

INSTITUTE OF CRIMINOLOGY AND SOCIAL PREVENTION

**SELECTED RESULTS
OF RESEARCH ACTIVITIES
OF ICSP IN THE YEARS 2004-2007**

**This publication contains basic information on selected research projects
of the Institute of Criminology and Social Prevention completed
in the years 2004 - 2007**

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Introduction

The Institute of Criminology and Social Prevention (ICSP) is pleased to submit to the international community of professionals its third overview of results of its research activity, for the period 2004-07 (the previous overviews, published in 2003 and 2005, contained the results of the Institute's research activities for the years 1992-2002 and 2003-04).

The ICSP has been active already since 1960 as a centre of criminology research. It carries out research and analytical activities in the fields of criminality, justice and security. It is currently the only centre in the Czech Republic to systematically devote itself to research in these fields.

The ICSP is primarily occupied with the study of instances of and reasons for criminality and related social-pathological phenomena, and the evaluation of the application in practice of selected criminal law institutions. Questions of criminal policy and checks of crime rates with regard to the repression and prevention of criminality are also at the forefront of our interest. The ICSP also concerns itself to a certain extent with the problematics of treatment of offenders and other penological issues.

The current operator and governing body of the ICSP is the Ministry of Justice of the Czech Republic.

The chief users of products of ICSP activities are primarily organisations and institutions of the justice department (Ministry of Justice of the Czech Republic, judicial bodies, the Prison Service, the Probation and Mediation Service). Results are further utilised by the interdepartmental State Committee for Crime Prevention, and through this body other bodies and institutions contributing to realisation of the Crime Prevention Strategy. The ICSP is a permanent member of the State Committee for Crime Prevention, where it fulfils the role of a specialist and research centre.

The network of users also includes the interior affairs department, primarily bodies and services of the Police Service of the Czech Republic, departments of work and social matters and education, institutions of higher education and vocational schools (for teaching) and others.

The ICSP is a member of international professional organisations, participates in international cooperation, contributes to international studies and in the processing of information and bulletins on the development of criminality and penal policy in the Czech Republic.

The ICSP employs 18 research workers. The results of ICSP work are regularly published by the ICSP (in Czech, with summaries in English), and also on the ICSP's web page (www.kriminologie.cz). The ICSP yearly publishes around ten titles, some of which are its original work, with the rest being translations of work from abroad.

The ICSP's research work in the years 2004-07 arose from its medium-term plan of activity. The plan was focussed on the needs of society in the field of penal policy and the issues arising from this for changes in penal legislation, on the forms of criminal activity that pose a significant societal and security threat to the State, on development trends in criminality and related social-pathological phenomena, the problems of general criminality, criminality of women, children and youths, problems of offenders and the victims of criminal activity, options for prevention and the effectiveness of preventative programs and processes.

This subject was dealt with through specific research projects, whose resolution and results will be dealt with in this publication. We thus aim to offer the international specialist community better access to the results of our research activity.

Editor

Prague, April 2009

Society Defence Against the Threat of Serious Criminal Activity Forms

2004-2007

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Some forms of serious crime – particularly terrorism, organized crime and economic crime – belong at present to the world greatest security risks. Particularly International Community, United Nations, the Council of Europe and European Union respond to this type of threat and initiate a number of countermeasures. In accordance with them basic organizational and legislative changes were gradually performed in the Czech Republic after 1990.

By detecting possible sources of crime in concrete social conditions criminological research provides criminal and security policy conception and at the same time it monitors provision effectiveness focused on crime and suggests possible changes. If really effective provision was suggested it was necessary to be based on profound causes analysis; we should know why a certain crime activity was committed, why offenders focus on this activity, why they commit it the way they do, why crime victims are certain people under certain conditions.

Criminological research in the Czech Republic has focused on organized crime problems since the ninetieth. Since 1992 The Institute of Criminology and Social Prevention has been analysing annually basic characteristics concerning criminal groups and their activities. In the framework of special themes the research concentrated on drug production, smuggling and distribution, organizing and practising prostitution, illegal migration, thefts of art, violent crime, and racketeering. Analysis of organized crime activity not only of the Czech Republic nationals but also foreigners has been investigated in detail. Organized crime activities in the field of economics, money laundering and intentional tax evasion have systematically been observed. We have regularly evaluated the effectiveness of legal measures applied in combating organized crime. In the end of the ninetieth we analysed organized crime problems in the Czech Republic in a wider social context. In the framework of selected crime prognosis we defined problematic and developmental facts which can be effective in the field of combating organized crime in coming years.

In the research realized **during 2004 – 2007** we focused on some serious forms of criminal activity: organized crime, economic crime, terrorism and corruption. We have also dealt with migration processes abuse and threats to institutions. **The goal** was firstly to analyse threatening factors in society development – and the possible causes and consequences of serious crime activity to society structures – and then to search for effective measures against serious crime activity.

In concrete **research methods and techniques** were used data from professional publications and sources, collections from conferences, data from questionnaires conducted by Council of Europe, European Union and United Nations, specific legal measures, the Czech Republic Ministry of Justice Statistical Yearbook data, statistics of the Ministry of Interior and respective department of the Police of the Czech Republic, available legal and investigative records, official documents of international communities and the Czech Republic government and individual ministries documents. We have also used case studies and expert investigation carried out by questionnaires or by directed interviews with Czech Republic Police workers who were in contact with serious criminal activity in executing their duty.

In the framework of our task the great attention was focused on **organized crime** problems. We have dealt with this subject systematically since 1993. Apart from regular monitoring of tendencies and analyses of concrete cases we focused during 2004-2007 mainly on organized crime threats and on possible measures society can use to combat it. We wanted to find out how and why individual parts of social system are threatened by organized crime, we searched factors abusable by organized crime in individual areas of society life and possibilities of defending against their activity.

Organized crime can be understood as systematic committing of serious criminal activity and related supporting activities whose subject are criminal groups or organizations, whose main goal is to obtain maximum illegal profit while minimising the risk.

According to security situation report in the Czech Republic territory there operate about **75** groups having **2000** members. Further data concerning groups and their activities are based on experts estimates. From the organizational structure point of view **not quite a half of the groups were fully developed**. It means that more than a half of considered organized crime activity is created by less organized groups. They are organized on a horizontal level and mostly do not fulfil features of criminal conspiracy. Within organized crime there are involved a lot of **external co-workers**. According to the experts' estimate they create more than a half of all conspiracy groups members. External co-workers provide all kinds of different services including searching information, making contacts with political and economic representatives, offices or media. In bigger groups they work as legal or economic advisers.

Participation of **women** in organized crime also plays a significant role. The estimate of women's engagement in groups during 2000 – 2006 was about 15%. The highest involvement of women is in the field of procuring and trafficking in people for the purpose of sexual exploitation and trafficking in the field of narcotics and psychotropic substances where women mostly operate as dealers. Among significant activities committed by women in the framework of organized crime belong organizational and management background of conspirative groups. Women often participate in financial crime : money laundering, corruption, tax, bank, loan, insurance and customs fraud and in establishing of fraudulent companies. Quite important is women's share in illegal migration. Other criminal activities committed by women are thefts, specialty works of art thefts.

Since 1993 in respect of **the share of involvement of Czech and foreign elements** in organized crime groups in the territory of the Czech Republic there is prevailing foreign element. The percentage of Czech nationals is also quite significant. In fact immediately after establishing organized crime in our country about a quarter of the groups were Czech. Apart

from that a number of Czech nationals cooperate with foreign groups, specially Russian ones. Foreigners share in organized crime is mostly by Ukrainians, Vietnamese, Albanians, Russians and Chinese. Further there are Bulgarians - whose share decreases – and Romanians – whose share increases. Further there are Serbs and behind them Slovaks who appeared sporadically on the bottom rung of the ladder during the nineties in the framework of organized crime in the Czech Republic and started gradually increase after 2000. Further down there are Turks, Nigerians, Moldavans, Dagestanis, Macedonians, Lithuanians, Israelis, and to limited degree Chechnians, Belorussians, Indians. Even Poles who until the end of the ninetieth used to be represented quite strongly on the scene of organized crime gradually decreased. Among the less frequently represented nationalities belong : Montenegrins, Iraqis, Croats, Senegalese, Egyptians, Italians, Pakistanis, Georgians, and Germans.

During 1993 – 2006 **the most widest forms of criminal groups activities** belong to car thefts, organized prostitution, since 1994 production, smuggling and distribution of drugs. Occasionally there occur other forms from almost forty other activities. During 1993 – 1998 thefts of art works belonged among most widely expanded activities. In 1997, 2002 and 2005 tax, loan, insurance and exchange fraud and corruption increased. During 1998 – 2004 among the most wide spread activities of organized criminal groups belonged illegal migration. Since 2005 its share started to decrease. In 2006 money laundering, forgery and cyber crime became wide spread. Since 2005 there has been a significant appearance of the illegal production and smuggling of alcohol and cigarettes.

Since 1990 the character of organized crime in the territory of the Czech Republic went through not only quantitative but also **qualitative changes**. According to experts' point of view organized crime has increased, stabilized and institutionalized. Management has increased, there are less evident violent manifestations, more economic criminal activity, frauds, more corruption. Wealth of groups has considerably increased and the market has been divided. Organized crime has more sophisticated technical tools such as using internet. Profits are legalized in legal business. In relation to these facts organized crime causes greater losses and has more damaging influence on economy. At present organized crime has sufficient contacts, it penetrates into the state administration, it develops more activities in economic spheres, it develops contacts in justice, it influences media.

In the future according to experts opinion it is possible to expect further increase of organized crime activities. A considerable increase of criminal activity will be related to computer technology, information technology and internet. Further it is possible to expect 'tunnelling' of state budget and European Union grants, there will be sophisticated frauds in the field of tax crime, frauds connected to consumer tax of fuel, alcohol and cigarettes. It is possible to expect speculations of organized crime when the Czech Republic joins the euro currency. The world of crime will improve in its structures, persons' professionalism and the use of technologies such as internet communication. Typical features will be increasing profits, wealth, power and influence of organized crime groups, who will endeavour to be established in legitimate business, endeavour to penetrate into the area of politics, economics and other areas. It is possible to expect expansion of purposeful penetration into the state structures and great bank fraudulent transactions; influencing courts, public prosecutor's departments, police; influencing appointments in state administration, abuse of favouritism, and corruption. Organized crime is also expected to have a widening influence on municipal level policy. In allocating greater public orders there will be attempts to manipulate them by corruption and favouritism. Organized crime groups will also attempt to reduce the activity of specialized sections of the police. Internationalisation of organized crime will develop. There

will be dramatic increase in organized crime activity of Rumanian and Bulgarian nationals. The tension between Asian groups will increase. After 2010 there may increase a substantial increase in the number of Chinese and African persons.

Experts estimate that in the territory of the Czech Republic between 2010 – 2015 after years of an increasing share of organized crime the trend may change and may even stagnate. Apart from possible move of criminal activities to more developed countries of European Union another reason to stagnate the increase of organized crime could be the generation change in the society : people with higher education either citizens or representatives of state administration will be able to combat organized crime more effectively.

The part of organized crime reasearch was also acusations anasysis and case studies processing. By means of analysing of all accusations regarding **criminal conspiracy cases** submitted by the public prosecutor's department between the years 1999 – 2004 we wanted to deepen the information we acquired concerning all aspects of character, manifestations, structures and offenders of organized crime in the Czech Republic. Apart from that we focused on enforcement regulations concerning criminal conspiracy participation. The analysis showed indisputable organization of a certain part of criminal activity in the Czech Republic. Some cases show a higher level of organization, more extended work division and in some cases even the mark of middle links of management. The international involvement of criminal activities is quite widespread, also covering up a legal help use and cooperation with official structures, communication by mobile phones using covering names and nicknames, changing of mobiles and its numbers, making stories for captured migrants, etc. There is a high number of foreigners among defendants of criminal conspiracy. Offenders are mostly younger people but in the management and group centres we find people above 30 years of age. Often there are persons with former criminal records who appear on a lower, executive level in the organizational sturcture. Criminal conspiracy is often created by people who are connected by family relations supported by wider family clans.

On the basis of analysis results focused on **enforcement of regulation concerning criminal conspiracy participation**, it is possible to say that the frequency of enforcement of regulation concerning criminal conspiracy provision gradually encreases. But it is used with evident simpler criminal cases having a lower level of organizational structure and lower level of criminal activity where it is relatively easier to identify this criminal conspiracy legal features. Surprisingly low is the number of cases of prosecuted traffickers in drugs. There is relatively high share of offenders in custody (more than $\frac{3}{4}$) which testifies of legitimate fears of witness influecing, avoiding prosecution or continuing of criminal activity of prosecuted offenders. On the other side not quite 50 % of persons taken into custody are sued which does not testify of effective prosecution. There are almost no cases where confession of defendant subsequent proof of his/her involvement in the crime exists which results from organizational norms of organized crime groups.

To analyse the **threat to society by organized crime** was the main purpose of the research. Organized criminal groups have a paralysing impact on both public and private sectors of the society, it brings direct security threats to citizens. Organized crime threats do not concern only the Czech Republic but in a globalized world transnational organized crime threatens in fact the whole world. On one side transnational organized crime presents outside threats to the Czech Republic, on the other side it becomes a threat to inner security. From the global point of view the inner situation in the area of organized crime in the Czech Republic can be a threatening factor for other countries. Transnational criminal groups can for

instance use our territory as a transit country, they can create a forefield for expansion to other countries, they can try to legalize here profits from criminal activity, etc.

According to the experts' opinion organized crime in 2007 mainly penetrated the area of state administration, economics and politics, to certain extent also police and justice, less media and the least local authorities.

The damage in economics is caused by introducing illegal practice into the economic system. It creates illegal services and goods market. Introducing criminal practice to the economic system leads to creating of unstable and unconfidential backgrounds which can devaluate efforts of legal businesses or discourage foreign investors.

Organized crime tries to penetrate into the state administration system because of the need of information, of providing documents, and support or protect its own activities. Organized crime and corruption compromises and reduces authority of official institutions.

Organized crime bosses strive for abusing of political representatives – on international, state and regional level – for either politicians' conscious or unconscious support of organized crime bosses activities, for influencing strategic decisions which could be profitable to them, for acquiring information, and for impunity from prosecution. People in important political and decision making positions can be jeopardized by aggressive attempts of corruption, compromising and blackmail, due to this activity they lose community confidence.

Organized crime strives to penetrate into the justice system namely to eliminate its risks. It tries to influence the legislative process striving to adjust laws to prevent risks at all or to minimize them. To lower the risks it strives to frustrate criminal proceedings, influence witnesses or to enable escape of prosecuted or convicted persons. Imperfect protection of a witness well suits to organized crime groups.

Organized crime directly threatens some groups of citizens namely those in authority whom organized crime tries to abuse. Organized crime attempts to regularly secure enormous profits from illegal goods and services and thus shares in creating, disseminating and developing of a number of pathological elements in the society.

Organized crime tries to abuse the media. Criminal groups can strive for public opinion to influence their interests, what is advantageous for them, they want to support opinions which question and distract the honest labour of legislators, public prosecutors, policemen and judges. Media can unknowingly glorify evil, support the lifestyle bordering on unethical and often illegal practices.

On the basis of contacts in all crucial areas of society life, organized crime gains information or support from official circles without necessarily using corruption or even violence. Offenders of organized crime activity have the feeling of certain superiority. They rely on their inviolability due to their position on a social ladder, support of influential persons and due to low efficiency of criminal proceedings bodies.

In cooperation with international community efforts in the Czech Republic during 1995 – 2005 there were activated numerous measures directed against transnational organized crime activities. Apart from threat factors analysis, the other main research goal during 2004 – 2007 was the endeavour to analyze **prevention possibilities against the threat to society by**

organized crime. According to experts questioned during 2006 – 2007 it is possible to summarize measures eliminating this possible threat to Czech society by organized crime in a following way.

The basic solution for all further measures of combatting organized crime is based on the analysis and on a clear vision of a required goal. In this conception there are designed individual strategic steps, persons involved and their tasks are allocated. The activity is coordinated, and successes and faults regularly analysed. The important condition is to clearly declare and realize political, material and media support of criminal proceedings bodies in combating organized crime – including specialized police units. Essential to this aim is adoption of measures against the penetration of organized crime into the social system, namely to justice, police and media. At the same time there must be defined mechanisms safe-guarding the system and its workers, and defined rules how to act in corruption or racketeering cases. The important step is to strengthen moral consciousness and ethical values. It should be clearly distinguished where are public and common interests and which are sectional and personal interests. Personal responsibility of politicians, appointed officials, and leading persons has to grow. It is fundamental to separate police and justice from political influences.

The essential step is the criminal law and criminal code amendment, legal modification to corruption, stricter conflict of interests legal modification, member of parliament immunity limitation, higher penalties for organized racketeering and murders, prevention of transfer of property acquired by criminal activity on family members, and the establishment of a crown witness institute. Penalties for proven organized crime activities should be stricter. It is necessary to punish co-workers of organized crime groups. High punishments should be for public officials who consciously co-operate with organized crime. Prosecution should mean suspension of public office employment until a competent end of a legal case. At the highest prosecution offices the specialized departments focused on organized crime problems must be strengthened. For organized crime cases there should be imposed specialized legal proceedings managed by judges with a higher qualification in this area, sufficiently protected against „outward“ influences and threats. It is fundamental to secure law retrievability.

In the field of economics there must be adopted such legal and administrative provisions to prevent merging individual persons, relations and interests between areas of politics and economics into others. Legal economics must be prevented from finances originated from criminal activity. Effective means of combatting organized crime is to siphon off illegal profits. Possibilities of property confiscation of convicted organized activity offenders should be simplified and present possibilities should be used more effectively in this area.

Abuse of migration and refugee policies should be prevented from penetrating foreigners involved in criminal activities in our territory. Namely it is necessary to infringe the influence of foreign structures of organized crime in the territory of the Czech Republic by new effective legal ways in all areas.

In respect of the fact that corruption is the main form of organized crime penetrating into the state administration, it is necessary to impose system changes in connection with the allocation both of public orders and public budgets.

In the framework of the Police of the Czech Republic it is necessary to secure optimal number and to improve material equipment in specialized police departments. In big cities it

is necessary to improve camera systems and to establish DNA evidence. More use should be made of phone tapping as an effective tool to detect and document criminal activity committed in the framework of criminal conspiracy. Greater effectivity should lead to closer co-operation between individual departments of the Police of the Czech Republic, its participating in combatting organized crime, systematic co-operation on an international level, information systems interconnection, and the establishment of international teams.

An equally important provision relates to the work and relationships with the community. The community has to be informed that organized crime damages the whole society – it disturbs political, economic, and legal systems, it violates ethical standards, it can destroy everything people created by their own efforts. At the same time citizens in the democratic society have to be aware of not only rights but also responsibilities. School and family should warn about risks connected with pathological forms of lifestyle and offer possibilities of active use of leisure time. Mass media should inform the public not only about organized crime risks but also how it was possible to effectively act against it. At the same time it is necessary to look for mechanisms which can be used to prevent mass media abuse to misshaping or manipulating reality.

In recognition to the fact, that a significant feature of contemporary crime is its internacionalization, it is possible to expect that the world of crime will use globalization processes in whose framework are inter-connected political conceptions, economic, financial and communication networks. It is easier to penetrate state borders, when information technologies are developed. For that reason we dealt in detail with problems of migration and foreigners' criminal activity.

Illegal migration has been understood as an illegal state border crossing without a valid passport or entrance or residence visa, or having a forged or changed travel documents. The travel documents can even be valid but the intention of either to settle in the territory of a given country contravening imigration and other legal rules of this country or to use it as a transit country for illegal crossing into another country.

In this respect the most serious security risk for the Czech Republic is a contingent of illegal migrants in the territory of our country. Most of this contingent is created by illegal migrants from the former Soviet Union countries. The Czech Republic is also a transit country. The threat comes out of the fact that most of the former states of the USSR are at present lacking well secured and strictly demarcated state borders. The territory of these countries is easily transited especially for Asian transit migrants.

In respect to illegal migrants it is possible to proclaim „single general pardon“ for illegals who did not commit any serious crime in the territory of the CR. For instance Italy, Poland, Portugal, etc. have recently decided to solve these problems by this procedure. Our neighbours, Germany and Austria whose migration policy the CR has to take in account have never yet in their history been solving the question of „illegals“ in this way. From the internal measures point of view it is necessary to strengthen preventive control by the Police of the CR, from the external measures point of view then to monitor migration situation in Ukraine where most of illegal migrants come from. In respect to the fact that migration from Ukraine is specially of economic nature it is necessary to observe developmental tendencies on Ukrainian labour market and in Russian Federation which is able to absorb a considerable part of migration potencial in this region in favourable economic situations.

Apart from the contingent of illegal migrants, the other considerable migrants group from the former Soviet Union represents Russian speaking businessman – the majority of whom come from Ukraine and the Russian Federation. This group of migrants – businessman, often includes criminal offenders in the territory of the CR. Some characteristics of their criminal activities are being reproduced which typify the development and nature of contemporary crime in their mother country where massive increase of crime is accompanied by unprecedented redistribution of social wealth due to uncontrollable privatisation. According to experts' estimation 90 – 100 % of Russian banking and 60 – 80 % of other areas of business in Russia – are governed and controlled by domestic organized crime structures. Organized crime structures are closely connected to wide ranging corruption networks in Russia, they penetrate into the state administration, security sections, prosecutor's offices and they try to gain political "cover" and impunity for their unlawful activity. In Russia the number of serious crimes – motivated murders, grievous bodily injuries and robberies with violence grows. Apart from that, since the second half of the ninetieth of the last century there are 25 000 missing citizens every year. It is possible to assume that a number of them were most probably murdered. At the same time there is evidence that the police and state justice departments seek to conceal and deregister the growth of criminal activity. The most serious is a discovery of a fast growth of tolerance of the Russian public to corruption.

The third factor is that the organization of illegal migration by Ukrainian criminal groups has certainly become a profitable business. As a result of this fact "illegals" are often seen in a role of blackmailed and easily manipulated victims, so called 'clients' recruited from their own countrymen often connected to Russian speaking organized crime representatives operating in the territory of the CR. These "clients" are able to secure the entrance and activity of Ukrainian illegals on the attractive Czech market. Apart from that the client' structures in whose framework migrants work activities are developing, they often appropriate unlawfully finances like tax collecting, social and health insurance payments, all of which should be an income to the state budget of the CR.

From the criminology point of view we understand **economic crime** as a criminal activity committed in a framework of abusing business systems in favour of offenders and that makes it risky for this system. **Financial crime** is a criminal activity directed against financial institutions /banks, investment funds, insurance companies, etc./ including criminal activity directed against state finances /tax system, etc./

Economic crime is undoubtedly falling behind its peak reached in the nineties, and cannot be repeated because transformation has already been finished. In our research we have concentrated on tenders and settlements problems because it is a long-term and quite risky matter for legal awareness in the CR.

Tenders certainly belong to the market economy – they are considered as a recovery provision. But in the Czech Republic due to the connection with an extremely bad legal modification of this phenomenon the bankruptcy proceedings became an opportunity for enrichment of individuals. The problem and the risk needs to be seen so that tenders give opportunity for legal power (one pillar of democracy) to be transparent when engaging in economic relations. In the case of absence of professional and moral values in legal power it leads to be undermining of the legal awareness. A number of tender conflicts and malpractices highlight the unpreparedness of judges, showing quite significant benevolence towards trustees in bankruptcy "selection". Tender procedure gives a chance to dishonest trustees in bankruptcy cases to make a lot of money at the expense of creditors. There is a significant risk

in it : it does not relate only to companies where creditors are businessmen, whose business risks belong to their business, but also to firms from the financial sector (firms of brokers, insurance companies, mortgage institutions) where creditors are individuals of the community and not in business. Experiences of solving bankruptcies in similar institutions show that a certain financial influence of the state could be required which would mean that all taxpayers became victims.

The defence against this threat can be effective only in adjusting of conditions preventing the use of dishonestly acquired property. Appeal to moral aspects, tightened selection of persons (in justice as well as trustees in bankruptcy), etc. are not very effective in the Czech Republic.

In the nearest future in the field of economic crime the most problematic area is connected with prepared health service reform where businessmen who had nothing in common with health service reform in the past, now direct here their activities. It is possible to expect due to a significant increase in finance coming into the health service that this area can be assaulted by criminal practices similar to privatization in the nineties.

Terrorism according to our understanding is using a purposeful organized violence against disinterested persons for the purpose of gaining political, criminal or other goals. Terrorism can be either political or criminal, we can also talk about psychopathological terrorism. Political terrorism involves four different forms: revolutionary (leftwing or rightwing); separatist; rightwing and religious.

Roots of terrorism are in existence of national entity which either is or feels to be humiliated by another national entity. The feeling of national humiliation can be strengthened by the feeling of religious humiliation. Another factor for dangerous situation development is either real or imaginary economic humiliation and the existence of self-appointed little group taking revenge on behalf of humiliated and oppressed crowds. Another factor appears to be a catalyst moving this crowd into action. The third factor of the development of terrorism is the situation where the decision to rectify some former historical injustice (which is not possible to blame on concrete persons), is taken by some higher power and is carried out at the expense of somebody.

No terrorist action, identified as when violence becomes a tool to reach certain political goals under certain conditions has not yet been noticed in the territory of the CR. We have not met yet any violent action or international terrorist's assault. Potential risk certainly exists : apart from political and economic integration of the CR directed towards European Union and NATO, and recently in relation to our interconnection of our foreign policy directed towards the US, the risk also relates to pre-velvet revolution regime contacts with the Near and Middle East.

Considering above mentioned risk factors we can say that no ethnic group creates a considerable community in our territory. The biggest groups are from former socialistic countries including Vietnam and former USSR countries. They can influence organized crime (Russian speaking "mafias") or economic crime (marketers, specially from Vietnamese nationals), but should not influence terrorism. The Czech Republic is nationally homogeneous country (Czech-Moravian-Silesian nationalities include approx. 94% of the inhabitants). Concerning the degree of poverty in the country, the existing social network (at present in connection with quite limited public finances reform) slows down massive decline

of households into poverty. The social problem – in longer perspective - could be a class of unemployed who are children of unemployed therefore a generation of unemployed who would lose their work habits entirely and who would be opened to extreme solutions.

Terrorism is a threat for the CR namely in connection with foreign subjects operating in the territory of the CR, who are selected and proclaimed goals from the side of terrorists. They are specially USA and Israel for their political and religious opinions. Even abroad the CR institutions are threatened where according to their possibilities support international political, economic and military measures for risks elimination specially in the Arab world and in Balkans. Further threats are connected with the danger of local conflicts transfer (Turkey, Egypt) abroad.

The forms of terrorism threatening the CR to be taken into consideration are firstly information terrorism when a certain militant group is able to get inside important computer military or police networks and at least partly limit their operation. The other form is media terrorism which is able to blackmail governments of some countries by too much attention of mass-media to civil victims of terrorists' retaliation attacks, for the third it is armed terrorism using new generation intelligent weapons which are not too big and too expensive but can cause great damage, as controlled guided missiles, weapons of mass destruction, radiation material, chemical or biological weapons (lethal bacteria and viruses), the fourth form is the psychopathic terrorism without any political demands.

In the CR there are manifestations of **extremism** which can get close to right-wing terrorism: open racism manifestations or civilizational threats (the feeling of threats by Islamic fundamentalists can turn into attacks on Arabs and coloured people where race does not play any essential role).

Defence possibilities against terrorism risks are complicated. It is not possible due to several psychopathic individuals (suicide certainly belongs to psychopathic expressions) to bomb other national representatives official residences or to kill representatives of other nations extreme groups and so further multiply the violence. It is not possible to defeat terrorism by bombing territory of the state where these several groups operate. These actions can easily provoke a feeling that there is a war of the West against religion and by that these groups gain prestige, reputation and authority. Most probably the most feasible way is to infiltrate into these groups, target and liquidate their leaders. Similarly problematic is a total blockade of the territory (apart from humanitarian aid of food, water and medicaments) so, that this territory could not be supplied by weapons, chemicals, dangerous material including fissionable equipment, machinery etc.

For the Czech Republic the only real way of defence against terrorism risks is to participate in international structures both political and defensive (and espionage, of course). Another option should be the Czech active participation on international platform which would (in the above mentioned sense) eliminate the feeling of national, ethnic and religion humiliation.

Serious forms of **corruption** disturb existing economic background in a sense of inappropriate providing of economic advantages. Mostly it is present at so called state public tenders. The state still seems to be the most reliable client and in the given territory even the greatest customer. Above all the state provides all kinds of different guarantees for export and

it also grants licences for export, relating mainly to military materials. The existence of transparent and equal economic background for individual market subjects is inevitable.

Political corruption which indisputably existed in the nineties is declining and was changed to lobbying. The members of parliament try to gain advantages for their regions, enterprises they are connected to.

Corruption is undoubtedly **economic corruption**. It relates namely to grants granting system, subventions and state orders. Sale contracts (or other similar contracts) in this area always include a buyer and a seller. They both have a number of opportunities to corrupt the process in any part of the agreement. It is either arranged that a contract to state order was granted to the required party on the basis of direct negotiation without any competition, or public competition or advertising is known to only a limited number of people and a selected applicant is informed directly; so competition can be limited by creating of incorrect and unnecessary criteria for the preliminary qualification. The most serious and most extended corruption can take place after the contract conclusion which means that during the process the buyer can purposely ignore all regulations concerning quality standards, quantity or other standards defined by contract; and can take away delivered goods for repeated sale purposes and can require other 'perks' for example, trips, tuition fees for children, presents etc.

There are various **tools and measures to be used against corruption practice cases**. They relate mainly to the law of conflict of interests, publicising of tenders results and similar business competitions, direct debits, property declarations of interest of elected representatives and state administrators of all levels (namely with the authority to decide), property declarations by family members of the above mentioned categories, and the establishing of different anti-corruption measures.

Governmental orders should be economical: the goal should be the highest quality, or amount for a given price or the lowest price for a good quality of goods and services. The decision to award contracts should be fair and objective : public funds should not be used to provide advantages, standards and specifications must not be discriminating, suppliers should be selected on basis of their qualifications and on advantages of their offers; terms of offers deserve the same attention, confidentiality of information, etc. The whole process should be transparent – requirements, rules and decision criteria should be easily accessible to all potential suppliers, by informing through public competition announcements. They should be announced publicly and all decisions should be recorded.

The starting point should be strengthening of **legal framework**, starting by the change of anticorruption law so that it would provide real authority and effective sanctions. Another legal demand is a reasonable and consistent framework specifying basic principles and procedures which have to be kept when orders are being granted. The best way is to accept more detailed rules and regulations for state orders conclusions. Apart from the legal framework another possible defence against corruption is the system of open transparent procedures and ways of regulating the order process.

The significant part of the analysis concerning the threat to society by serious forms of criminal activity and concerning the defence against these threats were **institutions as victims of serious criminal activity** problems. Institutions in a widest sense can refer to organizations (profit and non profit organizations) providing their activity for the public or at the public having a character of legal person. They can also be professional groups or civic

societies. Institutions of their kind are legal social structures, (government as a whole and individual ministries), municipal representations (county, town and local authorities), political parties and by their mediation institutions representing democracy (parliament and senate), courts and other bodies of criminal procedure (police, state prosecutions, legal chamber), public institutions. In special cases it is possible to weight up other institutions, as sport clubs and associations, trade unions, professional associations, public interest associations, non-profitable organizations developing socially profitable activities, etc.

For the institutions to be regarded as victims of serious criminal activity the damage extends to a wider circle or higher level of involvement. For example reality of a branch bank robbery or 'tunneling' of a branch bank represents security threat not only to the bank itself and its system but also to its clients. Damage of institutions by serious criminal activity can be direct (damage caused on property or to the continued functioning of the institution, etc.) or it could result in the loss of confidence in the institution, and the disintegration of its structures, resulting in its downfall. Institutions are damaged by tolerating criminal tendencies in their legal structures. The main threat is an attack into other segments of society and bringing about social insecurity and lawlessness by extending illegal activities.

Effective **defence against these threats** is possible to establish by eliminating and preventing realization of three typical factors influencing criminal acts connected with institution attack from the inside, by firstly opportunity, secondly by motive and thirdly by rationalization. A defence barrier does not provide opportunity, it builds a healthy motivation, and clearly defines demaging activities. The use of complicated data analysis is able to identify illegal transactions, for example the transferring and legalization of addressed funds or the earnings from criminal activities, out of a great number of transactions.

An essential part of serious criminal activity defence is based on **utilization of legal tools** available. In the research we have summarized rules concerning all monitored areas including actual international patterns.

Globalization and migration problems in the Czech Republic are influenced by a number of other legal regulations apart from the law number 325/1999 of Criminal Code on asylum and the law number 326/1999 of Criminal Code on foreigners temporary residence. These standards either directly regulate certain specific migration aspects or directly or indirectly determine wider economic and social conditions of foreigners' life conditions in the territory of the CR. The first category of laws relates to foreigners' entrance conditions on the Czech labour market, the other is on eg. health insurance, social allowance and care or the law concerning gaining and losing state citizenship.

The law number 1/1991 of Criminal Code concerning employment is also essential. Apart from intrastate legal regulations is the area of labour migration modified even by international treaties modifying social insurance and employment area and also multilateral treaties of human rights area, migrants conditions and social rights the Czech Republic is obliged to offer.

Visa policy problems are modified by Regulation of the Committee (ES) number 539/2001. The Czech Republic strategy was defined in main features by the CR Positional document to the chapter 24 on "Co-operation in the Area of Justice and Inner Affairs – Schengen Acquis" and further developed by the Czech Republic government Resolution from July 25, 2001 number 768/D and the CR government Resolution from November 7, 2001 number 1167D.

International document in **combating terrorism** is an International Convention on suppressing terrorism financing concluded in the United Nations territory (2000). This Convention introduces new facts of the case of financing terrorism. Nine multilateral treaties concluded as Measures combating terrorism are part of this convention. Relating to the European measures against terrorism they are adopted on the ground of Council of Europe as well as European Union. Out of regional conventions focused on combating terrorism the most significant for the Czech Republic is European Convention on suppressing terrorism (1977) accepted by the Council of Europe. Significant provisions in combating terrorism are Directions of United Nations Ministers' Committee on Human Rights and Combating Terrorism. Out of court provision against financing terrorism is the law number 98/2000 of Criminal Code concerning international sanctions to international peace and security maintenance implementation and the law number 48/2000 of Criminal Code concerning provision in relation to Afghan movement 'Taliban'.

The most significant international documents **against corruption** are documents of UN and Council of Europe. United Nations organization adopted Convention against corruption, Council of Europe adopted Criminal-law convention on corruption. Other significant international documents are the Convention OECD against international public representatives bribery in international business transactions. Our Criminal Code comprehends corruption in chapter 3, section 3 which is called bribery. It concerns 5 regulations : the first regulation comprehends accepting bribes, the second one comprehends offering a bribe, the third regulation criminalizes indirect bribery. The fourth regulation defines bribery and presents who is considered as public representative. The last regulation relates to effective regret. There are two international criminal law conventions concerning corruption : Convention on combating offering bribes to foreign public representatives in international business transactions and Criminal-law convention against corruption.

In the field of **organized crime** there were adopted several international instruments. The Czech Republic signed and ratified UN Convention against illegal business with narcotics (1988), Convention on laundering, searching, holding up and confiscation of crime profits (1990), UN action plan in combating organized crime (1998), Council of Europe convention on laundering, searching, holding up and crime profits confiscation (1995). There are three Statements as supplementary international legal instruments to UN Convention against transnational organized crime : Statement against trafficking in people, particularly in women and children, Statement against immigrants smuggling, Statement against illegal gun production and trading.

In the field of **economic crime** we focused on financial crime research as illegal operations on financial and capital market with specific concentration on public budget attacks, further we concentrated on the Czech criminal-law modification analysis of economic criminal activity including description of economic interests securing the state by criminal law and finally on international regulations and recommendations outline processing or other recourses concerning economic – financial crime (United Nations Directions and Recommendations, recourses of UN and European Union or other international organizations whose activity is concentrated on combating economic and financial crime).

Some of the European Union, Council of Europe and United Nations authorities significant documents concentrated on criminal-law protection of economy, combating economic crime and problems connected to economy are following: EU Convention concerning European Union financial interests protection, EU Council Framework decision

on fraud and transfer payments forgery combat, EU Council Framework decision on environment preservation money laundering, identification, tracing, freezing, detention and confiscation of criminal activities profits, Convention on laundering, searching, detention and confiscation of crime profits (1990).

Our conclusion on our research basis considers as necessary not only criminal-law but also non-judicial legal modification in this area. It showed up that penal code amendments responded to actual changes caused by economic crime dynamics. Another factor of effective combating these criminal activities is the definite need of professional knowledge of economic climates, it is also necessary to improve specialization and professional knowledge of bodies involved in criminal proceedings. From the criminal proceedings point of view the prosecuted cases analysis showed the significant role of court-appointed experts who play a crucial role even in complicated economic crime cases who are qualified and responsible to decide whether these cases can at all be qualified as criminal activity. The difficulty in this area is possible to see in frequent carelessness and inconsistency of firms in employing persons and insufficient control in a number of institutions and organizations which enables dissemination of these activities. Also the possibility of limited companies to establish new companies without clearing previous company obligations is incorrect.

It was generally confirmed that a violation of non-criminal regulations modifying economic life rules is relatively frequent and at the same time not sufficiently controlled and sanctioned and it is necessary to stimulate further effort in combating economic crime not only on national level but also to more efficient recourse on international level.

In respect of the expectation that organized crime in the territory of the Czech Republic will continue to be effective and that it will be changing together with living conditions it will be essential **in future years** to give our attention to research in this area. The main goal of the further research will be theoretical analysis, conceptual and clear definition, typical features determination, finding of organized crime origins and dissemination causes, tracing of development trends concerning organized criminal groups character and prevalence of illegal activities' forms in the Czech Republic territory, the analysis of organized crime activities in contemporary society including effects these activities have, and the prediction of main quantitative and qualitative changes and possible further development.

Penal Policy and its Implementation in Criminal Justice

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The Institute for Criminology and Social Prevention, as a theoretical, analytical and research centre, performed the research “penal policy and its implementation in criminal justice”, the results of which form the content of this study.

The research was conducted by means of partial research tasks (probes, analyses and studies) on selected topics representing a broad spectrum of the penal policy question.

The research was performed using the appropriate methods, namely the analysis of documents, a questionnaire survey, a public opinion polling sub-survey, the analysis of statistical data and interviews with experts. A study of the relevant specialist literature helped in completing the individual tasks.

The research goal was to determine the relevant main characteristics of penal policy in the Czech Republic from 1990 to 2005 regarding the creation and implementation of the fundamental penal policy measures in the selected areas and the understanding of factors influencing the creation and implementation of penal policy in the relevant period.

The research schedule meant that some documents published in 2006 were also analysed; documents from a later period could only be considered in isolated cases.

In its penal policy every state declares primarily the level of protection for basic human and civil rights and freedoms that it is willing and able to safeguard in reality. A state’s penal policy is chiefly specified in its procedural and substantive criminal legislation, and in the system and organisation of the authorities and institutions that guarantee the application of penal law in the practical activity of these subjects.

The research proceeded from the definition that “penal policy, as part of a general policy, formulates the aims and means of the societal control of crime through penal law”. The following principal elements defining penal policy were identified:

- the connection with general policy,
- the focus on crime and other socio-pathological phenomena,
- the connection with criminal legislation and the criminal justice system, using the instruments of penal law.

In the Czech Republic, as a democratic state, legislative bodies are periodically elected, thereby establishing their legitimacy and general responsibility for formulating penal policy. The legitimacy of executive bodies is provided (as well as by their acting under the law and with powers defined by the law) by the fact that their activity is subject to scrutiny and is transparent.

In a democratic state the role of other entities in formulating penal policy is also considered to be legitimate as long as their activity is substantiated by expert (or moral, religious etc.) authority. These can include a variety of non-government organisations and individuals. In the conditions that currently apply in the Czech Republic, the influence of NGOs (non-government organisations) on penal policy is by no means negligible. This is evidently because NGOs have focused on various aspects of the protection of human rights and freedoms and have been able to support their operations also by obtaining funds from abroad, which is where they drew a degree of inspiration for their activity. They thus gradually succeeded in overcoming the scepticism of state authorities concerning their activities and the operations of NGOs began to be perceived as an organic part of civil society. Their contribution in formulating penal policy can generally be seen in the fact that they often provide an unconventional perspective on phenomena harmful to society, their causes and the possibility of prevention; they also frequently possess information and data on the occurrence of these phenomena which are difficult for executive bodies to access (e.g. data on domestic violence, human trafficking etc.).

