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**SYSTEM TRANSDERMALNEGO MONITOROWANIA STĘŻENIA
ALKOHOLU (TMSA) NA GRUNCIE INSTYTUCJI KURATELI
SĄDOWEJ – ANALIZA PRAWNO-PEDAGOGICZNA. CASUS
POLSKI³**

**TRANSDERMAL ALCOHOL CONCENTRATION (TAC)
MONITORING SYSTEM IN THE CONTEXT OF PROBATION: A
LEGAL AND PEDAGOGICAL ANALYSIS. THE CASE OF POLAND**

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Streszczenie

Nadmierne spożywanie alkoholu pociąga za sobą szereg negatywnych konsekwencji zarówno dla jednostki, jak i jej najbliższego otoczenia. Szeroko rozumiany rozwój – ze szczególnym uwzględnieniem rozwoju technologicznego – związany jest nie tylko z rozwojem w aspekcie gospodarczym, ale również (a może przede wszystkim) z możliwościami wykorzystania nowych urządzeń w zakresie minimalizowania negatywnych konsekwencji różnych zjawisk społecznych, w tym uzależnienia od alkoholu, co stanowi *de facto* przedmiot niniejszej pracy. Jedną z możliwości wykorzystania zmian związanych z rozwojem zarówno społecznym, jak i technologicznym jest wdrożenie systemu Transdermalnego Monitorowania Stężenia Alkoholu (dalej: TMSA) do praktyki kuratorów

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³ *Causa efficiens* niniejszego, interdyscyplinarnego opracowania, stanowi treść ekspertyzy przygotowanej przez pracowników Instytutu Badawczo-Rozwojowego Szkoły Wyższej Wymiaru Sprawiedliwości; zob. B.M. Nowak i in., Ekspertyza Instytutu Badawczo-Rozwojowego Wyższej Szkoły Kryminologii i Penitencjarystyki w Warszawie, *Możliwości adaptacji systemu transdermalnego monitorowania stężenia alkoholu (TMSA) do polskich uwarunkowań prawno-społecznych*, Warszawa 2020, <https://swws.edu.pl/ekspertyzamosliwosci-adaptacji-systemu-transdermalnego-monitorowania-stezenia-alkoholu-tmsado-polskich-uwarunkowan-prawno-spoecznych/> (dostęp: 17.06.2021).

sądowych w sprawach związanych z nadzorem nad osobami uzależnionymi od alkoholu. Celem artykułu jest próba dokonania (podstawowej) analizy aktów prawnych z jednoczesnym odwołaniem się do aspektów pedagogicznych co do możliwości wdrożenia systemu TMSA na gruncie instytucji kurateli sądowej. W pracy zastosowano metodę opisową oraz teoretycznoprawną. Na podstawie dokonanego przeglądu literatury oraz aktów prawnych stwierdza się, że system TMSA mógłby być wykorzystywany przez kuratorów sądowych w nadzorach sprawowanych nad osobami uzależnionymi od alkoholu.

Słowa kluczowe: pedagogika, kuratela sądowa, system TMSA, prawo

Abstract

Excessive alcohol consumption has a number of negative consequences for both an individual and their immediate environment. Development in its broadest sense involves not only economic or social development, but also the possibility of using new equipment to minimise the negative consequences of various social phenomena, including alcohol dependence. One of the opportunities to leverage the changes associated with both social and technological developments is precisely the implementation of the Transdermal Alcohol Concentration Monitoring System (hereinafter referred to as the TAC) into the practice of probation officers in cases related to the supervision of alcohol-dependent individuals. The main objective of the article is an attempt to make a (basic) analysis of legal acts with simultaneous reference to pedagogical aspects in terms of the possibility of implementing the TAC system in the context of probation. The paper uses a descriptive approach and also takes a legal theory perspective.

