

INSTITUTE OF CRIMINOLOGY AND SOCIAL PREVENTION

**SELECTED RESULTS OF RESEARCH ACTIVITIES
OF ICSP
IN THE YEARS 1999 - 2002**

This publication contains basic information on selected research projects
of the Institute of Criminology and Social Prevention completed
in the years 1999 - 2002

Editors:

PhDr. Miroslav Scheinost

JUDr. Zdeněk Karabec, CSc.

Bc. Miroslav Zvelebil

Translated by: Marvel

Prague 2003

ISBN 80-7338-017-X

© Institute of Criminology and Social Prevention

www.kriminologie.cz

CONTENTS

Introduction – Institute of Criminology and Social Prevention	1
Social causes and consequences of organised crime	3
Sentencing policy and criminological aspects of short-term prison sentences	10
Criminological and legal aspects of extremism	16
On the problem of religious sects in the Czech lic	21
Socio-pathological aspects of drug abuse among young people in Prague	26
The drug problem in Czech prisons and selected foreign prisons	32
Research into newly introduced probation elements in criminal law	36
Socially pathological manifestations among children	46
Research into the effect of transformation of criminal legislation and application of alternative sentences	53
Probable development of selected types of criminality	61
International survey of victims of criminal activity in Prague in 2000 – National Report	66
Selected criminological and legal aspects of domestic violence	73
Interethnic conflicts as a result of racial hatred	82
Specific aspects of drug abuse among women	89
Professiogram for judges and state prosecutors	94
Legal protection of ethnic minorities in the Czech Republic	104

INTRODUCTION - Institute of Criminology and Social Prevention

The Institute of Criminology and Social Prevention (IKSP) was founded in 1960 and functioned for many years as the research institute of the then General Public Prosecutor's Office under the name of the Criminological Research Institute. It acquired its current name in 1990. In 1994 it came under the competence of the Ministry of Justice of the Czech Republic as an autonomous organisational unit with the status of a legal entity.

The Institute principally conducts studies of manifestations, causes and development of criminality and socially pathological behaviour connected with it, research activities in the criminal law and justice field and questions of sentencing policy and control of crime from the point of view of penal repression and prevention of crime.

In the year 2000 the scope of IKSP activity was broadened to include research projects in the penology field.

IKSP is, in terms of the number of research staff, which is at present about twenty, a medium to large-sized research institution. It is currently the only specialist centre in the Czech Republic that deals systematically with criminological research into the issues mentioned above.

IKSP activity is mainly financed from the state budget. In addition, IKSP may apply for additional resources from grants, foundations and so on; some research projects are also jointly financed from grant funds.

The direction of IKSP research activity evolves from the main tasks of the Czech Ministry of Justice and also takes into account the needs of other Ministries and organisations active in the crime control field, particularly the Ministry of the Interior, the Police of the Czech Republic, the Ministry of Labour and Social Affairs and the Ministry of Education. This traditional group of users has been expanded in recent years to include the Committee of the Republic for Prevention of Criminality and, through this committee, also cities, towns and municipalities participate in implementation of prevention programmes at the local level, as well as other institutions. IKSP is also involved in international cooperation, where it participates in research projects and also in producing documents and reports required from the Czech Republic by UN bodies, the European Union and the Council of Europe relating to its area of competence. Research proceeds in medium-term research programmes which stipulate its main focus and aims, link applied and basic research and consist of specific individual research tasks.

In the years 1998 – 2001, the research programme was directed principally to research into the effectiveness of newly adopted criminal law provisions in the Czech Republic, including organised crime, criminality trends, legal and criminological aspects of extremism, issues relating to drug abuse and research into socially pathological behaviour among young people.

The results of the Institute's research activity are published regularly in the IKSP's *STUDIE* series (in Czech with an abstract in English). However, as this form of publication does not provide sufficient information on IKSP research activity and its results to the European specialist public who may be interested, we have prepared this publication.

Through it we also wish to contribute towards surmounting barriers which existed for many years in the past to mutual exchange of information between criminologists from the former Eastern bloc and other European countries.

This digest contains basic information on the nature and results of 16 more wide-ranging research projects selected from a total of more than twenty projects completed in the years 1998 - 2001. It states the names of the researchers who headed the research teams, the names of research team members, bibliographical data on the studies published and a basic description of the methods used and the results achieved.

**Social causes and consequences of organised crime:
concluding separate study of the “Research into organised crime in the
Czech Republic II” task.¹**

1998 -1999

Researcher responsible: PhDr. Martin Cejp, CSc.

This research on organised crime in the Czech Republic carried out in 1997-1999 followed up systematic research activity conducted by the Institute of Criminology and Social Prevention since 1993. We continued to ascertain the trends in the concept of organised crime, the structure of criminal groups and the occurrence of criminal activities. In addition, we aimed to deepen these findings in the specific spheres. The research primarily related to analysis of social conditions, the involvement of Czech citizens in organised crime activities, economic and financial crime, and lastly, to the effectiveness of legal measures.

The analysis of social causes that may be exploited by organised crime either directly for committing a crime to achieve a gain or for securing various supportive activities or recruitment of cooperators or for influencing demand for illegal goods and services should become the first step to finding effective counter measures. We targeted this analysis at the international consequences of social life, at the policy, state administration, legal system, economy, social structure and cultural level. A total of 150 factors that could be exploited by organised crime were classified and described.

Owing to the fact that organised crime is mostly of an international character, we also took into consideration the basic problems of the contemporary world, primarily those that resulted from conflicts between developed and poor regions. Various religious, ethnic and further conflicts were also studied. Reference was also made to the negative aspects of integration and globalisation. A specific influence connected with the integration of countries in transition with democratic countries was recorded.

As regards internal policy, the discrepancies between the public interest and the interests of individual political parties or politicians seem to be the most serious. A further deficiency in the Czech political scene was the rather unclear political concepts and lack of experience of individual politicians. The politicians often demonstrated a wrong pattern of conduct, behaviour, and they also demonstrated inadequate professional and ethical predispositions. The problematic elements seem to be the linkage between political and economic powers and financing the political parties. In general, appropriate political support was not given to combating organised crime.

In the early nineties in particular the state administration was weakened by underestimation of the role of the state in suppressing crime to a certain extent. In addition, a new state administration system was established within which those playing a role in it demonstrated professional unpreparedness. Linked with this was inconsistent control.

¹ Cejp, M. Social causes and consequences of organised crime. Prague : ICSP, 1999. 120 pages. Summary.

Furthermore, the state administration was affected by excessive politicisation, in consequence of which there was large-scale exchange of officials in accordance with the political situation. Most of the public have a feeling of distrust towards the great majority of state authorities - probably with the exception of local authorities. Only the Ministries of Justice and of the Interior were charged with combating organised crime; these ministries suffered from a lack of financial, technical, information and personnel capacity.

The legal system responded to the changes after November 1989 too slowly. The process of privatisation was not sufficiently ensured legally, and there was a delay in adoption of effective measures against legalisation of the proceeds from criminal activities. Protection of the capital market was imperfect as regards legislation; and the conditions for granting trade licences were specified in a very benevolent way. There were gaps and equivocations in the Czech customs and tax regulations; problems of conflict of interest were not solved sufficiently. It must be admitted that specific legal norms against organised crime were approved but they were not adapted to the changes that had occurred both in Europe and in our country. A low level of awareness of law has survived from the past.

A necessary process of transformation has taken place in the economic sphere. However, in the course of this process some irregularities occurred that were not consistently solved. The process of privatisation took place under unclear conditions and private enterprise coming into existence was not sufficiently supported; on the contrary, massive support was granted to enterprises that were in a position to abuse a monopoly position. When trade licences were granted to banks, insurance companies, pension funds, travel agencies etc. their subsequent failure was often built in from the very beginning. The banks often granted credits carelessly, and there were a number of considerable tax evasions.

There were not the significant changes in the social structure of Czech society after 1989 that might have been expected. Over three quarters of the gainfully employed population kept its status category. When people moved up the social ladder, this shift did not result from their efforts and higher performance; this proved to be a serious problem. A similar situation has emerged in the property sphere. As a result, there is a widespread opinion that if anybody becomes rich, it has happened only in a dishonest way. Such generalisation concerning people's position and property enable organised crime to commit extortion and other offences.

There are also some differences in the social structure, mainly of a regional and age character; they are probably not related to participation in organised crime. Nor is there any evidence that socially weak or unemployed people participate in it, as it is not uncommon in some other countries.

Regarding the cultural level of Czech society, the life style of a significant number of people is focused on material wealth, property gain and leading a nouveau riche way of life. These people can be more strongly inclined to accept illegal goods or services offered by organised crime or to cooperation as well. Regarding the value orientation of most people, there is an evident trend towards a positive concept of life; nevertheless, it is among these nouveaux riches that we can detect all the time the evident values that tend to be connected with the consumer society. This has its impact on relationships between people, which become purely pragmatic and often only towards those who are property oriented. A degeneration of friendly and neighbourly relationships and a reduction of mutual contacts only to pursuing one's own benefit lead to a weakening of social control. Toleration of anti-social and illegal conduct is on the increase.

The failures of school and family education affect people's morals and relationships between them. In a chaotic social system no more valuable options of spending leisure time are offered. The mass media can be effective both against organised crime and in its favour. To combat organised crime, use should be made of the possibilities of informing citizens about its danger. Furthermore, the mass media should be involved in public control over institutions, political parties, politicians, enterprise management and so forth. In favour of organised crime they can sometimes be effective indirectly by glorifying violence as a tool of conflict resolution or even as a possibility of self-realisation. Similarly, they can also present inappropriate life style patterns. Directly, the mass media may be abused for manipulation of public opinion in favour of publicity of illegal goods and services or for compromising those politicians, economists, state prosecutors, judges, state administration officials and police officers who combat organised crime in an uncompromising way.

In the part of our study dealing with trends of organised crime we summed up the findings about the basic characteristics of groups operating in the Czech Republic and about their most widespread activities. These findings were then supplemented with the data ascertained in 1999 and compared with the summary data from European countries for 1998.

Concerning criminal groups, it was proved that well organised enterprises with a top management and with middle level linkages form less than a half of the activities that are considered to be organised crime groups. However, this type of organisation is fairly significant and will probably prevail in the next years. To specify the number of groups and criminals involved in their activities appears to be difficult. So our estimate of 75 criminal groups and approximately 2,000 participants, including external cooperators, needs to be accepted with certain reservations. More precisely, we discovered that in the main about half of the members of criminal groups have consistently been external since 1998. Similarly, more than half of them have consistently been from abroad. Owing to the fact that organised crime is a relatively new phenomenon in the Czech Republic, widespread participation of Czech citizens is rather surprising.

In terms of nationality, Ukrainians and Russians predominate. Chinese and citizens of the former Yugoslavia were included in this powerful group. However, the number of the Chinese began to decline in 1998 and in 1999 their decrease continued; citizens from the former Yugoslavia went down to the second group in 1999. Vietnamese, Albanians and Bulgarians are the other nationalities in this group. The number of Poles has declined - in 1999 they went down to the third group. Arabs, Rumanians, Nigerians, Georgians, Turks, Chechnians, Belorussians, Moldavians and Colombians are also included in this group.

The manufacture, smuggling and distribution of drugs (a more significant phenomenon only since 1995), car thefts and thefts of automobile parts, including trafficking in them (constant phenomenon), organised prostitution (constant phenomenon) and organising illegal migration (mainly after 1998) are among the predominant activities of organised crime. The significance of thefts of objects of art has gradually declined; this activity was one of the most widespread up to 1994. Extortion and illegal recovery of debts are constantly of great importance. Money laundering and corruption are the most significant forms of economic crime. The share of tax frauds increased in 1997. The various types of burglary have not been more significantly recorded yet in connection with organised crime. The significance of frauds connected with the privatisation process and private enterprise has gradually decreased. Kidnapping and environmental crimes, which are fairly widespread in some other countries, have not played a particularly significant role as yet in the Czech Republic.

The research on organised criminal activity of Czech citizens dealt with the phenomenon of domestic organised crime under recent conditions in the Czech Republic. The problems of formation of domestic organised crime groups, their organisational level, structure and specific features and their prevalent activities have been studied as well as the involvement of Czech citizens in organised crime groups coming from abroad.

With regard to the Czech citizens involved in the activities of criminal organisations coming from abroad it was confirmed that they usually act as servicemen for the middle level of foreign organisations or as the executive members at the lowest level. From time to time Czech citizens may take over partial responsibility for some activities of foreign organisations which take place in the Czech Republic (for example deposit or transit of illegal goods, mostly drugs). Some information also points to the active and qualified involvement of Czech offenders in international money laundering networks.

All the analysed sources of information provide evidence for the existence of domestic organised groups. These groups have not yet developed into clearly structured large organisations with well-distinguished middle and upper links and they have not been interconnected with the large networks but in spite of that they manifest some characteristic features of organised crime in their structure and activities. These groups are not very large in size and their criminal activities are rather more specialised than versatile. The following notable features of Czech organised groups were discovered: an effort to gain maximum permanent profit through well-planned, systematic and organised criminal activity, co-operation of group members, division of tasks and division of power and authority between leaders and executive members.

The international connection is shown to be a very significant feature of the cases analysed. Czech groups have operated relatively independently but, nevertheless, they have always acted in connection with foreign organisers. The Czech groups play the role vis-a-vis the big international organisations of so-called relatively independent “sub-contractors” or “smaller distributors” operating on a “business” basis. It may be concluded that if the Czech groups intend to develop any organised criminal activity on a broader scale they must inevitably meet the international networks of big criminal organisations.

With regard to economic crime, the activity of domestic groups is beyond any dispute. But it is still in question whether the prevalent part of these activities should be considered as organised crime or as a sophisticated form of so-called white-collar crime. Nevertheless, the activities in the economic crime field may be considered as characteristic for the emerging domestic organised crime owing to the fact that they reflect specific features of our society and economy in the process of transformation especially by taking advantage of the defects in management, control and legislation concerning the economic and financial field. Over and above this, even the typical activities of white-collar crime may in time take on the form and quality of organised crime.

Some domestic organised crime groups probably arose on the basis of criminal groups existing even before 1989 in the area of the so-called shadow economy. But the main source of organised offenders is people with no previous criminal record, ie from hitherto blameless and respectable people. Younger males predominate. These findings correspond to the data on the criminal situation in general.

The following three topics dealt with the issue of economic and financial crimes, with special emphasis on tax evasion.

The term “economic crime” has not been understood heterogeneously as to its content until now in the Czech Republic, even by the professional public (the authorities responsible for criminal proceedings). This difference of definition naturally projects on to the sets of information describing the occurrence of economic crime as well. That is why it is necessary to take this fact into consideration in comparison of data and when quantifying economic crime.

It can be stated that the share of cleared up cases of economic offences out of the number of crimes in total has constantly increased within the last decade though it is still below the 10% level. The financial loss caused by illegal economic activities is estimated to reach around twenty billion Czech crowns, which represents always approximately 60% of the total estimated loss caused by this type of crime. Starting from the second half of the nineties, about 14,000-16,000 persons were investigated and prosecuted for economic crime annually, of whom about 80% have experienced such a situation for the first time. For particular years about 500 persons were convicted for these offences, of whom less than 100 were sentenced to imprisonment (mostly up to five years).

At present there are 153 forms of economic crime that are officially recorded. Up to now its most frequent forms are related to the offences of fraud, embezzlement, full or partial default of tax liability and infringement of copyright. The data on the cases of illegal behaviour that can be qualified as corruptive are characterised by a high level of latency. There are approximately two hundred cases of corruption recorded every year, of which only a small number are proved; generally, they are minor cases of lesser significance.

The practical situation in detecting, proving and also drawing the legal consequences for intentional economic crimes is not, however, favourable at present with regard to their frequency. A consequence of this situation is inter alia that participation in organised crime has not as yet been proven for an economic offence committed leading to a conviction. This is why the particular part of the study on economic crime and its manifestations lacks empirical findings on illegal economic activities committed in an organised form and only states hypotheses about possibilities of their probable occurrence. It can be assumed that the activities of organised crime were offered an opportunity and use was undoubtedly made of this, primarily by restructuring of ownership relations (privatisation, restitution), by legislative instability, personnel transformation of state administration and by the staffing of a number of newly established financial authorities (professional inadequacy of new employees), and by other phenomena connected with social change. Money laundering is another area in which organised crime was and still is undoubtedly active; it certainly includes money that comes from crime committed in another state or other states.

The part of the study dealing with financial crime was understood as a report on possible manifestations of organised crime in the financial sphere of the economy, with an attempt to describe these phenomena, including a discourse on problems that exist in this sector from a criminological research point of view.

Owing to the fact that penetration of organised crime in the financial sector of the economy was not proved (as far as organised crime is understood in its traditional form, ie extortion, manufacture and distribution of drugs, prostitution and so on), in other words owing to the fact that financial crime (regardless of its definition) seems to be a relatively separate “branch” of delinquency, six individual areas were specified. The areas for which we can suppose that penetration of organised crime may occur or that legal regulation is sufficiently inadequate to enable or to provoke such penetration are loan sharking, pyramid games,

legalisation of the proceeds of crime (money laundering), small loan companies, the problems of so-called legal entities, and corruption.

Furthermore, it can also be assumed that attention should continue to be paid to research on the penetration of organised crime in the financial sphere in future; this is a question of definition when organised economic criminality and organised crime may intersect in the financial sphere - anonymity of capital transactions, bank secrecy (limitation of which is difficult to envisage) and other similar phenomena directly evoke the possibility of abuse of legal or semi-legal operations by organised crime activities.

The results of analysis of the selected crimes of intentional tax evasion confirmed in particular that organised tax and customs crime has been characterised by the features of criminal conspiracy specified by the Criminal Code, and that many of those committing tax and customs frauds could be labelled as members of a criminal conspiracy.

This is a type of serious crime mostly committed repeatedly, for months or years, depending on the particular situation, by various means adopted to a changing or instantaneous situation, and by various cooperators. There are two types of such cooperator committing purposeful coordinated serious crime (or activities supporting such crime): individual cooperators - for example customers, tax advisers, forgers, individual businessmen or producers in the Czech Republic or abroad) or other criminal groups or legal groups of the limited liability company or corporate consolidation type and so forth (mostly with a multilevel vertical organisational structure). The profits derived from tax and customs offences cost the state up to billions of Czech crowns in total; in particular cases the loss ranges from millions to tens and hundreds of millions of Czech crowns. The risk is unfortunately minimised not only by involvement of professional advisers on behalf of crime but also by insufficient intervention by state authorities caused by insufficient professional knowledge and training of its staff rather than by corruption. In addition, these authorities repeatedly make the same and almost predictable mistakes within the functioning of the whole tax system.

A final analysis resulted in the finding that the offence of tax and customs evasion was in fact supported by the whole system because it was not seriously hampered and, therefore, some citizens (and officials) participated in it, though they would have strongly rejected any kind of cooperation with organised crime, if there had been a functional legal state.

The study of the effectiveness of legal measures connected with organised crime proved inter alia that such effectiveness is conditioned by appropriate drafting of relevant legal norms on the one hand and by limitations that result from a necessity not to intervene extremely in the basic human and civic rights on the other. There is still the basic problem of legal definition of "organised crime", "organised criminal group", "criminal conspiracy" and other terms in order to apply the procedures of substantive law and law of criminal procedure adequately to criminal prosecution of this serious form of crime.

From a comparative point of view there is a significant heterogeneity in definition of organised crime as a legal category in the rule of law of individual countries.

These heterogenous approaches can be roughly categorised as follows:

a) There is no legal definition of organised crime; this type of crime is prosecuted under the general provisions applied for any other crime; more severe punishments are imposed for organised forms of crime (raising the maximum term of imprisonment, aggravating circumstance and so forth)

b) serious forms of organised crime are specified as independent crimes by law; the summary term “organised crime” is not applied

c) the definition of organised crime is constructed indirectly, as a crime committed by a criminal organisation. A criminal organisation, and membership of this organisation, its support and other forms of participation in its activities are specified by the law.

The Criminal Code of the Czech Republic in provision 163a sanctions to the extent required three forms of participation in a criminal organisation. The term “criminal conspiracy” (association de malfaiteurs) is applied; this is specified in provision 89, para. 17 of the Criminal Code. It is recommended that the definition of this term be considered through making use of comparative data, for example as for the Austrian legal regulation of punishability of a criminal organisation.

The following proposals may be taken into consideration in particular:

substitution of the term “criminal conspiracy” for the term “criminal organisation”

the term “criminal organisation” should be defined summarily as the establishment (not by the enumeration of features of hierarchic arrangement)

the possibility of both legal and criminal activities should be stated explicitly

these criminal activities should be defined according to the object of crime

enumeration of the goals these activities are aimed at and the methods used for these goals to be achieved is necessary.

Such a regulation would be *inter alia* in accordance with the formal (or formal - material) conception of crime which the present reform of criminal law in the Czech Republic aims to reflect.

Research should be continued on organised crime in the coming years. Firstly, since organised crime does exist and is developing. The same can be also said about the social conditions within the framework of which organised crime functions and which are affected by it. We have followed its trends since 1993 and we shall continue this effort. Moreover, the relevant commissions of the Council of Europe, of the European Union and of the UN make use of our data in European and world comparisons.

Sentencing policy and criminological aspects of short-term prison sentences.¹

1998 - 1999

Researcher responsible: JUDr. Zdeněk Karabec, Csc.

Co-researchers: Mgr. Simona Diblíková, Mgr. Radka Macháčková

Background and aim of the research

A sentence of imprisonment is regarded in legal theory and also in judicial practice as the most severe type of penalty. This follows from the general assumption that human liberty is the most valuable possession and deprivation or restriction of it is the most severe loss for the person committing the criminal act. It is also assumed that imposing a sentence of imprisonment can best fulfil the purpose of a punishment (§ 23 of the Criminal Code), namely protect society, prevent further commission of criminal offences and cause the offender to lead a proper life; a significant generally preventive effect is expected from this sentence.

Serving a prison sentence can, however, bring a range of known undesirable consequences, such as the devastating effect of the prison environment on the person convicted, the interruption of positive social relationships with the original environment (family), interruption of work activities and relationships, difficulty in adjusting to life in freedom after release and so on.

It is clear that in imposition of a specific sentence of imprisonment those elements of this sentence which fulfil its purpose must prevail over secondary negative effects which are usually connected with it.

This relationship is particularly problematic in what are called short-term prison sentences, because here it can be rightly doubted whether deprivation of freedom for a very limited period (up to one year) is society's only possible reaction to the criminal offence committed.

A short-term prison sentence is understood to mean a prison sentence of up to one year imposed in a legal court verdict. It is not decisive whether the sentence is served fully (interrupted, terminated by a conditional discharge). This definition is derived from the provisions of § 39 para. 2 of the Criminal Code, which regards a sentence of imprisonment not exceeding one year as in its way an exceptional sentence, which may be imposed only upon fulfilment of the stipulated condition, ie that imposition of a different sentence would not, in view of the person of the offender, lead to achievement of the purpose of the sentence under § 23 of the Criminal Code. Even though a prison sentence of up to one year is not explicitly designated as a short-term sentence, this designation can be accepted in the context of the sentencing system.

The issue of short-term prison sentences is dealt with inter alia in Council of Europe Resolution No. (73) 17 dated 13 April 1973, in which it is stated that there are a large number of persons serving prison sentences of up to 6 months in prisons, but this penalty has limited reform effects for offenders, leads to overcrowding of prison facilities and brings undesirable

¹ Karabec, Z., Diblíková, S., Macháčková, R. Short-term prison sentences. Final research report. Prague : ICSP, 2000. 87 pages + appendices.

social segregation and stigmatisation of those convicted. It is therefore recommended to member states of the Council of Europe to widen the scale of measures to limit or replace these sentences with other procedures.

In the Czech Republic, prison sentences of up to one year are still very often imposed. In 1998, of the total number of prison sentences imposed, 8,987 were for a period of one year, ie 61.3 %. In 1990, for example, this proportion was only 46.6 %. A factor in the increase in short-term sentences was the fact that in the amended Criminal Code in 1990 the remedial sentence was abolished and prison sentences started to be imposed instead.

At the present time there are a number of alternative penalties or trial procedures (sentence of community service under §§ 45 and 45a of the Criminal Code and mediation under § 309-314 of the Criminal Procedure Code), which should limit the imposition of short-term prison sentences. In court adjudication practice certain inertia or lack of faith in these new provisions is clearly evident, which leads to a constantly high number of short-term sentences with all the accompanying undesirable effects.

Short-term prison sentences (meaning usually sentences of up to three months, but sometimes sentences of up to eighteen months) have the following main deficiencies:

- they do not provide sufficient time for reforming the offender but are on the other hand long enough for the prison environment to have harmful effects on the person convicted.
- from the point of view of individual and also general prevention they are counterproductive, because their deterrent effects are minimal and can represent an acceptable risk for potential offenders
- these sentences are a manifestation of a certain discrimination, for they are most frequently imposed on persons for whom a financial penalty cannot be imposed because it cannot evidently be enforced
- the economic costs for the prison system are considerable and the serving of short-term prison sentences burdens this system disproportionately, because they take up most of the capacity of prison facilities.

A viewpoint clearly rejecting short-term prison sentences was presented at International Penitentiary Congresses in London (1872) and in Rome (1885) and the efforts to restrict these gradually took on an international dimension. Even such a notable personality in the field of criminal law and criminology as Franz von Liszt asserted categorically: *“Our present criminal justice system consists almost exclusively in verdicts of short-term imprisonment. This has the following consequence: if these sentences are not good, the whole criminal justice system is bad. Short-term sentences are not only useless but damage the whole legal system more than if there was no criminal law system at all.”*¹

It can be stated that the main features of the contemporary approach to short-term prison sentences, in contrast to the reform attempts at the turn of the century, consist in particular in the fact that:

- these sentences have been widely replaced by other sentences and measures, while these legal provisions are not understood only as steps humanising criminal justice but also as a rational way of dealing with offenders

¹ F. von Liszt: „Kriminalpolitische Aufgaben,.. In: Strafrechtliche Aufsätze und Vorträge, 1875-1871, vol. 1 Berlin 1905, pp. 346-347.

- alternatives to short-term prison sentences do not have the nature of charitable measures, and have become an integral part of social work connected with criminal justice
- the undisguised and principal motive given openly for restricting these short-term sentences is economic reasons
- wide application of sentences unconnected with imprisonment is a helpful way of solving the crisis in the prison system and freeing its capacity for isolation of those who have committed serious criminal offences.

Aims and methods of the research

The aim of the research was to obtain well-researched findings on the basis of analysis of statistical and/or also file materials on the imposition of short-term sentences from the point of view of sentencing policy aims in suppressing crime and re-socialisation of offenders. The findings obtained should serve as background information for directing sentencing policy and court verdicts and judicial decision-making as well as for any *de lege ferenda* proposals.

To acquire the relevant findings, the following methods and techniques were used in the research:

Statistical analysis of time sequences and data on the imposition of short-term prison sentences based on documentation of the Ministry of Justice from 1993-1997 determining the dynamics and structure of short-term prison sentences and categorisation of the criminal offences for which they were imposed; selected data were interpreted comparatively with data available from other countries, and also comparative data of Council of Europe bodies were used.

A set of respondents selected from judges, state prosecutors, prison governors and probation officers were given a questionnaire. Questionnaires containing multiple choice questions and open questions were sent to individual sets of respondents for completion.

An analysis of court files was made based on relevant file data concerning the person of the offender, the legal qualification of the act, the circumstances relating to the criminal offence and the sentence imposed, and these were entered in the record sheets.

An investigation of the Criminal Register consisting in quantification and further classification of level I of data on the result of criminal proceedings for a group of males born in 1968 and with a record in the Criminal Register.

Some results

In the questionnaire, state prosecutors, district court judges and prison governors were asked for their views on individual problems relating to the issue of imposition of short-term sentences. The aim was to compare the views of individual professional groups on individual problems and to incorporate the views obtained into the research on sentencing policy and criminological aspects of short-term prison sentences. A total of 148 completed questionnaires were available.

