

Problem-Solving Justice in Criminal Law in Poland

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1. Introduction

Pressure for efficiency and financial constraints, as well as social concerns about legitimacy of the justice system and social cost of an excessively repressive sentencing policy, have led to a dynamic proliferation of problem-solving justice since the 1980s, first in the United States, and later in other jurisdictions. While problem-solving courts have been implemented mainly in common law jurisdictions, elements of problem-solving also permeated continental legal systems. Similar challenges also led Poland, a country with a recent experience of democratic transition, to include or expand elements of problem-solving into its legal and court system. This paper offers an overview of these challenges and problem-solving measures developed in Poland after 1989 to address them. Barriers to a more comprehensive problem-solving approach are also identified.

In terms of criminal policy, until recently Poland has been a paradoxical case. Over the past decades, the country has maintained a relatively restrictive criminal policy despite low levels of crime.¹ Due to demographic trends (including an almost 50% decrease in the number of people between 17-24 years of age, between 2004 and 2014), the level of crime is poised to decrease even further in the nearest future.² On average, Poles feel safe and crime is not a major issue in either local or national policy. Combined with relatively good and improving budget prospects since 2015, this means authorities face less pressure to look for innovative solutions, such as the problem-solving approach. As a result, elements of problem-solving are dispersed throughout a system that is largely traditional and isolationist; despite a reasonable legal framework, their use in practice often lags far behind.

While the concept of problem-solving justice is absent from the official discourse, elements of problem-solving can still be found both in the law and in court practice. To include these scattered and variegated initiatives and practices that do exist, a broad understanding of this approach is adopted here. Thus, this paper first outlines the broader context of the Polish justice system (section 2) and addresses the relative absence of the concept of problem-solving justice in the public discourse (section 3), to offer a review of those problem-solving measures that do exist in the current legal system, with particular focus on sentencing policy (section 4), mediation and alternative dispute resolution (section 5), and criminal and family law (section 6). It is important to stress at the outset, though, that the philosophy that permeates the Polish justice system has traditionally focused on isolation and punishment, and many interventions that could

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1 As measured by the number of people incarcerated in relation to the total population (ca.38 mln in 2016). As the Ministry of Justice declares, though, the Polish criminal code is relatively lenient towards offenders (as compared to other EU countries). In November 2016, a more restrictive approach to a number of criminal acts was announced (see A. Łukasiewicz, 'Trzeba zaostrzyć kodeks karny, bo sądy są łagodne – uważa MS', *Rzeczpospolita*, 6 November 2016), and successive amendments to the Criminal Code enforced this idea.

2 A. Łukasiewicz, 'Wojciech Hajduk: liczba przestępstw w Polsce spada', *Rzeczpospolita*, 8 December 2014, p. C2.

be remodelled according to the problem-solving approach (such as treatment of driving while intoxicated (DWI) offenders) are still forced upon the offenders.³

2. General picture of the Polish justice system

Since the democratic transition in 1989, Polish courts have been facing new challenges. On the one hand, the need for a deep reform of the court system has been universally acknowledged. On the other, concerns for the rule of law led politicians to leave the court system largely unchanged, dismissing voices that urged lustration and removal of those judges who were subservient to the communist regime. What changed, however, was the social environment in which the old, hierarchical structure had to operate. While public opinion polls kept indicating that Poles distrust the courts, citizens increasingly have been turning to courts to solve their disputes. In 1989, 1.9 million cases were presented to the courts; in 2015 this number reached 15.2 million. This dramatic increase in litigation resulted in reforms focusing on improved efficiency and better case-flow management. New court buildings were built or the old ones were modernised; investments in IT systems (such as highly efficient e-court for small claims, launched in 2010), as well as video-recording of court hearings were all aimed at speeding up the resolution of cases.

2.1 Trust in the justice system

None of these measures, however, helped improve the public perception of the justice system. In a March 2017 poll, only 45% of those respondents who had contact with a court during the five years preceding the poll had a positive opinion of the way courts work, while 50% had a negative opinion. These numbers have remained virtually unchanged since the previous poll in 2012, despite several important reforms implemented in the meantime that were aimed at increasing trust and speeding trials up. One notable example of such a reform was video recording of court hearings, gradually implemented since 2010, first in connection to civil cases, and in 2014 also in misdemeanour cases. While officially the reason behind this costly project was to modernise the way court records are being created (judges used to dictate the records, repeating after the parties, now the records are electronic and parties may receive a CD along with an abbreviated transcript), in fact the legislator wanted also to discipline all parties to the hearing, including judges, and in this way bolster citizens' trust in the transparency and impartiality of the judges.

Like in previous years, the main reasons for citizens' dissatisfaction with the courts were: excessive duration of court proceedings (48%), excessive complexity of court procedures (33%), and – surprisingly in the light of other sources⁴ – corruption (30%).⁵ More in-depth studies, carried out by non-government organisations (NGOs), indicate that citizens' dissatisfaction with the justice system in Poland has more fundamental, systemic reasons than merely the system's insufficient efficiency. These reasons include lack of punctuality, insufficient flow of information, relative lack of transparency and judicial disciplinary procedures that are inefficient and prone to abuse – all of them, in result, contribute to a (grossly distorted) public perception of judges as prone to corruption. In fact, among those dissatisfied with courts, 33% blamed corruption as the third most serious reason for their negative opinion – a sharp contrast with just a few dozen disciplinary investigations launched every year against judges and a perception by experts that corruption in courts is an exception.⁶

3 A new law on drunk driving, enforced on 1 July 2017, restricted judges' ability to impose suspended prison sentences on repeat DWI offenders. While the law allowed for the installation of ignition interlock devices, no measures allowing for a mandatory alcohol therapy were included in the final version of the bill.

4 Between 2001 and 2016, five judges were found guilty of corruption in relations to their function. See data reported by Judge Marek Hibner, disciplinary spokesman for the Polish judiciary in *Informacja o sprawach korupcyjnych dotyczących sędziów sądów powszechnych*, Appellate Court in Katowice, <<https://www.katowice.sa.gov.pl/index.php?p=new&idg=mg,5&id=328&action=sho>> (last visited 25 September 2017). See also G. Makowski, *Korupcja jako problem społeczny* (2008).

5 Center for the Study of the Public Opinion (*Centrum Badania Opinii Społecznej*, CBOS), *Społeczne oceny wymiaru sprawiedliwości*, report no 31 (March 2017), p. 7.

