Selected aspects of professional responsibility of the social rehabilitation pedagogue

Abstract: Psycho-social educator profession belongs to the specific professions with special needs from the staffs in this job. This article presents specific of the psycho-social educator profession in the context of specifics professional needs and professional responsibility. Analysis presented in this article is addressed to the staffs of psycho-social rehabilitation units for juveniles in Poland, as well as to students of psycho-social rehabilitation pedagogy. Knowledge about professional responsibility it seems to be necessary for full professional skills of psycho-social rehabilitation educator in contest with responsibility in their daily work. Key words: psycho-social rehabilitation unit for juveniles, psycho-social educator, professional responsibility.

Introduction

The basic feature of most jobs is to have specific preparation in the scope of theoretical knowledge and practical skills, which allow one to perform the work associated with this job. Some jobs that require specialized knowledge and skills gained e.g. during university studies, also requiring certain predispositions of people performing them, are referred to as professions. In this context, the job of a social rehabilitation pedagogue belongs to a group of specific professions, requiring not only specialist knowledge and professional skills, but also statutory obligation to comply with moral principles by the representatives of this profes-
Among others, for these reasons it is also classified as belonging to the group of professions requiring the so-called public trust.

The term social rehabilitation pedagogue should be understood as pedagogue workers, who in accordance with the Polish law are employed as teachers on positions such as, among others, an educator, teacher at school, teacher of a profession, teacher of vocational training practice, psychologist, pedagogue and other pedagogical positions in social rehabilitation facilities. In defining the scope of considerations of this paper to the area of social rehabilitation of minors, such employment may primarily concern institutions such as: youth sociotherapy centres, youth educational centres, juvenile shelters, youth detention centres.

The work of a social rehabilitation pedagogue, apart from the described requirements of professional preparation and predispositions, is also connected with professional responsibility, understood not only in a general and colloquial way, but responsibility in the strict sense of the term, resulting from the numerous laws, which also contribute to the specificity of this profession. However, not all representatives of this profession are fully aware of the scope and potential effects of this responsibility. Especially employees with less experience, in the early years of their career. Awareness of this responsibility is also very limited among future practitioners, i.e. students of social rehabilitation pedagogy. In such cases, it is difficult to talk about full professional preparation, which should also include knowledge in the area of professional responsibility.

Widely understood legal professional responsibility of a social rehabilitation pedagogue may relate in practice to a number of areas:
— disciplinary responsibility,
— penal responsibility,
— civil responsibility,
— order responsibility.

A social rehabilitation pedagogue is exposed to the consequences of professional responsibility in a particular way, due to the nature of the realized professional tasks. The process of social rehabilitation education of minors is a series of situations of danger and loss of security, which are inscribed in its specifics. Placing a minor in a social rehabilitation facility, which basically takes place every time on the basis of a decision of the bodies and institutions working on behalf of the state and the existing legal system, rather than on the basis of the will and decision of the charge, in many cases determines the possibility of situations of danger and loss of security of varying degrees of severity and in various forms. The result of this, practically, restriction of liberty and freedom of the minor and existing forms of his behaviour, is a specific and in a sense natural for this process

2 Ibidem, art. 1.
“social rehabilitation conflict”. The frustrating and urgent necessity of modifying existing behaviour, inability to achieve such objectives and pleasures that were possible before placing the charge in the social rehabilitation facility, can in practice be a source of aggressive behaviour towards other charges and employees, the cause of escapes, rebellious behaviour, self-injuries and suicides. Such behaviours are represented in particular at an early stage of the stay at the social rehabilitation facility for minors, in some cases they accompany the minor for the entire duration of the stay, and sometimes their escalation is also observed, in spite of attempts to correct such behaviour. Dimensions of the social rehabilitation conflict understood in this way are also intensified in practice by other unfavourable factors, such as: subculture phenomena, mental retardation, deepening deviant behaviours often related to mental disorders. As a consequence of such a described social rehabilitation conflict, we have the charge on one side, and on the other the social rehabilitation pedagogue, who represents the applicable system of law, system of social standards and behaviour as well as educational principles of the facility operation. In some cases this conflict escalates, leading to situations of danger or total loss of security. This mechanism is often observed in practice of social rehabilitation facilities for minors. Lack of understanding of the essence of this problem and unprofessional actions undertaken in the event of such a situation cause the social rehabilitation pedagogue to be exposed to take actions and make decisions in his work that can result in legal charges connected with professional responsibility in different areas. Legal charges connected with professional responsibility may also be the consequence of errors and lack of professionalism in the realization of the more mundane, everyday tasks when working with the charges entrusted in his care.

