among standard tasks. This result was obtained in spite of the fact that almost four-fifths of the same group of judges surveyed considered social rehabilitation to be, in their opinion, the most important goal of imprisonment<sup>13</sup>, and also in spite of the fact that among the systems of imprisonment in force in Poland, the same respondents assessed the imposition of punishment in the programmed intervention system to be the lowest (Kalisz 2010, p. 353). With regard to the actual inclusion of penitentiary supervision in the broadly understood process of social rehabilitation of the incarcerated, the results obtained confirm the findings made at a similar time by M. Niełacznna (Niełacznna 2010/2011). Covering the area supervised by the Regional Court in Poznań, it was then established that issues concerning measures of influence on prisoners and social rehabilitation programmes were not included in the catalog of issues checked every year, but only in the group of those checked once every few years (Niełacznna 2010/2011, p. 36)

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<sup>13</sup> Penitentiary judges asked to indicate the most important objectives of imprisonment, with the possibility of marking several such objectives (out of six proposed by the researcher), considered the category „Individual prevention – in terms of improvement of the convict – social rehabilitation” as by far the most important (77.8% of respondents), see: Kalisz 2010, pp. 351–354.

The above findings allow us to conclude that a decade ago penitentiary supervision in Poland was carried out only partially, with much stronger emphasis on the legality of executed punishments and measures, while with less emphasis on the assessment of the methodical correctness of their execution.

## Methodological assumptions of research

This research attempts to answer the question: what are the differences between the current model of external supervision of the social rehabilitation process of incarcerated persons in Poland and the actual needs of realizers of social rehabilitation? In order to obtain answers, the opinions of penitentiary educators were collected concerning: the ways in which penitentiary judges carry out penitentiary supervision and the thoroughness with which penitentiary judges supervise the process of social rehabilitation of inmates. The expectations of penitentiary educators regarding the ways in which penitentiary judges supervise the process of social rehabilitation were also learned, along with their proposals for such supervision.

In the study conducted by means of a diagnostic survey, the technique of questionnaire survey was applied, using a questionnaire survey of our own design entitled “Supervision of the penitentiary judge over the execution of isolation punishments”. The research was conducted in May 2018 at the Central Prison Service Training Center in Kalisz, where Prison Service officers referred for stationary officer training from all over Poland were staying. Initially, the researcher identified training groups that included officers employed in prisons and detention centers as penitentiary educators, penitentiary psychologists, and therapists. An invitation was then addressed to these officers along with a request to voluntarily come to a brief meeting to express their opinions regarding penitentiary supervision. The meeting venue was a teaching room with a seating capacity of 55. The invited persons came to meetings in groups of up to 30 people. At the beginning of each meeting, the researcher informed the participants of the meeting about his place of work, his area of research interest, and the purpose of the research currently underway. He then directed the participants to fill out the questionnaire, emphasizing the voluntary nature of the questionnaire and the anonymity of the study. Finally, 135 penitentiary educators, penitentiary psychologists, and therapists working in 52 correctional institutions and detention centers in Poland filled in the questionnaire. The average length of service of the respondents in the Prison Service was 6 years and 9 months.

## Results

Below are the results of a survey of penitentiary educators’ opinions on the implementation of penitentiary supervision in the prison organizational units where

they serve. In the course of analyzing the research data, significant differences were noted in the course and frequency of visits to prisons and detention centers by penitentiary judges. More than 1/3 of the surveyed educators (34.8%) state that in their workplace, visitation is carried out once a year and 3.7% believe that such visitation is carried out less than once a year. Only 12.6% of respondents indicate the frequency of visitation is twice a year, 5.9% of respondents indicate it is "more often than twice a year," while 5.2% of respondents believe such visitation occurs once a month. When responding, 9.6% of respondents selected the descriptive field, where the most common entry was: "rarely," "only on dockets," and "once every few years." The question about the actual frequency of visitation was not answered by 28.1% of respondents.

