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Articles

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Juvenile Community Services for the Benefit of the Local Community: In Search of Effective Methods of Resocialization

Zobowiązanie nieletniego do prac na rzecz społeczności lokalnej. W poszukiwaniu skutecznych metod resocjalizacji nieletnich

ABSTRACT

The article concerns juvenile community services for the benefit of the local community – an educational measure used by Polish courts. It presents research carried out using three methods: the legal-dogmatic method, the statistical method, and the case study method. The research covered 14 cases in which in 2013 the court obliged juveniles to work for the local community (nearly 1% of the total number of such rulings within this year in Poland). The results show that courts use this educational measure increasingly often, and it currently constitutes about 4% of rulings regarding educational measures aimed at juveniles. Courts most commonly use such measures against juveniles who are between 16 and 17 years old. Generally, it included 10 hours of community services for the

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Data: 29/11/2026 15:19:48

benefit of the juveniles' schools. Carrying out the ruling was usually managed by probation officers. The article also highlights the lack of legislation regulating the assignment and carrying out of juvenile community service. Such lack of clarity caused difficulties in carrying out the courts' rulings.

Keywords: juvenile; court; juvenile community service; probation officer; local community

INTRODUCTION

Already in antiquity it was recognized that juveniles should not be held responsible for punishable offenses to the same extent that adults are.[1] This stemmed from the belief that juveniles are not yet fully developed intellectually and psychologically, and thus, limited penal measures should be used against them.[2] In time, a search was begun for methods which would allow for effectively influencing juveniles in order to facilitate their correct socialization. This belief caused the development of juvenile law as a separate domain. The first juvenile court was created in Chicago in 1899.[3] In Poland, juvenile law and juvenile courts were introduced in 1919, shortly after regaining independence.[4]

In Poland, effective methods of working with juvenile offenders were attempted to be developed in addition to creating a separate legal system. The result was the creation of a variety of means which courts could use against juvenile offenders, as well as the creation of the probation system.[5] In the interwar period, the final shape of the educational measures to be used against juvenile offenders was given in the

[1] V. Konarska-Wrzosek, *Prawny system postępowania z nieletnimi w Polsce*, Warszawa 2013, pp. 34–35; M. Korcyl-Wolska, *Postępowanie w sprawach nieletnich na tle standardów europejskich*, Warszawa 2015, pp. 20–21.

[2] A broader look at the etiology of juvenile crime: K. Tsirigotis, E. Lewik-Tsirigotis, B. Baster, *Nieletni (jako) sprawca czynu zabronionego*, "Pedagogika Rodziny" 2012, no. 2(4), pp. 73–92.

[3] A. Strzembosz, *Postępowanie w sprawach nieletnich w prawie polskim*, Lublin 1984, p. 12; B. Stańdo-Kawecka, *Prawo karne nieletnich. Od opieki do odpowiedzialności*, Warszawa 2007, pp. 33–34; R.E. Shepherd Jr., *The Juvenile Court at 100 Years: A Look Back*, "Juvenile Justice" 1999, vol. 6(2), p. 13.

[4] R. Opora, *Rola sędziów i kuratorów w resocjalizacji nieletnich*, Gdańsk 2006, p. 24; V. Konarska-Wrzosek, *op. cit.*, p. 41.

[5] K. Stasiak, *Czy potrzebna jest nam reforma kurateli sądowej?*, "Gdańskie Studia Prawnicze" 2020, no. 3, pp. 103–105; A. Komorowski, *Nieletni przestępcy*, [in:] *Zagadnienia opieki nad macierzyństwem, dziećmi i młodzieżą w Polsce*, ed. B. Krakowski, Warszawa 1929, p. 53; K. Stasiak, *Ewolucja systemu kurateli sądowej w Polsce w latach 1919–2009 – kamienie milowe*, [in:] *Dziewięćdziesięciolecie kurateli sądowej w Polsce. Historia – teraźniejszość – przyszłość*, eds. K. Stasiak, Ł. Wirkus, P. Kozłowski, T. Jedynak, Kraków 2010, pp. 46–48; K. Szymków, *Instytucja stałych opiekunów sądowych 1919–1929*, "Folia Iuridica Universitatis Wratislaviensis" 2018, vol. 7(1), pp. 77–78; Ł. Wirkus, A. Babicka-Wirkus, R. Opora, K. Stasiak, *Burnout among Probation Officers in Poland and the Role of Preferred Styles of Coping with Stress*, "International Journal of Environmental Research and Public Health" 2021, vol. 18(1), p. 2.

