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Introduction

For the second successive year, the Institute for Criminology and Social Prevention (ICSP) is submitting to the expert public a survey of the results of its research activity for 2003-2004 (the previous survey issued in 2003 contained the results of the Institute's activities for the years 1999 to 2002).

The ICSP has existed since 1960 as a criminological institute with interdisciplinary focus. It is chiefly active in researching the phenomena and causes of crime and related socio-pathological aspects. In the forefront of its interest are matters of penal and security policy and the control of crime with regard to penal repression and prevention. To a certain extent, the Institute is also involved in the issue of dealing with offenders and other penological questions.

The Institute is a departmental office of the Ministry of Justice of the Czech Republic, and as such also performs study, analytical and research activity in the field of law and the judiciary. The chief beneficiaries of outputs from ICSP activity are therefore organisations and institutions from the justice department (the Czech Ministry of Justice, judicial bodies, the Prison Service, the Czech Ministry of Justice's Recodification Commission, the Probation and Mediation Service). Other users include the inter-departmental Republic Committee for Prevention, the Ministry of the Interior, of which chiefly the Czech Police bodies and services, the Ministries of Labour and Social Affairs and Education, the Government Council for Roma Community Issues, the Government Council for the Coordination of Anti-Drug Policy, colleges and universities as part of teaching and others.

The ICSP is involved in international cooperation, helps to compile documentation for information and reports on the development of crime and penal policy required from the Czech Republic by EU and Council of Europe bodies.

The Institute has 25 scientific and research positions, while other areas of activity comprise a department for research, information and documentation services, including the library, the finance department and essential administration. The results of the Institute's research work are regularly published in the ICSP edition (in Czech with English summaries). In 2004, the Institute published 14 papers in its edition, while 40 contributions from ICSP staff were published in professional periodicals, volumes etc, including foreign publications.

The ICSP's research activity in 2002-2004, which is covered in this volume, generally focused on the possibility of the more effective enforcement of the law, on trends and forms of crime and social pathology in the Czech Republic, and on the possibility of their control. In this respect, a number of specific research projects were held, the results of which we present in more detail in this publication in the English language version. In so doing, the ICSP is seeking to broaden international access to the results of its expert and research activities.

Editors

Prague, February 2005

Organised crime in the Czech Republic III¹

2000 – 2003

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At the beginning of the 21st century, organised crime represents one of the greatest security risks for today's world. Not only is it detrimental in that it sometimes directly threatens ordinary citizens, but the greatest threat it poses is to the entire social system, both the public and the private sector. It undermines the authority of state institutions, introduces illegal practices into the economy, and implants pathological effects in people's lives. In today's global world supranational organised crime threatens the entire human race.

The international community, in particular the United Nations (UN), the Council of Europe (CoE), and the European Union (EU), has initiated a number of counter-measures. These organisations are also coordinating national initiatives in individual countries. The reason is that crimes such as money laundering, corruption, human trafficking, arms smuggling, and the drugs trade represent serious problems. These problems are intensified by the globalisation process and the use of modern technology. Organised groups grow stronger and have a transnational character. All this then requires transnational solutions. A whole series of international initiatives is being brought to bear in the fight against organised crime. The UN has approved a convention against illegal drug trafficking (the Vienna Convention of 1988), and attempts have been made to adopt a convention against terrorism. In 1994 a world ministerial conference on effective measures against organised crime was held in Naples. This gave rise to the Global Action Plan against Organised Transnational Crime. In 1996 work was started on preparing a Convention against Transnational Organised Crime. The UN General Assembly approved this Convention on 15 November 2000. This was followed by a conference in Palermo, where the Convention was signed by 120 UN member states. By the end of 2002 it had been signed by a total of 147 countries. (The Czech Republic signed the Convention and its two protocols at the ceremony in Palermo, but they have not yet been ratified.)

The UN has prepared a number of other documents that deal with selected specific organised crime activities. These include the UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (1988), the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (1990), and the Convention on Combating Bribery of Foreign Public Officials in

¹ Cejp, M., Baloun, V., Karabec, Z., Marešová, A., Scheinost, M., Trávníčková, I., Trdlicová, K. Organizovaný zločin v České republice. Praha : IKSP, 177 stran.

International Business Transactions (1997). (These UN conventions have all been signed and ratified by the Czech Republic.)

The countries of Europe play their part in the activities of the UN. In addition, they also develop their own initiatives. In 1990 the ministers of justice of the CoE member countries adopted the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime. At the 21st conference of the European ministers of justice, which took place in Prague in 1997, the recommendation was made that an International Convention against Corruption be drawn up. This Convention came into force for the Czech Republic on 1 July 2002. In 1988 the EU prepared a common approach against involvement in criminal organisations. Tasks relating to organised crime were specified for EU member states and for countries who were planning to join the EU in the Pre-Accession Pact on Organised Crime. The pact was approved on 28 May 1998. One of the most recent initiatives for the time being was a conference held in Dublin towards the end of 2003, at which agreement was reached on cooperation between the public and private sectors in the fight against organised crime.

Before 1989 organised crime was not registered on the territory of the Czech Republic in a developed form. After 1990 it certainly appeared: it has been recorded by the police and since 1993 by criminological research, journalists have devoted considerable attention to it, and evidently as a consequence the public, too, has become concerned. It has to be said that at the beginning politicians underestimated the danger posed by organised crime. A change in their attitude only began to take place in the mid-1990s as a result of the activities of the international community. Politicians and state agencies started to regard organised crime as a dangerous phenomenon and started to undertake specific steps against it. In 1996 the need to fight against organised crime was explicitly mentioned in the government manifesto. Subsequent to this a government strategy was adopted which included a wide range of legislative and administrative measures and in which the importance of criminological research was repeatedly mentioned. It was stressed that in order to prepare appropriate measures a comprehensive analysis of the state of organised crime and trends within it must be available. A coordinating role was entrusted to the Security Council of the Czech Republic. This coordination consisted not only in linking up Czech forces, but in particular in tasks arising out of the country's international obligations towards the CoE, the EU, and the UN. In connection with this, a number of special sections of the Police Force of the Czech Republic were established. On 1 January 1994 the Police Service for Uncovering Corruption and Serious Economic Crime (Czech acronym SPOK) was set up. On 1 January 1995 the Section for Uncovering Organised Crime (ÚOOZ) commenced operations. One of its subsections was the National Anti-Drugs Central Office, which was made an independent section in 2001. On 1 January 1995 a special section aimed at investigating organised crime was created within the Office for Investigation of the Czech Republic. Also connected with the organised crime issue is the activity of the International Anti-drugs Commission, which operated in 1993-1994 under the control of the Ministry of the Interior, and which has functioned since 1 January

1996 as a direct advisory body to the government. In 1996 a Financial Analysis Section was set up at the Ministry of Finance to deal with unusual financial operations.

An amendment to the Law on the Police Force of the Czech Republic in 2002 introduced several important changes to the organisational structure of the Force. The previously autonomous Offices for Investigation were incorporated into the newly created Service of Criminal Police and Investigation. The Section for Uncovering Organised Crime and the National Anti-Drugs Central Office were also integrated into this Service. In 2002 the Section for Uncovering Corruption and Financial Crime also became part of the Service. After 2000 special departments for serious economic crime were created at the level of the Supreme Public Prosecutor's Office and the High Public Prosecutor's Office. An important role is played by the Czech Security Information Service, which deals with organised crime from the viewpoint of the security interests of the country. The Financial Analysis Section of the Ministry of Finance monitors unusual financial operations. The Customs Service cooperates, in particular, in the fight against smuggling, including drug smuggling.

In line with the policy of the international community, important legislative changes have been introduced in the Czech Republic since 1995. In 1995, for example, the new crime of complicity in a criminal conspiracy was added to the Criminal Code, and provisions on effective repentance, backed up by immunity from prosecution for undercover agents, and the concept of anonymous witnesses were introduced. In 1995 the government of the Czech Republic signed the CoE Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime. An amendment to the law on the Police Force of the Czech Republic extended the possibilities of using special detection methods including the use of undercover agents and the feigned transfer of items. In 2001 a law on the protection of witnesses was adopted.

In applying these legal provisions, we encountered a number of problems. It has proved to be difficult to demonstrate the existence of a „criminal conspiracy”, the possibility of confiscating profits has turned out to be limited (attempts to resolve this problem have only started in 2004), and the use of undercover agents has also presented difficulties, especially as regards the extent of their authorisation. There are also flaws in the concept of anonymous witnesses. On the basis of these experiences, it will be necessary to introduce further amendments. It is planned that this will take place as part of the planned recodification of the Criminal Code.

One of the most important elements in policies directed against organised crime is criminological research. Since organised crime has a largely international character, this research is also based on international cooperation. Individual countries map out the situation on their territory and the data are compared on the European level, and eventually on the world level. In this way it is possible to

ascertain which features are general and which are specific to particular countries or groups of countries.

Systematic research activity has been taking place in the Czech Republic, too, since 1993. It is carried out almost exclusively by the Institute for Criminology and Social Prevention. Since 1993 a number of publications have been issued on both general and specific aspects. The Institute has held two international seminars on the theme of organised crime and the results have been presented at conferences both in the Czech Republic and abroad. Staff from the Institute have been involved in the work of the Group of Specialists on Criminal Law and Criminological Aspects of Organised Crime attached to the CoE, have provided data for UN expert enquiries, and have taken part in negotiations on the EU Pre-Accession Pact in Brussels and on the text of the UN Convention.

In a concluding report we present the results of the third stage of this research, carried out in 2000-2003. In this stage we concentrated on monitoring the basic indicators relating to the structures of groups and their activities. We analysed in more detail some of the most common activities in the Czech Republic: drugs, trafficking with women, the theft of motor vehicles, and economic and financial crime. We covered several themes that are common to all these areas: the use of violence, and the movement of funds within the group, within the criminal world, and between the criminal and non-criminal worlds. Last but not least, we evaluated the effectiveness of legal instruments against organised crime, compared Czech legal norms with those in other countries, and proposed some changes.

In researching organised crime we cannot make use of the full range of research methods. This is a milieu which is inaccessible in terms of direct information and so we are to a large extent dependent on indirect information. In the Czech setting the situation is further complicated by the fact that up until 1998 no cases of complicity in a criminal conspiracy were recorded under § 163 a) of the Criminal Code. The number of people prosecuted and charged with this crime after this could be numbered in dozens, and by 2002 the figure was approaching 100, but the only ones to be convicted were one person in 1999 and two in 2001.

In analysing some specific organised crime activities we tried to base ourselves on concrete cases that had been closed, relating to violence, trafficking with women, and car theft. So far as violent crime went, in particular, we made use of 32 cases relating to the crimes of murder and extortion, which is quite a reasonable number. Even here, however, we were only able to obtain additional data to flesh out hypothetically expressed model situations, but we were unable to get a total picture. We knew too little of the overall reality for that.

The statistics were subject to similar limitations. If only a very small proportion of cases is recorded, we must be aware of this considerable limitation to our knowledge when interpreting the statistical data. Nevertheless, we were able to acquire some partial data on specific activities from the Police Headquarters of the

Czech Republic and on „realisation" from the Section for Uncovering Organised Crime, and we made use of these sources. In terms of documents we were also able to use official analyses, in particular the report on the security situation. A further valuable source of information are the proceedings of the international conferences and the summary data of the CoE, the EU and the UN. In assessing the effectiveness of legal instruments we made use of comparison with other countries and with the aims of international organisations. To some extent it was possible to use information from studies dealing with the analysis of and predictions for developments in society. Some results of public opinion surveys could also be used. (For example, from surveys of victims of crime it is possible to obtain a picture of latent crime.)

Although we are aware of certain limitations on expert investigations, a large part of our research activity (about half of it) concentrated on expert reports. We worked on the assumption that people who come into direct contact with organised crime as part of their work can provide us, through their own experience, with facts that are inaccessible for us. They can also give general information acquired from documents to which we, as researchers, do not have access. In the third stage of our research into organised crime we worked together with several teams of experts. By using a questionnaire for experts we obtained information about the structures of criminal organisations and their activities. (The number of experts consulted was around 25-30.) We have been monitoring these data regularly since 1993 and so are able to identify trends. We can thus observe changes or forecast possible future developments. For specific forms of organised crime activity we set up small groups of experts, in which direct discussions took place. This approach is more advantageous in that it is possible to direct the course of the discussions and pay more attention to details and to the justification and development of the opinions given, which is not possible with an anonymous written questionnaire circulated among a larger group of experts. We are aware that expert investigations only provide estimates and express opinions, which can have a fairly subjective motivation. Although this subjective element can be eliminated by taking the opinions of 20-30 experts, we do not present these opinions as reality, but simply as an estimate of reality. (Incidentally, the corruption index drawn up by Transparency International is also an estimate, and international expert investigations are likewise based on estimates.) At the same time we want as far as possible to combine estimates with concrete, irrefutable facts. But as we only have a mere fraction of the facts available, we cannot pretend that this fraction represents the entire picture.

Part of the methodological approach is to delimit organised crime and determine its relationship to other forms of crime that have some similar features. Both in the initial study in 1992 and in working on this third stage of the study, we took into account how organised crime has been and is defined by criminologists in other countries and in the official documents published by international bodies.

The criminological and legal definitions of organised crime have developed since 1992, when we started to examine the issue. However, a combination of two

approaches has always been used. Organised crime has been delimited, on the one hand by certain characteristic features of the criminal (or security) activities perpetrated, and on the other by certain characteristic features of the group or organisation carrying out these activities. The activities can be broken down into basic (profit-making) activities; security and concealment; and activities aimed at legalising the income from the criminal activities. From a qualitative point of view, repeated, systematic crime of a serious nature must be involved. In terms of the structure of the group, the following features should be evident: a division of roles, a certain hierarchy (in the more developed form on three levels, with the top level not being involved in the criminal acts themselves in any way), and an authoritarian way of running the group with carefully defined norms for behaviour backed up by the use of sanctions.

For the third stage of our study we have drawn up this working definition: organised crime is the repeated and systematic perpetration of deliberately targeted, coordinated, serious criminal acts (and activities supporting these acts), carried out by criminal groups or organisations (mostly with a vertical organisational structure on several levels), whose principal objective is to obtain the maximum illegal profit while minimising the risk (achieved through contacts with the decision-making structures in society).

While this task was being carried out, a certain shift in the international context occurred. The UN Convention effectively expanded the characteristics of organised crime to include all serious crimes perpetrated in an organised group. In this way it extended the possibilities for including in the domain of organised crime units with a less structured organisation. In extreme cases it would be possible to include loose networks of individuals, provided their activities were organised and provided serious crime was involved. A certain freedom in this respect also came with the conference held in Dublin in 2003. The declaration issued by this conference went so far as not to include a definition of organised crime in the preamble, on the grounds that an exact definition could be limiting and could give a signal to organised criminal groups as to where the civilised world drew the dividing line.

The question of what organised crime has in common with other forms of crime and in what ways it differs is a complicated one. Here, too, we have noted a substantial development. For example, organised crime and economic crime are both systematic, serious, organised criminal activity, which cause substantial financial harm and damage the social system. So far as the differences are concerned, we can accept one of the conclusions of our report, where the difference is seen in the fact that organised crime penetrates the economic system in order to expand the supply of illegal goods and services. By contrast, economic crime affects the economic system of the customer and is merely parasitic, but does not offer any goods or services.

Organised crime has a number of points of contact with and similar features to terrorism. The essential difference is that the basic motive for organised crime is to obtain the maximum profit with the minimum risk, whereas for terrorism the primary motive lies in ideological or political causes. Terrorism needs to make money as a means to attain its ideological and political ends, while for organised crime making money is the primary end in itself. For organised crime violence is a means, for terrorism it is an end. Organised crime tries to proceed in secret, terrorism usually seeks publicity. Organised crime seeks to take advantage of the existing social system, terrorism seeks to destroy it. A whole series of very different characteristics has not prevented organised crime from joining forces with terrorism at times. In view of the fact that organised crime does not want to operate openly, and publicised violence would tend rather to reduce its profits, it seems unlikely that attempts to ally itself with terrorism will be of a permanent nature. It is more probable that terrorism will make use of organised crime practices in order to gain funds for its main activities. It can acquire funds, for example, by distributing drugs, selling arms, human trafficking, etc.

When distinguishing organised crime from other groups in terms of structure it is important to keep separate, in particular, those groups that are admittedly organised but whose activity is not based on the systematic supply of illegal services, that do have a division of tasks but are not organised in a hierarchical way, and whose activity is not very sophisticated, and takes place on an ad hoc basis and is not limited to a certain territory. It is often quite difficult to distinguish these groups and in practice groups with a lower degree of organisation are sometimes included in the sphere of organised crime. (For example, the Section for Uncovering Organised Crime devotes quite a lot of attention to them.) In the same way, gangs can be considered to be a somewhat lower form of organised crime.

According to expert estimates there are some 50 to 70 groups of organised criminals operating on the territory of the Czech Republic. Altogether they have about 2000 members. Slightly more than one third of them are fully developed groups with a hierarchical structure on three levels, where there are several sub-groups (known as the middle link) between the top leadership and the ordinary members. Roughly half of the members are „external“, and are called in to carry out specific tasks. It is estimated that approximately 15% of members are women. Women are most often involved in trafficking with women, trafficking in narcotic and psychotropic substances, and illegal migration. They often appear in cases of corruption, setting up fraudulent companies, money-laundering, financial fraud, and customs fraud. They also take part in theft of all kinds and in particular the theft of works of art. Women are also involved in back-up services: in finding accommodation, mediating contacts, in contacts with state agencies, and in providing documents. Minors are often made use of in organised crime. The involvement of children under 15 most often takes place (knowingly) in connection with child pornography and child prostitution. Children also take part in theft and in distributing drugs.

Both Czech citizens and foreign nationals are involved in the organised crime that is carried out on the territory of the Czech Republic. The proportion of international and domestic elements has remained about the same since 1993, with the international element representing slightly more than half, and the Czech element slightly less. Among foreign nationals the largest number are Ukrainians, followed by Russians. (Until 1999 citizens from the former Yugoslavia also figured in this group of those foreign nationals who were most heavily involved in organised crime activities, and until 1997 so did Chinese citizens.) After the Ukrainians and the Russians comes a second group consisting of Vietnamese, Chinese, and Albanians. These are followed by Arabs and then at some distance by Bulgarians (who were very heavily represented until 2000) and Belorussians. Among other nations occasionally involved in organised crime are Israelis, Croatians, Romanians, Germans, Afghanis, Poles (also strongly represented up until 1997), Austrians, Italians, Turks, Serbs, and Dagestanis.

So far as the activities carried out by organised crime groups in the Czech Republic are concerned, among the most widespread have consistently been the theft of motor vehicles, the organisation of prostitution and trafficking with women, and the manufacture, smuggling and distribution of drugs (during the first investigation in 1993 this last activity was not too widespread, only becoming part of the group of most widespread activities in 1995). Since 1997 the organisation of illegal migration has also figured among the most widespread activities. At times tax fraud also falls into this category. By contrast, the theft of works of art, which was one of the most widespread forms in 1993-94, is now less common.

Other widespread organised crime activities in the Czech Republic include the resale of stolen goods, the illegal manufacture of CDs and videocassettes, extortion, customs fraud, setting up fictitious companies, illegal debt recovery, and the theft of works of art. Other activities include burglary, the theft of goods from lorries, bank fraud, money laundering, and obtaining money by fraud. Less widespread are murder and other acts of violence, corruption through organised criminals, the forgery of documents, cheques, money and coins, trafficking with arms and explosives, bank robbery, and gambling.

Since 1999 we have been systematically monitoring which groups of foreign nationals have concentrated on which activities. Characteristic activities for Ukrainian and Russian groups are: extortion, violent crime, illegal trafficking with arms and explosives, organising prostitution, stealing cars, and in the last two or three years dealing in drugs. Belorussians concentrate on the same areas as Ukrainians and Russians, but to a lesser extent. Russian groups differ from Ukrainian ones in that they lay greater emphasis on economic crime. The Vietnamese specialise in fraudulent business activities with counterfeit goods. They are also involved in smuggling and the violation of trade mark rights. They also concentrate on extortion, drugs, violence and organising prostitution. For the Chinese the main activity is organising illegal migration, especially for their compatriots. They also use the networks they have set up for drug-smuggling

and human trafficking. Afghanis also concentrate on migration. Albanian, Arabic and Turkish groups are oriented towards drugs, prostitution, and the arms trade, and Bulgarian and Polish groups towards stealing cars. (Although in recent years Czech groups have taken over this activity from the Poles and Bulgarians.)

During the third stage of our research in the period 2000-2003 we dealt with two partial aspects that cut across the spectrum of organised crime activities: the flow of funds and the use of violence and extortion. In both cases we examined their use within the group, within the world of organised crime, and in the links between that world and the rest of the world.

We need to be aware that the way in which the flow of funds takes place varies according to the type of activity the group is involved in. Generally speaking, however, the flow of funds within criminal organisations and externally to them occur in a similar way to normal practice in legal business activities. The basic pattern is derived from the economics of operation and sales and consists of the following items: the sale of goods and services, the purchase of materials, wages and other expenditure on personnel, the purchase of services, energy consumption, depreciation, and profit and loss.

A specific problem relating to the flow of funds is that of the proceeds from criminal activity. Organised crime keeps its profits secret and therefore needs to legalise them in some way. In addition it can be assumed that price wars may take place between criminal groups. These may involve not only conflicts, but also attempts to limit spheres of influence and to reach agreements on prices. With the „purchase of materials" item, much depends on how expensive is the purchase and export of goods. Organised crime aims to make a lot of money, and therefore purchases as cheaply as possible and sells at an enormous profit. The size of wages and other expenditure on personnel depends on the degree to which the group is organised. Regular members of the group are paid directly, while external workers, who form more than half of the group, are probably paid for the specific external services they provide.

The economy of criminal organisations differs from that of legal ones in that the goods and services they sell meet a demand that is to a large extent pathological (drugs, prostitution, gambling) or arises out of necessity (money-lending) or extreme necessity (illegal migration). The illegal goods and services that are supplied by criminal organisations do meet a need. It is in other words a normal case of supply and demand. However, in order to achieve the highest possible profits, it is necessary to artificially stimulate a high demand for these goods and services.

Organised crime uses its enormous profits to purchase luxury consumer goods, cars, real estate, hotels, and antiques. Some of their available funds are accumulated in banks. Criminal organisations invest large sums in corruption. Substantial bribery of state, public, and elected officials by criminal organisations would appear to take

place. By this means they acquire a number of advantages: information about police or customs operations, speeding up administrative procedures, lobbying, etc.

It is difficult to discover where these profits have been placed, in particular because the criminal world has penetrated the worlds of big business and politics. In addition, ownership by shares makes it possible to conceal who actually controls a given company. Organised crime has a surplus of available funds, whereas in legal economic structures they are lacking. The result of this imbalance will be that organised crime will come increasingly to invest in the legal economy, with the acquiescence of governments, who will thus be helped to resolve economic and social crises that might otherwise develop into political ones.

Violence is not one of the main activities of organised crime. It is used as a means to help make organised crime activities more effective. If physical liquidation takes place, then it is usually the liquidation of members of the group or of rival groups. The liquidation of witnesses to crimes can also occur. Outside the group, however, violence is most often used as a form of intimidation.

With contract killings the perpetrators or their abettors are mostly Czech citizens. But although there are fewer foreign nationals than Czechs who act as hired killers, foreign nationals carry out contract killings more often than other crimes. The same applies to the victims. Both perpetrators and victims are almost exclusively young men. There are also cases of attacks by more than one perpetrator on more than one victim. If the victims are businessmen, then very often they are people who have connections with individuals or groups that are involved in organised criminal groups or directly in organised crime. The victims are often what are known in Czech as „white horses" (people who are made use of for dishonest business practices and then eliminated).

The murders that were investigated were always murders that had been prepared beforehand (though not always very well) and often made use of firearms. Since most of the cases examined were contract killings, the profit motive was the most common motive for carrying out the killings. This was followed by resolving problems with unpaid debts, and the liquidation of „white horses" and troublesome people. The research revealed an increasing brutality in the murderous attacks, the use of a combination of methods and types of attack, and the attempt to increase the suffering of the victim before he died. The perpetrators were characterised by a substantial lack of feeling and compassion for the victim. Most of the perpetrators had an average or high IQ and had been educated beyond the basic level. If witnesses were present at the murders, they usually tried to avoid testifying afterwards, not only because they were afraid for their own safety, but also because their role during the attack was not always very clear.

In cases of extortion the sums involved, whether profits or debts, were always numbered in millions. Here, too, violence was used, which might escalate into murder, and in one case did so. The victims were physically ill-treated. Cases of

extortion and of murder carried out by criminal organisations do not differ a great deal from one another in terms of the methods used and the character of the perpetrators and the victims.

In the research into organised crime that we carried out in 2000-2003 we concentrated on some of the commonest activities in more detail. These were the manufacture, smuggling and distribution of drugs, the theft of motor vehicles, trafficking with women and organised prostitution, and organised financial crime.

Organised crime directed at narcotics and psychotropic substances is one of the priorities of criminal organisations in the world and in the Czech Republic. Many features of the Czech drug scene have changed since the 1990s, and at the beginning of the 21st century a whole series of new facts can be noted. The distribution of drugs is expanding into smaller towns. There is an increase in virtually all types of drugs, in particular synthetic drugs linked to the music and dance scene. The differences in quality of individual drugs is more marked, often related to a reduction in the concentration of the active components. There is an increase in cases of experimentation with volatile substances. The perpetrators concentrate on certain sectors of the market, often depending on their ethnic group. Some specialise in the distribution of pervitin, others on other drugs. More and more young people aged under 15 (who are under the age of criminal responsibility) are becoming involved in drug trafficking. What is known as procurement crime is on the increase.

Changes are also taking place in the way drugs are smuggled and distributed. As a result of the stricter laws on possession of a certain quantity of a drug, the quantities distributed across the borders and in particular those held by street dealers have decreased. In selling drugs pre-paid cards and mobile phones are mostly used, considerable use is made of the internet, and internet cafes are also used. Hired cars are used much more frequently for distribution.

