

# CONSIDERATIONS ON YOUNG PRISONERS – BETWEEN SOCIAL REINTEGRATION AND RECIDIVISM

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## Abstract

*The article presents some consideration on the efficiency of the social reintegration policies of young detainees, as part of the multidimensional evaluation process. Even though there have been elaborated policies for reducing the causes which generate criminality and relapse, their efficiency has not been evaluated until now, the only mean through which this has been done being the statistical one. Contrary to the expectancies, statistically, the relapse rate of Romania is constant in recent years. In the analysis, recidivists and non-recidivists" convicts aged from 16 to 29 who fit the NEET criteria (Not in Education, Employment or Training) have been taken into account. The article highlights the social problems encountered by those who have gone through imprisonment and those who have benefited from social services and social reintegration programmes ran in the penitentiary and from post-incarceration services. The conclusion is that Romania has the means of reducing the relapse, but they are not well enough lawfully integrated in a coherent and constant process.*

**Keywords:** *youth, social reintegration policies, criminality, recidivism.*

## 1. Introduction

Crime and increasing the recidivism rate in particular, are one of the most acute problems of the 21st century. With the evolution of society (economic, cultural, industrial, technological, etc.) and with the positive effects transposed in terms of progress, inevitably appear the negative effects, among which are the increase of crime, the decrease of the security degree of citizens, the decrease of the authority of social control institutions, the appearance of a subculture of crime. Even though there have been developing policies to reducing the causes which generate crime and recidivism, their efficiency has not been evaluated until now, the only mean through which this is the statistical one. Contrary to

the expectancies, statistically, the relapse rate of Romania is constant in recent years.

There is recidivism when, after the final Coupled with the statistical situation of age related crimes, it is noted that currently, in the custody of the penitentiary system:

- 1,07% are minors aged between 14 to 18 (236 minors, being 17 less now than in 2019);
- 3,44% are young people aged between 18 to 21 (759 young people, 90 less than in 2019) – according to the age delimitation from the low on the execution of sentence no.. 254/2013<sup>1</sup>;
- 23,61% are adults aged between 21 and 30 (5198 inmates, compared to 5515 in the custody of the penitentiary system in 2019);
- 32,82% are adults aged between 31 and 40 (7224 detainees, increasing by 588 compared to 2019).

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<sup>1</sup> According to the art. 42, Law no. 254/2013, "young people are convicted persons under the age of 21".

Linking the state of recidivism with present ages, it is inferred that the share of recidivists is found among people aged in the two groups: 21-30 years old and 31-40 years old. Thus, the probability of producing the first deed was at a young age, as defined in the Law no. 350/2006 – Youth Law, art. 2.

Taking into account only the statistical data, it appears that the young people we refer to (18-29 years old), they once again lived the experience of incarceration and the same time they also benefited from the social services, from the educational programs and approaches of social reintegration carried out in the penitentiary and from the services specific to the post-detention period. The reality that these young people have relapsed in an increased percentage, raises issues of reflection on the effectiveness of strategies and policies for the social reintegration of detainees, making it necessary to critically analyze and rethink policies.

The research was limited to this age group not only from the perspective of its importance as a category for the future of any society, but also, because from a legal point of view, with the implementation of the new Criminal Code in 2012, legal frameworks of same facts have changed and the research would no longer be relevant.

Additionally, it was taken into account, as a reference to the current situation - the year 2019, when the law of the compensatory appeal (how is known in public space)<sup>2</sup> was abrogated by Law no. 240/2019, because the effects it produced in the period 2017-2019 are still felt today. decision of a sentence of imprisonment of more than one year and until rehabilitation or the fulfillment of the rehabilitation term, the convict again commits an intentional or

outdated offence, for which the law provides for imprisonment of one year or more.

Society's perception over the phenomenon of recidivism is an indicator of the failure of the justice system, which endangers security and public order. Studies have shown that the onset of delinquency occurs, in most cases, in early adolescence.

According to the statistical data provided by the database of the National Administration of Penitentiaries, the structure of detainees by to the criminal category, is as follows: of the 22,010 detainees (increasing by 6,06% compared to 2019):

- 37,75% are recidivists (slightly lower by 1,2% compared to 2019) and
- 27,05% non-recidivists with a criminal record (increasing by 2,2% compared to 2019).

In the Criminal Code, crimes during the period of the minor are not considered as recidivism. In this way, about the 27,05% non-recidivists with a criminal record can be considered to have committed crimes during the period of the minor or deeds for which they received the suspension of the sentence and supervision.

In this context, it was initiated a specific analyze within the Project co-funded from Human Capital Operational Program 2014-2020, POCU/380/6/13/125031 - "Support for doctoral candidates and post-doctoral researchers: *DECIDE - Development through entrepreneurial education and innovative doctoral and post-doctoral research*".

<sup>2</sup> Law no. 169/2017 - law of the compensatory appeal, for the amending and completion of Law no. 254/2013 regarding the enforcement of punishments and freedom-privative measures laid out by judiciary bodies during the criminal cause.