Keywords: pedagogy, probation, TAC system, law

Introduction

Alcohol is a psychoactive substance that is (currently) widely available, and alcoholism – as a pathological phenomenon – is the cause of a number of negative outcomes (more on this later). Abuse of the substance in question leads to health and family problems as well as those of social nature. Alcohol dependence is recognized as a serious public health problem.⁴ With regard to the issue at hand, particular attention should be given to crimes committed under the influence of alcohol (i.e., in the state of intoxication) as well as crimes committed by people with

⁴ Z danych dostępnych na stronie internetowej Państwowej Agencji Rozwiązywania Problemów Alkoholowych wynika, że w Polsce ok. 800 tys. osób jest uzależnionych od alkoholu (co stanowi 2% populacji), a 2-2,5 mln osób pije szkodliwie (5-7% populacji). Dodatkowo, 1,5 mln dzieci wychowuje się w rodzinach z problemem alkoholowym (4% populacji), <http://www.parpa.pl/index.php/33-analizy-badania-raporty> (dostęp: 17.03.2021).

alcohol use disorder and (perhaps above all) the consequences thereof.⁵

Undoubtedly, alcohol is a determinant of criminal activity (a criminogenic factor), and its abuse directly or indirectly contributes to the escalation of this phenomenon. Indirectly, it puts a burden on the people closest to the person who consumes alcohol in excess. Unfortunately, in the main the children of the people with alcohol addiction are the most affected group. Alcohol is also associated with the presence of various pathologies, such as violence, unemployment or homelessness. It should be pointed out that in a direct way alcohol and its abuse lead to inhibition or reduction of the ability to act in a logical and objective manner in various social situations.⁶

This paper consists of four parts: 1) "Alcohol dependence – an outline of the problem", 2) "Potential use of the TAC system on probation", 3) "Probation officer's supervision over a person with alcohol addiction and the potential use of the TAC system in surveillance" and 4) "Possible changes in light of the Polish legal system", followed by a summary. This article seeks to carry out a basic analysis of legal acts, simultaneously referring to the pedagogical aspects in terms of the possible implementation of the TAC system within the institution of probation. The article takes both a descriptive approach and a perspective of legal theory. The legal status described in the article is that of 11 February 2022.

1. Alcohol dependence – an outline of the problem

Alcohol addiction is not only a disease but also a disorder that hinders or prevents an individual from thriving. Its excessive consumption causes negative outcomes in various areas of social life. These include, but are not limited to:

- the occurrence of violence and aggression (including towards family and loved ones);
- committing violent crimes (fights, robbery, theft, etc.);
- acts of self-aggression (risky behaviours occur that threaten the life or health of the individual) or disruptions in fulfilling social roles (as a spouse, partner, parent, employee, etc.);
- the loosening or breakdown of family ties;
- involvement in traffic accidents, e.g., at work;
- significant deterioration of health (both physical and emotional);
- financial, economic problems (i.e., job loss, debt).⁷

According to the literature on the subject, excessive alcohol consumption leads to serious problems related to the functioning of individuals and society as a whole; however, the changes taking place in the modern world and the progress of

⁵ M. Frąckowiak, M. Motyka, *Charakterystyka problemów społecznych związanych z nadużywaniem alkoholu*, „Hygeia Public Health” 2015, nr 50(2), s. 315-316.

⁶ E. Jabłońska, *Alkohol jako czynnik kryminogeny i wiktymogeny w przestępstwach zabójstwa na przykładzie spraw rozpoznawanych przez Sąd Okręgowy w Krośnie*, „Studia Prawnicze. Rozprawy i Materiały” 2016, nr 2(19), s. 89-100.

⁷ <https://www.policja.pl/pol/kreci-mnie-bezpieczenst-1/30736,Ogolnopolski-Dzien-Trzezwosci.html> 2021-03-24 (dostęp: 24.03.2021); E. Jabłońska, *op. cit.*

civilization lead to the development of various areas of social life, including the development of technology that can be used in a wide range of prevention efforts, including addiction treatment.⁸

It is also being emphasized that modern technologies have been used in medicine for a long time and, in recent years, they have been increasingly applied in telemedicine (which, in the era of the COVID-19 pandemic, is enjoying increased interest and use), thus enabling remote monitoring of various areas of patient functioning via electronic devices. In the context of these devices, it is also pointed out that they make it possible to obtain more data on the condition of the monitored person's body, and one of the significant pieces of information is the level of alcohol concentration in the human body. The control of this parameter is "important not only for medical reasons (harmful effects on health, especially in the case of certain diseases and the use of pharmacotherapy), but also for safety reasons (risks associated with performing certain professional activities under the influence of alcohol, or violation of the legal obligation to remain sober)."⁹

