

# **Chapter 25**

## **Poland**

***Barbara Wilamowska***



# **1 HISTORICAL DEVELOPMENT OF THE PROBATION SERVICE SYSTEM**

## **1.1 The start of probation in Poland**

The history of the Polish probation system began on 7 February 1919, when a decree of the Head of State established juvenile courts (Journal of Laws No. 14, item 171). Pursuant to the decree, on 26 June 1919 the Minister of Justice issued an ordinance concerning the organisation of juvenile courts. Their duty was to examine all criminal cases of juvenile offenders under 17 years of age. By the ordinance mentioned above the minister also regulated the issue of so-called caseworkers. They were appointed by the judge and their responsibilities included gathering information on juveniles upon a request from the judge, providing care for juveniles remaining under parental supervision and supervising juveniles whose sentences were suspended. These caseworkers received regular salaries disbursed from the discretionary funds of the courts. Despite the fact that formally they were not referred to as probation officers, they can be considered the first probation officers due to the nature of their work. Since the appointment of caseworkers the number of cases handled by them had been constantly growing. In the case of the court for Warsaw, this presented as follows: 1925 – 90 juveniles remaining under probation, 1926 – 190 juveniles, 1927 – 362.

## **1.2 Important developments**

The statute of caseworkers was first amended in 1929, when they were transformed by the ordinance of the Minister of Justice of 25 June 1929 (Journal of Laws 1929.47.764) into the institution of juvenile probation officers acting at magistrates' courts and juvenile courts. An important amendment was made in 1935, when on June 25 the Minister of Justice issued an ordinance on juvenile probation officers (Journal of Laws 1935.46.316). By this ordinance the professional model of probation services was abandoned and replaced with a community-based one. It was established that the function of juvenile probation officer is honorary and may only be held by persons with appropriate qualifications. Probation officers were appointed by the president of an appeal court, whereas the Minister of Justice was responsible for determining the number of juvenile probation officers at each appeal court. In consideration for the performance of their duties, these probation officers received monthly lump sum remuneration granted by the president of their appeal court.

A significant organisational breakthrough in the juvenile probation system took place in 1959, when on February 13 the Minister of Justice issued an ordinance on juvenile probation officers, Journal of Laws 1959.59.18 (year, edition and position). It replaced the ordinance from the year 1951. The amendment made it possible to appoint professional juvenile probation officers apart from community juvenile probation officers. At that time the duties of a probation officer included performing actions requested by the juvenile court judge in the course of investigations and supervising juveniles placed under probation as a result of the sentence of a criminal court. During the probation

period the task of the officer was to make all efforts to prevent further depravation of the juvenile. In consideration for performing their function the officers were entitled to receive lump sum remuneration.

An important event for juvenile probation officers was the establishment of family courts in 1978. Since that moment probation officers had been organisationally attached to these courts and provided services upon their requests.

The institution of adult probation officer evolved differently than described above. It was established much later than the institution of juvenile probation officer, as its beginnings date back to 1958. A year earlier (on May 29 – Journal of Laws 1957.31.134) the Act on conditional release of persons serving imprisonment sentences was adopted. Furthermore, on 15 January 1958 the Minister of Justice issued an ordinance concerning supervision of persons on conditional release (Journal of Laws 1958.10.35) which introduced the institution of probation officers for offenders on conditional release. In the year 1961 the Minister of Justice issued an ordinance concerning the method of executing sentences referred to in art. 62 of Penal Code (Journal of Laws 1961.34.173). As a result of the above, the responsibilities of adult probation officers were defined. One of them was to make all efforts to ensure that offenders under supervision or probation comply with the rules of social intercourse, do not return to criminal activities and properly fulfil their obligations. Probation officers were obliged to provide advice and instructions to the offenders and, to a reasonable extent, help them in solving difficult life issues. All these duties were fulfilled only by community probation officers, as at that time the function of professional adult probation officer did not exist. Probation officers received a monthly lump sum in consideration for their expenses and lost income.

In 1965 an ordinance concerning protective probation for persons with conditionally suspended sentences and probation for persons on conditional release – Journal of Laws 1965.12.80). This ordinance defined the responsibilities of adult probation officer in a manner very similar to the ordinances from the year 1961. A novelty was the first ever introduction of the institution of professional probation officer, the holders of which could only be appointed by provincial (voivodeship) courts. Professional probation officers, apart from fulfilling the same duties as community probation officers, were also obliged to organise and supervise the work of community probation officers, control their activities and provide them help and guidance, as well as to collaborate with relevant authorities, administration services and social organisations. Key to the further development of the probation service in Poland was the adoption of the Act on the Organisation of Common Law Courts (Journal of Laws 1985.31.137 as amended) in the year 1985. It was the first time when the two functions were combined into a "single" probation officers that could be either an adult probation officer or a family probation officer. They fulfilled their duties either professionally or as community service.

On the basis of the aforementioned law the Minister of Justice issued on 24 November 1986 an ordinance concerning probation officers (Journal of Laws 1986.43.212 as amended). This legal act is very important to the history of probation service, as it was the first to comprehensively regulate the institution of probation service by specifying in detail not only the rights and obligations of

probation officers, but also organisational issues. From the organisational perspective probation officers were assigned to relevant departments in the courts. Consequently, probation officers who exercised their duties in penal and penitentiary departments were adult probation officers, whereas those who exercised their duties in family and juvenile departments were family probation officers. This ordinance was also the first to introduce the function of district probation officer. Provincial (Voivodship) probation officers were appointed separately from family probation officers and adult probation officers.

The ordinance referred to above was also the first to introduce the obligation of undergoing probation training prior to receiving a nomination for the position of professional probation officer, as well as provided for an opportunity of horizontal promotion (such a promotion does not change the authority of probation officers) from probation officer through senior probation officer to specialist probation officer. The responsibilities of probation officers were also specified. These included, but were not limited to, organising and controlling the work of community probation officer, participation in organisation of training courses for community probation officers and other persons providing probation or supervision services, analysing reports submitted by community probation officers and other persons appointed to provide probation or supervision services and controlling the relevant submission deadlines, providing assistance to community probation officers and other persons entitled to provide probation and supervision services with respect to methods and forms of educational influence, filing applications regarding the amount of lump sums payable to community probation officers, handling at least 5 probation or supervision cases, especially ones that are difficult or require immediate action, collaborating with schools, organisations and institutions that provide education, therapy, care and assistance to persons under their charge, collaborating with the penitentiary services of correctional facilities and employees of reform schools and educational care centres, performing community inquiries upon a request from the court, informing the president of the court about the performance of community probation officers, indicating the causes of protracted in enforcement procedures or other inadvertences in the activities of out-of-court enforcement authorities.

On 27 July 2001 the lower house of the parliament (Seym) of the Republic of Poland adopted for the first time in the history an act on probation officers that comprehensively regulated the rules of functioning of the probation service. It placed probation officers within the court structures, regulated the rules of remuneration, organised the rights and obligations of probation officers, established a two-instance disciplinary court for probation officers, appointed the National Council of Probation Officers subordinate to the Minister of Justice and entitled to put forward legislative initiatives, maintained the professional-community model of probation service, defined the duties of probation officers in a specific order: "Probation officers fulfil specific educational, rehabilitative, diagnostic, preventive and control duties defined in the law and associated with enforcing the court's sentences."