## 2. Content

According to the art. 3, Law no. 254/2013 "(1) The purpose of the execution of sentences and educational measures constraining liberty is to prevent the appearance of new crimes.(2) The execution of sentences and educational measures depriving of liberty is aimed at forming a correct attitude towards the rule of law, towards the rules of social coexistence and towards work, in order to reintegrate detainees or interned persons into society<sup>3</sup>".

Preparation for the release of detainee begins on the first day of detention. Therefore, the chances of its inclusion in society depend on the quality of social reintegration services provided in the prison.

In the specialized literature, the phrase social reintegration means restoring the person to a state of functional balance before conviction<sup>4</sup>.

If we take into account the factors that generate crime:

- poverty,
- low level of education,
- lack of a qualification and a job,
- lack of shelter,
- the entourage,
- genetic factors, etc<sup>5</sup>,

*the social reintegration* of the detainee in the pre-detention environmental condition is not exactly optimal, but will be used by virtue of generalizing its meaning and assimilating it with the process of social inclusion, which "represents the set of multidimensional measures and actions in the fields of social protection, employment, housing, education, health, information-

communication, mobility, security, justice and culture, aimed at combating social exclusion and ensuring the active participation of people in all economic aspects, social, cultural and political aspects of society". The social and criminal approaches and policies that are carried out with the detainees in detention to achieve this goal, were set out in the diary of the previous edition of the conference. However, although Romania has made progress in involving all parties responsible for reducing crime, few successful stories have been reported.

For example, the keystone was in the period 2017-2019, when, following Law no. 169/2017, the prison population reached unique negative levels in history. Thus, if in 2013 the number of detainees was 33,424, in 2019 there were months when their number was 18,900 detainees. The decrease in the number of detainees is not directly correlated with the decrease in the number of crimes and the reduction of crime.

According to Law no. 169/2017, it is stated that when calculating the executed punishment, regardless of the regime of executing the punishment, it should be taken into consideration, as a compensatory measure, the execution of punishment in improper conditions, a case in which, for every 30 days of detention in improper conditions, even if these are not consecutive days, 6 more days are added and considered executed.

Releases from prison as a form of compensation for poor detention have generated much controversy, including from human rights organizations: "Both full-term

<sup>3</sup> Law no. 254/19.07.2013 on the execution of penalties and the custodial measures ordered by judicial bodies during the criminal trial, Official Gazette of Romania no. 514/14.08.2013.

<sup>4</sup> According Social Assistance Law no. 292/2011, art. 6, alin dd), the *process of social integration* represents the interaction between the individual or group and the social environment, through which a functional balance of parties is achieved.

<sup>5</sup> C. Dâmboceanu, "Fenomenul recidivei în România". Calitatea vieții, XXII, nr. 3, București 2011, p. 295-312.

*release, much too hasty as a result of the enforcement of the compensatory appellate law, and the conditional release of convicts who had not proven themselves rehabilitated or ready to be reinserted, an excess stimulated by the lack of sufficient detention space, do nothing but encourage the criminal phenomenon. The availability of this release option induces the idea that offenders might easily escape after committing a crime, no matter how serious the crime may be. Thus, they end up committing new crimes, in fact more and more serious crimes, having more new victims as a result of these crimes, and finally, returning to prison after their much sooner release, without the chance to be fully rehabilitated and socially reinserted. Accordingly, it is quite likely that prisons will be overcrowded as a direct result of hasty early release".*

By applying Law no 169/2017, there were many situations in which detainees were released prematurely, without having achieved the objectives set at the beginning of the sentence. These objectives were specifically focused on the process of re-education, change and building new values. Thus, they did not have the necessary resources for integration into society. In this case, we are talking about integration into a society in which each individual complies with the rules and contributes to collective well-being through his actions.

According to the enforcement law, each detainee is assessed during detention, in order to identify intervention needs and vulnerabilities. Depending on the results obtained, an individualized plan of measures shall be drawn up.

These are prioritized according to risk, in the three areas: educational, psychological and social domain. The steps are staggered in time, throughout the

execution of the sentence. In this way, if the detainee goes through all the steps in the years he spends in the prison, it is assumed that at the end of the sentence, the risks of recidivism are diminished.

So, from the 14,000 inmates who benefited from early release based on the enforcement of this law, more than 900 of them returned behind bars for committing serious violent offences - murders, rapes and robberies, in the same period: 2018-2019.

The vicious circle appears: no completed studies, no qualifications, no prospect of a job that will ensure a decent living, without developed skills and abilities, without a work education (discipline), stigmatized by society, sometimes without a family or its support, the only chance for released prisoner is to return to the environment in which he started his criminal career and obtained material benefits easily.