6 For example, in 2013 there were in total 77 disciplinary proceedings against judges, compared to the total number of 11,748 sitting judges; see *Odpowiedź sekretarza stanu w Ministerstwie Sprawiedliwości - z upoważnienia ministra - na interpelację nr 25438 w sprawie postępowań dyscyplinarnych w stosunku do przedstawicieli zawodów prawniczych*, <<http://www.sejm.gov.pl/sejm7.nsf/InterpelacjaTresc.xsp?key=7191F2D2>> (last visited 2 September 2017). Nevertheless, even isolated cases of corruption tend to have a

Wide and easy access to court (both in terms of court costs, as well as legal barriers), combined with an excessively complex structure (de facto five tiers) invites litigants to push even relatively minor cases through several instances. This, obviously, is costly and limits the time and resources judges can spend dealing with more complex and socially significant cases. Inefficient allocation of available resources makes the court system in Poland one of the most expensive in the EU (relative to the GDP).⁷ There are more than 10,000 judges in Poland, and public expenditures on courts are well above the EU average.⁸ Despite these investments, judges themselves repeatedly complain about insufficient remuneration and poor working conditions.⁹

2.2 Recent reforms and controversies

This short overview illustrates some of the challenges Polish courts face. On top of these organisational and legal-philosophical dilemmas, one should mention current political controversies. Over the past 28 years, Poland has had 30 Ministers of Justice, each of them trying to reform the system. Since 2015, the Law and Justice government embarked on a series of deep reforms that promise – according to some, and threaten, according to others – to fundamentally change the Polish judiciary. In 2016, a controversy over the Constitutional Tribunal (*Trybunał Konstytucyjny*) attracted international attention; critics feared that the executive was able to effectively subordinate the body by altering selection procedures.¹⁰ And in 2017, a similar effort led to a remodelling of the National Council of Judiciary (*Krajowa Rada Sądownictwa*) – the constitutional body charged with selecting future judges. Combined with a generally ‘tough on crime’ message of the ruling party, these changes made it difficult for advocates of a problem-solving approach.¹¹ While not directly related to problem-solving, these reforms provoked hostile reactions from the judiciary, and diverted attention from other, more practical problems.

As outlined above, thus far the intense public and political debate on reforming the justice system tended to focus on basic issues: such as preserving judicial independence while assuring judicial accountability. Given the increasing caseloads, efforts concentrated on improving case-flow. In a vicious cycle, improved efficiency allowed the system to take in even more cases. Numerous commentators, such as former ombudsman and a Constitutional Tribunal judge Ewa Łętowska, remarked that the rights of access to court granted to citizens after 1989 – in reaction to instances of abuse during the communist era – invited abuse.¹² Summing up, pursuit of efficiency and excessive focus on instrumental factors combined with a relative neglect of the subjective experiences of litigants all explain why a problem-solving approach has not been a central issue in debates concerning the Polish system of justice.

large negative impact on the public perception of the judiciary. In May 2017, several employees of the Appellate Court in Kraków were arrested on corruption charges; the head of the court was also believed to participate in the corruption practices, although no charges were yet presented him due to procedural issues; see P. Rapalski, ‘Korupcja w Sądzie Apelacyjnym w Krakowie. Są kolejne zatrzymania’, *Gazeta Krakowska*, 31 May 2017, <<http://www.gazetakrakowska.pl/wiadomosci/krakow/a/korupcja-w-sadzie-apelacyjnym-w-krakowie-sa-kolejne-zatrzymania,12131814/>> (last visited 29 September 2017).

7 In 2014, Poland ranked second among those EU members with the largest percentage of GDP spent on courts of law. Still, it only ranked 17 in terms of expenditure on courts per inhabitant. See European Commission, Directorate-General for Justice and Consumers, *The 2016 EU Justice Scoreboard*, <http://ec.europa.eu/justice/effective-justice/files/justice_scoreboard_2016_en.pdf> (last visited 29 September 2017), p. 24 (Figures 28 and 29).

8 In 2014, Poland ranked 7 in terms of the number of judges per 100,000 inhabitants. See *The 2016 EU Justice Scoreboard*, *ibid.*, p. 25.

9 In 2008 and 2011 many judges protested against a freeze on their salaries. The author’s own experience talking to numerous judges throughout Poland in their offices confirms that in some cases working conditions still remain far from perfect (and may mean up to three judges have to occupy the same room and share one assistant).

10 See an English-language overview of major legislation prepared by Helsinki Foundation for Human Rights (*Helsińska Fundacja Praw Człowieka*), a non-government legal think tank critical of the Law and Justice government: M. Szuleka et al., *The Constitutional Crisis in Poland 2015 – 2016* (August 2016), <http://www.hfhr.pl/wp-content/uploads/2016/09/HFHR_The-constitutional-crisis-in-Poland-2015-2016.pdf> (last visited 25 September 2017).

11 Unfortunately, this message resonates well with the public opinion. Despite the relatively restrictive criminal justice system in Poland, and a significant decrease in levels of crime, Polish society remains punitive. In a February 2017 CBOS poll, 70% of respondents declared that ‘overall, it would have been better, if punishment for those breaking the law would have been tougher’ (CBOS 2017, p. 3). Interestingly, though, this is a bit less than in 2012, when 76% of respondents were of the same opinion. See K. Krajewski, ‘Punitive Attitudes in Poland – the Development in the Last Years’, *European Journal of Criminal Policy and Research* 15 (2009), DOI:10.1007/s10610-008-9092-5, pp. 103-120.

12 E. Łętowska, ‘Niedomagająca legitymizacja trzeciej władzy’ (2010) 3 *Monitor Prawniczy*, pp. 30-34.

3. Problem-solving: terminological issues

Problem-solving justice is a model of court organisation and practice that seeks to address social problems at the root of legal disputes, and resolve cases in a way that ‘responds to the concerns of key stakeholders – victims, community residents, defendants’.¹³ In the area of criminal justice, where the approach originated and is practised most widely, it shifts the attention of the justice system from mere punishment of criminals to a more comprehensive understanding of crime, starting with the circumstances that led to it, through efforts to remove or repair harm resulting from crime, as well as undertaking steps that could prevent future offences. Mansky, Porter and Rempel of the New York Center for Court Innovation list three organising principles of any problem-solving court: focusing on ‘solving underlying problems of litigants, victims, or communities’, fostering ‘interdisciplinary collaboration with players both internal and external to the justice system’ and ‘promoting compliance by participants/litigants, (...) and accountability by the court itself to the larger community’.¹⁴ In the daily operation of courts, this may involve in-depth screening of litigants, linking them to individualised treatment or services, involving various stakeholders (such as representatives of the local community, in which the court operates) in drafting court policy and decision making, and careful monitoring of litigants.

Thus defined, the concept of problem-solving justice or courts is virtually absent from public discourse in Poland, as well as largely foreign to representatives of the judiciary and the executive. One major exception is the national Strategy for the Modernization of the Justice System (2014-2020), published in February 2014 by the Ministry of Justice. While the document is more of a mission statement than a binding roadmap for reforms, it is undoubtedly the first comprehensive strategic vision for the Polish system of justice. So far, previous reforms have been inconsistent and at times even revoked after a short period of time.¹⁵ If implemented, the Strategy would certainly bolster solutions and thinking close to the problem-solving approach, such as restorative justice, mediation and alternative sentencing. The concept of problem-solving is discussed explicitly, though briefly, citing the example of community courts.¹⁶ This brief mention was proposed by this author during the process of public consultation of the Strategy; however, so far there has been no institutional follow-up.