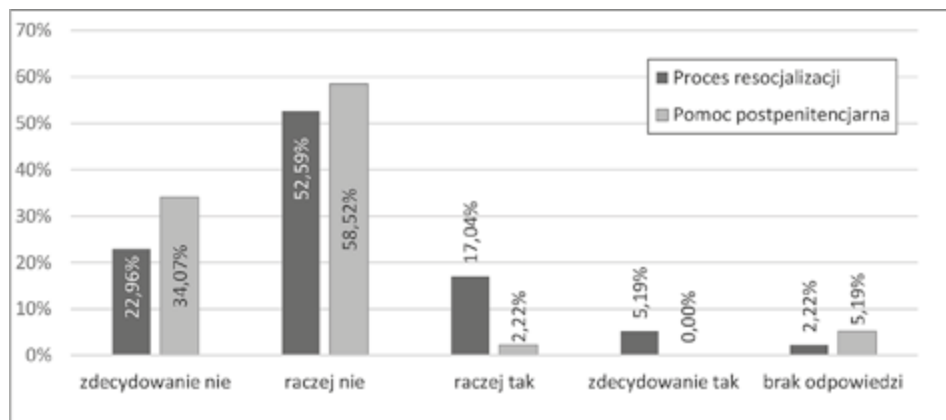
The visitation by a penitentiary judge, according to those surveyed, most often lasts between 3 and 5 hours (40.7% of responses), but 20.7% of educators noted that a penitentiary judge spends about 2 hours on visitation. Only 7.4% of the educators state that a penitentiary judge needs a full day to conduct the visitation, and 8.9% state that the visitation takes several days. The question about the duration of the visitation of the penitentiary judge was not answered by 22.2% of the respondents.

Only 5.9% of respondents say that when visiting a prison, the penitentiary judge visits all of its residential cells and the same percentage of respondents believe that the penitentiary judge visits most of the cells. According to 13.3% of the respondents, the penitentiary judge visits less than half of the residential cells. However, the largest percentage of respondents (38.5%) state that during a prison visit, the penitentiary judge visits only a few residential cells, and according to 20% of respondents the judge does not visit any cell. The number of the residential cells visited by the judge were not identified by 16.3% of the respondents.

In the opinion of the respondents, the level of interest of penitentiary judges in the process of social rehabilitation carried out in supervised detention centres and penitentiary institutions and in the post-penitentiary assistance organized in them is insignificant. The respondents claim that penitentiary judges mostly have little (51.1% of responses) or no (21.5% of responses) orientation in the social rehabilitation programs currently being implemented in the supervised detention facility or prison. In the opinion of the respondents, 21.5% of penitentiary judges have a good orientation in this area, and 3.7% have a very good orientation. 2.2% of respondents did not answer this question.

More than 4/5 of the surveyed educators (80.7%) stated that penitentiary judges never made suggestions to them to include a specific task in the individual social rehabilitation program of a designated inmate. Such suggestions are received "quite rarely" from the penitentiary judge by 14.1% of the respondents and 3% of the respondents receive such suggestions "quite often". 2.2% of respondents did not answer this question.

Only 22.2% of the respondents feel supported by penitentiary judges in their implementation of the social rehabilitation process (sum of “rather yes” and “definitely yes” answers), while support in organizing penitentiary assistance for inmates is felt by only 2.2% of the respondents. Most respondents do not feel such support (Fig. 1). 2.2% of the respondents did not provide any response regarding support from penitentiary judges for the process of social rehabilitation and 5.2% of the respondents did not provide any response regarding support in organizing post-penitentiary assistance.



Proces resocjalizacji – Social rehabilitation process; Pomoc postpenitencjarna – Post-penitentiary assistance; zdecydowanie nie – definitely not; raczej nie – rather not; raczej tak – rather yes; zdecydowanie tak – definitely yes; brak odpowiedzi – no answer

Fig. 1. Respondents' perceived support from penitentiary judges in carrying out the social rehabilitation process and organizing post-penitentiary assistance for inmates.

