

*Trávníčková, Ivana - Zeman, Petr*

**Kriminální kariéra pachatelů drogové kriminality**  
**The Criminal Career of Drug Offenders**

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***Summary***

The submitted study “*The Criminal Career of Drug Offenders*” forms a part of the main task, Research and Analysis of Serious Forms of Crime, included in the Medium-term Plan of Research Activity of the Institute of Criminology and Social Prevention for the Years 2008 – 2010, approved by the Minister of Justice on 07 May 2008. It was incorporated into the plan on the basis of Government Decree no. 64/2008 on the Conception of the Fight Against Organized Crime.

The research aimed at persons convicted by a court for committing the selected drug-related offences, and thus whose records are found in official statistics held on convicted criminals. The research concentrated separately on perpetrators of an offence pursuant to Sec 187 of the Criminal Code, which was undoubtedly the most frequented drug-related offence (6,768 persons were convicted in 2002-2007) and included mainly production and distribution of narcotic and psychotropic substances (“NPS”), including international drug trafficking, and an offence pursuant to Sec 187(a) Criminal Code (675 persons were convicted in 2003-2007), which included possession of NPS in a quantity larger than small without a proven intention to provide the drug to a third person. An offence pursuant to Sec 188 of the Criminal Code (manufacture and handling material used for manufacture of drugs) was as a main offence much less frequent and rather was committed in concurrence with an offence pursuant to Sec 187 of the Criminal Code. The offence of propagation of drug use pursuant to Sec 188(a) of the Criminal Code was statistically the least frequent drug-related offence, and was highly specific as opposed to the others (included various forms of proliferation of using not just narcotic and psychotropic substances, but all addictive substances except for alcohol). Therefore the research aimed at the perpetrators of offences pursuant to Sec 187 and 187(a) of the Criminal Code.

The subject of research were the Czech citizens who were convicted in the Czech Republic in 2002-2003 for the offence of unauthorized manufacture and possession of narcotic and psychotropic substances and poisons pursuant to Sec 187 and Sec 187(a) of the Criminal Code. This time span was chosen in relation to the development of legislation concerning drug-related offences so as to be able to cover roughly the same and sufficiently lengthy period both before (from 1999, when amendment of the Criminal Code introducing the offence pursuant to Sec 187(a) took effect), and after (to the time of gaining information from the Penal Register).

The proportion of foreign citizens amongst persons convicted of a drug-related crime in the CR has been fluctuating around 5 % for the past few years. At the same time, data that can be gathered regarding these offenders from official statistics and registers (criminal career to date, socioeconomic characteristics), is usually very fragmented and incomplete, because it concerns the previous life of the offender abroad, thus they do not appear in Czech records but in foreign ones, to which the authorities involved in criminal proceedings do not have access,

or such access is complicated, and the offenders do not tend to be willing to provide complete and truthful information in this respect. Therefore research has focused on offenders from the ranks of Czech citizens. Details on the composition of both research groups are listed in the applicable chapters, summarizing the results of the analysis of data from the Penal Register. We received information on the offenders, which is filed in the Penal Register, to September 12, 2008.

The main benefit of the research should be found in the assembly and detailed analysis of the data on the criminal career of a wide sample of offenders of drug-related crime, gained mainly from the Penal Register. There are no similar findings in the CR because the methods used up till now for attaining information on the criminal career of offenders concern just a small sample of offenders (analysis of court files), or provide just basic and general information (analysis of data from police and judicial statistics).

During research, the following methods and techniques were applied:

*Study and analysis of specialized literature and other specialized resources* (research reports, annual reports...) - for attaining a current overview on the attained status of knowledge of the subject of research examination.

*Analysis of statistical data of judicial bodies* on offenders of drug-related crime – for attaining an overview of the development of registered crime and the number of offenders

*Analysis of data from the Penal Register* – as the key technique, it enabled mapping of previous and consequent criminal career of perpetrators of drug-related offences, aimed specifically at:

- Data on Czech offenders convicted of an offence pursuant to Sec 187 of the Criminal Code in the years 2002 and 2003 – from a total of 2,373 persons, data on 889 persons was gained by random sampling in cooperation with the Penal Register,
- Data on Czech offenders convicted of an offence pursuant to Sec 187(a) of the Criminal Code in the years 2002 and 2003 – entire group, i.e. complete sample of 324 persons,

The data attained was elaborated with the help of the statistics program SPSS. If the text points to statistically important differences, it means the differences at a significance level of 95 % ( $p < 0.05$ ). Data from the Penal Register was obtained in an anonymized form, and while elaborating such data it was handled in accordance with legal regulations concerning protection of personal data.