It was ascertained from the data that more than half of the respondents were satisfied with the proportions of *the numbers of short-term prison sentences* and alternatives to imprisonment. Less than a quarter of short-term prison sentences would be replaced by *alternatives to imprisonment* by 80 -90 % of judges and state prosecutors; only fewer than

50 % of prison governors would use this procedure. Probation officers also have a marked preference for alternatives to imprisonment and regard short-term prison sentences as an extreme solution. It can therefore be inferred that respondents giving replies based on their everyday experience with the persons of offenders concern themselves more with the impact of the sentence on the individual, whereas judges and court prosecutors strive to follow the letter of the law in a specific case.

Respondents from all the groups surveyed consider *the reform effect* of short-term *prison sentences* as average, and also share the opinion that the shortest length of a prison sentence which still fulfils its purpose is a prison sentence of up to 6 months. It is interesting that 56 % of prison governors, where in their opinion a short-term prison sentence is necessary, prefer an even longer one, up to 12 months and more than one year. As regards the opinion of respondents on the imposition of very short prison sentences (of days or weeks), a clearly negative view prevails (approximately 80 % of all those surveyed). Judges and state prosecutors express the conviction that those sentenced to short-term imprisonment repeatedly commit new criminal offences (approximately 80 %). This opinion was confirmed by our investigation in the Criminal Register.

Although all sentences should have a positive effect on legal awareness in society, particularly where citizens consider them to be just and appropriate, only slightly under half of judges and prison governors and 58 % of state prosecutors are convinced that short-term prison sentences are effective.

The analysis of court files shows that 35.7 % of offenders who have been given a prison sentence of up to one year were *aged between 21 and 29*. The 29-40 age group was represented by 16 persons (22.9 %), and 17.1% were under 18. If we break offenders down by gender, we find that 95.7% of offenders are male. Most frequently offenders had *basic education* (58.6%), and 35.7% had received apprenticeship training. One of those convicted had completed vocational secondary education with a school leaving certificate and one offender had university education.

72.9 % were *unemployed* at the time the criminal offence was committed. In 18 cases the offenders were in employment or this information was not stated. The profession represented most frequently was *manual worker* (55.7 %), and also performance of activity in unspecified employment was predominant (14.3 %). The socio-professional status of a significant number of offenders (12.9 %) at the time the criminal offence was committed was not ascertained.

As expected, the most frequently committed criminal offence was the *criminal offence of theft* (this came to light in 63 cases). This type of sentence was imposed for theft in 90% of the cases recorded in the record sheets and in 74.5% of cases from the group from the Criminal Register (see below). This also came to light in two cases of the criminal offence of taking the property of another without authority (2.9 %) and fraud (2.9 %).

An important factor which leads to imposition of a prison sentence of up to 1 year is *the total amount of damage*. In the majority of cases the damage caused is *at most 12,000 CZK* (78.6 %). For deciding on the sentence, one of the determining factors is whether the offender has a clean record, ie if he is a first-time offender or already a delinquent with a past conviction. Only ten of the offenders in the cases we reviewed did not have previous convictions (14.3 %), *and most of the offenders* (82.9 %) already *had a criminal record*.

Conclusions from the research

The findings and data from the research into short-term prison sentences have made it possible to formulate a number of conclusions, which may also have more general validity from the sentencing policy and criminological point of view.

Imposition of short-term prison sentences in the CR showed an upward trend in the period that has elapsed (1993-1997); the absolute numbers of these sentences more than doubled, and their share of the total number of sentences imposed also rose. This fact points to the fact that the sanction policy applied by the sentencing benches of Czech courts has not yet reflected to any great extent the prevailing trends in criminal justice which are being promoted to a considerable extent in democratic European countries with a stabilised legal code.

These new approaches to imposition of sentences, favoured and widely supported inter alia by numerous resolutions and recommendations of Council of Europe bodies and also by specialist opinions from theoretical departments, consist in intensive replacement of short-term prison sentences by alternative sanctions. Wide application of these alternative sanctions stems from economic needs (the insupportable rise in the cost of prisons to society) and from specialist penological requirements (general criticism of the ineffectiveness and “detrimental effects” of short-term sentences).

It is clear that the basic prerequisite for applying alternative sanctions imposed instead of imprisonment is appropriate legislative provisions for these alternatives and their organic incorporation into the legal code. It is, however, clear that such introduction of new substantive and procedural provisions of the Criminal Code into the legal code of any country is also a significant indication of the standard of legal theoretical thinking and legal awareness in society.

The Czech Republic’s long separation from democratic Europe and its considerable isolation from the development of legal thought resulted in our justice institutions and the public not yet sufficiently accepting the idea that short-term prison sentences in their traditional form need to be widely replaced by other legal provisions or even excluded from the sanctions system.

The prevailing opinion among judges and state prosecutors is that imprisonment is the most suitable method for fulfilling the purpose of punishment as defined in the Criminal Code.

It can presumably be stated that these opinions are influenced in particular by two facts. On the one hand there is clearly a certain inertia and “natural conservatism” in the judiciary, manifesting itself in reliance on tried and tested legal provisions. On the other hand a significant role is played by the fact that provision of legal regulation for alternatives to a prison sentence by amending the criminal law provisions of the CR and ensuring exercise of these alternatives organisationally and in practice (this involves in particular community service sentence regulations under § 245 and § 245a of the Criminal Code) and conditions for their imposition evokes doubts or outright lack of faith in courts and other justice services that these alternatives can be an appropriate substitute for short-term prison sentences.

It needs to be stressed of course that the judges and state prosecutors surveyed were in most cases aware of the demerits and inadequacies of short-term sentences. Significant differences can be seen between local areas in the practical application of these sentences, which is clear evidence that subjective factors play a significant role in court verdicts.

Repeated imposition of short-term NEPO (unconditional) prison sentences is relatively very common. The criminal career of most offenders documented in their criminal records usually develops after imposition of a suspended prison sentence or a short-term NEPO prison sentence. More than half of the first-time offenders (males born in 1967 in the CR) sentenced to short-term NEPO sentences re-offended.

Even though it is of course logical that first-time offenders (ie persons at the start of their criminal career) are given sentences towards the lower limit of the term and suspended sentences, it is clear that short-term NEPO prison sentences, especially when imposed repeatedly, do not prevent the development of criminal behaviour. For this reason, clarification is offered, confirming the professional penological point of view, that living in the prison environment has a range of negative effects on the person of the convicted, which applies in particular to short-term sentences in the course of which there is not enough time to develop effective re-socialisation programmes.

Even with the existence of alternatives to a prison sentence and/or certain procedural forms of diversion (this concerns, for example, mediation provisions under § 309 - § 314 of the Criminal Procedure Code), a NEPO prison sentence has its definite place in the sentencing system in the ČR, as in all other countries.

It is possible of course to consider *de lege ferenda* modalities of ways of serving this sentence and/or also the conditions for its imposition. This applies in particular in the case of a short-term NEPO prison sentence, which in international comparison often show considerable variation in the legal regulation of this sanction. Stimulating ideas are presented, for instance, by those regulations abroad which, in addition to the sentence of imprisonment, define the sentence of detention as a separate sanction, or which make it possible to serve a short-term NEPO prison sentence in the form of house arrest and so on.

The results of the research could be used in preparation of a concept for recodifying the substantive criminal law of the CR, in which change is also anticipated in the overall philosophy of imposing sanctions and adaptation of the sanctions system to new penological trends.

Criminological and legal aspects of extremism ¹

1998 – 1999

Researcher responsible: PhDr. Alena Marešová

Fellow-researchers: Mgr Petr Kotulan, PhDr. Milada Martinková, CSc., Ing. Karel

Novák, JUDr. et PhDr. Otakar Osmančík, CSc., Mgr. Jan Rozum

This study was prepared by researchers of the Institute for Criminology and Social Prevention as an input for the legal and criminological issues of the phenomenon in society of extremism and extremists – ie members of extremist groups which give rise to phenomena designated as extremist. It relates loosely to the ICSP publication “Extremism among young people in the Czech Republic” issued in the August 1996 edition of ICSP Studies.

Extremism is understood by the majority of the general public in the Czech Republic at the present time in a very narrow sense, particularly as manifestation of intolerance accompanied by aggressive behaviour towards clearly different individuals or groups of different individuals. In this interpretation, extremism is a phenomenon that occurs all the time in all periods of human history. However, the current attention paid to extremism in professional circles has come about principally from the fact that in a number of democratic countries a new wave of violence has arisen (culminating in murderous attacks on individuals but also whole groups of the population) based on racial, political, religious and other forms of intolerance and that intolerance towards different citizens of these states remains or has again become a noticeable driving force in the current domestic but also international political scene.

Designation of various manifestations of such intolerance in the Czech Republic by the single term “extremism” has started to be used only recently. From the very beginning, however, there have been major problems with the use of this term, which exist everywhere where it is necessary to define the term extremism specifically and to describe specific occurrences which can be designated by this term.

Although authorities responsible for criminal proceedings regularly use the term extremism – and have even produced their own definition – in practice they use rather more fitting and more specific terminology to designate occurrences of extremism. For example, in documents of the Supreme State Prosecutor’s office and the Ministry of the Interior of the Czech Republic the following designations are used: criminal offences motivated by racism and xenophobia, criminal offences committed by supporters of extremist groups, manifestations of racial and national intolerance and so on.

¹ Marešová, A., Kotulan, P., Martinková, M., Mikule, V., Novák, K., Osmančík, O., Rozum, J. Criminological and legal aspects of extremism. Prague: ICSP, 1999. 162 pages. Summary.

The occurrence of all these manifestations, now designated under the general heading of extremism, has been by no means an isolated phenomenon in the present Czech Republic. However, not until after 1989, and particularly after 1992, did the problem of extremism gradually become a subject of general discussion in the Czech Republic too, with an urgency comparable to the issue of drug abuse and criminality. This considerable attention was influenced at first in particular by international interest in resolving the problem of extremism. In the Czech Republic, certain tendencies (indications of extreme nationalism) that arose when the state was divided relatively soon disappeared completely. Only the problem with the Roma persisted, Czech citizens but also Roma with Slovak nationality or who were stateless. However, criminologists were already at this time expecting the day would come when extremism would be declared a problem here too for society as a whole.

Later, with the process of migration of racially or ethnically different people, adherents of other religions, but also foreigners differing from Czechs only by their language, customs and so on, with the growing "import" of racism and xenophobia, particularly from Germany, with the international expansion of the skinhead movement and other movements manifesting themselves aggressively and numerous more or less well known religious sects and movements to the east, extremism began to manifest itself in a noticeable manner in the Czech Republic as well.

Extremism manifested itself at the beginning of the 90s in the Czech Republic particularly in the form of verbal attacks, but in the last few years has taken on the nature of brachial violence springing from racism. This violence is usually committed by groups of young males, particularly members and supporters of the skinhead movement.

The first violent manifestations of racism were only rarely the subject of action by authorities responsible for criminal proceedings. Recently, however, they have been one of the priority topics of attention for both authorities responsible for criminal proceedings and state administration bodies. Over certain time periods (1 – 2 years) special reports on manifestations of racial and national intolerance have been produced for government agencies by the Supreme State Prosecutor's Office and inter-ministerial reports by the Ministry of the Interior of the Czech Republic on the procedure of state authorities in prosecuting criminal offences motivated by racism and xenophobia or committed by supporters of extremist groups.

All serious manifestations of extremism discovered and criminally prosecuted have so far been adjudged as excesses and, as can be seen from the analyses of the Ministry of the Interior of the Czech Republic, there have been no mass manifestations and no serious breach of public order which could not be controlled by the police.

The exodus of Roma from Bohemia to other countries (specifically to Western European countries and Canada), occurring in bursts over the last two to three years, represents a separate chapter in the development of extremist events in the Czech Republic. On the one hand this focused attention on the Czech Republic (specifically relations between Roma and Czechs) in the international press and organisations concerned with protection of

minority rights etc and also governments of individual states for which Roma headed, and on the other hand led in the Czech Republic itself to intensification of efforts to solve the Roma problem.

The problem of extremism is thus constantly on the increase and there is a widespread assumption that the possibility of solving it by application of any legal measures, let alone legislative norm, even if rigorously applied, is becoming more and more improbable.

For this reason the aim of the ICSP study was not to create a further definition of extremism, nor to submit guidelines for eliminating or radically restricting extremist occurrences, but “only” to map extremism (rather occurrences which are so designated), particularly from the point of view of the legal provisions in force. To describe how these provisions are applied and what their impact is, to compare methods of resolving similar problems by law in other countries, and to examine criminological aspects of the problem. Here we proceeded from the view that no measures can be sufficiently effective unless they are preceded by an analysis of the current situation and unless we define what we want and are able to achieve in the final result by these measures.

We divided the study into 5 basic parts:

The first contained a wider introduction to the issue.

The second defined the terms used.

The third was devoted to the features of the extremist scene in the Czech Republic – the current position and the main trends forecast for its future development.

The fourth was a legal analysis of the protection of society against extremism (the constitutional and administrative view and the possibilities of prosecuting criminal offences of an extremist nature under Czech criminal law).

The fifth was devoted to criminological aspects of extremism and analysis of the results of public opinion surveys in the Czech Republic conducted in the last three years or so and surveys conducted in the same period by the Institute for Criminology and Social Prevention. Here some characteristics of members and supporters of extremist groups and possible causes of extremism are also given.

Statistical data on the numbers of criminal offences adjudged to have been committed from racial, national and other intolerant motives and definitions of extremism used by authorities responsible for criminal proceedings and other organisations concerned with extremism are given as appendixes. Separate comprehensive appendixes give a summary of how the law treats criminal offences of an extremist nature abroad, including studies on religious sects and groupings operating in the Czech Republic.

The fifth part, devoted to criminological aspects of extremism, also includes the results of a survey conducted in 1998 with the aid of a questionnaire specially compiled for this survey, the aim of which was to ascertain opinions on extremism among employees of state authorities (in particular police officers and investigators) and their personal experience with

extremism and some of its manifestations. Individual questions in the questionnaire were directed to ascertaining which groups (movements) are distinguished according to the person polled for extremist action, whether they arouse fear, whether he/she has personal experience with members or sympathisers of extremist groups (acquired privately and in the performance of his/her service duties or employment), what reasons lead people to participate in the activities of extremist groups, what such people prefer and whether extremism can be prevented and how. In particular, the attitude to selected societal and social groups of people was ascertained. A number of questions were aimed at acquiring a personal profile of the respondent, ascertaining his/her sex, age, education, place of abode, length of service or employment. We received 156 duly completed questionnaires from employees of authorities responsible for criminal proceedings.

Later we submitted the same questionnaire for comparison to a random sample of Czech citizens and also through an Internet magazine to readers and users of the Internet. We thus received replies from a total of 377 people from three different groups.

We arrived at the following conclusions from processing the questionnaires:

The replies of respondents from authorities responsible for criminal proceedings differed very markedly from those of the Internet respondents as follows:

1 The Internet respondents were more tolerant in their attitude to different people and groups in our society. However, they were more interested on political extremism than in racism. They knew a good deal more about groups and movements designated as extremist than the employees of authorities responsible for criminal proceedings.

Their replies agreed with the views of employees of authorities responsible for criminal proceedings where the patriotism of respondents was ascertained, in views as to what leads certain people to participate in extremists' activities and in their emphasis on preventive measures as an effective means by which extremist manifestations can be suppressed.

2 A significant majority of all respondents regarded groups of right-wing skinheads in particular as extremists, but anarchists, ecological radicals, young communists, Jehovah's Witnesses and scientologists less often. They did not regard squatters, feminists and adventists as extremists.

For the requirements of the study, extremism was defined as a complex of certain (named in the study) socially pathological phenomena created by more or less organised groups of persons (extremists). Although the reasons for the creation and existence of many types of extremist groups and movements often originate or come into existence from mutually opposing ideologies, a unifying element in these ideologies turns out, in our opinion, to be their proclaimed rejection of basic values, norms and ways of behaving that underpin present day society.

In this study we did not express a view on whether any idea or ideology espoused by members or supporters (sympathisers) of extremist groups is extreme, but devoted our attention only to groups of persons which create occurrences designated by our society as

extremism and which use extreme means, particularly violence (including violent conduct, verbal attacks and psychological violence) to promote the views and ideologies they espouse.

One of the main conclusions of the study was the conviction that extremism is not a criminological and criminal law problem but primarily a social one.

The result of the analysis of how criminal law deals with criminal offences committed from racial, national or other intolerant motives, designated also as offences of an extremist nature, confirms that the criminal law provisions examined in the Czech Republic are comparable with those in Europe and problems publicised in the media with how recourse may be had to them do not lie in the legislation but in the difficulty of proving these offences.

Analysis of other Czech legal norms showed that the limits of tolerance required in the Czech Republic have not been made clear, protection of the democratic underpinnings of society, and also basic rights and freedoms, have not been adequately thought through and brought into conformity, and there is lack of unanimity regarding concepts, means and organisation. Of course, even education for citizenship is not and cannot be effective enough even if it is seriously planned and applied.

In addition, we came to the conclusion that use of the global term extremism to cover criminal activity, administrative offences and so on is rather unsuitable, because the term is vague, its content is unclear and very variable, and it can often be misused in political conflicts, media discussions and so on. For this reason we recommend that the global designation “extremism” is not used in future in documents dealing with the legal and criminological issues of occurrences designated in the media, political science studies and elsewhere as extremist occurrences and groups of persons or individuals who cause them as extremist groups and extremists, but continue to use the more precise and more specific terms designating individual occurrences and activities of groups. The term “extremism” is usable only in general discussions on socially pathological phenomena, within the scope of the definition given in the introduction of the study or other definitions given by political scientists.

For this reason the attempt of authorities responsible for criminal proceedings to define the term extremism beyond the competence of their Ministries defined by law seems to us at the present time to be quite unnecessary and inappropriate for these bodies. And we regard the designation used to date of occurrences which fulfil the factual requirements for criminal offences as criminal offences committed from racial, nationalist or other hate motives as more suitable than the designation criminal offences with an extremist implication.

On the problem of religious sects in the Czech Republic (some criminological aspects and findings) ¹

1999

Researcher responsible: PhDr Milada Martinková, CSc.

This publication is loosely related to a previous study of religious sects by the author from a criminological point of view, which was more theoretically oriented.² This second publication:

1 Devotes attention in the first part to certain facts which are important from the criminological point of view in forming an opinion by Czech society on religious sects operating in Bohemia and on their activities.

Inter alia it is stated here that since 1989, when there were very significant social changes in Czechoslovakia, certain religious sects have intensified their operations there. Religious communities of a sectarian character have rather become evident or been newly formed than expanded. It is pointed out that most of these sects that are now operating in the Czech Republic have links with a related religious grouping founded abroad. Sects of a domestic Czech provenance are at a minimum.

Examples are also given in this part of the work of certain more recent activities of more well known religious groups operating in Bohemia considered as sects and attention is also devoted to the age of sect members, the number of people who are members of the sect in the Czech Republic, how they recruit new members and so on. The author also attempts here to define religious sects from the criminological point of view and characteristic indicators of a group which the secular community usually designates as a religious sect are given.

2 The work summarises the data available on manifestations to date of socially undesirable behaviour of members of religious sects in the Czech Republic as recorded by law enforcement agencies:

as criminal activity

as complaints by citizens against activity of religious sects, sent directly to the Police of the Czech Republic.

¹ Martinková, M.: On the problem of religious sects in the Czech Republic. Prague.: ICSP, 1999. 91 pages. Summary.

² Martinková, M.: Sects (Selected information on their occurrence and operation in society). In: Collection: Three studies on socially pathological manifestations in young people. ICSP, Prague, 1997, 84 pages (1 – 43).

This data was obtained in controlled interviews conducted with specialist officers of the Police of the Czech Republic.

3 The publication draws attention to certain main legal norms which regulate the status of churches and religious communities in the Czech Republic. In view of the fact that certain religious groups designated as sectarian are attempting to acquire official state registration as religious communities or churches, the publication informs us of the conditions which a religious group must fulfil in order to be officially registered. The publication acquaints us with certain facts which arise in the Czech Republic from the fact that a religious group is officially registered by the state as a church or religious group. (In November 1998, 21 churches and religious communities were officially registered /in accordance with Act No. 308/1991 Coll., Act No. 161/1992 Coll., and other related regulations/.)

4 The publication also presents in one of its sections the results of a survey of the opinions of selected state administration employees (members of various police departments /particularly investigators/ and members of the prison service) on religious sects. It informs us how those who in their work participate in assessing the level of social deficiency in the behaviour of citizens or deal with persons already have a record have been familiarised with the existence and operation of religious sects, how often they meet members of religious sects in practice, how they assess them generally and specifically in terms of their operation in society and so on.

A questionnaire was used in this survey. This questionnaire was specially compiled for the purposes of the survey. A total of 156 persons were polled (mainly members of the police and prison services).

The results of the survey indicated that many of the respondents did not have particularly good knowledge of the religious sects issues. Police investigators and students of the police academy in particular had a better knowledge of the problem studied than the other respondent sub-groups. The survey also showed inter alia that 62% of those polled who were involved in criminal proceedings or criminal justice had not yet attended training courses organised by their employer which would also have been devoted to the religious sects problem.

5 One of the appendices to the work is devoted (a) to findings abroad on the alleged mass occurrence of satanic ritual abuse of children by highly organised conspiratorial satanist cults in the mid 80s and at the beginning of the 90s of the last century abroad (not in the Czech Republic). Attention is also devoted here to analysis of certain societal and individual conditions which led in some countries to increased uncritical interest in this issue relating to satanists and which led to an inadequate reaction by the population. Findings on this topic were taken from reputable specialist foreign journals. Another of the appendices to the publication was devoted (b) to description of the process of gradual non-violent attraction of an individual to a religious group (not only of a sectarian nature).

Some findings on religious groups of a sectarian nature operating in the Czech Republic provided by the publication.

Although the number of religious sects operating in the Czech Republic was estimated by the Police of the Czech Republic as around 270 at the time this annotated publication was being prepared (1998), the danger to society from any socially undesirable behaviour on their part could be assessed as rather potential, in view of the minimal level of criminal activity recorded by the Police of the Czech Republic in connection with religious sects.

Though behaviour that was in some way clearly socially undesirable was found in these groups in the Czech Republic, there was not a great deal of it. However, various initiatives for criminal prosecution or complaints submitted by the public to the Police of the Czech Republic were recorded, and these were not altogether isolated cases. Criminal offences by members or leaders of these groups could often not be proved – in most cases clearing up these criminal offences was complicated by lack of documentary evidence proving the guilt of these persons. Socially deviant behaviour by sects in the Czech Republic has up to now rather only harmed individuals (it has not been possible to identify how many of these there have been).

Criminal activity by members of religious sects in the Czech Republic has not been widespread to date (up to October 1998).

Seven persons have been convicted. Six of these for a criminal offence under § 217 of the Criminal Code (suspended sentences), one person for a criminal offence under §219 of the Criminal Code (sentence of imprisonment for 24 years).

Fourteen persons have been prosecuted for criminal offences as at the date given above. These were two persons from the Immanuelite (Tidings of the Grail) sect (§217 of the Criminal Code), five satanists (§§ 202, 257, 218, 188a, 217 and 247 of the Criminal Code) and seven scientologists (§ 118 para. 1 of the Criminal Code). Criminal prosecution of the scientologists was stayed on the basis of an amnesty by the President of the Republic on 3.2.1998.

The numbers of Jehovah's Witnesses with previous convictions and now prosecuted for criminal offences of failure to undertake non-military national service and avoiding performance of non-military national service (§§ 272a and 272c of the Criminal Code¹) cannot be specified more precisely because of the difficulty in determining unambiguously the motives for commission of these criminal offences. (In the period 1992 – 1997 at least 54 Jehovah's Witnesses were identified among 326 offenders committing these two criminal offences).

From the content of the *enquiries and complaints* submitted to the *Police of the Czech Republic* up to October 1998 in connection with activities of religious sects in the Czech Republic it can be seen that people had the subjective feeling that they were harmed by sects for example in the property field, and felt damaged by the results of psychological

manipulation by a sect with relatives with whom they had lost contact. Some people also found it rather difficult to have to deal with less concretely (but also legally) graspable phenomena caused by sects, such as fear of actions called for against them by a curse by leaders (gurus) of sects, with feelings of guilt induced etc. It has not, however, been possible as yet to determine the numbers of people affected by these problems with any real precision.

A number of grieving relatives also had to come to terms with the fact that contact with a sect could contribute to those close to them committing suicide, or that their relatives had gone away somewhere during their stay with a sect, had left no messages about themselves and they had not yet succeeded in finding them.

¹ § 217 of the Criminal Code – endangering the moral education of a juvenile, § 219 of the Criminal Code – murder, § 202 of the Criminal Code – breach of the peace, § 257 of the Criminal Code – damaging other persons' property, § 218 of the Criminal Code – supplying alcoholic beverages to a juvenile, § 188a of the Criminal Code – propagating drug addition, § 247 of the Criminal Code – theft, § 118 of the Criminal Code – unauthorised trading, § 272a of the Criminal Code – failure to undertake non-military national service, § 272c of the Criminal Code – avoiding performance of non-military national service

As regards the estimated age of members of religious sects in the Czech Republic, according to the findings of the Police of the Czech Republic their members are predominantly aged between 18 and 25 and then between 45 and 55. The age of the other members of sects varies. The number of persons aged up to 15 who are living with their parents in religious sects in the Czech Republic is difficult to estimate.

The numbers of members of some of the better-known religious groups designated as sects active in the Czech Republic are also only estimates.

It is estimated that at the end of 1998 the Religious Community of Jehovah's Witnesses had ca 16,000 members in the Czech Republic, the Church of Jesus Christ of Latter Day Saints (Mormons) ca 1200 – 1500 members, the Community of the Holy Spirit for Uniting World Christianity (Moonies) ca 200 members, the Hare Krishna Movement about 200 members, the Scientologists ca 200 members, the Immanuelites (Tidings of the Grail) several dozen persons, Satanists – numbers of members cannot be estimated, because they form independent groups between which there must be no communication or mutual recognition as satanists.

In the conclusion of this publication it was stated that in the criminological approach to religious sects in the Czech Republic it would be most useful in future

a) to adopt the standpoint that religious sects are social units in which sociological, socio-psychological and psychological laws operate. It is above all at this level that the secular community should then specify criteria for assessing their activities (ie

whether and to what extent these religious groups breach in particular the norms and generally recognised values of society, in what areas and by what means)

b) it would be useful for the secular community to bear in mind really seriously that religious belief as a phenomenon distinguished by the surrender of the individual to certain (here religious) ideas may under certain conditions be a motive for human behaviour of immense power (in both a positive and negative sense).

c) It would also be useful to pay due attention constantly to religious sects in the Czech Republic, especially in view of the not exactly good experience abroad to date with certain groups of this type (even in spite of the fact that the danger from activities of religious groups of a sectarian nature in terms of society as a whole in the Czech Republic can be adjudged up to now, as has been stated above, only as rather potential).

On the basis of analysis of available information presented in the annotated publication, the assumption has been expressed that the conditions for propagation and operation of religious sects in the Czech Republic in the changes that are constantly taking place in society will continue to be favourable. In the future, following the envisaged change in the law on registration of churches in the Czech Republic, additional religious groupings can be expected to manifest themselves in the Republic, including sectarian ones, and a further influx of these can also be anticipated from abroad. This can also be expected in connection with the anticipated arrival of additional new inhabitants in the Czech Republic from other parts of the world, where religions other than those established in the Czech Republic to date are professed.

Socio-pathological aspects of drug abuse by young people in Prague¹

1998 – 1999

Researcher responsible: PhDr Ivana Trávníčková, CSc.