The level of support perceived by the respondents from penitentiary judges in the area of implementation of the process of social rehabilitation is discrepant with their expectations. An open-ended question about the desired forms of such support was answered by 67.4% of respondents, but specific suggestions were given by 57% of respondents. Only 2 persons considered the support of penitentiary judges in the implementation of the social rehabilitation process as sufficient.

When identifying the preferred forms of support for the rehabilitation process from penitentiary judges, respondents mostly indicated the following:

- the willingness and need to consult directly with penitentiary judges on the social rehabilitation measures undertaken by educators (37%), most often through working meetings – some respondents expressed the expectation that penitentiary judges should be more available to them and the need to organize regular meetings of educators with penitentiary judges



- the need to unify the policy of granting conditional early release by applying the most similar criteria for requesting such release by the director of a penal institution or detention facility and granting such release by a penitentiary judge (11.9% of respondents)
- the need for penitentiary judges to become familiar with criminological/social prognoses prepared by educators and to take them into account in decisions on conditional early release (5.9% of respondents)

A few respondents mentioned the possibility of penitentiary judges motivating inmates to better cooperate with educators, the need for a more efficient circulation of documentation between the penitentiary or detention center and the penitentiary court, and the validity of penitentiary judges refraining from criticizing officers in conversations with inmates.

The respondents' level of perceived support from penitentiary judges in the area of implementing post-penitentiary assistance is also discrepant from their expectations. The open question about the expected methods of such support was answered by 37.8% of the respondents, of which 22.2% provided specific proposals for such support.

In terms of the post-penitentiary assistance organized by the respondents, they most often expected the following from penitentiary judges:

- wider and more unanimous with correctional staff use of the power to impose obligations on a person being prepared for release from prison under Article 164 § 2 of the Executive Penal Code (5.9% of respondents),
- support in establishing and maintaining cooperation with institutions outside prison that can provide post-penitentiary assistance
- greater interest in the problems of detainees in preparing them for life outside prison and working meetings of penitentiary judges with educators and detainees "and not only with management"<sup>14</sup>.

Meanwhile, only 13.3% of the respondents state that meetings between the penitentiary staff and the penitentiary judge are organized in the penitentiary or detention center where they serve as educators, with only two respondents having had the opportunity to attend such a meeting. A small percentage of the surveyed educators (4.4%) have personal contact with a penitentiary judge in circumstances other than a penitentiary court session on the premises of the correctional facility or prison. According to 33.3% of the respondents, neither educators nor managers have direct contact with a penitentiary judge.

According to almost half of the surveyed educators, the cooperation of the management of the detention center or prison with the penitentiary judge is rather directive (44.4%) or definitely directive (18.5%). The partnership nature of the cooperation was indicated by 1/3 of the respondents (33.3%).

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<sup>14</sup> Quote from one respondent's survey questionnaire.

Respondents were asked to identify the actual goals of penitentiary supervision (more than one goal could be indicated). The majority view is that penitentiary supervision primarily serves to control prison staff in the performance of their duties. Other penitentiary supervision goals noted by respondents that are implemented in practice are shown in Fig. 2.



Inne – other; niczemu nie służy... – has no purpose, but takes place only because the provisions require it; kontrola wykonywania... – inspection of the prison/detention center staff's performance of their duties; łagodzenie atmosfery... – relaxing the atmosphere among the detainees; ustalenie priorytetów... – setting priorities and determining the realization of the most important goals

Fig. 2. The goals of penitentiary supervision observed in practice by the respondents