Many foreign nationals are involved on the drugs scene. The drugs trade in the Czech Republic is dominated by Kosovo Albanians, Macedonians, Bulgarians, Turks, Arabs, and Vietnamese. Russian-language groups are increasingly trying to gain greater control over the manufacture of and trade with metamphetamine. Members of the Romany ethnic group are involved in distribution on the streets, especially Olah Romanies.

Most of the organisers of criminal groups have their place of residence in the Czech Republic or have been granted asylum there. This is due to the relatively easy conditions for being granted legal residence status, the low risk associated with legalising profits, and the fact that it is easy to set up a covering company and the costs of operating it are low.

Since the beginning of the 1990s car theft and trafficking with stolen vehicles or with their parts has consistently been one of the most widespread organised

crime activities. This activity is spread throughout Europe. It is particularly profitable for organised crime because new markets have now opened up in Eastern Europe and in the Near and Middle East. In addition, border formalities are less strict than they were.

There are quite a large number of groups that concentrate on stealing and smuggling cars. In cases where organised crime is involved, the division of tasks within the group is fairly well developed. They usually include people who provide tip-offs, specialists in repairing and converting cars, and those who take them across the borders. The organisers hire the members of the group and maintain contacts with customers. They often have contacts with police and customs officers, too. Those who perpetrate this type of crime are usually aged under 30, with 15- to 17-year-olds being heavily involved. The organisers are usually older. Foreign nationals are frequently involved in stealing cars: most often Slovaks, Ukrainians, Poles and Bulgarians. (The proportion of Poles and Bulgarians went down in the second half of the 1990s.) In some cases police or customs officers have been recorded as members of groups.

The vehicles are usually acquired by stealing them, and in some cases by taking them from the owner by force. Then they are transferred to their destination, either being driven directly or in special container vehicles. Often the theft of a vehicle is faked for the purpose of insurance fraud. The „theft“ of vehicles leased from leasing companies can be faked in the same way. Vehicles stolen in the Czech Republic – or their parts – are sold either on the domestic market or abroad. Often forged documents are provided for the vehicles. Special forgery workshops exist in which the following documents are forged: vehicle registration documents, certificates of roadworthiness, customs documents, sales agreements and deeds of gift, and authentication by notaries.

Together with drug trafficking and car theft, trafficking with women for the purpose of sexual exploitation is one of the three most widespread activities of organised crime in the Czech Republic. Women are often acquired for this activity by fraudulent means, such as the promise of work or a lonely hearts advertisement. Usually they are taken out of the country. Women who become the victims of trafficking are subjected to a total lack of freedom. They are unable to move around freely, their documents are taken away from them, they have to give up the money they earn, they are constantly under surveillance and control, intimidated and forced into prostitution.

Organisations that are involved in trafficking with women are usually organised in a hierarchical way. Some of them specialise in recruitment, some in operation, and others cover both. It is a well-organised industry that has substantial financial resources at its disposal and makes considerable use of corruption. Fictitious cover companies are often set up to launder the proceeds and legalise illegal activities. The organisers are mostly foreign nationals: Yugoslavians, Germans, Greeks, Italians, Poles, and Russians. Czechs are involved as co-workers.

Among women operating as prostitutes in the Czech Republic the largest groups are Slovaks, Ukrainians, Bulgarians and Thais.

In order to eliminate prostitution it is necessary above all to make a long-term effort to reduce the imbalance in the economic and social conditions in different countries. Sufficient political will and cooperation between the relevant institutions on a national and international level are also called for. A systematic attempt should be made to eliminate corruption, by means of which the organisers of illegal trafficking with women achieve everything that they want to. The women (and in some cases men) who have been exploited should be provided with sufficient legal protection and health and therapeutic care, and also help with re-socialisation and compensation.

Organised crime in the Czech Republic has penetrated into the economic sphere as well. The restructuring that took place in the country during the 1990s, in particular in the form of privatisation and the restitution to its original owners of property nationalised by the Communists, provided a good opportunity for organised crime to become active in this area. It made use of standard methods and means. Among other frequently-occurring practices were dubious bankruptcy proceedings, siphoning off the assets of companies and banks, fraudulent tender procedures connected with corruption, and the existence (and not infrequently liquidation) of „white horses“.

The total profit made by criminal organisations in 2001, according to police estimates, came to 418 billion CZK, i.e. 20% of the country's GDP. The Ministry of Finance estimates the average annual proceeds from economic crime at 170-180 billion CZK. One of the main problems is non-standard financial transactions. The value of the financial transactions represented by crimes reported to the police alone came to 15 billion CZK. Considerable losses are caused by the manufacture and import of illegally manufactured goods. Secret factories have been discovered in the Czech Republic for the production of cigarettes from raw materials, the manufacture of clothing by seamstresses, burning CDs, and copying videocassettes. Experts estimate that the illegal import, production and sale of tobacco products costs the state 10 billion CZK a year. Furthermore, it is estimated that illegal trading of this kind deprives 15,000 people in the textile industry of work. Tax evasion for smuggled and confiscated cigarettes comes to over 70 million CZK.

Some international economic transfers are also connected with organised crime. The opportunity for this arises in connection with the activities of transnational corporations. The main reason for problems associated with these activities is that so far the laws of different countries regulate international business activities in different ways and effective legislative measures are lacking. Particular problems are related to the pharmaceutical industry, the production and distribution of tobacco products, and banking.

Organised crime makes widespread use of corruption. Corrupt practices lead to unfair competition. The enormous sums that organised crime is able to invest in obtaining illegal advantages facilitate access to information, exemption from punishment, and the creation of various favourable connections in suitable places.

Financial crime is always organised in some way. However, it cannot always be classified under the heading of organised crime. (The dividing line fluctuates and will probably continue to fluctuate due to changes in the definition of organised crime.) On the one hand groups of organised criminals take advantage of the existing structures for legal business activities. They try to legalise the proceeds from crime by means of legal institutions. On the other hand organised crime itself is engaged in illegal business activities. Among the most widespread examples are money-lending, illegal brokerage firms, and pyramid games.

Money-lending is effectively an illegal banking system in embryo form. Organised crime makes use of it on the assumption that banks will refuse to grant credit to less solvent clients, who in cases of extreme need can turn to organised crime groups. Illegal brokerage firms carry out dishonest machinations with currency exchange and with securities. More extensive pyramid games require a substantial degree of organisation.

In Czech conditions the bankruptcy of small private banks, consumer cooperative societies, and credit associations occurs too often. Similar tendencies are to be seen on the capital market. Banks and investment companies have a certain form of organisation. If they deliberately commit offences, then there can be no doubt that this is a case of organised financial crime. We can also include so-called „Nigerian cases" under the heading of financial crime. Nigerians and nationals of other African countries offer a certain percentage of considerable sums of money that are to be fraudulently transferred to Europe. But first of all they ask the Czech client for a deposit to cover the costs of the transaction or for a bribe.

As organised crime is continuing with its activities in the Czech Republic, so we, too, are continuing in the research that we began in 1993. The results of this research are used both in Czech policy planning in the criminal sphere and in the work of special sections of the Ministry of Justice and the Ministry of the Interior. The attempts of international organisations to counter organised crime, as one of the greatest security risks of the 21st century, are also continuing. A significant component of this coordinated endeavour consists of analysis carried out in research centres in Europe and throughout the world. We would also like to play our part in this.

In the period 2004-2007 we want to examine organised crime together with economic crime, corruption and terrorism as serious forms of criminal activity. In addition to ongoing monitoring of tendencies and analysis of specific cases we want to concentrate primarily on the threat posed to society by organised crime and the measures that society can adopt against it. Under the threat category we want to

examine the factors that can be taken advantage of by organised crime in different areas of the life of society. We hope to ascertain how and why organised crime threatens different sections of the social system. In terms of defence against organised crime we intend to analyse the programmes and strategies of different parties involved in combating organised crime. We want to compare the current and real state of affairs and likewise where appropriate to recommend new and more effective solutions.

Research into economic crime¹

2000 - 2003

Research responsible: PhDr. Miroslav Scheinost

Co-researchers: Ing. Vladimír Baloun, Ing. Drahuše Kadeřábková, JUDr. Soňa Krejčová, JUDr. Václav Nečada, Ing. Karla Trdlicová, CSc., JUDr. Simona Diblíková,
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I. Research background

There is no doubt that economic crime is a phenomenon the extent and seriousness of which has grown dramatically in our society in recent years. Comparison with the state of affairs ascertained regarding this form of crime in 1989 or before that date is basically not possible in view of the subsequent fundamental change in economic relationships in society. Nevertheless, while the share of economic crime in the number of criminal acts recorded from the beginning of the 1990s did not exceed 5 % until 1994, in 1997 it had already reached 7.5 % and in 2002 11 %. The losses caused by economic crime detected are striking: in absolute terms they amount to the sum of CZK 14 billion in 1995 and CZK 44 billion in 2001, which meant nearly 80 % of total losses caused by all detected crime in that year². Here it can reasonably be assumed that in addition a far from insignificant part of economic crime is hidden in what are termed „shadowy numbers“, i.e. latent crime – not reported or not detected.

The danger posed to society by economic crime is therefore evident. It is not only a question of the amount of losses caused, though this is staggering. It is also that cases of economic crime have a destructive effect on social awareness, both by directly harming citizens (for example, depositors in financial institutions attacked, employees of what are termed „tunnelled“ companies and so on), and by the difficulty in detecting, proving and prosecuting them. Also the fact that a new type of offender appears among those who commit economic crime – qualified professionals, often first time offenders, occupying (and abusing) positions of responsibility in the management structure of companies and institutions can have a negative impact. This may induce the notion that some of these cases and offenders cannot in practice be prosecuted, which will result in a weakening of trust in the institutions and guarantees of a democratic and just state.

It is a paradox, though only seemingly, that the number of victims of economic crime is higher than the number of victims of general crime. For the victims of economic crime are not only those who are the direct targets of criminal attacks, which are usually legal entities operating in the economic sphere or the

¹ Scheinost M., Baloun V., Kadeřábková, D., Krejčová, S., Nečada, V., Trdlicová, K., Diblíková, S., Macháčková, R., Rozum, J. Výzkum ekonomické kriminality. Praha : IKSP, 2000. 169 stran.

² Source: Statistics of Czech Republic Police

state, but also people, not only as depositors or employees of organisations attacked but also, for instance, as customers harmed by price manipulations, poor quality products or services, as inhabitants of an area harmed by the behaviour of firms towards the environment, and also as citizens of a state affected by the consequences of lack of funds in the state budget due to tax evasion³.

The new structures of economic relationships in the Czech Republic have also brought new forms of criminal activities in the economic field. Forms emerged that were already known in societies with a market economy but did not exist before in a socialist planned and state controlled economy, but also forms to a certain extent specific and characteristic for the period of transition from a planned economy based on state ownership to a market economy based on private ownership. All these features of the development of economic crime in the Czech Republic more than justify research interest in this phenomenon.

This research into economic crime was carried out between 2000 and 2003. The subject of the research was given the overall name *economic crime*, although we are aware that the content of the term *economic crime* has not yet been clearly defined and does not have a uniform and so generally respected terminological content definition either in criminal law theory or in criminology.

For the purposes of the research it was necessary for this reason first of all to address the question of **definition of the subject of it, i.e. economic crime**.

Economic criminal activity differs from other types of crime such as general crime, violent crime, immoral crime and so on primarily in that its activity patterns are in practice identical to the legal economic life patterns, that the same economic tools and the same procedures are used. Economic criminal activities do not only bear a similarity to the legal economic environment in the tools and procedures used, but also in common with it use the same terminology (e.g. costs, revenues, business transactions, accounting transactions, losses and so on). To these similarities we can also add with only slight exaggeration one and the same economic interest, i.e. achieving the highest possible financial gain, which of course where economic crime attacks and protection against these attacks come into conflict represents an attempt to minimise the financial gain of the other party.

For the purposes of the research, **a working definition** of economic crime was conceived as *unlawful economic behaviour by which a financial or other benefit was obtained at the expense of a particular economic entity (the state, a business company, a fund, a natural person etc.) which meets the legal characteristics of the facts of specific criminal acts*. Economic behaviour is behaviour which is effected in the economic environment using economic tools and those who conduct it are people who know this environment and know how to use these tools.

³ Cf. Economic Crime. Strasbourg: Council of Europe, 1981, p. 19.

A special sub-group of economic crime, *financial crime*, was defined in the research *as deliberate unlawful activity against an asset committed in connection with financial investment business and directed against it*. These acts have mostly been committed in collective investment in the financial and capital market in connection with the activities of banks, investment companies and funds, dealers in securities and pension funds. What is termed *money laundering*, or legalising of unlawful gains, i.e. *activities serving to conceal the existence, factual nature and final use of income obtained in an unlawful manner* can also be regarded as a special sub-group.

This concept of economic crime may extend beyond the scope of criminal law in force. The level of an attack on a protected interest, or the „degree of seriousness“ of such an attack, then determines whether civil, commercial and administrative law is to be strengthened in prosecuting this attack or replaced by criminal law.

This means that research attention was also where possible devoted to economic behaviour which is considered as undesirable and harmful, even though it does not contravene criminal law currently in force, and consequently links between criminal law standards and non-criminal legislation regulating economic relationships were also studied.

The aim of the research was:

- progressive definition of the concept of economic crime and related categories with greater precision and systems criteria of the issue studied
- description of economic crime in the Czech Republic in terms of describing the situation, the main forms and selected activities, development trends, or international background
- analysis of relevant legal regulations covering prosecution of economic crime in the Czech Republic, also with respect to existing standards and recommendations of international organisations
- description of possible risk factors in society, including legislative problems
- formulation of eventual proposals based on research findings

II. Methods used

A comparatively wide range of **research methods and techniques** were used during the research project linked with the phases of the research and the nature of the issue examined. The following were used in particular:

- *analysis of statistical data*, particularly Czech Republic Police statistics and judicial statistics
- *secondary analysis of relevant studies, materials and sources available* on the problem examined, for example documentation from the Office for the Protection of Economic Competition, The Czech Economic Chamber, control bodies, banks, materials from professional conferences in other countries on financial crime, articles in professional journals and so on

- *study of the development and analysis of relevant legal standards in the Czech Republic* (the Criminal Code, the law on bankruptcy and settlement, the law on administration of taxes and levies) and documents and recommendations of international organisations
- *case studies* linked with empirical material available (particularly based on court files and public prosecutors' offices)
- *analysis of court files* on closed cases of economic and financial crime of a representative sample of files requested on cases closed in 2000 and 2001 with a final court verdict. A total of 115 court files were obtained and analysed. The following were studied in these files: the legal evaluation of the criminal activity, the length of the proceedings, problems of proof, the nature of evidence used, modus operandi – the nature and the method of commission of the criminal activity, the amount of loss caused, linkage to the non-criminal area, targets attacked (harmed), verdicts, offenders
- *Administration of a questionnaire to staff of institutions engaged in the conduct of criminal proceedings (the police, public prosecutors' offices, courts);* a total of 219 completed questionnaires were obtained
- *Consultations with selected experts* (for example from the Financial Headquarters for Prague, the Central Finance and Tax Headquarters of the Czech Ministry of Finance, a specialist department of the Supreme Public Prosecutor's Office in Prague, the Bank Association, ČS Obchodní banka, Komerční banka)
- *Analysis of the press and sources on the Internet* as an auxiliary source of information

III. Research findings

The research findings were formulated in the final report in a number of separate sections. First of all, the research was directed at the development of criminal law: preparation of a summary of the most important provisions of the Criminal Code regulating economic crime together with statistics on criminal activity detected which is given weight in the particular provisions of the Criminal Code. The basic factors affecting the quantitative and structural occurrence of economic crime activities were analysed, particularly the influences of the social environment and the legal framework. Then the current state of the occurrence of economic crime and how it differs from development in the past was described. The researchers also looked briefly at the issue of proceeds from crime and their legalisation. In view of the fact that the issue of financial crime studied within the scope of this research had been summarised and published in a separate concluding study, only a brief outline of this phenomenon in the Czech Republic was included in the summary report on research into economic crime, supplemented by a specific study of the development and the problems of the banking sector in the Czech Republic. An attempt was made in a separate chapter to characterise the typical methods of committing specific types of criminal act in the economic area.

A separate section was also devoted to an analysis of research findings relating to targets attacked by criminal activity in the economic sphere (the state, financial market institutions, business and commercial companies, entrepreneurs etc.) and to those committing this criminal activity. The activity of judicial authorities in prosecution of economic crime, and the issues of proof, criminal proceedings and sentences imposed were analysed. Great attention was also given to the non-criminal area, i.e. legal standards regulating economic processes and relationships (for example, the Commercial Code, tax law, the law on bankruptcy and settlement and so on), and findings relating to criminal and non-criminal standards.

The findings compiled in this research can be summarised relatively easily and briefly. The working definition of economic crime made for the purposes of this research was shown to be productive and can be regarded as a contribution to further discussion on definition of this category of crime. It also confirmed that financial crime can be considered in terms of its characteristic features and also in terms of the targets victimised as a specific sub-group of economic crime.

It is not necessary to stress again the danger of the consequences of economic crime in the economic field, the close resemblance of its technical procedures to normal economic activities and, because of this similarity, the complexity of documenting and successfully prosecuting it. More than with other types of crime it is also a feature of economic crime that it is very difficult to determine the boundary between unethical behaviour, behaviour which makes use of all possibilities at the very borderline of legislation in force, and behaviour which goes beyond the boundary of criminal law.

Economic crime has an exceptional social and economic impact on the internal stability of a state. In addition to other aspects, it affects the basic income raising elements of a state (taxes, customs duties, levies), the endangering of which casts doubt on the long-term and efficient functioning of the state mechanism. A significant part of its manifestations is a complex civil law, economic and criminal law problem, the solution of which requires special expertise and constant updating of knowledge both of staff of legislative bodies and staff of state administration authorities and bodies responsible for criminal proceedings.

One of the most important achievements in the 1989 post-November changes in the law is unquestionably elimination of distinctions between individual types of ownership, which meant loss of justification for special criminal law protection favouring social ownership, but on the other hand adequate regulations and perhaps sanctions were not stipulated for transfer of this ownership into private hands and for the fundamental change from a planned to a market economy.

The suddenly acquired chance of freedom to do business without proper definition of the boundaries (limits) of economic competition, the real and sometimes also ill-judged support of some „enterprising“ individuals at the beginning of the 1990s, all this created the conditions for the committing of

unlawful financial machinations and also various new forms of economic crime (what is termed tunnelling, and asset and tax fraud).

The Criminal Code in force, Act No. 140/1961 Coll., has been revised many times since November 1989. Although there have been fundamental changes in the general and also the special section of the Criminal Code, revisions have often only reacted principally to the immediate needs called for by the dynamics of criminality and there were only a few in-depth changes in the conceptual framework of the criminal law.

The present criminal code contains individual facts covering criminal activity in the economy, many of which were only incorporated or newly formulated after 1989. In our opinion, however, the effectiveness of these criminal law provisions is still inadequate and bodies responsible for criminal proceedings are unable to prosecute economic crime quickly and to the full extent. The evident links between a whole range of facts associated with business activity and the non-criminal legal standards regulating the economic sphere and economic behaviour are also essential. In particular the quality and transparency of these non-criminal standards are the subject of criticism from staff of bodies responsible for criminal proceedings, as has come to light from the research carried out.

It should be noted that the criminal law does not have the resources to be able to eliminate or reduce significantly factors which give rise to economic crime. It is only of a subsidiary nature in the economy. The scope of criminal prosecution is restricted by the principle of the supportive role of penal repression. This means that penal repression is applied only as a last resort, where other means, mainly of an economic nature, do not suffice.

Functioning market economies have sufficient self-cleaning regulatory mechanisms which we do not have here: the effort to „control“ the economy by law and the effort to capture criminal activity in this field as precisely as possible also stem from this. This endeavour is, however, quite counter-productive and this opinion is confirmed by constant references to inadequate legislation. On the other hand the view can be expressed that the greater the detail in which any criminal activity is described, the easier it is to find loopholes to get round the wording of the law.

The decisive influence in this area must be played by tools other than those of criminal law. This is in particular an efficient non-criminal framework for business and economic competition. This should include corresponding regulation of legal relationships connected with entrepreneurial and with economic activity in general, including rules enabling the enforceability of a breached right as quickly as possible. Factors such as adequate control mechanisms and efficient state apparatus also play an important role. The existence of effective non-criminal sanctions for breach of non-criminal legal standards and an emphasis on their application should for this reason play one of the key roles in preventing economic crime.

There is no doubt that excessive and not particularly clearly formulated regulation of the economic environment is in no case a preventive element for the occurrence of criminal activities in the economic area and does not provide a clear guideline for the work of bodies responsible for criminal proceedings when prosecuting. The state of non-criminal legislation is not in itself regarded as the determining cause of economic crime but its lack of transparency, its complexity and specialist demands on the bodies responsible for criminal proceedings lead to an undesirable situation as regards the length of court hearing of complicated economic crime cases.

According to the opinion of staff of the bodies responsible for criminal proceedings, the greatest problems in prosecuting economic crime are difficulty in proving it, then the great demands on specialisation in an economic issue (from which follows a certain dependence of these bodies on court expert witnesses who prepare expert opinions) and also the vast quantity of documentation which has to be studied and assessed in connection with the cases prosecuted. The excessive complexity of non-criminal legislation was naturally also mentioned.

There is equally no doubt, of course, that the quality of criminal law regulation has great weight, particularly for criminal law evaluation and for the actual prosecution of criminal acts. Here too there are elements which can be worked out more suitably, though it is probably not particularly important what place they have or will have in systematic codification of criminal law. Criminal law theory could contribute in this respect.

To a majority of the staff of bodies responsible for criminal proceedings (55 %), current practice in imposing sentences for economic criminal offences appears rather lenient or too lenient, but on the other hand only 5 % of the respondents (12 judges, no public prosecutor and no police officer) inclined to this opinion. Just under a third of the respondents (32 %) consider current practice suitable.

Nearly two thirds of the respondents recommend greater use than at present of one of the sentences not linked to imprisonment for those who commit economic crime offences, particularly forfeiture of assets and fines.

At least two thirds of the respondents think that use of non-criminal sanctions imposed in administrative proceedings is effective for prevention of economic crime.

Two thirds of the respondents do not think that it is necessary to change the existing prison sentence terms for facts relating to economic crime. Where they show an opinion for change of sentence terms, a clear majority propose an increase in sentence terms, particularly for criminal offences causing very high losses.

Not even good quality criminal and non-criminal legal regulation in itself, however, guarantees effectiveness and success in the fight against crime. A continuing problem is insufficient staffing and material provision for prosecuting economic crime and lack of specialisation in all bodies responsible for criminal proceedings. Correct interpretation and application of criminal law regulations require a qualified approach on the part of sufficiently specialised bodies responsible for criminal proceedings and other state institutions.

Another necessary factor for combating these criminal activities successfully is the required specialist knowledge of the economic climate, economic tools, the possibilities of their functional use, basic knowledge of normal economic activities and basic knowledge of the sanctioned boundaries between behaviour that is still legal and that which is already criminal. For this reason it is probably suitable to continue to deepen the specialisation of bodies responsible for criminal proceedings, to encourage the need of their individual officers to deepen their theoretical and practical knowledge, which will undoubtedly also bear fruit in the area of greater professional self-confidence and one of the desirable benefits may also be the so much awaited enrichment of the judiciary from the economic area. It is very encouraging that it is precisely in this direction of further training that both public prosecutors and judges have great interest and have precisely formulated specific requests for departmental forms of training.

From analysis of the material available it was possible to state a number of more general findings relating to economic crime, particularly in the sense of showing that there is a range of facts and phenomena which make the activities of those who commit economic crimes easier or increase the negative impacts of this form of crime.

The high latency of economic crime, also recognised by staff of bodies responsible for criminal proceedings, is evidently also accompanied by a certain degree of organisation and international overlap, even though it is the case that economic crime is mostly committed in a relatively primitive manner, using simple plans of action. It is, of course, also the case that organisation is not proved and prosecuted in economic crime; it is also the case that massive losses in the order of millions of CZK are caused in a primitive manner. In addition to the entities which are the direct targets of criminal attacks and are harmed by them, there is in the case of economic crime a typical wide range of persons indirectly harmed (employees for whom insurance contributions have not been paid, for instance, fund members or investors who have lost their deposits or shares, customers of banks suffering losses and so on).

In a number of cases there are indications that criminal activity is being or may be committed (there are clearly suspicious activities, breach of norms, the clearly difficult financial position of the offender or company), but those around the offender or offenders do not react to these signals for various reasons and so enable it to continue or develop. Economic crime, however, is made possible not only by

indifference or tolerance of those around but also by the gullibility of victims or the use of impressive advertising (promises by cooperative savings banks that deposits will go up in value by 17-30 % p.a. should in themselves be suspicious; even so they have attracted a number of customers).

The establishment of financial market institutions (cooperative savings banks, investment funds, pension funds and so on) was very easy, and the credibility of the founders, who sometimes came from a very dubious environment, was not questioned. It was relatively easy to „anaesthetise“ statutory bodies, to transfer real power to certain individuals and in practice to exclude internal control, and external control was not performed for quite a long time; in general, control activity in the economic sphere was clearly very inadequate. Offenders took advantage of loopholes in laws (for instance, cooperative savings banks could not perform certain activities themselves but could set up subsidiary companies which were in a position to carry out these activities and so forth). Significant problems were caused by the possibility of owners of limited liability companies to establish new companies without major problems, without any liabilities of a previous company being settled. Generally it was confirmed that breach of non-criminal norms setting rules for economic life (the law on accounting, on investment companies, on securities etc.) is relatively frequent and at the same time inadequately controlled and penalised.

As far as offenders are concerned, though it was confirmed that there are intelligent people among those who commit economic crime, and there is a manifest tendency for a higher level of education among them (some forms are typical for the group referred to as „white collar“), it is also the case that economic crime, at least as far as the Czech environment is concerned, is far from being only the domain of such offenders. A substantial number of them obtained their knowledge through their own business practice rather than by acquiring formal economic qualifications and it was also shown that offenders with a lower level of education are also capable of causing very high losses. What is alarming is that around a fifth of crime perpetrators are re-offenders, indicating that even persons already convicted have relatively easy access to the business sphere. It seems that for the Czech environment until recently gullibility and lack of experience of victims rather than high qualifications and creative capability of offenders has until recently made it relatively easy for this criminal activity to be committed. Evidence for a certain prevailing „simplicity“ of offenders is also provided by the fact that proceeds from criminal activity were allocated decidedly more for their own use than for investment in expanding current or creating new legal economic activities.

