

*Simona Diblíková**

Institute of Criminology and Social Prevention, Prague

JUVENILE RECIDIVISTS IN THE CZECH REPUBLIC

Abstract: This paper presents selected findings from the research of the Institute of Criminology and Social Prevention (Prague, Czech Republic) devoted to recidivist juvenile offenders – specifically juveniles „designated as recidivists by the court.” Information about the offender, their committed crimes and imposed measures was obtained through an analysis of closed criminal case files. Information (extracts) from the Penal Register were used to map the criminal careers of the individuals in question.

Key words: Recidivism, juvenile offenders, juvenile justice, criminal career, analysis of files

1. PREAMBLE

European legal systems clearly favour the separate regulation of juvenile criminal justice. The need for the implementation of reform and unification of juvenile justice arose shortly after the establishment of the Czechoslovak Republic. In 1922, a draft was prepared, which became the basis of the first independent law regulating criminal law and justice for children and adolescents. In March 1931, Act No. 48 Coll., and regulations governing juvenile criminal justice were adopted. Under this Act, criminal cases involving juveniles and young adults were only heard, and general criminal procedural regulations applied, if the Juvenile Criminal Justice Act did not provide special regulations. In its time, this was a modern law founded on educational over repressive measures. However, this progressive law was abolished without replacement by the new Criminal Act No. 80/1950 Coll., albeit some modern elements of the law were preserved in more or less modified form in the wording of the Criminal Act – this was replaced by the new Penal Code in 2010 – and Code of Criminal Procedure of 1961.

Work on a new law separately regulating juvenile crime in the Czech¹ Republic began in 1997, and following discussion in 2002 and the deletion of two key components (the institute of protective family care and category of young adults aged

* Sdiblikova@iksp.justice.cz

1 The Czechoslovak Republic was divided into two separate states, the Czech and Slovak Republics in 1993.

from 18 to 21), the text was approved in 2003. A separate act on juvenile crime and a specialised juvenile justice system was therefore restored in the Czech Republic after more than fifty years by Act No. 218/2003 Coll., on juvenile liability for unlawful acts and the juvenile justice system, which took effect on 1 January 2004. The age of criminal liability is currently from 15 years of age, while a juvenile (adolescent) is a person under the age of eighteen. The Juvenile Justice Act applies to unlawful acts committed by children under the age of 15 and juveniles, it is a special law – however, unless stated otherwise, general legislation applies. Criminal offences committed by juveniles are called wrongdoings punishable by punitive measures.

The Juvenile Justice Act (JJA) contains a number of new elements and measures. Compared to the previously applied concept of punishing young offenders, it places greater emphasis on a preventive approach to criminal law, and one of its foundations is the concept of restorative justice. Above all, the Act aims to reform the offender (interrupt or stop his/her criminal career) and only secondarily pursues the punishment of the juvenile offender. The Act also makes considerable effort to remedy the consequences of juvenile transgression. The Juvenile Justice Act also places considerable emphasis on establishing the juvenile's situation before committing the offence, namely their family circumstances, scholastic performance and how they spend their free time. Section 55 of the cited Act even obliges criminal justice authorities „in criminal cases of juvenile accused... to clarify and demonstrate the causes of their wrongdoing and facts relevant to the assessment of their personal, family and other relationships with special care”.

2. SELECTED FINDINGS FROM THE RESEARCH

For many years, the Institute of Criminology and Social Prevention has devoted consistent attention to the issue of antisocial and asocial manifestations among the young with special emphasis on the causes and conditions of these manifestations. Given that the purpose of Act No. 218/2003 Coll. is, among other things, to apply such measures to offenders as to ensure „...he/she continues to refrain from unlawful activity...” (Section 1, paragraph 2), one empirical study examined to what extent the purpose of the JJA had been met in this respect.