### **1.3 Probation activities in a nutshell**

In the Polish law, the conduction of probation measures in respect to criminal policy is strictly connected to probe periods determined by the courts. The possibility and the scope of probe period are regulated with the law provisions. While suspending the enforcement of the sentence, the court may impose supervision on the offender. In particular cases the supervision imposing is obligatory (e.g. supervision toward underage offender of intentional crime; multi-recidivist offender or the perpetrator of a crime committed with relation to sexual preferences disorder). The supervision by the probation officer for adults is conducted in following cases:

- conditional suspension of imprisonment (legal base for supervision: article 73 section 1 of Penal Code);
- conditional discontinuance of proceedings (legal base for supervision: article 67, section 2 of Penal Code);
- limitation of liberty penalty (legal base for supervision: article 36, section 1 of Penal Code);
- conditional release from imprisonment (legal base for supervision: article 159 of Penal Executive Code);
- supervision over the convict who is going to be released from prison and who is expecting, the awaiting living conditions will impede him social re-adaptation (legal base for supervision: article 167 of Penal Executive Code);
- supervision of an offender of the crime committed with regard to drugs or alcohol dependency (article 96, section 1 of Penal Code), who was sent to outpatient treatment or rehabilitation in a therapeutic-rehabilitation centre.

Apart from above the probation officers for adults:

- organize and control executing of limitation of liberty penalty (article 55 section 2 of Penal Code);
- control the probe period without imposed supervision – conducting the social inquiry ordered by the court (article 14 of Penal Executive Code);
- prepare the convicted person to life after release from prison (with his consent and with the order of penitentiary court, penitentiary commission or offender himself); the period of preparation starts from 6 months before the end of entire sentence or 6 months before anticipated conditional release (article 164 read with article 165 section 3 of Penal Executive Code);
- conduct social inquiries in pre-trial and enforcement phase of criminal proceeding (article 214 of Code of Criminal Procedure; article 14 of Penal Executive Code);
- grant the aid from Post-penitentiary Aid Fund (Fundusz Pomocy Pospenitencjarnej) to convicted persons (article 173 section 2 point 8 of Penal Executive Code);
- participate in courts' executive sessions (article 173 section 2 point 9 of Penal Executive Code);
- lodge applications for instituting incidental proceedings or for modification of courts decisions (article 173 section 2 points 2-7 of Penal Executive Code).

Among the duties of family probation officers are:

- conducting social inquiries;
- conducting guardianship supervision;

- lodging of application for courts to modify decisions; this means that probation officers may lodge an application to the court responsible for the enforcement of the judgment, to amend the way of implementation of the measures applied in the court's verdict toward the juvenile;
  - cooperation with social workers, schools and other institutions involved.
- For almost of all activities on the Probation field in Poland responsible is Governmental Probation Service. Non Governmental organisations provide theirs activities without government support.

## **2 LEGISLATIVE BASIS AND MISSION**

### **2.1 Legislative basis**

Legal basis for Polish Probation System: general sources.

- Criminal Code (Act of 6 June 1997, Journal of Laws (1997), No. 88, pos. 553) – states the provisions regulating conditions for vast majority of probative measures (e.g. conditional suspension of imprisonment execution; conditional suspension of criminal proceeding etc.). Also points in a general way, the opportunities for probation bodies participation in the criminal trial.
- Penal Executive Code (Act of 6 June 1997, Journal of Laws 1997, No. 90, pos. 557) – contains, among others, the provisions regulating application of probative measures; defines the probation officer role as an executive authority; points out the procedures of probation officer action towards offenders within probation system as well as the courts authorities; also specifies the rights and obligations of convicted persons.
- Act on court probation officers (of 27 July 2001, Journal of Laws, 2001, No. 157, pos. 1787) – is the legal act constituting the rules of Court Probation Service functioning.
- Ministry of Justice Decree of 12 June 2003 on particular way of executing rights and duties of court probation officers (Journal of Laws, 2003, No. 112, pos. 1064 ) – specifies the range of obligations and rights of probation officers towards conducted supervisions (for adults or in family cases) as well as toward probation's control and supervision authorities.

The separate legal provisions of the rank of acts, decrees and orders regulate the principles of administrative procedures, detailed rules of remuneration or work burden standards of particular probation officers.

### **2.2 Mission and mission statement**

The rules of criminal execution law as well as current guidelines of probation base on article 3 of European Convention on Human Rights and Fundamental Freedoms, article 30 of the Constitution of the Republic of Poland and articles 7 and 10 International Covenant of Civic and Political Rights. They are included in the code and absolutely binding. Its assumption is that the penalties and penal, preventive and protective measures are applied with respect to human dignity of the convicted person. The tortures, inhuman or degrading treatment or punishment is banned. The re-socialization is not as the offender's obligation, but an offer, which he/she may accept or refuse. When executing the probation measures, the execution authorities are obliged to hold the specific balance between the control and aid. Both of those are treated as important by the Polish law.

### **2.3 Crime prevention**

The problem of arranging a uniform program of crime prevention is still an open question for Justice System authorities. Currently this important task is decentralized and finds itself in particular acts, which are concentrated on



defined issue and focussed on proper usage of forces of governmental, local, social and international bodies. As an example we may indicate the National Program for Family Violence Counteraction or the National Program for Drug Prevention.

#### **2.4 Victim protection**

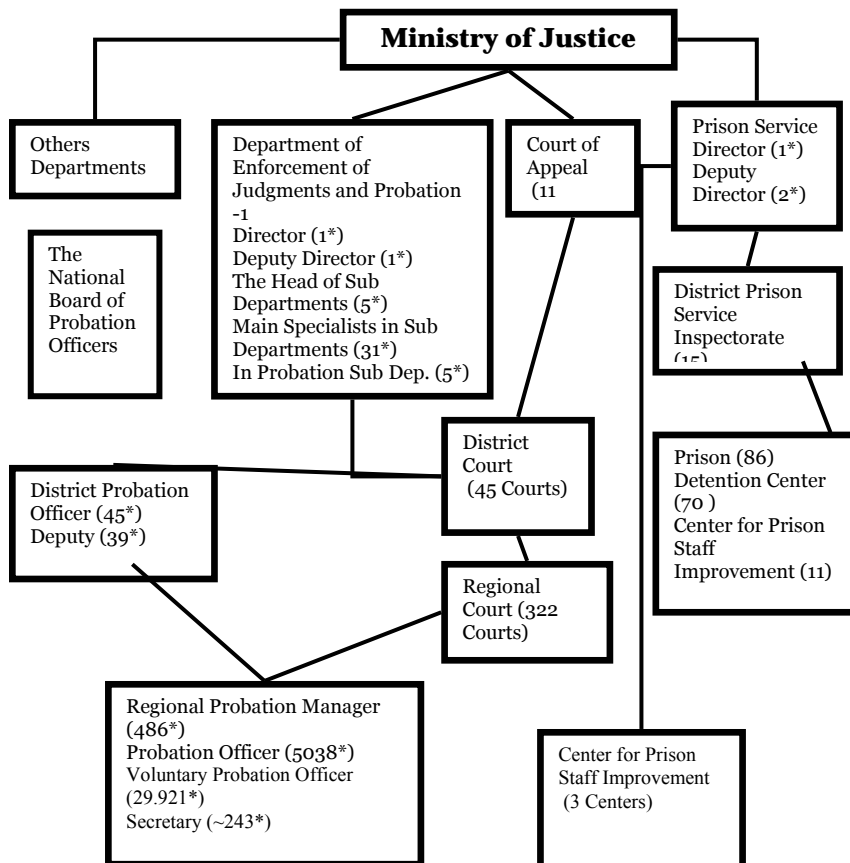
The Polish system of crime victims' support is in the phase of establishment. For the time being in the system are engaged public institutions as well as non-government organisations. The probation service is not directly responsible for providing services for victims, although some probation officers are engaged in the process of establishing the system. Currently the Polish Ministry of Justice is also in the process of creation of the Crime Victims Support Network which has a form of a pilot project. The project is introducing in three regions of Poland. The main idea of the project is based on Local Support Centres which provide psychological, legal and social support for victims of crime. In these three regions are working coordinators of the system whose main task is to organise the network. There is not one non-government organisation dealing in whole country with crime victims' support. In almost every regions there are also some separate NGO and additionally local – government institutions working with crime victims. The system of crime victim support is coordinated by the Ministry of Justice

### 3 THE ORGANIZATION OF PROBATION SERVICES

#### 3.1 Main characteristics

The Polish Probation Service (Kuratorska Służba Sądowa) is situated in the structure of the courts of ordinary jurisdiction subordinated to the Ministry of Justice.

