IKSP
Institut pro kriminologii
a sociální prevenci

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Research on Crime and Criminal Justice in the Czech Republic

(selected results of research activities of IKSP in the years 2016–2019)

Prague 2022

Ediční řada Studie

Institute of Criminology and Social Prevention 2022

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ISBN 978-80-7338-198-1

www.kriminologie.cz

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I. Introduction

The aim of this publication is to provide foreign visitors with a brief overview of the results of the research activities of the Institute of Criminology and Social Prevention (IKSP) over the last few years. The IKSP is a research organisation under the Ministry of Justice of the Czech Republic. Its special position is due to the fact that it is the only specialised institution in the Czech Republic that systematically deals with criminological research. The Institute was founded in 1960, making it the second-oldest criminological institute in Europe. It focuses on research and analytical activities in the field of criminology, criminal law, criminal and security policy and crime control. These are mainly areas such as the effectiveness of criminal law and other measures aimed at reducing crime, victimology, penology, crime prevention or the analysis of the causes and conditions of crime and related socially-pathological phenomena (criminal aetiology).

The activities of the IKSP are based on medium-term research activity plans, which formulate the basic research topics for four-year periods and include the main research tasks (projects) to fulfil them. The duration of these research projects is usually 3–4 years.

In addition to the research tasks listed in the medium-term plan, the Institute carries out a number of other activities appropriate to its specialisation. It provides the Ministry of Justice of the Czech Republic and other state authorities and institutions with information and other materials in the field of criminology, criminal justice and criminal policy for the performance of their tasks. It proposes policy, legislative, organisational and similar measures in these areas. The IKSP organises professional events such as seminars, conferences and workshops on its own or in cooperation with other entities (primarily the Czech Society of Criminology, which it founded) and participates in events of the domestic and international professional community. IKSP staff members are involved in the professional training of police officers, prosecutors, judges, probation officers and prison staff; they are also active in teaching criminology and related subjects at Czech universities.

In order to disseminate the results of research and other findings, the Institute publishes its own edition of professional literature, comprising two publication series – STUDIE and PRAMENY. In the STUDIE series it publishes the results of original IKSP research and in the PRAMENY series it publishes Czech translations of relevant international legal regulations, international documents, foreign research studies and other important legal and criminological materials. The IKSP annually prepares and publishes an analysis of crime trends and other relevant phenomena in the Czech Republic. It also contributes to the development of criminology in the Czech Republic by preparing and publishing methodological manuals for criminological research.

However, the most important part of IKSP‘s activities is the research tasks included in the medium-term plan. This is original criminological research that systematically brings new knowledge that can be used both for the development of the theoretical base of the field and for the formulation of specific political, legislative, organizational, situational and other measures in the field of criminal policy. This publication presents the main results of IKSP research from the completed medium-term plan to foreign colleagues and other interested parties who do not speak Czech. Please note that these brief summaries do not include citations of sources used in the research. These are presented, in accordance with international standards, in the full text of the individual publications available on the IKSP website.

The IKSP Research Plan for 2016–2019 defined the main research topics, which correspond to the titles of the main chapters of this publication. Fifteen research projects were carried out under these headings. Twenty monographs by IKSP staff have been published in the STUDIES series, and this publication provides a summary of their findings.

This builds on similar English-language summaries of IKSP's researches results in previous medium-term plans, published in 2003, 2005, 2009, 2012 and 2017, which are available on the Institute's website (www.kriminologie.cz).

Jakub Holas

II. Penal Policy and Criminal Justice

II.1 The Effectiveness of Criminal Policy from the Perspective of Recidivism

Jan Rozum, Jan Tomášek, Lucie Háková, Jiří Vlach

Introduction

Criminal policy must generally be understood as part of general policy that articulates the objectives and means of social control of crime using criminal law. Criminal policy should ensure that people are protected from crime and that recidivism is limited, but at the same time does not lead to an excessive increase in the number of prisoners. The term criminal policy is joined in specialised literature by the term sanctioning policy. One of the key topics of modern criminal policy is the issue of recidivism. If society endeavours, through programmes, to ensure that the intervention of the justice system leads an offender to end his criminal career, it is precisely such information about his possible future criminal activity that is used to judge the success or otherwise of the relevant measures. It comes as no surprise that interest in this information has been rising in recent years.

Subject, aim of the research and methodology

Our research project concentrated on the implementation of criminal and sanctioning policy and its influence on the character and size of the prison population. The aim was to analyse the main development trends in sanctioning policy after the adoption of the new Criminal Code. The results of the project also offer proposals for legislative and conceptual measures aimed at ensuring that criminal policy provides better protection to the people from crime, while not concurrently leading to an excessive increase in the number of prisoners. The aim of the research was also to generate a proposed system of regular monitoring and evaluation of recidivism among convicted persons in the Czech Republic that will allow long-term, conceptual monitoring of data about recidivism.

The following methods were used in the research project analysis of available sources on criminal policy in the Czech Republic after 1989, analysis of foreign (mainly European) sources on the issue of collecting and reporting data on recidivism, analysis of existing data collection and reporting on recidivism in the Czech Republic and analysis of interviews with professional staff of the Ministry of Justice, Criminal Records Office, who participate in the collection of data on criminal activity

Results

Criminal policy in the Czech Republic after 1989

When we consider the period in the Czech Republic following the Velvet Revolution, we can consider as fundamental from the perspective of criminal and sanctioning policy depenalisation and decriminalisation, broadening the range of alternative punishments after 1989, a major amendment to the Rules of Criminal Procedure and an amendment to the Criminal Code, Act No. 265/2001 Sb., which influenced the decision-making of courts with regard to punishments, the adoption of Act No. 218/2003 Sb. on juvenile justice and finally the adoption of a new Criminal Code, Act No. 40/2009 Sb.

If we concentrate on the period after the adoption of the new Criminal Code, we can confirm that there have been considerable changes in the legal regulation of criminal sanctions. The new philosophy of criminal sanctions draws on the principle of depenalisation, whereby existing criminal sanctions (sentences and protective measures) are regulated to the required extent and new, more effective alternative sanctions are conceived and articulated with consideration for adequate satisfaction of the victims of crimes. The hierarchy of sanctions had to be amended and emphasis was placed on an individual approach to the resolution of criminal matters that assumed the broad option of using alternative sanctions to ensure positive motivation of the offender. The legislator supposed that the changes would be manifested in a positive way in the applied sanctioning policy, primarily by reducing the application of short-term unsuspended prison sentences and reducing the number of prisoners.

In the case of unsuspended imprisonment, the rise in the number of imposed unsuspended prison sentences that began in previous years continued even after the effective date of the new Criminal Code. This naturally led to a gradual increase in the prison population. This fact was obviously reflected negatively in the structure of persons serving a prison sentence according to the length of the sentence.

The main cause is reinforcement of criminal repression, which was manifested in the Criminal Code and in an increase in sentences for less serious crimes (specifically the crime of theft, Section 205 of the Criminal Code, neglect of compulsory maintenance, Section 196 of the Criminal Code, and frustrating the enforcement of an official decision and reporting, Section 337 of the Criminal Code – also linked to recidivism), which led to a significant increase in unsuspended prison sentences. Since these are the most commonly-committed crimes, it was no surprise that this toughening was also manifested negatively in the composition of convicts serving a prison sentence according to the length of the sentence imposed. If we consider that, at the same time, new alternative sentences were slow in "taking off", primarily house arrest (this caused mainly by failure to secure the anticipated electronic controls of adhering to the sentence), the combination of these situations had a fundamental negative effect, in that minor property-related crime, neglect of compulsory maintenance and frustration of the enforcement of an official decision and reporting in particular have long accounted for around 70 % of the criminal activity sentenced in the Czech Republic. There was also an increase in those convicted for longer than 15 years after the adoption of the new Criminal Code, again in consequence of the toughening of thresholds for serious crimes. There was a significant increase in the number of persons serving a prison sentence with a term of between 6 months and 3 years from 2010 onwards and the number of prisoners rose by approximately 2,700 people in the first years of the effect of the new Criminal Code.

The legislator responded to the above with an amendment to the Criminal Cod, No. 390/2012 Sb., such that sanctions were reduced for the crimes of neglect of compulsory maintenance and frustration of the enforcement of an official decision. Another important factor for sanctioning policy, and the effect on the level of the prison population, was the President's Amnesty of 1.1.2013, No. 1/2013 Sb., which inter alia pardoned suspended prison sentences not exceeding two years (some 80,630 people were given amnesty). The amnesty given to unsuspended sentences of up to 1 year (18,627 people) or community

service (9,660 people), invariably with the fiction of expungement, was also significant in terms of numbers.

If we concentrate in detail on defining the main causes of the increase in the number of prisoners after the adoption of the new Criminal Code, there is an exhaustive list in the research of Scheinost and Marešová (compare Scheinost, Válková, et al, 2015; Marešová et al, 2016). According to these authors, the main causes include: failure to achieve the main objective of criminal law – depenalisation, toughening sanctions for particularly serious crimes and primarily toughening sanctions for recidivism for the bodies of frequented crimes and long-term failure to deal with the issue of recidivism.

For criminal policy to work, the conditions must be created in the area of legislation and criminal justice and within the scope of broader social policy. Essential requirements are the motivation the offender has to change, the ability to achieve such change and the opportunity for something like this to happen. It is known from criminological research that a positive reversal of a criminal career among most offenders is triggered by factors that are active in his natural social environment (stable employment, finding a place to live, finding a life partner, the birth of his own children). We suppose that a reduction in the prison population could be helped by measures which are on the one hand the result of research by the Institute in the sphere of criminal and sanctioning policy and on the other by the result of the work of the Institute for the Ministry of Justice in the form of source materials, opinions or assignments in the area of criminal and sanctioning policy (for more see Marešová et al, 2016, or Scheinost et al, 2014, and others). We assume that implementing the steps specified below will help reduce the prison population: dealing with the criminal activity of recidivists, including dealing with the issue of sanctions for recidivists for the crime of theft according to Section 205 of the Criminal Code; dealing with the decriminalisation of the crime of neglect of compulsory maintenance according to Section 196 of the Criminal Code; introducing a system of electronic monitoring for the sentence of house arrest; changing the structure of imposed alternatives – analysing the causes of the low use of pecuniary punishment and proposing measures leading to the increased application thereof; building a functioning and tied criminal policy.

Monitoring recidivism

Among the fundamental aims of criminal policy is its positive effect on convicted offenders in order that they do not continue in their criminal careers. Information about possible recidivism is a significant gauge of the success or failure of individual interventions of the justice system. Recidivism, its frequency and development serve as the fundamental criteria of the effectiveness of intervention activities.

As far as the term criminal recidivism is concerned, we usually understand it a general level to be further criminal activity committed by an individual who has been convicted of criminal behaviour in the past. Of course, a precise definition of the term is problematic because we can view it from various angles of perspective. We often talk of, for example, the need to distinguish recidivism in the criminal law sense (an offender commits a crime after having been lawfully convicted of a previous crime), in the criminal-statistical sense (offenders repeatedly recorded in criminal statistics) and in

the criminological sense (repeat asocial behaviour irrespective of whether the offender was punished or sanctioned for a previous deed).

In contrast to other countries, recidivism is not statistically monitored in relation to the sanctions imposed and their effectiveness. Police and court statistics do present the share of recidivists in the total number of prosecuted or convicted persons, but we cannot deduce from these which specific sentences or other measures were used against these individuals in the past. It also stands for the comparability of statistical data on recidivism that a comparison of its level at different periods of time in the same territory without any deeper or dedicated comment is more likely to be misleading and does not document actual differences and changes.

The statistics of the Ministry of the Interior and the Police of the Czech Republic are published in the form of Reports on Security Situations within the Territory of the Czech Republic and Statistical Overviews of Crime. These documents are a valuable source of information on the number of recidivists prosecuted and investigated and on how many of the deeds on record were committed by recidivists. In comparison with the statistical data at the department of justice, the scope is considerably broader in such material since a recidivist here is adjudged to be an offender having committed a wilful crime who has already been lawfully convicted of a wilful crime in the past. It is clear from the statistics in question that the share of recidivists in the number of all prosecuted persons had a predominantly rising tendency between 1993 and 2015. We can, at a general level, say about the share of recidivists in the total number of prosecuted and investigated persons according to selected types of crime, as they are monitored in reports on security situations within the territory of the Czech Republic from 2000–2015 that the rising trend of this share is clear in most of the selected types of crime. After all, whereas it was not quite a third in 2000, it had reached more than one-half by 2015.

Recidivism of crime and the imposition of sentences on those convicted, deemed by courts to be recidivists, has been monitored by the Ministry of Justice of the Czech Republic for a long time now and is shown in the statistical Yearbook of Crime of the Ministry of Justice (MoJ). Recidivists were kept on record in court statistics until 2010 according to Section 34 of the Criminal Code (Act No. 140/1961 Sb.). Convicts that had already been convicted of a crime and had committed a second or further crime following the legal force of a prior convicting judgment were termed recidivists in court statistics and the courts considered this circumstance to be aggravating, depending on the nature of the previous conviction. Particularly dangerous recidivists according to Section 41 of the Criminal Code were also monitored in the yearbook before the new Criminal Code was adopted. After the new Criminal Code (Act No. 40/2009 Sb.) came into effect, so-called court-determined recidivists have been recorded in statistics in cases in which the court considers, when imposing a sentence on the convict, his previous criminal activity according to Section 34(l) of the Criminal Code or Section 42(p) of the Criminal Code.

It is clear from the statistical overviews of the MoJ that the number of convicted persons determined by the courts as recidivists has fallen since 1989. The lowest proportion in the total number of convicted persons was shown in the final year of effect of the old Criminal Code (Act No. 140/1961 Sb.) in 2009 – 9.1 %. Even following the adoption of

the new Criminal Code (Act No. 40/2009 Sb.), justice statistics show a reduction in the proportion of convicted persons determined by the court as recidivists (i.e., designated as recidivists based on the conditions laid down by the Criminal Code). The share in convicted persons in 2014 was 6.3 % and last year 5.5 %, the lowest since 1989. The main reason for this is new legislation, in which recidivism (prior conviction for a crime) is considered to be an aggravating circumstance and is shown as such in statistics. The criminal activity of recidivists is, of course, problematic from the perspective of general criminal policy, particularly the perspective of imposing unsuspended prison sentences. The number and the proportion of imposed unsuspended sentences also fell after 1989 among persons designated as recidivists. The number of recidivists in the number of imposed unsuspended sentences has fallen again since 2010.

Recidivism in the penological sense of the word provides us with very important information on the success of a previous prison sentence. This involves monitoring repeat imprisonment. The penological concept of recidivism is narrower that recidivism in the legal sense of the word since it puts on record only offenders who have previously been imprisoned. Data on this is found in the statistics issued by the Prison Service of the Czech Republic. Around two-thirds of convicts committed further criminal activity in spite of the fact that they had experience of the sentence (often repeated experience).

Efforts have been made in recent years to improve the system of gathering data on recidivism in all Member States for the purpose of its mutual comparison. Recidivism is understood in most countries of the EU to be a fundamental and irreplaceable gauge of the effectiveness of imposed sanctions, which is for that matter fully in accord with its general criminal policy, which stresses the corrective level of criminal sanctions and the systematic evaluation of their application. The Council of Europe is well aware of these facts (see, for example, Council Recommendation on European Prison Rules of 2006 or Recommendation on Probation Rules of 2010).

Conclusions

New opportunities to examine recidivism to a broader extent have opened up in the past two decades as a result of the gathering and (primarily) digitalisation of police and court data. Individual states differ markedly in the measurement and evaluation of criminal recidivism. Whereas in some countries statistics about recidivism have become an integral part of overall justice statistics, in others the crime policy relies only on partial criminological research. The fundamental condition for effective monitoring of recidivism in each case is nonetheless enabling access to standard databases of criminal activity and its resolution at individual stages of the justice system; therefore to criminal records and like information systems. Work with data and the possibility to continually map out recidivism for the purpose of monitoring development trends is made easier by its computerisation, thanks to which it is possible to evaluate recidivism in individual time cohorts on an annual basis. We also come across attempts to interconnect these databases with information on significant sociodemographic variables, such as the education, employment or marital status of convicted persons (for example, registers of the population etc.). Such analyses are of course even more effective for predictive purposes. There is agreement among experts that databases of recidivism should primarily be as complete and as flexible as possible.

We are convinced that the Czech Republic should also go down this road if it wants to effectively and rationally develop its criminal policy. The proposed methodology of monitoring criminal recidivism in relation to imposed sanctions from the database of the Criminal Records also draws on this. The fact that all data is now processed electronically favours such a solution and the implementation of the intended analyses is therefore more of a technical nature, at least to a certain extent. We are convinced that information about the effectiveness of selected sanctions could in the future become a standard element of justice statistics.

Monitoring the effectiveness of sanctions according to the criterion of subsequent recidivism could significantly influence the ongoing discussion about criminal policy and its general direction. Knowledge of the facts allows us to approach the issue rationally, whereby in the situation in which the resultant effect of alternative sentences appears to be very similar to the effect of imprisonment, the chance opens up to take criteria such as economic costs into greater consideration.

The monograph "The effectiveness of criminal policy from the perspective of recidivism" is one of the results of a project based on the decision to provide purpose-built support from public resources for research and development. Support was provided from the budget chapter of the Ministry of the Interior, as part of the Security Research for the Needs of the State programme between 2010 and 2015 ((BV II/1 – VZ), to deal with the project entitled "Verifying the effectiveness of criminal policy in relation to trends in the development, number and structure of the prison population", having identification code VF20152016043.

Original translation by: Presto

Rozum, J., Tomášek, J., Vlach, J., Háková, L. (2016). *Efektivita trestní politiky z pohledu recidivy.* Praha: IKSP.

http://www.ok.cz/iksp/docs/439.pdf

II.2 Probation as an Effective Tool for Reducing Recidivism

Jan Tomášek, Simona Diblíková, Miroslav Scheinost

The study was carried out by the Institute of Criminology and Social Prevention based on a contract by the Ministry of the Interior of the Czech Republic. The subject of the study was an analysis of the existing methods used in the context of probation and a retrospective evaluation of their efficacy. The primary goal was the comprehensive identification of reoffending or desistance factors, determining their importance in the context of probation and the application of these findings in practice.

The effectiveness of probation in a historical context

The history of probation dates back to the second half of the nineteenth century. In the early stages of development, it had the nature of philanthropic and missionary activities consisting of the provision of assurance and supervision of an offender whose imprisonment was conditionally deferred in exchange for a promise to lead an orderly and respectable life. Over time, the probation service in most countries became fully professionalised and community sentences under the imposed supervision of a probation officer become an integral part of modern justice systems. The Czech Republic established a probation service (under the title Probation and Mediation Service) in 2001.

Reoffending is one of the important measures of the efficacy of probation, though not the only one. We expect the performance of a variety of tasks in the context of this alternative measure. In addition to protecting society and reducing the possibility of repeat offences, this includes, among other things, individual assistance for offenders or the restoration of impaired social relationships. Some authors thus hold the view that any attempt to evaluate efficacy must be based on a strictly pluralist model using appropriate methodology. Forms of evaluation should begin with the most frequent activities of the probation service, which are primarily the overall expansion of community sentences (at the expense of imprisonment), assisting judicial authorities in decision making, rehabilitation of offenders (including, protecting society from their further criminal activity), ensuring proper punishment and also addressing the interests and needs of victims, including compensation for damage caused.

The actual impact of probation on the offender's further criminal activity has not been examined in the long period of its history. No one has had any doubt of its positive impact on individuals due to the religious, philanthropic and missionary context in which it originated as a specific way of dealing with criminals. Moreover, probation officers were not expected to have professional qualifications or skills at the time, but simply strong faith and a pure character, which enabled them to save the sinful souls of offenders. Even at the beginning of the twentieth century, the prevailing belief was that the role of the probation officer was to primarily provide advice, support and friendly assistance, while probation itself was not viewed as punishment, but as a measure the court could impose instead. It was only during the next decade, under the influence of psychological and psychiatric theories on the causes of crime that the view of probation changed. Crime ceased to be seen as a sign of moral decay, but rather as a symptom of certain mental illness. Probation

thus became a professional activity based on an understanding of criminogenic factors and the subsequent pursuit and development of appropriate interventions, which also led to the gradual professionalization of probation services.

At the end of the 1950s, the first studies aimed at verifying the real efficacy of probation in relation to recidivism appeared. While this pioneering work brought relatively favourable findings, later investigations did not show probation to be any more effective than sanctions or other measures in this sense. Despite this, other more ambitious research projects appeared that sought to penetrate both the causes of offenders' criminal activity and the methods and practices probation officers used to try to resolve these issues. Given that many offenders faced problems of an economic and social nature, doubts proliferated as to whether probation, providing help of a psychological nature, corresponded to real needs in practice. Sadly, research spoke more about the intervention offered by probation officers having very little effect on preventing reoffending, even in cases where the number of clients per officer was experimentally reduced in an effort to intensify probation.

Views on the possibility of reforming offenders changed radically in the seventies, toward the general belief that "nothing works" in the field of rehabilitation. The promotion of this view is generally associated with the work of American sociologist R. Martinson; however, economic and political changes in society cannot be overlooked as the more likely cause of the overall decline of rehabilitative ideals in the criminal justice system. In Western countries right-wing and neo-liberal politicians came to power, for who massive investments in improving the lives of criminal offenders were incompatible with the principles of economic individualism and each individual's responsibility for their own behaviour. Compared to the sixties, however, the public's attitude also changed significantly, and became much less tolerant of people breaking laws.

The view of the role of the probation service and efficacy of its activities was governed by strong pragmatism in the era of "nothing works". Probation was not seen as a promising way to reform offenders, but rather as an opportunity to reduce the number of people serving prison sentences. The negative impact of incarceration on the offender and state budget was well known, and so the judicial system in most countries in some sense, split in two – while the perpetrators of serious offences were destined for prison, an ever-expanding variety of diversions and alternative sanctions was created for the rest. As a result, a measure of the efficacy of probation became the ability of the probation service to handle a sharply rising number of clients.

Opinions on the sense and efficacy of rehabilitation of offenders began to slowly change in the early nineties. The impetus was the growing popularity of theories seeking a link between criminal behaviour and social learning, while offering practical guidance on effective intervention in terms of efforts to change the offender's style of thinking and attitudes. Evidence that certain types of programmes actually work also brought systematic reviews of existing research using meta-analysis, and it was impossible to ignore the growing number of local studies of small samples that successfully confirmed the efficacy of specific rehabilitation projects or measures. On the basis of this information, a movement gradually formed among professionals and probation officers called "What Works". Its objective was to promote only those measures in criminal policy

whose efficacy could be reliably demonstrated by empirical criminological research. In practice, this led to the promotion of various strategic documents and national standards to ensure that only methods and techniques with proven efficacy were used in probation. Accredited rehabilitation programmes based on a cognitive-behavioural approach became very popular. However, extensive research dealing with their efficacy did not bring just positive, but more often mixed or inconclusive findings. This is why, at the turn of the millennium, many experts began to wonder whether the paradigm of "What Works" was a suitable paradigm for the rehabilitation of offenders.

Another view on probation and the condition for its efficacy is offered by the desistance paradigm. The term desistance generally refers to the end of the period over which the individual committed crimes. Rather than a specific event or moment, however, it must be viewed as a process, the essence of which is long-term abstinence from criminal behaviour. Interest in desistance was sparked by the findings of research on criminal careers that convincingly spoke of the relationship between age and crime. The frequency and number of offenders attributable to a given population first rises sharply during adolescence with a peak in early adulthood, followed by a steady decline, due to which only a small number of seniors commit crimes. Many theories seek to explain this phenomenon. Some connect desistance with the natural processes of aging and maturing, others emphasise the offender's rational choice, and many criminologists emphasise the role of important moments in life that can reverse the course of a criminal career (e.g. finding a life partner and starting a family, finding stable employment and leaving a peer group). Another important factor, however, is how the offender interprets these changes and how important they are for him/her, for while this situation encourages desistance in some individuals, the same effect does not ensue in others. This the ideal theoretical model of desistance seems to be a mutual combination of three groups of factors, these being the natural maturation of the offender, major transitional life changes and individual narrative structures the individual creates around key events and changes. It is useful to distinguish primary desistence, which can be virtually any period in which the offender did not commit a crime, and secondary desistence in which the individual accepts the role and identity of a person who has changed.

One of the essential differences between the paradigm of "What Works" and the desistance paradigm lies in the view of the process of reforming offenders itself. While the "What Works" movement monitors the effect of specific criminal justice measures or other interventions on the fate of individuals, the desistance paradigm applies a significantly broader view. Based on research of criminal careers, there is a belief that essential factors of desistence are actually beyond the reach of the justice system, as the number of individuals who have ended their criminal career solely due to its intervention, is very small. The focus of interest, therefore, is not just correctional programmes and their effects, but human life in its entire historical and biographical context. Only through its understanding can we learn why and how programmes work for some people and not for others. Research methodology is also changing toward the greater use of qualitative and narrative methods.

Probation and Desistance

The desistance paradigm ascribes a different role than "What Works" movement to probation officers. They should not see themselves in the spirit of the traditional

treatment of offenders as the providers of correctional care, which belongs to experts, but as supporters of a process leading to the end of criminal careers that inherently belong to the offender. This is not a rejection of the principles of professional treatment in absolute terms, but an understanding of professional intervention as only one of several elements helping desistance, whose main "architect" is always the individual him/herself. This view also changes the perception of failure. While another crime is a sign of an error in intervention for the "What works" movement, the desistance paradigm emphasises the responsibility of the offender involved. Here intervention is seen as offered assistance or help, the provision of which may have certain shortcomings, but the person who decides to commit another crime, in spite of the options offered, is always the offender him/herself.

Studies specifically focused on the role of the probation officer in the process of desistance are still rather scarce. Most are based on the direct testimony of offenders who have undergone probation. It has been repeatedly shown that these individuals rarely mention it as the decisive factor of desistance. Rather, most confirm the theory that the end of their criminal career was the result of natural maturation or aging that at some point intersects with major life events such as finding a job or the birth of their children and a concurrent change in their self-image in terms of the acquisition of a non-criminal identity. However, some desisting offenders admit that one of the relatively important elements directly or indirectly involved in these processes was the probation officer. Most research shows their influence grows markedly based on how good a relationship they manage to establish with the client, and to what extent he/she convinces them they fully respect them as a human being and have a sincere interest in their problems. Probation officers were also appreciated for their attempt to discover the causes of crime and other problems and for offering possible ways to overcome them, including providing the necessary motivation and encouragement. The significance of the relationship between the probation officer and client, or skills that allow the probation officer to establish and maintain such a relationship are confirmed by research on certain characteristics of probation officers and their success in preventing the reoffending of their clients.

Nevertheless, an essential element of desistance always remains the activity of the offender involved. If he/she is not motivated to change their life and direct their efforts in the proper direction, the effect of probation, despite all the probation officer's efforts is negligible. A significant role is played by the offender's living conditions, which are closely related to motivation, as it is on this basis that the offender's overall approach to the possibility of behaving in accordance with the law often changes. These conditions are thus the object of intervention under probation, as well as the main means by which it is possible to achieve desistance. The efficacy of probation must therefore be considered in a broader context. The fact that it is often imposed as an alternative measures for individuals who face a range of social and economic problems cannot be overlooked. Their individual and social capital, which is necessary to overcome these obstacles, is limited. The issue of criminal policy thus intersects the issue of social policy. If we don't recognise this fact, we overlook the heart of the problem for many offenders.

The effective probation model, which can be deduced from the desistance paradigm, stresses the importance of three basic elements, namely the offender's motivation to change, his/her ability to achieve such changes and opportunities for this to happen.

The probation officer him/herself, then enters the process in a combination of three different roles, as advisor awakening and developing the client's motivation, as educator whose job is to work on the client's individual capital (the abilities and skills necessary for overcoming obstacles), and as defender or lawyer seeking to develop social capital. A suitable technique for contact and cooperation with the client may be a motivational interview, where through attentive listening and supportive responses, the probation officer leads the client to recognise the suitability or unsuitability of certain behaviours in a non-directive manner. A focus on the future and the client's ability to directly influence the outcome is important. Probation officers should therefore focus more on desistance factors and their possible application than solely on the causes leading to criminal activity, which draw attention to the past. A crucial factor for the effectiveness of probation is the relationship between the client and probation officer. The whole process begins with the establishment of this relationship and the efficacy of each following part depends on its quality. The ability to effectively build a relationship with the client is therefore not only one of the many skills required by a probation officer, but a key ability that determines all other aspects of probation activities.

Experience of Czech probation officers

As a part of the project, research in the form of an anonymous questionnaire with the participation of a total of 114 probation officers (an estimated 67 % of those dealing with the supervision of adult offenders within the PMS) was carried out. The aim was to map the experiences and opinions of probation officers on the possibilities of their work with offenders in terms of limiting the risk of reoffending, or supporting factors that could effectively stimulate and support the process of desistance. The content of the questionnaire was based on the findings outlined in the theoretical part of the study and was repeatedly consulted with the staff of the Directorate of the Probation and Mediation Service, who also ensured the distribution of questionnaires among respondents. Thematically, the study touched on several areas, including the concept and measure of the effectiveness of probation; the problems probation officers address at meetings with their clients; the expectations clients associate with probation; the skills and abilities a probation officer should have; the maximum number of clients per officer; the causes of recidivism and desistance and the possibility of affecting them through probation; problems or obstacles hindering the more effective reduction of recidivism, as well as measures respondents would recommend for an overall increase in the efficacy of probation. Attention was also paid to various forms of work with clients, and the manner in which probation officers prepare for their work. Most items were a combination of closed and open questions so that respondents could add comments, suggestions or proposals to their answer, if they were interested.

Given the central theme of the research, we cannot overlook the fact that probation officers do not perceive the criterion of recidivism as the only significant factor for evaluating the efficacy of probation. In their opinion, achieving desirable changes in the offender's attitudes and resolving their criminogenic needs is more important. It was shown that officers address a wide range of problems at meetings with clients, the most common being their employment, debts, housing and the aforementioned attitudes toward crime. It exceptional cases, this concerns practical tasks such as handling calls and problems associated with the client's inadequate education. It is worth mentioning

that there were noticeable differences in the number of issues simultaneously addressed by officers at meetings and with what intensity.

Respondents believe that the majority of clients appreciate the "human side" of probation, i.e. the possibility of confiding their problems to the probation officer and receiving motivation or encouragement. This finding fully corresponds to the findings of similar studies from abroad. Respondents also agreed with them on the skills or abilities that are important for effective probation. They particularly highlighted the characteristics associated with establishing and maintaining a good relationship with the client, i.e., among other things, the ability to communicate and listen, empathy, assertiveness and consistency.

Probation officers encounter most factors identified in criminological research as major causes of recidivism in their practice. According to respondents, this is most often the influence of drugs and alcohol, the low motivation of clients to lead non-criminal life, the client's delinquent friends, their own antisocial personality, debt and unemployment. Only rarely are they witness to reoffending associated with the client's low level of education, substandard housing or family problems. With regard to desistance factors, the experience of our respondents is in striking agreement with theories emphasising the influence of certain life events ("turning points"). Officers most often see individuals end their criminal career after finding a job, cutting off contact with delinquent friends, starting their own family or establishing a good relationship. A less common cause is a change in the client's view of him/herself, their own criminal activity or the role they play in life. Factors that have a positive influence on clients are greater self-confidence, a change of values and awareness of the impact of crime on their lives, but only rarely the thought of what impact their crime had on the victims.

Questions focused on the ability of probation officers to affect factors leading to reoffending showed that respondents see the greatest potential for their activities in motivating the client to lead a non-criminal life, find employment, resolve their debts and problems with drug or alcohol abuse. On the contrary, they attribute little chance to cases of clients with an antisocial personality, and the majority of officers don't believe probation can effectively solve causes associated with delinquent friends or life in socially excluded communities. In general, however, respondents see the opportunity to intervene effectively, in those areas they simultaneously see as the most common causes of recidivism. The only exception in this regard is clients with an antisocial personality.

Understandably, officers see the possibility of directly or indirectly evoking breaking life events associated with desistance (such as starting a family or the birth of children) in the context of probation as limited. There is only some chance in this respect related to employment, which was rated higher by the majority of officers. For this reason their efforts supporting the process of desistance are more directed towards guiding the client's view of criminal activity, both in terms of its impact on their own lives, the lives of their loved ones and the lives of the victims. They may also work with the fear of further punishment. We believe an important finding, which is again consistent with the findings of similar studies from abroad, is the fact that officers feel they have a greater chance overall of positively influencing clients in terms of desistance factors than recidivism factors.

Based on a summary evaluation of the impact of probation on recidivism and desistance factors, we divided respondents into probation optimists, pessimists and realists using statistical analysis methods. It became clear that their view or approach to the concept of the efficacy of probation largely related to their age, but also their view of what clients expected from this alternative measure. Respondents, who feel motivation and encouragement of convicted offenders is important, which they received at meetings with probation officers, were more convinced of the efficacy of their work.

Probation officers use most methods and techniques recommended for work by PMS methodological standards. Yet most believe in the efficacy of procedures based on the principle of activating the client him/herself or the stimulation, development and control of accomplished changes. Usually, officers rely on a combination of several methods, and the number grows based on the number of issues and with what intensity they are addressed at meetings with clients. Those that believe in the efficacy of these methods are those most confident of the overall efficacy of probation in terms of its impact on recidivism and desistance factors.

The study confirmed the importance of professional training for probation officers, where they learn important skills. Qualification and specialisation courses have proved to have an irreplaceable role in the ability to establish and maintain a relationship with the client, which is an element of fundamental importance according to our study. Further education and training reinforces the needed skills, but the valuable source of experience and information presented by colleagues, and especially each officer's own experience must not be overlooked.

According to respondents, the efficacy of probation is limited by an overloaded PMS in the sense of too many cases. On average, they believe the maximum number of clients under supervision per officer should be 53, which does not correspond to current practice (statistics speak of roughly 75 clients). In addition, they pointed out other problems and obstacles, especially in cooperation with the courts. As in several other studies by the Institute of Criminology and Social Prevention, there was evidence that some courts assign supervision to inappropriate persons. The rather lax attitude of judges to reports on supervision, which do not react quickly enough and with the appropriate response to information that the client has seriously breached probation conditions is also quite common, according to respondents. This situation poses a threat to the correctional effect of probation and the probation officer's authority in the eyes of clients. A view was also expressed that the greater efficacy of probation is subject to an appropriate national social policy, where some officers see deficiencies in especially the limited range of related and social services.

Practice recommendations

Our findings have led us to formulate a number of recommendations for the further development of probation in the Czech Republic and increasing its efficacy. Foremost, we believe that the efficacy of probation must be judged not only by the rate of recidivism of those on whom it is imposed, but from multiple perspectives, as along with oversight, probation officers also perform other important tasks. PMS methodological standards in the field of probation and other policy and strategic materials should highlight the

techniques and procedures that support and develop the client's own activity. The client is the main actor in the process of desistance, the probation officer's role is to motivate and encourage the client to develop their own ability to achieve desired changes and search for paths or ways to increase their social capital. The system of training and further education for probation officers should also reflect key competencies and skills related to establishing and maintaining a good relationship between the officer and client. It is imperative to promote and deepen cooperation between the PMS and other criminal justice institutions so that probation officers become their fully respected partners. Supervision should only be imposed on persons for whom a measure of this kind is appropriate, and judges must respond to reports of possible serious breaches of conditions in a timely manner and with an appropriate response. Legislation awarding probation officers a wider range of powers in the area of supervision could help in this regard. The probation service should also be strengthened with additional staff, so the number of clients under the supervision of each probation officer assures the opportunity to devote sufficient time and attention to each case.

Reoffending cannot be significantly reduced if this issue does not become part of wider social policy. It is evident that recidivism and desistance factors are related with the limited social capital of offenders in many cases, over which the probation officer has no substantial influence. Criminal policy must therefore also address issues such as the employment and debt situation of convicted offenders. Similarly, it is essential to develop suitable rehabilitation programmes for adult offenders, including the creation of a system for their long-term support. In the early stages of desistance, those seeking to change criminal thinking patterns and attitudes may be effective. Probation and other alternative measures or sanctions require greater popularisation among the public, which is generally more punitive minded. Research shows that sufficient information and understanding the principles of alternative punishments can change public opinion. A community open to the idea that criminal offenders can change, is one of the basic conditions for effective probation. Moreover, the expansion of this measure will not be possible without systematic evaluation using different types of criminological research.

Original translation by: Presto

Tomášek, J., Diblíková, S., & Scheinost, M. (2016). *Probace jako efektivní nástroj snižování recidivy*. Praha: IKSP.

http://www.ok.cz/iksp/docs/438.pdf

II.3 PMS Reports for the Purpose of Decisions in Criminal Proceedings: Quality, Importance, Effectiveness

Jan Rozum

Introduction

One of the basic prerequisites for deciding on the imposition of the appropriate type of punishment, and especially its individualisation in Europe, is sufficient information about the convicted offender and his/her current life situation. In the case of community service/home detention, information on the offender's view of the sentence under consideration and his/her willingness to cooperate with the PMS (Probation and Mediation Service) is also of great importance. One of the tools that can be used to ensure an individual approach to the offender and the better enforcement of alternative sentences is for the court to have an expert opinion from the PMS on the possibility of imposing such sanctions, which is available to prosecutors and judges in the form of a report or opinion. This should comprise detailed and up-to-date information, including a risk analysis of subsequent recidivism. In fact, the expediency of such cooperation and use of these assessments is reflected in the Council of Europe's recommendations in this area.

The effectiveness of alternative sentences is subject to their appropriate imposition, which presupposes that the offender is acquainted with the conditions of their execution and is prepared and motivated to serve the respective sentence. The seriousness of the problem is also reflected in the new Probation and Mediation Development Concept until 2025, according to which: "a prerequisite for increasing the enforceability of alternative sentences is: the pre-negotiation of sentences, taking into account PMS reports/opinions on their imposition and cooperation with PMS in proceedings before the court:"

If we focus on the probation officer's practical activity in the preparation of documents for the imposition of alternative sentences in the context of pre-trial proceedings, it can be said that these mainly consist of the preparation of documents for the imposition of community service and home detention. In pre-trial proceedings and proceedings before the court, the probation officer ascertains and evaluates the conditions and risks of this type of sentence, and also takes into account the possible risks of the offender's recidivism and the needs of the victim in his/her recommendations. In view of the above facts, the research task "Probation Officers' Reports as the Basis for the Effective Imposition of Alternative Sanctions" was included in the Mid-Term Plan of Research Activities of the ICSP for the period 2016–2019.

Subject, aim of the research and methodology

The subject of the research summarised in this publication was probation officers' reports prepared in pre-trial proceedings for the needs of the public prosecutor or judge, which are intended as the basis for alternative sentences. Probation officers' reports on the possibility of imposing community service/home detention were examined.

The objective of the research was to map and analyse probation officers' reports prepared for the needs of the court or public prosecutor when considering a sentence of

community service/home detention. A partial objective was to assess the impact of the information contained in these reports on the imposition and successful execution of the alternative sentence. Subsequent criminal recidivism was also analysed in connection to whether the alternative sentence was successfully served. Based on the research results, recommendations were formulated for implementation in the Czech Republic in practice.

The main part of the research consisted of an expert questionnaire survey of judges, public prosecutors (at district level) and PMS staff who deal with the researched agenda at PMS centres, an analysis of probation officers' reports on the possibility of imposing community service/home detention, an analysis of judgements and court orders sentencing offenders to community service/home detention, the success of the execution of these sentences and identifying cases of recidivism. We were mainly interested in assessing the impact of the information contained in reports on the successful execution of imposed sentences of community service/home detention.

Results

The relevant provisions of the Recommendation of the Committee of Ministers to Member States CM (2017) 3 on the European Rules on Community Sanctions and Measures set out the basic framework for their imposition and one of the conditions is the requirement for a detailed and professionally prepared report prior to a decision. Other more specific rules on what these reports should include, as well as the need for cooperation with other criminal justice bodies and the need to ascertain the veracity of information, as well as rules for the involvement of the accused in the preparation of the report are set out in the Recommendation of the Committee of Ministers to Member States CM / Rec (2010) on Probation Rules. Greater requirements for determining the personal, family and social circumstances of juvenile offenders are enshrined in Directive (EU) 2016/800 of the European Parliament and of the Council of 11 May 2016 on procedural safeguards for children who are suspects or accused persons in criminal proceedings. The requirements included in European recommendations are then reflected in the legislation of a number of Member States.

After initial problems relating to its introduction into legislation and its enforcement without the establishment and functioning of the PMS in the second half of the 1990s, community service orders gained a very important position in the application practice of the courts in the context of alternative sanctions. It was the second most frequently imposed alternative sentence after conditional sentences, and the share of community service orders in the total number of sanctions imposed as the main sentence has been higher than unconditional prison sentences since 2002, reaching around 20% in the first half of the 21st century. The obligation to request probation officers' reports and a further tightening of legislation in the case of community service was also reflected in sanctions policy. Although there has been some decline, community service orders still remain the second most important alternative sanction. In general, it can be said that after a significant decrease in connection with recodification, the share of imposed community service has remained relatively stable. In recent years, community service seems to be in slight competition with financial penalties (fines). A certain indicator of the extent to which alternative sentences such as community service and home detention are imposed in appropriate or, on the contrary inappropriate cases, may be the number of

subsequent conversions of these sentences as a result of a violation of their conditions by convicted offenders. In 2010, i.e. following the introduction of stricter conditions for these sanctions and the introduction of the obligation to request a probation officer's report, but especially in the years thereafter, there was a significant decrease in the conversion of community service into unconditional sentences.