A study was conducted as part of the *Trends in Registered Crime, Victims and Selected Areas of Criminal Activity* project, devoted to an analysis of recidivism among juvenile offenders in a criminal law sense. This directly followed on the previous research project *Criminal Recidivism and Recidivists*² and its outputs. However, it focused on a narrower target group, and although this group does not constitute a substantial proportion of convicted offenders (0.2% – 0.05%), it is very interesting in many respects. Whether in terms of mapping juvenile criminal careers, personal characteristics, family history, or in most of the examined cases, the futile application of all available measures to redirect problem juveniles.

2 Marešová, A. – Blatníková, Š. – Kotulan, P. – Martinková, M. – Štěchová, M. – Tamchyna, M.: Kriminální recidiva a recidivisté (Criminal Recidivism and Recidivists). <http://www.ok.cz/iksp/docs/394.pdf>

The term (criminal) recidivism is understood at several different levels – we distinguish recidivism in terms of criminal law, criminology and penology. Generally, it is most often perceived as a continuing criminal career after measures imposed by the justice system have been applied to the individual. A *recidivist designated by the court* is a criterion that appears in judicial criminal statistics. Recorded cases should be those where the court took into account that the accused had already been convicted of another crime, as an aggravating circumstance, when determining his/her punishment. It is not necessary that it was a prison sentence.

More detailed statistical data for the study was drawn from the CSLAV (Central Statistical and Reporting) database of the Ministry of Justice, which is used to compile Crime Statistics Yearbooks. The CSLAV includes statistics of recidivism from 2008.

Tab. 1: Number of convicted offenders in 2008 – 2015 according to Czech Ministry of Justice statistics

Year	2008	2009	2010	2011	2012	2013	2014	2015
convicted offenders	75,761	73,787	70,651	70,160	71,471	77,976	72,825	65,569
-of which, recidivists	7,422 9.8%	6,738 9.1%	5,211 7.4%	4,681 6.7%	4,372 6.1%	4,309 5.5%	4,602 6.3%	3,802 5.8%
-of which, juveniles	2,906 3.8%	2,718 3.7%	2,389 3.4%	2,203 3.1%	2,186 3.1%	1,983 2.5%	1,593 2.2%	1,403 2.1%
juvenile recidivists	89	111	98	72	65	34	38	45

Source: CSLAV database „Overview of lawfully convicted offenders according to the courts” (special category). Ministry of Justice CR

The proportion of women among juvenile recidivists is very low; in 2008 – 2015 there was a total of 19, i.e. slightly above 3%.

The source of information was closed criminal case files from 2012. These included files from 18 judicial districts; most regions of the Czech Republic dealt with cases of juvenile recidivists in that year – 11 of 14. A total of 48 files (74%) of 65 was requested, 41 files were analysed (63%) and information about 42 individuals was obtained. Field data was collected in November 2014. The second source was data (extracts) from the Penal Register for the offenders in these particular case files. The collected data was entered on record sheets and processed using SPSS software.

3. ANALYSIS OF CASE FILES

Information on the offender was drawn from available reports by authorities involved in the socio-legal protection of children (OSPOD) regarding the juvenile's situation, assessments from school and reports from educational/correctional facilities. This was supplemented by information, for example, from minor offence committees in the place of residence, statements from the Probation and Mediation Service, assessment from (remand) prison or expert opinions.

The sample was almost entirely dominated by male offenders, a woman appeared in only one case. All were citizens of the Czech Republic, with the sole exception of one Slovak. Juvenile recidivists most frequently fell in the age category of 17–18 (62%). Offenders were most often preparing for future careers in vocational fields and/or were allocated to occupationally educational groups at educational/correctional facilities (14 persons), had finished primary school and were unemployed (12) or were registered with the Employment Office (6). A relative rarity was a juvenile on parental leave.

Assessment by schools revealed behavioural problems, poor academic achievement, dysfunctional disorders, frequent absences, missed classes, bullying, aggression, and even sexual harassment of female teachers.

A total of 24 (57%) juveniles lived at educational/correctional facilities, whether on the basis of a court decision ordering institutional education or a decision to impose protective young offender education. Another individual stayed at an educational institution for a short while. Many juveniles – 83% – run away from these facilities, sometimes the educational/correctional institution could not even provide an assessment expressly because the „*juvenile is constantly on the run*”.