## Discussion and conclusions

There is considerable disparity in how penitentiary supervision is implemented by individual penitentiary judges. These differences were observed in the style of supervision and in such areas of activity of judges related to their visits to penitentiaries as: the level of involvement in carrying out supervision activities, the time spent on visits to supervised penitentiary units, the thoroughness of visits to supervised penitentiary units (including carrying out visits to residential cells), interest in the course of the social rehabilitation process, readiness to support educators in social rehabilitation activities and motivating inmates to perform social rehabilitation activities. The scale of these differences leads to the conclusion that there is a need to standardize the manners in which penitentiary judges conduct visits, whether through appropriate training or through recommendations by the competent authority on important outstanding issues relating to such visits. Proposing specific regulations in this regard should, in the author's opinion, become the subject of inquiry within the framework of a separate study. It is worth noting, however, that the literature on the subject has valuable works on inspection standards, which could form the basis for setting such standards for the needs of the Polish penitentiary system (Harding 2007).

The results of the research also show that the current model of external supervision of the social rehabilitation process of incarcerated persons in Poland does not meet the real needs of the realizers of social rehabilitation measures. The data collected confirm and detail earlier reports showing that the part of penitentiary supervision that relates to the process of social rehabilitation of inmates is carried out with less frequency and thoroughness. In the context of the areas of penitentiary supervision enumerated in the introduction, referring to the process of social rehabilitation and social readaptation of the convict, which should be subject to control and evaluation, it should be noted that the greatest number of omissions was identified in the evaluative aspect of this supervision.

Moreover, the results of the research indicate that the needs of the direct executors of the penitentiary social rehabilitation process in terms of external care for their educational activity significantly exceed the solutions offered by the penitentiary supervision model currently in force in Poland. This is because educators expect support in the form of possibility to consult the social rehabilitation measures planned and implemented by them, and other change-making proceedings, and they would most willingly cooperate in this area in a partnership model. Both of these criteria cannot be met by the current model of judicial penitentiary supervision. Consultation and evaluation of planned and undertaken social rehabilitation measures requires competences that are in some areas different from those of penitentiary judges, and the partnership model of counselling has very little application in penitentiary supervision, as it "limits the practical effectiveness of a given supervisory institution". (Kalisz 2010, p. 254). At the same time, more than 1/3 of the surveyed educators express the need to consult their social rehabilitation activities with penitentiary judges. This attitude may be due to the fact that judges are the decision-makers on many issues concerning the execution of prison sentences. The educator's ability to obtain the penitentiary judge's formal approval of his or her actions may reduce anxiety about the outcome of the inspection conducted during the visit to the penitentiary unit. It can also protect the educator from being misunderstood and the effects of negative evaluations from supervisors. It should be presumed that the willingness to submit their own work to external consultations is also a testimony to the professional integrity of the respondents, manifested in their desire to obtain the best possible results of change-making activities.

Penitentiary judges, as argued in the introduction, cannot be expected to be experts in all areas relevant to the work of educators. It is true that their observations "made in the course of recognizing cases and passing judgements can also be discounted in the course of supervisory activities, e.g. by influencing the forms and methods of social rehabilitation measures". (Kalisz 2008, p. 120), but only to a small – according to the author – more formal and less psychopedagogical extent. Probably for this reason, external supervision of the process of social rehabilitation of prisoners in its methodological layer is practically not performed,

despite the fact that the designers and direct implementers of social rehabilitation measures need it (in a modified, partner form)<sup>15</sup>. This situation urgently needs to be modified because “the effectiveness of the institution of inspection and supervision of the penitentiary system affects the effectiveness of the penitentiary system itself” (Bakulin 2017, p. 35).