It was shown that certain „hangers-on“ – providers of services (legal, economic, financial etc., arrangers of contacts, loans etc.) for payment (commission), which often proceeds without documentation, may live off those committing economic crime; the service providers themselves usually cannot be legally prosecuted, even though the danger of this „entourage“ to society is considerable. Offenders naturally also often take advantage of the tolerance and

assistance of colleagues (who sign receipts without checking them, entrust power of attorney, allow documentation to be inspected and so on), and this is regarded as permissible breach of norms in the interests of friendly favours. In general it is shown that in a number of companies and institutions there is completely inadequate internal control of their own staff. Even in banks and other financial market institutions it was shown that there was clearly frequent breach of legal norms regulating their activity and of internal regulations and there was inadequate control over the activities of managers and members of statutory bodies both on the part of these institutions themselves and on the part of external auditors and supervision authorities. In banks in particular there also seems to be a typical attempt to avoid criminal prosecution of their own staff and to resolve cases discovered as far as possible internally.

Linked to this to a certain extent is carelessness and lack of diligence on the part of companies in employing persons who have already been convicted or whose mistakes have come to light before – it was often found in the documentation analysed that positions involving handling funds were entrusted to persons who have already been convicted, even for embezzlement; a teller of a bank who was responsible for a loss was left in a position where she had access to clients' accounts etc.

The situation of original producers on the market, who under the pressure of competition and limited demand try to put their products on the market or sell them for any price, can be regarded as one of the factors which enable criminal activities to become more widespread; as a result, they entrust their products to traders (agents), without checking their reliability and ability to pay their liabilities.

In most prosecutions for economic crime in the last few years the number of persons indicted has risen (this is typical, for example, under § 250b – loan fraud), which on the other hand is an indication of the growing effectiveness of prosecuting this form of crime and also the greater effectiveness of the work of bodies responsible for criminal proceedings. It is of course the case that the number of offenders convicted for economic crime compared with the number of persons who are prosecuted for this form of criminal offence continues to be substantially lower for economic crime than for property crime, or in comparison with the total number of persons prosecuted and convicted. For example, in 2002 (even though comparison in one year is naturally for many reasons imprecise and only indicative), the proportion of offenders convicted compared with the number of persons prosecuted for economic crime amounted to 40 %; for property crime this was 64 % and for the total number of persons prosecuted 70 %. This again confirms the complexity and difficulty of criminal proceedings in cases of economic crime. In the future it will undoubtedly be interesting to note whether the propose law on the criminal liability of legal entities will show positive results in the effectiveness of prosecutions for economic crime and on the other hand whether the anticipated additional new forms of criminal behaviour following entry to the European Union will affect economic crime.

The Roma minority and integration procedures¹

2001- 2002

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The publication relates to the study „The Legal Protection of Ethnic Minorities Against Manifestations of Racial Discrimination“.

Research focus and objective

In 2000, the Government of the Czech Republic adopted the Governmental Policy for Members of the Roma Community, intended to help their integration into society. The policy was designed to encourage gradual, unproblematic coexistence between the majority and the Roma community, and to integrate Roma citizens in society according to their own choice, and to actively involve all citizens in the administration of public affairs. Government documents defined integration as the „gradual functional coexistence of the majority and the minority, cultural interaction between the majority and all minorities, the development of minority culture leading to a multicultural society which enriches all of its parts.... Integration is a bilateral process which is dependent upon the voluntary effort to accept individuals who want to integrate, or as far as possible to facilitate their acceptance. The integration of Roma and other persons in society is not a special service for Roma but is above all a service for society as a whole“.

In order to implement the Government policy for the integration of Roma, it was necessary to understand the current situation with regard to Roma in the Czech Republic and to know what sort of problems exist between the majority and the minority and inside minority groups, in what areas racial discrimination occurs etc. In this respect a task was assigned to the Institute for Criminology and Social Prevention which included the performance of an „analysis of procedures designed to eliminate racial discrimination and to integrate Roma and other ethnic minorities in society, including the powers of individual institutions and an assessment of the effectiveness of these institutions’ work“. For an institute focusing on criminology the assignment was too broad, even though it is clear that the degree of integration of ethnic minorities and the level of their criminality are closely related.

Defining the solution to the problem

From our perspective, the crucial element was to define for work purposes the terms integration and ethnic minority so that the assigned task was realisable in terms of research. It was asserted that the term integration of an ethnic minority has

¹Štěchová, M., Večerka, K., Novák, K., Danielová, K., Haubertová, D., Veverková, L. Romská minorita a postupy integrace. Praha: IKSP, 2002. 127 stran.

no single unambiguous meaning. According to various interpretations it may mean the assimilation of a culturally different entity (which roughly corresponds to the French model of integration), while others use the same term to understand the creation of a multicultural society, where each diversity is given sufficient space and respect and the majority culture relativizes its monopoly on correct behaviour (close to the British attitude). Between these two poles there are understandably many intermediate approaches, some of which, however, perhaps due to the vagueness inherent in formulating integration policy, act as a brake on actual integration and instead support segregational models of how a society functions. In this respect we may mention as typical the approach attributed to Germany¹, where, although minorities are granted a right to cultural specificity, this also becomes an obstacle to participating in many activities (and the benefits ensuing there from) which are normal for members of the cultural mainstream.

At a cursory glance, the current situation in the Czech Republic (represented chiefly by the relationship between the Czech majority and the Roma minority) probably most closely resembles the German model. Tolerance to cultural differences is declared, but at the same time these cultural differences are perceived as unwelcome and their „living“ relegates individuals to the position of second-class citizens. On the other hand, however, citizens, members of the minority, who do not fulfil and do not want to fulfil the stereotypical model of cultural diversity are, due to the adjudged ethnicity, essentially compelled to be culturally different because this is expected of them.

Our task was not to formulate integration priorities and strategies but to *describe the state of affairs in this field in the Czech Republic*. We therefore did not assess which of the aforementioned models is the most appropriate, although we did use these models as a framework within which to work. This means that only through our own research did we seek to describe the specific implementation of this term in practice and how successfully it fulfils the task – *finding the way that harmonises the interests of most members of the majority with the interests of most members of the minority*.

We considered it necessary to specify the term integration of an ethnic minority in greater detail; as a result we divided it into the following fields: *cultural, socio-economic and political*. All research activities consequently focused on the description of integration of these three specific fields with the accent on the first two fields.

Although the research assignment referred to the integration of minorities, for us the fundamental phenomenon investigated was the **relationship between the majority and the one – Roma – minority**. Above all, the Roma minority in the Czech Republic is the main potential entity to participate in the process of

¹ This distinction is derived from the work of Rex, J. *Ethnic Minorities in the Modern Nation State*. Houndmills: 1996, pp. 51-54 and the book by Barša, P. *Politická teorie multikulturalismu (Political Theory of Multiculturalism)*. Brno: 1999, p. 10.

integration. A number of integration programs are produced in the Czech Republic which focus primarily on the Roma minority and their influence on the development of the perceived reality provided us with sufficient material for the research analysis. Some facts, notably the existence of a stereotype and feeling that co-existence is a problem, make agreement and understanding more difficult, i.e. they do not lead to understanding of the other. We sought to describe these and other facts in several sociological probes whose results we have submitted.

Research among Roma advisers I.

In 2001 the ICSP performed general research among Roma advisers in the district authorities. It was assumed that the Roma advisers would be well-informed on the local Roma community and problems of co-existence with the majority. The research focused on two basic issue areas:

Characteristics of Roma inhabitants in the district with regard to their status and co-existence with the majority population

- factual status of Roma in the district with regard to possible discrimination, description of tendencies towards change in this status;
- basic characteristics of Roma in the district with regard to integration;
- description of mutual perception of Roma and non-Roma in the district.

Factual activity and status of district Roma adviser in the district

- status of Roma adviser in the district with regard to the status and conditions for performing work;
- what is the factual activity of the district Roma adviser;
- understanding of the district Roma adviser's work remit and what sort of authorisation he/she should have for such activity.

As research respondents we chose the district **Roma advisers** who could rightly be expected to have in-depth knowledge of the Roma issue at a local level. The group of respondents was thus composed of 74 district Roma advisers. Of this number 42 respondents (58.3%) considered themselves to be **ethnic Roma**. The resulting data were thus representative and reflect the opinions of Roma advisers on the monitored issue. A special questionnaire was devised for purposes of the research.

The following areas of problems were monitored: discrimination against Roma, basic Roma characteristics with regard to integration, e.g. problems, activity, qualifications, pride in own ethnicity and mutual perception of Roma and non-Roma (what Roma think of non-Roma and vice versa).

Research results: Roma advisers differed somewhat in their views on discrimination in certain areas of Roma life depending on whether they are or are not themselves ethnic Roma, with Roma respondents viewing the subject of discrimination in a rather more pessimistic light.

What are Roma's most common perceptions of non-Roma (Gadžé). Above all, „Gadžé“ – in the opinion of Roma advisers – are predominantly seen as educated, wealthy, intelligent and quiet people. Roma also generally agree that non-Roma are hard-working and clean, that they look after their children well and are law-abiding.

These positive perceptions of character qualities are however accompanied by the following negative judgements: The majority population is mean and disrespectful to their parents. Non-Roma do not sufficiently respect their fellow-citizens, have a tendency to harm Roma, boast and lie.

What, conversely – again in the judgement of the Roma advisers – **does the majority think about Roma?** The stereotypical perception has the following chief positive characteristics: Roma are good dancers and are musically gifted. They care for their parents, are cheerful and know how to enjoy themselves. On the other hand, Roma are negatively perceived as noisy, uneducated and unreliable, as thieves, as undisciplined people who do not abide by the norms of good neighbourly relations, do not abide by the law, lie and are work-shy.

If we compare the mutual stereotypes we find that the greatest differences in the evaluation are markedly to the **detriment of Roma** at the level of education, noisiness, lower ownership of material assets, and Roma are also perceived in a worse light with regard to their industriousness, discipline, abidance by the law and reliability. **Roma are positively perceived** with regard to caring for parents, agility (dance) and general musicality. Also praised are Roma's greater ability to share things, to enjoy themselves and be happy.

The research set out to determine the factual status of the Roma adviser in the district and the conditions for performing his/her work, as quicker progress in integrating Roma at the district level can to a certain degree be linked to the quality of his/her work. It was found that the status of the Roma adviser at his/her district office is not materially affected by his/her ethnicity. It is worth noticing that, apart from their generally low financial appreciation, Roma advisers – regardless of ethnicity – chiefly complain about the little support their work receives from Roma themselves. Even Roma advisers who are ethnic Roma say they get more support from non-Roma than Roma. It would seem appropriate to consider a way in which the Roma adviser could be „recommended“ and brought closer to Roma. In this regard, however, it's necessary to remember that among the various Roma groups there exist many animosities which are highly counter-productive for the Roma adviser's work.

In this area, the research showed that the Roma adviser currently plays an important role in resolving questions that arise at a local level in Roma communities. The adviser's work is often not only advisory but – and probably detrimentally – also involves field work that should be the responsibility of Roma assistants, who are almost non-existent. The research showed that advisers generally

have the situation well mapped in their districts and can identify the various animosities that occur between Roma and the majority society.

Research among Roma advisers II:

Research was also conducted by questionnaire among Roma advisers and assistants focusing primarily on the integrational situation of Roma citizens. The research took place at a district level. Within the districts the situation was also specified in towns with a population over 7 000 (170 towns were mapped in 67 districts).

Problems were divided into several categories and the following information was obtained:

- 1) **Social problems** such as unemployment among the Roma population, poor housing etc. On the one hand, there is high unemployment among Roma, and on the other they are often criticised for receiving social welfare benefits and state social support as the only source of subsistence and for their unwillingness to enter employment.
- 2) **Problems in civil co-existence.** The largest problem in this respect are neighbourly relations. The majority population complains especially of noise in the night hours and mess around residential areas. This problem was registered in 33 of the monitored towns, i.e. 40 % of towns, in which according to the Roma advisers problems exist in co-existence between the Roma population and the majority. Poor neighbourly relations are especially marked in north Bohemia (one-third of towns), in west Bohemia (one-third of towns), in east Bohemia (one-fifth of towns) and in north Moravia (one-fifth of towns).
- 3) **Roma criminality.** Roma criminality was stated as a problem in 19 towns distributed relatively equally over the Czech Republic. It is quite alarming that in many cases criminal activity of children is also involved. For example, Břeclav registers crime perpetrated by both adults and minors, and physical attacks on and blackmail of children from the majority perpetrated by Roma children. Šumperk records crime perpetrated by Roma with a racial sub-text, and Vsetín also encounters criminal activity by Roma who attack non-Roma citizens.
- 4) **Roma problems with drugs, alcohol and prostitution** exist in 11 of the monitored towns. They are most highly concentrated in north, west and east Bohemia.
- 5) **Problems in communication between the Roma minority and the majority and problems in dealing with the authorities.** These problems derive primarily from a failure to understand the specific nature of Roma ethnicity and from the view that Roma must subordinate themselves to the majority culture and assimilate. Roma feel a lack of understanding on the part of the authorities,

which results in conflictual situations. They often accuse institutions of a lack of real will to resolve the so-called Roma issue. When dealing with the authorities Roma have to come into contact with an unprofessional approach, inflexibility, impatience and an inadequate evaluation of their situation. In all, dealings with the authorities are problematic in 10 towns, all of which are in Bohemia, chiefly in the north and south.

- 6) **Racism and prejudices towards the Roma population.** National intolerance was found to be a problem in 23 towns, mostly in south and north Bohemia, where they were recorded in 29 and 21 percent of towns respectively. Intolerance may be manifested for example in the non-acceptance of new Roma tenants who move into a house, the writing of petitions against the allocation of flats to Roma families in close proximity, suspicion of Roma in shops and their more careful inspection, the „lumping of all Roma in one bag“, their appraisal as being unable to integrate into society, low tolerance of their cultural differences, the generalisation and belittling of problems, mutual distrust, suspicion and abuse of Roma ignorance etc.

Physical attacks on Roma by members of the skinhead movement is another manifestation of racism and tension in relations between the majority and the minority. Roma advisers noted this as a problem in Nový Bor, Most, Litvínov, Moravská Třebová and Břeclav.

- 7) **Discrimination against Roma in services.** It often happens that Roma are not allowed into restaurants or discotheques or entertainment centres, or are not served in these places. Although this problem was recorded by only three towns (České Budějovice, Ostrava and Šumperk), it would seem that the problem is far more widespread and as yet not properly mapped.

It was stated that at present there exist many problems hampering the full integration of the Roma population in society. Most of these are of a systemic character and reflect the long-term policy towards the Roma community. Although it is possible to see, as our research showed, activities designed to change the situation of the Roma population, for example the creation of zero classes, the setting up of Roma and pro-Roma organisations, this is just the beginning of the long process that must be pursued for the successful integration of Roma. In our opinion, the most problematic of our findings is the social situation of the Roma population. The high level of unemployment, housing problems and the high percentage of Roma children in special schools are all inter-related and exacerbating factors.

Another significant problem is the majority society's approach to the Roma community. The generally intolerant environment and discrimination in many areas do not help Roma's attempts at integration. In the following field research in selected towns we attempted to examine all the afore-mentioned problems in greater depth.

Field research in selected towns

The following facts were the chief findings from the field research in specific towns:

Above all it is important to state that certain discrepancies were found between the central policy of the state, which seeks the effective integration of the Roma minority, and the situation's development in the relevant towns. We will further document this statement.

On the basis of the information obtained in this research, as far as integration issues are concerned, we can say that Roma very often *request integration into the majority society*. On the one hand this legitimates integration efforts, although the problem is that the majority environment produces a whole range of hidden segregation mechanisms. The opinion of many inhabitants and at times also officials is succinctly expressed by an unnamed citizen: „*I don't want to say that they (Roma) should directly assimilate; it's enough if they adapt and live like us, we don't want anything more from them.*“

The configuration of relations and the inter-connection of the functions of individual institutions that influence the life of the Roma community together with the justified reservations of towns concerning centrally managed pro-Roma projects and towards local pro-Roma activities also *support the assimilation trend*. The ideal of such assimilation is social concord. In this spirit the co-existence of Roma and the non-Roma majority is reduced to a social level, which is manifested in the practical application of the criterion of the ability or willingness to adapt: those who want to adapt have the possibility to do so. Those who do not accept „civic obligations“ are thereby excluded from the community of „normal“ citizens and descend to the level of asocial elements. The consequences of this are borne by entire families, including children. A well-known problem is the fact that the assimilation tendency of part of the Roma community is nevertheless *directed towards the lowest, and by the majority itself for many reasons negatively perceived level of the majority*. This trend completes the deepening isolation of the Roma community and the community of majority asocial people in localities inhabited predominantly by Roma. The segregation of socially inadaptible families and their increasing numbers significantly precludes the likelihood of establishing social concord. On the other hand, Roma elites are distancing from the Roma community and often reject their Roma identity.

On the basis of the information obtained we sought to identify individual factors according to the role they play in the integration process of Roma and in the majority society.

Factors restricting the implementation of central integration policies :

- practical impossibility of precisely defining the Roma target group from the position of the authorities (it is forbidden to establish records according to nationality or membership of an ethnic group);
- inadequate information on the part of the relevant authorities on central projects designed for the Roma community; projects are therefore not sufficiently put into practice;
- inability and lack of interest in improving the collective consciousness concerning Roma at a local level;
- reduction of the problem of co-existence of Roma and non-Roma in a social dimension;
- reserved attitude on the part of the relevant municipal representatives with regard to Roma and pro-Roma activities, resulting from generalised „bad experiences“;
- the illegitimate nature (e.g. the failure to discuss planned intervention with Roma) of previous external interventions in the social network on the part of the town and their subsequent failure;
- the negative attitude of municipal administrations in cooperating with the district in addressing the local Roma situation of communities and reliance on self-sufficiency in this matter.

Factors hindering integration :

- high level of unemployment in the Roma community;
- prejudices and stereotypes on the part of the majority society towards Roma integration:
- they often imagine integration to mean full assimilation (that Roma cease to be Roma);
- the majority society does not feel itself to be culturally or otherwise enriched by the different culture and the existence of Roma (and other minorities);
- the majority society's negative attitude towards communal living with Roma and everyday contacts with them;
- the non-functioning of the civic sector, low-level ability and interest in improving collective consciousness concerning Roma at a local level;
- Roma's low consciousness of their own ethnic identity;
- non-existence of organised self-representation of Roma at a local level, the scattered nature of the Roma community;
- hidden segregation mechanisms on the part of the majority;
- the approach of certain Roma (as well as non-Roma) to social benefits as a natural thing to which they are entitled, and not as a temporary form of assistance in a difficult situation;
- municipal housing policy creating segregated communities of Roma and socially inadapted people, causing Roma to lose contact with life in the town and leading towards the creation of ghettos;

- discrimination against Roma occurring most frequently with regard to their employment, a factor exacerbated by a hidden and open segregation approach to Roma on the part of fellow citizens.

Factors supporting integration :

- immediate addressing of situations where Roma have found themselves in material distress with parallel support to ensure their independence in the future (existence and functioning of the social network affecting the life of the Roma community);
- high-quality community work by a variety of local organisations (social, charity, church...);
- an incipient Roma intellectual elite with the possibility of its integration in social work in the town locality – tendency of many educated Roma not to distance themselves from the Roma community as used frequently to be the case in the past;
- the effort on the part of many Roma to integrate in the majority society, which legitimises the state's integration efforts;
- absence of acute racial inter-ethnic conflicts;
- application of specialised projects intended to encourage the employment of local Roma;
- the penetration of non-governmental and non-profit organisations in the existing state social network;
- targeted projects deriving from specific information on existing Roma cultural activities (deeper knowledge required of the internal structure of the Roma community);
- existence of a social network affecting the life of the Roma community;
- Romas' approach to education (Roma advisers almost unanimously agree that Roma are in no way discriminated against in their access to education as one of the most important integration factors).

The research also included an analysis of the state grant policy for Roma projects in 2000/2001. It was stated that in the Czech Republic the grant from the state budget may only be provided by central bodies of state administration, the Academy of Sciences and the Grant Agency (others specified by separate act are in practice generally not used). Grants may be provided to non-governmental non-profit organisations (NGO): civic associations, generally beneficial societies, relevant church facilities, or other legal entities founded or set up to provide health, cultural, educational and social services and to provide social and legal protection for children, if the central authority so decides, and to other legal entities and natural persons for publicly beneficial projects where stipulated by a separate act. Grants are provided to implement projects that help realise state policy goals and which conform to some of the main areas of state grant policy regarding NGOs. Grant funds are distributed via the Ministries and other state bodies.

Ministry of the Interior: one of the priorities of the crime prevention department is the integration of the Roma community and the aim is to support

socially deprived Roma communities, prevent inter-ethnic conflicts and support the development of positive neighbourly relations within mixed communities.

Since 1993, the Ministry of Culture has announced an annual competition of tenders for the support of cultural activities of members of national minorities living in the Czech Republic; this chiefly concerns a variety of cultural events, festivals, magazine publications etc.

Ministry of Labour and Social Affairs – the social services department announced the „Social Services Development“ program. This includes tenders for the provision of a grant from the state budget to non-governmental non-profit organisations (civic associations, church humanitarian organisations, generally beneficial societies and natural persons) providing services to citizens in social distress (the homeless, the aged and also Roma...).

Ministry of Education, Youth and Physical Education – every year the department for youth announces a tender for the support of civic associations for children and youth and civic associations working with children and youth. Applications are also submitted by Roma and pro-Roma associations working with children.

Other funds are distributed via the Inter-Departmental Commission for Roma Community Affairs, the Government Council for Nationalities, the Government Human rights Council, the Grant Agency of the Academy of Sciences and the Grant Agency of the Czech Republic.

In conclusion we can say that, according to our findings, the Roma minority is currently best characterised by its dispersed nature, disunity of individual families (clans), high unemployment, poor social circumstances and a different system of shared values compared to the majority population. On the other hand, there is a clear process of assimilation of some families. We can say that a large number of Roma are fully assimilated (not integrated), and that many of them live in inter-ethnic unions. A problem for the continuing integration process of the whole ethnic group is the fact that these people generally do not consider themselves to be Roma.

We may consider a positive development to be the formation of a Roma intellectual elite with the possibility and desire to get involved in towns' social work; the tendency has been detected on the part of many educated Roma not to distance themselves from the Roma community as used to be the case in the past. A variety of social, charitable and church organisations offer higher quality work at a local level. Many Roma are seeking to integrate in the majority society, which legitimises the state's integration efforts.

Long-term prison sentences¹

2001 – 2003

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In the IKSP research plan, attention is devoted to the formation of sentencing and sanctions policy and studying its effectiveness, and the „Research into long-term prison sentences“ project was stipulated for the period 2001– 2003.

When we compare the sanctions policy of Czech courts with the length of prison sentences in countries of Western Europe, it appears to be relatively severe and repressive. That section of Czech society in which there is a prevalent fear of crime on the other hand regards this sanctions policy as too tolerant and not ensuring an adequate deterrent function in sentencing. Reference is made in the professional literature to the fact that when prison sentences are imposed for a period of more than 5 years, penitentiary problems in connection with the long-term isolation of convicted persons from the outside world come to the fore, with negative impacts on the prison environment, with adaptation to the prison sub-culture and so on. The purpose of sentencing is thus often reduced to merely taking convicted persons out of society and the re-education and resocialising functions of a prison sentence are suppressed. Long-term sentences, particularly exceptional sentences imposed for a period from 15 to 25 years and for life, constantly limit the free residence capacity of prisons and serving of these sentences is linked with significant costs for the required care of an elderly prisoner. The basic question of sentencing (and sanctions) policy is for this reason achieving the required individualisation when sentences are imposed in terms of the seriousness of the act committed and the personality of the offender, and the required differentiation in serving of prison sentences imposed, with respect to the purpose of sentencing. The requirement for reasonable length of sentences is a fundamental principle of sentencing law in democratic countries.

Findings from European democratic countries show that imposition of long-term sentences (in these countries long-term sentences are usually considered to be prison sentences imposed for a period of more than 5 years, and we have also adopted this definition for the requirements of this research) can be reduced by a sensible sentencing and sanctions policy, or an increase in their effectiveness can be achieved and so the period they are actually served shortened (in the form of conditional release, parole etc).

¹ Karabec, Z., Blatníková, Š., Diblíková, S., Marešová, A., Nečada, V., Zeman, P., Krejčová, S. Dlouhodobé tresty odnětí svobody. Praha : IKSP, 2004. 195 stran.

The aim of the research was to acquire more comprehensive knowledge of sanctions policy in the Czech Republic in terms of imposition of long-term prison sentences and their effects on convicted persons. The aim of the research was achieved by carrying out research on a number of specific research topics.

By analysis of sanctions policy in the Czech Republic, based on statistical data on the structure of long-term prison sentences and the dynamics of their imposition, a realistic picture was obtained regarding the application of these sentences in our conditions over the recent period.

By analysis of court decisions in the Czech Republic based on analysis of court files and ascertaining the views of judges and public prosecutors, information was obtained on the practical application of the principle of reasonable length in imposing long-term sentences. Opinions of a selected group of judges and public prosecutors on the application of sanctions policy and on the issue of long-term sentences were ascertained by means of a questionnaire.

By means of a questionnaire administered to a group of prisoners, by controlled interviews with specialist prison staff and by analysis of written documentation on the creation and assessment of a **programme for treatment of prisoners serving long-term prison sentences**, information was obtained on the effectiveness of long-term sentences in terms of re-education and resocialisation of offenders.