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Data: 29/11/2026 15:19:48

1932 Penal Code, and it included "reprimands, supervision by parents, temporary guardians, or special probation officers, or placement in a youth care facility".[6] Based on Article 70 of the Polish Penal Code, juvenile offenders could also be placed in youth detention centers.

After World War II, despite numerous changes to the penal law, their scope usually did not include juvenile law. Even the implementation of a new Penal Code in 1969 did not change it. As a result, for a long time, juvenile law relied on pre-war legal regulations of the 1932 Penal Code and the 1928 Criminal Procedure Code[7] which quickly became insufficient in the face of the changing social reality.[8] Only the passing of the Act of 26 October 1982 on penal proceedings in cases involving juveniles[9] changed this state of affairs. It bears highlighting that this was the first Polish Act which regulated legal proceedings in cases of juvenile offenders or juveniles exhibiting behaviors signifying demoralization.[10] Undoubtedly, the benefit of the above Act was the expansion of the measures available to juvenile courts (Article 6). This gave the courts the ability to adjust the measures to the juvenile offender's case and presenting issues, which gave them a more individualized character.

A brief analysis of Article 6 allows for a conclusion that the broad catalogue of available educational measures it includes did not have a closed character. This is evident in the specific formulation of item 2: "obligate towards specific proceeding, in particular (…)". Article 6 was not as developed as it was later (currently Article 7),[11] and it did not comprise juvenile community services for the benefit of the local community. This did not mean that the court could not use this measure. However, such rulings were not issued.[12] This changed after the amendment of 15 September 2000.[13] As a result, Article 6 (2) directly stated that the court can obligate a juvenile offender to community services for the benefit of the injured party or the local community.

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[6] Regulation of the President of the Commonwealth of 11 July 1932 – Penal Code (Journal of Laws 1932, no. 60, item 571, as amended).

[7] Regulation of the President of the Commonwealth of 19 March 1928 – Code of Criminal Procedure (Journal of Laws 1928, no. 33, item 313, as amended).

[8] P. Kozłowski, K. Stasiak, *Ośrodek kuratorski. Ujęcie prawne, organizacyjne i metodyczne*, Warszawa 2018, pp. 7–8.

[9] Journal of Laws 1982, no. 35, item 228, as amended.

[10] B.M. Kałdon, *Przestępczość wśród nieletnich a podejmowane działania profilaktyczne*, "Seminare" 2015, vol. 36(3), pp. 118–119.

[11] Act of 9 June 2022 on the support and rehabilitation of juveniles (Journal of Laws 2022, item 1700).

[12] A. Michalska-Warias, *Struktura środków wychowawczych i poprawczych orzekanych wobec nieletnich w latach 90.*, "Studia Iuridica Lublinensia" 2004, vol. 3, pp. 148–151.

[13] Act of 15 September 2000 amending the Act on penal proceedings in cases involving juveniles (Journal of Laws 2000, no. 91, item 1010).

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Data: 29/11/2026 15:19:48

In the amendment justification, it can be read that "the amendment of Article 6 (2) results from the efforts to develop it into such a formula as would be more commonly used in practice by family courts. Thus far, it has been – regretfully – used in a very limited manner. In particular, the obligation of a juvenile offender towards specific behaviors has been clarified. For example, this means the obligation towards community service for the benefit of the injured party or the local community, which should have a significant corrective impact in situations where direct remediation of the harm caused is not possible for any reason (…)".[14] As the above shows, the aim of the amendment was to encourage family court judges to use juvenile community services as an educational measure. It was decided that this measure should be used especially in those cases where a direct remediation of the harm caused by the juvenile offender is not possible. However, it should also not be forgotten that work itself has significant educational values in the process of socialization of every young person.

MATERIALS AND METHODS

The aim of the current article is to present the determinants of using and carrying out the educational measure of juvenile community services for the benefit of the local community. Thus far, this issue has not been subjected to a broader analysis in the Polish literature. Significant studies on this topic are also lacking. At times, this issue was considered within studies on other topics. For example, it is worth mentioning the studies by J. Kusztal on the protection of juveniles' rights during interrogations. They comprised 46 juvenile cases. Among those, only one resulted in juvenile community services for the benefit of the municipality.[15] However, this dataset was not adequate for drawing general conclusions.

A preliminary analysis of the presented topic allows for defining numerous problems. They stem from the fact that using the juvenile community services as an educational measure was only sparsely regulated in the Act on penal proceedings in cases involving juveniles and its amendments. In order to describe this legal institution in greater detail, several research questions were formulated: In what cases did courts use juvenile community services for the benefit of the local community as an educational measure? Were there any limitations in using this educational measure? How was this educational measure carried out? Was the injured party obligated to receive the benefits of juvenile community services and thus allowed

[14] Rządowy projekt ustawy o zmianie ustawy o postępowaniu w sprawach nieletnich, Druk nr 1214, https://orka.sejm.gov.pl/proc3.nsf/opisy/1214.htm (access: 15.3.2021).

