

**CRIME IN THE CZECH REPUBLIC
IN 2010**



INSTITUT OF CRIMINOLOGY AND SOCIAL PREVENTION

Crime in the Czech Republic in 2010

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Introduction

The year 2010 was a certain, although not particularly radical turning point in monitoring criminality in the Czech Republic. The reason behind this is that as of 1.1.2010, a new Penal Code began to apply (for details, see text by Vlach). The amendment of the criminal code was rather “cosmetic” in nature, as far as its impact on criminality statistics is concerned – individual criminal offences covered by Police of the Czech Republic “tactical-statistical” classification were renumbered to correspond with their new numerical identification in the Penal Code. This means that any farther-reaching change in statistical data processing methodology has not occurred either at the Ministry of the Interior (Police of the Czech Republic) or at the Ministry of Justice of the Czech Republic. Due to this fact, we do not make any in-depth conclusions in this study with regard to changes in criminality trends, because in-depth analysis of the data from 2010 concerning how the revision of criminal law is reflected in the figures on the individual criminal phenomena revealed by the statistics of both above ministries. Such analysis can be made only after a certain period of time has elapsed - a minimum of 3 to 5 years.

For these reasons, the introductory article written by the head of the team of authors does not go into much detail in the section focused on the level of criminality in the Czech Republic in 2010 in the context of developments in criminality since the year 1990, nor does it draw any special conclusions based on changes in statistical data after 2009.

The subsequent sections of the publication summarise the results of surveys and research performed at the ICSP in some areas of criminology over about the past 5 years – this concerns primarily organised crime, drug crime, victimological research and research in the area of probation and mediation. It concludes with an outline of the legislative changes in criminal statute law applied in the new Penal Code valid since 2010.

During compilation of the study, statistical data received from the Police Commissariat of the Czech Republic were used to the maximum. This basic data is supplemented by statistical data from the Ministry of Justice of the Czech Republic, by information and data from reports made by the Supreme State Prosecutor’s Office and from several other ministerial

and non-ministerial materials evaluating the situation and development in criminality and the situation and development in the numbers of charged, arraigned and convicted offenders in each separate year.

In view of the quantity of graphs bearing no relation to one another, these are numbered separately in each thematic section.

Marešová

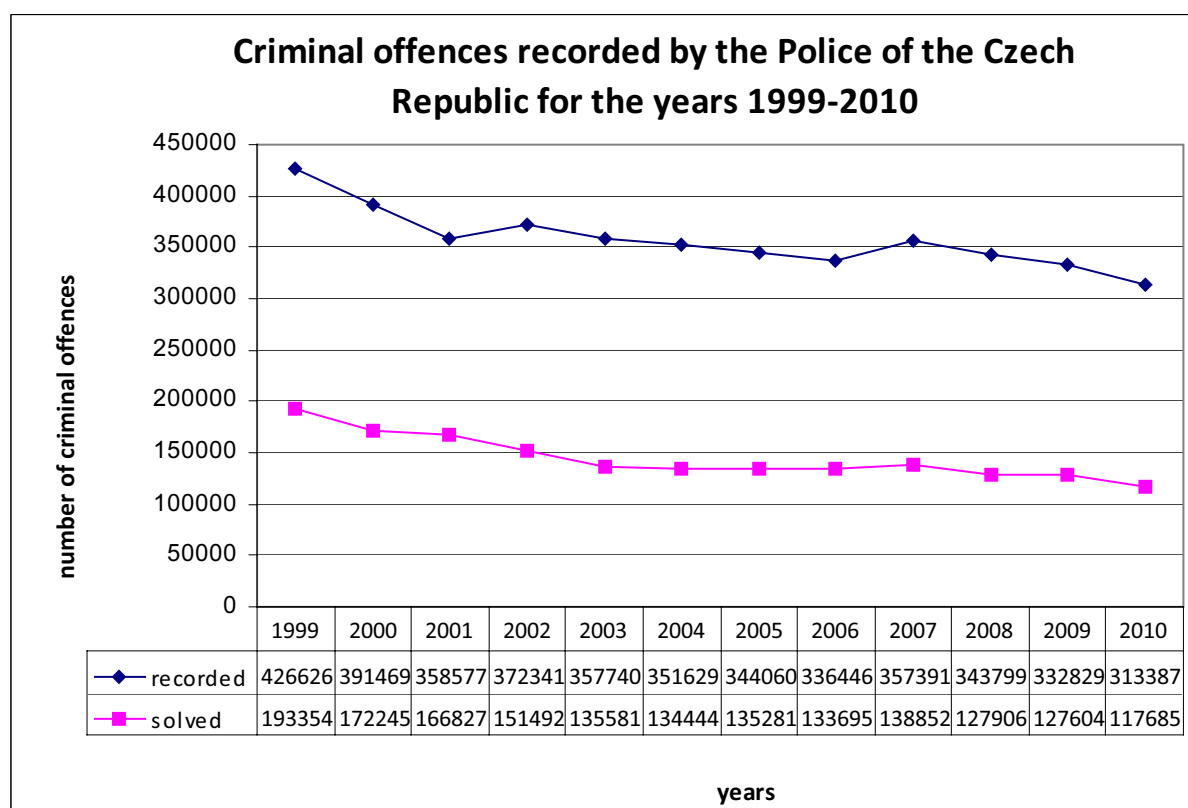
Trends in Criminality in the Czech Republic 2010

(primarily based upon the statistics of the Police of the Czech Republic)

Alena Marešová

The past years do not show any interesting developments as far as changes in the level of criminality are concerned. Also the commentary on the internal statistics from the Ministry of the Interior of the Czech Republic and the Ministry of Justice of the Czech Republic are in agreement in their description of the level of criminality as stabilised over the long term.

Graph 1



In Graph 1, we see very positive trends in the development of criminality during the reference period – with the exception of a slight increase in the number of crimes recorded in the years 2002 and 2007 – a constant fall in criminality is occurring. A less positive aspect is

the matching curve in the number of criminal offences solved, indicating, with the exception of the year 2007¹, an inexorable decline in this field.

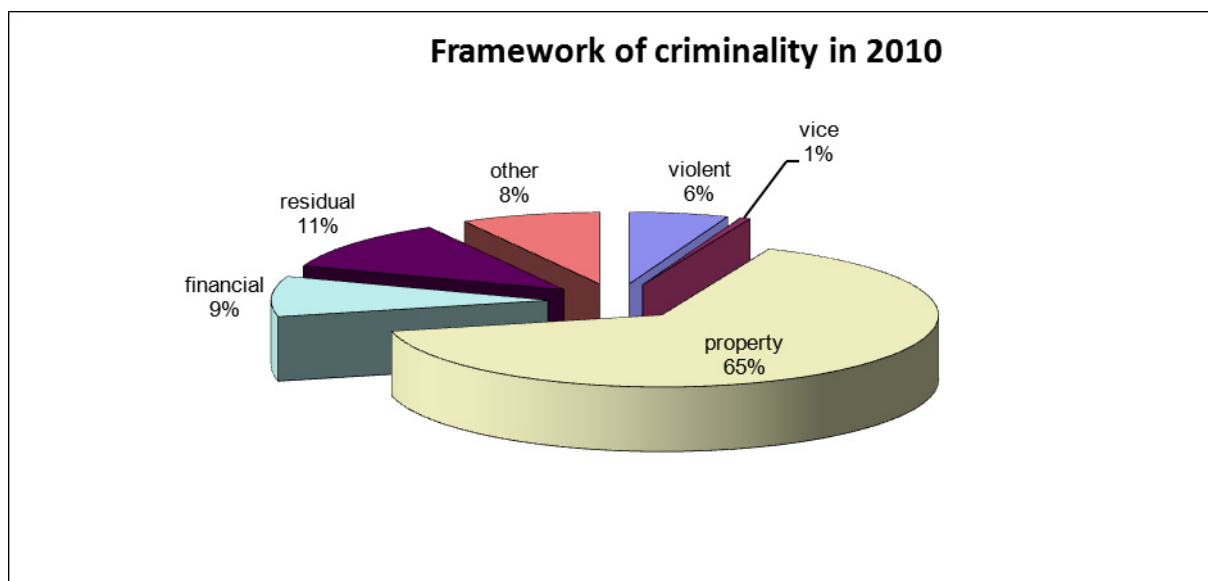
The year 2010 is, according to the statistics, the year with the lowest number of recorded crimes since 1999, their number dropping almost to the level of 300 000 per year. Also the criminality index is falling – **during the year 2010 the figure was 298 recorded criminal offences per 10 000 inhabitants of the Czech Republic**. In comparison with the previous year (2009) there was a fall in most types of criminal offences recorded – greatest in the “residual crimes” section (by approx. 17 000 criminal offences), and also in the property crime section (by approx. 8 500 criminal offences) and financial crime (by approx. 1 500 criminal offences). An increase was registered only in “other crimes”² (by approx. 6 000 criminal offences) and violent crime (by 1 000).

It must be pointed out, however that in the year 2010 almost 750 000 offences were detected by patrolling police. Of these, more than 50 % were in the area of traffic flow and road safety, approx. 200 000 and 100 000 in the public order and citizens’ coexistence segment. Traffic police detected approx. 600 000 offences by motor vehicle drivers in the course the same year were detected by traffic police. In total, the Police of the Czech Republic dealt with 1 268 733 offences in the year 2010.

¹ The year 2007 is exceptional due to the change in the law, classifying “driving a motor vehicle without a valid driving licence” as a criminal offence, which led mainly to a significant rise in the number of identified offenders. One of the reasons for criminalisation of such actions was not only its extremely frequent occurrence on the Czech roads, but also the fact that the offender was always arrested by the Police at the scene of the crime. Therefore the increase in crimes for the year 2007 (approximately 19 000 criminal offences of driving a motor vehicle without a valid driving licence were registered in 2007) was accompanied by an increase in the rate of their solution.

² The greatest increase in the crime count was in the criminal offence of perverting the course of justice, which has now been made further-reaching to include acts such as driving without a valid driving licence which had formerly been classified as “remaining crime”. i.e. this was merely a transfer from one section of the framework of criminality to another.

Graph 2



The first pages of the last Reports on the Situation in the Area of Interior Safety and Public Order within the Czech Republic emphasise that the level and development of criminality is still influenced by international relations. Serious types of crime such as terrorism, organised crime and economic crime represent one of the greatest security risks. In statistics on criminality in the Czech Republic, all of these crimes named represent only a small fraction of criminality recorded by the police.

If we look at graph 2, we can see that property crime, which is consistently the greatly dominating type of criminality and has for years set the criminality development trends, is followed in terms of frequency by types of criminality of an indefinite and variable content: so-called **residual and other crime**. Financial crime (this term is specially stipulated by police methodology and is not identical with its definition in the penal code) accounts for roughly the same proportion of criminality as “other crime”. The proportion of vice criminality has been negligible for years now, and, in order for it to be depicted on the graph (i.e. to be at least 1 %), its figure had to be considerably rounded up.

*In **2008**, the section of criminality identified as “residual crime” included (in order according to the frequency of occurrence in the hundreds of thousands of crimes committed): further other crime, including primarily section §180d of the penal code, driving a motor vehicle without a valid driving licence (in 2008, this represented **18 752 recorded criminal offences and more than 15 000 offenders**). This and the crime of infringing on others’ rights (section 209 of the penal code) accounted for approx. 40 % of all residual crime. The next most*

frequent offences were: threatening behaviour under the influence of addictive substances and drunkenness (21 %), road accidents (20 %), neglect of obligatory child support (19 %). During the year 2005, the content and predominant criminal activity of this item was as follows: the crime of neglect of obligatory child support significantly predominated – 11 000 cases (representing 57 % of residual crime), with approx. 5 000 cases, road accidents followed and only 1 000 (6 %) were “other criminal offences”. In 2010 the composition was different again – similarly to the year 2005, crimes of neglect of obligatory child support predominated – approx. 15 000 criminal offences (41 % of residual criminality), followed by threatening behaviour under the influence of addictive substances and drunkenness – 11 000 criminal offences (31 % of residual criminality), road accidents – 18 % and other criminal offences – 7 % of residual crime.

The section of criminality identified as “other crime” which is an independent element in the framework of criminality, distinct from the subsection of “others” in residual crime, mainly includes (in order according to the frequency of occurrence in 2008) perverting the course of justice (28 % of all other crime), graffiti spraying (22 %), disorderly conduct (15 %), drug-related crime (13 %) and threat to public safety, both wilful and unwilful – fires (5 %) and in 2005: perverting the course of justice (52 %), disorderly conduct (19 %), illegal production and possession of psychotropic substances and poisons (10 %), accessory to crime (5 %). The composition of other crime in the year 2010 is as follows: perverting the course of justice – 13 000 (53 % of other crime), disorderly conduct, graffiti spraying and drug-related offences, each at approx. 3 000 criminal offences – i.e. each group at about 10 % of other crime.

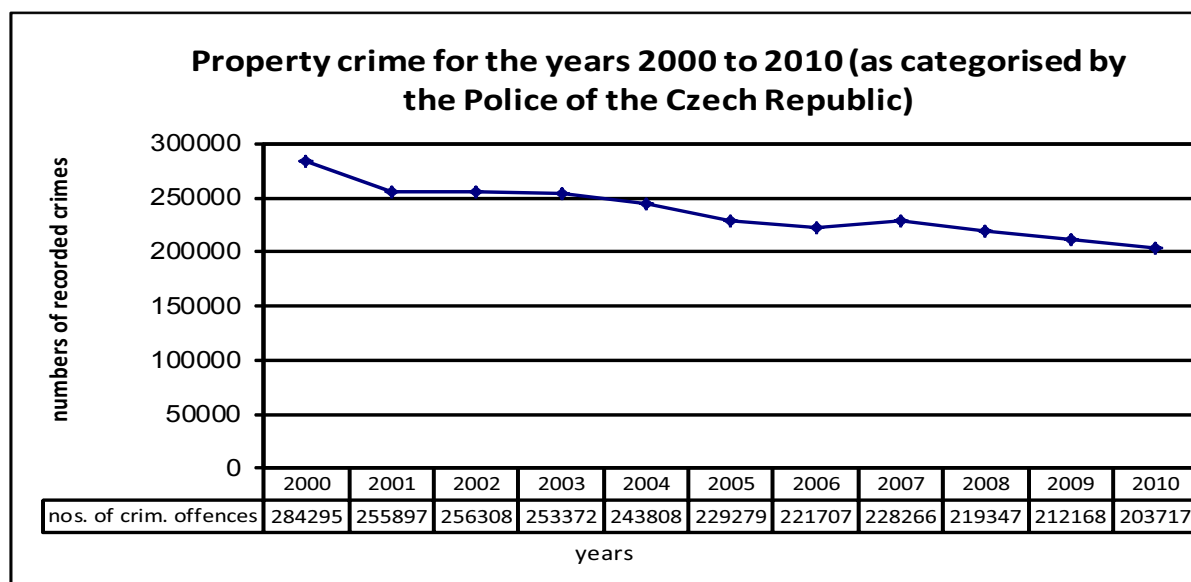
(The term “other crime” therefore appears twice in police statistics. Firstly as an independent group in the framework of criminality, secondly as a subgroup in the section “residual crime”, while both terms are used for identifying different types of crime. This fact leads to many misunderstandings during interpretation of police statistics.)

A relatively high percentage incidence of residual and other crime in the framework of recorded criminality (cf. Graph 2) shows that some criminal offences thus identified may deserve greater attention in the fight to reduce crime than they have been devoted as yet. And also new effective measures against it, and because this concerns petty crime and acts only recently criminalised, these should be measures outside the field of criminal law.

Comparison with recorded crime in Poland may be used to illustrate just how the category residual crime is a manipulative component of recorded criminality. In that country, driving a motor vehicle without a valid driving licence has been a criminal offence since 2003 – maybe our criminal legislation found inspiration there for the amendment to the penal code – and it is criminal to this day. And when the total of solved crime falls, policemen are sent out into the streets to hunt for traffic violators to boost the figures again. In Poland, more than 60 % of solved recorded crime is due to this activity.

The framework of criminality shows clearly that the greatest proportion is still **property crime – 65 % for the year 2010**. It is mainly the domain of recidivists (who amounted to 65 % of all known offenders in 2010). According to the police³ contemporary property crime offenders place an emphasis mainly on the certainty of results of attacks on property and minimise the risks of being caught. They try to achieve this by travelling from place to place – changing the scene of attacks on property, not only within a town, county or region but also nationwide and it is therefore an obvious rise in the degree of professionalism (technical equipment, disguise), organisation (and the international nature of composition of offenders' gangs) and also their gains and thereby the damage incurred due to their criminal activities is apparent.

Graph 3



A drop in the property crime count may again be optimistically inferred from the curve of Graph 3.

³ Quarterly report on criminality in the Czech Republic for selected criminality in the Czech Republic as at 31.12.2010, Prague, Police Commissariat of the Czech Republic, p. 7.

Compared with the previous period, however, the past years have brought an increase in burglaries mainly of residential houses. The drop in pick-pocketing emphasised in the Report⁴ is hard to interpret just as success in apprehension of large groups of pick-pocket gangs in Prague. Misgivings about interpretation of the reduction of the numbers of incidents of pick-pocketing, although favourable for the police, are illustrated in figures for pick-pocketing in Prague itself. For instance, 6 minors (under the age of 15), 22 youths and 129 reoffenders were charged for pick-pocketing in Prague in 2010. For the inhabitants of Prague who are at least slightly interested in the crime rate in the city, these figures are easy to cast into doubt based on personal experience and information in the local media. It is a well-known fact that solving cases of pick-pocketing is difficult, but the fact that of the 7 469 cases of pick-pocketing recorded, only 138 were solved (of the 914 cases still under investigation), which means under 2 %, is alarming. So the term success in apprehension of offenders is a more subject for future discussion on how to act more effectively against pickpockets. (The arrest of a gang of pickpockets is certainly a success, but that of **specific criminologists**, or else groups of policemen, but to interpret it as a reduction of the overall level of pick-pocketing is fairly presumptuous.)

The highest number of property crimes was recorded in 2010, and as has been the case for many years now, this was in Prague, followed by the Moravian-Silesian and the Central Bohemian Regions.

If we disregard the aforementioned “residual” and “other” crime, the next in line is the share in the framework of criminality of financial crime. Over the past few years, in view of the level of damage caused and attention paid to it by the public media and politicians, this is also a type of criminality of a serious nature. Unfortunately, when its position in police statistics is inspected more closely, we find that financial crime includes also many items which have the characteristics of petty crime.

In the year 2010, financial crime was represented by: unauthorised possession of payment cards – 8 000 cases, which accounted for 28 % of the total of financial crimes, followed by fraud – 15.5 %, loan fraud – 13 %, counterfeiting – 10.5 %, embezzlement – 10 %. The damage caused by financial crime totalled CZK 14 billion, the majority of which was in the area of **tax evasion – 32 %**, followed by fraud – 24 %, embezzlement – 11.5 %, breach of trust while administering the property of others – 8 %. These figures are true in the overall total

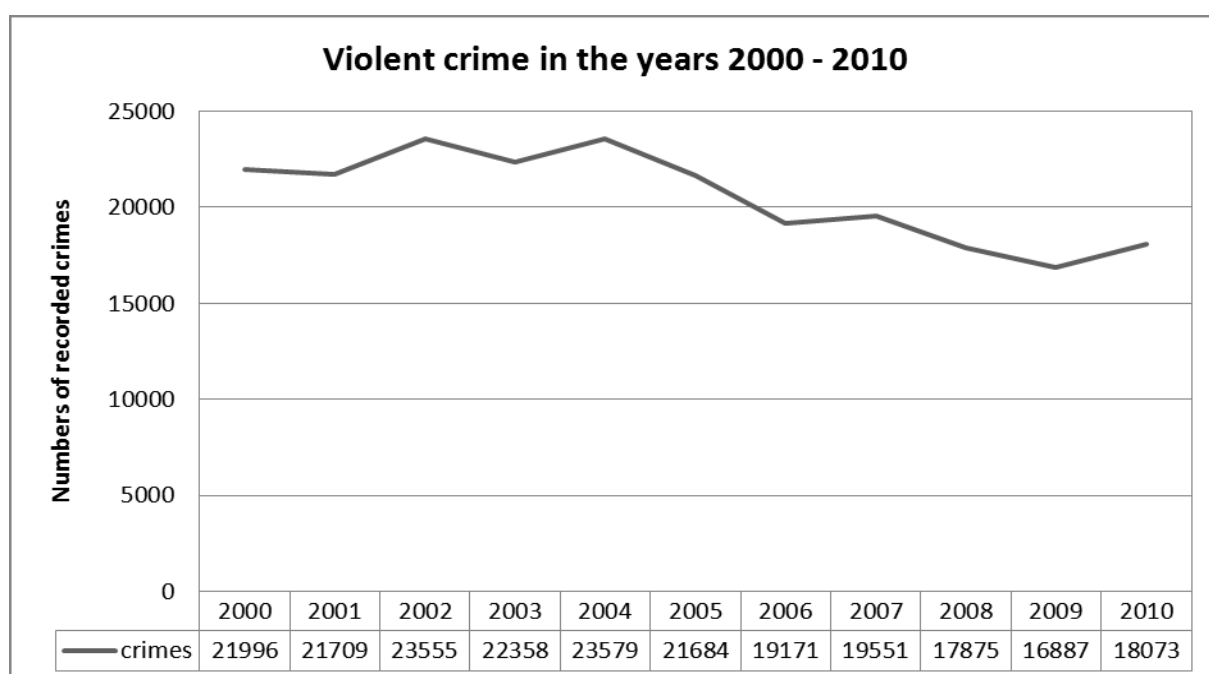
⁴ Report on the situation in the area of security and public order in the territory of the Czech Republic for 2010

of individual cases of financial crime according to the tactical statistical style of classification, but specific cases tend to have a significant impact on the whole item – so more detailed analysis is needed.

Also, the Supreme State Prosecutor’s report speaks of the fact that banking crime is almost completely absent in the records “without it being possible to say that this has wholly ceased to occur or that the banking sector is addressing the problem internally, or possibly that it is concealed in a latent form.” The same applies in the case of the insurance industry.

Violent crime occupies the penultimate place in the figures of recorded crimes – its trend is illustrated in Graph 4.

Graph 4



Fluctuation in the numbers of recorded violent crimes over the 10-year period is not significant. They are in the region of 20 000 per year. Violent crime is, however, the most serious type of crime with regard to the individual, because it includes the crimes of murder, robbery, wilful bodily harm, threatening behaviour.

A total of 173 **murders** were committed in 2010, 170 of which were solved within 30 days as well! 106 of these 173 were successful murders – i.e. when the victim was killed. The victims of attack were more frequently men – in 89 cases; women in 74 cases. More than 60 %

of murders were committed using weapons and approx. 35 % were committed under the influence of drugs or alcohol. According to the Report, the motives were personal conflicts and greed. An element of these was linked with blackmail and prostitution.

The number of recorded **robberies** is steadily (although only slightly) falling – in 2010 there was a total of 4 019 crimes, 145 of which was from financial institutions. More than 50 % of robberies were solved – including those subsequently solved (outside the reference period). The number of young people addicted to drugs involved is hard to overlook – i.e. considerable.

The greatest proportion of violent crime was wilful bodily harm - 4 786 cases of this were recorded, 80 % of which the identity of the perpetrator was known, or established.

A slight increase in the number of violent crimes recorded can be explained by the newly criminalised crime of stalking (in the year 2010 there were 537 such cases) and also by the rise in the crime of violation of domestic freedom – this is linked with the increased number of burglaries of residential homes) – and threatening behaviour.

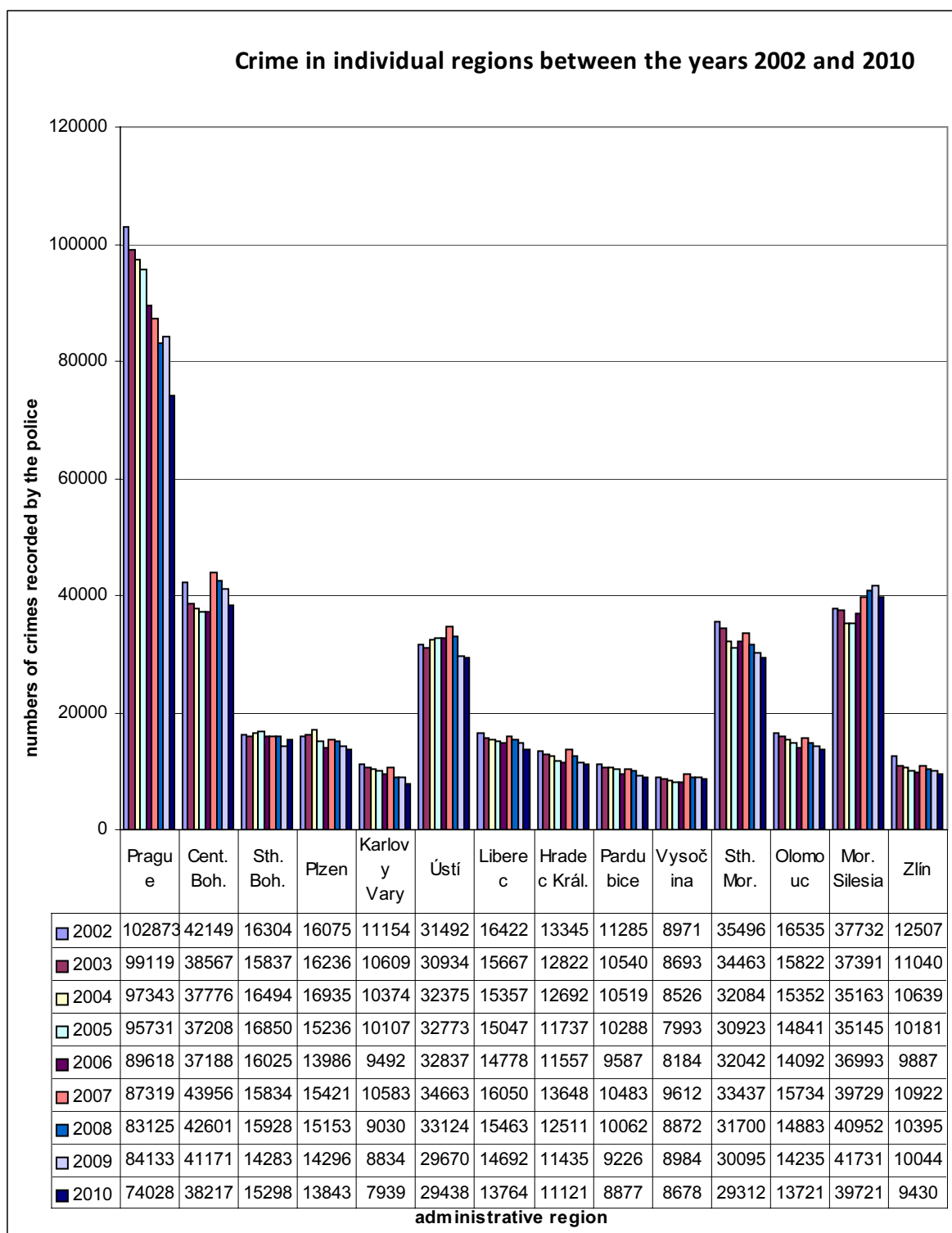
To complete the picture of the framework of criminality, vice crime is often mentioned – cf. Graph 2. In comparison with other types of crime, this is insignificant in number – less than 1 % of all recorded crimes, but it includes very serious crimes – rape and sexual abuse. **Vice crime** accounted for 1 811 crimes recorded. Including those solved subsequently, the perpetrator was known or identified in 84 % of such crimes: the perpetrators were predominantly men of up to 29 years of age, which is a very negative phenomenon, and victims were mainly persons of up to 18 years of age. When compared with previous years, a significant rise occurred in rape and crimes connected with child prostitution and pornography. The State Prosecutor's Office explains that this is due to the new penal code which has increased the prosecution of such crimes.

As far as the **geographical distribution of criminality** is concerned, despite the fact that, according to Graph 5, this has not changed significantly over the past years, greater attention must be paid to this aspect. Firstly due to crime committed via the Internet, which complicates establishment of the geographical distribution of criminality to a certain degree, then criminality committed in the form of continuing crime exceeding the bounds of the state due to frequent movement of groups of perpetrators of organised, but also “merely” of group crime not restricted by state borders to “do a job” and also due to the international nature of victims etc.

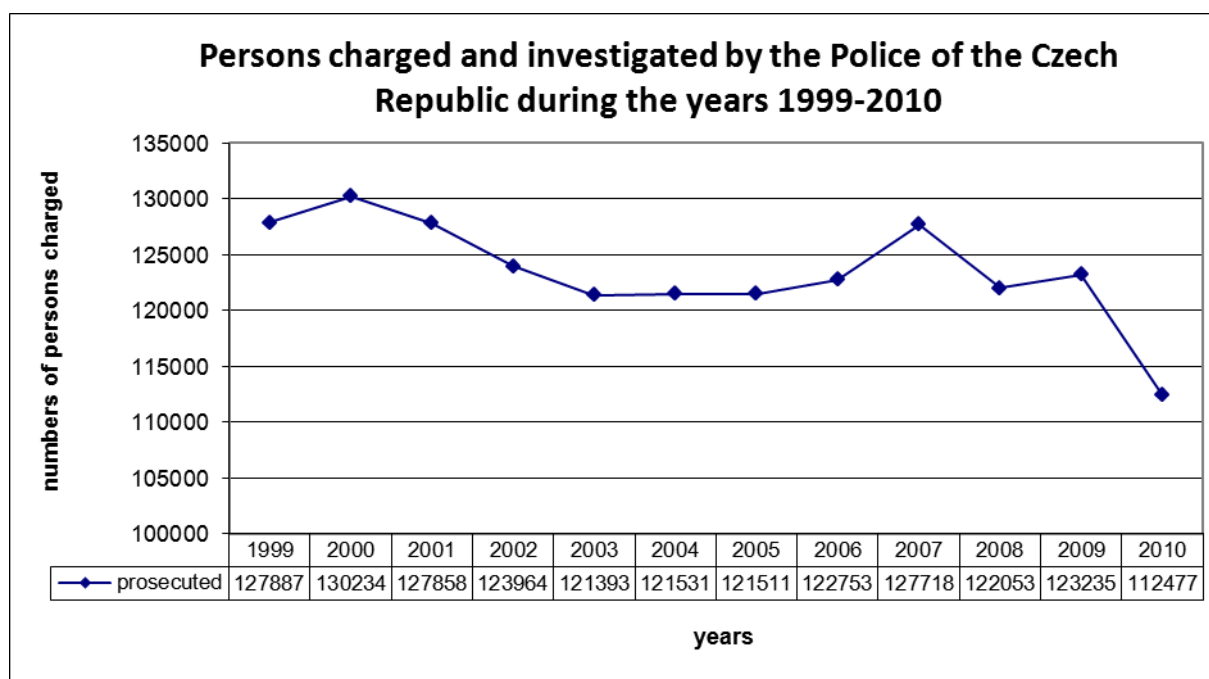
The drop in recorded crimes in the monitored areas (with the exception of the South Bohemian Region) corresponds to the overall drop in criminality in the year 2010. The greatest concentration of criminality remains traditionally in the city centre of Prague. And Prague also leads as to the lowest level of crimes solved.

Geographical distribution of criminality is to shown more clearly (with regard to the number of inhabitants) by the criminality index for each administrative area (known as the level of contamination of an area by criminality).

Graph 5



Graph 6



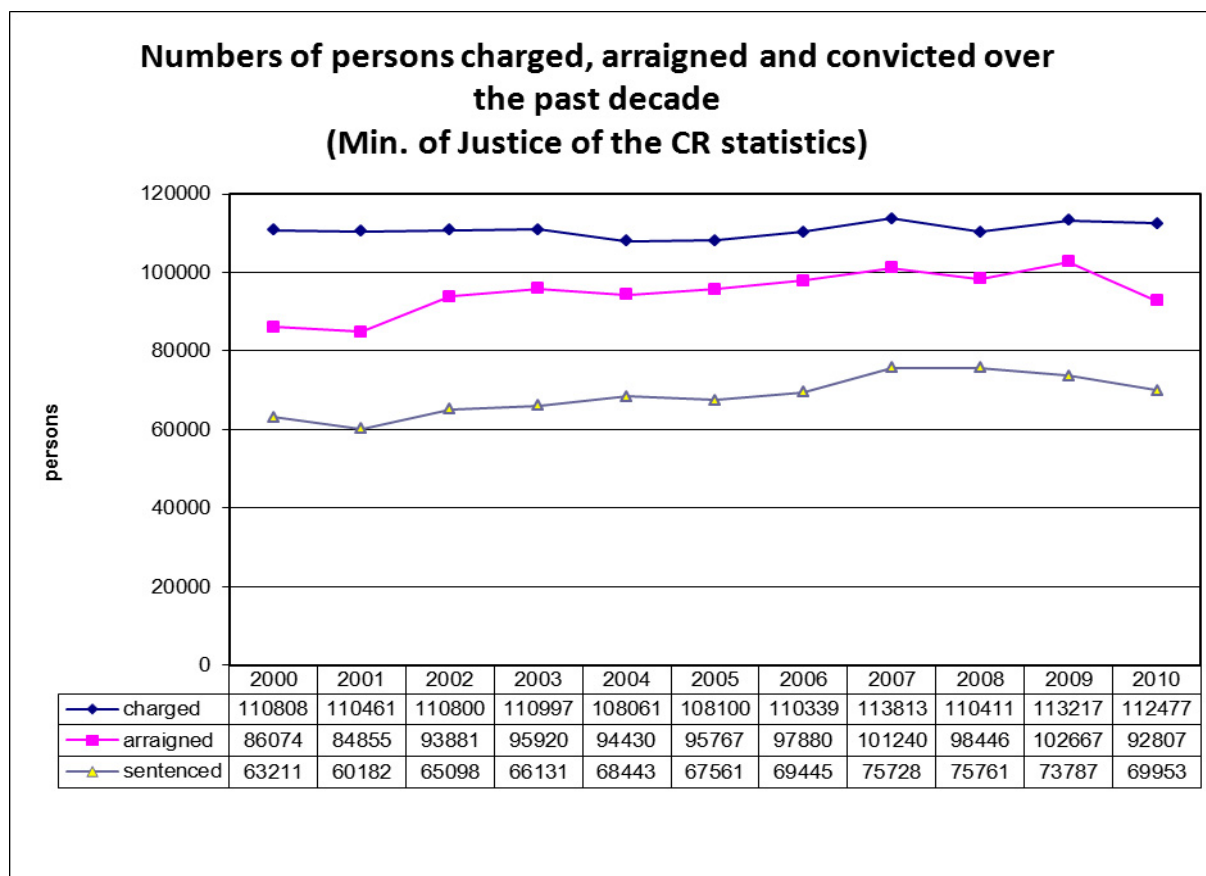
Graph 6 again shows a **drop – this time in the number of persons charged and investigated** by the Police of the Czech Republic in the year 2010 as compared with the year 2009. (The reason for the changes in the trend in the year 2007 is explained in the preceding text.) A radical drop in the year 2010 was also caused by a constant drop of recorded crimes and in crimes solved. Decriminalisation of some crimes occurred and reduced prosecution of people whose identification was relatively simple during the years 2007 – 2009 decriminalisation of the already mentioned driving a motor vehicle without a valid driving licence⁵ and a radical drop in the numbers of loan fraud due to the tightening up of the general conditions for provision of loans and mortgages.