Despite the absence of problem-solving justice as a concept, however, other related terms and concepts have been widely discussed and heavily promoted in Poland. This refers to alternative dispute resolution (ADR) in general, and mediation in particular. Government efforts to increase the number of mediations can be viewed partly as a strategy to improve people’s experience with the justice system, and partly as a way to reduce the considerable financial costs of the present system that encourages litigation while neglecting victims. While other ADR practices are admissible under the Polish law, in practice, ADR is largely reduced to mediation – at present the number of mediations per year is universally regarded as very low, contributing to excessive recourse to courts and low level of satisfaction of court-mandated decisions (see the next section). The Ministry of Justice has launched several campaigns to promote mediation and other restorative measures.

4. Sentencing policy

4.1 Probation

Problem-solving courts in the United States use probation as an opportunity to combine alternative sanctions with therapeutic assistance to offenders, and various other interventions designed to address

13 A. Mansky, ‘Problem-solving justice: responding to real problems, real people’ (2008) 57 *Criminal Justice Matters* no. 1, DOI:10.1080/09627250408553648, pp. 30-31.

14 Center for Court Innovation, A. Mansky et al., *What Makes a Court Problem-Solving? Universal Performance Indicators for Problem-Solving Justice* (2010), <http://www.courtinnovation.org/sites/default/files/What_Makes_A_Court_P_S.pdf> (last visited 12 September 2017).

15 On 1 July 2015, Poland adopted the adversarial criminal justice system, in order to speed up criminal trials. The introduction of the new system was deeply contested by the prosecutors. However, the victory of the Law and Justice party in the parliamentary elections in October 2015 resulted in the reform being cancelled; in April 2016 Poland returned to the inquisitorial criminal system. While the adversarial system was never fully implemented, both reforms required a huge effort on the part of criminal courts and the prosecution.

16 *Strategia modernizacji przestrzeni sprawiedliwości w Polsce na lata 2014-2020*, <<https://ms.gov.pl/pl/dzialalnosc/strategia/download,2680,0.html>>, pp. 16-17 (last visited on 12 September 2017).

the underlying problems that brought the litigants to court.¹⁷ To make this assistance more efficient and relevant, judges are designated to deal with certain types of cases and certain groups of litigants (e.g. drug addicts or mentally ill people), gaining necessary expertise along the way or during special training. No equivalents of these practices exist in Poland. While judges are able to mandate therapy in certain cases (see section 6.1 below), and while some of them deal with certain types of offenders regularly, other features of problem-solving – such as concentration of resources, enhanced diagnosis and supervision – are missing. Therefore, what follows is a brief overview of key challenges faced by Polish probation services, and a discussion of sentencing patterns that until recently were fundamentally at odds with the spirit of problem-solving justice.

For a number of years, Poland has ranked among EU countries with the highest incarceration rate.¹⁸ This has been especially puzzling given that levels of registered crime have generally been lower than the EU average, and kept decreasing. Among the reasons for this paradox, ineffective probation and unsustainable sentencing policy were important.¹⁹ In 2009, 1% of the Polish population were under probation – such high levels of supervision persist until the present day.

This has several negative consequences. First, probation officers are unable to effectively supervise such a large number of people (between 120 and 150 people per probation officer).²⁰ Those supervised are thus less likely to comply with the conditions of probation. As a result, in 2011, most people (39%) sentenced to prison were people who initially were given suspended sentences with probation and violated probation conditions; only 34% defendants received a direct (unconditional) prison sentence. Judges have also demonstrated a tendency to impose longer probation periods, rather than short prison sentences, which ultimately resulted in relatively minor offenders receiving relatively long prison sentences (for breaking the conditions of probation). For decades, suspended prison sentence has been the most frequently imposed sanction (e.g. 61% of all convictions in 2007, followed by fine – 18%). This tendency led to what Mycka and Kozłowski called a ‘levelling of sanctions’: serious offenders tended to receive relatively mild sanctions, while minor offenders receive relatively harsh sentences.²¹

4.2 Suspended prison sentences

Problem-solving justice requires an enhanced flow of information and a thorough diagnosis of the defendant. Another serious negative consequence of Polish sentencing policy, however, has been a lack of in-depth diagnosis of offenders. Defendants often received suspended sentences even in the absence of a positive criminological prognosis. In the end of 2012, there were almost 300,000 offenders who had been sentenced for a suspended prison sentence at least twice. 100,000 people received a suspended prison sentence at least three times. There were instances where the same offender had 20 or more such sentences pending.²² These numbers are not reflective of high reoffending rates, but rather illustrate judges’ misguided reasoning: instead of imposing relatively mild but immediate sanctions (such as fines or community service), they have often chosen to impose longer suspended prison sentence, in hope to deter the defendant from committing further offences. However, long periods of suspension, combined with addictions (or other systematic problems) underpinning the behaviour of many offenders, have been consistently resulting in many offenders violating the conditions of probation, ending up with a disproportionately long prison sentence for a relatively small offence. Judges have also been hesitant to impose additional obligations to

17 See for example J. Skeem & J. Petrila, ‘Problem-solving supervision: Specialty probation for individuals with mental illnesses’ (2004) *Court Review*, Winter, pp. 8-15; R. Campbell & R. Wolf, *Problem-Solving Probation: An Overview of Four Community-Based Experiments* (2018), <<https://www.courtinnovation.org/sites/default/files/documents/appa%20version.pdf>> (last visited 14 November 2018).

18 In 2016, the incarceration rate in Poland was 188 per 100,000 inhabitants, compared to 103 in France, 78 in Germany and 59 in Sweden, with the median for the Council of Europe member states at 117. See Council of Europe, *Annual Penal Statistics, SPACE I – Prison Populations, Survey 2016* (20 March 2018), <<http://wp.unil.ch/space/files/2018/03/SPACE-I-2016-Final-Report-180315.pdf>> (last visited 14 November 2018), p. 37.

19 K. Mycka & T. Kozłowski, ‘Paradoksy polskiej polityki karnej, czyli jak zapelniamy więzienia nadużywając środków probacji’, *Probacja* no 2/2013, pp. 5-37.

20 C. Heard, European Prison Observatory, *Alternatives to Imprisonment in Europe: A Handbook of Good Practice* (2016), p. 26.

