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Conditional Sentences with Supervision and Community service (abstract)

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History of Polish criminal law:

1932 – the first Polish criminal code

1969 – the second Polish criminal code (introduction penalty of limitation of liberty – community service into Polish criminal justice system)

1997 – Polish Parliament adopted present Polish Criminal Code

From the beginning Polish criminal justice system was focused on imprisonment. In 1956 imprisonment was 85% of sentenced penalties. In 1988 it was 65%

In the time of Criminal Code of 1969 the penalty of restriction of liberty didn't replaced short – term imprisonment, what was aim of the legislature introducing this penalty into Polish criminal law system.

At present main regulations regarding the penalty of restriction of liberty are placed in articles 34 and 35 of the Criminal Code. The penalty of restriction of liberty shall be for not less than one month and not more than 12 months; it is imposed in terms of months. While serving the penalty of restriction of liberty, the sentenced person:

- 1) may not change his permanent place of residence without the permission of the court,
- 2) shall be obligated to perform work designated by a probation officer,
- 3) shall be obligated to provide explanations regarding the progress of terms of serving the penalty.

The obligation to perform a work shall be to perform supervised work for 20 to 40 hours a month, without remuneration and for community purposes. With regard to an employee, the court may decide that, instead of the obligation to perform a work, between 10 and 25% of the remuneration shall be deducted for the community purpose so designated by the court; the sentenced person while undergoing this penalty may not terminate his employment without the permission of the court.

Because majority of sentences in criminal cases imprisonment is used by a court, conditional suspending of the execution of a penalty of deprivation of liberty is the most important tool to avoid so huge overcrowding of prisons, that the system couldn't work.

The main regulations regarding the penalty of restriction of liberty are placed in articles 69 to 72 of the Polish Criminal Code.

The court may conditionally suspend the execution of a penalty of deprivation of liberty of up to 2 years or execution of a fine adjudicated as a one-off penalty or a the penalty of restriction of liberty, if it is regarded as sufficient to attain the objectives of the penalty with respect to the perpetrator, and particularly to prevent him from relapsing into crime. In suspending the execution of a penalty, the court shall primarily take into consideration the attitude of the perpetrator, his personal characteristics and conditions, his way of life to-date and his conduct after the commission of the offence.

Suspension of the execution of a penalty in the case of a conditional suspension of the execution of a penalty of deprivation of liberty, shall be granted for a probation period, which runs from the time the sentence becomes valid and is from 2 to 5 years. In suspending the execution of a penalty, the court may impose a fine of up to 270 times the daily rate.

In suspending the execution of a penalty, the court may impose to the sentenced person some obligations, such as, for example: to inform the court of the probation officer about the progress of the probation period, to apologise to the injured person, to carry out a duty incumbent upon him in order to provide support for another person, to perform remunerated work, to pursue an educational activity or train himself for an occupation, to refrain from abusing alcohol or using narcotics, to submit to medical treatment, particularly drug withdrawal or rehabilitation programmes, to refrain from frequenting specified community circles or places and other ones.