A separate category comprises the press, television, the radio and other media affecting a broad range of people and often decisively influencing public opinion in the state. And the pressure of public opinion, e.g. the increase in repressive moods in society due to the fear of crime may significantly affect legislators in approving legislative principles and concepts in the penal law area. It obviously is not possible to rule out the fact that intense media coverage of criminal cases might directly or indirectly influence the decision-making of the court. Even if judges are bound by the law in their decision-making, their assessment of the evidence submitted, the person of the offender and related circumstances reflects, one way or another, their moral outlook, their world-view, their character and other personality traits, which also creates potential space for the media to influence their decision-making.

As a mass-scale social phenomenon, crime undoubtedly has major political potential in the way that political parties incorporate the following in their programs: the question of its restriction and control, police activity and the effectiveness of the judicial system in tackling crime and dealing with offenders, and ideas on the suitability of resolving conceptual and current problems in this area. Formulating a penal policy thus becomes a subject of political rivalry.

An important component of penal policy is the evaluation of its effectiveness. The criteria for effectiveness, however, are not unequivocal as a wide variety of factors are relevant in the etiology of crime. Apart from the common indicators of effectiveness, such as the rise and fall of crime (determining the dynamics and structure of crime), one should also consider the incidence of recidivism (effectiveness in treatment of offenders), costs incurred in fighting crime (budgetary costs for the police and judiciary, for the prison system, for compensating victims etc.), and take into account the degree of acceptance by the public of specific penal policy measures. According to the recent public opinion polls in the Czech Republic, of the 1004 respondents who were asked if they thought that they were informed of measures implemented in the CR to restrict crime, only 6,2 % answered that they definitely were, 22,9

% answered that they were partly informed, 39,1 % said that they didn't have enough information, and 25,6 % said they definitely lacked information on measures to restrict crime (6,3 % said they didn't know or were unable to form an opinion on the question). The results indicate that citizens of the CR are not sufficiently aware of the measures implemented to counter crime in our society, which may have a considerable influence on whether they accept the state's penal policy, on their relations with the police, and with criminal justice generally. What people know about penal policy, and how they assess what they know, is also determined by the level of their legal awareness.

The empirical examination of penal policy focused especially on the following areas:

- the identification of the chief sources of penal policy and their content,
- the mechanism for formulating penal policy,
- the identification of a constant in penal policy,
- the content, form and effectiveness of current penal policy measures.

Each of these areas has its specific features to which the choice and application of research methods had to be adapted. The core methodological approach lay in an analysis of the contents of selected documents from the field of penal law, and legislative activity relating to the control and prevention of crime.

The following brief comments can be made on the individual areas:

Identifying the main sources of penal policy did not present any problems for the research. At the most general level, the policy is clearly based on the Constitution, the Charter of Fundamental Rights and Freedoms, applicable laws and other normative acts and the measures of executive bodies that relate to them. These measures usually take the form of various conceptual, planning and organisational documents, which are often approved by a Government resolution requiring individual members of government and heads of central administrative authorities to perform specific tasks to implement penal policy plans (e.g. Czech Government Resolution No. 125 of 17 February 1999 approved the Government program for the fight against corruption, Government Resolution No. 1044 of 23 October 2000 updated the Concept of the fight against organised crime, which was adopted by the Government based on a program declaration in 1996 etc.). These fundamental measures take various forms, such as the National Plans for the fight against the commercial sexual abuse of children, the Security Strategy of the Czech Republic, the Plan for the development of the prison system in the CR, the Plan for the fight against crime perpetrated in the environment, Principles for the reform of the judiciary, Plan for the stabilisation of the judiciary etc.

These documents also include analytical materials of law enforcement bodies, such as Reports on the situation pertaining to public order and internal security (annually prepared by the Ministry of the Interior from documents provided by other central bodies), analytical materials of the Supreme State Prosecutor's Office, the Supreme Court etc.

Important sources for penal policy are obviously contained in the decisions of general courts of all levels and the judgements of the Constitutional Court; their significance derives not only from their practical application but also in how they influence public attitudes to the law and the rule of law.

An analysis of the content of the said sources produced information on specific topics of penal policy, on the level of understanding of the etiology and phenomenology of the

phenomena which individual penal policy measures are designed to suppress. The analysis of their contents also provided information on the effectiveness of these measures.

The research also contained an analysis of the key penal policy documents from the following areas:

- Prison system
- Reform of the justice system
- The security situation
- Organised crime
- Drug-related crime
- Corruption
- Extremism
- Illegal migration
- Integration of foreigners
- Human trafficking and the commercial sexual abuse of children
- Environmental protection
- Prevention of crime

The analysis of the above subjects generally adhered to the following procedure: the characteristics of the topic (its history in the context of penal policy), the characteristics of the analysed documents, a description of the main penal policy problems for the relevant topic (description of strategies and objectives), a partial summary (influence of the analysed documents on practical penal policy, potential consequences of this policy in the relevant topic area etc.).

A major constituent of penal policy in the Czech Republic comprises attempts at the reform of the justice system. Problems involving the organisation and execution of the judiciary are unquestionably rooted in the totalitarian era, although some shortcomings were compounded (or reappeared) after 1990. The transition to a market economy, the democratisation of political and public life, the guaranteeing of civil rights and freedoms, admission into the Council of Europe, preparations for accession to the EU, accession to important international conventions and treaties and many other factors created the need for the often hasty adoption of new legal norms, which the judicial system has had trouble in enforcing in judicial decisions. To this was added the complex and protracted dealing with various restitution claims and the elimination and remedy of wrongs in rehabilitation proceedings. In terms of personnel, organisation and material provisioning, the justice system was unprepared for this situation. A quantitative solution (a big increase in judicial posts, a large rise in the budget funds set aside for the justice system) was not sufficiently effective. The reform of the justice system was therefore generally considered to be essential.

Every state's penal policy is also clearly enforced in criminal procedure. This concerns an act that was perpetrated in the past beyond the direct knowledge of the bodies that conduct criminal procedure. These bodies thus have to reconstruct the relevant act through the process of evidence substantiation. An important aspect of this process is the constant conflict between two opposing requirements – for the effective approach of law enforcement bodies and for the protection of the rights and freedoms of the person. The unreasonable limitation of rights and freedoms of individuals in favour of law enforcement bodies can very easily lead to a grave distortion of the results of evidence, weaken the public control of such bodies and paradoxically may be detrimental to society's sense of security and freedom.

Penal policy is, among other things, the search for a compromise between both aforementioned requirements. The actual relation between these two requirements, also manifested in the relevant judicial practice, is therefore an important indicator of the state's penal policy. Historical developments may reveal a certain dynamics in how the relation between these partly conflicting values is resolved. Their true balance is a highly complex problem of penal policy and legislation, but also of police and judicial practice.

Under Article 41 of the Constitution of the Czech Republic (Act No. 1/1993 Coll.) the official legislative initiatives, or draft bills, are submitted to the Chamber of Deputies. These official legislative initiatives appertain to Members of Parliament, groups of MPs, the Senate, the Government or the Council of a territorial self-governing unit. A lot depends on the substance of such legislative initiatives, their principles, content, but also on the professional and formal quality. Legislative proposals and initiatives should above all adequately and flexibly respond to the needs of society with regard to crime control but also be carefully drafted, based on expert knowledge and practical experience. Their proponents should also consider the stability of the legal order and respect the system and basic principles on which penal law is based. A clearly defined and conceived penal policy should create and provide such a background to legislation.

The conducted research demonstrated that in the monitored period a total of 53 separate legislative proposals were submitted which were intended directly to amend the Criminal Code. Of these, 15 were Government proposals, 35 came from MPs and 3 from the Senate. There were 24 proposals for an amendment to the Criminal Procedure Code, of which 15 were Government proposals and 9 from MPs. There were no Senate proposals.

The following figures describe the success of legislative proposals according to their proponents: of the 15 Government proposals to amend the Criminal Code, 10 were adopted, of the 35 proposals from MPs, 13 were adopted and one Senate proposal. Altogether, therefore, 24 draft bills were approved which directly amended the Criminal Code. The Criminal Procedure Code was amended by 16 direct amendments, of which 13 concerned a Government proposal and 3 a proposal by MPs (it should be pointed out that the figures for draft bills are approximate as full overviews are not available).

As is evident from the above comparison, the success rate of proposals by MPs is below 50 %, or is only around one third. From this it is possible to infer that the power to influence penal policy through legislative initiatives lies mostly in the hands of the Government of the CR. Government proposals are generally more comprehensive and put forward more wide-ranging changes. The applicable penal codices in the Czech Republic, i.e. the Criminal Code and Criminal Procedure Code, were amended many times from November 1989 to 2006 and underwent extensive changes. These consisted not only of partial changes responding mostly to current needs and requirements, but primarily of profoundly conceptual changes. These concerned provisions of substantive and procedural penal law such as alternative sentencing, probation, diversion, criminal conspiracy, European arrest warrant and others. Many new bodies of crimes were created, and a host of major changes in the Criminal Procedure Code were effected. All these changes are indicative of the state's penal policy during this complex historical period.

Together with amendments to the existing Criminal Code and Criminal Procedure Code, work also proceeded on preparing new criminal codices, in the first place the Criminal Code. However, this has proved to be a task of immense complexity. The new codification should summarise and set the seal on the hitherto attempts to reform fundamentally substantive

criminal law and criminal procedure and create in the Czech Republic a functioning, and ultimately stable Criminal Code and Criminal Procedure Code which respect all the basic principles of a democratic society.

In their programs political parties obviously try to respond to topical questions of interest to the public. As the question of crime is in various ways always at the centre of people's attention, crime (and especially measures for its control and restriction) also becomes a political matter *sui generis*.

Penal policy always forms part of pre-election campaigns and the programs of political parties; sometimes even a whole strategy for winning voters is built on radical slogans and views on the fight against crime. The question of people's security, the reduction and consistent prosecution of crime, the transparency and speeding-up of judicial practice and possible solutions are some of the main arguments that persuade voters. Some proposals are to a greater or lesser degree controversial or populist and regularly appear in various party materials. Examples include the prevention of crime, lowering the age for criminal liability, the idea of "three times and you're out", the definitions of new crimes (euthanasia, human cloning), sentencing for violent crime, repression of drug-related crime (zero tolerance for dealers and middlemen, not distinguishing between "soft" and "hard" drugs etc.), the reintroduction of the death penalty, the fight against corruption and economic crime and so on. Politicians also place emphasis on integrating the views of the public, or at least their reactions, in the development of penal policy. These views, however, may be not only quoted but also manipulated.

The research into penal policy and its implementation in the criminal justice system was conceived as a probe in a subject that, following the fall of the totalitarian regime in the Czech Republic, has been dynamically structured and developed alongside the building of a democratic state respecting the rule of law, changes to the legal order and the creation of its bodies and institutions.

This raises a number of essential questions on the character of our penal policy in the past period, its consistency, comprehensiveness, effectiveness, on the mechanism by which it is created, on the entities that conceive and implement penal policy etc.

We based the investigation into penal policy chiefly on a study (analysis) of documents in which our society's penal policy is expressed, as these written materials represent important *sources of penal policy*. The sources were selected to portray penal policy in the most important sections of societal reality, which also affect the criminal justice system.

It was obviously essential to define the actual *concept of penal policy* in order that the gnoseological basis of our approach be clear. We inclined towards a theoretical definition that accentuates the connection (and contingency) of measures adopted to control and restrict crime with the general policy. This approach made it possible to analyse (and better understand) the *mechanism for the creation of penal policy* and the role of certain entities that are involved in it.

Where individual analysed sources permitted, we also tried to record the development of penal policy and its transformations over time, or changes in the direction of individual penal policy measures.

The particular areas of penal policy that the research focused on are dealt with in separate parts of the concluding report from the research and always end with a sub-summary characterising the sources of penal policy in the given area and the focus of the main penal policy measures. Alternatively, they provide summaries of findings on the relevant subject.

From this broad picture it is possible, using our research, to emphasise the following in particular:

- The penal policy of our state following the fall of the totalitarian regime has, since the beginning of the 1990s, started to focus on removing the ideological barriers and systemic and personal impediments that hindered the creation of a democratic state based on the rule of law and the protection of the individual rights and freedoms of citizens.
- Penal policy was thus first characterised by a drive to reform all areas in which legislative and executive bodies are active. It soon became clear, however, that these attempts at reform in the area of penal policy cannot be achieved quickly and easily and for a number of reasons it was only possible to proceed step by step with regard to the activity of police and judicial bodies and in the area of criminal legislation. Certain fundamental penal policy measures, in particular the new codification of substantive and procedural criminal law and the essential reform of the judiciary, have not yet been implemented in the required extent.
- On the other hand, the fact obviously can not be ignored that the passing of time has made it possible to review some initial ideas and that individual penal policy measures have become gradually more profound and perhaps also more effective, e.g. as concerns crime control (i.e. repression and prevention), the protection of people's rights and freedoms (including the protection of their life, health and property), the activity of police, state prosecutor's offices, the courts and the prison system.
- There has also been a gradual refinement of the formal aspects and the content of materials in which penal policy measures were conceived. An analysis of the selected documents (sources of penal policy) that we looked at as part of our research shows that the proposed penal policy measures are mostly professionally well-grounded (they frequently derive from criminological research, or call for or propose such research), systemically consistent, feasible and their enforcement is verifiable. The principle penal policy documents are approved at Government level and discussed in the relevant Parliamentary or other representative bodies.
- The Czech Republic's penal policy is characterised by the high level of participation by NGOs in its creation and control. Czech NGOs, often following on from the activity of international organisations operating on the basis of a variety of foundation resources, have gradually obtained the necessary professional authority. They are able to provide valuable information on the phenomenology and occurrence of various phenomena and submit meaningful proposals for penal policy measures. They also represent a welcome corrective in respect of the activity of state bodies, e.g. as concerns the protection of human rights.
- Even though it is undoubtedly a common phenomenon that penal policy in all countries is subordinate to general political interests and objectives (the axiom applies that "crime is a political issue"), in the Czech Republic this subordination is particularly marked. The causes are apparent in the very nature of our political life where, in the interest of individual political parties and groupings, problems are put forward and solutions promoted chiefly in order to bring about the electoral success of the relevant political entity. To a large degree, this also applies for the solution of penal policy problems. Penal policy in our society is a major field of political rivalry; this obviously brings with it no little risk of populism.

- A serious problem is posed by a certain discontinuity in some fundamental penal policy measures caused by personnel changes in key positions of state bodies as a result of the success or failure of political parties in elections to Parliament. This often brings not only changes in material priorities but also delays due to the need to progressively familiarise oneself with a new area of issues.
- The initiative of members of legislative bodies plays an important part in forming penal policy. The results of individual legislative activities on the part of MPs are not unequivocal, however. Their motivation sometimes arises solely from individual experience with crime or criminal justice, or from populist attempts to react quickly to specific cases upsetting the public, and the proposals are therefore often rejected by the Government as unsystematic. Legislators thus have far more influence in forming penal policy when debating the Government's bills in individual committees or on the floor of the Chamber of Deputies. The opinions of MPs on Government proposals are often based not only on material (expert) arguments but also derive from political support or otherwise from opposition standpoints to the proponents of legislative proposals. It would be welcome if legislative bodies showed greater propriety and solidarity in considering and approving fundamental penal policy measures, for example in the interest of the effective restriction of crime, improvements to the work of the police and judicial bodies etc.
- It should be stated that the degree to which citizens are informed about penal policy in our society is at a low level and that for a long time there has been a discrepancy between penal policy practice and the expectations of citizens.
- The media's influence in shaping public opinion on penal policy measures is significant. The public's perception of the issue of crime and the activities of the police and the criminal justice system is fundamentally influenced by information for the public presented through the media. The press, radio and especially television through the presentation of news sometimes engender pressure on the part of public opinion which can affect the course and result of criminal procedure.
- The Czech Republic cannot be censured for failing in its penal policy to respect the undertakings and requirements that stem from the international treaties and conventions by which it is bound as a signatory state (another matter is obviously the fact that the Czech Republic, following the ceremonial signing of some treaties procrastinated in their ratification). The fact that these international acts are respected is apparent in the dealing with specific legislative problems connected, for example, with guarantees of human rights and freedoms in the procedural regulation of evidence in criminal procedure, or in the amendment to concrete provisions of the Criminal Code.
- A comparison of the development of criminal law in the Czech Republic and the Slovak Republic confirms the thesis on the connection between penal policy in a broad sense and general policy. Although the same legal system has existed in both states for decades, it has only taken a few years for fundamental differences to appear in this area. For a deeper understanding of the penal policy of each society it is therefore advisable to also look at the sociological characteristics of the relevant community.
- The respect for and guaranteeing of basic human rights and freedoms should be considered a constant of the penal policy of the Czech Republic as a democratic state respecting the rule of law.

In summing up it is possible to add as a concluding note that penal policy in the Czech Republic sometimes does not concur with the findings of criminology on the phenomenology, etiology and prevention of crime.

Research on First-Imprisoned Women

(Exploration of women's issues in the Czech Republic in approximately the last 10 years, first-time criminally prosecuted and imprisoned)

2005 – 2007

Responsible researcher: PhDr. Alena Marešová

Co-researchers: Mgr. Petr Kotulan, PhDr. Milada Martinková, CSc.

It started to be apparent as early as at the beginning of the 90ies that just like radical changes in incidence of criminal phenomena in the Czech Republic, changes of criminality structure and composition of offenders occurred, changes in partial criminality components must occur, as well – i.a. in criminality of women. We expected, in respect of the considerable increase of property criminality, that increase of women's criminality would occur, as well, for women have always been represented relatively strongly among offenders precisely of some types of property and economic criminality.

Another phenomenon that was to become markedly reflected in the women's criminality level was the considerable onset of decriminalizing and depenalizing efforts in criminal law, and declaration of extensive amnesties. We assumed that implementation of such efforts would cause an evident decrease of the number of criminally prosecuted and imprisoned women, for especially the depenalizing measures usually concern, besides juvenile offenders, precisely criminally prosecuted women.

However, expected changes were difficult to quantitatively predict more closely. Therefore only after approximately more than 10 years, it was possible to undertake at least superficial analysis of the impact of the changes mentioned above, using statistics of bodies active in criminal proceedings, and at the same time, to unveil in part some causes of current criminality of women.

The research project concerning women imprisoned for the first time was linked to the research project undertaken by the same team of Institute of Criminology and Social Prevention (ICSP) workers in 2002 – 2004, dealing with criminological aspects of criminal activities in first-time offenders and men imprisoned for the first time. Research of first-time imprisoned women thus became another stage in exploration of criminal activity perpetrators, who committed a crime after 1990 for the first time: Specifically, women who for the first time committed a crime of such gravity that for the crime they were sentenced to unconditional imprisonment or who committed the same crime repeatedly, even if of lower gravity (relapsed into crime) and therefore were imprisoned, as well.

The period after 1990 is characterized by permanent growth of the number of criminally prosecuted women, and by their rising proportion among known offenders of registered criminality, and thus also by permanent increasing of the number of women with a sentence imposed by the courts by final and conclusive judgment.

It was possible to set up a continuous series of comparable statistical data on the proportion of women in criminality in the Czech Republic in 1971 (from the beginning of computerized statistical data processing) only using the justice statistics data, concerning the

number of women with a sentence imposed by Czech courts by final and conclusive judgment. Until 1990, these are numbers of women sentenced for the same crimes and offences; later the numbers concern crimes only.

It was apparent from the statistical data that in order to obtain serious interpretation, more detailed analysis of the huge swing in the number of sentenced persons and especially sentenced women in individual years would be necessary, while taking into account the changes in criminal legislation, granted amnesties, to undertake confrontation with social problems existing in the given period, or with problems in judiciary bodies etc. Upon giving a glimpse, such data showed only little informative value. The situation was similar also in respect of data on women's criminality elaborated by the Police of the Czech Republic.

Comparison of data from statistical analyses of criminal justice as well as the police showed that statistical data were seldom able to provide a more profound description of social phenomena, they were rather utilizable as arguments or as suggestions for discussion in seeking the causes of some social phenomena, and of women's criminality in this case. Based on analyses of statistical data, it was possible to draw the conclusion that significant changes occurred in women's criminality in recent years, continued at present, as well, and to describe them in gross features, including description of the present state and of the proportion of women in total registered criminality; however, this was not sufficient to provide a more profound view of women's criminality. Besides others, also due to the fact that women's criminality depends more on the current social climate and its changes than that of men.

Therefore we defined the following to be the aim of future research:

- Elaboration of statistics, analyses and possibly other materials from reports of the Ministry of the Interior of the Czech Republic and Ministry of Justice of the Czech Republic (including reports of the Supreme Public Prosecutor's Office of the Czech Republic) on criminal activities of women after 1990, and comparison with similar knowledge from the period before 1990;
- Elaboration of criminological analysis and synthesis of knowledge on women's criminality after 1990;
- Undertaking research to determine fundamental causes and conditions of criminal activities of selected first-time imprisoned women. First-time unconditional service of sentence and imprisonment during the time of performing the research investigation was used as the selection criterion.

Women – crime offenders, currently imprisoned in Czech prisons, specifically in the prisons Řepy (Ruzyně) and Světlá nad Sázavou were to become the subject-matter of the research.

In 2005 – 2007, ICSP workers (Marešová, Kotulan and Martinková) performed the research investigation of first-time imprisoned women. The ICSP study “Research of First-Time Imprisoned Women” (Exploration of women's issues in the Czech Republic in about the last 10 years, criminally prosecuted and imprisoned for the first time)“ was elaborated last year based on the knowledge obtained.

Women – crime offenders sentenced and imprisoned for their crimes were the respondents in such investigations, or female respondents to be more specific. Women – first-time offenders were given higher priority in the selection of sentenced women, i.e. those women

who committed a crime for the first time. 159 imprisoned women were investigated in total; out of that, investigation of judicial decisions was performed in 109 cases, as well.

In this study as well as in the previous study dealing with first-time prosecuted, first-time sentenced and first-time imprisoned men, the term **first-time criminally prosecuted persons or first-time (male/female) offenders** was always understood to represent criminal act offenders registered by the police (i.e. known offenders) who committed especially an intentional criminal act for the first time, in other words, who were **criminally prosecuted for the first time and examined by the police due to an intentional criminal act and who had no entry in their criminal records**. From the viewpoint of statistics of the Police of the Czech Republic, these are male/female offenders marked by the policemen with the variant 3 – “exhibits none of the stated options” in the known offender form, under the Criminal Perspective item, while variant 1 states that the “offender was examined in the past already”; variant 2 – “was penalized in the past”; variant 4 – “especially dangerous recidivist”. However, it cannot be excluded that male/female offenders marked as such include persons who committed an act assessed as a delict, violation of law due to negligence (not assessed as a crime) or a latent crime (not registered by bodies active in the criminal proceeding etc.). Upon imposition of final and conclusive judgment of the court on their penalization, such persons become **first-time penalized persons**, also identified as **first-time male/female penalized** ones.

The term **first-time imprisoned persons** or **first-time male/female imprisoned** ones means persons who **serve an unconditional sentence of imprisonment in a Czech prison for the first time** (hereinafter also identified as SSI) due to a crime (intentional or due to negligence); in our set – for an intentional crime only. Such persons include both women currently criminally prosecuted for the first time (i.e. first-time offenders) as well as first-time penalized women (penalized – sentence due to a crime for the first time, who, however, may have been criminally prosecuted repeatedly but without penalization – for example, the crime was not proven, they were granted mercy before award of the punishment etc.). And also, women sentenced for the first time to unconditional imprisonment but criminally prosecuted repeatedly, who, however, were sentenced to another punishment than unconditional imprisonment for the previous offences (for example, conditional imprisonment, financial punishment). If combination of first-time offenders is concerned, first-time imprisoned at the same time, they are represented especially by offenders of rather serious forms of criminality, as for violation of law of lower gravity (especially crimes of property nature), first-time offenders are usually sanctioned by the so called alternative punishments, not an unconditional imprisonment, or alternative procedures are applied in such cases.

The **objective** of the research was to map issues of women who committed a crime for the first time and/or women imprisoned for the first time due to a crime. We wanted to become acquainted with the person and personality of female offenders who are only at the beginning of their potential criminal career, with the motivation of their criminal conduct, and other connexions, but at the same time, with possible problems in investigating precisely such a category of offenders, and thus to prepare sufficient knowledge for subsequent foundation of extensive criminological research.

Until present, it has been possible to understand the reasons of first-time crime commitment, motivation of its offender, conditions and causes of its execution, effect of external and personality factors on its occurrence etc., only from individual case reports and communications dealing with other topics in specialized media (especially from publications

published by the Police of the Czech Republic and the Police Academy of the Czech Republic). Monographs concerning this topic have not been elaborated, and thus there is no material available where other criminologists, criminalists etc. could obtain generalized knowledge or suggestions for discussion on this category of offenders. And it applies double in the case of female offenders.¹ Also, until 2003, these categories of offenders were not mentioned at all in standard statistical reports of the police. Therefore the selection of methods and techniques used in this exploration was affected especially by the research undertaken already, concerning other categories of offenders: Recidivists, long-term imprisoned persons, juvenile persons etc.

The battery used in the investigation consisted of the following methods and techniques:

- 1) **Anamnestic questionnaire**, which was to be filled in with every individual respondent by wardens trained in their application. The facts were different in Světlá nad Sázavou as well as in Ruzyně – Řepy – see the study for more detailed description of the causes of changes.
- 2) **Analyses of final and conclusive judicial decisions** of the respondents. It was possible to perform them only in respondents from the Světlá prison. Ruzyně denied us the possibility to even consult the final and conclusive judicial decisions.
- 3) **Analyses of expert opinions on individual sentenced prisoners**. Expert opinions were analysed only in Světlá nad Sázavou; their analysis was performed by prison employees.
- 4) **Determining of ideas of the sentenced persons of their own future using a special questionnaire**. The questionnaire to determine ideas of the sentenced persons of their own future and life upon being released from SSI (“Purpose of Life Test”) was an adapted questionnaire of the former Penological Research Institute, used in the 80ies of the last century. It was presented to sentenced persons in both prisons in groups.
- 5) **Analyses of reasons to refrain from crime**. Was determined using a special questionnaire – modified version of the questionnaire of the former Penological Research Institute. The questionnaire was presented to groups.
- 6) **Mapping of knowledge of the personnel** on SSI specifics and on treatment of first-time imprisoned persons by means of a **semistandardized interview** according to a special scheme, constructed for this purpose. The interview did not take place. A questionnaire was given to selected wardens in Světlá to fill it in individually.
- 7) **Syntheses of obtained information**.

¹ One more research project dealing with women was being worked on at ICSP concurrently with our research. Specifically, ICSP workers Š. Blatníková, K. Netík and S. Diblíková undertook research and elaborated the study “Women as Offenders of Serious Crimes (Psychological and Criminological Aspects), ICSP 2007, 115 p.

Collection of statistical data concerning the project was performed as follows:

- a) By processing data from non-standard statistical reports requested at the System Control and Informatics Division (SCID) of the Police Headquarters of the Czech Republic) in 1991 – 2006. The annually requested statistical data (by Marešová since 1992) concerned investigated persons – first-time prosecuted, in classification pursuant to legal sections of crimes committed by them, gender and age groups of the offenders.
- b) By processing data from yearbooks of the Prison Service of the Czech Republic in 1995 – 2005 concerning composition of sentenced persons according to gender and the number of former sentences. Numbers of imprisoned women are stated including 2007.
- c) By processing data from standard statistical reports of the Police of the Czech Republic and statistical data of criminal agendas of courts and public prosecutor's offices, yearbooks of the Ministry of Justice, including data from 2007.
- d) By processing non-standard statistical reports proposed by Dr. Kulíšek (SCID) focused on classification of prosecuted and investigated persons and especially women, based on repeated incidence among persons prosecuted by the police in 1994 – 2006, containing, at the same time, data in various combinations, both on first-time male/female offenders and on the so called new recidivism.

By means of the statistical data obtained, we supported the generally known assumption that first-time female offenders represented a relatively small proportion among persons criminally prosecuted by the police. Such women are most often prosecuted for economic crimes and subsequently property crimes, from the viewpoint of police tactical-statistical classification. From the viewpoint of criminal acts classification based on titles of the Criminal Code, they are prosecuted especially due to property crimes and subsequently for economic and violent crimes.

First-time imprisoned women predominate considerably in the composition of imprisoned women in Czech prisons. Repeatedly imprisoned women represent (or represented in 2004 and 2005, at least) slightly less than 40% out of all imprisoned women. The largest group among imprisoned women is represented by first-time sentenced women.

It applies in general that the number of imprisoned women keeps rising. This is in accord with the rising number of criminally prosecuted women, sentenced upon final and conclusive judgment, as well as with the rising gravity of crimes committed by them – as a rule, frauds are “assessed“ by stricter criminal sanctions than thefts. As at 31 December 1992, for example, 268 sentenced women in total (predominantly in the Pardubice prison), and 215 accused women were imprisoned. As at 31 December 2005, as many as 741 sentenced women and 163 accused women were imprisoned. (As at 31 December 2007, 855 sentenced and 144 accused women were imprisoned.)

In 1992, female thieves were imprisoned most frequently (women sentenced to unconditional imprisonment due to thefts) – approximately one third of all imprisoned women. A considerable part of imprisoned women were sentenced for crimes of neglect of compulsory maintenance and robbery. 36 women were imprisoned due to murder; and 26 women were imprisoned due to fraud.

In 2005, too, women were imprisoned for thefts most frequently – approximately 50 % of all sentenced women imprisoned as at 31 December 2005 (i.e. 741 women); however, crimes of fraud followed – more than 25 % women. 107 women were imprisoned for murder (14 %

of all imprisoned women). 92 women were imprisoned for robbery, including 2 juvenile ones. Out of the women in prison, 32 women were sentenced for corrupting the morals of the youth, 29 for intentional bodily harm, and the total of 6 women for neglect of compulsory maintenance (usually in concurrence with another crime).

As far as age composition of the women is concerned:

- Women aged from 21 to 50 years prevailed among accused imprisoned women – they represented 70 %; most women were in the age group 30 to 40 years.
- As for sentenced imprisoned women, those aged from 21 to 50 years prevailed, as well – moreover, they represented 87 %; most women were in the age group 30 to 40 years.

Based on terms of sentences of unconditional imprisonment in women imprisoned in 2005, imprisonment up to 1 year prevailed – such imprisonment terms were imposed in 44 % of the women.

Out of women imprisoned as at 31 December 2007 (i.e. 999 women), 144 were accused – i.e. approximately 14 %. Out of that, more than one third were aged up to 30 years, including 2 juvenile ones.

Other women were sentenced – i.e. 855 women. Out of that, approximately 60 % served their sentence in the Světlá nad Sázavou prison, 26 % in Opava, others in Ruzyně, and several in other remand prisons: in Brno, Hradec Králové, Liberec, Pilsen etc.

For the purpose of the study, knowledge obtained based on the investigation was completed with a broader view of the issues of women's criminality and with information on women imprisoned in the Czech Republic in recent years. Where possible, the investigation results of imprisoned women were compared with results of a similar investigation performed with imprisoned men in 2002 – 2005.

As for separating the knowledge on female respondents more than 40 years old, not much of a difference was found compared to other first-time imprisoned women (younger than 40 years) – the courts were even more mild toward the younger women in spite of the fact that crimes committed by them were more serious considering the consequences (murders and attempted murders and high damages caused by frauds and embezzlements).

The exploration also included reference to knowledge gained from other research of imprisoned women, undertaken in about the same time period as the research investigation of the first-time imprisoned.

Results of investigation concerning selected imprisoned women were completed with results of the questionnaire on issues of first-time imprisoned women, filled in by employees of the Světlá nad Sázavou prison, who work with the imprisoned women. Questions in the questionnaire were focused on information on repeatedly imprisoned women, as well, and on their distinction from the first-time imprisoned ones.

Obtained information can be briefly summarized as follows:

Representation of women among annually sentenced as well as imprisoned persons in the Czech Republic is very low (amounts to approximately 10 % in sentenced persons and approximately 5 % among imprisoned ones). A considerable part among imprisoned women is formed by first-time imprisoned and first-time sentenced women. Our sample included 42 % first-time sentenced women; the remaining part of 58 % was represented by women sentenced in the past already; however, in whom the imposed sentence was not connected with imprisonment. Criminal activities of the respondents included especially 4 areas of antisocial conduct: Crimes against property (frauds and thefts), violent crimes – especially robberies committed in accomplicity; murders followed, and illicit handling of narcotics and drugs. In murders, an especially brutal or excruciating manner of their execution was found. In robberies, it was not quite true that they represented especially street criminality – half of them were prepared in advance. The number of aggrieved persons due to various forms of attacks of the investigated women (the victims) was considerable – 225 physical persons in total. One half of them were women. They also included small children, seniors and persons helpless due to illness and foreign nationals.

The sentences imposed were in accordance with the gravity of the committed crimes. Unconditional imprisonment was imposed on one fifth of investigated women for commitment of very serious crimes. The term of unconditional imprisonments ranged from 4 months to 15 years. The courts utilized quite often the capacity of extraordinary reduction of the term of imprisonment, and almost in 40 % of women, the courts utilized the possibility to assign the sentenced women to prisons with moderate regime.

Slightly less than one half of investigated women pleaded guilty to their crimes, entirely or partially – less than in a comparable sample of men from the previous research. Another finding of ours corresponded to this fact, namely that in criminal activity, women are much more interested in attitudes of their close persons to themselves than men, and they are afraid that their mutual relationships could be negatively affected by the crime. Therefore they tend not to confess to their criminal activity or confess partly, and seek extenuating circumstances for its commitment.

The following knowledge summarized in the table below followed from conclusions of expert opinions (they include psychiatric and psychological characteristics of the imprisoned women's personalities):

(Processing of conclusions of individual respondent's opinions for the research was supervised by the psychologist of the Světlá nad Sázavou prison, Mgr. A. Jahodová).

Characteristics of the women	Women with some addiction – numbers with the listed characteristics –	Percentage N=32	Other women – numbers with the listed characteristics –	Percentage N=81
Psychosocially mature	0		27	33
Psychosocially immature	19	59	30	37
Rather extrovert	21	66	24	30
Rather introvert	12	37.5	24	30
IQ below average	12	37.5	19	23
IQ average	20	62.5	31	38
IQ at the upper limit of the average	0		7	9
IQ above average	0		1	
Without any psychopathological finding	30	94	80	99
Marked personality disorder	2	6	1	
Adaptable	4	12.5	13	16
Frustration tolerance – reduced	16	50	22	27
Frustration tolerance – good	7	22	23	28
Frustration tolerance – high	1	3	0	
Emotionally unstable	12	37.5	10	12
Naive up to infantile	7	22	8	10
Possibility of aggression upon load	15	47	11	13.5
Easily influenceable	12	37.5	15	18.5
Submissive	6	19	12	15
Active	6	19	19	23
Independent	2	6	19	23
Non-moderate	5	16	8	10
Critical	3	9	6	7
Incredulous	8	25	7	9

Division of the table in two columns based on drug addiction was applied because in women addicted to drugs before coming to the prison, more detailed characteristics and medical documentation was available. And also because of the fact that drug abuse may affect some personality factors of the women, and in summary, it may have a marked effect on the characteristics of the whole group. For example, comp. the high representation of extrovert women, those with reduced frustration tolerance, emotionally unstable, aggressive upon load, and easily influenceable, among respondents with drugs in their medical history.

Fundamental outputs of our investigation were as follows: **Intelligence level (IQ), social maturity, personality disorders, and emotions level.**

As the investigated psychiatric and psychological opinions of the respondents were elaborated by various persons – experts and specialists – and in various ways and using different terminology, it was not always possible to find personality characteristics according to the same criteria in the women. The result is presented in the table. The percentage in individual items is calculated from the total number of women in the group, even in cases when in part of the women, assessed characteristics were not mentioned in the finding. Therefore the proportions (percentages) in opposite terms do not form 100%. For example, socially mature – socially immature and others. We did not want to think of and calculate in addition the unconfirmed ones.

Conclusion drawn from the knowledge obtained and stated in the table is as follows: **The majority of respondents did not show a psychological finding outside of the norm.** Women with former drug abuse differed from other respondents. In both groups, women with average and below average IQ prevailed. Several women were also found among women without drugs in their medical history, who showed the intelligence quotient at the upper limit of the average, and one with IQ over average. Among former drug abusers, none was found with the socially mature characteristic, unlike other women in whom roughly the same proportion of women characterized as socially mature and socially immature was found. Also, as for characteristics focused on personality disorders, frustration tolerance, aggression, influenceability, representation of women – former drug abusers was substantially higher than of other respondents.

As far as knowledge gained from medical documentation of imprisoned women investigated by us is concerned, we originally expected information on mental disorders of the respondents completed with information on habit-forming substances abuse before registering themselves in prison for the commencement of imprisonment. Upon assessment, we were surprised that besides medical classification necessary for possible work assignment of the sentenced persons, the knowledge concerned drug abuse only.

According to the results, medical documentation of 32 women from the Světlá nad Sázavou prison included records on habit-forming substances abuse including alcohol – i.e. 30 % of all women from this group. Out of that, in 4 women, only alcohol abuse was concerned (daily, abusus), and in 2 women, both alcohol and drug abuse was concerned. “Only” 11 women from the group of the respondents from Světlá nad Sázavou – i.e. less than 10 % were prosecuted for drug-related criminal activity (pursuant to Sections 187 to 188(a) of the Criminal Code).

In most of the respondents, age of the first time of taking a drug was stated in the documentation. It followed from the subsequent analysis that at first, 2 respondents started to take pervitin, namely in the age of 11 years. The greatest number of habit-forming substances users initiated their more or less regular taking in the age of 16 years – almost one half of the group. However, 3 women started to take drugs on the regular basis as late as in the age over 30 years.

Tab.

Taken drugs	Number of respondents
Toluene	3
Marijuana	3
Pervitin*- regular; daily up to 1x per week	20
Pervitin – single experience and episodes	4
Heroin*	13

* Several respondents were taking both pervitin and heroin at the same time. Therefore the numbers in the table are higher.

Only few women were treated: The total of 11, i.e. approximately one third of those who did take any drugs. Their treatment took outpatient form predominantly. And it was probably provided as late as in connection with their prosecution. Subutex was used in 2 respondents in their treatment. Although some women started taking drugs in various ways (smoking, sniffing etc.), on subsequent phases, they usually switched to intravenous application. According to the records, 15 women from our sample were taking intravenous drugs before serving their sentence. Especially those taking heroin as their drug, switched to intravenous application after pervitin. 2 women were sniffing pervitin. Toluene was sniffed by the women, and marijuana was smoked. No taking of dance drugs was mentioned in the documentation, although some women did mention it during the interview. However, only as occasional drugs.

Some of the women with longer drug abuse mentioned in their documentation abstained before registering themselves in the prison already. There were 9 such women, i.e. almost one third of those with a record in their medical documentation. Out of that, 5 were not taking drugs for 2 months before registering themselves in the prison. In 2 women, this period was longer than 5 months, and longer than 2 years in 2 women.

The following findings were surprising (in relation to the imprisoned women and their drug abuse before coming to prison) for us in this research:

- High representation of drug abusing women and low representation of alcohol abusing women in our random sample of imprisoned women;
- Small number of marijuana users;
- Frequent combination of pervitin and heroin (we are no “drug experts”);
- Exceptional incidence of treatment of women who have been taking habit-forming substances on a regular and long-term basis.

Only in the course of the interviews, we realized that we should have been interested at the same time in who facilitated the first taking of the drug, and/or whether the partner of the woman or someone of the closest persons was using habit-forming substances at that time. However, as mapping of the drug scene was not the primary objective of the investigation and we did not expect such a result of the medical documentation analysis, either, and we rather expected more findings of psychiatric nature, this is only to call attention of possible further researchers in this possibility. Answers to such questions would provide a good completion to the image of the causes leading to habit-forming substances taking, as well as a closer specification of ideas of the current female offenders of general crime.

The semistandardized interview with experts from female prisons that was originally planned did not take place. The semistandardized interview scheme was eventually used as a questionnaire and it was filled in by 7 employees of the Světlá nad Sázavou prison. The selection was left up to the prison psychologist. Their participation in the research was meant to be voluntary; however, based on a written communication of two of them, it does not seem to have been so. We offered an interview with wardens; however, we were actually allowed to interview **only 3 specialized employees of the prison.**

At the time of collecting the research data, 107 workers – members were employed at the Světlá nad Sázavou prison; out of that, 30 women and 83 civil employees among whom there were 50 women. Out of the total of 190 all employees, almost 90% were employees of the Prison Service of the Czech Republic during slightly less than the most recent 5 years, i.e. since establishment of the female prison in the town. Employees with complete secondary education prevailed. 18 female employees and 15 male employees had a university degree. Based on the professional composition, 25 employees were classified as educational workers and wardens, 102 as guards and guardians, and 4 as specialists. As for the age composition, workers aged 41 – 45 years and above 50 years prevailed among female employees; as for men, those aged 31 to 40 years prevailed – i.e. persons with already established ways of behaviour and rich life experience and formed opinions and attitudes.