In the light of the above, it would be advisable to give the educators the opportunity to consult their own activities with experts in the psycho-pedagogical basis of dealing with the detainees. The American experience shows that good results in making external expert evaluations are obtained by involving specialists related to the academic community, as exemplified by the solutions applied in Ohio (Latessa et al. 2015). Paulina Wiktorska, in the conclusion to a recent opinion on the functioning of Polish penitentiary courts (among other proposals), suggests drawing on the experience of countries where judges responsible for prison supervision are part of interdisciplinary councils alongside representatives of other disciplines (Wiktorska 2016). Perhaps in these circumstances it is worth reconsidering Dominika Zimecka-Kroll’s postulate about establishing a specialized institution that could be entrusted with both the supervision and perhaps substantive care over the execution of isolation punishments and penal measures in Poland (Zimecka-Kroll 2010). Although this author considers the idea of simultaneous abandonment of the judge’s penitentiary supervision, given the trends in the development of European penitentiary systems, this conclusion may seem hasty. In fact, the French experience allows us to anticipate an increase in the importance of judicial supervision in the area of legality relating not only to the penalties and measures that constitute the basis for imprisonment, but also (to a greater extent than at present) to the disciplinary decisions taken against detainees during their imprisonment including the appeal procedure (Ferran 2014).

Considering the above, the author is convinced of the need to maintain the institution of penitentiary supervision in Poland, while limiting its scope to controlling the legality of execution of punishments and isolation measures, including the legality of applied methods and means of influence. Independent supervision by penitentiary judges is an important manifestation of the Polish penitentiary system’s concern with the rule of law. Moreover, any solution aimed at concern for the law-abiding execution of punishments and isolation measures directly translates into the prison system’s respect for the principle of humanity in areas where it is reflected in the executive penal law (Chmielewski, Pająk 2015). At the same time, involving penitentiary judges in other than formal legal evaluation of the change-making activities carried out in prisons would be, in the author’s opinion, a manifestation of inappropriate use of their valuable potential.

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<sup>15</sup> Some respondents who do not explicitly declare the need for external, peer and supportive supervision of their social rehabilitation activities may also need such supervision.

The care of the proper design, accurate selection, methodical implementation, and thus the effectiveness of interventions addressed to persons incarcerated in prison should be entrusted to an entity independent of the penitentiary courts and the penitentiary system, appointed to carry out such tasks. Such an institution should bring together experts representing fields directly related to penitentiary work, i.e. psychologists and penitentiary therapists, social rehabilitation pedagogues, health pedagogues and labour pedagogues, sociologists proficient in recognizing social phenomena taking place in the prison and criminal environment, representatives of health sciences with achievements concerning health effects of penitentiary isolation, specialists in post-penitentiary assistance and social assistance and experts in the area of probation. It is important that the members of the future team of experts responsible for the evaluation of social rehabilitation activities themselves have scientific and practical achievements in this area. For educators and penitentiary psychologists can expect support above all from an entity that understands the nature of their work perfectly, providing them with the possibility of consulting their activities and thus increasing their quality and effectiveness. At the same time, it seems that such an entity, due to its proper supporting and partner forms of activity (because such a model should be considered the most expected and effective), should not perform supervisory and control functions.

When constructing the legal system of such an entity, it would be worthwhile to draw inspiration from the solutions specifying the areas of activity within the scope of pedagogical supervision carried out for schools on the basis of the educational law<sup>16</sup>. Using a certain analogy, the regulations constituting the legal foundation of the entity appointed for the methodical supervision of the process of penitentiary social rehabilitation, in addition to giving it the right to observe, analyze and evaluate the course of the processes of social rehabilitation, therapy and education of inmates, should also give it the opportunity to evaluate the conditions of their implementation, to provide assistance to penitentiaries and detention centers and directly to penitentiary educators and psychologists. The body should also inspire prison staff and the academic community to seek ways of improving the effectiveness of interventions for detainees in order to best prepare them for life after release in accordance with legal and social standards. Despite the legitimacy of involving the best practitioners of social rehabilitation in such an institution, it should be located externally to the structures of the penitentiary system.

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<sup>16</sup> Article 55 sec. 1 of the Act of December 14, 2016. Educational Law (i.e. Journal of Laws of 2019 item 1148, as amended).

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