No significant change in the number of offenders among **foreign nationals occurred as against the previous period** - 7 377 foreign nationals were charged (6.6 % of all people charged). Nor was there any change in the order of numbers of offenders according to state citizenship: Slovaks, Ukrainians, Vietnamese - which corresponds to the numbers of foreign nationals with permanent residence in the territory of the Czech Republic.

⁵ The drop in criminality caused by decriminalisation for the offence specified was not wholly radical because it was compensated by a rise in the number of criminal offences of perverting the course of justice and breach of injunctions, which is confirmed in the increase in the number of criminal offences in 2010 in the “other crime” section, where perverting the course of justice now belongs according to tactically statistical Police classification.

Graph 7 shows the trend in the numbers of offenders **charged, arraigned and convicted**. There is a clear fall in the numbers all of the steps monitored – the most radical fall occurred in the numbers of those arraigned. The only data which does not correspond to the above trend is the rise in the number of those sentenced to an unconditional prison sentence – i.e. to a rise in the numbers of prisoners.

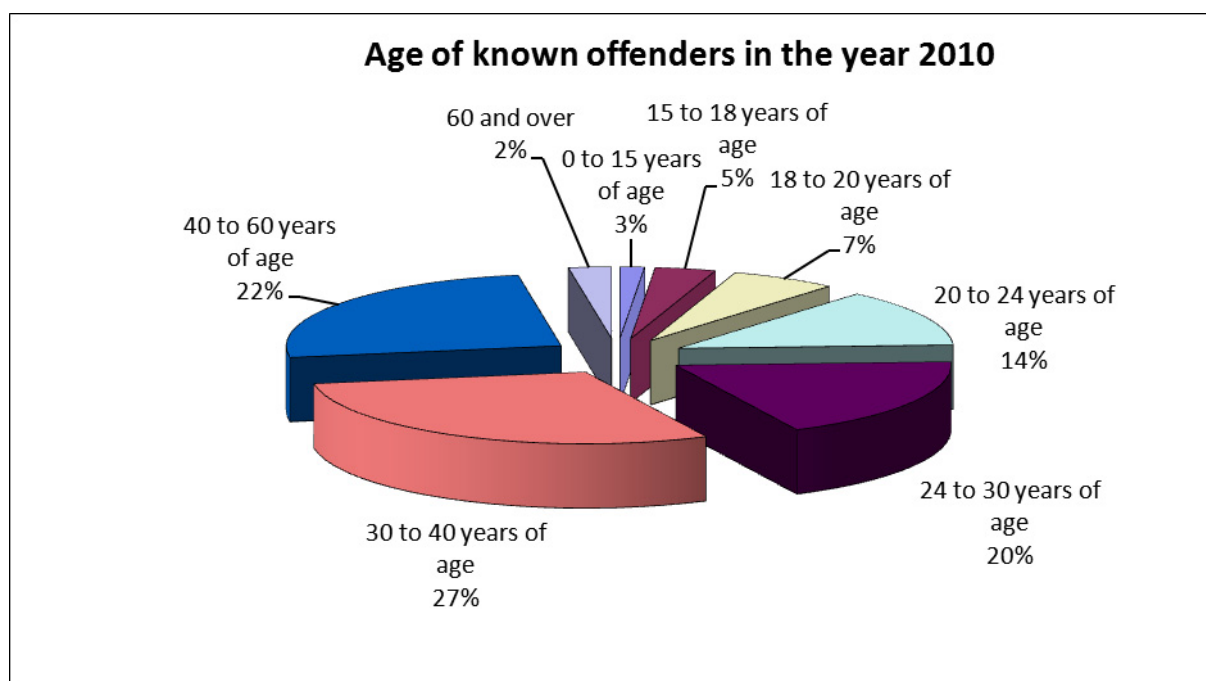
Graph 7



Note: The number of arraigned persons also includes persons against whom an application for punishment in abridged preparatory proceedings was made. This concerned approx. 50 000 persons in the year 2010.

At first glance, **the number of imprisoned persons rises** insignificantly, e.g. as at 31.12.2009, 21 734 persons were imprisoned and as at 31.12.2010 – 21 900 persons, but the “flow rate” increases significantly, when persons with alternative sentences and measures are placed into prisons because they failed to comply with the conditions of the sentences imposed which originally did not involve imprisonment. The greatest rise in prisoners is to be seen in those persons with sentences of between 9 months and 1 year, between 1 and 2 years and from 2 to 3 and up to 5 years.

Graph 8



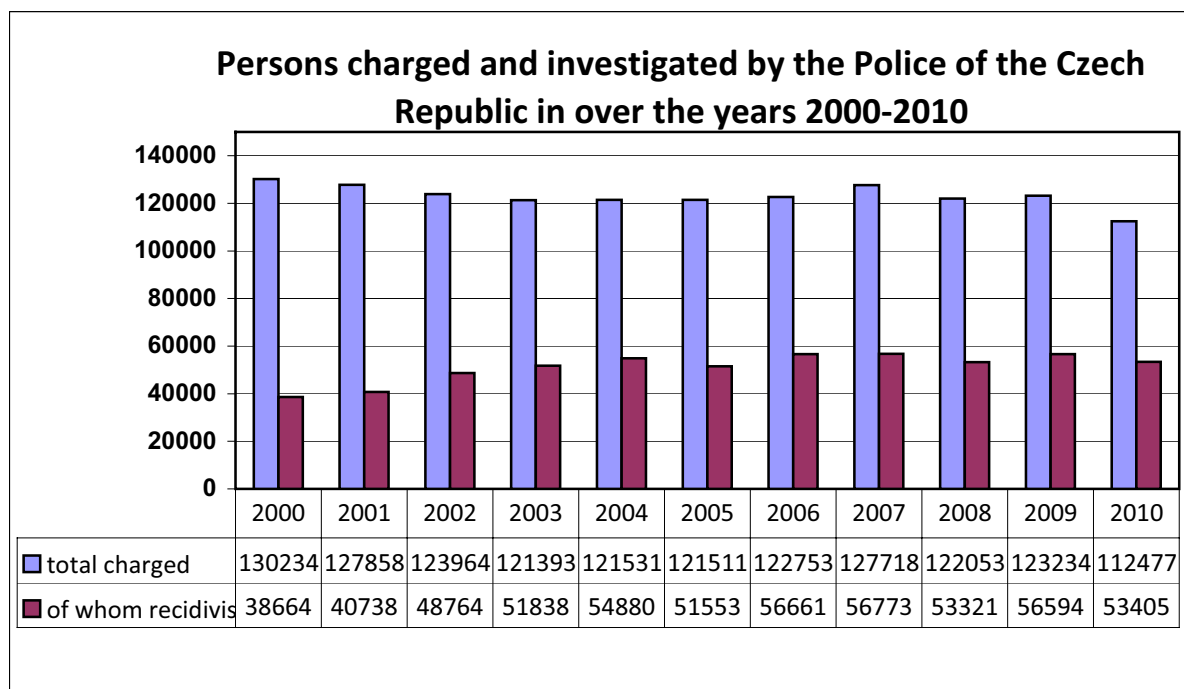
In 2010, **men over the age of 18 represented more than 80 % of the total number of charged and investigated persons.** The number of offenders who were children or youths continued to fall constantly. For this reason too, **the number of known offenders over the age of 30 already exceeded half of all offenders charged for recorded crimes,** thereby painting the slightly false picture, from the criminologists' point of view, that criminality is the domain particularly of adults and not of youths.

Various adjustments and changes in criminal law quite had quite a clear effect on the average age of perpetrators of criminal offences.

This fact also reflects the ever-increasing proportion of recidivists⁶ amongst offenders and the fact that in 2010, **the majority of offenders charged by Police of the Czech Republic was for the crime of neglect of obligatory child support (13 367 persons) and the crime of perverting the course of justice (11 406 persons).**

⁶ A recidivist is, according to Police statistics, an offender of a wilfully committed crime who has already been convicted with finality of another wilfully committed crime. The definition of a recidivist in other statistical departments is not the same. Nor is the definition of the term consistent in Police statistics for the last 20 years.

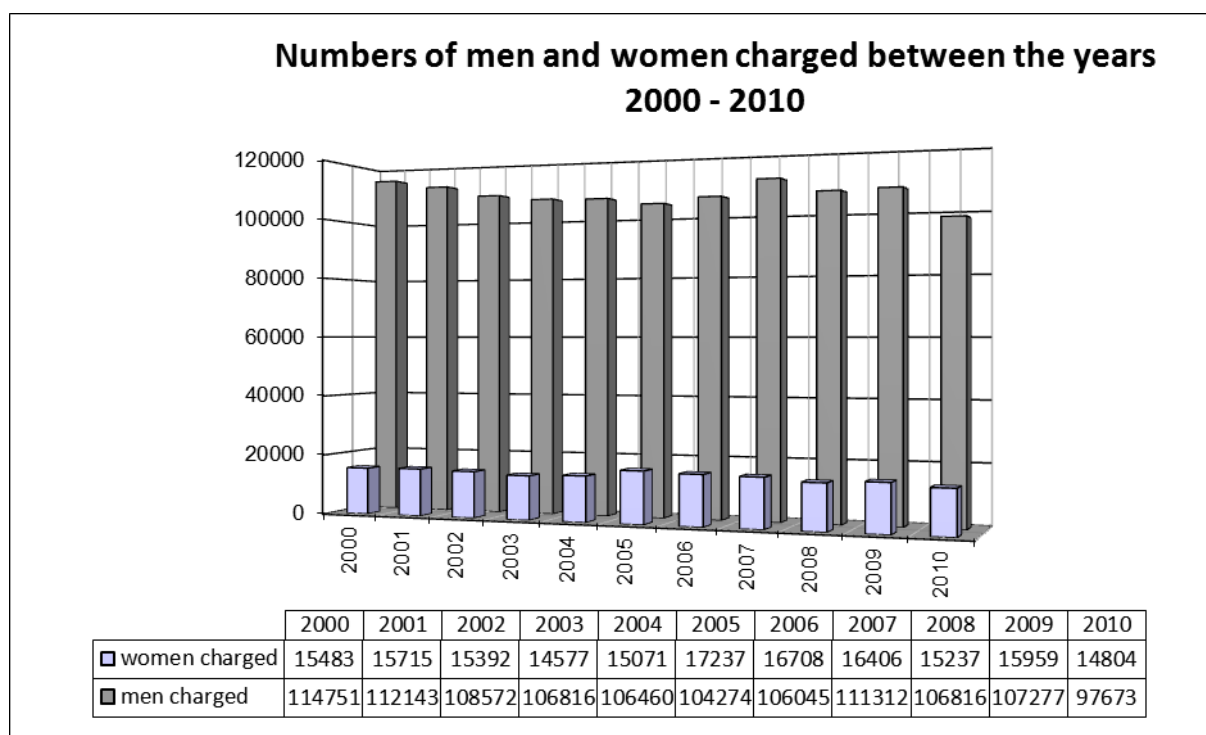
Graph 9



During the year 2010, a total of 53 000 **recidivists** were charged, most of them for the criminal offence of perversion of the course of justice (70 % of all persons charged) and property crime (65 % of all persons charged). In regional terms, the largest proportion of offenders was arrested in Moravian Silesian, Karlovy Vary Regions and, understandably, in Prague.

As regards the proportion of women amongst charged and investigated offenders, the drop in their numbers was mainly due to the drop in the number of the crime of loan fraud. Most often, women are charged with property crime (28 % of all women charged in the year 2010), followed by prosecution for neglect of obligatory child support (9 % of all women charged). 8 % of these women were charged with violent crime. The next in order was drug-related crime and embezzlement.

Graph 10



In 2010, the number of offenders charged and investigated over the age of 18, i.e. known adult offenders, fell again after several years. If we put off more detailed analysis of the impact of the new penal code on criminality until later, this fall was due to decriminalisation of actions such as driving a motor vehicle without a valid driving licence on the one hand (which is argued elsewhere in this text) and to the continuing fall in the number of loan frauds thanks to a change in loan policy in the Czech Republic.

In comparison with adult offenders, where the numbers of those charged go through various fluctuations, the curve indicating the numbers of child and youth offenders is in a permanent fall in both groups. These groups of offenders are investigated mainly for property offences: theft, burglary etc. A large part of their criminal activities is classified as misdemeanours (with damage only up to CZK 5 000). Children and youths also commit robberies, wilful bodily harm and drug-related offences.

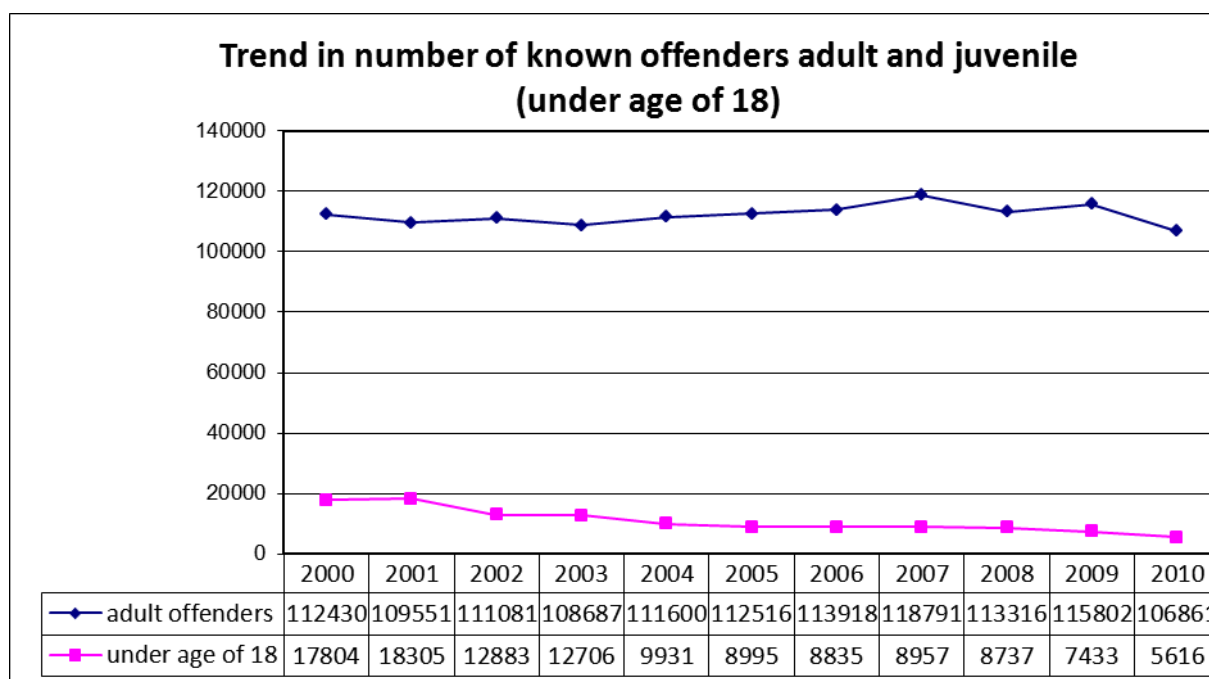
As the Report⁷ states, youth offenders are frequently undeterred by the negative consequences which they risk by committing an offence or other criminal act. They are by and

⁷ Report on the situation in the area of internal security and public order in the territory of the Czech Republic, 2010, p. 17

large convinced that compliance with the laws or any other rules in general is needless and unadvisable for them.

Crime is being committed more and more via the Internet: in addition to breach of copyright, this involves dissemination and storage of pornography or racist-orientated activities, blackmail via social networks etc. The number of alcohol users amongst youths is rising and the number of users of addictive substances is constantly on the increase. Despite this, recorded crime committed by youths is constantly falling.

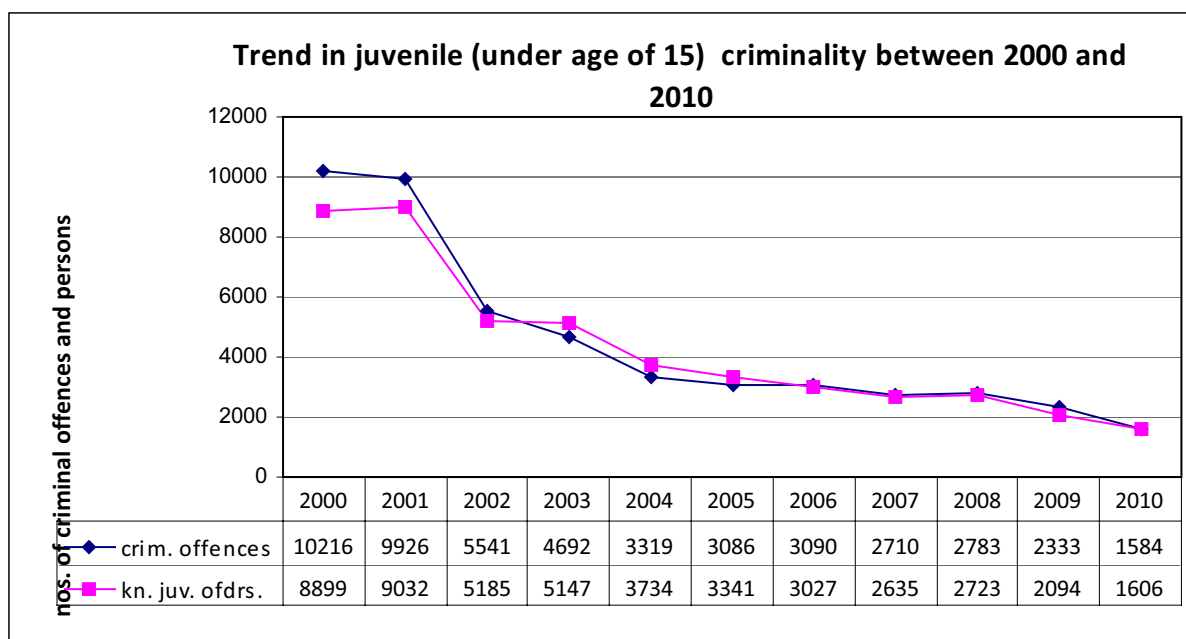
Graph 11



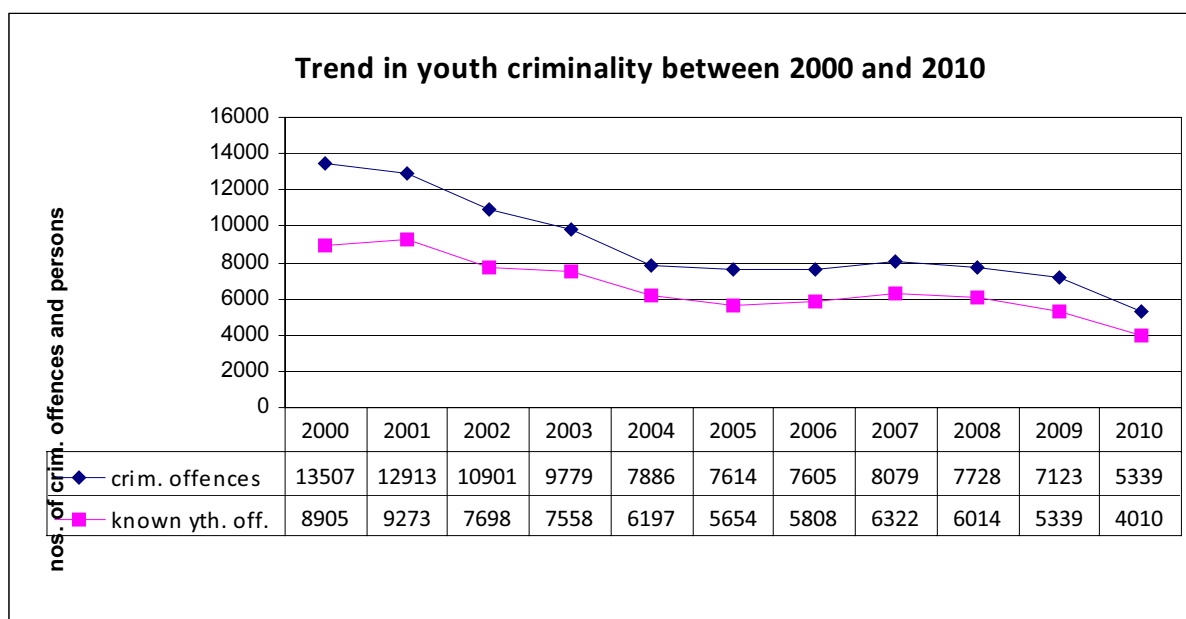
Graph 12 clearly shows that the number of investigated juveniles is identical to the number of criminal (and otherwise punishable) offences committed by them, while some youth are already more frequently charged with several criminal offences (Graph 13). This gives the impression that offenders under the age of 15 commit only one offence otherwise punishable. Experiences from research into children and youths, however, do not support this fact; quite the opposite: in research into first offenders⁸ we regularly discovered that children committed theft repeatedly.

⁸ Marešová, A., Kotulan, P., Martinková, M.: Probe into the issue of problematic, criminally prosecuted for the first time and imprisoned for the first time. Prague, ICSP 2004.

Graph 12



Graf 13

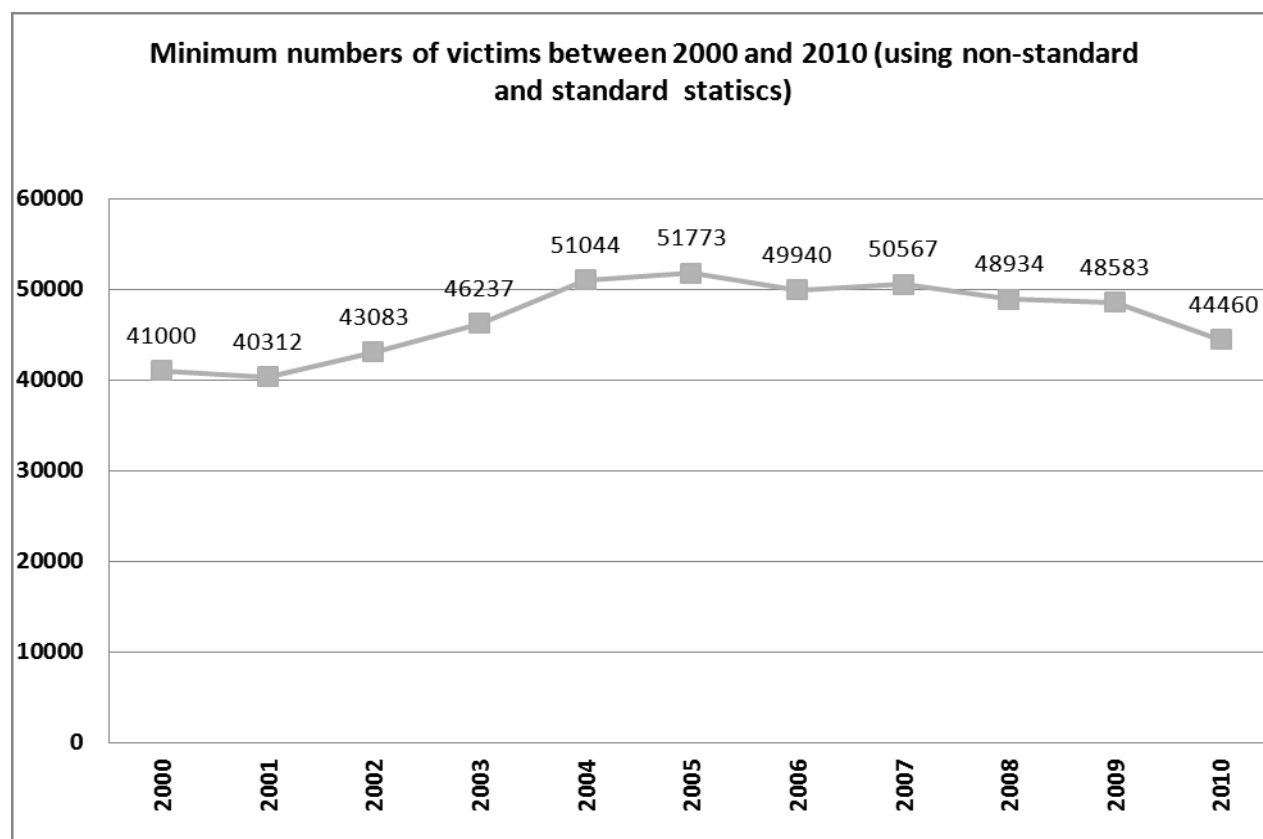


Victims of crimes are recorded in police statistics **only for selected types of criminal offence**. For this reason, when we mention numbers of victims, in this compendium we are talking about the minimum number of registered victims.

In this area too, a fall in the numbers of people is apparent (cf. Graph 14). This is caused by a drop in the number of recorded criminal offences of the type selected where the

police simultaneously monitor the numbers of victims (natural persons). Therefore, if such types of criminal offence have been transferred to latent criminality or have been decriminalised, at the same time the numbers of victims fall, although in reality (not recorded) this may not be the case. This matter is addressed in more detail in a paper by Ms. Martinková.

Graph 14



The final area about which we traditionally provide information in the introductory essay of the compendium directed at assessment of criminality for the past year is **suicides**. They are only a limited illustration presenting socially negative phenomena in society and are not directly linked to criminality, but since the Police of the Czech Republic compile statistics on suicides but do not publish them anywhere, we present these figures in our compendium.

Table 1**Suicides in the Czech Republic**

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Men	1076	1130	1263	1192	1330	1459	1412	1322	1251	1245	1319	1501
Women	268	302	321	306	339	350	363	336	283	317	424	329
Total	1344	1432	1584	1498	1669	1809	1775	1658	1534	1562	1743	1830

Compiled from the statistics of the Police of the Czech Republic.

It is clear on inspection of Table 1 that the number of suicides over the past approx. decade culminated in 2004. This position was, however, overtaken by the year 2010. In the data from the Czech Statistical Office (CSO), however, the statistics look slightly different from those appearing in the statistics of the Police of the Czech Republic. For instance, according to the CSO⁹, the year with the lowest number of suicides (identified as the year with the historically lowest number of suicides) was 2007, but their statistics for 2007 quote a total of 1 375 suicides and in police statistics for the same year, the figure is 1 534. It therefore seems that police statistics also include in their total of suicides ones which were subsequently reclassified as a different event or that the suicide survived, i.e. some attempts of suicide investigated by the police are also included. CSO statistics only present successful suicides – i.e. the person in question died. The difference between the figures supplied is not very great – we still remember the days when the difference between statistics from the Police of the Czech Republic and the Ministry of Health, which formerly monitored suicide by means of statistics, were almost twice as great. The proportion of women among suicides, similarly to that of perpetrators of criminal offences is low and does not correspond to the proportion of women in the population. Women represent about one fifth of all suicides (according to the statistics of the Police of the Czech Republic). According to the CSO, the ratio is about six men to one woman. It is interesting that during the reference period the number of suicides in women peaked in 2009, while in men most suicides were in the year 2010.

⁹ Statistics on successful suicides have been collected in Bohemia since 1876.

Table 2**Suicide age groups in 2010**

Age suicide committed	Numbers of suicides
Under 15	2
Between 15 and 18	25
Between 18 and 20	34
Between 20 and 25	91
Between 25 and 30	122
Between 30 and 40	287
Between 40 and 50	354
Between 50 and 60	414
Between 60 and 70	256
Over 70	245

Compiled from the statistics of the Police of the Czech Republic.

The age distribution of suicides does not vary significantly over time. There is a significant predominance of persons over the age of 40 (accounting for roughly 70 % of all suicides). The greatest numbers are for men between the ages of 50 and 60. This is probably linked to the fact that as people get older, fairly serious medical, family and professional problems arise which can seem irresolvable, and there is a fairly large incidence of mental disorders, especially depression etc. The proportion of the mentally ill in suicides is high in all age groups – approx. 10 % and those not working, mainly old-age pensioners. The usual method of suicide is by hanging, throughout the Czech Republic – in more than 55 % of cases. A long way behind this is jumping from heights, out of windows (in more than 300 cases), shooting oneself both with legally and illegally owned weapons, poisoning oneself with medicines, drugs overdoses, jumping under a moving object etc.

Table 3

Employment	Nos. of suicides
Manual workers	221
Self-employed	133
Other employees	230
Old-age pensioners	364
Unemployed	206
Disabled pensioners	147
School children and students	65
Members of armed forces	15
Persons in custody and prison	10
Others non-working	216
Unknown	223

In the year 2008, an analysis of the geographical distribution of suicides was performed for a publication of the Institute of Criminology and Social Prevention (ICSP)¹⁰. Since that time, the results have not significantly changed. For illustration, we repeat its results as follows: As for geographical distribution, the greatest number of suicides in 2008 occurred in the Moravian regions with 20 % each, the remaining regions each contributed to the total number with approx. 10-12 % and the fewest suicides were committed in the Southern Bohemian Region – only 6 %. It is interesting that the regions differed from each other as for the age distribution in suicides. E.g. both Moravian regions had similar age distribution, persons aged over 60 predominating. There were a high number of suicides in the 50-60 age group in the North Bohemian and East Bohemian Region, in Prague, and also in the West Bohemian and South Bohemian Region. In the Central Bohemian Region and in Prague the number of suicides in the over 70 age group was considerable both in men and women.

Suicide is generally provoked by a breakdown in personal relations, hopeless future in one's private life and sometimes in social life as well. For this reason, suicides occur in persons

¹⁰ Marešová, A., Cejp, M., Karban, M., Martinková, M., Vlach, J.: Analysis of Trends in Criminality in the Year 2008. Prague: ICSP 2009, s. 25.

of an advanced age, nearing 100 years of age. Amongst the suicides 2010 was a 108-year-old man and 7 men of ages between 90 and 94 years old. In the case of women, 6 suicides were committed at ages over 90 and one 98-year-old woman. Over the last few years, in the opinion of some psychiatrists, psychologists and psychotherapists¹¹, suicides are often the result of mental disorders caused by long-term unemployment, problems in the workplace – mobbing and boss bullying, but also social exclusion (homelessness) etc.¹² According to police figures for 2010, the motive for suicide was not established in 405 cases, otherwise, mainly psychological problems and mental illness including sudden depression¹³ was given as the motive given in approx. half of the cases where the motive was established, followed by financial problems – approx. 16 %, physical illnesses, family, relationship and sexual, professional conflicts, etc. Police sources also mention that consumption of alcohol preceding suicide was established in about one fifth of cases, some cases of suicides involved medicines being consumed (13 %) and a small proportion, drugs (2 %). As for marital status, the majority were single and divorced.

Conclusion

Despite the fact that, according to statistics, the level of criminality is constantly falling, this optimistic finding can be questioned. Many of us support our disagreement with them by personal experience with criminality in our immediate surroundings, or information disseminated by the media regarding latent criminality, wrong classification of criminal acts, intentional overlooking of obvious breaches of criminal law where proving criminal offences and convicting offenders is problematic. Also lack of willingness among citizens – Czech and also foreign, including tourists – to report petty crime with a low success rate for being solved and, last but not least, the results of victimological research. It would, therefore, be desirable, regardless of optimistic statistics on criminality, to pay greater attention to the rate of success of measures against crime and performance of analyses on whether number the criminal offences recorded reflect citizens' actual safety against criminal attacks, to support victimological research and to renew the citizens' faith in justice and the irreversibility of punishment for breaking the law – for intentional criminal behaviour.

¹¹ cf. individual questions to psychoanalysts and their answers - available on the Internet.

¹² Marešová, A., Cejp, M., Karban, M., Martinková, M., Vlach, J: Criminality in the year 2008, ICSP, Prague 2009, ISBN 978- 80-7338-092-2, s. 25.

¹³ Term “sudden depression” from police terminology.

Sources quoted:

Quarterly Review on Criminality in the Czech Republic – selected types of criminality in the Czech Republic as at 31.12.2010. Prague, Police Commissariat of the Czech Republic 2011, p. 7.

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Report on the Activities of the State Prosecution Service for the Year 2010 and preceding years
Standard Police statistical reports

Trends in Quantitative Indicators Concerning Organised Crime in the Czech Republic from 1993 to 2010

Martin Cejp

1. Introduction

Criminological research into organised crime began at the beginning of the 90s. The research, which is conducted mainly at the Institute for Criminology and Social Prevention, advanced from theoretical definition and establishing a special methodological procedure to creation of probable models for the structures of criminal groups and study of their illegal and supporting activities. In addition, study has been conducted on a wide range of specialised topics concerning specific activities, for instance: production, smuggling and distribution of drugs, organisation and organised prostitution, illegal migration, theft of historical works of art, violent crime, extortion; the influence of organised crime on the financial sector and financial crime were also under scrutiny. The efficacy of special legal means established and applied for the fighting organised crime is regularly assessed.

In addition to the internal factors of organised crime, research focused also on wider social ramifications. We looked for the criminogenic factors in the social system which may aid performance of the activities of organised crime and finding associates or clients for illegal goods and services. We concentrated on organised crime as part of an experiment concerning the prognosis of selected types of criminality and as part of probable scenarios of the development of selected types of criminality. Subsequently, we researched organised crime together with economic criminality, corruption and terrorism as serious forms of criminal activity. We focused mainly on the threat that organised crime presents for society and also on the measures which society may use against organised crime.

Only some of the results are presented in this article. Here we focus on the basic **quantitative data** reflecting the **structure of criminal groups** operating inside the Czech

Republic and reflecting the **composition of their criminal and also their supporting activities**, if applicable. One of the fundamental quantitative items of data is data on the degree of sophistication, the extent of permanent members and external associates, involvement of women and of persons under the age of 15, if applicable. In view of the international nature of organised crime, the degree and involvement of foreign nationals and their nationalities is one of the most important parts of this study. Quantitative data on activities include expert estimates on which activity performed by organised gangs were most widespread in the Czech Republic for each separate year, which ones were in the main stream, which were budding, which were new on the scene and also those which gradually lost their significance. The activities of different groups of nationals were also monitored in a similar way. Thanks to the fact that expert surveys have been conducted annually since 1993, we have a seventeen year-long series of most data and therefore we are also able to present long-term trends – with the exception of the year 2010.

2. Methodology

As concerns data on organised crime, the possibilities of using statistics and file material are still fairly limited in the Czech Republic. Specific cases were not available until 1998, resulting in a lack of statistics. Since 1998, the situation has changed, specific data exists and, basing our efforts on specific recorded and closed cases, we have tried to verify the hitherto mainly hypothetical models. The tangible findings still, however, portray only a small section of organised crime, mostly that which was “less successful” and was exposed.

The vast majority of our knowledge of organised crime comes, therefore, from **expert estimates**. The experts asked are experienced members of special departments of the Police of the Czech Republic concentrating on the fight against organised crime. The number of experts questioned is between 12 and 33. (28 respondents were questioned in 2011.) Due to the fact that, according to tried and tested methodology for expert research, the optimum number is between 15 and 23, the number of experts whom we questioned is not only sufficient, but absolutely optimum.