21 Mycka & Kozłowski, supra note 19, p. 26.

22 Ibid., p. 10.

suspended sentences, and probation officers only sporadically petition the court to adjust these conditions during the probation period. In 2011, for 570,290 sentences connected to suspended prison sentences, in only 32% of cases were any obligations (such as pursuing a therapy) were imposed on offenders. Courts very rarely used restraining orders or mandated therapy. This is an especially gross negligence in regard to sexual and aggressive offenders.²³

Suspended prison sentences have been widely demonstrated as an ineffective sanction, de facto granting many offenders complete impunity. As a result, despite the sharp decrease in crime, the number of repeat offenders has risen from 3.5% in 2009 to 5.6% in 2015.²⁴ Out of 373,542 offenders sentenced in 2011, 26% committed another crime within five years. Thus, despite low levels of crime, the incarceration rate in Poland has skyrocketed. In 2015, the mean incarceration rate for the 52 member states of the Council of Europe was 131. Poland ranked fourth (out of those countries, for which data was available), with an incarceration rate of 205 people per 100,000 inhabitants.²⁵ Human rights advocates have repeatedly noted prison overcrowding; in response, prison authorities were forced to turn social space in prisons to accommodation for inmates. Still, apart from ca. 74,000 people serving prisons sentences,²⁶ for a number of years another ca. 70,000 convicts used to wait outside for a chance to serve time.²⁷ Needless to say, the fact that so many people with pending prison sentences used to walk freely had a devastating effect on citizens' sense of justice, and criminals' motivation to change their ways.

4.3 Prisons

In the United States, the problem-solving approach originated mainly from the desire to reduce prison sentences and the numerous negative consequences of high incarceration rates for the individuals and the society. The number of prisoners in Poland has been steadily decreasing: from 82,955 in 2005, to 70,836 in 2015, and Polish prisons are generally described as safe.²⁸ However, available journalistic accounts lead to a less optimistic picture of the situation. For example, journalist Mariusz Sepiolo, who recently published a book on Polish prisons, summed up that the system is characterised by 'violence, boredom and corruption'.²⁹ One step to overcome these problems was the introduction of electronic monitoring systems in 2009; as of April 2017, 4,666 people have been monitored in this way, and the government intends to increase these numbers even further.³⁰

In April 2016 the Ministry of Justice launched a new initiative titled 'Work for prisoners' (*Praca dla więźniów*).³¹ The programme provides for the construction of 40 production halls situated next to prison facilities between 2016 and 2023. In the city of Rzeszów alone, the hall is expected to offer employment to 600 prisoners. Other regulations adopted in 2016 were also aimed at increasing employment opportunities for prisoners: at present, prisoners can not only perform simple maintenance work for local governments, but also work in hospitals, elderly care homes and educational institutions. Employers were also offered increased incentives to employ prisoners. As a result of those new measures, the number of prisoners

23 Ibid., pp. 32-33.

24 Ministry of Justice, Department of Strategy and European Funds, Office for Statistics and Management Information, *Powrotność do przestępstwa w latach 2009-2015* (May 2017), <<https://isws.ms.gov.pl/pl/baza-statystyczna/publikacje/download,2779,7.html>> (last visited 12 September 2017).

25 See Council of Europe Annual Penal Statistics, 2014 & 2015, <<http://wp.unil.ch/space/space-i/prison-stock-on-1st-january/prison-stock-2014-2015/>> (last visited 25 September 2017).

26 Ministry of Justice, Central Board of the Prison Service (*Centralny Zarząd Służby Więziennej*), *Roczna informacja statystyczna 2016*, BIS-0346-17/16/8205, <<http://www.sw.gov.pl/strona/statystyka-roczna>> (last visited 12 September 2017).

27 Mycka & Kozłowski, supra note 19, pp. 29-30.

28 In a 2007 study, 41% of prisoners declared they believed there were instances of physical violence between inmates in their facility (see M. Ksel et al., *Zdrowie w więzieniu - badanie postaw, zachowań i wiedzy personelu więziennego oraz ludzi pozbawionych wolności na temat chorób zakaźnych w wytypowanych polskich jednostkach penitencjarnych*, Europejska Sieć Współpracy na Rzecz Przeciwdziałania Narkomanii i Infekcjom w Więzieniach (ENDIPP), p. 53). In a 2013 study, carried out in two facilities, 35% and 38% respectively, heard about such instances, while 15% and 12% fell victims to violence; see J. Malina, 'Agresja i przemoc w środowisku osób pozbawionych wolności na przykładzie zakładów karnych w Wojkowicach i w Herbach', *Przegląd Więziennictwa Polskiego* no 20/2013, p. 31).

29 M. Sepiolo, 'Więzienie skazuje po raz drugi', *Tygodnik Powszechny*, 26 March 2017. See also M. Sepiolo, *Ludzie i gady* (2017).

30 *Liczba skazanych w SDE*, <[http://dozorelektroniczny.fwch.pl/sde/wp-content/uploads/liczba-skazanych-w-sde-od-wrzesnia-2009-r-dane-na-koniec-kazdego-miesiaca\(nowe\).pdf](http://dozorelektroniczny.fwch.pl/sde/wp-content/uploads/liczba-skazanych-w-sde-od-wrzesnia-2009-r-dane-na-koniec-kazdego-miesiaca(nowe).pdf)> (last visited 12 September 2017). See also P. Nasiłowski, 'System dozoru elektronicznego w praktyce', *Na Wokandzie* no 29/2016, 1 September 2016.

31 Program 'Praca dla więźniów', <<http://www.sw.gov.pl/strona/ministerialny-program-pracy-wiezniow>> (last visited 25 September 2017).

employed increased by 30% between 2015 and 2016.³² As of March 2017, 31,500 prisoners, i.e. 46% of the total, were employed in some form. The Ministry of Justice hopes to further increase this number to reach the EU average of ca. 60%. While putting inmates to work resonates well with the ‘tough on crime’ message of the current government, independent economic forces have likely contributed to the increased employment of prisoners. After almost two decades of structural unemployment, over the recent years Poland has experienced record low levels of unemployment, currently (as of March 2017) at 5.3%, i.e. well below the EU average (8%). The labour market is thus hungry for workers, and both prisoners, as well as people leaving prisons, find employment.

A number of charities work to provide assistance to inmates leaving prisons and other correctional facilities. One notable example is the Sławek Foundation (*Fundacja Sławek*) from Warsaw, which since 1998 has focused on re-building broken family ties between inmates and their families, or the Association People to People (*Stowarzyszenie Ludzie Ludziom*), which since 1996 has been providing shelter to ex-prisoners in Wrocław and assisting them with reintegration.³³

Another problem connected to incarceration, highlighting the need for a more problem-solving approach, is bureaucratisation and standardisation of the way courts handle cases. Many commentators note that the impressive efficiency rate of Polish judges is a result of their focus on statistics and not on fair resolution of disputes.³⁴ Several high-profile cases shed light particularly on the way intellectually disabled people are treated by the penitentiary system. One such case in 2014 involved a young man who was sentenced to a short prison sentence after he failed to pay a modest fine (a default sentence he received for stealing a chocolate bar worth 0.20 EUR). Upon his admission to prison, the prison head Krzysztof Olkowicz realised the new inmate was intellectually disabled, and paid the remainder of his fine out of his own pocket; the prisoner was released.³⁵ This, in turn, resulted in a court case against Olkowicz for breaking the law prohibiting the payment of a fine by persons unrelated to the prisoner. Eventually, Olkowicz was acquitted and shortly after became the national vice-Ombudsman. In this position he was charged with leading an inquiry into the fate of mentally ill inmates in Polish prisons. In early statements, he stated he expected the situation to be deeply troubling and involving up to 1,000 prisoners. After the inquiry was completed, it turned out the problem is less widespread; still, 120 prisoners with mental health issues were identified.³⁶ Default judgments (issued while the defendant is absent), thus, repeatedly result in similar situations, highlighting insufficient information flow and inadequate diagnosis of offenders. As diagnosed by Olkowicz, the problem starts with the offender’s contact with the police. If police officers do not clearly report behaviour indicating mental health issues, in petty crimes the court will usually render a default judgment, typically a fine. Unless the fine is paid, the offender will – again by default – be sentenced to a short prison sentence.