*Analysis of selected sample of court files* – files were requested on the basis of data from the Penal Register for the years 2002 and 2003 for selected persons from a sample, so that the information from the Penal Register could be augmented with data of a socio-demographic character and other more detailed information.

Aside from the methodological issue, it is necessary to also see certain *determinants, in which elaboration of the stated problematic moves:*

- frequent drug abuse remains hidden for a relatively long time from the closest social circle (family, school), but also from physicians, the same as a crime perpetrated in conjunction with a drug problem,

- we do not have available empirical data from research directly focused on the relationship between drug abuse and crime,
- therefore we must especially keep in mind that what we sometimes call data, experiences, etc., cannot be judged in isolated fashion, but always in relation to a certain sphere of human behavior and to demands placed on the level of decision-making,
- data from the Penal Register expresses the final convictions of individual offenders. It thus does not provide a picture of all crimes that the offender has committed, but only those that were ascertained and for which he was convicted. One must constantly keep this in mind when interpreting the results.

The definition of the term drug has, like many other terms, different variations used by experts and the general public. In legal terminology, the actual term drug itself is not used directly. Legislation lists substances to which certain limiting measures apply that regulate the handling of these substances and the methods and rules of their control. An Addictive Substances Act no. 167/1988 Coll reflects non-criminal obligations that arise for the Czech Republic in consequence of ratifying UN Drug Conventions. In relation to crime, the Criminal Code introduces on the general level two basic terms - the wider term addictive substance, and in accordance with the definition of the World Health Organization and international agreements in this area, it establishes the term narcotic and psychotropic substances. Substances found amongst narcotic and psychotropic substances are established in appendices no. 1 through 7 of the Addictive Substances Act. Lists of these substances are also binding from the aspect of criminal law protection against drug abuse. The law also establishes what is considered to be preparations containing a narcotic or psychotropic substance and precursors used for illegal manufacture of narcotic or psychotropic substances. The most widespread drug in our society – alcohol, is categorized as an addictive substance, by which the Criminal Code further understands narcotic and psychotropic substances and other substances, which are prone to negatively influence the psyche of a person or his/her control or cognitive capabilities or social behavior.

Although drug abuse mainly brings serious health consequences, it is not possible either to dismiss its social consequences. The undesirable effects of drug abuse are given not only by their effect on an individual, but also by the fact that they become the determining factor in coexistence of the individual with other members of society. Changes in the abuser's behavior occur both during intoxication and when he is abstaining. It is very difficult to establish or predict which period is the most dangerous for the abuser (drug user) or his surroundings. The expressions of intoxication vary between drugs, both in regards to the chemical affects of the used substance, and to the reaction of a certain individual in a specific situation. The drug user is less apt to subordinate to social and legal norms, his contacts with ordinary society are diminished, and a communicative block grows leading to a certain stereotype all the way to social isolation. But as an individual with changes in mental activity, he is still a part of the same social structures, which of course are not expecting such a changed individual. The result of this long-term drug abuse is therefore not only the failing functions of the individual in society, but also the ineffectiveness of normal social mechanisms affecting this individual. *The social danger of drug abuse is found in the fact that the immediate causal relationship between the stimulus and effect (disruption of social relationships) is not clear and only appears by an accumulation of changes over a longer time period.*

With regard to the stated findings, *it is possible to define a drug from a criminological aspect as a substance:*

- whose application should influence the psychological condition of the individual and is abused without regard to the possibility of causing health complications. Its use may cause a habit leading to dependency (psychological, physical or both),
- its systematic use determines the coexistence of the individual with society and is in conflict with socially acceptable conventions and set of values,
- its abuse causes breakdowns of social relationships in micro, mezzo and macro-structural levels and the degree of disintegration of social relationships appears in the form:
  - a) simple – school or work failures, loss of feeling of solidarity with his closest people,
  - b) asocial - socially unhealthy behavior, which still is not punishable in the wording of the Criminal Code,
  - c) antisocial – crime.

Drug-related crime was penalized in the CR until the end of 2009 according to four provisions of Criminal Code no. 140/1961 Coll., as the offences of unauthorized manufacture and possession of narcotic and psychotropic substances and poisons pursuant to Sec 187, Sec 187(a) and Sec 188 of the Criminal Code, and as the offence of propagation of drug use pursuant to Sec 188(a) of the Criminal Code. The new Criminal Code no. 40/2009 Coll., effective as of 01 January 2010, has brought new provisions on drug-related offences, which are derived to a certain extent from former definitions; nevertheless they also contain important changes. Our research takes up career criminal offenders lawfully convicted of offences pursuant to Sec 187 and Sec 187(a) of the Criminal Code in the years 2002 and 2003, whereas the data on their criminal career was attained in September 2008. For this reason and for our purposes, we left out the new penal legislation, because the examined part of the criminal career of the offenders that we selected played out under the Criminal Code no. 140/1961 Coll.