Background and aim of research

The present time demands that greater attention be devoted to the rapid increase in socio-pathological phenomena which are generally perceived by the population as a serious threat to the further development of our society. In addition to criminality, drug abuse and other addictions represent some of the most problematic of socio-pathological phenomena widespread among young people in this country. Experts estimate that almost one third of young people aged between 15 and 18 have some experience of drugs and the consumption of illegal drugs in the Czech Republic is growing.

Essentially all known types of drugs can be found on the Czech illegal market. According to the results of the most recent epidemiological study there remains a demand among abusers for drugs produced in the Czech Republic but heroin, as the only foreign drug, is already approaching the levels of pervitin in the extent of its use. The only drug to have recorded a decline in use is Czech “brown”.

As is evident from the available information, drug abuse and related problems are predominantly linked to the populations of large towns. The attempt by distributors to extend the reach of the illegal market in the Czech Republic and the increased interest shown by the young generation in experimenting with drugs makes Prague youth a particularly high-risk group of the population.

The aim of the research was to map and deepen the knowledge about individuals who were in contact with Prague institutions providing assistance to drug addicts in 1998. We concentrated on problem drug users, i.e. those individuals who repeatedly came into contact with drugs and through their abuse had problems in the social sphere (whether in the form of conflicts with parents, partners, in school or at work) or became involved in criminal activity.

The following specific aims were formulated in accordance with the goal of the research:

- in *the theoretical part* to summarise current findings relating to drug abuse, particularly to provide information on risk factors leading to the beginning of drug abuse and to draw attention to certain problems that have a negative impact on the efficiency of preventive measures

- at the same time in *the empirical part* to provide information on the results of a survey which was conducted by means of questionnaires in institutions offering help to drug addicts and thereby to help chart the current situation of drug abuse in the capital city of Prague.

The resulting data made it possible to identify the criminological aspects that currently relate to the consumption of drugs by young people.

¹ Trávníčková, I. Socio-pathological aspects of drug abuse by young people in Prague. Prague: ICSP, 1999. 82 pages.

Methodology

The research was conducted from May to July of 1998 in therapy contact centres in Prague offering various forms of help to people who had problems with drugs.¹

Information was obtained from a *questionnaire* that had been specially compiled for the purposes of the research. For most problem drug users the chance to give their views on contemporary Czech society and the drug scene proved very attractive. Although no money was paid to complete the questionnaire, it aroused great interest among clients and was even asked for by drug addicts who previously had shown no interest in contacting special institutions or at least street workers.

Data was collected primarily on an individual basis (or in small groups) after the consent of clients to cooperate. The research was anonymous; the maximum discretion was used during completion of the questionnaire on the understanding that the resulting data would be processed statistically and would be available afterwards only as general information.

The data obtained was processed using a special computer program for the statistical analysis of data (SPSS). To evaluate the data we used a chi-square independence test and a test for individual differences of relative frequencies.

The relevant data was also obtained by means of a study of *criminal files*.

An analysis was conducted of 76 criminal files completed by a verdict between 1995 and 1998 obtained at the district courts in Prague 1 to 10 and at the Municipal Court in Prague.

The subject of the research was criminal activity as defined by sections 187, 188, 188a of the Criminal Code. Criminal files pertaining to acts of delinquency committed under the influence of narcotic and psychotropic substances - drugs were not available.

Respondents – sample

Empirical research conducted in therapy/contact centres and other institutions offering help involved 124 *respondents*, i.e. *problem drug users*. A limiting factor in the selection of respondents was contact with the institution in a given and relatively brief interval and the client's willingness to cooperate.

The empirical research focused primarily on juveniles, i.e. people aged between 15 and 18. In cases where the questionnaire was presented to a whole group of clients, individuals were not excluded from the questionnaire, therefore persons over the age of 18 comprise 10.4% of the respondents.

Men comprised the majority of respondents (67 individuals).²

¹ A concise summary of current information concerning these institutions can be found in the annex to this paper: "System of care for problem drug users and addicts in the Czech Republic."

² Other socio-demographic indicators are given in relation to specific information in the text.

Summary and conclusions

At present there is a drive to deepen the understanding of the aetiology of drug addiction. This is important for judiciary officials as it is they who have to address the consequences of drug abuse and punish those who offend in this field.

Long-term drug abuse is a complex process that involves a wide variety of factors. The theoretical part of the paper includes a summary of current information on risk factors contributing to the beginning of drug abuse.

In the empirical part of the work we concentrated on risk factors relating to the family environment, school attendance, the use of free time and preferred type of hobbies, vocational career, social status, as well as the economic side of abuse, the role of friends, “drug rituals” and the most common problems linked to drug use from the point of view of the drug addict.

From a criminological standpoint it should not go unnoticed that:

- specific negative forms of family “upbringing” (*such as, for example, parents didn’t have time for me, I often witnessed parental rows, I had the feeling that I was in the way etc.*) did not even amount to 10% in the appraisal.
- *excessive amounts of alcohol were consumed* in many of the respondents’ families (45.2%). Approximately one third of respondents come from families in which a member had been convicted for criminal activity, or someone from the family had been unemployed for more than half a year.
- there was a relatively high incidence of family problems among respondents relating almost directly to drug use. A quarter of clients have another family member who used or uses drugs or who has been treated in a psychiatric department (20%) or taken excessive amounts of medication.
- a significant number of those polled come from families in which a family member has undergone treatment for alcohol or drug abuse. More than 10% of respondents admitted to the suicide of a family member.

The above information confirms the important role of the family environment.

The risk of drug use increases in individuals from a broken home or socially disadvantaged family (alcoholism, criminality etc.).

Although the largest part of those polled, i.e. one third, stated that they had regular contact with their parents, more than half of these parents do not know their child’s current friends or even partner. A further 10% of respondents indicated that their relations with their parents were not harmonious or that they had no contact whatsoever with their family.

These results demonstrate the fundamental problems of the contemporary family. The family does not know how to communicate with the children and does not have time for them.

More than half of the persons from our group had bad school marks for behaviour and almost the same number admitted to various forms of truancy. Most often they came into conflict with their teachers. Twenty-one percent had conflicts with their fellow students and almost the same number came into conflict with the police during school attendance time.

Long-term drug use does not generally allow the time or financial space to satisfy other interests or hobbies. We were interested in the most common method of spending free time in

relation to drug use. The most common original interests of respondents were sport, television and visiting the pub. At present respondents spend less time on their interests, a fall to half or even to a third. The only hobby that records no major change is an interest in music. The data obtained does not correspond to the statement that problem drug users are unable to direct themselves to any interests due to a lack of money or motivation.

It would seem that it is far more difficult to get rid of the established stereotype of a drug addict's life.

An individual often reacts to the inability or impossibility to manage a problem of his/her own accord by escaping from reality and for that purpose drugs are a welcome means. The person that respondents seek out least in solving a problem is the father. For respondents the most trustworthy person is a friend and in second place their partner. Only a small percentage of those polled would rely only on themselves when solving a problem.

Drug use is quite frequently associated with a drug addict's inability to perform his work duties or to study. To what extent does the addiction affect the addict's social and employment responsibilities? *As our respondents were problem drug users, the most common answer was that they do not attend school or are not employed.* Only 5% of those polled stated that they are unemployed and that they are unconcerned by this fact, while 10% are troubled by their present unemployment.

In accordance with the data from the epidemiological studies, pervitin was also the preferred drug of our respondents (50%); respondents using heroin were in a relatively distant second place (19%), followed by marihuana (14%). Sniffing and clients using primarily ecstasy, hashish or various mixtures were all below 2.5%.

A significant part of the respondents obtain money for drugs by undesirable methods – most commonly by selling their parents' household items or by dealing, followed by begging and sometimes prostitution.

In the estimate of the largest part of the respondents, approximately 10% of their acquaintances produce the drugs that they take themselves and the same number of drug addicts receive drugs in exchange for the unprocessed substances. According to those polled approximately 10% of drug users also earn the means to satisfy their own habit by selling drugs while a smaller category of respondents state that 20% to 40% of their acquaintances obtain drugs by selling drugs.

Approximately 20% of their acquaintances obtain money for drugs by stealing and 10% of respondents even believe that almost half of drug users obtain money for drugs by this means. The largest group of those polled stated that at least 10% of their acquaintances obtain money for drugs by stealing to order.

The data obtained confirms the existence of so-called "supply criminality".

A quarter of respondents did not state the amount that they pay for their weekly supply of drugs. Other respondents acquire their weekly supply approximately for between CZK 500 and CZK 1000. Approximately 15% of those polled acquire their weekly supply for more than CZK 4000.

More than two thirds of respondents had experienced financial difficulties through using drugs.

In conformity with the data from epidemiological studies our research showed that problem drug users began their "career" very early (most commonly at the age of 14). Nearly

15% began to use drugs on a regular basis almost immediately. It should be pointed out that the data shows that respondents usually began their drug career only with two to three friends.

The most convenient environment in which to take drugs for our clients is a friend's flat, followed by special places connected with this activity and known to "knowledgeable" addicts, as well as public toilets. Thirteen percent of those polled stated that they were willing to take drugs anywhere. Less than 5% of respondents would use another "traditional" environment – a discotheque or club.

Of course, longer-term drug use affects the addict in many ways. The larger part of clients state that their imagination is enhanced, while memory, inter-personal relations, concentration, self-appreciation, career and health all deteriorate. In the opinion of respondents they experienced no major alterations in their dexterity and sexual performance.

Long-term drug use frequently leads to a change in or even a loss of an individual's social status. The change in an individual's status is negatively perceived particularly by the family. What is alarming from the point of view of prevention is the fact that more than half of those polled stated that they had not lost their original status among their peers. On the other hand, this fact can be used to ease their return to a life without drugs.

Friends hold a dominant position during adolescence and often determine the type of leisure, behaviour patterns etc. (the individual is often even willing to commit a criminal offence in order to become a member of a gang). A positive finding is that almost 90% of respondents have friends who do not take drugs.

The drug problem is often presented as a generational problem, as something by which the young generation seeks to distinguish itself from the world of "adults". Although approximately half of those polled stated that they can only talk about drugs with a small part of the older generation, only a little over 5% are of the opinion that the older generation only moralises on the matter of drugs. When assessing their *role in society* the prevailing attitude of respondents is that they are "undesirable" members of society, as opposed to a small group of respondents who regard themselves in this respect as belonging to the "elite" of society.

The life style and various myths connected with it, the easy imitation and particularly rituals giving the feeling of a certain elitism may have an almost "irresistible" attraction for a young person. Just over half of respondents believe that drugs are the symbol of a certain culture and are of the opinion that a "drug" culture also exists in the Czech Republic. Apart from specific information given in different contexts, the respondents generally characterised the drug culture in relation to music, i.e. a certain type of drug is connected to a certain musical style.

Very few problem drug users would want someone close to them to take drugs. Only one quarter of respondents admitted the possibility that their parents would use drugs. Almost all (92%) reject the idea that their children would take drugs.

According to respondents, their drug use was most often linked to conflicts with their parents and non-attendance of school. For half of respondents the use of drugs was the cause of their leaving home and theft. Almost the same number admitted to conflicts with the police and health problems. Twenty-one percent of problem drug users admitted to other criminal activity than theft; approximately 15% admitted to violence and 10% to prostitution.

It may therefore be said that the information obtained confirmed that long-term drug use may become a criminogenous factor.

An important finding is that most respondents had adequate information about the harmfulness of drugs or had been in contact before they began to take drugs with someone who had used drugs for at least one year.

The research confirmed that to reduce the prestige surrounding drug use is indeed a complicated matter. It is necessary in advance to recognise the myths that surround drugs and try to make them less attractive.

The efficiency of preventive measures can be enhanced not only by constantly raising the resistance of children and adolescents with respect to social pathology but also, and very importantly, by ensuring that they identify with the opinion that they do not want drugs and do not need to take them.

The drug problem in Czech prisons and selected foreign prisons¹

1999 – 2000

Researcher responsible: PhDr Alena Marešová

Co-researchers: PhDr Jan Sochůrek and PhDr Jana Válková

The sharp rise in the number of drug users in the Czech population linked to the even sharper rise in the number of drug dealers and other persons living off drug addiction both locally, on the small territory of the Czech Republic, as well as on an international scale, has recently led, among other things, to a radicalisation of prosecution for drug criminality and its offenders (Czech citizens and foreigners living in the Czech Republic). As always, this socio-pathological phenomenon (and the judicial reaction to it) has to a large degree been reflected in the prisons, and particularly in the composition of those persons imprisoned. The marked increase in the proportion of people dependent on drugs among offenders and at the same time among prisoners, accompanied by a rise in the number of persons imprisoned for so-called drug criminality (relating directly or indirectly to the production, distribution or use of drugs) has required the prison services to adopt and put into practice consistent measures designed to minimise and prevent the incidence and use of drugs in prison institutions in order that Czech prisons do not become a “school” for drug addiction and drug criminality.

Prison staff realised relatively early the risks accompanying the increased incidence of drugs and drug-dependent prisoners in the prisons and as a result, before drug addiction became one of the priority problems to be resolved by prisons (as has happened for example in many neighbouring states), they turned to the experiences and information contained in research conducted in the 1970s into drug addiction in prisons and developed a set of anti-drug measures both for custodial and prison sentences.

The following **fundamental aims** were established for the anti-drug policy:

- 1) **as far as possible to prevent the entry of narcotic and psychotropic substances into prison buildings and as far as possible to eliminate their use by the prisoners.**
- 2) **to create a functional system for the treatment of drug-dependent persons who are serving their sentence in Czech prisons. Such a system should above all motivate drug-dependent prisoners to consciously rid themselves of their dependency on drugs.**
- 3) **to develop a system of prevention that during the serving of a sentence would prevent prisoners (who do not yet use drugs) from becoming dependent on drugs.**

¹ Marešová, A. Sochůrek, J., Válková, J. The drug problem in Czech prisons and selected foreign prisons. Prague: ICSP, 2000. 122 pages. Summary.

In order to meet the above aims the General Directorship of the Prison Service developed a set of measures and tasks directed both at prisoners and at its own staff and the conditions for the serving of a sentence. As early as 1993, the Government asked the Minister of Justice to prepare a set of anti-drug measures for the needs of the prison service. At the time of its preparation approximately 6 % of prisoners in Czech prisons were found to be dependent on drugs. Even then, experts assumed that in the following years there would be a multiple increase in the number of prisoners dependent on drugs and that the distribution of drugs into and inside the prisons would make the serving of a sentence more problematic. For this reason a succession of anti-drug measures was adopted between 1994 and 2003.

In addition to the tasks included in the sets of anti-drug measures, a number of other tasks have been developed whose aim is to make more effective those measures that have been enforced so far but also those in preparation. These are as follows:

- 1) to carry out deeper analyses into the world of the prison, both as concerns the environment in which the sentence is served (custody) and the possibilities of changing it (in order that the drug-related goals can be achieved),
- 2) to carry out analyses of the current composition of prisoners with regard to the incidence of drug addiction among them. Special attention should be paid to high-risk groups of prisoners, particularly young and first-time prisoners.

The study presented by ICSP researchers has also become a part of the above analyses planned. The study is the result of research on drug-dependent prisoners carried out by prison service staff under the leadership of PhDr Jan Sochůrek, as well as the other analyses charting the current state of the drug problem in Czech prisons and the methods of treating drug-dependent prisoners abroad, carried out by ICSP researchers PhDr A. Marešová and PhDr J. Valková.

The research on drug-dependent prisoners carried out in Czech prisons at intervals over many years has also helped to improve the efficiency of existing measures and develop new ones. In 1999 this research and surveys were supplemented by our own research into the drug addiction scene among the imprisoned criminal population.

The study “The Drug Problem in Czech Prisons...” is the fundamental outcome from the penological research into drug-dependent prisoners and the methods used to solve the drug problem in Czech prisons over several years up to the year 2000.

The study is composed of four relatively independent parts:

- 1) In the first part – the introduction and first part of the first chapter – there is a general treatment of the drug problem: the current drug scene in the Czech Republic, the relation of the illegal production, possession and distribution of drugs to criminal law and the penalties for so-called drug criminality.
- 2) The remainder of the first chapter is devoted to charting the drug problem in prisons – i.e. the institutions of the Prison Service, in which the prisoners have been given an unconditional prison sentence. There is a detailed treatment of the Set of Anti-Drug Measures and its fulfilment by the Prison Service up to September 2000. It also includes a brief description of the research carried out on addicts in prisons and the phenomena relating to drug abuse.
- 3) The next part of the study contains penological research on drug-dependent prisoners carried out in 1999 in selected Czech prisons. The research was conducted by Dr. Sochůrek, based on a modified version of the DROGAN SF-3/K questionnaire on a sample of prisoners roughly corresponding to the external differentiation of prisoners in categories, i.e. groups according to sex, age (juveniles, adults), penological re-offences (first-time or repeat offenders). In total, 436 correctly completed questionnaires were processed. Of these, 93 were completed by juvenile boys, 98 by adult male first-time offenders, 137 by adult male repeat offenders and 108 by adult women, of which 8 were repeat offenders. The aim of the research, i.e. charting the current state and trends of the development of the drug problem among the imprisoned criminal population, was completely fulfilled.
- 4) The final part of the study contains almost all the available information on the methods of treating drug-dependent prisoners abroad, primarily in neighbouring European countries, the USA and Canada. This part was assigned with the intent to provide information on how the same problem is handled abroad and as a source of ideas for other potential anti-drug measures that may be applied in Czech prisons.

The most interesting data for further use in the prison service came, as planned, from the results of the extensive research into prisoners serving their sentence in Czech prisons in 1999. Its results can be summarised as follows:

- 1) In our estimation approximately 40 % of prisoners had experience of drugs; drugs had been a significant criminogenous factor in their previous life.

- 2) The largest increase in drug addiction is visible in the group of juveniles and the group of women. Drug addiction is also the prime factor among juvenile delinquents.
- 3) A comparison of research results from roughly twenty years ago shows up new trends primarily in the more frequent use of classical drugs (previously substitutes were more common).
- 4) The first experiments with drugs come at the age of 14 to 15.
- 5) The main source of information about drugs comes from people's peer groups. It is clear that a preventive campaign has to focus on this reality.
- 6) Curiosity is the main motive to experiment for the first time. This testifies to the generally favourable social climate for drug abuse, in which drugs are presented and perceived by some young people as a symbol of the times.
- 7) Drugs commonly penetrate prisons and 20 % to 30 % of the prisoners have access to them on a more or less regular basis.
- 8) The motivation for drug abuse differs greatly between juveniles and other groups of prisoners. There is also a difference in the approach to drugs of those who already have experience with drug addiction and other prisoners.
- 9) The research shows that the main ways by which drugs penetrate prisons are: a) the passing of drugs to prisoners by further unspecified "employees" (other research shows that these are chiefly employees from outside the prisons in common workplaces with the prisoners, rather than prison service staff directly in the prisons), b) deliveries "from outside" (packages, visits). The abuse of medications prescribed to the prisoners by doctors remains a prime source of drug abuse among prisoners.

The penological research carried out can in no way be regarded as comprehensive. It was conducted only in prisons and the basic information was obtained primarily from the questionnaires, which were correctly completed by 436 convicted prisoners. It rather represents a probe into the drug problem in prisons. Despite this fact, we believe that relevant information was obtained which provides a means of basic orientation in the problem. This can be confirmed by a comparison with the results of other research quoted in the study.

Research into newly-introduced probation elements in criminal law¹

1999 – 2000

Researcher responsible: Mgr. Jan Rozum

Co-researchers: Mgr. Petr Kotulan, JUDr. et PhDr. Jan Vůjtěch

Research classification

The research into newly-introduced probation elements in criminal law was conceived as part of the general research project: “Effects of the transformation of criminal legislation on the state of criminality and the increase in judicial efficiency in relation to the safety of citizens of the Czech Republic with regard to the year 2000”, and was a follow-up of the research on the provision for conditional suspension of proceedings, research on the community service and research on mediation. We conducted the research into newly-introduced probation elements – supervision - in the criminal legislation of the Czech Republic in 1999.

Subject and aim of the research

The subject of the research was the comprehensive examination of two new provisions of criminal law: a conditional discharge with supervision, which is governed by Section 26 of the Criminal Code, and a conditional prison sentence with supervision, which is governed by Sections 60a and 60b of the Criminal Code.

Both provision meant the introduction of probation elements into Czech criminal law. According to the reasoned statement to Act No. 253/1997 Coll., by which the Criminal Code was amended, this refers to the institutionalised supervision of criminal offenders’ behaviour and of treatment that combines both a penological (sentence, threat of sentence, limitation) and a social (supervision, assistance) aspect.

Probation officers were given responsibility for the performance of the probation supervision. The meaning of probation lies in a differentiated approach to handling the offenders of a variety of crimes and in applying different and more effective methods in reacting to less serious forms of crime. The extent and intensity of the probation supervision must be determined by a court, while the probation officers help to implement the sense of this supervision.

A conditional discharge with supervision under Section 26 of the Criminal Code is closely connected to discharge under Section 24 of the Criminal Code, and the application of both provisions is possible under the same conditions. A conditional discharge with supervision under Section 26 of the Criminal Code is however a stricter alternative as it is not a definitive decision but only conditionally dependent on the fulfilment of certain criteria; it is connected to the setting of a probationary period and may be made stricter by the application

¹ Rozum, J., Kotulan, P., Vůjtěch, J. Research into newly-introduced probation elements in criminal law. Prague: ICSP, 2000. 241 pages.

of adequate limitations and obligations. Section 26 (4)a to d of the Criminal Code firstly specifies the demonstrative specification of adequate limitations and obligations that may be imposed on the offender in order that he lead a law-abiding life during the probationary period.

A conditional prison sentence with supervision under Sections 60a and 60b of the Criminal Code is a typical form of probation that fulfils the purpose of the Criminal Code without strict repression. It differs from a conditional prison sentence under Sections 58 and 59 of the Criminal Code (without supervision) in the length of the sentence, the serving of which may be suspended conditionally. The sentence amounts to a maximum of three years (as opposed to two) and together with the conditional suspended prison sentence also carries an obligatory, court-imposed supervision. Section 60a (3) of the Criminal Code refers to adequate limitations and obligations as stated in Section 26 (4) of the Criminal Code.

Due to the short period of implementation of the newly-introduced provisions the information obtained has been interpreted as partial and for orientation purposes only.

The main aim of the research was to ascertain the implementation of both provisions in practice (i.e. conditional discharge with supervision and conditional prison sentence with supervision) in 1998 and 1999 for cases that had been duly closed, as well as the implications of both provisions for society, the offender and the injured party according to the possibilities and effectiveness of the provisions.

We therefore examined whether the regional (district) courts were applying the fore-mentioned provisions sufficiently and whether the state prosecutors were recommending them to the courts as a way of handling cases. We also looked at their views and ideas.

We also ascertained the way in which probation officers were involved in the application of both provisions, particularly with regard to their probation activity, i.e. whether they are entrusted with the supervision, how they perform it in practice, how the court-imposed adequate limitations or obligations are controlled, how they cooperate with the judges etc. As with the judges, we looked at their views on both provisions and any ideas they might have thereon.

In addition, we examined how the judges defined the content of the supervision in their judgements, what sort of adequate obligations and limitations they impose and other questions relating to this matter. The analysis focused on the enforcement procedure and not on the judgement stage.

The aim of the research was not only to cover the current legislative and practical situation but also to formulate opinions on how desirable and efficient the situation is.

We described and appraised the findings obtained and then drew attention to possible improvements in procedure in the practical implementation of the new provisions. We then formulated ideas that would lead to changes in legislation.

Methodology

The following methods, techniques and procedures were used during the research:

- a) The study of foreign documentation on the relevant matter, particularly legal regulations and experience from implementing the mediation provisions in practice.
- b) The study of Czech expert sources, chiefly Acts and commentaries of magazine articles.
- c) An analysis of statistical data (for 1997 and 1998) from the statistics of the Ministry of Justice.
- d) The study of selected final court judgements on the approval of the mediation decisions of regional and district courts from 1997 and 1998 and other data from court files.
- e) The use of information from questionnaires for experts (judges, probation officers) and from interviews.
- f) An analysis of the views of offenders whose case had been resolved by means of a discharge with supervision and conditional sentence with supervision.

A method of interpretation was selected in which factographic findings were supplemented by information from the research on people's opinions obtained either from questionnaires or interviews.

The following main findings from the research can be summarised with regard to the supervision provisions

Statistical data

The statistical data show that the conditional prison sentence with supervision under Section 60a of the Criminal Code and the conditional discharge with supervision under Section 26 of the Criminal Code were imposed by courts very infrequently during the first year in which they came into effect and did not play an important role in the sentencing structure.

In 1998 courts imposed a conditional discharge with supervision in 18 cases and a conditional prison sentence with supervision in 294 cases. In 1999 the numbers rose respectively to 82 and 659 cases. Despite this increase, both provisions are still very rarely applied.

In 1998 a pronounced unevenness of application was evident in different regions. In 1999 there was an increase in the application of both provisions, in the case of conditional discharges by even as much as four times (1998 – 18 cases, 1999 – 82), and a more balanced application of both provisions in individual regions. The supervision provisions are most often applied for criminal offences under Chapters IX. and VII. of the Criminal Code.

The average length of proceedings for a conditional prison sentence was 351 days, which is relatively long.

Courts rarely impose a conditional discharge with supervision under Section 26 of the Criminal Code.

An analysis of court files, probation records and court judgements without files offers the following main findings:

Judgements applying a conditional prison sentence with supervision (Sections 60a and 60b of the Criminal Code.)

- This type of alternative sentence was most frequently applied for younger offenders but was not sufficiently applied for juveniles. They were generally used for first offenders with favourable personal and employment assessments. Aggravating circumstances of repeat offences were assessed by the court from previous convictions for 19 people.
- In view of the results of criminal prosecution, custodial sentences were imposed in a relatively high number of cases (24%); this often involved longer periods of custody lasting throughout the entire period of the prosecution proceedings
- As with previously examined alternative sentences and procedures, this punishment was most often applied for property offences and only very rarely for offences against transport safety.
- Sentences were imposed up to their maximum limit (the lower limit of sentencing often did not even allow for the application of a shorter sentence) and with longer, sometimes even the maximum possible probation periods.
- Mistakes were found in the quotation of the relevant legal provisions when pronouncing the sentence.
- Courts made sufficient use of the possibility of imposing adequate limitations and obligations, both as specified in Section 26 (4)a to f of the Criminal Code and of others not specified therein (this does not correspond to the opinion of experts on the possibilities of applying adequate limitations; their position is far more realistic).
- Obligations and limitations were sometimes formulated in such a way that they defined the extent and intensity of the stipulated supervision or fundamental content of the conditional sentence (to lead a law-abiding life during the probation period).
- State prosecutors made relatively rare use in the concluding speech of the possibility to recommend the imposition of a conditional sentence with supervision, despite the court judgment making this a viable alternative, whilst they accept imposition of this form of punishment.
- Convicted offenders generally appealed against the terms of the sentence and the courts of appeal generally altered the sentence from an unconditional prison sentence to a conditional sentence with supervision.

Judgements applying a conditional discharge with supervision (Section 26 of the Criminal Code)

- The entirely negligible number of cases and sample of criminal offences makes it impossible to reach more general conclusions from judgements applying a conditional discharge with supervision.
- This alternative was used in 62% of cases involving juvenile offenders.
- In accordance with Section 314f (i)d of the Criminal Code, a court order was not applied in any single case.
- It was used in sentencing offenders found guilty of the illegal production and handling of narcotic and psychotropic substances and criminal offences committed in relation to their abuse.
- For this type of offence the courts imposed courses of protective treatment or the obligation to undergo drug-addiction treatment that does not constitute protective treatment under the Criminal Code.