The results (originals of their answers to individual items of the scheme are available from the study authors) showed markedly the problems of data collection on prison issues in the field of the prisons. Upon interviewing the prison workers on site, we were full of optimism from their approach to the research. We were convinced that upon assessment, the collected data would give us a closer view of the present sentence service of first-time imprisoned women, and that it would allow for comparison with the research of first-time imprisoned men that had been done. We did not expect substantial differences in the approach of prison worker in various prisons to the present research, while moreover, we have rich experience not only from penological research but also from the field of prisons. This was clearly a mistake and we shall seek to avoid it next time.

Upon reading the responses of workers from Světlá nad Sázavou to our scheme, we almost felt terrified. **There were few usable specific answers.** Approach of the prison workers to investigation of their opinions seemed to be evincibly negative, in spite of the fact that in the course of the preparatory and subsequent interview, no reservations were formulated. And comments, irrespective of whether they are positive or negative to our opinions, are always required by us and further discussed in the team.

Answers of the personnel to the scheme – questionnaire took the written form. We were not present at the time they were being given instructions on the method, and according to the materials supplied, it was conceived rather as an unwanted anonymous completion of the questionnaire by selected workers of the Světlá nad Sázavou prison. Based on the written material, the following conclusions can be derived and quite reliably documented: The workers (and probably women only) approached filling in the method rather without a personal interest, and therefore many answers were narrowed into phrases and the collective opinion. Completion of the questionnaire could not take longer than 10 minutes. This cannot be compared to answers of workers from male prisons where the responses were provided mostly by men, selected as experts in the penal system field. (There was also one woman there whose answers did not differ from the “male” ones.) In the previous investigation, no problems occurred in processing the results, therefore the questions and items remained unchanged for the next research, as well. It is true that besides Světlá nad Sázavou, opinions of the experts were asked about by us directly, by means of a controlled interview according to the same scheme how the “questionnaire” was presented in Světlá. Was the formal approach a manifestation of certain isolation of workers in Světlá nad Sázavou? Based on the results analysis of answers obtained from workers of the Světlá nad Sázavou prison, it followed that the level of sharing traditional but also non-traditional approaches to prison issues was lower than in other prisons. It is true that the interview scheme used as the questionnaire was far from being perfect; however, the difference in approach to the issues could not be overlooked, and this applies also within the framework of the prison.

Being asked the questions after how many years of working with sentenced persons the “specialist burns out” in their opinion, two “courageous” female workers even answered that a) “very quickly if similar questionnaires must be filled in”; b) after 5 to 10 similar questionnaires. See above. If it was to be a joke, it was not very tasteful in respect of the fact that it was possible to refuse participation in the investigation. If they were serious – is it really true that upon filling in 120 words at the maximum and circling 17 others, an expert employee working with prisoners “burns out”? Attitude to the investigation can be characterized by answers to the question: “How does the second life of first-time imprisoned women look today?” And the answers can be summarized as follows: “Our view is not sufficient; we know that it exists.”

In spite of the fact that in the vast majority of their opinions, the questioned workers showed conformity to official attitudes of managerial prison representatives, they did not forget to bring out inaccurate terms used in the presented scheme; it was not forgotten by any one of them. It is true that obsolete terminology was used – however, none of the prison workers raised any comments in the comment procedure concerning formulations of individual items of the copy, and the new terminology in stated in internal regulations not available to the workers besides the prison service, and therefore the authors „overslept“.

However, we drew the conclusion from this experience that research where prison workers are the respondents, would be of the same importance and maybe even more important than research mapping the imprisoned persons only, as far as understanding the imprisonment issues are concerned. The fact that differences that have an impact on the SSI are given not only by the prisoners composition but also by the state and level of the personnel etc. It is a kind of a small “by-product” of our research investigation.

Experience of Inhabitants of the Czech Republic with Selected Delicts – Results of the Victimological Research

2006

Responsible researcher: PhDr. Milada Martinková, CSc.

Research of victimization of Czech Republic inhabitants took place in 2006. The research dealt with victimization of the population by 12 delicts². The respondents themselves provided information on victimization by the delicts retrospectively a) for the past 5 years (2002 – 2006) and b) for the period of 12 months before questioning (November 2005 – November 2006). If any respondent was victimized more times in the observed periods, he/she provided information on the last event. Two of the mentioned delicts were observed back only one year (bribery, consumer fraud). The research was also aimed at more general determining some experience of respondents with criminality. A similar questionnaire was used in the research as that in international victimization research (ICVS). (The questionnaire was adapted in some degree and upon approval of the international coordinator for the needs of our environment.) The research was implemented in the set of 3082 respondents older than 15 years, on the territory of the whole Czech Republic. The set of the respondents was obtained by means of stratified multistage selection procedure, and it was representative in the following indicators: Age, gender, size of the place of residence, education, higher-level territorial-administrative unit (region). Investigation in the field was performed by a professional company and the data collection was financed by the Criminality Prevention Commission of the Czech Republic. Questioning took place using the face to face method.

The following can be said on victimization of the inhabitants of our country by 10 delicts observed in the research, in the range of the 5 years long period (2002 – 2006) (see Table 1). More than every third inhabitant of our country (30,8 %) became a victim of theft of a personal thing (that the given individual had with himself / herself or that he/she wore). Almost every third car owner in the Czech Republic became a victim of theft of a thing from the mentioned means of transport (30,8 %). 40,4 % owners/users of family recreational huts / cottages were victims of burglary in such buildings. More than every fourth owner/user of the bicycle in our country became a victim of its theft (26,4 %). Approximately every tenth car owner/user was a victim of theft of this means of transport (9,4 %). More than every tenth inhabitant of the Czech Republic became a victim of burglary (13,1 %) and more than every tenth inhabitant became a victim of physical assault / threatening by physical violence (13,7 %). Also, more than every tenth owner of a motorcycle, moped, scooter in the Czech Republic became a victim of its theft (12,0 %). About 4 per cent of the respondents, namely inhabitants of the Czech Republic became victims of hold-up, and approximately the same percentage of individuals were victims of a sexual delict (4,3 % in the former case, and 4,6 % in the latter).

² To be specific, delicts were concerned that a) could have occurred to the respondent in person as well as to anyone from his/her family – car theft; theft of things from the car; theft of the motorcycle, scooter, moped; bicycle theft; burglary at home; burglary at the hut or cottage; b) delicts that have been done to the respondent in person – robbery; theft of a personal thing (that the person had with himself/herself or that he wore); physical assault / threatening with physical violence; consumer fraud; bribery; and sexually motivated delicts.

Table 1

Numbers of victims of the observed delicts among respondents from the Czech Republic in the course of 5 years (2002 – 2006). *The victims provided information about the most recent delict if the incident occurred multiple times during the period above. N = 3082; out of that, car owners/users n = 2361^{a/}; motorcycle etc. owners/users n = 460^{b/}; bicycle owners/users n = 2444^{c/}; hut/cottage owners/users n = 690^{d/}.*

Delicts:	Abs.	% victims out of the 3082 respondents (or owners/users of means of transport, huts/cottages)
Car theft	221	9,4 ^{a/}
Theft of a thing from the car	728	30,8 ^{a/}
Moped, scooter, motorcycle theft	55	12,0 ^{b/}
Bicycle theft	644	26,4 ^{c/}
Burglary at huts/cottages	279	40,4 ^{d/}
Burglary at the place of residence	403	1,1
Robbery	132	4,3
Theft of personal assets	1104	35,8
Sexual delicts	142	4,6
Physical assault/threatening	423	13,7

Some of the victims of the 10 delicts above were victimized by the incidents multiple times, as well. During the period of 1 years (November 2005 – November 2006), repeated victimization by the same delict (more than once) was encountered most frequently by victims of sexually motivated incidents, namely more than one half of them (56,3 %; 36 persons); furthermore, more than one fourth of victims of theft of things from the car (27,9 %; 77 persons), and burglary in the hut/cottage (28,2 %; 22 persons). Repeated harm due to the same delict during 1 year was also experienced almost by one fourth of victims of burglary at the place of residence (23,4 %; 29 persons), and one fifth of victims of thefts of personal assets (20,2 %; 111 persons). Repeated victimization was also experienced approximately by one tenth of victims of car theft and bicycle theft (11,9 % [8 persons] in the former case; 11,8 % [26 persons] in the latter). Furthermore, approximately one tenth of victims of robberies were victimized multiple times by the robbery (9,1 %; 4 persons) during the observed period of 12

months. Out of the persons whose motorcycle, moped or scooter was stolen, 15,0 % of aggrieved persons (3 persons) became victims repeatedly during 1 year.

Almost two thirds of the 3082 respondents, namely inhabitants of the Czech Republic became victims of at least one of the 10 observed delicts in 2002 – 2006 (consumer fraud and bribery were not included in the processing) (63,5 %; 1958 persons). 26,11 % respondents (804 persons) were aggrieved by one of the 10 delicts mentioned; 14,4 % (445 persons) were aggrieved by two; 15,7 % (485 persons) were aggrieved by three; and 7,3 % (224 persons) were aggrieved by four and more.

In delicts that occurred to the respondent in person (robbery; theft of a personal thing; assault / threatening; sexual delict), victimization by multiple incidents concerned significantly more persons ranking among individuals aged up to 30 years, thus rather younger persons. In delicts that occurred not only to the addressed individuals in person but also to their family members, aggravement by multiple delicts concerned significantly more often persons ranking among older individuals (older than 30 years) than younger ones.

During the period of 12 months (November 2005 – November 2006), more than every third respondent, namely inhabitant of the Czech Republic, became a victim of a consumer fraud (36,4 %; 1123 persons). Almost every tenth inhabitant at the minimum came in contact with bribery in the given period (9,1 %; 281 persons).

Almost one fourth of robbery victims (23,5 %; 31 persons) and approximately one tenth of sexual delicts victims (10,6 %; 15 persons) as well as physical assault / threatening victims (12,8 %; 54 persons) were attacked by armed offenders (for example, with a knife, a fire-arm etc.).

Low rate of reporting the delicts to the police by the aggrieved persons – in delicts observed during the 5 years long period – was found not only in sexually motivated delicts (reported only by 21,8 % of the victims), physical assault / threatening by physical violence (26,5 %), but also in theft of personal assets (38,7 %). The police learned more often about thefts of bicycles (64,3 %), thefts of things from cars (63,2 %) and robberies (65,2 %) from the victims, approximately from 65 % persons. The highest rate of reporting the delicts to the police by the aggrieved persons, almost 90 %, was found in thefts of the motorcycle, scooter, moped (89,1 %), furthermore in thefts of the car (87,8 %), and a somewhat lower rate was found in burglaries at huts/cottages (83,9 %) and burglaries at home (76,7 %).

As for two delicts whose incidence was observed only during the period of one year, consumer fraud was reported to the police only by 3,3 % victims, bribery by 5,0 % persons who stated to have encountered this phenomenon.

The most frequent reasons of not reporting the delicts to the police by the victims (both in victims of delicts that could happen **not only** to the respondent³ as well as in victims of delicts that threatened **only** the very respondent⁴) included the fact that the aggrieved individual did not believe in the fact that the police could resolve their case – “the police would not do anything with it anyway”. In all 3 delicts examined from this point of view that could happen **not only** to the respondent but also to the family members, more than 40 % of the victims that

³ Theft of a thing from the car; burglary at home; burglary at the hut/cottage

⁴ Robbery; sexual delict; physical assault / threatening with physical violence

had not turned to the police thought so, and in all the 3 examined delicts that happened **only** to the respondent, this opinion was shared by about one third of such victims of each incident.

In both types of the delicts, the most frequent ground of the victims to not report the event to the police, although not as markedly as in the previous reason, was also their opinion that *there was a lack of evidence* (18,9 % - 34,6 % of the victims that did not turn to the police). However, this reason was stated somewhat less often by victims of delicts that aggrieved **only** the very respondent.

In delicts that could aggrieve **not only** the respondent but also the family members, an important role in not reporting the event to the police was moreover played by the feeling of the aggrieved that *it was nothing serious*. This was reported approximately by 30 % victims who did not inform the police, in each of the examined three incidents. Victims of robbery, physical assault / threatening and sexually motivated delicts who did not tell anything to the police stated this reason considerably less often.

In delicts that could happen **only** to the respondent in person, besides the main motives stated above – that the police would not do anything with the case anyway and that there was a lack of evidence – the fact also had quite an important impact on not reporting to the police that the aggrieved *resolved the incidents themselves* within the framework of their capacities, as they *knew the offender* in many cases. This reason was stated approximately by one fourth of victims of assault / threatening, and about one fifth of victims of robbery and sexual incidents who did not turn to the police. Moreover, in about one fourth of victims of sexual delicts and assault / threatening who did not inform the police, a non-negligible role in not informing the police was also played by the opinion that the event that had occurred to them *was not a matter for the police*, and that there was thus no need to call the police. In all the three observed delicts that could happen **only** to the respondent in person (unlike delicts that could happen not only to the respondent but also to members of his/her family), not reporting the incident to the police was also markedly affected by their *fear of retaliation of the offender*. This reason was most apparent in victims of sexual delicts, as it was stated almost by one fourth of the victims who had not informed the police about the delict. At the same time, approximately one tenth of victims of sexually motivated delicts who had not turned to the police, admitted apprehension of the police in the given context, as well (11,1 %).

The lowest rate of satisfaction with the work of the police upon reporting a delict (observed in 6 observed incidents), reaching about one quarter, was stated by victims of sexually motivated delicts (25,8 %). Furthermore, only about one third of victims of robberies were satisfied with the work of the police, who turned to the police (34,9 %), and 42,0 % of such victims of theft of things from the car. Approximately one half of victims of burglary at home (51,1 %) were satisfied with the work of the police, victims of burglaries at the hut/cottage (53,4 %), and victims of physical assault / threatening by physical violence (47,3 %) who informed the police of the delict.

Reasons of dissatisfaction of the victims with the work of the police were observed in the same 6 delicts as in the reasons of not reporting to the police (theft of a thing from the car, burglary at home, burglary at the hut/cottage, theft of a thing from the car, burglary at home, burglary at the hut/cottage).

Victims of theft of things from the car, burglary at home, burglary at the hut/cottage and robbery stated the fact that the police *did not find the offender* as the most frequent reason of

dissatisfaction with the work of the police (this was stated by about two thirds of victims of such delicts who turned to the police and were not satisfied with its work), and furthermore the fact that the police *did not find the stolen property* (in delicts that concerned **not only** the respondent, this was stated by about 60 % of the victims, and this reason was stated by about 46 % of robbery victims who were not satisfied with the work of the police upon reporting the incident).

Besides that, a considerable number of victims of all 6 delicts mentioned above and examined in the given context were of the opinion that the police did not do everything they could in their cases. About one half of victims of robberies and of burglaries at home and burglaries at the hut/cottage thought this, about one third of victims of sexually motivated incidents, and about one third of victims of theft of a thing from the car, who turned to the police and were not satisfied with its work. The opinion that the police was not engaged enough was apparent in as many as 70 % of victims of physical assault / threatening who expressed their dissatisfaction with the fact how the police acted upon notification of the incident.

Furthermore, in 3 of the observed delicts that happened **exclusively** to the respondent⁵ (unlike delicts that could happen both to the respondent and to his/her family members), rather frequent reasons of dissatisfaction of the victims with the work of the police included facts that could possibly even cause secondary victimization of the aggrieved persons. Specifically, the fact was concerned that in the opinion of the victims, the police was not interested in their problem (27,1 % up to 34,0 % of the victims who were not satisfied with its work upon reporting the delict), and then the fact that according to information of the aggrieved persons themselves, the police did not treat the victims well. This last reason was stated quite often both by victims of sexual delicts not satisfied with the work of the police upon reporting the delict (55,6 %), as well as by such victims of physical assault / threatening (34,0 %; 16 persons), and robbery victims (22,9 %; 11 persons).

The rate of reporting the delicts to the police by the victims was not affected by the incidence rate of crimes registered by the police in the given region where the respondents stricken with the incidents lived. The victims thus reported the delicts to the police irrespective of the crime incidence rate in the areas where they lived.

It was found that the more serious were the observed delicts perceived subjectively by the victims, the more frequently they reported them to the police. This concerned all ten examined, socially undesirable phenomena (bribery and consumer fraud were not included in processing these issues).

The size of their community of residence and their age contributed most frequently to the fact that the respondents became victims of some of the 12 observed delicts. Specifically, we found the following:

There were significantly more victims of *theft of the car; theft of a thing from the car; motorcycle theft; bicycle theft; burglary at home; robbery; theft of personal things; consumer deception* among individual living in larger towns (with more than 20 thousand citizens) (and in an increased extent among individual living in large cities), than in towns and communities with less than 20 thousand inhabitants.

⁵ Robbery; sexual delict; physical assault / threatening with physical violence

No significant differences were found in incidence of victims of sexually motivated incidents, physical assault / threatening, bribery, burglary at huts/cottages, among respondents from places of residence of varied sizes.

Significantly more victims of *car theft; theft of a thing from the car; burglary at home; burglary at the hut/cottage; consumer fraud* were found among persons of higher age (more than 30 years) than persons of lower age (less than 30 years). The same held true also in persons who encountered *bribery*. There were significantly more victims of *sexually motivated delicts* among questioned persons of younger age (up to 30 years) than among older persons, as expected. The same was true also about persons *whose personal things were stolen*, and about persons *whom somebody assaulted physically or threatened them with physical violence*.

A similar number of victims of not only robberies but also thefts of bicycles and motorcycles were found among younger and older respondents (up to 30 years; more than 30 years). No significant differences were found.

There were significantly more victims among women than among men, as far as *sexually motivated delicts* and *consumer frauds* are concerned. There were significantly more victims among men than among women, as far as *physical assault / threatening with physical violence* and *theft of things from the car* are concerned. Also, significantly more individuals among men than among women encountered the *request of a bribe* or its expectation.

Aggrieved women and men were represented similarly among individuals of both genders in robbery, theft of personal things, car theft, bicycle theft, motorcycle theft, burglary at home, burglary at huts/cottages. Statistically significant differences were not found.

Statistically significant differences in incidence of victims among respondents with various education level were found in *burglary at home, theft of things from the car, theft of personal things, consumer fraud, bribery*. In all cases, higher incidence of victimization concerned more educated persons (i.e. upon school-leaving examination at least) than persons with lower finished education (without the school-leaving examination).

Among respondents with various education degrees (i.e. with the school-leaving examination at the minimum, without the school-leaving examination), there were no significant differences in incidence of victims of robbery, physical assault / threatening, sexual delicts, car theft, motorcycle theft, bicycle theft, burglary at the hut/cottage.

As for delicts that occurred exclusively to the respondents in persons, the most frequent victims of *physical assault / threatening* were represented by younger persons of male gender; victims of *sexually motivated incidents* were younger women as expected – in both delicts, irrespective of the size of the place of residence and education of the assaulted persons. As for victims of *theft of personal things*, especially younger persons appeared (aged up to 30 years) irrespective of the gender, with higher education (i.e. with the school-leaving examination at least), and living in larger towns or cities (with more than 20 thousand inhabitants). Victims of robberies were especially persons living in larger towns and cities (with more than 20 thousand inhabitants) irrespective of their gender, age or education.

According to the opinion of 47,0 % of the 3082 questioned persons, the police managed to control criminality at the place of their residence in some extent (i.e. 42,6 % thought the

police managed well enough; 4,4 % thought the police managed very well). Almost 40 % inclined to the opinion that the police was not able to control criminality at the place of their residence (39,3 % persons; 31,8 % respondents thought that the police controlled criminality rather poorly; 7,5 % thought the police controlled it very poorly). 13,7 % respondents did not express their opinion upon being asked about criminality control by the police at the place of their residence (423 persons). The smaller was the community and town where the respondents lived, the more successful they evaluated criminality control by the police at the place of their residence and vice versa. The dependencies found were statistically significant. For apprehension of criminality, the respondents provided the following opinions. Almost a full half of the questioned persons felt safe in some extent at the place of their residence upon dusk (49,1 % respondents; 42,5 % felt quite safe; 6,6 % felt very safe). In research of addressed persons, 46,7 % persons did not feel safe in some extent at the place of their residence upon dusk (39,1 % felt somewhat unsafe; 7,6 % felt very unsafe). 4,2 % of questioned persons did not express their opinion (130 persons). The smaller was the town or city where the respondents lived, the greater feeling of safety the questioned individuals had when moving around the place of their residence upon dusk. The dependencies found were statistically important.

Apprehension of burglary at their homes in the subsequent 12 months was expressed by at least one quarter of the addressed persons (25,7 %) (burglary is very likely and likely).

At least 39,8 % of the questioned persons, namely inhabitants of the Czech Republic, came in contact with problems concerning drug abuse (for example, they saw somebody in the public areas selling drugs, taking drugs, or they found syringes used and thrown away by drug users etc.) (1225 persons). The larger was the place of residence of the respondents, the more individuals were found among them who had met with the consequences and accompanying phenomena of drug abuse. The dependencies found were statistically significant.

Among the 3082 persons questioned in the Czech Republic, there were 8,6 % individuals (264 persons) at least in whose family some fire-arm was owned. Protection against criminality as the reason of owning the fire-arm was stated by 14,8 % of their owners (39 persons).

It is apparent based on the data above that information obtained in victimological research from victims of various delicts bring topical information, not only to the broad expert public but also to the police itself, about the explored areas of criminality as experienced by the inhabitants themselves – thus completing information registered by the police in its statistics. It is also apparent from the above that the data gained in the research also provide the police with feedback on how the inhabitants assess and perceive the work of the police, also in connection with individual delicts that aggrieve individuals. At the same time, in repeated investigations using the same methodology, victimological research may provide the police also with alternative data on criminality in the country or its regions even in time series. Such research projects also provide very precious information on development of criminality (including the latent one) and phenomena connected with it. Such research projects also bring topical ground information for activities in the police in the area of prevention, and other suggestions for general improvement of the work of the police.

Maltreatment in Persons Advanced in Years – In Special Consideration of Domestic Violence

2004 – 2008

Responsible researcher: PhDr. Milada Martinková, CSc.

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The research was focused on the phenomenon of maltreatment in seniors, which is assumed to show frequent incidence today. It was aimed at contributing to mapping of incidence of individual forms of maltreatment in seniors in families by their relatives in the Czech Republic – from the viewpoint of social workers who provide services to elderly persons in the privacy of their homes. Furthermore, the research was aimed at contributing, by means of analysis of experience and opinions of social workers in the field, to determining some facts that lead family members to maltreat seniors, and to description of some facts that have an impact on publication of this socially objectionable phenomenon in our country. Another its objective also was to provide information on criminality in persons advanced in age in the Czech Republic, registered by the police (on victims in the senior age and offenders of crimes against seniors) in the period of 1997 – 2007, including more detailed data concerning Section 215(a) of the Criminal Code (battering of persons in a jointly inhabited flat or house). Attention was also paid to national and international documents that deal with protection of seniors. The research dealt with rules of law in the Czech Republic, as well, which can be used in recourse due to maltreatment of elderly persons within the framework of domestic violence. Several cases of maltreatment in persons in advanced age in the family were mentioned and documented in case reports to provide an illustration, investigated by the Police of the Czech Republic or handled by courts in the capital city of our country.

The first part of the publication was focused on the phenomenon of maltreatment in old persons on a rather general level, from the viewpoint of its definition, classification in individual types; expected incidence was mentioned, and attention was called to the latent nature of the phenomenon. We noticed the summary term EAN (Elder Abuse and Neglect). Besides others, special attention was devoted to phenomena such as financial/material misuse of seniors by their relatives (and not only them) or neglect of elderly persons in the family, not easily capturable in practice and difficult to document, however, probably occurring frequently. Attention was also paid to defining the term old age. A part of the first chapter was also oriented at the phenomenon of maltreatment in old people in the context of current perception of old age issues on part of inhabitants of the Czech Republic.

In the chapter that deals with legal aspects of maltreatment in old people, we paid attention to crucial international and national documents concerning seniors and their protection (for example, the European Social Charter; Vienna International Plan of Action on Ageing; UN Principles for Older Persons; Montreal Declaration; International Plan of Action on Ageing [Madrid]; Charter of Rights and Freedoms of Elderly People; National Programme of Preparation for Ageing for 2003 – 2007 [Czech Republic]; National Programme of

Preparation for Ageing for 2008 – 2012 [Czech Republic]). A part of the chapter deals with Czech legislation and measures in action against domestic violence committed on seniors.

The work included, as mentioned above, also a field exploration focused on determining incidence of maltreatment in seniors on part of their relatives (family members) in the Czech Republic, and on description of some other facts related to incidence of this phenomenon. The exploration showed the facts stated further below.

(These facts were determined in 2006 by means of an anonymous questionnaire. Information on maltreatment in seniors was provided by 58 social workers from Prague and Central Bohemian Region who provide services to seniors in the privacy of their homes. The social workers informed on cases of maltreatment in seniors whom they met in the period of the “last 5 years” (2000 – 2005). The social workers communicated their knowledge on 83 seniors (26 men and 57 women). (Persons of both genders aged 65 years and more were considered to be seniors.)

- At least three quarters of the 83 seniors maltreated by some family member suffered multiple types of maltreatment at the same time from their relatives (73,5 %; 61 persons).
- Most frequent types of maltreatment in family in the 83 old persons were represented by mental maltreatment, which occurred in more than two thirds (69,9 %; 58 persons). Almost one half of the examined 83 seniors were classified by the social workers as persons whose financial resources and other assets were misused by somebody among the relatives (49,4 %; 41 persons). Physical maltreatment occurred in almost one fifth of the 83 analyzed seniors (19,3 %; 16 persons; 6 men, 10 women). Neglect (in the sense of failure to perform hygiene procedures, insufficient dressing etc.) was experienced by 38,6 % of the 83 seniors (32 persons). One senior was also a victim of repeated sexual abuse (1,2 %).
- Physical violence was committed on the 16 older persons mentioned above by female persons in half of the cases, and by male persons in the other half. Almost one half of physical violence cases occurred between the husband/wife or between spouses (in 7 seniors; 43,8 %). At least in 4 cases of physical assault, the senior was maltreated physically by his/her adult children, both daughters and sons (25,0 %). The remaining cases of physical violence were attributed to other relatives of the senior than those named above, or the named above together with other relatives (31,2 %; in 5 seniors). Almost all cases of physical violence occurred repeatedly (in 14 seniors); intensity of violence was not determined.
- More than one person in the family maltreated more than one third of the 83 examined seniors (38,6 %; 32 persons).
- At least 69,9 % of the 83 examined seniors became victims of maltreatment repeatedly (58 seniors). More accurate frequency of maltreatment was not determined.
- Only male persons maltreated more than one third of the seniors (36,1 %; 30 persons), and only female persons maltreated 43,4 % seniors (36 persons). Individuals of both genders,

i.e. men as well as women, maltreated about one fifth of the old persons (20,5 %; 17 seniors).

- Upon taking a closer look at the relationship of the individuals who took part in maltreating a male or female senior, only daughters maltreated almost one fifth of the examined old persons (19,3 %; 16 persons), only sons maltreated 16,9 % (14 persons). However, the ratio of sons and daughters in maltreatment was even higher in fact, as adult children of the seniors were found to be maltreaters in combination with other relatives. For example, a son/daughter of the senior plus a grandson/granddaughter together maltreated at least 7 seniors (8,4 % cases). Maltreatment of a senior on part of the husband/wife was found quite often, as well (16,9 %; 14 persons). Based on information of the social workers, non-negligible part in maltreatment of seniors was also done by sons-in-law and daughters-in-law (at least in 6 older persons; 7,2 %). The above named relatives together with other relatives (for example, with siblings of the senior, with nephews, nieces and some others) took part in maltreatment, as well, but occurrence of such cases was not so frequent.
- Persons maltreating about one fifth of the seniors were characterized as individuals with rather substandard living standard (21,7 %; 18 persons); on the contrary, relatives maltreating another approximately fifth of the seniors (20,5 %; 17 persons) were characterized as persons with rather superior standard of living. Persons maltreating 41,0 % seniors (34 persons) were characterized as individuals with average living standard. In 16,8 % seniors, the social workers provided no opinion on this topic (in 14 persons).
- About one half of the seniors lived in the common flat or house with the maltreating person(s) (54,2 %; 45 persons); 8,4 % lived in the common house but inhabited their own flat (7 persons). Approximately one third of old persons maltreated by somebody in the family lived alone (32,6 %; 27 persons). 4 seniors lived in a way different from those above (4,8 %).
- Clear signs of physically violent behaviour against the senior on part of the family members (scratches, swellings, and/or fractures etc.) were found rather sporadically by the social workers, with the exception of suspicious bruises. On the contrary, they often mentioned improper treatment of old persons due to rather passive nature of conduct of the family members (excessive neglect [25,3 %; 21 seniors]; dehydration [9,6 %; 8 seniors]; undernourishment [10,8 %; 9 seniors]) or maltreatment of persons in advanced age immediately affecting rather the psyche than the physis (failure to communicate with the old person – 39,8 %; 33 seniors), its keeping in mental and physical isolation (28,9 % in mental isolation, 24 seniors; 22,9 % in physical isolation, 19 seniors).
- In 38,6 % old persons, the maltreating relatives consumed their cash money (they usually took the whole pension of the senior or its part) (in 32 seniors). In the same number of cases, the maltreating relatives used the flat or house of the senior, usually in the form of staying in the flat to which the senior did not agree, without contributing to the rent. (The examined seniors were from the capital city of the Czech Republic, Prague, and the surroundings [Central Bohemian Region]). In 18,1 % seniors (15 individuals), using of some other property of the seniors than the above was registered on part of the maltreating relative (for example, selling of various things of the senior or furniture of his/her flat, not allowed by the senior). An effort was also apparent to gain the right of disposition for financial accounts of the old person and to use them (8,4 %; in 7 seniors).

In the opinion of the social workers, maltreatment of seniors in the family in the observed 83 cases was very often connected with the family members' effort to use the senior's financial resources and his/her property (see information in the previous paragraph), and furthermore, it was very often related to the fact that the senior's family was characterized by long-term poor family relationships and general lack of interest in the senior's fate. Other reasons were stated somewhat less often by the social workers than the above.

Specifically: In 28,9 % of the 83 examined seniors, general lack of interest of near family members and other relatives in their fate was present in their maltreatment in the family (in 24 persons), as well as long-term poor family relationships, in about the same number of old persons (26,5 %; in 22 persons). Furthermore, alcohol abuse by the relatives played a role (16,9 %; in 14 seniors), drug abuse other than alcohol by close persons (2,4 %; in 2 seniors), as well as a mental disease of the relatives (4,8 %; in 4 seniors). On the other hand, exhaustion and overwork of the family members in providing care to the old person played its role in maltreatment of 13 seniors in the family (15,7 %); nervous breakdown of the care provider in care activities provided to the old relative had an impact in 9 seniors (10,8 %); the effect of the lack of sufficient living space in flats in the case of multiple generations coexistence was apparent in 5 seniors (6,0 % cases).

- The public learned, either based on notice of the social workers themselves or upon notice of someone else, about 27,7 % of the 83 examined cases of maltreatment of elderly persons at the minimum (about 23 cases).
- Physicians learned about maltreatment of the senior in the family most often (about 27,7 % cases; 23 seniors); furthermore, helplines and other assistance centres (psychological, legal etc.), and a special centre for domestic violence, DONA (15,7 % each; 13 seniors each). The police learned about 4 cases of senior maltreatment (4,8 %). 4 cases of senior maltreatment were reported to the social or medical (or another) department of the metropolitan / community authority, Bílý kruh bezpečí (Alliance against Domestic Violence) and also the police each (4,8 % each). (The fact how the above named entities handled the information on senior maltreatment in the family further was not the subject-matter of our research.)
- In the event that cases of senior maltreatment in the family were not reported to the police by the social workers, we were interested in knowing why. The most frequent reasons that played a role in not reporting the cases to the police also included the senior's wish to not make his/her case public. 41,0 % of the 83 examined seniors (34 persons) wished so.

Furthermore, we also found out the following, for example:

- In the opinion of 65,0 % of the 20 social workers occupying managerial positions, incidence of senior maltreatment by their relatives in the family remains about the same today (in 2006) compared to the period of about 5 years ago, i.e. no increase or decrease has been apparent. Only 15,0 % social workers considered the incidence tendency to be increasing (3 persons), the others did not express an opinion.
- The Police of the Czech Republic registered 189 persons aged 60 years and more as victims of criminal activities qualified as battering of a person living in a jointly inhabited flat or house (Section 215(a) of the Criminal Code), in the period from June 2004 to December 2007 (thus during a period of about 3.5 years of the law validity). These 189

victims included 10 % men (19 persons) and 90 % women (170 persons). Victims aged 70 years and more represented 47,1 % (89 persons); victims aged 60 – 69 years represented 52,9 % (100 persons). Due to the criminal act discussed, death was stated by the police in one victim (falling in the age category of 70 – 70 years), and 38,6 % victims suffered injuries (73 persons). The 73 injured persons included 61,7 % individuals aged 60 – 69 years (45 persons), two persons older than 90 years (2,7 %). In the remaining cases, namely 17,8 % each (13 persons each), individuals aged 70 – 79 years and 80 – 89 years were concerned.

- Victims of the criminal act of battering a person living in the jointly inhabited flat or house (Section 215(a) of the Criminal Code) registered by the police, aged 60 and more years, represented 8,1 % of all victims of this criminal activity registered by the police during the approximately 3,5 years long period (June 2003 – December 2007).
- 165 individuals were prosecuted in the above named 3.5 years long period for crimes on seniors and qualified as battering of a person in the jointly inhabited flat or house (Section 215(a) of the Criminal Code). The 176 prosecuted individuals included 86,7 % men (143 persons) and 13,3 % women (22 persons). 90,9 % prosecuted persons were aged 30 years and more (150 persons).

The 165 prosecuted individuals included especially, namely more than four fifths, persons aged from 30 to 69 years (83,6 %; 138 persons). These persons were represented about the same in individual observed age categories. Older and younger age groups of persons than the age range named above were not represented too often among the prosecuted offenders (16,4 % total; 27 persons). About one half of this number of 27 individuals was represented by persons younger than 30 years and older than 70 years. The prosecuted men included mainly individuals aged 30 – 69 years; the prosecuted women included especially persons aged 30 – 59 years.

Among the 165 persons named above, prosecuted for the criminal act of battering a person living in the jointly inhabited flat or house (Section 215(a) of the Criminal Code), the police registered more than one third of recidivists (38,8 %; 64 persons). This indicates that only a smaller proportion of the individuals prosecuted for the criminal activity were in conflict with the law before. The remaining offenders were persons without a criminal record from the viewpoint of law violation (61,2 %; 101 persons).

- It followed from the police data that numbers of victims of the criminal act of battering a person living in the jointly inhabited flat or house (Section 215(a) of the Criminal Code) registered by the police were increasing every year in the Czech Republic, both as far as general numbers and persons aged more than 60 years are concerned. However, currently, this can be attributed rather to the today's, after all, higher sensitivity of the society as well as the police to this phenomenon than to a higher factual incidence of this type of abuse.

The research contributed to expanding the knowledge on maltreatment of old people in the Czech Republic, and it brought forward the gravity of this socially undesirable phenomenon. The research exploration enriched and contributed new topical knowledge to the data obtained from only a few former research projects concerning maltreatment of seniors in our country. So far, research concerning maltreatment of old people is missing in the Czech Republic, not only in the area of domestic violence, performed with a representative set of persons.

It can be stated that due attention has not been paid yet to the topic of maltreatment of seniors in the Czech Republic, and it seems that the society as a whole is not yet sufficiently prepared and attuned to consistent solution of this detrimental conduct. However, some progress can be noted – see, for example, tasks planned by the National Programme of Preparation for Ageing for 2008 – 2012.

Selected Problems of Imprisonment with a Focus on the Prediction of Offender Development

2004-2007

Head researcher: PhDr. Karel Netík, CSc.

Researcher: PhDr. Šárka Blatníková

Work on the task “Selected Problems of Imprisonment with a Focus on Prediction of Offender Development” commenced in 2004, when the project was submitted. The main tasks as per the stipulated harmonogram were subsequently carried out between 2005-07. The final report was published in 2008. The working team consisted of workers from the Institute (Dr. Šárka Blatníková and Dr. Karel Netík, CSc.). Findings from the study were intended, amongst other effects, to contribute to the options for evaluating offenders with regard to the potential repetition of criminal acts in the future.

The study was focused on the prediction of offender development, so the subject of the study became offender personality and its development with regard to the risk of repeat offending. The aim was to gather and analyse expert sources and instruments used abroad and in the Czech Republic to predict criminal recidivism, analyse individual variables used in the prediction of criminal behaviour and, on the basis of conclusions of hitherto realised studies, and wide-ranging criminological literature, select factors responsible for recidivist criminal behaviour. A further goal of the study was to propose an instrument which would, to a certain extent, provide an accurate prediction of future criminal behaviour in the sense of “failure/non-failure”.

The study task was realised in the form of two related and mutually connected studies. The first brings a wider theoretical introduction to the problems of the development of criminal behaviour, an overview of approaches to the problems in predicting recidivism and evaluation of the offender, and includes information on the criminal career of the offender and risk factors, which appear as variables (predictors⁶) in the prediction instruments used.

The second part consists of our empirical study, which aims towards a preliminary version of the prediction instrument. To select suitable predictors for the instrument, we gathered a sample of people who had been released from an unconditional custodial sentence. Over a period of six years, we followed their criminal career and any repeat offending (failure = recidivism) that may have occurred. We carried out analyses necessary to the formulation of an instrument with the final selection of relevant items (significant differences between subsets in individual variables and correlations between predictors). This work concluded in a working version of the instrument applicable to the prediction of offender recidivism

⁶ Predictors of delinquent/criminal behaviour, i.e. signs of the likely indicator of future criminal behaviour of the convicted person.

(prediction of repeat conviction), founded on static factors. Information, findings and conclusions are intended for workers in the fields of criminology, justice, forensic psychology and penology.

Realisation of the study involved use of the following methods and techniques: study and wide-ranging analysis of specialist materials and literature (sources from forensic psychology and criminology), study of documents – analysis of court dossiers; analysis of extracts from the criminal record (information on criminal career, previous convictions and punishments of examined persons) and use of descriptive statistics techniques, testing of hypotheses and reduction of data. Use of Windows operating system programs – Excel, Access and SPSS 16.0.

Nature of the problem under study.

Reoffending, or criminal recidivism, is defined in several ways, but mostly through the proof of further criminal acts or an officially recorded sanction for a further criminal act committed during a certain subsequent time-period.

The adequate personality evaluation of an offender, the setting of an appropriate punishment, or the selection of an effective, postpenitentiary activity also assumes orientation in the offender's past. The criminal careers of offenders are, in their substance, founded in their criminal history, whose significance in the prediction of recidivism is a proven fact. The analysis of the criminal history of offenders thus allows a description of their personalities against a background of criminal offences committed. The most reliable starting-point for the prediction of a person's (offender's) future criminal activity is their past behaviour; therefore, predictors of the more significant instruments for risk-evaluation of recidivism are set in variables for the evaluation of criminal history.

Important indicators include their number (and duration), similar or dissimilar types of criminal acts, level of danger of criminal acts and their possible gradation, causal relationship between individual criminal acts, punishments recorded and institutional measures (protective supervision, protective treatment, postpenitentiary care) intended to prevent further criminal activity. All these variables reveal the criminal career of an individual, with characteristic objective signs of the intensity of his criminal behaviour, and the focus of his inability to adapt to society.

The basic idea, which various predictive systems have in common, is to abstract information a certain number of factors, which can have some kind of relationship to criminal behaviour – criminal recidivism. The starting-point in the selection of these variables are chiefly the results of previous studies of the causes of this phenomenon, i.e. from empirically supported facts and theoretical specialist literature. Most authors emphasise that, even when using the most advanced methods, it is not possible to formulate a definitively 'good or bad' prognosis, but it is possible to express a certain likelihood of further development in behaviour (e.g. the failure of a convicted individual following release from a custodial sentence); there are no universal prognostic systems. Their objectivity depends, on the one hand, on theoretical criminological data (chiefly on the survey of individual risk factors), and

on the other, on the criminal populations on which they were based, the situations in which they were used, and for what purpose.