Since its incorporation into Czech criminal law from 1 January 2010, the application of home detention has been strongly affected by the inability to oversee its execution using an electronic monitoring system, which has persisted for almost the entire time. Its subsequent introduction in the autumn of 2018 has not yet been significantly reflected in the imposition of this sanction. Reasons for its low application in practice may also be personal and social conditions on the part of convicted offenders, such as unsatisfactory living conditions, irregular working hours, etc. It's clear that conversions of home detention to unconditional imprisonment do not occur very often, which may indicate that enough information on the risks associated with the execution of this sentence made available to the courts in probation officers' reports, allow the risks of its failure to be better prevented.

Expert opinions

The opinions of experts engaged in the implementation of the studied area were an important part of our research. An expert questionnaire survey was conducted in November 2018 in which we contacted judges, public prosecutors and probation officers as respondents. As part of the investigation, we contacted the presidents of all district courts (86 in total) with a request to pass the questionnaire on to two criminal judges at their court in paper form. We received a total of 94 completed questionnaires, which represents a 55% return. In the case of public prosecutors, we asked the chief public prosecutors of all district public prosecutor's offices (86 in total) to pass the survey on to two designated public prosecutors at their office. We obtained a total of 134 completed questionnaires, which is a 78% return. At the PMS, we approached all probation officers who specialise in the agenda of pre-trial proceedings, the community service agenda or the home detention agenda. We collected 134 questionnaires from the PMS, which represents a return of 76%. This special agenda is often performed by probation officers (specialists) cumulatively (i.e. the preparation of material for the imposition of both sentences), especially at smaller centres. In our sample, 106 probation officers specialised in the preparation of reports for the purposes of a decision on community service, and 83 officers on the agenda associated with the preparation of material for home detention.

As part of the survey, we were interested in the mutual cooperation between judges, public prosecutors and probation officers in the imposition of alternative sanctions. We can conclude from the results that there are no significant reservations on the part of judges regarding cooperation with the PMS in this context. A positive perception of cooperation with the PMS also prevails among public prosecutors. When rating cooperation with judges and public prosecutors from the perspective of probation officers, judges scored higher.

We also focused on the details of this cooperation in our survey and asked judges and public prosecutors to evaluate the work of probation officers in terms of their qualifications, experience, expertise, objectivity and professionalism. Both judges and

prosecutors rated probation officers very positively. The professionalism of probation officers was ranked the highest by both professional groups.

15% of probation officers consider the timeframe they are given to prepare a report on the possibility of imposing community service as insufficient. Probation officers have an average of 19 and a half days to draw up a report on the possibility of imposing community service in case of a mandate from a public prosecutor. The average time allowed to prepare a report requested by a judge was 24 days. 23% of probation officers consider the time allowed for a report on the possibility of home detention to be insufficient. Probation officers have an average of 21.4 days to prepare a report on the possibility of imposing home detention in case of a mandate from a public prosecutor. Probation officers have an average of 25.1 days to prepare a report when requested by the court.

All groups of respondents find the reports on the possibility of imposing community service and home detention useful. Judges and public prosecutors generally appreciated the professionalism of probation officers in the performance of this activity. In their opinion, the reports provide objective information about the offender on the basis of a thorough personal investigation. An alternative sentence is recommended in cases where its successful execution can be expected, based on an assessment of the conditions for the execution thereof, but mainly a determination of the offender's mind-set and motivation to serve this sentence. The report contains a wide range of valuable information that speeds up the decision-making process and thus effective execution of the sentence.

In the experience of judges (65%), public prosecutors (78%) and probation officers (88%), the execution of community service is more successful in cases where a report was available when deciding to hand down this sentence. In the case of home detention, 65% of judges, 73% of public prosecutors and 78% of probation officers are convinced of more successful execution of the sentence in this sense.

According to probation officers, the quality of reports on the possibility of imposing community service is negatively affected by their high workload, problematic cooperation with the offender, the inability to verify information, the lack of time and difficulty in obtaining information. In the case of reports on the possibility of home detention, probation officers identified the most significant negative factors that may affect the quality of the report as the inability to corroborate certain information, the limited time for its preparation, problematic cooperation with the accused and their high workload.

In the experience of probation officers, the most difficult aspect when preparing reports on the possible imposition of community service is obtaining information on the offender's medical fitness to perform community service, information on the offender's dependence on drugs or alcohol, and information on the offender's financial situation. In terms of difficult to verify information, probation officers most often cited information on the offender's dependence on drugs or alcohol, information on the offender's medical fitness to perform community service and information on the offender's motivation to serve the sentence.

In the experience of probation officers, the most difficult aspect when preparing reports on a possible sentence of home detention is obtaining information relating

to the offender's place of residence, information on employment and information on the offender's possible dependence on drugs or alcohol. In terms of difficult to verify information, probation officers most often cited information on the offender's dependence on drugs or alcohol, information related to the offender's place of residence and information on employment.

Judges and public prosecutors rated the quality of reports on the possibility of imposing community service/home detention in terms of objectivity, currency, clarity and completeness. Both professional groups rated the selected characteristics of PMS reports very positively. In the case of reports relating to community service, their currency and clarity were rated most highly, while completeness and objectivity somewhat less so. In the case of reports relating to home detention, their currency, objectivity and completeness were ranked highest by judges, while their clarity was listed highest by public prosecutors.

Both groups of respondents also evaluated the individual parts of the report relating to community service, namely the part devoted to cooperation with the offender, the part describing his/her personal and social situation, the part describing the consequences of the crime and the part presenting the opinion of the PMS on the possibility of imposing community service. Judges and prosecutors rated specific parts of the report very positively.

Judges and public prosecutors evaluated the quality of individual information in PMS reports. In the case of reports relating to community service/home detention, it is gratifying that respondents assessed the quality of information for almost all items entirely or relatively positively. Both groups of experts considered the information on the view of the accused and the final opinion of the probation officer on the possibility of community service to be of the highest quality. The information they consider to be most important for their decision-making and for assessing the significance of factors for the imposition of community service are presented to decision-makers particularly well. Similarly, the quality and adequacy of information in PMS reports relating to home detention is regarded mostly positively by judges and public prosecutors. Satisfaction with the quality of information for most items is expressed by the vast majority of respondents, typically around three quarters. In this context, both groups of respondents rated the accused's view of the possibility of home detention, the final opinion of the probation officer on the possibility of imposing home detention and the specification of the place where home detention would be served most positively.

We asked all groups of respondents to evaluate the importance of various aspects when imposing community service/home detention. Judges and public prosecutors declared the importance they attach to the individual factors we defined in the survey when considering or proposing community service/home detention. Probation officers were then asked to consider the importance that judges attach to these factors in their decisions.

In the case of reports relating to community service, all the groups of experts ranked the same factors as being of the highest importance, with small variations in their order. Among the factors to which judges attach the greatest importance when imposing community service was the accused's state of health, his/her criminal career and his/her

view of the possibility of community service. They also regard the accused's past failure to serve an alternative sentence and the seriousness of the crime to be important. Public prosecutors found the latter two factors to be the most important when weighing a proposal to impose community service. For public prosecutors, the order of factors according to importance is as follows: the accused's previous failure to serve an alternative sentence, the seriousness of the crime, the accused's criminal career, his/her state of health and the nature of the crime in general. The five factors that probation officers deemed most important for judges' decision-making include the seriousness of the crime, the accused's state of health, his/her view of the possibility of imposing community service, the nature of the crime and the accused's criminal career.

When considering the imposition of home detention, judges attach the greatest importance to the accused's criminal career, the prospects of his/her housing (i.e. whether he/she has secured housing in the future, a rental agreement, etc.), the seriousness of the crime, specific local conditions for home detention and the nature of the crime. With small variations, factors in a similar order of importance were also declared by public prosecutors in cases of proposed home detention.

Probation officers believe that when considering the imposition of home detention, judges attach relatively less importance to the accused's previous failure to serve an alternative sentence, the risk of failure to serve home detention and the overall possibility of his/her resocialisation. We thus feel the results of our survey are important news for probation officers. According to judges, they attach more importance to the information in PMS reports and they have a greater impact on their decision-making than probation officers think. They also rate the quality of the information in PMS reports, important for their decision-making, very positively. All these differences are marked by the fact that probation officers significantly underestimate the importance of the information they provide.

The impact of information contained in probation service reports on the successful execution of sanctions imposed

In line with the aim of this research, i.e. to assess the importance and quality of probation officers' reports, including the impact of the information contained in these reports on the possible imposition and successful execution of community service and home detention and criminal recidivism, we analysed PMS reports before a decision (i.e., opinions on community service and home detention, etc.), as well as decisions in which offenders were sentenced to community service or home detention and relevant data from criminal records. The research sample consisted of all convicted offenders included in PMS records, for whom a final decision on community service/home detention had been made from 1 January 2017 to 30 June 2017 (only cases initiated before the court in 2017, which were also ordered to be executed from 1 April 2017 to 30 June 2017). Due to the low number of offenders sentenced to home detention, it was decided to include decisions to convert another sentence to home detention.

The research sample consisted of a total of 657 convicted offenders. With regard to the type of sanction in the decision in question, the vast majority were sentences of community service, in 621 cases (94%). Home detention was imposed in only 36 cases

(6%). In the case of our research group, it can be said that most convicted offenders had previous experience with the criminal justice system and some repeatedly. In terms of the number of previous records in the Criminal Register, only 8% of convicted offenders had no previous record. 30% of convicted offenders had no previous reoffences prior to the decision in question. On the other hand, there were often cases where the convicted offender had reoffended 3 to 5 times and cases with more than five repeat offences were not exceptional.

Very important information in terms of considerations regarding alternative sentences is, or should be, information for the court on how any previously imposed alternative sentences were executed and whether they had been successfully served. It should be noted here that almost 26% of convicted offenders had already had an alternative sentence converted in the past. It must be added that this was not just the conversion of community service or home detention, but very often the conversion of a conditionally suspended prison sentence. In case of community service this was 25% of cases, and 36% in case of home detention.

Another important aspect in terms of appropriate sanctions is information on whether the convicted offender has had experience of an unconditional prison sentence prior to the imposition of a sentence in the decision in question, either directly or converted to unconditional imprisonment from an alternative sentence. In total, almost 36% of convicted offenders had this experience (35% of those sentenced to community service and almost 53% of those sentenced to home detention).

With regard to the structure of criminal activity according to individual chapters of the respective part of the Criminal Code in the decision in question, crimes against property were represented most often, followed by crimes against public order and further back, crimes against family and children and generally dangerous crimes. The most common criminal offences in cases of community service were theft (27%), followed by obstruction of an official decision and obstruction of a sentence of banishment (almost 20%) and negligence of mandatory maintenance payments (14%).

In terms of legislation and application practice, the type of decision in which these alternative sanctions were imposed is of fundamental importance in terms of the obligation to request a report from a probation officer before making a decision. In our sample, they were most often imposed by court order – in 397 cases, which is more than 60%. Judgments were issued in only 243 cases, i.e. 37%. The rest of the cases were conversion decisions – these were exclusively cases of home detention.

When handing down these two sentences, the courts made only very limited use of the option of their individualisation with appropriate obligations and restrictions. These were only enacted in 102 cases, which is less than 16% of all convicted offenders, without further specification of these obligations or restrictions.

The research focused on the impact of probation officers' reports on the decision to impose sanctions and the subsequent enforcement of these sanctions. An interesting finding in this regard was that in most cases, although not very significant – 52% – the court did not have a probation officer's report available prior to its decision on a sentence.

A probation officer's report was prepared in 315 cases, i.e. for 48% of all convicted offenders.

In the context of the studied sample of convicted offenders, it is evident that where the court decides by a judgment, it did not take the opportunity to request a report in the vast majority of cases – 86%. On the other hand, in case of a decision by court order, it usually had a report at hand. However, it should also be pointed out that a report was not available in almost one third of cases decided by court order.

As indicated in findings from abroad, one of the classic indicators examined in the case of pre-sentencing reports is the correspondence between court decisions and the proposals contained in the reports. Like the results of foreign research, our research showed a very high degree of agreement – 73%

The successful completion of an alternative sentence by a convicted offender can be seen as one of the important indicators of the extent to which the imposed sentence was appropriately chosen, although of course there are many factors affecting its execution that must be taken into account. In the studied sample of convicted offenders, 57% successfully completed imposed community service or home detention. In 137 cases (21%), these were converted to another sentence. On closer inspection, 352 community service orders were successfully served and 131 community service orders were converted, which is 21% of imposed community service. In the case of home detention, the share of successfully carried out sentences was even higher, at 26 cases, i.e. 72%. Conversion to an unconditional sentence was only recorded in 6 cases.

One of the key questions in our research was to what extent the fact that the court had a probation officer's report available, and should therefore have had a wider range of information relating to the appropriateness of imposing a specific alternative sanction, affects the subsequent success of executing that sentence. In cases where the court decided by court order and had a report from a probation officer, a higher success rate in serving the sentence was recorded, with fewer conversions compared to cases where the court did not have a report. This relationship proved to be statistically significant (successful completion of community service/home detention when there was a report was 65.5% – conversion 15.1%; successful completion when there was no report was 50% – conversion 33.9%). Even in cases where the court decided by judgment, there was greater success serving the sentence and a lower number of conversions, however, the differences were not statistically significant.

Another factor with significant differences that appeared in our sample in relation to the successful completion of the sentence was the age of the convicted offender, where it can be assumed that his/her responsibility will increase with age, with regard to the maturity of the individual. This was also confirmed. The highest risk in terms of a successfully executed sentence or the probability of conversion in our sample was posed by individuals aged from 22–29, followed by young adults. In contrast, the lowest risk in this respect was posed by individuals aged from 40–49, and then 60 or over, although the last age category was represented in only a small number of cases in the sample.

Convicted offenders with previous experience with the conversion of an alternative sentence to an unconditional sentence were also less successful serving the sentence in

question, which was more often converted to another sentence, both in the group as a whole and in the case of separately assessed community service.

Recidivism is considered one of the traditional and often main indicators of the effectiveness of imposed sanctions and therefore is often the subject of criminological research. In our case, we also assessed recidivism based on copies of criminal records at least 2 years after the decision in question was handed down (the status of criminal records was determined for each convicted individual from 12 July 2019 to 25 July 2019). Almost half of convicted offenders (49.6%) reoffended after the decision in question had come into force. In case of community service, this was 51%, and in case of home detention this was 12 convicted offenders (33%). Leaving aside home detention, which had very low numbers, these figures are not very different from the results of previous Czech research on recidivism carried out in 2012 to 2015. At that time, 48.1% of the sample were found to have reoffended, with 48.8% in the case of community service and 46% in case of home detention (Scheinost, Háková, Rozum, Tomášek & Vlach: Criminal Sanctions: Their Application, Impact of Recidivism and Media Image on Television News, 2015).

In our research, however, we not only examined data on further criminal records after the decision in question, but also on obtaining more accurate data on recidivism. Of the whole sample of convicted offenders, 279 committed further crimes, which is almost 43%. At the same time, it must also be said that although three quarters of the cases only involved one reoffence, more than one quarter of convicted offenders recorded more than one and 6% of cases more than two reoffences. In terms of the type of recidivism, this was mainly special recidivism.

From the perspective of seeking targeted forms of post-penitentiary care, so-called "survival time", i.e. the time from the previous conviction or execution of an imposed sentence, until the moment the offender commits another offence was found to be very important. As part of our research, we monitored the time from the decision in question coming into force to the hand down, or in case of a court order, issue of another decision. It is evident that almost two thirds of convicted offenders who reoffended were handed down or issued a decision for this offence within one year of the decision in question coming into force, while in 31% of cases it was within 6 months.

Another area that can be seen in relation to recidivism is the type of crime. Here, too, there were statistically significant differences, especially in the case of crimes against property, where offenders convicted for such offences reoffended significantly more often than in the case of generally dangerous crimes.

In general, it is possible to point out higher recidivism in the case of theft, where 58% of convicted offenders committed further crimes, and significantly lower in the case of endangerment under the influence of an addictive substance, where less than 17% of convicted offenders reoffended.

Another important factor proven to be a significant predictor by a number of studies is the offender's criminal history. This was also confirmed in our research, where we limited this factor to convictions for former reoffences, where the number of previous cases of

recidivism increased in conjunction with the number of reoffences after the conviction in question, where those offenders who did not have a prior record of recidivism reoffended after the decision in question in approximately one third of cases, compared to those who had a record of two or more reoffences, where new offences occurred in almost 50% of cases.

From the perspective of our research, experience with serving an unconditional sentence before the decision in question proved to be an important factor, where convicted offenders who had no past experience serving an unconditional sentence reoffended in 39% of cases compared to those who had such experience. Of these, almost half (49%) reoffended, while the differences proved to be statistically significant. Similar results were also found for independently assessed community service, where 40% of convicted offenders with no experience of serving an unconditional sentence reoffended compared to 50% of convicted offenders with experience serving an unconditional sentence.

Similar results were found in case of the conversion of a convicted offender's alternative sentence in the past, where those who had previous experience with the conversion of an alternative sentence reoffended more often than those who had not experienced a conversion.

Analysis of probation service reports

An analysis of the content of 315 PMS reports and opinions in terms of PMS methodological standards showed that probation officers formulated a recommendation for the imposition of community service/home detention in their report most often, and this in more than 80% of cases. In only one third of cases did the PMS report contain any recommendations for the court to set appropriate specific measures or obligations. However, if the probation officer recommended a specific measure or obligation to the court in the PMS opinion or report, the court usually accepted these recommendations in full or at least partially took them into account in its decision. In one third of cases, the court did not reflect PMS recommendations in any way.

As part of our research, we examined whether and how submitted PMS reports reflected the binding guidelines /recommendations contained in relevant PMS methodological standards, the observance of which is binding for all probation officers. These written outputs by probation officers were subjected to an analysis, which recorded whether and how PMS reports addressed to the court (public prosecutor) correspond to the requirements to respect the content and structure of information in Reports for the Purpose of Decisions, or PMS Opinions on the Imposition of Community Service/Home Detention, which are contained in the respective PMS methodological standards. In this context, we also examined how probation officers managed to take into account the requirements of relevant PMS methodologies in predefined thematic areas, such as the course of cooperation with the client, his/her personal and social circumstances, dealing with the consequences of crime and cooperation with the victims of crime in their opinions and reports. Attention also focused on the content of PMS reports in the area of comprehensive risk and needs analysis, and a final summary in the form of a processed, clearly formulated PMS opinion on the possible imposition of an alternative sentence or recommendation of appropriate measures to address identified risks.

The findings of the analysis of a sample of PMS opinions and reports show that, in practice, most probation officers reflect the recommended topics/issues in templates prescribing the formal and content structure of PMS written outputs. If, in direct confrontation with methodological standards, the analysis found significant reserves in the content of PMS opinions and reports, then these were most often issues relating to the objectivization of described facts, the description and analysis of identified risks, a more detailed explanation of the offender's financial situation and the specification of victims' needs.

The fact that significant differences between the declared contents of PMS reports/opinions according to PMS methodological standards and their fulfilment in practice were found in some areas is also evidenced by the following findings:

- in areas where probation officers had the opportunity to describe whether they had also cooperated with other individuals[1], in addition to the client, in the PMS Opinion on the Imposition of Community Service, this information was completely lacking in most cases, or was only covered very marginally; this also applied in the case of findings concerning those parts of the PMS Opinion on the Imposition of Community Service, in which probation officers had to state from which sources they objectivised obtained information, or what information stated in the opinion was objectivised,

- in the area where probation officers were meant to deal with the topic of family and social relations in the PMS Opinion on the Imposition of Community Service, there was a complete lack of information about who the offender lives with and where in 11% of assessed cases,

- more detailed information on the social environment in which the offender lives was lacking in 68% of the total number of assessed Opinions on the Imposition of Community Service,

- more detailed, or at least partial information on the offender's obligations (children, maintenance payments, care of an entrusted person) was not included in 42% of the total number of assessed PMS Opinions on the Imposition of Community Service,

- in approximately one quarter of cases, the prepared Opinions on the Imposition of Community Service did not contain more detailed information on the offender's time obligations based on the performance of his/her profession, i.e., in about 25% of cases there was no information about the offender's working hours, whether he/she commutes to work, or where and how often,

- in approximately 11% of cases, the Opinion on the Imposition of Community Service had no information relating to the offender's current employment,

1 In such a case, to inform the court in more detail about how and who it dealt with and the conclusions arising from such cooperation.

- a possible provider of community service was proposed in communication addressed to the competent court in about two thirds of cases,

- half of PMS Opinions on the Imposition of Home Detention did not include any information on the offender's special interest activities,

- information on obligations arising from possible obligations associated with the offender's membership in a special interest organisation, or affiliation to a religious community and the related issue of regular participation in religious services was only included in 7 of 18 Opinions on the Imposition of Home Detention, i.e. less than 40%,

- a remarkable finding was that Opinions on the Imposition of Community Service only contained information on the offender's professional qualifications and practical skills in one third of cases; the situation was similar in the case of information on education, which was lacking in approximately three quarters of Opinions on the Imposition of Community Service, despite the fact that a thorough mapping of these areas is a prerequisite for performing a risk analysis for the execution of community service according to PMS methodology, which, in addition to other areas mentioned therein affects the feasibility of community service,

- based on the frequency of this information in PMS opinions, it can also be said that information on offenders' plans and commitments concerning work or their education in the near future is also of rather marginal importance in practice,

- information on offenders' indebtedness was missing in more than half of PMS opinions (in the case of Opinions on the Imposition of Community Service this was 154 cases out of a total of 242, and 10 cases out of 18 in the case of Opinions on the Imposition of Home Detention, which did not provide even basic information on whether the offender was in debt or not),

- approximately one third of opinions did not include the offender's view of crime (in Reports for the Purposes of a Decision this topic was completely missing in 7 of 40 cases),

- approximately one third of Opinions on the Imposition of Community Service/ Home Detention and 45% of PMS Reports for the Purposes of a Decision did not contain any information on the offender's relationship to alcohol, drugs, gambling or other addictive behaviour,

- surprisingly, information on the offender's motivation to change could be found in varying degrees of detail in only 56% of all cases of assessed PMS opinions and reports, while this issue was covered in only one third of cases in Opinions on the Imposition of Home Detention,

- information on whether the victim had been contacted by probation officers was included in only about 55% of all opinions and reports,

- the opinion of the victim or injured organisation on compensation for damages was only found in about 28% of opinions and reports,

- information describing the results of negotiations dealing with the harm caused, such as an agreement on compensation or mediation between the victim and offender was part of about 10% of analysed opinions and reports,

- an annex containing the Victim's Declaration Regarding the Impact of the Crime on His / Her Life could be found in only two cases in the total group of selected opinions and reports,

- as part of assessing the degree of risk of recidivism, harm and failure, probation officers surprisingly commented on the offender's criminal past, or previous cooperation with PMS in less than one third of cases,

- an assessment of the degree of risk of recidivism, harm and failure based on dynamic factors could not be found in more than half of cases,

- information on who was at risk of harm and under what circumstances was part of less than 6% of PMS opinions/reports,

- information about how the client's approach increases or decreases the risks could be identified in about 20% of cases.

Conclusion and recommendations

The research results allow the formulation of the following recommendations:

As part of the lifelong education of judges and prosecutors, as well as methodological, educational and control activities, the Judicial Academy, the Supreme Public Prosecutor's Office and the Supreme Court should focus more on emphasising the importance of probation officers' reports and on relevant consideration of imposing community service or home detention, especially in cases decided by court order, as it is evident that in a significant number of cases the legal obligation of the court to request a probation officer's report according to Section 314e (3) and (4) is not observed. At the same time, more intensive support for their wider use in the main trial should also be provided.

In addition to assessing the risks and needs of the accused, probation officers need to focus more on formulating proposals for appropriate reasonable restrictions and obligations that address risk areas in terms of recidivism. These measures should be targeted and it would be appropriate to propose a wider range of restrictions or obligations for the accused (not only to pay compensate or maintenance) to the court.

In view of the specifics of home detention and the number of conditions that are required for its execution, it is always advisable to conduct a preliminary investigation before imposing this sanction. This is conducted by a probation officer and results in a PMS report. We believe that it is necessary to open an expert debate regarding the ability

to sentence an offender to home detention only after the completion of a preliminary investigation and preparation of a PMS report.

In order to simplify and speed up criminal proceedings overall, it would be appropriate to have a PMS report available in all cases where the public prosecutor proposes a sentence of community service/home detention. The adoption of the Supreme Public Prosecutor's Instruction of a General Nature No. 9/2019 therefore offers scope for greater cooperation between public prosecutors and probation officers in this regard.

The quality of reports, including the quality of their individual parts, was evaluated as being of a good standard and, in general, the work of probation officers in the preparation of reports is highly valued. However, probation officers pointed to factors that may reduce the quality of these reports. These relate to their high workload, problematic cooperation with offenders, the amount of time required to prepare reports and the issue of objectivising information from the accused. Negative factors are interconnected to some extent.

Some probation officers perceive the timeframe for preparing the report as insufficient, especially when preparing a report on the possibility of imposing home detention. The preparation of the report is more demanding in this case due to the institute of preliminary investigation and the need to visit the offender's place of residence. We believe that it would be appropriate for judges and prosecutors to reflect this fact more when commissioning a report, even in the knowledge that criminal justice authorities are bound by deadlines set in the Code of Criminal Procedure and are obliged to respect the principle of officiality and speed of criminal proceedings.

A substantial number of probation officers perceive their high workload as a significant factor that negatively affects the quality of reports. In order for PMS to be able to perform assigned tasks, it is necessary to secure its activities not only from a material and technical perspective, but to create adequate staffing conditions, otherwise this will have a negative impact on the quality of reports.

In order to properly objectivise the information provided by the offender during the preparation of the report, it is necessary to create appropriate legal instruments for probation officers. We recommend gradually addressing the most important problem areas. Probation officers pointed out significant problems in obtaining or verifying information concerning, in particular, the offender's dependence on drugs or alcohol, their medical fitness, financial situation, place of residence and employment.

An analysis of the content of probation officers' reports and specific recommendations or binding guidelines based on PMS methodological standards, revealed fundamental differences in their implementation in practice in some areas. We recommend reflecting these findings in a suitable way and taking them into account both within the control activities of the PMS and especially in the vocational training of PMS officers and assistants.

In general, it may be worth considering whether, in the light of legislation and practice in some Member States, a debate should not be launched into whether it would be more

beneficial for courts if they had a general report from a probation officer available, which, in addition to assessing the risks of recidivism, would also include an assessment of the conditions and suitability of individual alternative sentences in general (not just, for example, an opinion on one type of alternative sanction, such as community service or home detention) when deciding on a specific type of punishment and sentence. It should be added that there is currently nothing to prevent the courts from requesting such a report. However, as the results of our research suggest, this is not happening in practice. On the other hand, it must be acknowledged that without sufficient PMS staffing and sufficient time for the preparation of reports, this could ultimately lead to a reduction in the current quality of reports as suggested by foreign research.

Original transalation by: Presto

Rozum, J., Háková, L., Hulmáková, J., Špejra, M., & Zhřívalová, P. (2020*). Zprávy PMS pro účely rozhodnutí v trestním řízení: kvalita, význam, efektivita.* Praha: IKSP.

http://www.ok.cz/iksp/docs/464.pdf

II.4 Probation and its Efectiveness from the Perspective of Offenders, the Public and the Media

Jan Tomášek, Lucie Háková, Zuzana Kostelníková

The research built on earlier project, undertaken on the basis of a public contract from the Ministry of the Interior and focusing on the effectiveness of probation in reducing recidivism among criminal offenders. The aim of the new project was to supplement previously acquired data with the experiences and opinions of convicted offenders, who were placed under the supervision of a probation officer. A public opinion survey was also carried out, mapping public awareness of probation in the Czech Republic and attitudes to the possibilities and conditions of its application. The project also included an analysis of media representation of probation in the Czech media.

Theoretical background

Probation, whose origins date back to the second half of the nineteenth century, is one of the most frequently applied measures in modern justice systems. Statistics show that the number of offenders serving a sentence under the supervision of the probation service is higher in many countries than the number of prisoners. This also applies to the Czech Republic. Consequently, some criminologists refer to this as an era of mass probation. One of the reasons for its widespread application is its exceptional flexibility. No other sanction or measure can be as easily adapted to the individuality of each offender, while at the same time taking into account the seriousness of the committed crime. Unlike prison, where the individual's freedom is limited to the maximum extent, the degree of restriction can be adjusted as needed in the context of probation. At the same time, offenders can be included in appropriate rehabilitative, therapeutic or other programmes, while the probation officer can offer help solving the problems and obstacles they face in their daily lives. The principal advantage of probation is that the offender remains in his/her natural social environment while serving their sentence. It is under these normal living conditions that the most influential factors of desistance are found. Those who find a job, enter into a stable relationship or start a family cease their criminal career more often. Although probation has an indirect effect on desistance, research has shown that the work of the probation officer can be particularly effective in this respect. This is subject to the establishment of a good relationship with the client. Based on this, the officer can motivate and encourage the client to make or maintain positive life changes, develop his/her own ability to face various obstacles and problems, as well as facilitate access to appropriate opportunities such as satisfactory employment or housing.

Probation from the offenders' point of view

Qualitative methods and techniques are increasingly used in research that addresses topics mentioned above. We chose a method of in-depth and narrative semi-structured interviews for our project. In cooperation with PMS centres, we managed to create a sample of 11 clients (2 women and 9 men), with an average age of 35. The youngest client was 22 years old, the oldest 49. The subject of the interviews was not only their experience and opinions regarding the work of their probation officer, but also factors

that respondents felt were important to maintaining a non-criminal lifestyle. It turned out that the vast majority had little confidence in their own ability or strength to change their lives for the better. Therefore, they looked for the necessary support from external sources, especially in their relationships, their children or at work. They often found it important to break all contact with individuals associated with their previous criminal experiences. They particularly cited the use of alcohol and addictive substances as risks that could lead to a reoffending. Some were aware of problems with low self-control and coping with difficult life situations, which they subsequently tried to avoid.

As in comparable foreign research, the individuals addressed in our study linked the positive influence of probation to the characteristics and personal qualities of the probation officer. They particularly appreciated the sincere interest in their problems, as well as their supportive and respectful approach. An important aspect was the times when the probation officer recognised the achievements or progress they had made. They also saw this encouragement as a symbolic appreciation of their new social role, as the probation officer represented the official system in their eyes. If we distinguish between two classic probation models, i.e. "welfare" on the one hand, and "surveillance" on the other, clients rated the former much more favourably. If they felt that the probation officer tended to be simply supervising, they perceived probation as an irritation. Some respondents particularly appreciated the practical help offered by the officer to solve common life problems. It was evident that they lacked the necessary skills to manage these independently.

Public attitudes towards probation

Part of the project was a public opinion survey. Most existing studies point to the fact that the public is punitively inclined. However, this very much depends on the type of questions respondents are asked. Unfortunately, the truth is that the public has very little information on alternatives to prison such as probation. Yet, it is well known their support increases with increasing awareness. Our research sample of 1,000 respondents was created as a representative sample of the population of the Czech Republic over the age of fifteen. Selection criteria were the region, size of the place of residence, gender, age and education. Some of the questions focused on awareness of crime and sentences. Despite favourable statistics of registered crime, almost half of respondents (46.9%) believed that crime in the Czech Republic has increased significantly or slightly over the past decade. In terms of their knowledge of existing sentences, most respondents (82%) spontaneously recalled imprisonment. More than half were aware of the possibility of conditional sentences. One third of respondents recalled fine, one quarter remembered community service. The sentence of house arrest also appeared relatively often (16% of respondents); other types of sanctions were only mentioned rarely. At least one of the alternatives to prison was recalled by 42% of respondents. Given the topic of the research, we were also interested in respondents' personal experience with crime. Approximately one fifth of the sample had been victimised in the last five years, either personally or a member of their family.

The Probation and Mediation Service (PMS) has been operating in the Czech Republic since 2000. However, previous research by the Institute of Criminology and Social Prevention in 2008 showed that only 8% of the public had a clear idea of its activities, while 73% did not know the organisation at all (the rest of the respondents only had

a vague idea). We asked the same question in the current survey. The results indicate that the level of awareness had improved over the past decade. At present, 22% of the public knows PMS, at least 35% have heard about it and 43% have no idea of its existence. People with a higher education and victims of crime are aware of PMS significantly more often. Those who know about PMS can also name more types of sanctions. As expected, the most common source of information on PMS is the media.

We briefly described probation to respondents as a measure that can be imposed as an alternative to imprisonment, which is based on a combination of the elements of surveillance and help. Three quarters of respondents (74%) expressed the view that they were in favour of its application in appropriate cases. Only 17% were strictly against. Opponents of probation were more often people who could name fewer existing sanctions, could not recall any alternatives to prison, did not know about the existence of the PMS, and who believed that crime had increased in the Czech Republic in recent years. From this data it can be concluded that, with increasing awareness of the real trend of crime and the system of its control, support for probation increases. This information corresponds to similar foreign research. Opinions on the suitability of probation vary according to the type of offender. While the majority of the public (80%) would find it suitable for juveniles, this is only 42% for offenders who avoid employment long-term, 35% for alcohol or drug addicts, 15% for offenders who had failed probation in the past and just 11% for recidivists.

The public would set strict rules for probationary period. In a situation where they had to decide, as judges, on the conversion of probation into a prison sentence, most respondents (64%) would only forgive the convicted offender one unexcused missed meeting at the PMS centre; in all other cases included on our questionnaire, they would end the probationary period. For example, only 13% would not send a convicted offender to prison if he/she did not repay the damage caused by his/her crime, and 15% if he/she used drugs or lied to a probation officer about important matters. It should not be overlooked that respondents' leniency towards convicted offenders increased again with their level of knowledge of crime trends and the system of sentences. Some of the questions also focused on the potential contribution of probation to criminal policy. Optimism was most often directed at the chance this measure would bring economic benefits to the state (two-thirds of respondents believed this). According to 56% of respondents, probation would increase the chances of victims getting compensation from the offender, 43% believed in the rehabilitation effect of probation on the offender and 33% believed in its effect on the overall reduction of crime.

Probation and the media

In the context of public opinion, particular attention must be focused on the media, as it is the most important source of information for the majority of the public, both on crime itself and on measures for its reduction. However, there are relatively few studies that directly address the media representation of probation. They consistently show that this topic is not very attractive to the media. As part of our project, we conducted a qualitative analysis of the media image of probation in the Czech environment. Newspaper articles and television programmes were selected for two time periods, from 2000 to 2002, when probation was introduced in the Czech Republic and, for comparison, the current period

(2016–2018). It was found that the first period was characterised by rather short, concise and neutral informative reports. Probation was introduced into the Czech media with the hope of solving the problem of overcrowded prisons and the expectation of the economic benefits of alternatives to prison. The philosophy behind this type of sentences appeared minimally. Today, information about probation is more colourful. More powerful stories also appear more often that have the potential to sway the public in favour of alternatives to prison. At the same time, however, there are more critical reports that talk of existing weaknesses or potential problems.

Conclusions

Our research has shown that the position of probation in the current criminal justice system is somewhat contradictory. On the one hand, statistics show that the number of offenders serving a sentence under the supervision of a probation officer is increasing year by year. On the other hand, only a small percentage of the public has a clear idea of probation, partly due to the rather low interest of the media. Yet, it is well known that greater awareness leads to greater support for alternatives to prison. However, as public views also have an emotional component, we cannot rely solely on rational arguments. Desistance studies suggest that most offenders can change their criminal lifestyle. Thus, the public should be acquainted with stories that illustrate this fact more often, including an emphasis on the strength of the factors operating in the natural social environment. Given that probation and other alternatives to prison take place in the community, these factors can be used more effectively in this context.

Original translation by: Presto

Tomášek, J., Háková, L., & Kostelníková, Z. (2019). *Probace a její efektivita pohledem pachatelů, veřejnosti a médií*. Praha: IKSP.

http://www.ok.cz/iksp/docs/460.pdf

II.5 Evaluation of the EMS Implementation Process in the Czech Republic

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The establishment of an electronic monitoring system (EMS) was one of the key areas of the Czech government and a priority of the Czech Ministry of Justice (MoJ). It was also explicitly included in the objectives of penal policy, which declared the acquisition of an electronic monitoring system for the inexpensive and reliable oversight of offenders sentenced to house arrest and, where appropriate, as a substitute for imprisonment. From the beginning, the implementation of an EMS gave rise to many expectations and notions among the professional and general public, and for this reason the Czech Ministry of Justice requested an evaluation of the process of launching the EMS and its use. The Institute of Criminology and Social Prevention (ICSP) therefore undertook a research task titled **Evaluation of the EMS Implementation Process in the Czech Republic**. The research focused on both evaluating the process of preparation for the implementation of the electronic monitoring system and an evaluation of the implementation of the electronic monitoring system into practice. The research task was tackled using standard criminological research methods and techniques, in particular, document and media report analyses, descriptive statistics and the use of guided interviews within the framework of expert investigation.

The process of implementing the EMS in the Czech Republic was analysed in the framework of a summative evaluation carried out ex-post in this project. Although it mainly focused on the process of implementing the given system, it also partly touches on its effects. In view of the fact that part of the research team actively participated in the implementation process, the evaluation was a combination of internal and external evaluation. An internal evaluation was successfully conducted as part of an expert survey of stakeholders involved in the preparation and implementation of the EMS and in the collection of relevant sources. An external evaluation was then largely conducted through an analysis of the media image of the EMS implementation process, taking into account the need for due objectivity in terms of presented events.

The Council of Europe Recommendation of 2014 defines electronic monitoring (EM) and outlines ways in which it can be used based on the jurisdictions in individual countries. Several models of electronic monitoring can be traced: *front door* models (EM as a type of punishment or as part of the conditions of alternative sentences), *back door* models (EM as part of the conditions of conditional release or as part of monitoring a released offender after serving a prison sentence), other models (e.g. the use of electronic monitoring in the field of immigration policy, in cases of domestic violence or to monitor inside prisons) and EM as part of measures replacing imprisonment in criminal proceedings. The electronic monitoring systems´ history dates in European countries back to the 1990s, pioneered by Sweden, the Netherlands, England and Wales. Currently are used in more than 30 European countries in various forms.

One of these is the Czech Republic's closest neighbour, Slovakia. Here, a sentence of house arrest with the ability to monitor its execution by technical means was introduced from 1 January 2006, although the Electronic System for Monitoring Accused and

Convicted Persons was only launched in 2013. The relevant legislation was prepared, a central office with data storage was built and hardware, including the necessary infrastructure was provided, together with a data backup system as part of this project. The pilot project took place in 2015 and the EMS was launched in Slovakia on 1 January 2016. However, the EMS was not used as much as expected in the following years. Therefore, appropriate legislative amendments were made to extend the option of imposing house arrest sentences and the obligation to remain at a specified address at specified times for parolees, with a simultaneous order to monitor them by technical means. These changes, together with education by the Ministry of Justice, led to a gradual increase in the use of EMS.

The electronic monitoring in the Czech Republic

The introduction of the sanction of house arrest in the new Criminal Code effective from 1 January 2010 in the Czech Republic, included monitoring the execution of this sentence via electronic monitoring. Under Section 60 of the Criminal Code, a sentence of house arrest may be imposed on an offender for up to two years if, in view of the nature and gravity of the offence and the offender's character and circumstances, it may be reasonably considered sufficient to impose this sentence, possibly in conjunction with another penalty. Similarly, house arrest may be imposed on a juvenile pursuant to Section 26(2) of Act No. 218/2003 Coll. on Juvenile Justice, where the upper limit for this criminal sanction may not exceed half the upper limit stipulated in the Criminal Code. Electronic monitoring can also be used to monitor compliance with a reasonable obligation to remain at a specified residence or part thereof at specified times, imposed in the context of a suspended prison sentence. Another application of an EMS is to monitor the fulfilment of obligations imposed in connection with alternative flight and pre-trial detention under the provisions of Section 67(a) or (c) of the Code of Criminal Procedure. Electronic monitoring may similarly be used in cases where a decision is taken to suspend the prison sentence of a pregnant woman or mother caring for a child until it is one year of age, with the simultaneous imposition of monitoring or reasonable restrictions or reasonable obligations aimed at ensuring the convicted person leads a due and proper life. The execution of a sentence of house arrest is monitored by the Czech Ministry of Justice or by an organisational unit of the state established to conduct electronic monitoring by the Ministry of Justice in cooperation with the Probation and Mediation Service (PMS) through an electronic monitoring system enabling the detection of the convicted person's movements or by the Probation and Mediation Service through random checks carried out by probation officers. With effect from 1 January 2022, the Probation and Mediation Service is also entrusted with monitoring the execution of house arrest sentences through the EMS.