Imposition of supervision:

- In more than half of the final judgements and court orders the verdict on imposition of a sentence or the verdict on discharge with supervision did not specify the details of the offender's obligations under the supervision.
- Where these obligations were specified in the verdict, they primarily constituted the obligation to appear before the court or a probation officer of the local court upon a summons.
- Where the frequency of visits was specified, this generally was restricted to a maximum of one visit per month.
- In certain judgements the setting of the date was left to the decision of the probation officer or upon his agreement with the offender.
- In certain instances of special requirements, the sentence also imposed further limitations and obligations on the offender in relation to the probation officer, particularly where the offender was required to undergo individual social resocialisation programmes, submit documents proving compliance with the obligations and others.
- The sentencing did not always consistently distinguish between adequate limitations and obligations that may be imposed under Section 26 (3) and (4) and Section 60a (3) of the Criminal Code, and those that may be imposed as part of the supervision so as to make it more effective.
- The criminal files that we borrowed for study also recorded six sentences after 1 January 1998 (when the amendment came into effect) that required the guilty party under Section 59 (2) of the Criminal Code to undergo probation supervision during the probation period.
- The fundamental reason for the errors ascertained, particularly in the content definition of the supervision (or rather lack of definition), other than inexperience

and inadequate judicature, was the absence of more detailed and more precise legal provisions.

Performance of supervision:

- In regional and district courts the performance of the supervision is entrusted to probation officers.
- In an isolated case the probation officer cooperated with the court before its material verdict.
- The performance of the supervision is recorded in probation records, which are kept separately for each offender. Only in exceptional cases were the probation records kept in the criminal files (for seven offenders)
- Probation officers take action to ensure performance of the supervision immediately after the final court's judgement has been delivered, or upon the issuing of instructions.
- Delays in beginning the performance of the supervision were due to the court's delay in passing the case to the probation officer (these were not isolated cases).
- Visiting dates are determined by the probation officers, often upon agreement with the offender. A flexible approach was used when setting the intervals for visits, taking into account the supervision already completed and the current needs of the offender.
- Where regular reports on the performance of the supervision were delivered to a court, this generally occurred at intervals of six months to one year from the time the decision came into force began. Their structure and content were generally sufficient for the court to judge the state of supervision.
- In two instances of conditional discharge with supervision the court ruled that the offenders had acquitted themselves satisfactorily; in the case of a conditional prison sentence with supervision none of the probation periods have yet been completed.
- In the case of two offenders who received a conditional prison sentence with supervision the court decided during the probation period that they should serve the prison sentence. The reason for the decision in both cases was the committing of a repeat offence of the same type.
- In most cases the supervision imposed is performed by probation officers in a way that ensures the purpose is fulfilled.

The following main findings can be derived from the analysis of respondents' views contained in the questionnaire:

Appraisal of the examined provisions from experts' opinions

- The first point to note is that the appraisal of general and specific items for both provisions by judges

- and probation officers is positive and that the differences in appraisal for both provisions by both groups of respondents are not significant.
- If we use a school marking system for the results of the appraisal, the marks range between 1.8 and 2.8 (exceptionally 3.1), which verbally means between very good and good plus.
- With regard to the provision under Section 26 of the Criminal Code, judges mostly appreciated the possibility of correcting the offender, as well as compensation and the speed of proceedings. Probation officers on the other hand see the complexity of proceedings as acceptable (unlike judges). They also appreciate the speed of proceedings but do not overestimate the importance placed on the correction of offenders. With regard to the provision under Section 60a of the Criminal Code, both groups appreciate the possibility of compensation and the speed of proceedings.

Reasons for the infrequent application of both provisions under examination

- Among the primary, i.e. the most important reasons, are insufficient personnel and organisational conditions for the effective performance of the supervision. Among probation officers this factor is in first place, while for judges it occupies first and second position with regard to both provisions. The lack of a legislative definition of supervision is also relevant here, in the sense of its content, scope and intensity, and finally the low occurrence of appropriate criminal cases. In the opinion of probation officers the situation is affected by the lack of confidence in the effectiveness of supervision on the part of judges.

Views on the issue of adequate limitations and obligations

- As Section 26 (4) of the Criminal Code has newly specified the adequate limitations and obligations in the Criminal Code, we asked judges which of them they most often use in imposing conditional discharges and conditional prison sentences and analogically in other cases (e.g. when imposing community service). The most frequent use of limitations and obligations under Section 26 and Section 60a of the Criminal Code are the following: to undergo treatment for dependency on addictive substances which does not constitute protective treatment under this Act, and the obligation to refrain from visiting an unsuitable environment and from contact with certain persons.
- In the case of other provisions, the courts impose adequate limitations and obligations as specified in Section 26 (4) of the Criminal Code on an exceptional basis.
- Judges were also asked to state other adequate limitations and obligations not specified in the Act, but which in their experience they had imposed as part of a conditional discharge with supervision and a conditional sentence with supervision. Judges mentioned particularly the following types of adequate limitation and obligation: to refrain from excessive use of alcoholic drinks, to pay alimony owed, to find permanent employment, compensate damage

caused, to prove to the court a lawful form of sustenance including work assessment, to develop the necessary cooperation with the relevant labour office in applying for employment, and very often also others that define the scope and content of the supervision.

Legislative suggestions of the respondents

The majority of respondents of both professional groups regard the current legislation for conditional discharges with supervision and conditional prison sentences with supervision to be satisfactory for their work requirements. The comments and suggestions that they offered applied mostly to supervision, more detailed specification as to its content, a definition of rights and obligations of convicted offenders and specialised judiciary officials responsible for the performance of the supervision. The most frequent suggestions from our report are as follows:

- the Act should define in greater detail the concept, form and organisation of the supervision,
- to regulate the rights and obligations of the body performing the supervision and of the convicted offender, particularly the obligation of the convicted offender to appear before the probation officer,
- to provide legislation for the performance of the probation service at the court and the relation of the probation officer to the judiciary and the client,
- in the case of a conditional discharge with supervision to lengthen the probation period (judges suggest a period consistent with Section 307 (2) of the Criminal Code,
- the Act should specify in greater detail the adequate limitations and obligations (Section 26 (4) of the Criminal Code) in order that it should not be vague and difficult to control, and so that compliance with them should be within the possibilities of the convicted offender,
- to adopt the corresponding procedural norms when the obligations relating to the activities of other institutions, without a corresponding legal framework, do not have any great likelihood of being implemented,
- to simplify the modification of the sentence and, by means of this deterrent, to cause the convicted offenders to comply more fully with the terms of the supervision,
- in Section 60a of the Criminal Code to broaden the judge's responsibility in sentencing to define the scope and intensity of the supervision (likewise in Section 26 of the Criminal Code),
- to enlarge Section 26 of the Criminal Code to include assistance by the probation officer and the guidance of the convicted offender according to his individual development and needs,
- to regulate the hand-over of the performance of the supervision between districts in cases where the offender has another place of residence than that where he was convicted or to which he moved during the probation period (it is pointless for example to send a supervision request every two weeks).

From all the documentation obtained it is possible to formulate **suggestions for the application of the results of the research** which can extend the scope of application and the effectiveness of the provisions for discharge with supervision and conditional sentence with supervision as follows:

To define the concept, purpose and content of supervision in the Criminal Code

Court practice is to a large degree hindered by the fact that the Criminal Code does not define the concept, purpose and content of supervision. The judges and probation officers contacted by us (refer to the results of the questionnaire survey) also see the lack of definition of the concept, content, organisation and forms of supervision as one of the major reasons for the relatively infrequent application of the “supervision provisions”. In our opinion supervision should mean regular personal contact between the convicted offender and the probation officer, cooperation in developing and implementing a probation programme and the control of compliance with the obligations and limitations imposed by the court on the offender. The purpose of the supervision should not only be to monitor and control the offender’s behaviour but also expert guidance and assistance.

To develop the procedural side of supervision for both provisions in the Criminal Procedure Code

The procedural aspect for supervision with regard to both provisions was supplemented by the new Sections 330a and 359a of the Criminal Procedure Code (amendment to the Criminal Procedure Code implemented by Act No. 166/1998 Coll.) effective as of 1 January 1999. Although this modification led to a certain specification in the performance of supervision and guarantee of its legality, it is in our opinion, which is supported by the findings from court files and the views of experts, still insufficient and does not accord with practice to the required degree. We recommend above all that the relations between courts and probation officers during supervision be regulated in terms of procedure. Regulating the procedure during hand-over of the performance of supervision to the probation officer should limit the instances of delay frequently found between the final court’s verdict (judgement or court order), by which the supervision was imposed, and the actual performance of the supervision.

To regulate the maintenance procedure for the probation records (files) in the instruction of the Ministry of Justice that defines the internal and office rules for the district, regional and high courts

The practical activity of probation officers shows that they maintain certain records about their clients, such as records of client interviews, client reports for the needs of the courts, confirmation of the payment of damage compensation, reports on compliance with the adequate limitations and obligations etc. We believe that even after the adoption of the Act on Probation and Mediation Services it would be suitable to regulate a uniform procedure for the maintenance of probation records (files) in the internal and office rules.

To consider the possibility of compiling a list of organisations operating within the area of the district court in which the convicted offender could perform the adequate limitations and obligations under Section 26 (4) of the Criminal Code

The further specification of adequate limitations and obligations in Section 26 (4) has provided greater scope to develop new methods of handling convicted offenders. The questionnaire shows that the larger-scale application of obligations and limitations under Section 26 (4) of the Criminal Code is also hindered by the fact that judges are unaware of organisations in which offenders can for example undergo appropriate social training and re-education programmes or programmes of psychological counselling. We believe that it would be highly beneficial to compile a list for the internal use of the courts of those organisations where offenders can carry out the limitations and obligations imposed. The list could be compiled by a probation officer and the judge would then be familiar when sentencing with those organisations in which the limitations and obligations could be carried out.

Socially pathological manifestations among children ¹

1998 – 2000

Researcher responsible: PhDr. Kazimír Večerka, CSc.

Fellow researchers: Mgr. Jakub Holas, PhDr. Markéta Štěchová, CSc.,

Mgr. Simona Diblíková

One of the alarming developments since 1989 has been the indisputably general increase in criminality and criminality among young people in particular.² Between 1989 and 1998, the absolute number of children prosecuted went up approximately two and a half times and the number of juveniles roughly doubled and this increase cannot be ascribed to a rise in the population in these age categories. The number of children ³ who committed a criminal offence recorded by the police in 1998 represents 0.75% of the total population in this age group. The number of juveniles ⁴ who committed a criminal offence cleared up by the police in the same year represents 1.8% of the total population in this age group. Looked at from a different angle, this data means that in 1998 persons under the age of 18 constituted 15% of the total number of persons investigated. In absolute terms these were 19,373 individuals, of whom 8,824 were children and 10,549 juveniles. These facts undoubtedly raise the question of what can be done to halt or at least mitigate negative trends in the field of criminality or pre-criminality because the criminogenous development of an individual is conditioned by a conglomerate of very different phenomena of a biological, psychological and also social nature. Effective anti-criminogenous intervention must be based on the one hand on a good knowledge of the external and internal problems of young people on this slippery slope and on the other hand also on an inventory of viable possibilities in society for confronting problems as they arise.

To contribute to understanding of the characteristics of children so endangered was the subject of an extensive research project on the topic of “Criminological aspects of socially pathological manifestations among children”. The research started from the generally recognised view that the longer term perspective for restricting criminality in our country is linked above all to adequate socialisation of the youngest generation. For this reason the research was conceived in such a way that it would be possible to identify and analyse the main negative factors arising and operating in the socialisation of a child in danger of developing into a delinquent. The research is aimed at children of up to 15, for attempts to

¹ Večerka, K., Holas, J., Štěchová, M., Diblíková, S. External cooperators: Žárský, M., Neumann, J., Malinová, K., Netík, K., Ščepichinová, Vverková, L., Želásko, P. Socially pathological manifestations among children. Prague: ICSP, 2000. 215 pages. Summary.

² Marešová, A., Kadeřábková, D., Martinková, M: Criminality in 1998, ICSP, 1999.

³ Children older than 6 and younger than 15 are regarded in statistical records as offenders committing an otherwise criminal offence.

⁴ Person who at the time the criminal offence was committed had reached the age of fifteen and had not completed the eighteenth year of his/her life.

socialise and resocialise at a later age are, as is known, less effective and furthermore incomparably more demanding in all respects.

Research interest was centred on children who, during a one-year period, had been placed in institutional or protective education¹ by a court as a result of behavioural problems. The aim of the research was to find out the life history of the children before their placement in reform schools. For this purpose not only were various documentary materials compiled in connection with court proceedings on the protective or institutional education of the child perused but also a battery of research procedures were set up, which led to a deeper understanding of the reasons for the subjects' social malfunctioning.

The research was conceived in two research phases, which of course were closely linked, an extensive phase and an intensive phase.

In the design of the extensive research we strove to compile information – as far as possible – on all children in the Czech Republic for whom a court had ordered protective or institutional care during the period of one year, because of (or also for) problems connected with behavioural disorders². We worked with all OPD³ of all districts. We asked them to complete a case history questionnaire on a child who had been placed in protective or institutional education⁴ in the defined period. District (local area) authority social services departments sent us completed record sheets on 464 children whose placement met the stipulated criteria.

We also worked with child diagnostic institutions (DDÚ) throughout the Czech Republic in which the obligatory diagnosis of the subjects we studied had been performed.

¹ If a child's education is seriously threatened or seriously disrupted and other educational measures (for example, reprimands, supervision, restraints) have not led to improvement or if for other serious reasons the parents cannot ensure education of the child, a court may order **institutional education** even if there have been no previous educational measures (§ 46 of the Family Act No. 94/1963 Coll. as amended).

The conditions for placement under **protective education** are stipulated in § 84 para. 1(a) of Criminal Law No. 140/1961 Coll. as amended:

- proper care has not been taken of a juvenile's education
- there has been neglect in the education of a juvenile hitherto or
- the environment in which the juvenile lives requires this

The basic condition for placement in protective education in criminal proceedings is conviction, ie acknowledgement of guilt for a criminal offence

² Information was received about a total of 464 clients, which was the sample entered in statistical processing

³ Where we speak of OPD in the following passages we have in mind all agencies for the social and legal protection of children legally concerned with children's family and personal problems in the district

⁴ Here it is necessary to point out that we made every effort to ensure that the group of children thus defined was as complete as possible. The team assistant sent repeated requests for cooperation to individual districts and checked the completeness of the material received. Nevertheless, it should be noted that it was not within the research team's powers to ensure "conscientiousness" and "responsibility" in the cooperation.

Here we obtained further – often control – data on our subjects, not only concerning their family situation but also information on their level of knowledge at school and on their personal characteristics. We were able to obtain research materials on 221 children from child diagnostic institutions. In addition, as part of the investigation, diagnostic institution psychologists carried out special psychological tests submitted by us and together with other DDÚ specialists (ethopedagogues, teachers and social workers) completed the child record sheets we sent.

Data from this first phase were processed statistically, first and second level sorting was performed and cluster analysis was used to select typical subjects.

The second phase of the research consisted of intensive psychological case history investigation of selected typical subjects. We strove to acquire more detailed knowledge of the personal characteristics of the child, his/her sphere of interest, peer group contacts and success at school, as well as understanding of the course of his/her life and the situational factors which led to the current position. We attempted to clarify certain family relationships, in particular relationships with a child's own parents and siblings, but also directed our attention to questions of the influence of surrogate carers and siblings who were not the child's own. Nor were characteristics of an economic nature ignored.

The profile of the sample obtained was as follows: male 69%, female 31%, average age 13.2.

The proportion of children who had experience of previous institutional care was increased: 7.5% had been placed in a nursery institution, and 11% had been in a children's home. A still higher percentage of children had undergone psychiatric treatment – 23.5%. Among children who have received psychiatric treatment we find a higher occurrence of aggression. Every fifth subject demonstrated clear psychological problems. From other data too it is evident that for children placed in alternative educational care psychiatric traits of their personality plays a significant role.

Placement in collective facilities for the provision of institutional education should be the last step in the sequence of interventions in the interests of a child, a measure when all other educational provisions have failed. However, we find that a full third of the children had not received any previous intervention before placement in a diagnostic institution, nor any examination in an educational psychology consulting clinic (PPP - approximately 35% of the children had been to one of these). It is alarming that according to the data available a full third of the children later placed in institutional education had not received any previous specialist attention (except for action taken by OPD). This is a serious shortcoming in the system of preventive and therapeutic care.

The overwhelming majority of the cases we examined were children for whom institutional education had been proposed (protective education had been proposed in only a few cases); the reason for the proposal was most frequently criminal activity by the subject,

truancy and parental failure to control the child's education. In a number of cases social reasons also had a significant influence (in most cases this was a question of families with low economic and cultural status, incapable of ensuring appropriate conditions for a child's education).

A basic factor in family case history is the completeness of the family. Nearly 40% of the subjects in our sample had already lived in an incomplete family at pre-school age. This trend becomes more pronounced in later stages of life and at the time of the research only one in three of the subjects had his/her own complete family. Most of the individuals reviewed were looked after by only their mother, and the father is often only a formal educator.

It is shown that **subjects' families** are evaluated rather critically by curators of young people from the educational point of view, and the educational climate deteriorates in the course of the child's life – at the present time only 6% of these children live in a high quality educational environment. This deteriorates from pre-school age in more than half of the homes. The subjects and their families, however, perceive the family atmosphere fundamentally less critically than social workers.

The subjects' families are substantially below the standard of the population as a whole in terms of educational level. More than three quarters of the mothers have only basic (sometimes uncompleted) education, and two thirds of the fathers are in this group. The proportion of persons who have completed secondary school is around 7%, and not even one mother is a university graduate. Professional classification also corresponds to the educational level (where this could be ascertained, for curators often do not have this information). More than 90% of the fathers and mothers are classed as manual workers, but many of them do not work: only 34% of the mothers and 42% of the fathers are in employment. Around 15% of the families are in job centre records, about 8% are on sickness pension and some of the mothers are on maternity leave; how the remainder support themselves financially is not known (to the respondent). It is therefore not surprising that the attitude of families to work is assessed in a better case as average, while Roma families are assessed as worse.

The pedagogical effectiveness of mothers (as the main agents of education in incomplete but also in formally complete families) is problematic: they are generally inconsistent in education, do not exercise much control over their children and quite often have a tendency to be negligent in caring for them. The educational styles of fathers show similar features – they only punish children more often. Inconsistency in education and forgiving children's transgressions are more evident in Roma families.

The most pathological manifestation of family failure is child maltreatment. This occurred in nearly one fifth of our subjects' families; the commonest victim was the subject him/herself, but sometimes his/her sibling or mother too. Maltreatment most frequently took the form of excessive physical punishment or psychological oppression of the subject, sometimes a combination of the two. Maltreated children do not show a higher incidence of socially deviant behaviour, but are more often psychologically disturbed.

The economic situation of the families studied corresponds to the occupational profile of the families and often to the fact that they are unemployed. Only a little under one tenth of the children come from economically above average families, whereas every fifth child comes from a family well below the average economically. There is no evidence that (as is sometimes claimed) children from very financially secure families where the parents have very little free time are found in more significant numbers in institutional or protective education. But poverty does not seem to be a particularly significant criminogenous factor – children from socially deprived families do not display a higher level of delinquency. Overcrowding of the flat in which a family lives is also related to lower economic status.

Another subject of research interest was the **socio-psychological profile of the subject**. A highly important category in the criminogenetic concepts is a person's intellectual capacity. Here we made an interesting discovery. 56% of the subjects show below average or even substantially below average intellectual performance, and only one tenth are above the average level for the population. There is no doubt that it is this reduced level of analytical and evaluative capabilities that is at the root of many behavioural disorders; but it must also be allowed that it is this intellectual deficiency of the subjects that may be the cause of their identification by state authorities and their delivery into institutional education.

Young Roma coming under the care of diagnostic institutions display, according to the findings of specialist staff of these facilities, significantly lower intellectual performance than their non-Roma peer group. There may be a number of complementary causes for this state, and the specific factors affecting the capabilities of Roma (and measurement of these capabilities) is dealt with in detail in the literature on the subject.

Light mental dysfunction (LMD) syndrome, thought of today as hyperactivity syndrome (ADHD), is linked inter alia with a number of behavioural disorders, such as displays of aggression, impulsiveness and so on. A quarter of the subjects in our research group suffered from LMD, and the same number had this disorder noted in their case histories. It appears that the increased number of individuals afflicted in this way compared with the standard population is not fortuitous and so LMD can be regarded as one of the criminogenesis factors.

A child's functioning in the **school environment** is another important variable in his/her overall personal profile. Criminological theory provides supporting evidence that a negative attitude to education, school or teachers is a significant criminogenous factor and can be regarded as one of the possible precursors of delinquent behaviour. A full two thirds of the children examined have a negative attitude to education in the opinion of OPD staff. It was confirmed by psychological tests that the attitude to school was definitely not positive, but school is not a place that is feared – it is regarded most frequently as a waste of time and boring, and attitudes to teachers are indifferent and at critical times verging on tense, even hostile.

Subjects' achievement at school was as expected below average right from the first year class; the achievement crisis deepens in later years and the number of children failing also increases. Half the subjects of younger school age and three quarters of the subjects of older school age have serious achievement problems.

An important question is also transfer of pupils from basic to special school. Children who only attended basic school formed 56% of our sample, and 12% of the children had attended special school from the first class. The remainder, ie 32%, had been transferred during their school attendance; they were transferred not only for reasons of achievement (which is the real task of a special school) but for educational reasons. It can also be seen from our findings that Roma pupils on the one hand are transferred directly to special school more often and on the other hand are transferred to this school during their school attendance much more often and earlier. The result of this procedure is that more than two thirds of non-Roma subjects (69%) but only a little more than a quarter of Roma (27.5%)! obtain basic education at basic school full time. It can also be stated that Roma have constant problems with achievement throughout the whole of their school attendance, whereas non-Roma start to fail seriously at older school age.

At older school age there were frequently a large number of discipline problems among the children in our sample. Dominant here in particular are widespread truancy, committed by four out of five subjects, and theft (60% of the children). A significant number of our subjects (40%) committed open physical aggression in school mainly against fellow-pupils but also sometimes against teachers. These, however, were rather attacked by subjects verbally or by displays of no interest at all in learning.

The main subject of interest of our research was to map **socially pathological manifestations** for which children sent by state authorities to institutional (preventive) education were examined. As has been mentioned already, the commonest offences were truancy and theft – this was also what aroused the interest of social services in the subjects most often. In other places aggressiveness, running away from home, or general educational uncontrollability linked with lack of respect for the authorities appear.

Truancy is a problem which has a wider impact – it is generally accompanied by actions which have the result of handicapping a child, such as lower achievement and conflicts with teachers. When the problems are more serious, the child is transferred to a special school, so does not achieve a full basic education and level of education, and, as is known from criminological theory, there is a close correlation between the level of the population affected by negative phenomena and criminality. Part of the blame lies with the basic school system, which is not “designed” for the less gifted or problem children – it is significant that Roma children play truant much more often than non-Roma children.

Property offences, primarily petty theft, are the commonest criminal act committed by children. Overall, two thirds of the subjects committed acts of delinquency regarding property, most of them repeatedly. In comparison with this, a quarter of the children committed violent acts – this was generally affray with bodily harm, robbery or extortion (not infrequently committed on school premises). Subjects most often began their career as delinquents at the age of twelve or thirteen. They are driven not only by a longing for excitement and to dispel boredom but also rational economic calculation. For a person's social status in a group of young people these days is very often defined inter alia by ownership of items of a status-conferring nature (such as designer clothes, electronic equipment etc) and enough money for entertainment (for example, visits to discotheques). Children from socially deprived families or simply “kept on a tighter rein” therefore fulfil their longing to assert themselves by means of criminal acts. The particular danger is that they will carry over this model of creating and satisfying needs into adult life and may become members of the criminal sub-culture.

We also attempted to clarify what these “institute” children are like in terms of dependencies. It was found that the probability of alcohol and drug abuse is significantly related statistically. Similarly, a close relationship was perceived between smoking and alcohol abuse.

Smoking is not in itself a criminogenous factor, but more regular smoking among children is a signal of non-standard socialisation. There were more than 60% of these subjects in the group; it can be stated that problem children start to experiment with smoking at a rather young age and become regular smokers at an early age.

More than half of the children studied have experience with consumption of alcohol that is worth noting, and nearly 40% with non-alcoholic drugs. Experiments related in particular to volatile substances, marijuana and pervitin. Approximately a third of the children had tried out a game on a fruit machine.

Research into the effect of transformation of criminal legislation and application of alternative sentences¹

1996 - 2000

Researcher responsible: JUDr. et PhDr. Jan Vůjtěch

Co- researchers: JUDr. Simona Diblíková, JUDr. Zdeněk Karabec, CSc., Mgr. Petr Kotulan, JUDr. Soňa Krejčová, RNDr. Stanislav Musil, Mgr. Radka Macháčková, JUDr. Václav Nečada, JUDr. et PhDr. Otakar Osmančík, CSc., Mgr. Jan Rozum, PhDr. Miroslav Scheinost, JUDr. Petr Zeman, Ph. D.

A vast number of legal norms have been adopted in the Czech Republic since 1989, in the criminal legislation field too. Ascertaining how successful these norms have been in practice and how they actually function provides vitally necessary feedback for future procedure. In accordance with this, the Institute for Criminology and Social Prevention was authorised by the Ministry of Justice to carry out the "Effects of transformation of criminal legislation on the state of criminality and increase in the effectiveness of justice in relation to the security of Czech citizens in 2000" project.

The subject of the research was principally to ascertain how legal provisions instituted after 1989 in criminal legislation are applied in practice, in what direction they are effective and whether they have proved successful. The aim was to formulate an opinion on whether it is necessary to repeal some of the new provisions, to amend them and perhaps to propose new measures and to use the results of the research and its conclusions as background material for formulating sentencing policy.

This was a long-term and comprehensive research task, in which individual research sub-projects conducted in the years 1996-2000 were considered to be fundamental from the point of view of transforming criminal legislation. The legal aspect was the major predominant feature in performing research tasks.

The focal point of the research consisted in **surveys of new provisions** which had been incorporated in sentencing codes since 1989. This involved the issue of alternative sentences, the probation provision in criminal law and the provision of what is termed

¹ Vůjtěch, J., Diblíková, S., Hanák, V., Karabec, Z., Kotulan, P., Krejčová, S., Musil, S., Macháčková, R., Malinová, K., Nečada, V., Osmančík, O., Rozum, J., Scheinost, M., Zborník, F., Zeman, P. Effects of transformation of criminal legislation on the state of criminality and increase in the effectiveness of justice in relation to the security of Czech citizens in 2000. Prague : ICSP, 2001. 196 pages.

diversion in criminal proceedings. These provisions form an important component of the new concept of our criminal law.

The following surveys were performed:

- survey of the community service provision
- survey of probation elements newly introduced in Czech criminal law
- survey of the provision for conditional stay of criminal prosecution
- survey of the mediation provision
- survey of fines
- study on the security of citizens
- survey of the effectiveness of criminal law systems
- survey of short-term prison sentences

Following completion of the research task in 2000, an overall synthesis of the findings ascertained was made. The result is a final summary report on the project **entitled "Effects of transformation of criminal legislation on the state of criminality and increase in the effectiveness of justice in relation to the security of Czech citizens in 2000"**. In addition to this final summary report, the researchers published 17 separate papers during the research in the ICSP edition and 26 articles in the specialist press.

Findings were gleaned in surveys of individual procedures from the following sources:

- police statistics and statistics of the Ministry of Justice
- court files of criminal cases and in cases where there were good reasons also investigation, probation or other files
- surveys of professional opinions, predominantly of judges and state prosecutors, or sometimes other professionals (in the form of questionnaires)
- studies of professional literature.

We present the following brief conclusions on the findings obtained by the surveys on the above-mentioned new criminal law procedures:

a) Alternative sentences

Police statistics and statistics of the Ministry of Justice bear witness to the fact that there has unquestionably been an overall increase in criminality in the Czech Republic since 1990. High criminality called for a need to change sentencing policy and to deal with the question of the effectiveness of sentences, especially prison sentences. The growth in short-term prison sentences logically resulted in overloading of the prison system too and was manifested in a chronic inadequacy of prison capacity. On the basis of negative findings on the influence of imprisonment on the offender and the findings on the prison system in general, a search began for new solutions. Reform of the penal sanction system became one of the main tasks of overall reform of criminal legislation.