#### 3.2 Internal organization



\* The number of job positions in the area

### **3.2.1 Probation workers<sup>1</sup>**

#### **3.2.1.1 Staff functions and responsibilities**

Structural functions:

- Director of Department of Judgments and Probation, Ministry of Justice.
- District Probation Officer - The District Probation Officer has surveillance over the probation/guardian service, excluding the qualifications reserved to the Chief Justice of District Court and the Chief Justice of the Regional Court.
- Regional Probation Officer (Manager, The Head of the team) – The Regional Probation Officer is appointed and removed by the Chief Justice of the District Court, on application of the District Officer. He has surveillance over the probation teams. The Probation Officers` teams are located in the Regional Court. The “teams” are the agencies carrying out a court decision based on criminal or family law.
- Professional Probation Officer for adults – see 4.3.3
- Professional Probation Officer for juveniles (guardian probation officer) – see 4.3.3.
- Voluntary/Social Court Probation Officer.

The duties of the social court probation officer are given to him by the Head of the team in an agreement with the professional officer with whom the social probation officer is going to be working with. The number of the supervisions of the social officer shouldn't be more than 10. The Chief of the Regional Court, in an agreement with the Head of the team, settles and gives an order to pay the social officer the monthly “lump sum” as a return of the costs of the supervision. The “lump sum” is payable till the 20<sup>th</sup> day of the month. The “lump sum” is from 2% to 4 % of the base sum appointed for the officers on the plea of the acts concerning the remuneration in the public sector pay. For conducting an interview in the executive proceeding in a case unattended the Chief of the Regional Court pays the social officer the “lump sum” – 4% of the base sum.

Key functions:

- Chief Justice of the Regional Court (Chairman) – appoints and dismisses the social court probation officer.
- Chief Justice of the District Court - appoints and dismisses the social court probation officer.

Key Probation Bodies:

- District Assembly of the Probation Officers Service – The members of the district assembly of the service are professional officers employed in the district. The tasks of the district assembly are: choosing the members of the disciplinary court of first instance, choosing a candidate for a member of the superior disciplinary court, choosing the disciplinary counsel, choosing the candidate for the examination board (for applicants), giving opinion on the removal of the District Officer, hearing the District Officers` information concerning the work of the service, approaching the Minister of Justice in cases of necessary actions regarding the service.

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<sup>1</sup> See also Annex 1.

- National Board of Probation Officers - The “National Board” are its` delegates chosen in all the districts by the district assembly. The assembly chooses one delegate from each district. The tasks of the National Board are: establishing the officers` ethic code, taking actions in order to make it possible for the officers to rise up their qualifications, giving opinions of the legal acts concerning the officers, occurring to the Minister of Justice or other authorities in cases concerning the remuneration and work of the service, initiating researches concerning the service, periodically giving notes of the work of the service and the number of the supervisions, as well as presenting the results to the Minister of Justice, once a year, noting the work of the presidium of the National Board, resolving the statute of the National Board, co-working with the international organizations dealing with probation/guardian service.

An officer can be someone who:

- has the Polish nationality, civil and citizens rights;
- has an immaculate character;
- has the medical capacity to work;
- has a Master’s Degree in pedagogy, psychology, sociology or law or any other Master’s Degree if post graduated studies connected with pedagogy, psychology, sociology or law;
- graduated a training for probation officers and guardians;
- passed the final exam”.

“Working time for a probation officer/guardian is defined by the scope of his duties. The officer conducts his duties in the area and at court at time appointed by the Chairman of the Regional Court, after hearing the opinion of the Head of the probation/guardian team”<sup>2</sup>. „The Ministry of Justice, in consultation National Council of Probation Officers, will define in a decree, the work burden standards of professional court probation officer, taking into consideration the dimension of individual work burden of the probation officer with regard to conducting the supervisions (for adults and in family cases) as well as other activities, in a degree assuring quick and proper realizing of courts verdicts”<sup>3</sup>.

### **3.2.2 Education, training requirements and opportunities**

The trainings of probation service’s staff are conducted on three stages:

- central stage – trainings organized by the National Centre for Court of Ordinary Justice and Prosecutors Offices Staff Training. Trainings dedicated to professional probation officers. Approximately 200 probation officers is participating in the trainings. The trainings of the most importance are those regarding the methods of supervision/guardian supervision toward various categories of clients (violent offenders, drug or alcohol dependant offenders, sexual offenders, etc.);
- district stage – the trainings organized by the district head probation officers. The trainings are dedicated to professional court probation officers and social court probation officers. Extremely important are the trainings regarding the methods of work with individual case (case-work), working out the work-plan

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<sup>2</sup> Article 13 of Act on probation officers.

<sup>3</sup> Ibidem.

- as well as the risk of work with client or methods of work with drug/alcohol/other dependant people;
- regional stage – the trainings organized by the Heads of probation officers teams or professional court probation officers. These trainings are dedicated to social court probation officers. Particularly important are the trainings in the scope of the methods of work as well as cooperation with local institutions and organizations, which are providing help (social workers, local governmental and non-governmental organizations, rehabilitation and therapeutic centres – inpatient and out patient ones). In any case the trainings are planned with one year outstrip, putted into the work plan and its subjects are adjusted to actual and confirmed needs.

### **3.2.3 Other organizations involved in probation work**

As it was mentioned before in the previous paragraphs, the probation court service subordinated to Ministry of Justice is responsible for carrying out the probation obligations. Although the Polish law admits non-governmental organizations, foundations and institutions, which goal is, among others, the probation, to perform of penalties as well as penal, preventive and protective measures, but it does not regulate the form of payment for the undertaken activities. For this reason it is only the action of social character, conducted in limited range. The organizations obtain sources for those activities from various local, governmental and international donations. Within their activity the different ways of aid are being given (e.g. social; residential; occupational; counseling; therapeutic and specialist). It can be assumed that making the legal provisions for those organizations activity in the probation system more precise, would create a real competition within this sector, since the contract service is more interested in proving effectiveness of its activities.

## 4 PROBATION IN DIFFERENT PHASES OF THE CRIMINAL PROCESS

### 4.1 General

The legislative basis of probation activities in Poland have been described in section 2.1.

**Table 1: Activities of Probation during the Different Stages of Criminal Procedure**

|   | Pre-Trial Phase<br>See: 4.2 | Trial and Enforcement Phase<br>See: 4.4 | Post Release Phase<br>See: 4.4 |
|---|-----------------------------|---|--------------------------------|
| Preparing a Social Enquiry report   | x                           | x                                       | x                              |
| Supervision / assistance etc. to offenders whose cases were conditionally waived              |                             |   | x                              |
| Supervising / organizing etc. community service   |                             |   | x                              |
| Supervising / organizing training or learning projects  |                             |   | x                              |
| Supervising etc. drug/alcohol treatment programs. (Measures provided by other institutions)   |                             |   | x                              |
| Supervising etc. other community sanctions  |                             |   | x                              |
| Pre - sentence report   |                             | x                                       |                                |
| Supervising etc. sanction of probation  |                             |   | x                              |
| Supervising etc. suspended sentence   |                             |   | x                              |
| Supervising etc. semi-liberty   |                             |   | x                              |
| Supervising etc. special measures for drugs addicts (Measures provided by other institutions) |                             |   | x                              |
| Supervising etc. conditional sentence   |                             |   | x                              |
| Assistance / support to prisoners in prison   |                             |   | x                              |
| Supervising etc. conditional release/parole   |                             |   | x                              |

## **4.2 Pre-trial phase**

### **4.2.1 General**

The role of Probation Services in the pre-trial phase of criminal proceeding is strictly limited, which is the consequence of general possibilities of their action in judicial (trial) phase of this proceeding (see below; point 4.3). The only purpose of Probation Services activities in this stage of the proceeding is to supply the public prosecutor with information regarding the defendant. Accordingly with article 214 section 1 of Code of Criminal Procedure<sup>4</sup> ‘If it is necessary, especially if it is indispensable to determine the information regarding the properties and personal conditions as well as past way of living of the defendant, the court, and in the preparatory proceedings – the public prosecutor, orders the conducting of the community inquiry (wywiad środowiskowy – author’s note) in relation to the defendant by the court probation officer or other institution entitled by distinct provisions or, in principally legitimated cases, by the police”.