4.4 Reforming the criminal code (2015)

The unfortunate sentencing policy sketched out above has long been diagnosed and criticised.³⁷ On 1 July 2015 a new criminal code was enforced. Judges’ ability to impose suspended prison sentences was significantly limited.³⁸ At the same time, the new regulations encouraged them to impose community service

32 P. Malinowski, ‘W Polsce wzrasta zatrudnienie więźniów’, *Rzeczpospolita*, 12 April 2017, <<http://www.rp.pl/Spoleczenstwo/170419749-W-Polsce-wzrasta-zatrudnienie-wiezniow.html#ap-1>> (last visited 25 September 2017).

33 See <<https://www.fundacjaslawek.org>> and <<http://ludzieludziom.pl/>>.

34 Ł. Piebiak, ‘Statystyka sądowa wygodnym narzędziem’, *Rzeczpospolita*, 9 September 2014, <<http://www.rp.pl/arttykul/1139542-Piebiak-Statystyka-sadowa-wygodnym-narzedziem.html#ap-1>> (last visited 25 September 2017).

35 *Zapłacił kaucję za skazanego, który ukradł batonik wart 99 groszy i ma problemy*, 16 April 2014, <<http://www.polskieradio.pl/9/325/Artykul/1101553,Zaplacil-kaucyje-za-skazanego-ktory-ukradl-batonik-wart-99-groszy-i-ma-problemy>> (last visited 25 September 2017).

36 A. Gmiterek-Zabłocka, *Raport RPO: W polskich więzieniach są osoby upośledzone, które nie powinny tam trafić*, 29 November 2016, <<http://www.tokfm.pl/Tokfm/7,102433,21046479,raport-rpo-w-polskich-wiezieniach-sa-osoby-uposledzone-ktore.html>> (last visited 25 September 2017).

37 Mycka & Kozłowski, supra note 19.

38 It is worth noting that at the same time (1 July 2015) the new penal code was enforced, a revolutionary, albeit a short-lived, reform of the code of criminal procedure was also implemented. It introduced the adversarial model to Polish criminal procedure. However, in the wake of parliamentary election in October 2015, power went to the Law and Justice party who opposed the reform (on the grounds that it favoured the rich who were able to afford good lawyers, while discriminating the underprivileged) and promised to retract it. In April 2016, another reform reinstated the original, inquisitorial model of criminal procedure in Poland.

sentences; a number of provisions were aimed at facilitating imposition of fines. Despite the fact that the new code was enforced only very recently, statistics reveal it has already dramatically altered the sentencing pattern in lower courts, where ca. 98% of all criminal cases are heard. While in 2015 still 135,984 people received a suspended prison sentence, in 2016 only 68,614 did so. At the same time, the number of people receiving direct prison sentences has remained steady, and the number of community service sentences sharply increased.³⁹ More defendants received fines (34% in 2016 as opposed to 23% just a year earlier). As a result, in 2016 a remarkable decrease in suspended prison sentences could be observed (see Table 1). This is a promising trend to be watched; it may still take some time, however, before alternative sanctions replace prison sentences (and especially suspended prison sentences) as the main form of penalty.

Table 1 Prison sentences in first instance district courts in Poland, 1997-2016

	unsuspended	suspended	prison sentences – total	total convicted
1997	26,637	124,129	150,766	230,882
1998	26,412	125,031	151,443	225,696
1999	24,233	128,561	152,794	211,941
2000	33,313	149,216	182,529	240,290
2001	39,296	190,528	229,824	332,457
2002	37,514	212,047	249,561	357,376
2003	38,222	239,234	277,456	424,329
2004	43,264	272,552	315,816	492,195
2005	42,324	297,545	339,869	508,269
2006	41,510	280,319	321,829	470,763
2007	41,550	276,034	317,584	452,690
2008	36,067	247,727	283,794	410,890
2009	37,667	242,291	279,958	410,269
2010	37,078	241,691	278,769	412,930
2011	40,000	237,318	277,318	416,637
2012	39,961	219,716	259,677	397,822
2013	37,693	190,128	227,821	349,920
2014	36,477	169,808	206,285	299,984
2015	36,315	135,984	172,299	271,630
2016	41,762	68,614	110,376	262,814

Source: Adult people sentenced by first instance courts between 1997 and 2016; Data according to Instytut Wymiaru Sprawiedliwości.

5. Mediation and other restorative justice measures

While mediation is not viewed here as an example of problem-solving per se, we treat ADR and restorative justice as closely related to it. In the absence of strictly problem-solving measures (e.g. instances of systematic collaboration between courts and a wide range of actors external to the justice system, or other examples of wider coordination and concentration of resources to address root causes of crime) we offer this review of the current state of mediation. In the Polish context, it is probably wise (or even necessary) first to implement and increase resort to ADR, before ‘real’ problem-solving may occur.

³⁹ The number of community service sentences increased from 36,781 in 2015 to 60,731 in 2016 (District Courts only). However, these figures represent the overall number of people receiving sentences of ‘restriction of personal liberty’; not all of these sentences carry along the requirement to perform community service. Also, as discussed above, the key problem is proper organisation of community service in Poland. At present, this sanction is not particularly effective, i.e. does not really facilitate the reparation of harm done, and the successful reintegration of offenders.

Mediation was first introduced into the Polish legal system in 1991, in relation to collective disputes. In 1997 it also became possible in criminal cases, in 2001 in minor cases, in 2003 in administrative cases and in 2005 in civil cases.⁴⁰ Despite numerous efforts to promote mediation, over the years numbers have remained low; only a tiny fraction of cases where mediation could be used are ever sent for mediation (see Table 2).