In most modern states what are called alternative sentences and measures that can be suitable replacements for short-term prison sentences in particular have progressively started to be applied and developed. On the basis of these findings the range of alternative sentences was also extended here. In addition to the traditional alternative sentences, such as fines in particular, a new type of sentence – **sentence to community service** - was introduced in the amendment to Act No. 152/1995 Coll., the Criminal Code, effective from 1.1.1996, and other alternative sentences and measures were also considered.

According to the report giving the reasons for the amendment to Act No. 152/1995 Coll., the conditions for imposing a sentence of community service are defined in such a way that they apply to offenders committing less serious criminal offences on whom there is no need to impose a prison sentence and for whom also for some reason mere imposition of a fine is insufficient or unsuitable. The report assumes that imposition of this sentence will come into the picture in particular for manifestations of vandalism, hooliganism or less serious property crimes where it is desirable that public opinion be brought to bear on the offender.

A list of types of community service is given for illustrative purposes in the criminal code. The essence of this sentence is the obligation of the convicted person to perform work to the stipulated extent for the benefit of the community in maintaining public areas, cleaning and maintenance of public buildings and highways or also other similar work beneficial to the community. The convicted person is obliged to perform this work personally, free of charge and in his/her free time. A court may impose a sentence of between 50 and 400 hours and may also impose restrictions on the offender for the period the sentence is served aimed at ensuring that he/she leads an orderly life. As a rule it also charges him/her to compensate in accordance with his/her means for the damage caused by the criminal offence. The Act also provides for this sentence to be converted into a prison sentence if the offender does not lead an orderly life in the period from conviction to completion of serving the sentence, comply with the conditions laid down or fails through his/her own fault to complete the imposed sentence within the stipulated time.

Statistical data show that sentences of community service are beginning to be applied more in court practice, which is an indubitably favourable indicator. In 2000 this sentence was imposed on 7,084 persons, 11.2 % of all sentences imposed. This is more than twice as many as in 1999, when this percentage was only 5.1 %.

The research conducted demonstrated that a community service sentence can to a significant degree fulfil the task of an alternative to a prison sentence. **Proposals** were also formulated for utilising the results of the research conducted which may increase the degree of application and effectiveness of this sentence, for example to make imposition of a community service sentence conditional upon the agreement of the accused, to reduce the upper limit of the sentence from five to three years for criminal offences for which a community service sentence can be imposed and to reduce the upper limit of community service sentences for juveniles, to define clearly the legal terms “for the benefit of the community” and “other similar work beneficial to the community”, to broaden the possibility of performing community service to the benefit of a number of entities and others. Some of these recommendations have already been incorporated after completion of our research in the amendment to the Criminal Code No. 265/2001 Coll., which will come into effect on 1.1.2002.

As regards **the sentence of a fine** already mentioned, the amendment to the Criminal Code No. 175/1990 Coll. has basically broadened the possibility of its imposition and has thus created the legal preconditions for it to become an important alternative to a sentence of imprisonment. However, the numbers of cases here where merely a fine is imposed are few and have been showing a tendency to decline since 1990 (from 16.7 % in 1990 to 5.6 % in 2000). There is a clear difference between our country and certain European countries, where fines are becoming the most common sentence imposed. It can be seen from the results of the questionnaire survey conducted that the majority of the respondents who are judges and state prosecutors see the causes of low application of fines in the low economic level of most offenders as a result of which it is evident that fines could not be collected from them. De lege ferenda it is suitable to consider utilising the experience of a number of European countries with what is called the daily fine procedure, which would bring the amount of the penalty more into line with the financial means of the accused and what he/she can actually pay.

b) Probation in criminal law

Another way of resolving the fight against crime is introducing supervision of the behaviour of a person committing a criminal offence, what is termed **probation**. This combines the penological aspect (sentence, threat of sentence, limitation) and the social aspect (supervision, assistance). Probation was introduced in the criminal code by the amendment No. 253/1997 Coll. effective from 1 January 1998. It has been implemented in two procedures of the criminal code – conditional discharge with supervision (§ 26) and suspended prison sentence with supervision (§ 60a, § 60b).

Conditional discharge with supervision is closely related to discharge under § 24 of the Criminal Code and both these procedures can be applied under the same conditions. Conditional discharge with supervision is, however, a more severe alternative, because it is not a definitive verdict but conditional on fulfilment of certain facts; it is linked to stipulation of a trial period and may be made stricter by imposition of appropriate restrictions and obligations.

A suspended prison sentence with supervision is the typical form of probation through which the aim of the criminal code is achieved less repressively. It differs from a suspended prison sentence (without supervision) in the length of the sentence, serving of which can be conditionally deferred (it amounts to a maximum of 3 years as against 2 years) and in the fact that with conditional deferral of a prison sentence the court is also obliged to order supervision of the offender. Supervision is legally performed by a court and probation officers are authorised with its performance in practice.

It can be seen from the conclusions of the research conducted that only a negligible number of supervision procedures were imposed in the first year they became applicable (1998). Though there was a rise in the number of cases in 1999, to 82 for conditional discharge with supervision and to 659 cases for a suspended sentence with supervision, both these procedures continued to be used very sparingly.

On the basis of all the material obtained again **proposals** were formulated for utilising the results of the research which may contribute to greater application of both procedures. There was, for instance, a recommendation to define the concept, aim and content of supervision in the Criminal Code, to incorporate procedural processes in the Criminal Procedure Code for the performance of supervision under both procedures and other proposals. Most of these have already been legally implemented since the research project was completed, as for a community service sentence, in Act No. 257/2000 Coll. on Probation and Mediation Service and in the amendment to the Criminal Code and the Criminal Procedure Code No. 265/2001 Coll. (effective from 1.1.2002). Act No. 257/2000 Coll. contains inter alia a definition of the term “probation” and defines the position, rights and obligations of probation officers. The amendment No. 265/2001 Coll. defines the concept, aim and content of supervision in the Criminal Code. It can be anticipated that these legislative provisions will lead to greater use of both supervision procedures in court practice.

c) Diversion in criminal proceedings

The growth in criminality after 1989 led to a significant increase in the workload of authorities responsible for criminal proceedings, which has had a negative impact in particular on the length of criminal proceedings. Democratic countries have reacted to the rise in criminality in recent years inter alia by reinforcing out of court and alternative procedures. This also takes into account the need for rapid satisfaction of the claims of those harmed by

criminal acts and limitation of the rising cost to society for the criminal justice and prison systems.

In conformity with Council of Europe Recommendation No. 2/87/18 new alternative methods of procedure have been introduced in our criminal law by the amendments to the Criminal Procedure Code, first conditional stay of criminal prosecution and then mediation. We class both procedures among what are termed **diversions in criminal proceedings** – alternatives to punishment.

The procedure for conditional stay of criminal prosecution introduced in the amendment to the Criminal Procedure Code No. 292/1993 Coll. is laid down in the provisions of § 307 and § 308 of the Criminal Procedure Code. This is one of the options for achieving what is termed diversion from the standard procedure when criminal proceedings come to an end in a manner other than by a court verdict of guilty or not guilty.

According to the report giving reasons for the amendment, it comes under consideration in cases when in view of the circumstances of the case and the person of the accused it is evident that in the case of a conviction a conditional prison sentence would be imposed and the accused would in all probability respond well in the trial period. It is for this reason not necessary to pursue full criminal proceedings when the aim of these can be achieved in a much simpler way. This procedure has the nature of an interlocutory decision and cannot be interpreted as a verdict of guilty. It serves as a means for mediation between the person committing the criminal offence and the victim. If the accused does not comply with the conditions laid down in the trial period, the result is that criminal proceedings are continued.

The findings from our research showed that this new procedure was taken on board very quickly by judges and state prosecutors and also used appropriately by them. Criminal proceedings were accelerated by its application and the decision had the expected and required effect. There was also a strengthening of the position of the victim and satisfaction of his/her justified claims to compensation for damage caused by the criminal offence. It is necessary for all authorities responsible for criminal proceedings to create the preconditions for this, so that the accused persons do not have to be convicted if they fulfill all the legal conditions and where possible do not even have to appear before a court. It is thus possible to achieve a situation where criminal proceedings are freed from unnecessary formalities and can proceed far more rapidly.

The mediation procedure is another of the diversions in criminal proceedings providing alternatives to due trial in connection with hearing a case at a trial and passing a verdict of guilty and sentencing after full evidence has been established. This was incorporated in the Criminal Procedure Code in the amendment No. 152/1995 Coll., effective from 1. 9. 1995. It is regulated by the provisions of §§ 309 - 314 of the Criminal Procedure Code. In the last major amendment of the Criminal Procedure Code No. 265/2001 Coll. (effective from 1.1.2002) the provisions on mediation were fundamentally supplemented and newly formulated.

Mediation is conceived here in such a way that it can be applied in particular in cases where in addition to the public interest the private sphere is relatively seriously affected by a criminal offence. The state does not in these cases have a significant interest in criminal prosecution of the offender, because the criminal offence has the nature of a conflict between the offender and the victim(s). Mediation can clearly also be used in cases where the criminal offence affected only the public interest.

In contrast to conditional stay of criminal prosecution, mediation is a definitive end to criminal proceedings, it is decided by a court (from 1.1.2002, in accordance with the amendment to the Criminal Procedure Code cited, decisions on mediation will also be made by state prosecutors in preliminary proceedings), it requires a declaration by the accused that he/she committed the offence for which he/she is being prosecuted, and only conclusion of an agreement to compensate for damage in the future is not sufficient. Mediation also requires the agreement of the victim to this procedure and he/she can lodge an objection against the decision. The accused must deposit a sum of money in the account of the court designated for a specific addressee for generally beneficial purposes. Here, in contrast to conditional stay of criminal prosecution, no trial period or appropriate restriction is stipulated. A difference can also be seen in the aim of the two procedures. The very name mediation necessarily implies that its basic purpose is voluntary reconciliation of conflict between the accused and the victim, which cannot be reduced to mere compensation for damage.

The results of our extensive research showed that the mediation procedure here has not as yet fulfilled expectations and mediation has not yet become a standard form of resolving criminal cases. According to the statistical data for the years 1996 - 1999 mediation was decided in only 699 cases, which represents a minimal share of the total number of cases resolved.

In the replies of respondents to the questionnaire provided in 2000 who were judges, state prosecutors and probation officers a clearly negative assessment prevails. Mediation is perceived by them as a procedure that can seldom be used, which is not here to stay, does not have anything to offer in practice and does not lead to the desired acceleration of criminal proceedings. It is of no interest in court practice and of no interest to those accused, who prefer conditional stay of criminal proceedings or conditional convictions, nor is there any interest on the part of defence counsel. There is a lack of cooperation between the parties involved and victims often make it impossible to reach agreement because of their excessive demands. The general public is very inadequately informed about mediation.

Respondents unanimously see the main causes of this unsatisfactory position as being primarily in the over complicated state of legal regulations, consisting in an accumulation of sets of conditions for fulfilment of which a whole range of acts is needed. The absence of the probation service was strongly felt at state prosecutors' offices and judges too refer to its inadequate capacity. A number of respondents also refer to the unethical nature of this procedure, which favours the more solvent offenders. The vast majority of offenders do not

have enough money to fulfil all the financial conditions for mediation, and they see this as another very significant obstacle to application of this procedure.

Despite all the ascertained inadequacies and reservations, those carrying out the research project came to the **conclusion** that mediation has a legitimate part to play in our legal procedure. It is a procedure which is beneficial for the accused and the victim and when it is applied at the right time with the help of the mediation service it can be of assistance to all authorities responsible for criminal proceedings for reducing their workload and for more rapid resolution of criminal cases and thereby also in saving costs of criminal proceedings. It can be anticipated that, as with the previous procedures, the legislative regulations provided recently will increase the interest of authorities responsible for criminal proceedings in applying the mediation procedure.

The final report, "Effects of transformation of criminal legislation on the state of criminality and increase in the effectiveness of justice in relation to the security of Czech citizens in 2000," summarises the results of the research carried out as follows:

"The expansion of criminality and the lack of organisation in the state coercive power apparatus as typical symptoms of social anomaly connected with each far-reaching and revolutionary change in society posed threats to the proper functioning of the justice and prison systems here too in the post-November period and thereby also hampered control of criminality and posed threats to the citizens' right to security. The most marked signs of this situation were overloading of authorities responsible for criminal proceedings and overcrowding in prisons.

These problems had to be resolved as a matter of priority, if they were not to lead to the collapse of these systems with far-reaching critical results for the whole of society. The relatively most rapid and simplest measure in the criminal law field was adoption in this respect of alternative sentences in the criminal substantive law, which would put the brakes on overcrowding of prisons, and bring alternative measures in criminal law procedure, which would at least partially reduce the burden on authorities responsible for criminal proceedings.

The relevant legal regulations were of key significance in this period in eliminating the danger that threatened and for this reason their effectiveness also became of paramount importance as a subject of research interest".

Probable development of selected types of criminality¹

2000 – 2001

Researcher responsible: PhDr. Martin Cejp, CSc.

Co-researchers: Ing. Drahuše Kadeřábková, PhDr. Alena Marešová,

PhDr. Ivana Trávníčková, CSc.

Attempts to formulate measures against criminality should also take into account the results of scientific forecasting. In view of the fact that the nature of criminality changes together with changing social conditions, this forecasting should perceive criminality in its widest social ramifications. It is within the framework of these that qualitatively new phenomena can appear.

Prognoses in the crime field have been revisited on the initiative of specialists in the Police Academy in Bratislava. These have produced a prognosis of criminality in the Slovak Republic from the first half of the 1990s. In the second half of the 1990s, they attempted to get other countries involved and in 2001 they want to complete a summary prognosis for the Central European region. This will include a prognosis of criminality in the Czech Republic. At the same time, on the initiative of the Czech Government Council for Social and Economic Strategy, specialist studies for a summary prognosis for the Czech Republic began to be prepared at the end of the 1990s. In 2000, under the leadership of the Charles University Centre for Social and Economic Strategy, Visions of Development for the Czech Republic up to 2015 were therefore produced. We have used these summary findings to characterise the development of the wider social environment. We also contributed to production of the visions from the specific criminological point of view.

The methodology was based on application of the summary prognoses for Czech society. As regards the possible influence of **what is termed the relevant environment**, we used the visions of development for the Czech Republic up to 2015, and then ICSP research directed to the causes of organised crime and certain other sources. We thus expressed hypotheses in this area on how various living conditions affect criminality. When processing data relating to crime and selected forms of it, we proceeded from collection of data on the development to date of overall, property, violent, economic, drug-related and organised criminality. This data, summarised in statistical series, and in some cases extrapolated using regression and auto-regression analyses, was only background information for reflections on possible future scenarios. We arrived at these by means of **expertise methods**. In these, selected specialists gave their views on the possible future situation for individual types of criminality. For property, violent, economic and drug-related crime, discussion with the panels of experts proceeded by the **focus – groups** method. Groups of 3 - 4 experts in the individual areas carried out discussions on specific problems. Deliberations took place on the future of organised crime by a traditional survey of 27 specialists in the form of a written questionnaire, which is a certain application of the Delphic method. In addition to prognostic questions, the questionnaire was also directed to other features ascertained by traditional

¹ Cejp, M., Marešová, A., Kadeřábková, D., Trávníčková, I., Musil, S. Probable development of selected types of criminality. Prague : ICSP, 2001. 141 pages. Summary.

methods from 1993. We attempted to summarise the findings ascertained using the **SWOT method**. The facts ascertained were sorted into strengths and weaknesses and into development opportunities and threats. We attempted to apply this method consistently in the part devoted to the relevant environment. The resulting version was also simplified somewhat here in order to emphasise the possible positive or negative effects in individual areas.

In the analysis of **external problems of the world at present** we concerned ourselves with the possible positive and negative effects of globalisation and European integration on criminality. We summarised the deepening differences between developed and underdeveloped countries and different types of existing conflicts. We concerned ourselves specifically with problems relating to integration of countries of the former Eastern bloc into the democratic world. We analysed the main trends connected with the natural environment and population development trends.

Regarding the **internal problems of the Czech Republic**, we took into account the positives and negatives of the political system, state administration, self-government, the civil sector, the legal system, economy, the social structure and widely conceived culture. In the cultural field, we included lifestyle, life values, interpersonal relations, relations between the majority population and minorities, morality, education and upbringing, health care, communications, mass media and science.

The following conclusions emerged from the prognosis we made for the future development of **criminality in general**:

1. Criminality will remain at much the same level in future years, at about the mark of 400,000 criminal offences recorded annually by the police, unless there are radical changes in criminal legislation or other related laws or in the statistics system of the Police of the Czech Republic.
2. The proportion of women among those committing criminal offences will increase.
3. The proportion of juveniles among offenders will remain at much the same level, or decrease slightly. However, the number of criminal offences committed by minors (children up to the age of 15) will rather increase.
4. The proportion of re-offenders among known offenders prosecuted will increase.

Property crime is the criminal activity which determines the extent and future development of criminality and which has by its quantum leap caused the overall dramatic rise in criminality recorded in the Czech Republic since 1990 and has caused the levelling off in recorded criminality in the last few years.

It is impossible at this time to forecast its future development and also its share in total criminality. If the proposed change in legislation in the Czech Republic were to be implemented, in which the minimum level of damage which is not insignificant would be

indexed to the lowest minimum wage in the Czech Republic, applicable from 1.1.2001, ie the limit of this damage would be raised from 2000 CZK to 5000 CZK, there would be an unprecedented fall in criminality recorded in the Czech Republic, in the case of property crime by several tens of thousands of criminal offences annually and also a dramatic fall in the number of offenders prosecuted.

Violent criminality is criminality which has also shown an increase (approximately double) since 1990, but one substantially less dramatic than property criminality. Its share in the overall number of criminal offences recorded has thus fallen compared with the period before 1990. In the nearest future we rather expect the number of criminal offences of violence recorded to remain at much the same level, but also the violent nature of immoral crimes and the number of offenders prosecuted for this criminal activity. However, we anticipate a further rise in violence and its seriousness among offenders under the age of 18 (this applies particularly to robbery). Also a slight rise in the number of offenders whose criminal activity is linked to organised crime – eg contract killings, extortion, attacks on a public official and so on. More and more violent crime will in our opinion be linked with criminal acts committed in the Czech Republic by foreigners, with settlement of their scores and division of territories of interest between foreign and increasingly powerful Czech gangs. For robbery, but also other criminal offences of a violent and property nature, the proportion of offenders motivated to acquire money to purchase drugs by criminal activities will increase. The rise in group violence and the increase in the level of aggression in its manifestations, conditioned by negative socio-pathological phenomena in the family, at school and in the wider social environment, will continue.

The quantitative and also structural occurrence of **economic criminal activity** in the last decade of the last century, like its occurrence at present and in the immediate future, is an immanent social change starting at the end of 1989. It reflects its new economic, legislative, criminal law, social and other indicators. In this, of course, the structure of the current occurrence of this criminal activity differs markedly from the structure of previous occurrences and for this reason only quantitative occurrence in the time scale of the last ten years is accepted here for predicting development. The first two years of the period analysed show numerically lower occurrence of economic criminal activity than that recorded in the previous years. In comparison with, for instance, 1989, occurrence of ascertained and recorded cases in both these years hovers at only slightly above half of the 1989 number in the findings. Since 1993, however, there has been a rise each year and the highest number of acts to date was recorded in 1999, when conversely it exceeded the occurrence recorded in 1989 more than three times.

Further increase in the occurrence of this type of crime has, however, probably now stopped and it will not grow substantially. In view of the evident calming down and gradual stabilisation of all areas of social life, objective reasons for linear growth in the number of recorded cases of economic criminal acts are also fading away. Future occurrence of this type of crime in terms of numbers will be around the level of the current number, but included in this to a higher degree than hitherto will be latent cases, ie cases already committed. Contrary to past development, however, this may lead to changes in the structure

of acts committed, particularly in response to legislative changes or changes in service offers of financial institutions or offers in the securities market and so on.

The **drug-related crime** prognosis was prepared on the basis of replies from specialists and the development of drug-related crime in the Czech Republic since 1989. The development tendency for drug-related crime over the next five years is also derived from analysis of the current situation in the Czech Republic, the priorities and activities of organised crime and other accelerating factors in crime with respect to specific aspects of the drug-related issue.

Organised crime represents one of the greatest security risks in the world today. This started to reveal itself to a significant extent in the Czech Republic too after 1990. About 75 groups with a total of approximately 2000 members operate in the Czech Republic. Further growth is expected in the future. On the other hand, paradoxically, nobody has been prosecuted, charged or arrested since (and including) 1997 in connection with participation in organised crime. Since 1998, isolated cases of persons prosecuted and charged have occurred (in 2000 there were 40 of these). However, virtually nobody (one in 1999) has been convicted.

More than a third of organised crime groups are highly organised – with a multi-level organisation structure. The number of these groups will grow because those with poorer organisation cannot compete in the crime world. Half of the members are external. The proportion of external members will clearly continue to be high. Hiring them is advantageous for organised crime. It is estimated that around 15 % of those linked to organised crime are women, which is more than for crime in general (10 %). In the coming years their number may increase. Specialists estimate that children are also linked to organised crime in the Czech Republic – most often in connection with child pornography and prostitution and also in theft and distribution of drugs.

In terms of nationality composition, for a long time somewhat over half of the members of criminal groups have been from abroad, and slightly under half are Czech citizens. Groups from abroad which wanted to enter the Czech Republic have already established themselves here. They have built up contacts and the required structures. Their number will clearly not grow very much. On the other hand, they will recruit Czech citizens in still greater numbers. So roughly 1/5 of the groups operating in the Czech Republic will be exclusively Czech. Of the foreigners, those most heavily represented in organised crime are Ukrainians and Russians. Citizens of the former Yugoslavia and Chinese used to be in this most heavily represented category, but the number of Chinese has been going down since 1998 and the number of Jugoslavs since 1999. The number of Poles has also been declining. The second group, then, consists of Bulgarians, Albanians and Vietnamese. Nationals of other countries are represented sporadically.

Among the most widespread activities of organised crime are the production, smuggling and distribution of drugs, theft of automobiles, organised prostitution and trading in women, and illegal migration. These activities were, with certain fluctuations, accompanied by a whole range of other activities, such as corruption, money laundering, counterfeiting of CDs and copying of video-cassettes, violence and murder, theft of works of art (these were among the most widespread in the first half of the 90s), illegal debt collecting, tax, bank and customs fraud, extortion and trading in weapons.

By 2005 – according to the estimate of specialists – the most widespread activity connected with organised crime should be the production and trafficking in drugs. This should then be followed by violent crime, illegal migration (the level of its occurrence is dependent on acceptance in the EU), organised prostitution and money laundering.

In conclusion, we can state that beginning in 2000 we laid the foundation for new prognostic activity in the crime field on which this should be based in future years. The analyses conducted confirmed that it is not possible to proceed mechanically only from painstakingly collected data. This can be the background information for further deliberation. In view of the fact that practically any possibility could be realised, it is necessary in these deliberations to weigh up all circumstances responsibly. It is not possible in this to proceed only from the internal development of specific phenomena, but it is always necessary to take into account the widest social ramifications. All types of crime and features of offenders and victims are always influenced by the social system.

International survey of victims of criminal activity in Prague in 2000 - National Report¹

2000 - 2001

Researcher responsible: PhDr. Milada Martinková, CSc.

This publication contains data acquired in an international survey initiated by UNICRI² of victims of criminal activity which took place in 2000 in the Czech Republic. This survey of victims of crime is carried out repeatedly, at an interval of several years. This is the third time it has been carried out in the Czech Republic but this time for the first time only in the capital city. The coordinator in the Czech Republic for performing these international surveys of victims organised by UNICRI has always been the Institute for Criminology and Social Prevention, which right from its foundation has devoted special attention to the issue of victims of crime. Inter alia it devotes a special chapter to victims of crime in the CR in the crime yearbook, which is traditionally published every year.

Methodology

The survey of victims of crime was performed by means of a questionnaire administered by the telephone interviewing method (CATI). The questionnaire dealt with 13 selected types of offence committed, with two exceptions, over five years (roughly the period 1996-2000). This means that the respondents communicated their experience of crime retrospectively over the defined five-year period stated above. The questionnaire given to the respondents, which has been used since the inception of this research at the international level, was applied in a uniform manner in surveys of victims of crime in all the countries (cities) participating. Not only did the persons polled in the survey give replies about their experiences of the selected types of crime but also the questionnaire contained questions relating to crime more generally.

The respondents gave answers specifically about their experiences of the following selected criminal activities (13 criminal offences).

These are:

1. – criminal offences against **h o u s e h o l d s** (which have a negative effect on the life of the household as a whole and were directly harmful in most cases to a number of persons in them – members of the household, not only the respondent himself/herself)

- theft of cars
- theft of items from cars
- damage to cars (vandalism)

¹ Martinková, M. International survey of victims of crime in Prague in 2000 – National Report. Prague : ICSP, 2002. 87 pages. Summary.

² United Nations Interregional Crime and Justice Research Institute (UNICRI) based in Turin in Italy.

- theft of motorcycles
- theft of bicycles

- incidents in a flat or a house

- burglary
- attempted burglary

2. – criminal offences against an individual (criminal offences which the respondent suffered personally)

- robbery
- theft of personal property
- sexual incidents (only women were surveyed)
- assaults/threats
- corruption on the part of public officials
- fraud against a consumer

The victim of any of the criminal offences mentioned was asked about the specific circumstances of the act committed (for example, when it happened, where, how often it happened and so on). An important element of the survey was the question of notifying (or not notifying) the police of the offences, including the reasons for this decision. The victim was also asked a question relating to assistance provided to him/her after victimisation.

3. The questionnaire also contained, as indicated above, questions relating to crime more generally. All respondents (even those in the sample surveyed who had not become victims of crime) were asked questions ascertaining their fears of crime, opinions on the work of the police and their attitude to the police and questions relating to preventive measures adopted by the respondents against burglary and other types of crime.

The persons surveyed gave replies as to whether they had met with a specific criminal activity (1) during the “last” five years (ca 1996-2000) and particularly (2) in 1999, ie in the year which preceded the year the respondents were surveyed. (If persons surveyed had been victimised more than once during the five year period studied, they provided answers on the last incident).

In accordance with UNICRI requirements, a sample selected by a quota system of 1500 persons over the age of 16 from the capital city of the Republic were surveyed. The respondents were a representative sample in terms of gender, age, place of residence (Prague Districts 1-10) and education. A field survey in the capital city of the CR and its technical processing in accordance with UNICRI requirements was carried out by AISA.

Selected main results

The international survey of victims of crime in Prague in 2000 provided many interesting findings. Some of these are given briefly in the text below:

The great majority of victims of theft of cars (96%, 170 persons) and victims of theft of motorcycles (88.2% of victims, 15 persons) *reported* the last incident of which the persons surveyed had become victims during the five years (ca 1996 -2000) to the police. Also approximately three quarters of the victims of theft of bicycles (72.6%, 175 persons), about two thirds of the victims of burglary (68.4%, 245 persons) and the victims of theft of items from cars (62.9%, 397 persons) did likewise. Roughly half the victims of attempted robbery reported to the police that they had become victims of a crime (48.1%, ie 89 persons), as did about half of the victims of mugging (46.3%, 31 persons) and also less than a third of victims of assaults / threats (29.1%, 59 persons) and victims of vandalism to a car (31.8%, 126 persons). Only 41.4% of victims of theft of personal property (196 persons) reported the theft to the police and only about a fifth of victims of sexual offences also went to the police (18.5%, 12 persons).

The data then indicates that for certain criminal offences a significant number of the persons affected do not go to the police at all and the offences thus remain outside the attention of official institutions. In particular, it can therefore be concluded that for certain types of criminal activity there is a significantly high degree of latent crime.