As can be seen, the community inquiry can be conducted not only by the professional court probation officer, but also by the social probation officer. In this case, the lump sum for the inquiry preparation comes in to the proceeding costs paid by State Treasury<sup>5</sup>. It is worth to mention, that in the criminal proceedings before the military courts, the community inquiry is carried by military social probation officers (article 662 section 2 of Code of Criminal Proceedings). The general rule for the community inquiry in criminal proceeding is its facultative character. There are only two exceptions, when the inquiry is obligatory (article 214 section 2):

- in the cases of felonies;
- with relation to the defendant, who in the time of committing the crime, was not 21 years old, and he is accused of intended misdemeanour against life.

In the pre-trial phase, the community inquiry can be ordered only by the public prosecutor. There are no detailed provisions regarding the earliest point when it can happen. In these circumstances, the community inquiry can be ordered just after the investigation will become formally instituted against the suspect, so after the order on pressing charges is given (article 214 section 2 with relevance to article 71 section 1 and section 3 of Code of Criminal Procedure).

The community inquiry is the Probation Services only way of action in the pre-trial phase of criminal proceeding. Although the Code of Criminal Procedure states that it can be conducted by “other institution”, in practice the majority of inquiries is carried by court probation officers or by the police. The “in principally legitimated cases” clause, stated in section 1 of article 214, is often used by the courts, which is the consequence of deficiency of probation officers.

### **4.2.2 Pre-trial report (Community Inquiry Report)**

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<sup>4</sup> The Act of 6 June 1997, Journal of Laws (Dziennik Ustaw) of 1997, No. 89, pos. 555.

<sup>5</sup> Grzegorzczak, T. (2005), Code of Criminal Procedure. Commentary (Kodeks Postępowania Karnego. Komentarz), Zakamycze, Krakow.

The report of community inquiry is presented to the public prosecutor and it is always in written form. The purpose of it, as it was mentioned above, is to give information regarding the defendant. The inquiry has to be conducted accordingly to the questionnaire specified in the Ministry of Justice Orders of 11 June 2003 on rules of activities in the field of community inquiry conduction and the model of questionnaire of this inquiry<sup>6</sup>. However the general guidelines for this report were given in the Code of Criminal Procedure (article 214, section 4, points 1-5). Accordingly, the report shall include:

- the name and family name of the probation officer conducting the inquiry;
- the name and family name of the defendant;
- a brief description of the past life of the defendant and detailed information about the community where he lives, particularly his family, school or occupational environment, and moreover, the information on his property status and income sources;
- information regarding the defendant's health status as well as information on alcohol or drugs abusing by him;
- the probation officers' own findings and conclusions, especially regarding properties, personal conditions and past way of life of the defendant.

When conducting the community inquiry and preparing the report, the probation officer is entitled to ask the institutions, organisations and persons (e.g. relatives, neighbours, employers) to give information about the defendant and they are generally obliged to do so (article 15 section 2 of Code of Criminal Procedure). The final report presented by the probation officer is being added to the case-records and it is treated as any other evidence, with all consequences flowing from the criminal trial guarantees (e.g. possibility of opposite evidence execution).

### **4.3 Trial and enforcement phase**

#### **4.3.1 General**

As it was mentioned above (see point 4.2), the role of Probation Services in the trial phase of criminal proceeding is strictly limited. Similarly to the pre-trial phase, the only purpose of probation officers action before the court will give the sentence is to supply the judge with information regarding personal and occupational life of the defendant. There is only one provision in Code of Criminal Procedure related to the role of court probation officers and, consequently, to the Probation Service itself. It is the article 214, widely cited above. According to section 1 of this regulation, in the trial phase, only the court is entitled to order the community inquiry with regard to the defendant. The outcome of the inquiry is, similarly to pre-trial phase, a written report submitted to the court, which orders the conduction of the inquiry. The subject and the form of the report is regulated by the article 214, section 4, points 1-5 of Code of Criminal Procedure and the Ministry of Justice Orders of 11 June 2003 on rules of activities in the field of community inquiry conduction and the model of

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<sup>6</sup> Journal of Laws of 2003, No. 108, pos. 1018.



questionnaire of this inquiry, which were widely described above (see point 4.2). Also all other rules of conducting community inquiry in the pre-trial phase have adequate application in the trial stage. It is only worth to mention, the probation officer who carried out the inquiry is obliged to reveal the personal data of persons, who supplied him/her with information, only on the court's (or the public prosecutor's in the preparatory proceeding) demand (article 214, section 5). Those persons can be examined as witnesses (section 6). In case of need, the person who has conducted the inquiry can also be examined as a witness character (article 216).

In practice, the vast majority of Probation Service activities concentrate on the last stage of criminal proceeding – the enforcement phase. Similarly to two previously described phases, probation activities at the enforcement stage concentrates on the person who is convicted. In theory, the participation of Probation Service at this stage is possible with regard to various types of penalties, penal and protective measures as well as measures related to tempting the offender. In accordance with the article 36, section 1 of Penal Code<sup>7</sup> (Kodeks Karny) “When administering the limitation of liberty penalty (kara ograniczenia wolności – author’s note), the court may commit the convict to the supervision of court probation officer or reliable person, association, institution or social organisation, in which sphere of activity is care about education, prevention of demoralization or help to convicted persons”. Similar provisions are provided for:

- conditional discontinuance of proceedings (article 67, section 2 of Penal Code);
- conditional suspension of imprisonment (article 73, section 1 of Penal Code); the supervision is obligatory toward underage<sup>8</sup> (młodociany – author’s note) offender of intentional crime, a multi-recidivist and the perpetrator of a crime committed with relation to sexual preferences disorder (article 73, section 2 of Penal Code);
- protective measure consisting in out-patient treatment for an offender previously committed to closed institution for drug/alcohol rehabilitation (article 97, section 1 read with article 96 of Penal Code);
- conditional release from imprisonment (article 159, section 1 of Penal Executive Code<sup>9</sup> [Kodeks Karny Wykonawczy]);
- conditional release from imprisonment of an offender who had committed a crime in a limited sanity condition and who was convicted for prison sentence not exceeding 3 years (article 95, section 2 of Penal Code).

Apart from above, there are a number of probation activities reserved solely for professional court probation officers. These are in particular:

- supervision over the convict who is going to be released from prison and who lodged an application for supervision (article 167 of Penal Executive Code) – this can also be carried out by the social court probation officers;

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<sup>7</sup> Act of 6 June 1997, Journal of Laws (1997), No. 88, pos. 553.

<sup>8</sup> In accordance with art. 115, section 10 of Penal Code, “The underage is an offender who was not at least 21 years of age in the time of crime commitment and not at least 24 years of age, when the court’s of first instance judgment giving”.

<sup>9</sup> Act of 6 June 1997, Journal of Laws 1997, No. 90, pos. 557.

- managing of work of social court probation officers as well as other persons conducting supervision as the representatives of associations, institutions and social organisations (article 173, section 1 of Penal Executive Code).