Overall, parents showed minimal interest in juveniles in educational/correctional facilities. At the other extreme, they assisted juveniles in obstructing the decision ordering institutional education or when on holidays and their return to the family environment devalued the correctional educational effect achieved.

In terms of family history, most juveniles came from larger families, most often the number of siblings ranged between 2 (12x) – 3 (11x), an only child occurred once. Conversely, the largest family had eight children, including the juvenile. In three cases, juveniles already had, or were expecting their own offspring. The parents of juveniles were often divorced (impetus for opening an OSPOD file), or were single parent families.

In two-thirds of cases, disruptive behaviour was noted in the family, the protagonists were (step) parents, siblings or other relatives. This involved, for example, child neglect, drunkenness, unemployment, domestic violence, criminal activity or even imprisonment, often more than one of these factors was present. In almost 30% of cases, both parents or the juvenile's carer(s) suffered from one or more of these burdens. This was one of the reasons that 86% of the studied individuals were in OSPOD records, either as part of a family client file, or separately.

Tab. 2a and 2b: Incidence of disruptive behaviour in the juvenile's family and its type

Disruptive behaviour in the family	frequency (N=42)	in %
incidence	26	61.9
Who:		
father	5	11.9
mother	4	9.5
both parents	11	26.2
step parents	1	2.4
siblings	2	4.8
combination	3	7.1

Disruptive behaviour in the family	frequency (N=26)	in %
What*:		
unemployment	10	38.5
child neglect	8	30.8
drunkenness	5	19.2
abuse/domestic violence	1	3.8
criminal activity	3	11.5
imprisonment	10	38.5
death/suicide in the family	2	7.7
drugs	1	3.8
gambling	1	3.8

* Factors of disruptive behaviour predominantly occurred in combination, therefore the frequency exceeds the total number of recorded incidence. The percentages show the proportion of various negative factors in the sample, where disruptive behaviour occurred

Other persons with whom they associate or who they seek out on their return/escape from the educational/correctional facility also have an adverse effect on the behaviour of juveniles. This can be constant exposure or an isolated excess.

Where information on addiction among young offenders could be found in the files, these was mostly „softer” dependencies – alcohol, tobacco, marijuana, as well as Toluene or gambling. In cases of experimentation or abuse of hard drugs (methamphetamine, heroin), criminal activity was specifically aimed at funding their purchase.

3.1. *Criminal activity*

As their so-called „main wrongdoing” – first prosecuted, most serious – juveniles unequivocally most often commit (25 cases) theft, mostly through burglaries. This is followed by obstructing the execution of an official decision and expulsion in 7 cases; the third in frequency is robbery – 4x. In the sample, there was also violation of domestic freedom (2x), disorderly conduct, assault, fraud, and violence against a group of residents and individuals. The above transgressions were often committed in parallel or combination with others. This most frequently involved theft and violation of domestic freedom, as well as theft and obstructing the execution of an official decision and expulsion, frequently accompanied by criminal damage. Assault or robbery was linked to disorderly conduct. Theft occurred frequently as a continuing offence or multiple offences, variously qualified according to the subsections and subparagraphs of Section 205 of the Criminal Code, also in the attempted stage.

Offenders were equally guilty of criminal conduct individually and in complicity – this being with other juveniles and adults.

3.2. *Imposed measures*

When determining the type of punitive measure and its duration, the court takes into account the nature and seriousness of the offence, the personal situation of the juvenile, his/her previous way of life and the possibility of his/her reform. The response to the criminal activity of individuals who are already identified as recidivists is logically stricter than in the case of first-time offenders, even if they are juveniles. In almost half the studied cases (19) an unconditional punitive measure of imprisonment was imposed ranging from three months to two years. Conditional sentences with supervision (4x), without supervision (6x) and community service (10x) were sanctions that followed in frequency. In the remaining two cases, punishment was waived in a specific case. In one fifth of cases (9x) educational measures were also imposed according to the JJA, either the supervision of a probation officer or an educational constraint to refrain from using addictive substances, or an educational obligation to pay damages or perform beneficial activity for community.