Drug-related offences represent in the long term around 1 % of all offences registered by Czech police. The proportion of persons convicted in the CR for drug-related crimes to the entire number of convicted persons over the past eight years amounts to 2%, and it was even lower in years prior to that. Despite this, it is not possible to trivialize the issue of drug-related crime. A characteristic feature of drug-related crime, as a so-called “victimless” crime, is high latency. One may assume that drug-related offences registered in official statistics are but a small part of the actually perpetrated drug-related crime. Aside from this, the drug-related offences pursuant to Sec 187, Sec 187(a), Sec 188 and Sec 188(a) of the Criminal Code represent just a small part of criminal activities relating to the basic problem, which is illegal drug use. In this context, one should consider no small number of offences committed under the influence of NPS (violent, sexual, property crime) and chiefly acquisitive offences. And finally drug-related crime is only one of a series of mutually relating socio-pathological phenomena that accompany illegal drug use (organized crime, truancy, domestic violence, prostitution, spreading the HIV virus and hepatitis, etc.). In these contexts it is not possible to underestimate even a relatively low number of registered cases.

Worldwide, illegal trafficking in NPS is one of the most profitable forms of illegal activity. Due to significant profits that come from distributing drugs, this activity brings with it also other forms of crime, either as an accompanying phenomenon (violent crime, money laundering...), or as a result of use of such accumulated funds (corruption, trafficking in weapons), whereas these phenomena blend in together. New groups of drug-related offenders appear, and these offenders also use new means and methods. Drug crime, mainly illegal

trafficking of NPS, is one of the most serious and widespread crimes even within the framework of organized crime itself.

The concept of a criminal career is used for describing the beginning, continuation and end of criminal activities of the repeat offender. The need is emphasized to research problems relating to the fact of why and when persons begin committing crimes, why and how they continue committing crimes, why and if at all commitment of crimes is occurring more frequently or in a more specialized way, as well as why and when persons stop committing crimes. In the concept of the criminal career, important events also have their place in the life of the individual and their effects, which may appear between the beginning and final phases of the criminal career and possibly interrupt its progress (ex. serving a punishment, marriage, aging of the offender, etc.). The term criminal career contains aspects of the development of individual crimes, thus anticipates the beginning, duration and possible end of committing crimes, attention is given to changes of criminal activity of the individual in time, which consequently enables aggregation of this data for groups of offenders. Research of the criminal careers concerns not just the criminal activity of individuals, but also groups, such as families, gangs, and communities.

The existence of a relationship between drug use and commitment of crimes is relatively richly described in professional literature. The character of this relationship however is far from being so clear. At the very least, it is not possible on the basis of existing findings to state absolutely that drug use would lead directly to committing a crime. Causality amongst the listed phenomena has not been proven. Their correlation rather comes from the fact that both depend on similar factors including socio-economic deprivation. Risk factors may be either indicators (symptoms) of antisocial behavior or its possible causes. That is, certain types of behavior may either reflect an anti-social tendency or be its cause or both. Drugs in this sense may symbolize a life style (and thus be indicative) or drug use may evoke antisocial behavior under its influence (and thus be causative). Criminal activity and drug use thus may enhance each other in the sense that persons from a deviant criminal environment are at elevated risk of developing drug problems, and persons with drug problems are on the contrary exposed to a higher risk of engaging in criminal activity.

Research from the area of criminal activity relating to drugs overlooks drug-related crime itself in a more narrow sense. The reason is the fact that the link between drugs and crime has a differing nature in this case – the context between drug use and crime here arises rather from the law than on a mutual influence of these phenomena.

The subject of the presented research was the criminal career of offenders, who in the years 2002 or 2003 were convicted for drug-related offences pursuant Sec 187 or Sec 187(a) of the Criminal Code. Both groups were researched separately and their consequent comparison was performed. We obtained anonymized records from the Penal Register on a total of 1,213 drug offenders. From this, the examined sample of 889 persons gained by random sampling formed over two-thirds of offenders convicted in the years 2002 and 2003 for an offence pursuant to Sec 187 of the Criminal Code. A complete group of all offenders, citizens of the CR convicted in the years 2002 and 2003 of an offence pursuant to Sec 187(a) of the Criminal Code was represented by 324 persons.