The analysis of process of implementing electronic monitoring in the Czech Republic summarises the activities of working groups, the first of which was set up by the MoJ even before the new Criminal Code came into force. Among the main topics was the need to determine the administrator of the system of house arrests, its manner of financing and technical solution, defining the structure of house arrest sentences and an amendment of relevant legislation. The use of EM to oversee the execution of house arrest sentences has been considered since its establishment in the system of criminal sanctions. However, the Electronic Monitoring System „ON" (EMSON) Working Group, established in 2014, had a broader focus. Its main working material was prepared by the Concepts, Analyses and

Strategies Subgroup, namely an **Analysis of Possibilities and Recommendations for the Use of an Electronic Monitoring System in the Penal Policy of the Czech Republic.** In the context of preparing a public contract, the KPMG Company prepared a **Feasibility Study for the Implementation of an Electronic Monitoring System for Criminal Justice.** This included the results of surveys of EM technology suppliers and their evaluation, technical specifications, an assessment of options in terms of economics and a feasibility analysis. The synthesis resulted in a proposed solution that was a compromise between the author's original proposals and the client's comments and requirements.

The unsuccessful attempts and lengthy process of selecting a supplier of the system publication is also mentioned and also the explanation of the shift from a classic open tender to the competitive dialogue option. The winner of the final tender announced in 2016 was SuperCom in February 2017. Following a review based on filed objections and a re-evaluation of submitted bids, the same company was selected again. The contract was signed on 26 September 2017 and the process leading to the implementation of the system in practice began on that date. In the first phase, the supplier provided the ministry with 280 bracelets, the operation of a monitoring centre for six years and training for Probation and Mediation Service and Ministry of Justice staff. In the next six years, the MoJ had the opportunity to use up to 2,000 devices, depending on current needs. The electronic monitoring system was finally launched on 21 September 2018.

The important documents and materials

It was necessary to prepare information for the professional and general public. The relevant ministerial materials were created in connection with, or in direct response to the implementation of the EMS into practice, which also meant the need to amend internal governance regulations, specifically for the PMS and the relevant MoJ department. The PMS thus redrafted the EMS Manual, amended or created new templates and also created material for probation officers involved in monitoring offenders through the electronic monitoring system. In order to achieve the effective use of this new monitoring tool, the PMS also prepared a manual for judges and prosecutors who decide on the substitution of imprisonment or the imposition of sentences or measures whose execution can be overseen using electronic monitoring. After the start of EMS routine operation, the Methodology Department of the PMS Directorate organised ongoing working meetings of stakeholders at various levels. The aim was to ensure and support the sharing of best practices, the operative solution of problems arising from the application of EM and the methodological direction and coordination of cooperation both within the PMS and with external entities, most often the EMS Operations Centre established at the Czech Ministry of Justice. A training course was prepared to develop the relevant competences of PMS staff responsible for the EMS agenda, i.e. EMS specialists and heads of EMS departments.

Mandatory procedures also needed to be established for operations centre staff. The methodological instructions issued by the Director of the EMS Unit (now EMS Department) covered, for example, processing and protecting personal data in the electronic monitoring system in connection with its operation and the duties of EMS Department staff. The instructions issued by the Director of the EMS Department determined the rules for testing new functions and the correction of EMS errors, the

procedure for collecting and processing proposals for changes, modifications and the development of the electronic monitoring system. Another Ministry of Justice internal regulation is **EMS Operations Centre Operating Regulations.** This includes basic information about the centre and further governs areas related to working conditions and operations. Comprehensive material on the activities and procedures carried out by Operations Centre staff is included in the **Manual for Operations Centre Staff,** with separate annexes on, for example, legislation governing electronic monitoring of individuals, the course and tasks of criminal proceedings, an interpretation of EMS technologies and resources, the procedure for passing a case to the Police of the Czech Republic, etc.

Other important documents were also produced in connection with the preparation of the public contract for the procurement of the EMS. For example, the document prepared by the PMS, **Analysis of the Estimated Development of the House Arrest Agenda,** which defined the requirements for the acquisition of an appropriate number of electronic monitoring devices based on a qualified estimate. Other PMS analytical material included the publication **The Electronic Monitoring System – House Arrest, Substituting Imprisonment and Other Alternatives.**

Interesting information about the EMS was also included in the final report by law firm Dáňa, Pergl & Partners, which relates a pilot project in 2012, when the PMS had the opportunity to test the operation of electronic monitoring on a smaller scale. The experience gained was to be used to prepare the wider, standard implementation of electronic monitoring in criminal justice practice in the Czech Republic.

While the above internal materials were intended exclusively for a limited group of justice professionals, the most important source of information on EMS for the wider public appears to be specialised websites. These offer detailed information on electronic monitoring systems, related legislation and provide up-to-date information on the number of monitored individuals, including development trends. An information brochure on the **Electronic Monitoring System (EMS)** is also intended for the public.

The experts´ survey

The main part of the research was devoted to experts‘ experience with the implementation of the EMS in the Czech Republic. For this purpose, selected experts, who actively participated in the process of forming the electronic monitoring system in the Czech Republic, its implementation and the launch of its operation at the very beginning, were contacted. The method of guided interviews was chosen to record valuable and historically unrepeatable experiences and these were conducted between June and September 2020. The aim was to preserve the knowledge of experts from the early days of the EMS, which can be used for its potential further development in the future. A total of 15 experts who were involved in the EMS implementation process at various stages took part in the interviews. Experts from the MoJ, PMS and ICSP were represented, some of whom directly represented the top management of these entities. The group of respondents also included researchers, probation officers and specialists in the areas of legislation, PMS methodologies and work procedures.

The entire interviews were captured on audio recordings, which were subsequently processed in the form of written anonymised outputs. Respondents were asked questions about the importance of their experience with the use of EMS abroad, what developments experts noted in the search for an optimal EMS solution, what options for the use of the EMS were considered at the time, what role ethical aspects relating to personal data protection played in the decision to use the EMS, and how respondents perceived the composition of the working group that dealt with the implementation of the EMS in the Czech Republic at the time. Questions also focused on the parameters of the tender for the procurement of the EMS (technical, operational, financial) and the dilemmas of the decision-making process on the most suitable solution (purchase x sale of the system, determining the system operator, requirements for technical solutions and requirements for system functions, etc.). A separate topic of the interviews concerned the reflection of the EMS in the public space at the time of system preparation and the beginnings of its launch, when experts were asked, for example, how they perceived the media at that time, and its comments on the acquisition of the EMS, or the approach of the Ministry, respectively the PMS to its own PR and whether they thought it was successful in adequately communicating the topic of the EMS to the public through the media. As part of the conducted interview, experts were also asked for recommendations they would give future contracting authorities and authors of any future public contracts for the procurement of an EMS based on their current knowledge of how an EMS works in practice.

The interviews showed that most experts who had the opportunity to obtain information about EM through a study trip, through participation in an international conference on the topic of electronic monitoring, or through the targeted study of available materials, rated their experience with the use of EMS abroad as important and useful. When respondents commented on the experience of specific countries during the interview, they most often mentioned inspiration from Norway and Slovakia. During the interviews, it was also noted that the opinions of some experts somewhat relativized the key importance of experience abroad, given that it is not possible to easily transfer the different judicial systems and practices of other countries over to the conditions of the Czech Republic.

It is clear from experts‘ comments that the original view of the potential and scope of options for the use of the EMS varied at different stages of preparation and was, in summary, quite broad. In addition to the original elementary requirement to provide an electronic form of monitoring house arrest, other uses were considered. Respondents mentioned the potential within the Prison Service and following the release of offenders on parole. The possibilities of its use in probation houses, protecting victims and to monitor individuals evicted from the home for a certain period of time in cases of domestic violence were also mapped, and the use of the EMS in monitoring sentences banning entry to cultural and other social events or driving bans were considered. Discussions were also held on the use of the EMS to monitor risk patients who were ordered to undergo outpatient protective treatment. The use of the EMS in areas outside criminal justice was also considered, for example , to monitor individuals staying in the Czech Republic in the context of various migration waves or to monitor individuals under quarantine during the Covid-19 epidemic.

The issue of ethical aspects and data protection on the implementation of the EMS was designated as very important or even essential by the majority of interviewed experts, especially in view of the major intervention in the privacy of individuals that EM represents. The emphasis placed on the secure handling of personal data and privacy also played a significant role in considering whether it would be appropriate for the system to be operated by, for example, a private company, or whether the data could be stored abroad.

In terms of the perception of the composition of the working group, or the groups that dealt with the implementation of the EMS in the Czech Republic at that time, interviewed experts appreciated the advantages of the EMSON Working Group, especially in ensuring the participation of all relevant experts and sharing information in the framework of regularly scheduled joint meetings. On the other hand, however, some respondents saw certain limitations in this broad participation of individual members, both in the dynamics of such a large working group and in the inconsistent level of active involvement by some of its members. From this perspective, some experts felt it was more effective to work in smaller working subgroups, which were set up for this purpose in the multidisciplinary EMSON Working Group. However, experts considered the outputs of the EMSON Working Group to be very important and indispensable for the following next phase of competitive dialogue, which eventually led to successfully awarding the EMS supplier contract.

Experts were rather ambivalent about the perception of the media in connection with the EMS. At the same time, they reflected that the media's interest in the issue of the EMS changed over time and basically corresponded to events around the EMS at different stages of repeated efforts for its acquisition. The media mainly responded to potentially attractive and long-tracked topics that could be of interest to the wider public. Interviewed experts, however, criticised the media's one-sided and selective approach to the choice of topics and the presentation of the EMS, and unanimously felt that the potential of the topic was not sufficiently exploited, especially in the area of its contribution to society or its impact on existing work with PMS clients.

On the issue of handling PR, some respondents were critical of both the PMS and MoJ. Experts attributed reserves on the part of the Ministry of Justice to the organisational changes at the Ministry from 1 January 2019. With regard to the PMS, experts‘ responses included comments pointing to PMS limited resources and personnel in the area of its own PR.

When asked how experts perceived the technical, functional and operational requirements set for the potential supplier, they agreed that the set parameters were generally very strict, which respondents felt was motivated by the desire to find the best possible system for the Czech Republic. However, some experts' comments, based on experience with the operation of EMS, suggest that certain selected parameters should be reviewed in the event of another public contract. Although the use of this technology for victim protection was considered at the very beginning when drafting tender documentation, experience in practice has shown a number of previously unforeseen problems and circumstances that have resulted in the technology only being used sporadically for the victims of crime.

Although all interviewed experts consider the implementation of an EMS after many years and several previously unsuccessful attempts to be an undisputed success, at the same time, they pointed out numerous reserves and limitations in their comments. Critical assessments often focused on experience with the system supplier. Respondents' unfavourable evaluation also related to the scope of EMS use in practice, where the total number of installed devices did not meet initial expectations.

Image of the process of EMS implementation in the media

A set of 2,864 media outputs from 2009–2018 and the first half of 2019 was obtained through the Ministry of Justice press department based on keywords related to the studied issue. The content of these outputs was analysed in terms of selected thematic areas. In terms of news volume, the topic of EMS received the most media coverage in 2010, with 1,050 reports. The most prominent media coverage during the above period focused on the extent to which the EM system would be used, whether this was to monitor house arrests, to use EM as a substitute for imprisonment, or to monitor compliance with the reasonable obligation to remain at a specified residence or part thereof at specified times. There was also reference to the considered use of the EMS to monitor other alternative sanctions, such as banned entry to sports, cultural and other social events or in the prison service. The media also dealt with the course of tenders and experience with the application of EMS abroad to a greater extent. The media were slightly less interested in the topic of the contracting authority and EMS operator or the expected date the EMS would be put into practice. Somewhat surprisingly, the ethical aspects of EM remained outside the media's interest. However, in general terms, it can be said that despite uneven media coverage of the defined sub-topics, the public basically had enough relevant information about the potential uses of the EMS and its implementation process.

Selected statistical data on the operation of the EM system

The data from the first two years of the system's operation illustrate the implementation of EM in practice. This was prepared on the basis of statistical data provided by the Analytical Department of the Probation and Mediation Service. It provides information on the number of bracelets used between September 2018 and September 2020 and the number of individual institutes monitored by the EMS. During this period, electronic monitoring was used in 501 cases, the vast majority of which (almost 75%) were used to monitor sentences of house arrest. The overall ratio of men and women among monitored individuals was also examined, with men significantly predominating in the selected period (86%). The average age of monitored individuals was generally 37. An overview of the use of EM by geographical location says that the system was most often used in the North Bohemian Region, while at the level of PMS centres, it was most often used in Prague. Another analysed factor was the type of crime for which offenders were sentenced to electronic monitoring. This was mostly (knowing that the monitored person could have committed more than one offence) the offences of obstructing the execution of an official decision, theft and evasion of mandatory maintenance. Data was also collected on the number of reports on the violation of EM conditions sent to the PMS based on recorded serious incidents and the manner in which cases of imposed EM are terminated. The outputs showed that during the initial two years of operation of the electronic monitoring

system, neither the predicted number of individuals nor the capacity of the system was met. In addition, after the first year of operation, problems with the supplier arose.

Conclusion

The Probation and Mediation Service, as the operator of the EMS, prepared material to evaluate the implementation and functioning of the EM system after six months of use and after one year. The content was an evaluation of routine operation, an assessment of current practice and an analysis of possible causes limiting the more widespread use of the system. It was noted that the implementation was successful, with an emphasis on high standard of developed methodologies. The organisational structure has also proved effective. The potential for the institute of protected person status has remained untapped, even after the change in PMS terminology (now supported person), there has been more of a shift towards providing information about the offences of the monitored offender. The need for the institute of preliminary investigation and adequate information for all stakeholders was emphasised for the further and successful use of monitoring bracelets.

The visions of explanatory memoranda to draft laws are mentioned, establishing the institute of house arrest and the option of using the EMS to replace imprisonment, and the expected benefits of the existence of an EMS. An integral part of the research was to ascertain the views of experts involved in the preparation and implementation of the EMS on whether the implementation of the system was in line with the intentions of the design and development materials. For this reason, the final outputs include an overall evaluation of the observations of experts who participated in the implementation process. Although these are rather critical, a number of factors that may have influenced their personal opinion (e.g., their job title, their own expectations, practice in the field, or current problems with the supplier) must be taken into account. However, the positive view of all participating experts of the very fact the EM system was finally successfully implemented in the Czech Republic after such a long time and several unsuccessful attempts must be emphasised.

To what extent expectations in connection with the routine operation of EM have been met, its application practice and how cooperation between the stakeholders works – these are other vital questions regarding the operation of the electronic monitoring system in the Czech Republic that should be answered in the follow-up research task by the ICSP **The Electronic Monitoring System in the Application Practice of the Czech Republic.**

Original translation by: Presto

Diblíková, S., Špejra, M., Vlach, J. (2021). *Vyhodnocení procesu spuštění elektronického monitorovacího systému v ČR*. Praha: IKSP.

http://www.ok.cz/iksp/docs/469_Vyhodnoceni_procesu_spusteni_elektronickeho_monitorovaciho_systemu_v_CR.pdf

II.6 Family Group Conferences

Jan Tomášek, Simona Diblíková, Natálie Hamplová, Jan Rozum

Family group conferences are measure based on the philosophy of restorative justice, which is particularly appropriate for juvenile offenders. Like victim-offender mediation, conferences involve the direct participants (i.e. victim and offender) in dealing with the crime, but include also other people directly or indirectly affected by the case. This particularly concerns family members, supporters of the victim and offender, as well as important members of the community. The presence of family and friends should encourage and strengthen the victim, and the presence of parents is also expected to increase the offender's sense of responsibility for the offence and subsequent efforts to expiate the consequences. By meeting the victim and their loved ones, the offender's parents should also better understand what happened and feel more committed to settling the resulting conflict. In addition, we can also see the practical application of a whole family approach in family group conferences that emphasises the ability of families to understand their problems and find satisfactory solutions. The Probation and Mediation Service of the Czech Republic (PMS) was inspired by the favourable results of family group conferences abroad. It tested the possibility of their application in the project "On the Right Path!", which took place in 2012–2015.

The aim of the research was to evaluate experience with the project. In addition to a summary of information from available literature on family group conferences and their use abroad, a secondary analysis of data from original evaluation questionnaires for direct participants of family conferences was conducted, together with an expert questionnaire survey of facilitators. An analysis of data from the Penal Register was also conducted to assess the effectiveness of conferences on a sample of all offenders who participated in conferences.

History and effectiveness of family group conferences

New Zealand is considered the "cradle" of family group conferences. In an attempt to address the large percentage of indigenous juveniles among offenders, a law was adopted in 1989 to allow the use of so-called "Whanau conferences" as a standard way of dealing with minor cases. The New Zealand conference model then became the inspiration for other countries, including Australia, the USA, Northern Ireland, Belgium or Holland. In spite of the differences that arose in practice, which relate to the effort to adapt conferences to local conditions, their basic principles remain the same. Above all, this is respect for family members, the ability of all participants to have their voice heard, sensitivity to cultural and family differences, and an emphasis on involving the victim in the decision on how to handle the case and reparation.

In criminological studies dealing with the effectiveness of family group conferences, different criteria or standards are used for their evaluation. Many are based on the objectives underlying restorative justice, including, inter alia, the degree of participants' involvement in the decision-making process, remedying the harm caused, and the reconciliation and rebuilding of disrupted relationships. In addition, reoffending has been

a major issue in recent decades, although this criterion is accompanied by a number of methodological and other problems. While studies dealing with participants' experience with the course and outcome of conferences has generally yielded positive results, the results of those focusing on reoffending are mixed and ambiguous. The reason may be the relatively short time that this measure has been used, as well as the differences in how individual authors define reoffending and the type of data on which the results are based.

Family group conferences in the Czech Republic

The use of family group conferences in the Czech Republic is facilitated by the fact that the principles of restorative justice are one of the foundations of the juvenile justice system in this country. Emphasis is not placed on punishing the offender, but rather on finding a way to enable him/her to live in accordance with the law, find their place in society, and at the same time avoid conflict situations related to the prosecuted crime. Methodological procedure for family group conferences was developed as part of the project "On the Right Path!". This was based on the premise that conferences could be used at any stage of criminal proceedings. Appropriate cases would be identified by a probation officer – specialist in working with youth, who was active in the case under the direction of the criminal justice authority. His/her task was to study available material, paying special attention to whether there was a specific victim in the case, and whether it had also affected other people (the community). If he/she concluded the organisation of a conference was appropriate, he/she moved in this direction with an initial consultation with potential participants. A facilitator plays a key role in the process of preparing and conducting the family group conference. There are three possible outcomes of the conference, namely a joint statement by the participants, an agreement or a reparation plan. The facilitator subsequently prepares a report on the result of the conference, which represents the formal outcome confirming its conclusion. The probation officer then submits all outcomes of the conference to criminal justice authorities.

A total of 40 family group conferences were held as part of the "On the Right Path!" project, attended by a total of 50 offenders. Most were male (86%), more often juveniles (61%) than children under the age of fifteen. The majority of conferences took place as part of pre-trial proceedings. An integral part of the project was its ongoing evaluation. Offenders and victims participating in conferences filled in questionnaires before and after the conference; a questionnaire was also completed by the facilitator in each case. Questionnaires, completed in the required form, were obtained from 36 conferences (i.e. 90%), in which 40 victims and 44 offenders described their experience.

The experience of participants

Most of the victims said they considered the crime a very negative experience. More than two-thirds suffered psychologically, 53% were more afraid for themselves and their loved ones. On the other hand, only 30% of the victims felt anger towards the offender. The majority felt it was crucial that the offender received fair punishment. As expected, negative emotions were less evident in individuals representing a particular organisation or institution damaged by the offender's actions. In terms of motives for participation, the least important was surprisingly the desire for compensation – this was of no significance for one quarter of the victims, and only a partial reason for one half. It appears a much

more important motive for participation was the desire to hear a sincere apology from the offender, to contribute to his/her reform, and to avoid a lengthy hearing of the case in court. Although all the victims said the principles of the conference had been properly explained to them, approximately one third had doubts regarding the sense of the meeting, and more than half felt uncertain about what would happen during the conference. In addition, one third admitted they were afraid of meeting with the offender. At the same time, 75% of the victims believed in the sincerity of the offender's motives to participate in the conference. The presence of a family member or close friend was only important for about half of the victims, but its significance grew in cases of violent offences or if the victim was afraid of the offender.

For most offenders, the strongest reason for participation was a desire to personally apologise to the victim and agree on how to repair the damage. At the same time, almost 80% admitted that they were also motivated by the chance of getting a lenient sentence, and two-thirds said they wanted to do what their parents or others wanted. Only about half the offenders stated that a very important motive was the opportunity to explain the circumstances that led them to do what they had done to the victim, while this aspect had no meaning at all for approximately one tenth of offenders. All offenders stated that the principles and meaning of the conference had been properly explained to them and agreed that this was a more favourable way of hearing their case than a classic "court case". Like the victims, the offenders were worried about the conference – 60% felt uncertain about what was going to happen, 42% were hesitant to participate, and 33% were unsure that an agreement could be reached. More than half were afraid of meeting the victim (75% if they did not know the victim before the crime), 90% felt the need to have a family member or close friend at the conference.

The majority of victims were satisfied with the course and outcome of the conference. With only one exception, all the victims took the opportunity to tell the offender what effect his/her behaviour had on them, and felt they could have an input in the resolution of the case. 97% of the victims received an apology, which was "very important" for 57% of the victims, and had no meaning for one respondent. According to 95% of the victims, the offender was ashamed of his/her actions, but at the same time 23% said their main motive for participation was to avoid more severe punishment. This was particularly the case for victims who felt angry towards the offender, had doubts about their own participation and were not certain of an agreement. According to 97% of the victims, the offender's family wanted to see them reform, 94% of the victims changed their opinion of the offender for the better and 92% believed in the rehabilitative effect of the conference. 91% of the victims perceived the atmosphere as friendly, and 94% felt better about the whole case than before. All the victims would recommend the conference to people who had been victims of a similar crime, 97% did not regret their participation. An agreement was reached according to 86% of the victims, in which case all victims were satisfied with its wording and, except in one case, believed the offender would abide by the agreement. With the exception of one victim, all reported that the conference was conducted in an excellent and professional manner.

As for the offenders, 93% rated the atmosphere of the conference as more or less friendly, the rest as "neutral." Except for one respondent, everyone apologised for their actions, according to 52% of them, the apology was "definitely accepted". All offenders agreed

that the conference was conducted in an excellent and professional manner. The majority said they were given the opportunity to explain their behaviour and have their say on how to deal with the committed offence. In the majority of cases, they were accompanied at the conference by people they wished to have at the meeting. More than 90% of the offenders reported experiencing embarrassment or shame on meeting the victim, which was most true of the individuals for whom apologising to the victim and desire to explain the circumstances of the crime were a strong motive for participation, Eight out of ten offenders felt that the victim was not just interested in financial compensation. Only one fifth of offenders mentioned that the victim's supporters were hostile and suggested absurd solutions. No agreement could be reached in only two cases according to the offenders, in all others the offenders were satisfied and convinced they would abide by their agreement.

Facilitators also evaluated individual conferences positively after their conclusion. With only one exception, they described the atmosphere as friendly. The offenders at only two conferences did not seem to feel ashamed of the committed crime or to make a sincere effort to repair what they had caused. Only two victims and two offenders were rather passive at the conference; in one case the offender's companion did not appear interested in his reform. Facilitators felt that all the offenders and almost all of the victims seemed satisfied with the outcome at the end of the conference, the facilitators themselves were not satisfied in just one case.

Expert questionnaire survey

We also addressed the facilitators as part of the study in the form of an expert questionnaire survey. The questions focused on their overall experience with family group conferences, including recommendations on how to further develop this measure under conditions of the Czech Republic. 11 respondents sent us properly completed questionnaires (55% of the total number of facilitators who participated in the "On the Right Path!" project). All agreed that the most time-consuming and organisationally demanding part of the conference was its preparation. The facilitator must pay particular attention to the motivation of the participants and their familiarisation with the principles of the conference; it is often difficult to reconcile the dates to suit everyone. Some respondents pointed to insufficient PMS capacity, both in terms of staff and suitable premises. In the majority of cases, the actual realisation of conferences took place without any major problems.

In general, facilitators saw conferences as beneficial, both for the victims and offenders. Victims are given the opportunity to address their needs and allow them to personally engage in resolving the case, as well as to address and discuss the impact of the crime on their lives. Sometimes victims see the conference as a much greater chance of compensation. For some it is crucial to find out what the offender's attitude is to the case and to hear an apology. In terms of offenders, facilitators see the rehabilitative potential as one of the strengths of conferences, where the victim's testimony and the views of other participants can force the offender to self-reflection. The active involvement of the offender in the solution is also important, what's more the conference can support the positive aspects of his/her personality, thus reducing the risk of "labelling" as a result of hearing a case. For the further development of conferences, facilitators would particularly recommend the specialisation of staff in this activity, together with the creation of adequate conditions for their realisation at PMS centres.

Reoffending as a measure of effectiveness

The research also included an assessment of the effectiveness of family group conferences according to the subsequent rate of reoffending. We judged this according to records of any further conviction in the Criminal Register in 2019 (i.e. 3–4 years after the conference itself). Data on 47 offenders was evaluated. It turned out that a new record could be found in the Criminal Register for 29.8% of offenders. Six had more than one new record, with 21 new convictions for the entire sample. In the majority of cases the new offence was of different kind than the previous one; the highest level of reoffending reached by perpetrators of property crime. A consideration for assessing the effectiveness of conferences may also be whether re-offenders committed a more serious or less serious offence than was dealt with during the conference. A more serious offence (according to the potential sentence for the commit offence) was committed by 6 offenders, a less serious offence by 5 offenders and an act with the same sentence by 3 offenders. Reoffending was more frequent for men (30.8% of cases) than women (25%); in terms of age at the time of the conference, juvenile offenders were somewhat more frequent (30.8%) than children (28.6%).

Conclusions

Overall, the research showed that family group conferences can be seen as an appropriate alternative to existing juvenile justice measures in the Czech Republic. It is therefore a positive sign that the PMS has decided to follow up on the "On the Right Path!" project, with the aim of extending the possibility of applying it to all service centres. Direct participants rated the course and outcome of conferences very favourably, and a positive impression prevailed among facilitators as well. The rate of reoffending was satisfactory, especially when compared with the results of similar studies dealing with juvenile offenders. At the same time, however, it must be emphasised that family group conferences are an extremely challenging measure, both in terms of organisation and time for facilitators, and from an emotional perspective for their direct participants. Cases where the use of family group conferences is appropriate must always be carefully considered, while placing particular emphasis on creating adequate conditions.

Original translation by: Presto

Tomášek, J., Diblíková, S., Hamplová, N., & Rozum, J. (2019). *Rodinné skupinové konference*. Praha: IKSP.

http://www.ok.cz/iksp/docs/452.pdf

III. Penology

III.1 Drug Users in Prison – Evaluation of Therapeutic Programmes

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There has been an evident rise in the number of people affected by drugs among convicts coming to prison not only in Europe, but on a global scale since the 1990s. In some countries, major studies estimate figures at up to 80% of the total prison population. Studies based on empirical penitentiary data from evaluation studies of the effectiveness of programmes for criminal offenders clearly show that people who are not psycho-pathologically and criminally disturbed can be directed in a socially desirable direction by simply serving their prison sentence and making lifestyle changes, while those with internalised norms and the values of the criminal subpopulation and people affected by drug use require specific intervention in order to increase the chances of a non-delinquent post-penitentiary future. Addictology is thus increasingly becoming the focus of criminological and penological interest. Important recent foreign systematic studies and meta-analyses of the effectiveness of programmes aimed at drug users in the prison environment highlight the often very different quality of these often costly and staff-intensive interventions. In an evidence-based approach, it is not always possible to demonstrate a measurable positive effect on participating individuals, even with the best intentions. This fact shows the crucial role of evaluation studies, which can help distinguish good and useful intervention programmes from the average or even harmful ones with a negative effect that foster the addictive behaviour of users or even patently worsen it.

Study by the IKSP

Recently, the Institute of Criminology and Social Prevention (IKSP) carried out the research focusing on the treatment of drug users in Czech prisons. The research took place from July 2016 to June 2019. Its main subject was prison therapeutic programmes run by specialised departments for prisoners with personality and behavioural disorders caused by the use of addictive substances (specialised departments for voluntary treatment or SDVT), and specialised departments for the compulsory treatment of addiction (specialised departments for court-ordered treatment or SDCT). The research focused on the form of these programmes, their spread, operation and effectiveness in terms of their potential effect on the level of criminal recidivism after release from prison and on the criminogenic attitudes of their participants. In addition, the research also focused on selected characteristics of the drug user population in prisons and Czech legislation on the treatment of drug users in prison. The main aim of the research was to map therapeutic programmes implemented in SDVT and SDCT and to assess their effectiveness in terms of criminal recidivism following release from prison and changes in the criminogenic attitudes of those who have completed the programme. Other goals were to acquire new criminological information on the drug user population in the Czech Republic, to map the legal framework governing the treatment of drug users in prison, and to examine the possibilities for the systematic and continuous assessment of the effectiveness of therapeutic programmes in SDVT/SDCT.

Standard methods and techniques of criminological research were used, including an analysis of specialised literature, legislation and official documents, an analysis of data

from the databases of the Prison Service of the Czech Republic (PSCR) and the Penal Register, expert survey in the form of semi-structured interviews with selected employees of the specialised departments, administration of the Inventory of Criminal Thinking Styles PICTS-cz, and statistical analyses. The research was conducted in accordance with generally binding legislation, including regulations on the data protection, and respected the ethical principles of scientific research work.

Drug policy in the Czech prison system

The prison population in the Czech Republic numbers approximately 22,000, of whom about 20,000 are convicts serving their prison sentence. Statistical data obtained from both Prison Service records and from questionnaire studies conducted among prisoners shows that about fifty percent of inmates are registered by Prison Service as drug users and almost 30% meet the characteristics of a problem user in their own opinion. This is a high proportion and, despite all efforts by the Prison Service, a certain percentage of prisoners continue (or even start) to use drugs in prison, as confirmed by the results of drug testing among prisoners. The problem presented by the high number of drug users in the prison population has long been deliberated at national and international level, and is reflected in various documents of a strategic, conceptual or recommending nature concerning drug policy and the prison system. The significance of these documents lies in the fact that they often form the ideological basis for the creation and implementation of specific legislative and other measures in a national context. The seriousness and complexity of the problem of drug users (and use) in prisons is illustrated by the fact that it is dealt with in documents on various issues, in particular drugs, the prison system, healthcare (measures to prevent the spread of infectious diseases, mental healthcare…), crime and criminal justice. A separate chapter of the **Prison Concept until 2025** (Chapter VI) is dedicated to the problem of drugs. The Concept sets a strategic objective for the treatment of drug users in the form of: "A functioning and suitably interconnected standardised system of effective professional assistance for drug users, motivating abstinence not only in prison, but also on release". The Concept also reflects the importance of research data in order to meet this strategic objective. One of the specific objectives of the Concept is to "provide sufficient information and expert data on addictology and security", where the tools to achieve this under the Concept include "support for research in the field of addiction and the treatment of drug users in the prison environment and verification of the impact and effectiveness of individual programmes".

The Prison Service of the Czech Republic implements its drug policy using various tools. Specific tasks for the respective period are included in the **Plan of Prison Service Activities in the Field of Drug Policy**, issued by the Director of the Division of Prison Sentence Execution of the General Directorate of the Prison Service of the Czech Republic. PSCR drug policy is implemented in prisons and remand prisons by specialised workplaces, namely drug prevention centres, drug-free zone departments, drug-free zone departments with therapeutic treatment, and two types of specialised departments for drug users (SDVT and SDCT) as mentioned above.

These specialised departments for drug users can be considered the most comprehensive drug policy tool of the PSCR. Convicted users are admitted to specialised departments for voluntary treatment at their own request, while specialised departments for court-ordered

treatment are intended for prisoners who have been ordered to undergo compulsory treatment by the court, which is to be a executed during their term of imprisonment. Therapeutic programmes run by specialised departments in individual prisons differ slightly depending on the conditions in each particular prison, such as the type of prison, the structural and technical conditions of the department and staffing. The specialised department is part of the Division of Prison Sentence Execution. In contrast to standard imprisonment, there are fewer prisoners in the specialised department and there is much more physical space per prisoner. Furthermore, specialised departments are usually equipped with above standard equipment. The department's therapeutic team consists of specialised staff from the Division of Prison Sentence Execution, usually a psychologist, special pedagogue, educator-therapist, social worker and educator. The team is led by the head of the Division of Prison Sentence Execution, while the psychologist is responsible for the realisation of the therapeutic programme from a professional perspective as the expert guarantor. The therapeutic programme uses a therapeutic community system for drug addicts. The programme must include 21 hours of structured controlled activities per week, of which the main and obligatory group activity is group psychotherapy of at least 1.5 hours per week. In addition, relapse prevention groups and other support activities such as work and sports activities, educational and leisure activities are represented. Drug services primarily include psychotherapy, group therapy, individual and group counselling, socio-therapy and initial assessment of the client's condition. The treatment programme of specialised departments for court-ordered treatment (SDCT) has two components. The first component is healthcare, which is provided by the prison's medical centre or an external physician. The second component is the psychosocial part of the programme, which is provided by either an addictologist as part of healthcare services or by the expert staff of the specialised departments.

The capacity of specialised departments at the time of research was about 400 places (approx. 300 in SDVT and approx. 100 in SDCT). With regard to specialised departments for voluntary treatment, the interest in inclusion in the SDVT programme among prisoners usually exceeds their capacity. Although it can be assumed that the real motivation for applying for inclusion in the SDVT programme is not a desire for treatment and change of lifestyle for many prisoners, but more favourable conditions of imprisonment compared to standard departments, it is clear that there is the potential for high demand for participation in SDVT programmes. Around 700–800 prisoners pass through all specialised departments each year. At the time of research, SDVT were established at eight prisons (Bělušice, Kuřim, Nové Sedlo, Ostrov, Plzeň, Příbram, Valdice, Všehrdy), and SDCT at three prisons (Opava, Rýnovice, Znojmo). All these prisons took part in the research.

In order to obtain more in-depth information about the actual conditions of SDVT/SDCT operation, **an expert survey was carried out among SDVT/SDCT professional staff**. Data was collected in the period from September 2016 to January 2017 in the form of semi-structured interviews with experts from the specialised departments of all 11 prisons at which these departments were established at the time of the investigation. Altogether 22 SDVT/SDCT staff participated in the interviews, 17 of who were men and 5 women. These were mainly guarantors of the therapeutic programme or other specialists in the department. In terms of job positions, respondents included 8 psychologists, 7 special pedagogues, 5 educator-therapists and 2 educators. The interviews were mostly

attended by more experienced staff – the average length of time they had worked in the specialised department was 10 years. During the course of the interview, respondents assessed, among other things, the main benefits for prisoners in attending SDVT/SDCT programmes, deficiencies in the operation of departments and obstacles to their more effective operation. The most frequently reported benefits of prisoners participating in the programme can be divided into four categories, namely: (a) the intrapersonal area, represented by benefits in the form of personal development; (b) the post-penitentiary area, including the ensuring of follow-up care and preparation for life after release; (c) the penitentiary area, consisting of an improvement in the quality of life during imprisonment, and (d) benefits in the interpersonal area relating to the improvement of interpersonal relationships. The most frequently reported shortcoming in the operation of the department was its inadequate spatial separation from other parts of the prison, and the straitened or lacking space for therapeutic work. In addition, respondents mentioned the low number of professional staff and their excessive work load, fluctuation and inappropriate behaviour of prison guards, the problematic setup of a funding system, inadequate definition of competencies, especially between formal and methodical department management, little recognition for the work of professional staff and low financial remuneration or a lack of suitable material for the quality education of prisoners. According to respondents, the lack of professional staff in departments seems to be the main obstacle to their more effective operation. Other obstacles include the need to process a large volume of administrative and other secondary agendas at the expense of working directly with prisoners, overly strict rules for approving extramural activities, pressure to fill the department's capacity due to overcrowding in other parts of the prison, or insufficient provision of psychiatric care for prisoners.

Indicators of effectiveness

In the empirical part of the research, the effectiveness of therapeutic programmes implemented by specialised departments for drug users was evaluated. The following indicators of effectiveness were chosen: (a) the rate of criminal recidivism after release from imprisonment, during which prisoners completed the programme; and (b) a change in the level of criminal thinking styles by prisoners during the programme. The choice of indicators was based on the mission and objectives of specialised departments, which according to the internal regulation of the PSCR are "to limit and reduce the danger and likelihood of recidivism by at-risk offenders serving prison sentences and to contribute to the protection of society when they return to civilian life", and "to enhance self-insight and change the at-risk attitudes, values, thinking and behavioural patterns of prisoners to more socially desirable forms."

After release re-offending rate and structure of participants

The **analysis of criminal recidivism** consisted of determining the rate and structure of criminal recidivism among prisoners who had completed therapeutic programmes in the specialised departments of Czech prisons after their release from prison, and its comparison with the rate and structure of criminal recidivism following the release of prisoners who had not attended a SDVT/SDCT programme. With regard to the availability of data on the criminal history of specific individuals, the criminal recidivism was defined as repeated conviction for a crime. The source of data for this purpose was

anonymised data from the Penal Register database. In order to obtain relevant results, it was necessary to track a sufficiently long period after the studied prisoners were released from prison – this was therefore a retrospective analysis.

The target population for analysis consisted of all prisoners who had completed a therapeutic programme for drug users in SDVT/SDCT and were subsequently released from prison (including conditional release) in 2014. For the purpose of comparing the rate and structure of criminal recidivism of participants in the SDVT/SDCT programme with prisoners who did not complete the programme, two control groups were set up of individuals released from prison in 2014. The aim was to obtain both a control group of prisoners whose pattern of drug use would be comparable to participants in the SDVT/SDCT programme (i.e. heavy drug users) and a control group of prisoners who did not use drugs at all or only occasionally. The source of data for the establishment of these control groups was the VIS and SARPO prison databases. In the end, anonymised data on the criminal history of a total of 688 prisoners was collected for the purposes of the analysis, of which the research sample (sample population) included 124 individuals, the control group of heavy users 278 individuals and the control group of non-users or occasional users 286 individuals. Records of convictions for criminal offences from their release from prison in 2014 until January 2018 were analysed. Therefore, the studied individuals were monitored for a period of 3–4 years after their release. The focus was on data on the incidence and number of convictions (total, within 1 year of release or within 2 years of release), the time from release to first subsequent conviction, the number of unconditional prison sentences and protective measures imposed, and the incidence of convictions for selected types of crime. For the purpose of comparison between the research group and the control groups, the control groups were weighted by gender, age and number of convictions prior to release in 2014.

Of the research group, i.e. prisoners who had completed therapeutic programmes in specialised departments for drug users, 40% were convicted in the first year after their release from prison, almost 60% within two years of their release, and 70% over the whole reference period. Thus, less than one third of participants in the programme remained without further convictions 3 to 4 years after their release. In terms of the rate and frequency of criminal recidivism after release from prison, prisoners who had completed the programme achieved better results than the control group of prisoners with a similar pattern of drug use, who did not undergo the programme. On the other hand, the results of prisoners who had completed the programme were worse compared to the control group of prisoners who had a lower risk pattern of drug use or who did not use drugs at all. However, statistically significant differences were found in only a few monitored variables, and only between the research sample and the non-user/occasional user control group. In terms of the structure of criminal recidivism after release from prison, five types of crime were monitored – violent, property, sex and drug crime and offences committed under the influence of drugs (especially endangerment under the influence of an addictive substance or drink/drug driving). Statistically significant differences were only found in property crime, and only between the research group and the control group of non-users or occasional users. Prisoners who had completed the SDVT/SDCT programme were convicted of property crime significantly more often after their release than prisoners from this control group. The results of the research group were better than the control group of heavy users, but the differences were not statistically significant.

Despite certain limitations of the analysis, the results allow the formulation of several conclusions. By far the best results in terms of criminal recidivism after release were achieved by prisoners in the control group of individuals who did not use drugs or only used them occasionally. The comparison of the two groups of heavy drug users gave better results for prisoners who have completed the SDVT/SDCT programme. Although there is no data on other potential factors, it can be concluded that the pattern of drug use plays a key role in terms of the risk of criminal recidivism after release. Even though the results of prisoners who had completed the SDVT/SDCT programme may not seem very encouraging, the weakening of the programme effects after its completion and leaving the department must be taken into account. This happens both during the remainder of the sentence, when there is often a relatively long period of time between the completion of the programme and the time when the prisoner is released, and especially after the prisoner's release from prison, in the absence of appropriate follow-up post penitentiary care.

The analysis showed that the measurement of criminal recidivism in terms of records of convictions after release from prison is, in present conditions, a potentially useful tool for the systematic and continuous evaluation of the effectiveness of specialised programmes (not only) for convicted drug users. However, it certainly cannot be the only tool used in isolation, as it provides only a partial view of the potential effects of the programme. The same attention as that devoted to the measurement of criminal recidivism should also be given to the interpretation of its results, which must always be placed in the context of the possible limits of this procedure, thereby eliminating the risk of mistaken conclusions.

Criminal cognition among convicted drug users

One of the objectives of therapeutic programmes in specialised departments for drug users is to change the risk attitudes, values and thinking patterns of prisoners to socially desirable forms. Part of the research was therefore to assess how this objective is being achieved by specialised departments. As a measure of criminogenic attitudes, values and thinking patterns, the degree of "criminal thinking styles", i.e. attitudes, beliefs and thinking styles that maintain and support the criminal lifestyle was chosen. Such irrational or mistaken beliefs, which have little or no basis in reality, are commonly encountered by members of the non-criminal population. However, they tend to be more frequent and strongly accentuated in criminal offenders. Criminal attitudes and thinking styles relating to antisocial and delinquent behaviour are therefore important factors in assessing the risk of offenders.