The concept of the Transdermal Alcohol Concentration Monitoring System (hereafter referred to as "TAC") is based on the American system of transdermal alcohol measurement, which is performed using *Secure Continuous Remote Alcohol Monitoring* (SCRAM), the most popular device in the United States manufactured by *Alcohol Monitoring Systems* (see Graphic 1-3). Another less popular and shorter-lived device on the US market is the *Transdermal Alcohol Detection* (TAD) from *BI Incorporated*.¹⁰

The essence of the TAC system's operation is the transdermal monitoring of biological signals produced during or immediately after alcohol consumption, as well as the subsequent pathways of alcohol metabolism. These signals are detected using so-called biosensors. At the same time, bearing in mind that about 1% of ingested alcohol is excreted with sweat, and that the alcohol concentration in sweat is proportional to the blood alcohol concentration, most of the recent research in the field of alcohol biosensors has focused on the transdermal detection of alcohol.¹¹

It is important to note that the TAC system can operate permanently, thereby it can continuously monitor sweat for possible alcohol content.¹²

⁸ M. Frąckowiak, M. Motyka, *op. cit.*

⁹ B.M. Nowak i in., *Ekspertyza – Możliwości adaptacji systemu transdermalnego monitorowania stężenia alkoholu (TMSA) do polskich uwarunkowań prawno-społecznych*, Warszawa 2020.

¹⁰ A.S. McKnight, J.C. Fell, A. Auld-Owens, *Transdermal alcohol monitoring: Case studies*. (Report No. DOT HS 811 603), Washington 2012.

¹¹ E. Robertson, W. Vanlaar, H. Simpson, *Continuous Transdermal Alcohol Monitoring: A Primer for Criminal Justice Professionals*, "Traffic Injury Research Foundation" 2007, No 21; W. Roberts, S.A. McKee, *Mobile Alcohol Biosensors and Pharmacotherapy Development Research*, "Alcohol", December 2018.

¹² Szczegółowy opis działania systemu TMSA został zawarty w ekspertyzie B.M. Nowak i in., *Ekspertyza...*, s. 7-12.

Graphic 1. SCRAM CAM Bracelet



Source: <https://www.scramsystems.com/help/scram-cam/> (accessed: 11.02.2022)

Graphic 2. SCRAM CAM Bracelet



Source: <https://www.scramsystems.com/help/scram-cam/> (accessed: 11.02.2022)

Graphic 3. SCRAM CAM Bracelet



Source: <https://www.i-monitor.pro/products/scram-continuous-alcohol-monitoring/> (accessed 11.02.2022)

In the United States, the TAC system covers individuals who have driven a motor vehicle under the influence of alcohol (for the first time) as well as individuals acting in the aggravating circumstances of recidivism (in the context of the aforementioned crime). In addition, the system covers individuals who “have committed a crime involving high blood alcohol content or an incident resulting in death or injury to others; offenders of assault, domestic violence, or other crimes in which alcohol was among the causes of the crime; non-alcohol-related offenders who are suspected of having a history of alcohol-related problems; young

offenders with a history of alcohol problems or among whom alcohol has been implicated as a factor in the offence; other categories of offenders for whom judges, probation officers, or other officials have determined that abstinence from alcohol is needed and monitoring is warranted.”¹³

As the research team of the Szkoła Wyższa Wymiaru Sprawiedliwości emphasizes, “(...) research reports on transdermal alcohol concentration monitoring indicate that it is accurate and effective in deterring offenders from drinking alcohol. Information regarding irregularities in the use of the system quickly reaches the appropriate people in charge of monitoring. TAC helps enforce abstinence and is a more effective way to monitor alcohol concentration than other techniques and technologies (e.g., breath tests or urinalysis).”¹⁴ Moreover, it has been pointed out that “according to data collected in six states of the USA, the majority of officials from the case study agencies in the field expressed positive feedback with regard to the use of a transdermal alcohol monitoring programme.”¹⁵

2. Potential use of the TAC system on probation

Referring directly to the institution of probation – which is the subject of this study – it should be stressed that in the Polish legal system we can distinguish two categories of professional court probation officers, namely:

- a) adult probation officers – who are autonomous bodies of enforcement proceedings, exercising supervision in criminal cases under the Act of 6 June 1997 – the Criminal Code (CC)¹⁶ and the Act of 6 June 1997 – the Penal Enforcement Code (PEC);¹⁷
- b) court welfare officers – exercising supervision in family and juvenile matters, acting on the basis of the Act of 26 October 1982 on proceedings in juvenile matters¹⁸, as well as the so-called alcohol supervision exercised on the basis of specific provisions, including the Act of 26 October 1982 on Upbringing in Sobriety and Counteracting Alcoholism.¹⁹

