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THEORETICAL AND CRIMINALLY POLITICAL ASPECTS OF THE REFORM OF  
CRIMINAL LAW IN CRIMINAL SANCTIONS III.

**CRIMINAL SANCTIONS - THEIR APPLICATION, IMPACT ON RECIDIVISM  
AND MEDIA IMAGE ON TELEVISION NEWS**

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### *Summary*

A part of the research project was to test the effectiveness of sanctions imposed with an emphasis on alternatives to prison. **The recidivism of convicted persons** was chosen as a measure; this was examined through the analysis of data from Criminal Register. We infer it based on information about possible another conviction, a practice common in the criminological research. However, it has its weaknesses, especially with regard to the inability to capture the hidden crimes. In addition, a new conviction cannot automatically be equated with a new crime and it is also necessary to count with some delay between the commission of the offense and its legal sanction. Yet it can be argued that such studies provide at least a tentative answer to the important question of whether the recidivism rate varies considerably for individual sanctions. It is also possible to focus on assessing the impact of certain factors that are considered as a risk in view of criminal careers by criminology and which can be found in the Criminal Register (these are particularly sex, age and nationality of the convicted person, his/her criminal history and the type of crimes committed). In our consideration, the strength of our research is the sample size, which makes it the most extensive analysis of recidivism in our environment so far.

The sampling was based on two criteria, namely on the period when the sanctions or measures of the convicted persons were recorded in the Criminal Register (1<sup>st</sup> April, 2012 to 30<sup>th</sup> June, 2012), and further the type of sanctions imposed (house arrest, sentence of community service and a suspended sentence with supervision). The control group consisted of persons previously sentenced to a prison sentence, which ended in these months of 2012 (by serving the term or a conditional release). In total, there were 4,233 people, among whom males (90.6%) were prevalent.

Most of the persons were sentenced to community service (52.7% of the entire sample), the least to house arrest (3%). The average age was 33 years, the most convicts were aged 30-39

(31%) and 22-29 years (28.4%). They were punished mostly for property crimes, while nearly a third of the sample was convicted of theft. Obstructing the execution of an official decision or deportation (14.5%) and neglect of compulsory maintenance (14.1%) were also more numerous represented. Serious acts against life and health were significantly less represented in the sample.

Most of the convicted had prior experience with crime. Only 12% of the people were convicted for the first time (a criminal record dating from 2012 on the basis of which our sample came, was their first). We found out an average of nearly five previous convictions for the remainder of subjects. A third of previously convicted had also experienced with imposed unconditional imprisonment. The same ratio was also found in relation to records of conversion of the execution of alternatives to prison to unconditional prison sentence. As expected, it was determined that the number of previous convictions grew with age. The finding known from the criminal career research was confirmed as well that a strong predictor of a large number of convictions is low age at the first registered crime. The relationship between these two variables proved to be statistically significant.

The recidivism itself for the purposes of our research was defined as the record about possible another conviction that we followed in the index in the second stage of investigation in July 2014 (i.e. about two years following the first stage). It turned out that 48.1% of our sample have a new record which is nearly every other convict. There were relatively frequent cases that a habitual offender had more new records (the average for habitual offenders was 1.99). There even appeared fourteen new records for one of the monitored person and eleven records for three convicted persons. Approximately in two-thirds of habitual offenders the new entry appeared in the first year after a previous conviction.

Based on bivariate analysis, it was found that the type of sanctions imposed does not have a significant impact on the recidivism of the convict. The largest share of people with a new entry in the register was among those sentenced conditionally with supervision (49.4%) and persons who have been sentenced to community service (48.8%), lower values were reached by imprisonment (45%) and house arrest (46%). However, these differences were not statistically significant. On the basis of logistic regression model, which we created for a part of the set, the punishment of imprisonment appeared as most effective in terms of reducing the risk of recidivism which could be seen as a proof of its deterrent effect in the sense of individual prevention. A deeper and more critical view of the data leads to the conclusion that

the predictive value of these finding is limited by the nature of the data from the register. Records of a conviction which appear in the register within the monitored period following the previous conviction may in fact relate to crimes committed earlier. The probability of such a situation is significantly lower for those who stayed in prison than in subjects with alternatives to prison imposed.