By means of a probe into the issue of life sentences, comparative information was obtained on the legal regulation and imposition of life sentences in the Czech Republic, by analysis of prison files a picture was provided of the full set of persons serving a prison sentence for life in the Czech Republic and by means of a questionnaire, the views of a selected group of judges and public prosecutors on the issue of life sentences were assembled. A detailed analysis was made of the full set of persons serving a prison sentence for life in terms of their personalities and social characteristics, criminal careers, behaviour in prison conditions, and the views of specialists in treatment of convicted persons while serving life sentences were collected.

Information on possible negative **effects of long-term sentences on the personality** of convicts was ascertained by means of a psychological examination of a selected group of persons given prison sentences of more than 5 years, by analysis of their personal case histories, expert opinions and other source materials, which were supplemented by controlled interviews with specialist prison staff (psychologists, special educators).

Based on the literature sources, a number of the key penological questions were outlined relating to the imposing and serving of long-term prison sentences, in particular psychological aspects of imprisonment, the legal limits of life sentences and **international standards for serving long-term and life prison sentences**.

In the first part of the research „**Analysis of sanctions policy in the Czech Republic based on statistical data on the structure of long-term prison sentences and the dynamics of their imposition**“ we studied statistical data which helped us to understand the structure and dynamics of sanctions policy, particularly imposition of long-term prison sentences. Changes in the number of persons finally convicted in the Czech Republic, the numbers of persons given unconditional prison sentences and the numbers of persons given long-term prison sentences were surveyed in the time period from 1995 to 2001. The statistical data were taken from the Crime Statistics Yearbooks which are issued every year by the Czech Ministry of Justice. The proportion of persons given unconditional prison sentences among all persons convicted in the Czech Republic in the period surveyed (1995-2001) remained over 20 per cent, however it fell steadily from 1998, when it reached its peak. The proportion of long-term prison sentences among all unconditional sentences, however, remained approximately the same (between 4 and 5%). The explanation for the first of these phenomena is clearly the growing popularity of provisions enabling alternative procedures for dealing with less serious criminal cases (alternatives to imprisonment, probation elements, diversion). Criminal offences for which long-term prison sentences were imposed most frequently in the period surveyed were studied in more detail. These were the criminal offences of murder, robbery, assault, fraud, theft and prohibited production and possession of narcotic and psychotropic substances. The proportion of unconditional prison sentences imposed for the criminal offences surveyed in this period compared with all unconditional sentences imposed in the Czech Republic in this period remained relatively stable. An exception was the criminal offence of prohibited production and possession of narcotic and psychotropic substances, where for the whole of the period surveyed there was a more than seven-fold increase.

The statistics show that the criminal offence of murder has the highest share of long-term sentences among unconditional prison sentences imposed for a particular criminal offence (stable at ca 90%). This share is also high for fraud and robbery (15-20%, and the stated share for robbery goes up to twenty per cent), but low for theft (ca 1%). As far as long-term sentences of between 5 and 15 years are concerned, the highest and most stable proportions of these sentences imposed for a particular criminal offence among all sentences of this length imposed in the Czech Republic were those for the criminal offences of robbery (ca 25 %) and murder (more than 20 %).

The respective statistics of the Czech Ministry of Justice show that the proportion of persons given unconditional prison sentences and also the proportion of persons given a long-term sentence among all those convicted has fallen from 1998, whereas the proportion of the number of long-term sentences imposed among all unconditional prison sentences imposed has remained stable. The first of these phenomena clearly reflects a shift in sentencing policy towards greater use of diversion and gradual replacement of short-term prison sentences by alternative sanctions, which occurred in particular in the area of dealing with less serious

criminal offences in this country from the middle of the 1990s. Interpretation of the stable proportion of long-term sentences among all unconditional prison sentences is more complex. For this reason we made a separate analysis of changes in sentencing statistics for a number of selected criminal offences for which long-term sentences were more frequently imposed in the period surveyed. We found that there were no significant changes in the number of persons convicted for the selected criminal offences apart from exceptions in the period surveyed, or rather we did not note a particularly clear trend for any of them in these indicators either towards an increase or a reduction in the number of those convicted. The exception is the criminal offence of prohibited production and possession of narcotic and psychotropic substances, where there was a significant increase in the number of persons convicted and also the number of persons upon whom an unconditional prison sentence was imposed, and the proportion of long-term sentences imposed among all unconditional sentences has fluctuated between 9 and 14% since 1996. Here it seems that there was no perceptible change in court practice regarding imposing sentences in more serious cases when long-term sentences were considered.

Attention was also devoted to certain basic characteristics of the persons sentenced, specifically gender, age and nationality, for the purposes of comparing selected data for 1995 and 2000. Regarding the nationality of those sentenced, it can be stated that the change in the proportion of foreigners sentenced to long-term imprisonment in terms of all persons given this sentence between 1995 and 2000 corresponds to the change in the composition of those sentenced to long-term imprisonment. Czech citizens form an overall majority (nearly 90 %), but this proportion very gradually goes down. Compared with 1995, the proportion of Slovak citizens halved and they were replaced in second place in the number of those sentenced by Ukrainian citizens. The age composition of persons given long-term sentences corresponded in 1995 to the age structure of persons given unconditional prison sentences and the total number of persons sentenced, i.e. the 20-24 and 30-39 age groups had the highest representation. When we look at the ratio of men and women sentenced, it is clear that the proportion of men among persons given unconditional prison sentences was higher in both years than among all persons sentenced, i.e. ca 95%. This proportion also remained roughly the same in both years, whereas the proportion of women rose gradually among all persons sentenced. The proportion of re-offenders recorded by the court among persons given long-term sentences in both the years compared fell by roughly nine per cent (30% - 21%).

Data on changes in the number of persons serving long-term prison sentences in Czech prisons were obtained from the Czech Prison Service Yearbooks. These data were broken down by gender and length of sentence (from 5 to 10 years, from 10 to 15 years, more than 15 years and life). A relatively evident drop can be observed in the Czech Republic from 1999 in the coefficient of the number of prisoners per 100,000 inhabitants, though this remains quite high. From data obtained from statistics of the General Headquarters of the Prison Service (for the

period 1995-2001) it can be seen that although the numbers of inmates given long-term prison sentences in this period rose steadily, the proportion of these prisoners among all the others remained roughly the same. The numbers of women prisoners also rose, but in view of their small representation in the prison population (in 2000 they represented ca 4% of the number of prisoners serving long-term prison sentences), there was only an increase by tens of persons.

We also focused in this part on a comparison of data from abroad. A group of countries was selected which can be regarded as representative of different approaches in sentencing policy and different legal, geographical and socio-economic environments. The data were classified and arranged so that it could be compared to a certain degree with Czech statistics. As comparison of prison statistics shows, the coefficient of the number of prisoners per 100,000 inhabitants is generally higher in the former Communist countries than in other European countries. When we look at the sentencing statistics abroad it can be stated that despite the differences between the countries selected for the purposes of this comparison, the Czech Republic essentially falls into the context of democratic European countries in the indicators surveyed, whether it is the ratio of the number of long-term sentences to the number of sanctions imposed in general or the ratio in the case of individual criminal offences for which more severe sentences are imposed.

In the second part we focused on **analysis of the decisions of criminal courts** in the Czech Republic with respect to reasonable length of sentences. This part of the research attempted to link objective and subjective aspects of decision-making practice in Czech courts in terms of imposing long-term prison sentences. Data was gathered from a relevant sample of criminal court files and from the opinions of judges and public prosecutors themselves. The aim of this part of the research was to ascertain how courts assessed three areas in cases when long-term prison sentences were imposed – the degree of danger of the offence to society, the possibility of reforming the offender and his/her attitudes. The examination proceeded from the assumption that courts, when giving reasons for their verdicts, explain inter alia how they satisfied the requirements of criminal law in imposing sentences. For the purposes of comparison, two sets of court files were analysed (from 1995 and from 2000), in which the final verdict was imposition of a long-term prison sentence. The five year gap between the two sets examined was to make it possible to discover any change in the decision-making practice of courts in cases of serious criminal offences, particularly where it involves assessment of criteria stipulated by individual Acts for determining the type and the length of a sentence. The composition of criminal offences for which sentences were imposed was similar in both sets, i.e. cases of violent crime including robbery and cases of serious economic or property crime were overwhelmingly predominant. The proportion of cases in which an aggregate sentence for a number of criminal offences was imposed was significantly higher in the sample from 2000 compared with the sample from 1995. In both cases sentences were predominantly from more than 5 to 7 years, but in the sample from 2000 the proportion of more severe

sentences was higher, in particular from more than 7 to 10 years. The average length of sentences imposed and the proportion of those sentenced assigned to higher security prisons also rose.

In giving reasons for their verdicts, courts usually assessed very thoroughly and clearly the degree of danger of the offence to society under the headings stipulated by law. The fact that in some cases a higher court came to different conclusions in its judgement is not material in any way. Upon examination of source materials for assessing the possibility of reform and the attitudes of the offender, and use of them by courts when making decisions on the type and length of sentence, however, certain stereotypes appeared, which support the hypothesis that these criteria are sometimes automatically regarded as less important in the decision-making practice of courts.

Information from various sources was used to assess the personality of an offender. These are mostly objective sources, such as the Criminal Register or records of transgressions. Courts handle this information very skilfully, take it into account in their decisions and explain how they assessed it in giving reasons for their verdicts. Dealing with other sources of evidence on the personality of an offender is more problematic. A naturally fundamental source of evidence on the personality of an offender and a prognosis of his/her development is the opinion of an expert witness in a relevant field. An expert witness has specialist knowledge which bodies responsible for criminal proceedings lack. Information obtained from him/her, or ascertained with greater precision by questioning the expert witness, should therefore be inherently credible. However, this is not absolute proof. The court must assess it like other evidence, acting on the principle of free assessment of evidence. Such assessment should then be reflected in the reasons for the verdict. In both sets surveyed, however, more than half of the verdicts in cases when an expert opinion was requested either confined themselves to quoting the conclusions of the opinion in stating the evidence provided or to merely referring to the expert opinion in giving reasons for the type and length of sentence. As far as individual criteria for decisions on guilt and the sentence are concerned, we may conclude from analysis of the files that courts sometimes have a tendency, at least when giving reasons for their verdicts, to view the possibility of reforming the offender and his/her personal circumstances as only supporting criteria for the degree of danger of the offence to society.

Possibilities of using other source materials for assessing the chances of reform and the circumstances of an offender, such as reports on his/her reputation in the place where he/she lives, appraisals from employment or school etc, depend to a significant extent on the how they have been prepared, or whether they are available at all, i.e. on circumstances outside the control of the courts. In particular, reports on reputation are very short and only rarely contain specific information on facts other than data from records of transgressions. In the cases surveyed courts usually restricted themselves to citing these documents. Other circumstances from which assessment can be made of the personality of an offender and a prognosis of his/her development (for example family background) are mentioned only exceptionally in

the reasons given for the type and length of a sentence. Even so, the proportion of verdicts where the reasons given contained in our opinion detailed, comprehensive and balanced assessment of evidence for ascertaining the degree of danger of the offence to society, the circumstances of the offender and the possibility of reforming him/her rose to more than one between the two samples of court files examined.

This part of the research included administration of an expert questionnaire, in which a total of 134 respondents (judges and public prosecutors) gave their opinions on the most serious problems of long-term prison sentences. Concerning opinions on sanctions policy in the Czech Republic at the present time, a significant number of the sample polled (63% of the public prosecutors and 46% of the judges) regard current practice in imposing sentences as rather lenient or lenient. 46% of the judges and 38% of the public prosecutors consider current practice to be satisfactory. An outright majority of the public prosecutors and judges polled think that the premise „concerning the evident severity of sentences imposed by our courts for serious criminal offences“ is not supported by actual practice. A great majority of judges (61%) hold the opinion that the frequency of imposing long-term sentences from the point of view of fulfilling the aim and the purpose of sentencing is satisfactory and this opinion is also shared by about half of the public prosecutors. Nevertheless, a relatively high percentage of the respondents (36% of the judges and 50% of the public prosecutors) think that from the point of view of fulfilling the aim and purpose of sentencing, long-term prison sentences should be imposed more often than they have been to date. The judges and the public prosecutors polled mainly expect from service of a long-term prison sentence protection of society against the person who has committed the criminal offence and prevention of the offender from committing a further criminal offence. They expect least of all that serving the sentence will educate the offender to lead a proper life and rather incline to the view that long-term prison sentences serve to educate other members of society.

More than 80% of the respondents agree with current legal regulation of conditional release. The most effective use of the institution of conditional release from serving a sentence is seen by respondents as most effective for economic criminal offences but on the other hand least effective for criminal offences against life and health and for criminal offences against freedom and human dignity. Legal regulation of an exceptional sentence is considered by ca 75% of the respondents as satisfactory, but by the remainder as rather unsatisfactory or not satisfactory at all. More than 90 % of those polled more or less identify themselves with the premise „concerning the great influence of expert witnesses (psychiatrists and psychologists) in making decisions on imposition of an exceptional sentence“. In the replies to the question whether investigation files usually contain enough source material for the court to be able to make a proper assessment of the possibility of reforming the offender, the opinions of the two groups polled differ significantly. For the most part public prosecutors hold the opinion that investigation files contain sufficient source material whereas among judges the prevailing view is that they do not. As

far as the quality of these source materials is concerned, the replies of the two groups are much the same – nearly two thirds of them consider existing source materials as being of good quality.

The opinion that regards current sanctions policy as rather lenient predominates, particularly in connection with more serious criminal offences. Judges and public prosecutors see long-term prison sentences as an irreplaceable tool in the fight against the most serious forms of crime and regard them as an important component of overall sanctions policy.

It was shown both from the files and from the replies of respondents that there is a lack of source materials for assessing the personality of the offender and his/her circumstances, or they are not of sufficient informative value. In practice, apart from extracts from the Criminal Register, usually only opinions of expert witnesses are used to assess the personality of an offender, if they are requested. The opinion of an expert witness from the field of forensic psychiatry, or psychology or sexology is however accepted in some cases by courts as absolute proof, and they adopt its conclusions en bloc without detailed further evaluation or at the very least mentioning this assessment in the reasons given for the verdict.

The next section of the research project consists of a probe into the issue of the effectiveness of long-term prison sentences based **on resocialising programmes** for the persons convicted. For the purpose of ascertaining the effectiveness of treatment programmes implemented with those given a long-term prison sentence, a set of persons who were serving their prison sentences in the Valdice prison between 1993 and 2002 was selected. The set was divided into groups according to the length of the sentence imposed – served. A questionnaire of those sentenced and analysis of data on the prisoners which related to their resocialisation and implementation of the treatment programmes were used for the research.

The creation of treatment programmes is derived from the conditions in the prison, the composition of those sentenced and staff possibilities. A treatment programme is prepared by a team of specialists based on a comprehensive report on the person convicted in terms of the length of sentence, personality features and causes of the criminal offence. The treatment programme contains a specifically formulated objective of working with the person convicted, methods of treating the convicted person which lead to achievement and the method and frequency of assessment. In the probe there was discussion in a number of prisons with specialist prison service staff, particularly regarding creation of treatment and assessment programmes. The complete treatment programme consists of: work and training activities, special education activities, interest activities and focusing on the area of creating external relationships. Treatment programmes are different in release sections, where those convicted are placed six months before they are expected to finish serving their sentences (i.e. including any conditional release). Treatment programmes are targeted here to specific preparation of those convicted

for an independent way of life in freedom. Treatment programmes are evaluated regularly (in security prisons programmes are always evaluated every three months and in high security prisons every six months). When it is assessed, the programme is updated in accordance with the development of the personality.

The questionnaire was administered to a total of 208 inmates and it was found that the great majority of prisoners perceive the treatment programmes as a duty. The most popular treatment programme activity for the prisoners is the area of creating external relationships or contact with the family and a surprising finding was that the popularity of interest activities occupied only 4th place in the evaluation table, behind training and work activities. While serving their sentence, most prisoners emphasise preservation of their family relationships and maintaining and strengthening their self-confidence. Again family relationships and also the thought of the end of serving their sentence are shown for most prisoners to be strong motivation for making serving of their sentences more tolerable. It was found that the prison environment and the behaviour of fellow-inmates and staff have the most negative effect on prisoners. They have the feeling that the staffs do not treat them objectively, while they should be a model for the prisoners by their behaviour and professionalism. Most prisoners see their future as favourable, and for this reason starting a free life with the support of their families, a social curator or some of the non-governmental charitable organisations will be very important for them when they finish serving their sentences, so that the effect of education and training on prisoners while they are serving their sentences is not wasted and their resocialisation can be continued.

The results of the research showed that acceptance of treatment programmes by prisoners is with only some exceptions not a problem and that their implementation is the more successful the longer the prisoner spends in prison. Overall it could be noted that longer targeted education and training through treatment programmes has a positive influence on prisoners' behaviour. On the other hand it is not possible to reach a clear conclusion on whether programmes achieve their goal a hundred per cent. Account needs to be taken of prison conditions, the standard of professional staff and of course the individual nature and the effort of the prisoner to want to change something. In each case the research results showed efforts on the part of prison staff to resocialise prisoners and also an attempt by at least some prisoners to change their behaviour and their attitudes. The probe made into this issue indicates that if more prisoners could be employed while serving their sentences they would be more successfully resocialised. It is also clear that more attention needs to be devoted to first-time prisoners, to attempt to improve and vary the content of treatment programmes and to raise the professional standard of specialist prison personnel.

In a probe into the issue of **the imposition and servicing of life sentences** in the Czech Republic we looked at legal regulation of imposing a life sentence in this country and in selected European countries, by analysing a sample of 23 of the above-mentioned offenders in terms of criminal law and by analysing the offenders' personalities and psychological aspects of long-term imprisonment. An exceptional

sentence means on the one hand a prison sentence of more than fifteen years up to twenty-five years and on the other hand a prison sentence for life¹.

Those given a life sentence basically serve their sentences in specialised sections of prisons. This sentence was imposed on all convicted persons serving a prison sentence for life in the Czech Republic for committing one or a number of criminal offences of murder, often supplemented by an attempt at this crime, and in most cases here also existed concurrence with other criminal offences. At the time of the investigation a total of 24 persons were serving a life sentence in Czech prisons.

As regards the previous criminal career of offenders sentenced to life, we meet with a wide range. They were persons with no previous criminal convictions, i.e. first-time offenders, and two had been sentenced by a court but not given an unconditional prison sentence. Six offenders had been sentenced or had served a sentence fewer than five times, in five cases there had been five convictions and five persons had had between six and thirteen convictions. In most cases the intervals between individual convictions were very short. Five offenders were serving a sentence for the first time, of whom 3 had no previous convictions, and three offenders had committed violent criminal offences, for example, robbery, assault and rape. The criminal offence of murder or attempted murder appeared in seven cases. Four offenders had committed the criminal offence in question under the influence of alcohol, also four had been drunk and one of them was classified as a heavy abuser of alcohol. In the cases of 13 offenders in the surveyed group, no influence of alcohol or other addictive substance was ascertained, and in one case the criminal offence was not committed under the influence but the offender was a drug addict.

From the questionnaire of public prosecutors and judges it can be seen that nearly 90% of them do not regard a prison sentence for life as a commuted death sentence, whether because of the possibility of parole or for other reasons (e.g. the chance of a pardon). Conditional release is and should remain a necessary component of not only a „normal“ prison sentence but also a life sentence, not only as a motivating factor for the person sentenced. Among the negative effects of a life sentence public prosecutors give first place to the removal of the person sentenced from positive contacts and the financial demands of serving a sentence for the state and in second place they state the danger of criminal contagion and the impossibility of resocialisation. Judges point to the impossibility of becoming a member of society again after any release as the most serious negative effect. Those

¹A prison sentence of more than 15 and up to 25 years may be imposed by a court only if the degree of danger of the criminal offence to society is very high or the possibility of reforming the offender is particularly difficult. An exceptional sentence may be imposed only for a criminal offence the facts of which fit the criminal offence of deliberately causing the death of at least one person; only to an offender who has committed the criminal offence of murder or who in the criminal offence of high treason, terrorism or general threat has been guilty of the death of another deliberately, on condition that:

- a) the degree of danger of this criminal offence to society is exceptionally high in view of the particularly reprehensible way the act was committed, or the particularly reprehensible motive or a particularly grave and hard to remedy consequence, and
- b) effective protection of society requires imposition of this sentence or there is no hope that the offender could be reformed by a prison sentence of more than fifteen and up to twenty-five years.

polled were united in what they regard as the most suitable method of serving a sentence – the individuals sentenced should be strictly isolated in special institutions. Only a quarter of public prosecutors and somewhat fewer judges were convinced that life sentences have a sufficient deterrent effect. The sentence itself is also in the opinion of those polled not an adequate deterrent because there is the possibility of conditional release from serving a life sentence (the possibility of revising the decision for various reasons – presidential pardon, amnesty, change in the law). Respondents in both groups inclined to the view that they would use restorative approaches only with less serious criminal offences, particularly property offences, with first-time offenders and for offences where the consequences could be remedied.

One of the aims of the study carried out was to map the actual state of those given life sentences in the conditions in which they serve their prison sentences. A partial probe was targeted at characterising the group of persons given life sentences – in terms of personality and specific social features, and also in terms of their criminal career and current serving of their sentences. The study was of a descriptive nature and was based on analysis of problem areas (personality and social features, behaviour in the prison environment). The research method was study and analysis of written documents on those sentenced, analysis of court files, a questionnaire of prison personnel and interviews with specialists.

The research study assembled a set of 23 men and one woman given life sentences who were serving their sentences in Czech prisons at the time of the empirical study. The average age of those sentenced was 43.2 (higher than that of the whole of the prison population in the Czech Republic), with ages ranging from 27 to 75. The average age when starting a life sentence was 36; the youngest was 25 when the sentence started. Seven of those given life sentences had spent more than ten years in prison. Most of those given life sentences were single and childless individuals, without a regular partner. In terms of educational achievement, most had completed apprenticeships and the education pattern of those serving life sentences was not significantly different from that of the prison population as a whole. Half of those sentenced to life have grown up in a complete family. None of those sentenced was an only child. All of those sentenced to life are characterised at the most general level as having personality defects. From this angle it is also possible to understand how they perceive serving their sentence and how they experience restriction, what is primary for them in the hierarchy of values and so on. Personality features include, for instance, a need for stimulation and excitement, and a tendency to risky behaviour. Impulsiveness, lack of ethical principles, emotional deadness, egocentric and histrionic displays are seen.

The level of natural endowment among those given life sentences varies from the borderline of the below average band to an above average level of intelligence; overall there is a clear tendency to below average natural endowment. No natural endowment in the defective band was found in any of those sentenced. A tendency to dependence is found for half of those given life sentences. Most (75%) showed

no deviant sexual behaviour. The whole group of those given life sentences showed signs of personality defects. The age of the offenders at the time they committed the criminal offence varied between 20 and 70. The average age of offenders at the time they committed the criminal offence for which a life sentence was imposed was 33.8.

The information obtained on the issue of those given life sentences was seen through the eyes of those looking after them. No significant tendency to break rules appeared in the behaviour of those given life sentences when serving their sentences. Correlation of scales for assessing the degree of adaptation to prison conditions showed a linkage between problems in adapting (e.g. lack of discipline) and the activity of an individual in adapting. Quite hypothetically, this would mean that absence of problems in serving the sentence is linked with passivity on the part of prisoners, whereas displays of activity on their part rather indicate problems.

The method of serving a life sentence and the nature of treatment should fit the type and nature of the personality disorder of those given life sentences. There may be a uniform approach to problems which those given life sentences have but treatment programmes themselves should definitely be highly individualised and specific. And the fact that specialists frequently refer to the need for an individualised approach can be interpreted as an attempt to differentiate in more detail between those given life sentences. Programmes for those given life sentences should not be targeted generally to changes in behaviour (this is possible only with difficulty with individuals having personality disorders), but can start a more positive dyadic relationship between those sentenced and staff. The importance of intensive contacts with the outside world is indisputable.

Serving long-term or life sentences have its specific features and problems, and this also means heavier demands on the work of prison staff in dealing with those sentenced. Personnel working with those given life sentences are exposed to their behaviour and communication patterns and so on, which reflect the psychopathic make-up of inmates' personalities. A person who deals with those given life sentences should be resistant to pressure, sufficiently socially skilled to be able to make a general estimate of the motivation behind the behaviour of others and to be able to manage a crisis situation well. In training specialists, attention should be paid to developing interpersonal perception and also to aim at preventing burn-out syndrome and developing healthy mental habits.

In the next section we focused on ascertaining **the consequences of long-term imprisonment**. Long-term imprisonment of those who have committed serious criminal offences and their placement in closed facilities is constantly perceived by society as the optimal sentence for criminal acts ascertained and as the best protection of society against their being repeated. At the same time, however, there has been discussion for decades both in the Czech Republic and abroad of problems associated with the imprisonment of a significant number of the population and the social and economic impacts of serving a prison sentence on society, but also the

negative effects of long-term imprisonment in particular on the personality of individual persons isolated in prisons.

The penological section of our research was designed to verify these statements. The aim of this section of the research was to obtain knowledge of those currently sentenced to a long term of imprisonment, in particular knowledge by means of which it would be possible to document undesirable effects of serving a long prison sentence on the personality of convicted prisoners. The following methods and techniques were used to obtain this knowledge: analysis of prisoners' personal case histories, psychological examination of ca 70 male prisoners given prison sentences of more than 5 years (persons imprisoned for the first time (first-time offenders) and persons imprisoned repeatedly (re-offenders)), analysis of court expert witnesses' opinions on individuals convicted, and ascertaining the ideas of those sentenced on their own future (special questionnaire). Based on semi-standardised interviews, the staff awareness of the specific features of imprisonment and dealing with those given long-term sentences was mapped and an analysis was made of the professional training of Prison Service staff in terms of the specific features of long-term sentences.