In the context of the possibility of adapting the TAC system in the context of the probation service, it should be pointed out that in terms of obliging offenders, inter alia, to abstain from alcohol abuse, the normative act based on which the said obligation may be introduced is the Act of 27 July 2001 on Probation Officers²⁰, also referred to in the literature on the subject as the “constitution” of the probation

¹³ B.M. Nowak i in., *Ekspertyza...*, s. 11. Więcej na ten temat: McKnight, J.C. Fell, A. Auld- Owens, *op. cit.*, s. 5-6.

¹⁴ B.M. Nowak i in., *Ekspertyza...*, s. 11.

¹⁵ *Ibidem*.

¹⁶ Dz. U. z 2021 r. poz. 2345, ze zm.; dalej: k.k.

¹⁷ Dz.U. z 2021 r. poz. 53, ze zm.; dalej: k.k.w.

¹⁸ Dz. U. z 2018 r. poz. 969; dalej: u.p.s.n.

¹⁹ Dz. U. z 2021 r. poz. 1119, ze zm.; dalej: u.w.t.p.a.

²⁰ Dz. U. z 2020 r. poz. 167; dalej: u.k.s.

service.²¹

Referring directly to the subject of this part of the study, it should be emphasized that Article 173a of the PEC provides that a probation officer may oblige a convicted offender or an offender under supervision or obliged to refrain from alcohol abuse, use of narcotic drugs or psychotropic substances to undergo and carry out tests for the presence of alcohol, narcotic drugs or psychotropic substances in their organism, using methods that do not require laboratory testing.

Importantly, according to Article 173a § 3 of the PEC, the Minister of Justice shall determine, by way of regulation, the manner in which tests for the presence of alcohol, narcotics or psychotropic substances in the organism of a convicted offender or an offender placed under supervision or obliged to refrain from alcohol abuse or the use of narcotic drugs or psychotropic substances shall be carried out, documented and verified, taking into account the need to ensure that tests are conducted efficiently and that their results are reliable.²² As it seems, the TAC system would be an excellent tool by means of which a probation officer could permanently monitor whether a person under supervision is abstaining from alcohol abuse.

3. Probation officer's supervision over a person with alcohol addiction and the potential use of the TAC system in surveillance

All actions taken by probation officers for both adults and families should be aimed at the welfare of the person under supervision, his or her family, and their proper functioning in society. The probation officer works to bring about a conciliatory end to the conflict that has become the material basis for the interference of the justice system and works for reconciliation, restoration of order, security, and justice.²³ As an 'auxiliary body' of the court, probation officers play an educative, rehabilitative, monitoring, and preventive role.²⁴

The scope of duties envisaged for probation officers is defined in normative acts, i.e. laws and regulations issued on their basis (i.e. executive acts). They do not arise solely from the provisions set out in the TAC, because it is an act of a systemic nature, defining, among other things, the organization of the probation service, the rights and duties of probation officers, as well as their working conditions, pay and disciplinary responsibility. The probation officers' tasks and duties are derived

²¹ Zob. T. Jedynak, K. Stasiak, *Ustawa o kuratorach sądowych. Komentarz*, Warszawa 2014.

²² Mowa tu o rozporządzeniu Ministra Sprawiedliwości z dnia 16 stycznia 2012 r. w sprawie sposobu przeprowadzania badań na obecność alkoholu, środków odurzających lub substancji psychotropowych w organizmie skazanego lub sprawcy oddanego pod dozór lub zobowiązanego do powstrzymania się od nadużywania alkoholu lub używania środków odurzających lub substancji psychotropowych, ich dokumentowania oraz weryfikacji (Dz. U. poz. 104).

²³ J. Królikowska, *Kontekst socjologiczny pracy kuratora sądowego*, w: *Profilaktyka i readaptacja społeczna – od teorii do doświadczeń praktyków*, E. Bielecka (red.), Białystok 2006, s. 271-285.