The **analysis focused on identifying the development of criminal thinking styles** by participants in SDVT/SDCT therapeutic programmes during the course of the programme, and its comparison with the development of criminal thinking styles by prisoners who did not attend the SDVT/SDCT programme. The psycho-diagnostic tool Inventory of Criminal Thinking Styles (PICTS-cz) was used to measure criminal thinking styles. This is the Czech version of the original Psychological Inventory of Criminal Thinking Styles (PICTS), whose transfer and standardisation to the Czech prison population was carried out as part of previous IKSP research. The test was administered by experts from individual participating prisons, primarily by guarantors of the therapeutic programme – psychologists who were trained in its administration during the preparatory workshop

before the field research began. During the workshop, prison staff received a test questionnaire, an informed consent form for participation in the research, written information about the research for prisoners, and written instructions on the selection of prisoners for control groups according to the characteristics of the prisoners in the research sample (matching).

The target population for analysis consisted of all prisoners who joined a therapeutic programme for drug users in SDVT or SDCT between November 2016 and the end of June 2017. Two control groups were set up to compare the development of criminal thinking styles. Like in the analysis of criminal recidivism following release from prison, one of these was to have been prisoners whose pattern of drug use was comparable to those in the SDVT/SDCT programme, i.e. heavy drug users, and the other of prisoners who did not use drugs at all or only occasionally. The control groups were put together based on data on drug use patterns in the SARPO prison database. In order to capture the development of criminal thinking styles, participants were tested twice. Prisoners in the research sample completed a PICTS-cz test questionnaire for the first time immediately after joining the SDVT/SDCT programme (pre-test phase) and a second time at the end of their participation in the programme (post-test phase). Prisoners in the control groups always completed the questionnaire at the same time as prisoners in the research sample to which they were assigned (matched) when setting up the control groups. The total number of research participants for whom valid pre-test and post-test phase test protocols were ultimately obtained was 255 (129 in the research sample, 66 heavy user control group, 60 non-user/occasional user control group).

Findings from the analysis showed that prisoners had a fairly high level of criminal thinking on all evaluated PICTS-cz inventory scales on admission to the SDVT/SDCT programme. The profile of their criminal cognition was similar to that found in incarcerated heavy drug users who did not participate in the programme. Conversely, the level of criminal thinking of prisoners who did not use drugs at all or only occasionally was clearly lower than that in the research sample and the control group of heavy drug users. In terms of the development of criminal thinking styles, the results of the analysis give a relatively clear picture. The research sample of convicted drug users underwent remarkable positive changes in terms of both statistically and substantively significant reduction of criminal cognition level during their participation in the SDVT/SDCT programme. In other words, while participating in the programme, prisoners' thinking and attitudes changed overall to be substantially less inclined to continue their criminal activity when they left the SDVT/SDCT than they were when they entered the programme. The results achieved by the research sample particularly stand out in comparison with the control groups. Research studies have repeatedly confirmed that incarceration in a prison environment without targeted intervention generally tends to deepen antisocial, resp. criminal thinking patterns. The results achieved by both control groups support this theory. The control group of heavy drug users experienced an increase (i.e. worsening) in the level of criminal cognition on all evaluated PICTS-cz scales, while criminal thinking in the control group of non-users or occasional users 'worsened' on most scales. In most cases, the results of the control groups were statistically significantly worse than in the research sample. The findings of the analysis showed that the measurement of criminal cognition can also be used in the Czech Republic to evaluate the effectiveness of treatment programmes in specialised prison departments in terms of their objective

of changing the risk attitudes, values and thinking patterns of prisoners to socially desirable forms. Due to the diagnostic or rather clinical potential of the PICTS-cz tool, it also offers wider possibilities for its use in the initial assessment of prisoners in order to prepare appropriate treatment programmes, assess the performance of treatment programmes, etc.

Main summary findings of the study

The important finding of the research is that **therapeutic programmes in SDVT/SDCT demonstrably contribute to the declared goals and mission of these departments**. A significant reduction in the level of criminogenic attitudes and thinking patterns was found among prisoners who had completed the programme. This result is particularly impressive compared to prisoners who did not undergo the programme. Those with a pattern of drug use similar to those of participants in the programme experienced a significant deterioration in terms of higher criminal thinking during the period of their sentence corresponding to the duration of the programme. Yet, the results of both groups were similar when participants entered the programme. The group of prisoners who did not use drugs at all or only occasionally had the lowest level of criminal thinking at the beginning of the reference period. During the research period, this group underwent less clear-cut development, but also worsened overall. With regard to the effects of completing the programme on criminal recidivism, it must be noted that the rate of criminal recidivism by participants in the programme after their release from prison remains high. Compared to the level of criminal recidivism found in the control groups of prisoners, the results of participants in the programme were only slightly better than those of drug users who did not attend the programme and clearly worse than those of convicted non-users. However, the measured differences were not statistically significant in terms of the rate of recidivism or its structure in most cases.

Under current conditions, working with convicted drug users in specialised departments has only limited ability to influence the likelihood of their criminal recidivism following their release. Ensuring their release from prison follows on the completion of the programme is not assured. Similarly, the connection between specialised treatment of drug users during their sentence and post-penitentiary care has not been systematically addressed in the Czech Republic. The **sustainability of the effects of specialised department programmes after release of an inmate from prison is currently a major problem** in terms of the effectiveness of the programme on convicted drug users in SDVT/SDCT. In other words, the programme is demonstrably able to bring about the desired changes in the criminogenic attitudes of prisoners, but this effect cannot be maintained and slowly dissipates on leaving the programme and the SDVT/SDCT. The potential of therapeutic programmes for prisoners in specialised departments in terms of reducing criminal recidivism following release from prison is largely untapped.

In the research, three groups of prisoners were compared – heavy drug users participating in SDVT/SDCT programmes, heavy drug users without this intervention, and prisoners who did not use drugs or only used them occasionally. Based on the findings, it can be concluded that the **pattern of drug use is crucial with regard to the risk of criminal recidivism**. Although the research was not focused on finding a connection

between drug use and crime, it can still be deduced from the results. Convicted non-users/occasional users showed the clearly lowest level of criminal thinking and lowest rate of criminal recidivism following their release. However, SDVT/SDCT programmes managed to reduce the criminal cognition of even heavy drug users to almost the same level as non-users. In contrast, the level of criminogenic attitudes and the risk of criminal recidivism among drug users who did not receive intervention in the form of a programme in a specialised department increased while serving their sentence.

Conclusions and recommendations

The research results enable the formulation of certain **recommendations or suggestions for the future**.

Given the high proportion of problem drug users in the prison population and the apparent link between addictive behaviour and repeated criminal activity, it would be **appropriate to increase the availability of such targeted programmes** in an effort to reduce criminal recidivism (in the knowledge that these programmes are not suitable for all heavy drug users in prison). Of course, this must proceed based on the reality of the limited capacity of the prison system, resp. the Ministry of Justice. However, if – quite rightly – the reduction of criminal recidivism is one of the key priorities of the criminal justice system, then these limited capacities must be prioritised towards measures that can demonstrably contribute to achieving this priority.

The possible further development of therapeutic programmes in specialised departments for convicted drug users, however, will lose much of its potential if **the sustainability of the effects of intervention cannot be increased**. This applies to both working with prisoners from the end of the programme to their release from prison, and especially to follow-up post-penitentiary care, which should be a vital continuation of the SDVT/SDCT programme. Without follow-up treatment outside prison, the demanding and qualified work with prisoners by specialised departments is basically a waste of the prison service's professional capacities.

The substance of the operation of specialised departments is the professional work of qualified personnel, especially psychologists, but also other professional staff. Admission to the SDVT/SDCT alone will not bring about a desirable change in prisoners' thinking and behaviour – this requires the intensive work of experts working in the department. As in other professional workplaces, the **main value of specialised departments lies in their staff**. This should be reflected in the approach to staffing specialised departments, both in terms of staff numbers and in terms of developing their expertise. In terms of professional staff numbers, the minimum should be to maintain the number of staff laid down in the internal regulations of the Prison Service, where a larger proportion of SDVT/SDCT staff are ideally earmarked to work solely in the specialised department. Working with drug users, moreover in a prison environment, places considerable demands on staff expertise. Therefore, the training of SDVT/SDCT professionals should be encouraged, with particular emphasis on the specific treatment of addiction in the prison environment. Supervision is an important tool for preserving and developing the quality of work in specialised departments, for which it is important to ensure adequate conditions.

Should the further development of specialised departments for drug users be considered as a potential tool for reducing criminal recidivism after release from prison, **a system of continuous evaluation of the results of working with prisoners in departments should be put in place**. It should be stressed that such an evaluation cannot be limited to the mere determination of the rate of criminal recidivism following release. At the end of the programme, a number of factors affect participants and may influence their further criminal career. Thus, a mere indication of criminal recidivism does not say much about the actual effectiveness of the programme. A comprehensive evaluation of the effectiveness of SDVT/SDCT programmes must include, as far as possible, a systematic and continuous evaluation of the success in achieving individual programme objectives. At the same time, it is necessary to carefully select the tools for such evaluation so that the results obtained truly relate to the criteria to be assessed. However, it should not be forgotten that any regular evaluation of the effectiveness of the programme must be designed in such a way as to minimise the burden of collecting and analysing data for the Prison Service staff.

Any evaluation focused on the effectiveness of work with prisoners is complicated by limited compatibility of data sources on prisoners with other judicial information systems. Difficult data retrieval increases the demands of the data collection process for further analysis. It is strongly recommended **a systematic and uniform register of programme participants in SDVT / SDCT is introduced**.

Serious evaluation of the effectiveness of therapeutic programmes in specialised departments for drug users is possible thanks to the **relatively clearly defined criteria of effectiveness** in the form of their mission and objectives, formulated in the relevant internal regulation of the PSCR. If there is an interest in the reliable evaluation of the effectiveness of criminal policy measures, this should become the norm. In the interest of the feasibility of evaluation studies, it can therefore be recommended that, even at the drafting stage of a new measure, account should be taken of the need to evaluate its results in the future. The objectives of such a new measure must therefore, as far as possible, be formulated so that they represent clear, comprehensible and measurable criteria of success or effectiveness.

Original translation by: Presto

Zeman, P., Blatníková, Š., Grohmannová, K., Koňák, T., Novák, P., Roubalová, M. & Trávníčková, I. (2019). *Uživatelé drog ve vězení – hodnocení účinnosti terapeutických programů.* Praha: IKSP.

http://www.ok.cz/iksp/docs/453.pdf

III.2 Recording Data on Quasi-compulsory Treatment and Security Detention in the Czech Republic – Shortcomings and Feasible Solutions

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In its research work, the Institute of Criminology and Social Prevention has long and consistently focused on the treatment of dangerous offenders. An important part of this dedicated research is the topic of protective measures that are imposed as criminal sanctions, either in addition to punishment or on their own, on offenders suffering from a mental disorder compounding their delinquent behaviour. Specifically, these measures comprise quasi-compulsory ("protective") treatment and security detention. These measures are primarily intended to protect society from the perpetrators of often very serious crime who, because of their state of mind, pose an enduring threat. Consequently, the efficient use of such measures is instrumental, among other things, in preventing damage to the life, health or property of the population.

Current study, aim and object of research

In the performance of research on these protective measures, the researchers have repeatedly encountered the problem that the statistical data officially reported on their use is manifestly imprecise and unreliable, for example in comparison with statistics on the imposition and execution of punishments. This experience has led to the conclusion that at present, reliable data on the utilisation of quasi-compulsory treatment and security detention can only be obtained from ministerial (or other) information systems to a limited extent, if at all. With this in mind, in 2017–2019 the Institute of Criminology and Social Prevention researched shortcomings in the existing system used to record the use of both types of protective measures. Research also focused on how to improve that system.

The research focused on the system for collecting and reporting data on the application of quasi-compulsory treatment and security detention in the Czech Republic, and on opportunities to improve it[2]. Attention was also paid to individuals on whom protective measures are imposed and to the crimes they had committed. The main objective of the research was to draft new procedure for collecting and reporting data on the imposition and execution of quasi-compulsory treatment and security detention (methodology) in order to get a sufficient overview of all stages in the application of such measures and to facilitate the use of information gathered to check and enforce compliance with the obligations imposed on offenders. The research involved the use of standard criminological research methods and techniques, especially document analysis, descriptive statistics and expert survey. The project proceeded in accordance with relevant legislation, including regulations on the protection of personal data, and respected the ethical principles of scientific research work.

2 The research "System for collecting and reporting data on the application of quasi-compulsory treatment and security detention in the Czech Republic" was implemented with the support of the Programme of Security Research of the Czech Republic in the years 2015-2020 (provided by the Ministry of the Interior of the Czech Republic, project No.VI20172019087).

Research design and methodology

The research started with a thorough analysis of the current situation, both in terms of the extent of data currently being collected and reported and in terms of the accuracy and reliability thereof. In order to verify, clarify and supplement the observations made, an expert survey was carried out in the form of interviews with representatives of organisations operating the relevant information systems within the justice department and/or contributing to the collection of relevant data. In addition, consultations were held with representatives of other organisations that also play a role in the recording of data on the use of quasi-compulsory treatment and security detention. On the basis of the results obtained from the analysis of the existing system, the expert survey and the consultations, the Court Administration Information System ISAS (ISVKS, respectively) was identified as a source of primary data suitable for systematic and comprehensive monitoring and control of the use of quasi-compulsory treatment and security detention. This system was singled out because it is the only one to record all major decisions concerning the imposition and enforcement of both types of measures. In the next stage, the procedure for recording data on the imposition and enforcement of protective measures in the ISAS (the data structure, the values of individual items, etc.) was analysed in detail. Subsequently, guidelines for entering data into the ISAS were drafted, making maximum use of its current form, along with procedure for reporting data on individual indicators/variables from the information system, including the draft format of standardised output reports. In the final stage of research, a draft version of the methodology was piloted to verify that it worked when data on quasi-compulsory treatment and security detention was entered into the ISAS, and that standardised overviews of data entered into the system using the draft procedure could be compiled. The findings from this piloting stage were incorporated into the final version of the methodology, which was subsequently certified at the Czech Ministry of Justice.

Introduction to the issue: quasi-compulsory ("protective") treatment and security detention

The treatment of offenders found to have a mental disorder (a personality disorder, paraphilia, psychosis, etc.) is a complex challenge for the criminal justice system. When deciding on the criminal sanction to be imposed on offenders suffering from a mental disorder at the time of the crime, in addition to or instead of punishments the law also provides for two special types of protective measures – quasi-compulsory ("protective") treatment and security detention. These protective measures are purely preventive in nature. They can be imposed not only on criminally liable individuals, but also on persons who are not criminally liable on grounds, for example, of insanity. The main purpose of quasi-compulsory treatment is to protect society from offenders whose mental state, were they to remain on the loose without appropriate treatment, would pose a danger. Individuals may receive this treatment as outpatients, in psychiatric hospitals, or in prisons while they are serving a prison sentence. Conditions for the imposition of quasi-compulsory treatment are laid down in Section 99(1) and (2) of the Criminal Code, while conditions for the imposition of security detention can be found in Section 100(1) and (2) thereof. Quasi-compulsory treatment can take two forms: depending on the nature of the illness and treatment options, the court will impose either inpatient or outpatient quasi-compulsory treatment. A core feature of security detention is that it is subsidiary to

quasi-compulsory treatment, i.e. a court will impose detention (subject to the fulfilment of other conditions) only if – taking into account the nature of the mental disorder and the possible effect on the offender – quasi-compulsory treatment cannot be expected to provide society with sufficient protection. The court may subsequently make the switch from inpatient quasi-compulsory treatment to outpatient treatment and vice versa. Statutory conditions also enable a court to change inpatient quasi-compulsory treatment to security detention and vice versa. Quasi-compulsory treatment generally lasts for as long as required to achieve its purpose. Inpatient quasi-compulsory treatment is administered for a maximum of two years. If treatment has not been completed in this time, a court will decide, prior to the end of this period, to extend it, and may do so repeatedly, but for no longer than the next two years at any one time. Otherwise, the court will decide to release the offender from quasi-compulsory treatment or to replace inpatient treatment with outpatient treatment, unless the offender is to blame for the court's inability to take a decision at that time. Security detention is intended for offenders who, on account of their state of mind, pose a highly danger to society, but are unable or unwilling to undergo therapy within the scope of quasi-compulsory treatment. Security detention takes place at a detention facility with special security and with medical, psychological, educational, pedagogical, rehabilitation and activity programmes. Security detention lasts for as long as it is required for the protection of society. At least once every twelve months, and for juveniles once every six months, a court examines whether grounds remain in place for security detention to be continued.

Quasi-compulsory treatment is a traditional instrument under Czech criminal law, whereas security detention has only existed for ten years. Nevertheless, both protective measures are now important fixtures in our criminal sanctions system. In the handling of offenders who, because of their state of mind, pose an increased risk to society, these measures are a highly desirable therapeutic alternative or complement to punishment. Security detention has been introduced as a protective measure subsidiary to quasi-compulsory treatment. The established system of quasi-compulsory treatment can sometimes work very efficiently with offenders who are capable of treatment and adhere, at least to some extent, to the treatment regime. The existence of outpatient and inpatient forms of quasi-compulsory treatment creates ample room for a different approach to individuals who may remain out of prison or another facility at liberty subject to compliance with treatment conditions, and to those who need to be treated as inpatients in order to protect society. Because of security-based characteristics, security detention can effectively protect society from truly dangerous offenders, for whom professional staff can do very little in the way of treatment. It might be worth discussing the search for an optimal form of sanctions for offenders with a mental disorder who do not pose a very high risk in terms of the seriousness of the offences they commit but who refuse or sabotage conventional therapy within the scope of quasi-compulsory treatment, e.g. by escaping from a psychiatric hospital.

Systems for collecting and recording data on quasi-compulsory treatment and security detention in Czech Republic

In terms of the analysis of the system for recording data on the application of quasi-compulsory treatment and security detention, the jurisdiction of the court to decide on the imposition and execution of such protective measures is a matter of great

importance. Decisions on quasi-compulsory treatment and security detention are taken at different stages of criminal proceedings and in different procedural situations. The court conducting criminal proceedings in a particular case always has the jurisdiction to impose both types of protective measures. Determining the jurisdiction of a court to take decisions in execution proceedings is more complex. Certain decisions or measures are taken by the court seised of the case at first instance. This applies primarily to the ordering of quasi-compulsory treatment or security detention, or to decisions waiving the execution thereof. The Code of Criminal Procedure entrusts further decisions, within the scope of execution proceedings, to the district court whose district hosts the medical facility in which quasi-compulsory treatment is to be provided (in cases of quasi-compulsory treatment) or the district court whose district hosts the detention facility where security detention is to be carried out (in cases of security detention). These include, in particular, decisions to change the form of quasi-compulsory treatment, to change inpatient quasi-compulsory treatment to security detention or vice versa, to extend inpatient quasi-compulsory treatment, to release an offender from quasi-compulsory treatment, to terminate quasi-compulsory treatment (accompanied, where appropriate, by a probation order), to extend security detention, to release an offender from security detention, etc.

The current study included an **analysis of the relevant information systems** of the Ministry of Justice, the Penal Register, the Prison Service and the Probation and Mediation Service to gauge their usefulness for collecting and reporting data on the imposition and execution of quasi-compulsory treatment and security detention. This analysis found that existing official sources of data on the criminal justice system, usually used within the justice department, paint only a very limited picture of the situation and trends in the imposition and execution of the quasi-compulsory treatment and security detention.

At the Ministry of Justice, the basic source of data on crime and the criminal justice system's response to crime is the Ministry-operated Central Statistics Sheets and Reporting information system (CSLAV). This is a web application used to remotely enter, view and edit reports and statistical sheets from all ministerial organisations so that they can be processed centrally. Data on criminal offences and individuals against whom criminal proceedings are conducted is collected at prosecutors' offices and courts via "crime statistics sheets". The basic statistical unit of the database created with data from crime statistics sheets is the individual against whom criminal proceedings are conducted. Summary reports (statistical overviews), sorted by crime statistics sheet items, can be searched and generated in the CSLAV database. Certain data on criminal cases that have been concluded with finality in pre-trial proceedings, such as a decision by the prosecutor or police authority to terminate the case, a decision by the prosecutor to discontinue a prosecution, etc., may be obtained from the crime statistics sheets for a particular prosecutor's office. No entries are monitored to determine whether a main decision has been supplemented by a prosecutor's application for the imposition of quasi-compulsory treatment or security detention, nor, of course, how the court has subsequently decided on such an application. The crime statistics sheet for courts includes so called protective and educational measures as the separate item. This item allows you to fill in up to three different protective or educational measures that have been imposed on an offender according to the attached code list. The sheet has been structured so that the imposition

of quasi-compulsory treatment and security detention can be recorded separately for adult and juvenile offenders, and, in cases of quasi-compulsory treatment, can be broken down by form (outpatient/inpatient) and "type" of treatment (alcohol addiction, drug addiction, sexological, pathological gambling, or other).

However, the **use of data collected via crime statistics sheets for courts in order to record data on the use of quasi-compulsory treatment and security detention is severely restricted by the fact that only some of the cases imposing such protective measures** (primarily those in which they are imposed in the main trial or in the proceedings on an appeal) are actually entered in the judicial database in this way. These cases then appear in officially published statistics of the Ministry of Justice. However, quasi-compulsory e treatment and security detention are also imposed in procedural situations where crime statistics sheets are not filled in. An example of this would be a decision by the prosecutor, in pre-trial proceedings, to discontinue the criminal prosecution on grounds of the accused's insanity at the time of the offence pursuant to Section 172(1)(e) of the Code of Criminal Procedure, and the court's subsequent imposition of quasi-compulsory treatment or security detention on the accused in a public session further to an application by the prosecutor pursuant to Section 239(1) of the Code of Criminal Procedure. Data on important moments during the execution of quasi-compulsory treatment or security detention – a change in the form of quasi-compulsory treatment, a change from inpatient quasi-compulsory treatment to security detention or vice versa, or release from quasi-compulsory treatment or security detention – is not collected at all via crime statistics sheets.

The Ministry of Justice's information system for the central processing of statistics sheets and reports also offers, in its web application, the option of displaying output reports processed from reports on the activities of district and regional courts. **However, at present no relevant reports allow for the acquisition of comprehensive and reliable data on the use of quasi-compulsory treatment and security detention.**

The database of the Penal Register is another official source of data on convicted offenders. The main problem in terms of the potential usability of data on the use of quasi-compulsory treatment or security detention from this database for statistical and analytical purposes is the fact that it is primarily data on criminal convictions that is recorded in the Penal Register. Consequently, data on cases where quasi-compulsory treatment or security detention is imposed other than as part of a conviction (e.g. if a prosecution is discontinued or the perpetrator is acquitted on grounds of insanity) is not entered in the Penal Register. In addition, information relating to the execution of protective measures, communicated by the courts to the Penal Register via reports, is not entered in the form in a standardised way. It is up to the court clerk what words to use when communicating the information to the Register. Such inconsistent records are, of course, completely unsuitable for compiling aggregated overviews from the Penal Register.

The Prison Service of the Czech Republic records data on individuals in pre-trial custody, serving prison sentences and undergoing security detention in the Prison Information System. The usability of data on quasi-compulsory treatment from Prison Service records is fundamentally restricted by the fact that it only applies to individuals in prison (or in custody) or in security detention. Quasi-compulsory treatment can be

imposed separately or in addition to an alternative sanction, and these cases do not feature in the Prison Information System. Nor is it possible to obtain, for analysis, a ready-made aggregate statistical overview of cases where security detention (including commonly used data, such as the date of the decision imposing such measures) was imposed from the Prison Service information systems, mainly because those information systems are not intended for this purpose.

Selected data on the application of the quasi-compulsory treatment is also included in the database of the Probation and Mediation Service of the Czech Republic. The usability of Probation and Mediation Service statistics to obtain information on the use of quasi-compulsory treatment is essentially limited by the fact that they only cover cases in which the Probation and Mediation Service has been entrusted with probation in execution proceedings, or has prepared underlying documentation on offenders for law enforcement agencies, where so instructed, so that a decision can be taken on a diversion, on the imposition of an alternative sanction or on conditional release. There are also cases where – with the agencies' consent – the Probation and Mediation Service has mediated similar alternative procedure in criminal proceedings. However, the cases cited above concern only a small minority of cases on which criminal proceedings are conducted in the Czech Republic.

Analysis and comparison of data sets obtained from different databases

In the next part of the research, data files containing data on the use of quasi-compulsory treatment and security detention, obtained from several different sources in the course of – and for the purposes of – the research, were combined and compared. These were publicly available official statistics, non-standard anonymised data files generated on special request for research purposes from official databases, data collected from open sources, and data from previous research by the Institute of Criminology and Social Prevention. These datasets came from various sources and were compiled for different purposes. This is evident in their different and incompatible structure and the fact that they partially overlap. Therefore, in order to work on them further, it was necessary to manually sort and clean them and to remove duplicate records. This technically demanding and time-consuming activity resulted in data files representing comprehensive overviews of available data on the use of the quasi-compulsory treatment and security detention in the Czech Republic, as collected within the justice department. The resulting data were then compared with the data presented as statistics on the use of these protective measures in official sources intended for this purpose.

According to data from the official Central Statistics Sheets and Reporting (CSLAV) judicial database, security detention was imposed on a total of 67 individuals over the ten-year period from its introduction until the end of 2018. According to that database, the numbers of individuals on whom this protective measure was imposed appeared to range from 2 (in 2018) to 11 (in 2010) annually; on average, security detention seems to have been imposed on 6–7 persons per year. However, the data obtained by combining multiple sources paints a much different picture. A thorough analysis of all available data sources led to the conclusion that, over the past decade security detention, for example, has been imposed on 174 persons, almost three times the number obtained from the official CSLAV database (data from crime statistics sheets). Security detention

was imposed on fewer than ten individuals in only one year of the monitored period (2009–2018), specifically in 2014 (9 persons). Conversely, in 2016 the courts imposed this measure on almost 30 offenders. On average, security detention was therefore imposed on 17–18 individuals per year, i.e. more than one person per month. At the time this book was being finalised, the current capacity of both detention facilities was 95. As early as January 2019, 85 detainees were being held in security detention, and by October 2019 the capacity was almost full, specifically there was room for one detainee. According to data from the Prison Service database, in January 2019 there were 49 persons serving prison sentences who had been ordered to undergo security detention, which was to be undertaken after they had served their sentence. The average age of offenders placed in security detention during the reporting period ranged from 30 to 40 years at the time when the decision was taken.

According to the Ministry of Justice's officially published statistics, approximately 600–700 quasi-compulsory treatments were ordered annually in 2014–2017. An analysis of the various data sources available led to the finding that it is currently impossible to obtain, from existing information systems, a sufficiently accurate and reliable overview, for example, of the actual numbers of persons ordered to undergo quasi-compulsory treatment, currently receiving treatment, or released from quasi-compulsory treatment. With outpatient forms of quasi-compulsory treatment, in particular, where the offender is not confined in a facility (i.e. a psychiatric hospital or prison), the availability of reliable information is highly problematic.

According to Prison Service data, as at 14 July 2017, 881 individuals serving prison sentences in Czech prisons had been ordered to undergo quasi-compulsory treatment but had yet to receive this treatment. As at 27 January 2019, that figure was 1,242 prisoners, 40 % up on the situation eighteen months earlier. This is a striking increase, and, assuming it is not a mistake in the statistical records, the possible causes (and possible consequences) need to be contemplated. For the sake of comparison, there were 20,772 convicted individuals serving prison sentences in the Czech Republic as at 14 July 2017, and 19,761 as at 25 January 2019. Of the 881 prisoners on whom quasi-compulsory treatment had been imposed in July 2017, 95 (11 %) were ordered to receive quasi-compulsory treatment while serving their sentence. Of the 1,242 prisoners on whom quasi-compulsory treatment had been imposed in January 2019, 195 (16 %) were meant to receive such treatment while serving their sentence. In 2017, there was a prevailing number of prisoners who had been ordered to undergo inpatient quasi-compulsory treatment (54 %) during their sentence, whereas in 2019 most of our statistical population of prisoners were ordered to undergo quasi-compulsory treatment as outpatients (52 %).

Summary and recommendation

The analysis carried out as part of the research revealed that, in its current form, none of the existing information systems of the relevant departments of the Ministry of Justice can be used for the systematic collection and reporting of reliable data on the imposition and execution of these protective measures. Each of them contains data only on some of the cases in which quasi-compulsory treatment or security detention is employed, and, due to their different primary purposes and the attendant differences, this deficiency cannot be overcome even by combining data from multiple sources.

In order to produce reliable aggregated overviews of the imposition and execution of protective measures centrally, appropriate and accurate primary data at the level of individual courts must be collected. There are two interrelated steps here. The solution drafted to create an efficient system for the recording of quasi-compulsory treatment and security detention application that overcomes these constraints (and that is the main output of this research) therefore focused initially on devising a standardised procedure at the level of courts for the entry of data (DATA COLLECTION) concerning decisions issued in connection with the imposition and execution of both types of protective measures which has not yet been available to the extent proposed. The second part of the proposal is to come up with procedure for creating aggregated overviews from this comprehensive and uniformly collected data that are logically and factually well-structured and provide clear and reliable information on the use of quasi-compulsory treatment and security detention, both at court level and, in particular, centrally (DATA REPORTING). This proposal is contained in the methodology that, at the beginning of December 2019, was certified by the Ministry of Justice and was made available to the Ministry, as the intended user, for implementation. In view of the need for the practical applicability of this methodology, one of the basic principles underpinning the work on its creation was the effort to pinpoint procedure that would require as little intervention as possible in the existing information systems in the justice department. Consequently, after a thorough analysis, a solution was selected that draws on the information system used in the administration of district and regional courts, i.e. the ISAS and ISVKS, for the collection of primary data on the use of quasi-compulsory treatment and security detention. The proposed solution should not lead to an increase in the volume of recorded facts, nor should it fundamentally change the established method for entering data into court information systems. This would only place an even greater burden on the administrative staff of the courts, which would not be a desirable situation. The proposed procedure aspires to the efficient use of data that is already being entered (or at least should be) in the system, both by individual courts and centrally. The aim is for exported reports and overviews of the use of quasi-compulsory treatment and security detention to offer accurate and reliable data reflecting the current status of relevant indicators (variables). This should be achieved by using the existing forms created for court information systems and without significantly increasing the amount of data entered.

Intended benefits of the recommended solution

1. It will make it possible to obtain statistical data on the status of and developments in the imposition and execution of quasi-compulsory treatment and security detention on a level comparable to the data currently available on other criminal sanctions of similar importance. Reliable statistics on the imposition and execution of both types of protective measures will be available inter alia:

(a) in the formulation of penal policy (e.g. the approach to dangerous perpetrators of serious crime or offenders suffering from mental disorders in a legal sense, in the setting of sanctions policy – the relationship between punishments and protective measures, the types and specific forms of protective measures, when identifying (determining) groups of offenders with special mental needs, etc.);

(b) when evaluating the effectiveness of the application of individual criminal sanctions and of the sanctions policy as a whole;

(c) in the planning of quasi-compulsory treatment and security detention capacities (the outpatient clinics of quasi-compulsory treatment providers, psychiatric hospitals, specialised quasi-compulsory treatment units in prisons, security detention facilities);

(d) when raising public awareness of penal/sanctions policy; or

(e) in the professional training of judges, prosecutors, probation officers, and prison staff.

2. It will provide the courts with an up-to-date and comprehensive overview of the individuals who have received quasi-compulsory treatment or security detention and of how the execution of these measures is progressing. This can serve as a basis for decision-making in execution proceedings or decisions on punishment or protective measures in other criminal cases.

3. It will offer the option of using the above data (in the stated scope and form) to other agencies specialising in working with offenders so that these can perform the tasks required of them (e.g. the Probation and Mediation Service in the supervision of individuals on whom quasi-compulsory treatment has been imposed).

4. It will secure a reliable source of statistical data for scientific, research and educational purposes in the areas of criminology, penology, law and criminal justice.

Conclusion

However, if any revision of the system for handling offenders with a mental disorder is to have a chance of success, it requires a thorough knowledge of the situation and trends in the imposition and execution of quasi-compulsory treatment and security detention. This research confirmed the assumption that the Ministry of Justice (and other ministries) does not yet possess this knowledge. The current system for collecting and reporting data on the use of both types of protective measures does not allow for the automated generation of aggregated overviews (such as are available in relation to the imposition of punishments). As a result, the available statistics are at best patchy, and their reliability is highly questionable. Getting accurate data, even by manually processing data from multiple sources, is very difficult for security detention and virtually impossible for quasi-compulsory treatment. It is therefore questionable whether a revision of the system of protective measures for offenders with mental disorders could achieve the desired outcome in the absence of a reliable description of the baseline situation.

The main outcome of this research is methodology serving as a proposal for new procedure in the collection and reporting of data on the imposition and execution of quasi-compulsory treatment and security detention in the Czech Republic. The proposed procedure should, if implemented in the future, help to obtain comprehensive and reliable data on the use of both types of protective measures in a clear, understandable, and meaningfully structured form. The methodology has been certified by the Ministry of Justice and is therefore ready for use at the Ministry if it is so interested. However, the introduction of new procedure for the collection and reporting of data on these protective measures is at least a medium-term matter. Considering the current situation

IV. Crime Trends

IV.1 Trends in the Development of Organised Crime and its Selected Forms

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The aim of the project

The research project "Organised Crime in the Czech Republic – Development, Possible Criminogenic Factors, Selected Activities and Legal Sanctions" conducted in 2016–2017, followed on previous research activity carried out by the Institute of Criminology and Social Prevention in this field since the beginning of the 1990s.

The current project continued the identification of possible societal influences, risks and criminogenic factors that could have an impact on the genesis, development, and effects of different forms of organised criminal activities, together with the long-term expert monitoring of developments in the structure of organised crime and associated activities in the Czech Republic. In view of the current problem and phenomenon emerging in not just Europe, the project also focused on the issue of migration and in particular, an analysis of available sources on organised crime related to illegal migration. The study examined the impact of illegal migration on society, especially public opinion, and the fear of crime.

As part of the project, a study of the current state and forms of organised crime in Ukraine was carried out, chiefly in relation to some of the consequences Ukrainian organised crime has on the Czech Republic. Given its extreme seriousness, research also focused on the methanol affair, in which a large criminal group was responsible for the production and distribution of alcohol contaminated with methanol. The study was carried out using network analysis as a relatively new approach to the study of organised criminal activities.

Trends in development of groups and activities of organised crime

To monitor the basic characteristics of organised crime, an annual expert inquiry has been conducted since 1993, in which the employees of specialised departments of the Police Force of the Czech Republic are interviewed as experts, including employees from the General Directorate of Customs and Customs Office in Prague since 2012. Researchers interviewed 39 experts in 2016 and 34 in 2017. The inquiry focused on the degree to which criminal groups in the Czech Republic have developed and the participation of external associates, women, and foreign nationals in these groups. In addition, the study monitored the prevalence of illegal activities by organised groups in individual years, which groups had disappeared, and which were newly created. The activities of foreign nationals have been regularly monitored according to their nationality since 2000. The study presents the results for 2015 and 2016 with a comparison of longer-term trends.

One of the features of organised crime is a hierarchical structure, with the leadership/bosses at highest level as supreme authority in decision-making, personnel and finances matters with maximum security; the second level consists of independently operating units and the lowest level are ordinary members. Such fully developed groups never

prevailed in the Czech Republic (except for 2007 when 54% were fully developed and 57% in 2009). In contrast, 37% of groups had a fully developed structure in 2015 and 36% in 2016. Therefore, groups with a lower-level management structure predominated.

External associates form approximately half the members of organised criminal groups long-term; in 2016, this dropped to one-third. External associates are hired to perform certain tasks or services, they know nothing about who they are working for or why they are doing something, so they can't reveal any details. External associates are used in various areas. Some are hired for simple services such transporting people or goods, accommodation services, renting property, buildings, and space, selling goods, hiding stolen goods, more complex services, providing facilities, obtaining items required to commit organised criminal activities, participation in extortion or threats. External associates also provide information, consulting, legal services, economic and tax consultancy, misappropriate European funds, participate in the creation of fictitious companies, open accounts, establish contacts, deal with institutions, or have contacts abroad.

Organised criminal groups in the Czech Republic also include women. The proportion of women has been estimated at between 11–20% since 2000. In recent years, their participation has been lower: 14% in 2015 and 12% in 2016. Their focus has also changed significantly. While in the first decade after 2000, their main domain was procurement and human trafficking for the purpose of sexual exploitation, handling illegal migration, and to a large extent providing facilities, management and trafficking narcotic and psychotropic substances; in the following decade, women increasingly handled financial, legal, notary and customs services, established fraudulent and fictitious companies and organised internet criminality. In some cases, women act as the "heads" of organised crime groups, manage all trade in narcotic and psychotropic substances, handling their sale and distribution, controlling subordinate distributors, or acting as an intermediary in, for example, hiring other employees, etc.

The ratio of Czechs and foreign nationals in organised crime, despite minor fluctuations, has remained virtually unchanged. After 2000, the Vietnamese, Ukrainians, Russians, and Albanians were represented most heavily. In 2016, the second group included Serbs (an increase compared to 2015), Slovaks (an increase compared to the 1990s), Bulgarians (a decrease compared to the 1990s) and Romanians (an increase compared to the 1990s). The Poles and the Chinese fell into the third group (a decrease compared to the 1990s), which also included the Nigerians.

Once again, the most widespread activity in 2015 and 2016 was the production, smuggling and distribution of drugs. Activities relating to economic crime such as money laundering, corruption, tax, credit, insurance, and currency fraud were similarly heavily represented. Widespread activities also included the illegal production and smuggling of alcohol and cigarettes and credit card fraud. Despite a certain decline, car theft, the organisation of prostitution and trafficking in women remained at the forefront. The top ten activities also included misappropriation of EU funds. The establishment of fraudulent and fictitious companies, which was among the most widespread activities in 2015, fell into the second group in 2016. This included the misuse of computers for crime, crime against information and communication technologies, forgery of documents, customs fraud, and increased gambling compared to 2015.

Less significant were strong-arm debt collection, bank fraud, trafficking in stolen goods, counterfeiting cheques, money, and coins. The organisation of illegal migration also continued to decline. Burglaries, the international arms trade, the steadily declining theft of art objects, luring money with the promise of high returns, human trafficking for forced labour, and murder were relatively insignificant. Activities that virtually disappeared included the illegal import and export of hazardous waste, bank robbery, counterfeiting CDs, and similar media.

Experts participating in the research pointed out certain new activities, which could become significant in the years to come. These include fictitious marriages for the legalisation of residency in the Czech Republic, illegal trade in protected animals and wild plants, illegal production and trade in goods infringing trademark rights and illegal trade in medicines and pharmaceuticals. Extremist crimes associated with the migration crisis also pose a risk.

As part of the study, we regularly ascertain what activities are carried out by individual ethnic groups in the Czech Republic. Drug crime is represented in nearly twenty ethnic groups. This was most often the province of the Vietnamese, Serbs, Nigerians, Turks, Bulgarians over the last two years, and Slovaks in the last year. Money laundering was the domain of the Russians, Vietnamese, Poles, Slovaks, Ukrainians, and Albanians. Corruption was typical for the Vietnamese, Russians, Turks, and Slovaks. Tax frauds were run by the Vietnamese, Russians, Poles, Slovaks, Bulgarians, Romanians, and credit fraud by the Russians. The production and smuggling of cigarettes and alcohol mainly concerned the Vietnamese, Ukrainians, Poles, and Slovaks. Car thefts were mainly run by Ukrainians, Poles, Slovaks, Serbs, and Bulgarians. Prostitution, procurement, trafficking in women was the typical activity of Albanians, Ukrainians, and Russians. Customs fraud was typical for the Vietnamese, Chinese, Turks, and Ukrainians, while Russians were the main founders of fictitious companies. The misuse of payment/credit cards was the domain of the Romanians, Bulgarians, and Albanians, while the Nigerians and Russians focused on internet/cybercrime. Gambling was run by the Vietnamese. Illegal migration related to the Ukrainians, Albanians, and Vietnamese. The Russians, Albanians, Ukrainians, and Armenians were largely responsible for extortion and protection rackets, the Russians and Ukrainians for violent crime, and the Ukrainians, Russians, Armenians, Albanians, Slovaks, and Chechens in trading arms. Human trafficking concerned the Vietnamese, while the Ukrainians handled the illegal employment of their fellow compatriots.

Risk criminogenic factors for the development of organised crime

As part of the study in 2016 and 2017, risk criminogenic factors in the structure of society's living conditions were identified as possible sources that could be exploited by organised crime to either commit crime or obtain information, establish contacts, secure impunity, and influence decision-making processes, as well as to acquire accomplices or to create demand for illegal goods and services. We focused on the risks posed to the Czech Republic by international developments and the risks associated with internal social development in the fields of politics, economics, law, state and local administration, social structure, and the media.

Several specific criminogenic factors were identified in all these areas. These factors are of varying nature and scope, so they cannot be hierarchised according to their degree of danger. They are factors of both a general nature and those that touch on very specific issues.