Reasons for reporting an offence to the police. For insurance purposes, victims of theft of items from cars reported the incident to the police most (28.4% of the replies, 141 persons). Victims of robbery (21.3% of the responses, 74 persons), assaults /threats (29.7% of the responses, 21 persons), sexual offences (42.9% of the responses, 6 persons), and victims of mugging (25.6%, 11 persons) reported the offence to the police most often so that the offender would be caught and punished. In addition, almost as many of the victims of robbery reported this incident for insurance purposes as for this reason (21%, 73 persons), victims of mugging so that they could recover their property (23.3%, 10 persons) and victims of assault to obtain assistance (23.9% of the responses, 17 persons) and prevent it happening again (19.7% of the responses, 14 persons).

Reasons for not reporting an offence to the police. Among the most common reasons for not reporting an offence is the fact that the victim did not regard the incident as serious enough to report it to the police in the cases of theft of items from vehicles (39.3% of the responses, 97 persons), robbery (36.1% of the responses, 44 persons), assaults/threats (29.2% of the responses, 45 persons) and sexual offences (31% of the responses, 18 persons). Among the reasons for victims of mugging not reporting the incident to the police is most frequently the opinion that the police are unable to do anything anyway (28.3% of the responses, 11 persons). This was the second most frequently given reason for not reporting the incident to the police by victims of theft of items from vehicles (31.9%, 79 persons), burglary (21.4%, 26 persons) and assaults/threats (24.7%, 38 persons).

Approximately half of the victims of theft of cars (49.1%, 87 persons), 41.5% of the victims of sexual offences (27 persons), more than a third of the victims of mugging (38.8%, 26 persons), nearly a third of the victims of assaults/threats (31.5%, 64 persons), and roughly a quarter of the victims of burglary (24.3%, 87 persons), attempted burglary (24.3%, 45 persons) and theft of personal property (26.8%, 127 persons) and about a fifth of the victims of theft of bicycles (18.3%, 44 persons) considered the offence committed against them *as very serious for them*. The other offences were not felt by the victims to be very serious so

often - theft of items from vehicles was considered as very serious by 12.7% of the victims (80 persons), theft of a motorcycle by 5.9% of the victims (1 victim) and vandalism to a car by 8.3% of the victims (33 persons).

Satisfaction with the work of the police of victims who reported an offence to them. Dissatisfaction with how the incident was handled by the police was felt by a third of the victims of burglary (33.5%, 82 persons) and victims of corruption (33.3%, 1 person), and by approximately half of the victims of mugging (54.8%, 17 persons), 44.8% victims of theft of items from vehicles (178 persons), 40.7% of the victims of assaults/threats (24 persons) and the majority of the victims of sexual offences (83.3%, 10 persons).

Reasons for dissatisfaction with the work of the police of victims who reported an offence to them. Among the most common reasons for dissatisfaction with the work of the police was the impression of respondents that the police were not interested. This reason was given most frequently by victims of sexual offences (41.6% of the responses, 5 persons) and victims of assaults/threats (35.9% of the responses, 14 persons), and also victims of burglary (28.3% of the responses, 34 persons) and theft of items from vehicles (25.5% of the responses, 67 persons). Among the other most common reasons expressed for dissatisfaction was the opinion of those surveyed that the police did not do everything within their powers. This reason was selected most frequently from the other possible reasons by victims of assaults/threats (30.8% of the responses, 12 persons), victims of mugging (28% of the responses, 7 persons), victims of burglary (27.5% of the responses, 33 persons) but also victims of theft of items from vehicles (22.8% of the responses, 60 persons). Other types of response – reasons for dissatisfaction with the work of the police – were given less frequently.

Carrying of weapons by the person or persons committing the offence was studied for only three offences. More than a third of the victims of mugging (38.8%, 26 persons), approximately a fifth of the victims of assaults/threats (18.2%, 37 persons) and about a tenth of the victims of sexual offences (12.3%, 8 persons) testified that the offender had been armed.

A weapon was used against half of the victims who stated that the offender had a weapon, in the case of half of the victims of sexual offences (50%, 4 persons) and also approximately half of the victims of assaults/threats (54.1%, 20 persons) and in the case of about two thirds of the victims of mugging (65.4%, 17 persons).

As regards *the number of offenders who made people victims* of the offences studied, in most cases victims of assaults/threats (52.3%, 106 persons) and also victims of sexual offences (89.2%, 58 persons) were victimised by one offender. In cases of mugging, victims were attacked in approximately a third of the cases by one assailant (31.3%, 21 persons), two assailants (32.8%, 22 person) and two or more assailants (28.4%, 19 persons).

A positive opinion of *the helpfulness of the institution specialising in aiding victims of criminal acts* was expressed by around 60% of the victims of robbery (58.1%, 208 persons), mugging (59.7%, 40 persons), assaults/threats (62.6%, 124 persons) and nearly three quarters of the victims of sexual offences (73.4%, 47 persons). The question was not asked for the other offences.

* * *

As regards the persons surveyed who were victimised in Prague *during 1999*, the respondents' (N=1500) replies showed that 3.8% of those surveyed who owned or used a car for private purposes (43 of the 1124 surveyed who owned or used one or more cars for private

purposes) had been victims of theft of a car. Of these 43 victims, 9.3%, 4 persons, had a car stolen twice in 1999.

16.5% (186 persons) of the 1124 car owners or users had been victims of theft of items from a car - 73 of them, ie more than a third (39.2 %) more than once, most often twice (51 persons) and three times (18 persons), 4 persons four times or more.

About a tenth of those surveyed who were owners or users of a car were victims of deliberate damage to a car in 1999 (10.9%, 123 persons), half of them more than once (50.4%, 62 persons), most frequently twice (43 persons) and three times (14 persons).

Of the owners of motorcycles (139 persons out of the 1500 surveyed), 1.4% (2 persons) became victims of theft of a motorcycle in 1999. These were both victims of this theft only once.

Of the owners/users of bicycles (1034 persons of those surveyed), 6%, ie 62 persons, became victims of theft of this means of transport, 14.5% of them (9 persons) more than once, most frequently twice (8 persons).

Out of the total of 1500 persons surveyed, 6.9% (103 persons) stated that they had been victims of burglary in 1999. More than a third of these (35.9%, 37 persons) had been victims more than once, most frequently twice (27 persons).

Victims of attempted robbery formed 3.5% in 1999 of the persons surveyed (53), 41.5% of them, 22 persons, more than once - most frequently twice (12 persons).

Victims of mugging comprised 0.7% of those surveyed (11 persons), most of them only once (10 persons).

7.8% of the persons surveyed (117 individuals) had become victims of theft of personal property, 18% of them (21 persons) more than once, in most cases twice (17 persons).

Victims of assaults/threats formed 3.4% of those surveyed (51 persons), nearly half of them more than once (47.1%, 24 persons), most frequently twice (11 persons), and 13 persons more than twice.

Victims of sexual offences (this was ascertained only for women) in 1999 were 1.5% of the 786 women surveyed (12 persons), about a third of these more than once.

A fifth of those surveyed (20.3%, 305 persons) stated that they had been victims of fraud against a consumer.

8.1% of the total of 1500 persons surveyed (121 individuals) had personally encountered cases of corruption (an official asking for a bribe) in 1999.

(Fraud against a consumer was reported to the police by only 4.9% of the victims (15 of the 305 persons among the 1500 respondents who had claimed to be victims of fraud against a consumer). Only 2.5% of those who had encountered corruption (3 of the 121 surveyed) reported cases of corruption to the police.)

* * *

More than half of the 1500 respondents from Prague contacted in 1999 (55.9%) said that they did not feel completely safe when they moved about alone after dark where they lived (44.4% of the persons felt rather unsafe, and 11.5% of the persons felt very unsafe).

Half of the respondents surveyed (50.5%) stated that they felt completely safe at home alone after dark and only 1.5% of the respondents felt very unsafe at home alone in the evening.

On the question of the probability of their houses being burgled during the next 12 months approximately half of the 1500 persons surveyed in Prague stated that this eventuality was to some extent probable (51.9%); 46.2% persons thought that this eventuality was probable and 5.7% of those surveyed stated that it was highly probable.

As regards how to secure the houses and flats of respondents in Prague (ie their protection against thieves), the respondents who were willing to answer the question (N=1388) had most often secured their houses or flats with special door locks (64%). In addition, they had protected their houses or flats by an agreement with their neighbours to keep an eye on the house or flat (53.7%), less frequently they had a dog to guard it (24.9%), and special bars on the windows or doors (14.8%). In even fewer cases those surveyed protected their house or flat by means of an alarm (10.6%), a high fence (5.8%), a security service or janitor (1.1%) and an official neighbourhood watch scheme (6.2% persons)

Nearly a fifth of the 1500 persons surveyed replied that someone in their family or they themselves owned a gun (18.1%, 271 persons). One of the commonest reasons for having a gun given by these gun owners (the respondents had the choice of a number of answers) was that they kept the gun for reasons of protection against or prevention of crime (41.3%, 112 persons) and for sports purposes (36.2%, 98 persons).

Among the opinions of respondents on the circumstances which could lead to reducing criminality among young people, nearly half of those living in Prague said that they considered exercising stricter discipline over children by parents and bringing children up in the family to have greater respect for laws in force as tools for reducing crime (49.1% of those surveyed). In addition, though in much smaller number, respondents proposed improving use of spare time by young people (24.1% of those surveyed), and better education / stricter discipline at school (21.3% of the respondents). A significant number of those surveyed proposed increased / stricter sentences for crimes committed (19.7%) and increase in the level of employment /reduction of poverty (16.7%). Other types of reply were given less frequently.

* * *

In comparison of **the overall level of victimisation** of the population of Prague by crime (which amounted to 34.1%) with certain other capital cities of European countries, in 1999 Prague occupied a high position in terms of the level of this overall victimisation¹ among the 16 capital cities of a number of countries of the former Soviet Union and Central Europe,² and among those cities in which the population was most affected by crime Prague was placed immediately behind Tallinn (41.2%) in second place. (The average overall level of victimisation of the population by crime in the 16 capital cities studied amounted to 26.9%.)

Relatively important contributory factors in Prague's position as one of the leading cities in the level of victimisation of the population were on the one hand thefts of certain

¹ Crime was represented by 11 types of the 13 types of criminal activity given in the text (corruption and fraud against a consumer were not included).

² Comparisons were made of the following 16 cities: Baku, Bucharest, Budapest, Kiev, Ljubljana, Minsk, Moscow, Prague, Riga, Sofia, Tallinn, Tbilisi, Tirana, Vilnius, Warsaw, Zagreb.

types of means of transport serving users' personal needs (cars (2.6%), bicycles (4.0%) and also victimisation by crime in some way connected with these means of transport (specifically theft of items from cars (11.8%) and damage to cars (vandalism) (7.1%)), and on the other hand a high level of victimisation of the population of Prague by burglary (6.7%) and attempted burglary (3.8%).

It was also evident that a contributory factor in the high level of damage suffered by residents of Prague as a result of crime was the fact that those living in the capital city were also affected by certain types of crime on more than one occasion (as shown clearly above, most frequently twice, even though the frequency of residents of Prague becoming a victim three times or more was not inconsiderable).

On the other hand it should be pointed out that in the levels of victimisation of the population by certain crimes in 1999 Prague was placed more or less below the average victimisation for the 16 large cities given below for robbery (0.5%), sexual incidents (1.2%), assaults/threats (2.5%), theft of motorcycles (0.1%) and also even for thefts (what are termed petty thefts) (7.7%). In the case of mugging in the year stated, Prague, together with Zagreb, showed the lowest level of victimisation of the population by this criminal offence of the 16 capital cities studied.

* * *

The data given above, then, reflect the level of harm caused to the inhabitants of Prague by crime as could be seen from the responses of victims of crime themselves. From the data indicating reporting by victims of the crimes studied to the police it can therefore be concluded that the discrepancies between recorded crime and what is termed hidden (latent) crime, ie crime not reported officially, may be considerable.

This is supported, for example by the following data acquired in the international survey in Prague: Sexual offences were not reported by 81.5% of the victims, bribery by 97.5% of the victims, assaults/threats were not reported to the police by 69.4% of the victims, what are termed petty thefts by 58.4% of the victims, mugging by 53.7% of the victims, theft of items from cars by 34.6% of the victims, burglary by 29.6% of the victims, vandalism to cars by 67.7% of the victims and so on.

It is therefore necessary to take this fact into account when forming conclusions on the extent of crime that actually exists in Czech society from officially recorded cases of crime.

Selected criminological and legal aspects of domestic violence
(Two contributions regarding the problem of domestic violence in the
Czech Republic (empirical findings and analysis of selected legal issues))¹

2000 – 2001

Researcher responsible: PhDr Milada Martinková, CSc.

Fellow-researcher: Mgr. Radka Macháčková

This publication, focused on the problem of domestic violence, comprises two parts. The first is devoted to empirical findings on cases of physical domestic violence which have been discovered in three field investigations carried out by the author (M. Martinková: Physical domestic violence in Prague in 1999 – criminological aspects).

The second part is devoted to selected legal issues relating to domestic violence and provides inter alia a summary of Czech legal norms governing and providing sanctions for violent conduct within the family (specifically between adult heterosexual partners /or spouses/) (R. Macháčková: Domestic violence – some legal aspects).

Both parts of the publication react to a number of problems relating to the issue of violent behaviour between members of the family in the Czech Republic, on the one hand to the lack of information on the occurrence of cases of domestic violence in the population and on the other hand to the hitherto inadequate summary overview of possibilities for resolving cases of domestic violence by means of the Czech legal norms in force.

Physical domestic violence in the capital of Prague in 1999 – criminological aspects.

Three empirical surveys in the capital city of the Czech Republic, Prague, in 1999 had the aim of ascertaining the occurrence of physical violence between members of the family and some features of this at three different levels:

- 1 at the level of official files kept by administrative authorities on behaviour constituting a misdemeanour² (violence between adult persons in the family - § 49 para. 1 (c) of Act No. 200/1990 Coll.)

¹ Martinková, M., Macháčková, R. Selected criminological and legal aspects of domestic violence. Prague: ICSP, 2001. 193 pages, Summary.

² The term misdemeanour: a misdemeanour is culpable behaviour which breaches or threatens the interests of the community and is expressly designated as a misdemeanour in this or another Act, unless it is another administrative offence indictable under separate legal regulations or a criminal offence... (Act No. 200/1990 Coll.) Misdemeanours against civil coexistence: (§ 49 of Act. No. 200/1990 Coll.): 1. An offence is committed by one who (a) hurts the feelings of another by insulting or ridiculing him/her, (b) causes bodily harm to another by negligence, (c) deliberately breaches civil coexistence by threatening bodily harm, petty assault, wrongful accusation of an offence, acts of spitefulness or other abusive behaviour.

- 2 at the level of findings of services for the legal protection of children in society (violence by adults in the family against children and young persons between the ages of 0 and 18 and violence by adolescents against other members of the family)
- 3 at the self-report level – pupils at vocational training centres and secondary schools (violence by adults in the family against children and adolescents and violence by children and young persons aged between 0 and 18 against members of the family)

Methodology of individual surveys

On point 1: Cases of physical domestic violence between adult members of a family – behaviour constituting a misdemeanour

The aim of the survey was to collect findings for a period of one year (1999) on officially recorded cases in Prague of physical violence between adult members of a family which were classified as offences against civil co-existence (§ 49 para. 1(c) of Act No. 200/1990 Coll.). Physical violence in the family between adults (sexual assaults were not included) was investigated by using a questionnaire, which was specially compiled for the purposes of this survey. The questionnaire was completed by selected staff of individual area and district local authorities in all administrative areas of Prague which dealt with resolving misdemeanours. The staff concerned examined recorded cases of behaviour constituting a misdemeanour for one year retrospectively.

In the handling of misdemeanours by area and district local authorities (in Prague for 1999) we ascertained, where these were domestic physical violence between adult members of a family:

- 1 the total number of cases of domestic physical violence which had been officially recorded
- 2 the number of cases of domestic physical violence which these local authorities had investigated and resolved in the defined one year period
- 3 data available on selected resolved cases of domestic physical violence (namely from those not terminated in which violence had been proved), broken down as follows: (a) physical violence between partners (married couples /or previously married couples/, male and female partner) (b) between adult members of the immediate family (between children and parents, siblings, grandparents and grandchildren) and (c) between adult members of the wider family (eg between mother-in-law and son-in-law, a woman's former husband and current husband and so on).

In total we obtained data from 56 of the 57 area and district local authorities in Prague which dealt with resolving misdemeanours during the period of our field investigation. (The questionnaire was completed by 44 women and 12 men.)

On point 2: Cases of physical violence by adult persons against children and juveniles in the family – findings of services for the legal protection of children in society

The aim of this survey was to identify cases of physical violence by adult persons against children and young people in the family aged between 0 and 18 over a period of one year (1999) in Prague by means of the findings provided by services for the legal protection of children in society which are specially concerned in the Czech Republic with family and child care. This concerned both assaults proved in court and assaults being dealt with by the courts or the police during the period investigated by the questionnaire, and also concerned reasonable suspicion of such assaults against children and juveniles in the family (suspicion voiced by a doctor, psychologist etc).

On the other hand we were also interested in this survey in physical violence by children and juveniles against other members of the family encountered by services for the legal protection of children in society.

The investigation was performed by means of a questionnaire specially compiled for the purposes of the survey. The questionnaire was designed to obtain data of a statistical nature on cases of violence against children in a family encountered by staff of these departments.

We ascertained the following specifically (for 1999 in Prague) in the questionnaire:

- 1 Data on the numbers of adult originators of physical violence against children and juveniles in the family and other data available on these perpetrators of violence
- 2 We ascertained the number of 0 – 18 year old victims of these aggressors and selected characteristics of these victims
- 3 We monitored data on the originators of physical violence in the family from children and juveniles and took an interest in the victims of their violence

The questionnaire was completed by staff (N=15) of all area and district local authority offices in Prague which dealt with family and child care during the period of our investigation – there were 15 of these (Prague 1 – 15).

On point 3: Physical violence in Prague families – self-report of pupils of vocational training centres and secondary schools (results of survey)

The aim of the survey was to ascertain, on the basis of self-reports by pupils of Prague vocational training centres and secondary schools, data on physical violence and some forms of this in the families they were growing up in. A total of 231 juveniles were surveyed (65.4% boys, 34.6% girls: 54.1% pupils of vocational training centres, 45.9% pupils of secondary schools: 72.3% of these were 17 – 18 year old adolescents).

In the survey we used a questionnaire specially designed for it. This questionnaire was drafted in such a way that it would not be clear to the persons surveyed that it was primarily to obtain information on physical violence in the family. The questionnaire was directed to the respondents' experience of the use of physical force by other persons against them in the wider spectrum of various social environments in which the young person moved (school, gangs, the streets, sport, homes, discos etc).

The questionnaire specifically monitored the following aspects of domestic violence:

- 1 whether the family was an environment in which the respondent was afraid that one of the members of the family could really harm him/her physically there
- 2 whether the respondent experienced physical violence against him/her at home from parents and what forms this violence took (forms of corporal punishment and any other manifestations of physical violence)
- 3 whether at any time physical violence was used deliberately in the family against respondents to such an extent that evident injury or bruising was caused (originators of violence could be all members of the family)
- 4 whether respondents and their siblings used physical violence against their parents at any time
- 5 whether respondents witnessed physical violence in their family at home between their father and mother

Some findings from these three surveys

Summaries of the main findings and conclusions are stated in detail in the publication for individual surveys separately – here we give only some important findings of a more general nature and under points.

- From the data obtained from our three empirical surveys it was clear that even though the originators of cases of physical violence in Prague in 1999 were predominantly men, women too showed physical violence to members of their family, though to a much lesser extent.

In the case of all resolved /and not terminated/ misdemeanours which we examined more closely, men were the originators of the violence in at least 77.9% of cases (180 offences), women in at least 15.2% of cases (35 offences). In the rest of the cases it was a question of mutual violence by a man and a woman.

At least 63.7% of physically violent behaviour by originators of violence against children and juveniles in the family was by men (44 persons) and 36.2% by women (25 persons). In addition, for example among children and adolescents who were recorded by staff of services for the legal protection of children in society as physically violent against members of the family, at least 29.4% were girls (10 persons), ie more than a quarter. A similar pattern was shown among pupils of vocational training centres and secondary schools who gave evidence themselves concerning physical violence against their parents. Here girls formed more than a fifth of physically aggressive young people in the family (22%, ie 9 people).

- In physical acts of attack against members of the family there were frequently also cases in which victims of violence were *physically injured*. 63.2% of all cases of misdemeanours resolved /and not terminated/ relating to physical domestic violence between adults (146 offences) were accompanied by physical injury to the victim. The majority of these cases of domestic physical violence which were characterised as misdemeanours and in which there was physical injury to the victim were caused by men: so men were the originators of physical violence in at least 84.2% of these offences (123 cases), and women in at least 11.6% of these offences (17 cases).

If treatment of a physical injury by a doctor can be considered as a certain sign of fairly serious injury, then violence with more serious consequences has been caused to the victim in the cases of the resolved /and not terminated/ misdemeanours stated above by adult men much more often than women (at least 87.6% of the misdemeanours in which the victim was injured and which were treated by a doctor were committed by a man (78 cases) and at least 7.9% of these misdemeanours (7 cases) were committed by women.

- In cases resolved /and not terminated/ of misdemeanours relating to physical violence between adult members of the family, *it was not a matter only of violence between people of the opposite sex* (except in cases of violence between partners). For example, in physical violence in the extended family /a total of 18 resolved and not terminated cases/ the majority of the male originators of physical violence physically attacked a man (10 offences) and the majority of women attacked females (5 offences). There was a similar pattern in cases of violence by adults against children in the family, where mothers and fathers were physically violent against offspring of both sexes.
- Physical violence by adults in the family against other members of the family in the cases we looked into were more often a matter of what are called *persons of*

otherwise *unblemished conduct* in everyday life. Only a minor proportion of cases of physical violence by adults in the family, in resolved and not terminated misdemeanours and in cases of bodily violence by adults in the family against a child, were committed by persons who had developed some other form of more serious undesirable or troublesome activity, including criminal activity. For instance, in violence against a child, roughly a quarter of the aggressors legally convicted or reasonably suspected of physical violence /24.6%, 17 persons/ behaved in such an improper manner, and in misdemeanours we recorded even fewer of them.

- From our questionnaire survey among vocational training centre and secondary school juveniles (N=231) it could also be seen that today probably not all individuals feel that *the family is always a place of complete physical safety*. Some of these respondents felt physically threatened sometimes in the family (34 of the juveniles surveyed /14.7%/ stated that at least at some time they were afraid that some member of the family could really harm them physically at home). Physical injury or bruising, which could indicate a greater intensity of deliberately inflicted physical violence against the respondent in the family, the originator of which could have been any member of the family – ie not only a parent, was stated by about a fifth of all the young persons we surveyed (19%, ie 44 persons, in nine cases repeatedly).
- Only a quarter of vocational training centre and secondary school pupils were, according to what they said, never punished physically at home. Sometimes even *forms of physical violence* (not only in corporal punishment) which could injure them physically were used against some individuals at home by parents.

30.3% of all those we surveyed (70 respondents, 20 of them more often than just occasionally) had received beatings (lashing out wildly), 6.5% of the respondents (15 persons) had been kicked by a parent, and 4.3% of the respondents (10 persons) had been punched by a parent. Other impermissible forms of violence had occurred too, but respondents admitted to these only in a few isolated cases, for example deliberate burning by a cigarette, throttling or choking, tearing out hair when pulling at it, beating his/her head against the floor, throwing things at the respondent which wounded him/her etc.

- It is also clear from our data that gross forms of corporal punishment were not inflicted in the family only on boys, but that girls surveyed also encountered it (8 girls stated they had been kicked in punishment by a parent, 3 girls said they had been punched, 30 girls admitted to beatings (lashing out wildly), which in the case of beatings was nearly half of the girls surveyed who had received corporal punishment. Girls also formed more than half of those respondents who were afraid at home that someone could actually injure them physically there (55.9%, 19 persons).

- It was also shown that *children and juveniles also behave in a physically violent manner at home to other members of the family, including parents*. Nearly a fifth of respondents from vocational training centres and secondary schools (17.7%, 41 persons) admitted to being physically violent against a parent (even though the majority of them stated as one of the reasons that this was defence against corporal punishment /29 persons, 70.7%/). This statement of physical violence by children in the family is also illustrated by data from staff of services for the legal protection of children in society, who reported that about a quarter of the 34 violent young persons at home recorded by them for violent behaviour in the family attracted the attention of the police and the misdemeanours commission.

The replies of respondents from vocational training centres and secondary schools also showed that there are cases where not only one child but also his/her sibling(s) behave in a physically violent manner to a parent, and so the parent is victimised by more than one child (4.5%, ie 9 families out of the 199 in which our respondents had siblings).

- More than half (56.5%) of the staff of services for the legal protection of children in society surveyed (from the Central Bohemia Region and from Prague, N=23) expressed the opinion that *the level of violence* of children aged between 0 and 15 against parents in the family *has risen* in recent years in the CR. Among adolescents, roughly three quarters of those surveyed /73.9%/ expressed a similar opinion. Some respondents also spoke of the *increasing brutality* of this violence.
- More than three quarters of our respondents (78.3%) think development of the level of violence of adults against children in the family remains at roughly the same level as in previous years.
- We noted, though only in a few isolated cases, that girls surveyed from secondary schools and vocational training centres experienced physical *violence* in their love affairs with boys they had been going out with (eg in the form of a slap on the face). So it is possible that use of physically violent behaviour between couples in a partnership may be formed in individual couples before they actually enter into long-term marital relations.
- Physical violence by adults against children in the family may be produced, as can be seen from the findings of services for the legal protection of children in society, not only by persons with a lower level of education, as is commonly assumed, but also by persons with *a higher level of education*, ie those who have attended secondary school and university (these constitute at least 21.7% of adults recorded (15 persons) who have been violent towards children aged between 0 and 18 in the family or have been reasonably suspected of this violence.

- According to the findings of the local authority department staff concerned, it was evident that *families with varied standards of living* were prosecuted for physical violence between members of the family in Prague in 1999, ie not only those with a lower standard of living but also those with a higher standard of living and primarily families with an average standard of living. For instance, roughly 70% of resolved /and not terminated/ misdemeanours relating to physical violence between adult members of a family occurred in families with an average standard of living. Also roughly half of the families in which physical violence occurred against children between the ages of 0 and 18 could also be classified as having an average standard of living.
- It was evident that among the originators of physical violence in the family that we looked at in the three empirical investigations carried out were *people of various ages*. Among them were individuals in relatively high age categories (in a few isolated cases even over 70) and also in very low ones, ie still children.
- It was also evident that there was physical violence between persons *related to each other in very different relationships*, not only as man and wife or partners, though these relationships were the most frequent in the offences we looked at. Cases of violence between partners formed 69.1% of officially dealt with and closed cases of behaviour constituting a misdemeanour relating to domestic physical violence in Prague in 1999 (ie 279 offences). We also came across data on cases of physical violence between partners through the responses of secondary school and vocational training centre pupils. More than a fifth of these (21.3%, ie 42 persons) stated that they had at least at some time witnessed physical violence by one parent against the other at home. So it is clear that it is violence between partners that can in the CR too significantly affect the lives of a wider circle of family members, not only the direct participants and the victims. For this reason too the second part of this publication, dealing with legal issues of domestic violence, has been devoted mainly to the problem of violence between partners.

Some information is also contained in an annex to the first part of the work on clients, including their numbers, of three non-profit organisations which are involved in helping adult victims of domestic violence in the Czech Republic (ROSA, Bílý kruh bezpečí /White Circle of Safety/, Elektra).