²⁴ B. Stróżewski, *Instytucja kuratora sądowego w polskim wymiarze sprawiedliwości*, „Journal of Modern Science” 2019, t. 2, nr 41, s. 249-272.

from other legislation, regulations of a special nature.²⁵ The tasks of probation officers are also found in the regulations of the Minister of Justice.²⁶

It should also be emphasized that according to Article 173a of the PEC, a probation officer may oblige a convicted offender or an offender under supervision or obliged to refrain from, *inter alia*, abusing alcohol to undergo tests for its presence in his or her body using methods that do not require laboratory testing²⁷ – also, in this aspect, the TAC system could be used as a method to detect alcohol content in the body without laboratory testing. In the context of the subject matter of this study, it is worth pointing out that the goal of the probation officer's activities is, above all, to bring about a situation in which the person under supervision will observe the legal order, including, for example, by not abusing alcohol (in the case of convicted individuals or minors) or will properly fulfil his or her obligations with respect to his or her guardianship responsibilities (i.e. the probation officer will monitor whether the person under supervision is using alcohol excessively). The purpose may also be to provide the court with relevant personal information about the person whose fate it is to decide or to check whether the penalties or obligations imposed by the court – including not drinking alcohol – have been carried out in accordance with the intention of the court (Article 14 § 1 of the PEC).

The tasks set out in the TAC which are specified in specific provisions (and whose performance is the responsibility of adult probation officers) include: exercising supervision, organizing and controlling the enforcement of a custodial sentence, including the obligations imposed on the convicted person serving the

²⁵ Należą do nich między innymi: ustawa z dnia 25 lutego 1964 r. – Kodeks rodzinny i opiekuńczy (Dz. U. z 2020 r. poz. 1359); ustawa z dnia 17 listopada 1964 r. – Kodeks postępowania cywilnego (Dz. U. z 2021 r. poz. 1805, ze zm.); u.p.s.n.; u.w.t.p.a.; k.k.w.; ustawa z dnia 6 czerwca 1997 r. – Kodeks postępowania karnego (Dz. U. z 2021 r. poz. 534, ze zm.); ustawa z dnia 27 lipca 2001 r. – Prawo o ustroju sądów powszechnych (Dz. U. z 2020 r. poz. 2072, ze zm.).

²⁶ T. Jedynak, K. Stasiak, *op.cit.* Mowa tu o rozporządzeniach Ministra Sprawiedliwości z dnia 16 sierpnia 2001 r. w sprawie szczegółowych zasad i trybu przeprowadzania wywiadów środowiskowych o nieletnich (Dz. U. z 2001 r. Nr 90, poz. 1010); z dnia 5 października 2001 r. w sprawie ośrodków kuratorskich (Dz. U. z 2001 r. Nr 120, poz. 1294); z dnia 11 czerwca 2003 r. w sprawie regulaminu czynności w zakresie przeprowadzania wywiadu środowiskowego oraz wzoru kwestionariusza tego wywiadu (Dz. U. z 2003 r. Nr 108, poz. 1018); z dnia 26 sierpnia 2003 r. w sprawie określenia innych niż kurator sądowy organów powołanych do przeprowadzenia wywiadu środowiskowego, jego zakresu oraz trybu przeprowadzania (Dz. U. z 2003 r. Nr 152, poz. 1495); z dnia 1 czerwca 2010 r. w sprawie podmiotów, w których jest wykonywana kara ograniczenia wolności oraz praca społecznie użyteczna (Dz. U. z 2010 r. Nr 98, poz. 634); z dnia 24 czerwca 2014 r. w sprawie nadzoru nad nieletnimi (Dz. U. z 2014 r. poz. 855); z dnia 13 czerwca 2016 r. w sprawie sposobu i trybu wykonywania czynności przez kuratorów sądowych w sprawach karnych wykonawczych (Dz. U. z 2016 r. poz. 969); z dnia 13 września 2017 r. w sprawie Funduszu Pomocy Pokrzywdzonym oraz Pomocy Postpenitencjarnej – Funduszu Sprawiedliwości (Dz. U. z 2019 r. poz. 683); z dnia 18 czerwca 2019 r. – Regulamin urzędowania sądów powszechnych (Dz. U. z 2019 r. poz. 1141).