The research carried out confirmed that the issue of persons imprisoned long-term is of such breadth that it should be one of the central themes dealt with by the prison service in relation to persons imprisoned in its facilities. A long-term stay in prison should, for that section of those imprisoned long-term who have the prerequisites for it, be thoroughly targeted to a fundamental reappraisal of their attitude to their own asocial behaviour, to radical change of life style or attitudes to life. The work of specialist prison staff with prisoners while they are serving their prison sentences must be targeted to this. For prisoners who have been given a long-term sentence for the first time (aged about 30 and more), and who can be assessed in accordance with the results of a criminological investigation as people not differing in basic social psychological characteristics from what is termed the average citizen, repeat criminal behaviour is a manifestation of failure to achieve the purpose of the long-term sentence imposed on them. The group of persons imprisoned for the first time that we investigated differed from the group of persons who had been in prison before, but not significantly. For this reason we cannot reach a conclusion from the findings obtained which would be an argument that serving a long-term sentence has a clearly negative effect on the personality and also the person of a prisoner given this sentence. We are aware that arriving at this conclusion from this part of the research is clearly influenced mainly by the fact that this was a single investigation and that at this time it is not possible for technical and other reasons to carry out an extensive longitudinal survey of offenders imprisoned long-term.

Many interesting findings were ascertained, the correctness of which can be verified by more extensive research. For instance, we found that the composition of those imprisoned long-term changed significantly – our respondents (those imprisoned for the first time and those who had been in prison before) included

more persons convicted of fraud than those convicted of a violent criminal offence. Also the length of the sentence imposed on them for fraud was clearly greater than for serious violent crimes. Those in prison for the first time given long sentences were often middle-aged (older than re-offenders in the group compared), had a higher level of education and IQ, good relationships with their own family, interest in social events outside prison, including interest in political events and so on. Positive frame of mind and confidence in their own favourable future and positive expectations of professional assistance from specialist prison staff, which distinguished them from those in prison for the first time examined in previous research, are a promise of possible positive changes in their behaviour and also prevention of repeated criminal activity among the respondents we investigated. Findings on the section of prisoners from this group thus confirmed the justification of discussing the suitability of sanctioning even those given long-term sentences by another form of sentence than traditional imprisonment, but certainly drew attention to the fact that such prisoners need to be treated in a different way from those imprisoned repeatedly, and the content of education and training programmes needs to be adapted to this difference.

In conclusion we tried to outline certain **penological and criminal law aspects of the principle of reasonable length of sentences**. In penitentiary practice the principle should apply that secondary - negative - effects of a sentence should not devalue and to any significant degree reduce the main - positive - effects. From the psychological point of view, two aspects can be distinguished in the process of gradual adaptation to the way of life in prison and the community of those sentenced (prisonisation). This is institutionalisation, which represents adjustment to the highly organised prison life. This is linked with loss of activity and initiative and means external orientation in the specific living conditions of serving a sentence. Every convict is more or less subject to institutionalisation. It needs to be noted that even the first signs of changes in the behaviour of a convict, which are shown by acceptance of programmes and goals, do not have to mean the first signs of the required changes, and may only be a question of adapting to the conditions. The second aspect is acquiring the ideology, which manifests itself by identification with the criminal sub-culture, and includes here for example acquisition of a specific language, what is termed criminal argot. This represents internal acceptance of sub-culture norms and rules, values and attitudes, and also rationalisation of the system (as protective mechanisms).

Those imprisoned long-term also undergo a staged process of adaptation to the prison environment. The argument that convicts who have spent a longer time in prison have already had enough time to test the prison environment is based on the idea that these people do not encounter fundamental problems arising from the institutionalised – prison - environment. The longer the time is in prison, however, the more intensive the impact of this process is. From the point of view of administration of the prison system and from the short-term point of view the fact is that „institutionalised“ prisoners have a tendency to cause fewer problems for management than „uninstitutionalised“ prisoners. This adaptation, however, is contrary to the basic intention of the institution of a prison sentence – reintegration.

It can be stated in general that long-term imprisonment, through the influence of the prisonisation process, reduces and even makes impossible the probability of successful reintegration after release (for instance in the area of social relationships). However, we need to be very careful when making generalisations about the prisonisation process, as is traditionally stressed in certain writings in the prison sociology field. In addition to the structural features of the institution - prison - that produces these phenomena, there is also the personal (socio-psychological) history of convicts which they bring when they enter the institution. Previous experience with a similar institution, the personality structure of the individual, the values of the social group they come from, personal experiences and expectations and so on have an influence. It seems that the model of deprivation places too much stress on the power of society to apply negative labels to individuals and underestimates the ability of individuals to reflect such labelling and react to it.

Loss of contacts with family and friends and severing of ties with the outside world is regarded by convicts as one of the most serious problems which they are forced to face. Long-term imprisonment is often a sort of slow process of social distortion, the essence of which is the absence of most forms of social interaction. Strengthening or weakening of their own psychological frame of mind depends on the strength and quality of social relationships and on emotional ties in the environment from which convicts come. It seems that positive and supportive relationships with important people (most often family) can lead to strengthening, which can then be used as a „buffer“ against the immediate effect of other (negative) factors in the prison environment.

There is general agreement in the scientific literature with the opinion that long-term imprisonment in itself leads to certain harmful effects. When interpreting studies dealing with the psychological effects of long-term sentences it is very important to be aware that it is not possible to generalise, for each individual who has experience of long-term imprisonment reacts to this situation in his/her own way. Research studies inter alia point to the fact that there is a range of ways in which prisoners adapt to life in prison and in which on the other hand the prison environment and the situation of imprisonment have an impact on them. Convicts are equipped in different ways for coping with the demands of a long stay in prison, depending on experiences before being imprisoned (criminal career), social relationships, personality traits, external environment and interactions taking place in it and so on. It is not possible to make simple generalisations, but it is possible to assume that there is a profile of a resistant, less resistant and non-resistant individual in the conditions of long-term imprisonment and life imprisonment.

At the theoretical level, an unconditional prison sentence contains the following elements in particular: detriment to the offender, revenge, moral condemnation, isolation as a means of protecting society, an opportunity for retraining and resocialisation, deterrence of other potential offenders, satisfaction of the victim and the public. With a life sentence there is also the element of elimination – permanent exclusion of the offender from society. These elements are

not, of course, evenly represented in a long-term prison sentence. Their frequency and weight change in relation to the length of the sentence imposed (served).

This is closely related to the issue of the reasonable length of sentences. The principle is simple; the sentence should correspond to the crime committed and the personality of the offender. Czech legal regulations require that when stipulating the type and length of the sentence, the court considers the danger of the criminal offence to society, the possibility of reform and the offender's circumstances. Here the court has to assess in particular the importance of the protected interest which was affected by the offence, the manner in which the offence was committed and its consequences, the circumstances under which the offence was committed, the personality of the offender, the degree of his/her guilt and the motive. What the law says is therefore relatively clear. These elements of the principle of the reasonable length of the sentence of course imply other questions. With long-term prison sentences there is in particular the issue of the personality of the offender and the possibility of reform (retraining, resocialisation) of persons given this sentence. Very long prison sentences are given mainly for the purpose of isolating from society a dangerous offender who in actual practice cannot be influenced. A number of surveys have produced the finding that these sentences often lead to negative changes in the experiences of those convicted which have a relatively permanent impact and operate against attempts to resocialise.

In terms of the regulative function of a sentence (change of behaviour), long-term sentences are, with the probability that they will end during the life of the person sentenced, „over-dimensioned“ in time. As a result, socially desirable patterns of behaviour are extinguished, for in conditions of imprisonment they are not adaptive and new patterns emerge, which are unsuitable for life in freedom. There is a loss of initiative, interests narrow and the personality of the convict socially deteriorates.

Surveys focused on change of personality through the influence of serving a life sentence point to a gradual loss of perspectives, institutionalisation which is shown by the creation of dependence on staff and the conditions of institutional life. There is increased introversion and a partial increase in a hostile attitude particular to oneself. An overall decay of the personality was not, however, noted in the surveys.

The results of our research do not provide sufficient empirically based arguments for blanket confirmation of devastating effects of long-term imprisonment on the personality of prisoners. Even so it can be agreed that long-term imprisonment undoubtedly has negative effects as well. It can be stated in general that long-term imprisonment in itself does not significantly threaten the mental health of a convict (if he/she is a person without psychological problems before imprisonment), but to a great extent in itself through the influence of the prisonisation process reduces the probability of successful reintegration upon

release. It can be anticipated that the probability of failure in a range of basic areas of social life – at work, in life with a partner and also in civil life – increases with the length of imprisonment. When interpreting the prevailing type of behaviour and conduct in serving a sentence, the structure of the personality before imprisonment of an „in some way scarred“ prisoner (offender), has to be looked at, i.e. his/her biography before institutionalisation has to be taken into account.

The concept of what is termed restorative justice, which contributes new elements to the traditional system of criminal justice, has constantly been extended in terms of content in recent years. Originally intended as a certain alternative to the traditional criminal process, it was first applied at the pre-trial stage or in court proceedings, or instead of a court hearing. The principles of restorative justice are now also progressively being put forward (particularly at the theoretical level) at the stage of execution proceedings, i.e. in serving criminal sanctions imposed. This involves in particular various proposed modifications of serving unconditional prison sentences. In this connection there is talk of the „restorative prison system“ as a system which should eliminate undesirable effects of imprisonment, particularly long-term imprisonment. As is known, the definitive precondition for the reform (resocialising) effect of serving a prison sentence is recognition of one's own guilt and the justice of the sentence on the part of the convict. This could be assisted by some of the already tried and tested methods of restorative justice, such as contact (perhaps only in writing) between the convict and the victim (in extreme cases, for example, also with survivors), which would enable subjective experience of guilt (for instance and apology, or showing regret) and would motivate the offender to rectify the consequences of his/her offence, to pay compensation for damage/loss caused and thereby to his/her own re-education. Wider contact with the outside world, provision of opportunities for the convict to take part in the organisation of his/her daily routine in prison and so on are considered to be other „restorative“ methods of serving long-term and also life sentences.

Prisoners serving long-term or life sentences were usually convicted of a particularly serious criminal offence and were judged by the court as persons who were a danger and a threat to society. Penitentiary experience confirms that under the conditions of serving the sentence imposed these prisoners did not usually present an increased risk to prison staff or fellow prisoners. Those given long sentences, particularly life sentences, paradoxically present a stabilising element in a prison, for they have an interest in a peaceful and if possible bearable time when serving their sentences.

Prisoners usually go through three phases when serving a long-term sentence: the first phase is a period of „relinquishing the past“, when prisoners stop reliving their ever present memories of life in freedom and gradually adapt to the conditions of life in prison. Growing deprivation and other undesirable aspects of long-term imprisonment of course require systematic attention and timely intervention. The second phase is „preparation for change“, when the prisoner, often with great difficulty, psychologically disengages from the customs and stereotypes of

everyday prison life and from adaptive mechanisms which have enabled him/her to survive the long period of imprisonment. The third phase is „freedom shock“ after release and after loss of the feeling of safety and security in prison and on adapting to the new reality of life.

The problem lies in the fact that certain elements of serving a prison sentence may be counter-productive; on the one hand they help to lessen the effects of long-term isolation for prisoners and make it easier for them to adapt to prison conditions, but on the other hand increase their stress and deprivation (for example, most prisoners regard visits from family members as great support in overcoming the effects of imprisonment. After these visits, however, the feeling of powerlessness, that they cannot influence events which affect them personally and which happen behind the walls of the prison, is often intensified for prisoners and increases their stress with all the other consequences). On the other hand, total interruption of contacts with the outside world often makes it easier for prisoners to accept the conditions of a long-term prison sentence, but also makes their transition to life in freedom after release significantly and often irreparably difficult.

Serving a life sentence has certain specific features. Even though it follows from the name of this sentence that its end is connected with the physical death of the convicted person, in practically all European countries serving this sentence does not reach the final point. Even these prisoners are released into freedom, and so for them too opportunities have to be provided for resocialisation and preparation for life in freedom. In all cases when the aspect of safety and protection society makes it possible, the possibility of transfer to less severe conditions for serving their sentence should exist for prisoners sentenced to life too, and they should not be permanently isolated from other groups of prisoners and so on.

Czech legal regulations enable conditional release from serving a life sentence after at least 20 years have passed. For prisoners sentenced to life, problems related to biological ageing occur with time. For this reason prison facilities must be able to provide these prisoners with adequate medical care and other professional assistance.

Financial Crime in the Czech Republic: Study Undertaken as Part of Research Into Economic Crime¹ 2001-2004

Researcher responsible: Ing. Vladimír Baloun

This study of financial crime in the Czech Republic was prepared as part of the Economic Crime research project undertaken in IKSP between 2000 and 2003. The author of the study was Ing. Vladimír Baloun (the whole study has 151 pages including appendices, and contains a number of tables and other factual material in graphical form).

The basic aim of the research into financial crime was to map a phenomenon which did not essentially exist in the Czechoslovak Socialist Republic before 1989 (this applies only to financial crime). It was with the new role of banks and similar institutions, with the emerging capital market and with the completely new concept of the tax and levies system that offences against this perhaps most important segment of the economy appeared (its importance can be regarded as lying in the fact that it has an irreplaceable signalling function); for this reason it was the imminent duty of criminological research to react to this negative development. It cannot be said that financial crime has been totally ignored in world criminological research (though it has also been treated as a component of what is termed white collar crime as a whole); nevertheless the specific features of a society in transition from a planned economy to a market economy are of such a type that criminal behaviour in this economic sector is to a significant extent specific. A secondary aim of the researcher was therefore to demonstrate the definite specificity of financial crime in economic crime, ie specify the areas in which the two types of criminal behaviour differ. The fact is that a specific stage of this kind has been mapped out which will never occur again (this applies in particular to offences against banks and the capital market – especially offences committed in connection with the process of privatising state assets); other segments of this criminal activity (offences against insurance companies, savings and loan associations, offences against public budgets and so on) are conversely not so firmly linked to the transformation phase and description of them may also prove to be relevant in the future.

This specification of aims also provides a clear definition of the problem studied. Financial crime was defined right from the start of the research as a particular sub-group of economic crime, as deliberate unlawful activity committed against property in connection with financial investment business and directed against it. To put it another way, it is paradoxically best defined by the group of institutions (namely **financial institutions**²) against which it is directed. It is

¹ Baloun, V. Finanční kriminalita v České republice. Praha : IKSP, 2004. 151 stran.

² Financial institutions are generally institutions dealing with money and loan transactions. They collect liquid funds and provide them to a variety of entities in the form of loans; they offer a range of services (payment operations, transactions with securities, deposit deals, insurance, leasing etc).

necessary to add that the researcher had to work in particular with economic concepts, which gave the study a somewhat didactic form; it is precisely in this area that a shortcoming came to light even among the economically educated public, created by a considerable underestimation of the task of finance in the planned economy system. So a political history introduction to the area contained in the study was necessary; for many phenomena in this period resulted from trends either still rooted in the system of economic management prior to 1989 or from trends rooted in the initial period of transformation.

It is also necessary to add that financial crime is conceived as highly latent and very sophisticated; it is possible to agree with the former assertion but less so with the latter.

Latency of financial crime is logical and stems from economic reality: the law can never cover all economic phenomena and interests, and this area is also 'governed' by a whole range of non-criminal standards, breach of which **sometimes** has impacts up to the criminal phase, but at other times not. In this conjunction we also need to mention the completely informal phenomenon usually referred to as business ethics, which in countries with a longer history of a functioning market economy to a certain extent put the brakes on the latency of this form of crime.

The **sophistication** of financial crime is largely a myth; undoubtedly there are offences which require this feature to a certain extent, but in most a relatively simple modus operandi can be found after eliminating elements of external phenomena. Though here, of course, it cannot be argued that investigation of cases of financial crime and particularly proof of criminal behaviour is a simple matter – quite the opposite.

The author of the study – as has been said above – tried to separate financial crime from the concept of economic crime as it is generally perceived; he grouped the results in 14 areas which differentiate financial crime from economic crime. Inter alia he claimed that financial crime has a specific feature which no other area of crime has; this lies in the number of victims of this criminal activity (the technical term victim is not quite appropriate and the term injured parties is more suitable in this case, ie traditional victimological approaches to victims rather lose their original meaning). For financial crime in the Czech Republic (and here too a specific factor arising from the unrepeatable stage of transformation can be seen) has a harmful impact on three types of injured party: institutions themselves, their customers and, through the redistributive mechanisms of the state budget de facto the whole population (here it is necessary to add that what is termed the rescues of the banks and principally the subsequent rescues of savings and loan institutions were a purely political decision, which has nothing to do with either economics or criminology).

The main problem of financial crime which differentiates it from all other forms lies in the fact that financial crime concerns areas where work is:

- a) with money (including securities) as a commodity which can easily be stolen without any problem of putting it on the market again (owing to the convertibility of the national currency practically anywhere) and
- b) exclusively with other people's money – with relatively little equity capital a disproportionately larger amount of capital (whether it be in the form of deposits, capital stakes or perhaps taxes too) is controlled.

As a result of this fact there is also a different group of offenders and 'victims' of this form of criminal activity: the offenders are persons who have legal powers of decision-making over this financial asset (i.e. either direct owners or at least members of management), whereas the injured parties are drawn from all social groups and levels, and it has a relatively destructive impact on the **economic aspect of their lives**. No other type of crime manifests this uncommon feature – not even economic crime. Also it is not absolutely necessary to have any particularly deep knowledge to commit the offence of financial crime in the Czech Republic or be (as already stated above) particularly sophisticated. Known financial crime offenders are far from being exclusively university graduates with an economics education but are also even trainees, people with secondary school education or graduates from completely different fields from economics. Likewise those harmed, even by relatively transparent „financial“ criminal activity, are not only people with a lower IQ but also people who have been educated and trained in the sector (economists and lawyers). In certain types of financial fraud this is actually the predominant group, whether in view of the high „initial share“, or because this group is deliberately selected and „targeted“ in advance (after all, the possibility of connection to the Internet is not yet so great in the Czech Republic and in any case it is more accessible to people with higher incomes and a certain level of education – to put it in another way, in this case it is possible to characterise the target group of possible fraud with certainty).

It needs to be added that the above-mentioned principal phenomenon of financial crime – namely dealing with money (particularly other people's) as a special asset gave rise to a phenomenon which is known under the term **tunnelling**. Tunnelling is understandably not a criminal law term, but nevertheless even professional people are now also sufficiently familiar with it as a modus operandi that lawyers and even international organisations are beginning to use it in the Czech Republic¹. For this reason it can also be used in criminology with certain reservations.

¹ For example, in the report of the European Commission on the Czech Republic's Progress towards Accession published on 8 November 2000, one of the negative phenomena mentioned is „tunnelling“ or **deliberate siphoning off of assets** without further specification.

To put it in a nutshell, it is a **transaction the purpose of which is to divert funds from a prospering company that is operating legally, for the purpose of one's own enrichment.**

It is clear from this definition that tunnelling can be committed only by a person or persons which has/have control over the company concerned, either ownership or management. This term is also occasionally used for classical loan fraud (ie non-repayment of loans): this criminal act, however, is not tunnelling, for it does not include the element of control; the opinion can even be voiced that this criminal activity should not be classified as financial crime (it is essentially an economic offence arising in normal business dealings). There is always intent (disputes concerning the features of intentional or unintentional criminal acts, or criminal acts arising from negligence, have actually accompanied amendments to criminal codes from the start of transformation and have still not been satisfactorily resolved); with tunnelling, however, in no case has a similar dispute arisen. The explicitly stated legality of the affected company is an important characteristic feature: for at the present time it is possible to observe certain types of fraud which are differentiated precisely in that they are perpetrated by companies that exist illegally (for example, bogus brokers, who allegedly trade in securities), and this is not tunnelling but merely fraud. The methods or modi operandi of tunnelling are also well-known now and are derived from the principle that tunnelling is essentially transfer of funds from the accounts (funds) of institutions (namely banks, cooperatives or investment companies) to private accounts (either of a natural person or a legal entity). The problem of course is proving it; in a relatively significant number of cases, with a large number of injured parties, with the necessity of knowing not only criminal law but also commercial law and related legal regulations, and furthermore also knowing these in detail, investigation of even an apparently trivial case is demanding in terms of personnel and time.

Another basic modus operandi used in financial crime is the principle of pyramid schemes, sometimes described as "aircraft". These 'games' are based on the **Ponzini scheme**, which is, according to economic theory, a fraudulent investment project in which deposits made by later investors are used to repay artificially high returns to the original investors, which attract other deposits. These fraudulent projects were used very effectively, particularly in connection with the beginnings of savings and loan associations' business activity.

The main part of the study is broken down into chapters according to the financial institutions affected¹, namely

- A) offences against the banking system
- B) offences against capital markets
- C) offences against savings and loans associations
- D) offences against public budgets

¹ Here it needs to be stated that the chapters are arranged chronologically, with regard to economic history, and the occurrence of criminal activity is shown in relation to the particular segment of the market.

and each chapter has the following uniform structure

- a) general historical introduction
- b) economic and political introduction of the problem (economic theory and the political context of the particular stage of transformation),
- c) the criminological bases of the research
- d) typical cases of offences
- e) offenders
- f) injured parties

This chapter structure is scrupulously adhered to with minor modifications throughout the study.

Offences against the banking system

After 1989 and following agreement on the principles of social and economic reconstruction, the first priority had to be reform of the banking system; we need to add that it is in banking that the phenomena which finally came to be known as tunnelling have their origin. It is estimated that rescue of the banking sector „cost“ the Czech state CZK 170 billion and this may not be the final amount (for comparison: state budget income for 2004 is expected to be ca CZK 754 billion). It is of course necessary to state that these are not losses caused only by criminal activity but that there is a deeper problem, which we will try to elucidate briefly.

The basic cause of this situation lies essentially in the economic situation at the beginning of the 1970s, when after the halting of what is termed the Šik reform (connected with the events of 1968) the state budget badly required finance in order to – at least ostensibly – balance it. Turnover funds were taken from companies by government decree (these were created from the profit of these companies) and were mainly used to finance stocks. Part of these stocks (what are termed continuously moving stocks) were financed by government decree from loans for continuously moving stocks, which were provided by the Czechoslovak State Bank at minimal interest. This was the practice up to 1989.

After this date the Czechoslovak State Bank became a real bank of issue – it was „detached“ from the commercial system and also acquired a number of new functions and competences: including supervision over the newly emerging banking system. Its commercial department was hived off to become Komerční banka, and the other state banks (Československá obchodní banka, Investiční banka, Československá spořitelna, and Živnostenská banka), which had precisely defined roles in the period of the planned economy, particularly in foreign trade, began to develop their activities in the domestic banking market as well, and with the loss of what was termed the state monopoly in foreign trade it could be said particularly in the internal banking market. State companies (which formed the majority at that time) were thus compelled to convert their continuously moving stock loans to normal operating loans at standard interest rates; this transaction – if we add the

collapse of the traditional Eastern European markets and problems in the internal market, where they began to encounter hitherto unprecedented export competition and a general fall in personal income – meant that they began to get into financial difficulty (primary and finally also secondary inability to meet payments) is inability to meet their liabilities (this issue is not the subject of this research, but nevertheless it is necessary to mention it). At that time the first, now completely private banks, which were by law subject to the grant of a licence by the Czechoslovak State Bank also began to operate in the banking market; but these did not have sufficient source data or sufficient experience or enough specialists for any due diligence. Lack of specialists was after all a general problem for banks: a number of later well publicised cases could have been caused by the entirely understandable lack of bank officer know-how; we can, however, also assume that some small banks were established right from the start with fraudulent intent.

Business began to develop concurrently (this issue is beyond the scope of this research); it is relevant, however, in view of the desperate lack of finance for new entrepreneurs, which was, with some exceptions, the norm. This created excess demand for bank loans, and this again on the other hand led to a situation where the banks needed to increase their available capital more or less only by attracting depositors with high interest rates on deposits; it also follows from economic logic that firstly they also had to increase interest rates on loans provided and that secondly they were almost automatically bound – in view of their low equity capital coverage – to get into difficulty in view of the timing of the two banking transactions (i.e. immediate accrual of interest on deposits and deferred repayment and payment of interest on loans), or rather the necessity to secure immediate paying out of deposits with deferred repayment of loans.

It is a fact that excess pressure of demand for loans logically was a direct cause of a certain part of crime: inter alia it was generally known (though understandably not proved) that bank officers (loan officers) asked for what is termed a tithe from a loan provided (10 % of the amount of the loan), that business plans were not adequately scrutinised, that highly questionable guarantees were accepted as security (the so-called precious stones case) or guarantees that were actually criminal (the KOMBA and Barak Alon cases) and so on. This also led in a historically short time to the collapses of small banks in particular - as early as 1993 the first bank had its banking licence withdrawn and then a chain of crashes followed, which led on the one hand to tidying up the law (a number of amendments to the Act on banking and establishing a fund for insuring deposits) and so on, and on the other hand to streamlining of the whole banking market (by means of mergers and takeovers of bankrupt banks by other banks) up to progressive privatisation of the whole banking sector with varying degrees of success (the IPB – Nomura case), the fall-out from which is still being resolved today.

But there was also expressly criminal activity, which also gave rise to the previously mentioned term tunnelling, ie the fact that the owner (owners) or the

management of the bank granted loans either to companies in which they had a personal interest or to companies acting in collusion. These were relatively standard cases, particularly in small banks.

Offences against capital markets

Privatisation in the Czech Republic proceeded in two steps: what is termed small privatisation (which consists in direct sale of small places of business or retail outlets or in „sale“ of long-term leases for premises suitable for small businesses, and what is termed large privatisation (this is the privatisation of big, up to that time state companies, either industrial or commercial), which took a variety of forms – from sale to a certain interested party, through auctions and so on (these sales were often tied up with the banking issue in view of the absolute shortage of legal capital), but most privatisation consisted in what is termed the coupon method of privatisation. At the beginning this was an entirely logical and a priori correct idea: they were originally national and ultimately state companies, which for forty years had been in what is termed ownership “by all the people“. This pseudo-ownership was to be replaced by real ownership and the assumption was that by means of coupons the citizens of the Czechoslovak Federal Republic, or the Czech Republic (this stage occurred in the period just before the break-up of the joint state), would „purchase“ shares in the companies selected for privatisation (essentially a joint-stock form of ownership was to be created within a short period of time). It was an open secret that this was not real privatisation, but only denationalisation; also in the first phase it was not expected that there would be any massive entry of privatisation investment funds in this process (this was to occur in the second phase, when this widely dispersed share ownership was to be concentrated to achieve genuine exercise of ownership rights). Basically right from the start this notion was in effect clearly not understood by the public, until Viktor Kožený appeared on the scene with what was termed „the ten per cent pledge“. The Harvard privatisation investment funds he set up thus became the leading funds in this ‘market’; this idea was eventually copied by other privatisation funds too. Though the Government, or rather the guarantor of this method, the Minister for the Administration of National Assets and their Privatisation, did not agree with this procedure, he could not intervene in any way, except that ex post facto a limit was set for ownership of funds in one company and that demand from privatisation investment funds was not satisfied until the demands of individuals, what were termed investment coupon holders, had been met. Privatisation investment funds were also set up by banks, so in many cases a very untransparent environment was created, including what is termed cross-ownership, when banks (meaning their management) owned themselves through their investment companies, or on the other hand owned companies to which they also gave loans. It can be said that the coupon privatisation stage did not end until what was termed the third wave of privatisation, which was not organised by the state but by the private company Motoinvest, whose owners were investigated but nothing could be proved against them.