In general, the professional court probation officers (who are in fact in charge of other probation bodies; see below) are obliged to undertake activities aiming to help the convicted person in re-adaptation process (art. 173, section 1). In particular, they are supposed to control the behaviour of supervised persons and react to any circumstances that inflicts the change of conditions of probation (e.g. lodging applications to the court regarding: extension, change or release from imposed duties; change of conditions of supervision or release from it; conditional release from imprisonment and its cancelling etc.). They are also responsible for granting aid from Post-penitentiary Aid Fund (Fundusz Pomocy Pospenitencjarnej) as well as for preparation of inmates to release from prison (article 173, section 2). Those obligations as well as the way of its carrying were more specifically described in Ministry of Justice Orders of 12 June 2003 on particular way of executing rights and duties of court probation officers<sup>10</sup>. In general, according to article 174 read with article 175, section 2 of the Penal Executive Code provisions, the obligations of social court probation officers and representatives of organisations, institutions, etc., toward persons under supervision are similar. Their most important obligations are:

- visiting persons being subjects to the proceedings at the places of their residence or stay, including penitentiary facilities as well as contacting with their families;
- claiming for all needed information and explanations from persons in the probation term, under supervision or those, who have duties imposed by the court;
- cooperation with relevant associations, institutions and organisations in the area of improvement of living and health conditions, as well as employing and training of persons, which are subject to the proceeding;
- cooperation with prisons administration in the scope of proper preparation of inmates to the release;
- looking through the case-records and making the copies of it with relation to the activities ordered by the court;
- conducting community inquiries.

#### **4.3.2 Pre-sentence report**

There is no pre-sentence report in Polish proceeding before the court in the meaning of consolidated report, which would present the convict's personal conditions in a complex way or which consists of guidelines and propositions of the penalties, penal measures or duties for the convicted person. The Polish criminal procedure provides in its trial phase an appointment of an expert, if the statement of the circumstances which are fundamental for the defendant requires particular knowledge (articles 193 – 206 of Code of Criminal Procedure). The court may address specialist or scientific institution for an opinion. The court gives an order in the matter of admission of an expert opinion.

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<sup>10</sup> Journal of Laws 2003, No. 110, Pos. 1064.

Not only the court's expert (the person registered on the expert's list) is obliged to perform an expert's duties, but also any other person who is known to have appropriate knowledge in the given matter. The experts' activities come in to the proceeding costs paid by the State Treasury. Similarly to pre-trial phase, the trial stage of criminal proceeding provides also conduction of social inquiry toward defendant (article 214 of Code of Criminal Proceeding; see 4.2.2.). Still, its administering range by courts or the prosecutors is marginal. The reasons for it have to be perceived mainly in the fact, the inquiry is payable and the probation officer gets additionally (except salary) for one inquiry report the fixed percent of base amount, which in 2007 was 72 PLN (app. 18.9 EURO).

### **4.3.3 Probation procedures and processes**

#### **4.3.3.1 The procedure and methodology of the supervision**

Each new case coming into the probation officers` team is being registered, assigned, filed and the head of the team appoints a certain officer for each case, according to the domicile of the convicted. Only the venue is the basic of the division of all the cases. The Polish probation system hasn't developed the professional job qualifications according to which the assignment of the cases would be based on the individual character of the case. That means, each professional probation officer runs cases concerning the conditional preliminary release as well as other cases. The professional probation officer is obligated, without unnecessary delay, not later than within seven days from receiving the supervision take-up, to get in touch with the offender. He has a conversation with the offender, instructs him and presents the offenders` rights and duties based on the supervision and the court judgment. He carries out kind of the social inquiry, out of which he prepares the accession report and handles it to the judge. The accession report also contains the work plan with the offender together with the re-socialization intentions. The probation officer also indicates if it is necessary to put more duties on the offender during the probe period or if the offender may be discharged from some duties. If the probation officer sees that kind of a need – he files the petition to a judge. The court adjudicates on court sitting and adjudicates by the decision. If there is a need for the compulsory treatment the offender has to give his agreement for it. The social probation officer once in a month fills in the supervision report and presents it to the professional probation officer.

#### **4.3.3.2 The form and frequency of the contact**

The most common form of the probation officers` contact with the offender is the personal touch in the place of domicile of the offender. If the court does not order otherwise, the probation officer has the personal touch with the offender once a month. In extremely difficult situations they are practiced more often. Rarely the probation officer meets with the supervised in the court. The social probation officers meet with the offender only in the place of his/her domicile.

#### **4.3.3.3 Work methodology**

§ 3 The family officer is obligated to:

- get acquainted with the case files and other necessary sources of information about the ward, especially about previous supervisions;
- get in touch with the ward, no later than within seven days from the date of the sentence validation;
- instruct the ward about his rights and duties and talk over the way and dates of doing his duties;
- plan the prevention-re-socialization and the wardship – tutoress counteract,
- cooperate with the family of the ward;

- provide help for the ward when it comes to organizing education, work, free time and difficult life problems;
- control the wards` behaviour at home, school and workplace;
- cooperate with organizations, institutions and associations if they are aimed on wards` help.

If the contact with the ward is not possible, the family officer notifies the court on paper, explaining the situation.

The family officer documents the run of the supervision and the activities in each case in the supervision report, writing the date, place and kind of activity, gathered documents and information, as well as their sources and the officers` comments and prognoses for the supervision.

§ 5 The family officer performing his duties also:

- performs supervisions in difficult cases or those requiring immediate actions;
- controls the correctness and effectiveness of the supervisions and other activities assigned for the social officers, the representatives of the associations, organizations and institutions and persons of trust, and in explained cases, notifies the court about the need to change the association, organization, institution or person of trust;
- provides help for the social officers especially by giving them instruction concerning methods and forms of work and organizes the trainings for these people;
- gains the social officers;
- informs the head of the team about irregularity of work presented by the social officers and the superior bodies of the associations and institutions about the supervisions run by their representatives;
- signalizes the superior units of the associations and organizations in cases of groundless refuse of providing help for the officers;
- prepares and approaches the court with explained pleas when it comes to changing the courts` decision and attaches to them the necessary documents and case files;
- participates in the courts sessions.

§ 11. The probation officer, when realizing the activities connected to the organization and control of the penalty of limited liberty and the community work adjudicated instead of the uncollectable fine:

- keeps in touch with the job centers, medical centers and the welfare centers as well as the charity associations where the offender may carry out the penalty of community work;
- cooperates with the job centers where the offender carries out the community work;
- organizes and conducts the trainings and instructions for the employees of the job centers, appointed to work with and supervise the work of the offenders;
- controls the job centers in accordance to the compliance of the work organization and the duties of the offenders;
- calls the offender to clarification about the served sentence, gives warning to the offender and takes up other disciplinary measures if the offender evades work;

- notifies the appointed job centre about the court decisions concerning the offender;
- controls the serving of the sentence and the rule of fulfilling the duties by the offenders;
- files the petitions to the court in cases of;
- specifies the kind of work the offender should carry out and the place it should be carry out in, if it was not indicated in the sentence;
- the need of reducing the number of work hours within a month;
- the need to change the mode of carrying out the sentence;
- legal decision in cases of the substitutive penalty;
- releases from remaining penalty;
- participates in the court sittings, when the offender serves the penalty of limited liberty or community work.

§ 12. Probation officers, when realizing the activities concerning the control of the offender during the probe period and the control of the offender, who had the procedure conditionally discontinued or the penalty postponed;

- collects at least once within six months the information about the behaviour of the offender or the condemned, unless the court gives a different decision in that case;
- interviews the offender before filing to the court in situations mentioned in article 173 section 2, point 2 or 4 of the Penal Executive Code;
- occurs to the institutions and right services as well as to the individuals to get the information about the way of the carrying out of the duties of the condemned or offender;
- collects the information about the carrying out of the penalty from the offender;
- immediately notifies the court about other offences committed by the offender or about any other public nuisance committed by supervised person.

§ 13. The probation officer realizes duties concerning the preparation of the offender to existence after being released from penitentiary institution and after receiving the decision from the penitentiary commission or the legal decision from the penitentiary court and:

- lays a free scheme based on the analysis of the penitentiary files and the criminal case files with cooperation of the convicted person;
- prepares the family and social environment for the return of the convict to the society;
- co-organizes the post penitentiary aid by recognizing the needs of the offender and his family and by creating his ability to self resolving the life difficulties; by cooperating with the convicted person and the prison service as well as with the governmental administration and the territorial administrative authorities;
- cooperates with the associations, foundations, organizations and institutions or any other authorities providing help in the re-adaptation process of the offender.

