

Zbigniew HOŁDA, Andrzej RADEK

Social Penitentiary Councils in Poland *

Spółeczne rady penitencjarne w Polsce

In 1981 the Minister of Justice issued the regulations on "social penitentiary councils" (§ 36 of the Prison Rules of 1974 as amended 19.05.1981, regulations of 4.11.1981 on organizing and activity of social penitentiary councils). The idea was not new — so-called "penitentiary councils" had been appointed by the governors of prisons in the sixties and seventies. The first penitentiary council was organized in 1961.

Among the members of penitentiary councils were representatives of social associations and institutions, judiciary, local government, universities, etc. The penitentiary councils were interested mainly in after-release care and help, prison labour, culture and education.¹

The Penal Executive Code of 1969 has not mentioned the penitentiary councils. The matter has been regulated on lower level: § 35 of the regulations "on scope and organizing the penitentiary activities", issued by the Minister of Justice in 1975, stated that "governor of the prison may appoint penitentiary council" and that the council "cooperates with the governor". However, the detailed provisions were lacking. As a result, the prerogatives of the councils were unclear and dubious.

Actually the penitentiary councils had not played an important role. In several prisons the governors did not appoint councils, in others — councils,

* Paper presented at the 10th International Congress on Criminology, 4-9 September 1988, Hamburg.

¹ J. Korecki: *Współdziałanie zakładów karnych z instytucjami, organizacjami i społeczeństwem*, „Przegląd Penitencjarny i Kryminologiczny” 1984, No. 5, p. 14; R. Musidłowski: *Spółeczne rady penitencjarne*, „Przegląd Penitencjarny i Kryminologiczny” 1986, No. 9-10, p. 87; T. Szymanowski: *Udział społeczeństwa w wykonywaniu kary pozbawienia wolności w Polsce po II wojnie światowej*. [in:] S. Walczak [ed.]: *Spory wokół reformy więziennictwa*, Warszawa 1985, pp. 132-134.

once appointed, were dissolved (in the seventies). Other councils were trying to find their place in the system.²

It seems that penitentiary councils, being dependent on prison administration, were not able to play a really important role in prison system. They were not able to let public opinion monitor prisons and to give citizens the opportunity to engage in helping prisoners. They did not contribute to the protection of prisoners' rights.

But in 1981 the political climate was conducive to the movement for the independent control of prison administration, for prison reform and for prisoners' rights. Activity of Solidarity, a wave of group protest in penal institutions, initiation of two independent prison associations (Polish Penitentiary Association and Association for the Help to Prisoners and Their Families "Patronat") should be mentioned here.³

Government turned to the old idea of penitentiary councils facing strong, independent movement, which i.a. tried to control prison administration and to help prisoners. Undoubtedly, the government preferred penitentiary councils to independent prison association.

The councils, now "social penitentiary councils", got better status in 1981. According to regulations of the Minister of Justice (mentioned above), the presidents of the courts were obliged to appoint council for every prison (except detention centres).

However, on 13.12.1981 martial law was proclaimed. Prison associations were suspended and — later — dissolved by the government. But social penitentiary councils have been appointed by the presidents of courts after the martial law had been abolished in 1983. In the period from 1983 to 1985 councils were — gradually — appointed for every prison.

The duty of the councils is to cooperate with prison administration, to inspect prisons, to contact with prisoners and their families, to help prisoners; they are "to give the society the opportunity to contribute to the resocialization of prisoners" (§ 1, 2, 3 of the regulations of 4.11.1981).

According to § 4 of the regulations the council presents its "observations and proposals" to prison administration and to penitentiary judges and public prosecutors, eventually to other institutions and organizations. They are obliged to inform the council about their reaction (§ 12 of the regulations). Governor of a prison is obliged to inform the council on "problems of resocialization" and, if necessary, he gives the members of the councils the opportunity to take part in "conferences and meetings held in a prison" (§ 11 of the regulations).

Every council consists of no less than 7 members — prisoners and persons

² Korecki: *op. cit.*, *passim*; Szymanowski: *op. cit.*, *passim*.

³ P. Moczydłowski, A. Rzepliński: *Group Protests in Penal Institutions: The Polish Case*, „The Howard Journal of Criminal Justice” 1985, No. 1, pp. 10–19; Szymanowski: *op. cit.*, pp. 136–146.

visiting them have to be informed of their names and thus to have the opportunity of contact with them (§ 7 of the regulations). Members of the councils are appointed and dismissed by the presidents of the voivodeship courts. The candidates are suggested by social and state institutions. One of them has to be a probation officer (§ 5 of the regulations).

The sessions of the council (one in 3 months or more frequently) should be held in a prison: president of the court, penitentiary judge, public prosecutor, governor of prison, representative of superior authority of prison administration are entitled to be present (§ 9, 10, 13 of the regulations).

The expenses of the council are provided by the governor of the prison and the governor provides the council with the office service (§ 11, 14 of the regulations).

Actually social penitentiary councils (there are 80 of them) are too passive to be an important factor in the field of opening up the closed prison system. It seems that only the minority of them perform their duties and prerogatives properly, while the majority does not. During the national conference of the presidents of the councils, governors of the prisons and judges — held in January 1988 — a lot of weaknesses and problems of the activity of councils were stressed and discussed.⁴

The councils seem to be unable to deal effectively with prisoners' complaints or to control disciplinary proceedings in prisons. Very few of the councils manage to remain critical and fully independent of prison administration. Quarrels and conflicts between members of councils and governors and personnel of prisons are rare. It seems that most of the councils have too few contacts and talks with prisoners, and that their members do not inspect prisons (accommodation, sanitation, conditions of labour, medical care etc.) carefully enough. Many councils do not administer the after-release material assistance, although they have some special funds at their disposal.⁵

The members of the councils (ca 800) belong to various social classes. Many of them are representatives of factories, in which prisoners are employed, and of state administration (36.4%). Many of them are representatives of political and social organizations (25.8%). The percentage of workers (8.1%) or teachers and journalists (5%) is rather low.⁶

Some of members are not interested in the matters of imprisonment, some do not participate in the work of the councils. It happened that several persons connected with prison administration had been appointed to councils. It was necessary to dismiss some of the members, as they had been absolutely passive or for other reasons unfit for membership. Some of the members resigned. In

⁴ S. Podemski: *Wizjer w murze*, „Polityka” 18.02.1988, p. 6.