3. Characteristics of the Gangs

From the point of view of their **degree of organisation**, about one third of gangs between 1995 and 1999 were fully developed, according to experts. After the year 2000, the proportion of fully developed gangs oscillated between 40 and 50 %. In the year **2010** experts stated that according to their estimates, 52 % of gangs had a fully developed structure while 48 % of them were not fully developed. Despite frequent fluctuations, the overall tendency is towards an expected increase in the proportion of fully developed gangs. A three level arrangement in organised criminal gangs has a better chance of standing up against the competition; the gang can achieve higher profits, and can ensure impunity more easily. It can therefore be expected that over the coming years, the proportion of gangs with such an arrangement will continue to rise.

External associates are recruited to a large extent to cover the range of activities of organised criminal gangs. According to estimates, external associates formed more than half of all members of criminal gangs during the period from 1993 to 2008. In 2009, a slightly smaller number was recorded. Experts estimated that external associates accounted for 41 % and permanent members 59 %. In **2010** the situation balanced out again. Experts claimed **49 %** were permanent members and **51 %** external associates.

We also monitored what the external associates are specifically involved in each year. For the year **2010**, experts stated that external associates provide:

- **material provision:** space for accommodation and storage, weapons, equipment, vehicles, tools, apparatus, documents
- **services:** legal and financial advice, economic forecasts, help with legitimisation, concealment of criminal activities, may also include imposition of laws which drain money from the state in favour of private entities, accommodation, safekeeping of items stemming from criminal activity and transport of people and materials, fuel, prohibited substances, manufacture and forgery of documents, obtaining legal documents and performing official acts,
- **contacts:** namely contacts with officials in high places, sometimes even taking up the function of such an official with the intention of exploiting the position; this can include attempts at controlling political parties by planting external associates within their structures,

- **logistical provision:** assistance in organising illegal migration, trafficking with narcotic and psychotropic substances,
- **information:** gaining information about persons, balances on accounts, statements and figures,
- **advertisements:** advertising illegal goods and services via legal firms.

In the year **2010**, the roles of external associates were **specifically** identified as:

- acting as a “**straw man**” – i.e. as a person used to establish and head a firm which serves for performing business transactions after which the firm is closed down, or a person acting as the formal owner of companies, banks accounts, who puts his/her account at the disposal of a criminal organisation, formal supplier of non-existing goods,
- **fictitious competitors:** entities ostensibly participating in tenders,
- persons involved in **legalisation of the proceeds of crime**.

Women are also involved with gangs active in organised crime in the territory of the Czech Republic. The estimated **proportion of women** in the period from the year 2000 to 2010 oscillated between 11-16 %. In the year 2010, their proportion was 13 %.

Since the year 2000 we have not only been monitoring the proportion of women, but also **the type of activities that women are involved in**.

In the course of the years **2000-2009**, women were involved in namely: trafficking in women and procuring, dealing in narcotic and psychotropic substances – most often as dealers, providing administrative support and management for the criminal gangs. They have also been involved in illegal migration, corruption, tax and financial fraud, establishing fictitious firms and companies (assets are often transferred to women), money laundering, bank, loan insurance and customs fraud, forgery of documents, money and cards, compromising situations, gaining intelligence, keeping criminal gangs’ accounts, concealing criminal activities, performing money collections for blackmail gangs and from people who use illegal goods or services, fraudulent registration of stolen vehicles, dealing in stolen property, sale of items, gaining information, supplying sensitive information from the realm of state administration and local government, representation in statutory bodies of companies used for criminal activity,

financial and property crime, recruitment, transportation, providing accommodation, storage of stolen property, organising thefts by putting the victim to sleep, acting as a decoy, trafficking in children, child pornography, pornography, and companies (assets are often transferred to women), assistance in manufacture of counterfeit brand-name goods and their sale, “middle-women”, “straw persons”, sale of children, illegal import of waste, theft of works of art.

According to expert (N=28) estimates, in **2010** women were involved in namely:

- **administrative support** (mentioned by 21x of the 28 experts). Women were involved in administrative activities connected with organised crime, often keeping the accounts of criminal organisations, assisted in arranging transportation, accommodation, supplies of materials, forging money and documents, acted as middle-men, interpreters, acting representatives, business partners, gaining intelligence, were used for gaining trust, established and ran fictitious firms, controlled ostensibly their own business activities.
- **human trafficking, organising prostitution, procuring and trafficking in women** (mentioned by 17x of the 28 experts). Women were involved in human trafficking, in particular prostitution, acted as coordinators and recruiters; involvement in forced labour was also mentioned.
- **economic criminality** (mentioned by 9x of the 28 experts). Women were involved in legalisation of proceeds of crime, tax evasion; they organised commercial activities, formally attended meetings of the statutory bodies of companies.
- **organising illegal migration** (mentioned by 4x of the 28 experts). Women arranged for legalisation of residence of foreign nationals and worked as couriers.
- **smuggling and distribution of drugs** (mentioned by 4x of the 28 experts). Women were involved in manufacture, transportation and distribution of narcotic and psychotropic substances.
- **manufacture of and smuggling cigarettes** (mentioned by 1x).

Foreign nationals were involved in organised crime to a great extent. We have been regularly monitoring the share of domestic and international elements in organised crime gangs since 1993. Since the beginning of the 90s, the international element has been slightly over half and the domestic element slightly under a half. In the year 2005, we registered a change. The involvement of the domestic element rose. The Czech element was now a little over a half and the number of purely Czech gangs rose from $\frac{1}{4}$ to almost $\frac{1}{3}$. In mixed gangs, the numbers became equal. In the

year 2006, the ratio of domestic to foreign elements was the same (50:50), in 2007, 2008 and 2009 we registered a slight preponderance of the foreign element. In the year **2010**, we registered an ever so slight preponderance of the **domestic element (51 %) over the international (49 %)**. Overall, the Czech Republic is one of the countries where, despite small fluctuations, the ratio between the international and domestic element is basically equal.

In addition to this classification, we can say that, in terms of nationality, **around half of the gangs are mixed**, almost $\frac{1}{3}$ **are purely international** and **around $\frac{1}{4}$ are purely Czech**. In the mixed gangs, those led by foreign nationals where Czechs play a supporting role are in a slight majority.

Table 1

	1993	1994	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
	N=12	N=17	N=18	N=31	N=20	N=27	N=27	N=31	N=21	N=19	N=24	N=28	N=33	N=17	N=30	N=30	N=28
A1	-	30	20	25	27	31	28	24	28	30	30	21	24	30	28	29	28
A	(53)	(61)	(47)	(53)	(55)	(60)	(55)	(53)	(54)	(58)	(56)	(46)	(50)	(59)	(52)	(55)	(49)
A2	-	31	27	28	28	29	27	29	26	28	26	25	26	29	24	26	21
B1	-	21	20	24	20	20	21	20	23	18	23	24	26	19	22	19	18
B	(47)	(39)	(53)	(47)	(45)	(40)	(45)	(47)	(46)	(42)	(44)	(54)	(50)	(41)	(48)	(45)	(51)
B2	-	18	33	23	25	20	24	27	23	24	21	30	24	22	26	26	33
Total %	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

Key:

A1 Purely international

A Total of international

A2 Mixed (greater international element)

B1 Mixed (greater domestic element)

B Total of domestic

B2 Purely domestic

If we assess the representation of offenders in the **structures of organised crime** in the territory of the Czech Republic according to separate nationalities over the long term, we find that constantly the **strongest** representation of nationalities in this country are Ukrainians and Russians. After the year 2000, the Vietnamese and Albanians (mostly Kosovan) entered this

strongest group and since then their proportion has been steadily growing. Since 1998, the proportional representation of Chinese has slightly fallen. In the year 2008, the Chinese are at the bottom end of the first group, but in index terms they are more like somewhere between the first and second groups. In the 90s, citizens of former Yugoslavia belonged to this strongest group. With the disintegration of Yugoslavia into several smaller states, the proportion of Yugoslavs shrank considerably. The middle group contains Romanians, Bulgarians, Armenians, Slovaks and Nigerians. There is also a strong representation of Poles, Chechens, Serbs and Croats. Other nationalities appear only sporadically.

Table 2

Scale of representation of foreign nationals in organised crime in the Czech Republic in the year 2010

Order	Nationality	
1 st	Ukrainians	184
2 nd	Vietnamese	183
3 rd	Russians	138
4 th	Albanians/Kosovo Albanians	112
5 th	Romanians	58
6 th	Bulgarians	53
7 th	Armenians	48
8 th	Slovaks	47
9 th	Nigerians	44
10 th	Chinese	40
11 th	Chechens	34
12 th	Poles	29
13 th	Serbs	23
14 th	Georgians	14
15 th -16 th	Iraqis	10
	Indians	10
17 th	Hungarians	10
18 th	English	9
19 th - 20 th	Dagestanis	9
	Israelis	8
21 th -25 th	Libyans	7
	Tunisians	7
	Macedonians	7
	Turks	6
	Netherlanders	6
26 th	Algerians	5
27 th	Germans	5
28 th -31 st	Uzbeks	5
	Moldavians	3
	Lithuanians	2
	Egyptians	1

Note: Experts could mention ten nationalities (in surveys between 1993 and 2003 only six). We set the summary index as follows: the number of respondents who stated a certain nationality in 1st place was multiplied by 10, in 2nd place by 9, etc down to the 10th place by 1x. the total index is then the sum of these multiples.

E.g. one point in the index means that only one expert stated the nationality in question in tenth place.

4. Activities of organised crime gangs

Since the year 1993, we have been asking experts for their estimation of the most widespread forms of organised criminal activity in the Czech Republic. From to a list containing approx. 35 types of criminal activity, experts state in each case to what degree it is widespread, budding or non-existent. We set the order of incidence of the most widespread criminal activity according to how many respondents considered a certain criminal activity to be widespread. The list is updated with new criminal activities. We also eliminate from the list the activities which repeatedly are shown to be less significant or which were characteristic only for a certain period.

Regular identification of the most widespread criminal activities conducted since 1993 allows us to compare the development for the years 1993-2010. We usually include around 20 activities among these widespread activities, i.e. amongst those which more than half of the experts claim to be widespread. Between 1993 and 2008, the most widespread activities were car theft, operating prostitution and, from 1994, drug manufacture, smuggling and distribution. This group of three was occasionally approached – either temporarily or for longer term – by one of the other, almost forty activities. So, for the years 1993-1998, the most widespread activities included theft of works of art, for 1996 and 1997, 2002 and 2005 it was tax evasion, loan, insurance and currency fraud, sometimes in the wake of these followed considerably fluctuating corruption. For the years 1998-2004, the most widespread activity conducted by organised crime gangs included illegal migration, but after 2005 its proportion began to fall. 2006 brought certain changes. Widespread activities began to include money laundering money, forgery of documents, counterfeiting banknotes and coins, and also computer crime increased sharply. From 2005 there was a significant incidence of illegal manufacture and smuggling of alcohol and cigarettes. The most widespread activities for 2008 continued to include already familiar activities of drug distribution and organised prostitution. The number of car thefts fell, and the drop in illegal migration and thefts of historical artwork continued to drop. We noted an increase in corruption and “protection” payment collections, illegal debt collection, CD pirating, bank fraud, computer crime. The year 2009 brought with it a further increase of activities connected with financial crime. Activities such as legalisation of the proceeds of crime (money laundering), corruption, tax, loan, insurance and currency fraud, bank fraud, establishing fraudulent and fictitious firms and payment card fraud found themselves a niche among the traditionally most widespread such as car theft, manufacture, smuggling and distribution of drugs. Misuse of computers for committing

crimes began to rank amongst considerably widespread crime. The rate of the hitherto very widespread crime of operating prostitution, including trafficking in women, fell considerably, the drop in numbers of historical artwork thefts continued, and also illegal migration fell slowly, and extortion and collection of “protection” payments dropped sharply. Murders reached the 50 % mark, whereas formerly they had always been just below this mark, which means that fewer than half of the experts claimed them to be among widespread crimes. Criminality aimed against information and communication technologies and international arms and explosives trafficking were below the 50 % mark in 2009. Illegal export and import of hazardous waste was almost insignificant and trafficking in human organs was negligible.

In **2010**, other changes occurred in the order of the most widespread activities. Tax evasion, loan, insurance and currency frauds, establishing fraudulent and fictitious companies, corruption and money laundering all took first place. Manufacture, smuggling and distribution of drugs maintained its position amongst most widespread crimes. Illegal manufacture and smuggling of alcohol and cigarettes and bank account and payment card fraud continued to rise. Customs fraud remained amongst the most widespread. The incidence of car and spare parts theft, organised prostitution and trafficking in women fell, remaining somewhere towards the end of the first ten.

In addition to the widespread forms of criminal activity, each year experts identified those activities which they considered to be budding. These are activities conducted by organised crime gangs which are not yet particularly widespread, but can be expected to rise.

For the year **2010** experts identified the following as the **most significant budding activities**:

- crimes against information and communication technologies (10x of 28),
- misuse of European Union funds (10x of 28),
- human trafficking for forced labour (9x of 28),
- murders (8x of 28),
- trafficking in human organs (7x of 28),
- computers crime (6x of 28),
- illegal export and import of hazardous waste (6x of 28),
- bank account and payment card fraud (4x of 28),
- international arms and explosive trafficking (4x of 28),
- bank fraud (4x of 28),
- gambling (4x of 28),
- CD and similar data carrier pirating (4x of 28),
- burglary (4x of 28).

Table 3

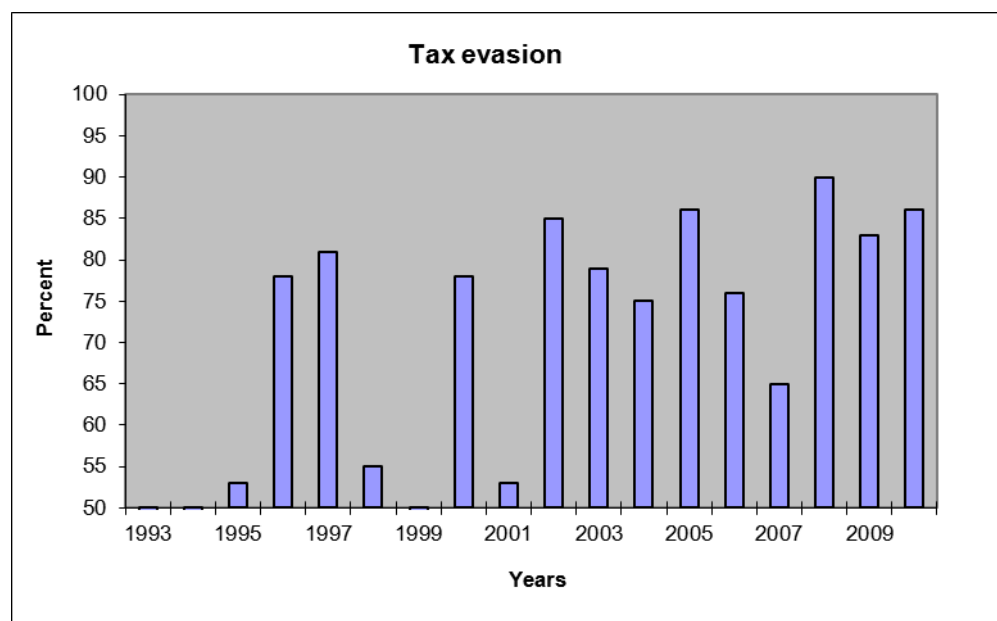
Most widespread forms of organised criminal activities in the Czech Republic for the year 2010

Order	Activity	N=28	%
1st	Tax evasion, loan, insurance and currency fraud	24	86
2nd	Establishing fraudulent and fictitious firms	23	82
3th	Corruption	22	79
4th- 6th	Manufacture, smuggling and distribution of drugs	21	75
	Money laundering	21	75
	Illegal manufacture and smuggling of alcohol and	21	75
7th- 9th	Car and spare parts theft	18	64
	Customs fraud	18	64
	Bank account and payment card fraud	18	64
10th	Operating prostitution and trafficking in women	17	61
11th-13th	Bank fraud	16	57
	Organising illegal migration	16	57
	Counterfeiting documents	16	57
14th-15th	Debt collection on request	15	54
	CD and similar carrier pirating	15	54
16th-17th	Racketeering	14	50
	Swindling scam with the promise of high returns	14	50
18th- 21st	Theft of works of art	13	46
	Misuse of European Union funds	13	46
	Payment card frauds	13	46
	Misuse of computers for committing crimes	13	46
22nd-23th	Counterfeiting cheques, banknotes, coins	12	43
	Dealing in stolen property	12	43
24th-25th	International arms trafficking	11	39
	Gambling	11	39
26th- 27th	Bank robbery	9	32
	Burglary	9	32
28th	Human trafficking for forced labour	8	29
29th-30th	Criminality against information and communication	5	18
	Illegal export and import of hazardous waste	5	18
31st	Murders	3	11

Note: Tables no. 4-16 and the adjacent graphs 1- 13 show the percentage of experts who in the relevant year identified the relevant activity as well-developed. Where the number of those asked who claim that the activity is well-developed drops below 50 %, the data is not displayed. The relevant graph always has a lower limit.

Table 4**Tax Evasion**

1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
0	0	53	78	81	55	0	78	53	85	79	75	86	76	65	90	83	86

**Table 5****Establishing fraudulent and fictitious firms**

1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
0	0	72	61	68	60	0	63	50	76	79	75	57	61	65	73	77	82

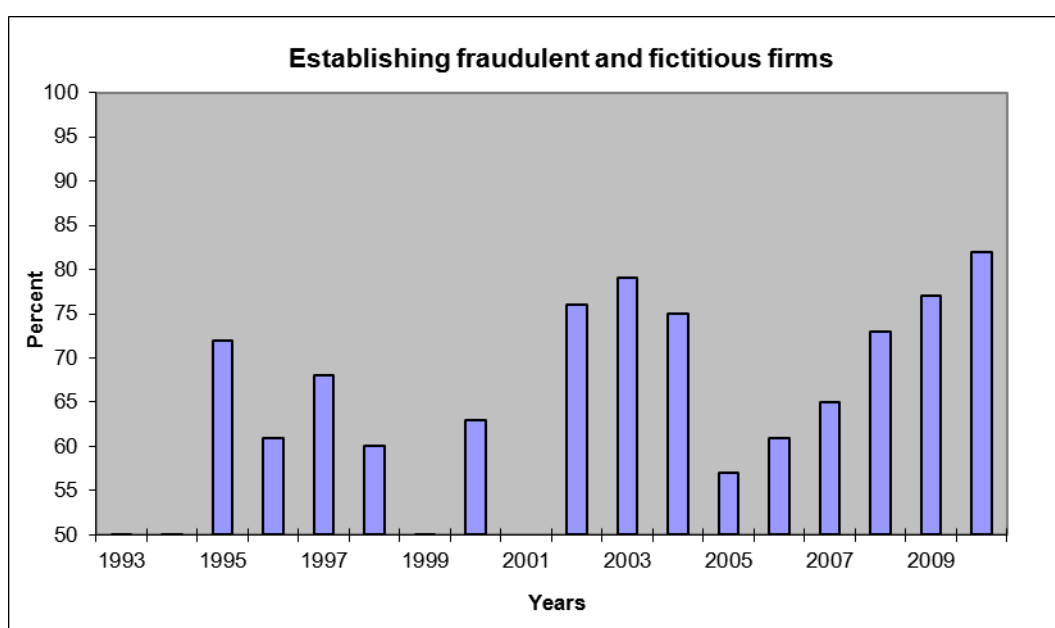
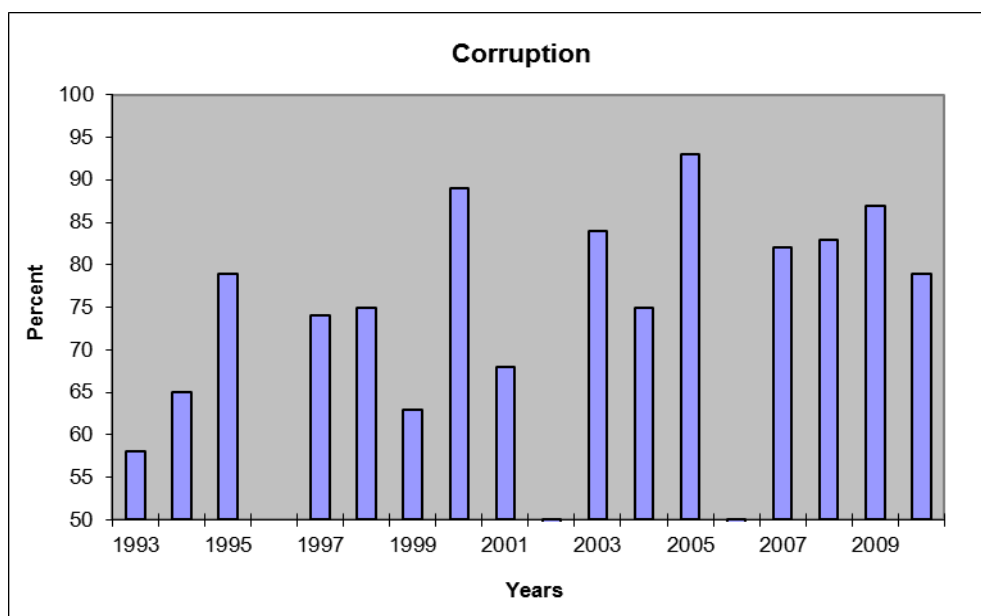


Table 6**Corruption**

1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
58	65	79	50	74	75	63	89	68	48	84	75	93	45	82	83	87	79

**Table 7****Drugs**

1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
50	89	100	95	97	100	100	100	100	90	95	92	86	91	88	93	83	75

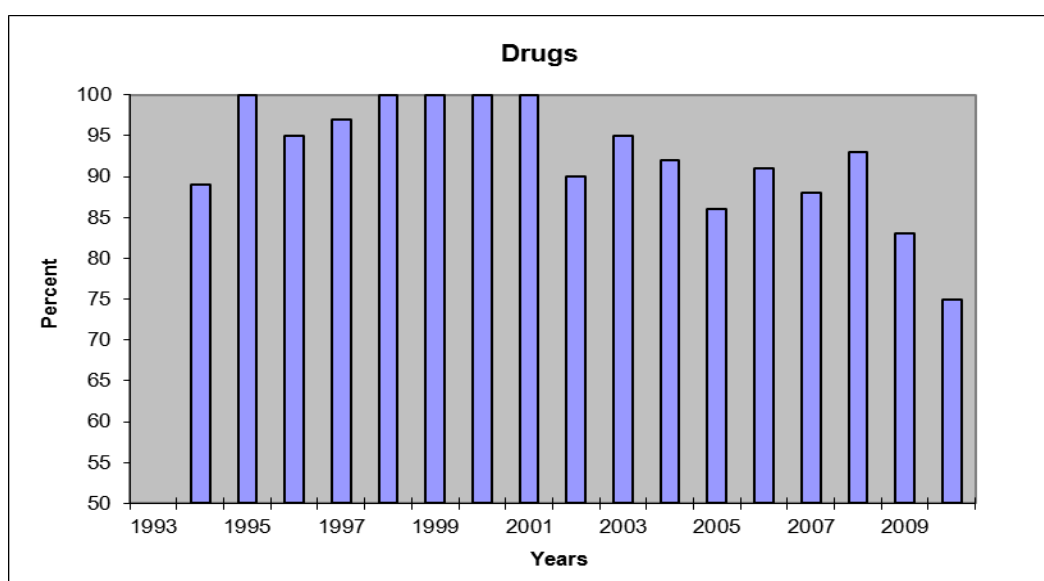
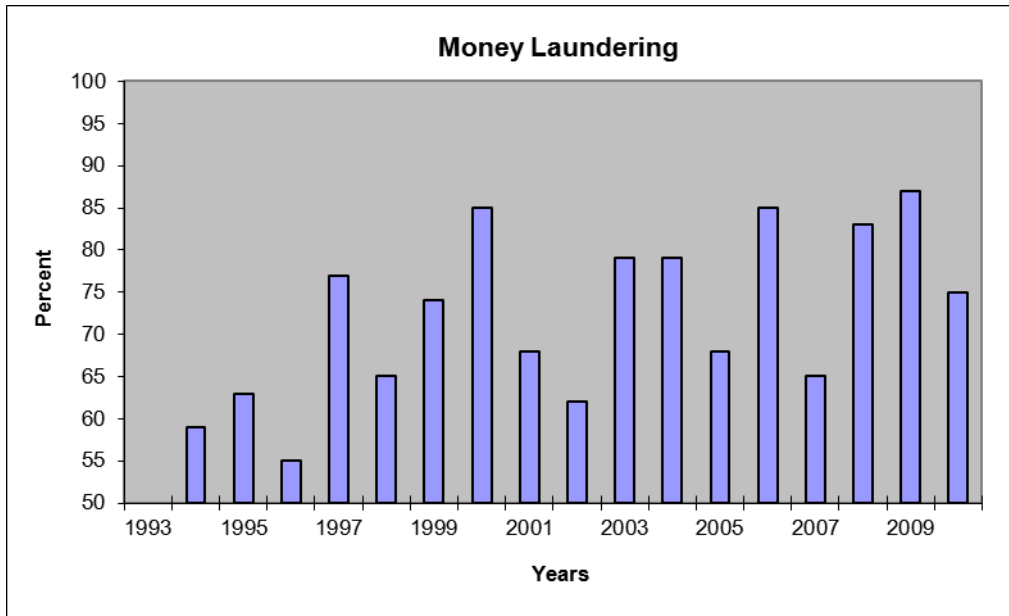


Table 8**Money Laundering**

1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
50	59	63	55	77	65	74	85	68	62	79	79	68	85	65	83	87	75

**Table 9****Illegal Manufacture and Smuggling of Alcohol and Cigarettes**

1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
0	0	0	0	0	0	0	0	0	0	0	0	75	76	65	83	70	75

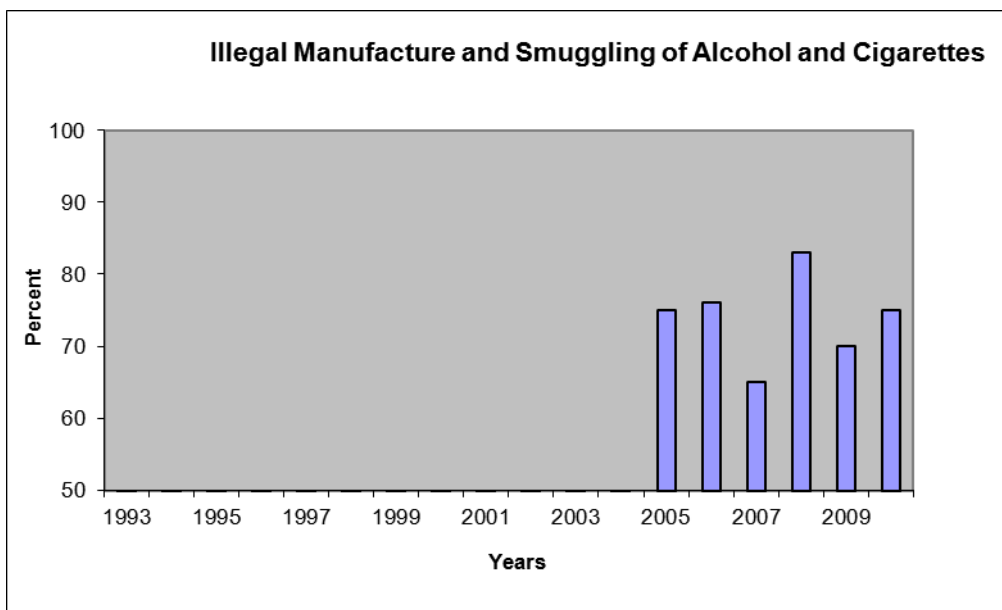
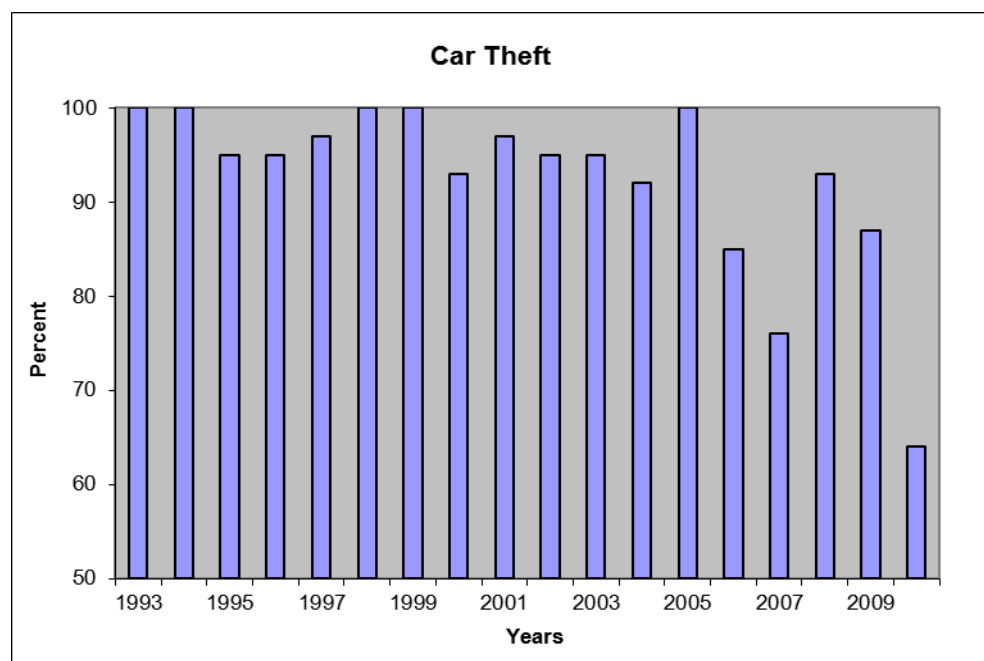


Table 10**Car Theft**

1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
100	100	95	95	97	100	100	93	97	95	95	92	100	85	76	93	87	64

**Table 11****Customs Fraud**

1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
75	50	68	72	68	50	78	63	48	76	58	75	86	61	65	53	70	64

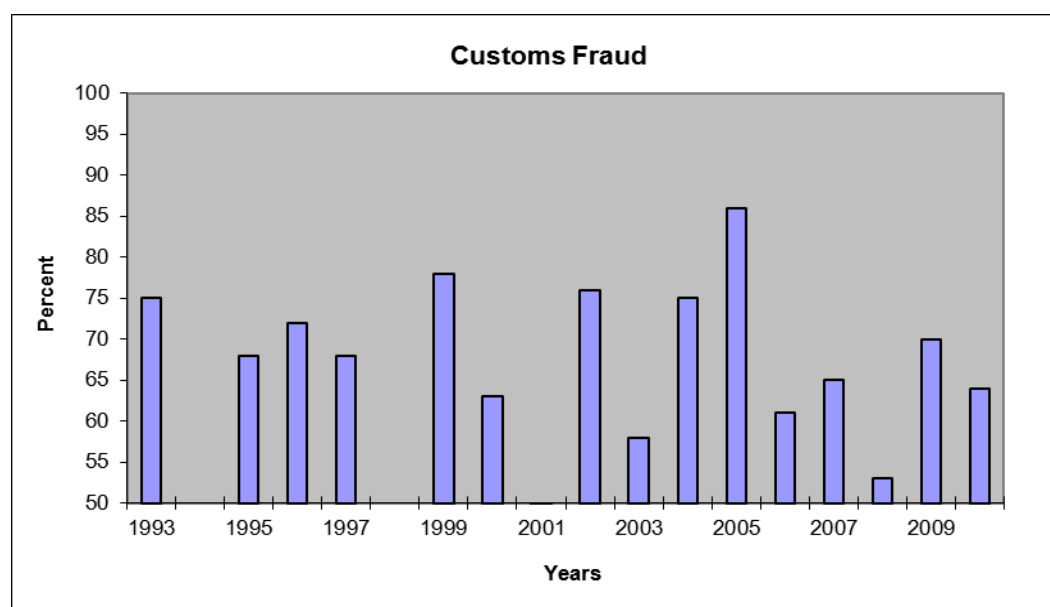


Table 12

Misuse of Bank Accounts and Payment Cards

1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	64

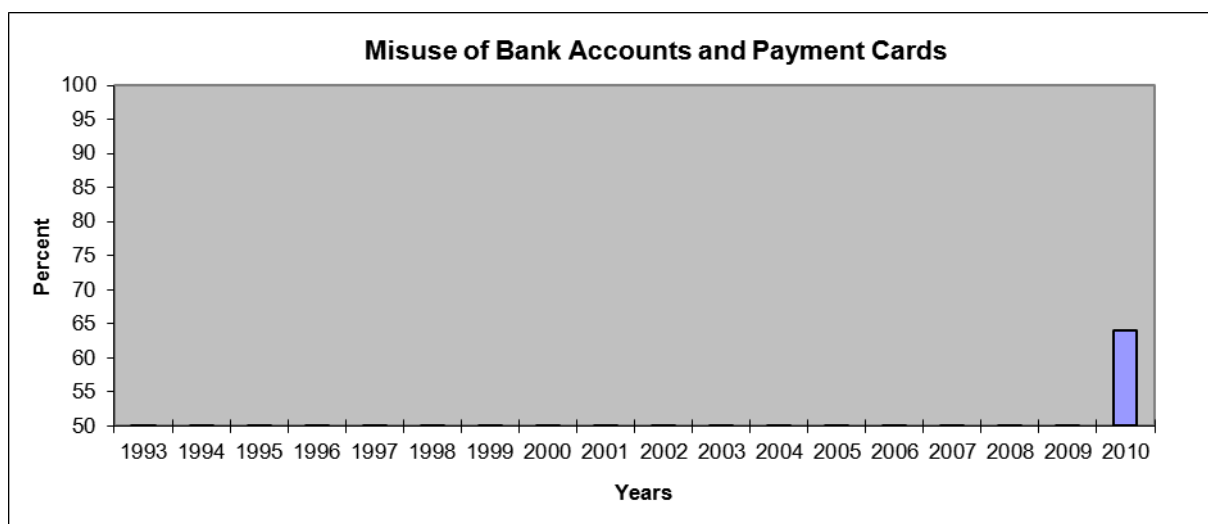


Table 13

Prostitution

1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
84	89	100	89	97	100	96	89	97	95	100	96	82	73	82	87	70	61