An analysis of the educational level of inmates revealed serious problems<sup>6</sup>:

- 3,49% have completed higher education studies;
- 0,64% have post highschool;
- 8,62% have attended highschool (9-12 school years);
- 10,44% have a qualification in a profession (92,1% of them being in the age group 30-60 years, so that only 7,9% of detainees under 30 years old have a qualification);
- 62,66% of them did not have a job upon arrest, while only 22% were involved in different domains of activity.

Some young detainees allege that they did not work during their detention, although they wanted to do it.

According to the enforcement law, "work" in the penitentiary is a right, not an obligation. Being a right that they can access or not, the specialists show that statistically, over 50% of detainees eligible to work in

<sup>6</sup> Statistical situation at 01.03.2021, effectively detainee: 22,010.

prison, refuse, understanding that legally, they have the right to accept or not this activity. Thus, those who are individualized in the maximum safety or closed regime, where the freedom of movement/exit from the rooms is restricted, appreciate work as a way to overcome these limits. When they reach semi-open or open regimes, where freedom of movement is increased, interest in work decreases in direct proportion. They consider it degrading to work, follow a schedule and have discipline in this regard and claim that they have never done so before. From this point we can talk about the "subculture" of prison, about models, values and interests that are specific to this environment.

As a benchmark for understanding the perpetuated stances through patterns of detainees, we show that:

- 59,68% did not complete the gymnasium cycle, being in the I-VIII classes segment (out of the 13151 detainees in this situation, 4323 are under 30 years old, representing 72,57% of the young detainees);
- 6,74% are illiterate.

The statistical radiograph shows the low interest of young people in school and qualifications, sine-qua-non conditions in accessing a satisfactory job and increasing employment opportunities.

35% of those released prematurely under Law 169/2017, were enrolled in penitentiary school (primary and secondary school) but did not finish. Studies on samples of detainees show that those who had the highest chances of re-integration into society are those who benefited from social capital: family, friends, well-meaning people, who offered them support and employment, work.

On the other hand<sup>7</sup>, specialists highlighted the difficulties that young liberated people face: stigmatization (society was not prepared to repress them and give them "*a second chance*"), low education level, disinterest, background, lack of material resources necessary for subsistence until the moment of employment, the lack of a domicile and the necessary documents for the employment file.

The specialist said that the chances of re-integration increase if: the detainee has a qualification, wants to change himself, has the capacity for self-control, has a middle age, is physically and mentally healthy, maintains contact with the family, is not recidivist, has a previous work experience, worked in detention and has a permanent residence.

In this context, the chances of reintegration are difficult to predict.

One of the most recent directions of analysis of recidivism is that of "the criminal career" that begins in youth, develops and consolidates in detention and provides a dynamic picture of an individual's criminal activity by analyzing its trajectories, frequency, duration, stability over time and, finally, its cessation. Also in this context, it is talking about "*self-fulfilling prophecy*" who is a concept in the social sciences, which defines the situation in which someone expects, based on a hypothesis or an intuition, an event, usually negative, changes their behaviour depending on his/her beliefs, the result is that the "prophecy" is fulfilled. Thus, if the detainee does not believe in the possibility of reintegration into society, this will happen, regardless of the favorable context that would be created.

<sup>7</sup> Țica, Gabriel, "Recidivism și excluziune socială", Editura Universității din Oradea, Oradea, 2016, p. 201-204.

### 3. Conclusions

In fact, the reality is that it is not known exactly who are those offenders which will relapse and what are the factors that cause them to repeatedly deviate from the law.

In the prison system, a tool to assess the risk of recidivism of detainees has been implemented, but in present it is not relevant for making decision on psychological, educational and social interventions or for conditional release.

The minimum package of social reintegration programs held in prisons for periods of 3-6 months" maximum and does not ensure person-centered intervention and change.

Another aspect that raises issues in addition to the duration of intervention, is related to the moment when the detainee is included in the program. Thus, if the detainee has to execute a sentence of 7 years for rape and in the first year is included in the program for sex offenders (which has 24 sessions – 6 months), by the end of the 7 years, it loses its efficiency.

On the other hand, the detainees claim that the social reintegration programs don't help them at all, the only reason they participate is to get credits, rewards and early release, the motivation being extrinsic.

In conditional release commissions, the detainee's presence at these programs and activities is taken into account, but the progress he has made as a result of his participation is not evaluated. One of the questions that should be asked would be "what change has occurred since the program?"

Released, in most cases, the detainee has the same problems as before imprisonment, but exacerbated, with a network of friends formed in the prison and, eventually, with consolidated skills and knowledge for practicing new crimes.

The lack of unified database for institutions, in which these elements are centralized, is the main obstacle in achieving an overview of individuals, predicting the risk of recidivism and assessing the effectiveness of how criminal and social policies respond to crime.

Given the above elements and statistical data on juvenile delinquency, we can appreciate that the purpose of the execution of the prison sentence is only partially achieved: preventing new crimes (during detention). The achievement a correct attitude towards law and order and social reintegration of ex-offenders remains a goal.

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