⁵ Musidłowski: *op. cit.*, pp. 89–94; Podemski: *op. cit.*, *passim*; Szymanowski: *op. cit.*, pp. 138–139; S. Podemski: *Potrzeba impulsów*, „Polityka” 26.09.1986, p. 1 and 6; J. Klemke: *Spoleczne rady penitencjarne — dziś i jutro*, „Rzeczpospolita” 7.12.1987, p. 5.

⁶ Klemke: *op. cit.*, *passim*; Musidłowski: *op. cit.*, p. 93.

several cases the personnel changes have improved the work of the councils. However, the presidents of the courts were not ready to appoint persons who were not connected with official institutions and were really interested in the prison system and were ready to fight for prisoners' interests.⁷

There are 6 social penitentiary councils in the district of the Voivodeship Court in Lublin. The study of them confirms the above suppositions.

Four councils were appointed in 1985, two — in 1987. Two of the councils consist of 7 members, others are larger (the largest — 13 members). In 1987 there were 56 members of them altogether (22 women and 34 men). Most of members — 33 persons — work in state administration, schools, courts, police, hospitals and in factories which employ prisoners. Other are representatives of social and political organizations (20 persons). Usually they are high-rank officials or directors.

Some of the members of councils do not actively participate in the work of the councils, and even do not take part in the sessions. The rest of them have no qualifications to be able to give to prisoners information and advice on legal matters. However, the President of the Court refused to appoint one person working at university, who had acceded to the active membership of the council, but had not been suggested by any organization or institution.

There are signs that in some cases the councils are dependent on prison administration (in one prison documents of the council were signed by a prison officer). Only one council had tried to inspect prison without announcement and to act quite independently of prison administration — as a result the conflict between the president of the council and the governor of the prison arose.

The councils prepare annual plans of work and reports. Usually the reports are vague. However, the plans and reports are the source of information on activities of the councils.

The sessions of the councils are usually hold every 3 months, the prison buildings and workshops and factories are usually said to be inspected monthly (although one council planned 2 inspections every month, while another — only 1 for 3 months). The councils plan the reception hours for prisoners — usually one day a month, but sometimes more frequently. Some of the councils plan also other kinds of activity: interviews with the families of prisoners, legal aid, lectures, inspection of prison school, exhibition of paintings, book fair etc.

It seems that actually there are few interviews with prisoners: some councils report e.g. 6 interviews in 3 months, others — 44 (while there are several hundred prisoners in every prison). The subjects of these interviews are various: conditional release, employment, assistance to prisoners' families, medical care, etc. The inspections are not accurate enough, the observations and proposals submitted to prison administration are vague.

⁷ Musidłowski: *op. cit.*, p. 93; Podemski: *Wizjer...*, *passim*; Podemski: *Potrzeba...*, *passim*.

What are the prisoners' opinions on the councils? We are currently conducting the research in a prison (for ca 600 inmates): 44 prisoners were asked i.a. if they knew that the social penitentiary council existed in their prison. 18 prisoners answered that they were not informed by prison administration on the matter but had been informed by other inmates. 2 prisoners answered that they had read about the councils in a journal, and 2 that they had heard about the councils when they had been imprisoned in other prisons, they had applied for an appointment with a member of the council but without results. 18 prisoners answered that they did not know about the councils. 1 prisoner said that when he was in another prison, his wife received financial assistance from the council, 1 prisoner said that a member of the council had helped him to contact with a barrister. 2 prisoners said that prison radio had mentioned the council acting in some prison in western part of the country.

It seems that the social penitentiary councils have much in common with late penitentiary councils. Of course, provided their independence of prison administration is secured and their members are really interested in prison problems and are ready to help prisoners, they may play some beneficial role for prisoners.

However, the councils cannot substitute for independent prison associations. The associations would contribute to the protection of prisoners' rights, would assist prisoners and their families and would give the public opinion insight into prison affairs. Undoubtedly the associations would also struggle for the reform of criminal justice system.⁹

STRESZCZENIE

Przedmiotem artykułu jest instytucja społecznych rad penitencjarnych. Rady powstały na mocy rozporządzenia Ministra Sprawiedliwości z 4 XI 1981 r. Członków rad, działających przy każdym zakładzie karnym, powołują prezesi sądów wojewódzkich. Po omówieniu historii oraz prawnych regulacji dotyczących rad przedstawiono wyniki badań dotyczących funkcjonowania rad w okręgu Sądu Wojewódzkiego w Lublinie. Wyniki badań oraz dotychczasowe oceny funkcjonowania rad skłaniają do stwierdzenia, iż rady nie stanowią optymalnego rozwiązania pomocy więźniom, są substytutem niezależnej organizacji (stowarzyszenia) kontrolującej życie zakładu karnego.

⁹ In 1989 one independent prison association (Patronackie Stowarzyszenie Penitencjarne) was registered. It appears to be more active than social penitentiary councils (they are nearly dead). The draft of new Penal Executive Code (1990) does not mention social penitentiary councils, although it provides for wide societal participation (involvement) and control of prisons.