[15] J. Kusztal, *Zobowiązanie do pracy jako środek wychowawczy w resocjalizacji nieletnich w świetle badań pilotażowych*, "Acta Scientifica Academiae Ostroviensis. Sectio A" 2017, vol. 9(1), p. 65.

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Data: 29/11/2026 15:19:48

for its carrying out, and what were their obligations? Were there difficulties in carrying out juvenile community services? If so, what were they?

The broad scope of the current research necessitated the use of several methodologies. Above all, the legal-dogmatic method, the most popular method in legal studies,[16] was used. It served to assess the legal regulations pertaining to the analyzed issue.

The second method involved the statistical analysis of data on juvenile offenders and the educational measures used against them in court. Data from the Polish Ministry of Justice was used. The analysis spanned the years 2003–2018 (more recent data was not available). It allowed for establishing the frequency with which courts used juvenile community services for the benefit of the local community and which behaviors were generally related to such rulings.

Finally, a case study was carried out. It was carried out in one of the district courts of the Gdansk region (Kartuzy) after obtaining appropriate permission. The district court was chosen due to a particularly high number of rulings involving juvenile community services. The study involved 14 cases in 2013 in which the court used this educational measure. Because in 2013, 1,732 such rulings were issued in Poland, it was calculated that the current study comprises 0.8% of those. The year 2013 was chosen specifically due to the fact that this year courts have issued a particularly high number of such rulings (more such rulings were issued only in 2012).

The main aim of the study was to establish the way in which this educational measure was used against juvenile offenders and carried out. This aim was realized. It may be doubted whether analyzing data from only one district court was appropriate. However, considering the fact that this is a court which, compared to other courts in Poland, has substantial experience in using and carrying out juvenile community services for the benefit of the local community, this decision appears to be warranted.

RESEARCH AND RESULTS

1. Legal analysis

According to Article 6 of the Act on penal proceedings in cases involving juveniles (which was in force at the time of the survey), obligating juveniles to specific behaviors was one of the least severe educational measures which the courts could

[16] D. van Kędzierski, *Metodologia i paradygmat polskich szczegółowych nauk prawnych*, "Transformacje Prawa Prywatnego" 2018, no. 3, pp. 11–12.

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 29/11/2026 15:19:48

use against juvenile offenders.[17] The Act does not specify the rules that the courts should follow when using this measure. Thus, it has to be concluded that the general rules outlined in the Act apply. According to them, the ruling should consider "the juvenile's personality, especially their age, health, physical and psychological development, character traits, as well as behavior, the reasons behind, and the degree of demoralization, the character of their environment, and the conditions of their upbringing" (Article 3 § 2). It is worth recalling that Article 6 (2) justifies the uses of juvenile community services for the benefit of the local community as an alternative for situations where remediation of the harm caused by the juvenile was not possible. However, this was not formally included in the Act itself. As a result, there were no counterindications for using juvenile community services in cases other than the one specified above.

Numerous concerns are also raised by the loosely defined phrase "local community". It appears that this phrase should be understood as referring to the community in the juvenile's place of residence. However, establishing a more precise meaning of this term presents significant difficulties. In particular, it raises the question of the specific organizations and institutions which comprise the "local community". Does the local community only include organizations/institutions functioning in the specific local area, or also those of a national scope, for example, charity organizations? When using juvenile community services, should the court identify a specific organization which should receive the benefits of the community services, or should this choice be left to the juvenile or their parents/guardians?

It seems that the Act deliberately used a term which allows for considering the individual characteristics of a given community when deciding the beneficiary of the juvenile community services. "Local community" is such a broad term that it gave the court many options for identifying the beneficiary of the juvenile community services. The fact that the court should identify the beneficiary of juvenile community services did not resulted from the Act itself, but from the Ministry of Justice's Rules governing the operation of ordinary courts,[18] where it has been specified (§ 274 (2), but also § 242 (2) of the 2007 Regulation,[19] which was in effect when the rulings considered in the current analysis were issued) that using this educational measure by the court also involves the means and the time period of its carrying out. "The means of carrying out" juvenile community services had to necessarily include the place where the juvenile was to perform it.

[17] T. Bojarski, E. Kruk, E. Skrętowicz, *Postępowanie w sprawach nieletnich. Komentarz*, Warszawa 2016, pp. 77–78; K. Gromek, *Komentarz do ustawy o postępowaniu w spawach nieletnich*, Warszawa 2001, pp. 83–84; A. Grześkowiak, *Prawo nieletnich*, Warszawa 2020, pp. 85–87.