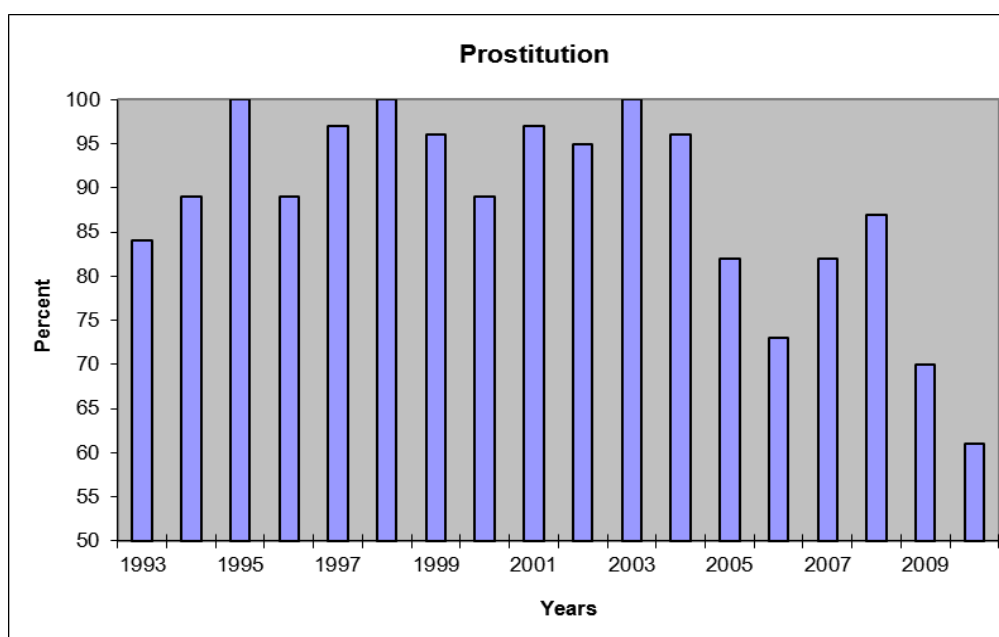
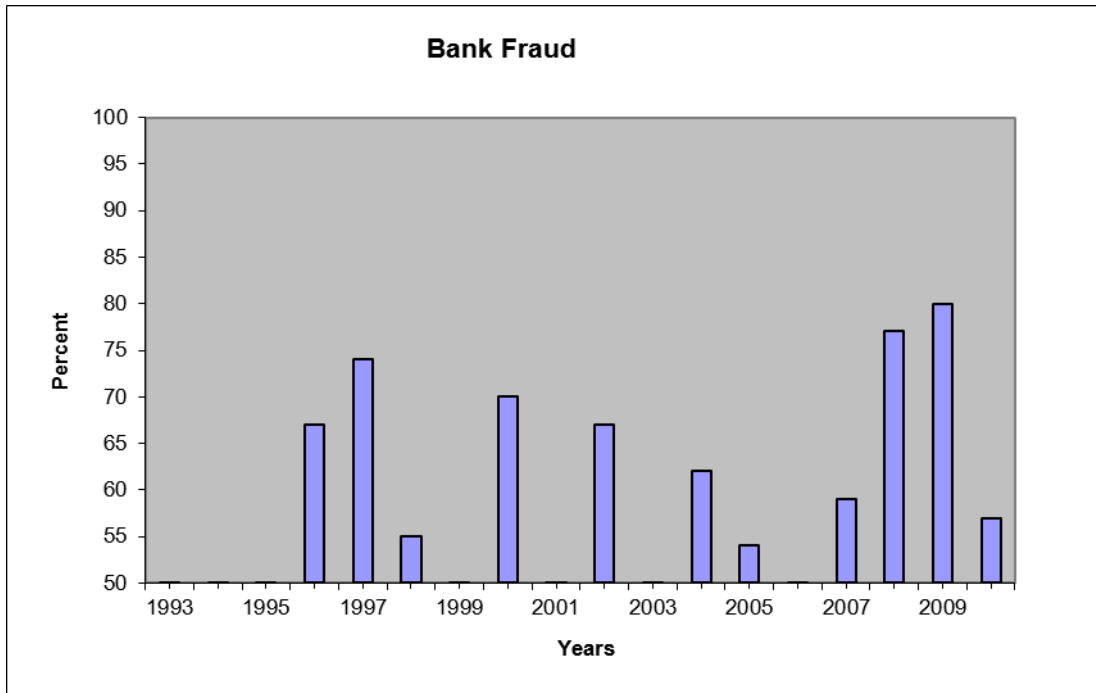


Table 14**Bank Fraud**

1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
0	0	0	67	74	55	0	70	0	67	0	62	54	48	59	77	80	57

**Table 15****Illegal Migration**

1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
67	78	73	73	65	95	96	93	100	90	100	87	71	67	76	73	77	57

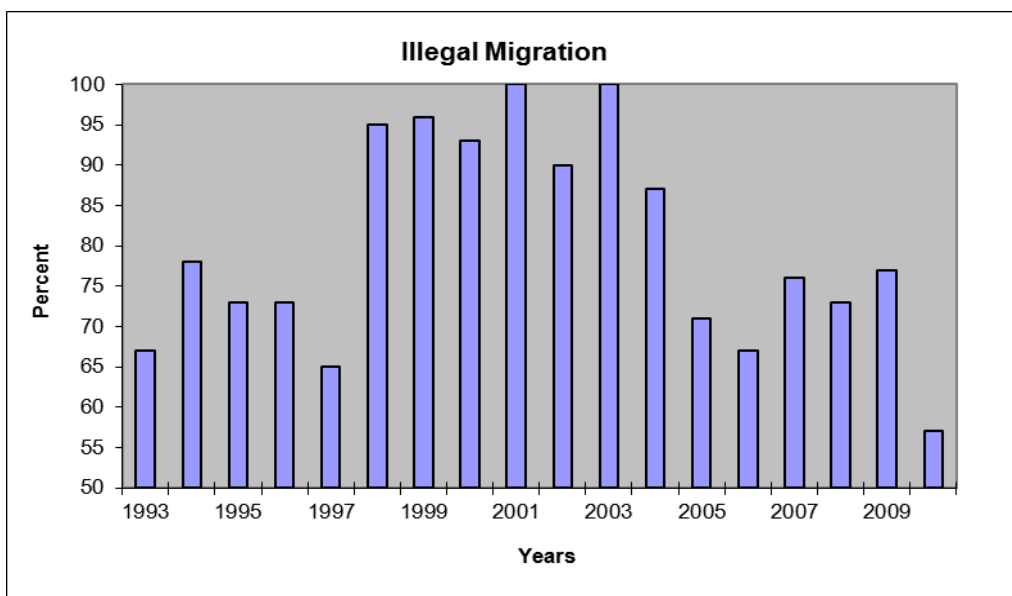


Table 16

Forgery of Documents

1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	77	57

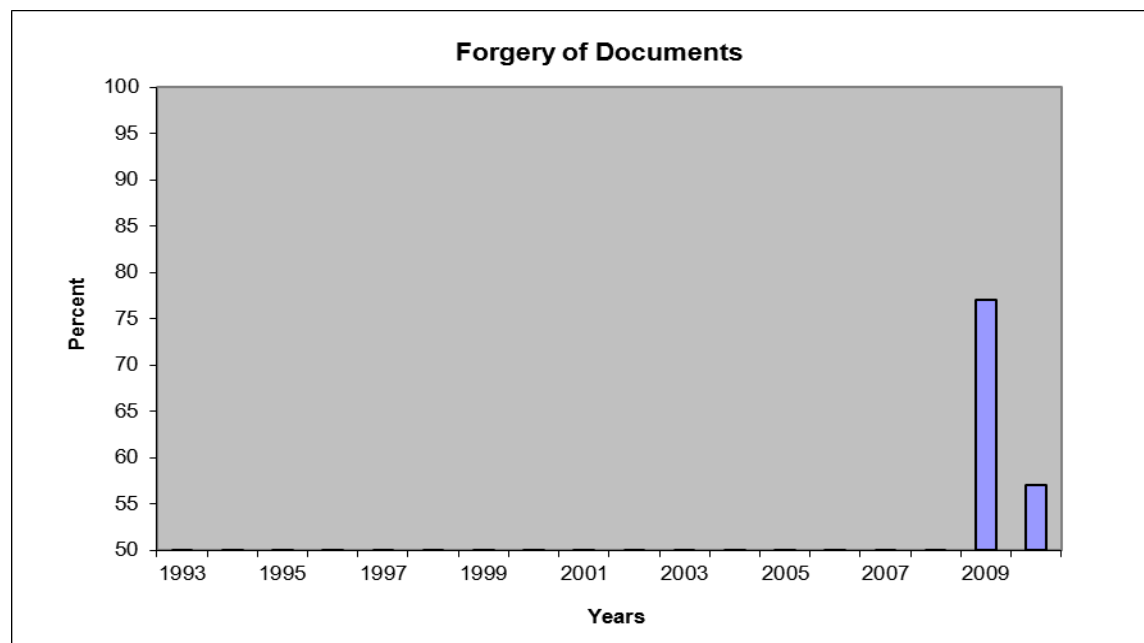


Table 17

Illegal Debt Collection

1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
0	0	68	67	71	70	81	78	65	71	79	92	82	58	82	77	60	54

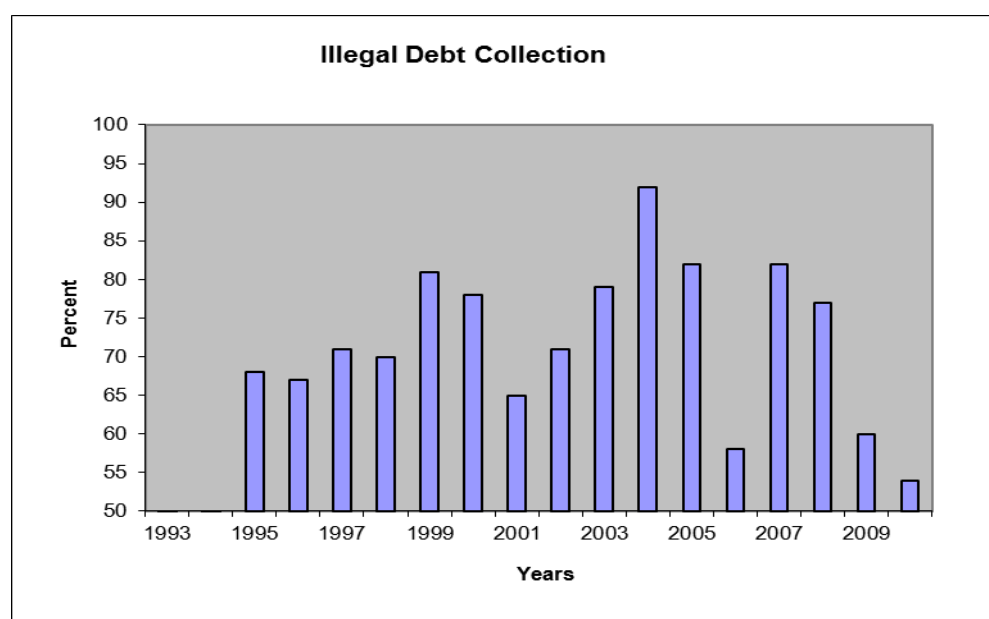
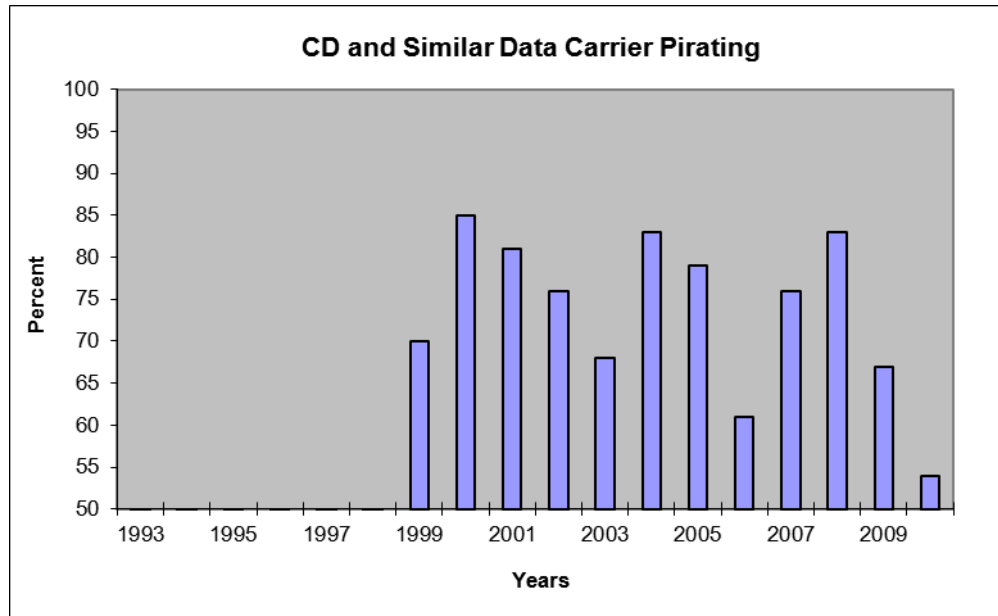


Table 18**CD and Similar Data Carrier Pirating**

1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
0	0	0	0	0	0	70	85	81	76	68	83	79	61	76	83	67	54

**Table 19****Racketeering**

1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
50	76	68	67	64	70	70	67	61	76	95	92	68	73	82	67	57	50

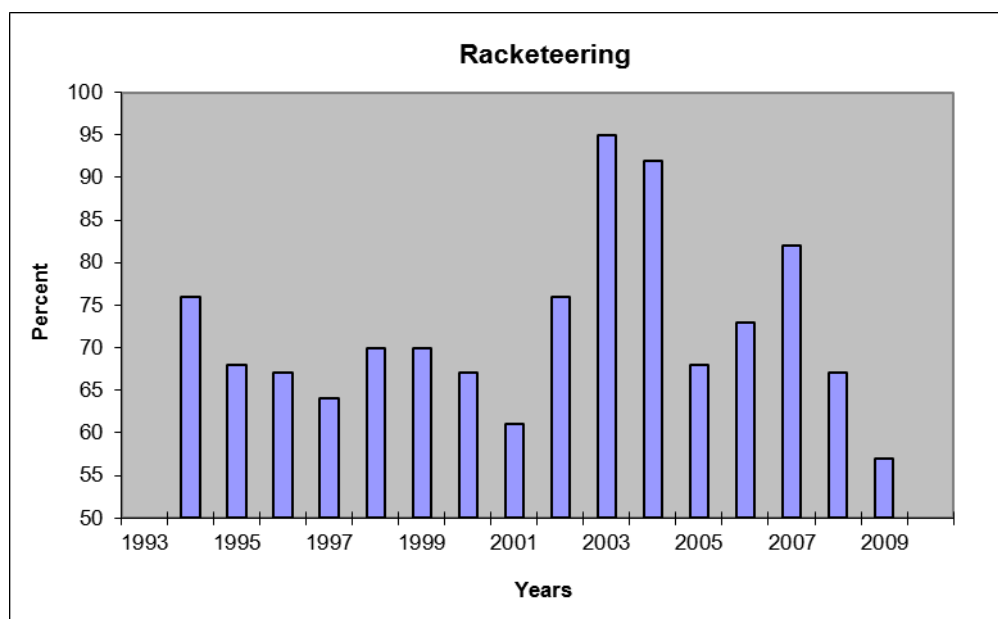
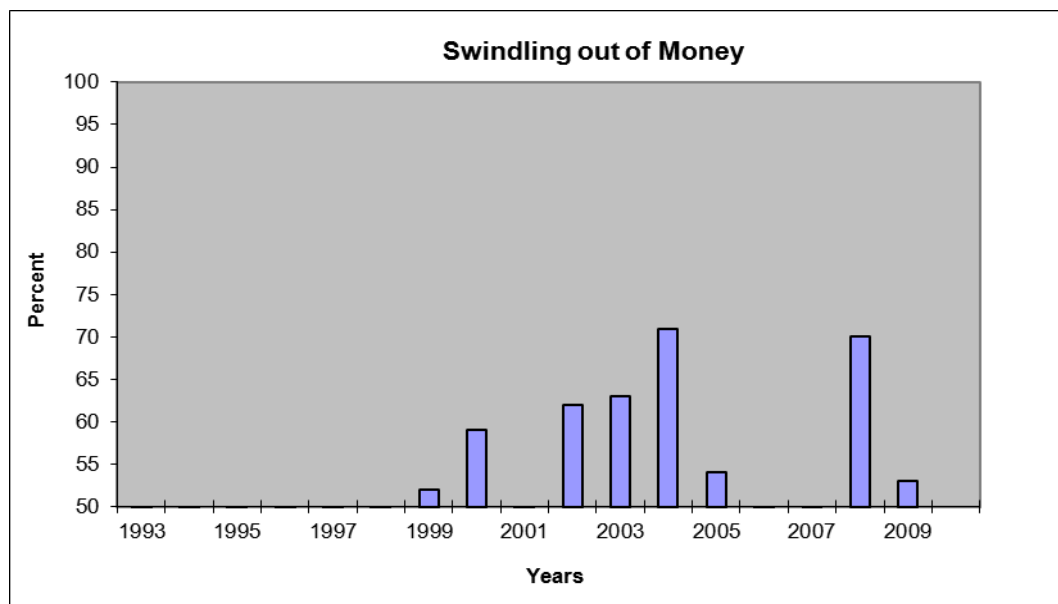


Table 20

Swindling out of Money

1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
0	0	0	0	0	0	52	59	0	62	63	71	54	42	35	70	53	50



5. Most frequent activities of gangs of foreign nationals

Apart from establishing the order of the activities of organised crime as a whole, since 1999 we have been investigating which gangs predominantly composed of one nationality are involved in which types of criminal activities in the territory of the Czech Republic.

The most common activities of Ukrainian gangs between 1999 and 2010

Between the years **1999-2009**, the most common activities included: extortion, violent crime, murder, robbery, prostitution, drugs, car theft, illegal migration, smuggling arms and radioactive material, money laundering, bank fraud, debt collection. Since 2003, trafficking in women and illegal employment has come to the fore, adding tax evasion and establishing fictitious firms to their portfolio in 2008.

In the year **2010**, we noted in the case of Ukrainians:

Extortion and protection-money collection,

human trafficking / forced labour,

violent crime,

fraud, money laundering, car theft,

theft, drugs, tax evasion, organising illegal migration, smuggling, illegal trade with cigarettes, straw men, payment card fraud, arms trafficking, gambling, prostitution / procuring, corruption.

The most common activities of Vietnamese gangs between 1999 and 2010

Between the years 1999-2009, the most common activities included: illegal migration, CD pirating and illegal copying of videocassettes, drugs, customs fraud, prostitution, violent crime, tax evasion, human trafficking, smuggling, extortion, debt collection. In 2002 they added to their portfolio: money laundering, breach of trademark and copyright laws, counterfeiting documents, corruption, murders, gambling, and in 2004: trafficking in women, fake marriages, in 2005: illegal manufacture of spirits and cigarettes, in 2006: trafficking in women, forced labour, establishing fictitious firms, in 2007, in 2008: manufacture of alcohol and cigarettes, in 2009: real estate fraud.

In **2010**, we noted in the case of the **Vietnamese**:

drugs

tax evasion,

human trafficking, money laundering,

prohibited manufacture of alcohol and cigarettes, people smuggling / migration,

customs fraud, extortion/"protection",

prostitution/procuring, violent crime,

smuggling, human trafficking/forced labour, corruption.

The most common activities of **Russian gangs** between 1999 and 2009

Between **1999** and **2009** their most frequent activities included: extortion, violent crime, murder, drugs, economic crime, prostitution, illegal traffic in arms and radioactive material, illegal migration, car theft, money laundering, trading in heavy metals and crude oil, bank fraud, debt collection, counterfeiting money. From 2002 in addition fictitious firms, corruption, debt collection, smuggling, counterfeiting money, from 2003: real estate fraud, from 2006: human trafficking/forced labour, from 2008 loan fraud, in 2009: fraudulent firms, gambling,

In **2010**, we noted in the case of the **Russians**:

extortion and protection-money collection, violent crime,

legalisation of the proceeds of crime - money laundering, prostitution/procuring,

international arms dealing, corruption / bribery,

tax evasion, illegal migration, drugs, human trafficking/forced labour, car theft,

fictitious transactions, murder, economic crime

The most common activities of **Albanian (Kosovan Albanian) gangs** between 2000 and 2010

Between **2000** and **2009** their most frequent activities were the following: drugs, prostitution, arms trafficking, car theft, violent crime and murder, extortion, robbery, money laundering, other financial fraud, customs fraud, property crime, corruption, gambling. In addition, from 2005: violent debt collection, from 2007: trafficking in women.

In **2010**, we noted in the case of the Albanians / Kosovan Albanians:

drugs,
prostitution/trafficking in women,
international arms trafficking, money laundering,
migration, extortion, violent crime,
theft, stealing cash dispensers, gambling, fraud.

The most common activities of **Romanian gangs** between 2003-2010

Between **2003-2009**, in the case of Romanian gangs we registered mainly: pick-pocketing, extortion, drugs, car theft, sale of counterfeit goods, human trafficking, trafficking in human organs, illegal migration, prostitution, counterfeiting documents, counterfeiting money/cheques, currency fraud, in addition, from 2008 payment card fraud, usury, in 2009: counterfeiting means of payment, swindling, burglary, internet criminality.

In **2010**, gangs from Romania committed:

payment card fraud / counterfeiting means of payment,
theft, counterfeiting money, fraud with VAT and scrap metal,
forgery, prostitution/procuring,

The most common activities of Bulgarian gangs between 2000 and 2010

Between **2000** and **2009** we noted in the case of gangs from Bulgaria most frequently: prostitution, car theft, violent crime, drugs, illegal migration, counterfeiting documents and money, faking credit cards, pick-pocketing. From 2004 in addition: trafficking in women, arms trafficking, stealing cash dispensers, fictitious firms, in 2005: extortion, bank fraud, in 2007: withdrawals on forged documents, alteration of legal tender, tax evasion, loan, insurance fraud, in 2008: theft from cash dispensers, in **2009 smuggling** cigarettes, human trafficking (slavery).

In **2010**, we noted in the case of gangs from Bulgaria:

forgery and theft of payment cards,
theft, counterfeiting money, drugs, prostitution, car theft.

The most common activities of **Slovak gangs** between 2002 and 2010

Between **2002** and **2009** gangs from Slovakia conducted the following activities: illegal migration theft, extortion, robbery, drugs, prostitution. After 2006, in addition: violent crime, murder, arms trafficking, computer criminality, from 2007: financial crime, from 2008: human trafficking, in 2009: financial fraud, real estate fraud, loan fraud, ID forgery.

In **2010**, we noted in the case of gangs from Slovakia:

tax evasion, VAT, fuel and scrap fraud, money laundering, illegal work, property crime.

The most common activities of **Chinese gangs** between 1999 and 2010

Between **1999-2009**, Chinese gangs focused mainly on: illegal migration, money laundering, prostitution, human trafficking, violent crime, customs fraud, drugs, counterfeiting documents, human trafficking, smuggling goods, breach of trademark and copyright laws, counterfeiting goods, fictitious firms, corruption, gambling, kidnapping, robbery, extortion, in addition, in 2004 false marriages, from 2005 illegal manufacture and smuggling of alcohol and cigarettes, from 2006 human trafficking/forced trafficking in women, from 2008: forgery of computer, clothing and other products.

In **2010**, we noted in the case of Chinese gangs:

human trafficking, tax evasion, breach of copyright laws, money laundering, drugs, illegal migration.

In the case of **minority gangs** (for the year 2010 from 11th to 30th place), the following activities appeared:

In the case of **Chechens**, between 2000 and 2009 the following was noted most commonly:

extortion, illegal migration, drugs, violent crime and murder, human trafficking, car theft, arms trafficking, theft, robbery, money laundering, fraudulent firms, gambling, debt collection.

In **2010**: drugs, arms trafficking, extortion, violence, murder, human trafficking/forced labour.

In the case of **Poles**, between 2000 and 2009 the following was noted most commonly:

primarily drugs, then car theft, counterfeiting money and IDs, tax evasion, customs fraud, from 2005: organised trafficking in alcohol, illegal manufacture and smuggling of cigarettes, gambling, money laundering, property crime.

In **2010**, tax evasion, car theft, burglary.

In the case of **gangs from Serbia** the following was noted most commonly between 2000 and 2009:

drugs, prostitution, violent crime, arms trafficking, extortion, fictitious firms, car theft, money laundering, corruption, forgery, tax evasion, smuggling, debt collection, illegal migration, clandestine trade, murder, counterfeiting money and trademarks, duty stamps, from 2007: smuggling cigarettes, from 2008 payment card fraud.

In **2010**: drugs, violent crime, extortion.

In the case of **Georgians** the following was noted most commonly between 2000 and 2009: drugs, violent crime, extortion, robbery, theft, money laundering, forgery, theft.

In 2010 no specific activity was recorded in the case of Georgians.

In the case of **Iraqis** the following was noted most commonly 2009:

illegal migration, money laundering and dealing in stolen items,

in **2010**: tax evasion, money laundering, customs fraud.

In the case of **Indians** in **2010**: value added tax fraud, money laundering.

In the case of **Hungarians** in **2010**: fraud with value added tax and scrap metal.

In the case of **English** in **2010** value added tax fraud, money laundering.

In the case of **Dagestanis**, between 2002 and 2009 drugs, violent crime, extortion, human trafficking, car theft, illegal migration, debt collection, murder, robbery, tax evasion, customs fraud, money laundering, fictitious firms, corruption, arms trafficking, prostitution/procuring, gambling, fraud. (In 2010 no activities were mentioned in the case of Dagestanis.)

In the case of **Israelis** between 2005 and 2009 gambling, fraud (bank, tax, loan, currency), money laundering, corruption, real estate fraud, loan fraud, forgery of documents, in **2010** drugs.

In the case of **Libyans** in **2010**: tax evasion, money laundering, human trafficking, legalisation of residence.

In the case of **Tunisians** in **2010**: drugs, illegal migration.

In the case of **Macedonians** between 2004 and 2009 drugs, extortion, smuggling, illegal migration, payment cards fraud, property crime, money laundering, ID forgery, car theft, violent crime, gambling, pick-pocketing, arms trafficking, in **2010**: drugs, illegal migration.

In the case of **Turks** between 2001 and 2009: drugs, illegal migration, establishing fictitious firms, violent crime, human trafficking, manufacture of counterfeit clothing and other accessories, misuse of means of payment, prostitution, arms trafficking. (No records for 2010.)

In the case of **Netherlanders** in 2009: drugs, fraud. (No records for 2010.)

In the case of **Algerians** in **2010**: drugs, illegal migration.

In the case of **Germans** between 2005 and 2009 theft of works of art, operating prostitution, car theft, arms trafficking, dealing in waste, drugs, human trafficking.

(No records for **2010**.)

In the case of **Uzbekistanis** in **2010**: extortion, murder, human trafficking for forced labour.

In the case of **Moldavians** between 2006 and 2009: extortion, car theft, forgery, drugs, murder, prostitution, robbery, car theft. (No records for **2010**.)

In the case of **Lithuanians** between 2008 and 2009 robbery/burglary, extortion, debt collection, counterfeiting money. (No records for **2010**.)

In the case of **Armenians** between 2003 and 2009 extortion a debt collection, tax evasion, violent crime, arms trafficking, murder, robbery, corruption, illegal migration, prostitution, smuggling alcohol/cigarettes, forced labour, gambling,

In **2010**: money laundering, extortion, theft, violent crime, drugs, forgery.

In the case of **Mongolians** between 2008 and 2009 illegal migration, corruption, forced labour, violent crime. (No records for **2010**.)

In the case of **Italians** between 2002 and 2009 money laundering, financial criminality, , drugs, arms trafficking, money laundering, corruption, operating prostitution, tax and loan fraud, robbery, debt collection, clandestine trade in gold, leather, illegal migration, human trafficking, prostitution, illegal dealing in items of moveable cultural heritage, forgery, counterfeiting money, murder, gambling. (No records for **2010**.)

Conclusion

As a result of the far-reaching research into organised crime conducted at the Institute for Criminology and Social Prevention since 1993, this article contains quantitative data illustrating the degree and way in which permanent members and external associates, women and foreign nationals are involved with criminal gangs, the forms of illegal supporting activities conducted by organised groups. The data is based on expert estimates transmitted to us by experienced members of special units of the Police of the Czech Republic which are directed at fighting organised crime, drugs, corruption and financial criminality. The number of experts questioned varies between 12 and 33. At the beginning of 2011, the eighteenth survey in a row was conducted with 28 experts who assessed the situation in the year 2010. Due to this, long time periods are used in the study. Even though the expertises are largely qualitative types of surveys where the experts mainly form opinions, stances and arguments, in this article we have concentrated primarily on quantifiable statements. We have presented the data in a full and unabridged form, referring to all of the previous findings to make possible to perform secondary analysis and compile a study of a more general nature with more wide-ranging and generalising conclusions. From a methodological point of view, it should be said that a certain disadvantage of the expertises is that the findings are based on estimation. Therefore in wider-ranging studies we attempt to use statistics and file materials. In the Czech Republic, however, there are not sufficient amounts of such material and it addresses only a small part of the real world of organised crime.

From the point of view of their **degree of organisation**, about one third of gangs between 1995 and 1999 were according to experts fully developed. After the year 2000, this figure oscillated between 40 and 50 %. In the year **2010** experts stated that according to their estimates, **52 %** of gangs had a fully developed structure while **48 %** of them were not fully developed.

External associates are used to a large extent to perform a range of activities of organised criminal gangs. With the exception of 2009, when their proportion was recorded as 41 %, external associates have accounted for more than half of all members of criminal gangs since 1993. Also in **2010**, the experts claimed **49 %** were permanent members and **51 %** external associates.

Each year we have also monitored what the external associates are specifically involved in. In **2010**, experts claimed that in addition to weapons, equipment, vehicles, tools, apparatus, documents, external associates provide space for accommodation, storage, safekeeping of items from criminal activities and transport of people and materials, fuel, prohibited substances, manufacture and forgery of documents, obtaining legal documents, performing official acts as well as legal and economic advice; they are involved in legalisation of the proceeds of crime and concealing criminal offences. External associates also arrange contacts with officials in high places, attempt to control political parties, assist in providing logistic support, gain information, and advertise illegal goods and services. In 2010, the role of external associates as “straw men” was specifically mentioned and as fictitious competitors in tenders.

Women are also involved with gangs active in organised crime in the territory of the Czech Republic. The estimated **proportion of women** in the period from the year 2000 to 2010 oscillated between 11-16 %. In the year 2010, the level of their involvement was **13 %**. In 2010, women were involved in: administrative backup, human trafficking, organised prostitution, procuring and trafficking in women, economic criminality, organising illegal migration, drug smuggling and distribution, manufacture and smuggling of cigarettes. It was claimed that in some cases, women themselves are the organisers of criminal activities.

Foreign nationals also play a considerable role in organised crime committed in the Czech Republic. The ratio of international to domestic elements is approximately the same with some fluctuation, foreign nationals generally being slightly in the majority. In the year 2010, we noted a slight prevalence of the domestic element (**51 %**) over the international (**49 %**). Overall, the Czech Republic is a country where the ratio of international to domestic elements is – despite some fluctuation – basically the same.

In terms of representation of separate foreign nationalities **in the structures** of organised crime in the Czech Republic, the **strongest** presence is that of Ukrainians and Russians. After the year 2000, Vietnamese and Albanians (mostly Kosovans) took up a place among this strongest group and since then their numbers have been rising. Since 1998, the proportion of Chinese has fallen somewhat. A middle group is formed of Romanians, Armenians, Slovaks and Nigerians. Not insignificant too, is the presence of Poles, Chechens, Serbs and Croats. Members of other nationalities appear only sporadically.

Since 1993, we have been receiving expert **estimate on the most widespread forms of organised crime in the Czech Republic**. From 1993 to 2008, the permanently most widespread was car theft, operating prostitution, and from 1994, manufacture, drug smuggling and distribution. In the years 1996 and 1997, 2002 and 2005 tax evasion, loan, insurance and currency fraud, between 1998 and 2004 illegal migration was among the most widespread. In 2006, money laundering, forgery of documents, counterfeiting banknotes and coins ranked among the most widespread, and also a considerable rise in computer criminality occurred. From 2005 there was a significant incidence of illegal manufacture and smuggling of alcohol and cigarettes. The year 2009 brought with it a further increase of activities connected with financial crime. Misuse of computers for committing crimes began to rank amongst considerably widespread crime. In **2010**, further changes in the order of most widespread activities occurred. First place was taken by tax evasion, loan, insurance and currency fraud, establishing fraudulent and fictitious firms, corruption and money laundering. Manufacture, smuggling and distribution of drugs held their place among the most widespread, and illegal manufacture and smuggling of alcohol and cigarettes and misuse of bank accounts and payment cards was on a steady rise. Customs fraud maintains its position amongst most widespread crimes. The incidence of car and spare part theft and organising prostitution and trafficking in women fell to being at the end of the top ten.

The **most significant budding activities in 2010** included criminality against information and communication technologies, misuse of European Union funds, human trafficking for the purposes of forced labour, murder, trafficking in human organs, misuse of computers for criminal activities, illegal import and export of hazardous waste, misuse of bank accounts and payment cards.

Since 1999, we have been finding out which activities are operated by **which foreign gangs**. In terms of nationalities most often represented in **2010**, the most frequent activities for **Ukrainians** were extortion and protection-money collection, human trafficking, violent crime, for **Vietnamese**, involvement in manufacture, smuggling and distribution of drugs, tax evasion, human trafficking, money laundering, prohibited manufacture of alcohol and cigarettes. In 2010, **Russians** focused on extortion and protection-money collection, violent crime, money laundering, prostitution; Albanians on drugs and prostitution; **Romanians** on payment card fraud / forgery of means of payment; **Bulgarians** on forgery and theft of payment cards, **Slovaks** on tax evasion, fraud with VAT, fuels and scrap, money laundering, illegal work; **Chinese** on human trafficking, tax evasion, breach of copyright and trademark laws.

Police-registered Victims of Crime in the Czech Republic and the Findings of a Victimological Research

Milada Martinková

Since the beginning of 2010, as we have already mentioned in this publication, a new penal code began to apply in the Czech Republic. We decided therefore to present some police data regarding the victims of crime in the territory of our state for the period from 1996 to 2009¹⁴, in the course of which we at the Institute for Criminology and Social Prevention had the opportunity to investigate in greater detail persons damaged or harmed by criminality also on the basis of police data. In the following text, we shall focus on police data collection over the aforementioned 14-year period; that is before further data is collected by the police on the victims of crime which will reflect the new penal code mentioned above and which will then comparable against each other without difficulty. In the second part of this chapter we will present several items of information from the victimological probe performed in 2010 by our office. We present the data for the reader to have an idea of how Czech citizens themselves talked about their being impacted by criminality.

Since the first part of this chapter focuses on data from police statistics, it therefore focuses on officially recorded victims of crime. The issue of latent victims is not included in these statistics because Czech police statistics do not concern themselves with it. (We shall, however, address latent victims in the second part of the text which focuses on data from victimological research.) In the first part of this chapter, data on the victims of crime are drawn from data which the Police of the Czech Republic collects and enters when recording a criminal offence, therefore shortly after the criminal offence comes to their attention. This data on victims is not regularly published in greater detail. The police, however, supplies requested data from its statistics every year, including that concerning crime victims, to the

¹⁴ Where sections of the criminal code appear in this article, this will concern sections of the criminal code applicable until the end of 2009.

Institute for Criminology and Social Prevention for the purposes of compiling its annual compendium on criminality. Some of the data appears below in summarised form.