§ 14. The probation officer, by keeping in touch with the convicted person who

got the interruption of execution of the penalty of imprisonment:

- once every three months checks up if the offender uses the interruption of execution of the penalty in the right way and obey his duties;
- demands from the offender the necessary information concerning the interruption of execution of the penalty;
- in cases when the offender does not get in touch with the officer within the seven days from the release from the penitentiary institution or in circumstances from article 156 section 3 of the Penal Executive Code, notifies the penitentiary court or files the petition for recalling the interruption of execution of the penalty.

§ 15. The probation officer also:

- signalizes to the court the reasons of the protraction of the execution proceeding or any other infringements in the activities of the outside court executive authorities and the need to notify the police about the required help for the officer;
- files petitions in order to change the courts` decisions;
- participates in the court sittings;
- cooperates with organizations, associations and other authorities providing aid in the re-adaptation process of the offender;
- signalizes to the superior bodies and national organizations as well as to the associations the cases of the non justified refusal of providing help for the probation officer;
- runs current documentation of the offender.

Based on the article § 164 of the Penal Executive Code in cases presented in the chapter 4.4 the probation officer gets in touch with the offender in the correctional institution and prepares the free scheme for the convicted person.

#### **4.3.3.4 Work tools**

The probation officers don`t have any specialized tools to run the supervisions, such as risk assessment questionnaires, psychological tests or individual influence tools for the offenders.

#### **4.4 Post-release phase**

The conditions of leaving the prison before serving the entire sentence by an offender are regulated by the Penal Code (articles 77 – 82). He may be conditionally released “only if his attitude, properties, personal conditions, way of life before committing the crime, the circumstances of its commitment as well as behaviour after the crime and in the course of imprisonment justifies the belief, that convict after the release will obey the legal order, especially will not commit a new crime” (article 77 section 1 of Penal Code). Generally, an offender may be conditionally released from imprisonment after serving half of the entire sentence, however not earlier than after six months of imprisonment (article 78 section 1). The exceptions are provided for recidivists, who can be conditionally released after 2/3 of entire sentence and multi-recidivists, who can be released

after three-quarters of entire sentence (article 78 section 2). The offenders who were sentenced to 25 years of imprisonment can be conditionally released after 15 years and those sentenced to life imprisonment, after 25 years (article 78 section 3). In the case of conditional release, the time remaining to the end of entire sentence is the time of probe for the offender. According to article 159 of Penal Executive Code, an offender may be imposed with supervision by a penitentiary court for this time (for details see 4.3.2). The time of the probe for an offender can neither be shorter than two years nor longer than five (article 80, section 1 of Penal Code). The multi-recidivist can not have the probe period shorter than three years (section 2) and the life sentenced offender is always given ten years probe period (section 3). If the conditional release was not cancelled in the time of its pending or within 6 months after it ended, the sanction is being considered as sentenced with the moment of conditional release (article 82). There are actually three ways of action of probation officers with regard to conditional release. First, relies on conduction of social inquiry toward an offender and preparation the written report of this activity. Such inquiry can be ordered by any enforcement authority (in practice, it is only ordered by penitentiary courts) which is handling the sentence execution (article 14 section 1 of Penal Executive Code). The social inquiry at this stage of proceeding is similar to those described before, conducted both in pre-trial and trial phases. Second way of probation officers activity is preparation of an offender for leaving the penitentiary institution (both conditional and after serving the entire sentence). On the basis of article 164 of Penal Executive Code, the penitentiary commission may settle the period for it within six months before anticipated conditional release or the end of the sentence, with the consent of an offender or on his request. If it will happen, the probation officer should determine together with an offender, the range of indispensable help in social re-adaptation and the way of its giving (article 165 section 3 of Penal Executive Code). Finally, the last bunch of probation officers activities at this stage of proceeding is supervising the conditionally released offenders. The way of supervision conduction is the same as described before (see 4.3).

The individual pardon procedure may be initiated by an offender, his relatives (including guardians etc.), the General Prosecutor and the President of the Republic himself (art. 560 section 1 and 567 section 1 and 2 of Code of Criminal Procedure). The application shall be considered by the court of first instance within two months. If only one of courts which considered the case will give the positive opinion on pardon, the case-file is being sent to Prosecutor General, who submits it to the President of the Republic along with his own application. It is very hard to give a general answer to the question, when the individual pardon is being granted. The current President of the Republic, till the October 2007, granted the individual pardon towards 77 persons, while in the same time he refused to do so towards 550. There are even no rules when there is a positive opinion, not only of the courts considering the particular case, but also of General Prosecutor. For instance, on 19 August 2006, the President refused 16 applications for individual pardon, despite of the fact the General Prosecutor



gave a positive opinion with regard to two of them<sup>11</sup>. Regardless of above, there is no legal basis for action of probation officers toward persons granted individual pardon, except for the social inquiry ordered by one of the courts or General Prosecutor considering the case of pardon (article 14 of Penal Executive Code, described previously in the first point. The last amnesty of partly general character was conducted in Poland in December 1989, when our country was still called Polish People's Republic. The general amnesty is not planned by the current governments as a solution to overpopulation problem in prisons.

## **5 FINANCES, REGISTRATION, EVALUATION AND OUTSIDE OPINION**

### **5.1 Finances**

Polish Probation System as well as Prison service is financed only by governmental budget. Funds from European Union are also distributed by governmental structure. Theoretically there is a possibility of cooperation with local funds but it is used extremely rarely.

**Table 2: Annual budget on 31 December 2007**

|   | <b>Probation Services</b> | <b>Prison System</b> |
|---|---------------------------|----------------------|
| Total current yearly expenditure            | 349 498 800               | 2 085 791 000,00 zł  |
| Average number of employed staff            |                           |                      |
| professionals                               | 5019                      | 14 934               |
| volunteers                                  | 30163                     |                      |
| administration                              | 297                       |                      |
| Daily cost of offender/ number of offenders | 0,97zł/ 1000292           | 63,80zł/ 87776       |

### **5.2 Registration systems and evaluation procedures**

The obligatory system of the case records is being regulated by the Office Instruction pointing out the court sections where the specified records are being conducted, indicating the containing of the records and assigning the numbers for particular cases. The registration procedures are strictly formalized, warned and controlled. Each new case that comes into the probation officers team is introduced to the record, registered signed and is assigned by the head of the probation team to a certain officer.

In most of the courts there are still paper tomes (repertories) which are slowly being completed by the electronic systems of the case records and the movement of the cases.

Currently the computer innovations are used only in the Register of Deeds. Also the public prosecutors offices are mostly computerized. But the paper tomes are

<sup>11</sup> Announcement on individual pardon application by the President of the Republic of Poland, PU.117-3-06; source: <http://www.prezydent.pl>

still at use in the probation officers teams. Just 8 out of the 45 District Courts bought the computer systems for probation officers within the last two years and only because it was forced by the statistic forms prepared for them to fill in by the Ministry of Justice. The statistic reports of all the courts` divisions, also of the probation officers` teams, are being send to the Statistics Section in the Ministry of Justice once every six months. The statistics` reports contain: the categories of the cases, the employment, administration and the forms of the activities run by the probation officers. The breakdown prepared every year or half a year is published on the official Ministry of justice website. Currently Ministry of Justice doesn` t have any central division that would deal with the analysis of the statistic data when it comes to the assessment of the probe activities run by the probation officers.

### **5.3 Societal support and client`s views**

The probation system is not responsible for the social support of the clients in probation. That kind of support is provided by the specialized services of social workers, subordinated to the Ministry of Work and Social Politics. However, it does not mean, that the probation officers are not interested in the social conditions of those they have under supervision. Just the opposite; the probation services exchange information with the social workers, notify the demand for providing aid in certain cases. The social help is also provided by the non-governmental organizations, church organizations and religious associations. The aid they provide is: accommodation, food, clothes, counseling (legal, work, social and health) etc.