Table 2 Mediation in Poland – basic indicators, 2013-2016

Measure	2013	2014	2015	2016
Total number of cases referred to mediation ¹	13,370	13,239	17,811	24,105
Mediation index – % of court cases sent to mediation among all court cases in which mediation could have been applied ²	0.5%	0.5%	0.7%	0.9%
Number of successful mediations ³	3,836	3,798	4,328	5,246
Success rate of mediation ⁴	28.7%	28.7%	24.3%	21.8%
Number of agreements reached in civil cases ⁵	1,073	1,182	1,443	1,650
Percentage of agreements reached in civil cases ⁶	43.37%	42.15%	41.74%	24.28%

- 1 In civil, business and labour law cases, the data refer to the number of cases in which the parties were referred for mediation under Art. 183 §1 of the Code of Civil Procedure. In family and minors’ law cases, the data concern the number of mediation proceedings. In criminal cases, the number of requests filed in cases from rep. K concluded after a mediation proceeding and cases from rep. K, referred to mediation proceedings following a hearing pursuant to Art. 339 § 4 of the Code of Criminal Procedure.
- 2 Percentage of cases, in which the parties were referred for mediation, in relation to the number of cases filed before the common courts and registered in the repositories: in Appellate Courts – AKa, ACa, APa, ACA-gosp., in District Courts – K, Ka, C, RC, Ns Ca, P, Pa, GC, GNs, Ga, AmC, in Regional Courts – K, C, CG-G, Ns, RC, RNs, Nsm, Nkd, P, GC, GNs.
- 3 In civil matters – the number of cases in common courts settled by remission as a result of mediation; in criminal and minors’ cases – the number of cases settled by settlement in connection with a mediation proceeding.
- 4 Percentage of effective mediations in the total number of cases referred to mediation.
- 5 Number of settlements reached before the mediator in civil cases referred to mediation under Art. 183 para. 8 of the Code of Civil Procedure.
- 6 Percentage of settlements reached before a mediator in civil cases in relation to the total number of mediations in civil cases.

Source: *Postępowanie mediacyjne w świetle danych statystycznych. Sądy rejonowe i okręgowe w latach 2006-2016* (February 2017), p. 3. <<https://isws.ms.gov.pl/pl/baza-statystyczna/publikacje/download,2779,20.html>> (last visited 12 September 2017).

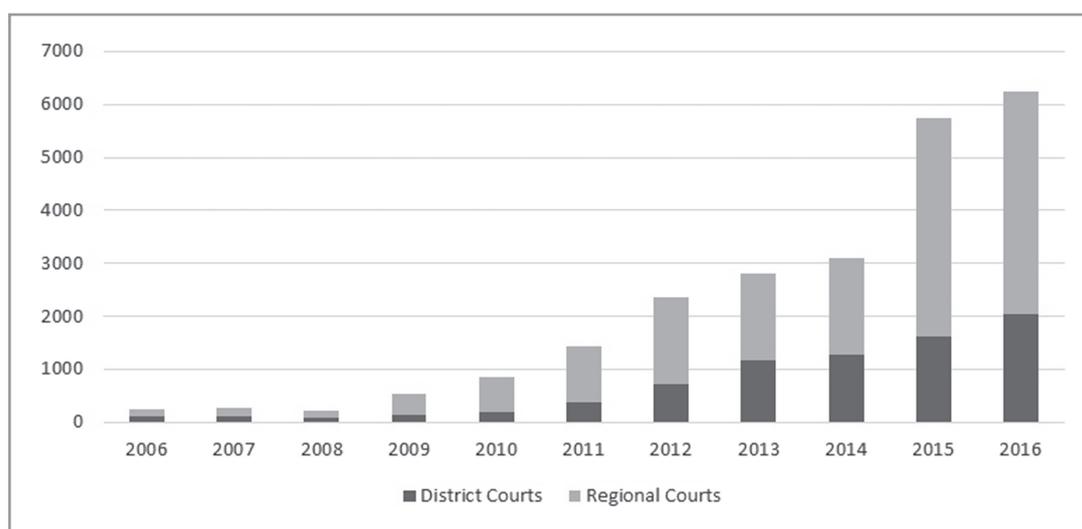


Figure 1 Mediation proceedings in business cases, 2006-2016

Source: Polish Ministry of Justice.

40 Z. Kinowska & A. Krata, 'Mediacja w Polsce', *Infos: Biuro Analiz Sejmowych* no 18(88), 2010, p. 2.

According to the Code of Civil Procedure (Article 187 § 1 pt. 4) a lawsuit in civil matters must now also include a note explaining whether the parties had tried to settle the dispute through mediation or any other ADR method. When no such attempts are reported, the parties are required to explain why this was the case.⁴¹ An analogous obligation was added in September 2015 to the amended law on the promotion of alternative dispute resolution in regard to business cases.⁴² As a result, already in 2015, the number of mediations in business cases has sharply increased (see Figure 1).

Similar trends can be found in mediation in criminal cases. After a sharp increase in the number of mediations between 1998 and 2004, numbers have remained stable and low since 2007 (see Figure 2). One has to remember, though, that the total number of criminal offences has been steadily decreasing for the past several years; effectively, thus, the percentage of criminal cases settled through mediation has been steadily growing.

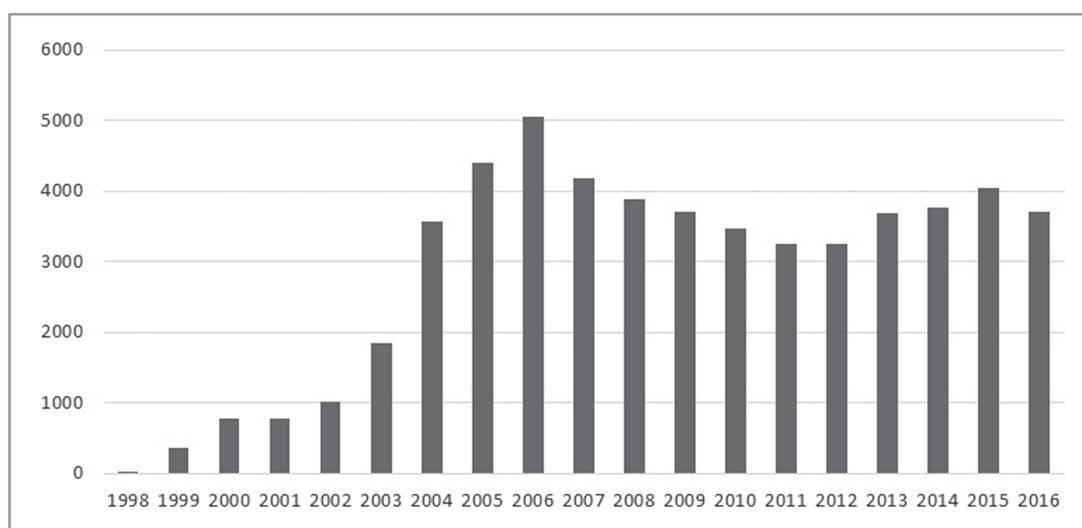


Figure 2 Proceedings in criminal cases before common courts closed as a result of mediation, 1998-2016

Source: Polish Ministry of Justice.