Domestic violence – some legal aspects

The second part of this publication is devoted to selected legal issues relating to domestic violence:

- a) it gives a summary of Czech legal norms governing and providing for prosecution of violent conduct within the family (specifically between adult heterosexual partners /or husbands and wives/) and
- b) it also outlines some proposals for amendment or additions to existing legislation
- c) it also outlines how cases of domestic violence are dealt with in legal terms in certain other countries (eg Austria, Ireland, Sweden)

In the introduction to this part of the publication attention is devoted to definition of domestic violence and also to myths in connection with domestic violence. In an annex, attention is then directed to domestic violence from the point of view of family law in force in the CR and to information on some research abroad relating to violence between members of the family. The chapter on Czech legal norms is illustrated by cases from current jurisprudence.

Interethnic conflicts as a result of racial hatred ¹

2000 – 2001

Researcher responsible: PhDr. Markéta Štěchová, CSc.

This study deals with criminologically important aspects of conflicts between ethnically different individuals. The aim of the study is to collect relevant findings for criminological analysis of the problem of interethnic conflicts. It summarises the basic features of the current situation in the Czech Republic and in a number of selected countries, its basic causes, conditions and current possibilities and lines of approach for prevention. A selection of literature and other sources is given to contribute towards an explanation of the aetiology of the problem.

The subject of the survey is events where the target of attack (or mutual attacks and fights) is individuals (groups) with different ethnic characteristics (in particular differences in skin colour, nationality, language, origin, religion and so forth and/or with these characteristics relating to different ways of life), ie interethnic conflicts motivated by xenophobia, racism and intolerance towards those with different ethnic characteristics. These are xenophobically and racially motivated attacks against people because they are ethnically different.

The work reviews criminological aspects of these events, in particular (but not only) those which are the subject of interest of law enforcement agencies. In the Czech criminal law in force, this concerns especially facts of the following offences: § 198, defamation of a nation, race or belief, § 198a, incitement to national and racial hatred, § 260 and § 261, support and promotion of movements aimed at suppressing the rights and freedoms of citizens, but also other criminal offences with a racist context - § 196 paras 2 and 3 of the Criminal Code – violence against a group of people and against an individual, § 198 para. 1(a), § 219 para. 2(g) – murder, § 221 para. 2(b) of the Criminal Code – bodily harm, § 222 para. 2(b) of the Criminal Code – grievous bodily harm with intent. In the empirical part, other similarly motivated acts which were later not classified as criminal offences but resulted in endangering the rights of other persons to a greater or lesser extent will also be reviewed.

The work includes definition of basic terms (ethnicity, ethnic group, ethnic minority, xenophobia, tolerance, interethnic conflict). The theoretical part of the study aims to achieve a better understanding of the causes and context of the phenomenon examined.

Racist and xenophobic violence is understood in foreign and our own sources too as a complex web of phenomena, which cannot be reduced solely to acts connected with certain ideological or political motives. Each act has many dimensions and behind each is an individual person with the past, personality and environment in which he/she moves. Interethnic conflicts are often given an ideological slant by the police and politicians: where it

¹ Štěchová, M. Interethnic conflicts as a result of racial hatred. Prague: ICSP, 2001. 55 pages. Summary.

is not entirely clear that the assailant is a racist or is not in a racist organisation, the incident is swept under the carpet as something that has nothing to do with racist violence.

The most common motivation for commission of a racially motivated offence is, according to the literature, simply xenophobic aversion, but also an aversion with an ideological colouring, connected with affiliation or sympathies with a racist organisation. From the psychological point of view, a need for acceptance by members of the same age group and identification with a group may play a role. For many offenders, particularly a large number of young people, attacks on ethnically different individuals, especially Roma, are emphasis of their image or expressing membership of their own age group rather than expression of a political view. Many of these young people have the feeling (often justified) that they are not accepted by their parents and are not recognised by their teachers or fellow students. They find their identity and self-realisation in the gang where they have their rank. Those committing this type of offence are mostly youths, the majority under the age of 25, and many of them juveniles. They have grown up in a dysfunctional or non-existent family. They mostly have a low level of education, therefore also low potential professional capability. Their frequent unemployment is linked with their social problems.

A subjective feeling of higher social status may play a motivating role in these offences. All of a sudden, the person is “somebody” among the young troublemakers: defenders of “national interests” in some cases, nationalists, racists in others, or daring adventurers in others. In addition, wearing skinhead uniforms signals an aggressive and violent image to those around and signals that this person has links and friendly relations with the strong. The unrecognised, derided and rejected boy suddenly has a feeling of respect from those around him and even senses they are afraid of him.

The influence of intoxicating substances also features. In gangs with which violent young people identify themselves alcohol is often drunk or other intoxicating substances are used. Under the influence of these substances young people compete in expressing hostility towards Roma and foreigners and show off to each other in thinking up what they could do to them. When arrested, many claim that they were led on by the others.

In the empirical part of the study, an introductory analysis is provided of offences motivated by racial or national intolerance committed in the Czech Republic in the period 1997 – 1999. This was prepared on the basis of documents of the Ministry of the Interior of the Czech Republic as progressively published in specialist Reports of the Ministry of the Interior of the Czech Republic and on the Ministry of the Interior of the Czech Republic website. These are “Reports on the procedure of state authorities in prosecuting criminal offences motivated by racism and xenophobia or committed by supporters of extremist groups”. These reports contain a summary of cases in which there was suspicion that the criminal offence or transgression was committed with an extremist implication, including cases motivated by racial and national intolerance, regardless of their final criminal law classification.

527 cases (46.4%) were selected from the total number of 1135 cases on the basic criterion that the offender and the victim of the offence with an extremist implication reviewed belonged to different ethnic groups and the motive for the offence was interethnic hatred. Conflicts between, for instance, skinheads and punks or anarchists were therefore not studied. Nor were potential interethnic conflicts when there was no clash between persons, but, for example, shouting of racist slogans, scrawling of Nazi and racist symbols and so on. We studied these acts only where they were an accompanying attribute of an interethnic attack.

The aim of the analysis was to gain a deeper understanding of the background of the cases studied, in particular those characteristics of offenders, victims and other circumstances of the offences which could be ascertained from the Ministry of the Interior of the Czech Republic material.

Cases were studied over the three year period. 139 offences were committed in 1997, which is 26.4% of all offences for the period we studied, 192 offences (36.4%) in 1998 and 196 offences (37.2%) in 1999.

No final conclusions can be drawn from these three years, but it seems that the tendency for this type of offence to occur is growing slightly. If we take into consideration that in all cases this concerns clashes between an assailant and a victim, the number of these offences is relatively high and may create an atmosphere of fear in society. Many of these cases are featured in the media and some receive coverage over quite a considerable period. So these cases are known about and people talk about them. Fear and alarm are created especially among the Roma.

The wide spread of offences over the former regions is interesting. The absolute and relative numbers would be misleading in view of the different sizes of the regions. For this reason the data were recalculated in terms of indexes, ie the number of offences reported in terms of the number of inhabitants in the region. A significantly higher number of offences occur in the former North Bohemia region (83, which is 15.7% of all racial offences in the period, and when recalculated amounts to 0.70 offences per 10,000 inhabitants), whereas on the other hand Central Bohemia and West Bohemia have lower numbers of offences (32 in Central Bohemia, which corresponds to 6.1% and 0.29% of offences per 10,000 inhabitants, and 31 in West Bohemia, ie 5.9% of all racial offences and 0.36 offences per 10,000 inhabitants).

Data from individual districts provide an even more detailed picture. It was ascertained that the highest number of offences occurred over the three years reviewed in Brno (42). Other more seriously affected districts are Karviná (27), Písek (22), Bruntál (21), Trutnov (21), Ostrava (18), Ústí nad Labem (18), Břeclav (15), Kladno (15), Most (15), Prostějov (14), Plzeň (13), Prague 3 (13), Prague 8 (12), Zlín (11), Jeseník (11) and Prague 4 (10). In the other districts fewer than 10 interethnic conflicts were recorded.

Data for individual cities and towns provide us with yet another picture. Here as expected Prague dominates (69 cases) and somewhat surprisingly Brno (42). There are relatively high numbers in the larger cities and towns of Ostrava (18), Ústí nad Labem (17), Písek (14), Plzeň (12), Trutnov (11), Kladno (10) and Most (10). Noteworthy among the smaller towns are Krnov (12), Havířov (7) and Dvůr Králové nad Labem (6 cases).

We also ascertained the places where these offences occurred. Most frequently, as expected, interethnic conflicts were in public open spaces (371 cases, ie 70.4%), and less often in enclosed areas. To complete the picture, we also recorded the times when individual offences were committed. Offences were somewhat more frequent in the autumn months of October (54, 10.2%) and November (57, 10.8%), but the differences are too small to allow for any interpretation. As regards days of the week, interethnic conflicts occurred more often on non-working days (on average 60 conflicts were committed per working day and ca 90 conflicts per non-working day). (60 x 5, 90 x 2). Also the time offences were committed may be of practical significance for certain offences – these occurred predominantly in the evening (121, 43.2%).

Offenders and victims

Further findings concentrated on the circumstances of offences in terms of the features of offenders and victims. We reviewed each offence involving at most three offenders and three victims in more depth. Where there were more offenders or victims we took into account only the size of the group of offenders or the total number of victims.

An interesting item of information is the size of a group of offenders. Approximately half of offenders (53.3%) committed an offence alone, and the rest jointly. Groups most often consisted of two to three persons (86 and 89 groups respectively). Large groups, in which there were more than 10 persons, are rather few (12 groups). Also there were relatively few groups of 4 – 10 persons (59). For this reason we ascertained more detailed information on offenders where three were named (in the Ministry of the Interior of the Czech Republic reports first of all).

The summary shows most of those committing this type of offence are male (91.7%, 97%, 95.6%) aged between 15 and 25 (66%, 81.8%, 89.3%).

Understandably, we attempted to record further data on the assailants. This data is rather of an indicative nature, which follows from the way it is recorded by the Police of the Czech Republic. The data given below can be described as follows:

Of the total number of 441 “white” offenders (83.8%), 102 were found and stated to be members of the skinhead movement and 4 members of the punk movement. 83 offenders (15.7%) were recorded by the Police of the Czech Republic as Roma.

The most common offenders are not members of the skinhead movement as generally believed but Czech citizens of non-Roma origin (63.4%, 52.3%, 45.9%) for whom the Police of the Czech Republic recorded no membership of any extremist movement. The question is to what extent the data in the documentation from which we took it is accurate. Of course if we allow for omissions and imprecision, including later reclassification by a court, it seems that most offenders are people who are not members of what are called extremist groups.

The typical offender is therefore a male aged between 15 and 25, a Czech citizen, not Roma and with no record of membership of an extremist organisation.

Noteworthy too is the relatively high number of Roma (15.7%, 15.9%, 16.4%) who were designated as offenders. These are mostly Roma who assaulted skinheads, sometimes police officers, and in a few isolated cases ordinary members of the public majority. It is clear from the cases that hatred between the antagonists arose from xenophobic and racist characteristics. It is difficult for us to discover the primary element from such limited information.

Victims

To be the victim of (confronted with) violence may be an extremely traumatising experience. To become the target of racial harassment or racial violence for reasons of difference – racial, national or because of ethnic origin – may be devastating for the person's sense of self worth. Even what are referred to as less serious forms of racial harassment, such as jeering, pointing of fingers, refusal of access to publicly available space or other discrimination, or being ignored and being treated as a "nobody" may systematically undermine the personal feeling of human dignity. Some individuals from ethnic minorities are quite indifferent to attacks on them but take attacks against their families very hard.

In our analysis of cases recorded by the Police of the Czech Republic there were a number of characteristics of victims. Again we reviewed only the first three victims mentioned in the reports.

Victims of interethnic conflicts were in the majority of cases also male (82.7%, 83.3%, 86.1% of the first three victims reviewed). The reason is the type of offences studied: the majority were direct physical assaults in the street or in a restaurant. Women (and children) were victims in those cases where, for instance, a family was attacked in its flat and so on.

The age of victims was somewhat higher than that of offenders; this is particularly evident in the juvenile and young adult categories. Nevertheless, we find a fair number of children (7.8%, 14.7%, 15.4%) in the role of victim. In a further grouping it was found that these children were in most cases attacked together with adults, probably parents or relatives.

The most frequent victims of racially motivated violence in the Czech Republic are Roma (345, ie 65.5%). This is certainly not a surprising finding, it is a sad fact. However, there are a fair number of “white” victims (91, 17.25%) and foreign victims (91, 17.25%). Cases of attacks against Jews, most of whom do not have a different skin colour, would merit closer attention.

We were also interested in what actually happened in the case of the racial offences studied. We discovered that:

- most frequently verbal aggression occurred (in 471, ie 89.4%, of the cases studied)
- physical violence was present in 318 cases, which is 60.3%
- in a smaller number of cases (86, 16.3%) we noted shouting of various slogans, mostly with a racial or nationalistic content, and the writing of such slogans (27, 5.1%)
- in a very small number of cases offenders were bearing Nazi symbols (11, 2.1%)

We attempted to record the consequences of the offences analysed. For these results it is necessary to bear in mind again that we are mostly dealing with a first description of an offence, and rather different or more detailed information could be yielded from further investigation.

In this phase of the investigation, injury was the result found most frequently in the offences studied (126, 23.9%). We also noted two cases of death resulting from injury.

The occurrence of other features such as whether there was an affray (29, 5.5%) or damage to something (61, 11.6%) was not very common, but this is connected with the limited police information available.

In conclusion, it can be stated that interethnic conflicts are a grave result of intolerance between people. The deepest causes of the phenomenon probably lie in human nature itself – in antagonism against anyone different, ie in “natural” xenophobia and the protection of “one’s own” territory. From the aetiology it is known that such behaviour can be observed among animals too. In human society this type of instinct – in contrast to animal communities – has ceased to fulfil its function. Human society rather uses observation of certain rules of behaviour for survival, which suppress certain natural instincts and aggressiveness in the interests of the weaker members of society. These rules are usually termed societal norms, and legal norms form part of these as well.

Interethnic conflicts are therefore failure to respect societal and legal norms. Their manifestations and results lie on a wide scale from children jeering at a fellow pupil with a darker skin colour through attacks on ethnically different fellow citizens in the street up to murder with racial motives. For this reason society should in its own interests tend to refine and restrict this type of xenophobic emotions.

Relations between the majority population and ethnic minorities in the Czech Republic can definitely not be regarded as ideal. Problematic relations between ethnic groups are not a specifically Czech characteristic – they exist to a greater or lesser degree everywhere in the world, and all societies have to handle them in such a way that they do not spill over into more serious conflicts, such as racial and ethnic wars.

In democratic countries, manifestations of intolerance, xenophobia and racism are carefully monitored and transgressions in most cases severely punished. In all countries, including the Czech Republic, the problem is to a greater or lesser extent lack of conformity between the documentary declarations against racism and discrimination and the opinions of the population. Even in states with a long democratic tradition people with xenophobic attitudes are found and groups appear which manifest violence against ethnically different groups and immigrants.

Prevention of these phenomena is complicated for many reasons. Not only is a disposition to this type of behaviour clearly innate, but also the first formative patterns are perceived by children of pre-school age in the family. Furthermore, the family is, as is known, a difficult environment for preventive activities to penetrate. Prevention of interethnic conflicts must be viewed with a broad perspective – through carefully thought out education in all spheres – from the family through school - with the aim of integrating all people into civil society. Prevention must be aimed at both offenders and victims.

Together with education, legislation needs to be improved, even though there are no major problems in the current state of the law - this is comparable in this field with European Union legislation. The problems lie primarily in proving these offences. For this type of offence the importance of repressive elements stands out.

Xenophobia, prejudices and racism will probably be a feature of human society in the future too. Despite this and precisely for this reason it is necessary to utilise all known possibilities, experience and legal means in the fight against the occurrence of racial and ethnic violence. In selection of suitable approaches, it will be helpful to draw inspiration from experience abroad and, based on analyses of the situation, to create preventive programmes in the Czech Republic derived from the reality here.

Specific aspects of drug abuse among women¹

1999 - 2001

Researcher responsible: PhDr. Ivana Trávníčková, CSc.,

Background and focus of research

Epidemiological studies charting the development of the drug scene in the Czech Republic show that there has recently been a dramatic increase in the percentage of women abusing drugs. This unwelcome fact is indicated by the closing of the ratio of men and women affected. In 2000 this indicator was 1.9: 1.

Changes in the drug scene show that, although this is not a phenomenon that is governed by its own laws, the causes, disproportion and specifics of drug use by women constitute a relatively independent subject of knowledge.

From a social viewpoint it is significant that the basic feature of drug dependency is a certain social degradation and social isolation which, in the case of women, is even more apparent and has a deeper impact on their surroundings, particularly children. Drug use is always a warning sign both for further personality development (with a variety of health, socio-psychological and moral consequences) and for society. People who have become addicted to a drug often spend sums on their addiction that are disproportionate to their income and other essential or important costs. Money is usually obtained by illegal or undesirable means, in the case of women very frequently by prostitution. Drug users generally reject obedience and responsibility, try to disengage from real life, renounce their social role and tasks and neglect to support their family, if they have one.

Drug abuse always represents a health risk for the person who uses the drug. Where in the case of women this is related to pregnancy the healthy development of the foetus is also threatened. An abstinence syndrome can appear in the child following birth as a result of the mother's dependency on drugs.

Today, women are taking on new roles, new values and new tasks while retaining all the original responsibilities necessary for a harmonious marriage, relations with children and the creation of meaningful emotional ties. The adoption of a new lifestyle has resulted in an increase in the number of women who have regular contact with alcohol. The higher demands, or the threat of social failure, are often the motivation to seek out other drugs as a potential aid in broadening the range of abilities and possibilities and to reduce anxiety or stress.

In comparison with men, women's more complicated social role is also currently manifested in the substantially lower and more limited possibility for psychological relaxation and rehabilitation through social means. While, for example, male drunkenness is accepted by the social environment, a woman, in order not to feel stigmatised, cannot resolve her problems in the same way. The development of dependency among women is typically caused by the need for personal escape. Women are also more likely to develop a dependency as a result of family and partnership problems.

¹ Trávníčková, I., Votavová, M., Kopřivová, L., Hermanová, M. Specific aspects of drug abuse among women. Prague : ICSP, 2001. 83 pages. Summary.

Women do not start to take drugs later than men but they have a rather different pattern of use. Women and men differ significantly in that more than half of female addicts received their first injection from their partner, whereas it is only rarely the case that a female drug addict would “provide” it to her partner.

Methodology:

A major part of the research charts drug use by young people, whether in specific localities or usually as part of international research over the entire Czech Republic. Although in recent times the drug problem has received a lot of attention, the relation between women and drugs remains of peripheral interest. The sources relating to drug use by women are non-systematic, non-comprehensive and need to be deliberately sought out.

The aim of this study was, on the basis of the above description, to broaden and deepen the knowledge of specific aspects of drug use among the female population in the Czech Republic. The research project was conceived so as to:

- **make it possible to summarise and analyse those factors which taken together may easily lead to the boundaries of risk being passed and the subsequent use of drugs**
- **characterise the various types of “female” roles related to drug use.**

In view of the extensiveness of the issue, we intentionally avoided questions relating to the prevention and treatment of drug dependency among women. We also did not address the very frequent abuse of medicaments, for which particularly the female part of our population is “famous”. These to a large extent are used to treat long-term psychological problems, or insomnia, or are taken in the belief of the miraculous “slimming” effects of certain medications that are taken without consulting a doctor. The extensive advertising campaigns of certain pharmaceutical companies exacerbate the situation with the obvious attempt to change our population into a “pill culture nation”.

For the purposes of our research the following methods were used:

- secondary analysis of information from expert (mainly magazine) literature
- statistical data on problem drug users from 1996 to 2000 monitored by the departments of drug epidemiology in regional hygiene stations
- statistical data on drug delinquency presented in the Ministry of Justice year-books from 1996 to 1999
- a specially compiled questionnaire, supplemented by a note sheet for client therapists and an expert employee at the Opava prison

The data obtained was processed by standard means using the special SPSS computer program. It was not appropriate to use classification II of statistical analysis in view of the small size of the sample (altogether 80 respondents from three risk groups of women).

Brief characteristics of individual groups of respondents:

The aim of the research was to ascertain the specific aspects of drug addiction among women. The research was thus aimed at women who through regular contact with drugs had found themselves in a socially negative situation and who are now trying to get rid of their drug addiction through therapeutic treatment. As at a general level prostitutes are very often linked with drug use (particularly cocaine) we also contacted this category of women, albeit with significant difficulties.

Group A – problem girls

This includes girls whose opinions, attitudes and behaviour are regarded by the social environment as unacceptable. The aim is therefore to analyse the major causes of their problems and by educational therapeutic means to bring about change.

The group **contained girls living in the Prague Diagnostic Institute for Young People**. Here, a detailed personal case history is used to define the appropriate educational therapeutic treatment for the client, or alternatively a further stay is organised in a special institution (e.g. an educational home for young people, medical treatment facility etc.). Due to the fact that at the time of the research only a small number of girls in the Diagnostic Institute had problems with drug use we decided to expand the group. The second part was made up of **clients from “Cesta” (The Road), a special non-governmental medical institution** whose purpose is to motivate female addicts to lead a life without drugs.

Group B – prostitutes

This includes girls selling sex for money. We contacted these girls through the civic association R – R (Rozkoš bez rizika – Pleasure without risk) whose employees distributed our questionnaire (for a symbolic reward of CZK 20 for its completion) as part of their preventive field work (blood tests to check for HIV positives) both in and outside Prague.

Group C – female addicts serving time in Opava prison¹

This includes women who are serving their sentence in a special section of Opava prison where they attempt to rid themselves of their addiction to drugs.

Summary and conclusions

The aim of the survey presented here was to ascertain and describe as fittingly as possible the specific relation between women and drugs. Although most experts emphasise that the problem of female drug abuse is on the increase and differs substantially from drug abuse in the male population, there are only isolated studies on these issues. There is general agreement that changes in the social climate are among the destabilising factors and that among women these are frequently transformed into problems in the family or in relations with the partner.

One of the constant questions in the life of every woman and whose solution affects the stability and dimension of a “woman’s role” is how to successfully combine relations with her partner, her career and children.

¹ More detailed information on the specific institutions can be found in a separate annex.

In addition to the changes transforming the contemporary family, or partner co-habitation, a major change is also underway in women's social role. It would seem that it is no longer very attractive to be a mother. With some women this is clearly combined with a feeling of non-fulfilment in life and a loss of social responsibility together with a sense of life certainty that a woman in a family with children used to have. The daily care of and responsibility for children, together with the financial stability provided by the husband, can be characterised as a long-term "generational pattern" which most women tried to fulfil. This uniqueness of the "woman's role", defined and passed on almost unchanged through many generations, has been lost. The uncertain conception of the "woman's role" in society and the enormous dilemma of combining successfully the majority of demands can raise the question whether drug use is not an escape from or defensive gesture on the part of the woman to excessive social pressure.

In the theoretical part of the work we conceived the problem so as to ascertain the typical variables in the women and drugs relationship.

Women play an irreplaceable role – that of mother. To this is connected the most important question relating to drug abuse in the female population. According to what social criteria do we deal with a pregnant addict? To what degree do we limit the freedom of choice and rights of the mother, or alternatively in what ways do we defend the freedom and rights of the unborn child? The submitted paper obviously does not contain a clear-cut answer but it at least contains the basic information on the most common approaches.

In the empirical part of the work the epidemiological and statistical data are supplemented by behavioural factors – the relations with the partner and ties to the child. It may be that even the data presented in the empirical part of the report are not as decisive as the trends observed.

On the basis of the findings gathered we can state that among the risk groups of women singled out there is a relatively marked consistency of opinion on the decisive motivation connected with drug use in the female population as well as on the changes in life style relating thereto.

Practically all groups of women polled displayed an equally vehement conviction that their child should not use drugs and only exceptionally (up to 5 %) did they agree that their parents or siblings should use drugs.

The research also confirmed a relatively significant bond to the partner offering drugs (slightly over 50 % of the women polled).

An important finding was that more than half of the women had undergone an unpleasant experience (physical violence, rape) connected with sex.

Although the data obtained cannot be generalised, their aggregation makes it possible to ascertain the difference in drug addiction between women and men. The difference could be summarised as follows:

- drug use degrades women more than men, isolation from the surroundings is greater and it is more difficult to alter the situation,
- the effects of addiction on physical and mental health are manifested more markedly and more quickly than on men,
- women are more anxious and less aggressive than men,

- women dependent on alcohol generally drink secretly and alone from the beginning and the surrounding environment thus reacts more slowly,
- the most common motivation for abuse among women is a reaction to life complications and failures (with “family” problems the major factor); a drug abusive partner has a significant influence,
- women more commonly abuse alcohol with medication than men,
- women using drugs or alcohol more frequently lose their partner or whole family,
- the greater social stigma and fear of losing their children causes women to delay asking for help.

The differences in society’s relation to men using drugs and to women have their roots in the long-term development of man and culture.

In this respect it is also important to emphasise that the beginning of drug addiction or dependency in each individual (regardless of sex) is conditional upon many factors which have no mutually constant link or form.

The submitted research, specialising on women’s abuse, shows through a summary of various data that more attention should be paid to this problem. This particularly applies to the most sensitive problems – the increased incidence of violence against women using drugs and the bond between the mother and the unborn child.

It did not always prove possible to complete the information. However, it may be said that most of the problems linked to female abuse are closely connected to life style and way of thought. Women’s problems often accumulate. Various means exist to solve them. One of the “close to hand” solutions is the use of medication affecting the person’s psychology. At the beginning the solution is quick and easy, but gradually this turns into an addiction without which it is impossible to lead a “normal” life. Each woman has her own experience but certain general signs exist that continue over the long term.

From the information obtained it is evident that even though this is not a consistent phenomenon, female abuse is also closely connected to society’s economic and social structure and that the drug problem in the female population of the Czech Republic is also clearly apparent.

Professiogram for judges and state prosecutors¹

2000 – 2001

Researcher responsible: JUDr. et PhDr. Jan Vůjtěch

Co-researchers: Mgr. Jakub Holas, JUDr. Petr Zeman, PhD.

This task was assigned to the research programme on the instructions of the Ministry of Justice of the Czech Republic. In a letter, the First Deputy Minister formulated the task as follows: “To compile a professiogram for judges and state prosecutors that may be used inter alia for the purposes of selecting applicants for positions as judicial and legal candidates.”. The aim of the work, then, was to prepare two professiograms – for judges and state prosecutors – and special attention had to be given to preparing basic documentation for the purposes of any revision of the selection system for judicial and legal candidates.

The task was performed in two basic stages: a short period of preliminary research, which served as an initial study in the second half of 2000, and the research itself undertaken during 2001. The following summary covers both documents together.

The initial study provides information on professiography as an independent discipline and its possible application and particularly the methodology and techniques used in professiography. A professiogram is a compact, purposive summary of a professiographic study that in our case may provide information for the choice of candidates as well as their preparation, appraisal and motivation, which also applies to judges and state prosecutors.

It proceeded from the hypothesis that applicants for the position of judge or state prosecutor chosen on the basis of profiles of experienced judges and state prosecutors are more likely to succeed in the profession than applicants chosen otherwise. It is also necessary to distinguish the person’s general work capabilities – psychological and special. The structure of the study is also similar. One section is devoted to a quantitative and qualitative analysis of the work performed by judges and state prosecutors and the second to their personal profile; a sample of probationers and respondents is selected from those who exercise their profession without problems, ie at least relatively successfully.

¹ Vůjtěch J., Holas J., J. Zeman P. External co-operation: Neumann, J., Špaček, L. Professiogram for judges and state prosecutors: Professiographic study focusing on the selection of candidates and the selection criteria. Prague: ICSP, 2000. 211 pages. Summary.

Research methodology

An interdisciplinary approach, typical for professiography, was ensured by the participation of a psychologist, a sociologist and a lawyer. The overall conception and also individual steps were the result of consultation with experienced experts and members of both professions.