Disciplinary responsibility of the social rehabilitation pedagogue

The primary area of professional responsibility of a social rehabilitation pedagogue involves disciplinary responsibility. It relates to cases of violations of official duties. In the case of a social rehabilitation pedagogue, the disciplinary responsibility results from the provisions of law applicable to teachers. In accordance with the provisions of the Teachers’ Charter, they are subject to disciplinary responsibility for breaching the dignity of the teaching profession or obligations: “The teacher is obliged to:


4 Act of 26 January 1982, The Teachers’ Charter... art. 75, item 1.
1) efficiently carry out tasks related to the position entrusted to him and the basic functions of the school: didactic, educational and care giving, including tasks related to ensuring the safety of pupils during activities organized by the school;
2) support every pupil in his development;
3) seek to achieve total personal development;
4) teach and educate young people to love the motherland, in accordance with the Constitution of the Republic of Poland, in an atmosphere of freedom of conscience and respect for every human being;
5) care for shaping moral and civic attitudes of pupils in accordance with the idea of democracy, peace and friendship between people of different nations, races and views of the world⁵.

It should be noted here, that the interpretation of the above range of potential sources of disciplinary responsibility is very wide: from quite a broad concept of breaching the dignity of the profession to equally widely determined responsibilities of the teacher. This means in practice a very wide range of behaviours of the social rehabilitation pedagogue and failures in execution of duties, which could become the basis of disciplinary charges connected with professional responsibility. In addition, it should be emphasized that provisions worded in this way extend not only to situations related to the execution of duties within or outside the facility, but also to some areas covering the private life of the social rehabilitation pedagogue, particularly in the context of breaching the dignity of the profession and statutory obligation to comply with moral principles mentioned above.

As a consequence of disciplinary charges towards a social rehabilitation pedagogue, severe penalties can be applied, in the form of:
— a reprimand with a warning,
— disciplinary dismissal,
— disciplinary dismissal along with a ban on employing the penalized to work in educational profession for the period of 3 years from the date of the penalty,
— expulsion from the teaching profession⁶.

The mode of disciplinary charges provides for two instances of proceedings, according to which the cases in the first instance are investigated by disciplinary commissions at voivodes, and in the second instance, in the case of teachers working in social rehabilitation facilities for minors, the appeal disciplinary commission of the Minister of Education. Judgments of the appeal commission are subject to the right to appeal to the court of appeal – labour and social security

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⁵ Ibidem, art. 6.
⁶ Ibidem, art. 76.
court having jurisdiction over the seat of the social rehabilitation pedagogue\textsuperscript{7}. Disciplinary penalties, with the exception of the penalty of expulsion from the teaching profession are subject to expungement after 3 years from the date of delivery of the final judgment of penalty\textsuperscript{8}.

**Order responsibility of the social rehabilitation pedagogue**

Employment and the fact of being in an employment relationship, apart from benefits and rights arising from them, with the most prominent right to remuneration, are also connected with the so-called order responsibility. The social rehabilitation pedagogue, like every employee, for failure to comply with the adopted organization and order at the workplace, failure to comply with the provisions of occupational safety and health, fire regulations, as well as the adopted way of confirmation of arrival and presence at work and justification of absences, may be punished with:
- admonition,
- reprimand,
- financial penalty, in the case of non-compliance with the provisions of occupational safety and health or fire regulations, leaving work without justification, coming to work drunk or consuming alcohol during working hours\textsuperscript{9}.

Apart from the very important, but at the same time clearly understood issues of safety and health at work, fire safety, offenses in the scope of presence at work and alcohol consumption, it is worth paying attention at this point to the term “non-compliance with the adopted organization and order in the process of work”. In practice, it covers a variety of errors and misconducts on the part of the social rehabilitation pedagogue, which can result in order charges. This expression comprises both failure to comply with the existing internal procedures, such as in the detailed method of organizing duty hours, organization and agenda, as well as failure to comply with procedures, for example in terms of circulation and exchange of official information.