This stage resulted not only in wide-scale dubious activity in the capital market but also a relatively significant international failure of the newly created Prague Stock Exchange (BCP), which had hopes that it would be the central stock exchange for Central and Eastern Europe. Genuine investors have more or less avoided the Prague Stock Exchange so far, and the Czech stock market is dependent on a very small number of securities or companies, and the stock exchange in the Czech Republic is used only for speculation and is certainly not a source of capital for companies, which prefer to raise this by bank loans, which is to a certain extent a specific Czech feature. The dubious activity referred to also had all the signs of tunnelling (according to the definition given above), even though in specific cases there was no direct financial investment but deposit of investment coupons. Criminal activity against direct investors, which is now gradually coming to light, will not be so widespread (and it can be said that it will not be markedly different from the level of delinquency known in other countries with a market economy); on the one hand collective investment has better legal protection, and on the other hand criminal proceedings authorities now have enough knowledge to detect this activity.

The period shortly before adoption of the amended Act on investment funds and investment companies, which understandably brought a tightening up of their operation, afforded another possibility of unlawful action to the detriment of small shareholders. Unfortunately, before the amended Act came into force, a number of investment companies managed to convert themselves into holdings, to which the stricter amended version of the Act did not apply. The previously mentioned company Motoinvest, which controlled a number of them, took advantage of this. In addition, it also controlled a number of banks, which ultimately had their licences revoked and ended up in bankruptcy proceedings (for instance, a dispute is still continuing between the shareholders of the fifth biggest bank and also the largest private bank at that time – Agrobanka – and the state (the Czech National Bank) concerning the validity of withdrawing the licence. There is another long drawn-out dispute between shareholders of Harvardský průmyslový holding (HPH – Harvard Industrial Holding) and the actual management of the holding. A general meeting of a group of shareholders versus a general meeting of another group and the ban on payment of dividends issued by the Czech Ministry of Finance sparked off a protest by another group of shareholders, an international arrest warrant against Viktor Kožený and a number of other statutory representatives of the holding and the end of this dispute is not in sight. The notorious case of CCS funds, when more than a billion CZK were taken out of the Czech Republic to the detriment of shareholders in the fund, and the case of the funds of the former tennis champion, Šrejber, who was even prosecuted and convicted but then found not guilty in appeal proceedings. These are the results of this stage and the best known cases, which aroused interest in the media at their time. In addition to this, there were a number of smaller investment companies which adopted a similar modus operandi but which have not given rise to so much interest (for example, Apollón holding, which was an investment company of the previously mentioned Agrobanka; this lost shareholders' assets at the time when the previously mentioned Motoinvest was perpetrating its activities).

These cases belong to the past and the stage described. Cases are now coming up and clearly will continue to come up which are known from market economies and belong to the „traditional type“ of criminal activity (bogus brokers, insider trading, there has been an attempt to trade in gold mine shares and so on). The fact is that - in view of the downgrading of the Czech capital market into an essentially surrogate role (small deposits of savings for the purpose of appreciation in value, ie not for the purpose of raising capital) - we do not anticipate actions of the share price manipulation type (for example, the well-known case of ENRON in the USA and others in the EU) in the Czech Republic in the immediate future.

Financial crime in the Czech Republic was after all of a specific nature and basically there cannot be a repeat of its occurrence in such widespread form even in other post-Communist states. The fact is that a number of these offences were not even prosecuted, let alone heard in court, and the number of those actually convicted is – in terms of extent and losses caused – negligible. Furthermore, even when there has been a successful prosecution and the accused has been convicted, this does not mean that the sentence is served (the previously mentioned Šrejber was freed by the court on appeal and the Motoinvest officials, Tykač and Dienst, were not even charged, Procházka and his associates from IPB were released from custody, Říha, the manager of 1. Pražská družstevní záložna, though charged and convicted, lodged an appeal, disappeared after being released and there is an international search for him, not even an indictment could be served on Viktor Kožený; a member of the management of HIF, Vostrý, left the country and is living somewhere in Central America). These are the results of the best known and biggest cases of this stage. These cases furthermore demonstrate the fact referred to above: with a few exceptions, particularly relating to the capital market, this criminal activity was „paid for“ by all the people of the Czech Republic, for compensation was paid and in the case of savings and loan associations paid from the state budget or in the form of purchase of liabilities by the Consolidation Agency. In this connection a report that a group of people connected with Motoinvest has shown considerable interest in purchasing these liabilities, that certain dealings in these liabilities have been decidedly odd (particularly as regards their price) and so on is certainly not without interest. It would seem that, though this stage we have described is still not fully completed, these are, at least we can hope they are, only reverberations.

Savings and Loan Associations

The above-mentioned situation in the banking market had an impact on legislation in the form of tightening up conditions for setting up banks and on making bank supervision stricter, so inside banks on the procedure for granting loans and so on. Banks were not particularly interested at that time in what are termed retail customers, not even Česká spořitelna, which was prior to 1989 the only provider of consumer loans. For this reason there was a motion in the House of Deputies calling for the setting up of savings and loan associations, what are

termed cooperative banks, of which there had been a tradition since the times of the monarchy. Despite opposition from the Minister of Finance and even the Prime Minister, who saw this form as not fitting into the system, an Act was successfully forced through in 1995 enabling the creation of savings and loan associations. The Act was, however, defective; it was drafted perhaps only on the basis of experience during the monarchy and the first Czechoslovak Republic and contained a number of provisions which could be abused.

The development of savings and loan associations basically copied the development in the banking market (initial steep rise), the first problems and the collapses and eventually the total disintegration of the whole system. It needs to be added that, in contrast to the banks (where after all the problems were not caused only by criminal activities), a number of cooperative banks were directly set up with the intention of tunnelling. Their very „start“ gave the impression of pyramid games (which is also the reason why pyramid games are mentioned at all in this work).

The purpose of savings and loan associations was to bring together the liquid funds of their members and offer them cheap and accessible credits and loans (they were to function more or less for their members as non-profit institutions), but nobody queried the fact that some savings and loan associations were enticing members (here there is the very important fact that these were members, not merely depositors) with promises of interest of 20-25%¹ on their deposits or, to put it more precisely, their members' shares. Neither the Office for Supervision over Savings and Loan Associations that had been created nor the Czech National Bank (which actually did not have direct jurisdiction over savings and loan associations) nor the Ministry of Finance queried the fact that many associations conducted their campaigns very aggressively (with the participation of celebrities from the world of politics and show business), that they were also developing activities which, though not prohibited by the Act, were nevertheless at the very edge of legality (exchange rate transactions, transactions on the securities market and so on). The result was massive tunnelling of a vast majority of savings and loan associations through criminal activities, which the Czech state recognised both de facto and de jure by compensating members of these associations.

To complete the picture, we also need to mention **criminal activity against insurance companies and against public budgets** (other separate chapters); however, this is criminal activity in which the situation in the Czech Republic is in no way uncommon compared with that in other states; for this reason there is no special mention of it in this summary, however troublesome delinquency against public budgets in particular is for the state (the state budget is burdened by loss of revenue on the one hand and by unauthorised drawing from it on the other); in addition, there is an important political issue relating to this topic, which is discussed in all more developed economies: the level of the tax burden on entrepreneurs and citizens.

¹ which in the period of their creation was uncommon and to achieve such appreciation in value was virtually impossible

In the conclusion of the study the researcher attempted to take a criminological view of this issue, for it is the area of economic crime that is most frequently politicised.

Criminality as such is understood as deliberate breach of **criminal** law; to put it in another way, criminality is the same as a criminal act. A criminal act is defined then as an action of a criminally liable offender which is a danger to society and the characteristics of which are stipulated in the Criminal Code. However, it is not enough for it merely to be stipulated in the Criminal Code if there is absence of danger to society and conversely – no action which poses a danger to society and is not described in the Criminal Code can be a criminal act.

The researcher takes a polemical stance on this concept in the conclusion of the study, for in his view the basic question is whether breach of **any** law is criminality (this is why he prefers to use the term delinquency rather than criminality in the text). To put it a little rhetorically, he prefers to look at it from the criminological point of view rather than from a purely legal one, for the following reasons:

in view of the fact that the Criminal Code is subject to major and frequent amendment (it is even claimed that there is a mismatch of Austro-Hungarian laws and the laws of the planned economy period) and we are still waiting for root and branch reform of it, and also that sections dealing with prosecution for tax, insurance and levies offences (as well as loan and insurance frauds – see above) were expressly incorporated in criminal law until its amendment in 1998, we can regard criminality defined in this way in the economic area as extremely unsatisfactory. Commercial law should not really be „criminalised“, for judgement of when there is intent, intentional negligence, unintentional negligence and so on is very far from easy and contributes to uncertainty in the business environment. For ambivalent tendencies can be seen in criminal law, which create the exact opposite of a synergy effect: an attempt to specify in greater detail the particular facts of an ever increasing number of offences, however without any practical impact, which means a compromise between the legacy of our criminal law and Anglo-Saxon law, for which we have no tradition or „insight“.

Although we cannot fully agree with the condemnation of criminal negligence (the researcher has worked as a private economic adviser and so has had the opportunity to observe an entrepreneur who, by downright negligence, “failed as manager“ and so caused the bank to lose tens of millions of CZK from an unrepaid loan and other millions from what are termed debt services), the fact is that to a certain extent fears of criminalisation of the economy have a rational basis and are to a substantial extent well-founded.

According to discussions in the specialist press on the issue of commercial law and its criminalisation, the rise in economic crime allegedly makes these severe procedures necessary. It is, however, necessary to see a danger in the fact that economic difficulties arising from inadequate legal regulations, particularly the

Commercial Code, tax law regulations and financial regulations are to be resolved by means of criminal law.

It can then be anticipated that criminal law conceived in this way will be replaced as part of a complete reform by commercial criminal law, which will also deal to a significant extent with the issue of the criminal liability of legal entities which the Criminal Code in its – even amended – concept will not „encompass“. This commercial criminal law would also deal with problems connected with misuse of grants and subsidies and other frauds in business practice, and also environmental damage and so on.

It is logical that this study does not contain – and cannot contain – any revealing or importantly innovative findings. It is a criminology probe into the problem of financial crime (and the structure and sequence of the chapters reflects this), performed in such a way that, as was stated in the introduction, it would be possible to document the distinctness and specificity of financial crime as a completely separate group of criminal activities.

The researcher also stresses a problem which is of concern to Czech justice in general and which can be expressed by the popular saying: „slow justice, no justice“. Incredibly long criminal proceedings, from the start of investigation to bringing in a verdict, is alarming particularly in the area of financial crime and is particularly evident in some of the cases described. If we add to this various forms of appeal, recourse and so on, it is hardly surprising that the general opinion on the practice of justice (which is the final step in the sequence of criminal proceedings) is not exactly flattering. No wonder a feeling is created of injustice which is naturally general and cannot be related only to economic or financial crime. Nevertheless, if people are confronted with phenomena which they perceive as widespread injustice and if this is also justified by the very existence of laws, then they naturally may react in such a way that they will continue to be ‘legally illiterate’ in the future too, for laws mainly protect those who breach them and do not protect people who observe them at all. The progress of many cases which are described in this study of financial crime rather supports this development of public awareness.

A particular problem which permeates the whole of the issue studied is the fact that the victims are, through the tax system, the redistributive mechanisms of the state budget and the failure of regulatory authorities to fulfil their duties, all taxpayers regardless of how greedy they are themselves (according to criminological theory greed is one of the main motives for victims of economic crime), how prudently they handle their funds and so on. Here lie the roots of the phenomenon we talked about earlier, namely the phenomenon of disregard for the law; these offences do not have that much in common with the past era; on the contrary, it is a question of abuse or rather even use of inadequate laws and abuse of the whole transformation phase, and of course it was politicians who should have taken care of regulatory mechanisms to protect this transformation.

There is a fundamental problem in getting an insight into the whole of one stage in the development of society in the Czech Republic, which the author has tried to examine from an important though nevertheless partial perspective: from the point of view of criminology, which, however - unfortunately – as a branch of science has not yet worked out or even defined the basic criteria for economic crime. The work presented also attempts – in addition to stating this fact – to bridge this gap.

Drugs and the Czech prison population in the context of the drug scene¹

2002 – 2003

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The study is the free continuation of an IKSP publication that came out in 2000 entitled the „**Drug issue in Czech prisons and some foreign prisons**“. By issuing both publications the Institute for Criminology and Social Prevention (hereinafter only the IKSP) also fulfilled its tasks under the program entitled the „National anti-drug policy strategy“, in which a Government resolution required the Minister of Justice to perform repeated penological research into the treatment of drug-addicted offenders in Czech prisons.

In both cases, the Ministry of Justice asked the IKSP to carry out the penological research; the research that the Institute performed directly inside the Czech prisons in 1999 and again in 2002 thus forms the basis of both studies.

The research director invited experienced members of the Prison Service to conduct the field-work sections of the research. The result was truly extensive and representative penological research, which in the first case included **436 respondents from among the ranks of prisoners and in the second case 789 prisoners** (which represents about 2 and 4.5 per cent of all imprisoned persons at that time). Selected IKSP employees supplemented the information obtained through the research with a brief description of the drug scene in the Czech Republic in general and the penal legislation issue concerning drugs in particular, and with an overview of the current situation in prisons, including the methods and results of monitoring prisoners' drug dependency and the implementation of the set of anti-drug measures by the Prison Service during the period under evaluation. The first study paid special attention to the methods of treating drug-addicted prisoners in certain countries in Europe and North America and the current study focused on penal legislation approach to what is termed drug-related crime abroad.

In both studies, the aim of all members of the research team was to provide prison service staff as well as the wider expert public and students with basic guidance in current drug-related crime in respect of criminal justice and above all to describe the drug issue in relation to those offenders serving sentences in Czech prisons at the turn of the century.

The work is divided into seven linked, but also independent sections:

¹ Marešová, A., Nečada, V., Sluková, K., Sochůrek, J., Zeman, P. Drogy a česká vězeňská populace v kontextu drogové scény. Praha : IKSP, 126 stran.

One – deals generally with drugs and contains a brief summary of the penological research performed in 1999.

Two – describes the current drug scene in the Czech Republic and deals with new trends in drug abuse.

Three – concerns current Czech penal legislation for drug-related crime. It contains a summary of the facts of individual crime cases concerning the illegal production and possession of narcotic and psychotropic substances and poisons, the spread of addiction, including documentation of selected adjudicated cases.

Four – contains aggregate statistical data on crime related to the production, distribution and use of drugs that is known to the penal authorities.

Five – brief introduction to the penal legislation approach to drug-related crime abroad.

Six – assembles the latest data from the monitoring of drug dependency in Czech prisons and information on anti-drug measures implemented in the prisons.

Seven - looks at the results of new penological research performed in 2002 in the majority of Czech prisons in a sample of about 800 prisoners using the specially formulated questionnaire DROGPEN.

General background to the task

For several years, the issue of drug abuse, and above all criminality related to the production, distribution and use of narcotic and psychotropic substances, crimes committed while under the influence of drugs or with the aim of procuring drugs and other phenomena occurring in close or broader relation to drug abuse have been at the centre of attention for Czech society and penal authorities in particular.

It has thus far proven impossible to resolve satisfactorily the problems that place the drug issue at the centre of people's concerns, either at home or abroad; indeed, the opposite is the case – in recent years almost all the negative phenomena relating to drug abuse have worsened and ever greater numbers of people are affected: not only drug users but growing numbers of other people who don't use drugs but are affected, threatened or at the least harassed or discomforted by drug addicts and drug-related crime.

Like all serious socio-pathological problems, problems connected with drug abuse and co-habitation with drug addicts will be reflected more intensely in the prison environment than in everyday life, given that people who are subject to penal sanctions, including for criminal behaviour related to drug abuse, are often brought together in one place. The prison service has long understood the need to implement measures that would minimise the incidence of drugs and their use in prison facilities, as well as preventing the further distribution of drugs among those prisoners who are as yet „not infected“, thereby preventing new drug dependencies directly in state repressive facilities.

The Czech Prison Service thus formulated a set of anti-drug measures, particularly for custodial sentences in prisons and for prison sentences.

When formulating the set of anti-drug measures, prison staff stipulated the following **basic objectives**:

- 1) as far as possible to prevent the infiltration of narcotic and psychotropic substances into prison buildings and as far as possible to eliminate their use by prisoners,**
- 2) to formulate an effective system for the treatment of drug addicts who are currently serving sentences in Czech prisons. This system should chiefly motivate drug-addicted prisoners to consciously give up their dependency on drugs.**
- 3) to develop a system of prevention which, during the performance of the prison sentence, would prevent prisoners (who as yet do not use drugs) from being infected by drug dependency.**

In addition to other measures, the research presented here was conducted in order to achieve the aforementioned objectives, and above all to map out the current state of the drug scene, knowledge of which is essential for effectiveness of the planned measures.

The drug scene in the Czech Republic

One of the key information sources on the Czech drug scene are the annual reports of the Prague City Hygiene Station, entitled „Epidemiology of drugs and drug users“. The report summarises the operations of the national drug information system, which has been run by the Czech Hygiene Service since 1995. The system is compatible with the data gathering system of the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), whose newly revised standardised form it uses.

The total number of newly-recorded persons in L/K (Therapy and Consulting) centres in the Czech Republic in 2001 amounted to 4233 people, i.e. 41.2 per 100 000 inhabitants. This is the highest annual incidence since the beginning of the national drug information system's operations. The total ratio of recorded men and women amounted to 1.9 : 1, which is practically identical to the result in 2000. The interpretation of the increase in incidents is obviously open to discussion. The annual report of the Inter-Departmental Anti-Drug Commission on the state and development of the drug issue in the Czech Republic for 2001 offers three explanations to start with. The growing number of newly-recorded persons in L/K centres may reflect the increase in the accessibility of treatment programs for problem drug users. Another possibility is the prolongation of the period between the beginning of a drug career and a request for treatment, in other words an

increase in the number of cases of users who have taken drugs for an extended period but who have previously not requested treatment. The third possibility is an actual increase in the number of drug users. It is not possible to endorse one of the above hypotheses simply on the basis of data recording the incidence of problem drug users; instead these data should be assessed together with other sources of information on the drug scene in the Czech Republic.

The average age of newly-recorded drug users is 21.3. The 15-39 age group is generally acknowledged as being critical with regard to drug matters. The age group records an incidence level of 3966 people, i.e. 106.1 per 100 000 inhabitants. The most affected age group is people from 15-19, of which 1763 were recorded, or 41.6% of all newly-recorded users. This age group is also predominant among pervitin users (41.3% of all pervitin users). The second highest incidence level was recorded by the 20-24 age group (35.4%), which has the highest numbers of newly-recorded heroin users (51.3%). Problem drug users under the age of 15 represented 2.3% of newly-recorded persons. An alarming figure of 14% of newly-recorded users had tried one form of drug before the age of 15, and almost 70% by the age of 19.

The most common basic drug reported in this respect are stimulants (47.8%, of which pervitin 46.5%). These are followed by opiate users (28.7%, of which heroin 28%), cannabis drugs (17.6%) and solvents (3.5%). The most commonly used secondary drug (drug used in combination with the basic drug) was marihuana (28.6%), followed by pervitin (13.6%), ecstasy, LSD and heroin.

An important indicator is the method of the basic drug's application. Application by injection was recorded for 62.3% of newly-recorded users, a figure that rises to 64.8% when users are included who inject a secondary drug. This form of application prevails for heroin and pervitin, for which the common alternative to injection is smoking (heroin) and snorting (pervitin). The highest percentage of injection users (about 76%) falls among users in the 20-24 (highest absolute number) and 25-39 age categories. 64.4% of all injecting users had used drugs by injection for the first time before the age of 19, and 4.3% by the age of 15. 28.8% of all newly-recorded users admitted to sharing syringes and needles with other users at least once during their time as addicts.

The incidence of opiate users, particularly heroin, has almost tripled over the past seven years and has shown a constant upward trend since 1998. The incidence of stimulants users has doubled; after reaching a peak in 1998 the slight fall in 1999 and 2000 was then replaced by another rise the following year.

In 2001, the average age of all recorded problem drug users was 21.3, which represents a rise after several years of stagnation. The highest average age is recorded for users of heroin and pervitin; L/K centres recorded significantly lower age levels for users of hemp drugs and solvents. A disturbing development is the ever-growing number of newly-recorded users injecting drugs, caused by the increase in recent years of newly-recorded users who inject heroin.

Epidemiological surveys from 1994, 1997 and 2000 on young people's attitudes, knowledge and experience concerning drugs suggest that at the end of the 1990s drugs were more widespread among children from elementary schools than they had been in the middle of the decade, although the increase in the proportion of users from 1994 was „only” 3.4%. During the period monitored the proportion of cannabinoid users doubled, and the use of pervitin and heroin is also up. In general, drugs are more accessible to children, and children are also far better informed as to how to obtain drugs. The main reason for using drugs remains escaping from the problems of the surrounding world. Today, children are more likely to come into contact with drugs in their families. A positive development is the fact that pupils' awareness of the issue, including a legal awareness, has improved markedly. Children are also now more willing to accept the idea of a professional – doctor as people to whom they can turn if they have problems with drugs. Parents also continue to enjoy quite high levels of trust. The use of the very dangerous toluene has fallen by half and the application of drugs by injection has also fallen, which is a positive development.

It should be noted that in the middle-school category the number of young people who have personal experience with drugs shows a continual increase (in 2000 almost half of the population aged 15 to 19). The offer of drugs in general has broadened across the whole country. The number of young people who admit to the intravenous application of drugs (although the high-risk sharing of needles with other people has fallen) is increasing. The number of people experimenting has risen for the majority of drugs, particularly for the most high-risk. Tranquillisers are becoming a typical women's drug, and are even catching up marihuana in terms of consumption. Of some encouragement is the fact that cannabinoids, which are generally lower-risk drugs, are mostly responsible for the increase in the number of people who have experience of drugs.

Drug-related crime in the Czech Republic

The annual report of the National Anti-Drug Headquarters of the Criminal Police and Investigation Service of the Czech Police entitled „The drug situation in 2001 in the Czech Republic“ (hereinafter only the „NPC Report“), and the relevant passage from the Ministry of the Interior's Report on the situation concerning public order and internal security in the Czech Republic in 2001, describe several fundamental features to the illegal trafficking in and distribution of narcotic and psychotropic substances in the Czech Republic. The major factor is the spread of distribution and use of narcotic and psychotropic substances (NPS) to the smaller towns, the greater availability of NPS and the increase in the use of almost all types thereof. The price of cocaine, which hitherto has been of peripheral interest, has fallen slightly and as a result there has been an increase in consumption, particularly in the „dance scene“.

Producers and distributors of NPS are becoming more devious in their methods, such as

- moving their laboratories to smaller towns or isolated locations
- mass use of mobile phones with prepaid cards
- the more frequent use of other information technologies, especially the Internet
- the possession of minimal amounts of NPS by the dealer when selling on the street
- the use of minors (who can not be prosecuted), particularly for distribution.

In line with what is practically a worldwide trend, the Czech Republic has seen a sharp rise in the number of users of synthetic drugs, particularly XTC, which are related to the dance and music scene. Trafficking in these substances is conducted mostly by Czech citizens but also by Arabs, Russians, Ukrainians and EU citizens. There has been an increase in the production of metamphetamine from alternative sources of ephedrine – from medical products. Efforts have also been stepped up to acquire ephedrine from foreign sources for the production of metamphetamine in the Czech Republic. Deeper links are being established between criminal groups in the Czech Republic and Germany organising the production of very pure metamphetamine in the Czech Republic and its export to Germany. The misuse of medicaments continues in the production of synthetic drugs.

The role of Russian-speaking offenders is growing in practically all areas of this form of crime. Most active are groups originating from Dagestan and the Ukraine which have good links to the Czech underworld. These groups are distinguished by high levels of organisation, conspiracy, discipline, dynamism, arrogance and the criminal experience of individual criminals.

From Arab criminal structures, Tunisians are the most actively involved in the trafficking in NPS in the Czech Republic, chiefly organising the sale of heroin. Algerian groups have taken over the trade in hashish and are getting involved in the sale of heroin. They are characterised by a very high level of organisation. To a lesser degree, Palestinians from Lebanon and Jordan, and Arabs from Morocco, Egypt and Iraq also feature among such criminals.

According to the NPC Report, the illegal trafficking in NPS brings external security risks for the Czech Republic for several reasons; these include soft conditions for the acquisition of legal residence in the country, the almost risk-free laundering of money emanating from criminal activity, the simple setting-up of cover companies and low costs for their operation. Other aspects that make the Czech Republic a convenient country for this type of crime are the relatively low sentences imposed for drug-related crime, the willingness of Czech citizens to get involved in illegal activities for relatively little reward, and the high probability of protecting proceeds from the drug trade against forfeiting.

Punishing drug-related crime in the Czech Republic

In general, we can say that, according to police statistics, drug crime (i.e. criminal offences under Sections 187, 187a, 188 and 188a of the Penal Code) solution rates are regularly very high (on average around 98%). It is, however, true that the police themselves admit a high latency for these types of offences due to the fact that usually no person would feel themselves to be a victim of the crime, and that the line is often blurred between the „victims“ and offenders, who both belong to the same self-contained subculture. Traditionally, the most common drug offence has been the crime of illegal production and possession of narcotic and psychotropic substances and poisons under *Section 187 of the Penal Code* (in 1996 there were 1436 such cases, 608 people were brought to trial, of which 283 were sentenced; in 2001 there were 3198 such cases, 1418 people were brought to trial, of which 905 were sentenced).