We assessed the risk factors that could have a negative impact on conditions in the Czech Republic in terms of the developing situation in the world. In this context, experts chiefly mentioned sources of tension and instability, the problems of globalisation, free movement of persons, services, goods and capital within the EU, economic problems, the social and economic standard of Czech and EU citizens, insufficient control of international financial and banking institutions, corruption, and tax systems. In terms of the migration crisis, the EU's liberal and open migration policy, the lack of a uniform approach to tackling the migration crisis, the misuse of Schengen, the EU's ineffective external borders, flawed control of the movement of persons, and level of asylum procedures were presented as risks. The general problem was a lack of international police and legal cooperation, inconsistent legislation in many areas, such as the area of money laundering, the slow and selective provision of information within the framework of international police cooperation, inefficient cooperation with Russia, poor information flow between national institutions, Europol, and international databases. In terms of the international situation, a risk was also the dependence on computer systems, energy sources and the unregulated internet environment.

In politics, one of the most serious criminogenic factors was that organised crime seeks to make contacts or infiltrate public life, including politics. Its goal, in addition to gathering information, is to, above all, influence policy decisions. The risk factors are a non-conceptual administrative approach addressing only the current situation with no ability to address longer-term consequences; the inadequate, lengthy, and non-complex approval of legislative amendments; a lack of political will to fight crime; unfair practices and conduct in the public arena; a link between political and economic powers. In 2016, the Czech Republic's migration and asylum policy was often cited as a risk factor with many details, whereas it was only mentioned in general terms in 2017.

Attention in the economy should be given to establishing conditions for controlling the establishment and existence of companies, demonstrating the source of assets and financial resources by owners, the establishment of companies by individuals who have previously owned companies that have gone bankrupt or become insolvent, etc. The risk is a corrupt environment and suspected clientelism.

In terms of law, the risk is the slow response of legislation to new trends in crime and criminality, unclear legislation, constant amendments, bureaucracy and formalism in criminal and administrative proceedings, a lack of legal protection for witnesses, the absence of legal mechanisms to encourage witness testimonies, a lengthy judicial system, inadequate sanctions resulting in recidivism, poor enforcement of the law, and a lack of public cooperation linked to a fear of possible consequences. Another risk is the negative perception of law enforcement authorities, where legitimate initiatives to prevent or combat criminal activity are perceived as a restriction of democratic principles, obstacles to business or a disproportionate burden on business subjects by the bureaucratic state apparatus. It is recommended that police be given extended powers in terms of the use

of operational investigative resources and their subsequent use in criminal proceedings (wiretapping, recording telecommunication traffic, surveillance of persons and property), regarding the security threats associated with terrorism and illegal migration.

In state administration, the risk is the over-subordination of state and public administration to the will of political parties, as too many officials are currently nominated by political parties. Further risks may also be the inadequate professional qualifications of employees, low professionalism, a lack of accountability, abuse of powers, misuse of sensitive information and repeated reorganisations. Recommendations include the improvement of state employees' training, working with experts, strengthening IT security and the interconnection of information systems. The negative perception of state administration authorities as supervisors of compliance with legal regulations and standards may also pose a risk.

As with state administration, the danger of infiltration by organised crime is also a risk for the Police Force of the Czech Republic, which may come from former police officers. A major risk factor is also the interference of politicians in the work of the Czech Police. Constant changes in the leadership of the Police Force of the Czech Republic and the distribution or lack of funds, especially on new technologies and wages are further drawbacks. An adverse factor is sometimes the lack of professional qualifications and professionalism on given issues. It is recommended that the number of specialists in national units be increased, to improve the work of the Alien and Border Police in the control and registration of illegal foreign nationals, to increase police salaries, improve police equipment, eliminate the possibility of misusing sensitive information, and prevent corruption. It is also recommended that the Czech Police have access to the system of bank transfers and to strengthen security forces, especially the secret service, which should monitor and document the activity of persons of interest, so that this information can be used in criminal proceedings.

For citizens/the public, a risk factor could be a drop in living standards and unemployment. The demanding consumer way of life, a failure in social values, and pathological phenomena such as alcoholism and toxicomania can also be risk factors. Similarly, there is the risk of inadequate public awareness and tolerance of crime. A higher level of public education about the threats and types of crime is recommended.

In the area of information technology, there is the risk of individuals using the internet to commit crimes. A more effective way to request information from internet service providers and providers of internet connectivity is recommended.

The media poses a risk because they use crime to increase their audience numbers due to its attractiveness; they put emphasis on not only the depiction of aggression and violence, but also on the presentation of a dubious lifestyle. A criminogenic risk arises when the media presents inaccurate and misleading information in the news, vilify authorities, manipulate public opinion in favour of various interest groups and sometimes wrongly judge the activities of the Police Force of the Czech Republic. In this respect, it is recommended that where such criticism is unfounded, senior members of the Czech Police should respond through the media.

The wave of migration to Europe, which has taken place in recent years, may seem to be an extraordinary phenomenon, though it is only part of massive migratory movements in today's world, which are far from confined to Europe.

In terms of criminology, the consequences of unmanaged migration and integration risks can be reflected in:

a) an increase in crime by foreign nationals;

b) the emergence and rise of conflicts between the majority and minorities;

c) an increase in hate crimes, i.e. crimes motivated by antipathy to certain religions, cultures or nationalities.

The significance of these risks explains the interest of criminologists in crimes linked to migration or that could be a consequence thereof.

The study, undertaken as part of the research project on organised crime, focuses on the current situation in the Czech Republic in terms of migration or transit movements affecting us, crimes associated with foreign nationals and the public response. It also deals with the involvement of organised crime in migration movements, especially in terms of its manifestations and forms in the Czech Republic.

The aim was to describe and characterise the operation of groups and organised crime networks in aiding illegal migration. The involvement of organised crime in illegal migration was monitored with a focus on the Czech Republic, especially in the current period. In describing the impact of organised crime in this area, attention was focused on typical conduct, international crossover, the characteristics of criminal networks, and estimated profits with an attempt at possible historical and international comparisons using available sources. The aim was also to evaluate how the issue of illegal migration has been reflected in public opinion.

The following methods and techniques were used to address the task: expert inquiry, which mainly included members of the Police Force of the Czech Republic, Ministry of Interior and Security Information Service employees and the staff of non-governmental organisations. An expert inquiry was conducted in the form of managed interviews in 2016 and 2017.

A secondary analysis of sources was carried out using national and international literature and UN, EU, Council of Europe, Europol, and Interpol documents. The statistics of the Police Force of the Czech Republic, especially the Alien and Border Police and data from the Czech Statistical Office were used. Reports on the Activities of the Public Prosecutor's Office, Reports on Internal Security and Public Order in the Czech Republic and Status Reports on Migration and the Integration of Foreigners in the Czech Republic for the respective years were also used. The results of an inquiry conducted by the Public Opinion Research Centre attached to the Institute of Sociology of the Academy

of Sciences were used as a specific source of public opinion. An analysis of court files included files on legitimately terminated cases, usually based on the provisions of Section 340 of the Criminal Code (organising and facilitating unauthorised crossing of the state border). Selected case studies were prepared in this context.

The study noted that illegal migration affected the Czech Republic to a very limited extent during the reference period of the main migratory wave in 2014–2016 compared to other European countries. Unlike the 1990s, the Czech Republic was not on the main migration routes.

Regarding the involvement of organised crime, the presence of large international smuggling networks in the Czech Republic was not proven. Although cases of migrants being smuggled through our country were detected, these were organised outside the Czech Republic. Experts confirmed that the organisers of these smuggling operations were not based in the Czech Republic, but "along the route", especially in Turkey, Greece and the home countries of migrants and refugees. Special Czech groups covering part of the route through the Czech Republic were not established unlike the situation in the 1990s. Organisers and their accomplices were usually the compatriots of the migrants; there is a strong supportive role of family ties here and migrants often relied on the help of relatives who were already settled in the target countries.

According to the findings of Europol and this research study, the organisation of smuggling networks in the studied wave of migration was considerably looser and more flexible. Relatively stabilised groups were not established. Communication between the organisers consisted more of sharing contacts and passing these onto migrants. Instead of personally accompanying migrants along the relevant section of the route, migrants were provided with these contacts. However, this manner of organisation was only made possible by the current level of communication devices (mobile phones, internet, social networks).

This modern form of organisation appears to confirm the gradual transformation of organised crime or at least its part from more rigid and stabilised structures to looser and more flexible networks based on contacts between participants (organisers and migrants). These more flexible networks are more adaptable and can respond more flexibly to situations and opportunities (or threats). Migratory waves are a very profitable business for the organisers, as migrants usually pay for each part of the route separately and the total is estimated at tens of thousands of EUR.

Although a significant proportion of committed crimes is attributed to foreign nationals and migrants, it is clear from trends in recorded crime (aside from the overall decrease in recorded and solved crimes that is evident in the Czech Republic in recent years) that the share of crimes committed by foreign nationals to the total number of crimes committed and solved was relatively stable over the reference period at approx. 5.7% – 5.9%. Looking at the share of crimes committed by foreigners from third countries (i.e. excluding citizens of EU Member States) in more detail, it is obvious that their share is basically minimal in the three years in question at about 2.2–2.3%.

A characteristic feature of public views on migrants and immigrants manifests here – with negative views essentially directed towards migrants from the Islamic

world. Yet substantially stronger migration comes from Ukraine and Vietnam, which is not accompanied by such strong negative feelings from the public. Overall, concerns about migration by the Czech public do not reflect the real state of migration or the real impact of foreign nationals on committed crimes. The response is based more on the generally perceived threat of migration and its potential risks. Thus, the hypothesis can be posed (see McDonald, 2002) that the fear of migrant criminality, like the fear of crime in general, should be interpreted as a general feeling of uncertainty and concern, rather than a barometer of specific attitudes and experience relating to migrants.

Crime in Ukraine and its possible impact on the situation in the CR

In a study on the development of crime in Ukraine and its impact on the Czech Republic, the author relies on direct longer-term experience from Ukraine, supplemented by consultations with experts, which took place as part of, among others, the CEPOL Exchange Programme at the University of the Ministry of the Interior of Ukraine in Odessa. However, the research itself has been underway throughout Ukraine since 2014.

The material focuses on a variety of criminal activities. It is not a detailed analysis, but an overall summary and placement of the overall development of criminal activities into context. Some of these have a direct impact on the Czech Republic, while others have an indirect impact.

As a result of the events following the Revolution of Dignity, there was a fundamental transformation of Ukrainian society. This was also strongly reflected in the political life of the country. However, it would be naive to assume that Ukrainian organised crime disappeared because of the revolution, although its relationship with the political leadership of the country has changed. The long path to building a democratically functioning country is therefore just beginning. A strong positive role, according to the author, should be played by an active civil society, which influences Ukrainian policy to an unprecedented level.

The author notes that from a criminological perspective, Ukraine must be seen in several interconnected contexts. It is already a notoriously known fact that Ukrainian organised crime groups are active in the Czech Republic and engaged in a wide range of criminal activities here. These were mostly under the control of so-called brigades in the 1990s and early 21st century. There were several brigades operating in the Czech Republic, such as the Lvovskaia brigade, Mukatchevskaia brigade, Irshavskaia brigade, etc., but also groups from other parts of the country, Luhanskaia, Krymskaia, Krivirovskaia, etc.

Most Ukrainian groups, however, gradually modernised and infiltrated into legal business. The brigades were replaced by corporations, and during V. Yanukovych's term of office, organised crime took control of the entire Ukrainian state. The mafia thus had the opportunity to use official state cover to carry out its activities both in Ukraine and abroad. This centralisation was disrupted again after 2014, and many Ukrainian groups began operating independently once again.

The most profitable activities for organised crime today in relation to the Czech Republic and the EU are illegal migration, human trafficking and people smuggling.

Ukrainian smuggling groups also import a variety of undeclared and illegal material to the EU and directly to the Czech Republic.

One of the biggest problems of Ukrainian society is the huge differences between a small group of extremely wealthy individuals and the rest of society, which, under various schemes, has become a permanent victim of often well-legalised and latent criminal structures. The criminal activity of these syndicates is no longer the greatest threat of their existence. Far more dangerous is their power potential, which allows them to influence the economy and state policy.

In Ukrainian society, it's not just about organised crime and its perpetrators. The problem is also victimisation, with large groups of people willing to take risks in seeking work abroad. Whole groups are thus being victimised within Ukraine and Ukrainian communities abroad. The root of this process is the hopeless social situation of specific individuals and often the extreme complications associated with acquiring all the permits required to work abroad. However, even Ukrainians addressing their difficult economic situation within Ukraine are subject to the process of criminalisation or victimisation. This is because a large part of the business activities in Ukraine have moved into the unofficial grey economy as a result of the situation outlined above.

The criminal-agency networks which are the subject of this part of the study, should be the primary focus of security forces. This particularly concerns those aspects where organised crime threatens the very existence of the state, and where criminal activities are no longer merely continued trade by other means, but where organised criminal structures are used in the framework of the political struggle and wider military strategy. In this respect, criminological research can be a vital asset to state security and criminological analysis an appropriate indicator of potential threats to state security.

The application of the network analysis method – a practical example

The final part of the study focuses on the methanol affair in the Czech Republic and the possibilities of applying the network analysis method; it therefore has a broader methodological context. The author examines the nature and possibilities of using this method in criminology, which he presents through its specific application to a network of players involved in the alcohol or methanol affair, whose consequences scarred the Czech Republic in the second half of 2012.

The text first presents the relevant theoretical basis for the analysis of criminal networks, particularly in relation to the key players, their characteristics, the structure of criminal networks and role of previous ties. The mechanisms behind the creation or operation of all these aspects are also listed. Subsequently, the author describes the context of the methanol affair, the data collection process, and methods of its analysis, with a focus on descriptive techniques and special network models.

The author deals with the identification of the key players involved in criminal networks and characteristics of these players. He points out that the essential element of the entire network perspective is the ability to look at the structure of the network as

a whole. It is evident that the higher the centralisation of the network, the easier it is to coordinate, as the player around whom these ties are concentrated can directly manage and interact with others. On the other hand, however, the network becomes vulnerable, because the removal or elimination of such a player can destroy the entire network.

Previous ties, i.e. ties established before criminal activity, often as legal or legitimate ties (e.g., kinship, friendship, shared employment, shared social background, etc.), are considered to be the basis of interpersonal trust among offenders, which is crucial in the criminal environment, as distrust can have fatal consequences in such an environment. The second reason is that they represent one of the defining features of organised crime – its connection to the world of legal business and legitimate social relations.

In relation to the methanol affair, the author notes that two branches can be distinguished in this case. The first was centred around Zlín and included a long-established criminal group. This group had an organised division of labour; legal business provided a cover for illegal activity, and, above all, senior members of the group often used intimidation, extortion, or physical confrontation to protect their illegal profits. These profits largely stemmed from tax evasion through the production and distribution of untaxed alcohol. The second branch was based in Ostrava and surrounding area and dominated the distribution of a lethal mix of alcohol and methanol.

The source of data was a total of 19 court files. When encoding this data, a content analysis was used that proved suitable for encoding textual data on criminal networks, as it allows the systematic processing of material that may be subjective or prone to error.

In this case, exponential random graph models were used to model the network structure from its microsocial mechanisms. The existence of previous ties had a significant impact on the structure of the network. Criminal cooperation between the players in this network took place on the grounds of earlier cooperation and relations, which supports the conclusions of previous research.

An analysis of the network of 32 players who actively participated in the methanol or alcohol affair showed that this was a network with a special structure in the form of two components connected by a single link. No other immediately visible structural features were evident – it was neither extensive nor highly centralised, closed, or fragmented. There were central players, one of whom was strategically placed and two others in close positions. None of these players, however, was found to be a leading figure or to have special know-how.

In terms of potential socio-technical recommendations, the study offers several concrete and empirically grounded proposals on how to proceed against criminal networks with the aim of their disruption, a topic that logically draws particular attention in the study of criminal networks. By simply visualising relationships and interactions between the offenders, it was possible to uncover the Achilles' heel of the entire network – a link bridging two otherwise separate subgroups. Although a simulation of the impact of different types of interventions on the network structure was not the subject of this analysis, it is clear that removing the bridging link or at least one of its creators would

have resulted in the disintegration of the network into two parts, between which the mixture of alcohol and methanol could no longer flow. Other suitable targets in terms of monitoring and the eventual disruption of the network were players who held (virtually) strategic positions.

Original translation by: Presto

Scheinost, M., Cejp, M., Pojman, P. & Diviák, T. (2018). *Trendy vývoje organizovaného zločinu a jeho vybraných forem*. Praha: IKSP.

http://www.ok.cz/iksp/docs/446.pdf

IV.2 Crime and Punishment in Crime News

Lucie Háková

The study presented the results of a research task examining the representation of crime and punishment in the media conducted by the Institute of Criminology and Social Prevention in 2016 to 2019. The aim of the research was to analyse the role of the media in the process of defining crime as one of the risks in contemporary society and the part the media portrayal of crime plays in the process of legitimising appropriate ways to manage these risks. The study is divided into three parts: 1. the theoretical framework of basic criminological approaches to studying the media relevant to the topic of the media representation of crime and punishment; 2. a quantitative content analysis of the media representation of crime and punishment and 3. a qualitative analysis of the perception of this media representation by the media's audience.

Theoretical background

Crime is a social phenomenon that attracts the attention of the general public. Not only is it the central theme of a numerous films, television series and detective novels in its fictional form, reports of actual crime make up a large part of the daily news, whether on television, in newspapers or on the internet. The majority of the general public gets information about crime from the mass media, and its impression of the form and extent of crime, as well as the ways in which it is punished, is thus primarily formed by these reports. Criminology has been dealing with the issue of how crime is portrayed in the media and its potential impact on public opinion and views for a long time. Studies show that media interest in crime has grown over time and further analyses point to a disproportion between media content and crime statistics. Violent crimes are significantly overstated in the coverage of crime compared to statistics, and media presentation of crime thus differs significantly from official police statistics, which include registered crime. Media discourse is determined by focusing on atypical crime. An offence considered "newsworthy" with the potential to become a media crime report is not the same as a common and characteristic offence in terms of overall crime. Yet media representation of crime is often referred to in connection with the fear of crime, for example, or the punitive mood of the public in various contexts.

Quantitative content analysis of crime news

Quantitative content analysis evaluated a corpus of 1,886 crime news obtained by multi-stage random sampling in 2000, 2001, 2015 and 2016 using constructed week samples of the main news programmes on public television station *Česká televize* (Czech Television) and commercial stations *Nova* and *Prima*. Prima had the highest share of crime reports in our sample, which was mainly due to a special part of the main news programme called Crime News, which specifically deals with reports on crime.

One of the key characteristics of news coverage of crime is the frequent use of specific case reports. More than 80% of television news reports dealing with crime or security cover a specific criminal offence. Less than one fifth of reports discuss the given issue in a general

context and do not explicitly mention any specific offence. This characteristic is also one of the main differentiating features of crime reports that largely effects the difference between crime reports on Czech Television and on commercial stations. While the share of reports on a specific criminal offence is 68% on Czech Television, this is significantly higher on the commercial stations at 80% on Nova and 92% on Prima. Of the monitored stations, Czech Television has the strongest tendency to examine crime and security issues in a general context, without including a specific case report.

A significant newsworthy factor is the currency of reports, with criminal offences most often reported immediately after their commission or detection (44%). The information value of the case decreases with time; only 29% of reports cover ongoing investigations, 9% cover court proceedings and only one tenth of reports deal with the culmination of a criminal case with a final or interim judgment. This characteristic was also reflected in the different profile of crime reports on individual television stations. The vast majority of reports on Prima (65%) are devoted to offences immediately or shortly after their commission or detection, which is given by the special format of part of the main news programme dealing directly with crime reports. In contrast, Nova focuses on the ongoing investigation of individual criminal cases (54%), which it covers to the smallest detail, actively seeking out and contacting witnesses and relatives of the acters involved, and often also reporting further details. Compared to the other television stations, Czech Television is characterised by a greater interest in more general contexts, cases in the past and looking outside specific current cases.

In terms of the type of crime, the largest share of crime reports in the unsorted data set dealt with violent crime. At the same time, crime reports on Czech Television once again clearly differed from reports on Nova and Prima. While commercial stations with a tendency to sensationalise news prefer violent crime in their content, crime reports on Czech Television most often covered economic crime and cases that could be expected to have a wider social impact.

The most frequently represented crimes in the media include assaults, murders, traffic offences and fraud. Significant differences in crime reports on individual television stations were particularly evident in violent crimes. While less than 5% of crime reports on Czech Television dealt with murders, 13% deal with this on Prima and 14% on Nova. Compared to the other television stations, Prima is also more significantly involved in robberies and assaults. Less pronounced, but still statistically significant differences were found in fraud and tax offences. It is worth noting that these offences are the only crimes with a significantly higher share of coverage on Czech Television. Less serious crimes, which are represented on our list by theft or burglary, are reported significantly more often on Prima, which devotes the most time to reports on crime of all the television stations and also covers more trivial offences of less newsworthy value.

By comparing the structure of crime in media representation and in terms of police statistics, the most significant characteristic of crime reports is the overstatement of violent crime, which appears in media crime reports over four times more often than in crime registered by the police. Broken down by individual television stations, the overstatement of violent crime in crime reports on commercial television stations is even more evident, at more than five times actual numbers in the second monitored period on Nova, 4.5 times on Prima, but only two times on Czech Television. The tendency of media

representation to cover serious violent crimes was shown to be even more pronounced if we look at the crime of murder, which is one of the most frequently portrayed crimes in the media, ranking second in our selection behind assault. According to police statistics, murder accounted for 0.07% of all crimes in both monitored time periods. However, media representation afforded it almost 12% of coverage, which is almost 170 times higher. Once again, there is a significant difference between Czech Television and commercial television stations, where murder is overstated in the structure of crime reports compared to police statistics more than 200 times on Nova, almost 190 times on Prima, but "only" 70 times on Czech Television.

In terms of the dynamics of discourse, it is clear that individual television stations differ more in a number of characteristics today than twenty years ago. A gradual profiling of crime reports on the monitored television stations is evident over time, with a "widening of the scissors" between serious and tabloid (sensationalist) crime reports.

Many authors draw attention to the fact that while the most serious crimes often occur among people who know each other well and often at home, the media stereotypically puts the risk of crime in the public space. If we focus on the environment in which crime is portrayed in the media, the outdoor public space (roads, streets), where half the cases portrayed by the media take place, clearly wins. This is followed by the indoor public space, namely, restaurants, pubs, shops or public transport (trains, trams, buses). One-fifth of represented offences then take place at home. The differentiation is clear based on the type of crime. Although the public space accounts for more than half the unsorted data set, i.e., both the indoor and outdoor public space, a higher share of violent and sex crimes are presented in the home environment. In both cases about one third.

An even more interesting differentiation in places with the risk of crime presented by the media is evident in the case of specific crimes. In case of assault and murder, namely the two most frequently portrayed violent crimes in the media, these are most often presented in the public space in today's media. Over 60% of murders and over 80% of assaults are situated in the public space, whether indoors or outdoors, in crime reports on Czech television stations. There is also evident differentiation between Czech Television and commercial television stations. Commercial stations, i.e., Nova and Prima, present the risk of crime in the private space of the home more often in their news coverage than Czech Television, which relates to Nova and Prima stronger profiling on crime that by its nature takes place in the home environment more often (violent crime), and the focus of Czech Television on the types of crime that take place in the public space (economic crime). In terms of the dynamics of the crime report genre, we see a clear shift of portrayed crime into the private space of the home in the monitored periods, with more than twice as many reports in the second period.

In less than 9% of crime reports, alcohol or drugs are mentioned as a factor of offending. Most often on the part of the offender, rarely on the side of the victim or both parties. The role of alcohol or drugs is mentioned more often in the case of murder, traffic offences, general threats and, not surprisingly, drug offences. On the victim's side, alcohol or drugs were reported statistically significantly more often in cases of rape, but this was in small numbers in the overall sample and therefore no clear conclusions can be drawn,

only to point out the potential for a more detailed analysis of the media representation of rape. There may be a prejudice that the victim is partly to blame for his or her assault in public discourse, for example, due to the consumption of alcohol or drugs. It would certainly be worth researching the extent to which these prejudices find support in the media portrayal of rape.

Crime reports on individual television stations also differed in the composition of represented actors. Authentic victims and witnesses, together with police as experts appear more often on commercial stations. Czech Television offers comments by judges, public prosecutors and lawyers more often. The most frequent experts who appear in crime reports across all television stations in connection with the topic of crime are clearly police officers. They are present in more than one third of reports. Many foreign studies confirm that the dominant view in crime reports is the police perspective. Because one of the main newsworthy values is the currency of the report, crimes are most attractive to the media immediately or shortly after they are committed, and the work of the police is significant in these early stages. The police are therefore the main source of information for journalists, the dominant gatekeeper.

The risk of crime is unevenly distributed in the news and affects various groups of victims differently. Of the specific groups of crime, sex crime (rape, sexual abuse) is unsurprisingly associated with adolescents, respectively children, and women. Fraud and robberies are reported significantly more often in connection with seniors. Compared with police statistics, our media analysis showed that the risk of victimisation by serious crime, such as assault, murder or robbery, is overstated in terms of gender in the Czech media space for women, especially young and middle-aged women.

According to a number of studies, one of the most frequent contexts in which seniors are mentioned in the media is when they have been the victims of crime, usually violent or property crime. Some studies also hypothesise that the presentation of seniors as victims of crime and the distorted nature of this presentation by the media may incite their fear of crime or fear of its growing brutality. However, our media analysis showed that compared to police statistics, the risk of crime for seniors presented in crime reports for selected monitored crimes is not overstated, and on the contrary, the share of media representation of senior victims is often lower than police data. However, this does not change the fact that reports of crime as such can raise general concerns about victimisation across age groups.

Various characteristics of offenders are mentioned more often in the media space for certain types of crimes or specific offences. The offender's mental illness is mentioned more often in cases of rape and sexual abuse, but also in murder and culprits responsible for a fire or other accident. The offender's previous criminal career is often mentioned in theft, burglary and drug offences. Politicians, as a specific group, appear more often as potential perpetrators of an abuse of power by an official (formerly abuse of power by a public official) and corruption. Foreign nationals are often associated with drug offences, terrorism, as well as burglary and sexual abuse.

When comparing media-represented characteristics with available police data, the most significant disparity is in recidivism by offenders. There is a significantly higher

percentage of recidivist offenders in police statistics than in the criminal past of offenders explicitly mentioned in the media. This is evidently an important category in police reporting, but it does not have a significant newsworthy value in crime reports. There is also a higher percentage of juvenile or child offenders in police statistics compared to media representation. The reason may be the low newsworthy value of less serious offences on the one hand, and the increased legal protection of adolescent and juvenile offenders when disclosing information in the media on the other.

Police statistics show the share of foreign nationals involved in crime is 7%; the nationality of offenders is mentioned in 5% of cases in media crime reports. A comparison of these figures could lead us to reject the hypothesis of the xenophobic tendencies of the media, for whom the offender's foreign nationality could be an attractive newsworthy value. However, on a more detailed differentiation according to specific crimes, it is evident that foreign nationals are identified as the perpetrators of sexual abuse, burglary and drug offences significantly more often in crime reports. Thus, foreign nationals are labelled as the bearers of significant criminal risk in specific cases in the Czech media space.

Differences in the structure of represented actors were also shown in crime reports on the monitored television stations. Victims and witnesses appeared on the scene more often on commercial stations than on Czech Television, as well as experts "in the field", i.e., police officers. Czech Television offered comments by judges, public prosecutors and lawyers more often.

The most frequently imposed punishment is in fact a suspended sentence. However, of the crime reports that mentioned punishment, 91% mention unconditional imprisonment. It can be said that punishment in the media space almost exclusively takes the form of long-term imprisonment. The share of reported unconditional sentences is five times higher compared to the sentences actually imposed in the given time periods. The structure of unconditional sentences based on their duration is also overstated in the strictest categories many times over in media representation. The form of punishment presented in the media is thus more punitive in all respects than the punishments actually imposed. This undoubtedly relates to the fact that the media report on serious offences, which are subject to stricter punishments, but also the fact that the media report the strictest sentence faced by the offender.

Qualitative analysis of the media audience

An analysis of the media audience confirmed the premise that the majority of the public obtains information about crime mainly from the media. This is news on the internet, social networks and television news programmes most often. Media behaviour and sources of information on crime largely depend on age. The specific position of television coverage of crime was also confirmed. Television news is perceived as ubiquitous, pointing out its non-selective impact in contrast to, for example, news on the internet, where we click on a news item based on the headline and read it or not. In this respect, the impact of ubiquitous and non-selective television news can be much more intense compared to media where we choose what content we are interested in. The results of our study suggest a markedly ambivalent connection to crime reports by the

media audience, from the declared avoidance of negative reports on one hand, to the attractiveness of the topic of crime on the other.

Greater awareness of criminal sanctions and knowledge of alternative punishments was demonstrated by older participants in discussions. At the same time, however, it is clear that the importance of the cognitive component cannot be overestimated. In the media space, the story is more attractive and stronger than the facts, even in the case of crime reports. Research confirms that a specific story has a more significant impact on the opinions and views of the message recipients. For example, the public is more open and compassionate in evaluating and accepting alternative punishments in response to individual stories.

Regardless of age, gender or education, participants often presented punitive attitudes and declared their support for harsher punishments, especially for violent crimes. In connection with these views, they often mentioned their own fear of crime. At the same time, they argued not only with their personal experience of crime, but also with experience of crime mediated by the media, i.e., high profile criminal cases covered by the media. There is evident support for alternative punishments and identification with the principles on which it is based for less serious, especially unintentional crimes. However, alternative punishments are only supported by respondents for less serious crimes and provided this is not a recidivist offender. The views presented by focus group participants correspond to the results of a representative public opinion poll on the use of probation, and our findings may further the interpretation of views on punishment among the general public.

Conclusions

The analysis of crime news and their audience showed that the voice on punishment and criminal sanctions in the Czech media and in public debate calling for an approach to punishment that we've called "rehabilitative" for analytical purposes and which emphasises the resocialisation, corrective and rehabilitative function of punishment is very weak. Yet, it is clear that the principles on which it is based are not foreign to the general public and largely depend on the situation and context in which it is represented and publicly discussed in the media.

The results of the analysis of the media audience support the assumption that a deeper analysis of public views on crime and punishment, as well as an analysis of the feeling of security and fear of crime, must also take into account the representation of crime and punishment in the media. During discussions, respondents used media content at all levels of their arguments, which provided them with experience not only of crime, but also with the form of its punishment, as well as cases where measures to regulate crime have failed. The media thus has a significant formative function in this area and to a large extent has an impact on how people perceive the extent, structure and form of crime and punishment, and how they legitimise their views.

Original translation by: Presto

Háková, L. (2021). *Zločin a trest v kriminálním zpravodajství.* Praha: IKSP.

http://www.ok.cz/iksp/docs/465.pdf

V. Crime Prevention, Offenders and Victims

V.1 Security, Crime and Prevention

Jakub Holas

Exploring opinions on crime prevention in the Czech Republic

Research mapping people's views on crime in their place of residence began as early as the mid-1990s in the Czech Republic. These studies were initially part of comprehensive preventive plans by individual cities, and they were a condition for the receipt of grants for preventive projects at local level. From the very beginning, the Institute of Criminology and Social Prevention (IKSP) cooperated with the relevant department of the Ministry of the Interior on the methodology for this research. In 1995, it published a study of the security situation – the first under Czech conditions – in a pilot medium-sized city. In 2005, a similar study was conducted in twelve cities strongly affected by crime using a uniform methodology. Having gained experience with a number of these studies, a large opinion polls, representative of the Czech Republic was undertaken in 2012, including representativeness for individual regions. The sample included in excess of 3,000 respondents.

Respondents were asked questions in the following areas: the state's responsibility for selected areas of public life; their assessment of the courts, public prosecutor's offices, city halls, city police; their perception and assessment of the police force, its position and tasks; social factors affecting crime according to respondents; victimisation and the fear of crime; the citizen as a witness and victim of crime; measures employed to increase personal safety (i.e. preventive behaviour); people's confidence in specific preventive activities by municipalities and the state.

Research design and methodology

Five years later, in 2017, IKSP agreed to reproduce the 2012 survey using the maximum number of identical questions in cooperation with the Crime Prevention Department of the Ministry of the Interior. The plan was to carry out a public opinion survey repeatedly over a period of four years (2017–2020), with a "big" survey to be carried out in 2017 and 2020 (3,000 respondents, extensive questionnaire), and an omnibus survey in the interim in 2018 and 2019 (1,000 respondents, questionnaire reduced to about ten items). The project was funded by the Crime Prevention Department, and all surveys would be conducted by the same agency, which emerged from a tender. Both types of questionnaire were developed by the Institute of Criminology and Social Prevention in cooperation with the Ministry of the Interior. The cleaned basic research sample was 3,019 respondents; the survey was conducted by face-to-face questioning using computer technology (CAPI). Interviewers were specially trained for this survey.

The aim of the whole cycle of researches was to ascertain public views and opinions on issues relating to crime and its prevention. In particular, the research focused on public awareness of preventive activities, an assessment of security forces, the public's views and opinions regarding influences on crime and the approach to other selected topics.

Special attention was focused on the activities of the Police of the Czech Republic, mapping respondents' views of police officers – their numbers, equipment, integrity, bravery, communication skills, as well as financial remuneration. Questions also touched on the extent to which police officers should engage in preventive work and to what extent it was appropriate to include the lay element of volunteers in professional police work.

The focus of the questionnaire was questions assessing crime prevention. Respondents commented on the importance of different types of preventive programmes in the public space. The second set of questions examined the preventive activities that people employed to protect their health and property.

The results indicating the degree of social distance between respondents and certain facilities serving the public interest (cultural centres for minorities, police stations, youth correction centres, contact centres for drug addicts, etc.) were also very interesting. The question of whether, in the opinion of respondents, some social groups are more involved in criminal activities than others falls in the same category.

IKSP also continually monitors people's fear or feeling of being threatened by selected criminal offences. Another interesting topic is the anticipated behaviour of respondents as the witness to a crime, both at the stage of directly encountering a crime and later testimony. However, the current study does no longer examine the impact of crime (victimisation), as in the previous periods – IKSP dedicated a separate study to this issue.

The publication "Security, Crime and Prevention" was the output of the first two studies, i.e. the initial survey of a large sample in 2017 and the omnibus survey in 2018.

Basic research findings

Public awareness of preventive activities is low, only 18% of respondents could recall an activity in the vicinity of their residence. Respondents most often employ organisational and logistical measures to increase their personal security – they don't let door-to-door salesmen or strangers into their home, they're aware of who to contact in case of a problem, and they protect their privacy and property on the Internet. Respondents don't take any stringent actions to physically protect their homes.

People consider the increase in number of police patrols on the streets, CCTV monitoring of public spaces and the improvement of public lighting, i.e., situational preventive projects, to be most important activities in the field of prevention. In terms of socially oriented projects, people most appreciate work with youth at-risk. In contrast, Czechs perceive an expansion of the number and capacity of prisons and the creation of neighbourhood watches as least important.

More than half the population is in favour of involving volunteers from the community in preventive activities. This most often concerns ensuring safety around schools.

People consider drug abuse and the existence of socially excluded localities – ghettos to have the strongest influence on crime. Alcoholism, homelessness and (hypothetically) the influx of foreigners also have a negative effect. According to almost two thirds of

respondents, certain groups of the population are more involved in crime. Romani, drug addicts and foreigners are cited most often. Compared to the previous survey in 2012, there has been an increase in the number of people who claim that some groups are more involved in crime than others.

In terms of tolerance for the establishment of individual institutions, it was found that people were most opposed to the establishment of facilities for migrants (57% stated they would be very upset), accommodation for socially excluded groups or mosques. Compared to the previous survey, the level of tolerance towards individual institutions has generally declined and people would be significantly more upset by the establishment of a mosque near their home.

People felt most threatened by pickpocketing, burglary and vandalism. On comparison with the previous survey, there is a decrease in the feeling of being threatened by most criminal acts in the current research wave. Women and the elderly feel more at risk. We only observe an increase in concerns regarding the threat of a terrorist attack.

Two-thirds of respondents would call the police hotline if they were witness to a theft, and one in ten would even try to apprehend the perpetrator. Men and young people would be more active in this way. The vast majority of Czechs are then willing to testify in case of the investigation of the theft, but one third would only do so anonymously.

Attitudes on the topic of refugees / migrants are divided into three, more or less equally divided groups in Czech society. Less than one third would provide refugees with temporary refuge, another group would help in the country of unrest (without providing refuge in the Czech Republic) and the last third is fundamentally opposed to any help for people coming to Europe from troubled countries. Less than one tenth of respondents chose the option of providing refugees with facilities and the opportunity to settle in the Czech Republic.

Conclusions

In summary, there have been several positive shifts in the perception of the security situation in the Czech Republic over the last six years or so. People are more optimistic about the security situation, showing less or the same fear of crime. The assessment of the policing has improved and people are more prepared to testify in the event of a crime. Significantly less people assume the existence of corruption among officials, police officers and judges, although assessment of the judiciary is only improving slowly.

A negative aspect of the findings is an increased level of vigilantism, where some groups of people (especially minorities and foreigners) are a priori seen as a possible source of security risks. This is also reflected in the low support for the establishment of various facilities for such social groups and the reluctance to accept migrants in the Czech Republic.

Original translation by: Presto

Holas, J. (2019). *Bezpečí, kriminalita a prevence.* Praha: IKSP.

http://www.ok.cz/iksp/docs/459.pdf

V.2 Employment as a Factor of Desistance

Jan Tomášek, Petra Faridová, Zuzana Kostelníková, Hana Přesličková, Jan Rozum, Petra Zhřívalová

The incentive for the research project was an offer of cooperation from the RUBIKON Centre, a NGO organisation that provides people with a criminal history with job and debt counselling, as well as intermediation services for jobseekers. It was agreed that the experience of clients and the impact of the project on their further criminal activity would be evaluated using standard research methods and techniques. This objective was supported by the Ministry of Justice of the Czech Republic, while the Czech Probation and Mediation Service also expressed its willingness to participate in the study. During the course of the project, the opportunity also arose to take part in the activity of a working group dealing with the issue of employing people with a criminal history within the framework of the new Prison Service Strategy. As a result, an extensive questionnaire survey was conducted, which mapped the views and experiences of prison social workers, social curators, PMS office managers, staff at Labour Offices and the RUBIKON Centre.

Due to the focus of the project, both quantitative and qualitative methods were used. This involved an analysis of criminological literature and relevant documents, in-depth interviews, selected psycho-diagnostic techniques and, as already mentioned, an expert questionnaire survey.

Theoretical background

There are a number of reasons why we can expect a link between employment and desistance. Employment is a source of legal income, providing appropriate time structuring and socially positive patterns of behaviour that an employed person normally encounters at the workplace, with exposure to informal social control. A significant factor may also be an increase in self-confidence or a reinforcement of belief in one's own abilities and skills through this newly acquired social status. Studies of criminal careers suggest that finding satisfactory employment can be a "turning point" that significantly contributes to ending that career. At the same time, however, many studies show that this is not always a fixed link between cause and effect, as other factors also come into play, such as the age or personal attitude of the individual.

In criminological literature, we can find three basic theoretical models that try to illuminate the relationship between employment and desistance. The first works with the "turning point" hypothesis, in which finding employment is a breakthrough life event that acts as an external factor and has the potential to start the process of ending a criminal career. Another view is offered by theories in which change at individual level is crucial, as this creates the basic conditions for leaving behind a criminal lifestyle. Indeed, employment alone does not cause desistance unless the offender is personally determined to live according to the law. Therefore, we can see this as a factor that has the strong potential to maintain and strengthen the process of desistance, which has already begun on a subjective level. The third model then places employment on the level of the consequence, not the cause of desistence. The fact that an individual finds work is understood as the outcome of natural development, i.e. maturing and gradually "settling

down". Compared to the previous concept, this one sees the basic condition for successful entry onto the labour market in a more complex light. It is not just about psychological preparedness, but also more permanent changes on a behavioural level. Of these concrete theories, given the subject of our project, we considered the social control theory, the general theory of crime, the rational choice theory, the theory of cognitive transformation and the narrative theory as the most inspiring.

The effectiveness of the RUBIKON Centre programme

The effectiveness was verified using the criterion of reoffending (a record of a further conviction in the Criminal Register after two years of the client's participation in the programme). The study sample (Group A) consisted of 44 people who joined the programme in January–June 2014 or who joined the programme at the end of 2013 and continued to participate during the aforementioned period. It is important to note that the RUBIKON Centre requires clients to meet certain conditions for inclusion in the programme, which are in themselves closely linked to the successful start and progress of the process of desistance. Its services are designed for clients who want to find stable employment and are motivated to resolve their indebtedness and other life problems. In fact, the programme is not offered to people who are not seeking stable employment, who want to work illegally or who are only seeking temporary jobs and are currently addicted to drugs or alcohol or who are gamblers.