Static and dynamic risk factors used in the prediction of criminal behaviour

Risk factors used in the prediction of criminal behaviour can be divided into 'static' and 'dynamic'. Static risk factors are constant and unchanging, or only change in one regard e.g. change in age or criminal history (e.g. rise in number of criminal acts committed by the person). These count amongst strong predictors, but are not available to treatment programs. Dynamic risk factors (criminogenic requirements), on the other hand, represent characteristics or the current situation of the offender. Strong (important) predictors of criminal recidivism include the criminal attitude of the offender, antisocial/criminal associates (connections and contacts), loss of employment or the abuse of narcotic substances.⁷ These variables are open to intervention and can be modified, making them favourable targets for corrective treatment. Changes in individual factors can be 'measured', even though such evaluation can be difficult. This is another possible reason for the existence of many more predictive evaluation instruments relying on static predictors, than those that combine static and dynamic variables.

Development of offender evaluation methods

Generally speaking, there exist two types of instrument for offender assessment and two main methods for combining static and dynamic criteria for the purposes of decision-making. The first is based on clinical judgement⁸, and the second on instruments founded on statistical practise (the quantitative method⁹).

Statistical prediction models facilitate the prediction of future events, states or behaviour on the basis of mathematical operations utilising information from the past, tested in the present. A large part of the survey focuses on the prediction of the future behaviour of an offender, e.g. the likelihood of repeated court action, perpetration of a new criminal act, failure during the trial period or conditional release or escape from corrective institutions. The majority of instruments used by the criminal justice system for the assessment of offender recidivism are based on the statistical approach and currently count amongst the most preferred methods for estimating the likelihood of future criminal behaviour, counting on the findings of surveys of criminals – and especially the recidivist population. Modern statistical procedures aid in identifying circumstances and indications of behaviour typical for criminal reoffenders. These typical characteristics are labelled as predictors demonstrating a certain veracity, whose combination allows the creation of various assessment instruments. The

⁷ Blanchette,K., Brown,S.: The Assessment and Treatment of Women Offenders. John Wiley and Sons, Chichester 2006.

⁸ The clinical method relies chiefly on professional judgement, which is founded on informal, subjective techniques. Generally speaking, there are no strictly defined rules on what information to use, how it should be measured, what sources of information to use, or how information should be combined or linked.

⁹ The quantitative approach is founded on statistical relationships and includes formal, objective procedures, combining and weighing factors and providing a score and recommendation for decision-making.

development of statistical instruments for the assessment of an offender's risk of recidivism dates back to the work of Burgess¹⁰, who in the 1920s used the unweighted linear differential model for the formulation of the predictive model. This approach was further developed by the Gluecks in their 'classic' longitudinal observation of delinquent persons. This movement reached its peak in the 1970s and 1980s with the use of several instruments, whose use in practice was well-accepted. These were: Base Score Expectancy¹¹, Salient Factor Score, used in the United States¹² and the Statistical Index on Recidivism (today also as the General Statistical Information on Recidivism) in Canada¹³. The Offender Group Reconviction Score¹⁴, a statistical predication table for the assessment of criminal recidivism, has been in use in great Britain since the 1990s. These instruments have provided significant improvements in methodology (with regard to clinical methods), and helped prediction methods play a greater role in strategy development.

Composition of prediction instrument – selected findings from the empirical section

Despite the fact that a focus purely on statistical variables can overlook significant factors in an offender's criminal behaviour, data relating to the beginning, duration, seriousness, changes in level of seriousness and information on any models for conclusion of criminal activity are an absolute necessity for the description and 'measuring' of criminal careers. Instruments usable in practice must, therefore, be founded on statistically strong methods.

The main goal of the ICSP survey was to create a usable instrument for the prediction of criminal recidivism. The proposed instrument operates only with so-called static data, i.e. practically unchanging information from the criminal case-history of a convicted individual; therefore it is highly unlikely that such an instrument will be used by institutes focussed on changing the behaviour of convicted persons.

We based the composition of the instrument on the assumption that easy administration and assessment is founded on the number of fields, accessibility of data sources, demands on administrator qualification and complexity of data assessment.

The selection of variables (predictors) was determined primarily by the purpose of the future prediction instrument, and therefore contains primarily so-called static predictors, the

¹⁰ Burgess, E.W.: Factors determining success or failure on parole. In: A.A. Bruce, E.W. Burgess, A.J. Arn (Eds.): The working of the intermediate sentence law and the parole system in Illinois Springfield, IL : State Board Parole 1928, str. 205-249; quote: <http://www.crim.umontreal.ca/cours/cr1600/revue/leblanc1.pdf> (may 2006)

¹¹ P.B. Hoffman, H. M. Goldstein: Do Experience Tables Matter? The Journal of Criminal Law and Criminology, 64, 3, 1973, str. 339-347.

¹² Also, e.g.: Hoffman, P.B.: Screening for risk: A revised salient factor score (SFS 81). Journal of Criminal Justice, 11, 1983, p. 539-547; Hoffman, P.B., Beck, J.L.: Recidivism among released federal prisoners: Salient factor score and five-year follow-up. Criminal Justice and Behaviour, 12(4), 1985, str. 501-507; Hoffman, P.B.: Twenty years of operational use of a risk prediction instrument: The United States Parole Commission's Salient Factor Score. Journal of Criminal Justice, 22, 1994, str. 477-494.

¹³ Nuffield, J.: Parole decision-making in Canada. Ottawa: Solicitor General of Canada 1982.

¹⁴ Taylor, R.: Predicting reconvictions for sexual and violent offences using the revised offender group reconviction scale. Home Office Research Findings No.104. London 1999

identification of which in every specific case is relatively easy and does not require any specialist knowledge. We therefore selected data that is commonly available to justice workers in the normal course of criminal proceedings (official records of criminal career – data available from the criminal register and routinely requested for the purposes of criminal proceedings).

The selection of this type of information on the criminal history of an individual was also supported by the fact that recent studies confirmed the validity of official records of criminal behaviour when predicting recidivism. On this point it is possible to refer back to Farrington and his colleagues¹⁵, who submitted proof of the reliable use of official records for the study of a criminal career. The authors note that those who commit serious criminal acts (high-risk offenders) are, according to subjectively gained information from the offenders themselves (self-report data), the ‘most serious’ offenders also according to official records. It was proven that there exists a significant correlation between official records and self-report data.¹⁶

On the basis of study of specialist literature, experience and an awareness of documented data from justice institutions, the first phase of creation of the instrument saw the selection of twenty variables as ‘predictors of repeat conviction’ (criminal recidivism), mapping areas of identifying or so-called basic data, i.e.: sex, date of birth or age at the time of assessment, and further details concerning first conviction (in our case, first recording in criminal record), and information on any convictions as a juvenile (up to 18 years), on the focus of criminal acts and ‘complicity’ at that age, data on the course of their criminal career up to that point (number of convictions, type of criminal activity etc.) and current criminal activity. All variables were operationalised and indexed for the purposes of analysis.

Conclusions on the probability of recidivism in their criminal behaviour (following parole from their sentences) were reached for individual persons in the study group with the aid of a formulated list of predictors. Subsequently, the partial effectiveness of the instrument constructed was assessed through comparison of any recidivism during the six-year period, and any alterations were then made to the instrument.

Correlations between predictors (monitored characteristics)

According to specialist literature, “the age of an offender at the time of his first conviction” is one of the “strongest” predictors of future criminal recidivism. ‘Age’ correlations were negative and statistics highly important with several variables. This means that, the earlier an offender commences his/her criminal career (officially recorded), then the more records (total number of convictions) he/she will have, as a juvenile and generally, the more likely it is that he/she will commit a criminal act as an accomplice, the more likely it will be possible to label him/her as a multirecidivist (three and more convictions in records), and the more likely it will be for him/her to have more conviction records in the future. As expected, there was a significantly high correlation between the offender’s age at the time of

¹⁵ Farrington, D.P., Lambert, S., West, D.J.: Criminal Careers of Two Generations of Family Members in the Cambridge Study in Delinquent Development. *Studies on Crime and Crime Prevention*, 7, 1998, pp. 85-106.

¹⁶ E.g.: Thornberry, T., Krohn, M.D.: The Self-Report Method for Measuring Delinquency and Crime. In: *Measurement and Analysis of Crime and Justice*. *Criminal Justice*, 14, 2000, pp. 33-83.

first conviction, age at the time of last conviction and age at the time of ‘assessment’; this was given by their logical correlation.

The statistically important negative correlation between the ‘extent of future recidivism’ (found through the number of convictions during the six-year monitoring period) with the variable ‘first conviction – given an unconditional custodial sentence’ indicates that the higher level of future criminal recidivism could be related to a certain ‘hardening’ against punishment, caused by the more lenient approach of the justice system towards ‘young’ offenders. This is also illustrated by the highly significant negative correlation between this variable and the sign of ‘multirecidivism’. The highly significant negative correlations of ‘age’ variables (age at the time of assessment, age at the time of first and last convictions) with the expected future recidivisms reflect the assumption of the relation between an earlier start to a criminal career with criminal recidivism. The other common assumption of a relationship between future and previous criminal recidivism is confirmed by the highly significant positive correlation between the variable ‘number of convictions in the monitored period’ with the indicators ‘number of juvenile convictions’, ‘total number of effective convictions’ and ‘multirecidivism’ (defined here as three and more records of conviction).

The highly significant positive correlation of variables ‘multirecidivism’ and ‘total number of convictions’ is given by the construction of both factors. The remaining highly significant positive correlations indicate the higher probability of future criminal recidivism with the occurrence of conviction for the criminal offence of obstructing an officer (§ 171 of the Penal Code, variable names ‘breach of obligation’), reflected the tendency of a recidivist offender towards insufficient respect for the norms and sanctions for their breach, and the higher probability of future recidivism, including conviction for the ‘simultaneous’ criminal acts of larceny and breaking and entering (§§ 247 and 238 of the Penal Code – working title of variable ‘larceny through breaking and entering’) and, finally, the higher probability of future recidivism with the commission of criminal acts in a group, i.e. with an accomplice or accomplices.

We were unable to find any statistically significant correlations between the variables ‘violence during criminal career’ (conviction for a violent criminal act) and other predictors. The variable ‘sexually motivated criminal activity during criminal career’ correlates significantly with age at the time of ‘assessment’ and extremely significantly with the first conviction for complicity. When using nonparametric measures of relationship¹⁷, the correlation with age was not significant. In view of the minimal number of these criminal acts, the findings given above can be regarded more as an artefact.

The variable ‘breach of an assigned obligation’ statistically highly correlated with the total number of convictions of the person and with the number of convictions in the monitored period. It can be assumed that both findings reflect the common inability to respect norms and obligations, typical for recidivists.

¹⁷ Spearman’s correlation coefficient

The statistically significant positive correlation of the variable ‘first conviction for complicity’ with the variable ‘larceny through breaking and entering’ indicates the high probability of perpetration of the criminal act of larceny through breaking and entering by an offender operating, at least partly, in a group. The highly significant negative correlation with the variable ‘age at time of first conviction’ indicates the increasing probability of complicity with the decreasing age of the offender (at a young age). Other highly significant correlations indicate the increased likelihood of committing criminal behaviour in a group (with accomplices) in a group of recidivists.

The statistically highly significant positive correlations found between the variables ‘larceny through breaking and entering’, with characteristics of a recidivist offender (total number of convictions, multirecidivism and number of convictions in the monitored period) indicate the relationship between the ‘simultaneous’ criminal acts of larceny and breaking and entering with antisocial orientation, or the criminal lifestyle of the individual. The statistically significant positive correlation with the variable ‘complicity in criminal case-history’ has been mentioned above.

The field ‘age at time of first conviction’ correlated with practically all characteristics surveyed in our study. Age at time of first conviction showed a statistically highly significant correlation e.g. with the total number of convictions, recidivism following parole and a statistically significant correlation with violent criminal acts following parole.

The statistically highly significant positive correlation between variable ‘total number of convictions’ with signs of ‘recidivism prior to release’, ‘recidivism following release’, ‘number of convictions prior to release’ and ‘number of convictions following release’ was as expected; these signs constitute the content of the variable. Further, the statistically highly significant variable correlates with the sign ‘breach of an assigned obligation’ – measured by the occurrence of the criminal act ‘obstructing an officer’ as per § 171 of the Penal Code.

The occurrence of violent criminal acts following parole shows a positive, statistically highly significant correlation with: recidivism and the number of convictions. No statistically significant correlation with the occurrence of violence was found prior to the monitored year (parole).

The statement that previous criminal behaviour predicts subsequent criminal behaviour illustrates the statistically highly significant correlation found: recidivism following parole correlates with recidivism prior to parole.

Differences between subgroups – recidivists and non-recidivists

The study sample of persons paroled from an unconditional custodial sentence was divided into a subgroup of those who, following parole, reoffended and those who, during the monitored six-year period, did not. We tested hypotheses on the differences in individual predictors between both subgroups.

Persons who reoffended showed a statistically significantly much more frequent first-conviction rate at the juvenile stage (15-18 years), with first convictions occurring much more

frequently for property-related criminal acts (whereas non-recidivists were convicted much more often for chiefly violent criminal acts), there was a significant instance of one or more court actions between the ages of 15-18 years, and there is, at this age, a highly significant instance of property-related criminal activity (whereas in the subgroup of ‘non-recidivists’, we found a significantly less frequent occurrence of legally effective conviction). We did not find any statistically significant differences between the two subgroups in the variables ‘sex’ and ‘first unconditional punishment given.

In comparison with ‘non-recidivists’, recidivists (persons convicted again during the monitored period) showed a much higher incidence of ‘multirecidivism’ (three and more convictions – records), and were convicted of ‘larceny in connection with breaking and entering’ (§§ 247 and 238 of the Penal Code – variable called ‘larceny through breaking and entering’), and on a much more frequent basis ‘work’ with their accomplices (‘complicity in the criminal case-history’). Convictions for obstructing an officer (variable ‘breach of an assigned obligation’).

The group of recidivists – in comparison to the group of non-recidivists – the first registered criminal act does not feature a conviction for complicity, nor is their first punishment imposed in connection with several criminal acts. Violent criminal acts do not appear with greater frequency in their criminal case-histories.

In conclusion, it can be stated that recidivism is more frequent with persons whose criminal career is generally, i.e. regardless of the time the offence was committed, dominated by property-related criminal activity, and persons who ‘supplement’ their property-based criminality with some other type of crime.

Selection of instrument fields

The original selection of twenty predictors was altered in the course of data gathering and subsequent statistical analyses; for example, it was not possible for the variables originally selected – ‘end of unconditional sentence’ and ‘particularly rapidly arising recidivism’ – to be included in the analyses, as the available sources did not allow the clear identification of data for all persons in the group under study. Likewise, in concrete cases it was not possible to determine with sufficient reliability the presence of ‘breach of conditions during probationary period’, and therefore the variable ‘breach of conditions’ was limited to only the occurrence of the criminal act of obstructing an officer as per § 171 of the Penal Code. The selection was supplemented by the variable ‘larceny by breaking and entering in the criminal case-history’, as a number of foreign studies give it as a ‘strong’ predictor of future recidivism (for our purposes it was defined as in §§234 and §238 of the Penal Code). The first analyses therefore included data on eighteen monitored variables – potential predictors, which were accompanied by the first evaluations (some results were given in previous section).

Following analysis and identification of statistically significant differences found between groups of persons who ‘failed’ (appearances of criminal behaviour recidivism), the following

fields were excluded from further analyses: sex, age at time of assessment, main criminal act, for which the offender was initially convicted, whether the initial criminal act was committed 'in complicity', number of convictions at juvenile (15-18 years) stage, primary type of criminal activity – juvenile, age at time of last conviction, total number of legally effective rulings, violence in criminal case-history and occurrence of sexually-motivated criminal activity in criminal case-history.

A five-field variant of the instrument was selected for final analysis. Two fields, marked by the canonical discrimination analysis as best distinguishing between subgroups of recidivists and non-recidivists, i.e. 'multirecidivism' and 'larceny by breaking and entering in criminal case-history', correlate significantly only with some of the other fields. As far as 'multirecidivism' is concerned, there was found to be a statistically highly significant connection between the fields 'larceny by breaking and entering', age at time of first conviction' and 'complicity in criminal case-history'. The field 'larceny by breaking and entering' then shows highly significant correlation with 'multirecidivism' and significantly with 'complicity in criminal case-history'. Based on further analyses carried out, a working version of the prediction instrument for future recidivism, supported by so-called static data was proposed, with the addition of information on scoring and interpretation.

The proposed prediction instrument represents only a working version. A further study should be carried out for the final version, verifying its predictive validity; this requires the creation of a new study group of persons being currently prosecuted, and the formulation of predictive conclusions with the aid of the instrument. Subsequent to this, persons under study should be monitored for a period of at least five years following release from their custodial sentence or from any sentence other than a custodial one, after which the accuracy of predictive conclusions should be evaluated. We would wish to carry out such a verification study as part of other research tasks in the field on penology.

Women as offenders – serious criminal acts (psychological and criminological aspects)

2004-2006

Head researcher : PhDr. Karel Netík, CSc.

Researcher : PhDr. Šárka Blatníková

The aim of the study “Women as offenders – serious criminal acts” was to map and analyse available specialist criminological literature on this subject, construct an overview of criminological theories on women (criminological and forensic-psychological approaches) and characterise the personality of a female perpetrator of a serious violent¹⁸ criminal offence and differentiate it from the female perpetrator of a serious non-violent¹⁹ criminal offence. A serious criminal offence was, for the purposes of the study, defined as a criminal offence for which the perpetrator was given an unconditional custodial sentence lasting longer than 5 years.

To fulfil our goals, we gathered data, carried out an analysis of documents (specialist literature and details of criminal career – extracts from the criminal register), realised a psychological examination of the study sample group with the aid of a battery of standardised psychodiagnostic techniques and tests intended for the study of cognitive processes (C F 2a, CTI), personality traits of the individuals (MMPI-2, PSSI) and the supplemental FDT and CAE²⁰. We also used descriptive statistics techniques, testing of hypotheses (t-test) and data reduction (factor analyses) from the SPSS 15.0 module of the Base program.

The realised study examination was correlated (i.e. non-manipulative, explorative, i.e. focussed on the description of and orientation in the problem, and not on the testing of hypotheses. The study plan was not centred around the examined reality, but the description of phenomena. Research projects of this type are sometimes labelled as mapping studies, field studies, systematic monitoring, or ‘sample surveys’. The study also involved the use of quantitative, as well as qualitative approaches (methods and techniques):

The closing report, which was published in 2007, consists of a theoretical section (individual conceptions relating to the criminal or aggressive behaviour of women, chapters containing statistical data on prosecuted, convicted and imprisoned women. The empirical section includes a description of our own study mapping the personality traits of women

¹⁸ A violent criminal act was defined as a criminal act in which the perpetrator uses direct physical aggression or threats of aggression; injury to health, larceny, murder, extortion.

¹⁹ A non-violent criminal act was defined as a criminal act, during which the perpetrator exhibits no signs of using, or threatening, violence; fraud, robbery, counterfeiting, etc.

²⁰ note: The chosen testing methods are applicable to mass screening and test administration is governed by use of all principles for ensuring exact, standard psychological examination, which, aside from the ‘test environment’, also includes instructions for administration to the letter of the law and standard subject material or given time limits.

convicted of serious criminal acts. The appendix contains data on the prison population in Europe and Slovakia and an overview of examinations hitherto carried out on female delinquency.

In general it is true that criminality is overwhelmingly dominated by males. A survey of official statistics shows certain general characteristics of female criminality. One of these is the universally low proportion of women, which most frequently hovers between 10-15 % of overall criminality. In developed countries, this proportion hovers between 15-20 %, and in developing countries is somewhat lower (between 6-12 %) ²¹. The current proportion of women, as a percentage of the total population, is still slightly greater than half (in the middle of 2006, the population of the Czech republic consisted of 51 % women and 49 % men; the average age of women was 42 years and of men, 39 years).

At the end of the 1970s, Blum and Fisher ²² summarised female criminality into several theses. The proportion of women who commit a criminal act (including murder) is higher in countries where women have greater freedom and equality. The proportion of women involved in criminal activity depends on the social class and minority, to which they belong. The proportion of women involved in criminality is generally growing, which is a result of the dominant trend in the world for a greater variety of roles a woman can assume, bringing with it a greater risk of social failure.

Interpretative schematics for female criminality are conceived in two ways. On the one hand, it is an effort to create a theory to cover the – apparently – divergent causes of criminal behaviour in women, and thereby formulate a generically specific theory, and on the other, an apparent effort to explain the differences between the sexes in number and nature of criminal acts. The attention of researchers in criminology in the field of female criminality is gradually shifting from seeking the causes of criminal behaviour to efforts to formulate principles and programs for the treatment of women within the penal and justice systems, the examination of the nature of informal social systems created within prison or the adequacy of imprisonment as the answer to certain social problems in general.

The study on women given long-term prison sentences revealed that convicts frequently feel that their life in prison is characterised by feelings of uncertainty. They were aware of the fact that their behaviour is constantly monitored and evaluated; however, it wasn't clear to them what is expected of them and what criteria are used to evaluate their behaviour ²³.

²¹ Lubelcová, G.: Kriminalita žien na Slovensku – sociokultúrny kontext. p.27-29, In: Urbanová, M. (ed.). Ženská delikvence jako sociální jev. Collection of contributions from conference organised by the Dept. of Legal Theory of the Law Faculty of Masaryk University, Brno, in 2004; foreign statistics on women in prison – see appendix to this study.

²² Blum, A., Fisher, G.: Women who kill. In: L. Kutash a spol.: Violence – perspectives on murder and aggression. San Francisco, Jossey-Bass Publishers, 1978

²³ E. Genders and E. Player, "Women lifers: assessing the experience", Cropwood Conference Series, No. 19, 1988.

Selected results of the empirical section

The basic sample was selected by a combination of stratification and random procedures from a basic sample of women convicted (imprisoned) for a period longer than five years in such a way as to represent the percentage distribution of offenders imprisoned for serious violent and non-violent criminal acts. The sample of convicted women subjected to field examination and gathering of relevant data counted 86 offenders imprisoned for serious violent and non-violent criminal acts; i.e. 57 % of all women given an unconditional custodial sentence within the Czech Republic, lasting longer than five years (the field study took place mostly in the year 2006).

The average age of convicted women in the study sample was 40 years; of whom the youngest was 24 years old and the oldest, 67. In comparison with the age structure of all women sentenced for a period longer than 5 years, women in their forties (taking up nearly a third of cases) and in their fifties (amongst all convicted women only 9 %, amongst those serving a sentence of more than 5 years, 18 %) are represented the most. The majority (76 %) of women sentenced to a custodial term longer than five years had committed a violent act, while the remaining quarter (24 %) is serving a sentence for a non-violent act.

There was a slight majority of first-time offenders in the study sample, while a third could be termed multirecidivists. Only a small section (16 %) of the sample had started their criminal careers at a young age. The majority of the convicted women had had their sentence imposed for a violent criminal act (murder, injury to health, robbery), and the 'non-violent' offenders most often showed the criminal act of fraud.

Comparison of the structure of education level thus far attained by women sentenced to an unconditional custodial term of longer than 5 years with all female prisoners showed that only a slightly higher proportion (18 %; the proportion is 12 % within the overall female prison population) of all women convicted for a term exceeding 5 years had attained secondary education. The percentage of secondary-school graduates in the 'over 5 years' group is also slightly higher (6 %) than in the entire female prison population (3 %). Higher- and secondary-school leaving certificates are owned by a quarter (24 %) of convicted women.

It was found in case-histories that the majority of women studied lived, during the most important, formative period of their lives (up to c. 15 years old) in complete families, with most of them evaluating their parental upbringing as 'normal', sometimes as 'protective', compared to their peers. The orientation families for the majority of women did not show signs of gross disharmony, and only sporadically did the parents show psychological problems or criminal activity. The social development of women studied mostly did not show any greater eccentricity; most of them attained at least the most basic schooling, and 10 % higher education. Slightly less than a third (32 %) of women were, at the time of the examination, unmarried, with nearly half (49 %) being divorced.

In order to determine the intellectual abilities of subjects, we used Cattell's C F 2 a²⁴ test, which 'measures' so-called fluid intelligence, i.e. intelligence independent of the education or cultural 'background' of test subjects (the 'culture free' test). This type of non-verbal test is

²⁴ Cattell, R.B.: C.F 2A- Příručka pro administraci a vyhodnocování testu. Psychodiagnostické a didaktické testy, Bratislava 1970

intended for the normal, unclassified adult population and measures the factor of so-called general ability, chiefly apparent in situations requiring adjustment to new situations. The intellectual capabilities of test subjects do not show signs of disorder in comparison with the normal population. The average IQ value is around 103, with a higher variation (standard deviation = 16). 33 % of the study sample (1/3 of women) showed an IQ value corresponding to average, while 39,5 % (i.e. 34 women) showed a slightly above-average or above-average value. Slightly more than ¼ of offenders (28 %) showed a lower-than-average value, and 7 % a significantly lower-than-average value. No statistically significant correlation was found between IQ and the variable 'violence' (Spearman's correlation coefficient, $\rho = 0,029$; $p > 0,05$). on the other hand, there was found a statistically significant negative correlation between IQ and age (Pearson, $r = -0.260$; $p < 0.05$); this means that advancing age in women brings with it a fall in IQ.

The Minnesotan MMPI-2²⁵ personality questionnaire was used for the study of personality traits of women in the study sample. Results showed the generally heightened profile of the whole set of test subjects. The normative set of women shows particularly high levels of schizophrenia and paranoia; levels of psychopathic deviation touch the upper limit of norms. It is apparent that the set of delinquent women serving extended sentences shows – in this respect – a greater number of suspicious, distrustful, closed and emotionally unstable, apathetic or temperamental states than the normal population; they show feelings of inadequacy, uncertainty, weak self-confidence and self-respect. Their social skills are insufficient and interpersonal relationships lack depth and emotional engagement.

When comparing violent and non-violent women in the survey group, perpetrators of violent criminal acts showed greater egocentricity (hypochondria), impulsiveness (hypomania) and greater emotional instability (schizophrenia). This is a prominent²⁶ feature. Perpetrators of non-violent criminal acts were closer to the 'normal' population, with the single exceptions of distrustfulness and suspicion shown; a more prominent characteristic of this group (on the limit of the norm).

As regards inner aggressive tendencies, there is a prominent level of antisocial tendencies, closely followed by a spectrum of cynicism. The presence of heightened antisocial tendencies in test subjects is not surprising. The antisocial behaviour of violent women is the greatest cause of increased scores on this scale. Both subsets also show, however, scores raised above the norm in antisocial conduct. As far as self-regard is concerned, both subsets show demonstrably lowered self-respect. This manifests itself in a low sense of self-worth, low self-confidence, passivity in relationships, oversensitivity towards criticism and rejection. These persons do not feel good when other talk about them in a positive light. In the field of general (familial, work-related etc.) problems, there is a prominent spectrum of negative attitudes to therapy, which indicates a heightened 'resistance' towards treatment, including penitentiary treatment. Such persons do not like confiding their problems, do not seek aid and give up on changing their behaviour in a desirable direction; they give up easily and are indifferent to any difficulties they might encounter. In this regard, their individual prediction of criminality becomes unfavourable. The fundamental problem in this area is their low motivation to change, seemingly founded on insufficient self-confidence. It is precisely on this problem that the specialised resocialising effort for conditions of custodial sentences should be focussed.

²⁵ Hathaway, S.R., McKinley, J.C.: Minnesota Multiphasic Personality Inventory – 2. Testcentrum, Praha 2002

²⁶ Prominent = heightened

Both subsets (and the entire sample) also have problems with performance at work. Their attitudes to work tend to be negative and, when faced with difficulties, they give up easily. These problems, too, can be related to their low self-confidence.

The profile of the entire sample and both subsets (violent x non-violent) indicates an overall strong tendency of test subjects to aggravate their own difficulties and problems. The low score on the scale of 'positive self-presentation' (S) is an accordance with the average score 'deceptive scores'. The persons studied did not show a tendency towards inadequate positive self-presentation, with their reactions (agreeing and variable) are consistent. Comparison of all validating scales indicates that the tendency found towards the aggravation of problems is not caused by real problems, but more the attempt to draw attention or care of their surroundings.

Heightened anxiety in test subjects, reflected in the high score on the anxiety (A) scale, has already been described above (they experience relatively great discomfort, are depressed and – as indicated in the name - anxious).

The entire studied sample – and both subsets – show a characteristically weak Ego, i.e. inadequate control of their behaviour through reality (based on mutual ties), submissiveness in interpersonal relationships (with the exception of non-violent women, whose dominance is close to the average) and low social responsibility. Unreliability, inability to accept the consequences of one's own behaviour and untrustworthiness are the commonly-known characteristics of the criminal population, and hence their presence in women studied is not surprising.

The level of acceptance of generic roles are shown in the GM (masculine roles) and GF (feminine roles) scales. Whereas the relatively (insignificantly) low score on the GM scale is to be expected in this group, the low score also in the GF scale is surprising, especially in the subset of violent persons. This shows lower sensitivity and a certain level of acceptance of antisocial behaviour.

Results in both scales diagnosing posttraumatic stress disorder are in agreement with the already mentioned anxiety, discomfort and dysphoria. The marital stress scale indicates dysfunctional partnerships. Somewhat surprising – from a theoretical point of view – is the higher level of distress found in non-violent persons.

Persons in the group studied did not, as a whole, have a higher score on the aggression scale, but nevertheless there could be observed a certain difference in 'favour' of the subset of violent women. The growth of scores, exceeding the norm limit, is apparent at the level of psychoticism, which evidently – rather than real psychoticism – indicates egocentrism, unrealistic expectations and a general detachment from reality. The high, stable NEGE (negative emotionality/neuroticism) scale for both subsets can be interpreted as the disposition to experience generally negative emotions, a tendency towards pessimism, low performance and a tendency to somatic complaints. This indicates likely alcohol abuse.

The noticeably high score in the scales 'alcoholism' (MacAndrew) and 'manifest addictive behaviour' (AAS) indicates that both subsets (and therefore the entire study group) share manifest addictive behaviour, i.e. problems with alcohol or drugs. Accompanying signs are impulsiveness, lack of inhibition, tendency towards spiteful affections, antisocial behaviour and problems in interpersonal relationships, chiefly with those close to them. Not

by chance did Megargee²⁷ classify these two levels into the standard diagnostic procedure recommended for correct prisoner handling: the scale ‘excessive control of hostility‘ (O–H) was created to differentiate criminal aggressors – perpetrators of deliberate homicide. The slightly below-average score with women studied indicates that they should belong to the type with inadequate self-control. This is in accordance with results of other scales of this area. The combination of inadequate control of aggression and increased aggression indicates a tendency towards aggressive reactions for less significant reasons, whereby aggression must not always take the form of direct, physical violence. It can take, for example, verbal form – argumentativeness, tendency towards conflict, hypercriticality towards one’s surroundings, irritability etc.

The study of personality types and possible disorders was carried out using Kuhl and Kazén’s PSSI questionnaire. This instrument is conceived as a self-evaluatory inventory and its purpose – as already stated – is to determine personality types that reflect, in non-pathological form, personality disorders described in DSM-IV (or MKN-10). In its defined form, the relevant personality type is then an indicator of the corresponding disorder.

As concerns personality type or disorder, then the comparison with the – from this perspective – normal, i.e. non-convicted, population, shows that women from the study sample more often show the critical-motivational type, or passive-aggressive or negativistic personality disorder. Their passive behaviour is linked to their critical attitude towards others. The mood of these people comes to resemble resentment. Passive-aggressive individuals feel generally misunderstood, constantly overloaded with excessive or unfair demands, and express their resistance to these (and their surroundings) in an indirect way – deliberate forgetfulness, procrastination, passive resistance. Negativism is expressed in a belief that others are having a better time, wilfulness, etc.

The concept of enhanced, excessive self-assurance in dissociality is, in light of results of MMPI-2 (amongst others), debatable. The increased level of dissociality in delinquent women is not a surprise, excessive self-assurance is countered by findings in MMPI-2. The heightened level of distrustfulness (with possible development into a paranoid personality disorder) in the study group has already been stated in the previous section. That is no doubt that contributing factors to an increased sense of distrustfulness can be a criminal prosecution situation experienced by women in the study sample at least once in the past, and also a situation of constant surveillance and the threat of obstacles typical for incarceration.

In order to establish ability to adjust to one’s surroundings and, on this basis, act successfully, we used the CTI constructive thing questionnaire²⁸. This inventory ‘measures’ so-called experiential intelligence, i.e. the ability – consisting of a number of personality traits – to behave adaptively and successfully. The term ‘intelligence’ is not, in this context, suitable; when choosing it, the author of the test evidently fell victim to the current trend for attaching this label to almost every personality trait. An overview of scales demonstrates that it concerns here a mixture of various qualities, partly from the field of cognitive processes (various kinds of thought) and partly from other fields (self-acceptance, lack of oversensitivity, distrustfulness, tolerance etc.); however, there is no doubt that these can, in

²⁷ Megargee, E.I. a kol.: *Classifying Criminal Offenders with the MMPI-2*. The Megargee System. Minneapolis, Univ. of Minnesota Press, 2001

²⁸ Epstein, S. v překladu Balcara, K.: *CTI. Dotazník konstruktivního myšlení*. Praha, Testcentrum, 2004

specific situations, be influenced by decision-making processes of the individual, thereby contributing to the choice of suitable (adaptive) or unsuitable (maladaptive) behaviour strategies. The test itself therefore allows an insight into the complex adaptive mechanisms of a personality.

It is generally held that women are less capable of coping with stress associated with imprisonment; their reaction to imprisonment tends to be different to that of men. For the majority of men, it does not mean an immediate risk to relationships with their wives, partners, children and parents. Women negatively experience chiefly the absence of emotional relationships, separation from their children, parents, etc. There are more depressive mood-swings and more signs of emotional and social deprivation. Familial relationships of women are almost always disrupted and frequently fall apart completely. As has already been said, convicted women carry with them a much greater social stigma than men (according to social stereotypes, women 'should not' commit criminal acts). These attitudes mean that women are forced to face greater obstacles and pressures than men – in prison, and following release.

Practically all scales on the CTI hover around the average for the study group, and both subsets. Only two scales are found at the upper limit: CT (categorical thinking) a DOO (distrustfulness), which as a subscale evidently contributes the most to its increase. The increasing of the CT subscale is interpreted as a 'tendency to interpret the world in black-and-white' and overlook finer differences. A certain 'rigid' way of thinking, together with a tendency to group events and people into broad categories is a characteristic of this type of person, who favour simple solutions and prejudices. They distrust and dislike those who are not like them; people and events are separated categorically. They may also have a tendency to feelings of distaste and anger, especially when their expectations and stereotypes are not met. On the positive side, categorical thinking aids in quick and decisive action. The CT scale consists of two partial subscales, of which the study group shows higher levels in two: polarised thinking (PD) and distrustfulness (DOO). Polarised thinking represents a certain way of processing information, the tendency to think in extremes. The tendency to group people into broad categories, especially when the difference is between one's own group and others, leads to one also having a tendency to see other groups as a threat and therefore, the target of one's aggression. Distrustfulness relates to the content of thinking. Convicted women scored highest in the subscale distrustfulness. Items in this subscale establish the extent to which people regard others as untrustworthy and see in them a potential threat. The higher distrustfulness of women in the study sample is confirmed by other tests used. High scores in 'categorical thinking' are interpreted as a sign of tendency to anger and distrust, as with polarised thinking.

Psychodynamic aspects of personality were mapped through the Chromatic Association Experiment (CAE)²⁹ and the Figure Drawing Test (FDT)³⁰. The CAE technique, constructed by Vadim and Jana Shchepichin, uses colour choice to determine personal preferences, attitudes to one's surroundings and some values and any internal conflicts in relation to

²⁹ Ščepichin, V. a kol.: Chromatický asociační experiment. Horkel, Trnávka 1995; Uses the linking of perception and experience of colours and expressions, to which the individual gives some meaning, significance or memory. The use of colours itself as a means of psychological diagnosis offers the analogy of CAE with a group of so-called colour tests, but CAE also includes a diagnostic based on the hierarchisation of twelve useful colours as part-criterion for personality assessment. For the purposes of the study, we used the modified version of CAE.

³⁰ H. J. Baltrusch

various areas of life. Most burdened by conflict are, in the study group, ties to family and one's nearest, reflected in the amount of 'discord' with the keywords *family*, *child*, *home*, *childhood* and *love*, and feelings of happiness with life denoted by the keyword *happiness* and ideas about the *future*. In this respect it is interesting that the past, as a rule associated also with criminal activity, for which they were convicted, appears to be for them (subjectively) less problematic. Comparison of the number of discords and parent figures indicates a problematic relationship with the *father* (on a conscious level, the word was evaluated better than on an unconscious level, when it was actually rejected). There is a certain conflict between the apparent and real, subjective meaning of *education*. Persons from the study group show an ambiguous relationship towards *alcohol* and *power* (imagined keywords: rule, power). Problematic relations to one's surroundings are also indicated by the keywords *friend* and *man*. The words *suffering*, *I* and *attack*, as well as *blood* and *alcohol* were judged 'negative' and rejected, but on a subconscious level, these words had for the test subjects a 'more positive' meaning.

Comparison of women in the subsets of violent and non-violent perpetrators indicated that women committing serious violent criminal activity are more egocentric and emotionally impoverished, more submissive and have worse self-control than women committing serious non-violent criminal activity. Criminal acts tend to be committed at a younger age.

Analyses carried out only used part of the data gathered. In a future study, we would like to continue in this and e.g. attempt to verify the feasibility of Megargee's penitentiary typology based on MMPI-2 and subsequent penitentiary handling, and also develop findings gained through factor analyses for our own classification of female perpetrators of serious criminal activities with an orientation towards options for their differentiated handling.

Effectiveness of supervision of persons conditionally released

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The provision on supervision in cases of conditional release from serving a prison sentence (Section 63, para. 1 of the Criminal Code) was introduced in our criminal legislation in the amendment to Penal Act No. 265/2001 Coll., with effect from 1 January 2002. This measure basically provides a convicted person with the opportunity to prove his/her ability and will to become an orderly and law-abiding member of society with the assistance of a probation officer. Various entities participate in performing tasks in particular phases of conditional release, particularly the Prison Service, the courts, the Czech Probation and Mediation Service, social curators and organisations providing social services. The aim of the research study presented was to ascertain to what extent implementation of this provision is successful in practice, particularly in terms of recidivism and resocialisation of the persons released. These findings should aid gradual improvement in the activity of the authorities involved and in their mutual cooperation.

Examination of the actual effectiveness of particular criminal law measures is one of the most important tasks of current criminological research. The issue of persons released from serving a prison sentence is one which draws the most attention in this respect, for the number of these persons is progressively rising in the majority of countries. As available foreign studies indicate, a significant number of these persons come into conflict again with the law shortly after release. By focusing on a study of risk factors, or factors which demonstrably help successful reintegration of released persons into society (including the activities of the probation service, the courts and other authorities), criminological research can be of considerable assistance in successful avoidance of recidivism in practice. This applies in spite of the fact that research projects of this type face no small number of methodological problems. In comparison with other countries, however, there is an evident lack of studies in the Czech Republic targeted in this way. The paper submitted is also, therefore, one of the attempts to change the situation in this area, specifically in connection with the mechanism of supervision in cases of conditional release.

The empirical part is based on of a number of research methods and techniques. The authors analysed available statistical data from the Czech Ministry of Justice and the Prison Service. They also made a detailed and profound analysis of data from the Criminal Register relating to persons for whom a court ruled conditional release with supervision and who were on the files of the Probation and Mediation Service in 2003. An integral part of the research was also a specialist questionnaire survey in which officers of the Probation and Mediation Service and social workers – coordinators of social care for persons termed socially unadjusted – took part. A detailed analysis of a sample of court files concerning persons released from serving a prison sentence between 1 January and 30 June 2002 then helped assessment of the practical aspect of performing supervision of persons conditionally released. This part of the survey was directly linked to an earlier study by the Institute for

Criminology and Social Prevention conducted in 2004 (Provision on Supervision in Cases of Conditional Release).

Ministry of Justice statistics show that 18,699 persons were conditionally released in the Czech Republic between 2002 and 2006. Supervision was ordered for 3,209 of these (an average of 17,2 % per year). Most of those convicted for whom a court applied this measure in this period had served a prison sentence in a controlled prison (2,045 persons). It is certainly worth mentioning that the ratio between positive and negative decisions on applications for conditional release has been constant long-term and fluctuates between 60 % and 40 % in favour of a positive decision.

Interesting findings have been offered by analysis of data from the Criminal Register enabling more detailed examination of criminal recidivism recorded (its frequency, nature and development), and thereby also assessment of the effectiveness of sentences and measures applied. The research sample included 672 convicted persons conditionally released (629 of these male) for whom a court ordered supervision and who are found on PMS records in 2003. For 555 of this number, it was the first conditional release from a prison sentence. The average age on release was 32,1 (reference pattern 25 years). The youngest person in our sample released was 16, the oldest 62. The most frequently represented age categories were 22 – 29 (37,4 %) and 30 – 39 (37,1 %). The age of first conviction for criminal activity was 21,3 (reference pattern 18 years). A total of 61,7 % of those convicted were first recorded in the Register as early as between the ages of 15 and 20.