The provisions of Labour code determine in detail the conditions which must be respected in the case of the imposition of order penalty, as well as the obligation of recognizing it as void and removing it from the employee’s personal file after a year of impeccable work\textsuperscript{10}.

\textsuperscript{7} Ibidem, art. 77.
\textsuperscript{8} Ibidem, art. 82.
\textsuperscript{10} Act of 26 June 1974, Labour code…, art. 109–113.
Civil responsibility of the social rehabilitation pedagogue

The very broad range of responsibilities associated with the work of a social rehabilitation pedagogue, but also the correctional institutions for minors themselves, results from the civil law. Still, compared with countries with a much more viable legal culture of protecting personal rights, in Poland it is still used quite rarely. It should be expected that in the near future in this area of professional responsibility of a social rehabilitation pedagogue, significant changes will occur and the number of cases of claims of the minors and their representatives will increase.

Among the goods subject to civil-legal protection, the following should be included first and foremost – the right to the protection of health, image, name or nickname, artistic work. On the basis of observation of practices of social rehabilitation facilities for minors, it can be noted that protection of these goods is not always respected in the proper way, as a result of mistakes, offenses and negligence. In many cases, the awareness of the relationship between the seemingly trivial cases and consequences in the form of infringement of personal rights is very small among social rehabilitation pedagogues. For example, an infection of the charge with hepatitis B or C, caused by using the same cosmetic tools, which were used by another charge, who is a carrier of this disease, or lack of proper supervision and letting such infections happen as a result of the use of common tools for tattooing is a negligence, for which there might be civil charges pressed against both the employee who failed to supervise in this respect, as well as the social rehabilitation facility itself, as an institution not providing the appropriate sanitary and hygiene conditions. The subject of claims and liability may also be damage to health resulting from the non-professional or unjustified use of means of physical coercion. In the area of protection of the image of the charge at a social rehabilitation facility, publishing a photo of a minor charge without the consent of his parents or legal guardians is also an example of infringement of his personal rights.

Claiming compensation due to the infringement of personal rights can consist in a request to refrain from actions violating personal rights, removal of the effects of such an infringement, requesting financial compensation or paying a certain amount for social purposes. Particularly severe consequences may be related to responsibility of the social rehabilitation pedagogue in regard to physical injury or causing health disorders: “In the event of physical injury or causing health disorders, compensation for damage includes any costs arising from this. At the request

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12 Ibidem, art. 24.
of the injured party, the person obliged to repair the damage should advance the amount needed to cover the costs of treatment, and if the injured party has become invalid, also the sum required to cover the cost of training for another profession. [...] If the injured party has lost all or part of the earning capacity or if his needs have increased or his views of success for the future have decreased, he may require an adequate pension from the person obliged to repair the damage".13

**Penal responsibility of the social rehabilitation pedagogue**

Responsibility arising from the violation of the provisions of criminal law has very severe consequences for the social rehabilitation pedagogue and is extensive in the further consequences resulting from it. This is due to the fact that in accordance with the provisions of the already mentioned Teachers’ Charter, the teacher’s employment relationship is terminated by law, among others in the case of final conviction by a court for an offense committed intentionally14. The problem in practice is a frequent lack of opportunities to qualify some acts and behaviours as a crime. In the case of a final decision of the court, in addition to the dismissal from work, it also results in a punishment ruled by the court, for example, the punishment of imprisonment. Taking into account the practice and analysis of potential risks, special attention should be paid to the potential responsibility and the consequences associated with behaviours defined in the Criminal Code, which may occur as a result of:

- causing an event that threatens the life or health of many persons or property in big sizes, in the form of, for example, fire,
- threatening another person with committing a crime,
- restricting the rights of religious affiliation or non-religiousness,
- slandering another person,
- insulting,
- hitting or other violations of bodily integrity,
- disclosing or using, contrary to the accepted commitments, information acquired in connection with the performed function or work15.