While the effect of examined sanctions on recidivism appears to be questionable, we managed to establish a relationship between the risk of further conviction and some relevant demographic characteristics in terms of criminology. The sex is of relevance in particular (men are more likely to relapse than women) and age (the share of habitual offenders falls significantly with age). The indication of the age also had a predictive value when the individual concerned first got into contact with the justice system, as well as the fact whether there was a reoffending in the past (in our sample, first time offenders re-offended in less than a quarter of cases, people with criminal records in more than a half by contrast). A higher proportion of reoffending was observed also among people who have been previously sentenced to imprisonment, and also for prisoners who have experienced the conversion of alternatives to prison to a prison sentence or the order to serve the remainder of sentence in prison after conditional release. Regarding the type of crime, the highest proportion of recidivists was among the offenders of crimes against property (theft), lower for crimes against life and health (bodily harm). These two groups also differed in terms of the type of recidivism where special recidivism was more frequent for offenders of property crimes (re-convictions for theft), the recidivism in offenders of violent crimes was rather non-uniform (convictions for other type of crime).

As part of this research project **a media analysis** was also conducted with focus on the way crime, punishment and criminal sanctions are presented on the main news reports. The results of current criminological studies make it apparent that crime is a frequent subject of media interest and reports on it form an important part of the news. Research has shown that most of the general public receives information about the crime just from mass media, public attitudes towards punishment and the criminal policy thus being formed through the increasingly strong position of television news. Therefore, it is important to deal with media content in relation to crime and punishment.

The presented image of crime differs significantly from official police statistics, which include recorded crime. The criminal acts attractive to the media fulfilling "news value" are

not identical to conventional and characteristic offences in terms of overall crime. The media more often display exceptional and serious crimes; violent and sexual offenses are overstated compared to statistics as well as cases where adolescents or children appear as victims or offenders. The media image of sentences corresponds to the crime displayed in this way.

The sample set of our media analysis included one hundred major television news programs (fifty sessions of “Události” of the Czech Television and fifty sessions of “Televizní noviny” of Nova TV) randomly selected during 2014. This enabled us to observe the differences between informing by the public and private television stations. A combination of quantitative and qualitative content analysis was used for the analysis of the media image of criminal sanctions on television news. Selected characteristics of imaging crime, various types of crimes and punishments were coded, quantified and statistically analyzed using SPSS software.

Foreign studies show that crime is a hot topic for the media and reports of crimes form an important part of the news. These findings were also confirmed by our analysis. Posts relating to crime and safety in general accounted for over twenty percent of posts on television news. Nova commercial television gives more space to media attractive criminal reporting than public Czech Television. While the reports featuring crime amounted to 12.6% on the Czech Television news, with the main news report of Nova TV with a share of 28.5% it was more than two times higher.

Almost three quarters of crime reports dealt with traditional forms of crime, usually committed by individuals. The topic of the next almost one fifth of the reports are serious economic offenses, criminal activities with some degree of organization or directly to organized crime. The most frequently displayed type of crime was violent crime in the total sample set, mainly due to the news of private Nova TV, where it is a significantly overvalued category. The most interesting offences for the media are offenses directly after or with short interval after their commission or disclosure. The news of public Czech Television, in contrast, most frequently display economic crime, Czech Television significantly more informs about this type of crime, corruption cases, etc.

Violent crime is contained in 43% of posts on criminal news while in police statistics it accounts for less than 6%. If we look at the structuring of individual crimes, the attractiveness of serious violent crime for media viewing is obvious. While according to police statistics, the

proportion of homicides in overall crime amounts up to 0.08%, the posts on this topic on television news amount to 24% and they are most frequently featured crime.

Media presentation of crime is significantly different from the official police statistics, which include recorded crime, and media discourse is determined by focusing on "atypical" crime yet attractive to the media. Also, the presentation of criminal sanctions is significantly affected by this disproportion of media display. Considering the fact that television news and media in general display a significantly more serious violent crime, most featured kind of punishment is imprisonment (82%, of posts in which the punishment is mentioned). The presentation of alternatives to prison (probation, fines, community service, house arrest) is minimal and these types of sentences can be also categorized as "escape from real punishment." The image of punishment and criminal penalties on television news corresponds primarily to the most frequently presented long-term imprisonment. Without much exaggeration the identification of punishment and imprisonment of an offender apply in the media discourse. In terms of media presentation of penal policy the prevailing displayed approach to punishing the criminals is a repressive approach with minimal presentation of alternatives to prison, rehabilitation of offenders, etc., which can have a significant impact on shaping the attitudes of the general public.

In our research of alternatives to prison we also **analyzed a selected sample of case files dealing with cases in which offenders were sentenced to house arrest and a ban on attending sports, cultural and other social events.** Fifteen files were requested for this analysis in total. Ten of them reported on the cases terminated with the imposition of house arrest, and the remaining five files featured all cases of imposition of a separate punishment of entry ban, the statistical sheets of which were sent in 2011.