We attempted, at least within the framework possible, to work with samples of experienced members of both professions with certain representative elements

- in terms of area (Prague, Brno and Ostrava regions)
- in terms of gender (female, male)
- in terms of length of practical experience
- for judges in terms of their remit (criminal and civil, or commercial etc)

Anonymity was preserved 100 % in the research, the members of the research team did not know any member of the groups by name and source documents were marked only with a sequence number. The researchers held a total of twelve meetings with the respondents and probationers, six with judges and six with state prosecutors. The psychodisgnostic part was understandably done personally, and after a break the participants were carefully instructed on how to process other source documentation submitted, which they returned by post. Each meeting lasted ca 3 hours.

As the professiogram is neither general nor comparative (comparing different professions), but focused on a specific purpose, we attempted to follow the steps below:

- to describe and analyse the work activities
- to establish criteria for success in practising the profession
- to formulate preconditions for successful work performance
- to formulate proposals for individual officials
- to establish a suitable set of instruments for selection

On individual methods:

a) Daily snapshot method for time analysis of work activities

Analysis of how members of a particular profession, in our case judges and state prosecutors, spend their working hours, or perhaps time outside working hours too, is fundamental for understanding the structure and also the importance of individual activities. For this reason methods and techniques are used which actually describe the proportion, and sometimes also the sequence of activities in the stipulated categorisation over a certain period. This requirement was worded so that respondents should record where possible two full weeks, ie 10 working days, preferably consecutive, and were also asked to state work performed outside the workplace, at home, outside working hours or at weekends. The problem is

that the work of a judge and state prosecutor is from one point of view a complete process where its individual parts and specific activities are not strongly dependent upon each other and often merge into each other so that assignment to the stipulated categories is not easy.

b) Critical Incidents Technique

In the instruction the content of the term key (critical) incident and the procedure for its application were explained. Respondents had 4 months to provide records and return their forms by post.

c) Professiographic questionnaire

This has the same wording for judges and state prosecutors. Its purpose is to ascertain the opinions and attitudes of the respondents, mainly concerning the work and personality of members of their particular profession. It dealt with the following topics:

- the objective aspect of the profession - work (7 points)
- the subjective aspect of the profession - personality (9 points)
- other questions (3 points)

d) Psychodiagnostics

The basic aim in the construction of the test battery is to cover the basic psychological quality requirements based on an expert view on both professional orientations using measurable psychological parameters. The test battery is composed of techniques standardised for the general population and techniques tested experimentally on professional groups with parameters similar to the professional groups studied.

Attention was devoted in particular to personality characteristics, which is also reflected in the structure of the techniques proposed. These were as follows:

NŘ - opinion range; GE - generalisation; 16 PF - personality questionnaire– Cattell (form B); T-10/1 experimental personality questionnaire, T-10/2 self-assessment – personality questionnaire,

T-11 experimental personality questionnaire

Groups of probationers and respondents

The original intention to work with 40 judges and 40 state prosecutors who were to provide comprehensive research material was affected by what was actually feasible. 33 judges and 37 state prosecutors took part in the psychodiagnostic examination, and 19 judges and 21 state prosecutors returned completed professiographic questionnaires. Time snapshots and the key incidents technique in particular showed a lower return because of the relatively high demands they made on time.

The resulting report contains:

A historical introduction, a general section (assignment, possible application, subject of research, study structure, methodology and work procedure), then the results of empirical findings, additional information such as a comparison of psychological profiles of the selected intellectual professions, information on the state of the matter under investigation in selected European countries, followed by actual professionograms of the professions studied and their comparison and finally a paper on the issue of selection of candidates, a concluding summary and recommendations.

The report has 9 appendices; Appendix 1 is the initial study and the other appendices constitute source material for the empirical research.

Findings obtained from the empirical research:

- Analysis of time spent during work activity on a daily snapshot basis.

Activities were divided on an expert basis into 14 categories for judges and 15 categories for state prosecutors. Respondents kept ongoing records on a prepared form for two full weeks. These were collected and processed for 100 days, ie 51,590 minutes for judges and 188 days for state prosecutors, ie 91,300 minutes. It can be seen from this that on average judges have working hours of 9 hours and state prosecutors have working hours of 9 hours and 12 minutes.

Judges: individual specific activities can be broken down into a number of levels in terms of the proportion (%) of total time from the longest to the shortest.

Level I (21 %) - court hearings

Level II (5% to 12 %) - preparing decisions, studying documents, preparing court hearings
Level III (8 % to 3%) - decision-making, lost time, administration and organisation, professional study, general study, non-working time, actions to be performed after a verdict has been delivered, consultations and meetings

Level IV (0.6 % to 0.5 %) - lectures, teaching and publication activities, advisory work, training and seminars

State prosecutors: specific activities broken down into a number of levels according to share of total time monitored:

Level I (23 %) - court hearings

Level II (16 % - 12 %) – studying files, decision-making, supervision in preliminary proceedings including reviews

Level III (7 %) - lost time

Level IV (4 % - 2 %) – general study, administration and organisation, non-working time, professional study, consultations, performing actions (prior to and during criminal prosecutions), analyses, proposals for a court, advisory work, training, seminars

Level V (1 %) – supplying due legal remedies, lectures, teaching and publication activities

- Critical Incidents Technique according to Flanagan is used to establish the essentials of the profession. A small number of incident records was obtained – 25 for judges, 29 for state prosecutors. Most cases related to the private and personal life of both judges and state prosecutors, affecting judges mostly negatively and state prosecutors mostly positively.

- The targeted professiographic questionnaire, identical for both professions and designed to ascertain opinions and attitudes, has 19 points. The results of the findings are used in formulating the professiogram. Its content covers the objective and subjective aspects of work and the profession.

- Psychodiagnostics

6 techniques were applied to both professions; 3 of these standardised (opinion range, generalisation, personality – Cattell 16 PF – form B as the basic technique) and 3 experimental.

A total of 33 judges and 37 state prosecutors from three regions, proportionately male and female, were tested, for judges on both civil and criminal cases. The report contains detailed results including graphs for the specific techniques with a commentary.

- Professiographic questionnaire

One of the central questions in the analysis of a particular profession is what personality characteristics, traits and habits the person should have to be able to practise this profession successfully and well. Respondents had the task of stating any five features they wished which they considered as most fundamental for practising the profession of judge.

Evaluation of the replies produced the following rank order for judges:

- resolve
- high moral principles, integrity, honesty
- sense of justice
- intelligence, logical thinking
- ability to deal with people, communication skills, empathy

Evaluation of the replies produced the following rank order for state prosecutors:

- resolve
- sense of responsibility
- prudence, patience, assertiveness
- conscientiousness, meticulousness
- high moral principles, integrity, honesty
- sense of justice

The questionnaire also dealt with:

- motivating factors for exercise of profession (for judges the most powerful motivating factor was independence, for state prosecutors work content and its social prestige)
- how satisfying the respondent found the work (the level of satisfaction was higher for judges)
- what are unpleasant moments in the professions examined (for judges these are first of all work overload and bad information in the media, for state prosecutors also poor standard of work in the media)
- how satisfied they are with their working environment, interpersonal relations in the workplace and standard of computer technology in the workplace
- what proportion of their working hours they are forced to devote to activities which are unnecessary for practising their profession and could be done by a less qualified person, and what these activities are specifically (for judges this is actions to be performed after a verdict has been delivered, and for state prosecutors completing statistical statements)
- the opinions of respondents on raising their professional qualifications (judges feel that deepening their knowledge of jurisprudence is the most important item, state prosecutors knowledge of languages)

Contribution to formulating the qualifications profile of a judge or state prosecutor on the basis of professional opinions.

This refers to the source material obtained from the PHARE seminar attended chiefly by lawyers and other professionals who formulated the aptitudes, skills, behavioural characteristics and preconditions necessary for successful practice of these professions.

Summary of information according to importance and frequency of incidence:

1. Knowledge of the law, legislation including its application, expertise
2. Communication
3. Organisation and management
4. Character, integrity

5. Decision-making
6. Endurance (and relaxation)

The professiographic study also includes information on the issue studied in selected European countries

The comparative study concerns Denmark, France, Estonia, Italy, Ireland, Germany, The Netherlands, Norway, Austria, Slovenia, Spain, Sweden, Switzerland, the Ukraine and Great Britain, ie 15 countries. Among other things it concentrated on the requirements for judicial candidates, their selection, the length of the candidate's practical experience, the candidate's own preparation, preconditions for the appointment of a judge, judicial examinations, the authority appointing the judge, the education and training of the judge and the career of a judicial counsel.

Professiogram of judges and state prosecutors

We consider it appropriate to deal with the professiograms of both professions in the same structure, for there is a high degree of conformity (this also applies, for example, to education and training). It will be sufficient to point out the differences.

Concise and fundamental characteristics of both professions concern the workplace, type of work, degree of variation within the work, types of work motivation, personal contacts, degree of complexity and demanding nature of the work, degree of neuro-psychological burden and individual emotional stress.

Essence of the profession of judge: independent and just decision-making in court cases and due reasoning.

Essence of the profession of state prosecutor as a representative of the state – prosecutions before a court – this is “performance of supervision in preliminary proceedings” and “action leading to the detection and conviction of an offender and bringing him/her before a court and thereby ensuring that he/she receives a just punishment” (These statements come from the respondents of both professional categories. In the case of judges the statements are explicit; with state prosecutors they are not so clear cut.)

Psychological and qualifications model profile

The instruments used make it possible to formulate a profile from two standpoints: how a judge or state prosecutor is at present and how he/she should be.

Basic characteristics of a judge as a whole:

Very important factors in sequence: - self-assurance, self-confidence
- character, personal moral strength, honesty

- intelligence
- stability, maturity, constancy, balance
- self-control, strong will, social precision

other important factors: -self-sufficiency, independent decision-making powers,
 - mental relaxation, calmness

Basic characteristics of a state prosecutor:

Very important factors in sequence: - intelligence

- character, personal moral strength, honesty
- mental relaxation, calmness
- stability, maturity, constancy, balance
- self-control, strong will

other important factors: - self-assurance, self-confidence

The following factors seem to be irrelevant for both professions:

- reserve – friendliness
- dominance – submission
- carefree nature – gravity
- adventurousness – shyness
- refinement – tenacity
- suspicion – trust
- loftiness – practicality

it can be seen from the above that there are no major differences in the two profiles uvedeného

Skills

Above all rhetoric, communication techniques, questioning techniques, social skills in an assertive type of behaviour, presentation and personal presentation, use of computers and other office equipment

On the issue of selecting candidates

This issue was designed to represent, in accordance with the narrower assignment, the outcome of the entire research. Reference was already made in the introductory study to two principal questions, essential for the conception of the whole candidate selection system:

should be placed in the results. (In the event that the instruments used in the research are applied).

The conclusion of the study contains a summary and recommendations relating in particular to the function and position of psychodiagnostics in the selection process. The postscript draws attention to the apparently most concise professiogram, as very fittingly formulated by Socrates: “A judge should have four qualities – to listen politely, to answer wisely, to consider sensibly and to decide impartially”.

Legal protection of ethnic minorities in the Czech Republic ¹

2000 - 2002

Researcher responsible: PhDr. Markéta Štěchová, CSc.

Fellow-researchers: Mgr.Petr Kotulan, Mgr. Jan Rozum, JUDr. Petr Zeman, PhD.

This publication deals with legal protection of ethnic minorities against manifestations of racial discrimination, including procedures of government institutions enabling the integration of ethnic minorities in the CR. The whole of the survey, of which we are publishing the first of the two parts, was carried out on the basis of assignment from the Ministry of Justice of the CR, stemming from Resolution of the Government of the CR No. 599/2000 dated 14.6.2000: Conception of Government Policy towards Members of the Roma Community Assisting their Integration into Society.

Protection of racial, national and also other minorities against attacks on them and their members is an essential precondition for maintaining a stable environment in society. As with other socially pathological phenomena, the problem of racially motivated attacks and racial discrimination cannot be resolved exclusively by penal or administrative measures to repress them. Legal measures to protect minorities against discrimination fall primarily within the field of protection of human rights and freedoms and affect all areas of the law. Criminal Law provisions for protection of minorities, or legal measures for their protection by means of misdemeanour law must therefore proceed from two basic sources: from international documents, the content of which is binding on the CR, and from national sources with the highest legal weight, so in particular from the Constitution of the Czech Republic and the Charter of Basic Rights and Freedoms.

Because criminal law protects basic values and relationships as a rule already governed by other branches of the law, particularly constitutional law, civil law, commercial law, administrative law etc, use of it comes under consideration where the measures available in these other branches of the law do not provide sufficient protection, because an offence has been committed. Criminal law protection against racially motivated offences therefore consists in the fact that some more serious attacks are qualified as criminal offences and penalties and protection measures can be imposed for committing them. From this definition of the role of criminal law it is clear that it should fulfil only a support and subsidiary function and that in connection with racially motivated offences it is also necessary first and foremost to apply means of prevention.

The criminal law in force in the Czech Republic contains four basic facts of offences which mark out racially or similarly motivated attacks against a group of citizens or against individuals. These are the provisions of § 196, § 197a, § 198 and § 198a of the Criminal Code. However, protection against racially and similarly motivated attacks is not covered completely by the provisions cited. Certain other facts, directed to protection of life, health or

¹ Štěchová, M., Kotulan, P., Rozum J., Zeman P., Půry F. (externally): Legal protection of minorities in the CR. Final report on survey. Prague: ICSP, 2002. 232 pages. Summary.

property, contain this motivation as a circumstance conditioning use of a stricter legal qualification of a certain criminal offence and thereby also the possibility of imposing a higher sentence for its commission. This is the case particularly for the criminal offence of murder under § 219 paras 1 and 2(g) of the Criminal Code, where the offender is liable to a prison sentence of 12 to 15 years or an exceptional sentence if this criminal offence was committed against another person because of his/her race, nationality, political conviction, religion or because he/she had no religion. The same circumstance may be a reason for imposing a harsher sentence for offences of assault under § 221 paras 1 and 2(b) of the Criminal Code (sentence of imprisonment of 1 to 5 years) and under § 222 paras 1 and 2(b) of the Criminal Code (sentence of imprisonment for 3 to 10 years). Similarly, a criminal offence of blackmail receives a harsher sentence under § 235 paras 1 and 2(f) of the Criminal Code with a sentence of imprisonment of 2 to 8 years where it was committed against another person because of his/her race, nationality, political conviction, religion or because he/she had no religion. The same circumstance may be a reason for harsher punishment for an offence of damage to the property of another under § 257 paras 1 and 2(b) of the Criminal Code, where the offender is liable to a sentence of imprisonment of 6 months to 3 years.

The most serious attacks against national, ethnic, racial or religious groups can be prosecuted as certain crimes against humanity, for example as genocide under § 259 of the Criminal Code or support and promotion of movements aiming to suppress the rights and freedoms of a person under § 260, § 261 and § 261a of the Criminal Code.

The Criminal Code in force in the Czech Republic enables – as does criminal legislation in other countries – to take adequate sanctions against various attacks against groups of citizens and individuals. From this point of view, then, Czech criminal law protection on the one hand complies with the International Convention on Elimination of All Forms of Racial Discrimination (decreed under No. 95/1974 Coll.) and on the other hand is comparable with criminal legislation of other developed countries in Western Europe.

Compared with other European countries, however, Czech criminal law does not yet expressly provide for certain special cases of racial discrimination which the criminal law of other countries takes into consideration. So, for example, refusal to provide goods and services or their provision only after discriminatory conditions are met, refusal of employment or dismissal from employment or placing discriminatory conditions on an offer of employment are not as such criminal offences here.

In the present government's proposal for partial amendment of the Criminal Code from March 2001, just one change is proposed in relation to criminal offences that are racially or similarly motivated, namely adding to the facts of the criminal offence inciting hatred against a group of persons or restriction of their rights and freedoms under § 198a para. 2 of the Criminal Code so that under letter (c) of this provision one who participates in activities of groups, organisations or associations which advocate discrimination, violence or racial, ethnic or religious hatred could be sentenced to imprisonment of up to 2 years. No fundamental objections can be raised against this proposal - the question is rather why only some of these undesirable activities are to be criminalised and not, for instance, the foundation or operation

of these groups, organisations or associations, and why the proposal does not relate to entities which also advocate political or national hatred.

In none of the proposals mentioned has the idea of stricter sanction of certain criminal offences yet appeared (eg under § 196, § 198, § 198a, § 260 and § 261 of the Criminal Code), if committed by a public official. A similar tightening of sanctions is contained in some criminal legislation provisions in other democratic countries and clearly there is no convincing argument why such a solution should not be adopted in the Czech Republic as well.

Problems with the effectiveness of criminal prosecution of racially or similarly motivated offences arise above all from the fact that proving these criminal offences is complicated and in particular proving national, racial, ethnic or similar motivation is by no means simple. For in this respect as a rule there is no available admission by the offender which could be a single direct proof, and this is why this motivation can often be proved only by circumstantial evidence, the quantity and quality of which is not sufficient for reliable conviction of the offender for a racially or similarly motivated attack.

Misdemeanours are typically less serious anti-social acts than criminal offences and form one of the sub-groups of administrative offences. The Misdemeanours Act, No. 200/1990 Coll., as amended can, at least to a certain extent, be regarded as the only statute on administrative offences. It contains both general provisions and a separate section, and is also devoted to procedural issues. With effect from 2.8.2001, two new facts of misdemeanours, expressly covering inter alia cases of racially motivated attacks or discrimination for racial, ethnic, nationality etc reasons, were included in the list of misdemeanours against civil co-existence in § 49 of the Misdemeanours Act.

The question of discrimination is very sensitive in the consumer protection field. Explicit anti-discriminatory provisions can be found in this connection in § 6 of Act No. 634/1992 Coll., on consumer protection, as amended. Vendors (entrepreneurs) may not when selling products and providing services behave in contravention of good moral conduct; in particular they may not discriminate against the consumer in any way. Breach of the prohibition on discrimination is an administrative offence, for which a fine of up to 1,000,000 CZK may be imposed, and for repeated breach of obligation during one year a fine of up to 2,000,000 CZK may be imposed.

Further findings relating to racially motivated criminal offences were derived from a report of the Ministry of Justice of the Czech Republic, which states that for the period from 1.1.2000 to 31.12.2000 a total of 148 persons were legally convicted in Czech courts for criminal offences motivated by racial intolerance, which represents 0.2% of the total number of legally convicted persons (in 1999 166 persons were legally convicted for these criminal offences).

Of this number, 35 juveniles were convicted, ie 23.6%, and 13 of the persons convicted were designated by the courts as re-offenders.

In 2000, the greatest number of persons – 57 (38.5%) – were convicted for the criminal offence of supporting and promoting movements aiming to suppress citizens' rights and freedoms under § 260 or § 261 of the Criminal Code, 29 persons were convicted of the criminal offence of violence against a group of citizens and against individuals under § 196 of the Criminal Code, a further 24 persons for the criminal offence of defaming a nation and a belief under § 198 of the Criminal Code or for the criminal offence of instigating national and racial hatred under § 198a of the Criminal Code, 16 persons for the criminal offence of bodily assault under § 221 of the Criminal Code, 4 persons for the criminal offence of blackmail under § 235 of the Criminal Code, 3 persons for the criminal offence of breach of the peace under § 202 of the Criminal Code, and two persons in each case for the offences of assault under § 222 of the Criminal Code (grievous bodily harm), breach of the rights and protected interests of military personnel under § 279a of the Criminal Code, assaulting a public official under § 155 of the Criminal Code, drunkenness under § 201a of the Criminal Code and violence against a group of citizens and against individuals under § 197a of the Criminal Code, and one person in each case was convicted for the criminal offences of restricting personal liberty under § 231 of the Criminal Code, robbery under § 234 of the Criminal Code, theft under § 247 of the Criminal Code, embezzlement under § 248 of the Criminal Code and the criminal offence of abusive language between military personnel under § 276 of the Criminal Code, which were in all cases committed with a racial motive.

The greatest number of persons – 63 (42.6%) – were legally convicted by courts in the North Moravia Region, and 17 persons respectively (11.5%) were convicted by courts in the South Moravia and West Bohemia Regions and by District Courts in Prague.

For the criminal offences stated above, 20 (13.5%) of the convicted were given prison sentences, 93 (62.9%) were given suspended prison sentences, 25 (16.9%) were given community service orders, 3 (2.0%) were given fines and 7 persons (4.7%) were discharged.

The Ministry of Justice of the CR also stated in its report that the speed and smoothness of resolving cases in this area of criminality is monitored systematically both by the Ministry and by Presidents of Courts in their supervision powers and it can be stated that there are practically no unreasonable delays.

We obtained specific findings on the issue reviewed directly from crime files, where legal verdicts were pronounced on offences with a racial or national motive. In particular, criminal cases were considered where the offender and the victim of the case reviewed were members of different ethnic groups and the motive for the action was inter-ethnic hatred and also cases where there was no direct conflict between persons but, for instance, racial slogans were chanted, racist and Nazi symbols were scrawled etc. Cases where the action was one of conflict between skinheads and punks and between individuals from the Roma or other national or racial minorities were not reviewed.

Selection of these cases was made first of all on the basis of the Criminal Police Service Headquarters database, where all cases recorded by the Police of the CR in the years studied were kept. From these, cases which were then further monitored by authorities responsible for criminal proceedings up to their legal termination by a guilty verdict were selected for consideration. After the documentary reference data of these crime records were ascertained, their loan was requested from the respective district and area courts.

44 crime files were processed from all former regions, except the West Bohemia region. Crime files were lent to us by 28 district and area courts and one crime file was lent to us by the City Court in Prague, which in view of the seriousness of the case conducted proceedings at the first level (§ 17 of the Criminal Code). For completeness it is necessary to state that we did not have findings on cases reviewed from the West Bohemia region and this is why criminal files from district courts there were not requested. So crime files were lent to us by a third of the district courts from almost everywhere in the Czech Republic and this sample can be considered as sufficient for documentation and more general summary of findings too on the criminal activity in question and on the procedure of authorities responsible for criminal proceedings in their individual phases.

The greatest number of crime files lent to us for analysis were from district courts in North Moravia region (11 out of 12 cases heard), North Bohemia region (8 out of 10), East Bohemia region (7 out of 10) and South Moravia region (6 out of 13). However, from this wide spread it is not possible to draw more detailed conclusions on the numbers of persons convicted for the criminal offences reviewed. Selected for request were mainly those criminal cases which had already been legally terminated by courts in individual districts or where early conclusion of them could be expected. However, we did not have findings on all criminal cases motivated by racial or national hatred which were in progress or had legally ended in a guilty verdict in the given period.

Despite this statement, the sample of crime files which we had for evaluation on the whole corresponds with the occurrence of these offences in individual regions, as is stated in the Ministry of Justice of the CR report and in other documentation.

In all cases we reviewed only criminal cases which were ended by a court verdict in the years 1997 – 2000. Crime files were also recorded and evaluated where a verdict of acquittal was pronounced in a court judgement.

Findings from crime files were first of all transferred to a record sheet prepared in advance, where a total of 45 individual aspects were monitored. These aspects were broken down into data on the criminal offence, causes and motives for its commission, its consequences and conviction for it, on the person of the convicted and the victim, and on the procedure of the authorities responsible for criminal proceedings, including length of the proceedings in their individual phases. Findings from crime files were analysed under these basic groups and are described below.

Analysis of the files showed that characteristic forms of criminal activity (93.7%) committed from racial, national or other hate motives are mainly verbal manifestations, physical attacks and graphical expression of the racist views of the offenders.

This criminal activity was committed mainly by men (96.9%), Czech citizens of non-Roma origin (59, ie 92.2%), younger age groups (87.5% between 15 and 30), with a significant proportion of juveniles (25%). The research findings obtained from crime files do not differ more significantly from those of other authorities, particularly from the evaluation documentation of the Supreme State Prosecutor's Office and from the Ministry of Justice of the CR report. Most offenders are with lower socio-cultural levels (51.6% with basic education, 42.2% skilled workers) and only a few cases were recorded of people who had completed secondary school (4, ie 6.2%). Relatively prominent in participation in commission of criminal activities are the unemployed (26.5%) and manual workers (17.2%), but there is also a relatively strong group (9.4%) of offenders who professed to be entrepreneurs. Criminal acts were committed mainly by a sole offender (66.7%) or two offenders together (21.4%); repeat offending, as an aggravating circumstance, was recorded only for 7 (10.9%) of those convicted persons. Criminal acts were committed most often (56.3%) in public spaces, then at the house or flat of the victim and in front of it (21.9%) and in restaurant facilities (12.5%). Even though it was not often possible to provide reliable proof that the offender was a member of one of the movements promoting racial and national intolerance, in 27 of the cases reviewed, ie 45.8% of those convicted, membership of the skinhead movement or public demonstration of sympathy for such a movement was recorded.

In our analysis of crime files we also attempted to ascertain all available data on the victims of offences. The most frequent victims of the offences reviewed in the criminal cases examined were men (52, ie 63.4%) of younger age groups (52.5% between 18 and 40), but also children (11%) and pensioners. 74.4% of the victims were Roma, mostly unemployed (26.8%). 16 (19.5%) were "white" victims, of whom 6 were officers of the police of the CR and the City Police who intervened. Apart from a very small number of exceptions (5), it was a matter of unprovoked criminal activity, motivated by hatred or intolerance. In the criminal cases examined, not one case was found of concealing the identity and appearance of a witness under § 55 para. 2 of the Criminal Code nor any request from a witness to conceal his/her appearance and personal details under § 101a of the Criminal Code.

Sentences imposed on offenders for offences that were motivated racially or nationally or by other forms of hatred are in view of the persons of the offenders (age, character assessment, first conviction and so on) mostly educational, not linked to imprisonment. In not one case was use made of new criminal law provisions – diversions and conditional discharge with supervision – which enable courts to take a more individual approach to offenders and strengthen expectations for the success of the educational effectiveness of a conditional sentence.

In clearing up and dealing with criminal activities committed from racial, national or other hate motives, authorities responsible for criminal proceedings proceeded in the cases reviewed in accordance with the respective provisions of the Criminal Procedure Code. Relatively serious breach of procedural provisions was not found in any phase of criminal

proceedings. It is also necessary to acknowledge that nearly two thirds of criminal cases were brought to trial by district courts and resulted in convictions.

We attempted to ascertain from the sample of crime files whether criminal proceedings pursued conformed to the requirement for speed. In addition, the time which elapsed from commission of an act to commencement of criminal prosecution was ascertained. A positive finding is the fact that in 37, ie 57.8% of the cases criminal prosecution was commenced within three days of commission of the act. The fact, however, remains that the length of this time is mainly dependent on how quickly the facts indicating commission of the offence are notified (where there was no intervention by the police). In 2000, the average length of court proceedings for the first two most frequently represented offences, particularly for the offence of violence against a group of citizens and against individuals under § 196 of the Criminal Code, substantially exceeded the average length of court proceedings (365 as against 251 days) for all criminal offences treated by first level courts in the CR. For other criminal offences the length of the proceedings was less than the average. From review of a longer period from 1995 it can be seen that both for individual criminal offences and in comparison of them with the national average there are often quite wide fluctuations up and down. For this reason it is not possible to infer either a downward or upward trend in the length of court proceedings for the criminal offences reviewed.

Findings from the legal analysis conducted and from ministry reports (in this publication anti-discrimination and integration procedures applied by individual Ministries are presented as the relevant ministry produced them at the request of ICSP) show that relatively high attention is given to the problem of ethnic minorities in the CR. The state has legal and institutional tools at its disposal which it can use for the given objectives, ie integration of ethnic minorities and prevention of discrimination against them. Certain gaps have of course been found in the use of these tools, especially at local level.

**SELECTED RESULTS OF RESEARCH ACTIVITIES OF ICSP
IN THE YEARS 1999 - 2002**

Editors: Miroslav Scheinost

Zdeněk Karabec

Miroslav Zvelebil

Publisher: Institute of Criminology and Social Prevention

Destined: for professional public

Printed: Publishing House KUFR

František Kurzweil, Naskové 3, Praha 5

Czech Republic

Printed: April 2003

First Publication

Number of copies: 100

www.kriminologie.cz

ISBN 80-7338-017-X