²⁷ Zgodnie z rozporządzeniem Ministra Sprawiedliwości z 16 stycznia 2012 r. w sprawie sposobu przeprowadzania badań na obecność alkoholu, środków odurzających lub substancji psychotropowych w organizmie skazanego lub sprawcy oddanego pod dozór lub zobowiązanego do powstrzymania się od nadużywania alkoholu lub używania środków odurzających lub substancji psychotropowych, ich dokumentowania oraz weryfikacji § 2 do tych badań zalicza: badanie wydychanego powietrza, badanie śliny oraz badanie krwi.

sentence, controlling the convicted person during the probation period, assistance and preparation for life after release from prison, controlling the obligation to refrain from staying in certain places and prohibiting contact with certain individuals, conducting community interviews, performing activities under the system of electronic supervision (SDE) and participating in the work of the interdisciplinary team.

Mandatory treatment for substance dependence, as ordered by the court, should not last more than 2 years, but the time should be tailored to the needs of the person with addiction. The procedure associated with substance abuse treatment consists of the exploratory process and enforcement proceedings. The exploratory process pertains to the court's decision to refer an individual for treatment and commit him or her to therapy. The enforcement proceedings, on the other hand, consist of the fulfilment of obligations that have been imposed by the court. The person who oversees the implementation of these obligations is the probation officer.²⁸ According to the statistical data collected and made available by the Factbook on Justice Statistics²⁹ (supervised by the Ministry of Justice), in the first half of 2019, there were 7372 people with alcohol use disorder and under compulsory treatment ordered to be supervised by a (professional) probation officer. The corresponding figures in previous years were: in 2018 – 7707, in 2017 – 8039, in 2016 – 7264, in 2015 – 7031, in 2014 – 6663, in 2013 – 6365, in 2012 – 6483, in 2011 – 6087 and in 2010 – 7052.

The above data indicate a relatively stable trend of rulings issued in this respect, therefore it is worth continuing to monitor the scale of this phenomenon in order to take action aimed at minimizing it.

The most important task of a probation officer supervising a person addicted to alcohol is to undertake such actions that will contribute to obliging the addicted person to comply with the court's order to start or continue treatment for their addiction. Difficulties in fulfilling these obligations become apparent when people are referred for treatment in the open system (participation in classes and therapy without a permanent stay in a specialized centre). The attitude and motivation of the addicted person to undertake treatment and to fulfil the obligations imposed by the court determine the effectiveness and positive completion of treatment. A person with an alcohol problem must on their own make the decision to change, without pressure or coercion from others. An important task of the probation officer in this aspect is to motivate that person to change, to accompany and support them in taking the right actions. Very often people obliged to undergo treatment for alcohol addiction and who actually have entered treatment relapse to alcohol at some point (either during or after treatment).³⁰ Hence, probation

²⁸ M. Horna-Cieślak, *Orzekanie oraz wykonywanie obowiązku leczenia odwykowego z ustawy o wychowaniu w trzeźwości i przeciwdziałaniu alkoholizmowi*, Warszawa 2017.

²⁹ <https://isws.ms.gov.pl/pl/baza-statystyczna/opracowania-wieloletnie/> – *leczenie alkoholowe* (dostęp: 19.03.2021).

³⁰ E. Cabaj, *Nadzór kuratorski nad osobą zobowiązaną do leczenia odwykowego*, „Profilaktyka społeczna i resocjalizacja” 2012, nr 19, s. 95-112; A. Węgliński, *Zasoby osobiste i kompetencje zawodowe kuratorów*

officers whose probationers would be equipped with devices that monitor the level of alcohol in their bodies would have constant control over the addicted person, which means they would be able to react quickly and take new action if the agreed commitments were broken. In the context of the findings made so far, it should be stressed that the probation officer is obliged to evaluate how the probationer fulfils his or her duties (both the tasks being carried out and the control activities ordered by the court; for example, checking the state of sobriety during every visit by the probation officer). The potential use of TAC would allow for reliable, accurate, and non-negligible evaluation results.