One of the facts monitored was the time from first conviction to the actual conditional release (this was in fact the time the criminal career of the person released was registered up to the date of conditional release). On average this was 10,8 years, and the longest interval was 40 years. Generally most numerous was the group whose criminal activity had lasted over a long time period (for 41,8 % of convicted persons the time from first conviction to the time of conditional release was more than ten years). According to the number of previous convictions in the sample, individuals for whom 4 to 6 previous legal convictions had been recorded in the Register (40,1 % of the whole set) dominated. More than a fifth of those convicted already had 7 and more records. On the other hand, only a tenth had been convicted for the first time. As regards the nature of recidivism, for more than half of those conditionally released (52,5 %) this was specific recidivism (repeat of criminal offences involving the same facts of the crime), for 29,6 % general recidivism (repeat of criminal activity as such) and for 17,9 % recidivism of the same nature (repeat of the same type of criminal offence). By far the majority of persons were conditionally released by courts from serving a prison sentence for a conviction for a crime against property under section nine of the Criminal Code (almost half of the total sample), then a fifth for committing a criminal offence under section eight (the majority of them for the criminal offence of robbery). As regards the length of sentence imposed which the convicted person had served before conditional release, sentences of up to three years predominated (65,3 %). Sentences of up to one year constituted more than a quarter.

The average length of probation amounted to just under 4 years. Probation for one year was stipulated by a court only for 11 persons (2,1 %), whereas in contrast to this courts stipulated the longest possible length in 50 cases (7,4 %). A three-year probation period was the most common (25,6 % of those convicted). It was shown that there is a clear and statistically significant connection with the length of the preceding sentence. The longer a sentence is served the longer the probation period set by the court. Also the relationship to the

age of the person conditionally released appears to be interesting, where the courts impose a somewhat shorter probation period on younger persons but a longer probation period on older persons.

Certification of fitness was already indicated in the Criminal Register for 14,6 % of the persons in this sample, whereas we noted an order to serve the rest of a prison sentence for 15 %. If we look at persons with a shorter probation period, where a court was close to reaching a decision on termination during the period in which our research was being conducted (probation period of 1 to 3 years – a total of 132 persons), certification of fitness was indicated in the Register for 64 of these (48,5 %), whereas 24 persons in this group had been ordered to serve the rest of their sentence (18,2 %).

We have to regard as very alarming the finding that we noted further convictions (most frequently one) recorded in the Criminal Register during the probation period for 268 of those conditionally released in our sample (39,9 %). There were even 18 persons who were convicted more than three times during the conditional release with supervision probation period. Statistical analysis indicated a clear connection with the age of the person conditionally released, in that the older he/she was the less likely a further conviction was in the probation period. We certainly cannot overlook the fact that half of the youngest persons conditionally released were re-convicted in the probation period (whereas roughly only every tenth one of the oldest was). The Criminal Register also made it possible to deal with any further convictions after the end of the actual probation period (this affected a total of 266 persons). Recidivism was recorded for 15 % of this group, while for half of them there was a further conviction within six months following the end of the probation period.

An important part of the research was a specialist questionnaire survey conducted with a sample of probation officers and social curators – coordinators of social care for socially unadjusted persons. Its aim was to map out the experience of respondents regarding performance of supervision of those conditionally released, cooperation between individual entities and the actual work with clients. We sent out questionnaires designed for probation officers through the Czech Probation and Mediation Service Directorate to all 76 centres (always one questionnaire for a probation officer who deals with the issue examined). 68 questionnaires were returned to us (so the return rate amounted to 89 %). The questionnaire for social curators was sent through the nationwide Pandora electronic conferencing system. A total of 208 social workers were approached and 59 of them sent in questionnaires (a return rate of 28 %).

It can be regarded as a positive finding that, in the opinion of the majority of probation officers, promotion of the appropriate methodological procedures and standards in probation and parole have been by and large successful. It is shown, however, that some of them would welcome certain changes in current practice in the field of preparation and execution of supervision of persons conditionally released. There is widespread dissatisfaction in particular with the standard of cooperation between the court and the PMS (66 % of the responses from probation officers commented on this issue), and the necessity was stressed in particular for timely response by the courts to probation officers' reports on the progress of supervision. Respondents also recommended a number of legislative changes, inter alia in the field of issuing decisions on conditional release. Proposals were also made to shorten the period of supervision or probation and to tighten up execution of supervision in general. Greater attention should be devoted according to some probation officers to selection of suitable convicted persons for conditional release, including creation of tools for objective assessment

of risks and the needs of convicted persons. Certain room for improvement can also be seen in encouraging probation resocialisation programmes and other measures and services for those conditionally released (in particular opportunities for accommodation and finding suitable work). As in other surveys, this time too dissatisfaction was expressed with the staffing and technical facilities of the PMS, which should according to the respondents be significantly enhanced.

The opinion prevails among probation officers that supervision is by and large successful in reducing the risk of recidivism for convicted persons conditionally released, and also ensuring positive changes in their behaviour. As regards ordering service of the rest of a sentence, the commonest reason according to probation officers is further legal conviction of the client for commission of a criminal offence during the probation period. Some respondents stated in their comments that they do not receive the necessary feedback from courts as to whether there was a reaction and what it was to their notification that supervision conditions had not been complied with. Probation officers consider the most common reasons for recidivism to be financial problems on the part of a person conditionally released, return to a bad environment, a worsened possibility of finding employment, loss of family and social background and loss of a home. This basically corroborates the findings from other criminological studies.

Respondents in general evaluated conditions for performing selected duties connected with conditional release as average or rather poor. They had a more favourable view of conditions for treating intoxicating substances addiction; in contrast conditions for implementing social training and re-education programmes came out worst. Probation officers pointed out that restrictions of a general statement nature (for example, avoiding visits to an unsuitable environment, avoiding contact with certain persons or avoiding gambling games) are very difficult to enforce and to check. At actual meetings with clients, the most frequent problems dealt with are those of a financial nature, in particular compensation for damage and other debts of a person sentenced.

Findings concerning cooperation of probation officers with social curators showed a favourable response. According to them, the latter have specific information on convicted persons and are willing to provide them to the PMS. A number of respondents appreciated the fact that this cooperation leads to better motivation of clients and their direction to other organisations (for example for ensuring a stay in shelters). A further benefit is provision of a financial allowance to sentenced persons, and also greater possibilities for curators in making investigations in the place where a convicted person lives. Some probation officers also see positive elements in cooperation with providers of social and other services specifically targeted to work with those conditionally released. The advantages, as seen by them, are in particular an individualised approach to the client and more intensive work with him/her, or better awareness of his/her problems.

The questionnaire survey conducted among social curators showed that the services most frequently provided to persons conditionally released are social assistance from them, advisory activities and individualised short-term action. On the other hand, in only relatively exceptional cases do they engage in specialist psychosocial and therapeutic activity. Conditionally released clients utilise mainly the possibility of provision of financial and in-kind social care benefits or other social benefits. They approach the curators most often on the initiative of a certain facility or institution. As regards their actual activity in practice, a slight

majority of social curators (63 %) stated that they provide it on the basis of notification in writing from the Czech Prison Service where the client is placed in prison.

According to social curators, supervision mostly proves successful in getting victims involved in the conditional release process. On the other hand, it is not particularly successful in achieving positive changes in the behaviour of a conditionally released person; nearly half of the respondents did not see any influence of supervision on reducing recidivism. By far the greatest benefit of supervision with respect to the provision on conditional release according to social curators is freeing the capacity in prisons. As regards the causes of re-offending, respondents saw as the most problematic the return of a sentenced person to a bad environment, loss of family and social background, worsened opportunities for finding employment and unwillingness to change the way of life he/she has led so far.

Like probation officers, most social curators also appreciated the possibility of mutual cooperation. The advantages according to them are mainly mutual provision of information, willing, helpful and flexible cooperation, the professionalism and specialist skills of probation officers, the possibility of consultation and individualisation of cases and also the possibility of greater socio-therapeutic action on a client. Vital in the cooperation with providers of social and other services is, according to the social curators, the opportunity of specific help to clients in the form of providing accommodation, offers of employment, material assistance, specialist advisory services and psycho-social help. An inadequacy, unfortunately, is the very limited network of providers for the time being, and thus a limited availability of these services for clients (or limited capacity of already existing facilities).

The concluding part of the research report consists of a summary of findings from analysis of 97 court files entered in the conditional release register in 18 district (area) courts. This was part of a sample of sentenced persons for whom conditions of court decisions on their release had been ascertained in previous research in 2004 (see above). It was shown that monitoring of the execution of supervision in the cases examined was always (except for two omissions) entrusted to the appropriate PMS centre. This remit was implemented by an instruction in writing from the offices for dispatch of form 151 of Office Rules; courts also attached legal decisions on conditional release to it and in some cases sent notification of or attached written documents with further information required for correct targeting of the execution of supervision. PMS centres were given a statutory six-month time limit for submitting reports to courts, and sometimes a specific date was even set for submission of the first report. Only for two convicted persons was a time limit other than the statutory one set for submission of reports. In most cases, PMS centres were charged with execution of supervision shortly after the decision on conditional release came into legal force (in more than half the cases within 14 days). However, we also noted cases when this authorisation was sent late, usually as a result of delay in implementing an instruction of the presiding judge by court offices.

It was ascertained that, after registering the conditionally released persons, PMS centres were quick in inviting them to a first consultation (in nearly half of the cases the first mutual contact took place within two months of a conditional release). Any delays were caused by failure to respond to an invitation to a meeting with the probation officer by the sentenced person, often repeated. On the other hand it was shown that some of those conditionally released did not wait for an invitation and appeared at the PMS centre of their own accord. For a total of 10 conditionally released persons in our sample there was no contact at all with

a probation officer (the reason here was most often custody or starting to serve a prison sentence).

Unfortunately it was shown that the legally stipulated obligation to inform a court was not always duly complied with by probation officers. For the first report, probation officers complied with the six-month time limit only for 40,2 % of those conditionally released and also further regular reports were submitted very irregularly. On this point, probation officers requested a change in the statutory time limit in only three cases. Courts pressed the PMS centres concerned for submission of reports after the statutory time limit had elapsed, sometimes repeatedly. So it was not always done conscientiously and often after a relatively longer period of execution of supervision. Nevertheless it applied in general that probation officers complied with the obligation to inform the court concerning more serious breaches of supervision conditions (mostly loss of contact or decisions made in further criminal prosecution) or concerning more systematic breach of reasonable restrictions or obligations. Together with actual notification that supervision had not been performed, they requested provision of measures which would lead to elimination of defects ascertained, assistance in tracing where people lived or views on further procedure.

Courts mostly responded to defects indicated depending on their gravity, from written warning of a person conditionally released, pointing out the necessity of due compliance with supervision conditions and the possibility of ordering service of the rest of the sentence in the event of continuation in inappropriate behaviour, up to ordering a public hearing and if need be a decision to order service of the rest of the sentence already during the probation period. Cases were also found, however, when courts did not respond at all even after repeated notification by probation officers. In addition to the actual reports from PMS centres, courts requested additions to the Criminal Register transcript at regular half-yearly or annual intervals and also further reports from the place of residence, as well as reports from the Czech Police and the Czech Prison Service, and reports on compensation for damage or costs of criminal proceedings. But in some cases these reports were requested only once, shortly before or even after the end of the probation period, or not furnished at all.

51 cases (52,5 % of the total number) had been completed by court decision during the period of our survey. Of these a judgement of certification of fitness was issued for 21 persons and an order to serve the rest of the sentence issued for 30. For 22 persons there was certification by legal fiction and for 23 proceedings were not completed because the probation period had not yet ended, or no decision was made within the time limit of one year following the end of the probation period. In one case the method of completion could not be ascertained from the file. The district courts concerned decided to order service of the rest of the prison sentence for 22 persons conditionally released during the probation period, and issued a similar decision for 8 persons conditionally released after it had elapsed. The reason for initiating proceedings was primarily probation officers' reports which indicated serious shortcomings in the behaviour of those conditionally released or in complying with supervision conditions. The reason for ordering service of the rest of the prison sentence for most of those conditionally released (roughly 90 %) was legal conviction for further criminal activity, and in the rest of the cases the reason was the failure to fulfil the obligations arising from supervision. However, these reasons were in most cases cumulative, often also including the failure to fulfil other obligations, in particular obligations to provide compensation for damage caused or to pay ongoing and owed maintenance.

Judgements were made on certification of fitness for persons conditionally released during the whole year after the probation period had elapsed, most often within three months, and always when all the statutory conditions for this decision had been met. Recommendations to courts for a judgement of certification of fitness often also contained final reports from probation officers. Written consent to issue of a judgement of certification of fitness at a closed hearing, after the written documentation had been examined, was given in all cases by a state prosecutor.

In a number of disputed cases the occurrence of a legal fiction was found in completed proceedings on conditional release from serving a prison sentence. The proportion of these (30,1 %) is relatively high in relation to all cases terminated. Conditional release was also terminated in this way in cases when, after all the statutory conditions had been met, it was immediately possible upon expiry of the probation period to issue a judgement of certification of fitness pursuant to Section 64, para. 1 of the Criminal Code. In all cases the previous consent of a state prosecutor to this procedure was also given. By its systematic inclusion in the law and by its nature, a court decision to issue a judgement of certification of fitness is to take precedence over certification by indicating a fiction.

In addition, certain cases where a public hearing was to be ordered were also completed in the way stated above, for the facts ascertained indicated that conditional release had not led to a respectable life during the probation period, the stipulated conditions had been breached in a serious manner and obligations arising from supervision had culpably not been fulfilled. The fact that courts did not respond to deficiencies ascertained and allowed the probation period and also a further period of one year to pass without discussing the case detracted from the purpose of the provision on conditional release with supervision and also its educational nature. And finally, cases were noted of completion by indication of a legal fiction, where there were reasonable doubts concerning fulfilment of one of the basic statutory conditions for this procedure, namely that the person conditionally released was not to blame for the fact that the court had not come to a decision. Those conditionally released changed their place of residence without notifying the authorities concerned of the change, so that courts could not make the necessary investigations and make a decision within the stipulated time limit. In these cases a legal fiction was indicated prematurely, for it could be traced where the person conditionally released was living and a decision could be made in one of the statutory ways before the statutory limitation period expired (Section 68 of the Criminal Code).

In the written statements of judgements, the practice of courts varied when stating the provisions applied; some courts only stated substantive law provisions (Section 64, para. 1 of the Criminal Code) and others supplemented these with procedural provisions (Section 332, para. 1 of the Criminal Procedure Code). Differences were also found when it was ruled that the rest of a sentence should be served. The correct procedure was adopted by courts which stated all provisions in their rulings and gave a numerical indication of the rest of the sentence which the person conditionally released was obliged to serve. Where a judgement to order service of the rest of a prison sentence contained the reasons, the provision on supervision was in some cases underrated in their written statements, when the conditions for it had not been met at all, or was assessed quite inadequately.

In analysing PMS reports on the progress of supervision, we also focused on certain other factors. One of these related to employment of persons conditionally released. For a total of 28 % of those convicted in our research sample, a commitment by a future employer was submitted before the court made its decision on conditional release. Several of these were

persons for whom the PMS had acted before release. Nevertheless it was shown that only about half of this number actually started work, whereas the others registered at a job centre after their release. Actually, the great majority of those convicted went to one during their probation period (this did not apply only to 16 % of those for whom the required information is available in PMS reports). However, the time during which individual persons convicted cooperated with this institution varied. Whereas some were only registered briefly and actively looked for work, some of those released were basically content to receive the social benefits they were given.

Very typical for most of those convicted is the existence of debts in connection with their previous stay in prison and costs of the criminal proceedings that had taken place (this applied to nearly 90 % of the sample surveyed). For 47 of those convicted it could be seen in the PMS reports whether and to what extent they paid these debts. We found that roughly 40 % of debts were paid in the probation period and the required documentation for this presented to the PMS, then approximately the same number paid them only partly and did not submit proof regularly to a probation officer. A fifth of those convicted did not pay their debts at all. This proportion would probably, however, turn out to be less positive if all the clients in our sample were included, namely including those in whose case there was practically no cooperation with the probation service.

For a total of 36 clients, the court imposed reasonable restrictions or reasonable obligations. Most frequently these related to compensation for damage caused by criminal activity (24 persons). It can be seen from PMS reports that of the 21 clients concerning whom we had the required information only two actually duly paid it. Ten clients paid compensation for damage only partly and did not submit the required documentation to the probation officer at their meetings, and a further seven clients did not pay it at all, most frequently giving the reason that their financial situation did not make it possible for them. They came in for criticism for this attitude in some cases from the PMS, but in others the probation officer responded to an argument of this type and stated it in his/her assessment as an objective impediment to the client fulfilling his/her particular obligations. In the last two cases of this number the clients showed interest in paying for damage, but did not succeed in doing this during their probation period despite the efforts of the probation officer to link them up with the injured party.

The second most common obligation stipulated by the court was the obligation to enter employment without delay, or to register at a job centre as an applicant for employment. This concerned a total of 10 persons; eight of these fulfilled this obligation to register at a job centre, and one entered employment (in the last case the relevant findings could not be obtained). The obligation to pay maintenance imposed in addition to ordering supervision related to 6 convicted persons. Analysis of PMS reports showed that most had serious problems in meeting these payment obligations and when they did pay maintenance it was only irregularly. Probation officers generally criticised this attitude in their reports for the court.

Absolutely crucial information in PMS reports on the progress of supervision is overall assessment of the client's cooperation with the probation officer and compliance with supervision conditions. For nearly half of those convicted we were able to find positive assessment throughout the probation period, and for roughly another fifth of the clients the probation officer had minor reservations, though not such that would according to them lead to an order to serve the rest of their sentence. Despite this, some of these clients did not prove

themselves during their probation period, most frequently because they committed a further criminal offence. It can be seen from their PMS reports that the probation officer was often informed of these facts late, and we even found cases when the PMS sent a positive report on cooperation with a client who was already serving a further prison sentence at this time. Probation officers already had serious reservations concerning compliance with supervision conditions for roughly a quarter of the clients in our sample, and for 10 % supervision basically did not take place. Also the court usually ordered these sentenced persons to serve the rest of their sentence. As has been stated above, however, unfortunately cases were found when the court took no notice of information from the PMS and granted certification to the client despite repeated warnings from the probation officer that supervision was not fulfilling its purpose.

These findings indicate that the effectiveness of supervision for those conditionally released is not yet adequate. In the authors' opinion it could be enhanced by a number of measures. For instance, attention needs to be devoted to the question of the actual selection of convicted persons for whom this provision appears suitable. A key point here also appears to be cooperation between the court and the Probation and Mediation Service, which according to the findings presented above is not always ideal. Inadequacies can be detected in particular in connection with responses by courts to probation officers' reports on failure to comply with supervision conditions by a sentenced person. A point worth considering is to regulate the duty of the court to notify the PMS centre of the termination of supervision. Similarly, it would be useful in practice in this area to introduce the possibility of flexibly revoking supervision where needed during the probation period of a person conditionally released, or conversely to stipulate it; the authors also propose to regulate by law the obligation for a person conditionally released to report to the PMS within a certain time limit after release (for example within seven days). The overall effectiveness of the provision on conditional release understandably cannot be assessed without creating appropriate offers of resocialisation programmes and other services for those released, let alone without adequate personnel and also technical reinforcement of the Probation and Mediation Service.

Robbery Crime in Prague

2004-2005

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Robbery (provisions of Section 234 of the Criminal Code) has always ranked among the most serious crimes at all. Social dangerousness of this type of crime is high. Moreover, precisely robberies have been one of the most frequented serious crimes in the Czech Republic in recent years. For this reason, as well, one of research carried out at the Institute of Criminology and Social Prevention focused on this issue. The subject-matter of the research mentioned above consisted especially in robberies in Prague for out of the total number of robberies committed in the Czech Republic in recent years, those committed in Prague have a share of more than one third. The goal of the research was to describe and analyse the existing robberies status in Prague according to selected variables, and furthermore understanding and description of fundamental criminological factors.

The following methods, techniques and procedures were applied in the research:

- a) Study and analysis of specialized materials and resources (both national and foreign) concerning the given issue;
- b) Analysis of legal regulations and their development;
- c) Analysis of statistical data from the police, courts and state prosecution offices;
- d) Analysis of data from judicial records from 2003.

In essence, an agreement can be found in criminological literature on the fact that the robbery is a typical example of the so called street crime. Some authors remind us that the term street crime often becomes almost an abundantly used synonym for robbery. In this respect, criminal statistics truly provide convincing evidence on the whole that robberies occur much more frequently in public areas in cities and large industrial agglomerations than in the countryside. An explanation can be sought especially in the insufficient level of social control of human conduct and behaviour. It has been namely known that the intensity of such control is inversely proportional to population density in the given locality. As a tradition, a relatively high level of crime or deviant behaviour is shown especially by blind street areas, high-rise buildings from a certain number of floors, blind entrances, elevators, lobbies, staircases and fire escapes, underground parking areas and corridors.

Robberies have been discussed in criminology lately also in connection with the so called fear of crime, understood today besides classical objective indicators (i.e. the extent, structure and dynamics of crime) ever more as one of fundamental measures of safety situation in any given country, while it follows from national as well as foreign research in this connexion that the fear of crime is felt by the public especially in relation to violent crime.

The overall increase of crime in the Czech Republic after 1989 was manifested in the robberies, too, by a considerable increase. In the first years after the revolution, the number of robberies in the Czech Republic increased about 5 times compared to 1989 (Czech Republic – 1989 – 789; 1990 – 3855). The trend in development of the robberies copied general trends of crime and held true for Prague, as well (Prague – 1989 – 191; 1990 – 1219). This unfavourable development was stopped and stagnated in the 90ies; however, further considerable increase of robberies occurred in recent years (the number of ascertained robberies in the Czech Republic in 2004 (6107) increased by 39,6 % compared to 2001 (4372)).

The region of Prague the capital took a one third (33,4 %) share in the total number of registered robberies in 1995 – 2004. In 1995 – 2004, the clear-up rate of robberies in the Czech Republic (CR) ranged from 38,9 % to 45,1 % – the average value was 42,5 %. Clear-up rate of robberies in Prague was the lowest out of all regions in the CR, and in the last ten years, it has been in the range from 22,4 % to 28,4 % – the average value was 42,6 % in the period observed. Out of ten Prague districts, Prague 4 – 2984 cases and Prague 1 – 2958 cases reached the first two places according to the registered robberies in 1994 – 2003. As for Prague 4, this is certainly given by the fact that it is a large district with the highest number of citizens. As for Prague 1 where there are only about 30,000 permanent citizens on the contrary, almost ideal conditions for a number of criminogenic situations must be taken into account (a lot of foreign tourists, a high number of places of entertainment etc.). Nevertheless, the clear-up rate of robberies in Prague 1 is very low (for example, in 1994 – 2003, Prague 1 reached the 9th place in Prague with clear-up rate of 25,9 %). Total value of material damage, caused by robberies in Prague in 1994 – 2003, achieved CZK 967,675.1 thousand. The highest damage was detected in 2002, namely CZK 203,278.2 thousand.

Out of the total number of prosecuted persons in 1995 – 2004 (26,382), persons prosecuted due to a robbery in Prague amounted to 17,8 % (4,701). Out of the total number of persons prosecuted due to a robbery in the CR, recidivists represented 35,8 %, and their share in Prague was 33,3 %. Foreigners were represented by 11,7 % among prosecuted persons due to robbery in the CR in 1995 – 2004; in Prague, foreign citizens formed one quarter of all prosecuted persons (25,1 %). A warning signal from the recent years is represented by the rising number of robberies committed by children and juvenile persons. In respect of the serious nature of this type of criminal activity, favourable statistical data showing that total criminality of this age group has been decreasing lately are relativized in a considerable extent. According to the age of persons prosecuted in 1995 – 2004, the largest group of persons prosecuted due to robbery in the CR is represented by persons aged between 20 – 23 years (19,6 %); in Prague, the first place among prosecuted persons is held by those aged between 24 – 29 years (23,9 %).

After 1990, both an increase in the absolute number of persons convicted of a robbery was registered, as well as an increase of the share in the total number of convicted persons. While before 1989, the number of those convicted of robbery was about 500 – 600 persons (521 in 1989), 15 years later, their number trebled (1695 in 2004). The share in the total number of convicted persons in robberies increased from a little less than 1 percent (0,7 % – 0,9 % in 1985 – 1989) to a value exceeding 2 % (with the exception of a single year, 1994, when the share achieved 1,9 %); in some years, it reached even 3 % (1991 – 3,1 %; 1998 – 3,0 %). In the course of the last 20 years, the way of punishing the robbery changed. In 1985 to 1991, unconditional sentence was imposed for the robbery in more than 80 % (82,7 % in 1991 up to 86,6 % in 1989). However, starting from 1990, gradual reduction of their share has occurred

for the benefit of conditional sentences (in respect of the changed terms). The structure of unconditional sentences did not change much in 1985 – 2004. Average values for 1985 to 2004 are as follows: Unconditional sentence up to 1 year – 640 persons, i.e. 4,6 %; more than 1 year up to 5 years – 10,928 persons, i.e. 78,2 %; more than 5 years – 2,400 persons, i.e. 17,2 %. From the viewpoint of the sex, there is no surprise that the vast majority of persons convicted of the robbery are represented by men (average for 1985 to 2004: 93,8 % men, 6,2 % women). As for age, the largest group of persons convicted of the robbery in 1995 to 2004 falls in the age category of 20 – 24 years (26,3 %). The second largest group is represented by convicted persons in the age category of 15 – 17 years (22,9 %).

In order to provide a more accurate and detailed view of the robberies issue, as the next step we decided to perform an analysis of special statistical data, provided to us by the police, and concerning robberies committed within the area of Prague the capital, specifically in 2003. A great advantage of the data is that they included a sample of robberies committed in the given area and period. However, a rather weak point of the material on the contrary is represented by the fact that some data monitored in this way by the police are not sufficiently differentiated from the criminological point of view (for example, this concerns the crime scene, the way of but also victims of the robbery). Statistical data of the sample of 1732 robberies were analyzed in detail in the research, out of the total 1785 robberies registered in Prague in 2003. In 1011 cases, a man became the victim of a robbery in Prague, a woman in 600 cases, and a group of persons in 121 cases. Out of the total number of 1932 victims, 336 victims were injured, no one lost his or her life in the robbery. Material damage was caused to 1405 victims in the total amount of CZK 69,050.2 thousand; only 182 victims suffered no physical or material damage in Prague in 2003. It showed that the robberies in Prague culminated in night hours. After all, this also corresponds to knowledge gained from other national as well as foreign research projects. In the time horizon from 10:01pm – 02:00am, 547 (31,7 %) robberies were committed; 696 robberies (40,1 %) were committed from 9:01pm – 03:00am. As for individual days in the week, most robberies were committed on Friday (285) and Saturday (283), the least number of robberies occurred on Monday (215) and Sunday (220). Division according to months shows that the highest number of robberies occurring in Prague in 2003 took place in November (182) and December (181), the least one occurred in July (117) and June and January (128 both). Upon comparing the winter and summer months, 936 robberies (54 %) were committed in winter ones (from October to March), and 796 robberies (46 %) in summer ones (from April to September). As for the offenders known to the police, out of the total number 539 (504 men and 35 women), 390 offenders were Czech and 149 were from abroad. Ukrainians were represented most among the foreigners (72 offenders), then Slovaks (30) and Lithuanians (13). As for employment, a considerable part of the offenders were characterized by the police as unemployed persons (227 offenders). From the criminal point of view, in 2003, 47 offenders had been examined by the police before and 204 offenders were denoted by the police as recidivists.

The following main conclusions follow from an analysis of individual criminal cases when 65 persons were convicted upon final judgment of the robbery pursuant to Section 234 of the Criminal Code at four selected district courts in Prague and the Municipal Court in Prague:

In general, it can be stated that all bodies active in the criminal proceeding devoted due attention to proper clarification and negotiation of the given criminal activity. It was proceeded in accordance with relevant material and process provisions of criminal law, and the mistakes or different legal opinions concerning specific issues found can be denoted as

quite sporadic. The legal qualification applied corresponds to results of the conducted evidence proceedings as well as to the description of facts in statements of the law of judicial decisions; the principle that a fact should be considered according to all provisions of the material law that can be taken into account, was respected. A more serious consequence was always expressed in the qualified facts of the robbery crime, upon fulfilment of the material condition stated in provisions of Section 88, Subsection 1 of the Criminal Code.

In deciding on sentences, in most cases already the first instance courts respected the general principles to impose some of the sentences types stated in provisions of Section 27 of the Criminal Code and to determine their specific terms (Section 31 of the Criminal Code). In imposing of sentences, it was also proceeded in accordance with provisions of Section 39, Subsection 2 of the Criminal Code, which expresses the subsidiary nature of unconditional imprisonment sentences; differences were found among individual districts in the ratio of unconditional imprisonment sentences and alternative sentences, which follow rather from consistent individualization of assessment of all decisive facts than from more benevolent approach of some judges to the offenders.

Unconditional imprisonment sentences were imposed on two thirds of convicted persons; the whole range of terms was not used in their imposition; most sentences were imposed near the lower limit and in the lower half of legal terms stated in individual subsections of Section 234 of the Criminal Code. As for the service of unconditional imprisonment terms, one half of convicted persons were placed in especially guarded prisons, and only in one convicted person the provision of Section 39a Subsection 3 of the Criminal Code was applied and the person was placed in a prison with mild regime.

For the robberies qualified in the basic facts (Section 234, Subsection 1 of the Criminal Code), one third of convicted persons were imposed the imprisonment sentence conditionally suspended. Conditional imprisonment sentence with supervision was used, as well, imposed in the maximum term allowable by the law, and the probation was set to be longer than in conditional sentences without supervision (usually higher dangerousness for the society). Certain defects were found in judicial statements on determining supervision as well as in reasoning of the judgments, especially in determining specific duties, which the convicted person must comply with, in determining their scope and in justification as well as missing instructions on the consequences upon failure to fulfil or violation of the supervision duties. Only one convicted person was imposed the duty pursuant to Section 59, Subsection 2 of the Criminal Code to comply with treatment (and also inaccurate formulation). Other sentences aimed at strengthening protection of the society were also imposed on the convicted persons while respecting mutual relationships among individual sentence types and under fulfilment of legal conditions, namely the sentence of banishment in foreign nationals, sentence of prohibition of abode in the area of Prague the capital, and sentence of forfeiture of a thing; imposition of a fine was not registered (insolvency of most convicted persons – uncollectible punishment). The courts dealt with legally significant facts to determine the type and term of the imposed sentence, represented by extenuating (proper life was assessed most frequently) and aggravating circumstances (recidivism in most cases) in their justifications; however, not all were always assessed in a consistent manner from all applicable viewpoints and in all mutual connections.

The decision on damage caused by criminal activity was decided upon in adhesion proceedings and upon fulfilment of legal prerequisites, decision on its compensation was made; decision on imposing protective treatment measures (Section 71 of the Criminal Code)

was not registered in the judgments, and no conditions for such a decision were ascertained from the judicial records, either (for example, recommendation of psychiatric experts to impose protective treatment).

71 % convicted persons were prosecuted in custody and when the reasons of custody passed, the convicted persons were set at liberty in the course of the proceedings; applications for setting at liberty from custody and complaints against denial decisions were decided upon in a timely and proper manner.

Evidence was brought in the course of the trial in such a manner so that the facts of the case were duly determined; one half of motions of the parties to add evidence in the trial was performed by the court; one half of convicted persons denied the crime in the examination; in justified cases, the witnesses used the possibility to conceal their identity and appearance (Section 55, Subsection 2 of the Rules of Criminal Procedure). Expert opinions were always read during the trial while the conditions stated in provisions of Section 211, Subsection 5 of the Rules of Criminal Procedure were fulfilled. In the pre-trial proceedings, expert opinions from the field of economy of prices were often requested unnecessarily even in cases where an expert statement would have been sufficient (negligible value of the thing); expert statements obtained in the course of the pre-trial proceedings were brought in the trial as documentary evidence (Section 213, Subsection 1 of the Rules of Criminal Procedure).

More than one half of convicted persons made use of their right to file an appeal, and removal of defects of the filed appeals occurred only in two cases (out of that, uselessly in one case as filing of the appeal of delayed). Public prosecutors filed perfect and usually well-grounded appeals against the statements on guilt as well as the sentences; however, cases were found, too, when the court of appeal stated that it could not correct the found mistakes of the first instance courts because the public prosecutor had not filed an appeal to the detriment of the accused person (prohibition reformationis in peius). Upon amendment of the Rules of Criminal Procedure performed by Act No. 265/2001 Sb., only one thing was returned to the first instance court for a new hearing and statement of decision. Otherwise, the court of appeal decided (upon or without additional evidence) pursuant to Section 256 of the Rules of Criminal Procedure, on rejection of the appeal or decided on the case itself by only changing the statement of sentence in 17 convicted persons or by changing the statement on guilt and thus also the statement on sentence. Upon amendment of the Rules of Criminal Procedure, no case was returned to the public prosecutor from the appellant proceedings for additional investigation pursuant to Section 260 of the Rules of Criminal Procedure. Courts of appeal thus consistently respected the changes introduced by the Rules of Criminal Procedure amendment, when during the decision-making activities, they proceeded pursuant to the strengthened appellation principle, and fully applied the so called limited revision principle in reviewing the decisions.

No delays occurred between commitment of the robbery and commencement of criminal prosecution, as in more than one half of the things, criminal prosecution was commenced on the day the crime was committed, thus creating good conditions for further procedure of bodies active in criminal proceedings. A longer time period out of the total duration of criminal prosecution was consumed by proceedings at the court, thus the time from filing an action until legal force of the decision, while relatively considerable differences among individual districts were found as for the pre-trial proceedings duration as well as duration of the proceedings at the court. Assessing the given sample of cases, duration of proceedings at the court in robbery crimes can be clearly regarded as very good, below the national average

as well as average of Prague the capital. It is beyond dispute that the new principles applied in the appellant procedures contributed to this result.

Out of criminal files at our disposal, it was possible to obtain information on the total of 58 robbery attacks. From the viewpoint of the number of offenders who took part in the robbery attacks analysed, it can be stated that in 32 cases, the robbery was committed by a single offender; by two offenders in 18 cases; by three offenders in 6 cases; and by four offenders in one case.

As far as the specific environment is concerned where the examined robberies occurred, places that can be characterized in general as public areas clearly prevail. The total of 37 analyzed attacks occurred at such places, thus roughly two thirds out of the total number. 27 cases occurred in the street, 5 cases in a park, 2 cases at an urban mass transportation stop and one case also took place in the metro hall, in the outside area of a refuelling station, and surprisingly in a cemetery area, as well. The second place where robberies occurred most frequently was represented by areas of shops or service providing offices in our sample. Such places were chosen by the offenders for their criminal activity in 10 cases total.

According to common ideas of the public, danger of a robbery on the street is connected with late evening or night hours. However, our sample shows that out of the number of cases mentioned above, committed in public areas, only 14 occurred in the hypothetical critical time between 10:00pm to 4:30am (thus a little more than one third). Situations when the victim (and/or victims) was alone at the place of crime and could not hope for help of passers-by, was used by the offenders in the total of 27 cases (thus in about one half of all cases). However, in respect of the fact that apparent presence of other people was recorded in criminal files in the other 19 cases, not even the factor mentioned above is a reliable guarantee for potential victims that at places where there are other people, no robbery can occur.

It has been known that in recent years, numerous measures have been adopted in Prague in the field of situational prevention, especially camera systems (CCTV). We therefore focused also on the fact whether a note can be found in some of the examined robbery attacks that this system (urban camera system or for example private security cameras in shops) was used to capture the offender or perform his or her later identification and/or whether it was used as evidence. It came out of the available information that a security camera record was verified in 8 robbery attacks indeed, out of that, records of cameras located in a shop or gaming-house was concerned in 3 cases, and records of cameras located at public places were concerned in the remaining 5 cases. As for the first group, in two cases, the record was also used later as evidence; on the contrary, on one case it was found out that the camera was not recording directly the area where the crime occurred. In the other group of the cases mentioned (i.e. cameras at public places), the records were used as evidence only in one case while in the remaining four cases, it was stated unfortunately that in spite of presence of the cameras at the place of the crime, the critical moment was not captured (for example, due to the fact that the camera was turned in another direction).

Out of the total number of 58 robbery attacks about which we were able to obtain information from available criminal files, those were represented at most, which could be characterized as a fast attack, not expected on part of the aggrieved from the offender. Such a description could be applied to the total of 20 cases (thus approximately to one third of all). The second most frequent type we could see was represented by robberies in which the offender(s) attempted at taking the earnings or goods from a shop, service office, bar or

gaming-house. This happened in the total of 12 assessed robbery attacks. As for the remaining ten robberies, it held true that the offender(s) established contact with the aggrieved at first, usually with a false pretext or by a misleading promise, and only the very attack took place.

Out of the total number of 58 examined robbery attacks, a threat of using violence occurred in 9 cases while in the remaining 49 cases, a certain form of violent physical contact with the aggrieved occurred (thus in about 84 % cases). However, in the vast majority of such cases, no violence was concerned that would lead to a serious injury of the victim. A more detailed look shows that the most frequent specific form of violent behaviour was represented by physical attacks in this respect, serving to take possession of the spoils (thus, for example, snatching a mobile phone away or pulling down a purse from the shoulder). A weapon was used by the offender in the total of 27 attacks, thus approximately in one half of the cases. Most frequently, a knife was used (12 cases) and a gun (9 cases) and/or their combination. Two times, it was demonstrated that the offender threatened the victim using only a functionless model of a gun. The remaining objects used by the offender as a weapon to frighten the victim or for a direct attack at the victim included scissors, a spray, syringe, crutch and a baseball bat.

We have also paid attention to information on the reaction of the aggrieved to the attack. Understandably, the reaction depended especially on the type of assault; nevertheless, in general it can be stated that cases when the victim did not try to prevent the attack in some way at least were represented less in our sample. The finding that women dominate among the aggrieved who courageously resisted the offenders is surely interesting. Out of the 17 cases in which the victim defended itself actively, the aggrieved was namely a woman. And similarly, out of four aggrieved who chased the offender actively, it was a woman in three cases. However, presumably it would be misleading to deduce from the information that in general, women are able to show more personal courage than men in the critical moment of an assault. We must namely keep in mind that attacks against men show a different nature than attacks against women, and the offender behaves in such a manner in such attacks so that possible resistance is excluded in advance.

In general, we can state that in more than one half of the cases examined by us, damage of less than CZK 5,000.- was caused, which corresponds on the whole to the knowledge passed on in criminology on rather small material damage in this type of criminal activity. However, it must be added that such a statement holds true rather for typical "street" robberies. As far as the total amount of damage in such robberies is concerned, as enumerated by the bodies active in the criminal proceedings, it can be stated that it ranged from CZK 1,000.- to CZK 5,000.- most frequently. This was true in as many as 22 robbery attacks out of the 58 cases included in our investigation. In other 11 cases, the total damage was in the range from CZK 5,000.- to CZK 10,000.-, and in the third category represented by most cases, the total material damage was lower than CZK 1,000.-, which was true in 8 cases. In 4 cases, the damage was in the range from CZK 10,000.- to CZK 20,000.-, and CZK 20,000.- to CZK 100,000.- in one case. In general, higher damage was connected with robberies committed in shops, entertainment houses or apartments of the victims. In 5 cases, the damage was in the range from CZK 100,000.- to CZK 500,000.- and even higher than CZK 500,000.- in 3 cases (the highest damage in our sample was enumerated in the amount of CZK 5,651,000.-).

As for specific objects representing the spoils in individual cases, the offender took possession of cash most frequently – this was part (or the exclusive object) of spoils in the total of 30 examined robberies. The mobile phone, which has become a common and

accessible personal thing in recent years, was the second most frequent part of the spoils. It thus appeared in 26 cases, which is almost one half of the total number of the analyzed robbery attacks.

In agreement with the knowledge from similar national as well as foreign criminological research, it can be stated that men largely predominated among the 65 persons convicted by a final judgment of the robbery crime, as out of the number mentioned, there were only 4 women among the convicted offenders. More than one half of the offenders (57 %) of our sample were in the age between 20 to 30 years, and in general, 72 % offenders total were younger than 30 years. From the viewpoint of the offenders' nationality, it showed that a large majority of them were citizens of the Czech Republic – 43 total (thus about 66 %). The second highest representation was held by Ukraine citizens (12 offenders) in our sample, followed in a quite considerable distance by citizens of the Slovak Republic (4 offenders) and Belorussia citizens (2 offenders). From the criminological point of view, we were naturally interested in possible membership of the offenders in national or ethnic minorities living in our country, as well. According to available information that could be obtained from the files (for example, testimonies of the aggrieved or witnesses but also of assisting offenders), it can be stated that in the case of 17 persons, members of the Romany community were concerned (thus about one quarter of all examined offenders).