[18] Regulation of the Minister of Justice of 18 June 2019 – Rules governing the operation of ordinary courts (Journal of Laws 2019, item 1141, as amended).

[19] Regulation of the Minister of Justice of 23 February 2007 – Rules governing the operation of ordinary courts (Journal of Laws 2007, no. 38, item 249).

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 29/11/2026 15:19:48

The fact that the court specified the beneficiary of the juvenile community services did not mean that the specified beneficiary was obligated to agree. There were no norms in Polish law which would institute such a requirement. Thus, it seems that, before using juvenile community services, the court should obtain the intended beneficiary's consent. Lack of such consent may mean that the specified beneficiary will refuse the juvenile's community services, thus denying the juvenile the ability to carry out their obligation.

It is worth pointing out the fact that the objective difficulties in carrying out juvenile community services (e.g., the beneficiary shutting down) made it necessitate changes to the court's ruling. In general, this is a long-term process, which does not facilitate the carrying out of the juvenile community services and does not have a corrective effect on the juvenile. This justifies the possibility of making such changes at the executive proceeding stage. They could be made by the probation officer involved (such a possibility has recently been introduced into legislation).

Obligating a juvenile to community services for the benefit of the local community was carried out by the judge. However, according to Article 70a § 2 (16) of the Act on penal proceedings in cases involving juveniles, the judge could order a probation officer to oversee the carrying out of juvenile community service. The duties of the overseeing probation officer have been specified in § 11 of the Regulation of the Minister of Justice of 24 July 2014 on juvenile probation.[20] It specifies that the probation officer is to begin his duties within 7 days of being ordered to. First, they should establish contact with the juvenile and their parents or guardians, notify them of their rights and duties stemming from the educational measure used against the juvenile, and discuss the means and time period of carrying it out. During their activity, the probation officer may demand information about the carrying out of the educational measures used against the juvenile and may contact the beneficiary of the juvenile community services for information on the means and time period of carrying it out. The probation officer gathers this information when ordered by the court or periodically, at least once every 3 months. The probation officer issues a report to the court.

The presented legal construction raises numerous concerns, as it resulted in the creation of a double proceeding in such cases. A more effective solution would involve a specific identification of a single entity responsible for controlling the carrying out of juvenile community services. Due to their duties and competences, this entity should be probation officers. In turn, the courts should periodically receive reports on the juveniles' progress in carrying out community service.

[20] Journal of Laws 2014, item 855. They are currently under Regulation of the Minister of Justice of 28 November 2022 on the supervision of juveniles by probation officers, social organizations, employers and trustworthy persons (Journal of Laws 2022, item 2544).

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 29/11/2026 15:19:48

The Act on penal proceedings in cases involving juveniles does not specify the number of hours of community services that the court can obligate a juvenile to for the benefit of the local community. Thus, the courts had significant freedom in this respect. To achieve the desired corrective effects, the number of community service hours should be substantial. At the same time, it has to be remembered that this educational measure can only be used against a juvenile, that is a person younger than 18 years. Thus, considering the psychophysiological development of juveniles around that age, the ruling should not involve too many hours of community services either. The research presented below shows that courts most often issue rulings of between 5 and 20 hours of juvenile community services. The court should also specify the date by which the juvenile community services is to be completed, although, as the research shows, this was not always done.

An interesting question also concerns the age of the juvenile against which community services can be used. The Act on penal proceedings in cases involving juveniles specifies the juvenile's (minimal) age only in the case of having committed a punishable offense. In this case, it is 13 years. However, no minimum age has been specified in cases of behaviors indicating demoralization. Since juvenile community services can also be used in cases of demoralization, then the court may use it against juveniles below 13 years of age. Simultaneously, as per Article 3 § 2, the court is to consider the juvenile's age in their ruling. Because juvenile community services involve labor, courts should consider whether, due to their age, the juvenile can be obligated to work for the benefit of the injured party or the local community. Due to issues related with psychophysical development, such obligations should not be used against juveniles who are younger than 13 years old.

A significant problem related to the educational measure analyzed here was the lack of regulation which would specify the rights and duties of the entity where the juvenile is to carry out the obligation in question. When carrying out juvenile community services, many doubts may arise which will not be easily resolved, for example, the maximum number of community service hours per day, or the necessity of organizing occupational health and safety training for the juvenile. Thus, the best solution would was for the entity to contact the court with a request for clarifications, based on Article 352 of the Civil Procedure Code[21] due to Article 20 of the Act on penal proceedings in cases involving juveniles.