4. Possible changes in light of the Polish legal system

It seems that the TAC system could be successfully implemented, inter alia, in the Act on court probation officers. Some probation officers would thus certainly be relieved of the duties of permanently monitoring the person with alcohol addiction, i.e. checking whether he or she is abusing alcohol. Its potential use by probation officers would initially be closely connected with the secondary (and often primary) socialization of the monitored individuals and probationers, the development or consolidation of mechanisms for self-control, the shaping of skills for coping with difficult or crisis situations in life, and thus with social reintegration in a broad sense.³¹

It should be pointed out that undertaking social rehabilitation using the TAC system would be an orderly and purposeful process – which constitutes a counterbalance to maladaptive socialization and upbringing in the family, generating social maladjustment and criminal socialization, including crimes committed under the influence of alcohol.³²

At the same time, it should be remembered that the discussed Act on Court Probation Officers only has a systemic dimension, and that the tasks with respect to probation officers have been included in many other normative acts (as was demonstrated earlier in this article).

On the basis of the Act in question, it is proposed that the following changes be made:

- a) professional probation officers should be able to request, in justified cases, the possibility of applying TAC to their client;
- b) professional probation officers, due to the fact that they are obliged by law to constantly improve their professional qualifications, should also participate in training sessions and other forms of in-service training concerning the specifics of the TAC system operation (if this innovative solution is introduced into the Polish legal system);
- c) in the context of the Act on Court Probation Officers and the Act on Upbringing in Sobriety and Counteracting Alcoholism, it should be

sądowych niezbędne w pracy z osobą dozorowaną z problemem alkoholowym, „Lubelski Rocznik Pedagogiczny” 2013, t. XXXII, s. 343-364.

³¹ B.M. Nowak i in., *op.cit.*

³² *Ibidem.*

pointed out that the court may order a probation officer to conduct a community interview, to determine the circumstances indicating alcohol abuse by the person subject to the proceedings and disturbance of peace or public order caused by them, as well as their relations within the family, behaviour towards minors and attitude towards work.

In the circumstances described above, the court could order the use of TAC, to assist the probation officer in conducting the community interview and, in some situations – even replace the probation officer.

Conclusion

As is well known and as has been demonstrated in this article – (excessive) alcohol consumption entails a number of negative social consequences. These include declining work productivity, as well as rising costs in health care, social welfare, and the administration of justice.

Heavy alcohol consumption or abuse is inherently linked to violations of law (i.e. criminality), suicide attempts and violence. In the case of alcohol-dependent people with who have been ordered by the court to undergo treatment for their dependence, the probation officer plays an extremely important role. Nevertheless, the success of the actions taken by the probation officer does not depend on the fact that the person with an addiction undertakes therapy, but rather that he or she perseveres in sobriety, improves relationships with loved ones, and correctly fulfils social roles. Furthermore, it should not be forgotten that people struggling with alcohol problems constitute a specific group, as they do not allow themselves to think that they are ill, addicted and in need of treatment and therapy.

In the context of the legal analysis carried out, it should be emphasized that the possibility of adapting the TAC system on the basis of the institution of probation can be used in the aspect of obliging offenders, among other things, to abstain from alcohol abuse.

In Poland, drink-driving offences are among the most common in Europe³³ – hence the activities undertaken should be multifaceted, targeting the development of alcohol monitoring devices (including improvements to motor vehicle ignition interlocks and, perhaps most importantly, the Transdermal Alcohol Concentration Monitoring System) as a comprehensive approach to reducing problems related to excessive alcohol consumption. Based on the practices of other countries to date, it appears that interinstitutional cooperation in this area, primarily between courts and probation services, is crucial and indispensable.³⁴

As demonstrated earlier in this study, a probation officer may oblige a convicted offender or an offender under supervision or obliged to refrain from

³³ <https://mubi.pl/poradniki/jak-alkohol-wplywa-na-statystyki-wypadkow-wpolsce/> (dostęp: 24.03.2021) oraz <https://www.compero.pl/poradnik/statystyki-wypadkowdrogowych-2020> (dostęp: 24.03.2021).

³⁴ EMT Group Inc. *Evaluation of the California Ignition Interlock Pilot Program for DUI Offenders*, 2010, (Farr-Davis Driver Safety Act of 1986).

abusing alcohol or narcotics or psychotropic substances to undergo tests for the presence of alcohol, narcotics or psychotropic substances in his or her body, using methods that do not require laboratory testing, and may, importantly, conduct such tests. The possibility of introducing the TAC system in the context of probation (in the Polish legal system) could undoubtedly be applied to the supervision of alcohol-dependent individuals, who have been obliged by the court to undergo treatment and upon whom a sentence other than imprisonment has been imposed. The TAC system implemented in this case could be useful in meeting the performance goals for probationers with alcohol problems.

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