As of 1 January 2013, an extensive amnesty was announced by the President of the Czech Republic, which in some way affected 27 cases in the sample, i.e. more than 60%. This involved the pardon and expungement or mitigation of certain punitive measures.

Given proclaimed efforts for the response of society, and by extension the judiciary, to the commission of crimes (not only) by juveniles to be as quick as possible, the length of criminal proceedings was examined in the studied group – from the commission of the offence to the legal effect of the decision, whether judgment, simplified judgment or criminal order. In almost half the cases, this process was completed within one year, in 16 cases proceedings were completed by the court of first instance within six months, in two cases within three months. In contrast, four cases stretched for two years. However, this cannot be generalised as it is necessary to take into account more complex cases, the need for expert opinions, problems with delivery, etc.

The institute of detention should only be used in criminal proceedings in extreme cases, and especially for young offenders as a last resort. Nevertheless, due to the gravity or frequency of criminal activity, one quarter of juvenile recidivists were remanded in custody for a period of one month to 5.5 months, in the form of preventive custody or due to a flight risk. Four juveniles were prosecuted for another offence while in prison for a previous crime.

4. PENAL REGISTER

Extracts from the Penal Register provide a comprehensive overview of information about the criminal career of a specific person – they record what offence was committed, what punishment was imposed, including its duration, the length of the probationary period, whether probation proved successful or whether there was a conversion into the prison sentence, the type of prison in which an unconditional sentence is to be served, as well as how, when and where the decision was made, when the decision became effective, whether the subject was eligible for amnesty, etc.

For the studied group of juvenile offenders – recidivists designated by the court – the number of records in the Penal Register ranged from 2 to 14, which was the number of records up to the request for an extract, i.e. including the period after the offence in analysed files. The first wrongdoing was committed by those studied either between the age of 15 and 16 (17 cases) or between 16 and 17 (18 cases). The first prosecuted „major” offence by juvenile recidivists was most often theft (in 24 cases). In five cases, juveniles started their criminal careers with robbery, and four times they obstructed the execution of an official decision and expulsion, predominantly in relation to an escape from educational/correctional facilities. Other „start-up” offences were violations of domestic freedom (3x), unauthorised use of another’s property (2x), assault, fraud, hoax, criminal damage, disorderly conduct, and criminalised, then subsequently decriminalised driving a motor vehicle without a driving licence.

In half the cases, a second conviction followed within six months or one year, which corresponds to theories of the risk period for recidivism. Juvenile offenders are guilty of general and generic recidivism, though special recidivism prevails, i.e. a specific offence. These are overwhelmingly thefts, robberies in several cases, however, a case of purely special recidivism in obstructing the execution of an official

decision and expulsion was also recorded. Juveniles also commit criminal offences in the probationary period of suspended sentences.

Half the juvenile recidivists in the sample were not yet in custody. In the other half, the number of unconditional punitive measures of imprisonment ranged from 1 to 12, which is worth noting in terms of the „utilisation” of the three year period between 15 and 18 years of age of the offender.

4.1. *Punitive measures*

The first punishment used for juvenile offenders in the vast majority of cases was alternative punishment – mostly a simple suspended sentence. This punitive measure was applied as primary in 25 cases (60%). The duration ranged from one month to 18 months, however, two-, three- and six-month sentences were the most common. The probationary period was set from one to four years. This was followed by community service (8x) ranging from 30 to 110 hours, where the maximum sentence for juvenile offenders is 150 hours by law. Punishment was (conditionally) waived in four cases. The court imposed the unconditional punitive measure of imprisonment in one case involving a four-month sentence for multiple transgressions. In two cases protective measures were ordered separately – protective young offender education.

5. CONCLUSION

Perhaps the image of a typical juvenile delinquent – recidivist represents a certain cliché, but the outputs of research on this particular sample confirm these perceptions.