The criminal career of offenders convicted in the years 2002 or 2003 for an offence pursuant to Sec 187 of the Criminal Code (“Sec 187 Group”) may be briefly characterized according to the analysis of data in the Penal Register as follows:

- Approximately 28 % of the sample they were convicted for the first time between 15 and 17 years of age, 63 % by 20 years of age and 96 % by 30 years of age.
- Amongst men, there was significantly higher portion of those convicted for the first time between 15 and 17 years of age (29 %); between women of those convicted for the first time between 21 and 30 years of age (44 %).
- A total of 68 % of offenders were not even once convicted as a juvenile; significantly more of such offenders were between women (80 %).
- One third of the sample had the only one criminal record. On the contrary, about 44 % of the sample can be labelled as a multiple re-offenders (at least 4 convictions).
- There were significantly more women amongst persons convicted only once in a criminal career.
- At least once over the course of their criminal career, 56 % of offenders were convicted of a property offence (significantly more men), 22 % of a violent offence (significantly more men), and 3 % of a sexual offence.
- Amongst sentences imposed to individual offenders during the course of the entire criminal career to date, the largest proportion was a suspended sentence, which was imposed at least once to 84 % of offenders, followed by a prison sentence (47 %) and community service (33 %).
- Amongst offenders, 47 % had the experience of serving time in prison, of whom 43 % experienced this once and 83 % had at most three such experiences.
- Compulsory treatment was imposed at least once to around 10 % of offenders.
- Approximately 3/4 (three quarters) of the sample were convicted for drug offence just once; on the other hand only 3 % of the sample were convicted for drug offence more than 3 times. So we cannot speak about the widespread type of multiple special re-offender, at least in terms of reconvictions.
- Nearly a third of the offenders were convicted in their criminal careers only for drug-related offences, of whom 91 % only once.
- There was a significantly higher proportion of women amongst persons convicted exclusively of a drug-related offence.
- Between those with convictions exclusively for drug offences there were significantly higher proportion of people, who were for the first time convicted between 21 and 30 years of age (45 %), on the other hand between offenders committing different offences there was significantly higher proportion of those with first conviction in the lowest age category of 15 to 17 years (juveniles) – 34 %.
- 20 % of the sample have conviction for the drug offence as a first conviction of their criminal career that has subsequently continued.
- Approximately one half of the sample was convicted for drug offence for the first time between 21 and 30 years of age. There is also quite high portion of those convicted for drug offence for the first time in an early age – 34 % by 20 years.

The criminal career of offenders convicted in the years 2002 or 2003 for an offence pursuant to Sec 187(a) of the Criminal Code (“Sec 187(a) Group”) may be briefly characterized according to the analysis of data in the Penal Register as follows:

- Nearly half of the offenders in the sample commenced their criminal activity by the age of 20 and 94 % of all offenders commenced their criminal career by the time they were 30. A full fifth of offenders were first convicted as juveniles.

- Nearly three-quarters of offenders were convicted of a drug-related offence only once. The proportion of offenders in whose criminal career there appeared a higher number of convictions for drug-related crime (5 – 10 x) did not even reach 5 % altogether.
- Offenders who were also convicted for other than drug-related crime had a statistically much longer criminal career – they were a large majority in the group of offenders whose period between the first and most recent conviction was longer than 5 years.
- In the criminal careers of 103 offenders (32 %), there were no convictions for other than drug-related crime. For nearly half of the offenders (47 %) who were convicted also for other than drug-related activity, the most frequent crime outside of drug-related crime was theft. The crime of obstructing the execution of an official decision pursuant to Sec 171 of the Criminal Code was the most frequent crime outside of drug-related offences for 7 % of offenders, and the crime of bodily harm pursuant to Sec 221 of the Criminal Code for 4 % of offenders.
- A statistically significant difference as opposed to other offenders in the sample was found amongst those offenders who within the framework of their basic conviction were convicted as juveniles. These offenders over their criminal career to date also committed other than drug-related crimes much more frequently.
- The most frequent punishment in a criminal career of over half of the offenders was a suspended sentence. A quarter of offenders most frequently received as punishment a prison sentence. Another punishment that was the most frequently imposed sentence for a noticeable proportion of offenders (12%) is the sentence of community service.
- Roughly 30 % of offenders in the sample were to the date of gaining information convicted in their criminal career only once. Over half of the offenders (55 %) were convicted at the most three times. Recidivists with a number from 4 to 10 convictions formed 34 % of all offenders.
- Nearly a half of the examined offenders were convicted for a first time by the age of 20, and 94 % by the age of 30. A full fifth of offenders were convicted for a first time as juveniles (15-17 years of age). Over half the offenders were most recently convicted at an age of between 21 and 30, and another quarter of offenders finished their criminal career at an age of between 31 and 40.
- As for the period since the last conviction or release from imprisonment until the date of gaining information, only 5 % of offenders had this period longer than 5 years. On the other hand, a relatively significant number of offenders (around 20 %) continued in criminal activity until the end of the monitored period (i.e. the period since the last conviction or release from imprisonment reached a maximum of 2 years).