For a certain comparison of results, we also created a second sample group of 83 PMS clients (Group B). When compiling this group, we proceeded on the basis of a combination of demographic and criminological-criminal law elements, in which it was essential that the given individuals did not have stable employment during the reference period according to their supervising probation officer. However, a mutual comparison of the two samples showed that there were substantial differences between the groups in terms of factors that can be considered directly related to the risk of recidivism based on criminological findings. Group B included younger individuals and, moreover, with a more extensive and longer criminal career, as well as its earlier onset. However, the difference in subsequent recidivism was unexpected. While the number of new convictions in Group A, composed of clients of the RUBIKON Centre, was only 11.4%, this was 97.6% in group B. Such a high rate of reoffending is also astounding compared to similar research conducted by the Institute of Criminology and Social Prevention in 2014.

Qualitative study

In-depth interviews conducted with selected individuals from both of the aforementioned groups allowed a more detailed look at the process of desistance. We mainly focused on exploring the factors that promote successful desisters, as well as those that influence failing persisters. The central topic of research was employment, but due to the nature of the processes linked to the end of a criminal career, we examined this in the wider context of all the factors and elements involved. At the same time, we sought to map the role of general causality orientation and self-efficacy. A total of 22 respondents, nine from group A and 12 from group B, participated in this research. The key method for data collection was a semi-structured interview inspired by the TOBI method.

A psychological battery was also prepared using the Life Lines projective method, the DOVE evaluation scale and a questionnaire of general causality orientation.

In terms of the motives of crime, narratives of desisters indicated three main groups, namely an association with substance abuse or gambling, the possibility of quick and simple enrichment, and the inability to handle psychological pressure caused by external circumstances. However, in contrast, when talking about ending their criminal career, desisters spoke of reaching their limits or boundaries, maturing, fatigue, disgust at the situation or environment in which they found themselves, but also the fear of psychological problems caused by the use of addictive substances. Significant life events were also mentioned, namely entering into a stable relationship or the birth of a child, but also being arrested by the police or imprisonment. Positive factors such as abstinence, help from the NGO sector, the support of family and friends, leaving behind relationships with delinquent friends, cognitive changes in the sense of a new view of their former behaviour or newly acquired abilities to cope with problematic or conflicting situations also positively influenced desistance. On the other hand, jeopardising elements were drugs and psychiatric difficulties, in some cases also inadequate support from family and friends or unfavourable living conditions. Desisters mainly saw debts and related debt enforcement procedures as a major obstacle to a future life without crime.

Research has shown that although we understand persisters as individuals continuing in their criminal career, there are episodes in their lives in which they do not offend. Moreover, as our interviews showed, they also coincide with desisters in a certain basic openness to change that the theory of cognitive transformation sees as a prerequisite for the successful end of a criminal career. In both groups, it was possible to identify recurring motives for decisions that they no longer want to repeat criminal or other problematic behaviour. All persisters also expressed dissatisfaction with their current situation and wished to change their current status quo. Motives were mainly based on maturing or aging, realising the pros and cons a criminal lifestyle brings, but also the fear of returning to prison. Persisters were able to identify the main risk factors or obstacles that prevent them from desistance. This was mainly different types of addictions, a lack of skills or individual character flaws, the negative influence of friends and peers, stress and crisis situations, as well as unpreparedness to cope with the demands of everyday life after being released from prison.

We focused particular attention on coping strategies, i.e. the ability of desisters and persisters to initiate and manage their actions leading to the fulfilment of personal goals. Persisters admitted that in times of trouble or if they had problems where they felt pressured, they often chose strategies such as denial or escape from these difficulties. It should not be overlooked, however, that as with desisters, we could see some shift in their view of their own behaviour. Thus, although they were aware of their difficulties, they still chose "a simpler path".

The assumption that employment is a significant factor in desistence was confirmed in the interviews. However, we need to understand it as a supporting factor, i.e. an element that does not in itself cause an individual to change, but if one is determined and willing to take the necessary steps, it is essentially a prerequisite for this process as it represents a significant protective factor. In addition to legal income, the benefits include aspects

such as increased self-confidence, greater belief in one's own abilities, or the feeling an individual is returning to society and is accepted by its members. Employment is also of indisputable importance in terms of establishing social contacts with the non-criminal population. Persisters' experience, however, shows that the problem is often not finding a job but rather keeping it. The loss of employment is then associated with frustration and an inability to repay debts or to cover everyday living costs, whereby crime often appears to be a more accessible source of funds in such a situation.

Experiences and opinions of experts

Within the framework of the expert questionnaire, we were able to map the views and experiences of 80 prison social workers, 153 Labour Office employees, 40 PMS office managers and 126 social curators. Given the requirement of the cooperating institutions, we focused on the area of employing individuals released from prison. The experience of our respondents indicates that only a few of these individuals have a real interest in finding a permanent and legal job. In fact, most experts believe this is not even half of released prisoners, with social curators expressing the least real interest in employment by these individuals and probation officers the highest.

Prisoners can express an interest in finding legal employment after release during their actual term of imprisonment. Prison social workers most often encounter an interest in enrolling in retraining courses or the desire to find out what vacancies are currently available on the labour market. Less often, prisoners try to contact their former employer, and in a few exceptional cases are interested in the possibility of retraining after their release.

In terms of the obstacles faced by released prisoners in their search for employment, all groups of experts consistently identified their record in the Criminal Register as the most serious obstacle. They also attach great importance to debts and debt enforcement proceedings that often reduce the motivation of released prisoners to seek legal work. Given that the minimum wage is similar to the amount of social benefits, they often choose to combine drawing these benefits with "moonlighting" or go straight back to criminal activity. A limiting factor for many released prisoners is also their inadequate work habits, a lack of qualifications, a lack of education and practice or an unwillingness to work. In some cases, housing and unsatisfactory family support are problems of growing importance that are largely accentuated by social curators. A smaller percentage of released prisoners are limited by shortcomings in social communication, the use or abuse of drugs, distrust towards institutions or health problems in their search for a job. Other obstacles or problems mentioned in comments of the experts included unrealistic perceptions of their own skills and their possible salary, financial illiteracy, a lack of independence, an inadequate sense of duty, financial pressure in the first month after release, stigmatisation and prejudice by employers, and also difficultly commuting to work in some regions.

We asked Labour Office employees whether individuals released from prison differed from other jobseekers. Their responses were not clear-cut, as 42% saw significant differences, while 50% did not. We also asked social curators the same question. In their case, 94% were aware of significant differences, which in addition to the criminal history, are particularly associated with a lack of work habits, frequent indebtedness, certain

personality traits, a lack of personal support or low education and qualifications. It is clear that a record in the Criminal Register is by no means the only complication for jobseekers coming to the labour market after serving a prison sentence.

On the other hand, a record in the Criminal Register is the most frequent real reason why, according to experts, employers reject candidates who have been released from prison. In their opinion, concerns regarding possible problems, the employer's distrust, a lack of work habits, an unwillingness to work or the unreliability of the individual are of less importance. Thus, a record in the Register seems to be perceived as a certain official certificate of criminal activity, which subsequently plays a discriminatory role. Employers often resort to a universal and problem-free solution where the requirement of a clean criminal record can prevent potential difficulties with a given candidate.

Preparation of the released prisoner for entry onto the labour market is thus important while serving still the prison sentence itself. A relatively large proportion of respondents were reluctant to say to what extent Czech prisons fulfil this role. The opinions of the remaining respondents were more or less divided between positive and negative assessments. In free comments, they had the opportunity to make their own suggestions on how the current system could be improved. The most frequent recommendations were increasing the rate of employment in prison by expanding the range of retraining courses and fields of education, intensifying cooperation with government and non-government support organisations and employers, increasing the motivation of prisoners (by increasing financial rewards for the performance of work during their sentence), developing special courses or programmes aimed at teaching the necessary skills and ensuring the smooth transition from prison to employment and daily life.

The Labour Office plays an important role in the employment of released prisoners. As with the issue of prisons, many respondents were unwilling to judge the degree to which it fulfils this role. We can probably understand this as a sign of weaker feedback or less mutual awareness of the activities of individual institutions involved in the whole system. However, social curators were the most critical of the work of the Labour Office, while positive and negative assessments among prison social workers and the managers of PMS offices were evident in more or less equal measure. In comments, recommendations were primarily aimed at Office staff taking a more individualised approach to candidates released from prison, in the spirit of more specific social work. It is also important to create enough adequate jobs for this group of clients, which could be achieved by increasing incentives for employers.

According to Labour Office employees, several measures that are currently used in relation to released prisoners as part of active employment policy can be identified as effective. The most effective in this sense is service for community, but "socially meaningful jobs" and retraining are also important, especially if linked to the promise of employment by a particular employer. In contrast, subsidies for conduction of business are of little import, because it is very difficult for a candidate with a record in the Criminal Register to obtain a trade licence. Subsidised jobs also play an important role in the system. Most Labour Office employees have had positive experience with them. With regard to their own recommendations for the improvement of current practice, Labour Office employees principally propose increasing the incentive for employers through various

benefits (either by increasing the contribution for subsidised jobs or through tax cuts for employers), adjusting the conditions for using active employment policy instruments (especially by eliminating the condition for the duration of registration and its replacement with a criterion based on the fact this concerns a candidate who has been released from prison), widening the range of job opportunities, simplifying administration, as well as more specialised care for released prisoners, for example through mentoring.

A number of interesting suggestions were made on the basis of the last question of our questionnaire asking respondents to formulate concrete measures that would help improve the effectiveness of employment policy for released prisoners. Most respondents did. Often, proposals were aimed at improving the efficiency of the system for preparing prisoners for a return to normal life during their prison sentence, increasing the rate of employment in prisons (also on the basis of higher financial rewards), improving the range of retraining, education and advisory services, spotting specific job offers and employers who can offer released prisoners jobs or the introduction of quotas for employers and state-owned enterprises (an obligation to employ a certain number of released prisoners). Many respondents believe that released prisoners cannot do without specialised and individual support, which should ideally take the form of half-way houses, probation houses or sheltered workshops. The principles of mentoring, which some respondents see as a way of providing the necessary help, but also monitoring released prisoners, can also be applied. Cooperation and networking among stakeholders, including non-profit organisations, needs to be improved and intensified, which could be achieved by, among other things, regular meetings of employees from the Labour Office, prisons, probation officers and social curators. Special attention, according to experts, needs to be devoted to cooperation with employers, as well as education of the public.

Experts are aware that the decisive factor for success on the labour market is usually the candidate's own motivation. Therefore, the state should also change the system of social benefits and financial evaluation of labour in the sense of increasing the minimum wage and reducing social benefits. According to some respondents, recipients of these benefits should be obliged to work (service for community), while those who refuse should have their benefits reduced or even totally removed. This, according to some experts, would also strengthen the released prisoner's belief that it is better to work. However, it is not possible to overlook the objective state of emergency in which some released prisoners find themselves immediately after leaving the prison gates. In this context, social curators, in particular, refer to the unfavourable situation regarding the extraordinary immediate assistance benefits which are in the competence of the Labour Office, and which the social curator, who knows the client and his circumstances well, cannot provide.

The subject of indebtedness and debt enforcement policy has been extensively mentioned, as these are issues that make the employment of individuals released from prison significantly more complicated. Due to debt enforcement proceedings, some released prisoners deliberately avoid legal work because they face high wage deductions. A number of respondents therefore proposed that a specific adaptation of relevant enforcement procedures be developed for this group of people, in particular in terms of adapting to the individual's financial possibilities or arranging repayments calendars. For some professions, respondents feel it would be worth considering regulating the requirement for a candidate to have a clean criminal record, and amending recommendations and

conditions for applying some active employment policy instruments, particularly so that released prisoners can work immediately after serving their sentence. This could lead to the elimination of the condition for the duration of registration and the possibility of posting immediately after registration as a jobseeker.

A similar questionnaire was also completed by 12 RUBIKON Centre employees, who provide the programme evaluated in our research. They basically agreed with the other experts in their opinions and recommendations. However, their view provided a slightly different perspective on the obstacles facing released prisoners. Naturally, this was a more in-depth insight, perceived from the position of the released prisoner. However, the employees of this NGO organisation see the way to a more effective solution in the creation of a comprehensive system of assistance and support, not just immediately after release, but in the form of continuous training and preparation while offenders are still in prison.

Conclusions

The research project confirmed that employment is of extraordinary importance for reflection on the factors leading to desistance. Helping to find people with a criminal history employment is undoubtedly one of the fundamental objectives of not only criminal, but also general social policy. At the same time, however, this is not just an objective, but also a means of effective intervention to reduce recidivism. A satisfactory employment relationship can become the impulse to finding or strengthening a new, non-criminal identity. In fact, the motivation and attitude of the offender in relation to offered job opportunities is so important that the relationship between employment and desistence does not work on the principle of cause and effect, but is much more complex.

Original translation by Presto

Tomášek, J., Faridová, P., Kostelníková, Z., Přesličková, H., Rozum, J., & Zhřívalová, P. (2017). *Zaměstnání jako faktor desistence*. Praha: IKSP.

http://www.ok.cz/iksp/docs/441.pdf

V.3 Juveniles in the Process of Faulty Socialisation

Kazimír Večerka, Jana Hulmáková, Markéta Štěchová

Introduction

The Juvenile Justice Act (JJA) (No. 218/2013 Coll.) came into effect in January 2004, marking a significant milestone in the concept of dealing with juvenile delinquents in the Czech Republic. The JJA is based on the principle of criminal repression in an auxiliary role and highlights the educational, reintegrative and restorative purpose of the measures imposed. In principle, it is based on the idea that young people are predominantly malleable personalities whose criminal activity is not usually very serious and that various combinations of family, peer group and situational pressures play a significant role in the motivation to commit offences, some of which may be modified and rectified using appropriate and professionally guided methods. The ideal situation, of course, would be the ability to adequately work with a potentially problematic young person in his/her social environment before they commit an offence, when appropriate preventive interventions can correct the imminent risk in time, whether in personal development or inadequate living conditions. Therefore, at the forefront of efforts are more and more sophisticated early intervention methodologies, whose system however, is far from ideal in our conditions. Although there has been a long-term decrease and, in recent years, a stabilisation in the number of crimes committed by juveniles and children under the age of fifteen, there are still cases of recidivist delinquency among young people. Therefore, we need to examine the causes and conditions of recidivism in more detail, to identify objective and subjective sources of repeated antisocial behaviour.

Subject and aim of the research

The subject of research was consequently various aspects of juvenile delinquents' lives, with a particular focus on personal traits, family, upbringing, socialisation, educational and other similar aspects of their lives, in conjunction with criminal interventions in response to their recorded crime. Special attention was dedicated to recidivism.

The aim of the research was to identify the causes and conditions of juvenile delinquency, especially the reasons for continuing criminal activity after being confronted with the intervention of criminal justice authorities in the past.

Method

Our empirical research was framed by both an analysis of statistics on juvenile delinquency and an analysis of current legislation that applies to children and juveniles in the Czech Republic. Certain findings from previous foreign and Czech research, which was primarily focused on the issue of juvenile recidivism is further discussed in the theoretical section.

Three main different research tasks were conducted as part of our research.

The first, which primarily focused on juvenile recidivism, was based on a survey of experts dealing with juvenile offenders within the criminal justice system – the investigation was conducted with the participation of juvenile court judges, public prosecutors specialising in juveniles matters, probation officers specialising in young offenders and the staff of the **Authority for Social and Legal Protection of Children.** In total, we received the opinion of 280 experts. The questionnaire was sent to all district courts, district public prosecutor's offices, Probation and Mediation Service centres and the **Authorities for Social and Legal Protection of Children** at former district level. In the semi-structured questionnaire, experts were able to express their opinion on the issue of recidivism through both the rating scales offered, but they could also comment on their conclusions in the framework of open-ended questions/answers.

The second research task focused on an analysis of criminal files. This analysis first examined 170 files of juvenile offenders relating to their first offence (in the context of criminal proceedings). After studying these files, we were then interested in how many juveniles from the original research group reoffended and then analysed their criminal files in detail.

The third research task was to conduct repeat anamnestic interviews with convicted juvenile recidivists, supplemented by other information, especially from court files. The anamnestic data obtained on the basis of interviews with 26 convicted juvenile offenders serving sentences of imprisonment.

Results

Development and structure of registered juvenile crime

According to Czech Police statistics, there was a prevailing decrease in the number of juvenile offenders prosecuted in the reference period between 2005 and 2018, which relates to the overall long-term trend in the decreasing number of juvenile offenders in the criminal justice system to some extent. However, the share of repeatedly punished juveniles of the total number of prosecuted juveniles has not changed significantly, with a significant decrease not seen until 2017 and 2018, which may, however, be influenced by a change of reporting methodology in police statistics. Nevertheless, the decrease in the proportion of previously punished juveniles (or the increase in the proportion of offenders without previous criminal conviction) could also be seen in court statistics for this period and in 2016. In 2018, police registered 144 repeatedly punished juveniles, which was approximately 6% of the total number of prosecuted juvenile offenders.

Basic findings of the survey of experts

The results of the survey of experts showed that experts largely agree with the conclusions of foreign research with respect to the most significant risks or protective factors. Our experts cited living in a delinquent population, the presence of delinquent role models in the family, the inability or lack of interest in working legally and the abuse of drugs and alcohol among the most serious factors in the development of crime. Experts often discussed various aspects of the dysfunctional family environment of recidivist juveniles when answering open-ended questions.

Respondents identified strong links between the juvenile and a non-delinquent authority, informal friendships with non-delinquent peers and in particular, internalisation of the decision not to commit crime anymore as the most important protective factors. Experts considered a situation in which the juvenile is accepted by his/her parents and can engage in positive leisure activities as a very important protective factor. Surprisingly, however, experts did not see the protective importance of the juvenile's subjective feeling of success at school. A certain warning sign is the finding that experts did not attach major significance to the protective factors of increased supervision of adolescents' lives by the staff **of Authority for Social and Legal Protection of Children** and that they somewhat underestimate the importance of preventive programmes or strengthening counselling or treatment centres targeted at juveniles.

When assessing various factors that may contribute to the prevention or reduction of recidivism in the context of criminal proceedings against juvenile recidivist, experts cited the juvenile's positive attitude to the imposed sanction in first place. Experts believe that recidivism can be affected by consistent supervision of imposed measures by the court and the juvenile's active effort to compensate for damage caused by his/her offence. Experts also attach particular importance to the juvenile's involvement in mediation, the appropriate speed of criminal proceedings, etc. In this respect, experts were technically in accord with the general findings of foreign criminological research.

It is also interesting to note that experts did not rank current regulations on the expungement of convictions or the protection of juvenile privacy (measure against stigmatisation) among the most important protective factors. In the context of open-ended questions, the current protection afforded to juveniles was even criticised as too broad.

Basic findings on the factors that have a significant impact on the future recidivism of juveniles were generally in line with foreign research, with very important factors including the early onset of offending, certain personality traits of the individual, a poor family background and problematic parenting styles, problematic participation and failure at school and further education, the influence of delinquent peers, associated high-risk ways of spending leisure time and experience with substance abuse. In the case of juvenile recidivists serving a sentence of imprisonment, it can be said they showed the typical characteristics of chronic juvenile offenders, with an accumulation of the above risk factors.

In general, the legal analysis suggests that current legislation on juvenile crime provides a relatively broad scope for individualising measures so that they can target risk factors. However, experts suggest there are a number of problems with their application in practice leading to the underutilisation of the possibilities offered by current regulations.

In principle, the opinions of our experts did not differ (with few exceptions) from the findings of international criminological research in this area. Recidivism among young offenders largely depends on their way of life and living conditions before committing their first offence, and on the adequacy of society's response to their anti-sociality. In cases where a juvenile is already exhibiting antisocial behaviour, this tendency needs to be mitigated or stopped through appropriately individualised measures that are targeted at the type of problem and at the same time support factors that will positively support his/her desistence.

Basic findings of analysis of the files

One of the basic findings was that criminal files often lack data that could be used to better individualise measures imposed on a juvenile (as foreseen by Sections 55 and 56 of the Juvenile Justice Act). The lack of information and its poor informative value, or the differing levels of reports by the **Authority for Social and Legal Protection of Children,** which are often the only and main source of information in this regard, make it somewhat difficult to generalise. Therefore, it would be appropriate to develop a uniform methodology for processing these reports so that the information provided meets the requirements for obtaining all relevant information on the personal, family and other circumstances of the particular juvenile.

Despite this, some findings can be carefully summarised from this phase of research. Delinquent juvenile offenders were most often male, most living in larger cities (smaller municipalities are less affected by crime, with less recidivist juvenile offenders), and at the time of committing their first offence after the age of 15, most lived at their parents' address, but their living conditions were often worse than those of the general population.

Their families were often afflicted by various problems (recidivist juveniles in particular had a close relationship with alcohol and drug abuse in their family) and insufficient consolidation to varying degrees (frequent absence of one parent and their dysfunctional parenting styles). This was particularly true of the families of recidivist offenders. The families of juvenile delinquents were larger than usual in the general population (recidivist juveniles in particular had more siblings).

Juvenile delinquents can also be characterised by a problematic relationship to primary school, both in terms of achievement (which was mostly poor) and inappropriate behaviour (similar problems were evident in both the recidivist and non-recidivist subgroup). Recidivist offenders had greater difficulty in transitioning to secondary school (or did not even attempt to do so). The data also suggests that the peer group with which juveniles associate is likely to play an important role in the recidivism of some juveniles – recidivist juveniles in particular associated with delinquent groups and a large number had contacts with the drug subculture. The subject of their first criminal proceedings after the age of 15 was most often theft, which was more frequent in the case of later reoffending juveniles, while for non-recidivist juveniles it was more often the crime of disorderly conduct. Some of the findings that emerged from our expert survey were confirmed by the analysis of criminal files.

It turned out from the analysis of the files (among other things) that the most frequently applied criminal measure/sanction (for first conviction) was a prison sentence conditionally suspended for a probationary period, and this more often for juveniles who were subsequently assessed as recidivists. A conditional sentence with supervision was applied more often as a first sanction in this group of studied juveniles than in the case of later non-recidivists, but not in a large number of cases either. In general, the courts and public prosecutors did not often utilise the option to impose educational measures in the case of a juvenile's first criminal proceedings. In the case of juvenile non-recidivists, the diversions with restorative elements was used more often as the first criminal intervention compared to the subgroup of juvenile recidivists.

Basic findings of the survey of juvenile prisoners

Analysis of interviews with convicted juvenile recidivists showed that the convicted juveniles exhibited characteristics typical of the category of chronic juvenile offenders and that they lacked significant protective factors in their lives. In particular, there was a noticeable lack of knowledge among these inmates that they should have learned in school. This deficit was particularly evident in their inability to communicate well, verbalise their thoughts, and contributed to lower intellectual performance (however, lower intellect is not a generally common feature of juvenile recidivists). Most of the individual outcomes of applied psychological evaluation indicated limited resources enabling them to appropriately deal with life situations, thus increasing the likelihood that these individuals would cope with the demands of life in a clumsy and ineffective way that would lead to limited success and possible recidivism.

Numerous problems were noted among juvenile prisoners, often in the lack of a strong family background (dysfunctional family, absence of parental guidance, low educational and professional level, substance abuse, criminal infection – often multiple – in the family). Unstable families were accompanied by frequent migration (relocation), which was often related to the variability of parental figures and change of family members. Problems were noted at school, both in terms of achievement (only one third of respondents did well at school) and in the area of discipline. There was low motivation to complete schooling (avoiding school attendance and passive resistance during lessons), personal conflicts (with teachers and classmates), etc.

Another significant problem among juvenile prisoners was the early abuse of psychotropic substances. Many began with alcohol and marijuana, then at around the age of 14 or 15 the range of substance abuse expanded to include meth and to a lesser degree dance drugs, cocaine, LSD, heroin, as well as methadone. Here too, peer groups play an important role in this area, with a significant increase in crime (theft, trafficking) associated with drug abuse. By the age of 15, a large number of our juveniles began committing offences, most of them property-related, which was not a random deviation. These antisocial acts often remained unnoticed or were not addressed adequately.

For juvenile prisoners, the imposition of an unconditional sentence of imprisonment was usually preceded by a conditional sentence of imprisonment, although this was only imposed in conjunction with the supervision of a probation officer in two fifths of cases. Based on available information, no inmates underwent mediation or had their case end with diversion. Some of the juveniles themselves reported that the measures imposed had no great benefit for them and felt they did not discourage them from further criminal activity.

Original translation by: Presto

Večerka, K., Hulmáková, J., Štěchová, M. (2019). *Mladiství v procesu poruchové socializace*. Praha: IKSP.

http://www.ok.cz/iksp/docs/458.pdf

V.4 Seniors in the Czech Republic – Victims and Perpetrators of Criminal Offences

Milada Martinková, Eva Biedermanová

The publication deals with the issue of the victimisation of seniors by criminal offences and the criminal activity of seniors. In addition to a theoretical treatise on the poor treatment of seniors, the first part of the monograph includes current research data on the experiences of a **representative sample of three thousand individuals aged from 65 to 80 from across the Czech Republic** with selected criminal offences. The second part of the publication presents data on trends in the criminal activity of seniors in the Czech Republic from the perspective of Czech departmental statistics. It also contains up-to-date findings based on an analysis of criminal files relating to **offenders aged 65 and over,** who have been sentenced to imprisonment by a court for their criminal activity.

Research project

1. The specific goal of the **victimisation survey** was to determine the extent of victimisation of senior citizens in the Czech Republic by 19 selected criminal offences in the year immediately preceding the survey. At the same time, the aim of the survey was to obtain more detailed information relating to victimisation by the studied offences (e.g. repeated victimisation, the degree to which incidents are reported to the police, reasons for not reporting incidents to the police, the subjective seriousness of the offence, etc.). The opinions of respondents on selected crime-related issues were also of interest. The focus was not only on concerns regarding fear of crime, but also respondents' experience with selected criminogenic phenomena, opinions on the work of the police, etc.

The data have been acquired during personal interviews of questioners and respondents (CAPI). When preparing survey questionnaire we have been inspired by methodological processes used at international surveys of crime victims (ICVS –International Crime Victim Survey).

2. The aim of the second research, which focused on **seniors as the perpetrators of criminal offences**, was to map the crimes they committed in the Czech Republic within the reference period. The aim was not only to analyse the criminal activity of seniors from the perspective of available statistical data, but also to obtain information on the criminal activity of seniors and their personality traits based on an analysis of a selected sample of criminal files.

Victimization of seniors

• The research revealed the following findings about the experiences of seniors in the Czech Republic with selected criminal offences in the year preceding the survey.

– *Offences that affected the respondent's household (five offences were examined)*

More than one fifth of the owners/users of weekend/holiday homes (21.6%) had **experience** with burglary. 7.6% of car owners/users had personal belongings stolen from their car; 6.4% of respondents had experienced home burglary (or someone breaking into adjoining buildings/structures). Almost one in ten bicycle owners/users (8.9%) had had their bike stolen and 2% of the owners/users of private cars had been the victims of car theft.

Repeated victimisation by the same offence occurred most often, in almost one fifth of cases, with burglary of weekend/holiday homes (17%). On the other hand, none of the victims of car theft had experienced such a theft more than once. Approximately 5% of the victims of bicycle theft and about one in ten victims of the theft of personal belongings from a car (11%) and home burglary (12%) experienced the same crime again. Repeated victimisation by the offences under investigation usually occurred twice during the one-year period.

Almost 30% of the victims of the theft of personal belongings from their car (27%), one fifth of the victims of home burglary and/or burglary of adjoining buildings (20%) and 19% of the victims of bicycle theft **did not report the incident to the police**. About one tenth of those who experienced a burglary of their weekend/holiday home did not inform the police of the incident (12%). Only one car owner/user did not inform the police (3%) of its theft. -

Approximately one third of the victims of car theft (34%) and almost 40% of the victims of burglary of their weekend/holiday home (39%) and victims of home burglary (38%) were **dissatisfied with the work of the police** after reporting the incident. Half the victims of bicycle theft and 58% of the victims of the theft of personal belongings from a car were dissatisfied with the work of the police.

– Offences against the person of the respondent – without the use of physical violence by the offender (six offences were examined)

Almost one in ten respondents **were victims** of the theft of personal items (9.5%); 2.2% of respondents had experienced theft in their flat/house after letting a stranger into their home and the same percentage of respondents were victims of schemes to lure large sums of money from them by strangers (or attempts at such). Almost one percent of respondents said their personal data had been misused (0.7%); 4.4% of respondents had experienced a request for a bribe or its obvious expectation; 6.2% of online account/credit card users had been asked to provide security codes for these products on the internet (to which, except in very rare cases, respondents did not respond).

Approximately one in ten victims of the theft of personal items (8%), theft in their home after letting in a stranger (10%), schemes to lure money from them by a stranger (12%) and the misuse of personal data (9%) experienced **repeated victimisation** by the same offence. Victimisation usually occurred twice during the one-year period.

About one fifth of respondents who had been asked for a bribe experienced this phenomenon repeatedly (18%). Around 41% of internet users who had received a suspicious request for their security code for internet banking and/or payment card had been contacted repeatedly.

The **police were not informed** by about half of the victims of the theft of personal items (46%). 59% of the victims of theft in their flat/house after letting in a stranger did not inform the police, and the same percentage of victims whose personal data had been misused did not contact the police. 81% of the victims of schemes to lure money from respondents (or attempts to do so) did not contact the police. The police did not know about 97% of cases in which someone had been asked for a bribe (or made it clear one was expected). Individuals who had been asked to provide security codes for their payment card and/or online account via the internet were not asked whether they had informed the police of this incident.

Satisfaction with the work of the police after reporting an incident was only examined for three offences. Around 40% of victims of the theft of personal items (42%), theft from their flat/house after letting in a stranger (39%) and schemes to lure money from them by a stranger (40%) were not satisfied with the work of the police.

– Offences against the person of the respondent – using physical violence by the offender (five offences were examined)

3.4% of respondents **were victims** of serious threats of physical violence by strangers; 2.1% of respondents were victims of threats of physical violence by family members and other individuals known to the victim. 1.4% of respondents were victims of robbery and 1.4% of respondents were also victims of physical violence by strangers. 1.2% of respondents experienced physical violence by family members and other individuals known to the victim.

Repeated victimisation by the same offence was highest among victims of the threat of physical violence by individuals known to the victim (35%) and victims of physical violence by a perpetrator known to the victim (31%) during the one-year reference period. Repeated victimisation was the lowest for robbery (less than 5%). 7% of victims had repeated experience of physical violence by a person not known to the victim, and 14% of respondents experienced serious threats of physical violence by strangers.

The vast majority of both the victims of physical violence by individuals known to the victim (91%) and unknown assailants (73%) were **not reported to the police**. Also, the majority of victims of both serious threats of physical violence by individuals known to the victim (91%) and by strangers (82%) did contact the police. Robbery was not reported to the police by 39% of victims.

– Fraud (scams) when purchasing goods and services (consumer fraud when purchasing services, fraud when purchasing goods and fraud when purchasing products on sales trips and at demonstrations were examined)

About one-tenth of consumers **were scammed** when purchasing goods and services. 11.1% in the first case and 9.0% in the second. The most commonly scammed consumers, one third (33.0%), were consumers participating in sales trips and demonstrations.

44% of consumers were scammed repeatedly when buying goods and 14% when buying services. We did not ask respondents who had made purchases at demonstrations and on sales trips about repeated victimisation.

Only a few individuals who had been scammed when making purchases **reported the incident to the police**. Although some consumers reported the offence to consumer protection organisations; only a small number of victims of fraudulent purchases made complaints to official authorities.

– Experience with 19 offences:

When studying seniors from **towns/cities of different sizes** (population up to 20 thousand; population over 20 thousand) the following findings emerged. There were significantly more victims of burglary, theft of bicycles, theft of personal belongings, fraud during the purchase of goods among the residents of larger cities (population over 20 thousand) than among the residents of smaller cities (population up to 20 thousand). On the other hand, there were more victims of schemes to lure money from victims (or attempts to do so) in smaller towns and municipalities than among those living in larger cities (population over 20,000).

Both genders were usually affected to a similar extent by the 19 studied offences. The exception was victims of physical violence and victims of the threat of physical violence by a person they did not know. There were significantly more victims here among men than among women.

Statistically significant differences between **two age groups of respondents** ("younger" individuals, i.e. 63–72 years of age; "older" individuals, i.e. 73–80 years of age) were only found in three of the 19 studied offences. These were victims of theft in their flat/house after letting in a stranger, and victims of schemes to lure money from them. Significantly more people among the "older" respondents experienced these two offences than among the "younger" respondents. The opposite was the case for victims of scams when purchasing services.

– 41.4% of respondents had been the victims of **at least one of the 19 studied offences** during the one-year period. 21.7% of respondents were affected by one offence and 10.4% by two offences; 5.1% of respondents were the victims of three offences and 4.2% of respondents were the victims of four or more offences.

There were statistically significantly more individuals among the younger age group (65–72) in the research sample who were victims of at least one offence (43.3%) than among older individuals (73–80) (37.8%). There were also significantly more people affected by at least one offence living in cities with a population of more than 20 thousand (45.6%) than among individuals living in smaller towns (37.5%).

There were significantly more people who rated the police as less successful in controlling crime in their place of residence among the victims of at least one of the 19 studied offences than among respondents who did not fall victim to any of the 19 studied offences.

– 11% of respondents were encumbered with **debts**, i.e. roughly one in ten (346 persons). Almost one fifth of these individuals had problems with the repayment of their debts (19%). Around 5% of debtors admitted that they were facing distraint for non-payment of their financial obligations.

– 40% of respondents reported a **fear of crime** (avoiding certain places or people for reasons of safety when outside alone after dark in the area where they lived). Significantly more people from larger cities (44.3%) were concerned about their safety than those from municipalities and smaller towns (37.4%) (population up to 20,000). There were also significantly more women (51.9%) than men (30.1%).

– At least 5.4% of respondents (164 persons) had a **functional firearm** at home. Roughly half these individuals reported having a firearm for hunting purposes (49%), while almost one quarter had it for crime prevention (23%).

– Almost 70% of respondents rated the **work of the police** in controlling crime in the area where they lived more or less positively (17.3% of respondents considered it very good, 54.2% of respondents considered it more or less good). The work of the police was rated positively by significantly more people living in smaller municipalities and towns (population up to 20,000) (83.5%) than among individuals from larger cities (77.8%).

– The victims of the studied offences made minimal requests for help from **organisations helping the victims of crime and violence**. This was only a few individuals.

Seniors as the perpetrators of crime

• As mentioned at the beginning of this chapter, one of the researches also concerned **seniors as the perpetrators of criminal offences in the Czech Republic**.

A condition for the inclusion of seniors in the sample of individuals whose criminal activity we analysed through criminal records was their corresponding age (i.e. 65 years or more at the time of committing the crime) and an unconditional sentence of imprisonment imposed by the court.

The **40 analysed criminal records** included 38 convicted offenders (three of whom were foreigners and two were women). The largest group in the sample were seniors aged from 65 to 69, making up approximately four fifths. Most were married with one child. Three fifths of seniors were skilled tradesmen or had only completed basic education.

Seniors in the sample had different economic and social status. Most of the sentenced seniors were pensioners. However, the amount of their pensions and secondary income varied considerably, ranging from roughly CZK 6,000 to CZK 44,000 per month. Approximately **one third had debts** (37%) and about 70% were subject to distraint. Six people said they were homeless.

Individuals in the research sample **mainly committed less serious offences**. Theft and obstruction of the enforcement of an official decision and expulsion accounted for more than half of all committed crimes. The length of sentences imposed by the court corresponded to this. In almost half the cases, short term sentences of up to one year were imposed on offenders. On the other hand, seniors committed particularly serious crimes in almost 13% of cases. In particular, there were five cases of murder or attempted murder. There were also three convictions for rape and three for fraud in the sample.

Given the size of the sample, other crimes such as robbery, extortion, evasion of alimony/child maintenance payments, etc, were only committed by individual seniors.

Approximately three quarters of the studied seniors had multiple criminal records. A surprising finding of our analysis was the fact that **seniors with hitherto clean criminal records committed the most serious crimes** (murder, rape).

The victims of crimes committed by seniors in the studied sample did not know the perpetrators at all in three fifths of cases. The offender chose them randomly. Conversely, about **one quarter of the victims had a close relationship with the perpetrator**, of which 3 were particularly vulnerable victims – children.

Statistical data from central state administration bodies, i.e. the Ministry of the Interior of the Czech Republic (in 2008–2015, before the change in methodology for data collection) and the Ministry of Justice of the Czech Republic (in 2013–2018) shows that **the number of prosecuted and lawfully convicted individuals of senior age is growing steadily**. Unfortunately, the rising trend is also reflected in the number of individuals aged sixty-five or more serving imprisonment in Czech prisons. In view of the aging population in the Czech Republic, this trend can be expected to continue in the future.

Original translation by: Presto

Martinková, M., Biedermanová, E. (2019). *Senioři v České republice jako oběti a pachatelé kriminálních deliktů.* Praha: IKSP.

http://www.ok.cz/iksp/docs/457.pdf

V.5 Victims of Crime. Findings of a Victimisation Survey

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Background

Studies of the victims of crime (victimisation surveys) originated in the 1960s and over time began to focus on a broader range of crime-related issues. Their greatest benefit is that they can provide a wide range of information on crime and its development, free of the shortcomings of official data. Among the most important research of this type is the U.S. National Crime Victimisation Survey, British Crime Survey and International Crime Victims Survey. The Czech Republic has repeatedly participated in this latter project through research activities carried out by the Institute of Criminology and Social Prevention (IKSP), most recently in 2013. The current project follows on the tradition of Czech victimisation surveys.

The subject of the survey was public experience, attitudes and opinions on selected topics related to crime. The survey focused on the victimisation of respondents by selected offences committed during the reference period, and other topics related to victimisation and crime.

The primary objective of the survey was to determine the level of victimisation of the population by the selected crimes (and to thus obtain a supplementary source of information on the extent of crime in the Czech Republic, including its latent part). A secondary objective was to obtain more detailed information relating to experienced victimisation (e.g. reporting, or the reasons for not reporting the incident to the police, secondary victimisation, the impact of victimisation…), as well as other views of the public on issues related to crime.

In 2013, the Czech Republic passed the Crime Victims Act. The Act implemented obligations arising for the Czech Republic from European legislation. The aim of the new legislation was to strengthen the standing and expand the rights of the victims of crime. More than four years after the Act came into effect, we have tried to map its impact from the perspective of both potential and actual victims of crime. For this purpose, we have included a special module in the victimisation survey that focuses on this issue. The advantage of this approach is that it allows us to capture the views of both the general public and the views of victims, including latent victims.

Methodology

From the very beginning of this research, we wanted to gain a broader view of the issue and identify relevant topics in this area in terms of practice. Therefore, a qualitative sub-study was conducted in the form of a focus group with experts working in the field of victim assistance. We tried to put together the group in such a way as to maintain the adequate heterogeneity and professional relevance of the participants. We approached experts from the justice system, police, probation services and the non-profit sector.

The principal research tool was a relatively extensive questionnaire. As already mentioned, the current project follows on previous research, therefore the same wording

of questions was used as far as possible in order to maintain comparability. Emphasis was placed on ensuring the study reflected the specific environment of the Czech Republic as best as possible. The aim was to create a flexible research tool that would allow longer-term mapping of trends on one hand, and an opportunity to explore current issues in criminology, victimology and criminal policy on the other.

Data was collected in the autumn of 2017 on a representative sample of the Czech population over the age of fifteen. Respondents were selected by stratified sampling in the categories of gender, age, education, place of residence and region. Questioning was conducted face to face on behalf of IKSP by an external agency selected by a tender. A total of 3,328 interviews were used in final processing.

The questionnaire covered a relatively wide range of topics and can be divided into several thematic sections. It can therefore be flexibly modified in the future, if necessary.

The main part of the survey focused on mapping the victimisation of respondents over the last three years. Where this was not barred by the nature of the incident, victims were then asked whether the incident had occurred in the last year, and where appropriate, how many times. Since victimisation is not a common phenomenon, this combined reference period was chosen to capture more cases. In addition to traditional criminal offences such as property and violent crime (so-called common crimes), the research also examined the sensitive topics of sexual assault and domestic violence. Attention also focused on new forms of crime, namely stalking, online shopping fraud and fraudulent e-mails.

More detailed circumstances of reported victimisation were examined in the following part of the questionnaire. This was devoted to victims, i.e. respondents who reported victimisation in the reference period. Additional questions on individual incidents were both specific to the nature of the crime and common to all offences. The aim was to determine whether the incident potentially met the characteristics of a particular crime, and to gather further information, such as the time and place the incident occurred, the number of offenders, the means/method used, etc. We also examined whether or not the offence remained latent, i.e. whether (or why not) the incident was reported to the police, and if so, we then asked how the reported incident was handled and how the person reporting the crime rated the work of the police. We were also interested in whether or not victims sought the help of specialised organisations and why. The last set of questions was aimed at mapping the subjective impact of victimisation, including health, mental and material aspects.

A separate section, intended for all respondents, focused on personal safety concerns (after dark in the respondent's neighbourhood) and the likelihood of victimisation in the coming year. The questionnaire concluded the aforementioned module, focusing on the current issue of the level of care for victims in the Czech Republic, including the impact of the Crime Victims Act.

Selected results

The questionnaire included a total of fourteen types of criminal behaviour. As mentioned above, we focused on not only common crime, but also sensitive topics and

new types of crime committed via the internet. Due to the scope of the questionnaire, we could not devote our attention to all common types of delinquency and had to leave out, for example, fraud, hooliganism, vandalism or defamation.

Victimisation rate

Car theft was reported by 2% of those who used a car over the last three years. Approximately one quarter of these incidents occurred in the last year. Car thefts were more common in cities with a population of more than 100,000, especially in Prague.