[21] Act of 17 November 1964 – Civil Procedure Code (consolidated text, Journal of Laws 2021, item 1805, as amended).

Pobrane z czasopisma Studia Iuridica Lublinensia **http://studiaiuridica.umcs.pl**
Data: 29/11/2026 15:19:48

2. Analysis of statistical data

As the statistical data in Table 1 show, juvenile community services for the benefit of the local community currently constitute a little over 4% of all educational measures used against juveniles. It is also worth noting that across the analyzed data from 16 years, the frequency of using juvenile community services by courts has increased by 4.5 times. This tendency may suggest that judges perceive significant educational value in this measure and see it as effective.

Table 1. Number of juvenile community service rulings for the benefit of the local community compared with the overall number of educational measure rulings

Year	Total number of rulings	Number of juvenile community service rulings	Percentage proportion
2003	41,926	265	0.63
2004	48,580	451	0.93
2005	46,913	598	1.27
2006	50,898	778	1.53
2007	55,538	895	1.61
2008	54,883	1,107	2.02
2009	50,368	1,300	2.58
2010	45,589	1,378	3.02
2011	45,149	1,511	3.35
2012	42,765	1,836	4.29
2013	40,624	1,732	4.26
2014	37,926	1,495	3.94
2015	32,207	1,305	4.05
2016	32,012	1,294	4.04
2017	27,985	1,203	4.30
2018	29,523	1,287	4.36

Source: own elaboration based on Ministry of Justice data: *Nieletni wg czynów karalnych oraz orzeczonych środków i płci*, 2003–2018, https://isws.ms.gov.pl/pl/baza-statystyczna/opracowania-wieloletnie/download,2853,26.html (access: 5.2.2022).

Based on the statistical data, it was established that the analyzed educational measure has been most frequently used against juveniles who have committed punishable offenses against life and health (Figure 1), property (Figure 2), or demoralization (Figure 3). In 2003, these constituted 89.1% of all juvenile offenses which resulted in juvenile community services, while in 2018 this proportion was 79.1%. It was also noticed that the percentage proportion of these three offenses changed within the analyzed time period. Currently, courts much more frequently issue such rulings due to demoralization (in the analyzed time period, the proportion of such rulings increased from 20.0% to 27.9%), with a simultaneous decrease in such rulings due to offenses against property (a decrease from 55.5% to 35.8%). However, the percentage proportion of juvenile community service rulings due to punishable offenses against life or health did not change significantly in the analyzed time period and was around 15% per year.

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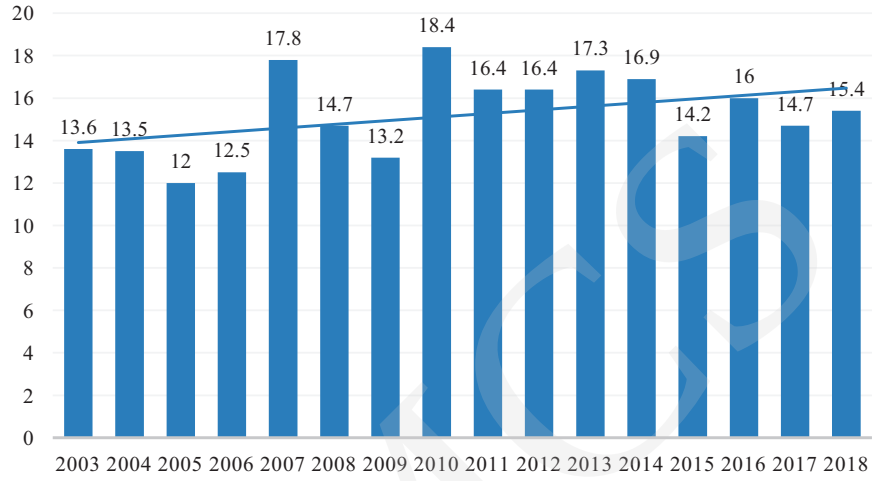

Figure 1. Percentage proportion of juvenile community service rulings for the benefit of the local community due to punishable offenses against life and health (% of the total number of rulings)

Source: own elaboration based on Ministry of Justice data: *Nieletni wg czynów karalnych oraz orzeczonych środków i płci*, 2003–2018, https://isws.ms.gov.pl/pl/baza-statystyczna/opracowania-wieloletnie/download,2853,26.html (access: 5.2.2022).