The house arrest in our sample was imposed for a relatively diverse group of crimes involving bodily injury, neglect of compulsory maintenance, theft, endangerment under the influence of drugs, production and other handling of narcotic and psychotropic substances and poisons, obstructing exercise of official authority and expulsion, as well as stalking and dangerous threat. In cases where the punishment imposed was a ban on attending sports, cultural and other social events the range of offenses was not so varied, as they were four cases of disorderly conduct and one case of expression of sympathy for a movement aimed at suppressing human rights and freedoms.

The primary impetus leading to the prosecution of the offenders was most often a notification by damaged parties (i.e. 40% of the cases). The offender was caught and detained by Czech police patrol directly in the act in a third of the examined cases. The average length of criminal proceedings was 134 days. The longest procedure lasted 486 days, the shortest only 10 days. Thirteen cases (i.e. 87%) was the final decision made within six months and even within three months in five of them. In two cases the offenders were taken into custody, the length of which was in one of them 21 days and the second 122 days.

The average length of imposed house arrest sentences was eleven months in our sample. The longest imposed house arrest sentence was two years; the shortest sentence was four months. The average length of sentences imposed for punishment of ban on attending sports, cultural and other social events was twenty-six months. The longest sentences of entry ban were two three-year sentences in our sample; the shortest sentence was one year in length.

With the exception of one female offender all the offenders in our sample were men (93.3%). The average age of offenders in our sample was 31 years. The oldest of them was 45 years old at the time of committing the offence, while the youngest of the offenders was 21.

More than half of the offenders stated that they were unmarried (total 8 people), three offenders were divorced and the other three said that they lived with a partner. Only one of the offenders was married in the time of the commission of the crime.

The survey was also aimed to find out the socio-professional status of the offenders. Six of them (i.e. 40%) were without steady employment, while only two were registered with employment offices as job seekers. Most of them said that they earned money by occasional jobs. Five offenders said they were working in an employment relationship and two received a disability pension. One of the offenders said he was self-employed and another was a high school student.

The highest level of education achieved among the offenders was secondary education with school leaving examination, which was attained by three of them (i.e. 20%). A third of the offenders (i.e. 5 persons) were trained workers. Four of the offenders (i.e. 26.7%) completed primary education. The information on educational attainment could not be determined for the remaining three offenders.

A significant part of the offenders (total of 12 persons, ie. 80%) has previously been punished. Two of them were previously punished only once, while the remaining ten offenders had

previously been punished several times. One of the offenders was punished even eight times already in the past. Until now there were only three offenders with no previous convictions who were subsequently sentenced to entry ban to sports, cultural and other social events.

We were also interested in course of performance of the sentences imposed. Five convicted offenders, who have been sentenced to house arrest, performed this punishment without any breaching the terms found. One of these persons, however, did not exercise the sentence imposed in its entirety, as the case was covered by the amnesty of the president. Another three convictions performed under house arrest in the whole length, but there were isolated cases of breaching the conditions found. The house arrest for two convicts was converted to imprisonment for failure to fulfil the conditions.

Offenders who have been sentenced to entry ban to sports, cultural and other social events approached the execution of the punishment imposed somewhat more conscientiously. Three of them executed the sentence in its entirety, without having found a breach of the obligations imposed under probation plan. The court decided on a conditional waiver from exercising the rest of the sentence imposed at the request of one of the convicts. We failed to obtain the information about the execution of the sentence imposed from the file for the last of the convicts.

**An inquiry of the views of persons sentenced to a prison sentence** serving up this punishment in the facilities of the Prison Service of the Czech Republic at the time of the research was conducted to complement the views on sanctions policy of involved experts and the public. Investigations were carried out as tentative inquiry of a sample selected by the deliberate selection of a limited number of respondents selected according to the characteristics of sex and type of prison in which they were located. Women were partially overrepresented in the sample and the prisoners were selected from such types of prison in which the largest part of the prisoner population is concentrated.

In July 2013 the range of the basic set of Czech citizens convicted in prison without juvenile amounted roughly to 13,000 people, including about 780 women. At the time of the preparation of this research, women made up 6% of the population of convicts, respectively of the basic set. 31% of the inmates were located in prisons with “supervision” (low security prison), 59 % of the inmates in high security prisons, i.e. 90% of the total population of inmates.

The number of 150 respondents was determined as a required minimum range of research sample (i.e. slightly more than 1% of the basic set). All prisoners from one specific department ("supervision" or high security) with the exception of the sick, currently absent or those who did not agree to participate in the research were chosen for answering the questionnaire. According to such established principles the collection of questionnaires was conducted in November and December 2013 in four prisons. The questionnaire was answered by 201 respondents in total, of which 10.5% were women.