The reader of this chapter should bear in mind that for many reasons the registered numbers of victims of crime in the Czech Republic should be considered to be minimum numbers (for the reasons in more detail, see Martinková in Marešová et al., 2010¹⁵). With relation to this, it should be pointed out that Czech police data concentrates mainly on the area of violent, vice and only some property crimes.

The selected data on the victims of crime collected for the aforementioned 14-year period of the years 1996 - 2009 appears in summary form in the tables and graphs presented below. Table no. 1 shows that the minimum numbers of victims of crime registered by the police for this 14-year period were somewhere in the region of 40 to 51 thousand persons. The lowest number of crime victims recorded by the police during the reference period was in the year 2000 when it was hovering just above 40 thousand persons and the highest was in 2005, when the figure was slightly above 51 thousand persons (see also graph no. 14 in the first part of this publication).

Czech police data concerning the victims of crime can be sorted more thoroughly according to several criteria, and also according to the resulting impact left by the crime on the victims. The figures for victims are sorted into the following categories of consequences: death, injury, other consequence (e.g. loss of property etc.), and so-titled no consequence. It is clear from table no. 1 that, during the 14-year period studied, the proportion of persons injured in the total annual figures for registered crime victims falls to a certain extent from the year 2004 figure, as against the preceding period, both in terms of percentage and also, in most cases, in absolute numbers. It is clear that, unlike the period up to 2003, it does not exceed one fifth in percentage terms (with the exception of 2004). Between the years 1996 and 2003, the proportion of persons injured in total annual numbers of registered is almost always roughly a quarter.

Another constantly closely monitored category of violent crime is death of damaged parties due to crime (see table no.1). Persons who died as a result of crime make up 0.6 to 1.0 % of the annual total number of victims of crime registered by the police for the period 1996 - 2009 being studied. During this period, no significant deviation from this percentage

¹⁵ Martinková, M.: Co přinesly policejní statistiky v roce 2009 o obětech kriminality v České republice. In: Marešová, A. et al.: Analýza kriminality v roce 2009 a v předchozím dvacetiletém období. IKSP, Praha 2010.

representation in the total annual figures of registered victims is apparent, even though the greatest difference in absolute annual figures of the numbers of deaths was of 110 cases (415 persons in 2002 and 305 cases in 2005).

According to police findings, on average, during the 14-year reference period (1996 – 2009) 354 persons died per year in consequence of crimes committed against citizens of the Czech Republic. Usually, a considerable and often the largest percentage of deaths was that of murder victims (formerly applicable section 219 of the criminal code). Nevertheless, every year a large proportion of deaths in consequence of crimes committed against them are of victims of crimes of serious bodily harm due to negligence. In some years, their annual occurrence was approximately the same as that of victims of successful murder (i.e. when the victim died immediately after the murder) which occurred in 2009, or sometimes the figure was even higher, e.g. in 2007 and 2008. Deaths in consequence to crimes committed against them also include a significant quantity of victims of wilful bodily harm, which for the

Table no. 1

Consequences of criminal activity in police registered victims of crime for the period 1996 to 2009^{x/} in the Czech Republic: minimum numbers of victims
(Classifications according to consequences of crime monitored by the police for victims)
 (Compiled from data from Police Commissariat of the Czech Republic¹⁶ by M. Martinková)

C o n s e q u e n c e s										
year	deaths		injuries		other		without		total victims	
	abs.	%	abs.	%	abs.	%	abs.	%	abs.	%
1996	351	0,8	11051	24,7	24123	53,9	9213	20,6	44738	100
1997	390	0,9	10979	26,1	22634	53,8	8052	19,2	42055	100
1998	379	0,9	11008	27,3	22009	54,6	6914	17,2	40310	100
1999	333	0,8	10596	26,2	22914	56,7	6579	16,3	40422	100
2000	363	0,9	10073	25,3	23394	58,9	5902	14,9	39732	100
2001	315	0,8	9995	24,9	23788	59,1	6105	15,2	40203	100
2002	415	1,0	10666	24,7	25172	58,4	6830	15,9	43083	100
2003	341	0,7	9970	21,6	28718	62,1	7208	15,6	46237	100
2004	357	0,7	10468	20,5	32499	63,7	7686	15,1	51010	100
2005	305	0,6	9423	18,2	34276	66,2	7741	15,0	51745	100

¹⁶ Due to the fact that uncorrected (unclean) data lists belonging to the Police of the Czech Republic has been used as a source of data on the victims of crime, some of the data appearing in the tables, graphs and appendices to this publication may slightly differ.

C o n s e q u e n c e s										
year	deaths		injuries		other		without		total victims	
	abs.	%	abs.	%	abs.	%	abs.	%	abs.	%
2006	328	0,7	8531	17,1	33526	67,1	7555	15,1	49940	100
2007	404	0,8	9061	18,0	32934	65,2	8094	16,0	50493	100
2008	360	0,7	8072	16,5	32882	67,4	7536	15,4	48850	100
2009	321	0,7	7441	15,3	32703	67,4	8034	16,6	48499	100

^{x/} Since 1.1.2010 a new penal code applies: in the year 2010 - 44 460 victims of crime were registered, in 2011 - 46 864 victims of crime.

years 2000 to 2009 annually fluctuated between 13.9 % and 19.8 %. Persons who died in consequence of crime committed against them were also victims of some criminal offences other than those mentioned above. These occurred in much smaller numbers in comparison with those already mentioned. They usually concerned victims of robbery, blackmail, victims of “other violent crime”, threatening behaviour, restriction and breach of personal freedom and some other crimes.

As concerns murder victims (including the victims of attempted murder) (formerly applicable section 219 of the criminal code) in the Czech Republic between the years 1996 and 2009, on average 265 cases were registered by the police per year. On average, 147 persons were victims of successful murder (i.e. the person died immediately after being attacked) during the 14-year period in question. In total, over the aforementioned 14-year period there were 2063 victims of successful murder – see table no. 2.

Table no. 2

Deaths of persons in consequence of crimes committed against them and numbers of murder victims (formerly applicable section 219 of the criminal code) between 1996 and 2009 in the Czech Republic (Compiled from police sources by M. Martinková)

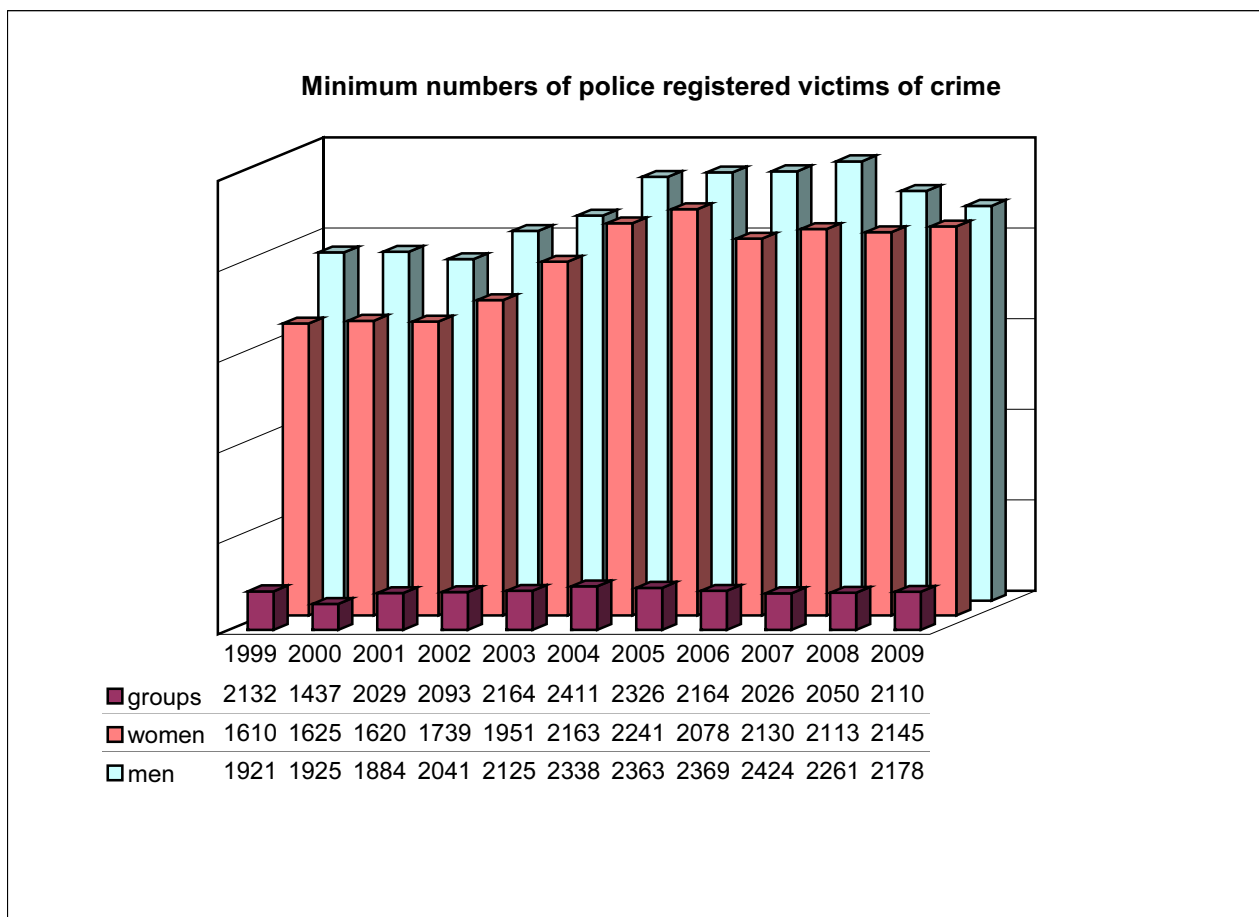
year:	<i>Victims who died in consequence to a crime committed against them</i>	<i>Victims of the crime of murder (incl. attempted) (formerly applicable section 219 of criminal code)</i>	<i>Victims of successful murder (died immediately after the crime) (former. applic. section 219 of criminal code)</i>
1996	351	291	176
1997	390	310	181
1998	379	343	181
1999	333	290	170
2000	363	321	174
2001	315	275	156
2002	415	258	146
2003	341	264	159
2004	357	249	134
2005	305	208	108
2006	328	247	128
2007	404	214	126
2008	360	220	113
2009	321	213	111

Police statistics on victims also include data on the gender of persons who suffered damage due to crime. Czech Police data on registered victims of crime can be sorted into men, women, and also into groups of persons who became the victims of crime. The data in graph no. 1 then shows police classification of registered crime victims in the Czech Republic according to such categories in a period from 1999 to 2009 (decade). From such classification it is clear that in the period in question in the total figure of victims of crime registered by the police, men were slightly in the majority.

Graph no. 1

Minimum numbers of policed registered victims of crime divided into men, women and “groups of persons” in the Czech Republic for the years 1999-2009

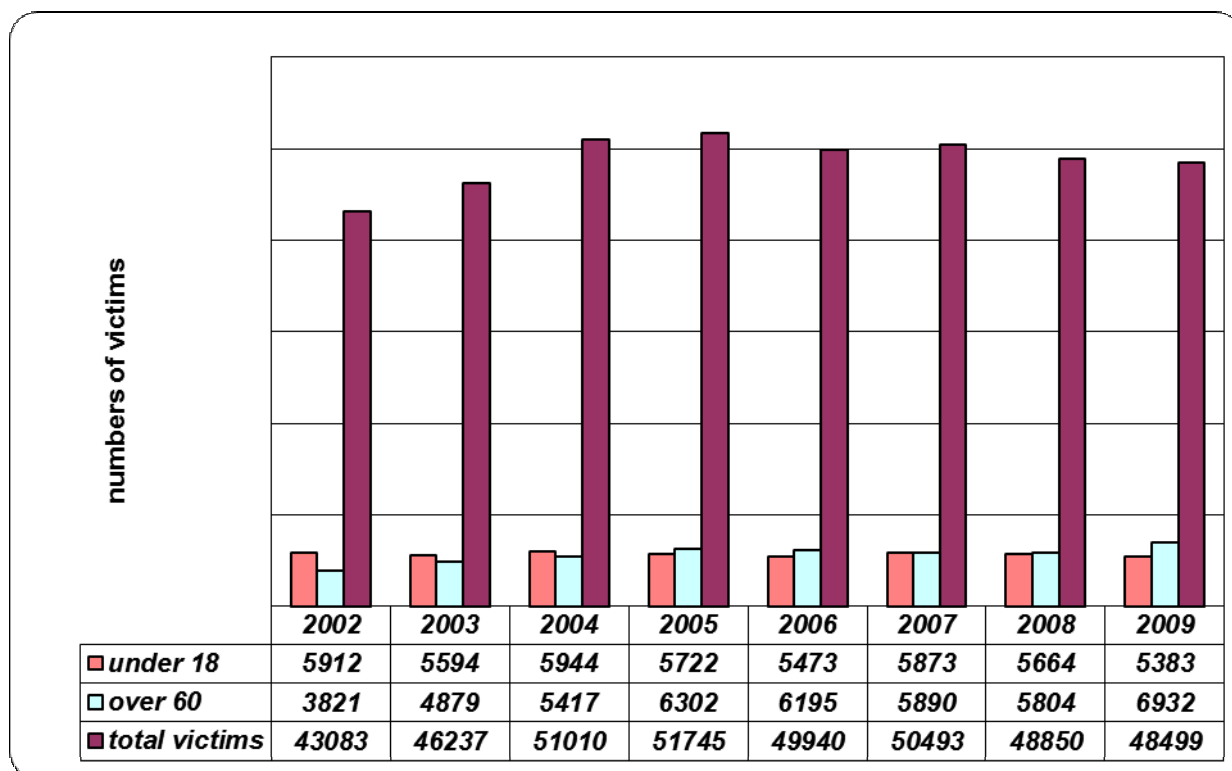
(Compiled from police sources by A. Marešová)



While performing analysis of police data, the various ages of persons who incurred damage or injury from crime is also important data. We bring you the basic data on numbers of victims of crime under the age of 18 (i.e. children and youths) and on victims over the age of 60 (senior citizens). It is clear from Graph no.2 that the proportion of persons from the above age groups in the total amount of registered victims for the period 2002 – 2009 in the Czech Republic did not significantly differ (with the possible exception of the years 2002 and 2009). During this eight year period, the proportion of persons under the age of 18 was on average 11.7 % of all registered victims of crime and the proportion of persons over the age of 60 was almost identical (11.6 %).

Graph no. 2

Minimum numbers of victims of crime at ages of under 18 and 60 years old and over in the total annual figures for police registered victims of crime in the Czech Republic for the years 2002 – 2009 (*Compiled from police sources by M. Martinková*)



Above, we listed some summary data on the victims of crime from Czech police statistics. In the second part of the text, we will focus on some findings gleaned from victimological research conducted by the Institute for Criminology and Social Prevention at the end of 2010 and which concerned inhabitants from across the Czech Republic¹⁷. The survey was performed as part of an omnibus investigation of a representative sample of 1003 persons over the age of 15 from all over the Czech Republic. The sample of individuals questioned was

¹⁷ The survey appearing here was inspired by international victimological research such as that conducted by the ICVS (International Crime Victimization Survey), in which the Czech Republic has participated several times in the past. For instance, the Czech Republic has taken part twice in ICVS victimological surveys which have already taken place in the classical form five times on an international scale. The first time was in 1996 when a representative nationwide sample of respondents was included in the survey and then in the year 2000, when research was conducted only with the inhabitants of the capital of this country. Before that, Czechoslovakia participated in ICVS research in 1992.

representative by way of age, education, population of place of residence, gender. The field research investigated the degree of victimisation of respondents by any of eight different types of offence during the one year preceding the survey (between October 2009 and October 2010). Its aim was to find out how many persons had been impacted by these offences during the period of one year preceding the research probe. It also investigated repeated victimisation by the same crime during the year under scrutiny and aimed also at what are known as latent victims, i.e. it investigated how many people who were, in their own words, the victim of a criminal offence, but did not inform the police of the fact.

The survey focused on the following offences: 1. car theft, 2. theft of contents car 3. burglary of a dwelling (including cellars, garages and other buildings belonging to the respondent's dwelling), 4. burglary of a cottage/country house (including cellars, sheds and other buildings belonging to the respondent's cottage/country house) 5. robbery, 6. theft of personal effects (theft without the use of violence or threats of violence). 7. physical assault by a stranger (without attempt of theft – not domestic violence), 8. threat with physical violence by a stranger (not domestic violence).

Some data obtained:

It was established that approximately 30 % of persons questioned, inhabitants of the Czech Republic above 15 years of age, had been the victims of at least one of the eight offences under scrutiny (31.2 % - 313 individuals) – see graph no. 3. During the survey, it was found that 10.6 % of respondents (106 persons) had been the victim of more than one of the eight offences under scrutiny, i.e. every tenth respondent. It can be assumed that if we had included more offences than the eight in the survey, the number of offences which had affected the respondents would have been higher.

Graph no. 3

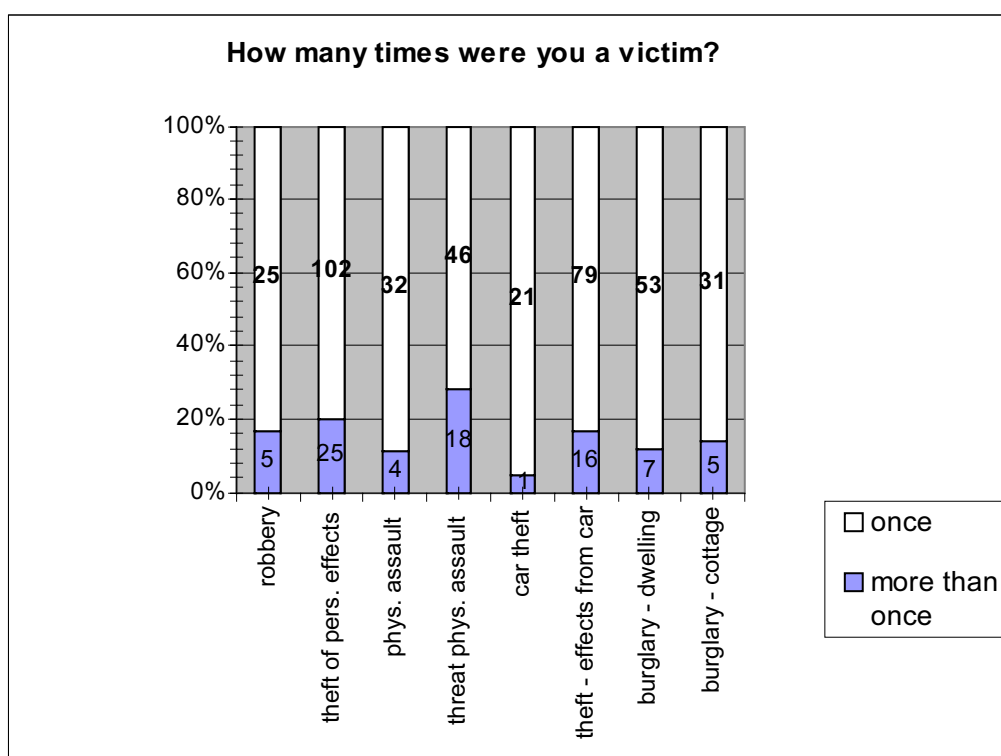
Numbers of respondents who, during one year (October 2009-October 2010) were the victims of any of the eight offences researched, N=1003



As we have already said, in this probe, attention was paid also to the question of whether and how many times someone had been a repeated victim of the same offence. It was established that fairly often, almost a fifth had become repeated victim of one offence during the one year period monitored – theft of personal property (19.7 %, i.e. 25 persons) – see graph no. 4. About 17 % had been the repeated victims of theft of effects from a car or had been robbed repeatedly (16.8 % in the first case – i.e. 16 persons, 16.7 % in the second case - i.e. 5 persons). Roughly one tenth had become repeated victims of the offence of physical assault without an attempt to rob the victim (11.1 % - i.e. 4 persons) and victims of burglary of their dwelling (11.7 % - i.e. 7 persons). About 14 % were the repeated victims of burglary of cottage/country house (13.9 % - i.e. 5 persons), so more than every tenth of these had been a repeated victim. One car owner/user had experienced theft of his/her car more than once (4.5 %, 1 person).

Graph no. 4

Repeated victimisation of respondents (more than once) in the case of separate offences in the course of one year (October 2009- October 2010) in the Czech Republic, N=1003^{x/}



^{x/} of whom car owners/users n= 674, owners/users of cottages/country houses n=199

According to the information appearing in graph no. 4, it is clear that fewer than one fifth of the victims were (with one exception – victim of physical violence – 28.1 %. i.e. 18 persons) repeated victims of the same offence. Even so, this amount suggests that the number of times inhabitants of the Czech Republic is repeatedly impacted by the same criminal event in the course of one year is far from negligible in the case of the offences researched.

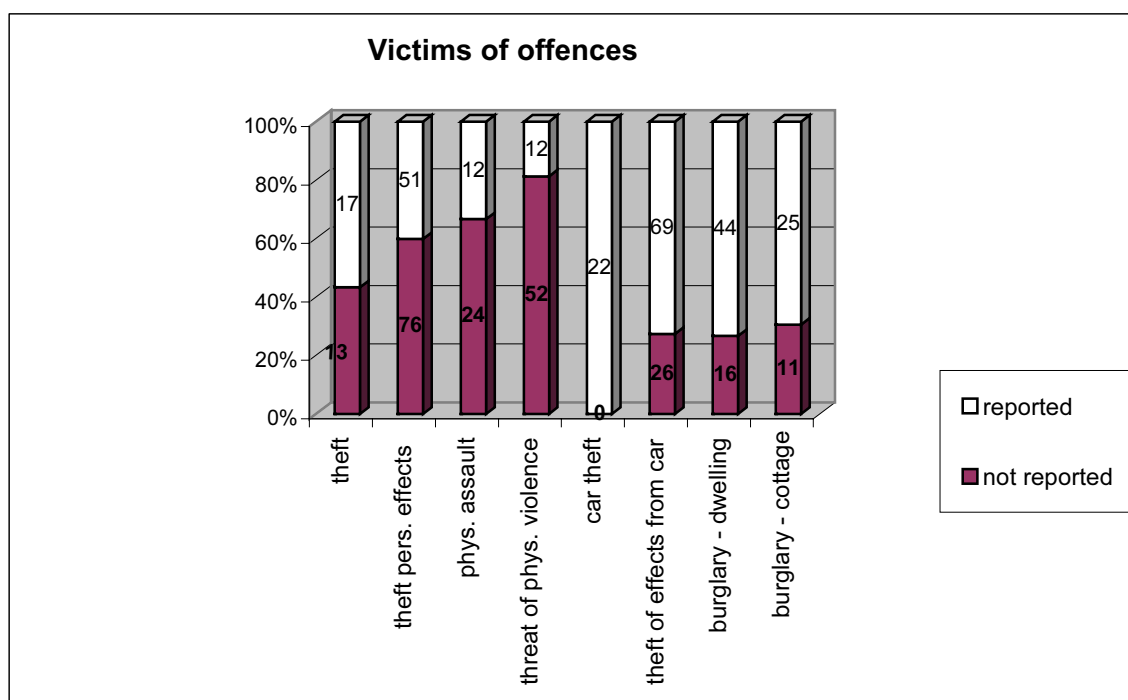
The probe also focused on establishing to what degree the respondents report the offences of which they were the victim to the police – see graph no. 5. Graph no. 5 logically also contains data on what are known as latent victims. This means that it also shows the numbers of victims from whom the police did not learn that a criminal offence had been committed, because neither the victim him/herself nor anybody else reported the event to the police.

Graph no. 5 shows - with the exception of car theft victims, who all reported the theft to the police (and it can be assumed that all of their cars were insured) – that roughly 30 % of those whose

cottage or country house had been burgled (30.6 % - 11 persons) and more than a quarter of victims of theft of contents car (27.4 % - 26 persons) and whose dwelling had been burgled (26.7 % - 16 persons) did not inform the police that they had become a victim.

Graph no. 5

No. of offences of which respondents in the Czech Republic had become victims in the course of one year (October 2009-October 2010) are reported to the police. Victims talked of the last incidence of the offence if this had occurred more than once on the aforementioned period. N=1003^{x/}



^{x/} of whom car owners/users n= 674, owners/users of cottages/country houses n=199

It is also clear from graph no. 5, that the police did not learn of almost half of the victims of robbery (43.3 %, 13 persons), because the incident was not reported. About 60 % (59.8 %, 76 persons) of those affected by theft of personal effects did not report the incident to the police. Physical assault by a stranger who showed no signs of wanting to steal from the victim was not reported by two thirds of victims (66.7 %, 24 persons). In the case of serious threat of physical violence by a stranger (which was not a case of domestic violence), 81.3 % of victims did not turn to the police, i.e. about four fifths (52 persons).

It is therefore obvious that even this victimological survey performed on a representative sample of inhabitants of the Czech Republic above 15 years of age demonstrated frequent findings that some types of offence, usually the more serious types (and so primarily those which closely affected exclusively the victims personally) tend to be reported to the police less frequently than crimes which are not as serious and which usually do not necessarily affect the victim so utterly personally. The findings indicate that in the Czech Republic there really does exist a considerable number of “latent victims” of certain types of crime, i.e. persons against whom a crime has been committed, but they (for various reasons which we did not have the opportunity to investigate) do not report this fact.

If we extrapolate from the data obtained in this victimological research survey, i.e. from the statements of the victims themselves regarding reporting the offences committed against them to the police, it is clear that Czech police does not learn of many of them, particularly of those events which are most serious for the victim. This confirms the fact that much of the information in official police statistics appearing in the first part of this chapter on the registered numbers of victims of crime in the Czech Republic really are only minimum figures. In the second part of this chapter, the data then goes to prove that the calls heard fairly often even in international forums for alternative sources of information (particularly in the form of victimological research¹⁸) about the extent to which inhabitants are hit by criminal activity in addition to the official crime statistics are legitimate.

¹⁸ See: Report of National Institute of Statistics and Geography of Mexico on Crime Statistics. United Nations. E/CN.3/2012/3 (6. December 2011). Economic and Social Council. Statistical Commission, Forty-third session, 28. February – 2 March 2012.

Mediation in the Czech Republic

Jan Tomášek

It is symptomatic for each historical era that some specific topics or issues are raised or prioritised, including a certain point of view on them, during discussion of serious social matters. Crime and its control are no exception. One of the elements related to them that can be considered typical for the present day is heightened interest in the victims of criminal offences. Still after the Second World War, the offender and the possibilities for his rehabilitation was the main topic of discussions on crime. Nowadays, conversely, most citizens think of crime with regard to its consequences that it has for victims and their nearest and dearest. Several factors simultaneously led to this change and these include a different style of media reporting on crime, an increase of crime in most economically developed countries and agitation by various non-profit organisations addressing formerly taboo matters, such as the victims of domestic violence or ill-treated or abused children¹⁹. It cannot surprise us that when society accentuates the topic of victims, the popularity of measures based on the thoughts or principles of restorative justice will rise markedly. It is apt for this approach that it makes the victims and compensation of damages caused to them by criminal acts one of its priorities. This is where it differs from “classic” justice, whose main aim remains, despite significant changes in the past decades, punishment of the offender, rather than sufficient compensation of the victims.

A wide range of measures based on the ideas and principles of restorative justice exist. By far the one most employed is mediation between the offender and the victim. Sober estimates say that at present there exist more than 1,400 special programmes around the world where mediation is offered as a solution of the offence²⁰. The possibilities of its use are also being addressed by significant international organisations, including the Council of Europe²¹,

¹⁹ For more on this topic see Dignan, J.: *Understanding victims and restorative justice*. Maidenhead: Open University Press, 2005.

²⁰ Cf. Umbreit, M.S.; Vos, B.; Coates, R.B.; Armour, M.P.: Victims of severe violence in mediated dialogue with offender: the impact of the first multi-site study in the U.S. In: *International Review of Victimology*, vol. 13, 1/2006, s. 27-48.

²¹ See Council of Europe Recommendation R (99) 19.

which is reflected in the fact that most developed countries of the world have already made the necessary legislative steps facilitating the implementation of mediation during resolution of criminal matters. Not even the Czech Republic avoided such development after the year 1989. The following lines of text are an attempt at summarising the most important findings relevant to the use of mediation in this country. In addition to the basic statistical data, special attention will be paid to findings arising from empirical research by the Institute of Criminology and Social Prevention. For comparison, several foreign studies addressing issues of efficacy of mediation will be cited. A brief description of the fundamental principles of mediation will serve as an introduction.

Principles of mediation

Mediation is based on the assumption that a crime is a personal matter and a conflict of the involved parties. Nobody can therefore resolve its consequences better than the parties themselves. Such a concept, based on direct involvement of the victim and the offender in resolution of the case can be considered traditional from a point of view of the history of mankind, because the model in which the state and its authorities assume the central role is only the invention of the modern age. Nowadays we can find processes of close meditation in some “primitive” nations where restorative justice frequently chooses to seek inspiration for its own projects²². Mediation itself is an voluntary meeting of the victim with the offender which is conducted with the participation of a trained mediator. The victim has the opportunity of speaking about the damage caused by the criminal offence. He/she is encouraged to talk without any qualms about his/her feelings and, if interested, he/she has the opportunity to ask the offender questions relating to the act. For many victims this is an important element because the crime provokes the need to find out more about the offender’s motives, and also about why it was them that the offender chose. An open confession of their own negative experiences conveyed to the person who caused them is also one of the most reliable ways of coming to terms with the crime and its consequences²³.

The offender also has the chance to comment on his/her criminal act during the mediated meeting, and has the chance to explain him/herself and apologise for it. Such experience can have a strong corrective effect since personal meeting with the damaged party

²² Cf. Zernova, M.: *Restorative Justice. Ideals and Realities*. Aldershot: Ashgate, 2007.

²³ For more on this topic see Zehr, H.: *Úvod do restorativní justice*. Praha: Sdružení pro probaci a mediaci v justici, 2003.

accentuates the human factor of the crime, and its impact on the life of the actual person. Mediation therefore removes the anonymity of his/her actions and makes it significantly more difficult to reject the voice of his/her own conscience by rationalising and neutralising techniques which are so common. The aim of mediation is so that both parties reach an agreement on the way in which the offender may make amends for his actions. This generally involves financial compensation, but it also offers the opportunity such as an undertaking to perform some work for the benefit of the victim or the community, or possibly his/her attendance of a special offending behavioural programme or course of treatment. The opportunity of having their say on resolution of the case is also an important element of mediation for most victims²⁴. Even in everyday life it applies that not just solution of a problem, but the opportunity of sharing in the solution and speaking out on things which directly concern us is often the most important element²⁵.

The implementation of mediation varies in different countries. This is influenced not only by the criminal justice system itself, but also the overall cultural and social conditions, including the attitude of the public and politicians to crime and its control. If we concentrate on what status mediation has within the justice system, we can talk about three basic types of programme. The first of these is independent of the criminal justice system and function as a fully fledged alternative to classical trial of the case. The second type concerns relatively independent programmes where mediation is offered as part of the criminal process at a certain stage. If the parties come to an agreement, it can influence the final decision of the court or state prosecutor on the form of penal sanction imposed. The third type is “dependent” mediation, a characteristic of this being that it forms an element of the classically tried case and in some countries it is employed in the case of serious crimes or while the sentence itself is being served²⁶.

Implementation of mediation in the Czech Republic

The fact that mediation has permeated into the judicial system of the Czech Republic is largely due to the efforts of the Association for Development of Social Work in Criminal Justice, established in the mid-nineties. The results of its activities include several projects

²⁴ On this topic see Dignan, J. The victim in restorative justice. In: Walklate, S (ed.). *Handbook of victims and victimology*. Cullompton : Willan Publishing, 2007 pp. 309-331.

²⁵ Cf. Christie, N.: CHRISTIE, N. Conflicts as a property. In: *The British Journal of Criminology*. 1977, roč. 17, s. 1-15.

²⁶ Gavrielides, T. *Restorative justice theory and practice: addressing the discrepancy*. Helsinki: HEUNI 2007.

which contributed to gradual setting up of a network of probation officers at county and regional courts²⁷. Mediation, employed primarily along with the institution of conditionally termination of criminal proceeding and the institution of settlement, subsequently became one of the fundamental elements of their work²⁸. A significant moment for further development of mediation and its use also with other criminal law institutions was the adoption of Act No. 257/2000 Coll. on the Probation and Mediation Service. In this act, mediation is defined (in Section 2(2)) as out-of-court intervention for the purpose of resolving dispute between the offender and the victim and an activity aimed at settlement of a state of conflict performed in connection with criminal proceedings. At the same time, an unequivocal condition for conducting mediation is expressed: the consent of the offender and the victim with this type of resolution of the dispute.

In addition to the above Act, several other documents are essential to the practice of mediation. These are primarily the Methodological Standard for the Activity of the Probation and Mediation Service in preparatory proceedings and proceedings brought before the court, produced in 2003 which expanded and detailed the definition of mediation and also the status of a mediator as a disinterested expert on effective negotiation, whose task it is to assist the parties of a dispute to arrive at settlement of the dispute and to find mutually acceptable solution to the situation. Cooperation of officers of the Probation and Mediation Service with the bodies involved in criminal proceedings ensues on from supreme state prosecutor instruction no. 8/2009, dated 21.9.2009²⁹ and from the methodological instruction of the head of the Criminal Police and Investigation Service of the Police Commissariat no- 3, dated 29th December 2004. Thanks also to these documents, it applies that on satisfaction of the legal conditions mediation can be employed in principle at any point during criminal proceedings, i.e. both at the preparatory proceedings stage and during conduction of proceedings³⁰.

Statistical records of cases where mediation meetings took place have been kept since 2005. A basic overview of the number of convicted offenders who agreed with mediation is

²⁷ For more on this topic, see Kuchta, J., Válková, H. aj.: *Základy kriminologie a trestní politiky*. Praha: C.H.Beck, 2005.

²⁸ Positions of probation officers were created at county and regional courts from 1st January 1996 in accordance with Czech government decree no. 341 of 15.6.1994, whereby an order to examine the possibility of the introduction of the probation service system in the Czech Republic was ordered by the Minister of Justice.

²⁹ This instruction replaced an earlier instruction by the supreme state prosecutor no. 4/2001 of 13th December 2001.

³⁰ For more on these documents and their effect on practice in the area of conducting mediation see Rozum, J. aj.: *Uplatnění mediace v systému trestní justice II*. Praha: IKSP, 2010.

summarised in the following table. It shows that on average 662 cases were subject to mediation between the years 2005 and 2011.

Number of offenders who agreed with mediation in the years 2005-2011

Year	2005	2006	2007	2008	2009	2010	2011
Number of offenders	950	489	439	533	678	726	817

Source: PMS ČR

One interesting finding gained from the above data is the sudden fall in the number of mediations between the years 2005 and 2006 (by more than 50 %). Actually, this is more likely due to the fact that in 2005 it was not yet accepted practice for the Probation and Mediation Service to record mediation only when direct meeting between the offender and the victim with the participation of a mediator took place. Probably the statistics also include cases of “indirect mediation” when mediator served as a go-between between the parties which negotiated towards resolution of the conflict, however without meeting in person³¹.