The most common sentence imposed for this type of offence is a conditional prison sentence, which is imposed for more than half of all guilty verdicts (149 in 1996, 474 in 2001). For several years there was a decline in the proportion of unconditional prison sentences, but this trend stopped in 2000 and in 2001 their proportion in total sentencing had almost returned to the level of 1996 (41% - 40.3%). Only in 2001 did the proportion of other sentences rise above the 5% level, due chiefly to the growing number of community service orders imposed. The proportion of cases where a suspended sentence was imposed fell by more than one half after 1998.

The composition of prison sentences according to their size reflected the change in sentencing terms that came into force on 1 July 1998, increasing the sentence duration in basic case merits from one year to five years. The most frequent (with a proportion of 70%) unconditional prison sentences remain between one year and five years. Since 1999 the proportion of sentences ranging from five to fifteen years has risen, exceeding 10% in 2001 for the first time since 1996. This may be due both to the success of law enforcement bodies in detecting and apprehending the members of higher drug crime structures and to the change in the approach of courts to sentencing offenders for the more serious forms of drug crime.

Whereas there was only a slight increase in the number of detected and solved cases of the crime of illegal production and possession of narcotic and psychotropic substances and poisons under *Section 187a of the Penal Code* after the paragraph came into effect (i.e. from 1 January 1999), there was a more marked increase in the numbers of people apprehended, charged and convicted (in 1999 there were 228 detected cases, 115 people were charged, of which 18 were convicted; in 2001 there were 241 detected cases, 215 people were charged, of which 86 people were convicted). Even taking into account the fact that in the first year after the amendment came into effect by no means all cases had been completed that occurred in the police files, the increase between 2000 and 2001 amounted to

almost 40% and is therefore considerable. Nevertheless, the numbers of people prosecuted and in particular convicted are by no means staggering, and certainly do not fulfil the fears of those who opposed the introduction of Section 187a in the Penal Code. There is a question, however, as to whether this is the result of the sensitive approach of law enforcement bodies in qualifying individual cases, or whether it is due to the high latency of the relevant form of crime.

Unconditional prison sentences have understandably fallen markedly as a proportion of all convictions (61.1% in 1999, 18.6% in 2001), chiefly in favour of conditional sentences, which in 2001 amounted to more than 50% of all convictions (3 in 1999, 45 in 2001). Likewise, the proportion of community service orders doubled over the three years monitored (2 in 1999, 18 in 2001). The number of unconditional prison sentences reflects the sentencing terms for the relevant offence, which in the basic case merits amounts to up to two years, and in qualified case merits from one year to five years. The great majority of unconditional sentences thus do not exceed one year.

According to police statistics from the monitored period, the number of detected and solved crimes concerning the illegal production and possession of narcotic and psychotropic substances and poisons under *Section 188 of the Penal Code* fell during the monitored period, culminating in 1999, and then rising again to return to the level of 1996. Data on the numbers of people prosecuted and charged are notable for the almost sixty per cent increase between 1999 and 2000, which subsequently was manifested in the more than one hundred per cent rise in the number of people convicted in the following year (in 1996 there were 156 detected cases, 165 people were charged, of which 27 were convicted; in 2001 there were 157 detected cases, 195 people were charged, of which 62 were convicted).

Throughout the monitored period the sentencing composition was fairly constant, consisting mostly of conditional prison sentences with an increase in unconditional sentences in 2001. The proportion of other sentences to all convictions has remained above ten per cent since 1999. With regard to the length of unconditional prison sentences, we should again point out to the effect of amendment no. 112/1998 Coll., which, with effect from 1 July 1998, introduced stricter sentencing in the first paragraph of Section 188 from one year to five years, thereby reducing the option of imposing a prison sentence of under one year and shifting most sentences to the category of from one to five years.

Numbers of detected and solved cases of the crime of spreading addiction under *Section 188a of the Penal Code* rose during the monitored period up to 1999 and fell thereafter (in 1996 there were 446 detected cases, 183 people were charged, of which 24 people were convicted; in 2001, 613 cases were detected, 332 people were charged; of which 41 were convicted). The increase in the number of people prosecuted and charged in 1998, and the number of people convicted in the following year was more than fifty per cent. There was then a significant fall in 2001.

The sentencing composition is similar to that for offences under Section 188 of the Penal Code, i.e. a constant prevalence of conditional sentences, albeit with a growing proportion of other sentences not involving imprisonment and (after recording declining numbers for several years) also unconditional prison sentences. The length of unconditional prison sentences is derived from the sentencing term, whose upper limit was raised from 1 July 1998 from one to three years for basic case merits and from three to five years for qualified case merits. This means that most sentences are still under one year.

In the study's conclusion the authors state that on the basis of the findings acquired, the drug scene in prisons reflects the general drug scene, with variations caused by the realities of life in prisons. Their inter-linkage is currently very high. This means that it is not possible to radically alter the drug scene in prisons (to entirely remove drugs from prisons and entirely rid addicted prisoners of their drug dependency) without bringing about radical changes in the environment outside prisons, i.e. in Czech society.

Information from an analysis of selected judicial records

From a study of 18 judicial files concerning cases handled by courts in Prague from 2000 to 2001, for the purposes of this study, and from a study of other available materials on drug-related crime and accompanying phenomena we formulated **several generalisations**, or rather, observations:

Although in many instances (including those mentioned here) the same case merit was recorded for the „drug“ offence for which offenders were subsequently also convicted, cases of recorded crime relating to the offenders' drug addiction can be divided into three groups (without relation to the division mentioned above), which radically differ from each other.

1) **The first group of cases** refers chiefly to criminal activity connected to the **international illegal drug trafficking**: to activities of multinational criminal organisations specialising *inter alia* in smuggling drugs between states and continents (along what is termed 'drug routes'). The cases that we mention here (from group I and cases a) and b) from group II) fall under the international crime group, which in our opinion is distinguished by the following characteristics:

a) In the cases studied by us each smuggled consignment of drugs represented a significant quantity of an expensive drug – primarily cocaine and heroin – with a value often of several million crowns. At present, however, there is an opposite trend for greater numbers of consignments (and often several separate couriers in one flight) of less value and only their aggregate value represents significant financial sums. The change in approach is due on the one hand to lower losses in the event that one courier is arrested, and on the other to the

limited possibility of customs and police authorities thoroughly checking large quantities at the same time as arriving foreigners.

- b) Well-organised groups, specialised in drug smuggling, participate in the movement of illegal drugs between states and in what is termed transit countries. These groups organise the couriers' accommodation, their contacts, handover of the drugs and the further movement of the drugs along the indicated route etc. Unlike the arrested couriers, these are often people who have long been members of the drug „industry“, persons for whom this activity is a permanent part of their livelihood – some of them have the character of national residents of multinational organisations. Other, „expert staff“ live off the movement of drugs, such as document forgers, thieves of documents for couriers, persons providing other essential „services“, including securing the „permeability of borders“. These people are engaged from the local „underworld talent“, but also from the ranks of corrupt employees of state administration or chemical laboratories, from pharmacists and so on.
- c) Drugs are moved according to scenarios that have been worked out in advance and tested by many years of practice and which can adapt flexibly to any changes (including changes in national legislation). Routes are carefully worked out and take into account potential risks and even seek to anticipate them. Planning includes calculating in the arrest of the courier, i.e. potential losses are already calculated for. Drug routes are not only inter-state but in most cases inter-continental, with prepared variants of mutually replaceable methods for illegal distribution through a variety of transit countries to the target countries.
- d) People from what is termed developing countries or states referred to as poor countries (Brazil, Bolivia, Peru, Tunisia, Nigeria etc.) are often used as couriers. They are often „ordinary citizens“, without a criminal record or with no serious criminal record, who at the time are in a difficult life situation: unemployment, debt, flight from personal problems etc., and their use is limited to a single drug transfer, or subsequent transfers in the event that they are successful. These people are deliberately not informed of the detailed organisation for the movement of drugs; although they are usually aware that they are „working“ for an organisation that is carrying out illegal or even criminal activity, they understand their role as peripheral. For this reason the information they can provide to law enforcement bodies, who wish to use it in the battle against drug smuggling, is almost useless. They are, however, almost always and in all states the only persons prosecuted – or only a small number of them. Indeed, it may sometimes be the case that the victim is deliberately set up for arrest in order to conceal a more important activity, consignment or corrupt person working for the criminal organisation. Due to the fact these are what is termed end-people in the drug „industry“, and that for the drug business their arrest only represents the loss of the drugs they are transporting, their arrest has almost no significance whatsoever for the fight against the illegal transit of drugs. The higher echelons of organisations specialising in the international illegal drug trafficking remain beyond prosecution – i.e. the controlling persons from these echelons remain

concealed, are not prosecuted and are remunerated for their activity with their profits.

- e) In our opinion, profits from the illegal transit of drugs must be enormous, and the permeability of borders for transit states must be extensive if the volume of drugs reported in the press to have been confiscated has no obvious effect on the success of organised crime groups' activities. It is also confirmation of the great demand for drugs and a sign of the relatively small risk involved in this form of „business“ with regard to the overall volume of risk.
 - f) Due to the constant recurrence of the same organised cases, the illegal transit of drugs is a well-functioning mechanism; despite their best efforts, customs officials are unable to substantially decrease profits from the illegal sale of drugs.
 - g) The use of easily replaceable couriers and the sustainability of losses from confiscated drugs means that penal legislation enacted by individual states to combat drug crime does not present a major obstacle to organised crime involved in the illegal distribution of drugs. Losses are incurred in all types of business, including legal business. Penal legislation is thus often understood merely as the definition of certain limitations, which can without any great problem be avoided with the aim of maximising profit and minimising possible losses. The improvement of penal codes in relation to the illegal drug trafficking can not therefore reduce the incidence of drug crime of this sort without enforcing other, linked measures of a diplomatic, economic, social and health nature.
- 2) **The second group of cases** concerns criminal activity connected with the **production and distribution of drugs in the Czech Republic mostly by Czech citizens (or foreigners living long-term in the Czech Republic) with the aim of financial gain through the sale of drugs to fellow citizens who are addicted to drugs.**

Persons prosecuted in this group are usually connected with the production and distribution of the Czech speciality - pervitin, the purchase for the purpose of resale of hard drugs and what is termed dance drugs from abroad, or the cultivation and sale of marihuana. (A significant number are people who could be called business intermediaries). Many dealers (also included in this group) are also users of the „goods“ that they distribute who sell drugs in order to earn the funds necessary for their own consumption. They rarely involve people without a criminal record. Those people who haven't yet been prosecuted are often jointly responsible for a variety of negative social phenomena and typically pursue livelihoods that attract society's condemnation: prostitution, scrounging off parents or other relations and acquaintances, connections with the underworld, most of whom abuse the Czech social system through social security fraud etc. Unemployment is their vocation. Even when they are themselves not yet addicted to drugs they have no scruples about distributing drugs, including selling them to minors. The sale and/or production of drugs is for them the fundamental and permanent source of income and part of their lifestyle. Such people often include foreigners living more or less

permanently in the Czech Republic: citizens from Slovakia, Vietnam, some Arab states, the Ukraine and other countries of the former Soviet Union, citizens of the former Yugoslavia etc. Larger groups are becoming ever more common, with a division of labour and connections to other groups (e.g. erotic club operators). Links to international crime are not yet common, only contacts to dealers of hard drugs and dance drugs for their subsequent sale where this is the fundamental source of profit.

Those drug crime offenders who are prosecuted and convicted in the Czech Republic, and whose activity receives most coverage in the media, generally come from this group. Here also, the endeavours of the law enforcement bodies are an important factor in limiting this form of crime. Or should be. Unfortunately, any initiatives taken against these groups is almost without exception haphazard. They are hindered among other things by the nature of the crime – the resistance of drug users, but also sometimes of those around them, to testify on drug crime, and to testify against dealers etc. In addition, the approach of the wider public to drug crime is not unambiguous (it approximates the attitude to legal alcohol) and often the use and sale of drugs are tolerated – a matter which is dealt with in greater length elsewhere in this study. As the conclusions of the Special Report of the Supreme Public Prosecutor's Office on drug-related crime make clear, criminal justice in future anticipates a further increase in drug crime. There are even suggestions that drug crime will have an increasing influence on the development of crime as a whole, and not only in the quality of criminal activity but in its quantity. We identify ourselves with this view.

3) The **third group** concerns cases where individual **users of illegal drugs, or groups of such users, drug addicts, commit numerous other crimes, primarily property crimes although sometimes also violent crimes (e.g. robbery) in order to obtain drugs.**

These people produce – grow – buy drugs to satisfy their own dependency. We can also include communities of drug users with small-time dealers, where long-term contacts have been established and maintained through drug use, often in a group. They also include individuals who grow marihuana or „cook“ drugs just for themselves or offer them free to other people who are close to them or as a result of chance encounters. People from this group often also commit intentional crimes as well as crimes of negligence under the influence of drugs (deliberate harm to health, traffic accidents etc.). Prosecution and convictions usually have little impact; they cause problems in serving their sentence and if a number of such persons happen to be serving their sentence in one prison, they are highly disruptive in their attempt at any cost to obtain drugs. Following their release they usually return to their „community“ and continue in their former lifestyle, usually related to drugs.

Research into the drug scene among the Czech prison population

The research was performed using the **DROGPEN** questionnaire, which is the **penitentiary modification of the Drogan SF 3 K questionnaire, which was used for the research in 1999.**

The questionnaire follows the traditional format of open and closed questions. Previous research tested questions' comprehensibility for respondents and, unlike Drogan, questions that prisoners could not understand, or found difficult to understand, were omitted, as were those that proved to be superfluous as prisoners did not respond to them.

Due to prisoners' understandable lack of trust in any form of research and questioning, we sought to ensure the greatest degree of anonymity. We followed this principle even at the cost of reducing possibilities of comparing certain data. We also sought the greatest representation of the same or similar questions in order to ensure the compatibility of both forms of research.

Description and characteristics of the respondents

The sample was selected so as to cover the whole spectrum of the prison criminal subculture. Unlike the previous research, it covered not only prisons (prison sentences) but also remand prisons (custody). We also followed **external differentiations of prisoner categories not according to the type of prison but according to their sex, whether they were a first-time prisoner or repeat offenders and whether they were juveniles.**

The sample of respondents was selected on a random basis and performed by well-informed professional colleagues directly from the prisons (mostly psychologists and special pedagogues). We instructed them to select, on a random basis, one dormitory, workplace etc. We only advised them not to include prisoners who would not be able to fill out the questionnaire due to intellect problems, or who would react negatively to filling it out.

In total, the research covered 798 respondents, of which 9 questionnaires could not be assessed due to incomplete data. This means that N = 789. „N“ thus represents the final number of people researched using the DROGPEN questionnaire.

The following were questioned:

- 95 juveniles**
- 134 women**
- 261 male first-time prisoners (had not previously been imprisoned)**
- 299 adult males with previous prison terms**

We divided the above into two basic groups: those prisoners who admitted abusing drugs at some time in their lives, and those who stated that they had not abused drugs. The term drugs did not include: alcohol, nicotine or caffeine, and the prisoners were alerted of this fact.

Of the total number of respondents, **446 prisoners**, or **56 % of the sample** admitted to abusing drugs at some point in their lives. In the individual groups this broke down as follows:

juveniles - 82 % of the group sample

women - 54 % of the group sample

male first-time prisoners - 45.5 % of the group sample

male repeat prisoners - 59 % of the group sample.

By way of comparison, in **1999 our research covered a total of 436 respondents, of which 41.3% of the total number questioned admitted to abusing or having abused drugs at some point in their lives.**

The increase in the number of prisoners from the various groups who admitted to abusing drugs is more than alarming, and this applies to all the groups analysed. It shows a sharp rise in the number of people with experience of drugs in the prison criminal population. Nevertheless, the determining factor is how this finding is understood and perceived. The authors of this study do not feel equipped to provide an unambiguous conclusion and therefore offer the following approaches.

1. approach: The increase of prisoners with experience of drugs in their past history copies the rising curve of drug abusers in society.
2. approach: The increase in prisoners with experience of drugs in their past history means an increased number of socially deviant people with reduced adaptation ability in society.
3. approach: Among people with a reduced adaptation capacity, drug abuse is a significant, and often the sole or dominant criminogenic factor in their criminal career (the unemployed, offenders who commit crimes „in order to obtain drugs or the means to buy them“).
4. approach: Drug abuse is a status symbol for a substantial section of the delinquent subculture or one of the chief causes triggering a criminal career.

The data obtained from the research, together with the evaluation of information from other research projects, from its own findings and the opinions gained from long-term treatment of drug addicts (not only prisoners) led the group responsible for the field part of the research to formulate the following conclusions, with which the other members of the research team identify:

- 1) Socio-pathological phenomena today are not only a natural element of the delinquent subculture but go beyond it and are becoming a common feature of life of the remaining, non-delinquent (normal) population,
- 2) Socio-pathological phenomena that occur in prisons are brought there from the external environment and then again returned to that environment from the

prisons. This applies in general, although over the years the dynamics, form and degree has altered dramatically. The study's authors believe that this combination of the inner world of the prisons with the external world is more dynamic and far-reaching than it has been for about 50 years.

- 3) We may assume that many of the recorded and latent crimes are related to drugs and that a significant proportion of them are committed in order to obtain drugs (obtaining the means to purchase drugs),

The term „many“ expresses our belief that their number can't be quantified from the available sources, although there are considerably more of them than are represented for example in the media. We can support this with additional testimonies from individual prisoners.

- 4) The drug scene in prisons is relevant to the drug scene in the external society, and socio-pathological phenomena that occur in prisons are modifications of socio-pathological phenomena that exist in the external society,
- 5) At least half of all prisoners have individual experience with drugs, and the majority of these prisoners first experimented with drugs before their first prison sentence. The age at which the delinquent juvenile population in our study first experimented with drugs is now about 14-15, and we expect this figure to fall to twelve years, at which point it will stop, over the next five to ten years,
- 6) The frequency of attempts and the subtlety with which drugs are smuggled into prison,
This is linked to the fact that prisoners are becoming more organised and that the „organisations“ they create have the direct objective of disrupting the effectiveness of the prison system .
- 7) The corruption pressure is rising and will continue to rise on prison staff and persons entering prisons with the aim of bringing more drugs into the prison.
- 8) Drugs are one of the main areas disturbing prisons' internal security and are a significant part of prisoners' hidden illegal activities – the „second life“ of the convicted,
- 9) Prisoners who abuse drugs are characterised by high levels of vulnerability as possible victims of bullying or other violent or aggressive behaviour in prisons,
- 10) At least one half of prisoners who abuse drugs fail in the standard conditions of serving the prison or custodial sentence,
- 11) Where conditions allow, prisoners who abuse drugs should receive special treatment separately from other prisoners,
- 12) Drugs are available in prisons, albeit spasmodically and in relatively small amounts. In most cases, prisoners with past histories of drug-taking switch smoothly to multiple abuse without distinction (using medications, accumulating them),
- 13) A significant number of people belonging to the criminal prison subculture and criminal subculture in general are distinguished by their lack of attention to their own health and their failure to appreciate certain risks, particularly in relation to transmittable diseases,

- 14) Current methods of treating drug addicts in Czech prisons, including therapy and special treatment, are generally satisfactory, determined mostly by the financial, personnel and spatial possibilities of the Czech Prison Service.

Conclusion

If we compare this study's findings on the abuse of illegal drugs and other, similar substances behind prison walls and outside them, we can say that the theory propounding a link between the incidence of socio-pathological phenomena in the normal population and the prison subculture has been confirmed. As was stated at the end of the section dealing with penological research, we may expect that this link is currently highly evolved. This clearly also involves drug abuse. The drug scene in prisons by and large reflects the general drug scene, with variations stemming from the realities of prison life (the composition of prison population, physical obstacles to obtaining drugs for consumption etc.).

The study's subject matter meant that the formulation of more general conclusions or prognoses was restricted to the issue of drugs in the prison environment. This is understandable – the purpose of the study was not to provide a detailed analysis of the drug scene in the Czech Republic or the legislative approach to the unlawful handling of illegal drugs, but to find any specific features of the drug problem in the prison subculture. At this point it is obviously apposite to again mention the factual impossibility of distinguishing the solution of any socio-pathological phenomenon in prisons from its solution in society as a whole. The idea that you can turn prisons into pockets free of the vices that evidently thrive in the outside world is clearly naive. The approach should instead be the opposite. Using information on the special attributes of a specific environment (prison subculture as well as other specific environments), an effective approach to the issue taking in the whole of society should introduce elements that modify and supplement the general approach in this area.

The results of the penological research, as stated in its conclusion, allow the cautious statement that current methods of treating drug-addicted prisoners in Czech prisons, including therapy and special treatment, are generally satisfactory, determined mostly by the financial, personnel and special possibilities of the Prison Service. The by no means negligible level of drugs and their abuse in prisons means that we can only make this statement if we look at the Prison Service's activity in terms of realistically achievable goals. A drug problem exists in our society and we can't expect that the opposite will be the case in a prison subculture. The section devoted to the drug issue outside the prison environment (despite its brevity, for reasons already stated) should therefore not by any means be regarded merely as a backdrop to the penological research itself. It should also (and we hope this will indeed be the case) bring people to consider the effectiveness of the approach that has been thus far pursued in the Czech Republic to a problem so serious as the abuse of illegal drugs.

Research of conditional release institute¹

2002 – 2003

Researcher responsible: Mgr. Jan Rozum

Co-researchers: Mgr. Lucie Jarkovská, Mgr. Petr Kotulan

Release from prison is a test of how effective prison methods of treatment have been, what capabilities and possibilities the probation service has, how society is willing and able to accept its obligation to contribute towards reforming offenders, and finally also a test of the offender's adaptability. Release from prison is of considerable importance for society, for the prisoner and his/her family, and for the whole process of reform programmes in prison and in freedom. We directed the research into the mechanism of conditional release (completed in the Institute for Criminology and Social Prevention in December 2003) to one of the forms of parole, conditional (ie provisional not definitive) release. Conditional release is defined as a complex of non-institutional professionally performed reform programmes for offenders with the aim of ensuring their complete rehabilitation and social re-adaptation.

The subject of the research was examination of the mechanism of conditional release, which is regulated in the provisions of §§ 61- 64 of the Criminal Code and the procedure for its execution pursuant to the provisions of §§ 331 - 333 of the Criminal Procedure Code. The subject of the research was in particular the actual procedure of the entities involved in application of this criminal law provision. We focused attention in particular on the execution of conditional release with supervision and to how supervision is performed and how the particular entities involved work together in the execution of conditional release with supervision.

We directed the research in particular to:

- analysis of domestic and international legal regulations
- analysis of statistical data
- analysis of court decisions on conditional release, ie analysis of those cases when supervision was imposed by the court, and then to evaluation of documents from probation records on those conditionally released with supervision
- the activities of Prison Service staff in preparing prisoners for conditional release and the activity in making a decision for release; in particular how improvement in the behaviour of a prisoner is assessed, and the meeting of obligations in the assessment report for the court which makes the decision on conditional release
- activities of probation officers in selection and preparation of prisoners for conditional release, then in checking the appropriate restrictions and obligations and also how supervision is performed by probation officers where this is stipulated by the court and how the probation programme is implemented

¹ Rozum, J., Jarkovská, L., Kotulan, P. Institut dohledu u podmíněného propuštění. Praha : IKSP, 2004. 290 stran.

- analysis of the opinions of prisoners upon whom supervision while on conditional release has been imposed

The aim of research into the mechanism of conditional release (with emphasis on those cases where supervision has been ordered) should be to ascertain how it contributes on the one hand to reducing the prison population and on the hand to resocialisation of offenders. We looked at the importance of conditional release for society and for offenders and then the activities of the particular organisations which perform tasks in specific phases of conditional release, particularly the activities of the Probation and Mediation Service. The aim of the research was not to be only acquiring knowledge of the current legislation and the practical situation but also formulating views on what situation is desirable and optimal. We described the findings obtained, evaluated them and drew attention to possible more suitable procedures in applying these mechanisms, then we formulated suggestions which should contribute to more effective functioning of the mechanism examined.

The following methods, techniques and procedures were followed in the research:

- a) study of documents from abroad on this issue, particularly legal regulations and experience in applying conditional release (the term parole is used in other countries) in practice
- b) analysis of domestic legal regulations (including their historical development)
- c) study of other written sources (particularly Czech professional sources) and study and analysis of court files and documents from probation records; this analysis was directed in particular to court decisions on conditional release with supervision, to analysis of assessment of the prisoner by the Prison Service, to the execution of supervision and to analysis of probation reports before the court decision on conditional release, and probation reports on the progress of supervision (court decisions on conditional release with supervision in the period from 1 January to 30 June 2002 were analysed (a total of 167 court files). From the court files 13 PMS reports before the court decision and 16 PMS reports on the progress of supervision were appraised
- d) a questionnaire was sent to experts (judges who issue decisions on conditional release, social workers, the Prison Service and probation officers)
- e) interviews with experts and prisoners
- f) analysis of statistical data from 1998 to 2003 from Ministry of Justice and Prison Service statistical data
- g) specialist studies by the Prison Service staff, the Probation and Mediation Service and social curators.

The final research report has a theoretical section, which contains the following chapters: introduction to the issue of the mechanism of conditional release, the legal provisions for conditional release in selected countries and the development of legal provisions for conditional release from serving a prison sentence. The second part of the research report gives findings from practice: the

respective statistical data and findings from court records and court decisions. The results of the questionnaire given to experts forms an important part of the research.

We also devoted attention to the activities of probation officers in implementing the mechanism of conditional release (we analysed on the one hand their activities before a court decision on conditional release and on the other hand in performing supervision of conditionally released prisoners). The principal results of the research are summarised in the final part of the study and suggestions for their use are then formulated.