Within the framework of compiling results of the analysis of data extracted from the Penal Register, we also performed comparison of both examined groups (Sec 187 Group and Sec 187(a) Group) from the viewpoint of certain aspects of the criminal career. For comparing both research groups, no major differences were ascertained that would justify a claim that these two groups of offenders differ fundamentally from each other in terms of the course and structure of the criminal career. Nevertheless, certain statistically significant differences were found:

- In the Sec 187(a) Group there were significantly more offenders who during the course of their criminal career to date were not convicted even once as juveniles.
- Between offenders of Sec 187 Group there were significantly more of those who were convicted for the drug offence for the first time in low age - between 15 – 17 years (11 % - 4 %) and between 18 – 20 years (23 % - 16 %).

- As for the age of the first conviction there were significantly more of those convicted for the first time in low age 15-17 let (28 % - 20 %) a 18-20 let (35 % - 28 %) between offenders of Sec 187 Group, while between offenders of Sec 187(a) Group, there were significantly more of those convicted for the first time between 21 and 30 years (45% - 33 %).
- In the Sec 187 Group, there were significantly more offenders for whom a long period has passed since the last conviction or release from imprisonment (from over 5 and up to 7 years) to the date the information was obtained from the Penal Register.
- One interesting finding is that in the Sec 187(a) Group, there were significantly more offenders who had multiple experiences serving time in prison. In this group, there were 9 % of offenders serving time in prison 6x – 10x, whereas in the Sec 187 Group, only 2 % of offenders have the same frequency of experiences with imprisonment.

The Penal Register does not contain more detailed qualitative data on offenders. In consequence of this, it is possible to extract from it more a description of the history of the reaction of the criminal justice system to offences committed by individual offenders rather than a complete picture of their criminal careers, which would include possible explanation of their criminal behaviour. For this reason, we tried gaining additional information from court files. Of course these too regularly lack more detailed and reliable information on the life and circumstances of the accused. From the aspect of studying the criminal career of the offender, these are generally a usable source of qualitative information on the life of the perpetrator if they contain an expert opinion, which records the family and personal anamnesis and discusses the mental state of the offender.

Overall, we had the opportunity to examine 45 court files on 31 offenders, including 26 files on 17 offenders from the Sec 187 Group, and 19 files on 14 offenders from the Sec 187(a) Group. More detailed information on offenders in the form of expert opinions contained files concerning 8 offenders from the Sec 187 Group and also 8 offenders from the Sec 187(a) Group.

In regards to the small frequencies of analyzed information, it is possible to rather indicate certain more general conclusions – as it is listed in the applicable chapter. While conscious of this significant limitation, it is possible to state in unison with the findings gained by the analysis of data in the Penal Register that drug offenders, if they are not explicitly persons whose criminal act was just an exception, also commit frequent property crimes. And if the offender is characterized as a “drug re-offender” (i.e. a person who has committed drug-related offences repeatedly), both forms of monitored drug offences are mostly found in his/her criminal career, i.e. an offence pursuant to Sec 187 of the Criminal Code and an offence pursuant to Sec 187(a) of the Criminal Code.

The presented results indicate that as regards the course and structure of the criminal career, there are no fundamental differences between perpetrators of an offence pursuant to Sec 187 of the Criminal Code and perpetrators of an offence pursuant to Sec 187(a) of the Criminal Code. For instance, it cannot be concluded that offenders of Sec 187 Group are more dangerous (from a point of view of the course and structure of their criminal career) than those of Sec 187(a) Group, although these two sections of Criminal Code have criminalized different and differently serious types of behaviour (as indicated also by punishment rates, stated for these two offences by the Criminal Code).



The findings of our research rather provide support to the theory that committing drug offences, although their definitions are contained in different provisions of the Criminal Code, is simply a part of the wider social phenomenon, which is unauthorized handling of narcotic and psychotropic substances. Thus one cannot be surprised that in the criminal career of offenders, it is often possible to encounter both offences.

This conclusion also to a large extent dispels fears, relating to re-criminalization of possession of drugs “for personal use”, that the provision of Sec 187(a) of the Criminal Code will be regularly used to criminalize users, who would otherwise not come into contact with the criminal justice system.

*Translated by: Marvel s.r.o.*