When compared with the data of the Statistical Yearbook of the Prison Service of the Czech Republic for 2013 the characteristics of the research sample get near to the characteristics of the total prison population in terms of prison recidivism and age composition. On the other hand, the characteristics differ in the details of the length of the sentence; the respondents with higher penalties prevail in the sample, and also in terms of education in the categories of basic education, apprenticeship and secondary education, where there is a significantly higher proportion of high school graduates (36% to real 10%) in the sample. It is, however, questionable how much exactly the respondents answered the question, respectively to what extent they were able to state the educational attainment precisely.

The questionnaire focused on determining whether the prisoners preferred alternatives to prison to imprisonment and what amount of alternative punishment was deemed appropriate, their opinion on the application of the criminal policy by courts and its rigor, opinion on the adequacy of penalties for concretized crimes, opinion on the quality of institutions involved in criminal procedure and coming into contact with the convicts and the situation they will have to deal with after their release from prison. Open questions were aimed at finding those problems in the form of a free statement that prisoners face in prison and which they assume after release.

It is not surprising that the convicts always voted significantly more often for an alternatives to prison than imprisonment in the provided option; always at least in 80%. From this perspective, the "most popular" sentence is community service, for which 91% of respondents voted. The largest number of preferences of unconditional sentence (but still low - 9.5%) is in the selection between the unconditional sentence and suspended sentence with supervision.

The respondents stated most often an amount ranging from 25 to 100,000 crowns, or 5 to 50,000 crowns as an adequate amount of compensation corresponding to one year of



imprisonment; these respondents each amounted to about 49%. The preference of the amount of the fine is likely to be interpreted in relation to the social situation of the respondents, where the amounts indicated apparently represented a significant amount. An amount exceeding fifty thousand crowns (even more than one hundred thousand crowns for approximately 12%) would be acceptable for thirty percent of the prisoners.

Three quarters of the respondents consider the penalties contained in the Czech Criminal Code generally rather severe. In this the prisoners differ from the Czech population very significantly because, for example the survey of public opinion on penal policy, which was conducted by IKSP in 2009, showed that 57% of respondents believed that the Criminal Code inflicts mostly too mild punishments for crimes. Similarly, unlike the public the prisoners believe that the penalties tightened over the last decade.

When the prisoners were in the position of a fictitious judge to decide on punishment in relation to six specifically characterized crimes, it showed that the largest percentage of respondents always inclined to an imprisonment, and this surprisingly even in the case of neglect of compulsory maintenance and the sale of soft drugs. The strictest attitude was taken by respondents in the case of violent crime (robbery), where 80% of them would apply imprisonment. In other cases, although the sum of respondents who would vote for any of the penalties of non-custodial nature is higher than the number of those who would impose a prison sentence, the prison sentence was also always favoured by the largest proportion of respondents. In all cases where the first place was taken by an imprisonment, suspended sentence ranked as the second. The community service was slightly more frequent of the other alternatives to prison.

It is not surprising that respondents tended to believe that Czech courts do not approach all the people on trial equally. The judges also placed in last place following the public prosecutors on a scale assessing the work of staff of the institutions with which the prisoners come into contact with. On the other hand the NGO workers were the best evaluated.

What the prisoners essentially lack during their imprisonment are social contacts; especially with the family, but also with friends. The need for freedom expressed in various forms, ranks in second place, but is also prevailing in responses and even more among respondents who have already been punished, or who were previously serving unconditional sentence. The main issues that the respondents will need to deal with are employment, housing and family

relationships. The fact that they do not expect any problems applies to only a small part of the respondents. The employment and housing problem along with the absence of family support was provided as the main cause of the impasse after returning from prison.

The role of the family as the nearest support of the respondents was confirmed; it is the family from whom the vast majority of them expect help after the release. The role of social contacts is confirmed by the "ranking" of friends and companions in second place, even though with a considerable distance. The Employment Office and social workers are the institutions that should be systematically the aim of requests for assistance; it is rather surprising that the number of expected requests directed to them is not high.

The key findings of the research are that the views of prisoners clearly confirm the urgent need for a significant improvement of preparation for release and subsequent post-release care. This is especially in terms of assistance in securing employment and even housing for a part of the prisoners; this is related to the care of the maintenance of social (in the narrow sense of family) support during their imprisonment. It can be estimated that the need for urgent support through the system of post-penitentiary care concerns up to one third of those released from prison.

Translated by: Aspina