The theft of items from a car affected nearly one tenth of their users in the last three years. More than half of these cases occurred in the last year. Items stolen from a car were more often reported by middle-aged people and again by people from larger cities, especially Prague.

The situation is similar for motorcycles. Of those who owned a motorcycle, scooter or moped in the last three years, 4% reported their vehicle had been stolen. Almost two thirds of the population use a bicycle, a figure that is conditional on the locality of those being questioned. Of these bicycle users, 13% reported their bicycle being stolen in the last three years. Bicycles are stolen more often in larger cities, in Prague and less affluent households. Of this, 42 % of these thefts occurred in the last 12 months.

One in twenty respondents reported a burglary in their home. Burglaries occur more often in cities with populations of over 100,000. Burglars break-in to holiday homes (cabins or cottages) more often, and reached 20% in the last three years. Logically, this more commonly affects people from larger cities (and significantly from Prague), who own or occupy these holiday homes more often. Similar to burglaries in people's homes, almost half these cases occurred in the last 12 months.

Another category under scrutiny was robbery (i.e. an acquisitive crime using violence or the threat of violence). Here, the victim frequency was 2% of the monitored sample. Once again, more than half these cases occurred in the last year. Victims of robbery are more often younger people, especially students or housewives and women on maternity leave.

Approximately 12% of the research sample had been the victim of theft (typically pickpocketing without the use of violence). Over 60% of these cases were reported by respondents in the last year. Victims of this type of theft are more often younger women, students and people in larger cities. Prague and Brno were particularly problematic.

Three percent of the population declared physical assault (by an unknown person) that was not aimed at theft. Victims of physical assault are more likely to be younger men, people with a basic education, students, the unemployed, and people in a difficult financial situation.

Particularly sensitive offences included sexual assault. This was declared by 42 respondents, i.e. 1.3%. Victims are more likely to be women, students and respondents from poorer socioeconomic backgrounds. At the same time, these respondents declared

that there were some questions in the questionnaire that they had a problem answering. Almost half these cases occurred once in the last year and one third more than once in the last year.

Another sensitive category in victimisation screening was domestic violence. There was a total of 88 cases of the 3,328 respondents (almost 3% affected). Again, victims are more often women, younger people, housewives or women on maternity leave and people from poorer socioeconomic households. Nearly 5% of the surveyed population had experienced stalking. Most often, this concerns women and younger people. Respondents who identified themselves as victims of stalking also more frequently said that they found some questions more sensitive than others.

Of those who have purchased a product or service over the internet in the last three years, 16% have experienced online shopping fraud in the last year. This negative experience mainly affects young customers (students), which is undoubtedly due to the higher frequency of online purchases in this age group. In terms of incurred damage, young respondents less frequently indicated they had suffered any damage.

The final monitored category was fraudulent e-mails aimed at financial gain. More than half of respondents who use electronic mail have received such an e-mail in the last 12 months (45% even repeatedly). These unsolicited e-mails are more likely to affect men, people with a university education and people in senior job positions. About 6% of respondents responded to such e-mails, about half of them repeatedly.

Reporting to police

Unreported crime is associated with a number of social consequences, primarily producing a certain number of victims that are hidden from the system and therefore cannot be given adequate care and rights. Therefore, the question of whether the victims had reported offences to the police or what led them to decide not to report the incident was part of the research.

While offences against the household are largely reported to the police, more serious offences against a person remain largely latent. The least latent offence is the theft of cars and motorcycles, which may be explained by the need to file a report for insurance claims. The same reason may play a role in other offences against the household. The least number of people report fraudulent online shopping, but fraudulent e-mails that caused damage are reported in more than one third of cases. Particularly sensitive cases of sexual assault and domestic violence are reported in only about one fifth of cases. This type of offence shows a high degree of latency across victimisation surveys.

Looking at the reasons for not reporting a crime to the police, it is clear that in many cases the victims did not have sufficient confidence in the police's ability to solve the case. Victims also often feel that a trip to the police is not worth the effort required to file a complaint, and in some cases stated that the situation resolved itself without the assistance of the competent authorities. Other reasons for not reporting an incident included, for example, fear of worsening the situation (domestic violence) or shame, fear and a negative attitude to the police in general (stalking).

In cases where the incident was reported to the police, victims often had conflicting experiences with the police. A little over half the victims believed that in dealing with their case, police officers were active and did everything they could, with the victims of car theft, the theft of motorcycles or personal belongings and the victims of physical assault being a little more satisfied in this respect. In contrast, the victims of sexual assault and stalking were the least satisfied with the work of the police.

Other victimisation-related issues

Every victim can experience a criminal attack differently. Therefore, we asked respondents who reported victimisation by any of the monitored offences if this incident had any further consequences for them. To this end, they were presented with a card with a list of the more common problems associated with victimisation. Victims could indicate more than one answer or give their own answer. It was shown that most victims of property crimes experience material damage and an administrative burden. This is most often associated with car theft, in 59% of cases. The second most common response for each offence was that the victim had not noted any consequences (approximately one third of victimised respondents). However, the results related to personal crimes were surprising. Even in case of particularly serious offences, the most frequently chosen answer was „I have not noticed any consequences". For particularly sensitive offences, we saw a slightly higher percentage of more serious psychological consequences compared to common personal crimes. Victims of sexual and domestic violence most often struggle with recurring thoughts associated with the crime. More often, victims also mention a loss of feeling safe and fear of the repetition of the crime. The victims of domestic violence suffer some of the presented consequences most often and to the greatest degree.

As already mentioned, the current study sought to extend victimisation research from merely mapping its incidence to a more comprehensive insight into experienced victimisation, including, for example, the usage of professional care for the victims of crime. Various organisations providing assistance to the victims of crime have been set up in the Czech Republic. One of the main objectives of the Crime Victims Act is to provide victims with effective assistance and protection from further harm, whether by criminal justice authorities (secondary victimisation) or the perpetrator (re-victimisation). One of the aims of the study was therefore to find out to what extent victims use the existing system of assistance in the Czech Republic and whether they are even awareness of the existence of special legislation governing the rights of victims.

In summary, it can be said that professional assistance is rarely used by victims. What is particularly worrying is the extent to which assistance is used by the victims of personal crimes where, due to more serious consequences, a greater need for professional assistance can be expected. In the context of an additional question on the reasons for not taking advantage of professional assistance, we were most often told that victims did not need help, they did not know any providers of assistance or did not believe someone could help them in their situation. Statements regarding the physical or financial inaccessibility of services should be particularly worrying.

Since the Crime Victims Act entered its fifth year in force, the questionnaire also examined general awareness of its existence. Research results in this area confirmed

concerns arising from the views of the focus group. Only one fifth of all respondents were aware that a special law to protect victims had been adopted in the Czech Republic. Although it is the duty of the police to inform the victims of crime of this law, victims of more serious offences have almost the same awareness of the Act as respondents who were not the victims of crime in the reference period. What's more, only one victim of domestic violence and one of stalking learned about the Crime Victims Act through the police. Most of the rest of the respondents who have been victims of personal crime learned about the law from the media, from friends or on the internet. Respondents were also asked to rate the level of care for victims in the Czech Republic. Experience of victimisation in the reference period proved to be statistically insignificant for assessing the level of care for victims. Rating in all areas was around the mean value, but tends to be more negative. One quarter of all respondents believe there is a lack of accessible non-profit organisations to help victims of crime in the Czech Republic.

In terms of the fear of future experience of crime, people tend to believe they will not become the victims of property or violent crime in the coming year. Only one percent of respondents are almost certain of future victimisation for both types of crime. Where people are afraid of victimisation, it is more often property-related than violent crime. Nevertheless, it can be observed that as many as 14% of the population acknowledge the chance of becoming victims of violent crime in the next 12 months. For property crime, it is even 20% of the population. Sceptical predictions of victimisation mainly occur among people from large cities with populations of 100,000 and people from poorer socioeconomic groups. While women are more afraid of violent crime, pensioners and entrepreneurs are more afraid of property crime. Gender differences in assessing the likelihood of victimisation are not statistically significant. In contrast, we see a statistically significant gender difference in evasive behaviour. While women are more likely to avoid certain places or people, we cannot say they are more afraid of future victimisation. Women's concerns are more accentuated in the frequency of evasive behaviour, as nearly 68% of women and only 16% of men almost always avoided certain places or people.

When testing the theory of increased fear of crime as a result of victimisation, it should be reminded that the reference period for the victimisation questionnaire was the last three years. Fear of crime, however, may be affected by victimisation that falls outside this reference period. Based on our results, the experience of victimisation has a real impact on different perceptions of the fear of crime. People who have fallen victim to at least one crime over the past three years are more likely to avoid certain places or people and perceive future victimisation as more realistic than their un-victimised fellow citizens.

Original translation by: Presto

Roubalová, M., Holas, J., Kostelníková, Z., Pešková, M. (2019). *Oběti kriminality. Poznatky z viktimizační studie*. Praha: IKSP.

http://www.ok.cz/iksp/docs/449.pdf

V.6 Criminal History of Serious Violent Offenders in the Czech Republic

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Violent crimes, especially those with serious consequences for the victim's life or health, are of increasing interest to not only professionals in the area of criminal justice (whether law enforcement, academics or researchers), but also to penal policy makers, despite the fact they do not account for a large proportion of the total number of registered crimes in most countries. Research has repeatedly shown that information about an offender's criminal history is an important part of our knowledge about criminal offenders, especially for the purposes of assessing (predicting) the likelihood of their future recidivism. This helps to formulate effective measures for dealing with dangerous violent offenders or for situational prevention, as well as to detect previously unknown perpetrators of serious violent crime.

Current study, aim and object of research

In general, the research carried out in 2016–2019 focused on mapping serious violent crime, more specifically on the criminal history of serious violent offenders in the Czech Republic. The subject of research was offenders convicted of serious violent crimes, their criminal history in terms of records of criminal convictions, and their potential criminal recidivism. The main objective was to obtain new criminological data about the criminal history of convicted offenders of serious violent crimes in the Czech Republic based on official records of criminal convictions. Standard criminological research methods and techniques were used to tackle the research task. This principally involved a document analysis of specialised domestic and foreign literature and Czech legislation, an analysis of statistical data collected by criminal justice authorities, an analysis of anonymised data from the criminal register in order to obtain detailed information about criminal history (in terms of offenders' history of criminal convictions), an analysis of a dataset of crime statistics sheets from the CSLAV judicial database and an analysis of a selected set of criminal files or parts thereof in order to obtain detailed information about studied cases of serious violent crime and material for illustrative case studies. Statistical methods and techniques were used to process the collected data and determine correlations and relationships between analyzed variables. The research task was conducted in accordance with generally binding legislation, including regulations on the personal data protection and the ethical principles of scientific research. All input data was anonymised for the purpose of analyses (anonymous codes were created for those included in the research sample), so that the specific individuals involved in the study could not be identified.

Research design, methodology and samples

In the first phase of the research, it was necessary to define the term „serious violent crime" in such a way as to define unambiguously what kind of behaviour is involved. The threshold distinguishing serious violence from „simple" violence is not uniformly defined, and various studies and classifications define it differently, usually according to their original purpose. The term „*serious violent crime*" refers to criminal behaviour that is violent in nature and demonstrates a certain degree of severity. Violent crimes

are those in which the offender uses physical force against the victim. In practice, this may involve a wide range of incidents ranging from cases involving very low-intensity violence to those with fatal consequences. The term „*serious violent crime*" is not a legal term in the Czech Republic; it is not defined in the official classification of crime, it is not explained in any strategic, conceptual or analytical document, and it is not used uniformly in the professional literature.

In defining the term „*serious violent crime*" for the purposes of our research, we relied on the simple general criminological definition, according to which serious violent crime is defined as serious incidents of an attack on the life or physical health of the victim. However, for the purposes of selecting the research sample, it was necessary to convert this definition into a legal definition that would enable the identification of serious violent crimes in the catalogue of criminal offences listed in the special section of the Czech Penal Code based on the facts of the case. Given the focus of our research on convicted offenders, our empirical research naturally focused on those forms of violent behaviour that are classified as crimes under applicable law.

For the purposes of our research, **serious violent crime** was then defined as a **set of offences in which the offender intentionally carries out an attack against the life or health of a living being, whether with the use of violence or otherwise, where such an attack demonstrates a higher degree of severity in terms of the manner of its execution or the effect caused or intended to the object of the attack**. The above definition thus included four conceptual features (characteristics) of serious violent crime: a) the criminality of the act, b) an attack against the life or health of a living being, c) the offender's intent to carry out such an attack, and d) the higher degree of severity of the attack (in terms of the manner of its execution or the effect caused or intended to the object of the attack).

On the basis of these criteria, 13 offences were selected from all the offences contained in the Criminal Code that could be described as ‚serious and violent'. Seven of which met the criteria for the definition of serious violent crime in all forms of the act (murder, manslaughter, murder of a newborn child by the mother, grievous bodily harm, unlawful termination of pregnancy without the pregnant woman's consent, cruelty to animals and terror). The remaining six offences could be considered in terms of provisions referring to a higher degree of severity, such as attributes of "serious bodily harm", "death" or "in a particularly cruel or grievous manner", etc (i.e. the offences of bodily harm, bodily harm with a justifiable motive, maltreatment of an entrusted person, maltreatment of a person living in the same household, terrorist attack, unlawful removal of tissues and organs). Prior to starting data collection for this research task, we spent considerable time not only operationalising the concept of ‚serious violent crime' but also defining the underlying (basic) criteria for the selection our research sample. In selecting the criteria, it is also necessary to take into account the nature of the data sources, which in our case were the CSLAV judicial database, criminal register and criminal files on closed criminal cases, which breakdown criminal offences according to their qualification under criminal law.

The next step was to set up a general sample (population) and research sample. The data source in our research was the official judicial database (CSLAV), which allowed us to generate reports from crime statistics sheets for the courts according to our chosen

criteria, i.e. the date of the decision, the 16 legal qualifications corresponding to the definition of serious violent crime and the outcome of proceedings. Thanks to this, it was possible to obtain basic data on criminal cases that ended with a final conviction in anonymised form, according to the exact legal qualification of the offence for which the accused was convicted.

Serious violent offenders in the Czech Republic – official records

In this way, we obtained a sample of 8 321 individuals that represented our population of interest (sample). Compared to the total number of offenders convicted in the Czech Republic between 2007 and 2016 (715 351 individuals), the **population of interest convicted of serious violent crimes represented 1,2 % of all convicted offenders**. It can be said that the representation of offenders convicted of serious violent crime among all convicted offenders was relatively stable over the ten-year reference period. **On average, 832 individuals were convicted of serious violent crimes in the Czech Republic each year**, with annual numbers ranging from approximately 800 to 850. Thus, even in terms of absolute numbers, the trend in criminal convictions for serious violent crime was stable in the reference period, with no significant upward or downward trend. **The average age at the time of committing a serious violent crime that placed individual offenders in the population of interest, was 34,5 years for the whole sample** (i.e. 8 321 offenders), with almost no difference between men and women in the population of interest. According to the CSLAV judicial database, **more than one third (35,9 %) of offenders convicted of any crime in the Czech Republic between 2007 and 2016 had no previous convictions (individuals with a clean criminal record).** In comparison, the share of individuals with a clean record in the population of interest of serious violent offenders was slightly higher, namely two-fifths (40, 1 %). With regard to the main criminal sanctions imposed on serious violent offenders in 2007–2016, the most frequent was a suspended prison sentence, which was imposed on a total of 4 840 individuals (i.e. 58, 2 % of the population of interest). Unconditional prison sentences were imposed as the main sanction for two-fifths of the population of interest (40,1 %), mainly for offenders convicted of murder and grievous bodily harm. In the remaining cases, decisions included waiving punishment with the simultaneous imposition of security detention or other protective measures, or other criminal sanctions, in particular community service or deportation.

Serious violent crimes in the Czech Republic

For the purposes of description and subsequent analyses, which were carried out as part of the empirical part of research, we **divided the group of serious violent crimes into four categories**, although we are aware that this is a certain simplification in terms of substantive classification and criminal law qualification. (1) The HOMICIDE category included the crimes of murder, manslaughter, and murder of a newborn child by the mother. (2) Under the category of ASSAULT, we included relevant forms of grievous bodily harm, bodily harm and bodily harm with a justifiable motive. (3) The category of PERSONAL MALTREATMENT included relevant forms of maltreatment of an entrusted person and maltreatment of a person living in a common household, and (4) the category of CRUELTY TO ANIMALS consisted of a single crime of the same name. Other offences that met the definition of serious violent crime, i.e. relevant forms of terrorist attack, terror, illegal termination of pregnancy without the pregnant woman's

consent and the unlawful removal of tissues/organs did not appear in the sample, i.e. no convictions relating to these offences were issued and became final in the period from 1 January 2007 to 31 December 2016 according to the official CSLAV database (at the time of data collection).

If we look at the four categories of serious violent crimes in more detail, a total of 1 265 offenders were convicted by the courts in the Czech Republic for the crimes of murder, manslaughter and the murder of a newborn child by the mother (i.e. in the ***HOMICIDE*** category) in the ten-year reference period. The share of women convicted of crimes in this category in the reference period was a total of 13,4 %, which corresponds to the share of women of all offenders convicted of crimes in the Czech Republic during the same period. The number of individuals convicted each year had a generally downward trend in the reference period. The average age of offenders at the time of committing the respective offence in the HOMICIDE category was 34,9 years over the whole reference period, with no significant changes in the trend of this variable over the 10 years. According to the CSLAV database, two-fifths (41,5 %, 525 individuals) of the total number of 1 265 offenders convicted for crimes in the HOMICIDE category in the reference period were individuals with a clean record (i.e., persons with no previous convictions). A total of 6 706 individuals were convicted of serious violent crimes in the ***ASSAULT*** category in the Czech Republic from 2007–2016, which is approximately 80 % of the entire population of interest convicted of serious violent crime in that period. Three quarters of offenders in the ASSAULT category (75,1 %, 5 038 individuals) were convicted for the crime of grievous bodily harm. A total of 1 610 individuals (24 % of this category) were convicted of the crime of bodily harm corresponding to the definition of serious violent crime, and 58 offenders (0,9%) were convicted of the crime of bodily harm with a justifiable motive. Of the crimes included in the ASSAULT category, all forms of grievous bodily harm and selected qualified cases of bodily harm and bodily harm with a justifiable motive met our definition of serious violent crime. The average age of offenders at the time of committing a serious violent crime in the ASSAULT category was 33,4 years; the average age of women was 35. 2 years and 33,5 years for men. The share of women of the total number of individuals convicted for crimes in the ASSAULT category in 2007–2016 was 7,1 % (478 women), i.e. approximately half the share of women of the total number of individuals convicted for crimes in the HOMICIDE category (13,4 %). However, there were clear differences between individual crimes included in the ASSAULT category in terms of the share of women of all convicted offenders. For the most frequent crime of grievous bodily harm, the share of women of the total number of offenders convicted of this crime in the reference period was 8,1 % (410 of 5,038 individuals), for the crime of bodily harm 3.2% (52 of 1 610 individuals), and for the crime of bodily harm with a justifiable motive, women accounted for more than one quarter of convicted offenders (27,6 %, i.e. 16 of 58 individuals). Two-fifths of those convicted for a crime in the ASSAULT category in the reference period (39,9 %) were individuals with a clean record, i.e., persons with no previous convictions. A total of 101 individuals were convicted of serious violent crimes in the category of ***PERSONAL MALTREATMENT*** in 2007–2016 in the Czech Republic; three-fifths of these (61,4 %, 62 individuals) were convicted of the relevant form of maltreatment of a person living in a common household, and the remainder (38,6 %, 39 individuals) were convicted of the relevant form of maltreatment of an entrusted person. However, given that the total number of offenders convicted for the maltreatment of an entrusted person pursuant to Section 198 of the Penal Code and maltreatment of a person

living in a common household pursuant to Section 199 of the Penal Code amounted to 2 560 individuals in the given period, offenders convicted of forms of these crimes that clearly meet the definition of serious violent crime used in our research accounted for only 3,9 %. The share of women of the total number of individuals convicted for crimes in the PERSONAL MALTREATMENT category in the reference period was one sixth (16,8 %, i.e. 17 women out of 101 convicted offenders). This is significantly higher than the share of women of all those convicted of offences under Section 198 or 199 of the Penal Code, which was 9.4% in the given period. At the same time, we found that the vast majority of women convicted of serious and violent forms of these offences (15 of 17 women) had committed one of the forms of the offence of maltreatment of an entrusted person under Section 198 of the Penal Code, which was represented significantly less in the PERSONAL MALTREATMENT category than the offence of maltreatment of a person living in a common household. The average age of serious violent offenders in the PERSONAL MALTREATMENT category at the time of committing these offences was 32,3 years (women 27 years, men 33,4 years). Just under one third of offenders in this category (30,7%, 31 individuals) were persons with no previous convictions.

In the analysed ten-year period, 249 individuals were convicted of criminal conduct, classified by the court as ***CRUELTY TO ANIMALS*** in its serious and violent form (i.e., Section 302 of the Penal Code and Section 203 (2) of the Criminal Act of 1961 Coll.). Of the total number of individuals convicted of serious violent crimes in the given period, this group of offenders represents „only" 3 %. The number of individuals convicted of respective forms of this offence each year was few dozens at maximum (the lowest number was 14 in 2007, and the highest was 40 in 2016). Women accounted for one-eighth of all individuals convicted of a serious crime in this category (12,4 %, 31 women). The average age of offenders at the time of committing an offence in this category was 38, 6 years (38, 4 years for men and 39,6 years for women); all offenders were adult at the time of committing the offence. More than half the offenders in this category had been previously convicted of a crime (57 %, 142 individuals).

Criminal history of serious violent offenders in the Czech Republic

As it was not possible to currently obtain relevant variables from official judicial records in a simple (reliable and efficient) manner that would allow the criminal history of convicted offenders to be mapped, it was necessary to conduct a detailed analysis of an anonymised „summary" of individual records of criminal convictions. That is, a detailed analysis of the criminal history (using the Criminal Record Sheet) of each of the offenders of serious violence in our **research sample of 2 220 individuals** was conducted. In addition, due to the existence of a detailed, structured database of convicted offenders of sexual violence, created as part of one of our previous studies, it was possible to identify a fifth category of serious violent crime in the research sample titled SEXUAL ASSAULT, which included perpetrators of respective forms of rape.

Among the perpetrators of the monitored crimes defined in our research as „serious violent crimes", the most commonly represented offenders in the research sample were perpetrators of crimes in the category of ASSAULT (1 282 individuals, 58 %). Offenders in the SEXUAL ASSAULT category (431 individuals, 19 %), as well as offenders in the HOMICIDE category (423 individuals, 19 %), made up approximately one-fifth of

the research sample. The perpetrators of serious violent crime labelled PERSONAL MALTREATMENT in our research (21 individuals, 1 %) or CRUELTY TO ANIMALS (63 individuals, 3%), comprised only a small number of cases. As in the population of interest, the vast majority of offenders were male, the share of female offenders in the research sample was in a significant minority (8%, i.e. 170 women). A closer look at the share of male and female offenders in each category of serious violent crime reveals a higher representation of female offenders, similar to that in the general sample, in the categories of HOMICIDE, PERSONAL MALTREATMENT or CRUELTY TO ANIMALS. The average age of offenders at the time of conviction for a serious violent crime was 33,8 years. For offenders for whom conviction for a serious violent crime was their first conviction, the average age at the time of conviction was – logically – lower (30,6 years) than for those for whom the conviction was their second (or higher) conviction in their career.

One of the main variables monitored among serious violent offenders in the research sample was the presence or absence of a criminal history. Of the 2 220 offenders convicted of serious violent crimes in the reference period, **almost two-fifths (38 %, i.e. 843 offenders) were individuals with no previous criminal record (first-time convicts**). The second, larger group of convicted offenders in the research sample (62 %, 1 377) were individuals for whom a conviction for a serious violent crime was at least their second record in the criminal register, i.e., they were offenders with a criminal history, in the sense of a conviction for (any) criminal activity prior to the conviction for a serious violent crime. Not surprisingly, the average age of offenders of serious violent crimes classified as *first-time convicts*, was lower (30,6 years) than that of offenders with an existing criminal history. Their share in individual categories of serious violent crimes was relatively low for SEXUAL ASSAULT, where it was 31 %, which means that approximately one-third of offenders convicted of this type of violent crime were individuals not yet registered in the criminal justice system (unmonitored). In the category of serious violent crimes designated as PERSONAL MALTREATMENT, the share of first-time convicts was slightly lower (29 %), but it must be remembered that this group was represented by a much smaller number of offenders. In contrast, the share of first-time convicts was higher for offences in the HOMICIDE category at 42%, so that more than two-fifths of offenders convicted for serious violent crimes classified as murder, manslaughter or murder of a newborn child by the mother in 2012–2016, committed these offences with no previous criminal record. In the remaining two categories of serious violent crimes, the share of first-time convicts was almost 40% in the category of ASSAULT, and slightly less in CRUELTY TO ANIMALS (35%), although this category consisted of a significantly smaller number of offenders.

However, the subject of our research was the criminal history of serious violent offenders, so the subgroup of **repeatedly convicted serious violent offenders** was more important in terms of our research. **Their share of the research sample of serious violent offenders was more than three-fifths** (62 %, 1 377 individuals), where, for a significant majority of these repeat offenders (1 075 individuals) the conviction for a serious violent crime represented at least the third conviction in their criminal history („multi-repeat offenders“ or „multi-recidivists“). Compared to the share of women convicted of serious violent crimes in the whole research sample (8 %), the share of women who had experience of a prior conviction at the time of their conviction for a serious violent crime in all repeat

offenders was lower (5 %, 67 women). An important aspect often mapped in the study of criminal careers is the initiation or onset of acriminal career. Due to the nature of the primary data source, we considered this to be the date of the first conviction recorded in the criminal register for offenders in our research sample (and not, for example, the date of the crime was committed, which would be a more relevant „moment" from a criminological perspective). More than one quarter of repeat offenders convicted of a serious violent crime (391 individuals, i.e. 28,4 %) had their first record entered in the criminal register, i.e. their first criminal conviction, when they were juveniles (i.e. under 18 years of age). The number of individuals with an „early" onset of their criminal career was particularly high in the SEXUAL ASSAULT category (36 %, i.e. 107 individuals out of 296 repeat offenders of SEXUAL ASSAULT), while their share was approximately 10 % lower in the remaining categories. The number of crimes committed to date is one of the main characteristics that can be used to describe the criminal career of a given offender. In our case, due to the availability of data, this variable was replaced by the number of criminal convictions or records in the criminal register in the offender's criminal history prior to their conviction for a serious violent crime. Repeat offenders of serious violent crimes were found to have an average of 5 such previous convictions (minimum 1, maximum 30 previous convictions). The average length of the criminal history of repeat serious violent offenders in the sample – that is, the time from first conviction to conviction for a serious violent crime – was 14,4 years (minimum 1 month, maximum 60 years). However, there were some differences in this variable between the different categories of serious violent crime (HOMICIDE, ASSAULT, MALTREATMENT, SEXUAL ASSAULT). The interval (time lag) between individual crimes in the criminal history of a given offender is another aspect that is often monitored when studying criminal careers. In our case, this variable – the frequency of criminal conduct – was represented by the time interval between individual convictions over the criminal career of the offenders in our research sample due to the availability of data. For the subgroup of repeat serious violent offenders, the average time between the dates of individual convictions was 47,5 months, or about 4 years. The longest interval between two consecutive convictions in the subgroup of repeat offenders was almost 50 years, while the shortest was several days.

Other key aspects in the study of criminal careers include its structure in terms of versatility or, conversely, the specialization of offenders in certain types of criminal activity. To this end, it is vital to obtain information about the offences committed by an offender during his or her criminal career and to process this information in a comprehensible and meaningful manner. In view of the fact that the main source of data for our research was the criminal register, we had to deal with the manner in which the crimes for which offenders were convicted during their criminal career are recorded. For the purposes of our research, we therefore – in the knowledge that this was a considerable simplification – divided crimes (from the special section of the Penal Code and from previous criminal acts) according to their paragraph designation into eleven groups (serious violent crime, violent crime, property crime, economic crime, moral/sexual crime, obstruction of the execution of an official decision, evasion of mandatory maintenance, disturbance of public order, drug crime, crime under the influence of addictive substances, other crime.) Given the long-term structure of overall criminality in the Czech Republic, it is not surprising that the largest share (almost three-quarters) of the subgroup was represented by offenders whose criminal career included convictions for property crime (72,9 %). More than half of offenders in the subgroup had been convicted of violent crimes in their criminal

careers, which however did not meet the defining characteristics of serious violent crime. In contrast, offenders for whom a „current conviction for a serious violent crime" was not the only conviction for a serious violent crime in their criminal career (i.e., homogenous – generic or specific recidivists) comprised only about one-tenth of the subgroup (11,3 %). The subgroup also included a significant number (39,8 %) of offenders with a conviction in the criminal register for one of a group of offences described as disturbance of public order, in particular disorderly conduct, but also intentional endangerment, incitement to hatred against agroup of persons or restricting their rights and freedoms, etc. Other groups of crimes occurred in the criminal histories of about 10–20 % of offenders, with the exception of economic and drug crime, for which only about 6 % of those in the subgroup were convicted. Homogenous recidivism (repeat convictions for serious violent crime) was a rather rare phenomenon in the overall criminal history of the subgroup of convicted repeat serious violent offenders. A comparison of different perspectives of the structure of the criminal career of repeat serious violent offenders revealed some interesting findings. First of all, about one tenth of these offenders committed such conduct repeatedly, but not frequently (11 % of all offenders vs. 2 % of all convictions). On the other hand, property crime was found in the criminal career of the vast majority of serious violent offenders and is also committed by these individuals significantly more often than offences in other categories of crime (73 % vs. 40 %). Otherwise, however, the criminal career structure of repeat serious violent offenders in terms of the representation of individual groups of crime is similar, both in terms of the share of offenders with a record of conviction for individual groups of crime and in terms of the number of records of conviction in each group.

Conclusions

The empirical findings on serious violent offenders and their criminal careers obtained in the course of our research allow us to formulate some general conclusions. We confirmed the premise that although we defined the term „serious violent crime" quite narrowly for the purposes of our research, the perpetrators of this type of crime do not represent a homogeneous group, but differ according to various criteria. It follows that it is probably not realistic to look for a universal approach (programme, intervention) to „dangerous violent offenders", but that the diversity of the circumstances, conditions and causes that lead to the commission of serious violent crime must be taken into account.

The research confirmed that some general findings from long-standing studies of criminal careers can be applied to a specific group of serious violent offenders. Findings regarding the early start of a criminal career and its subsequent escalation may, in particular, have practical implications. The results of the analysis convincingly demonstrated that the initiation of criminal activity at an early age significantly increases the risk of recidivism, and that offenders in these cases usually represent rather a gradual evolution from minor offences of various kinds to serious violence by the offender. This only highlights the need for appropriate attention to be given to delinquent behaviour in children and adolescents by the state.

Serious violent crimes are committed by both multi-recidivists with criminal lifestyles and by individuals for whom such offences are the first and only excess in an otherwise irreproachable life. If the criminal justice system and the state in general are to establish

adequate approaches to prevent and punish serious violent crime, it is important to know what types of offenders we can encounter in this group and what can be predicted in terms of the development of their criminal career.

Original translation by: Presto

Blatníková, Š., Novopacká, M., Přesličková, H., & Zeman, P. (2021). *Kriminální historie pachatelů závažného násilí v ČR*. Praha: IKSP.

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V. Serius Crime

VI.1 Possibilities of Detection of the Extent and Structure of Secondary Drug-related Crime in the Czech Republic

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Background

The book was produced as a result of the project "Possibilities of detection of the extent and structure of secondary drug-related crime in the Czech Republic", funded by the Security Research Program of the Czech Republic in 2015–2020 with the identification code "VI20172019053". The project responds to the absence of data on drug supply indicators. The main aim of the project was to propose a new procedure for determining the rate and structure of secondary drug crime (SDC) in the Czech Republic in order to obtain a realistic and evidence-based estimate of this phenomenon.

Many scientific studies point to the relationship between addictive substances use and committing crime. In Czech Republic, drug-related crime (understood as criminal activity related to use of narcotic and psychotropic substances i.e. illicit drugs) division into primary and secondary drug crime became established.

Primary drug crime (PDC) includes offenses that directly punish the unauthorized handling of illicit drugs or spread of their use (Section 283 – Section 287 of the Criminal Code).

Secondary drug crime (SDC) is represented by offenses related to the use of illicit drugs in another way. These are e.g. property crimes committed by drug users for the purpose of obtaining funds for drug purchase, violent or moral crime committed under the influence of drugs, etc.

In contrast to the scale and structure of registered primary drug crime, which can be easily identified from common crime statistics (these are separately recorded offenses), the scale and structure of SDC (i.e. how many registered offenses are committed in a different context related to drug use and specification of these offenses) are not systematically monitored in any registration system. However, it is estimated that this type of crime represents a significant proportion of the total volume of registered crime in the Czech Republic.

Research to date has shown that the groups of perpetrators of primary and secondary drug crime overlap to a large extent. In order to address this issue more effectively, it is therefore necessary to pay attention to drug crime as a whole, not only to the primary drug crime, but to the secondary drug crime as well.

Methodology

The research included a detailed analysis of information systems of relevant components of the criminal justice system used for the collection and reporting of statistical data on crime and their perpetrators, with regard to the possibilities of their use for the monitoring of secondary drug crime.

Information gathered during the research on criminal justice information systems (police, prosecution, courts, probation and mediation service) recording data on registered offenses and their perpetrators suggests, that in its current form they are not applicable for the purposes of the systematic collection and processing of reliable secondary drug crime data. Some of them record partial data on a certain part of secondary drug crime or its perpetrators, but it is not possible to obtain a complex overview of them. Given the different primary purposes of particular information systems and the related differences in the methodology for collecting and reporting data, this shortcoming cannot be overcome even by eventual combination of data from multiple sources (systems).

In the Czech Republic, several studies using meta-analysis of foreign studies or a combination of available crime statistics and expert estimates have focused to SDC quantification already.

Although the term "secondary drug crime" is generally accepted and used in the Czech Republic, the review of vocational literature and other relevant sources has shown its ambiguous definition. In this context we can mention, for example, the problem of high latency of drug crime in general, or the fact that not every case can be classified within specific category, etc. The theoretical delimitation in this respect will always represent the necessary simplification. Secondary drug crime is primarily a theoretical concept and it will never be possible to categorize and quantify it precisely. Despite these uncertainties, the term is used on general basis.

There are various definitions of secondary drug crime. From the one understanding SDC only as acquisitive crimes (crimes that were motivated by the effort to obtain funds for the acquisition of drugs for the perpetrator's own use), to the wide definition describing SDC as any crime committed with any regard to drug use. Definitions are mainly based on EMCDDA classification (i.e. psychopharmacological crimes, economic-compulsive crimes, and systemic crimes). However, the mere adoption of the EMCDDA concept proved insufficient for the purpose of developing a methodology for recording SDC data. Problematic from the point of view of usage for statistical purposes is especially unclear definition of individual categories and incompatibility with the Czech environment.

Given the above-mentioned non-uniform significance, one of the objectives of the implemented project was, among other things, to define the concept of secondary drug crime for the needs of practice in the Czech Republic in the context of both foreign and domestic context with regard to specifics of this type of crime.

The operationalization of the concept is a basic prerequisite for the creation of a proposal for a procedure for its measurement. For these reasons, a proposal for a new concept of secondary drug crime and its classification reflecting the Czech environment was formulated. The aim was therefore to create a definition that would not have to be changed according to the needs of individual studies, would also be applicable to social cost studies (possibly adaptable to alcohol) and at the same time compatible with the definition of the EMCDDA.

In the first phase, in addition to the standard analysis of relevant documents (legislation, literature review, strategic and conceptual materials, etc.), an expert survey

was conducted in the form of a focus group with experts dealing with problematics of crime related to addictive substance abuse issues (representatives of- National Drug Headquarters, Ministry of the Interior, academia, NGO, prosecutor's office). Following experts' recommendations, monitoring was limited to offenses related to actual drug use only. From this discussion, a new definition and categorization of SDC reflecting the practice and conditions of the Czech Republic environment came out.

Subsequently, another expert survey was carried out to identify the possibilities and limits for recording and reporting secondary drug offenses within the Czech police information systems. The survey was performed using the form of the Delphi method. In view of the objectives of this phase of the survey, the intention was to engage representatives of so called case processors, i.e. police officers, who handle individual newly detected criminal cases and introduce basic data on them into the information system, as well as statisticians who subsequently record data from accessible documents from criminal proceedings into the information system. Both profession groups' representatives from various regions of the Czech Republic were to participate in an expert panel survey.

The expert panel was set up by a deliberate sampling method through institutions. Headquarters of relevant national offices (the Police Presidium, the National Drug Headquarters of the Criminal Police and Investigation Service of the Police of the Czech Republic) as well as Regional Police Directorates were approached with a request for cooperation and nomination of suitable experts from the departments within their competence.

Results

New theoretical framework

The new definition is based on the dichotomy of drug crime (i.e. drug-related crime) and its division into primary and secondary drug crime, which do not overlap. The SDC is divided into 6 hierarchically arranged, mutually permeable categories. The categorization was designed to cover all illegal acts related to the use and handling of illicit drugs, including also those cases that may occur rarely or not at all in the Czech Republic. The individual categories are ranked according to the degree of association with illicit drugs.

1. "Offenses where the influence of drugs is a part of their definition"

The first category includes crimes in which the influence of an addictive substance is a feature of deed and which were committed by the perpetrator under the influence of the illicit drug.

2. "Acquisitive offenses"

The second category consists of offenses in which the main motive of the perpetrators, leading to their perpetration, was to obtain funds for the purchase of drugs for their own use or to acquire drugs for their own use from another person. It is essentially a category that the EMCDDA designates as economically motivated crime.

3. "Offenses committed in consequence of drug use"

The third group includes offenses committed as a result of the perpetrator's drug intoxication, his withdrawal syndrome or changes in his organism related to the actual drug use. This category is also known as psychopharmacological crime.

4. "Offenses committed in connection of other person´s drug use"

This newly created category includes crimes whose main cause was the use of drugs by a person different from the offender and the victim. This group differs from the previous one, as the association with illicit drugs is not directly related to the use of the offender but to another person. The intention was to capture other possible contexts that could be considered in relation to the drug use and crime.

5. "Offenses committed in order to support functioning of drug market"

Classically, the secondary drug crime also includes crimes committed within the framework of ensuring the functioning of the drug market (the so-called systemic crime). It is a category in which, in a sense, establishing a link is more complex than in other SDC groups, because it is not linked to the use of a particular person. Moreover, the situation is complicated by the fact that it is often difficult to distinguish sufficiently between which offenses are due to drugs and which are committed in connection with the functioning of the black market in general.

6. "Offenses against drug users"

The last group includes crimes committed against users due to their higher vulnerability caused by the drug use. According to the EMCDDA, these crimes are part of the so-called psychopharmacological crime, but given the different nature of the context, dedicating a separate category to them seems more appropriate.

Secondary drug crime is often referred to as a situation where the perpetrator commits primary drug crime, especially drug sales, to finance his own use. Within the framework of the presented concept, however, these crimes are not considered SDCs as they are PDCs and therefore the possibilities of their measurement are beyond the scope of the project. However, it is undoubtedly an interesting and important indicator that could significantly complement the idea of the extent of crime associated with drug use, which was also emphasized by experts within the focus group. It would therefore be appropriate to monitor this crime, but outside the scope of the proposed SDC data collection procedure. Respondents agreed that the methodology for recording SDCs should be clear and understandable. Everything should be explained in detail, but it should not be a multi-page document that will discourage its readers because of its size.

Data collection guideline proposal

Possibilities of data collection on SDC for statistical purposes were also discussed within the focus group. According to the respondents, data collection through the Criminal Records Information System (ETŘ) operated by the police seems to be the most suitable for identifying the connection of crime with illicit drugs within the criminal justice system. It is best to note the link with drug use at the end of the criminal investigation, when all facts about the case and the offender are known.

Based on the results of both expert investigations, the first draft of the procedure for collecting data on SDC (methodology guideline proposal) was formulated, suggesting recording into the police statistical system (ESSK) via their information system (ETŘ).

The draft methodology guideline was also continuously consulted with the Department of Statistics and the National Drug Headquarters of the Criminal Police and Investigation Service of the Police of the Czech Republic.

The proposed procedure for collecting data on secondary drug crime was subsequently piloted on regional basis, in the Olomouc and South Bohemia regions. The aim of the pilot verification was to obtain suggestions and feedback from practice regarding the formulation of individual categories of secondary drug crime as well as the procedure of its recording in the Czech Police registration system and to verify the applicability of the methodology in terms of its comprehensibility and difficulty in use. The selection of specific regions took place through self-nomination, through representatives of territorial units who participated in the expert survey in the form of the Delphi method.

The primary objective of the project was to propose a new procedure for determining the extent and structure of secondary drug crime in the Czech Republic. The planned main result was a certified methodology guideline for collecting data on secondary drug crime. One of the basic principles of the preparation of the methodology was the emphasis on minimizing interference with existing information systems and minimizing the additional burden on persons who should implement data collection on SDC through it.