An important piece of data is the number of cases where both parties managed to arrive at an agreement during mediation. The percentage of such cases is illustrated in the following table (for the years 2010 and 2011, however, the information was no longer statistically monitored). The numbers should be understood only as a guide, because if more than one mediation session was conducted for one case, the statistics do not allow us to see the separate end results. In fact the percentage of mediation resulting in an agreement may be higher.

Percentage of mediation resulting in agreement (2005-2009)

Year	2005	2006	2007	2008	2009
Agreement (in %)	75	85	88	74	72

Source: PMS ČR

³¹ Cf. see (Rozum, J. et al. *Uplatnění mediace v systému trestní justice II*. Praha: IKSP, 2010).

The cited statistics on the number of mediations performed confirm that this measure has already formed a stable position in the Czech justice system. From a criminological point of view it is important that together with the rising number of mediations, the number of empirical studies focused on their evaluation should also rise. At a theoretical level, the principles of mediation may sound convincing, but unless we have actual proof that this measure helps resolve the situation of people affected by crime, we remain still at the level of mere abstract philosophical cogitations on suitable reaction to a criminal act³². The Institute for Criminology and Social Prevention has performed several pieces of research over the past years which provide us with at least partial answers to questions regarding the efficacy of mediation.

Efficacy of mediation from the point of view of the victims and offenders

One of the most widespread approaches by which criminology attempts to establish the efficacy of mediation is to focus on the degree to which the direct participants of the mediation are satisfied with this measure, particularly with regard to satisfaction of the needs arising in connection with the criminal offence. Foreign research which implemented such an approach has generally brought positive results. It is clear that the vast majority of victims and offenders were satisfied with their participation in mediation and consider it to be a useful measure³³. Experimental studies comparing the experiences of victims whose case was decided by mediation with victims whose cases proceeded along the path of “standard” criminal proceedings moreover suggest that mediation has a significant influence on the overall satisfaction of the victims with the criminal justice system. The participants of mediation consider the hearing of their case to be satisfactory significantly more frequently than those who refuse participation in mediation, or to whom it was not offered³⁴. In general it is demonstrated that victims whose primary reason for participation is not the desire for financial compensation, but see it at a more symbolic level and appreciate the opportunity to talk to the offender about the consequences of the act and comment on its solution tend to be more satisfied. The negative experiences which sometimes arise tend to be linked with a certain

³² For more on the same subject, see Umbreit, M.: *Victim meets offender: the impact of restorative justice and mediation*. New York: Criminal Justice Press, 1994.

³³ See Marshall, T.; Merry, S.: *Crime and accountability: Victim-offender mediation in practice*. London: HMSO 1990.; Netzig, L.; Trenczek, T. Restorative justice as participation: theory, law, experience and research. In: Galaway, B.; Hudson, J. (ed.). *Restorative justice: International perspectives*. New York: Criminal justice press, 1996, s. 241-260.; Gavrielides, T. *Restorative justice theory and practice: addressing the discrepancy*. Helsinki: Heuni 2007.

³⁴ See Umbreit, M., cit. dílo z roku 1994.

anxiety experienced before the mediation itself, or in its introductory phases. These are only rarely recorded³⁵.

The research conducted by the Institute for Criminology and Social Prevention in 2009 was inspired by available foreign studies. In the form of anonymous questionnaires, it managed to map the opinions and experiences of 50 victims and 39 offenders³⁶, for whom the Probation and Mediation Service held mediation. Mostly this concerned property crime, while about one third of the cases concerned violent crime. The offenders were mainly men (87 %), mostly of a young age (almost half were aged less than 20 years old); the sample of victims included a greater representation of women and older persons (32 % of women and 84 % of persons over the age of 30). Most of the respondents learnt of the possibility of mediation as a way of resolving the criminal offence only in direct connection with their own case, only 5 victims and 4 offenders initiating contact with the Probation and Mediation Service themselves.

The victims specified the reason for their participation in mediation as being their wish to hear a clear apology for the act from the offender (87 % of them specified this as a very strong or at least partial motive for entering mediation), to learn the motives for his actions (85 %), to gain compensation (85 %), to contribute to the correction of the offender through participation (81 %) and equally to avoid long, drawn out court trial (74 %). A desire to find out more about the offender or to prove to themselves that a meeting in person with the offender would not be a problem was only very rarely specified as the reason (these reasons were not of the slightest importance for almost one half of the victims). In comparison with other victims, respondents who had suffered physical injury had a greater desire to tell the offender face to face what he/she had done to them and also for these parties financial compensation was less important. For offenders, the greatest role was played by the opportunity to agree with the damaged party how to rectify the damage caused (this was given as a very strong or partial reason by 94 % of offenders), to accelerate the overall trial process (94 %) and equally to achieve less severe penal sanction for committing the criminal offence (94 %). More than 60 % of offenders felt the need to apologise in person to the victim, or else to tell him/her that he/she regrets his/her action.

³⁵ Cf. dtto.

³⁶ A total of 94 damaged parties and 93 offenders were contacted, completed questionnaires were returned by 53 % of damaged parties and 42 % of offenders. The result of the anonymity of the whole research was that in processing the results it was impossible to compare the answers given by the offenders with the damaged parties in the same case.

Only under a quarter of victims were afraid of meeting the offender (however, in the case of victims of violent crimes, this applied in half of the respondents). Significantly more frequent were doubts felt before mediation on whether the offender was sincere in wanting to participate in mediation thereby wishing to make amends for his/her actions (62 % of victims more or less admitted to this), and also whether they would manage to reach an agreement (58 % of victims). The lack of trust in the sincerity of the offenders' motives was demonstrably linked with how much of an impression the experience of the criminal offence had had on victim. Respondents who had suffered psychologically for a long time after the crime and were frightened for themselves or for their family after it were mistrustful of the offender considerably more frequently than others. Almost 70 % of the victims stated that they had felt great anger towards the offender before mediation, but only one quarter was not sure if they would manage to control their emotions during the meeting. As far as the offender is concerned, two thirds of them admitted that they experienced certain fears before meeting the victim in person.

According to the respondents' submissions, the mediation meeting did not usually last more than an hour and a half (according to 71 % of victims and 74 % of offenders). Approximately one third of offenders and one fifth of victims even stated that mediation had not exceeded a period of thirty minutes. The atmosphere of the meeting together was, for the most part, rated positively (68 % of victims and 62 % of offenders described it as being very or fairly positive). Answers to questions regarding the course of mediation confirmed that it is important for the victim to impart to the offender what impact his/her crime had had on the former's life (in their own view, 88 % of victims had done this – and this applied too to the vast majority of those who also stated that this aspect had not motivated them to participate in mediation whatsoever). Discussion on the impact of the criminal offence was confirmed by the offenders too, although to a lesser extent - 58 % of them stated that, in the course of mediation, the victim had talked about how he/she felt in relation to the matter and what problems the crime had caused him/her. Age played a significant role, where it became clear that victims tend to share their experiences more willingly with younger offenders. This may be dictated by the fact that especially in the case of adolescent offender the victim can assume the corrective effect of mediation on his/her further criminal career. The vast majority of victims (96 %) and offenders (97 %) evaluated the work of the mediator as very good or fairly good.

The course and result of mediation as a whole can be markedly influenced by the fact of whether or not the offender apologises to the victim for their actions. Most victims (82 %) stated that an apology was made during mediation, although about a quarter of them stated that it was not important for them. Nine out of ten offenders claimed to have expressly apologised for their actions during mediation, while according to more than one fifth of them, the victim did not accept the apology. The impressions of each other gained by the participants of mediation were mapped in great detail in the questionnaire. The offender, for instance, convinced most of the victims that he/she regretted his/her actions, that it was not easy for him/her to meet them face and that he/she was really interested in rectifying what he/she had caused by his/her actions. On the other hand, it showed that according to 59 % of them, they had attended mediation only formally, with the desire to avoid a more severe sentence. A total of 16 % of victims mentioned that the offender had behaved arrogantly during mediation. Surprisingly, this feeling presented itself considerably more frequently among offenders – 40 % of them described the behaviour of the victim as arrogant. Most of them also attributed a pragmatic approach to the victims with regard to mediation – according to 71 % the only reason for their participation was to receive financial compensation. It cannot be ignored that a fundamental role with these questions was played by the number of criminal offences to which the offender admitted in the questionnaire. Those for whom, on their own admission, this was not the first offence had a more markedly critical or more suspicious attitude towards the victims. They all, for instance, assumed that the victim had entered into mediation just for the possibility of gaining financial compensation, and while only about one third of first-time offenders labelled the victims' behaviour as arrogant, a full 80 % of the others held this view.

The above statistics talk of a fairly high degree of success of mediation as far as reaching an agreement is concerned. The sample group of cases even exceeded this data, since an agreement was reached according to 96 % of victims and 92 % of offenders. The nature of such agreements was, for the vast majority, financial compensation (according to 87 % of victims and 69 % of offenders), sometimes combined with work for reparation of the consequences of the crimes. It applies fundamentally that the content of the agreement must be agreed upon by both parties. Even so, it can happen that even despite express agreement, both the victim and the offender can feel subjectively that the measures agreed upon are not wholly fair. This was the view of ten percent of victims and one third of the offenders. The opinion arose that the agreement was not fair to the other party in the dispute – this impression was expressed by 23 % of victims and 15 % of offenders. Feelings of injustice were extremely

symptomatic for participants of mediation addressing violent crime. A fundamental aspect is also, of course, whether the offender subsequently satisfied what he/she undertook to do. In most of the cases investigated, the agreed conditions were met – according to 77 % of victims and 97 % of offenders.

Nine out of ten respondents were content with the results of mediation both among victims and offenders. In the case of victims, those who had suffered physical injury expressed a slightly lesser degree of satisfaction and also those to whom the offender had behaved arrogantly during mediation, participated only formally and failed to apologise sufficiently. At the same time it became obvious that origin of the victim's final feelings could lie in the situation before mediation, or else in the motives and attitudes held towards this measure. For instance, victims who had doubts in advance about whether there was any point in such measures or were afraid of meeting the offender were less frequently satisfied with the results of mediation. In some of these cases, the question presents itself as to whether mediation was really the appropriate solution. Satisfaction with the result, on the other hand, was greater in cases where the motives for participating in mediation included the desire to ask the offender about some of the details of his/her actions, or to find out what led him/her to such delinquent behaviour. Similarly, in the case of offenders the overall contentment was dependent upon the atmosphere in which mediation took place. All offenders, for instance, who described the atmosphere as positive were satisfied, while if this was not the case, only 60 % had this view. It was equally significant if the victim did not behave arrogantly and if he/she made it clear that the offender's apology was important to him/her.

95 % of offenders and 84 % of victims would agree to mediation again. Nine out of ten offenders expressed the view that they would agree with mediation if they were in the victim's shoes. The same percentage of answers was recorded to questions to the victims asking whether they would recommend mediation to people who become the victim of a similar crime as them. A very interesting matter was the offenders' possible continuing criminal activities subsequent to mediation. The anonymity of the survey does not have to guarantee that respondents gave true information, but it is worthy of mention that only one of them admitted to having committed another crime.

A series of questions towards the end of the questionnaire where both groups of respondents commented upon several brief claims, summing up the overall impressions gained

from mediation and its consequences, must be considered very important with regard to the phenomenon being researched. The opinions of the victims are illustrated in the following table.

Overall evaluation of mediation by the victims (% of respondents)

Evaluation	Strongly agree	Agree	Disagree	Strongly disagree
I am pleased that I participated in mediation.	62.4	29.2	6.3	2.1
I feel better with regard to the whole case after mediation than before it.	48.8	28.9	15.6	6.7
It was important that I could tell the offender what I think and feel.	51.2	31.1	13.3	4.4
It was fundamental aspect that I was able to talk to the offender about the whole case.	48.9	26.7	13.3	11.1
It was important for me that I could have my say on resolution of the case.	55.4	34.0	8.5	2.1
After mediation my opinion of the offender has changed – to the better.	9.3	23.3	46.5	20.9
I believe that mediation had a corrective effect on the offender.	25.6	39.5	18.6	16.3

The above data suggests that the survey basically confirmed the traditional assumption of restorative justice about the “curative effect” of mediation for the victim. Eight out of ten victims conceded that after mediation they felt better with regard to the case in question than they had done beforehand. This matter was particularly interesting in the case of victims who had felt great anger before entering mediation. It turns out that mediation acted positively on 72 % of them. In addition, almost two thirds believed that the mediation meeting could have had a certain corrective effect on the offender as concerns his/her further criminal activity, despite the fact that their attitude to the offender had become more positive in only one third of them. A very significant factor affecting the victim’s opinions was their attitude before actual mediation, or rather their willingness to try it. The victims who had been hesitating to participate in mediation or not for a long time were consecutively less happy than the others that they undergone mediation, less frequently felt better afterwards and for most of them it was not important to be able to tell the offender what they felt. An apology by the offender also played an expected role – all victims who received one were pleased that they had participated in mediation, whereas, if they received no apology, this applied only to 50 %

The following table sums up the overall impressions taken away from mediation by the offenders. Worthy of attention is that for nine out of ten of them, the opportunity to have something to say in person on the resolution of the case was important. In addition, almost 84 % more or less appreciated the chance of apologising in person to the victim (this is true also for three in five offenders for whom an apology was not in any way a reason for participation). More than half claimed that only after mediation did they realise fully what they had caused by the actions. Only one fifth did not share the belief that their consent to mediation had ensured a less severe sentence.

Overall evaluation of mediation by the offenders (% of respondents)

Evaluation	Complete ly agree	Agree to some extent	Disagree to some extent	Completely disagree
I am pleased that I participated in mediation.	76.4	18.4	2.6	2.6
It was important for me that I apologised to the victim in person.	37.8	46.0	8.1	8.1
Only after meeting the victim have I fully understood what I caused by my actions.	13.5	43.3	13.5	29.7
I believe that after our meeting the victim changed his opinion of me to the better.	13.5	27.0	24.3	35.2
It was important for me that I could have my say in the resolution of the case and its consequences.	70.3	21.6	2.7	5.4
Participation in mediation contributed to my being sentenced less severely than if I had refused.	56.8	21.6	10.8	10.8
Meeting the victim affected me so much that I will avoid any further conflict with the law.	59.5	24.3	8.1	8.1
Mediation was a very unpleasant experience for me.	0.0	10.8	40.5	48.7

Unlike the victims, the attitudes or feelings which the offenders had experienced before the meeting itself (for instance, doubts on whether there is any point in mediation and whether there is any hope that they would agree on an acceptable solution with the victim) did not play any significant role in the overall evaluation of mediation. The atmosphere at mediation itself had a more obvious effect. Although even most offenders who described it as fairly or very negative were in the end pleased to have participated in mediation (claimed by 83 % of them),

at the other end of the scale (those with a positive atmosphere) the offenders subsequently valued the opportunity to apologise to the victim, as well as the chance to have their say on the resolution of the case.

The results of the quoted survey basically correspond with the findings of foreign studies which find that the majority of victims and offenders are satisfied with mediation. Aspects such as the sincere apology by the offender, explanation of the motives of the crime and his/her true desire to rectify what he/has done are of fundamental importance. The questionnaire indicated that if the participants' expectations of mediation are these elements, there is a great likelihood that they will be satisfied with both its course and results. Contrarily, disappointment and disillusionment was more frequent in cases where similar motives played no part in the decision to participate and also where doubts existed on whether there is any point in meetings of this type. A great obstacle to overall satisfaction in mediation is inappropriate approach of one of the parties – this may take the form of the formal or insincere attitude of the offender who takes part only with an aim of reducing his/her sentence, or arrogant behaviour by the victim who is basically not interested in the offender's apology.

Recidivism as a measure of the efficacy of mediation

A different view on the effectiveness of mediation is the issue of recidivism of the offenders who agree to it. This approach has its logic because every criminal justice measure and its subsequent effect on crime control is of interest to us as a rule. Although prevention of recidivism is not the primary aim of restorative justice but in principle it actually does something to meet the needs of victims, offenders and of the whole community as its supporters claim, the effect of restorative programmes should become apparent in the way mentioned. In the case of offenders who go through mediation, hypothetically it can be expected that direct meeting with the people whom they have harmed through their actions could be a more corrective experience than the standard, to a certain extent "depersonalised" trial in court.³⁷

The most reliable information on such matters is brought by studies based on the experiment method. In them selected offenders are placed randomly into two groups, where for the first of them, their criminal offences are resolved by mediation, while the second group is

³⁷ Cf. Zernova, M., quoted work

dealt with in the traditional way. The attributes according to which the selection and subsequent “pairing” of the persons under investigation are performed include primarily the type of offence, age and sex, and also the criminal history of the offender. In view of the fact that these are significant predictors of criminal behaviour, investigation of these elements allows the conclusion to be made that any differences between the above groups where the intervention in question is to be made can be attributed to the intervention itself. However, even here criminology faces considerable methodological problems. These are, for instance, finding suitable criteria for investigating their recidivism or the deciding on how long the fate of the offender after the actual mediation meeting should be monitored.

The greatest number of studies has been performed in North America, the United Kingdom and Australia. Their results often differ³⁸. In some cases it has been possible to prove that recidivism of offenders who participated in mediation is markedly lower. Differences were seen also in the type of offence committed, when the benefit of mediation has been supported by the fact that persons who have been through it tended to commit less serious crimes. Other studies, however, did not arrive at similar conclusions, thereby failing to confirm that mediation contributes to preventing criminal behaviour in any way more significantly than other measures. The inconsistency of these findings can to some extent be a disappointment. But it should not surprise us. If we maintain a realistic approach to the matter, we must admit that mediation meetings, very limited in time, cannot in themselves guarantee a dramatic effect on the criminal career since its course and development is influenced by a range of other, often more fundamental factors (e.g. the family in which the offender grows up, peers, addictive substances, economic situation etc.)³⁹.

The criteria of recidivism can also be deceptive to a certain extent in that an offender who does not reoffend is sometimes automatically considered to be a success of this measure, in spite of the fact that the actual effect of mediation was zero, since the decisive factor in prevention of further criminal activity could have been the offender’s family or friends, for instance. On the other hand, an offender who reoffends after mediation tends to be taken as clear proof of the inefficacy of this programme, even though mediation may have been the only positive factor influencing him/her during the relevant period, without being able to influence

³⁸ Umbreit, M.S.; Coates, R.B.; Vos, B.: Victim offender mediation: an evolving evidence-based practice. In: Sullivan, D.; Tifft, L.: *Handbook of restorative justice*, s. 52-62. London: Routledge, 2008.

³⁹ Cf. H. Hayes, quoted work.

the impact of other factors⁴⁰. Simplified conclusions on the influence of mediation on limiting criminality can therefore be deceptive.

Experimental studies as described above have not yet been carried out in the Czech Republic. We do, however, have a certain basic image of recidivism in offenders participating in mediation, due to analysis of data from the Criminal Register performed as part of the cited study by the Institute of Criminology and Social Prevention. This concerned a total of 311 persons whose cases were mediated in 2005 regardless of whether the mediation process ended in agreement on settlement of the conflict and compensation for damages. As for the gender of persons in the sample group, 89 % were men, the average age during mediation process was 26.3 years old. The youngest defendant was 15 years old, the oldest was 67 years old. There was an absolute preponderance of offenders not yet convicted of a crime (79 % of the sample). 8 % of the sample group had one record in the Criminal Register at the time of mediation, while 13 % of the sample was found to have several convictions. As for the type of criminal offence in question, property crimes dominated (54 % of the cases concerned theft), and serious bodily harm was frequent (32 % of the sample). Agreement on settlement of the conflict and compensation was reached in 76 % of cases.

Data on possible further criminal activity was investigated in May 2009 (i.e. roughly four years after mediation took place). Of the aforementioned figure of 311 persons, 79 of these had a further record in the Criminal Register, i.e. roughly one quarter. Further conviction in these cases generally occurred between one and two years after mediation. Persons over the age of 50 reoffended the least, while the most were persons in the 21-29 year-old age group. A role was played by previous criminal career, the smallest proportion of recidivists belonging among offenders for whom the mediated case was their first criminal record in the Criminal Register. Further convictions occurred in 23 % of these, while in the case of those convicted the figure was roughly one third. As for the type of criminal offence, it could be said that property crime dominated the offenders' recidivism.

Does mediation have the support of the public?

As the preceding text proved, the findings produced by criminological research on mediation and its efficacy are more or less positive. They indicate that, if performed with

⁴⁰ Umbreit, H.S., quoted work from 1994.

suitable cases and with sufficiently motivated clients, mediation can represent a measure which effectively resolves needs arisen in connection with crime. The development of mediation is naturally not dependent only on empirical proof. Very important is also its support and acceptance by society. Criminal policy which ignores the attitudes and wishes of society concerning appropriate reaction to crime would lead to the collapse of the whole system of crime control, since its functioning is wholly dependent on the cooperation of citizens (e.g. as victims or witnesses of crimes)⁴¹. It is necessary, therefore, to ask whether mediation is not at odds with the notions and principles shared by the public with regard to crime and dealing with it.

There is much evidence that the majority of citizens are punitively orientated. If we take a look at existing public opinion surveys, people are, as a rule, critical of the lengths of sentences, conditions in prisons or in general to the work of the bodies involved in criminal proceedings⁴². This is often the consequence of the fact that actual awareness of crime and its level, as well as of the penal sanction system tends to be poor, but it cannot be ignored that citizens' opinions often differ from the very principles and values which are essential for modern criminal practice (an example may be the approach to the basic rights of persons suspected or charged with a crime which must be respected by the bodies involved in criminal proceedings, but which at the same time may be seen by the public as a symptom of the "softness" of the whole system). In the same way, people create their own theories on which measures of crime control are effective. Another widely held theory is the idea, impossible to prove empirically, that there exists a clear and direct relationship between the level of a crime and the strictness of the sanctions imposed⁴³.

In the situation as was outlined we could hardly expect that mediation will find strong support among citizens. If the stress is laid on strict and fast punishment of the offender, they can hardly like the sound of a theory that says that to give him the chance to come face-to-face with the victim, apologise for what he has done and come to a mutual agreement on how to make amends for his bad behaviour is better than putting him quickly behind bars. It is probable that they will consider this to be yet another way for the judiciary to help all those "villains" and "scoundrels". The results of the public opinion surveys on the topic of mediation

⁴¹ Wood, J.: Why public opinion of the criminal justice system is important. In: Wood, J.; Gannon, T.: Public opinion and criminal justice. Cullompton: Willan Publishing, 2009, s. 33.

⁴² See studies by the Public Opinion Research Centre on the topics in question at www.cvvm.cas.cz

⁴³ Cf. Roberts, J.; Hough, M. *Understanding public attitudes to criminal justice*. Maidenhead: Open University Press, 2005.

performed to date are, however, surprising. According to these surveys, the principles of mediation are very convincing, while relatively frequent is the belief that the respondent him/herself would be welcome this measure in the event of his/her own victimisation. This to a certain extent supports the opinion that the notion of an exclusively punitively orientated public is nothing but a myth⁴⁴. It seems that in reality public opinion is basically balanced in direct relation to the type of case concerned. On the one hand, people call for uncompromising punishment of offenders of serious forms of crime, but at the same time they support correctional and rehabilitative measures in situations where, in their opinion, it is worth trying.

The Czech public is no exception. As research carried out on a representative sample of Czech citizens by the Institute for Criminology and Social Prevention in 2008 shows, only a quarter of them are in principle against the use of mediation in criminal cases⁴⁵. The others see its greatest potential in the case of first-time offenders, offenders of crimes of negligence and juvenile offenders. More than a half of the respondents even expressed the opinion that mediation could be employed in any type of case if the victim were to agree on its use. In a model situation, where the respondents gave their hypothetical opinion on their participation in mediation with a recidivist offender of theft of items from their car, only 17 % of respondents strictly rejected this, whereas 53 % would “definitely” or “probably” agree to mediation. Real awareness of mediation is, nevertheless, still poor in the country. More than two thirds of those asked had no idea of the existence of the Probation and Mediation Service. Only 8 % had sufficient information, the rest indicating some but rather cloudy knowledge. This fully corresponds with the findings presented above that most offenders and victims who go through mediation learn of its existence only in connection with the resolution of their own cases.

Conclusions

Critics of restorative justice raise the objection that the weakness of mediation and other restorative techniques lies in the fact that it is impossible to resolve all criminal offences using it, but only those which are suitable for such an approach, either due to their very nature or due to the offenders’ and victims’ characters. This objection is undoubtedly well-founded. Not even the staunchest supporters of mediation would claim that it is possible to employ it as

⁴⁴ Maruna, S. et al.: Public opinion and community penalties. In Bottoms, A. aj. *Alternatives to prison: options for insecure society*. Collumpton: Willan Publishing, 2004, p. 87.

⁴⁵ The basic principles of mediation were briefly explained before the questions began to be asked.

a universal solution for all crimes. Both approaches, i.e. “classic” (retributive) and “restorative” should ideally converge with and complement each other. Their common relationship must not be seen as competitive, but more as an opportunity for the strong aspects of one system to make up for the weaknesses of the other. The gradual development of mediation in the Czech Republic and improving of cooperation of the institutions involved is a sign of hope that we are on the way towards such convergence, despite the fact that the annual number of mediations conducted is not yet overwhelming in any way. The real answer as to whether the Czech Republic is heading right direction remains to be seen over the coming years.

Overview of Czech Substantive and Procedural Criminal Law

Jiří Vlach

I. Substantive Criminal Law

Due to the social, economic and political changes which occurred after the fall of the totalitarian regime in 1989, an urgent need arose to react to those changes in all legal fields. This was performed in the form of many separate amendments focusing on covering momentary needs provoked by the dynamics of criminality, addressing, however, only the peripheries of the conceptual theory of criminal law.⁴⁶ Over the fairly long existence, the Criminal Act No. 140/1961 Coll. was amended numerous times and, despite the fact that the various deformations of criminal law arising from communist ideology and the concept of a criminal code based on class-struggle had been drastically suppressed, it was essential to embark on a completely new codification of Czech criminal law.

The new Penal Code No. 40/2009 Coll. entered into effect on 1st January 2010, bringing a wide range of changes into the field of substantive criminal law. The codification is based on tried and tested principles of democratic criminal law which includes the following:

- the subsidiary role of criminal law (the principle of “ultima ratio”) as the ultimate means of protecting individuals and society;
- an offender can be found guilty and punished by penal sanctions according to the law (“nullum crimen nulla poena sine lege”);
- a ban on retroactive application of a stricter law;

⁴⁶ For details, see argumentative report with regard to Act No. 40/2009 Coll.

- inadmissibility of analogy for expanding the conditions of criminal liability and when apportioning penal sanctions and preventive measures, including conditions for their imposition (ban on analogy in *malam partem*);
- individual criminal liability for natural persons for their own actions precludes collective liability, while criminal liability of legal entities is acceptable only under the strict conditions specified in criminal law;
- criminal liability is based on culpability („*nullum crimen sine culpa*“);
- imposition and serving of penal sanctions expresses adequacy of punishment to the severity of the criminal offence and to the personality of the offender.

Because in the Czech Republic the aforementioned principles are generally recognised in theory and in practice, they are not directly defined in the Penal Code, but form its inherent basis and shall continue to dictate the character of the whole of criminal legislation.

The Penal Code has abandoned the material approach to a criminal offence⁴⁷, replacing it with formally material approach.⁴⁸ The hitherto concept of a threat to society is newly replaced by the concept of the social harm of an act concerning an offence committed which has infringed interests protected by the Penal Code in such a way that it “damaged” them.⁴⁹ Categorisation for crimes and transgressions, applicable both in substantive and procedural criminal law, has been introduced. It can be stated on a general level that the new codification carries with it significant changes in the hierarchy of interested protected by the law, reflected in the arrangement of individual chapters of the special section of the Penal Code.

⁴⁷ in previous legislation, this concept was fundamental and a primary element dictation the nature of criminal law.

⁴⁸ for more detail see Šámal, P.: *Trestní zákoník a naplňování funkcí a základních zásad trestního práva hmotného*. Bulletin advokacie 10/2009, p. 23.

⁴⁹ see Šámal, P. a kol.: *Trestní zákoník I. §1 až 139. Komentář*. 1. vydání. Praha: C.H. Beck, 2009, p. 94 a n.

Table: Comparison of separate chapters of the criminal code and the Penal Code

Chapter	140/1961 Coll.	40/2009 Coll.
I	Criminal offences against the republic, a foreign state or international organisation	Criminal offences harmful to life and health
II	Financial crime	Criminal offences infringing freedom and rights protecting persons, privacy and postal confidentiality
III	Criminal offences against public order	Criminal offences against human dignity in the area of sex
IV	Generally threatening criminal offences	Criminal offences against the family and children
V	Criminal offences grossly disrupting civic coexistence	Criminal offences against property
VI	Criminal offences against the family and youths	Financial crime
VII	Criminal offences harmful to life and health	Generally threatening criminal offences
VIII	Criminal offences infringing freedom and human dignity	Criminal offences against the environment
IX	Criminal offences against property	Criminal offences against the Czech Republic, a foreign state or international organisation
X	Criminal offences against humanity	Criminal offences against public order
XI	Criminal offences against the armed forces	Criminal offences against the duty to the armed forces
XII	Military criminal offences	Military criminal offences
XIII	—	Criminal offences against humanity, peace and war crimes

Legal protection of life, health, bodily integrity, personal freedom, immunity, dignity, reputation, honour, privacy, residence and property, as well as other basic human rights, freedoms and interests⁵⁰ have all been prioritised. Also evident is the new philosophy of imposing sanctions based on the principles of decriminalisation. Prison sentences in such situations are understood to be “ultima ratio” – in the case of less serious criminal offences, the court should first consider imposition of some alternative penal sanction. House arrest has been newly introduced.

In the Czech Republic, substantive law is for the most part codified in one law. It should be pointed out that according to the Charter of Fundamental Rights and Basic Freedoms (introduced by constitutional act No. 23/1991 Coll.) an action may be declared to be a criminal offence only on the basis of law. Provisions of a substantive law nature are, in addition to the Penal Code, also contained in:

- Act No. 184/1964 Coll., whereby the statute of limitation shall not apply in the case of serious criminal offences against peace, war crimes and crimes against humanity committed for the benefit of occupying forces (in connection with the Second World War);
- Act No. 169/1999 Coll., serving a prison sentence, as amended;
- Act No. 119/1990 Coll., concerning judicial rehabilitation, as amended by Act No. 47/1991 Coll., No. 633/1992 Coll. and No. 198/1993 Coll.;
- Act No. 198/1993 Coll., concerning the illegal nature of the communist regime and resistance against it;
- Act No. 257/2000 Coll., on the Probation and Mediation Service; or in
- Act No. 218/2003 Coll., concerning liability of youths for illegal acts and concerning juvenile justice and concerning amendment to certain acts (the Juvenile Justice Act).

However, other regulations relate to the criminal code, where penal sanctions are specified for actions which are less dangerous than criminal offences. Such actions are usually identified as offences or administrative violations. This concerns primarily Act No. 200/1990 Coll. on offences, currency administrative violations are addressed in Act No. 219/1995 Coll., customs misdemeanours in Act No. 13/1993 Coll. Further regulations include those addressing

⁵⁰ cf. Šámal, P.: Trestní zákoník a naplňování funkcí a základních zásad trestního práva hmotného. Bulletin advokacie 10/2009, p. 23.

disciplinary liability of staff, disciplinary misdemeanours by members of the armed forces, misdemeanours committed by road users, etc. Such misdemeanours (or administrative violations) are dealt with in administrative proceedings by state executive or inspection bodies and the penalties imposed for them are not specified in the criminal code. Decisions taken by such bodies may be reviewed by the courts.

II. Procedural Criminal Law

Also in the field of procedural criminal law, an urgent need for a criminal procedure code arose over the course of the political changes after 1989. The existing code was already almost thirty years old, had been amended many times and no longer reflected the conditions of a democratic legal state and the environment of market economy. By the end of 2001, the criminal procedure code had already been amended more than thirty times, either in part or quite fundamentally. Modifications made in the nineties were a reflection of efforts to eliminate elements of the penal process of a totalitarian state and of approaching the standards of protection of human rights customary in mature democratic countries. Amendment No. 178/1990 Coll. extended the right of a defendant to counsel, addressed tapping of telephone calls at a legal level, expressly forbade the use of evidence obtained by illegal force and addressed the institution of consent of the aggrieved party with launch of criminal proceedings. Amendment No. 558/1991 Coll. transferred the duty of decision making on performance of the most serious infringements of human rights in preparatory proceedings (taking into custody, warranting house searches etc.) from the state prosecutor to the court. Amendment No. 292/1993 Coll. abolished investigation as a form of preparatory proceedings, introduced the institution of conditional suspension of criminal proceedings and reintroduced the institution of a criminal order. Amendment No. 152/1995 Coll. defined the institution of hiding the identity of a witness in greater detail, introduced the institution of temporary suspension of criminal prosecution, the institution of settlement and the penalty of community service.

Throughout the nineties, extensive discussion took place on the need for producing completely new codes of criminal law which would replace the current, so many times amended criminal act and criminal procedure code. Their preparation was entrusted to a re-codification commission. The most significant trends in the attenuation of the role of preparatory proceedings and strengthening the role of proceedings before the court,

differentiation of various forms of proceedings depending on the degree of severity and complication of the offences, reinforcing contradictory elements of proceedings before the court, development of deviation in criminal proceedings, streamlining the organisation of proof procedures and reorganisation of juvenile proceedings. Despite consensus on the need for creation of a completely new criminal procedure code, legislation concerning criminal proceedings proved to be no longer suitable by the end of the nineties. As part of “judicial reform”, several bills for extensive amendment to the current criminal procedure code were prepared. On 29th June 2001, Act No. 265/2001 Coll. was adopted, fundamentally amending and expanding the criminal procedure code.

Known as the “great amendment”, it defined the status of probation officer in criminal proceedings, the institution of a common agent for more than one aggrieved party and the opportunity for charge-free legal aid for the aggrieved party. The conditions for taking into custody and limiting its duration were newly addressed. The criminal procedure code began to contain the institution, well-known in developed countries, of controlled deliveries. Another provision of the amendment concerning means of gaining proof not yet expressly addressed in any way in the criminal procedure code (confrontation, identification parades, experimental investigation, reconstructions etc.). Preparatory proceedings underwent fundamental changes. In consequence of the abolition of an independent office of investigator, police officers of the criminal police and investigation service were thenceforth to perform investigations. Provision for the use of operational surveillance devices (simulated transaction, surveillance of persons and objects, use of agents) has been introduced into the criminal procedure code and the results of their use have been granted the status of admissible proof in criminal proceedings. New deadlines for completing investigations have been set. The institution of shortened preparatory proceedings as a special for of preparatory proceedings for less serious and simple cases, followed by simplified proceedings before a sole judge. The amendment contributed to strengthening the position of the state prosecutor in criminal proceedings and at the same time transferring the burden of proof into the phase of proceedings before the court. The appeal process was expanded by the inclusion of a further level of appeal (“*dovolání*” in Czech). Another new adaptation was made in the procedure for proceedings after a decision has been overturned by a ruling of the Constitutional Court.