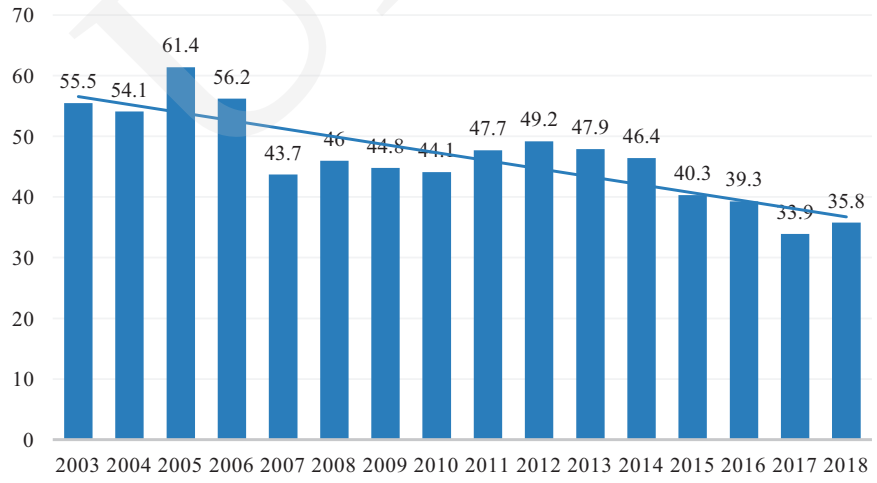

Figure 2. Percentage proportion of juvenile community service rulings for the benefit of the local community due to punishable offenses against property (% of the total number of rulings)

Source: own elaboration based on Ministry of Justice data: *Nieletni wg czynów karalnych oraz orzeczonych środków i płci*, 2003–2018, https://isws.ms.gov.pl/pl/baza-statystyczna/opracowania-wieloletnie/download,2853,26.html (access: 5.2.2022).

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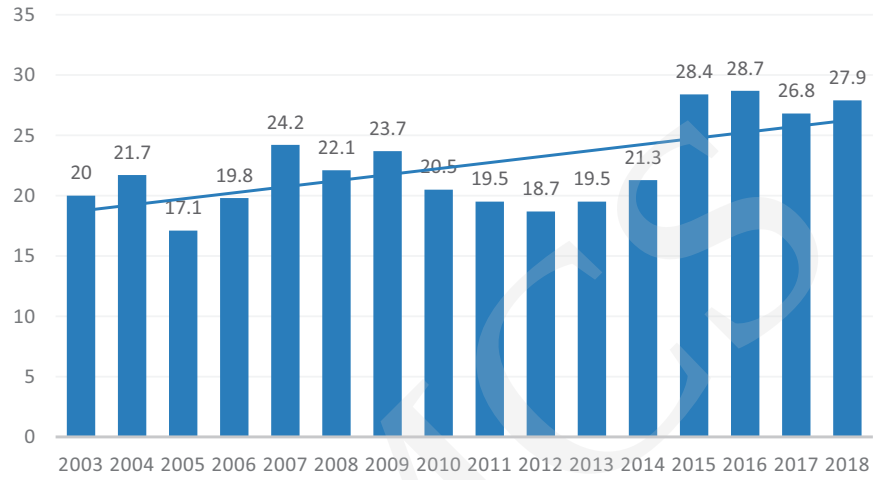

Figure 3. Percentage proportion of juvenile community service rulings for the benefit of the local community due to demoralization (% of the total number of rulings)

Source: own elaboration based on Ministry of Justice data: *Nieletni wg czynów karalnych oraz orzeczonych środków i płci*, 2003–2018, https://isws.ms.gov.pl/pl/baza-statystyczna/opracowania-wieloletnie/download,2853,26.html (access: 5.2.2022).

It can be assumed that the presented statistical data and the tendencies observable on their basis have two main causes:

1. There was a change in the proportion in the courts' reasons for using educational measures against juveniles in the analyzed time period. In 2003, in 65.9% (27.6 thousand) of the cases, the reason for using educational measures against juveniles was their punishable offenses. However, in 2018, they comprised only 39.3% (11.6 thousand) cases, while the proportion of demoralization as a reason for using educational measures by the courts increased from 34.1% (14.3 thousand) to 60.7% (17.9 thousand).[22]
2. Currently, the courts use juvenile community service more frequently, treating it as an educational measure (through labor). This is evident by the fact that they are increasingly used due to juvenile demoralization.

3. Own research

The study comprised 14 cases in which in 2013 the court issued a ruling of juvenile community services for the benefit of the local community. In nine of the analyzed cases, the executive proceedings were concluded in 2013, in four cases – in 2014, and in one case – in 2015.

[22] *Nieletni wg czynów karalnych oraz orzeczonych środków i płci*, 2003–2018, https://isws.ms.gov.pl/pl/baza-statystyczna/opracowania-wieloletnie/download,2853,26.html (access: 5.2.2022).