The methodology is based on findings from individual phases of research and should serve as a standardized tool for regular monitoring, evaluation and further investigation of drug crime, taking into account the specific environment of the Czech Republic. The aim of this methodology is to describe in detail the new SDC recording procedure.

The methodology guideline was designed solely for statistical purposes, which means, among other things, that data on SDC (on the link between the criminal act and drug use) collected under this procedure would have no effect on the course of proceedings in the individual criminal cases from which it will originate.

The methodology consists of two parts:

(A.) "**Procedure for recording data on secondary drug crime in the information system of the Police of the Czech Republic**" describes the objective and basic features of data collection on SDC

(B.) The "**Guidelines for Filling Individual Items for Recording Secondary Drug Crime**" includes the description of each step in collecting SDC data with instructions for categorizing detected offenses into relevant categories and contains the definition of individual SDC categories including examples

The aim of the procedure is to record data on the connection of registered crimes with illicit drugs in the information system of the Police of the Czech Republic in a form

that will enable their subsequent use for statistical purposes. The methodology represents a procedure for collecting data on SDC within the operation and updating of the police statistical information system and is intended for police officers at basic units who update the information system.

The resulting solution represents a variant that seems to be the most suitable from the given point of view, allows easy incorporation into the existing system as well as eventual adjustments to relevant practical needs of the Police of the Czech Republic. Without disturbing the logic of the methodology, it is possible to limit the range of monitored categories of SDCs (if some of them appear superfluous for various reasons) as well as the range of data recorded on individual secondary drug offenses (down to the mere record of unspecified SDC, without further specification of the SDC category or relevant drug). On the other hand, if necessary, its extension to other addictive substances is also possible in the future, as the current project focused only on the measurement of crime related to narcotic and psychotropic substances i.e. illicit drugs.

It should be appealed that the data obtained by the proposed procedure should not remain the only source of information about the SDC, but should be supplemented, if possible, from other sources as well. A more accurate picture of the extent and structure of SDC in the Czech Republic can be obtained only by combining mapping of data on drug issues from various aspects, which can in some way offset the weaknesses of particular approaches.

Original translation by: Jiří Kolář

Roubalová, M., Grohmannová, K., Trávníčková, I. & Zeman, P. (2019). *Možnosti zjišťování míry a struktury sekundární drogové kriminality v podmínkách České republiky*. Praha: IKSP.

http://www.ok.cz/iksp/docs/455.pdf

VI.2 The Use of Legal Instruments to Combat Organised Crime

Ivan Budka

The aim of the research

The study is the output of the Institute of Criminology and Social Prevention's research task "Organised Crime in the Czech Republic – Trends, Possible Criminogenic Factors, Selected Activities and Legal Instruments for Imposing Sanctions". The work mainly focuses on the effectiveness of selected criminal instruments (in particular, operative and investigative means and the problem of using wiretaps (lawful interception) as evidence in judicial practice) in the fight against organised crime, but also in the wider context of other institutes of "non-criminal" Czech legislation governing the procedure used by authorities in the fight against organised crime.

The application of many repressive measures in both the legislative field and the activities of police and judicial authorities is not a simple matter, both in legal and practical terms. These measures must naturally correspond to the context of our legal system, and they must not disproportionately interfere with the guaranteed rights and freedoms of citizens to enable the effective prosecution of crime. The study therefore focuses on achieving an effective balance between these aspects when formulating and using instruments to detect and prosecute organised crime.

Because the most effective way of combating all forms of profit-oriented organised crime is to employ measures and instruments that directly identify, secure and seize the proceeds of crime (and identify non-standard economic activities in time, prevent anonymous transactions and the anonymization of the owners of illegally gained assets and their transfer), the study also points out certain ways of concealing and anonymising assets and the related concealment of the real ownership structures of business companies.

The research project was conceived as a follow-up to previous ICSP research largely carried out in 1997 and 2010.

The aim of the research was to formulate proposals de lege ferenda, after analysing and determining the effectiveness of the listed legal instruments for their more effective application, to produce the opportunity to use them in the ongoing recodification of the Criminal Procedure Code.

Methodology

Due to the limited ability to gain better understanding of the phenomenon of organised crime based on its very nature, the following research methods and techniques were used:

- analysis of existing relevant legal regulations relating to organised crime.

- expert inquiry carried out using both written questionnaires and direct interviews of police specialists dealing with the detection and investigation of cases with elements of organised crime. Questioned experts mainly included staff from the Bureau of Criminal Police and Investigation Service with nationwide jurisdiction, plus the General Directorate of Customs and Military Police Headquarters.

Public prosecutors working at the level of Supreme, High and Regional Prosecutor's Offices and judges from the High and Regional Courts were also approached as part of this investigation on the application of criminal law instruments.

- secondary analysis of sources – professional literature, materials from the Ministry of the Interior and Ministry of Justice of the Czech Republic and other open sources.

The results of the research are mainly addressed to the police and judicial representatives, but in a broader sense also to public administration and politicians. In a wider social context, the results can be used to design policies in the field of serious crime, in particular organised crime, and serious economic crime. Based on the nature of the research findings and recommendations, the results may also be used in the legislative process to amend relevant legal regulations.

Key problems of interest

Problems identified as key issues, especially in terms of increasing the effectiveness of police instruments for combating organised crime were analysed in detail, in particular the possibility of speeding up the authorisation mechanism for wiretapping and recording telecommunications (including terminological definition) and a proposal to define the institute of informer fundamentally and newly. Finally, given the current trend in organised crime and efforts to establish itself in the legal economy, the study also evaluates certain existing instruments for sanctioning organised crime in the economic field and the adoption of appropriate new measures.

Proposals de lege ferenda

Informer:

- to create a new institute for the documentation of criminal activity for (*exhaustively*) defined crimes as another operational investigative tool under Section 158 b of the Criminal Procedure Code with the "*use of a confidant*" (i.e., a civilian obtained ad hoc in a case, who knowingly cooperates with the authorised police authority for the purpose of clarifying specific criminal conduct in specific criminal proceedings, operating in a documented criminal environment on which he/she can testify as a confidential witness pursuant to Section 55 (2) of the Criminal Procedure Code, and to lay down the rules for his/her authorisation to do so – authorisation mechanism, protection of identity, immunity, reward, etc.)

Wiretapping and recording telecommunications:

- permit the use of wiretaps with the consent of the public prosecutor on the condition of a parallel authorisation regime pursuant to Section 88 of the Code of Criminal Procedure;

- define the nature of data that can be collected under this institute;
- create new criminal procedural institutes that reflect the specificities of electronic communication.

Economic field:

- Create an information system that records indicators related to the anonymization of assets and the ownership structures of legal entities.
- Extend the principle of transferred tax liability to suppliers and for domestic transactions.
- Implement the certified procedure for the application of "Methods of Comparison Evidence" in the Czech Republic.
- Create a legal instrument to secure yields from unknown sources and place them beyond the reach of the owner/holder until the source is identified or the source is identified by the owner/holder.

Original translation by: Presto

Budka, I. (2017). *Využití právních nástrojů pro potírání organizovaného zločinu*. Praha: IKSP.

http://www.ok.cz/iksp/docs/444.pdf

VI.3 Cybercrime from a Criminological Perspective

Jiří Vlach, Kateřina Kudrlová, Viktorie Paloušová

Introduction

Today's society is virtually unimaginable without digital technologies. They permeate our everyday life as a simple matter of course: mobile phones, e-mails, social networks, online news and shopping, from smart homes to smart cities. Above all, they are being slowly, but surely joined by more and more connected devices, giving rise to the term "Internet of Things". The number of connected households has continued to grow, while the use of the internet has gradually penetrated all age groups.

Cyberspace thus means much more than mere virtual reality or a parallel world only accessible to the young or technically proficient. It's already become an integral part of everyday reality, though more its emanation than a separate part. Nevertheless, it has certain characteristics that significantly affect "movement" and communication within its framework compared to the real environment: in particular, constancy (someone is always online), limitlessness (the internet knows no boundaries) and the absence of physicality (nonverbal elements of communication). However, we must not overlook the specifics at social (especially social networks), technological (e.g. the specifics of crypto-currencies), control (e.g. content regulation) and economic (including online trading orinternet banking) level.

Nevertheless, the development of technology and cyberspace has progressed hand-in-hand with the advent of associated crime – cybercrime. This includes both "traditional crime in a new guise" and completely new forms of crime that are unthinkable without a virtual environment (typically malware). We can be content with its definition as crime using information and communication technologies, although a number of other, more expansive definitions can be found. On the other hand, there are various classifications, most often based on the Convention on Cybercrime or crime enabled or facilitated by the use of information and communication technologies, or typologies grouping certain offences (e.g. online sexual abuse, the black market, etc.). Although each has its advantages and disadvantages, following the findings of our analysis of criminal files, we offer a different form of classification, namely virtual violence (threats, denied access to social network accounts, defamation, etc.) and online financial crime (and others).

Whether we stick to data and reports published in the Czech Republic or look further around the world, a continuing upward trend in cybercrime is evident and its range is varied. It includes various criminal offences such as fraud, violating the confidentiality of private documents and other papers, damaging or threatening the operation of public benefit organisations, etc., but especially so – called computer crimes (Section 230–232 of the Criminal Code, formerly Section 257a of Act No. 140/1961 Coll., the Criminal Code). From the very beginning of their criminalisation, we have seen a rapid increase in detected attacks, not to mention considerable latency. Despite the increasing number of solved cases, the range of offences is far from covered, so the clearance rate in recent

years has remained at around one third. The situation in terms of judicial statistics seems only slightly better, with the number of convicted offenders to those prosecuted wavering at over one half, and around three quarters to those accused.

Basic data on cybercrime can be found in statistics, especially a combination of police and judicial statistics, with the addition of summary data from the Czech Statistical Office. Attention is usually focused on computer crimes, due to the difficult, or virtually impossible separation of cybercrime, e.g. fraudulent conduct collectively classified under Section 209 of the Criminal Code.

Certain information on the extent of cybercrime in the Czech Republic can also be gleaned from other research projects studying the online environment, although these mainly focus on phenomena other than cybercrime, particularly cyberbullying, child sexual abuse, social networking and in recent years, fake news. The picture is complemented by various research projects (only marginally dealing with cybercrime) and ad hoc or regularly published reports by various institutions and organisations (e.g. National Cyber and Information Security Agency). Of course, professional literature also deals with the issue; in the Czech environment, the work of V. Smejkal, J. Kolouch, R. Polčák and T. Gřivna, or teams led by them, is particularly noteworthy. Finally, there are also a number of professional conferences and similar meetings, especially the annual Cyberspace conference in the Czech Republic.

The project and its implementation

The Institute of Criminology and Social Prevention responded to the growing importance of cybercrime with the research task "Identification and Assessment of Types and Trends of Crime Committed via the Internet (Cybercrime) or Other Social Networks". The subject was selected forms of cybercrime in the Czech Republic and public experience with these crimes. The project was aimed at acquiring, analysing and evaluating new information about the prevalence of selected forms of cybercrime, offenders and their criminal activities, together with the acquisition, analysis and evaluation of information on public awareness of potential threats in cyberspace, their own experiences with cybercrime in the role of victims or offenders and self-protection measures. This is the first research project in the Czech Republic examining cybercrime through an analysis of court files, which goes beyond case studies and published statistics and aims to obtain statistically processable data that can be compared over time.

The first step was a study of national and foreign professional literature and relevant official documents, including legislation and available case law. This was followed by an analysis of judicial and police statistics. We then approached the core part of the project – studying selected criminal files and analysing the findings. These became the basis for the focus of the questionnaire survey for the general internet population, or respectively a representative sample of internet users aged from 16–74, the results of which will be published separately. We supplemented this data by consulting with selected experts (police officer, two IT specialists, including an employee in critical infrastructure). Partial results of the project were continuously presented in print form, online and in person, especially in the form of conference presentations.

For the analysis of criminal files, we selected proceedings in which an indictment was filed for the commission of a computer crime (in all cases this was unauthorised access to computer systems and information media pursuant to Section 230 of the Criminal Code, or in conjunction with another computer crime), which ended with a final verdict with legal force in 2015. We ultimately had 66 criminal files (out of a total of 71 cases) involving 68 accused. This number is on the threshold of statistically relevant data, but constitutes virtually the complete relevant judicial agenda for 2015.

The analysis of criminal files took place by searching for and recording monitored variables on record sheets. Fifty items were monitored this way, primarily comprising basic data about the accused (and marginally on the victims), the crime itself and the course of criminal proceedings. Most data included the accused, i.e. offenders, as well as those whose prosecution ended with a verdict other than conviction. We monitored general data (e.g. the court that issued the decision on the merits of the case), information on the legal assessment of the offence (e.g. qualification, concurrence, etc.), the final decision in the case (including the sentence imposed), the course of criminal proceedings (especially the length of individual stages of proceedings), the accused (sociodemographic data, previous criminal activity, etc.), the offence as such (especially the manner it was conducted and the platform used, the offender's motivation, data on victims, the damages caused, etc.).

Selected results

The analysis of criminal files provided lots of interesting information, albeit subject to its limited indicative value in view of the low numbers and expected high latency. Computer crimes are usually decided by a district court; in about two thirds of cases, the offender acted in concurrence with another offence (mainly of a financial/economically motivated nature). In one quarter of cases, the court acquitted the defendant or discontinued proceedings; convicted offenders were most often sentenced to imprisonment, which was conditionally suspended.

Unconditionally convicted offenders included a group of younger recidivists (aged 24–35), against older first-time offenders (aged 41–58), who abused their job positions to gain unauthorised access to non-public information systems. On the other hand, for example, offenders sentenced to community service by the court committed acts of virtual violence (mostly for revenge or out of jealousy), at an age not exceeding 22 (the stated age corresponds to the moment criminal proceedings commenced in all cases).

In less serious cases, where there was no doubt of the facts, and the matter could therefore be decided by a single judge who issued a criminal order, the vast majority of cases involved the manipulation of data (deletion, modification, insertion of third-party data). The offenders mostly attacked people from their immediate surroundings (80%), or in connection with their employment (colleagues, employers 21%).

An interesting category was the 27 proceedings involving offences without concurrence, where the court imposed a penalty solely for computer crime. In all cases, this was unauthorised access to a computer system and information media (Section 230 of the Criminal Code, without distinction between the first and second paragraph). The court convicted 18 offenders, 14 of whom received a prison sentence (on average 6

months), which the court conditionally suspended. The proceedings lasted an average of 1.4 years, while pre-trial proceedings were usually a bit longer. In about one half of cases, the offenders abused access to information technology (physical access to, for example, a laptop or knowledge of someone else's password).

Criminal proceedings lasted an average of 1.5 years (74 days to almost 5.5 years); 90% of cases were completed within 2.5 years. Pre-trial proceedings took an average of 0.8 years (4 days to 3 years), and trial proceedings 0.7 years (17 days to 4 years). The use of remedies probably played a role in this respect (they were duly used in about one quarter of cases), while concurrence with other criminal activity, for example, did not. The total length of proceedings correlates slightly more with the length of trial proceedings than with the length of pre-trial proceedings, with the duration of pre-trial proceedings prevailing in most cases resolved within 2 years.

In cases pending for more than 3 years (n=7), offenders, with an average age of 43 and economically motivated interests with the exception of one case, abused their access to an information system, thus most often damaging their employer (and possibly the subjects of attacked personal data).

The most numerous group were accused under the age of 24, in the range of 17–58, with an average age of 34, almost half are under the age of 30. Approximately 40% of accused were in a marital or similar relationship at the time criminal proceedings commenced. Ten accused committed their offences in connection with their position as a public official, including five members of the Police of the Czech Republic. Of the total of 26 recidivists, there were only two with special recidivism involving computer crime (in both cases the misuse of someone else's e-mail and so-called m-payments using mobile phones and social networks).

One fifth of accused were women, half of whom were aged 35–49 (in the range of 19–56, with an average age of 38). Two thirds of them had a high school diploma or higher education (more than one half of accused men were less educated). Similarly, the court convicted two-thirds of accused women, the most frequent sentence being a suspended prison sentence. Thus, a smaller percentage of women were convicted than men, however, imposed sentences were on average longer. Compared to accused male recidivists (30%), female recidivists accounted for about one third, approximately 13% of accused women. While offences committed by accused men and women can be described as virtual violence in about one half of cases and financial crime in the other half, this ratio changes to (only) 30% virtual violence when looking at convicted female offenders.

Accused can also be divided into roughly half based on an age limit of 30; the younger half of accused had only basic education at the time of criminal proceedings. Compared to an approximately 50% share of recidivists in total crime in 2015, we only found one third of recidivists among younger accused, and only one fifth in the older category. Therefore, cybercrime seems to be the domain of first-time offenders. The court more often imposed a secondary sanction with the main sentence in the case of older offenders, usually in form of prohibition of activity.

Exactly one half of accused had at least a high school diploma (including one third of women), of whom one third had a university degree, while all university graduates had

hitherto clean criminal records. Among less educated defendants, about one half had previous experience of crime.

In more than one third of cases, the accused were suspected of misusing access to information and communication technologies provided in connection with their employment or through the trust of the victims. In almost one fifth of cases, the accused were suspected of misusing another person's login data to various accounts (mainly social networks and e-mails, as well as internet banking). Similarly, they often found login data somewhere (e.g. stored on a computer, written on a piece of paper). The use of technical means was minimal. The weakest points of protection thus include physical security, as well as the protection of e-mails, profiles on Facebook and information systems accessible to employees. Of personal data, the most widely misused are passwords.

Offences can again be roughly divided in half into virtual violence and financial/economically motivated crime, where this division cuts across various different categories, including age and education. We find differences, for example, when taking into account the position of a public official (all but one pursued financial interests) or concurrence (in three quarters of cases the accused acted concurrently with financial interests, but only in half of virtual violence). More specifically, in 40% of cases, the offence was an attempt to improve the accused's financial situation and in 30% a consequence of a complicated relationship situation (other forms – such as a prank – were less common). For example, offenders posted intimate photos of the victims, accessed their accounts on social networks and e-mails without authorisation, or contacted other people on their behalf, etc. We expect the merits of the classification into virtual violence and financial/economically motivated crime (and others) to be confirmed in the future and enable good research comprehension of this topic. This would be significantly helped, for example, by the inclusion of the online environment in publicly accessible registers of statistical data.

For offences with financial interests, in one half of cases access to information and communication technologies was misused. Three type groups are worth mentioning – mostly educated people without criminal records: members of the Police of the Czech Republic who abused access to police information systems; "resourceful women" who abused their position at work to resolve their poor financial situation; and "data moguls" who misused client's personal data from their employer's information systems. Other groups with financial interests include "geeks" who abuse their skills in information and communication technologies to access a specific device or information system, and "online thieves" who obtain login data to the various accounts of victims (from their immediate surroundings) through which they gained access to funds.

In contrast, in virtual violence (where the accused knew the victim in 90% of cases), we only find two type groups, namely "avengers" and "jealous people". Jilted avengers, younger men (on average 26 years old) without previous criminal records, harmed their former partners through slander, online attacks, misusing their social media accounts, etc. Jealous attacks targeted past and present partners and harmed them in the same way as avengers, but they also sought control of their victims. In both groups, offenders misused victim's passwords or devices that they learned or used during their relationship.

Both natural and legal persons were injured parties in proceedings. In three quarters of cases there was only one victim, with 2–5 individuals in the remainder, except for 4 criminal proceedings, where there were dozens to hundreds of victims. The offenders committed up to 782 attacks (partly unsuccessful) and in 40% of cases caused financial damage in the amount of CZK 1,200 to CZK 27 million. Non-pecuniary damages were reported in 70% of cases, but were only quantified in one case. In just under two thirds of cases, the accused knew the victims personally (in one third this was their current or former partner, one fifth were simply acquaintances and one tenth were relatives) and one third attacked their employer (current or former).

Accused in an employment or in a service relationship to the injured party were slightly older, averaging 38 (21–56) years of age. Among the 23 accused in this context, seven were civil servants (three social workers, four members of the Czech Police). Offences took many forms. For example, a social worker drew social benefits instead of deceased clients; a bank employee set up loans to her benefit using the personal data of fictitious persons (with the highest damages of CZK 27 million and longest sentence of 9.5 years in prison); a member of the Czech Police provided information on ongoing criminal proceedings for payment. In other cases, for example, there was the corruption of data in a company database or data transferred to competitors.

Recurring phenomena included e-mail attacks, from simply viewing the contents to their manipulation or taking over the identity of the mailbox owner (communicating on their behalf). E-mails contain a wide range of important information: e.g. the mailbox owner's contacts or part of their daily schedule, and especially the contents of the communication itself, often including login details for other applications, particularly social networks, or serving as the contact e-mail for restoring access. E-mails played a significant role in about one quarter of cases and included virtual violence (e.g. searching for infidelity or communicating on behalf of the victim) as well as financial interests (e.g. changing billing information or forwarding e-mails to competitors). As a rule, such actions were facilitated by the victims themselves, who did not sufficiently secure their passwords. These were simple (e.g. the name of the attacked institution), physically accessible (e.g. stored on a borrowed laptop), unchanged (misused by a former employee after the termination of their employment or a partner after a breakup), or easily recoverable for offenders (e.g. thanks to a simple security question).

As part of the project, we also examined the specific issue of cyber-grooming, establishing contact with children in the online environment for the purpose of their sexual abuse. Offenders contact the victim, maintain sexually oriented communication with them, build emotional addiction, lure intimate content from them (especially photos and videos to pornographic material) and then blackmail and threaten to obtain more such content, or force the victim to meet in person and engage in sexual activities of a physical nature. Such conduct has therefore been criminalised (among other things) since 2014 under the establishment of illegal contact with a child (Section 193 b of the Criminal Code). The number of convicted cases (mostly first-time offenders and more often under the age of 30) has since increased to 45 convicted offenders in 2019, with their characteristics and modus operandi roughly corresponding to those presented in professional literature.

We also conducted three semi-structured interviews with selected experts (a member of the Police of the Czech Republic and two IT employees, including one involved in critical infrastructure). They all talked (on their own initiative) about ransomware, at least two of them agreed on other topics such as fraud in international trade, child pornography, infrastructure weaknesses (especially local network and server security), social engineering (in relation to, among other things, employees), data collection by large corporations, risks due to neglected updates, the use of cloud services and of course the topic of employees as a potential risk and the human factor in general (especially carelessness associated with login data): "the biggest threat is from users in the local network." They also mentioned the issue of detecting and sanctioning offences given the transnational nature of the internet and related phenomena such as difficult law enforcement or organised crime. They also focused more attention on cryptocurrencies and, to a lesser extent, fake news. In particular, they consistently recommended regularly updated protection/security software and education, ensuring that typical and current cases receive appropriate publicity and training employees and ordinary users in the field of security of information and communication technologies (with an emphasis on caution relating to login data).

The last part of the project is a questionnaire survey, which will be reported separately. This publication presents an outline of cybercrime research relevant to the Czech Republic, the methodology (selection of respondents and method of questioning) and individual areas covered by the questionnaire in more detail (self-protection by users of information and communication technologies, the degree of their victimisation by selected phenomena and their experience in the role of offender, including consideration of activities and devices related to employment).

In conclusion, we reflect on some of the shortcomings or weaknesses of the ending project (e.g. narrowing the analysis of criminal files to computer crimes and their number), on findings that would perhaps deserve more attention (e.g. younger recidivists compared to older first-time offenders), our own considerations (e.g. the classification of cybercrime into financial/economically motivated crime and virtual violence) and, last but not least, the focus of any future project (especially the continuing analysis of criminal files).

Original translation by: Presto

Vlach, J., Kudrlová, K., Paloušová, V. (2020). *Kyberkriminalita v kriminologické perspektivě.* Praha: IKSP.

http://www.ok.cz/iksp/docs/463.pdf

VI.4 Hate crimes and their perpetrators

Jakub Holas, Eva Biedermanová

Introduction

For quarter of a century, "extremism" has been of considerable interest to the media, criminal justice authorities, political scientists, civil activists, and (to a limited extent) criminologists in this country. Public attention, particularly in the 1990s, was drawn by the activities of far-right skinheads, whose attacks on minorities (primarily the Romani community) and other citizens often resulted in serious consequences, and even deaths. Over time, this wave subsided and state authorities learned to deal with this phenomenon. Specialised police units were established, legislation was changed, and the academic community began to examine this issue. Even political extremists from both sides of the spectrum modernised their approach, the far-right abandoned its skinhead styling and its criminal activities shifted, for the most part, to the promotion of banned movements in the seemingly anonymous environment of the internet.

However, **extremist movements** / conduct / motives, etc. are very vague concepts, which relates to the lack of a unifying definition of extremism as a social threat. It is viewed by our security institutions as any activity that goes against basic democratic constitutional principles. This view is close to the German concept of politically motivated crime, where extremism is principally understood as crimes against the government, democratic principles and the constitutional order.

Extremism as a phenomenon is a mixture of activities extending from organised political anti-system activities (ranging from propaganda to terrorism) to ordinary street crime with a possible ethnic subtext. The complexity of the concept presents a number of contentious situations in criminal proceedings, which make it difficult to judge whether an act can be considered an extremist crime.

It is clear from the above that monitoring, reporting and comparing the level of such motivated crime is, at best, extremely difficult.

In the "Report on Extremism" published by the Czech Ministry of the Interior, police statistics use the term "crimes with an extremist subtext", while judicial statistics use the term "crimes with a racial subtext"; in addition, the police also record crimes with anti-Semitic subtext as a separate subgroup. The Supreme State Prosecutor's Office uses the term "crimes committed for racial, national or other hate motives" in its report.

In recent years, the most commonly used term for the complex of offences motivated by enmity (hatred) towards a particular group difference is "bias-motivated crime" or "hate crime" for short.

The concept of Hate Crime

And it is precisely hate motives that are at the heart of the concept of "hate crime", which originated in the USA several decades ago. At the heart of this school of thought is an emphasis on harming an individual or group that exhibits some collective difference that is the subject of bias (prejudice). Initially focused on violent attacks against ethnic and religious minorities (especially anti-Semitic attacks), this approach gradually extended to encompass other victimization factors. The motives that lead perpetrators to commit a hate attack are usually skin colour, ethnicity or nationality, sexual orientation, political or religious beliefs, homelessness; more rarely, affiliation to a marginal social group, age or disability.

Verbal attacks ("hate speech") constitute a separate category.

A discussion on this topic was opened in the Czech security community with a paper written by Miroslav Mareš from Masaryk University in Brno, which he wrote at the request of the Security Policy Department of the Czech Ministry of the Interior. In it he concludes that "to comprehensively move to an approach other than the concept of extremist crime would mean a serious intervention in the existing system, which has proved to be basically functional (despite certain shortcomings and attributes that can be improved)".

In 2012, an analysis of perpetrators convicted of violent extremist crimes was prepared for the Security Policy Department of the Czech Ministry of the Interior. A sample of approx. 170 offenders (from case files) showed that the majority were convicted of minor bodily harm and violence against a group of individuals, very often under the influence of alcohol. It should be stressed that the above analyses concerned the perpetrators of violent crimes with extremist motivation, which does not correspond to the overall composition of convicted offenders.

There is no other research of this type in the Czech Republic. The personality traits of these perpetrators are based on either speculation or small, randomly collected samples, usually in student papers (the authors of which are often studying members of the Czech Police force). Another source of information on offences motivated by prejudicial hatred is the output of the NGO In Iustitia. This is based on its own research centred on clientele from among the victims of hate crime who have contacted the organisation. According to the definition used by this NGO, ahate attack is "a symbolic attack against an individual that is not based on the perpetrator's interaction with that particular person, but on his or her prejudices and intolerance of the group the attacked person represents."

Subject and aim of the research

The subject of the ICSP study was crimes motivated by racial, ethnic, national, religious, social or similar enmity in the Czech Republic in the reference period. The primary objective of the research was to gain new criminological knowledge about "extremist" crime and its perpetrators in the Czech Republic. And further, to map the means used to punish these perpetrators and, where appropriate, the preventive measures used prior to the commission of the crime. Specifically then, to clarify the composition of these crimes

and their types (especially violent, dehumanising and "promotional"). The perpetrators of these crimes were identified in this context, together with the individual measures taken to protect society from this type of crime.

Research methods

The first step was an analysis of statistical data from the records of criminal justice authorities (official statistical reports, the system of statistical crime sheets for the courts and public prosecutors). A literature search was conducted to obtain an overview of the current state of knowledge in the area under study.

The primary method was an analysis of relevant documents - criminal files, judicial expert opinions (in the fields of psychiatry, psychology and political science), anonymised extracts from the criminal records database, etc. - in order to obtain detailed information about "hate" crime and its perpetrators.

The social, personality, educational and, where appropriate, subjective motivation of the offenders was studied; last but not least, we examined the significance of the offender's intoxication, criminal career and recidivism, imposed sanctions/measures and their impact, together with available data on the victims of these crimes (if there was a real victim).

The ambition was therefore to analyse the files of all those convicted of the selected offences in the reference period. This means for both straightforward "extremist crimes" (specific or qualified definition) and for those where "hatred" was found to be an aggravating circumstance.

Sample

A fundamental step in researching Hate Crime was to describe and define the criminal conduct a person must commit in order to be labelled as the perpetrator of a "hatecrime".

The empirical part of the research consisted of an analysis of data on the criminal activity and criminal history of the perpetrators of Hate Crime. As we were working with data sources with data on certain criminal activities, broken down according to their criminal qualification under a special part of Act No. 40/2009 Coll., the Criminal Code, it was necessary to specify our requirements according to relevant sections of the Criminal Code. As a result, we established a legal definition of the term "hate crime" and included the following offences under Act No.40/2009 Coll. in this category:

Section 352 (2) Violence against a group of people or against an individual
Section 355 Defamation of a nation, race, ethnic or other group of people
Section 356 Incitement of hatred towards a group of people or suppression of their rights and freedoms
Section 403 Establishment, support and promotion of movements aimed at the suppression of human rights and freedoms
Section 404 Expression of sympathies for movements seeking to suppress human rights and freedoms

Section 405 Denial, impugnation, approval and justification of genocide
Section 145(2)(f) grievous bodily harm
Section 146(2)(e) bodily harm
Section 175(2)(f) extortion
Section 329(2)(b) abuse of public office

The basic sample for analysis constituted a population of individuals tried for the aforementioned criminal activity in the Czech Republic. Using search criteria, we generated a set of anonymised statistical crime sheets for individuals[3] (SCS) on closed criminal cases for crimes motivated by racial, national or other hatred in 2015-2018, i.e. a period of four years, from the CSLAV judicial database. This included individuals who had been tried in the Czech Republic for any of the crimes corresponding to our definition of hate crime in the reference period. This included cases where the perpetrator was convicted, as well as those where he/she was acquitted or the criminal proceedings were concluded in another manner. In total, the core sample included 500 individuals.

We decided to use at least the same volume of hate crimes as the annual incidence of this crime in the Czech Republic to determine the size of sample (i.e. research group). The average number of defendants in the reference period (2015-2018) was about 125 per year according to judicial statistics. Police statistics report an average of 185 individuals prosecuted or charged with similar crimes annually over the past 15 years.

Subsequently, criminal files covering the activities of 155 defendants were requested from individual courts according to established file markers. The analysis therefore focused on lawfully concluded cases.

Basic findings

Gender of perpetrators

Of the total number of individuals prosecuted or investigated in the Czech Republic in 2019, 82.2% were men and 17.2% were women. The proportion of men is significantly higher at 93% in the case of hate crime. Monitored crimes motivated by racial, national or similar hatred, were predominantly committed by the male population. Only 11 women were included in the sample, i.e. about 7%.

Recidivism

These were largely individuals who had a criminal history. In total, approx. 60% (93 individuals) had been lawfully convicted in the past, of whom about one third (32 individuals) were given prison sentences and the remaining two thirds suspended sentences. Nine individuals had previously committed minor offences (misdemeanors).

3 As a rule, statistical crime sheets are completed by the court after a decision in criminal proceedings has become final, for each accused individually.

Addictive substances

The presence of alcohol and other addictive substances was clearly an important contributing factor in committing this type of crime. This risk factor was not found in only about one third of cases (37%). 64% of men (out of 144 individuals) and 27% of women (out of 11 individuals) committed crimes under the influence of alcohol or a combination of drugs and alcohol. Overall, about 61% of our sample committed crimes while under the influence of alcohol or a combination of drugs and alcohol. The remaining less than two percent of cases were due to the presence of drugs and medication.

Age of perpetrators

In terms of age, the perpetrators of hate crime also differ from the average age of perpetrators of overall crime in the Czech Republic. Above all, there is a significantly larger proportion of individuals between the ages of 20 - 29. According to the cited Analysis of Trends in Criminality, 31% of offenders in the Czech Republic are in this age category, while this share is almost half for the monitored criminal activity. More than 56% of the individuals in our sample were between the ages of 19 and 30 at the time of the offence. In contrast, the number of individuals over the age of 40 is significantly lower than for the criminal population as a whole. There were 7 juveniles among the perpetrators of hate crime, i.e. 4.5%.

Social status

Less than half the individuals in the sample were employed (permanently or at least occasionally), 30% were unemployed, less than one tenth were students, and 7% were retired or disabled. Four were mothers on maternity leave and the same number were already serving sentences for other crimes at the time of their conviction.

Previous convictions of the offender

For the most part, the research sample consisted of individuals with a criminal history. In total, 60% (93 individuals) had been lawfully convicted in the past, of whom about one third (32 individuals) were given prison sentences and the remaining two thirds suspended sentences. Again, this characteristic sets the perpetrators of hate crime apart from the norm - repeat offenders accounted for less than 40% of offenders in 2020, and the proportion was usually less than half in previous years.

Supporter of extremism

For the purposes of analysing the sample of hate crimes, we created the working criminological category "supporter of extremism". In short, the question was whether the individual represented in our sample of defendants had already profiled as a person inclined to extreme political concepts before the crime. Given the nature of the acts committed, these were always supporters of the far-right.

With such a restrictive definition, we identified one-fifth of the individuals in our sample as demonstrably identifying with the far-right. Another fifth were individuals

for whom this ideological orientation can either be assumed (e.g. based on their criminal history, personal ties, etc.), but with no further basis for this classification, or who have been associated with extremist entities in the past.

"Racist" is an ad hoc criminological category; it has been applied in cases where, in all likelihood, the perpetrator is not and has never been a supporter of any far-right movement or ideological trend. These defendants, making up approximately one-tenth of the sample, committed their crimes precisely because of their ingrained hatred of other races or ethnicities.

We should add that 12% of the individuals in the sample were struggling with psychological problems; half suffering directly from a psychological disorder.

Ethnicity / nationality of the perpetrator

As the specified crimes are motivated by racial or national enmity, it is important to note the national and/or ethnic composition of the perpetrators at this point. Perpetrators were largely represented by the national majority. The next largest segment of individuals accused of committing hate crimes were Romanis (20 individuals). The number of female perpetrators of Romani origin was statistically significant - 7 out of a total of 11 women in the sample, which represents almost 2/3 of all women accused. In total, Romani offenders make up 13 % of the research group.

Victims

A closely related variable is the ethnicity of the victim. Crimes where a specific victim could be identified were committed by two-thirds of offenders in the sample. Given that they are the most numerous national minority in the Czech Republic, Romani people were the most frequent victims of hate crimes in this country, accounting for half of all victims. The remainder are ethnic Czechs (roughly one-third) and foreigners of European origin who have been attacked due to prejudice against their nationality (6%), as well as a few members of non-European ethnicities.

Basic typology of offences

- strictly verbal offences; this includes both targeted insults - both direct and in written form (most often on social media); slogans and speeches promoting hate organisations and ideologies. These were committed by 40% of the offenders in the sample.

- offences that combine both verbal and physical components; these were as numerous as verbal aggression. These typically begin with verbal aggression that escalates and is immediately followed by a physical attack.

- several perpetrators committed a physical assault that was not accompanied by verbal aggression. Nevertheless, a motivation for this offence must have been found that ensured its classification as bodily harm motivated by hate (pursuant to section 146(2)(e) of the Criminal Code).

- arson attacks are a special category (two attacks committed by three individuals).

The most frequent offences are insults in public (28% of offenders), followed by physical assault of an unknown person (21%) and giving the Nazi salute in public (16%). 19 perpetrators (12%) committed their crimes via the internet, either through the general promotion of movements aimed at suppressing human rights and freedoms, or through attacks against specific public figures.

Offences for which offenders were convicted

Undoubtedly the most frequently committed offence was disorderly conduct (Section 358(1) and (2)), often under the influence of alcohol and in conjunction with other offences. This section was cited in the verdict of 54% of offenders. However, if we focus on typical crimes committed for racial, ethnic or other hate motives, in which the hate motive is included directly in the definition of the offence, the most common offence for which individuals in our sample were convicted was defamation of a nation, race, ethnic or other group (Section 355), for which one-third (51 individuals) of our sample were lawfully convicted; this was followed by the offence of expressing sympathy for a movement aimed at suppressing human rights and freedoms (Section 404) - also committed by one third of the sample (50 individuals). This was followed by the offence of violence against a group of people or an individual (Section 352 (2)), committed by more than one quarter of the defendants. The offence of inciting hatred towards a group of people or suppression of their rights and freedoms (Section 356 (1) and (3) (a) was committed twelve times.

The hypothetical pinnacle of truly "extremist" criminal activity is the establishment, support and promotion of movements aimed at the suppression of human rights and freedoms (Section 403), which was committed by 7 individuals (4.5%). This is proof that real political extremists are rarely caught up in the mechanisms of criminal proceedings.

Form of court decision

With regard to the form of sentencing, two thirds of offenders were sentenced by criminal order and only 27% were convicted. Seven defendants (4.5%) were acquitted for various reasons.

Type of sanctions

Of the sample of 155 accused, 141 were sentenced (after appeals). A suspended sentence was by far the most frequently represented sentence (54% of convicted offenders); thus, together with 13% of suspended sentences with supervision by a probation officer, almost seven out of ten offenders received suspended prison sentences. 21 offenders (15%) were sentenced to community service and only ten were sentenced to a financial penalty. Unconditional sentences only concerned previously convicted individuals, in most cases on parole (which was violated by the offence in question).

The most common sentence was between 7 and 12 months (41% of prison sentences), followed by correctional sentences of up to six months (15%). Only ten offenders were sentenced to more than two years, with the longest sentence being 66 months of unconditional imprisonment. It must be added, however, that in the case of higher sentences, these were always cumulative sentences for other crimes, plus conversions of previous conditional releases (paroles), etc.

Interestingly, mediation was only used in one case.

Conclusions

Half the perpetrators of hate crime in the Czech Republic are extremists or programmatic racists. The most frequent crimes are a combination of verbal and physical assaults with racial motivation, qualified by the court as defamation of a nation, race and beliefs in combination with disorderly conduct. Physical assaults were mostly carried out without weapons and, with few exceptions, had no serious consequences to the victim's health. We see a significant shift in this from the period about twenty years ago.

There was a high proportion of younger offenders, almost half of them unemployed. Very often they committed their offences under the influence of alcohol. These characteristics are reminiscent of the profile of perpetrators of violent crime. In contrast, criminal activity on the internet was mostly committed by first-time offenders, often elderly offenders, most often in the form of hate speech in Facebook discussions. Their hatred was directed against ethnic groups (especially Romani people and immigrants) in general, as well as against specific individuals.

In the cases analysed, expressions of hatred were almost exclusively directed towards the race, ethnicity or nationality of the victim, with only two cases involving political beliefs. There were no cases of assault on the grounds of sexual orientation or gender identity, or on the grounds of disability. It should be noted that sexual minorities are not explicitly listed as a group in the definition of hate crimes in the Criminal Code. Attacks against these individuals can only be punished as incitement of hatred towards a group of people or suppression of their rights and freedoms. Moreover, human rights activists point out that research shows that members of the LGBTQ+ community almost never report attacks on their identity.

The most common sanction for perpetrators of hate crime was a suspended sentence, much less often community service. Financial penalties, which have been called for more widely in recent times, were only imposed sporadically. This is probably due to the fact that only a small number of offenders were gainfully employed at the time of criminal proceedings, while even working offenders were generally in the lowest salary brackets and/or paying off other debts.

Criminal activity with extremist and prejudicial motivation is a complex phenomenon that is difficult to grasp both by definition and interpretation, as well as statistically. Proving intent and hate motivation is difficult for police and judicial authorities, so other classifications are sometimes used and these offences are not reflected in hate crime statistics. Although individual statistics show different figures, the fact remains that hate motivated crime represents a small percentage in terms of quantity. Reported hate crime represents about 0.8 percent of the total annual crime rate in the Czech Republic. Of course, an important issue is the question of latency, estimates of which vary significantly depending on the type of source. However, there is no denying that this a very dangerous phenomenon for the social environment and for public trust in the state. The victims of these crimes bear the complex and long-term consequences of their victimisation.

Original translation by: Presto

Přehled titulů vydaných v edici Institutu pro kriminologii a sociální prevenci od roku 2012

Ediční řada Studie:

2021

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Research on Crime and Criminal Justice in the Czech Republic
(selected results of research activities of IKSP in the years 2016–2019)

Editor: Jakub Holas
Publisher: Institute of Criminology and Social Prevention
Nám. 14. října 12, Prague 5
Czech Republic
Design: addnoise.org
Typography: Metoda, s.r.o.
First edition, November 2022

www.kriminologie.cz
ISBN 978-80-7338-198-1