- The offender is a male, a Czech citizen, mostly aged between 17 and 18, usually comes from an underprivileged family in which a number of burdens were identified, and has more than one sibling.
- The juvenile has a whole range of problems at school and often precedes otherwise criminal activity at a time when he/she is not criminally liable, and commits misdemeanours.
- The juvenile offender is placed in an educational/correctional facility on a court decision, but often runs away from the institution and commits crimes during this time.
- The offender is monitored or recommended for psychiatric assessment, care or hospitalisation, e.g. due to increased or difficult to manage aggression, behavioural disorders, addiction, self-harm etc.
- The juvenile does not work, has no education, but has a consumer way of life
- The predominant type of property crime – theft – reflects the trend in crime, not only among juveniles. The main aim of perpetrators is to obtain material benefit.

Unquestionably the influence of family history is confirmed, therefore it is essential to emphasise the work of OSPOD³ and collaboration with the judiciary. However, in many cases, all possible interventions in the education of a problematic child/juvenile have been exhausted, e.g. the realisation of an educational interview, examination in an educational and psychological counselling centre, group or individual therapy, residential treatment in a psychiatric hospital, supervision, (temporary) placement in an educational care centre, transfer and relocation to different educational/correctional facilities.

The criminal career of the studied group of juvenile offenders is fully developed and once again it is essential to emphasise the alarming fact that we are talking about individuals who have not yet attained 18 years of age.

Simona Diblíková

Institut za kriminologiju i socijalnu prevenciju, Prag

MALOLETNICI-POVRATNICI U ČEŠKOJ REPUBLICI

REZIME

Češka Republika je 2004. god. dobila izuzetno moderan i kvalitetan Zakon o maloletničkom pravosuđu, koji predviđa materijalnopravna pravila i pravila postupka prema maloletnim učiniocima krivičnih dela, kao i o postupanju sa licima mlađim od 15 godina (deca) koja ostvare obeležja nekog krivičnog dela. Osnovna intencija zakonodavca je bila da se predviđenim merama postigne uticaj na učinioaca da ubuduće ne vrši krivična dela. Mere koje zakon predviđa iako edukativnog, protektivnog, pa i prinudnog karaktera ipak ne deluju preventivno (odvrćajuće) u odnosu na malu grupu koja konstantno ponavlja kriminalnu aktivnost. Studija Instituta za kriminologiju i socijalnu prevenciju koja je posvećena maloletnim povratnicima bazirana je na ličnim karakteristikama učinilaca, posebno prilikama u njihovim porodicama, školi i proceni institucionalnog prihvata i tretmana ovih lica. Analizirana je i kriminalna karijera učinilaca, na osnovu izvoda iz kaznene evidencije. Naročito je ukazano na izrečene mere koje treba da ostvare ciljeve i principe tretiranja maloletnih učinilaca, gde jasno dolazi do izražaja tendencija primene strožih mera samo prema učiniocima težih delikata i onima koji ponavljaju kriminalno ponašanje. Studija je pokazala da su retki slučajevi kada institucionalni edukativni tretman ili druge alternativne mere zaista ostvaruju svoju svrhu. Iako uzorak ispitanih slučajeva krivičnih dela maloletnih učinilaca nije reprezentativan (samo 0.2% – 0.05% od ukupnog broja učinilaca osuđenih u toku jedne godine) nedvosmisleno je pokazano da je u odnosu na analiziranu grupu učinilaca, uprkos uzrastu, u potpunosti došlo do razvoja njihove kriminalne karijere.

Ključne reči: povrat, maloletnik, kriminalna karijera, maloletničko pravosuđe.

3 See Hungary: „A study by Herzog, Gyurko in 2006 reported that 75% of delinquent children and adolescents were found in OSPOD records. Unfortunately, cooperation between the social welfare system and the judiciary is low or non-existent.” Presentation by A. Lux, M. Herzog at a conference to mark 25 years from the adoption of the Convention on the Rights of the Child, Leiden, The Netherlands, November 2014.