With effect as of 1st July 2008, the criminal procedure code was amended by Act No. 177/2008 Coll. The aim of this amendment was to address hacking and recording of telecommunications traffic, defining the legal framework for authorisation and use of this operational means of surveillance. In accordance with the principles of adequacy and restraint, hacking and recording of telecommunications traffic should be used only in cases where the intended purpose cannot be achieved by other means or if such achievement would otherwise be fundamentally hindered. The person who was hacked must subsequently be informed that he/she has been hacked, the duration of hacking, who issued authorisation and in connection with which case and when hacking was terminated. Such a person has at the same time the opportunity to submit a proposal to the Supreme Court for review of the legality of the order for hacking and recording telecommunications traffic.

In consequence to the adoption of the new Penal Code No. 40/2009 Coll., the criminal procedure code was also underwent amendment. The need for such changes arose primarily in connection with the introduction of categorisation of criminal offences, the move from material to formal concept of a criminal offence, new definition of high security detention with the introduction of the penalties of house arrest and community service.

Preparatory work on a completely new criminal procedure code is currently underway. According to evaluation of the efficacy of the current legislation, the following changes in new codification of procedural criminal law are under preparation, according to a White Paper:

- acceleration of criminal proceedings at all stages in order to ensure that proceedings are conducted up to announcement of the final ruling in the shortest possible time,
- reinforcement of the significance of the stages of proceedings before the court at the expense of preparatory proceedings, with regard to the requirement that the person against whom proceedings are being conducted should not be charged without good reason or placed before the court without good reason,
- reinforcement of the state prosecutor's status in supervision over preparatory proceedings and in decision making at this stage in proceedings and at the same time to ensure that the prosecutor is not overloaded with superfluous administrative tasks,
- significantly increase in the activity of procedural parties in court proceedings,

- designation of the state prosecutor's procedural liability for failure to provide sufficient evidence for proving the guilt of the defendant in court proceedings and for failure to prove all of the attributes of the criminal offence with which the defendant is charged – i.e. the state prosecutor's formal burden of proof (it is he/she, not the court, who shall bear the negative consequences of acquittal),
- reinforcement of the procedural rights of the aggrieved party, mainly by providing him/her the opportunity of effective exercise of his/her procedural rights and achieving compensation for damage in criminal proceedings (newly applicable is, to a limited extent, reasonable satisfaction and rendering of unjust enrichment) and granting him/her the right of court investigation in the situation where the state prosecutor has exercised discretionary powers and halted criminal proceedings,
- improvement in protection of the victims of criminal offences and to defend their rights effectively,
- giving more room for collection of evidence in procedural form even in cases where conditions for prosecution of a specific person have not yet been satisfied,
- in the area of common and also exceptional corrective measures completion of their reform in order to ensure rectification of basic defects of decisions made also in preceding proceedings, as well as unification of jurisdiction of the courts and appropriate influence over the practices of other bodies involved in criminal proceedings.

The new codification will also ensure satisfaction of all obligations in the field of criminal law implied for Czech Republic from international agreements and other documents; it will express the conformity of domestic legislation with the legislation of the European Union and make provision for relevant recommendations and standpoints of the European Commission.⁵¹ Such international agreements and documents shall be projected into each institution of criminal proceedings and included in specific provisions of the criminal procedure code relating to entities in criminal proceedings.

One of the most fundamental changes as against current legislation contained in the White Paper may be the imposition of the burden of proof on the state prosecutor. This will not concern mere augmentation of the opportunity to debate before the court, thereby reinforcing the principle of accusation, but also a significant change in the structure of a trial. In legislation applicable today, we do not come across formal burden of proof and at most we can talk about

⁵¹ see White Paper on the Law concerning Criminal Court Proceedings

what is known as “material burden of proof” when the parties in criminal proceedings have legal and actual interest in proving the facts of the matter and other facts claimed and in contesting the other party’s claims. The result of this is that each party should attempt to prove the facts of the matter which it claims to be true. The state prosecutor’s “formal” burden means his/her procedural liability for failure to produce evidence of a sufficient scope to prove the guilt of the defendant in proceedings before the court and for failure to prove all the attributes constituting a criminal offence. In preparatory proceedings, all evidence which the state prosecutor considers essential for the purposes of prosecution on behalf of the public in court proceedings and for bearing the burden of proof shall be obtained or supported in preparatory proceedings. The state prosecutor shall then have to decide which evidence is to be searched for, secured, obtained or supported so that he/she is then able successfully to bear the burden of proof at the stage of trial of criminal proceedings before the court.

In future, the court will have the obligation to supplement evidence only if the evidence in question has not been presented by the defendant or his/her counsel, or the defendant is not represented by a counsel and the court has grave doubts of his/her ability to duly defend him/herself and speak in the proceedings before the court under current conditions, that failure to present and support items of evidence would lead to issuing a clearly unfair decision, in addition, the court will present completely essential evidence necessary for a decision in “adhesion proceedings” (concurrent proceedings) over and above the evidence needed for proving the relevant attributes of the *actus reus* of a crime where the formal burden of proof is borne by the state prosecutor. Activity of the court shall be admissible exclusively to the benefit of the defendant (or aggrieved party), particularly in a situation where the defendant is not represented by a counsel and some fundamental fact regarding evidence which could prove his/her innocence or mitigate his/her guilt has been omitted.⁵²

Simultaneously with the introduction of formal burden of proof for the state prosecutor, the liability of the defence counsel for due performance of defence shall be increased. Evidence primarily testifying in favour of the defendant will therefore be presented by the counsel for the defence (in situations where the defendant is represented by a defence counsel); otherwise this will be the role of the court, unless it deems it necessary to provide a defence counsel due to the defendant’s clear inability to defend him/herself and to speak before the court.⁵³

⁵² see White Paper on the Penal Code – main principles of proposed recodification of procedural criminal law, p.11

⁵³ cf. ditto

The new criminal procedure code will also go hand-in-hand to the project of electronic judiciary and the introduction of electronic criminal proceedings, the aim of which is to accelerate and improve mutual communication between the bodies involved in criminal proceedings and with other bodies by means of modern technology. A gradual move over to electronic forms of criminal briefs is expected. The use of new information technology should be expanded fundamentally, so that the circulation of briefs and other documents which still takes place on principle in hard copy is replaced in all cases where it is not to the detriment of the course of proceedings with sending such materials in electronic form.

Similarly to substantive criminal law, procedural criminal law is also basically codified in one law. Some of the principles of criminal proceedings are, however, contained in the Constitution of the Czech Republic (constitutional act No. 1/1993 Coll.) and in the Charter of Fundamental Rights and Basic Freedoms (by resolution of the committee of the Czech National Council No. 2/1993 Coll.). Otherwise the current criminal procedure code is the manual for procedural criminal law comprehensively governing the rules of criminal procedure. In the course of criminal proceedings, the relevant bodies therefore proceed according to the valid criminal procedure code. Some provisions of the criminal procedure code, however, make reference to other legal regulations. E.g. under Section 63 of the criminal procedure code, delivery of correspondence is governed by rules for delivery of correspondence in civil court proceedings, unless the criminal procedure code contains special provisions. In other places, the criminal procedure code makes reference to regulations on experts and interpreters, or to regulations governing sale of items by the court. The provisions of Act No. 137/2001 Coll. on special protection of witnesses and other persons involved in criminal proceedings, Act No. 119/1990 Coll., on judicial rehabilitation (the purpose of which was to contribute to elimination of some inequities caused by the activities of the criminal judiciary under the communist regime) and several other acts continue to relate to criminal proceedings. These norms cannot be considered to be of a criminal procedural nature in the true sense of the term.

In the legal code of the Czech Republic, there exists a system of administrative violations. In general terms, an administrative violation is an illegal action, the attributes of which are specified in the law and for which the law dictates the risk of administrative sanction. The two basic types of administrative violation are *offences* and *other administrative violations*. The rules for proceedings on administrative violations are contained in two basic acts: in Act No. 500/2004 Coll., the Administrative Procedure Code and in Act No. 200/1990 Coll., on offences. Some individual rules for proceedings on administrative violations are

contained in special acts governing the actus reus of such violations. It generally applies that proceedings for administrative violations are conducted according to the act on offences, or else according to a special law defining the actus reus of such a violation, and in matters which these acts do not address, proceedings are conducted according to the administrative procedure code.

Juvenile criminal proceedings are governed by a special Act No. 218/2003 Coll., on liability of juveniles for illegal acts and on juvenile justice. The act governs the conditions for liability of juveniles for illegal acts specified in the Penal Code, the measures imposed for such illegal acts, the procedure, decision making and the performance of the judiciary in juvenile matters. By trying the illegal acts committed by children younger than fifteen and by youths, it is intended under this act that measures are used which would effectively contribute to the offender refraining from committing illegal acts and finding a place in society reflecting his/her abilities and mental development and, in accordance with their strength and abilities, contributing to making reparation of the damage arising from his/her illegal act.

The Situation and Trends in Drug Crime and its Prosecution in the Czech Republic

Petr Zeman

1. Introduction

The last analysis to date of the trends in drug offences in the Czech Republic was published by the Institute of Criminology and Social Prevention (hereinafter ICSP) in 2008.⁵⁴ Since then significant changes have occurred on the drug scene, in the environment of drug offences, and also in the reaction of the state to this type of criminality. For this reason the issue should be addressed again in detail, after several years of developments.

ICSP studies have been consistently⁵⁵ using basic terms connected with drug offences and on the subject of using addictive substances in general for some time now; despite this fact we consider it necessary to comment briefly on the terminology used hereafter in this text. The text concerns criminal activity related with illegal handling of drugs, while “drugs” should be understood as illegal drugs, i.e. narcotic and psychotropic substances (hereinafter “NPSs”) which are listed in Appendices 1 – 7 of Addictive Substances Act No. 167/1998 Coll., as amended.

⁵⁴ Zeman, P.: Drug crime in the Czech Republic in 2005, with a note on its further development in 2006. In: Marešová, A. et al.: Criminality in 2006. Praha: IKSP 2008.

⁵⁵ Cf. e.g. Trávníčková, I., Zeman, P.: Kriminální kariéra pachatelů drogové kriminality. Praha: IKSP 2010; Trávníčková, I., Zeman, P.: Možnosti trestní justice v protidrogové politice II. (empirická část). Praha: IKSP 2008; Trávníčková, I., Zeman, P.: Možnosti trestní justice v protidrogové politice I. (vývojové aspekty). Praha: IKSP 2007.

Drug crime, which is the subject of this chapter, concerns only one type of criminal activity connected with drugs. The definition of the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), issuing from the Goldstein's tripartite conceptual framework⁵⁶, uses the term “drug-related crime” for identifying four types of criminal offence⁵⁷:

- Psychopharmacological offences – offences committed under the influence of a psychoactive substance as a consequence of acute or chronic use;
- Economic-compulsive offences – offences committed with the aim of obtaining funds for acquiring drugs (or obtaining the drugs themselves);
- Systemic offences – crimes committed within the system of the illegal drug market, as part of the activities such as dealing, distributing and use of drugs (typically violent crime, extortion etc.);
- Drug law offences – offences involving the violation of drug related legislation.

The drug crime we are concentrating on in this text are these crimes of breach of drug-control laws, i.e. behaviour in breach of legislation regulating the handling of NPSs. Sometimes this criminal activity is labelled as drug crime in the narrower sense of the term or primary drug crime. In the Czech Republic this specifically concerns criminal offences under sections 283 - 287 of the Penal Code No. 40/2009 Coll., as amended (hereinafter also referred to as the “PC”) and also under 187 - 188a of the preceding criminal code, i.e. Act No. 140/1961 Sb. (hereinafter also referred to as the “crim. code”).

2. Amendments in legal provisions for prosecution of drug offences

On 1st January 2010 the new Penal Code, Act No. 40/2009 Coll., came into force. In addition to a range of other changes, the Penal Code also brought modifications in the area of legal provision concerning primary drug offences. In order to assess the development of the state and structure of drug crime in the Czech Republic for the past years, it is very important to acknowledge these changes and take into account their possible effect on punishment of drug offences.

⁵⁶ Goldstein, P.: The drugs-violence nexus; a tripartite framework. *Journal of Drug Issues*, Autumn 1985, str. 493 – 506.

⁵⁷ Carpentier, C.: Drugs and crime – a complex relationship. *Drugs in Focus* 16, EMCDDA, Lisbon 2007; <http://www.emcdda.europa.eu/html.cfm/index36331EN.html>.

In the criminal code no. 140/1961 Coll., drug offences were addressed under heading IV of Special Part (generally dangerous offences) as the offences of illegal manufacture and possession of narcotic and psychotropic substances and poisons according to sections 187, 187a and 188 of the crim. code and the offence of propagation of drug use under section 188a of the crim. code⁵⁸. The new legal provision is to a certain extent based on the same definitions of drug offences, nevertheless it also contains some significant changes. Drug offences continue to be, in terms of the taxonomy of the law, classified as generally dangerous offences, addressed in heading VII of the Special Part. The Penal Code recognises five drug offences: the unauthorized manufacture of narcotic and psychotropic substances and poisons (section 283), the possession of narcotic and psychotropic substances and poisons (section 284), the unauthorized growing of plants containing narcotic or psychotropic substance (section 285), the manufacture and possession of an object for the unauthorized manufacture of narcotic and psychotropic substances and poisons (section 286) and the propagation of drug use (section 287).

The main (conceptual) differences as against the preceding legislation can be seen in its aspects below: The Penal Code

- lays down differing penal sentences for illegal possession of drugs for personal consumption of a quantity larger than small, as regards cannabis on the one hand and other NPSs on the other;
- introduces a new offence constituted by illegal cultivation of plants containing narcotic or psychotropic substances for personal consumption of a quantity larger than small, while the severity of sentences distinguishes between cultivation of cannabis plants and cultivation of plants containing other NPSs;
- empowers the government to specify what constitutes a quantity larger than small in the case of narcotic substances, psychotropic substances and products containing them, which the government is to perform by decree.⁵⁹ At the same time, the government is also to specify by decree which plants or mushrooms are considered to be plants or mushrooms containing narcotic substances or psychotropic substances and what constitutes a quantity larger than small in the case of such plants and mushrooms.⁶⁰

⁵⁸ For a detailed interpretation of definitions of drug offences under the criminal code, no. 140/1961 Sb. cf. Šámal, P., Púry, F., Rizman, S.: *Trestní zákon. Komentář. II. díl. 6. doplněné a přepracované vydání*. Praha: C.H.Beck 2004, pp. 1153 – 1171.

⁵⁹ See government decree no. 467/2009 Coll., as amended.

⁶⁰ See government decree no. 455/2009 Coll., as amended.

The area of prosecution of drug offences is also significantly affected by the change of the concept of substantive criminal law which the Penal Code brought with it and which lies in the move away from the material concept of a crime to its formal concept. In the hitherto applicable material concept, an act endangering society was considered an offence if its attributes were specified in the criminal code, while such an act had to constitute a degree of endangerment to society which was greater than negligible and, in the case of juvenile offenders, greater than small (section 3(1),(2) of crim. code, section 6(1),(2) of Juvenile Justice Act No. 218/2003 Coll.). This allowed the bodies active in criminal proceedings, especially the courts, the opportunity of deciding whether a specific case constituted a crime at all, and of taking into account circumstances other than merely the formal attributes of a criminal offence.

In formal interpretation, a criminal offence is an act in breach of the law which the penal act identifies as criminal and which bears the attributes specified in this act (section 13(1) of the PC). This can be significant, for instance, in assessing criminal liability of drug users in cases of illegal possession of NPSs for personal consumption.⁶¹ Moreover, the material corrective element of the application of circumstances allowing for the application of more severe sentencing, which formerly appeared in the provision of section 88(1) of the crim. code, has been expunged. In practice, this provision was used in the area of punishment of drug offences in less-serious cases, where rigorous application of the aggravated offence could be at odds with the principle of adequacy of the penal sentence.

A certain degree of inconsistency in statistical data on drug crime may be caused by the fact that the Penal Code has introduced a completely new offence of unauthorized growing of plants containing narcotic or psychotropic substance (section 285), consisting of, simply speaking, illegal cultivation of certain plants or mushrooms containing NPSs, in a quantity larger than small, for personal consumption. The fact that this is a new offence does not, however, mean that it is punishment for action which had not previously been punishable by law. The aim of introducing this offence was, amongst other considerations, to eliminate the situation where the above act, in practice mainly growing cannabis plants for personal consumption, was judged according to different provisions of criminal law. In addition to the correct qualification of such action under section 187a of the crim. code (if the quantity of NPSs

⁶¹ More details on possible impacts of such changes on the penal sanctions against drug crime, see Zeman, P.: *Drogové trestné činy podle trestního zákoníku v kontextu formálního pojetí trestného činu*. Sborník příspěvků z mezinárodní konference Dny práva (Brno, 18. - 19. 11. 2009), Právnická fakulta MU, Brno, 2009, pp. 1029-1042.

was greater than small), cases qualified under sections 187 or 188 of the crim. code also occurred.⁶²

The above means that in the statistics from 2010, data regarding offences under section 285 of the PC covers cases which beforehand were contained in data regarding offences mainly according to section 187a, but also according to sections 187 and 188 of the crim. code. For this reason too, we cannot simply to continue in the sets of statistics by assuming that section 283 of the PC is equivalent to section 187 of the crim. code, section 284 of the PC is equivalent to section 187a of the crim. code, section 286 of the PC is equivalent to section 188 of the crim. code and a completely new set of statistics begins at section 285 of the PC. One must bear in mind that section 285 of the PC “drains” a certain number of cases which, if this special offence was not to exist, would appear in the statistics for criminal offences under section 284, but possibly also sections 283 and 286 of the PC.

3. Statistical data on drug crime and its prosecution

Statistical data commented upon in this chapter comes from official police⁶³ and judiciary⁶⁴ statistics. Nevertheless, in the course of data collection some certainly not negligible inconsistencies in data were discovered, displayed over the past few years in the judiciary’s Statistical Criminality Year Book. It proved impossible to obtain an explanation from the relevant workplace before work on this report was complete. For this reason, data from other sources was also used, these being annual Reports on the Activities of the State Prosecution Service, compiled by the Supreme State Prosecution Service, from Annual Reports on the Drug Situation in the Czech Republic, compiled by the National Monitoring Centre for Drugs and Drug Addictions of the Office of the Government of the Czech Republic and from special statistical summaries obtained from the CSLAV judiciary system for statistics and audits (the summaries were compiled in May 2012 for the purposes of this study).

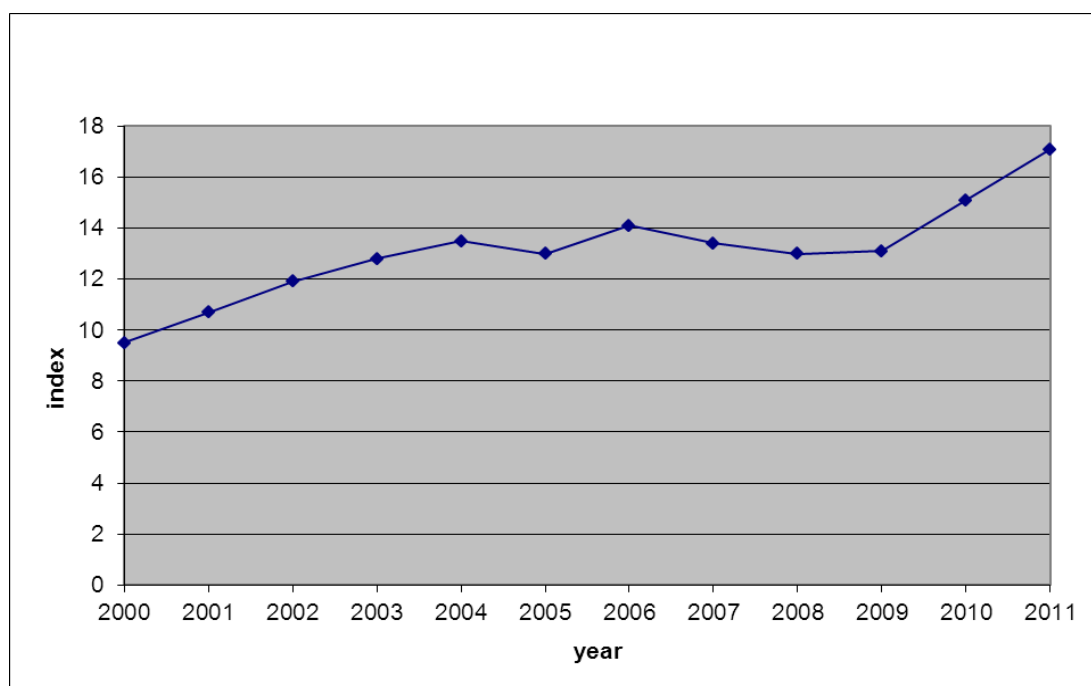
⁶² For details on this matter see Bradáčová, L.: Proč není pěstování rostliny konopí výrobou. Státní zastupitelství, 4/2008, pp. 27 – 30.

⁶³ Statistické přehledy kriminality Policie ČR. Statistický výkaz č. 1. (citace duben – květen 2012). Přístupno z <http://www.policie.cz/statistiky-kriminalita.aspx> a <http://aplikace.mvcr.cz/archiv2008/statistiky/kriminalita.html>.

⁶⁴ Statistická ročenka kriminality. Ministerstvo spravedlnosti ČR (citace duben – květen 2012). Přístupno z <http://cslav.justice.cz/InfoData/statisticke-rocenky.html;jsessionid=781921c194b704d51371695f21d4> a <http://portal.justice.cz/justice2/MS/ms.aspx?j=33&o=23&k=3397&d=47145>.

From a purely statistical point of view, drug crime does not constitute a particularly significant item as compared with overall criminal activity in the Czech Republic. In the long term, drug offences account for slightly over 1 % of all criminal offences registered by the police in this country and the proportion of people convicted in the Czech Republic for drug crime in the total number of persons convicted has been around 2 %. Statistical data, however, reflects neither the serious nature of this type of criminal activity nor its association with a wider circle of related socio pathological phenomena, and the picture painted by the data is significantly distorted by the problem of latency which, in the case of drug offences, is for good reason imagined to be at a very high level. However, as will be explained below, the trend in the basic statistical indicators of drug crime deserves increased attention. At the outset, we can illustrate with Graph 1 the trend in the number of persons convicted for any of the drug offences per 100 000 inhabitants.

Graf 1: The number of persons convicted for drug offences between the years 2000 and 2011 (index per 100 000 inhabitants)

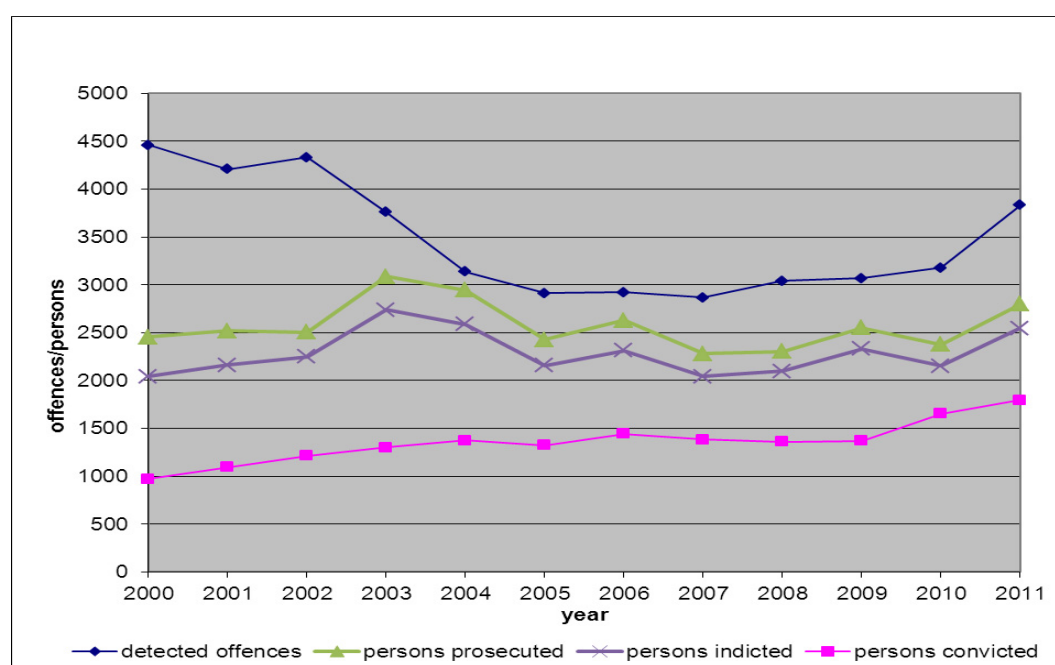


After the year 2000, the trend characteristic for the 1990s, i.e. a constant rise in the number of people convicted for drug offences, continued to dominate. At the same time, the mid-year population of the Czech Republic, on which the index is based, was on a downward

trend until 2002⁶⁵. Between the years 2002 and 2009, the index was hovering between values 12 and 14, while, despite the steady rise in the mid-year population level, it dropped to the level of 13.1 in the year 2009. Nevertheless, in the years 2010 and 2011, the level shot up to the value of 17.1.

Another view of the situation is offered by Graph 2, illustrating the development of the number of drug offences detected by the police⁶⁶ and the number of persons prosecuted, indicted and convicted for such criminal offences.

Graf 2: The number of drug offences and of persons prosecuted, indicted and convicted for drug offences between the years 2000 and 2011



It is clear from Graph 2 that after a period of stagnation lasting for several years, in the last approximately two years there was a clear rise in the number of drug offences and persons

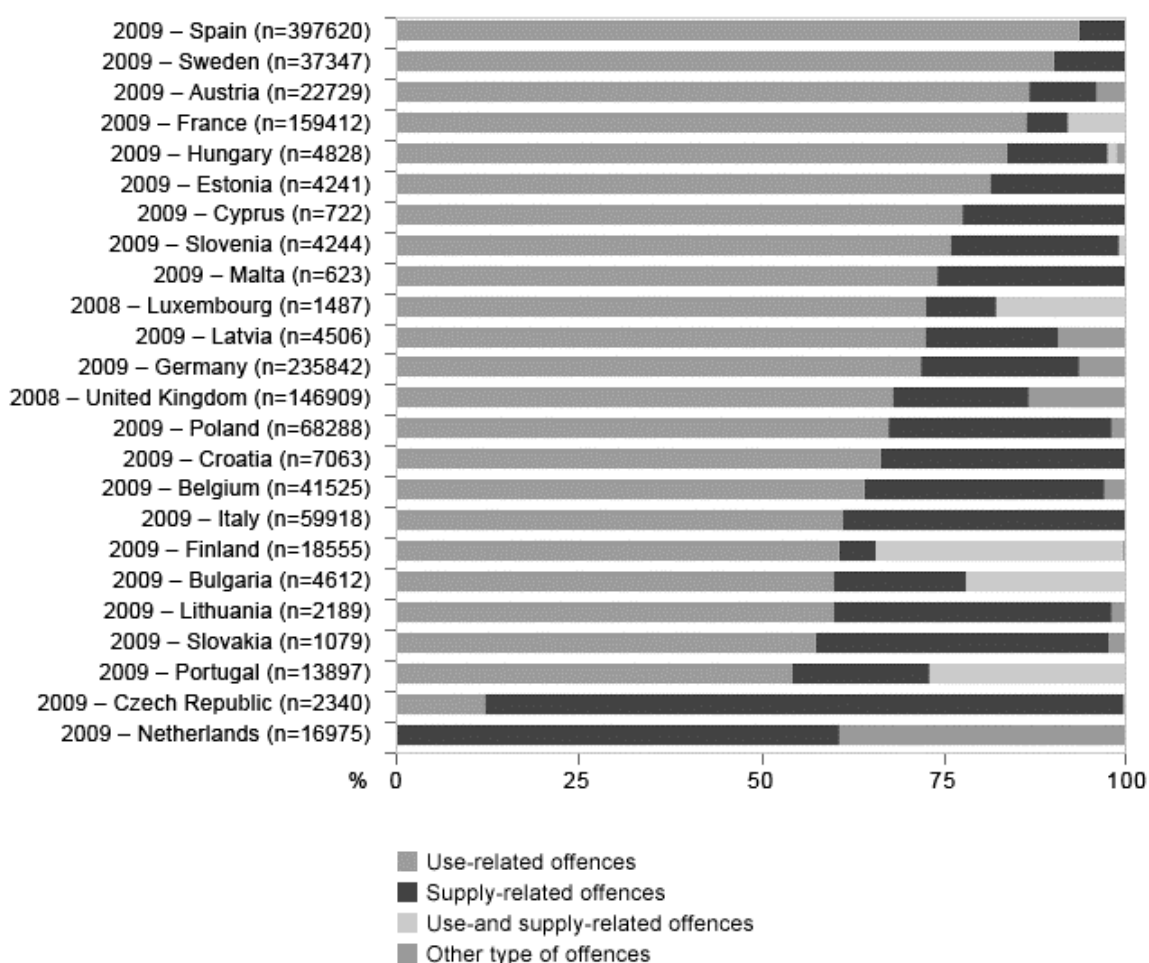
⁶⁵ Czech Statistical Office ČR: Flux of inhabitants in the Czech Lands from 1785 to 2010, absolute data. (quotation 17. 5. 2012). Available at http://www.czso.cz/csu/redakce.nsf/i/oby_cr. Figure for 2011 see http://www.czso.cz/csu/redakce.nsf/i/obyvatelstvo_lide.

⁶⁶ The way in which the term “criminal offence” is used in police statistics does not correspond with the definition of the content of this term in criminal law theory (for instance, they include behaviour which carries the attributes of criminal offences, but committed by persons not criminally liable due to being under age). Police statistics come from Records and Statistics System on Criminality. Each action with the attributes of a criminal offence is recorded as a separate criminal offence. It applies that one action is registered as a criminal offence, even where this is a matter of a deed constituting more than one offence (in statistics, the most serious of them is recorded). In concurrence of several actions, the number of criminal offences recorded corresponds with the number of separate actions. Cf. Zprávu o situaci v oblasti veřejného pořádku a veřejné bezpečnosti na území ČR v roce 2004 (ve srovnání s rokem 2003), MV ČR, Praha 2005, p. 8.

detected against whom criminal proceedings relating to drug crime were conducted. The explanation for this may lie in the influence of the move over to the new Penal Code No. 40/2009 Coll., which has been in force since 2010. Interpretations of the phenomenon must, however, be cautious. Primarily, it will be necessary to establish over the coming years whether this is a trend or merely a wave. The possible effect of the introduction of the new legal provisions may also take various guises – it could mean a change in the degree of penal repression in the area of drug policy, a change of the efficacy of legislation in prosecution of drug crime, the consequence of a temporary parallel usage of new and old legislation etc. At the same time, it must be borne in mind that a high degree of latency is characteristic for drug crime, so official statistics reflect more of a reaction of the criminal justice system to such crime, rather than its real form.

With regard to this, it is interesting to look at a comparison of the structure of drug crime in EU countries which was performed by the European Monitoring Centre for Drugs and Drug Addiction. Graph 3 illustrates the proportion of separate types of primary drug offences in European countries. Although, as a result of differences in presenting data in the separate countries, the graph contains various indicators (offenders vs. offences, prosecuted/indicted/convicted persons etc.), from the point of view of the drug-crime structure, it is a valuable point of reference.

Graf 3: Structure of drug crime in EU countries and Croatia for the years 2008 or 2009



Source: Adapted according to the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) Drug Law Offences. (cited 18. 5. 2012). Accessible at <http://www.emcdda.europa.eu/stats11/dlofig2>.

It is clear from Graph 3 that there are significant differences from country to country in the structure of drug offences as dealt with by the criminal justice system. While in countries such as Spain, Sweden, Austria and France, the criminal justice system operating in the area of drug crime deals from approximately 90 % with criminal offences relating to drug use (possession for personal consumption, consumption itself) in the Czech Republic and the Netherlands the focus is on criminal activity connected with drug dealing (production, sale, import, export etc.). In view of the fact that the penal legislation in countries in question stems from the same international documents (UN drug conventions etc.) and that the drug scene in each country does not differ so dramatically that it would mean such enormous differences in

the structure of drug crime, the graph mainly reflects the differences in the priorities of the relevant bodies of the justice system in the area of drug offences.

Amongst the prosecuted and indicted persons in Graph 2, there is no data on the drug offenders whose criminal offences went through shortened pre-trial proceedings and subsequent simplified proceedings before a sole judge (referred to summarily as “shortened proceedings”). In cases where shortened pre-trial proceedings are employed, criminal prosecution commences only when the court receives the State Prosecutor’s recommendation for punishment, i.e. simultaneously with commencement of the court proceedings stage. Persons whose case is dealt with in shortened pre-trial proceedings therefore are not under criminal prosecution – they have not been charged, but are suspects. Also, it would not be advisable for persons on whom a recommendation for punishment has been served to be included amongst persons indicted, although their status in that case is significantly more similar than the status of persons prosecuted and those against whom shortened pre-trial proceedings are underway. In the same way, in a later part of the text dealing with the development of basic indicators for separate drug offences, persons whose cases were tried in shortened proceedings shall not be included among those prosecuted and indicted.

The fact is that, cases dealt with in shortened proceedings do not, or rather, until recently, did not play a significant role in the area of drug crime. While it can generally be said that the bodies involved in criminal proceedings, were keen to adopt shortened proceedings very soon after their introduction with effect as of 1st January 2002⁶⁷ and the proportion of cases tried in shortened proceedings gradually rose to roughly half of the total number of criminal proceedings, the number of drug offences dealt in shortened proceedings was minimal. The development of the number of offenders whose drug offences were dealt in shortened proceedings⁶⁸ is shown in Table 1.

⁶⁷ Cf. Zeman, P. a kol.: Vliv vybraných ustanovení velké novely trestního řádu na průběh trestního řízení. Praha: IKSP 2008, p. 53.

⁶⁸ Under further conditions, until 31. 12. 2011 shortened pre-trial proceedings could be performed for criminal offences for which the law stipulates a sentence of imprisonment not exceeding three years (in the amendment to the Criminal Procedure Code No. 459/2011 Coll. the upper limit was increased as of 1st January 2012 to up to five years). With regard to lengths of punishment valid until the end of 2011, shortened pre-trial proceedings could be made in cases of drug offences under section 187a (1) of crim. code, section 188a (1) of crim. code, section 284(1) and (2) of the PC, section 285(1),(2) and (3) of PC, section 287 (1) of PC.