The only symptom of material aid by the probation officers for the convicted persons is the symbolic, usually one-time financial aid received by them and their families from the Post Penitentiary Aid Fund. This aid is provided within the three months time after the release from the penitentiary institution. The aid is given of authority or on application of the person entitled to it. Also the prosecutor, the attorney and the authority of the convicted may apply for the aid from the Post Penitentiary Aid Fund. The application should have all the necessary documents justifying the given aid attached. The justification has to include all the details describing the problems connected to the social re-adaptation of the person convicted. The financial funds gathered in the Fund in 20% come from the write – off of the pay of the convicted. The year settling from the use of the finances of the Fund are send by the particular courts to the General Council of the Social Re-adaptation and the Aid of the Convicted, which has the main power of disposal.

## **6 PROBATION CLIENTS` RIGHTS**

The legal status of convicted offenders is determined by regulations that define their rights and obligations. Part of the regulations distinguished in chapter III of Penal Executive Code concerns all the convicted offenders. Art 5§1 of Penal Executive Code emphasizes that a convicted offender is a holder of rights and obligations. Pursuant to art. 4§ 2 of Penal Executive Code, a convict retains the

civil rights and freedoms, which can be limited only as a result of an act and a final and binding court sentence issued pursuant to this act. A convicted offender has the right to file motions to instituted proceedings, is entitled to participate in court proceedings in the capacity of a party thereof, has the right to file complaints against sentences issued in an enforcement procedure, may file applications, complaints and requests to authorities that enforce the sentence (art. 6 of Penal Executive Code).

A convicted offender may bring to court the decisions of enforcement authorities, including professional probation officers, on the ground of their unlawfulness. Such an appeal against a decision may be brought by a convicted offender within 7 days from receiving the decision (art. 7 of Penal Executive Code). During the enforcement procedure a convicted offender may be assisted by a defence attorney appointed in the procedure, whereas offenders who are deaf, mute or blind, whose soundness of mind is reasonably questionable or who are below 18 years old or do not have command of Polish must be represented in court by a defence attorney. An appeal must be satisfy certain formal requirements. It may be communicated to the authority enforcing the sentence either in writing or orally. If an appeal is filed orally, the authority that receives the appeal shall write a record of it (art. 7 of Penal Executive Code).

A convict may also file a complaint concerning the acts of the authority that enforces the sentence (i.e. the probation officer). The complaint is examined in the administrative channel. When the controlling authority ascertains a default of the probation officer, the case is examined by the disciplinary court, whereas when a grave violation of law by the probation officer is discovered the controlling authority files a crime notification to the prosecutor.

An imprisoned convict may communicate with their defence attorney or their representative in the person of an attorney or legal advisor while other persons are absent. Any correspondence exchanged with these people is not subject to censorship and will not be withheld, whereas conversations during visits and on telephone shall not be under surveillance. The correspondence with the attorney may be supervised by opening letters only if there is a reasonable suspicion that the letter may contain items the possession, storage, passage, sending or marketing of which is forbidden. The act of opening the letter takes place in the presence of the convicted offender and is communicated to the penitentiary judge together with its cause and result.

The correctness of penalty execution is supervised by the penitentiary court. The penitentiary judge has the right to interview imprisoned offenders and examine their applications, complaints and requests without the presence of other persons. A convicted offender who is dissatisfied with the outcome of the two-instance court proceedings concerning their claim may, having exhausted all appeal possibilities, file a complaint to the European Court of Human Rights. It can be therefore claimed that the rights and obligations of convicted offenders are regulated by law and every complaint that satisfies the formal requirements must be examined. A convicted offender is informed about their rights and obligations in the enforcement procedure by the probation officer, during the first contact. Such a notification may be provided orally, but it is a common practice that the convict signs a declaration stating that they examined and

understood their rights and obligations. This declaration is attached to the case file.

In the enforcement procedure, the convicted offender may appoint in writing a trustworthy person to act as the convict's representative. Such a person may be selected particularly from among representatives of associations, foundations, organisations and institutions focused on the well-being of man (art. 42 of Penal Executive Code). Such a representative may act exclusively in the interest of the convicted offender by filing applications, complaints and requests on their behalf to relevant authorities and institutions, associations, foundations etc. Convicted offenders may also file complaints to the Civil Rights Ombudsman, which is a governmental body, as well as to other non-governmental organisations such as: the Helsinki Foundation for Human Rights. It should be noted, however, that non-government organisations are not appeal authorities.

## **7 NEW DEVELOPMENTS**

The Polish Probation System requires a deep reform and currently it is being improved. The changes are based on the following tasks planned to be realized within the next three years:

1. Strengthen the administration service of the probation teams; currently in a lot of the probation teams the probation officers perform tasks such as case registration or data installation, which means, that they have less time for their actual work with the offenders.
2. Elaborating the efficiency validation factors and the affectivity of probation activities. In the current situation the answer for a question for the affectivity of the Polish probation occurs serious difficulties. We don't have any worked out methods or tools for examining the efficacy of the system. Elaborating the group of factors, which allow to make the assessment of the reality has to be the starting point for undertaking any reformatory actions.
3. Enlarging the role and the participation of the non-governmental organizations in enforcing the probe measures. We can assume that the effectively specialized non-governmental organizations will be the stimulus for the free market competition for probe governmental structures. In the current situation, as it was mentioned in the chapters above, the non-governmental organizations – after performing a lot of formal conditions – have the possibility to perform the probation measures, but their activity has a strictly social character, not connected to the refund of the costs of the activity and they are still supervised by the probation officers of the district, on which the convicted person is staying on.
4. Introducing the legal changes when it comes to widen the possibility to apply the preliminary conditional release.
5. Introducing the law changes, which will lead to the simplification of the procedures connected to the organizing and performing the sentenced community work instead of the non executable fines. The present legal solutions make dependent all the activities connected with the performance of these measures from the enactment or the disposition of the judge, which in many ways burdens the system and reduces the dynamics of the enforcement of

penalties. New regulations should also pass the duties of organizing the enforcement to the probation service. They should also contain elements, which encourage the potential employers (non-governmental and governmental organizations) to accept the convicted persons as their employees. The present regulations burden the employers with requirements to cover the insurance collections for the work of the convict and also make the employers responsible for preparing the safety and hygiene of the workplace trainings. These costs are paid by the employers, what makes the penalty not attractive from the point of view of the institutions, in which the penalty is being enforced. One of the key tasks of the reform of the probation system in Poland is the development of the diagnostic activities, especially in the phase of the court proceeding. On the base of experiences of other countries we can assume, that these activities will influence the decrease of the number of the probe measures transferred to enforcement to the probation officers. It will also make it easier to efficiently manage these measures. The current division of the tasks between the probation officers was based upon the number encumber of the cases. It made the probation officers report contain the cases not specifically recognized connected to the scale of the difficulties of handling the individual case. The probation officers report shouldn't also contain cases that need specified actions and those which are only connected to the execution of the financial obligations.

6. Elaborating the computer tools, which will let the managing of the data be more effective and also will make the procedures connected to the access to the information about the convicted persons and the performed cases efficient, which will directly interpose on the affectivity of every probation officers' work.