According to the findings, offenders of rather lower education commit robberies, which was fully confirmed in our sample, as well. It was namely shown that there was no one among the offender with education higher than secondary, but especially the fact that against 7 offenders who had achieved secondary education with the school-leaving exam (school-leaving exam at a secondary vocational school in one case and outside of the Czech Republic in 4 cases, respectively), there were as many as 24 offenders had primary education only, and 3 of them did not even finish their primary education. More than one half of the offenders were unemployed at the time of the crime (37 offenders, thus about 57 %) while, however, only 3 offenders were registered at an Employment Office according to their own information. Other 9 offenders – foreigners (thus about 14 %) stated that they were doing various occasional types of work or short-term work, usually at constructions. 23 offenders total from our sample (thus about 35 %) characterized themselves as persons with no steady and regular monthly income. Among offenders who did state some regular financial amount, monthly income up to CZK 5,000.- was concerned in 9 cases, from CZK 5,000.- to CZK 10,000.- in 7 cases, from CZK 10,000.- to CZK 15,000.- in 8 cases, and more than CZK 15,000.- in 9 cases. As for their family status, single offenders clearly prevailed among the male offenders (40 total, thus about 65 % of all male offenders), compared to 15 married offenders and 5 divorced offenders.

Specialized psychiatric expert opinions to assess the mental status were elaborated in the total of 31 offenders from our sample, thus about one half of all. The given expert did not find and describe signs of a mental disease in any case. Personalities of the offenders were most frequently characterized in the opinions as disorder-structured, with predominant instability features, non-restraint and dissociality, emotionally labile, with an apparent psychopathic development. A diagnosis of this type could be seen in the total of 18 offenders, thus in more than one half of those for whom an expert opinion was elaborated. Furthermore, rather average intellectual abilities were stated in most offenders, light mental retardation was even described in one case. Invited experts also stated harmful abuse of habit-forming substances in nine cases (however, without a true dependence in the proper sense), and abuse of habit-forming substances with an already developed dependence was stated in two offenders. As for

alcohol, its harmful use was described identically in nine offenders, dependent on alcohol was found in one case. Pathological gambling was diagnosed in one offender. From the viewpoint of the very delict, the expert found out in the total of six offenders that they were intoxicated by drugs at the time of the crime while, however, their recognition abilities were preserved and control abilities were only slightly reduced, not of forensic significance. More frequently, the offenders committed their criminal activities intoxicated by alcohol. In the total of 7 cases, the expert stated in the opinion that thanks to effect of the alcohol, control abilities of the offender were significantly reduced, recognition abilities were reduced only slightly. In other seven cases, control abilities were reduced in an insignificant extent only, and in two cases, drunkenness of the offenders was described by the expert only as light intoxication.

69 victims total were found in the cases observed (out of that, 7 victims played the role of a concealed witness in the criminal proceedings, therefore all the data observed could not be determined in them). 52 persons total (75,3 %) became lone victims; a group of persons became the victim in six cases. In the cases of lone victims, men were concerned in 30 cases (43,5 %) and women in 22 cases (31,8 %). More than one half of the victims were aged up to 30 years (56,4 %); however, the highest number of victims fall in the category between 20 and 30 years (23 victims, thus 37 %). As for nationality, there were 50 nationals of the Czech Republic among the victims and 9 foreign nationals (two Ukrainians, Slovaks and Russians, one citizen of the USA, Ireland and United Kingdom).

It could be stated in the total of 21 persons (i.e. in 30,4 %) that they became the victim of a robbery in direct connection with performance of their profession. They were especially sales persons in shops (10 cases); employees of various service offices (5 cases; a pizza delivery driver, hair-dresser and a lottery collecting point employee); attendance personnel or other employees in bars, restaurants and casinos (5 cases); and a financial accountant (one case; the victim was tipped out in the bank withdrawing a larger sum of money). The fact whether the victim is intoxicated with alcohol or drugs at the time of the robbery may be very significant from the viewpoint of criminogenesis. As for alcohol, its effect could be detected in 13 persons from the judicial files (most victims stated slight intoxication), effect of drugs was seen in one person.

The robbery crime research showed that getting robberies in Prague under a certain level of control has not been successful yet. Many conclusions we have come to approximate knowledge from similar research projects abroad. For example, this concerns data on a certain environment where the robberies occur most often, the typical time of the day of the robberies or certain fundamental characteristics of the offenders and victims. Nevertheless, besides further development of empirical knowledge of this type, further research efforts of criminology in the Czech Republic should focus as soon as possible on examination of efficiency of preventive measures, as well, currently adopted in connection with fighting against violent crime and especially robberies in the Czech Republic. For example, this holds true for CCTV. Considerable financial resources have been invested in it in Prague as well as other cities of the Czech Republic while representatives of responsible offices argue frequently precisely with the fact that besides others, such measures efficiently reduce property as well as violent criminality in the streets. As for Czech criminology, which in this case, too, has the possibility to let itself be inspired by experience of colleagues abroad, this is definitely a considerable challenge to contribute with its own research efforts to knowing how realistic such optimistic expectations are.

Homelessness and the homeless: a criminological view

2005 – 2007

Head researcher: PhDr. Markéta Štěchová

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Homelessness has not been an entirely new phenomenon in the Czech Republic for several years now; nonetheless, there is still insufficient information about it. Several attempts have been made in the last few years to fill this gap in knowledge. This has been the case primarily in the fields of terminology and typology, and further on health issues surrounding homelessness and many findings in the social sphere. More comprehensive findings in criminology and social pathology were not, however available. For this reason, the aim of the study presented was for it to be a starting-point for a more thorough examination of the given problems, and this chiefly in connection with the accompanying social-pathological phenomena, social deviations and criminality. A knowledge of these problems is essential to providing higher-quality proposals for preventive measures in this field.

Problems with the homeless have come more to the fore over the last few years, and prospects for the near future are not too optimistic. Despite the reality described, legislation does not currently concern itself with the homeless. In contrast to the legal codes of some other states, homelessness as such is not accounted for in the Czech Republic. The homeless are (or were, until recently as per as §52 of decree no. 182/1991) grouped together with “citizens who cannot adapt to society”, and concretely with “citizens with an undignified way of life”. Since 1st January 2007, Act no. 108/2006, on social services, has been in force. This also does not define homelessness, but speaks of “persons in an adverse social situation connected to the loss of housing“ (§ 57 of Act). In a wider sense, the Constitution of the Czech Republic and the Bill of Rights also touch on the field of homelessness.

Amongst the bodies and organisations addressing the problem of homelessness on a practical level are bodies of state administration and local government, whose obligations arise from the Constitution and from Act no. 2/1969, on the structure of ministries and other central bodies of state administration of the Czech Republic, as well as non-profit organisations and churches, whose activities are based on the idea that the resolution of such a wide spectrum of negative phenomena cannot be dealt with by only one branch of society. (This idea was also the foundation of the National Action Plan for Social Integration (NAPSI) for the years 2006-08.) Most of the organisations that are members of the ‘Sdružení azylových domů’ (SAD (Association of Homeless Hostels)) – providers of cheap accommodation, chiefly in the form of homeless hostels, some of which also endeavour to assist in work and legal matters.

In legal terminology, the homeless are also defined as “citizens without an abode”, and in the social field are classified as “citizens who cannot adapt to society”. Most recently³¹, a definition was created for Czech literature, distinguishing four large categories, taking European classification as their starting point. The homeless are people:

- a) without a roof over their heads (surviving outside, or in a hostel)
- b) without a residence (in hostels for the homeless, persons without the option of residence in health-care or social facilities, in prison)
- c) without a fixed abode (with relatives, in a residence without the legal right to be there, given notice from residence)
- d) in unsuitable accommodation (hut, slum, caravan, at workplace, overfilled flats).

Potential homeless people, i.e. persons under a genuine threat of becoming homeless due to unsuitable or uncertain residential conditions, are a group at risk; there are further such groups of potential homeless; migrants, immigrants and asylum-seekers.

The Czech authorities and social assistance bodies do not possess more detailed information on numbers of such people. A county-wide count of homeless people has not been carried out; however results are known from two counts in Prague and one in Brno, which were carried out relatively recently. To determine a county-wide number, it is therefore necessary to use qualified estimates, from which it can be seen that there are c. 9,000 (from year 1996) homeless people in the Czech Republic; other, more recent, estimates talk of a figure of 0.35 % of the Czech population, i.e. over thirty thousand individuals. According to the public census of 2001, approx. 45,000 people lived in emergency accommodation. The SAD states that it is contacted by a daily average of 2,240 (!) people looking for somewhere to stay.

The starting-point for the study was the relatively wide range of recent Czech written literature on the theme, with an orientation towards social-pathological phenomena, criminality and the victimisation of the homeless. A selection was made of foreign literature, with emphasis being laid, on one hand, on interesting aspects of homeless life (texts written in French), and on the other on tried-and-tested preventive activities (chiefly texts written in English).

The study included two empirical investigations: firstly a survey, focussed on the initial survey of selected facts on the current population of Prague homeless, currently accommodated in Prague shelters.

The second part of the study consisted of a casuistic investigation, whose main aim was to determine whether there exists and what are the routes leading back into society from total social exclusion.

Empirical parts of the study (survey and investigation of case-histories) were conceived to supplement findings made thus far in criminology, with a special focus on social prevention.

The probe was carried out in 2006 in the homeless shelters Naděje (‘Hope’), Catholic charities, the Salvation Army, the Emauzy (‘Emmaus’) association, the Municipal Centre and the (then) new Dům Agapé (‘Agapé House’) association. As per the most recent classification of homeless people, the surveyed subjects were “persons without an abode”, i.e. persons

³¹ Hradecký, I. A kol., definice a typologie bezdomovectví. Naděje, Praha 2007.

living in temporary hostels, but not sleeping rough, or in occasional shelters (known as “persons without a roof above their head”).

Selection of the subject sample was carried out in the above-mentioned homeless shelters. We talked to the managers of these facilities, who were acquainted with survey techniques, the survey sheet. The sheet was intended for every client who had been accommodated in the facility for more than 14 days, or long enough for it to be possible for them to respond to questions concerning their behaviour in the shelter. The sheet was filled out by social workers in the individual facilities. Records were made of a total 157 clients.

The point of this procedure was to create an outline of those aspects of the life of homeless people that touch on areas of interest to criminology and which, within the Czech system, have thus far not been adequately empirically recorded. We were chiefly interested in information concerning their criminal acts and further social-pathological phenomena, the frequency with which they were victimised and the circumstances associated with this (original family situation, employment, marital status, education, personality and behavioural disorders, state of health, addictions). We also determined the concrete causes and length of their state of homelessness. We worked on the real assumption the phenomenon of homelessness is, in itself, a source of criminality, a state in which it is easier and more likely to become a victim or perpetrator of criminal acts. Amongst the homeless can be found individuals with particular personality and social characteristics, living in an environment where criminality spreads more easily and rapidly than in a normal social environment. It is also easier to become the target of various violent attacks; amongst the reasons for this is the aversion they arouse in society.

The casuistic part consisted of 10 case-history interviews with individuals who, for various reasons, had lost their homes and lived in stations, parks, slept on trams, wrecked cars and wagons, and tried to find a way back into normal life, in which many did succeed. The intention of the interviews was primarily an attempt to uncover and describe the mechanisms that can be used to escape from the trap of homelessness. We endeavoured to determine what the important factors were with particular persons, what their main problems and limitations were, what role was played in their homeless existence by institutions (state and non-state), how important were people close to them in their environment and what their social and economic ties were. We were interested in their earlier life and their circumstances in the homeless community. We also endeavoured to determine what role was played by the psyche of a person and his/her determination and will to return to normal life.

A significant characteristic of the relationship to social prevention is the length of time spent homeless: the longer a person is homeless, the harder it is to re-integrate back into society. According to our survey, the most common length of time spent homeless was between 1-5 years. It is during this timeframe when it is – in the opinion of experts and social workers – still possible to motivate clients to return to normal life. When the state of homelessness lasts longer than 5-7 years, then it is a much more demanding process, as such persons, without a home, are too accustomed to the homeless lifestyle.

Homelessness can be considered a social deviation and social-pathological phenomenon primarily due to the fact that the way of life of the homeless substantially diverges from generally-accepted societal norms. A homeless person is handicapped by marginal exclusion from society caused or resulting in the loss of accommodation. A further significant factor is the fact that an individual who has lost his or her home, has also lost important personal and

social ties, or the loss of these has led to the state of homelessness. In spite of popular belief, there is only a minimum of ‘voluntary’ homeless in the Czech Republic or other countries.

The problematic existence of socially excluded individuals is reflected in public opinion; according to opinion surveys, the phenomenon of homelessness is connected with many negative stereotypes, e.g. with criminality, vagrancy, alcoholism and mental and physical illnesses. At the same time, the majority of citizens feel sympathy towards homeless people. The homeless are still primarily perceived as a threat to safety and public order.

The concept of social exclusion can be regarded as a suitable starting-point in the examination of factors contributing to homelessness. It is defined as the process, whereby individuals and whole groups are deprived of access to resources essential to their engagement in the social and economic activities of society as a whole. It is primarily the result of poverty, and is frequently connected to low education and various forms of discrimination.

Factors³² leading and connected to homelessness are one of the most frequently-researched themes in the relevant professional literature. The reason for this is clear – knowledge of these is a prerequisite for adequate prevention. Based on empirical findings from the Czech Republic, it has been shown that factors found and described abroad, including trigger mechanisms of homelessness, are of a similar character. The results are also similar: serious problems accompanying the phenomenon of homelessness, increased rates of illness and the risk of illness spreading, criminality and victimisation of one’s own person. One of the most frequent trigger mechanisms of homelessness is the loss of employment and its consequences, non-payment of rent and divorce, which was also confirmed in our survey.

Homeless people showed a higher rate of typical character traits, which can be a cause as well as a consequence of their specific way of life. The traits most frequently recorded are psychic instability, strong emotional reactions and a general disturbed mental state, oversensitivity, cowardice, lack of responsibility shown towards oneself and one’s surroundings, a gradual loss of volitional traits, a loss of working habits and skills, lack of self-control, inability to learn from experience and an attachment to inappropriate patterns of behaviour, etc., which were found in our study, chiefly in the casuistic part

We also frequently found these individuals to have disorders of a psychiatric nature. In comparison to the normal population, we found a significantly higher incidence of mental illness. Comorbidity is frequent, chiefly a psychosis combined with a disorder caused by the abuse of psychotropic substances, or with depressive disorders. Amongst the frequent diagnoses made with greater frequency amongst homeless people were psychoses, a so-called borderline personality, increased tendency to suicide and various phobias. Out of our sample, 41 % of clients had undergone some form of psychiatric treatment and 16 % had attempted suicide, many of them repeatedly.

One of the most serious negative phenomena occurring amongst the homeless is dependency on tobacco, alcohol and other narcotic substances and drugs, which was confirmed in our survey. Alcoholism currently affects the older generation more, with the younger preferring methamphetamine and marihuana, with cleaning fluids and toluene being

³² The term ‘factor’ is frequently used in criminology in the sense of ‘agent’, causing or facilitating undesirable activity, without distinction between cause, condition, trigger etc. Reasons for using this term are practical: it is frequently difficult to determine what is a cause, condition or trigger of a particular phenomenon.

used in emergencies. Almost no dependency on drugs was found amongst the clients of homeless shelters, with no information on any kind of addiction being found for a quarter of them. The reason for this is, without doubt, that homeless people with an addiction problem face problems finding accommodation in these facilities, meaning that they hide problems of this type.

Table no. 1 Addictions

	No. of cases	%
Smoking	69	43,9
Alcoholism	12	7,6
Drugs	1	0,6
Combination	32	20,4
Not found	42	26,8
Other	1	0,6
Total	157	100,0

Only minimal attention is paid in Czech and foreign literature to the criminality and victimisation of the homeless. When attempting to gain this information we found the likely cause of this – the status of ‘homelessness’ is not recorded in penal or other statistics. At the same time, such people are under greater threat than the rest of the population – as offenders and victims. Those who haven’t yet been punished are under increased risk that they will commit a criminal offence. The cause of this is primarily material need, but also movement in a criminogenic environment. Our survey found that 63 individuals (40 %) have a criminal act in their case history, 25 of whom were repeat offenders. Many of them had experience of prison. Therefore, higher rates of criminality are found amongst the inhabitants of homeless shelters than amongst the normal population³³. This is doubtless contributed to by the increased incidence of negative phenomena found in the original family (20 % alcoholism, 6 % criminality, in individual cases drug addiction, gambling, prostitution, with 6 % showing a combination of factors.

Table no. 2 Criminal Activity

	No. of cases	%
Yes, once	38	24,2
Yes, several times	25	15,9
Not found	94	59,9
Total	157	100,0

A total 34 persons (22 %) had served a prison sentence, of which 28 (17,8 %) had served one sentence, with 6 persons (3,8 %) serving an unconditional sentence more than once. We could not find information on prison sentences for the majority (78,3 %) of persons residing in homeless shelters.

Concerning the victimisation of the homeless, there was, in this case, also no study or research dedicated to this subject available, even though there is no doubt that these people are the victims of criminal activity more frequently than the resident population, chiefly those who sleep in publicly-accessible places (so-called rough sleepers). According to information

³³ The number of convicted persons amongst the normal population has remained below 1 % (0,7 % in 2005 according to court statistics) for some time now.

of the 'Bílý kruh bezpečí' victim support association, the criminal acts committed on homeless people are very frequently brutal and are marked by high latency. The survey of homeless shelters found that 38,8 % of surveyed individuals admitted to experience of victimisation, of which the majority (75 %) reported the incident to the police. It should be added that so-called rough sleepers are probably the victims of various attacks on a more frequent basis than the inhabitants of homeless shelters.

Table no.3 The homeless person as the victim of a criminal act or offence

	No. of cases	%
Yes, once	30	19,1
Yes, several times	31	19,7
No	96	61,2
Total	157	100,0

A total of 61 surveyed individuals (38,8 %) had been attacked. 27 of them (44 %) reported this to the police and 19 (31 %) only reported it sometimes. 15 of them (25 %) did not report the incident at all.

With regard to the prevention of homelessness (and criminality), an important element are relations between homeless people and the police. Relations between homeless people and the police are probably – and similarly to the situation in other countries – tense and frequently highly strained. Homeless people do not trust the police and the police fear close contact with homeless people for hygienic reasons (possible infection). A further problem is the lack of police powers; due to a lack of legislation, they are unable to take preventive action or intervene.

The study of case-histories attempted to describe the situation of selected individuals in more detail and depth. The interviews indicated what most people living at the fringes of society have in common: they live with a feeling of injustice, that they have been afflicted by a worse fate than others, and for this reason they take no responsibility and nothing is their fault. Someone else, or society, surroundings, or their unfortunate character are to blame and, faced with this, they are powerless and even if they started to do something about their 'fate', it's pointless anyway. To a certain extent, they are right, but if they are not capable and willing to start working on themselves, they lose hope for a better life and no-one can help them; so they wait for help from outside and it is a success if they can find and accept such help.

We came to the conclusion that a return from the fringes of society is possible through the coming together of several favourable circumstances, the basis of which is the will and motivation of a person to get themselves out of their situation. On this principle they can also base further conditions essential to returning to society. This should be followed by help from outside: it is essential that someone – or an organisation – provide such a person with effective assistance in finding employment and accommodation, but the primary effort must be made to eliminate the factors which frequently lead to them going out on the street: the consequences of various childhood traumas, a lowered ability to adequately communicate with society and individuals, insufficient qualifications, a criminal record, etc. These people are greatly aided when provided with something they have maybe not encountered in their lives: trust. Through this, they can orient their lives in a more positive direction.

The wide-ranging survey did confirm, in certain respects, findings gained thus far in basic socio-demographic characteristics, family status and family background. Similar results were achieved by other authors on the causes of homelessness. In this regard it was found that numerous different negative phenomena are, as expected, a significant accompaniment to homelessness, and that amongst homeless people living in shelters is a significantly higher number of criminal offenders and victims of various forms of violence, mainly street violence. The homeless are affected by serious health issues; these concern somatic diseases, and not least psychological disorders and illnesses of a psychiatric nature.

Socially-excluded individuals, including the homeless, are primarily unable to see to their needs in a socially-acceptable manner. They violate written and unwritten norms, observance of which is required by society, and whose violation is punished in various ways. Failure to observe the norms of society and its identity represent a threat, leading to the punishment of these individuals. Punishment, however, mostly does not help and they get into a vicious circle of prison, homeless shelter, street, labour exchange...

The question of whether these people are socially diseased, or whether society is itself diseased, thereby producing a certain number of these people, remains open. Both strands of opinion have very strong arguments on their side. However, if we step down from theory to look at concrete individuals, we mostly find that factors come into play from both sides of the spectrum. In terms of personality, such a person is handicapped in some way, but his/her immediate surroundings and society as a whole, with its demands and institutions, have also had an 'effect'. Homeless people are, in many respects, socially flawed, and are unable to cope with social ties. Social interaction is flawed amongst themselves and other people, and between them and society.

The complexity of the problem as given above requires in its resolution primarily good diagnosis and the determining of the seriousness of the problem; and the good treatment and obviously prevention associated with this.

The limiting of homelessness is regarded as part of the system for criminality prevention. The entire system has, in recent years, been much more intensively devoted to the possibilities for eliminating the causes of criminality – chiefly those that increase the risk of the spread of criminal elements amongst high-risk social groupings in the populace, amongst whom are homeless people. Amongst the priorities of the State Committee for Crime Prevention is the prevention of criminality within socially-excluded and –handicapped communities.

In the Czech environment, it has shown to be beneficial to focus preventive activities in homelessness in two basic directions:

1. limit factors leading to homelessness (primary and secondary prevention)
2. re-integrate existing homeless people back into society (tertiary prevention)

ad 1: This is primarily the marking of high-risk groups, and the corresponding social work with those groups. It would be suitable to focus on the following groups:

- * people who repeatedly or over the long-term do not pay rent or other accommodation costs
- * people who leave institutional facilities: children's homes, psychiatric hospitals, prison
- * long-term unemployed individuals and families, chiefly incomplete families
- * people who must adapt psychologically and socially to fundamental life changes (divorce, death of a partner, seriously ill member of the family, abuse in the family etc.)
- * solitary elderly people with family and other social contacts (friends)

ad 2: The rapid reaction of the relevant institutions is highly important in the field of tertiary prevention. It is known that the length of time spent homeless is directly proportional to difficulties faced in re-integration. Therefore, the high-quality exchange of information should be ensured between the relevant institutions; this exchange would then lead to the rapid identification of 'new' homeless people and to adequate decision-making on how to further proceed in their re-integration.

Criminal Justice Opportunities in Drug-Prevention Policy

I. (Developmental Aspects)

2005-2007

Researcher responsible: PhDr. Ivana Trávníčková, CSc.

Co-researcher: JUDr. Petr Zeman, Ph.D.

The basic aim of this research is to assess the mutual impact of changes in legislation and application of the specific measures studied, in particular criminal law and the development of drug crime and the drug scene in the Czech Republic since 1989.

One of the features of our approach in carrying out the research task was the endeavour to focus on areas which play a fundamental role in the operation of the criminal justice system in the wider context of anti-drug policy. We did not, therefore, attempt to make an exhaustive study of all possible aspects of the connection between criminal justice and anti-drug policy but concentrated on those areas where its impact clearly is or has been particularly strong in the period monitored, namely from 1990 to the present.

The subjects of the research carried out are:

- a) *measures in criminal law (and related areas of law) used since 1989 in prosecution of drug crime*
- b) *development of drug crime and the drug scene in the Czech Republic since 1989.*

Research methodology

In view of the considerable extent of the information and findings studied we have divided their presentation into two parts.

In this first part – the theoretical part – we wanted on the basis of description to extend and deepen knowledge concerning development of the drug scene and drug crime in the context of analysis of changes in criminal legislation.

The second – the empirical part – of the report will present the findings obtained from analysis of specific criminal records and a questionnaire conducted with various groups of experts dealing with the drugs issue, supplemented or adjusted by information obtained from interviews with them.

The second part of the report, including a summary of the results from both phases of the research, will be published in 2008.

The methodological focus applied in the theoretical part consists in:

- a) *analysis of legal regulations and the literature available*, which was used to obtain a comprehensive overview of the current state of knowledge concerning the legal measures used since 1989 in prosecution of drug crime
- b) *analysis of documentation of relevant state authorities* (for example, reports on the security situation, the annual reports of the Czech Police National Drug Enforcement

- Centre, reports of the Supreme State Prosecutor's Office, the annual reports of the Interdepartmental Anti-Drug Committee, the Government Board for Anti-Drug Policy Coordination, epidemiological reports of the Prague City Hygiene Centre, Prison Service documentation ...), which mapped important changes in the Czech drug scene and in drug crime
- c) *analysis of statistical data of the Czech Police and the Ministry of Justice of the Czech Republic on drug crime*, which determined features of the development of recorded drug crime and its prosecution.

Summary of the results of Phase I of the research³⁴

The Czech Republic, similar to the other European states, is attempting to restrict not only the use of drugs among the population but also problems associated with it, in particular drug crime. For this reason, in 1993 it approved the basic principles of a national anti-drug policy, which has progressively been updated. In addition, the current system for coordinating anti-drug policy through coordinators from the relevant authorities was created.

A key document approved by the Government is the national anti-drug policy strategy, which defines the basic starting points and directions for dealing with the problem of drug use in the Czech Republic. It forms the basis for creation and implementation of the anti-drug strategies of individual government departments and local, district and regional public administration authorities. The anti-drug policy strategy of the Czech Republic has been based throughout the period studied on a balanced approach to dealing with the problem of drug use in terms of repression, prevention, treatment and resocialising of drug addicts. Implementation of a rational anti-drug policy requires a comprehensive and coordinated approach and linkage between specific interventions, but also cooperation between the institutions concerned in dealing with other serious problems.

Since 1993, the anti-drug policy of the Czech Republic has undergone many changes, and a range of specific measures have been implemented in the fields of legislation, prevention, treatment and resocialising of addicts. Activity has progressively been intensified both in the field of legal repression and in the prevention field. Changes have also taken place in the drug scene in the Czech Republic over the past years, as a result of which new problems have arisen, and consequently also the need to seek new solutions. The key steps implemented in the period studied (outside the criminal justice field) can be outlined as follows:

- harmonisation of legislation with EU law
- adoption of Act No. 79/1997 Coll. on medicaments and on amendments and additions to certain related Acts (it regulates inter alia handling of medicinal preparations containing a narcotic or psychotropic substance or a precursor)
- adoption of Act No. 167/1998 Coll. on addictive substances
- adoption of Act No. 359/1999 Coll. on social and legal protection of children (inter alia this targets social and legal protection at children who use alcohol or other addictive substances)
- adoption of Act No. 258/2000 Coll. on protection of public health and on amendment of certain related Acts (it regulates inter alia hygiene requirements for the operation of health facilities and social care institutions)

³⁴ The purpose of this study was to create a theoretical basis for the empirical part of the research; the final report from phase II will also contain a summary of results from the research project as a whole.

- adoption of Act No. 379/2005 Coll. on measures for protection against harm caused by tobacco products, alcohol and other addictive substances and on amendment of related Acts (inter alia it regulates organisation and implementation of anti-drug policy)
- tightening of security conditions for entities dealing with addictive substances, preparations and precursors legally
- improvement of control mechanisms and involving local administration authorities in checks of health facilities and pharmacies; checks on entities requiring a Ministry of Health permit for dealing with narcotic and psychotropic substances (OPL) depends on the current staff numbers in IOPL (Narcotic and Psychotropic Substances Inspectorate)
- a network of anti-drug coordinators, who work in district council offices and city and statutory town council offices. Council leaders and mayors have appointed anti-drug committees composed of representatives from key institutions to advise them. Anti-drug coordinators and local anti-drug committees initiate and coordinate anti-drug activities at local level in accordance with Government strategy
- building of a system of treatment and resocialising for drug users, which will ensure provision of key services throughout the Czech Republic.

So, as drugs and use of them began after 1990 to become a topic of interest in the media and in politics, and as a typical drugs scene began to develop in the Czech Republic, there was also intensification in the activities of legislators in the field of **anti-drug legislation**. It was also necessary for criminal law to respond to new forms of drug crime, all this in conditions of fundamental changes in the whole of criminal legislation relating to the transition to a democratic state based on the law, to the opening of frontiers, to linking the state in with international structures, with globalisation of life as a whole including criminality as part of it, with the arrival of new concepts as to how to approach dealing with crime (diversions, restorative justice...), the appearance of new threats or new forms of threat already known (global terrorism, organised crime...) and so on.

The section on changes in legal regulation in this area mentions a number of trends in legislation since 1990. The facts of drug crimes have been specified and amplified so as to cover different forms of illegal handling of narcotic and psychotropic substances. The effect of these facts was also extended to preparations containing narcotic and psychotropic substances and to precursors. In this connection we need to point out adoption of Act No. 167/1998 Coll., on addictive substances, which inter alia defined at the statutory level for the purposes of criminal law the terms narcotic substance, psychotropic substance, preparation containing a narcotic or psychotropic substance and precursor (although since April 2006 no list of precursors has been given directly in the appendix to the Addictive Substances Act, the Act refers to an immediately applicable European Communities regulation), and so replaced the previous definition given in Government Order No. 192/1988 Coll. The criminal offence of possessing drugs for one's own use (or their possession without proved intent to possess them for another person) was deleted from the Penal Code at the beginning of the period monitored, only to be restored at the end of the 1990s after much rather heated discussion in the form of the controversial provision in Section 187a of the Penal Code, introducing a relatively vague quantity criterion (quantity greater than small).

Between 1990 and 1998 there was a relatively severe increase in the length of sentences for drug crimes and greater differentiation between them in order to reflect better the differences in danger to society from particular forms of drug crime, particularly the typically greater seriousness of production and drug trafficking as part of (international) organised crime. In particular, in connection with this especially serious type of crime a number of

provisions were introduced in Czech criminal law in the period under review which were to make the work of law enforcement authorities more effective (monitoring consignments, operational means of investigations...), or already existing provisions were amplified or made more specific (searches etc). Some of these changes also were to ensure more consistent respect for the rights and freedoms of parties in criminal proceedings (for example, incorporation of the legal regulation of phone tapping and records of telecommunications traffic in the Code of Criminal Procedure and later amendments to it).

A marked tendency in the period monitored was an attempt to allow for alternative solutions to individual cases. The sentence of community service was introduced, diversion and probation elements appeared in criminal proceedings, and these procedures also began to be used to a certain extent in less serious cases of drug crime. And finally we should not omit a clear trend to extend and specify legal regulation of legal relations with foreign countries in criminal cases. The constantly increasing internationalisation of crime is leading individual states to attempt to create, not only in the form of international agreements but also in domestic law, the preconditions for making cooperation between police and justice authorities from different countries as simple and effective as possible. The Czech Republic is no exception in this respect, and with the approaching entry to the EU and in the period after this effort was intensified still further.

When interpreting **statistical data** on crime we need to tread carefully; this applies especially to data on drug crime. In looking at statistics on drug offences recorded by the police, or regarding persons prosecuted, indicted and convicted for drug offences committed, we can form the impression that drug crime does not in the extent of its occurrence constitute a particularly serious problem in the Czech Republic in the context of the amount of crime in general. Drug crime represents long-term slightly more than 1 % of all criminal offences registered by the police here. The number of persons convicted of drug crime in the Czech Republic amounts over the last five years to ca 2 % of the total number of persons convicted, and in previous years was even fewer. Even so, the problem of drug crime cannot be trivialised.

A characteristic feature of drug crime, as what is termed “victimless” crime, is its high latency. It can be assumed that drug-related offences recorded in official statistics are only a small fraction of drug crimes actually committed. In addition to this, drug offences under Sections 187, 187a, 188 and 188a of the Penal Code in themselves represent only a small part of the criminal activities related to the principal problem, which is the use of illegal drugs. We need to take into consideration in this connection the far from negligible number of criminal offences committed under the influence of narcotic and psychotropic substances (violent, immoral and property crime) and in particular the crime of supplying drugs. And finally drug crime is only one of a range of mutually related socio-pathological phenomena accompanying the use of illegal drugs (organised crime, truancy, domestic violence, prostitution, passing on the HIV virus and hepatitis and so on). In this context we cannot underestimate the relatively low number of cases of drug-related offences recorded either.

As far as trends in drug crime are concerned, after a period of understandable and relatively significant rise in all basic indicators monitored in the 1990s (the number of criminal offences uncovered by the police, and the numbers of persons prosecuted, indicted and convicted), the situation began to change as we entered the twenty-first century. The number of drug offences uncovered started to fall year-on-year from 2000, except in 2002 (it is not possible to make a particularly reliable comparison with data from the previous period

in view of the fundamentally different recording methodology, but in terms of a trend we can speak of a rise up to 1999); this was clear in the last three years. There has been a year-on-year decrease in the number of persons prosecuted and indicted since 2003, and in 2005 the number of persons convicted also fell for the first time in the period monitored. Nevertheless, the number of persons convicted for drug offences rose up to 2004, and much more compared with the figures for the total number of persons convicted in the Czech Republic between 1995 and 2004 (overall a slight rise). However, when we look at the clearly most commonly committed drug offence, which is illegal production and possession of narcotic and psychotropic substances and poisons under Section 187 of the Penal Code, we can rather speak of stagnation for several years.

The structure of sentences imposed for particular drug offences, and also the extent to which unconditional prison sentences were imposed for them, naturally stemmed during the period monitored principally from the terms of imprisonment stipulated for these criminal offences and changes in them. The judicial statistics, however, also show certain indications of a possible change in the approach of courts in imposing sentences for drug offences, when organised drug trafficking in particular clearly progressively began to be judged during the 1990s as a very serious crime, and also a certain change in stipulating the type of sentence and its length could have been a response to this. Also, constantly more frequent imposition of a community service sentence became evident in the structure of sentences in the second half of the 1990s. Since 2004, the number of juveniles upon whom sentences were imposed by juvenile courts under Act No. 218/2003 Coll. has been recorded separately, but as yet without distinctions being made between the types of penal measures, which affects the proportional figures for other sentences.

Approximately 1300 persons have been legally convicted for drug crime over the last few years in the Czech Republic. The number of drug offence cases uncovered by the police fell below 3000 in 2005 for the first time since 1997. However, in view of the nature of the acts prosecuted under the provisions of Sections 187, § 187a, § 188 and § 188a of the Penal Code, it can be assumed that only a small part of this type of crime is reflected in the official statistics. We should also note the fact that the statistical data provide only a quantitative view of this problem. The experiences of individuals and institutions concerned with the detection and prosecution of drug crime include information and trends which are not reflected in the statistics.

One of the important aspects, and one that is regularly monitored in developed countries, is **development of an illegal drugs scene**, mapped by using data from epidemiological studies and data on the purity and relative prices of particular types of drug. Drug epidemiology has been performed by the Central Drug Epidemiology Office at the Prague City Hygiene Centre since 1995. The basic source for current relative prices is the annual reports of the National Drug Enforcement Centre and General Customs Directorate. A separate section of our study is devoted to progressive developments in the Czech drugs scene and current trends in this area.

Findings of law enforcement authorities concerning the **drug crime situation in the Czech Republic** confirm the view that a standard drug scene was created here of the “Western European” type during the 1990s, including a drugs market, with certain differences arising particularly from the geographical position, history and demographic structure of the country. In connection with general opening up of a drug scene, a drugs market was also opened up at the beginning of the period monitored. However, as a result of intensified

interest from law enforcement authorities and clearly also stricter legislation, those committing drug crime progressively began to use constantly more conspiratorial methods of activity. New forms of drug crime appeared and established themselves here, including forms typical for the activities of organised crime groups. The opening of borders enabled an influx of “classical” drugs, which hardly ever appeared on our market before 1990, and also a wide variety of “novelties” (GHB) progressively came into the Czech Republic. An important role in the drug crime field here was assumed by groups of foreign nationals. As a result of the operation of foreign or international criminal groups in the Czech Republic and also Czech criminals abroad, effective international cooperation in detecting and prosecuting drug crime became increasingly more important.

Criminal Justice Opportunities in Drug-Prevention Policy II. (Empirical Part)

2005-2007

Researcher responsible : PhDr. Ivana Trávníčková, CSc.

Co-researcher: JUDr. Petr Zeman, Ph.D.

This study is a part of the research task “Possibilities of Criminal Justice in Drug Policy”, the first part of which (theoretical introduction to the subject) was published in an ICSP edition in 2007.

Subject matter

The subject matter of the performed research comprises:

- c)** *means of criminal law (and related areas of law) applied after 1989 to prosecute drug-related crime*
- d)** *development of drug-related crime and the drug scene in the Czech Republic after 1989.*

The **aim** of this study was to obtain a broader perspective on current criminal justice options in drug policy, as well as specific information on the monitored issue. It sought to do so not only with regard to the relevant legal norms but also (and more importantly) by looking at their application in practice.

Research methodology

The empirical part of the study presents findings from selected criminal files and from questionnaire research among experts in Czech criminal justice system bodies who were actively involved in the drug issue. The Czech Republic currently has a specialised police unit with nationwide powers (National Drug Squad of the Czech Police Criminal and Investigation Service), and other bodies operating within the criminal justice system often have earmarked experts who focus on the protection and enforcement of the law with regard to drugs.

The empirical research consisted of three basic phases: 1. an analysis of the selected criminal files, 2. anonymous questionnaire research among various groups of experts specialising in the drug issue (in order to limit the possibility of wrongly interpreting certain facts obtained, we had additional consultation at the stage of assessing the results), 3. interviews with representatives of individual law enforcement bodies who have been involved in the drug issue in the long term.

The aim of the analysis of criminal files was to obtain information on the practical approach of law enforcement and judicial bodies when prosecuting drug-related crime, as well as on the characteristics of crimes that were dealt with in the investigated cases, and on their perpetrators. We concentrated on selected provisions of criminal law and the degree and form in which they were applied in individual cases.

When selecting the sample of criminal files we proceeded from statistical data on the structure and territorial distribution of drug-related crime³⁵ and the technical-organisational feasibility of the research. In order to obtain a longer temporal background we decided to request files in cases that were completed upon a final judgement in 1999, 2002 and 2004. We contacted fifteen district courts (incl. the Municipal Court in Brno) and four regional courts (incl. the Municipal Court in Prague) with a request that they allow us to examine a specified number of criminal files on individual drug-related crimes in cases where the judgement became final in the said three years. For statistically less frequent offences pursuant to Section 188 and Section 188a of the Criminal Code³⁶ it proved difficult to acquire the relevant criminal files as in normally accessible judicial statistics the data on individual crimes are given by territory according to the jurisdictions of the individual regional courts, i.e. with no possibility to determine which district courts in the relevant regional court jurisdiction actually conducted the proceedings on the monitored crime.

The questionnaire research, which formed one of the main methods of empirical research, was performed on a sample of 168 respondents comprising specialists from the following professional groups: staff from customs administration, police officers from the National Drug Squad, public prosecutors, judges and employees of the prison service.

Although the main goal was to compare opinions of individual groups of experts on criminal justice options in drug policy, the questionnaire's formulation made it necessary to take into account the different roles of respondents within the criminal justice system. As a result, four types of questionnaire were prepared, containing questions of a more general nature suitable to compare the views of individual groups of experts, while other questions were differentiated according to the individual professions of respondents.³⁷ The aim was to obtain the most concrete and realistic aggregate of opinions in the relevant professions on the development of the drug issue and the possibilities available to criminal justice in tackling drug crime. Experts could add their own opinion or experience to practically every answer to any question. This obviously helped to make the individual answers more specific and often also resulted in a coherence in the supplementary information across the individual expert groups. The number of questionnaires returned in the individual groups and the comprehensiveness of some of the information testified to a significant interest not only in the drug issue but also the research performed.³⁸

Increased attention had to be paid to the selection of respondents for field research, as only a limited range of experts are involved closely in the monitored issue within the

³⁵ The source was the Statistical Year-Book of Crime for the relevant year. Ministry of Justice of the Czech Republic.

³⁶ These crimes nevertheless appear quite often in drug-related crime, mostly in conjunction with the offence pursuant to Section 187 of the Criminal Code. In judicial statistics the offender, prosecuted, charged and convicted for several drug-related offences, committed in a single-act or multiple-act concurrence, is recorded only once, namely for the most serious of the concurrent crimes, which is usually an offence pursuant to Section 187 of the Criminal Code, at the expense of other drug offences.