Since 2005, promotion of ADR was entrusted by the Ministry of Justice to a newly created Social Council for the Alternative Dispute Resolution (*Spółeczna Rada do spraw Alternatywnych Metod Rozwiązywania Sporów*), working under the auspices of the Ministry.⁴³ The Council is presided over by the Minister of Justice, and members include judges, mediators and representatives of various NGOs. Regional councils also exist in most Polish voivodships, including representatives of the courts, local governments, prisons and other entities that supervise community sentences; thus, they are in a position to coordinate local policies in the area of popularisation of alternatives to detention, social reintegration and assistance for convicts.⁴⁴

5.1 New measures promoting mediation and ADR

On 1 January 2016 a bill entered into force aimed at comprehensive promotion of mediation and ADR in civil cases (including family, commercial and labour cases).⁴⁵ The new regulation obliges the parties to inform the

41 *Informacja o postępowaniu mediacyjnym w sprawach cywilnych i gospodarczych*, District Court in Piotrków Trybunalski, <<http://www.piotrkow-tryb.so.gov.pl/mediacja-w-postepowaniu-cywilnym-i-gospodarczym,m,mg,213,214>> (last visited 25 September 2017).

42 Act of 10 September 2015 amending certain acts in order to promote alternative dispute resolution (*Ustawa z dnia 10 września 2015 r. o zmianie niektórych ustaw w związku ze wspieraniem polubownych metod rozwiązywania sporów*, Dz.U. 2015 poz. 1595).

43 *Spółeczna Rada do spraw Alternatywnych Metod Rozwiązywania Sporów przy Ministrze Sprawiedliwości*, <<https://ms.gov.pl/pl/dzialalnosc/mediacje/spoleczna-rada-ds-alternatywnych-metod-rozwiazywania-konfliktow-i-sporow/o-radzie/>> (last visited 25 September 2017).

44 O. Firouzi et al., *Reducing the Prison Population in Europe: Does Community Justice Work?*, European Prison Observatory 2016, p. 26, <http://www.ub.edu/ospdh/sites/default/files/documents/epo_ws_1_final_report_reducing_the_prison_population_in_europe._does_community_justice_work.pdf> (last visited 25 September 2017).

45 In Polish: *Ustawa z dnia 10 września 2015 r. o zmianie niektórych ustaw w związku ze wspieraniem polubownych metod rozwiązywania sporów* (Dz.U. 2015 poz. 1595).

court already in the lawsuit whether or not there had been an attempt to mediate, and the court is obliged to inform the parties at any stage of the proceeding about the possibility to mediate, and to try to persuade them to mediate. The court can mandate the parties to participate in an information hearing concerning mediation. Those unwilling to mediate may be charged with court fees for the proceeding, while in the event of a successful mediation parties will be refunded the fees. Finally, the law introduces new, higher standards for mediators, and provides a mechanism for their verification.⁴⁶

Since 1 June 2017, mediation became easier in administrative proceedings, following an amendment of the Code of Administrative Procedure.⁴⁷ Mediation used to be possible only before appellate courts, and only a judge or an assistant judge could be mediator. Now the law allows for licensed mediators to take over this role, and mediation may occur at any stage of the proceeding. Mediation is now also possible both between the party and public administration, as well as between the parties.

6. Problem-solving measures in Polish law and courtroom practice

As already mentioned, elements of problem-solving are dispersed throughout a system that remains largely traditional.⁴⁸ Existing measures can be divided into two categories. First, there are provisions present in current legislation, and to a varying degree practiced by the courts, that allow for some problem-solving. Secondly, there are relatively isolated examples of non-government institutions, as well as still rarer examples of partnership between courts and NGOs that reflect the problem-solving orientation.

6.1 Problem-solving in Polish criminal law

Piotr Gensikowski, a Polish judge in a criminal court, who had a chance to visit problem-solving courts in New York, offers a systematic review of problem-solving measures available in the Polish criminal code after 1 July 2015.⁴⁹ In general, his conclusion was that many solutions implemented in flagship projects of the Center for Court Innovation (Midtown Community Court and Red Hook Community Justice Center) are compatible with the Polish criminal law. Firstly, the institution of a conditional discontinuation of a penal proceeding (*warunkowe umorzenie postępowania karnego*) allows the court to replace a penalty and a guilty verdict with various correctional sanctions; these may include elements of assistance to the offender, such as an obligation to enter addiction therapy, psychotherapy and other correctional measures.⁵⁰ The court may also entrust supervision over the person under probation to a trusted person or NGO; this opens the way for a closer and systematic collaboration between the courts and other actors external to the justice system. Unfortunately, instances of such systematic collaboration are quite rare.

Secondly, the Polish criminal code also allows the prosecutor to conditionally suspend the inquiry until the offender completes medical treatment, rehabilitation or therapy.⁵¹ If these efforts are successful, the prosecutor may ask the courts to conditionally discontinue the criminal proceeding. The law also allows for a representative of a NGO to diagnose the offender at the preparatory stage of the proceeding, and presented suggestions to the prosecutor pertaining to possible interventions to assist the offender.

Similar possibilities are also connected to two other sanctions in the Polish penal code: conditional sentencing (*warunkowe skazanie*), and unconditional restriction of personal liberty (*kara ograniczenia wolności bez warunkowego zawieszenia jej wykonania*). This latter sanction can be (and is, for an average Polish citizen) quite misleading due to its association with a prison sentence. As Firouzi et al. observe, it

46 *Mediacje cywilne - zmiany w przepisach od 1 stycznia 2016 roku*; <http://www.adwokatura.pl/admin/wgrane_pliki/file-mediacja-nowe-przepisy-od-stycznia-2016-kp-13941.pdf> (last visited 25 September 2017).

47 See Ministry of Development, *Nowelizacja kodeksu postępowania administracyjnego. Czego dotyczą zmiany i jak je stosować?* (May 2017), <<https://www.mpit.gov.pl/media/37290/Nowelizacja.pdf>>, pp. 24-27 (last visited 25 September 2017).

48 V. Lens, 'Against the Grain: Therapeutic Judging in a Traditional Family Court' (2015) 41 *Law & Social Inquiry* 3, DOI: 10.1111/lsi.12153, pp. 701-718. As Vicky Lens reports, judges often find ways to incorporate elements of problem-solving even in traditional court settings.

49 P. Gensikowski, 'Analiza możliwości implementacji wybranych procedur stosowanych w Midtown Community Court oraz Red Hook Community Justice Center w Nowym Jorku w warunkach polskiego prawa karnego', in C. Kulesza et al. (eds.), *Współpraca organizacji społecznej z wymiarem sprawiedliwości. Poradnik* (2015), pp. 45-65.

50 *Ibid.*, p. 51.