The above behaviours of course do not cover all criminal law offenses, especially those typical and colloquially called common criminal offenses, committed also outside the workplace (for example, driving under the influence of alcohol). Examples have been cited in order to show potential legal and penal consequences, as well as responsibility of the social rehabilitation pedagogue as a result of behaviours and actions which he is not always fully aware of. Committing such

13 Ibidem, art. 444, § 1–3.
15 Act of 6 June 1997 r. Penal code..., art. 163, 190, 194, 212, 216, 217, 266.
acts may be a consequence of unprofessional and unconscious actions of the social rehabilitation pedagogue, at the time of the execution of daily duties.

In the area of criminal liability of a social rehabilitation pedagogue, it is also worth mentioning the possibility of applying legal provisions of the Criminal Code on going beyond the scope of the granted authority or failure to comply with obligations and as a result working against the public or private interests, punishable by fine, restriction of liberty or imprisonment of up to ten years in the case of actions associated with the achievement of financial or personal benefits by a public official.\textsuperscript{16} Polish law does not categorize teachers in the group of public officials in the context of their criminal-law responsibility\textsuperscript{17}, but in practice of ongoing criminal proceedings, perhaps due to the relatively small number of them on the national scale, one can see examples of treating teachers in the context of criminal prosecution as a public official. Perhaps this is due to the fact of transferring the definition of a public official on a person performing a public function, and a teacher – social rehabilitation pedagogue can be considered as such. Regardless of the attempts to interpret the law, an unambiguous decision on the possibility of charging the social rehabilitation pedagogue as a public official can only be done by the supreme court. However, taking into account the cases of initiating such procedures observed in practice, one should be aware of the risk, in the context of professional responsibility of a social rehabilitation pedagogue.

**Suspension in the performance of duties and dissolution of the employment agreement**

Legal charges connected with professional responsibility of a social rehabilitation pedagogue, regardless of the mode in which it is carried out, can result in many cases in the dissolution of the employment agreement, preceded by, in some cases, the suspension in the performance of duties. Dissolution of the employment agreement, understood in the context of professional responsibility, as a consequence of mistakes or negligence, can be implemented in different legal modes and depends on the form of the employment relationship, the degree of professional promotion of the teacher and the type of offense.

In the case of a social rehabilitation pedagogue employed for a specified period on the basis of an employment agreement, for example a trainee teacher, the mode of disciplinary responsibility along with its consequences is not used. An agreement with such a person can be dissolved even without giving any reasons and justifications, if such a possibility was included in the employment agreement. It is only required to maintain the conditions of dissolution of the employment agreement.

\textsuperscript{16} Ibidem, art. 231.

\textsuperscript{17} Ibidem, art. 115 § 13.
employment agreement provided for in the records of the Labour Code, with a notice or dissolution of the employment agreement without notice, which is so-called disciplinary dismissal\(^{18}\). Dissolution of the employment agreement concluded for an indefinite period, for example, with a contract teacher, shall also be made as provided for in the above provisions of the Labour Code. The reason for dissolution of the employment agreement without notice, which is a so-called disciplinary dismissal, may be circumstances provided for in infringements in the area of disciplinary, penal and order responsibility\(^{19}\).

Termination of the employment relationship may slightly differ in the case of a social rehabilitation pedagogue employed on the basis of an appointment, and therefore, in the case of a nominated or certified teacher. Dissolution of the employment agreement concluded on the basis of an appointment with a nominated or certified teacher takes place at the end of the school year, with at least three months’ notice\(^{20}\).

The employment relationship of a teacher is terminated by law, is obligatory and independent of the form of the employment relationship and the degree of professional promotion, among others, as a result of the following:

— final punishment in disciplinary proceedings of disciplinary dismissal and disciplinary dismissal along with a ban on employing convicted persons to work in the educational profession for a period of three years from the date of the conviction or expulsion from the teaching profession (this does not apply to trainee teachers),

— final conviction to a penalty comprising deprivation of public rights or the rights of profession or loss of full legal capacity,

— final conviction for a crime committed intentionally,

— passage of the period of three months of imprisonment\(^{21}\).