Table 1: Numbers of persons tried in shortened proceedings and persons recommended for punishment in connection with drug offences

Year	section 187a of crim. code		section 188a of crim. code		section 284 of PC		section 285 of PC		section 287 of PC	
	SPP	RP	SPP	RP	SPP	RP	SPP	RP	SPP	RP
2002	9	6	0	0	-	-	-	-	-	-
2003	6	6	0	0	-	-	-	-	-	-
2004	4	4	0	0	-	-	-	-	-	-
2005	3	1	0	0	-	-	-	-	-	-
2006	5	5	0	0	-	-	-	-	-	-
2007	4	4	0	0	-	-	-	-	-	-
2008	0	0	0	0	-	-	-	-	-	-
2009	29	22	1	0	-	-	-	-	-	-
2010	1	1	1	0	40	32	25	15	0	0
2011	0	0	0	0	71	56	42	24	0	0

SPP – number of persons whose cases connected with drug offences were dealt in shortened pre-trial proceedings

RP – number of persons recommended for punishment for drug offences

It is clear from Table 1 that until the year 2008, drug offences were only rarely tried in shortened proceedings. The findings of previous research show that such criminal activity was not considered particularly suitable for trial in shortened proceedings, mainly because it is difficult to collect together the necessary expert opinions on the quantity and composition of substances or on the mental state of the offender in the time-limit set by the law for the shortened pre-trial proceedings. At the same time, according to bodies involved in criminal proceedings, not even in factually simple cases of drug crime do offenders have any motivation towards quick closure of the case and complicate proceedings.⁶⁹

Nevertheless, in 2009 the number of cases of drug offence dealt with in shortened pre-trial proceedings began to rise, and after the introduction of the new penal code, the use of

⁶⁹ Trávníčková, I., Zeman, P.: Možnosti trestní justice v protidrogové politice II. (empirická část). Praha: IKSP 2008, pp. 59 – 60.

shortened proceedings while prosecuting drug offences rose again. This applies in the case of the criminal offence of possession of narcotic and psychotropic substances and poisons (section 284) and unauthorized growing of plants containing narcotic or psychotropic substance (section 285). The fact that the element of the offence, “a quantity larger than small” of possessed NPSs or plants and mushrooms containing them has been precisely defined by an implementing legal regulation, which can simplify and accelerate assessment of this specific qualification, can also play a role.

3.1. Criminal offences under section 187 of the crim. code and section 283 of the PC (manufacture and distribution of drugs)

The criminal offence of illegal manufacture and possession of narcotic and psychotropic substances under section 187 of the crim. code was far and away the most frequently recorded drug offence, long accounting for 75 - 80 % of all registered drug crime. Unless a fundamental change in the criminal justice authorities’ approach to penalising drug offences takes place, especially that of the police, it can be expected that the “successor” to a criminal offence under section 187 of the crim. code, i.e. a criminal offence under section 283 of the PC, will continue to hold a dominant status (data from the first two years of effect of the Penal Code confirm this assumption). Tables 2 and 3 show the development of the basic indicators for both of the aforementioned offences.

Table 2: Numbers of detected offences, and prosecuted, indicted and convicted persons, under section 187 of the crim. code

Year	Detected	Prosecuted	Indicted	Convicted
2000	3292	1547	1276	819
2001	3198	1640	1418	905
2002	3359	1603	1444	1007
2003	2818	1913	1708	1077
2004	2301	1945	1710	1146
2005	2267	1826	1644	1135
2006	2248	2008	1780	1269
2007	2216	1684	1526	1134
2008	2364	1660	1534	1125
2009	2443	1970	1820	1134
2010	-	359	312	473
2011	25	47	45	170

Table 3: Numbers of detected offences, and prosecuted, indicted and convicted persons, under section 283 of the PC

Year	Detected	Prosecuted	Indicted	Convicted
2010	2516	1543	1441	855
2011	3072	2219	2053	1357

Note: Statistical schedule No. 1 of the Police of the Czech Republic Statistical Summary for the Year 2010 does not make a distinction between criminal offences under the preceding criminal code and the new Penal Code. For drug offences this results in combination of data on criminal offences under section 187 of the crim. code together with those under section 283 of the PC, section 187a of the crim. code and section 284 of the PC, section 188 of the crim. code and section 286 of the PC, and section 188a of the crim. code and section 287 of the PC. For this reason, the data on the number of detected criminal offences for the year 2010 given in Table 3 also includes cases of criminal offences under section 187 of the crim. code

In view of the fact that a criminal offence under section 187 of the crim. code, or else section 283 of the PC, make up the vast majority of all cases of registered drug offences in the Czech Republic, the development of its basic indicators substantially copies the trends applying to the development of drug crime as a whole and described above. From about the year 2004, stability lasting several years can be seen with a wave in 2006, when there was a significant rise in the number of prosecuted, indicted and convicted persons. The number of criminal offences detected has risen gently since 2007, when it reached the lowest figure since 1996. Nevertheless, in 2011 a significant rise of 15 – 23 % occurred in all indicators, while a similar rise (17 %) had already occurred in the number of persons convicted between the years 2009 and 2010. For proper interpretation of this rise, more information on the context of the drug crime and penal sanctions for it will be necessary in addition to mere statistical data.

As far as sentences imposed for such criminal offences are concerned⁷⁰, conditional prison sentences have long since dominated, being imposed in 50 – 60 % of all convictions for the criminal offence under section 187 of the crim. code or section 283 of the PC. Just in the year 2008, this proportion fell below half, to 49 %. The proportion of unconditional prison sentences fell between the years 2001 and 2004 from 40 % to 29 % and in the following years this stabilised at 33 %. Of the other sentences imposed, sentencing to community service is worthy of mention, its proportion for all guilty verdicts being approximately 7 – 8 % for the years 2002 – 2005, however this gradually fell to the present 3 – 4 %.

The structure of unconditional prison sentences imposed for criminal offences under section 187 of the crim. code (or else section 283 of the PC), is fairly stable for the reference period. Most frequently prison sentences of a length of over 1 year to 5 years are imposed, constituting 70 – 80 % (most 79 % in 2011, least 68 % in 2006) of all imposed unconditional prison sentences. The remaining sentences of up to 1 year and over 5 years to 15 years are imposed fairly equally in proportion, while up until the year 2004, sentences of up to 1 year predominated, and since 2005 sentences of over 5 years to 15 years have a slight edge (in 2011 the proportion was 8 % and 13 % respectively).

Compulsory addiction treatment is, in general, imposed only on a small number of offenders. Between 2000 and 2008, this was imposed on several dozen offenders (most in the year 2006 – 54, least in the year 2003 – 34 received) of criminal offences under section 187 of

⁷⁰ When talking about this section on punishments, since 2004 this includes also “penal measures” imposed on juvenile offenders under Act No. 218/2003 Coll.

the crim. code. For the year 2009, there only one sole case of compulsive addiction treatment on a perpetrator of this criminal offence appears in judicial statistics, and after the new Penal Code came into force compulsory addiction treatment was imposed in 2010 upon a total of 44 and in 2011 on a total of 25 perpetrators of a criminal offence under section 187 of the crim. code or section 283 of the PC.

3.2. Criminal offences under section 187a of the crim. code, section 284 of the PC and section 285 of the PC (possession of drugs for personal consumption and cultivation of plants and mushrooms containing NPSs for personal consumption)

The criminal offence of illegal manufacture and possession of narcotic and psychotropic substances and poisons under section 187a of the crim. code was introduced into the penal code with effect as of 1st January 1999. In 2005, it became the second most frequently committed drug offence, both as concerns the number of criminal offences detected and as concerns the number of persons prosecuted, indicted and convicted (the number of persons convicted achieved this status already in the year 2000). For reasons given at the end of the chapter on amendments in the legal provisions of prosecution of drug crime, we will also focus on criminal offences under section 285 of the PC together with criminal offences under section 187a of the crim. code and its “direct successor”, section 284 of the PC. The development of indicators for these criminal offences is illustrated in Tables 4, 5 and 6.

Table 4: Numbers of detected offences, and prosecuted, indicted and convicted persons, under section 187a of the crim. code

Year	Detected	Prosecuted	Indicted	Convicted
2000	212	187	158	63
2001	241	261	215	86
2002	285	244	206	103
2003	312	325	277	115
2004	263	257	217	121
2005	281	255	219	99
2006	310	296	235	99
2007	364	323	268	138
2008	411	377	318	150
2009	419	364	306	145
2010	-	31	17	68
2011	1	0	0	9

Table 5: Numbers of detected offences, and prosecuted, indicted and convicted persons, under section 284 of the PC (possession for personal consumption)

Year	Detected	Prosecuted	Indicted	Convicted
2010	343	200	170	110
2011	374	269	232	182

Table 6: Numbers of detected offences, and prosecuted, indicted and convicted persons, under section 285 of the PC (cultivation for personal consumption)

Year	Detected	Prosecuted	Indicted	Convicted
2010	145	90	70	35
2011	168	110	73	82

Note: Statistical schedule No. 1 of the Police of the Czech Republic Statistical Summary for the Year 2010 does not make a distinction between criminal offences under the preceding criminal code and the new Penal Code. For drug offences this results in combination of data on criminal offences under section 187 of the crim. code together with those under section 283 of the PC, section 187a of the crim. code and section 284 of the PC, section 188 of the crim. code and section 286 of the PC, and section 188a of the crim. code and section 287 of the PC. For this reason, Table 4 does not contain data on the number of detected criminal offences in the year 2010, such cases being included in the relevant data in Table 5.

The number of criminal offences detected for the whole of the reference period rose every year with the exception of an isolated fall between the years 2003 and 2004, while year on year growth fluctuated between 2 % and 18 %. The numbers of persons prosecuted and indicted showed two waves of growth from 2000 to 2003, and then from 2004 to 2008, between which a marked fall occurred. Over the years 2009 to 2010, a year on year fall in both indicators was recorded. In the case of persons convicted, the continual increase was interrupted in 2005 to a level which remained constant also in 2006, until subsequently the rise continued. Worthy of mention is the fact that the number of persons convicted for possession of drugs for personal consumption or cultivation of plants containing NPSs for personal consumption rose between the years 2009 and 2010 almost by half (47 %). In 2011, a rise in all indicators occurred: by 11 % in the number of criminal offences detected, by 18 % in the number of persons prosecuted, by 19 % in the number of persons indicted and by 28 % in the number of persons convicted.

As for the structure of sentences imposed for such criminal activities, conditional prison sentences predominate in the long-term, the proportion of which was in the range of 50 % to 60 % until the year 2009 (at lowest 48 % in 2000, at highest 64 % in 2006). Over the last two years of the reference period, however, the figure crossed the 70% mark and in 2011 it was 78 % of all cases of conviction for such criminal offences. The proportion of unconditional prison sentences fell in first years, under the 10 % mark in the years 2003 – 2005, although it stabilised at around 15 % which is the figure reached in 2011. In the years 2004 and 2005, the proportion of other sentences (including cases of waiving punishment) was highest, higher than that of conditional and unconditional prison sentences, while the figure for 2005 was 37 %. This was especially thanks to the sentence of community service which was as high as 27 % in 2005, but then it dropped to 4 % in 2011. In that last year of the reference period conditional and unconditional prison sentences accounted for a full 93 % of all cases of convictions for possession of drugs for personal consumption or cultivating plants or mushrooms containing NPSs for personal consumption.

The number of unconditional prison sentences imposed for a criminal offence under section 187a of the crim. code corresponded to the relevant punishment scales. Therefore sentences of up to one year have dominated. Nevertheless, towards the end of the reference period the proportion of sentences of over 1 year up to 5 years increased, to a point at which in 2011 such sentences imposed exceeded that of a length of up to 1 year.

Compulsory addiction treatment was imposed really sporadically (most being in 2002 – 4 cases) and since the year 2008, no such case is recorded.

3.3. Criminal offences under section 188 of the crim. code and section 286 of the PC (manufacture and handling an object intended for manufacture of drugs)

Statistical data on criminal offences under section 188 of the crim. code, or else section 286 of the PC, is, besides the aforementioned influences (latency, data recording procedure etc.) also influenced by the facts that they are of a certain preparatory nature connected with the manufacture of drugs, which is prosecuted separately under section 187 of the crim. code, resp. section 283 of the PC. Criminal offences under section 188 of the crim. code, or else section 286 of the PC, have a subsidiary relationship towards offences under section 187 of the crim. code, or else section 283 of the PC, with all the consequences for legal qualification and method of recording such actions.

Table 7: Numbers of detected offences, and prosecuted, indicted and convicted persons, under section 188 of the crim. code

Year	Detected	Prosecuted	Indicted	Convicted
2000	122	228	190	29
2001	157	222	195	62
2002	216	247	223	58
2003	263	369	319	63
2004	283	404	363	64
2005	209	234	203	60
2006	254	241	225	65
2007	226	222	203	101
2008	229	236	224	72
2009	184	207	195	79
2010	-	22	17	39
2011	0	2	2	8

Table 8: Numbers of detected offences, and prosecuted, indicted and convicted persons, under section 286 of the PC

Year	Detected	Prosecuted	Indicted	Convicted
2010	151	125	119	70
2011	163	138	131	84

Note: Statistical schedule No. 1 of the Police of the Czech Republic Statistical Summary for the Year 2010 does not make a distinction between criminal offences under the preceding criminal code and the new Penal Code. For drug offences this results in combination of data on criminal offences under section 187 of the crim. code together with those under section 283 of the PC, section 187a of the crim. code and section 284 of the PC, section 188 of the crim. code and section 286 of the PC, and section 188a of the crim. code and section 287 of the PC. For this reason, the data on the number of detected criminal offences in 2010 appears only in Table 8 and includes detected criminal offences under section 188 of the crim. code

Tables 7 and 8 show that the development of the basic indicators for this criminal activity is considerably unsteady, significant rises alternating with dramatic falls and vice versa. Over the last three years of the reference period the separate indicators has remained at a noticeably lower level than in the preceding period, with the exception of the number of persons convicted which conversely reached significantly higher levels during the past two years.

Of the sentences imposed, conditional sentences of imprisonment predominate, which, despite dropping from two thirds of all convictions in the year 2000 to 40 % in 2007, again rose to over 50 % over the last couple of years (56 % in 2011). The proportion of unconditional prison sentences has remained above 20 % since 2004 and in the last few years monitored they exceeded 30 %. Correspondingly, the proportion of other sentences (incl. cases of waiving punishment), which peaked in the 2007 (35 %), nevertheless subsequently fell and over the last two years has remained approximately on the 10 % level. The vast majority of unconditional sentences of imprisonment are between the length of 1 and 5 years.

Compulsory addiction treatment is imposed only in rare cases for this criminal activity (17 cases over the twelve years monitored, 6 of which were in 2005).

3.4. Criminal offences under section 188a of the crim. code and section 287 of the PC (encouraging drug use)

Propagation of drug use under section 188a of the crim. code, or else section 287 of the PC, is a criminal offence which has a falling tendency in criminal statistics.

Table 9: Numbers of detected offences, and prosecuted, indicted and convicted persons, under section 188a of the crim. code

Year	Detected	Prosecuted	Indicted	Convicted
2000	832	491	419	61
2001	613	396	332	41
2002	470	410	374	48
2003	367	481	433	49
2004	239	338	299	45
2005	158	114	91	32
2006	110	85	74	12
2007	59	53	45	9
2008	37	31	24	13
2009	23	12	11	12
2010	-	3	2	0
2011	0	0	0	1

Table 10: Numbers of detected offences, and prosecuted, indicted and convicted persons, under section 287 of the PC

Year	Detected	Prosecuted	Indicted	Convicted
2010	24	4	4	2
2011	31	13	13	5

Note: Statistical schedule No. 1 of the Police of the Czech Republic Statistical Summary for the Year 2010 does not make a distinction between criminal offences under the preceding criminal code and the new Penal Code. For drug offences this results in combination of data on criminal offences under section 187 of the crim. code together with those under section 283 of the PC, section 187a of the crim. code and section 284 of the PC, section 188 of the crim. code and section 286 of the PC, and section 188a of the crim. code and section 287 of the PC. For this reason, the data on the number of detected criminal offences in 2010 appears only in Table 10 and includes detected criminal offences under section 188a of the crim. code.

As shown by Tables 9 and 10, the number of criminal offences detected fell from more than eight hundred in 2000 (in 1999, the number of criminal offences detected reached 1302) to around thirty, and the fall over the whole reference period was, with the exception of 2011, steady. The same applies (with the exception of the years 2002 and 2003) to the numbers of persons prosecuted and indicted. The development in the number of persons convicted is more changeable, although in view of the low absolute number in the separate years, this characteristic cannot be attributed too great significance.

Convicted offenders have tended to have sentences of conditional imprisonment imposed upon them for some time now. Over the twelve monitored years since the year 2000, a total of 39 unconditional sentences of imprisonment, 26 of which were for a length of under a year and 13 of from 1 to 5 years which may support the conclusion that the authorities involved in criminal proceedings focus on more serious forms of this criminal offence. Compulsory addiction treatment was imposed on only 7 perpetrators of this crime in given period, and, since 2005, no such case is recorded in judicial statistics. Overall it can be said that the criminal offence of propagation of drug use has become a wholly unique phenomenon in the range of behaviour registered and prosecuted by the criminal justice system.

4. The criminal scene in the area of manufacture, distribution and possession of drugs

Qualitative information on the Czech drug scene regarding drug crime can be gleaned from official documents –Annual Reports by the National Drug Enforcement Headquarters of the Criminal Police and Investigation Services of the Police of the Czech Republic⁷¹, Reports on the Activities of the State Prosecution Service compiled by the Supreme Prosecution Service⁷², or Reports on the Situation in the Area of Security and Public Order in the Czech Republic, compiled by the Ministry of the Interior of the Czech Republic⁷³. Detailed analysis of the state and developments in this area up to the year 2005 is contained in a study from the year 2007.⁷⁴ This chapter will describe the development tendencies and new phenomena after the year 2005. Unless specified otherwise in the text, the information contained therein comes from

⁷¹ [Http://www.policie.cz/clanek/vyrocní-zpravy-annual-reports-jahresbericht.aspx](http://www.policie.cz/clanek/vyrocní-zpravy-annual-reports-jahresbericht.aspx).

⁷² [Http://portal.justice.cz/nsz/hlavni.aspx?j=39&o=29&k=2750](http://portal.justice.cz/nsz/hlavni.aspx?j=39&o=29&k=2750).

⁷³ [Http://www.mvcr.cz/clanek/statistiky-kriminality-dokumenty.aspx](http://www.mvcr.cz/clanek/statistiky-kriminality-dokumenty.aspx).

⁷⁴ Trávníčková, I, Zeman, P.: Možnosti trestní justice v protidrogové politice I. (vývojové aspekty). IKSP, Praha 2007, p. 44 and following pages.

the aforementioned official documents which were downloaded from the relevant official websites for this purpose in May 2012.

4.1. Cultivation of cannabis plants on an industrial scale

A study from 2007 mentions the gradual growth and spread of hydroponic (indoor) cannabis cultivation, resulting in a production of plants with high concentrations of the active substance, THC.⁷⁵ This trend has survived to the present day, and is growing in intensity and has become one of the main trends in the area of drug crime in the Czech Republic. Cannabis plants are grown indoors in enclosed spaces (residential houses, production halls, farm buildings etc.) on an industrial scale, using modern cultivation technologies. Cannabis produced in this way usually contains 10 – 20 % of the active ingredient (cannabis grown in the “traditional” way in the open air usually contains under 10 % THC). The quality young cannabis plants are imported for this purpose mainly from Holland and a considerable part of the harvest is intended for export to both Western and Eastern Europe (Germany, Holland, United Kingdom, Russia).

Cultivation plants often consume electrical energy illegally for their operations which are very demanding in terms of electricity, and some cases have been disclosed thanks to inspections made by electricity suppliers. The offenders try to combat this by using energy-efficient technical equipment (power-saving bulbs etc.). Every year, more and more of these indoor cultivation operations are discovered – in 2005, the police discovered 11, and in 2011 the number was 165.

Almost immediately, this activity became the domain of Vietnamese criminal organisations. These groups are on the one hand known for their willingness to engage in any type of activity which offers a high profit and also, since the year 2000, they have been trying to compensate for the loss in profits from counterfeit goods sales, due to the intensive efforts focused by state authorities on quashing trade in goods which infringe trademarks. The involvement of such groups complicates the fight against this type of criminal activity, since the authorities of the criminal justice system must come to terms with the enclosed nature of the Vietnamese community, proceedings are more expensive due to the need for translators and interpreters, offenders assume false names and use stolen identity documents of other

⁷⁵ Dtto, p. 92.

Vietnamese nationals, and a problem is the lack of reliable interpreters. For these reasons, often the only persons whom they succeed in detecting and charging are those involved directly in cultivation (known as “gardeners”). These persons, due amongst other reasons to the fact that they are well-paid, have no motivation to cooperate with the authorities involved in criminal proceedings.

Collaboration between Vietnamese and Czech criminal groups has been discovered in the area of industrial cultivation of cannabis. Persons originally from Vietnam also operate trading companies which are involved in import of technology for indoor cultivation of cannabis plants, mainly from Holland and from the United Kingdom.

4.2. Growth in popularity of cocaine

The incidence of cocaine on the Czech drug scene used to be fairly rare, both due to its relatively high price and also due to the fact that the demand for stimulant drugs has been saturated for some time by methamphetamine. Due to part of the population becoming richer and cocaine becoming “fashionable” in some layers of society, its consumption has been increasing over the past few years, especially in the high-income bracket of inhabitants. This has contributed to the falling price of cocaine available on the street, which is however also accompanied by a drop in the quality of the drug.

The cocaine market in the Czech Republic is run primarily by criminal gangs from Western Africa, mainly from Nigeria which organises import of the drug from South America to Europe and then to the Czech Republic using couriers from amongst their own countrymen or Czech citizens. Recently too, Balkan gangs (Albanians, Romanians, Bulgarians) have become involved in distribution of cocaine. For import into the Czech Republic, small consignments of between 1 and 3 kg tend to be used. Such consignments often come from Holland and Southern (Greece, Italy) and Eastern (Bulgaria, Romania) Europe, and ordinary postal services are also used for smuggling cocaine into the country.

A new system of sale of cocaine to users in on-the-street distribution has been reported. Potential customers are singled out and approached openly in public and asked if they want to buy the drug, then if they are interested, the customer is led to another member of the criminal group who actually has a small amount of the drug on him.

4.3. Manufacture of methamphetamine from medications containing pseudoephedrine

Methamphetamine (“pervitin”) holds a privileged place on the Czech drug scene as the traditional domestic stimulant and has also become a popular export article. Due to the limited availability of industrially produced ephedrine from domestic sources,⁷⁶ the extent of manufacture of methamphetamine from over-the-counter medications containing pseudoephedrine has increased proportionally and such medications have become the absolute source of precursor for manufacture of this drug (according to police estimates, over 90 % of methamphetamine is produced from pseudoephedrine extracted from such medications).

Measures introduced so far for limiting the availability of pseudoephedrine from medications are not very effective. In 2009, a distribution limit on the medications containing pseudoephedrine was imposed, as well as a tightening up of the conditions for handling ephedrine and pseudoephedrine, which led to a dramatic drop in the purchase of such medications from Czech pharmacies.⁷⁷ Very soon, however, this source was replaced by the import of medications containing pseudoephedrine from surrounding countries (Poland, Germany, Slovakia), where similar measures do not apply. Due to the lower price and higher content of pseudoephedrine in these medications, import from abroad has remained the dominant source of this precursor even after the impact of the aforementioned measures regarding issuance of medications with pseudoephedrine content was relaxed due to the non-compliance with the data protection legislation. In recent years, medications containing pseudoephedrine have begun to be imported too from Hungary, Vietnam and China.

Manufacture of methamphetamine continues in home factories and is performed mainly by Czech citizens. Recently, greater involvement of the Vietnamese community in manufacture and distribution of methamphetamine has been registered. For reasons of increased conspiratorial behaviour and to minimise losses, offenders are beginning to stop large-scale manufacture and a networks of small factories supplying the substance to the local market, certain border region etc. are emerging. Relocation of such factories is also frequent. Demand for methamphetamine in Germany and Austria also leads to cross-border drug tourism from these countries.

⁷⁶ Czech producer of ephedrine, ICN Czech Republic, a.s., first adopted measures in cooperation with the police for reducing the possibilities of illegal leaks of substance from the production and distribution processes, then terminated production in 2005.

⁷⁷ For more details see Mravčík, V. a kol.: Výroční zpráva o stavu ve věcech drog v České republice v roce 2009. Úřad vlády ČR, Národní monitorovací středisko pro drogy a drogové závislosti, Praha 2010, p. 8.

4.4. New synthetic drugs

Since 2008, a pronounced phenomenon has been the fierce debut of substances identified as new synthetic drugs (legal highs), whose effects are similar to that of “traditional” drugs.⁷⁸ Due to their short history, their abuse is not subject to regulation as narcotic or psychotropic substances, so they cannot be treated as NPSs even for the purposes of criminal law. They are on sale as souvenirs, aromatic bath products, decorative objects etc., nevertheless they are abused as drugs for causing altered states of consciousness and present a serious medical and social risk, amongst other reasons because their effects have not been properly researched as yet. At present, this presents one of the most troubling problems in the area of drug policy of the EU and separate European countries, with many cases of damage to health or death recorded in connection with use of such substances. They have been imported from Asian countries and, since the year 2010, from Poland to the Czech Republic, and trade in them takes place via the internet.

New synthetic drugs enjoyed a boom on the Czech drug scene particularly at the turn of the years 2010 and 2011, when in addition to internet sales, the substances spread to high street shops linked mainly to distributors from Poland in reaction to restrictive measures imposed there. As of 22nd April 2011, 33 substances from this group were included in the Czech list of NPSs which facilitated their control and penal sanctions for handling them. As a result of this, their public sale and distribution has been limited, although the latest findings by the police show that they are gradually being replaced by other substances which are not subject to regulation.

4.5 The opiate market

Not many significant changes occurred on the Czech illegal opiate market during the reference period. The popularity of heroin amongst domestic users has somewhat fallen. Heroin continues to be imported to the Czech Republic along the “Balkan Route” and dealing in it continues to be organised by criminal gangs of ethnic Albanians, although Vietnamese and Roma groups are also becoming involved in street distribution. The recorded trend of smuggling tends to be small consignments of up to 10 kg. A significant part of the heroin

⁷⁸ See Páleníček, T.: Taneční drogy. Aktuální informace o drogách na taneční scéně. Zaostřeno na drogy 4/2010, Úřad vlády ČR, Národní monitorovací středisko pro drogy a drogové závislosti, Praha 2010.

imported to the Czech Republic is destined for export to Western European countries (Germany, Holland, United Kingdom). The heroin intended for the domestic market is significantly cut – police reports state that the drug of 90 % purity is a cut to the mixture containing 5 – 10 % of the active substance. Street distribution therefore offers a drug of low quality.

There continues to be a problem with abuse of products for opiate addiction substitution therapy, in particular the product Subutex[®]. According to prevalent estimates, the number of problem users of Subutex[®] is nearing the number of problem heroin users.⁷⁹

In 2011, the police detected an increased interest in the substance fentanyl, also known as “chemical heroin” which is imported from Slovakia, where sources of production have been identified. In the same year, three factories were discovered producing the drug “brown”, a home-made opiate popular before 1989, although with the entry of heroin to the domestic market, it had all but disappeared from the scene.

4.6. Other findings

In the area of amphetamine-type drugs linked with the dance scene, the popularity of ecstasy tablets continued in the reference period, entirely imported into the Czech Republic from Holland, Poland and Slovakia. This occurs in large-scale imports for further distribution, but also cases of individual import (drug tourism) are widespread. Another very frequent phenomenon on the dance scene has become the gradual increase of tablets distributed as ecstasy but without containing the active ingredient, MDMA. Instead of MDMA, these tablets contain commonly available substances such as paracetamol or caffeine, or else MDMA has been substituted by a substance with similar effects, piperazine (mCPP). Tablets with piperazine markedly dominate over “classic” ecstasy with the MDMA as the active ingredient, despite the fact that the police have detected an increased incidence of “classic” ecstasy during the past year.

When viewing the drug market in the Czech Republic during the reference period, an obvious trend is the ever growing involvement of Vietnamese criminal gangs in illegal trade in NPSs. It has already been stated above that cultivation of cannabis on an industrial scale in

⁷⁹ Mravčík, V. a kol.: Výroční zpráva o stavu ve věcech drog v České republice v roce 2010. Úřad vlády ČR, Národní monitorovací středisko pro drogy a drogové závislosti, Praha 2011, str. 41 – 42.

“growing sites” and its distribution on the domestic scene as well as its export is to a great extent the domain of Vietnamese gangs. Mention has also been made of involvement of the Vietnamese community in manufacture and distribution of methamphetamine. Police and state prosecution service reports mention distribution of marihuana and methamphetamine at Vietnamese stall markets, mainly in Prague and in border regions where sale of these drugs to customers from surrounding countries, especially Germany, takes place. The Report on the Activities of the State Prosecution Service for the year 2010 states on this subject (p. 28) that drug offences under section 187 of the crim. code (section 283 of the PC) are the second most frequent offence penalised in the case of this group of foreign nationals (12 % prosecuted and 13 % indicted for this offences of all prosecuted or indicted Vietnamese nationals) while the first place is also held by illegal trafficking – that of trademark and other copyright infringements under section 150 of the crim. code (section 268 of the PC).

Of the more general findings in official reports by bodies of the criminal justice system, it is worth mentioning the use of modern communication technologies by drug offenders, some new procedures used by those offenders (repeated journeys across state borders in order to complicate following them), the problem of almost unregulated availability of substances used during drug manufacture (acetic anhydride, red phosphorus etc.), good cooperation with Eurojust and liaison officers in separate countries or the problem of confiscation of profits from drug offences.

5. Conclusion

The development of drug crime in the Czech Republic, based on official reports by the criminal justice system authorities, has not undergone any dramatic turnaround or change over the past decade. The basic statistical indicators have more or less reached a state of stagnation and only towards the end of the reference period did any significant increase occur. Only further development shall demonstrate whether this is the beginning of a new trend or just a short-term wave.

Since 1st January 2010, the new Penal Code has been in force, bringing some changes in the area of penal sanctions for drug crime, which could have an effect on the development of statistical indicators. More detailed analysis will be necessary to assess whether this is the case or whether the statistics reflect changes in the drug crime scene.

Qualitative findings from reports by bodies involved in criminal proceedings illustrate amongst other things the international context of drug crime and again confirm the necessity for transnational coordination of measures against such criminal activity and the problem of drug abuse in general. A good example in this respect is methamphetamine distribution. Medications containing pseudoephedrine are imported to the Czech Republic from countries where they are freely on sale without restriction. Methamphetamine is manufactured from these medications in the Czech Republic, and the significant part of it is then exported abroad, also to those countries from which the aforementioned medications are imported to our country as the raw materials. Similarly well-illustrative is the case of the new synthetic drugs which present a Europe-wide problem. Thanks to the EU Early Warning System, we manage to react to their incidence fairly quickly, and the search for a method in which to react effectively to their ever growing range by legal regulation also is not taking place only in individual countries but on a European level.

Summary

There have not been any particularly interesting developments over the last few years as far as the crime rate is concerned. The trend of a gentle fall in the numbers of criminal offences committed has continued, but the number of criminal offences solved has also fallen. The Czech Republic is ever more quickly approaching the European average for the number of recorded criminal offences per 100 000 inhabitants.

Also, reports issued by the Ministry of the Interior on the situation in the field of domestic security and public order in the Czech Republic have stated over the past years that the crime rate is beginning to stagnate and a slight fall in the numbers of recorded criminal offences solved has occurred. In consequence of the falling number of recorded criminal offences and their solution, the number of offenders arraigned and under investigation is also falling. Only the numbers of persons convicted is rising somewhat at present.

At first glance, a state of near social harmony reigns in our society. But appearances can be misleading: if we leave the realm of absolute basic figures on criminality and begin to analyse the changes which have occurred over the past few years in the structure of criminality, we find that these changes are radical.

This relates to the fact that there were times when, the term criminality was understood to mean development and change in the numbers of criminal offences, known as general criminality, mainly theft, robbery, murder, fraud... Today, the pace of change in this area is increasing incredibly fast and it is becoming increasingly to orientate oneself. Over the past hundred years or so, intentional crimes against the property, life or health of natural persons were considered to be criminal acts and those committing them and criminals were identified as thieves, robbers, murderers, fraudsters, whose way of life and in particular the way they made a living pushed them out to the edge of society. Also during that period, it is safe to say that some of those being criminally prosecuted and imprisoned were paying for behaviour and acts of a non-criminal nature – these included not only political prisoners but also “spongers”, homosexuals etc., perpetrators of crimes due to negligence, but, in comparison with the criminal population, these were only small groups of persons numbering only several thousand, whose proportion in society did not fluctuate radically, except in times of war. Many

transgressions against society were dealt with using non-legal means – exclusion of the perpetrators from certain social circles, clerical punishments, moral condemnation by their neighbourhood and by their families etc. – i.e. punishment outside the bounds of criminal justice.

Nowadays, when all aspects of society are “on the march”, the essence of criminality (criminality structure) is beginning to fluctuate. In other words, crimes which until not long ago were treated only as undesirable breach of social norms, or else as misdemeanours (e.g. many acts of negligence causing only limited damage or harm to a person or institution, breach of traffic regulations and codes, noncompliance with norms when solving financial matters, debt recovery, when resolving personal conflicts or in negotiations with institutions etc.), but also crimes which used not to exist (e.g. misuse of the internet, including abuse of social networks) account for an ever more significant share in the criminality structure, clearly affecting its scope and development trends. The logical consequence of changes in the structure of criminality is a marked shift in the composition of persons whom criminal prosecution, the verdicts of the courts and possible subsequent imprisonment for breach of criminal law reclassify as criminal offenders, defendants, convicts and inmates.

A similar situation to that in recorded criminality, i.e. stagnation of the number of offences and offenders detected, exists in the field of drug crime – according to official reports, no dramatic turnarounds or changes are occurring. Basic statistical indicators are more or less in stagnation and it was only towards the end of the period in question when any significant increase occurred, but only time will tell whether this is the start of a new trend or merely a random fluctuation.

As for changes in organised crime as assessed by expert investigation of the Institute, certain changes are occurring – the number of incidents of violent behaviour by organised groups has fallen and the proportion of financial crime and incidents of corruption are increasing, meaning that organised crime is expanding into the social structures, creating links that will continue to function in the long-term. Significant activities of organised crime have begun to include illegal manufacture and smuggling of alcohol and cigarettes, computer crime and extensive misuse of funds from the European Union.

The numbers of victims of criminality over the past few years has not changed significantly. The apparent drop in recorded numbers of victims in 2010 is probably due to the lower number of crimes solved and also to the change in criminal law. More detailed analysis

shows that most recorded victims of criminality were the butt of thefts, robberies and intentional bodily harm.

On 1st January 2010, a new penal code entered into force in the Czech Republic, bringing a wide range of changes to the field of substantive criminal law. It abandoned the material approach to a criminal offence, replacing it with a formally material approach. The hitherto concept of a threat to society has been replaced by the concept of the harm inflicted to society by an act. Categorisation of criminal offences into crimes and misdemeanours has been introduced, manifesting itself not only in substantive criminal law but also in procedural criminal law. Priority is now given to protection of life, health and bodily integrity, personal freedom, inviolability, dignity etc. as well as other fundamental human rights, freedoms and interests by criminal law. A new philosophy of imposition of penal sanctions based on the principles of non-custodial sentencing is also evident. House-arrest has been newly introduced.

The extent to which the above changes will be reflected in the level of criminality in the Czech Republic will only become apparent in 3 – 4 years' time.

Crime in the Czech Republic in 2010

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