³⁷ An identical questionnaire was intended only for experts from the ranks of public prosecutors and judges.

³⁸ The relevant versions of the questionnaire are given in an annex to this report.

individual professional groups (with the exception of the National Drug Squad officers). For the purposes of our research we decided to approach suitable respondents from the following criminal justice system bodies: the courts, the public prosecutor's offices, the National Drug Squad of the Czech Police Criminal and Investigation Service³⁹, the Czech Customs Administration⁴⁰, the Czech Prison Service⁴¹. The basic criterion for choosing respondents from the individual groups of experts was only their expertise in the drug issue. Other characteristics of respondents (e.g. their age or gender, the status of the workplace in which respondents worked within the structure of the relevant criminal justice body) and other socio-demographic indicators (e.g. relating to the territory that falls within the local competence of the body in which the person works) were not considered decisive with regard to the information we sought to obtain.

The collected data were processed on the SPSS special software for statistical analysis, and information of a qualitative character had to be interpreted through a content analysis.

Summary of the empirical part

The procedures followed by law enforcement and judicial bodies, including the application of criminal legislation in specific cases, are reflected in criminal files. An **analysis of the files** produced more detailed information on the practical approach of law enforcement bodies in prosecuting drug-related crime, as well as on the characteristics of crimes that were handled in the investigated cases, and on their perpetrators. However, it should be pointed out that, for various, at times wholly understandable reasons, much interesting information on the monitored issue does not appear in the criminal files. This concerns data on the procedures followed by law enforcement bodies in what is termed the forefield of crime (especially the police's operative activity), as well as more detailed information on the role that drugs have played in the life of an offender, or on whether they influenced his/her previous criminal career, and if so, how.

The criminal files that made up the analysed sample related to cases in which the judgement based on the relevant merits of the case became final in one of the three years – 1999, 2002 or 2004. With some exceptions (increase in the proportion of offenders using narcotic and psychotropic substances (NPS) who also used other types of drugs) there were no evident differences between the samples from the various years that would indicate a definite trend (the samples were too small for this). The great majority of files predictably concerned by far the most numerous drug-related crime, i.e. the offence of the illegal production and possession of narcotic and psychotropic substances and poisons pursuant to Section 187 of the Criminal Code.

³⁹ The National Drug Squad is a unit of the Czech Police Criminal and Investigation Service with powers in the whole of the Czech Republic; it specialises in the detection and documentation of drug-related crime (mainly organised). We are aware that street drug crime in particular is also dealt with by units of the Czech Police with territorially limited powers. Nevertheless, the National Drug Squad cooperates with these units as part of its activity and processes data received from them. Its employees may therefore be presumed to have a sufficiently comprehensive overview of the monitored issue from the perspective of a police body.

⁴⁰ Under legally-stipulated conditions, the relevant customs authorities have the status of a police body (Section 12 paragraph 2 of the Code of Criminal Procedure), inter alia in proceedings on crimes consisting of the import, export or transit of narcotic and psychotropic substances.

⁴¹ Staff from the Czech Probation and Mediation Service were not included among respondents due to the hitherto almost negligible proportion of cases concerning drug-related crime or "crime perpetrated for the purpose of obtaining a drug" in all cases solved by the Probation and Mediation Service – for more on this see Trávníčková I., Zeman P.: Possibilities of Criminal Justice in Drug Policy I. IKSP, Prague 2007 p. 9.

The criminality in the analysed files chiefly consisted in the distribution of NPS or their sharing among users. This mainly involved the illegal disposal of pervitin (metamphetamine), cannabis and heroin. The sample revealed cases of a *modus operandi* referred to in this respect by police and customs bodies, such as the dispatch of drugs from abroad to the offender's own or another address, the use of flights from South America to smuggle cocaine, or the transport of drugs into the Czech Republic in body cavities.

The criminal files relating to the offence pursuant to Section 187a of the Criminal Code predominantly concerned less serious offences consisting in the possession of drugs in an amount that was found to be larger than small. In some cases, the facts suggested that the offenders did not possess NPS solely for their own needs; the law enforcement and judicial bodies nevertheless did not investigate this possibility further in criminal proceedings. Only a very small part of offenders - drug users - had been in contact with any of the organisations providing treatment or care for addicts. This also applies basically for offenders from the analysed sample of files in cases relating to crimes pursuant to Section 188 and Section 188a of the Criminal Code.

The first part of the questionnaire research among experts from the criminal justice system involved in the drug issue focused on the development and assessment of the Czech drug scene.

Experts presented their experience and opinions regarding the rate of drug-related crime registered and not registered over the last 10 and 5 years, with most of them believing that drug-related crime is still growing, albeit only slightly in recent years, according to the prevailing view of judges. One of the characteristics of this crime is latency, which is an important factor in drug-related crime. Experts counted among the main reasons relating to latency the fact that drug-users do not see themselves as victims, or injured parties, but on the contrary cover up for the offender. It is also often an activity of organised crime, which is characterised by the sophisticated fashion in which crime is perpetrated. In this respect, experts were asked to give a prognosis for the consumption of individual types of drugs and the reasons for their consumption. Experts do not expect any major fluctuations in future trends of consumption for individual types of drugs as they foresee rather a consolidation of trends in drug use in the EU. All groups of experts were consistent and relatively thorough in their comments on the reasons for the accessibility of drugs in the Czech Republic, both from a societal perspective (changes in the drug market, prevention) and obviously with regard to the possibilities offered by legislation and criminal sanctions in prosecuting drug-related crime.

Specialists from the National Drug Squad and customs officials were almost unanimous in their description of the problems involved in seizing drugs in the Czech Republic due to the important recent changes that have particularly affected this area. From the same groups of experts we obtained interesting information on the perpetrators of drug-related crime currently operating in the Czech Republic, as well as on projected future developments. A disconcerting finding is the view of experts who believe that there will be an increase in the number of offenders among juveniles and young adults of Czech nationality. In their opinion, the greatest increase can probably be expected among members of socially more vulnerable strata and individuals of Roma ethnicity. These experts also expect increased involvement in the production, distribution and trafficking of NPS among foreign nationals who have been engaged in this form of crime hitherto, and also do not rule out the increased involvement of Russian-speaking offenders (who until now have mainly specialised in what is termed

“money laundering”), Turks, who have direct access to heroin sources, and also citizens from Israel and the Jewish ethnic group who have a strong financial background.

The satisfaction of respondents with the state of Czech anti-drug legislation differed among the individual professional groups, with judges providing generally the most favourable assessment, whereas employees of the National Drug Squad and the prison service were as a rule the most critical. The mentioned shortcomings in legislation included aspects relating specifically to drug-related crime (lenient sentences for drug offences...), as well as general problems in our criminal law (complicated procedural regulations, the inapplicability of results of certain acts from pre-trial proceedings for purposes of evidence in proceedings before the court etc.). From their answers it was apparent that respondents clearly recognise the indivisibility of good quality legislation and its adequate application.

Respondents were generally positive in their appraisal of the development of criminal law as it pertains to the detection and prosecution of drug-related crime. They appreciated that in this area our legal system is also gradually introducing internationally-acknowledged and proven standards and provisions. They expressed their satisfaction with the wording of the definitions of drug-related offences, although they see a definite problem in the current interpretation of the element of drug-related crime resting in obtaining a particular benefit. They would consider the most appropriate form for defining the quantitative elements of the facts of drug-related offences relating to their extent or size to be their direct quantification in an interpreting provision to the Criminal Code. Respondents across the professional groups considered the severity of sentencing for drug-related crimes to be appropriate or lenient. It was confirmed that, despite the undoubted influence of the Supreme Court’s case law, certain interpretational ambiguities still persist in the legal qualification of cultivating cannabis plants without an ascertained intention to distribute the substance further. Respondents were more negative in their attitude to any categorisation of drugs for purposes of criminal law according to the degree of risk to health and society connected with their use; National Drug Squad officers, public prosecutors and customs administration staff were particularly strong in their opposition.

Certain professional differences were apparent for some individual aspects of legislation where various solutions present different demands on individual professional groups. An example was the reaction to the need to provide a precise transcription of conversation in an official report on the recording of telecommunications traffic, with only judges wanting this to be mandatory (entirely understandably). Respondents were extremely supportive of the new criminal procedural provisions affecting mutual legal assistance with foreign countries.

The issue of drugs in prisons was also covered. Experts from the prison service, public prosecutors and judges estimated the rate of drug abuse in prisons for juveniles, women and men, and the popularity and scale of penetration of individual NPS in them. The same groups of experts also proposed measures to restrict the penetration of drugs into prisons. Experts from the prison service assessed existing programs, or the conditions and possibilities that prisoners can make use of during their imprisonment to fight drug addiction. They assessed the idea of placing offenders in what is termed drug-free zones, existing tests of convicts’ urine and the possible introduction of substitute treatments for heroin (or opiate) users while they serve their sentence. Respondents had not yet reached a uniform opinion on the idea of placing prisoners in a drug-free zone; the majority (66 %) rejected the introduction of substitute treatment during the prison sentence.

The selected professional groups were generally positive in their assessment of each other when it came to the activity of individual criminal justice system bodies with regard to tackling drug-related crime. Respondents nevertheless found certain shortcomings in the work of other branches, both of a systemic nature (lack of personnel and material resources etc.) and in the level of work performed by individual persons (underestimating the gravity of the drug problem, lack of consistency in clarifying all the circumstances of criminal activity etc.). It is encouraging to note that in all monitored cases the assessment of cooperation between the various branches of the criminal justice system in detecting and prosecuting drug-related crime was more favourable than average, i.e. that respondents were generally satisfied with the degree of cooperation. There were understandable differences in views on the competences of customs authorities in criminal proceedings on drug-related crime, which customs officials themselves indicated as being unsatisfactory, indeed pointlessly limited compared with the powers of the police. Nevertheless, respondents from both professional groups assessed positively the cooperation between customs authorities and the police in detecting and investigating drug-related crime.

Crime Prevention on the Level of Communities and Regions

2006 – 2008

Researcher responsible: PhDr. Kazimír Večerka, CSc.

Co-researchers: Mgr. Jakub Holas, PhDr. Jan Tomášek, Ph.D.

The Institute for Criminology and Social Prevention carried out research activities at the suggestion of the National Committee for Crime Prevention and as part of the project “The Current State and Future Prospects of Preventive Work on the Territory of the Regions”. The research activities were executed in 2007 and their objective was to map the structure and forms of preventive work in regions and their communities after the new territorial and administrative division of the Czech Republic. The main objective was to present information about the situation in the area of socially pathological phenomena in communities with extended powers, types of preventive measures applied in a community including a general assessment of its efficiency, conditions of activities in the field of crime prevention and socially pathological phenomena, organisational, material and technical securing of preventive activities in a community, role of particular entities including NGOs and NPOs, cooperation of a region and communities on preventive work and expected aid from governmental institutions. The focused research activities were aimed at regional authorities where they studied various aspects of preconditions for the coordination role of a region in the area of preventive work.

The current survey followed the previous national representative opinion poll regarding issues of safety and crime prevention.⁴² Based on the results of this opinion poll it was suggested to inquire about the situation in crime prevention and other objectionable phenomena directly where major part of preventive activities should be done – in communities. We focused on more than 200 communities with extended powers (the so-called “third type communities”) and we aimed questioning concerning preventive work at four groups of persons (experts) who – thanks to the nature of their profession – have the biggest knowledge of the safety situation in the community, existing problems and the used preventive methods. Specifically, the persons included a prevention manager, community police officer (an executive officer or an officer responsible for preventive activities), an officer of the Czech Police (an executive officer or an officer responsible for preventive activities) and an officer of the social affairs department (of municipal or local authorities). Based on recommendation of an opinion poll agency the opinion poll was done by an on-line questioning with CATI pre-recruitment.⁴³ The final size of the sample was 622 questioned persons.

Alongside this enquiry we carried out another poll focused on implementation of preventive work in all 14 regions. We proceeded with the method of a focused interview and

⁴² Večerka, K., Holas, J., Tomášek, J., Přesličková, H., Blatníková, Š.: *Občané o kriminalitě a prevenci (Citizens on crime and prevention)*, ISBN 978-80-7338-057-1, Praha, IKSP 2007.

⁴³ The questioning was performed by an opinion poll agency Stem Mark based on a public tender.

as our respondents we chose officers responsible for crime prevention on the level of regional authorities or those in charge of crime prevention on an ad-hoc basis.⁴⁴ We focused our attention on establishing preventive work in materials of regional governments, staffing of the position of the regional prevention manager, professional arrangement of preventive work on regional level (including cooperation with communities), the manager's knowledge in the field of complex security analysis of the region, level of cooperation with entities exploitable for prevention within the region, creation of regional projects of crime prevention and cooperation with the national level as well as communities within the region. Last but not least we treated issues of legislative confirmation of prevention.

Some results:

I. Crime prevention in communities – view of experts from local level

Respondents stated the following issues to be the most serious in communities: drug abuse and incidence of drug addicted people, troublemaking Romany people, street disorder and disturbance of the silence of the night, vandalism and spray-painting, problems with persistently unemployed people, people misusing alcohol and gamblers, groups of asocial young people. The questioned experts do not see the following phenomena as major problems (consider them as marginal problems for their communities): prostitution, racist behaviour towards minorities, presence of foreigners without a residence permit, truancy and bullying at schools.

With respect to crime, the experts see the most serious situation in car crime (breaking in cars and car thefts), petty thefts in shops, breaking in weekend houses and breaking in houses and flats. A major problem is also stealing of bicycles, various types of fraud, illegal production of drugs and drug dealing. The experts see the following criminal activities as negligible: human trafficking, animal abuse, incitement to ethnic and racial hatred, sexual abuse, bribery or corruption.

Experts from among state and municipal police officers emphasise the problems with rowdies, vandals, car thieves and burglars while experts from the social sphere highlight the serious nature of such phenomena as truancy, home violence or corruption. There are great differences between communities of various sizes and yet further differences across the regions (e.g. Ústí region deals with production and dealing of drugs while Prague, Central Bohemia and Liberec region have to face car thefts and experts from the Moravia-Silesia region report higher incidence of frauds).

One of the key areas of questioning was the relationship between communities and regions with regard to prevention. Most of our respondents expect their region to ensure an entire range of activities in crime prevention. The strongest agreement was expressed for the role related to direct funding or co-funding of preventive programmes (almost all questioned experts from towns expect this support from their regions), but also in case of many other activities we included in the list the rate of positive responses exceeded the level of 90 % (it was e.g. a coordination, educational, information or advisory function). An exception to this trend was the management activity; only about one half of respondents expect this activity from the regional authority. The same proportion of respondents stated that their region was providing the activities in question.

⁴⁴ To make this text more consistent we will use a common term „regional prevention manager“ for these officers even if this term is not used for all of them in their regions.

When evaluating whether or not the region ensures particular activities the decisive factor was whether the community itself was dealing with prevention. The poll indicated that if the respondent operated in a community, which thoroughly deals with prevention, he/she more often deemed that the region was ensuring particular activities in the field of crime prevention. This might imply that with regard to crime prevention the regions currently cover the demand of those communities that are themselves significantly active in crime prevention.

One part of the questionnaire was determined only for respondents who perform the office of the crime prevention manager in communities and towns. The poll indicated differences among these respondents with regard to how much time of their workload they could devote to prevention. Only a small part of managers stated that prevention was their sole stock of work (prevention makes up 100 % of their workload). However, one of ten respondents can devote only about one tenth of their work time to prevention.

Most communities have a crime prevention committee. Most often it comprises the Czech Police, officers of the municipal police, and more than one half of the committees include staff of the Department of Social and Legal Protection of Children (OSPOD) or education workers.

A slight majority of respondents state they have very good or rather good opportunities to gather information about negative social phenomena in their community or town. More than one half of communities have a range of cooperating jobs that are closely related to preventive work. It is namely a worker for primary prevention at schools, an anti-drug coordinator and a consultant for Romany issues.

The respondents agreed that the most important information role with regard to prevention is assigned to municipal and state police, municipal authority, children and youth clubs and organisations and elementary schools. The prevention workers are satisfied with information provided by these entities. Issues concerning prevention are sought after especially by authorities of larger towns that are more heavily burdened by crime.

The poll thoroughly inspected cooperation of prevention workers with non-governmental non-profit organisations. The best cooperation was mentioned for organisations that deal with youth and work with seniors. However, in some communities the questioned prevention workers miss a more intensive cooperation with organisations that are focused on youth with behavioural problems or endangered by socially pathological phenomena, and with organisations that specialise in serious problems in prevention of drug or alcohol addiction or provide services for users of these substances. Roughly one third of the questioned communities dispose of these organisations on a good level; two thirds of communities complain of lack of these services in the area of prevention.

II. Attitudes of regional managers of crime prevention to preventive work within regions.

Since the new regional arrangement of the territory of the Czech Republic crime prevention on the territory of regions has been assigned to the competence of regions. This fact created new conditions for preventive work and made the regions face new tasks. Our poll attempted to map the situation at the end of 2007 in Prague and in all new regions of the Czech Republic.

We proceeded with the method of a focused interview and as our respondents we chose officers responsible for crime prevention on the level of regional authorities or those in charge

of crime prevention on an ad-hoc basis.⁴⁵ In total we approached 14 regional prevention managers.

A. Establishing preventive work in regional government – materials, committees, funds

All regions had a document dealing with the planned development of the region. Some documents are outlined with a relatively long time horizon (e.g. till 2020) while other have a nature of short-term strategies. These documents contain some reference to crime and socially pathological phenomena on the territory of the region (including prevention). However, these excerpts are mostly marginal and on the level of mere proclamations.

Conceptual materials of a preventive nature that do not have an immediate relation to subsidies from the central level are usually not included in the agenda of regional councils or assemblies.

Only 4 regions had a special committee for preventive work. The activity of this committee was substituted by various entities on the level of regions, mostly the Regional Anti-drug Committee or a committee for ethnic minorities. The non-existence of a committee for preventive work reflected the uncertainty in what should actually be the workload of such a committee on the regional level because issues related to prevention should primarily be resolved on the level of communities. This uncertainty further explains why during the poll there was no pressure on establishing a regional committee for prevention of crime and socially pathological phenomena.

Development of preventive work on the level of regions largely depends on the planned finances for these problems. In most regions the sum for prevention of crime and socially pathological phenomena was not exactly (or at all) specified. It was generally stated that the financial situation concerning the support of prevention on the level of region has a permanently low but towards the future slightly improving level.

B. Staffing of the position of coordinator, manager

In each region there was a worker who was (formally or informally) in charge of crime prevention; however, the scope of his/her workload dealing with crime prevention differed. Only two regions had a full-time regional prevention manager; this office was most frequently connected with the office of a regional anti-drug coordinator or it was performed as one of many activities of the department of social affairs and health. At the end of 2007 the actually existing and approved office of a prevention manager in self-governing authorities of a region was established only in half of the regions.

The workers usually performed assistant positions and were not provided with any decision powers. The description of their job was not exactly focused on the work of a prevention manager; it was conceived in a rather general and vague manner. Their common position limited them also in view of the possibility to receive above standard (but sometimes even basic) documents for their job of a worker in the area of prevention.

⁴⁵ To make this text more consistent we will use a common term „regional prevention manager“ for these officers even if this term is not used for all of them in their regions.

The survey showed that in 2007 no special qualification pre-conditions were established in any region for the position of a prevention manager. During the interview the managers expressed their internal need to be further educated in the field; however, the respondents did not agree on what this education should be based on. Regions as such did not have major ambitions in the area of dealing with crime and socially pathological phenomena. Better integration of the prevention manager within the structure of regional authorities – ideally in the structure of the Mayor’s office – might significantly improve this situation. In order to view the position of a regional manager as a “promising job” this position should be established in legislation alongside the Romany and anti-drug coordinator with delegated powers (and with a governmental grant). Then the regional prevention manager would no more be perceived as a certain redundant luxury within the regional authority.

C. Professional securing of preventive work on regional level; cooperation with communities

Regional prevention managers kept rather irregular random contacts with prevention managers in communities; contacts were largely done by phone or email. Some regional managers attempted to create a certain information mail portal in order to publish everything that prevention managers on the level of communities might use for their work. The contacts were prevalingly of an instrumental nature. Roughly one half of regional prevention managers tried to organise meetings of community managers. The success of these events depended mainly on the attitude of particular communities towards the regional authority and its activities – the communities emphasised their autonomy.

The survey showed certain reserves in cooperation between regional and local managers; regional prevention managers were not members of any prevention committees in “third-type” communities of the region and they were only exceptionally invited to these meetings (based on informal relations). We can state that so far communities did not express a great interest in involving regions in local problems and likewise the regions do not make an “excessive” effort to change the situation. In 2007 the system was not set for the regions to need communities in preventive work, or for the communities to need the regions.

D. Managers’ knowledge in the area of complex safety analysis of the region

Regional prevention managers lacked a more comprehensive account on the situation in the region but they also recognised the need to know these data. In principle they knew there were some analytical materials of the Czech Police about crime in their region, but they did not have an automatic access to these materials and had to demand them from the regional management whenever they needed them. Managers were informed about the current situation in the region in a rather superficial manner and with a significant time delay. The survey indicated that disposal of necessary materials largely depended on the initiative of each prevention manager.

The situation of 2007 confirmed that in the last several years some sort of a sociological survey usable for prevention took place in roughly one third of regions. However, prevention managers in regions mostly depend on public information sources (Internet) or random information from sources like the prevention department of the Ministry of Interior, Probation and Mediation Service, Ministry of Labour and Social Affairs, Ministry of Education, Youth

and Sports or professional institutions with national scope (Institute for Criminology and Social Prevention).

E. The level of cooperation with entities exploitable for prevention

Apart from other things our survey implied that prevention managers on the level of regions were in the initial stage of developing their own networks of collaborating with governmental and non-governmental institutions and were in the stage of looking for their consulting teams. If there was some “network” of collaborating organisations, it was informal and occasional rather than systematic and permanent.

Regional managers more often cooperated with governmental organisations that have a regional reach. In this regard managers mentioned bodies of the Czech Police, Probation and Mediation Service, but also organisations whose reach exceeded the boundaries of a region. However, cooperation was not based on any systematic approach and derived from personal initiative. This applies also to cooperation with authorities involved in protection of law – i.e. courts and prosecution.

A similar situation was noted within regional authorities. Generally we can say that in most regions other departments of regional authorities in principle did not reject cooperation with the regional prevention manager, but they did not seek it either. Individual departments lived their life without much interaction. Again, exchange of information within regional authorities derived from personal contacts of the manager with other officers. Therefore it was vulnerably dependent on personal positive relations with specific persons working on various positions of a given regional authority.

F. Crime prevention projects

We noted a certain ambiguity in understanding preventive work in regions. Certain financial resources flowed for various projects in regions; some – according to respondents – were more or less preventively focused, but as a whole these projects were not directly presented as preventive projects, i.e. they did not draw funds reserved solely for this purpose. Respondents almost unanimously agreed in that the sums expended annually by the regional authority for preventive work were incomparably lower than funds invested e.g. in support of sports or culture.

G. Cooperation with national level and on the level of regions; legislative recommendations

The emerging work of managers in particular regions requires a certain systematic aid from the central level and a frequent and comprehensive exchange of information among regional managers. Our respondents met on horizontal level approximately twice a year. Nevertheless, their debates had no fixed rhythm or strategic orientation. They had to rely on an informal initiative of some of the regional managers who voluntarily took over the organisational management of such a meeting. Besides these ad hoc informal meetings regional managers kept frequent contacts by phone and email, thus discussing various experience and problems of their work.

A more systematic cooperation among regions was somewhat disturbed by frequent fluctuation of human resources on the position of a regional prevention manager. Unfortunately, the status and financial remuneration of the regional prevention manager were not stimulating enough to make workers in particular regions perform the work in a long term and a goal-directed manner so that they could achieve adequately phased conceptual plans.

Regional managers expected too much from their contacts with the Crime Prevention Department of the Ministry of Interior. They said they were finding understanding for their problems and a lot of well-founded systematic advice here. But in spite of this positive evaluation managers had some comments on the central level; dealing with these comments might contribute to an overall development of preventive work in regions in the future.

Regional prevention managers wanted the central government to more frequently and thoroughly negotiate with the regional political management and ensure a better position for implementation of preventive plans.

Regional prevention managers would appreciate if preventive work aimed at crime and the related socially pathological phenomena were regulated by some comprehensive statutory rules of law. A law would better establish the position of managers within the system of prevention, might define powers, tasks and areas of responsibility of various preventive workers on different levels of state administration and in different areas of preventive activity. A statutory backing would be positive especially in relation to communities. A clear division of work and competences would – in their view – certainly contribute to better efficiency of the activity and prevent excessive haggling about who is responsible for performing especially unpopular activities. There would also be higher efficiency in the adopted measures. Last but not least the law should define rights and duties of the prevention manager. When creating this rule of law the lawmakers should utilise the plentiful pieces of knowledge of people from the field, practitioners on the level of the region and communities and ensure that this rule of law was not run “on a shoe-string”.

Youth in a criminological perspective

2006 – 2007

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The research attempted to assess the preventive effects of the application of Act No. 218/2003 Coll., on juvenile responsibility for unlawful acts and on the judiciary in juvenile affairs (hereinafter ZSM), and to acquire new findings on the legal and moral knowledge of young people in the Czech Republic within the context of the educational process.

The research task proceeded from the Crime Prevention Strategy for 2004 – 2007, which was approved by Government resolution No. 393 of 28.6.2004 and which led, among other things, to the following task for the Ministry of Justice: “the application of Act No. 218/2003 Coll., on juvenile responsibility for unlawful acts concerning the development and state of crime and socially pathological manifestations among young people and children”.

The research used the method of studying judicial records, the questionnaire method and techniques of expert investigation. The empirical data was statistically processed. Research activity covered 86 records on young offenders, 464 young people in various types of secondary schools and training institutions were asked about their legal and moral awareness, the gravity of the victimisation issue was then explored in 200 secondary schools.

Results:

1. An analysis of the extent and quality of written reports available to the court for juveniles when deciding on measures in juvenile matters, according to Act No. 218/2003 Coll., on the judiciary in juvenile matters.

The contents of Act No. 218/2003 Coll. in its basic principles (Section 3 [3]) among other things say that the chosen measure concerning juveniles “must take account of the personality of the person who is dealt with, including their age and intellectual and moral maturity, state of health, as well as their personal, family and social relations...” and in the following paragraph (see Section 3 [4]) it then specifies that when determining these facts bodies that are involved according to this Act should cooperate with the relevant body for the social and legal protection of children. The Act therefore requires that employees of bodies for the protection of the law when resolving the issue of anti-social activity among young people seek such measures which would be individually adapted to the situation and needs of persons on whose future fate they decide.

Researchers looked at court records and addressed the factual character of these reports. The analysis found that “the Report on relations” was factually physically present in the overwhelming majority of records and was mostly prepared by employees from the department for the social/legal protection of the child (OSPOD).

The analysis also investigated whether the reports contain or do not contain the information required by the Act, especially according to items stated in Act No. 218/2003 Coll., and its commentary.⁴⁶ The results of this investigation demonstrated that in the reports the information most prevalent was on “the level of the family environment”, or information on an alternative educational environment, on the environment in which the client lived and information on “the current behaviour of the juvenile”.

On the other hand a certain improvement would be needed in the OSPOD reports on the assessment of the values system of the juvenile’s wider family. From the reports it’s also rarely possible to find material data on the characteristics of the peer relations outside the family, in particular of any party in which the juvenile spent its free time. Social workers rarely use the possibility to comment on the methods which could lead to “the re-integration of the juvenile in society”, or to the suitability of imposing a certain type of measure according to the Act on juveniles.

For an overall assessment of the reports we stipulated three degrees of classification: a purely formal report, an average report and a quality report. A third of reports on juvenile relations were classed as quality with very detailed and relevant information. On the other hand only 2 reports were found to be purely formal; these were brief in the extreme and provided basically the minimum of information.

In the overwhelming majority of cases it is possible to class the submitted reports on “determining juvenile relations” as average, which means that the information was not sufficiently worked through in a certain area. In this respect, however, it is necessary to comment that the bases for decisions by bodies active in criminal proceedings may be adequately supplemented from other sources, such as reports from schools, educational institutions, from municipal authorities, reports on personal, family and social relations and the current life situation of the juvenile, as well as its individual behaviour before the court.

In an analysis of the records it was found that some other areas of information, even though these are not comprehensively defined in the Act, are considered by OSPOD employees to be material (and also easily available for it from existing records). For this reason this information appears in the majority of analysed reports. These generally concern information on the reasons why a record is kept on the individual concerned or its family in the department of care for the child; this is accompanied by a communication on the profession or education of the parents (or other carers) of the client; there is also information on the family’s material background. It’s possible to say that this type of data together with information on the school visited, often even forms the spine of the whole report on “Determining relations”.

⁴⁶ This particularly concerns information on the knowledge of the personality and current form of life of the juvenile, on suitable methods to re-integrate the juvenile in society, on the possibility of its resocialisation, on the degree of moral and intellectual development of the juvenile, other information on the nature of the juvenile, its personality structure and dynamic, and where relevant personality defects. The report should also contain information on the environment in which it has been reared and where it lived, information on the level of the family rearing environment, as well as information on the juvenile’s behaviour up to the time of the violation and after committing the wrongdoing. The report should also contain information on the school or employment which it attends and information on the community where it spends its free time. Finally the report should contain information on the possibility of imposing correctional measures, protective or punitive measures.

More than two thirds of all analysed records contain variously formulated communications on the degree to which social norms and authorities are respected by the client and information on the client's behaviour outside school. A similar proportion mention the interests of a young offender; this information, however, is often of a rather formal or general character such as "played football", or "has no interests". It would be appropriate to expand and specify this information in the reports. A little more than a third of all OSPOD reports carry information in some way on the intelligence, or intellectual abilities of the client. It's necessary to add that it is often possible to derive the client's intellectual maturity or immaturity from the reports of bodies for the care of the child only indirectly on the basis of certain causal examples of its behaviour.

An important question, which in an ideal case the "Determining of the relations" of the client should answer is the presence of positive influences and examples in the client's social environment – this information is only present in a quarter of records. Unfortunately the families of young delinquents often "founder" in the opposite potential – i.e. some of their members are the source of so-called criminal infection. Such a finding can be located in more than a fifth of OSPOD assessments. In this area it would be appropriate to seek positive opportunities for the activity of a young client, to think about the wider family, or other possible sources of positive activity in the client's near family.

Other documents specifying or supplementing in some way the whole of information about a juvenile's relations was recorded in more than half of cases. This particularly concerned records of the previous criminal career of a juvenile (even as a minor), copies of records from previous proceedings or data from the record of the parents' divorce and/or its entrustment in care.

A rather arresting finding was that "the Report on personal, family and social relations and the current life situation of the juvenile" under Section 56 of the ZSM⁴⁷ was present in only one analysed record. It appears that this method of obtaining information is for the moment not valued by our judicial bodies, or perhaps neglected for reasons of economy.

Generally it's possible to say that – whether in preparing the "Report on relations" or „Reports on personal, family and social relations and current life situation of the child (juvenile)“ the statutory instructions for preparing a report are too general and it would

⁴⁷ Section 56 Report on personal, family and social relations and current life situation of the juvenile

- (1) If it is essential to ascertain more detailed information to continue with proceedings and to impose the most appropriate measure it is necessary to prepare a report on the personal, family and social relations of the juvenile and the current life situation of the juvenile which the court for juveniles and the public prosecutor in the preliminary stage of proceedings shall take into account in the final decision on the matter.
- (2) The preparation of a detailed report on the personal, family and social relations of the juvenile and the current life situation of the juvenile shall be imposed by the presiding judge and in the preliminary stage of proceedings by the public prosecutor to the relevant body for the social-legal protection of the child, or where relevant also the Probation and Mediation service.
- (3) The report on personal, family and social relations of the juvenile and the current life situation of the juvenile must be in writing if the presiding judge and in the preliminary stage of proceedings the public prosecutor do not decide otherwise, and must contain especially the age of the juvenile, the level of its maturity, and moreover its attitude to the wrongdoing and its willingness to find a remedy for the damage caused or make up for further consequences, the family relations of the juvenile, including the juvenile's relations to its parents, the degree of influence of on it of its parents and the relationship between the juvenile, its wider family and its close social background, records of school attendance, its behaviour and progress in school and, if employed, also any facts important in judging its behaviour in employment, an overview of its previous wrongdoings and measures used in relation to it, as well as a description of their performance, including the method of the juvenile's behaviour.

therefore be appropriate seriously to specify the scheme of reports. Until now it depends to a significant extent on the assessor's "invention" and his focus of attention in preparing the report. (part of the results from the conducted research comprises a certain proposal for a possible unifying structure of these OSPOD reports).

Part of more than two-thirds of analysed records also comprised a report from the school that the client visited. This data also testifies to the fact that information from the school can be extremely valuable as it may serve as an important source of information not only about the client's behaviour in a longer-term perspective but also about the characteristics, temperament or attitudes to social norms and their adherence at present.

In the analysis of school reports we looked at a total of seven areas which we in the aforementioned respects considered to be relevant⁴⁸.

The preparation of a school report for judicial purposes was most often entrusted to the client's class teacher, i.e. a person who probably has – or could have- a more systematic and personal contact in assessing a student, and also knows about its educational, attainment or family problems. In roughly half of cases the final processor of the report was the school director; only a negligible part of opinions was prepared by an educational consultant.

Partial information how the relevant individual copes with school was contained in the overwhelming majority of reports. These often nevertheless concerned only a very brief and rather general characterising of the overall welfare. Similarly two-thirds of school reports contained certain findings about the student's family background, in the vast majority of cases, however, this only referred to very general information in the sense of whether the parents cooperated with the school, i.e. whether they took an interest in the client's results, came to class meetings etc.

An area which in the assessment of the offender's personality by the school can be considered one of the most significant is undoubtedly the issue of discipline and disciplinary infringements. Almost half of analysed reports contained information on discipline or the client's disciplinary infringements. Far less often – in roughly a fifth of opinions- the school commented on the student's interests or activities in real time (and just this information could be valuable for judicial bodies) and in even fewer we find a comment by the school on the investigated crime.

The overall assessment of the quality of reports about the client from the school environment showed that roughly a sixth of them could be seen as very high quality and responsibly prepared; on the other hand approximately a quarter of school reports had to be considered as rather formal documents, from which the relevant court or prosecuting attorney was basically unable to draw more material information on the character of the offender. The remaining and prevalent part of reports were found to be of a certain average, where some of the material information was missing or had not been processed in detail; however, an opinion as such could be of help to a court of prosecuting attorney in reaching their decision.

⁴⁸ This dealt with school progress, the overall approach to school and studies, the characteristics and nature of the client, information about the family background, information about discipline or disciplinary infringements, information about the interests and free-time activities and about the school's comments on the crime itself, or on what procedure it would propose for its eventual solution.

In our investigation a report on reputation from the living place was present in just under half of the analysed records. In the overwhelming majority of cases the report was processed by an employee from the municipal authority, most often an official of the administrative department; in cases of smaller municipalities generally by the mayor, deputy mayor or secretary. Sometimes the local police department was invited to process the report; this gives information on violations committed in the living place.

The core of the majority of reports on reputation was information on infringements that the client had committed, or the absence thereof. In most cases, however, this only concerned a simple statement that the individual concerned was or was not dealt with for an infringement. More than half of records from the obtained reports contained a neutral assessment such as “no other information about the behaviour of the individual is known”. Only approximately a third of reports from the municipality offered any more concrete data which could give a picture of the client’s personality and his social background. In some reports we learn about complaints by citizens which appeared about the monitored juvenile, especially about any inclination to abuse narcotic substances or alcohol or about its problems in school, entirely without comment remained for example the area of the client’s deprived contacts, membership of a gang etc. Likewise, a more detailed picture is nowhere given of family members, surprisingly from the viewpoint of the ability for a positive educational commitment.

In general it’s possible to state that detailed reports are a great exception – the vast majority are processed with a mere record of infringements dealt with by the municipality’s infringements commission. Sometimes the superficiality of “municipal” reports is due to the fact that the juvenile’s family often changes residence, has just moved and is therefore scarcely known.

After an analysis of the quality of individual types of report the question must be asked of the overall quality of the information that provides the opinion. It is necessary to ask to what degree the judicial bodies, when reflecting on the commensurate sentence or other intervention in the young person’s fate (as required by Act No. 218/2003 Coll.), have access to a good written document on the important facts of the client’s life in his social field. Our investigation showed that in addition to reports which closely characterise clients in areas of their competence there also exist others which do not record clients’ important life circumstances (or in the information they provide they remain on the surface of the problem and do not look for its causes). Some on the other hand contain a whole range of often important information and perceptions which exceed the scope of a report’s range of focus and we could justifiably expect these rather in different reports.

In our empirical investigation we attempted to perform an analysis of the submitted reports with regard to a comprehensive view of the client and his social background. We considered the following information material for the individualisation of a correctional intervention as the Act on juveniles intends: what sort of characteristics does the client have, what sort of interests does the client have, what are the characteristic features of the client’s behaviour, what is the client’s family like and how is it integrated in it, what sort of relationship does the client have to the school environment and how does it progress in it, and finally what are the client’s peer relations like. We find that the best information was obtained from the area of the client’s behaviour in school and about the behaviour which preceded the violation under investigation. On the other hand there is a dearth of quality information about

the client's interests and especially information about the peer relations of the individual assessed.

After we assessed all the opinions on all the clients in our investigation we came to the following aggregate conclusion:

- For two fifths of clients we found in the materials standard information required by the Act, but only to the extent that it is formally fulfilled.
- Above this "average" of the information base ranges a third of comprehensively assessed reports, for roughly a tenth of clients in the total assessed group we noted comprehensive, largely better than standard information (for some of those expert opinions from the field of psychiatry or forensic psychology were available).
- In a comprehensive assessment of the reports we also identified cases which do not achieve the necessary information standard on the client and its social background (approximately a quarter of cases). Especially in four cases we found the knowledge base to be entirely unsatisfactory; in these cases almost nothing could be ascertained about clients other than their criminal or other than criminal activity.

2. On certain attitude changes in the legal and moral awareness of young people

In 1991 the Institute for Criminology and Social Prevention published the report from the analysis entitled "The Relationship of young people to certain legal and moral norms"⁴⁹, which contained a host of empirical data on the then attitudes of young people to certain legal and moral questions.⁵⁰

Research workers from the ICSP are currently addressing the question: to what degree do the attitudes of young people differ in comparison with the previous generation (measured by an assessment of the same incentive stories in the same schools as in the original analysis). The research sample thus again included respondents from grammar schools, industrial schools, economic schools, medical schools and a variety of departments of specialist technical schools.

Generally it's possible to say that today's young people unambiguously condemn the offenders of property crimes who appear in incentive stories. Property violations were also condemned by the offenders, who rationalised their violation in the presented stories by saying that the robbed owner certainly did not value the stolen item, or did not care sufficiently for the property. Today's young people judged theft essentially in a similar way to their predecessors, with the difference being that at present a larger part of respondents acted with a certain morally condemnatory accent.

In another story we asked whether the owner of stolen item has the right to try to stop the offender by shooting if he apprehends him during the theft in his own home, or if he sees him fleeing as he carries away the stolen item. In past and present research three-fifths of those questioned expressed their disagreement with such a procedure in stopping an offender.

⁴⁹ Večerka, K., Štěchová, M., Neumann, J., The relationship of young people to certain moral and legal norms, Institute of Criminology and Social Prevention, Prague 1991

⁵⁰ Employees of the ICSP then at this turning point in our history decided to make a special attempt to „test“ the opinions of young people. At this time they created various incentive situations or stories. These materials by their content and results evoked various moral and legal questions. The incentive stories were then submitted to a sample of young people of various educational categories.

It was generally demonstrated that for a large part of today's young respondents it is in no way unacceptable to punish an aggressor using individual physical force. On the other hand respondents generally realise the unlawfulness and riskiness of violent retaliation; they nevertheless consider a similar resolution as more effective than involving a state authority in dealing with the case.

Here we encounter a serious matter, that today's young people are not satisfied with the means available to the robbed person in enforcing justice. There has been a fall in the number of persons (compare with previous research) who would ask the help of an "authority" (the police or an adult). A similar tendency (to resolve the matter on one's own) can be found in various types of problem situation: physical violence, fraud or bullying on the part of a teacher.

The attitudes of young people are interesting when it comes to the issue of the sexual life of persons around the age of 15. Almost a tenth of those questioned believe (others didn't express an opinion) that sexual relations between minors (or between a juvenile and a minor) is an ordinary or normal occurrence in today's society. Some respondents express a wish for the border of sexual protection for a minor to be lowered to the age of 14. Sexual violence is obviously at present condemned more vehemently than it was at the beginning of the Nineties.