Disciplinary or criminal proceedings may also be connected with the suspension of the social rehabilitation pedagogue in the performance of his duties and a reduction of remuneration associated with this\(^{22}\). Obligatory suspension in the performance of duties takes place in the case of criminal proceedings or request for the opening of disciplinary proceedings concerning the infringement of rights and welfare of the child, and in the case of detention or imprisonment in connection with criminal proceedings. The so-called optional suspension in the performance of duties, which shall be decided by the director of the facility, and towards the director – the governing body, can occur in other cases of criminal proceedings or request for the opening of disciplinary proceedings, if given the


\(^{19}\) Ibidem, art. 52–55.


\(^{21}\) Ibidem, art. 26.

\(^{22}\) Ibidem, art. 83–84.
seriousness and credibility of the allegations it is justified to withdraw the social rehabilitation pedagogue from the performance of his duties, especially in urgent cases. Such suspension may also take place before the request for the opening of disciplinary proceedings.

Dissolution of the employment agreement with the social rehabilitation pedagogue employed on the basis of appointment is also possible as a consequence of receiving a negative evaluation of work\(^\text{23}\), which should take into account the negative assessment of the realization of professional duties or infringements within the scope of the established work order\(^\text{24}\).

**Conclusions and final comments**

To summarize the above considerations, it should be emphasized once again that the responsibility of a social rehabilitation pedagogue should be considered special. The presented analysis shows that its unique nature consists primarily in the existence of many legal areas, which may be the basis of pressing charges connected with that responsibility. They relate to the mentioned disciplinary responsibility, responsibility arising from labour law, criminal law and civil responsibility. The specificity of the professional responsibility of a social rehabilitation pedagogue is additionally intensified by the significantly higher, in comparison with other representatives of the teaching profession, number of situations that may result in pressing charges connected with legal professional responsibility. Social rehabilitation conflict, inherent for juvenile facilities and the related situations of danger and loss of security, can determine actions and behaviour of the social rehabilitation pedagogue, and consequently result in pressing charges connected with legal professional responsibility. At the same time, it should be emphasized that this problem applies to all pedagogue employees of social rehabilitation facilities for minors, referred to here as the “social rehabilitation pedagogue”, regardless of the job position or function. In addition, the same act, offense or negligence can result in liability provided for in various legal-disciplinary modes, and their use does not exclude one other. Apart from the penalties provided for by the applicable law, one of the most severe potential consequences can be job loss, which in today’s realities of the labour market has special significance.

\(^{23}\) Ibidem, art. 23, sec. 1, point 5.

\(^{24}\) Ordinance of the Minister of Education of 2 November 2000, on the criteria and method of assessing the work of a teacher, appeal proceedings as well as composition and method of appointment of the assessment team, Journal of Laws 00.98.1066 – consolidated text as amended, § 2, item 6, item 8; Ordinance of the Minister of Education of 11 February 2002, on the criteria and method of assessing the work of teachers in youth detention centres, juvenile shelters as well as family diagnostic and consultation centres, appeal proceedings as well as composition and method of appointment of the assessment team, Journal of Laws 02.34.317, § 2, item 1, § 3.
Regardless of the possible consequences for the social rehabilitation pedagogue, all the negative effects of the mistakes, lack of professionalism, negligence and other situations firstly affect the most important people – the charges themselves of the described social rehabilitation institutions. In this context, the applicable law connected with professional responsibility of a social rehabilitation pedagogue can be considered as very much needed. They allow to eliminate situations related to the violation of the rights of minors in social rehabilitation institutions, along with the possibility of eliminating from this professional group people who do not comply with the basic ethical and professional requirements.

Taking into account the described determinants of professional responsibility of a social rehabilitation pedagogue, it should be noted that in addition to the necessary knowledge and essential skills, personality traits and predispositions, also education in the scope of professional responsibility is needed, essential for the full and professional preparation to work in this profession. This applies both to people already engaged in the profession, as well as future practitioners – students of social rehabilitation pedagogy.

**Literature**


[2] Legal acts


[8] Ordinance of the Minister of Education of 11 February 2002, on the criteria and method of assessing the work of teachers in youth detention centres, juvenile shelters as well as family diagnostic and consultation centres, appeal proceedings as well as composition and method of appointment of the assessment team, Journal of Laws 02.34.317.