## 8 IMPORTANT PUBLICATIONS

The text is written by Barbara Wilamowska and is based on:

- Penal Executive Code, Act of 6 June 1997, Journal of Laws 1997, No. 90, pos. 557,
- Act on court probation officers (of 27 July 2001, Journal of Laws, 2001, No. 157, pos. 1787,
- Ministry of Justice Decree of 12 June 2003 on particular way of executing rights and duties of court probation officers, Journal of Laws, 2003, No. 112, pos. 1064
- Penal Code, Act of 6 June 1997, Journal of Laws (1997), No. 88, pos. 553
- Jedynek T., Stasiak K. (2007), Methodology of probation officer work, Lexis Nexis

A. Baładynowicz, *Probation – Bringing up to freedom*, 1996, Wychowanie do Wolności, Primus

A. Baładynowicz, *Probation – Rehabilitation with the participation of the society (Resocjalizacja z udziałem społeczeństwa)*, 2006, Prawo i Praktyka Gospodarcza (The Law and Economic Practice)

The book forms a valuable criminological – penitentiary position, which leading thought is creation of theory of fair and effective punishment based on diverse catalogue of penal measures, with respect to fundamental human rights. The work is characterized by an inter-disciplinary view on the sense of criminal punishment as well as deep and relevant analyses, with use of unusually reach and multi-aspect subject literature. An author is giving his attention to the role of the local community and the bonds occur in it (which may force an offender to come back to the appropriate way of life). He also indicates the possibility of filling the system gap between the prison isolation and probation. Moreover, the author breaks the way of thinking – still existing in Poland – that offences of the same weight and the persons of similar criminal record should be treated identically.

T. Jedynek, K. Stasiak, *Methodology of probation officer work*, 2007, Lexis Nexis

The book is a first complex work on the problems connected with the issue of probation officers work. In the light of the binding law it precisely defines the obligations dedicated to probation officers as well as those obligations sense, aims and the procedures. The publication contains the historical aspects of shaping of current educational-therapeutic and, at the same time occupational-social model of Polish court probation system. The authors discuss the organizational frames of probation service, its situation and function in the courts of ordinary justice system. The authors analyze particular obligations of probation officers and guardian probation officers.

J. Śpiewak, *Probation officer in the penal – execution proceedings – handbook for the governing once*, 2000, Wydawnictwo Prawnicze, Warsaw

The book is a kind of a manual for those executing the court's verdicts towards offenders in a probe term within the supervised liberty. It contains the norms,

measures as well as educative methods used by a professional court probation officer, respecting the re-socialization education. Not only valuable guidelines regarding work with supervised persons had been placed in the book, but also guidelines regarding contacts with parties exercising control (Court Probation Service).

## **9 CONTACT DETAILS**

The translation of the report was carried out by Dominika Niemiałtowska – Dobek, Barbara Wilamowska, Krzysztof Bandurski and Krzysztof Wilamowski.

### **National/federal main offices of the Probation Service system**

Ministry of Justice, Department of Enforcement of Judgments and Probation  
Poland, 00 – 950 Warsaw, ul. Al. Jerozolimskie 11  
Phone: 48 22 56 18 600  
Fax: 48 22 56 18 430  
e-mail address: [dwoip@ms.gov.pl](mailto:dwoip@ms.gov.pl)  
home page: [http://www.ms.gov.pl/ministerstwo/org\\_dwoip.php](http://www.ms.gov.pl/ministerstwo/org_dwoip.php)

The National Board of Probation Officers  
Poland, 01 – 755 Warsaw, ul. Krasińskiego 65  
Phone: 48 22 66 51 708  
e-mail address: [martuszewicz@e-zone.com.pl](mailto:martuszewicz@e-zone.com.pl)

Prison Service  
Poland, 02 – 521 Warsaw, ul. Rakowiecka 37a  
Phone: 48 22 640 83 30  
Fax: 48 22 640 83 32  
e-mail address: [bpz@sw.gov.pl](mailto:bpz@sw.gov.pl)  
home page: <http://www.sw.gov.pl>

### **Criminal statistics databases**

Ministry of Justice official website:  
<http://www.ms.gov.pl/statystyki/statystyki.php>

Prison Service official website:  
<http://www.sw.gov.pl/index.php/statystyki>

### **Important other organizations in the Probation Services field**

Head Council on Social Re-adaptation and Aid to Convicts Affairs (Rada Główna do Spraw Społecznej Readaptacji i Pomocy Skazanym)  
Address: Poland, 00 – 950 Warsaw, ul. Al. Jerozolimskie 11  
Tel. 48 22 56 18 415

## **Association of Probation Services workers**

National Association of Professional Probation Officers  
Address: Poland, 03 – 312 Warszawa, ul. Siemiatycka 9/51  
Phone/fax: 48 22 66 51 708  
e-mail address: [martuszezewicz@e-zone.com.pl](mailto:martuszezewicz@e-zone.com.pl)  
home page: <http://kurator.webd.pl>

Wielkopolska Association of Probation Officers  
Address: Poland, 64 – 920 Piła, ul. Łączna 37b/15  
Phone: 48 604 43 12 29  
e-mail address: [stowarzyszenie@kurator.org.pl](mailto:stowarzyszenie@kurator.org.pl)  
home page: <http://www.kurator.org.pl>

Penitentiary Association Patronat  
Address: Poland, 00 – 368 Warsaw, ul. Okólnik 11/9  
Phone/fax: 48 22 82 75 586  
e-mail address: [patronat@free.ngo.pl](mailto:patronat@free.ngo.pl)

Małopolskie Association PROBATION (Małopolskie Stowarzyszenie PROBACJA)  
Address: Poland, 31-063 Cracow, ul. Św. Katarzyny 3  
Phone: 48 12 423 55 70, 48 602 380 246  
Fax: 48 12 423 55 70  
e-mail address: [probacja@interia.pl](mailto:probacja@interia.pl) ; [nykowa@wp.pl](mailto:nykowa@wp.pl)  
home page: <http://probacja.w.interia.pl>

“Sławek” Foundation  
Address: Poland, Warsaw, ul. Al. Solidarności 17  
Tel: 48 22 473 33 03  
e-mail: [poczta@fundacja-slawek.eu](mailto:poczta@fundacja-slawek.eu)  
home page: <http://www.offradio.pl/fundacja/glowna.html>

## **Association of Probation Services clients**

„Bractwo Więzienne” Association  
Address: Poland, 85 – 033 Bydgoszcz, Plac Kościeleckich 7  
e-mail: [kontakt@bractwowiezienne.bydgoszcz.pl](mailto:kontakt@bractwowiezienne.bydgoszcz.pl)  
home page: <http://bractwowiezienne.bydgoszcz.pl>



## ANNEX 1

### Criminal Statistics

**Table 1 Adults sentenced by common courts for crimes prosecuted on the basis of an indictment by type of punishment as on 31 XII**

| Specification  | 2000    | 2004    | 2005    |
|--|---------|---------|---------|
| Total:   | 222 815 | 513 410 | 504 281 |
| <b>Fine:</b>   | 33 699  | 111 491 | 100 968 |
| Of which with conditional suspension of punishment                   | 17 73   | 4 207   | 3 551   |
| <b>Restriction of freedom:</b>                                       | 14 796  | 71 887  | 67 254  |
| the obligation to perform supervised unpaid work for specified goals | 14 507  | 71 283  | 66 557  |
| deductions from wages and salaries for work for a specified goal     | 289     | 604     | 697     |
| <b>Imprisonment</b>  | 174 184 | 327 331 | 334 378 |
| absolute   | 30 687  | 48 993  | 42 969  |
| with conditional suspension of punishment                            | 143 497 | 278 338 | 291 409 |
| of which supervision (Prob. Office. )                                | 56 876  | 80 706  | 80 148  |

**Table2  
Court Probation Officers as on 31 XII**

| Specification                        | 1995   | 2000   | 2004   | 2005   | 2007   |
|--------------------------------------|--------|--------|--------|--------|--------|
| Professional Probation officers for: |        |        |        |        |        |
| adults                               | 1 436  | 1 712  | 2 300  | 2 486  | 1 849  |
| juveniles                            | 1 619  | 1 825  | 1 748  | 1 652  | 3 101  |
| Voluntary Probation Officers for:    |        |        |        |        |        |
| adults                               | 7 793  | 13 866 | 17 597 | 19 226 | 18 421 |
| juveniles                            | 7 793  | 9 295  | 9 076  | 9 578  | 11 742 |
| Total                                | 18 461 | 26 698 | 30 721 | 32 962 | 35 113 |