Attention should be paid to the finding that approximately a tenth of young people in the current research group see the main error by perpetrators of sexual abuse (sexual intercourse by a juvenile with a girl under the age of 15) to allow themselves to be seen during the sexual act. This opinion did not appear anywhere in previous research. A general conclusion can even be drawn that when it comes to norms with a low level of acceptance (sexual relations between minors, the smoking of marihuana), the main failing in the eyes of peer groups is carelessness – "to allow yourself to be caught" during an illegal action. In peer group relations witnesses to similar violations are expected to remain silent; a breach of this requirement is considered to be an unpardonable wrongdoing.

Other incentive stories also considered for example questions on the use of light drugs and the correctness of prosecuting juveniles for similar violations. Young people take marihuana as a natural part of culture for their peers and generally consider its use to be a personal matter. Like other attitude stories in the whole cycle it would seem that the main wrongdoing of the heroes of the story⁵¹ was in the eyes of their peers carelessness, i.e. that they „allowed themselves to be caught“ during an illegal action. Juvenile respondents are generally cognisant of the risks that this behaviour brings and don't display any special sorrow about the possible prosecution of those who use and deal with this drug. A large proportion agree with the punishment of being removed from school for marihuana excesses, and the punishment for a "professional" dealer is accepted as entirely positive.

Among the characteristics of the current research project it should be added from a historical perspective that the questioned respondents on some difficult matters in the presented stories expressed themselves on the one hand generally more correctly than previously, but on the other hand basically refrained from any comments on the problems presented.

⁵¹ The actions of the main protagonist could in practice be prosecuted as the involuntary production and retention of narcotic and psychotropic substances and poisons according to Section 187, 187a) of the Criminal Code

3. Research probe into the issue of the victimisation of teachers

Violence against pedagogic workers became an often discussed theme as in recent years where have been, both at home and abroad, several incidents where a student has physically attached his teacher. These events raise the question whether the profession of teacher has become a dangerous profession. As real findings on the situation in our schools are still lacking we decided to conduct a research probe into the said issue with the aim of mapping what sort of experiences our middle school teachers have with various forms of aggressive behaviour by pupils.

The results of this extensive investigation showed that repeated experience with aggression of this type is rather exceptional and teachers who encountered some of the forms of aggression monitored most often had experienced only one such event. An exception was verbal aggression by students, which had been confronted more frequently by half of the respondents concerned (insults, threats of misusing influential acquaintances, destruction of property etc.). During their teaching career more than a tenth of those questioned had encountered threats by parents from the abuse of their acquaintances to the teacher's disadvantage.

The vast majority of respondents think that for teachers it is much harder today than ten years ago to maintain discipline in class and that schools do not have sufficient suitable competence to be able to resolve cases of problem students. Opinions even predominated that the teacher should have the statutory status of a public official in order to be better protected against possible attacks by students or other persons. In this respect the opinions of school directors are interesting; only one-third considered the disciplinary measures that schools currently have to resolve cases of aggressive students to be sufficient. Only a few directors would dispute a lowering of the age for criminal liability to 14 years.

The statistical processing of questionnaires revealed that the experiences of respondents to aggression differed according to gender. Women more often than men confronted verbal aggression during teaching, whereas men were more typically the victims of gross insults by a student outside teaching hours and also more often encountered during their career the intentional damage or destruction of personal property. There were also more men who found themselves to be victims of threats of physical violence, although by way of a change more women experienced experiences of direct violence. They also dominated among those who admitted to experiencing fear from specific students at school and who admitted that they had considered ending their pedagogic career due to aggression by pupils. The type of school at which the teacher worked played a significant role. For practically all monitored forms of aggression these recorded a greater degree of victimisation of teachers from specialist technical schools and from middle integrated schools in comparison with the experiences of teachers working in grammar schools. Middle specialist schools are moreover the environment where pedagogues in comparison with colleagues from other schools are frightened of specific students and more often consider resigning due to the their profession due to the aggressive behaviour of pupils. The stated differences were essentially confirmed by research among school directors.

4. The criminal career of children

The last study refers to the fact that criminology experts are able, based on certain prognostic instruments, to estimate the extent to which this or that young individual is threatened by anti-social development – certain anamnestic indicators can indicate a high probability for the client's future failings, whereas others in his life can play a breaking or compensatory role.

Research into the fate of children with ordered protective or institutional education confirmed the known finding that children in institutional care do not comprise a remotely homogenous group. Even if the move away from the specific, not overly large group of solitary children (orphaned or abandoned), and if we don't take into consideration the group of children threatened by a poor social background (coming from a socially weak, disorganised family environment), we still find many differences among them. Among the children with ordered institutional or (very rarely imposed) protective education we used a mathematical method to highlight several basic groups. These may be summarised as follows:

- the group of children for whom the primary problem is the socio-cultural shortcomings of the family, poor care and educational failings by the parents – the outlook for halting the onset of anti-social development is relatively hopeful. Disturbances of behaviour by these children at school age mostly does not reach the intensity of criminality, and is limited mainly so truancy, hanging around, a lack of respect for authority, smoking etc. Only a small number of these children in later years find themselves ensnared in the criminal justice system, and if they do only for minor infringements.
- the group of children with numerous problems, in which theft predominates (committed mainly in gangs), but also with a functioning family – these children in subsequent periods of life often continue in property crime, perpetrate it repeatedly and after several light punishments are also unconditionally sentenced.
- the group of children with tendencies to aggression, bullying, experimentation with drugs, not infrequently with low intelligence or some form of psychiatric care, children which come from families educationally unsuitable, often highly unstable, full of negative models and social pathologies – from this group is recruited the largest number of offenders of serious violent violations, chiefly robbery.

The possibilities of prompt intervention and of deterring the child from the faulty career that it's undertaken are one of the important conditions in reducing crime among people. It's necessary to say that the System of Prompt Intervention project, tested by us in several towns, is undoubtedly the right way. However, for all of those who are involved in this issue it is clear that without a massive increase in the number of qualified social workers and other experts it is not possible to perform this early care (and not even subsequent care after being discharged from an institution). Moreover the care that should be specifically created according to the diverse needs of the above indicated groups.

The summarised conclusions and recommendations lead one chiefly to believe that for the full application of the modern Act No. 218/2003 Coll., to struggle practically for the greater individualisation of treatment with children and juveniles. The possibility of a correct decision on adequately intervening in a specific case is then to a large degree dependent on a comprehensive knowledge base which the judicial employee has available on the client and its social background. It is necessary to deepen the knowledge of certain, especially those thus far neglect in the reports, areas of the client's life for the reports to discard formalism and lack of specificity. This development obviously presumes on the one hand a sufficient expert and

time capacity for the processors of reports; on the other hand facts underscored by knowledge that judicial employees will be provided with information and recommendations to devote due attention in judging the needs of a client.

The research also demonstrates that – despite certain positive shifts in the legal and moral awareness of young people – there still exists in the young generation a whole host of unsuitable moral attitudes and legal ignorance. To reduce delinquency and also to reinforce the legal state it is necessary to continue to deepen a legal awareness that will rest on argumented moral principles. In this area not only parents but also teachers play a substantial role; teachers should be still better prepared to deal with this function, including confronting possible disciplinary excesses by their pupils (especially verbal aggression). It is necessary to realise that the process under Act No. 218/2003 Coll., in modifying the life of young people really deals with a final solution; of primary importance should be preventing the origin of anti-social manifestations in young people, or appropriate social interventions at the beginning of problems. And all the more so if criminological knowledge is able to indicate which of the client's manifestations in a certain social situation require increased preventive and remedial attention.

The impact of selected provisions from the large amendment to the Criminal Procedure Code on the course of criminal procedure

2004-2007

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Procedural criminal law underwent a major change through the adoption of Act No. 265/1001 Coll., which came into effect as of 1 January 2002. This amendment to the Criminal Procedure Code (hereinafter in the text also the “large amendment”) was adopted at a time of ongoing recodification of Czech criminal law. The large amendment became the initial stage of an entirely new Criminal Procedure Code and, in addition to its fundamental purpose – the immediate improvement in criminal procedure – its application also fulfils the role of testing the effectiveness of the changes that it brought about, i.e. its impact on criminal procedure. These facts were the instigation for the research task stipulated for 2004 – 2007: “The impact of selected provisions from the large amendment to the Criminal Procedure Code on the course of criminal procedure.” With regard to the state of work on the new Code, the information and findings from the research task should, among other things, assist in evaluating the large amendment for purposes of recodification.

The research task was conducted in the form of four relatively independent research themes, while obviously taking into account their mutual inter-relatedness. The following particular research themes were stipulated:

1. Summary procedure
2. Change in the position and role of the public prosecutor in criminal procedure
3. Changes in the area of custodial procedure
4. Enforcing changes in appellate procedure.

The subject matter of the research was generally the legal regulation of selected provisions introduced by the large amendment to the Criminal Procedure Code, its practical application and the effects on the course of criminal procedure. The aim of the research was to provide more comprehensive knowledge and evaluation of the impact of selected changes that the large amendment to the Criminal Procedure Code brought, on the course of criminal procedure, and with regard to the intended purpose of these changes and with regard to findings and requirements from practice

The following methods and techniques were used to perform the research task:

- analysis of professional literature
- analysis of legislation, including available case law
- analysis of available statistical data from the judicial statistics of the Czech Ministry of Justice and Czech Prison Service
- analysis of court files
- questionnaire survey among judges, public prosecutors and police officers
- analysis of relevant official documents.

Summary procedure

One of the most important changes introduced to the Criminal Procedure Code by amendment No. 265/2001 Coll., is the creation of two types of pre-trial proceedings from the hitherto uniformly conceived pre-trial stage of criminal proceedings, depending on the type of danger of the crime committed. In addition to the investigation already known of, it is also possible to conduct summary pre-trial proceedings for certain types of offence. However, in order for the change in this area to have a really effective impact on specific criminal proceedings, it is not exhausted with the end of the pre-trial proceedings but continues in the stage before the court, where a simplified hearing before a single judge follows on from summary pre-trial proceedings.

The research results make it possible to state generally that summary procedure as a new type of criminal procedure for the least serious and factually and legally simple criminal cases was shown to have worked, with law enforcement bodies becoming familiar with the process, while the rights of persons involved in the summary procedure are upheld and safeguarded at the standard level.

With regard to the objectives for introducing summary procedure, we can say that the aims of the amendment's authors have been largely fulfilled in the stage of summary pre-trial proceedings, which actually make it possible in petty cases to pass the perpetrator on to the court quickly and in a relatively informal manner. The simplification and acceleration of the judicial phase of proceedings has not been so successful as yet, chiefly because it was not possible to strip the simplified procedure before a court of the general shortcomings of judicial procedure in the Czech Republic; nevertheless, even in this area the amendment brought positive and effective elements. With regard to conditions for the work of law enforcement bodies the introduction of summary procedure brought positive changes and these bodies quickly and effectively adopted the new process, even though differences obviously exist in what the changes in summary procedure mean for the activity of the police body, public prosecutor and the court. No information was obtained suggesting that the right of the accused (suspect) to a defence would be significantly restricted in summary procedure compared to the standard type of criminal procedure.

Statistical data reveal that during the monitored period (2002 – 2006) the number of people whose case was heard in summary procedure, as well as their share in the total number of persons against whom criminal proceedings were brought, increased. In 2006, the cases of more than a quarter of all persons against whom criminal proceedings were brought were dealt with in summary procedure. The range of crimes which are dealt with in summary procedure most frequently corresponds to the statutory defined conditions for hearing cases in this manner. These therefore concern petty cases of the crimes of theft pursuant to Section

247 of the Criminal Code, obstructing the enforcement of an official decision pursuant to Section 171 of the Criminal Code and, since 2006, also driving a motor vehicle without a driving licence pursuant to Section 180d of the Criminal Code.

The composition of persons convicted in summary procedure is similar to the overall population of convicted persons in the Czech Republic, albeit with a smaller proportion of juveniles since 2004 in particular (which could be partly due to the application of Act No. 218/2003 Coll.). As concerns the sentences imposed in summary procedure, the proportion of unconditional prison sentences roughly corresponds to the proportion for the same type of sentence among all sentences imposed generally in the Czech Republic, although unconditional sentences in summary procedure are substantially shorter (approx. 70 % up to 6 months of imprisonment, approx. 95 % up to 1 year of imprisonment). Sentences of community service and expulsion form a higher proportion compared with the overall sentencing structure, although the proportion of suspended prison sentences is currently lower.

The average duration of summary pre-trial proceedings compared to the average duration of pre-trial proceedings is markedly shorter, particularly in proceedings at a police body. The average duration of simplified proceedings before a court is approximately half that of proceedings before a court. The further reduction in the length of simplified proceedings before a court is impeded chiefly by typical abuses of Czech judicial proceedings – problems in ensuring the presence of persons at the trial, problems in serving summons and documents.

The legislation for summary procedure has generally proved successful, without serious shortcomings. The simpler legislation for the course of proceedings reflects the nature of the cases that are to be heard in summary procedure. Some comments or suggestions for legislation on summary procedure which emerged from its analysis concern the specification of the grounds for holding summary pre-trial proceedings in stating the relevant provision of the Criminal Procedure Code, the specification of the time-limit for the conclusion of summary pre-trial proceedings, conditions for the conditional deferral of a petition for sentencing, time-limits for preparing for a trial, and waiving the right to lodge a statement of opposition against a penal order.

An analysis of court files revealed that law enforcement bodies quickly recognised the benefits of this type of procedure and learnt to apply the new legislation effectively. In the sample of files examined, only those cases occurred which by their nature were really appropriate to be heard in summary procedure, and in general those where the perpetrator of a minor crime was caught in the act. No shortcomings were found in the cooperation of police bodies and public prosecutors. The result was generally highly accelerated pre-trial proceedings which, nevertheless, also provided sufficient source documentation for the due conduct of simplified proceedings before a court. The overall speed of proceedings benefited if the motion for sentencing was delivered to the court with the suspect. Single judges often availed themselves of the possibility to issue a penal order. The relatively low sentences imposed in summary procedure were evidently the reason for more accused persons refraining from, or often waiving entirely their right to lodge a statement of opposition against the penal order. Such cases also did not experience delays resulting from the unsuccessful delivery of judgements to the accused.

With regard to safeguarding the right to a defence, the cases monitored show the same level of safeguards as that in standard criminal procedure, as manifested particularly in the

fulfilment of the court's duty to instruct and the observance of statutory provisions on compulsory defence, or ensuring an interpreter. The monitored files did not show grounds for concern that some perpetrators might have their rights curtailed because they did not sufficiently comprehend the principle of summary procedure, the extent of their rights in relation thereto, or the consequences of certain procedural acts (e.g. declaration on uncontested facts).

The expert questionnaire survey conducted among police officers, public prosecutors and judges revealed that the introduction of summary procedure is generally perceived as a positive change, particularly due to the simplification, acceleration and reduction of the formal aspects of procedure. There is also general agreement that the stated positive aspects are chiefly manifested in the pre-trial proceedings phase, whereas in simplified proceedings before a court general problems of judicial procedure occur (ensuring the presence of persons at the trial, service of summons), mainly if the arrested suspect is not delivered to the court together with the sentencing motion.

Those employees of law enforcement bodies contacted generally expressed satisfaction with the legislation for summary procedure and positively assessed the level of cooperation in implementing it. They especially appreciated the possibility to read at the trial, with the approval of the parties concerned, also the official records from pre-trial proceedings as evidence. They considered the degree to which the accused's (suspect's) right to a defence was safeguarded to be essentially the same as in a standard type of procedure. A major impediment to the more effective use of summary procedure was detected in the lack of a system that would ensure quick, up-to-date and complete information on proceedings conducted against the perpetrator at other bodies (police, public prosecutors, courts).

Based on the results of the survey we offer, as a conclusion to this part of the report, the following summary of comments and suggestions that we have drawn attention to in the preceding chapters, and which in our view could contribute towards the more effective implementation of the aims that underlay the incorporation of the provision on summary procedure in the Criminal Procedure Code:

- in our opinion, a police body should, in its records on the commencement of acts for summary pre-trial proceedings, or in records on notification of suspicion, always specify the conditions for conducting this type of proceedings by stating the complete relevant provision of the Criminal Procedure Code so that it is apparent whether it found that the condition for this procedure had been met as stated in Section 179a (1)a of the Criminal Procedure Code or in Section 179a (1)b of the Criminal Procedure Code, or both;
- we recommend to consider stipulating that the time-limit for the conclusion of the summary pre-trial proceedings (Section 179b (4) should only commence at the beginning of the summary pre-trial proceedings, not on the date that a criminal complaint or other suggestion for criminal prosecution is received;
- we recommend that the condition for compensation of damage in the case of a conditional deferral of a sentencing proposal (Section 179g (1)b) be moderated by expanding it to include cases where the suspect concludes an agreement for compensation for damage with the injured party or takes other necessary compensation measures, as is the case in the conditional discontinuation of prosecution (Section 307 (1)b);
- we recommend considering the introduction of a shorter time-limit than the general five-day time-limit (e.g. three days) to prepare for a trial, if this is held in simplified proceedings before a court;

- we recommend considering a change in the legislation on the possibility to waive the right to lodge a statement of opposition (Section 314g (1), last sentence) so that if a penal order is issued in simplified proceedings following questioning of the accused pursuant to Section 314 (2) of the Criminal Procedure Code in his presence, the accused may waive his/her right to lodge a statement of opposition directly on the spot (as is the case in the right to waive an appeal following the declaration of a judgement), not until after the penal order is delivered;
- we recommend to consider introducing the possibility, under stipulated conditions in a trial as part of simplified proceedings, of reading the official record only with the consent of the public prosecutor, if the accused, who has been duly summoned, fails to appear at the trial, and to institute this in the same way as the Criminal Procedure Code allows in the case of reading the protocol on witness testimony in Section 211 (1);
- we recommend considering the possibility of expanding the application of the provision on uncontested facts beyond the area of summary proceedings;
- we recommend considering the possibility that the law enforcement bodies in summary pre-trial proceedings compulsorily ascertain the suspect's opinion on the possible imposition of a sentence or measure for whose imposition the suspect's opinion is important (at present, the sentence of community service);
- we recommend the adoption of legislative or other measures so that law enforcement bodies in pre-trial proceedings proceed, as far as possible (obviously however only in cases where appropriate) so that the arrested suspect can be delivered together with the motion for sentencing to the court (Section 179e, the sentence preceding the semicolon);
- we recommend the adoption of legislative and organisational technical measures so that law enforcement bodies have on-line access to current and complete information on the state of proceedings against concrete persons, e.g. in the form of a register of issued (albeit as not yet final) judgements, by means of linking the databases of the individual law enforcement bodies.

Change in the status and role of the public prosecutor in criminal procedure

One of the aims of the large amendment to the Criminal Procedure Code was to transfer powers and responsibility for pre-trial proceedings to one person, who would to a large extent coordinate the activity of all bodies involved in this phase of proceedings in order to accelerate as far as possible and also to ensure the efficient and correct settling of the criminal case. This was the purpose of strengthening the position of the public prosecutor and expanding the scope for his/her independent activity. The change in legislation was also aimed at monitoring whether the public prosecutor, by means of the more efficient performance of supervision and new independent powers in pre-trial proceedings, received an overview of the case that would enable him/her later to act as counsel for the prosecution in a more qualified manner. This procedure was intended to create the prerequisites to also strengthen the public prosecutor's role as counsel for the prosecution in a subsequent phase of proceedings, i.e. in proceedings before a court. The adversarial character of criminal proceedings was also meant to be strengthened, allowing the parties (i.e. the counsel for the prosecution and the counsel for the defence) to play a more important role.

The information obtained in performing this part of the research indicates that the changes introduced by the large amendment to the Criminal Procedure Code have influenced public prosecutors more in pre-trial procedures, where a strengthening of the public prosecutor's position was registered as well as an improvement in the ability to influence, where needed,

the course of this part of the criminal proceedings, even despite a greater work load. Changes concerning the position and role of the public prosecutor in proceedings before a court only partially fulfilled their clearly declared purpose when they created room for the more active and qualified representation of parties, although in doing so perhaps too much leeway was left to the parties to decide whether they will avail themselves of this option.

The confrontation between the aims of the monitored changes and their actual practical impact has led us to the following conclusions. There has unquestionably been a relatively significant strengthening in the public prosecutor's position in pre-trial proceedings, and the conditions have been created for him to have a dominant position in this phase of criminal procedure, including the possibility of greater oversight on the criminal case from the very beginning. On the other hand, the effective and efficient performance of supervision in pre-trial proceedings is prevented by the practical impacts of the large amendment, which materially increase the scope of duties, as well as by the inadequate personnel arrangements of the administrative element of this activity for public prosecutors, which more often causes the formal performance of supervision to see that legality is observed as the public prosecutor's most important activity in pre-trial proceedings.

The public prosecutor's preparedness from pre-trial proceedings for acting as counsel for the prosecution in a qualified manner in proceedings before a court has not been substantially increased since the large amendment. The public prosecutor's position in pre-trial proceedings may have been significantly strengthened (which should enable him/her to familiarise him/herself more thoroughly with cases for purposes of a trial), but there has been a significant transfer of the workload involved in criminal proceedings to the stage of proceedings before a court, as a result of which the scope of facts determined in pre-trial proceedings, and documented in a form that can be used for evidence, has generally markedly declined, which actually weakens the public prosecutor's position in which he enters the proceedings before a court (a certain exception can be found in proceedings on crimes on which the regional court holds proceedings in the first instance, where their form has not changed markedly in comparison with the situation before the amendment). Providing the possibility to decide on settlement in pre-trial proceedings had practically no effect on the position of the public prosecutor or on criminal proceedings as a whole as this procedure is scarcely used, for the host of reasons described.

The statistical data monitored reveal that the large amendment helped further reduce the length of pre-trial proceedings, both as concerns the length of the investigation and the total length of pre-trial proceedings. However, immediately after the large amendment came into effect there was a prolongation of the length of proceedings on the part of the public prosecutor, which was then naturally reduced progressively in the following years. The mentioned changes were from the beginning highly influenced by the introduction of summary pre-trial proceedings, although generally it is possible to say that the law enforcement bodies, including public prosecutors, overcame certain initial difficulties associated with the practical application of changes that the large amendment introduced.

In respect of the application of the provision on settlement, although there was a certain increase in the number of cases where this was used by the public prosecutor in pre-trial proceedings, this increase was insignificant and in no way as material as it was expected to be. The use of the conditional discontinuation of prosecution declined slightly and in the following years tended to fluctuate. This was caused on the one hand by the introduction of

summary pre-trial proceedings and on the other hand by the ongoing complexity of the provision on settlement, which clearly did not become ingrained in criminal-law practice.

After the large amendment came into effect there was a gradual fall in the number of cases returned annually by the court to the public prosecutor for additional investigation (alongside a fall in the number of charged persons), although there exist differences in individual cases where according to the Criminal Procedure Code a case can be returned, and developments were not identical for cases dealt with by district and regional Public Prosecutor's Offices. The main reason appears to be the limitation on the range of grounds for which a court can return a case to the public prosecutor for additional investigation; nevertheless, the data ascertained also indicate that courts gradually adapted to the new legislation.

Despite the opposite trend in the number of persons against whom a charge was brought, the number of persons acquitted of charges rose relatively sharply after the introduction of the large amendment. It is possible to assume that the change in legislation was of major importance in transferring the emphasis to the stage of proceedings before a court and limiting the extent and application of the facts ascertained during pre-trial proceedings. However, certain indications have also appeared of the imperfect evaluation of the fulfilment of conditions for bringing a charge by public prosecutors.

The analysis of the legislation found that the large amendment, by changing the scope and method of performing supervision and by transferring powers, helped strengthen the public prosecutor's position in pre-trial proceedings and created the conditions by which to obtain quicker and larger oversight in criminal cases. Despite the fact that legislation since the large amendment to a certain extent distinguishes between pre-trial proceedings conducted for less serious, more serious and very serious crimes, the performance of supervision, including other duties, should according to the legislation be applied in the full, and therefore the same, extent in all the mentioned cases, which in practice to a certain degree prevents the public prosecutor's active involvement in pre-trial proceedings where this is really necessary. In relation to the police body, for whose activity the public prosecutor, due to his/her position, bears a certain responsibility in pre-trial proceedings, the public prosecutor does not have the effective authority which would permit him/her to respond promptly and effectively in a case where the police body acted inadequately.

The large amendment created the scope for greater activity by the parties (public prosecutor and the defence) in proceedings before a court. Nevertheless, it also left final responsibility for the result of substantiation of facts and the whole proceedings with the court, which in practice to a large extent eliminated the intended strengthening of the adversarial character of proceedings. Limiting the grounds for returning cases to the public prosecutor for additional investigation also helped shift the bulk of criminal procedure to the stage of proceedings before a court.

The expert questionnaire survey showed that since the large amendment public prosecutors sense a strengthening of their position in pre-trial proceedings and concede that they are able to be more actively involved in pre-trial proceedings. However, they say this in relation to the scope provided by legislation. In practice they see the application of these changes as presenting real obstacles due to the inadequate staffing of public prosecutor's offices, as personnel is needed to deal with the increased administrative demands. Public prosecutors therefore in general did not judge the large amendment to have had any practical

influence on their work in pre-trial proceedings, and if so, it was rather slightly negative than positive.

Judges and public prosecutors agree that the large amendment to the Criminal Procedure Code has been felt in the marked shift of the bulk of proceedings to the stage of proceedings before a court and in the creation of wider scope for the procedural activity of parties therein. Nevertheless, their experience indicates that in practice the changes are not manifested in judicial proceedings to the extent intended. The possibilities of more active procedural representation have thus far not been exploited either by public prosecutors or the defence in all cases. Public prosecutors themselves judge the influence of the large amendment on their activity in proceedings before a court to have been neutral or slightly negative. Judges evaluated the preparedness of public prosecutor from pre-trial proceedings to act as counsel for the public prosecution in proceedings before a court after the large amendment took effect to be similar or a little better than before the amendment.

On the basis of our findings we offer for consideration the following suggestions or comments, which in our view could help create better conditions for public prosecutors in order to improve the performance of their primary mission, in other words to represent a public action in criminal proceedings, and to do so taking into account the changes introduced by the large amendment to the Criminal Procedure Code:

- we recommend considering the possibility of establishing an immediate power by which public prosecutors can promptly and adequately intervene vis-a-vis the police body in cases where its procedure is marked by real shortcomings, or in some other way give the police body's greater responsibility for promptness and quality in its work as part of pre-trial proceedings;
- we recommend expressly stipulating in the Criminal Procedure Code the police body's duty to satisfy the public prosecutor's request to provide evidence following the bringing of a charge (Section 179 (2) of the Criminal Procedure Code);
- we believe that the judicial procedure pursuant to Section 180 (2) of the Criminal Procedure Code (a request to the public prosecutor for evidence that has not yet been obtained or heard) and Section 203 (1) of the Criminal Procedure Code (requiring the public prosecutor to take separate evidence or action) should be exceptional and should respect the division of procedural roles, and that the legislation should reflect this requirement more clearly;
- we recommend considering the possibility of introducing the duty for a public prosecutor to state in a charge which of the proposed evidence he/she would wish to hear personally; according to how the proceedings develop he/she could, during the course of proceedings before a court, refrain from hearing them personally or, on the other hand, request the possibility of hearing further evidence;
- we recommend adopting measures that would make it possible for the public prosecutor who performed supervision in pre-trial proceedings to always act as counsel for the prosecution in proceedings before a court;
- we recommend considering the possibility of the wider admission of facts ascertained in pre-trial proceedings for purposes of evidence in proceedings before the court under the stipulated conditions.

Changes in custodial proceedings

Prior to the issue of the large amendment to the Criminal Procedure Code, the most problematic elements of Czech custodial proceedings were designated as being the relatively high number of persons in custody and the disproportionate length of custody. The reasons for the high number of persons in custody are not found exclusively in the excessive use of the provision on custody by law enforcement bodies but in the inappropriate selection of such persons, where the majority comprise persons charged with minor crimes. The aim of the large amendment was to eliminate the criticised shortcoming in custodial proceedings.

Perhaps the most telling indicator of the quality of custodial proceedings, their development, the results achieved and changes, are statistical data compared over an extended period. In this respect we can definitely say that all fundamental statistical data from the middle of the 1990s relating to custody and custodial proceedings are very favourable for our country. These results suggest that the changes brought by the large amendment have positively impacted on procedure in custodial cases. Statistical data clearly show that the number of custodies fell and that the average length of custody is shorter. On the other hand, it should be borne in mind that the fall in custodies and the improvement in other indicators in custodial proceedings already occurred in the years immediately preceding the large amendment, roughly from 1995 onwards. Nevertheless, it is true that the large amendment from 2001 significantly accelerated this positive trend.

The provisions on custody that formed the subject matter of the analysis of legislation make up an important part of the Criminal Procedure Code. Before 1989 the legislation did not contain any time-limit for custody and it is therefore easy to conclude that the regulation of the length of custody and its maximum duration was a matter of immediate import following the revolution of November 1989. The principle change in this respect was introduced by the first post-revolution amendment to the Criminal Procedure Code of 13 December 1989 No. 159/1989 Coll., and the related subsequent amendments. Another fundamental change introduced as early as at the beginning of this period consisted in the transfer of decision-making powers on custody from the public prosecutor to the courts, which was enacted by the amendment No. 558/1991 Coll. Other amendments from the 1990s also introduced important changes in the legislation on custody and custodial proceedings.

The legislative process of introducing fundamental reforms to criminal procedure, which spanned several years, was now concluded with the large amendment to the Criminal Procedure Code. This amendment also had a profound effect on existing custody legislation. It chiefly concerned changes in the grounds for custody, the exclusion of custody in certain cases, changes in decision-making on extensions to custody and changes relating to the longest permissible duration of custody. In our opinion, the analysis of legislation indicates that the large amendment was generally correct in focusing on those provisions of the Criminal Procedure Code which had hitherto caused the biggest problems. Although it removed a lot of these problems, several shortcomings remained which have been described in the relevant chapter of the concluding report from the research.

The most important decision in the whole criminal agenda is undoubtedly the decision by a court to have the accused remanded in custody. It can be said that all such decisions which were contained in the analysed court files included the due particulars required by law and were generally of a good standard. This indicates that the courts already handle this agenda without major problems. The same conclusion can be drawn from the motions of

public prosecutors for the accused to be remanded in custody, and from the requests by police officers for a motion to be submitted to remand the accused in custody. One-third of accused persons lodged complaints against decisions to be remanded in custody, although the court of second instance did not accede to any of these complaints. In the analysed files we did not find any formal deviations in the approach of law enforcement bodies, which leads us to believe that these bodies had already become familiar with the new legislation.

As far as concerns the general evaluation of the large amendment to the Criminal Procedure Code, most respondents to the questionnaire survey assess the large amendment's provisions relating to custodial procedure positively and are convinced that as a whole it has led to an improvement in custodial procedure. This is evidenced chiefly by the fact that custodial procedure is quicker and the number of custodial cases has fallen. They nevertheless have serious reservations with regard to certain provisions of the large amendment and believe that these should be changed. The provision most frequently criticised by judges and the majority of public prosecutors was Section 71 paragraphs 1 to 6, which concerns decision-making regarding the further duration of custody. They drew attention to the formal aspects, the complexity and chaotic nature of this regulation, which seems to them imperfect and in the opinion of certain respondents even redundant. Other provisions of the amendment that respondents criticise most frequently are those on the grounds for custody (Section 67 c) the provisions ruling out remanding the accused in custody (Section 68 paragraphs 2 and 3), the provision on separating the total period of custody (Section 71 paragraph 9), or the provision on the accused's repeated request to be released from custody (Section 72 paragraph 3).

Enforcing changes in appellate proceedings

According to the explanatory report on the large amendment to the Criminal Procedure Code, the aim of the new concept of appellate proceedings is the reinforcing of appellate procedure elements. The court of appeal substantially complements proceedings with evidence necessary for it to be able to decide on an appeal, with the exception of cases involving extensive and difficult-to-hear evidence which would mean substituting the activity of the court of first instance. Such cases, which are exceptional by nature, are returned to the court of first instance for evidence to be supplemented in the required extent. There has also been a significant restriction on the reviewing principle in examining a contested judgement by the court of appeal and a strengthening of the disposal principle in appellate proceedings. The principle has been established of a court being bound by the content of the lodged appeal, which with certain reservations means that the appellant determines the scope of the court of appeal's duty to review.

Our findings obtained from the survey indicate that the legislative changes in the monitored areas are necessary to accelerate proceedings and to prevent criminal cases being pointlessly returned from courts of appeal to the courts of first instance or to the preceding stage of criminal proceedings. In some cases the limitation of the reviewing principle also means the simplification of proceedings. The new concept of appellate proceedings has been adopted by judges, is applied in their activity and has generally proved to function, including with regard to achieving the intended goal.

The statistical data revealed that the number of criminal cases settled by district courts following the amendment increased sharply and that the number of cases settled by the appellate panels of regional courts has also risen. The proportion of lodged appeals to the

overall number of cases settled has not changed, however. In high courts, on the other hand, the number of cases settled by them has fallen regularly since 2001, although in the last two years in particular there has been a sharp rise in the proportion of lodged appeals in relation to the number of cases settled in the first instance by regional courts. The difference between appellate instances in the proportion of lodged appeals is significant and results from the gravity, factual and legal demands of the criminal case that is heard.

During the monitored period the decision-making activities of the courts of appeal statistically reflected in the changes, consisting in the wider application of appellate procedure elements and the further limitation of cassation, which the large amendment highlighted as one of the fundamental principles for appellate procedure. In both appellate instances the ratio of cases cancelled by them and returned to the courts of first instance for a new hearing and decision has fallen since 2002, as has the proportion of cases returned to public prosecutors for additional investigation in relation to the overall number of cases settled by them. The largest decrease in returned cases took place in 2002, i.e. in the first year after the large amendment came into effect, although this positive result could not be repeated in subsequent years.

Statistical data also showed that, compared with the period before 2002, the proportion of cases also rose in regional and high courts where a merits judgement was passed on a lodged appeal with statements on the guilt, sentence, compensation for damage and protective measure. For high courts this proportion was greater and ranged around 40%. For regional courts there was an increase in the proportion of cases where a decision was taken to reject an appeal following the fulfilment of review duties, which suggests an improvement in the quality of decision-making in district courts. In 2006, regional courts decided, pursuant to Section 256 of the Criminal Procedure Code, to reject almost half of lodged appeals, and high courts decided to reject a third of lodged appeals. Since 2002, the average length of proceedings at courts of appeal has also fallen. From 89 days in 2002, it fell to 60 days in 2006. The proceedings of courts of appeal as a proportion of the total length of judicial proceedings also fell (from 22 % in 2002 to 15 % in 2006).

As part of the research we performed an analysis of court files in cases where courts of appeal heard appeals lodged by authorised persons after the large amendment to the Criminal Procedure Code came into effect. All authorised persons received the pertinent instruction on lodging an appeal from the courts of first instance and the overwhelming majority of lodged appeals met all the statutory requirements of their content. However, there were also shortcomings in this respect, which the courts of first instance were forced to resolve by acts to eliminate defects in the lodged appeals. The courts of appeal, without a merits review of a criminal case duly, i.e. after meeting the statutory conditions, also applied the new provision on rejecting an appeal.

As part of their reviewing activity, courts of appeal respected the principle of being bound by the lodged appeal and its highlighted defects and this limitation on the reviewing principle has been proven in practice. The extension of reviewing duties to include a statement on guilt, in the case of an appeal lodged exclusively against a statement on sentencing, was only found in two cases. Beyond the scope of a lodged appeal, the court of appeal also reviewed a separable statement on sentencing, and also applied the limited reviewing principle for separable statements on guilt and on compensation for damage, always with the due justification.

As cassation grounds leading to the overturning of contested judgements, the decisions of courts of appeal most often stated the imposition of an unreasonable sentence, breach of a Criminal Code provision, and uncertainty and doubt concerning the correctness of the facts ascertained. In many cases there was an accumulation of several reasons. Entirely isolated cases were found of a judgement being overturned on grounds of a material defect in proceedings which in all cases were irremovable in appellate procedure.

Following the overturning of a judgement, the grounds stated in the monitored cases for returning a case were chiefly material procedural defects or such shortcomings in the fact ascertained that precluded any other approach and were impossible to rectify in a public hearing at the courts of appeal. However, isolated cases were also found where doubts arose over the justifiability of this approach as an ultimate possibility in cases where the facts were difficult to substantiate, which would mean substituting the activity of the court of first instance. Not a single instance was found of a case being returned to the public prosecutor for additional investigation pursuant to Section 260 of the Criminal Procedure Code, which was unquestionably the result of the stricter conditions for this procedure laid down by the large amendment to the Criminal Procedure Code.

In other cases, the courts of appeal, after overturning a judgement, either decided to reject an appeal or themselves decided on the case with final legal effect. By issuing merits judgements, they altered statements on guilt and sentencing, on compensation for damage and on a protective measure. By doing so, they fulfilled the purpose of appellate proceedings, which consisted in rectifying ascertained defects in the decisions of courts of first instance, and the appellate principle, reinforced by the large amendment, according to which the own decisions of an court of appeal should become the rule.

Another of the research methods applied was the use of questionnaire survey among judges of the district and regional courts and public prosecutors from district and regional Public Prosecutor's Offices. More than half of the respondents questioned (61 %) stated that the large amendment to the Criminal Procedure Code had led to a reinforcing of appellate elements in the practice of courts of appeal and to the far greater limitation of cassation. The courts of appeal already supplement evidence themselves to a greater extent than previously and decide on merits in a case. On the other hand, a third of respondents believe that the decision-making of courts of appeal has not altered and that cases are returned to the courts of first instance in roughly the same extent (understandably more from among district court judges – 43 %). The most common grounds for returning a case to a court of first instance are, in their experience, incompletely ascertained facts of the case (75 %), often together with procedural defects.

According to most respondents, the reinforcing of the appellate principle has led in practice to an acceleration of judicial proceedings. However, some judges pointed out that this could also have been affected by other reasons, e.g. a generational change in the appellate panels of judges. They also drew attention to certain practical problems, such as the protracted rectification of defects in lodged appeals in cases where there is no defending counsel, and the period by which the appellate procedure is shortened is extended again in fact-finding proceedings.

The contacted judges and public prosecutors generally expressed satisfaction with the current legislation on appellate procedure and consider it to be optimal, balanced and relevant to the requirements in practice. Of the respondents, 35 % stated their wish for the further

reinforcing of the appellate principle, and some of them (judges from district courts) believe that the law should clearly define the court's of appeal duty to decide cases on merit, or to limit cassation grounds only for material and irremovable procedural lapses, excluding the possibility of returning the case to courts of first instance merely for the purpose of supplementing evidence.

Based on the research conducted, it is possible to conclude that the reinforcing of appellate elements and the new concept of reviewing in appellate proceedings according to the current legislation can only be put into practice by strictly adhering to the amended provisions and by a responsible approach on the part of judges and public prosecutors in these proceedings. Also necessary is:

- for the judicial decisions of the Supreme Court to be applied promptly to resolve problems of interpretation connected with the new legislation,
- for proceedings at courts of appeal to respect the limited reviewing principle and as far as possible to supplement evidence so that it is already possible in these proceedings to decide on merit and so that the return of a case to courts of first instance only occurs as an ultimate possibility,
- for proceedings before courts of first instance to pay more attention to fulfilling the instruction duty of persons authorised to lodge an appeal, and to do so following the oral delivery of a decision, to take an active approach in rectifying defects in a lodged appeal and promptly to submit court files to courts of appeal for subsequent procedure,
- for public prosecutors, by preparing properly for hearings in courts of appeal and by their submissions, to assist in the due review of contested decisions and in rectifying defects ascertained primarily in these proceedings.

Any further development of the new principles applicable to appellate proceedings and detailed elaboration of current legislation is only possible within the prepared recodification of the Criminal Procedure Code. The research findings suggest that the following recommendations should be considered:

- the appellate principle should be further reinforced at the expense of cassation so that the return of cases to a court of first instance for a new hearing and decision really is an exceptional decision by the court of appeal and is only chosen in cases where it is beyond dispute that the ascertained defects cannot be rectified in appellate procedure,
- the way that the scope and grounds of a lodged appeal are settled should enable the persons lodging appeals to change them immediately upon finding this is necessary, and not later than within a certain period following delivery of the summons or notification of an order for a public hearing, or upon its initial commencement if the need for supplementing is not justified by the evidence heard at the court of appeal,
- the time-limit for the appellate procedure should be extended so that it corresponds to the length of the appellate procedure time-limit in civil-law proceedings, which gives appellants more scope for the due definition and justification of the appeal and eases the responsibilities of courts of first instance regarding the rectification of defects in the lodged appeal.

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