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Based on the conducted research it was established that the educational measure of community services for the benefit of the local community was the most frequently used against juveniles who were between 16 and 17 years old at the time of the ruling. In only one of the cases, the juvenile was 15 years old. In general, the court obligated the juveniles to serve 10 hours of community services (in nine cases). Usually, the community service was to be carried out at the juvenile's school. In only three cases, it was specified as an institution. Out of these, in one case, it was specified as an institution where the juvenile currently resided. In the other two cases, the court did not specify which exact institution it referred to. This was specified only at the executive proceedings stage.

The analysis of the cases included in the research shows that the date by which the juvenile was to serve their community services was not always specified. Thus, it had to be assumed that the general norm in Article 73 of the Act on penal proceedings in cases involving juveniles, according to which the educational measure ceased to be in effect, by law, on the juvenile's 18th birthday. However, when the court issued a date by which the juvenile was to serve their community service, it was set one or two months after the date of the ruling coming into effect.

Table 2. Results of the conducted research

Juvenile	Age	Number of community service hours	Location of community service	Date by which community service was to be served	Was the community service served?
N-1	17	10	school	2 months	yes
N-2	16	10	school	2 months	yes
N-3	16	10	school	2 months	yes
N-4	16	10	school	2 months	yes
N-5	15	10	institution	1 month	yes
N-6	16	5	school	1 month	yes
N-7	15	10	school	n/a	yes
N-8	17	5	school	1 month	no
N-9	17	10	school	n/a	yes
N-10	17	5	school	n/a	yes
N-11	17	5	school	n/a	yes
N-12	17	10	school	n/a	yes
N-13	16	10	institution	n/a	yes
N-14	16	20	institution	n/a	yes

Source: own elaboration.

The research also shows that the juveniles served the community service rulings against them, with the exception of one case, where the juvenile became 18 years old before serving the community services, due to which the court discontinued the proceedings.

In one case (N-4), the juvenile was obligated to community services for the benefit of their school. However, before the obligation was realized, the juvenile changed their school. The previous school refused to allow the juvenile to continue

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Data: 29/11/2026 15:19:48

services there. The probation officer responsible for the executive proceeding appealed to the court for indicating a different institution where the juvenile could continue community services. The judge issued an appropriate ruling. However, a decision should have been issued in this case instead.

In all cases included in the study, the carrying out of juvenile community services was controlled by a probation officer. Their tasks mainly involved establishing whether the juvenile carried out their assigned duties. To this end, the probation officers appealed, in writing, to the appropriate institution for confirmation. After receiving such confirmation, the case was presented to the court together with an appeal for discontinuing the juvenile community services due to having served it. If the juvenile did not carry out their assigned duties, the probation officer contacted them and motivated them towards greater engagement.

Legal regulations did not obligate the probation officers to control how the juvenile was carrying out their community services for the benefit of the local community by visiting the indicated institution. Thus, the probation officers in the cases included in the study did not carry out such controls.

A significant problem related to the carrying out of such rulings was the lack of insurance for the juvenile against accidents. This discouraged potentially eligible institutions from consenting to juvenile community services. If juveniles were carrying out community services at their schools, they could be included in the insurance by virtue of being students there. In other cases, the juveniles were not insured.

DISCUSSION AND CONCLUSIONS

The conducted research shows that Polish courts use juvenile community services for the benefit of the local community increasingly often. Currently, they comprise about 4% of all educational measures used against juvenile offenders.

It is worth noting that community services have been used against offenders for over 50 years.[23] It is often treated as an alternative to custodial sentences. It began to be used against juveniles relatively quickly. In general, it involves the juvenile carrying out simple tasks, for example, picking up garbage.[24] Currently, it is increasingly indicated that this does not yield adequate educational effects. Beginning in 2001, the Clark County Juvenile Court in Washington State, US, has begun

[23] J. Harding, *Forty Years On: A Celebration of Community Service by Offenders*, "Probation Journal" 2013, vol. 60(3), pp. 325–326; W.R. Wood, *Soliciting Community Involvement and Support for Restorative Justice through Community Service*, "Criminal Justice Policy Review" 2015, vol. 26(2), p. 133.

[24] A.S. Church, D.K. Marcus, Z.K. Hamilton, *Community Service Outcomes in Justice – Involved Youth: Comparing Restorative Community Service to Standard Community Service*, "Criminal Justice and Behavior" 2021, vol. 49(9), p. 1244.