51 See Art. 72 para. 1 of the law on preventing drug abuse (Dz.U. of 2012, p. 124); See Gensikowski, *supra* note 55, p. 55.

is ‘particularly significant that Polish legislation interprets the community sentence as aiming to restrict freedom’.⁵² However, the sanction has nothing to do with a prison sentence, and it usually obliges the offender to regularly report to a police station and perform community service. One may hypothesise that due to this negative connotation, community service in Poland is viewed with suspicion – both by offenders and by wider society. Conditional sentencing, on the other part, involves a suspension of a penalty imposed on the offender, as long as he or she sticks to the conditions of probation. These conditions may (although, in practice, rarely do)⁵³ contain elements of correctional influence and assistance to the offender.

Theoretically, then, problem-solving is possible under the Polish criminal law. However, as we have outlined above, discussing courts’ sentencing policy, these measures are rarely used by judges, partly due to lack of information (diagnosis of the offender), as well as lack of resources available. No systematic research on reasons for the unsatisfactory usage of these measures is available, however.

6.2 Problem-solving measures in family law

Various measures consonant with the spirit of problem-solving are also possible under the Polish family and minors law. Whether they are being implemented, however, largely depends on the personality and proactive attitude of the individual judges.⁵⁴ Family judges can – and occasionally do – supervise minors more intensively, apply individualised sanctions that contain elements of therapy and closely collaborate with a range of actors external to the justice system (such as providers of addiction therapy).

Family judges are also encouraged to refer minors for peer mediation in schools. Judges are able to refer pupils to schools when they believe the school has adequate resources (e.g. specially trained mediators) to handle the conflict. So far, this type of sanction has been used only sporadically, also because judges did not have the tools to assess schools’ capacities, and the means to monitor the case. Since 2 January 2014, when the law on juvenile delinquency proceeding was revised, school principals have been obliged to report on such cases, and courts obtained the means to assess school mediation programmes. Local initiatives, such as the project implemented by District Courts in Lublin and Zamość, supported by the Ministry of Justice and the Children Ombudsman (*Rzecznik Praw Dziecka*), are aimed at fostering these new measures to prevent aggression and social maladjustment of adolescents.⁵⁵ What is important is that cases are referred to schools for peer mediation (by a trained and respected student) only when the defendant consents.

6.3 Pilot NGO initiatives in problem-solving

One of the defining features of problem-solving justice is intense cross-sectoral collaboration between various institutions forming the justice system and external partners, such as municipal institutions, and – perhaps most significantly – NGOs. The latter allow for quick piloting of innovations, provide the link to local communities and even secure additional funding for the projects.

As already observed, various aspects of problem-solving are being piloted in Poland by NGOs, with a varying degree of support from the justice system. Although there are many organisations that work to support the reintegration of prisoners, or provide therapeutic services, to date only one such initiative was strictly related to the problem-solving approach. In 2015, a legal think tank Court Watch Poland Foundation (*Fundacja Court Watch Polska*) launched two pilot restorative justice centers (in Białystok and Toruń). The aim of the project (sponsored by the National Research and Development Center, and supported by scholars from three leading Polish public universities) was to develop a model of collaboration between an NGO and courts and other institutions from the justice system (especially prosecution and probation), based on experiences from US community courts.⁵⁶ The center in Toruń was able to partner with probation services

52 Firouzi et al., supra note 50, p. 52.

53 Mycka & Kozłowski, supra note 19, pp. 35-36.

54 Author’s interview with a family judge in September 2017.

55 E. Koszel, ‘Nastolatek w roli arbitra? W stronę mediacji rówieśniczej’, *Na Wokandzie* 21, <<https://nawokandzie.ms.gov.pl/numer-21/dobre-praktyki-numer-21/nastolatek-w-rol-i-arbitra-w-strone-mediacji-rowiesniczej.html>> (last visited 25 September 2017).

56 See Fundacja Court Watch Polska, ‘Restorative Justice Centers opened up in Białystok and Toruń’, 2 September 2015, <<https://courtwatch.pl/blog/2015/09/02/restorative-justice-centers-opened-up-in-bialystok-and-torun/>> (last visited 25 September 2017).

and numerous local entities to bolster community service. Numerous barriers to a more efficient and widespread use of this sanction were identified and measures to overcome were implemented. For example, one major difficulty was the slow flow of information between probation service and entities accepting offenders for community service; as a result, many offenders failed to report for service, or the service they were assigned to was not meaningful or adequate to their skills and abilities. A new approach was developed jointly (including an IT system for information exchange developed by the NGO) that significantly improved flow of information. Offenders were now referred to the center for an extensive interview, which allowed for a better placement, but also provided an opportunity to motivate the offender and provide him or her with practical advice on problems related to the offence.

The project involved not only practical implementation of the model, but also resulted in a publication addressed at judges and other representatives of the justice system. The guidebook includes sample legal writings and lays out a model of closer collaboration between courts and NGOs in the Polish context.⁵⁷ While early results were promising (i.e. more offenders completed their sentence and service they provided was more valuable to the community), the project was discontinued in 2017 after initial funding run out.

7. Conclusion

The Polish justice system has recently seen significant reforms aimed at introducing more sustainable sentencing patterns. After decades of restrictive criminal policy despite relatively low levels of crime, space is opening for more careful analysis of the root causes of crime and the problem-solving approach. Yet, the very concept of problem-solving justice remains absent from the public discourse, and even among professional actors inside the justice system problem-solving is limited to ADR. Various related concepts, such as mediation, gain relative prominence, but still need to be more widely implemented.

Over the past three decades, the Polish justice system has largely been involved in a particular variety of problem-solving, i.e. solving problems of the system itself. Paradoxically, despite low and decreasing crime levels, and substantial expenses from the national budget, the system has been more effective at creating criminals than at their reintegration, or at crime prevention. Minor cases and repeat offenders successfully absorbed courts' limited resources, often at the expense of more serious crime. Thus, little room was left for problem-solving initiatives; those existing were the domain of a handful of NGOs. While the criminal law includes elements of problem-solving, existing provisions largely remained on paper, resulting in high reoffending rates and prison overpopulation.

Among key factors blocking a wider recourse to problem-solving is the organisational culture of the various actors in the justice system: the police, the prosecution, the courts and the probation service. Cross-institutional cooperation is rare and inefficient; information flow often precludes effective use of problem-solving measures. Innovation happens mostly in the third sector, but wider adoption is slow. Cooperation between the non-government institutions and the justice system is rare, and usually at the local level. Moreover, crime is not a hot public issue, so legislators have no incentive to look for new solutions – such as the problem-solving approach. The current government's absolute priority has definitely been curbing financial crime – a task at which impressive progress was achieved.

A recent series of long overdue legislative changes, including a major revision of the criminal code (2015) and a new law on fostering alternative dispute resolution (2016), is poised to lead to a more sustainable sentencing policy. A more sound policy, emphasising fines and community service, and reducing inefficient and widely abused suspended prison sentences, should soon create room for innovation and strategic planning in the spirit of problem-solving justice. Early statistical data already seem to confirm these expectations. ■

⁵⁷ See C. Kulesza et al., *Współpraca organizacji społecznej z wymiarem sprawiedliwości: poradnik* (2014).