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Data: 29/11/2026 15:19:48

using restorative community service (RCS) instead of standard community service (SCS) against juveniles. Restorative community service is based on the principles of restorative justice (RJ).[25] Restorative justice interventions aim to support the juveniles' development and integration with their environment.[26] Because juveniles are still shaping their identity and are developing socially and cognitively, it was assumed that RJ interventions would encourage them toward prosocial behaviors. Restorative community service differs from SCS by virtue of involving work that measurably benefits society. It utilizes the juveniles' natural predispositions and skills.[27] It also requires interactions with a mentor (e.g., through cooperation). It measurably benefits society and thus gives satisfaction to the juvenile. It is often carried out in nonprofit organizations and charities. A study by A.S. Church, D.K. Marcus and Z.K. Hamilton showed that juvenile community service in the RCS model, in contrast to the SCS model, can more positively influence juvenile attitudes, peer relationships, school behaviors, and substance use.[28]

Juvenile community services in Poland are organized in a diffuse model based on SCS, where juveniles carry out simple tasks in various institutions (often in their schools). Due to a small number of juveniles carrying out community services, the involved institutions do not have opportunities for gaining experience in organizing such work for them. Juveniles are most commonly ordered to carry out simple tasks which rarely bring any satisfaction to them.

It has to be noted that community services for the benefit of the local community have significant educational potential,[29] though juveniles should also not be treated similarly to adults in this context. Due to the developmental stage they are in, juveniles often do not possess the abilities necessary for carrying out many tasks, which is why juvenile community services for the benefit of the local community require a different approach. This involves both the scope of the tasks issued (they should comprise teaching new or socially beneficial skills, e.g., helping people with disabilities) as well as the means of carrying them out (the juveniles should work under adult supervision which would serve to shape an appropriate work ethic). Because juvenile community services for the benefit of the local community is an

[25] For a broader overview, see W. Zalewski, *Sprawiedliwość naprawcza. Początek ewolucji polskiego prawa karnego?*, Gdańsk 2006; *Restorative Justice: Philosophy to Practice*, eds. H. Strang, J. Braithwate, New York 2016.

[26] J.S. Ryals, *Restorative Justice: New Horizons in Juvenile Offender Counseling*, "Journal of Addictions and Offender Counselling" 2004, vol. 25(1), pp. 18–25.

[27] W.R. Wood, *Correcting Community Service: From Work Crews to Community Work in a Juvenile Court*, "Justice Quarterly" 2012, vol. 29(5), p. 684.

[28] A.S. Church, D.K. Marcus, Z.K. Hamilton, *op. cit.*, pp. 1252–1258.

[29] For a broader overview, see K. Stasiak, *Kara ograniczenia wolności i jej rola w resocjalizacji sprawców czynów karalnych*, [in:] *Polska kuratela sądowa na przełomie wieków. Nadzieje, oczekiwania, dylematy*, eds. M. Konopczyński, Ł. Kwadrans, K. Stasiak, Kraków 2016, pp. 152–157.

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Data: 29/11/2026 15:19:48

educational measure, it cannot become too similar to community services sentences imposed in criminal proceedings, as this would make it resemble punishment more closely than education.

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Data: 29/11/2026 15:19:48

ABSTRAKT

Artykuł został poświęcony stosowanemu przez polskie sądy środkowi wychowawczemu w postaci zobowiązania nieletniego do pracy na rzecz społeczności lokalnej. Przedstawiono w nim badania naukowe, które zostały wykonane trzema metodami: dogmatyczno-prawną, statystyczną oraz poprzez badania aktowe. Badaniami aktowymi objęto 14 spraw, w których w 2013 r. sąd zobowiązał nieletniego do prac na rzecz społeczności lokalnej (blisko 1% tego rodzaju zobowiązań orzeczonych przez sądy w tym roku w całej Polsce). W wyniku badań zauważono, że sądy coraz częściej stosują ten środek wychowawczy i obecnie stanowi on nieco ponad 4% orzeczonych wobec nieletnich środków wychowawczych. Sądy stosują takie zobowiązanie najczęściej wobec nieletnich, którzy mają 16–17 lat. Na ogół nieletni mieli do wykonania prace w wymiarze 10 godzin na rzecz szkoły, do której uczęszczali. Wykonaniem orzeczenia z reguły zajmowali się kuratorzy sądowi. W artykule dostrzeżono, że brak było przepisów prawa, które szczegółowo określałyby zasady orzekania i wykonywania omawianego środka wychowawczego. Taka niedookreśloność powodowała trudności w trakcie wykonywania tego rodzaju orzeczeń sądów.

Słowa kluczowe: nieletni; sąd; zobowiązanie nieletniego do pracy; kurator sądowy; społeczność lokalna