Summary of conclusions:

Statistical data

- From the statistical data provided by the Czech Prison Service for the years 1998 -2003 it can be seen that from 1998 to 2002 there is a clear year-on-year growth in prisoners conditionally released (1998 - 3126, 1999 - 3299, 2000 - 3989, 2001 - 4264, 2002 - 4349). In 2003, there was a significant drop in the number of prisoners conditionally released to 3140. Since 2002, a court has been able to stipulate supervision of conditionally released prisoners. In 2002, supervision was imposed on 668 prisoners, which represents 15.3 % of the total number of those conditionally released in 2002. In 2003, courts imposed supervision for the conditional release of 531 prisoners, which amounts to 16.9 % of the total number of those conditionally released in 2003. Even though the total number of prisoners conditionally released went down in 2003, the percentage of those conditionally released with supervision did not, but rose very slightly.

Number of conditionally released prisoners from 1998 to 2003

Year	Adults		Juveniles		TOTAL	With supervision
	men	women	men	women		
1998	2955	81	89	1	3126	-----
1999	3095	113	89	2	3299	-----
2000	3793	125	71	0	3989	-----
2001	4007	190	66	1	4264	-----
2002	4110	178	60	1	4349	668
2003	2965	139	36	0	3140	531

source : Prison Service HQ

Summary of findings from court records on application of the mechanism of conditional release from serving a prison sentence

From analysis of 167 court conditional release records and from 26 separate resolutions of district courts, where a legal decision has been issued on conditional release from serving a prison sentence with supervision, the following **principal findings** emerge:

- The new provision for conditional release from serving a prison sentence with supervision, which was introduced in our criminal law in an amendment effective from 1.1.2002, was adopted in practice and applied in suitable cases from the start. The possibility of stipulating supervision extended the number of those conditionally released from serving their sentence to prisoners for whom conditional release would be problematic or came into consideration after a longer period of the imposed sentence had been served.
- The initiative for starting proceedings on conditional release from serving a prison sentence is predominantly applications by prisoners.
- For all prisoners, assessment of their behaviour while serving their prison sentence was entered in the records and prepared by specialist committees of the Czech Prison Service, and in spite of differences in content and quality it contained sufficient information for the court to make a decision.
- The length of the probation period was set mostly in the middle of the legal limits, proportionate to the length of the sentence remitted, while taking account of other decisive aspects for setting its length.
- Courts utilised the option in suitable cases of imposing the appropriate restrictions and the appropriate obligations stated in § 26 para. 4 of the Criminal Code, but less the option of ordering convicted person to pay compensation to the best of their ability for damage/loss which they had demonstrably caused by their offences.
- The appropriate Probation and Mediation Service centre was always given the task of monitoring performance of the supervision stipulated in conditional release.
- Most of the sample monitored were younger people who had worked in manual professions or had been unemployed before they started serving their sentence. In the sample of persons conditionally released only two were women, one a juvenile and two foreign nationals.

Summary of the findings obtained from the professional questionnaire given to judges, probation officers and Prison Service social workers

The respondents to our questionnaire were judges, Prison Service social workers and probation officers. We contacted Prison Service social workers at a training course attended by 51 staff. A total of 116 social workers are operating in 32 Czech prisons, which means that 44% of all Prison Service social workers were polled. The Prison Service social workers we polled represented all Czech prisons.

The questionnaire was given to those judges who issue decisions on conditional release in 32 district courts in the Czech Republic. According to data from the Prison Service, a total of 55 judges issue decisions on conditional release. These judges were approached with requests to complete the questionnaires. A total of 43 judges, ie 78 % of judges who issue decisions on conditional release, responded to the questionnaire.

We gave the questionnaire to probation officers at all Probation and Mediation Service centres (a total of 76 PMS centres). In view of the fact that the PMS centres in Prague, Brno and Plzeň perform and fulfil tasks for district or circuit courts operating in these cities (a total of 15 courts), a total of 86 questionnaires were distributed for probation officers. Of these 86 questionnaires, 35 were in extended form for those PMS centres in whose area of operation there is a prison (even though there are 32 prisons; 3 and 2 questionnaires respectively were sent to the PMS centres in Plzeň and Brno). The return rate of questionnaires from PMS where there is no prison was 88 % - 51 questionnaires were sent out and 45 returned. The return rate of questionnaires from PMS where there is a prison was 68 % - 35 questionnaires were sent out and 24 returned. So of 86 questionnaires sent out a total of 69 were returned by PMS, ie 80%.

The questionnaire provided the following principal **findings** :

Participation of non-governmental organisations in fulfilling the purpose of the sentence

- The Prison Service social workers considered the churches to be the most active non-governmental organisations assisting in fulfilling the purpose of the sentence. The involvement of the churches in work with former or current prisoners is the most extensive and also the most beneficial from the point of view of social workers. However, the converse is true of evaluation of civic associations, and the activities they have carried out in prisons are assessed most negatively by respondents, which may be caused also by the fact that the scope of civic associations' activities in prisons is also the smallest.
- For non-governmental organisations and civic associations, Prison Service social workers most frequently stressed as beneficial their material assistance to prisoners or those conditionally released and their active participation in arranging lectures and discussion sessions (for instance, for drug addicts) and in organising concerts and other cultural performances.

Court decisions on conditional release

- According to judges, the most important information for issuing decisions on conditional release is the type of criminal activity and the criminal record of the person convicted, the Prison Service report and information on the social background of the person convicted.
- Judges rather incline to the view that the mechanism of supervision is helpful in issuing decisions, in cases when earlier, without the option of imposing supervision, they would have refused conditional release.

The issue of appropriate restrictions and obligations

- Probation officers evaluated conditions for enforcing appropriate restrictions and obligations in the area of their centre. The conditions for treatment of drug addiction which is not protective treatment were given the best evaluation, even though it has to be stated that these conditions are evaluated as average on the

scale. Conditions for fulfilling social training programmes were given the worst evaluation.

Supervision benefits

- Among judges and Prison Service social workers there is a clearly prevailing positive view on the introduction of the possibility of imposing supervision with conditional release. Probation officers also see the mechanism of supervision as a definitely effective tool of criminal policy. Among judges the prevailing view is that conditional release with supervision is a more severe measure for a convicted person, but Prison Service social workers on the other hand and probation officers in particular evaluate conditional release with supervision as a measure that is more convenient for the convicted person.
- Negative elements in the introduction of supervision are seen by Prison Service social workers and judges in the activities of the PMS in its practical application of it (formal supervision, few probation officers).

Performance of supervision by the Probation and Mediation Service

- According to statements made by probation officers, the problems they most frequently have to deal with in meetings with prisoners concern compensation for damage/loss, gaining employment, financial problems and the reasons why the criminal act was committed. Probation officers said that the least common problems they encounter are health and problems with partners.

Obstacles to the resocialisation of the conditionally released

- Based on their experience, probation officers stated what in their opinion are the greatest obstacles to resocialisation of the conditionally released. Their answers can be summarised under the six most frequently mentioned problem areas :
 - impossibility of finding employment – unemployment of convicted persons
 - return to a bad environment and recidivism
 - unwillingness to change lifestyle, and lack of motivation for resocialisation
 - loss of home and family and social background
 - non-existence of social and resocialisation programmes and lack of institutions working together on these
 - financial problems – money owed for the costs of serving a sentence, money owed for the costs of criminal proceedings, inability to pay compensation to the injured party.

Activities of probation officers in implementing the mechanism of conditional release based on analysis of probation reports before issue of a court decision and in the course of supervision

- From a total number of 167 court files in which the court issued a decision on conditional release with supervision in the period from 1.1. 2002 to 30.6. 2002 we recorded the actions of the Probation and Mediation Service in the stage before the court issued a decision, in 13 cases. In all cases the Probation Service provided a certain „background document“ for the requirements of the court in

issuing a decision on conditional release. This had the following form - report (in 8 cases), viewpoint, statement of the Probation Service or information on making contact with the PMS.

- The reports analysed had a very similar content structure. Every report contained information on:
 - how cooperation with the client had proceeded
 - the client's current life situation (with emphasis on family situation and the possibility of employment)
 - the client's previous criminal record
- Every report contained a summary opinion of the PMS on the client's application for conditional release, with emphasis on the Probation and Mediation Service's opinion on possible imposition of supervision or stipulation of appropriate restrictions and obligations. In our opinion the reports analysed provided valuable information for the court's decision on conditional release, particularly when the court considered imposition of supervision or stipulation of appropriate restrictions and obligations.
- The conditionally released have a big problem finding employment. They are often uneducated and have no skills, and also have a record in the criminal register. They often lack self-motivation and the will to work.
- Most of the PMS clients under supervision in our sample return from serving their sentences with debts which they are obliged to repay to the best of their ability during their probation period. Three clients had other appropriate obligations in addition to compensation for damage/loss and payment of the costs of criminal proceedings and serving a prison sentence. Two had to abstain from excessive use of alcoholic beverages and one had the obligation imposed on him to abstain from use of addictive substances.
- The reports on the progress of supervision contained appendices documenting the client's situation and meeting the supervision conditions. Most frequently copies of documents concerning payment of debts were appended – maintenance, costs of serving prison sentences and criminal proceedings, copies of employment contracts, proof of Employment Office registration, records of individual consultations and the probation supervision plan.

Suggestions for use of the research results

- **To incorporate a legal regulation in the provisions of § 333 para. 3 of the Criminal Procedure Code whereby in the case of a decision pursuant to § 331 para. 3 of the Criminal Procedure Code an appeal can also be lodged against a decision imposing supervision.**

Under the given provisions authorised persons may, in cases when a decision has been issued pursuant to § 331 para. 3 of the Criminal Procedure Code on conditional release from serving a prison sentence, lodge an appeal only against the decision stipulating the length of the probation period. In our view this provision does not take into account the newly created mechanism of supervision. Conditional release from serving a prison sentence is conceptually linked to

stipulation and the duration of the probation period. This is, however, a separate mechanism, whose substance, purpose and obligations arising from its enforcement are regulated by the provisions of § 26a and § 26b of the Criminal Code, and the third sentence of § 63 para. 1 of the Criminal Code refers to its use.

- **Legal regulations should provide for flexible supervision, ie the possibility of imposing supervision at any time during the probation period of a person conditionally released or revoking the stipulated supervision before the end of the probation period.**

In the questionnaire we asked the respondents for their opinion on the use of findings from abroad on legal provisions for conditional release. The respondents were agreed in taking a most favourable view of what is termed Flexible Supervision as a suggestion for legislation, ie the option of the court to revoke the stipulated supervision at any time during the probation period set for conditional release from serving a prison sentence or to stipulate it if it had not been imposed.

Probation officers, who have the most experience in the actual performance of supervision, often stated in questionnaires that coincidence of the probation period with the performance of supervision is unsuitable for a number of prisoners and is unnecessary, particularly in cases when a long probation period has been set. They stated that supervision performed over a long period gradually becomes formal and, if it exceeds the time required for intensive therapy, makes it impossible for the conditionally released person to lead a normal life. There is no possibility of fitting the length of performing supervision to the specific situation and the needs of the client, and there is no possibility of reacting flexibly to his/her stabilised situation. Nor is the possibility of imposing supervision during the stipulated supervision period an unknown alternative in our criminal legislation. So, for example, under the provisions of § 60 para. 1(a) of the Criminal Code a court may in view of the circumstances of the case and the person of the prisoner in exceptional cases allow the prisoner to remain on conditional release, even if he/she has given cause for ordering service of the sentence, and to stipulate supervision of the prisoner.

- **To consider the possibility of compiling a list of organisations providing additional social assistance services for the requirements of the court in issuing decisions on appropriate restrictions and obligations under the provisions of § 26 of the Criminal Code.**
To consider also accreditation of organisations providing these services.

Implementation and development of probation supervision and appropriate restrictions and obligations require close cooperation with the other organisations working in the area of social prevention and psychosocial services. The Probation and Mediation Service should ensure systematic joint action and joint implementation of individual programmes. It can be seen from the questionnaire that 87 % of judges do not, when issuing a decision on imposing appropriate

restrictions and obligations, have a summary of facilities available in which these restrictions and obligations can be performed. We think it would be useful to map the situation in the Czech Republic and create for the internal requirements of courts and the Probation and Mediation Service a list of organisations and institutions where appropriate obligations can be performed. This list should be created by the Probation and Mediation Service according to its experience in practice. The specific method of meeting obligations and restrictions is not regulated in detail. Accreditation of facilities providing additional social services should enable quality performance of the imposed obligations. The court would have a certain guarantee that performance of obligations will not be formal and will be performed at a specialist and professional level. It can also be seen from the questionnaire that judges and probation officers would clearly welcome accreditation of facilities. Accreditation would be effected either by the Ministry of Justice or the Ministry of Labour and Social Affairs.

- **With development of the Probation and Mediation Service, specialisation of probation officers in performance of supervision for conditionally released prisoners and specialisation of probation officers in cooperation with the Prison Service should be envisaged.**

We recommend that after the personnel situation becomes stable in the Probation and Mediation Service, the probation officers in individual centres specialise in performing supervision of conditionally released prisoners.

The option of imposing supervision (since 1.1.2002) of conditional release has brought expansion of the work of probation officers, but also the need for more intensive cooperation between the courts, the Czech Prison Service and the Czech Probation and Mediation Service. A methodological instruction was issued, the aim of which is to ensure mutual links between the work of Czech Prison Service staff and Czech Probation and Mediation Service staff in the area of preparing background documentation for the possibility of conditional release of a convicted person from serving a prison sentence with concurrent imposition of supervision. The methodological instruction contains a description of the procedure for joint action and cooperation between the Prison Service and the PMS before submission of an application for conditional release, from submission of an application for conditional release and after a final decision of the court on conditional release with supervision.

The attention of both cooperating organisations should be directed to preparing quality background documentation before issue of a decision on conditional release and also to enabling the released person to return to the best conditions possible. One of the results of cooperation between the Prison Service and the Probation and Mediation Service is in the ideal case an opinion on the application for conditional release. It can be presumed that there will be great interest on the part of prisoners in contacting the Probation and Mediation Service. In practice this will lead to a huge workload for probation officers working in PMS centres in areas with prisons.

A survey of foreign nationals in Czech prisons¹

2002 - 2003

Research responsible: PhDr. Miroslav Scheinost

Co-researchers: Mgr. Lucie Jarkovská, PhDr. Marina Luptáková,
JUDr. Soňa Krejčová

Research background

The wide-ranging socio-economic changes in the final decade of the last century manifest themselves not only, for example, in new types of crime committed in our country but are also reflected in the structure of those committing criminal activity. The opening of borders in itself understandably brings a larger number of foreign nationals committing criminal offences in the Czech Republic. In connection with this there has been a significant change in the number and nationality structure of foreign nationals detained in Czech prisons.

Over the last decade there has been a significant change in the structure of foreign nationals detained in Czech prisons. Citizens of the Slovak Republic have also been considered to be foreigners here since 1 January 1993. But, particularly as a result of the opening of state borders, accused and convicted persons of other nationalities, with which the Czech Prison Service has hitherto not had experience,² began to appear in Czech prisons. The presence of prisoners designated as „Russian speakers“ or „from the countries of the former Soviet Union“ is seen as particularly problematic. The pressing nature of the problem of foreigners imprisoned was shown in particular by prison riots in January 2000, a mass hunger strike and an attempted break out and escape by „Russian speaking“ prisoners in the autumn of 2001 and also a protest hunger strike by prisoners „from the countries of the former Soviet Union“ in the Pankrác prison in August 2002.

The subject of the survey, carried out at the request of the General Headquarters of the Czech Prison Service, was for this reason foreign nationals in Czech prisons with priority focus on citizens of CIS (Community of Independent States) (i.e. Armenia, Azerbaijan, Belarus, Estonia, Georgia, Kazakhstan, Kyrgyzstan, Lithuania, Latvia, Moldova, Russia, Tadjikistan, Turkmenistan, Uzbekistan) and particularly on Ukrainian nationals, of whom there were ca 500 in Czech prisons during the research period out of a total of approximately 800 prisoners of the Russian speaking group. In addition, the research was also focused on several other more numerous represented specific groups of foreigners in Czech prisons, namely Vietnamese, prisoners from Balkan countries (i.e. Albania,

¹ Scheinost, M., Jarkovská, L., Luptáková, M., Krejčová, S. Výzkum cizích státních příslušníků v českých věznicích. Praha: IKSP, 2004. 131 stran.

² Vývoj stavů obviněných a odsouzených cizích státních příslušníků v letech 1994-2001 a jejich struktura podle státní příslušnosti k 31.12.2001 (Change in the number of foreign nationals indicted and convicted between 1994 and 2001 and their structure in terms of nationality at 31.12.2001). In: Ročenka vězeňské služby ČR (Yearbook of the Czech Prison Service). Praha: VS ČR, 2001. s.17-19.

Bosnia-Herzegovina, Bulgaria, Croatia, Yugoslavia, Macedonia) and from Islamic countries (i.e. Afghanistan, Algeria, Bahrain, Egypt, Iraq, Iran, Jordan, Kuwait, Libya, Morocco, Pakistan, Palestine, Syria, Tunisia). Slovak nationals were not included in the research – it can be assumed (and prison service staff confirm this) that their behaviour and actions do not differ significantly in practice from the known and sufficiently well mapped behaviour patterns of the domestic population.

The basic aim of the research was:

- to characterise the categories of foreign prisoners in terms of their criminal and socio-cultural features and stereotypes with priority focus on prisoners of Ukrainian nationality, and to ascertain specific features of their behaviour compared with Czech citizens in prison
- to identify problems in dealing with prisoners who are foreign nationals and to contribute to identifying their causes
- on the basis of these findings to formulate possible recommendations and proposals for how to treat this specific category of the prison population and to minimise any risks of conflict with prison personnel and also inside the prison community, creation of parallel informal structures, exceptional events etc.

Research methods and procedure

The research project was prepared and discussed with representatives of the General Headquarters of the Czech Prison Service in 2002. The implementation phase of the project then started at the beginning of 2003, with on-site survey from May. The research report was completed, examined and published at the beginning of 2004.

To carry out the research, the members of the research team used the techniques of secondary analysis of documents, analysis of statistical data, a questionnaire, controlled semi-standardised interviews and analysis of documents from files.

Professional literature from the Czech Republic and abroad relating to this issue was a source for findings. Findings of foreign specialists were also used, in particular from the countries of priority interest (Ukraine and Russia), who were asked to provide materials, particularly on the issues of imprisonment and organised crime in these countries. Thanks to them some very valuable and up-to-date sources of information were obtained, for example a report on research carried out by Ukrainian specialists on the issue of norms and standards of behaviour in organised criminal groups, completed in 2001.

The basic group for analysis of statistical data were all foreign nationals in Czech prisons at 31 December 2002; *the selected group* consisted of foreigners in four prisons, which were selected following consultation with the General Headquarters of the Czech Prison Service, based on the fact that they had the highest numbers of foreign nationals in them at 31 December 2002, and also prisoners who were Ukrainian and Vietnamese nationals. In addition, data were

used from non-standard reports prepared by the request of the Czech Police on criminality of foreign nationals ascertained in the Czech Republic.

In addition to statistical data, information on the situation in individual prisons was obtained *by means of a written questionnaire*, in which questions were formulated as separate sections in a number of subject areas. This questionnaire was distributed to individual prisons by specialised staff of the Prison Service – mediators.

These subject areas were also used as a base for carrying out *controlled semi-standardised interviews* with staff of the selected prisons who come into direct contact with the issue of foreign nationals and whom the research team staff visited. Heads of custody/sentence sections and their deputies, educators, psychologists and social and education staff working with foreigners in these prisons were approached as respondents.

An analysis of selected file material on *individual cases* was also conducted anonymously by agreement with prison staff in the prisons visited. Cases were selected to represent the main groups of foreign nationals in the prison population studied, i.e. Ukrainians, Vietnamese, citizens of Balkan states and citizens of Islamic states.

Research findings

If we start by summarising findings from a general perspective on the structure of foreigners in the Czech Republic, we can state that in the 1990s the Czech Republic – if we do not take into account the rise in normal tourism, business trips, study stays etc. – became in terms of migration not only an important transit country but also for certain groups of foreigners a destination country. The reasons for immigrant interest in remaining in the Czech Republic are mainly economic, generally motivated by a bad economic situation in their countries of origin and an interest in finding a living in the Czech Republic, even though in a number of cases it is not possible to overlook motives of fears concerning safety, manifested in particular among applicants for asylum coming from countries afflicted by wars and internal conflicts. It is of course the case that applications for asylum are also very often motivated by other reasons, evidence of which is the relatively low percentage of requests granted.

Besides this legal migration there is also, however, relatively extensive illegal migration. This consists of both transit migrants trying to enter other target states illegally and people striving to obtain employment in the Czech Republic without a residence permit and a work permit, people who stay on in the Czech Republic after their tourist visa has expired, persons who do not respect administrative or court deportation orders and so on. Some of these illegal migrants represent a significant crime-generating potential (particularly persons already prosecuted and deported, or people who because of their oppressive life situation may be abused by organised crime), even though it can be presumed that foreigners who come to the Czech

Republic with the deliberate intention to commit crimes here mostly enter the country in a legal manner.

It is generally the case that in the 1990s the number of foreigners living in the Czech Republic increased very substantially and their growing proportion in society is also shown in the structure of persons known to have committed recorded criminal offences. Although the proportion of foreign nationals in the number of known offenders in the Czech Republic has not reached the level known in some other European countries (the Federal Republic of Germany, Austria and others), a considerable rise has been recorded and is shown in the structure of persons imprisoned, where foreigners have formed ca 8-9% of the prison population in the last few years (when citizens of the Slovak Republic are included, 10-11%), which is more than the proportion of them in all criminal offences detected and also persons prosecuted (ca 5-6%).

The fundamental change in the proportion of foreigners in the prison population is marked by a number of characteristic features. Here we can include the progressively significant fall in the proportion of citizens of the Slovak Republic (in 1995 Slovaks formed 73% of indicted and convicted foreigners in prisons, whereas in 2002 they formed only 22%) accompanied on the other hand by a similarly significant rise in the number of citizens of countries of the former Soviet Union in prison, particularly from the Ukraine. This is a trend which in general corresponds to the increase in the proportion of citizens of the Ukraine in the Czech Republic, where they now form the second most numerous national group, closely behind citizens of the Slovak Republic, followed by Vietnamese, Poles and Russians. Another significant feature is the great variety in the nationality breakdown of foreigners in prison, when, for instance, at 31 December 2002 persons from 66 countries in all parts of the world with the exception of countries in the Oceania region could be found in Czech prisons.

It is clear that this fundamental change in the nationality breakdown of the prison population brings a whole range of new problems and imposes other, qualitatively different demands on the activity of the Prison Service.

The research confirmed that the potentially most problematic group among foreign nationals in prison are at the present time **Ukrainians**. The reasons for this fact can be considered at several levels.

Ukrainian immigration into the Czech Republic is mainly for economic reasons and attempts to find work and a livelihood here. Until there is an improvement in the economic situation in the Ukraine it cannot be expected that interest in living in the Czech Republic linked with looking for an income will lessen, also in view of the geographical proximity of and availability of transport to the Czech Republic, the similarity of the two languages and the continuing range of work opportunities, particularly seasonal, auxiliary and unskilled work. The existential pressure is such that it forces Ukrainian workers to look for any type of

work, even without a proper permit. Their interest is facilitated by the readiness of domestic employers to offer them work (including in what is called the black economy without due taxation, deduction of the prescribed contributions etc.), because they present a mobile, efficient and cheap source of labour, and furthermore – if they work without a permit – in an unequal position vis-a-vis their employer. In view of this the Ukrainian population in the Czech Republic is predominantly made up of younger people, mostly single, or middle-aged persons with a family which stays at home; so they live in relative isolation in the Czech Republic, without family backing, often in distressed or makeshift conditions, exploited both by employers and by those who bring them here, in the case of illegal work also in fear of being discovered and expelled. In addition to the possible „nationality ghetto effect“ stemming from loneliness, isolation and an unequal status in a foreign environment, which in itself presents a certain crime-generating factor, they may, owing to these conditions, also be relatively easily manipulated and abused for possible criminal activity. This is the case predominantly with men; as far as women are concerned, they find themselves in a similar position, and in addition to this may become the victims of trafficking in women and exploitation in prostitution.

In addition to this „economic immigration“ the general expansion of crime abroad from the former Soviet Union, including the Ukraine, needs to be taken into account. This does not have to be exclusively a question of criminal organisations operating internationally, which understandably, in addition to other criminal activities, live off the economic migration mentioned above, but also of individuals, predominantly younger males, looking for the possibility of quick money abroad regardless of the way it is gained; these, then, besides the criminal offences typical for them (theft, robbery committed sometimes for minimal gain with excessive use of violence), may perhaps get involved in organised structures as „foot soldiers“.

As a result of this, Ukrainians have, after Slovaks, the highest share in criminal offences detected; particularly since 1995 there has been a rise in their criminal offences detected. In addition to property crime, violent criminal activity is typical for them (robbery, extortion, bodily assault), and criminal offences committed in an organised manner have appeared. Typical is the youth of offenders – more than 67% of acts are committed by persons under 30. These facts are reflected in the structure of the prison population – at 31 December 2002 Ukrainian prisoners formed 31% of all foreign nationals and together with foreigners from other states of the former Soviet Union represented ca 5% of the total prison population, and their share is constantly increasing. The Ukrainians in prison are predominantly young – according to the data ascertained, 55% of them are aged between 20 and 29. The nature of the criminal offence for which they have been convicted was affected by the type of prison in which part of the research was conducted (these were prisons where convicted offenders serve their sentences in stricter conditions), but nevertheless prevailing violent criminal activity was

confirmed. To a greater extent than with other nationalities group criminal activity sometimes linked with organised crime structures is manifested.

The main source of potential problems with the Ukrainian prison population was shown to be – besides rise in numbers – the existence of specific prison sub-cultures linked with an effective and respected organisation within prisons. This organisation is marked by an observed hierarchy and discipline, obedience to „capos“, it is self-contained and keeps at a distance from those around them (prisoners of other nationalities and also prison staff), but also by internal solidarity and mutual support, which even to an ordinary prisoner at the lower levels of the hierarchy provides backing and support in the prison environment. The capability for organisation undoubtedly stems from traditions of prison sub-culture developed historically in the specific conditions of the former Soviet Union and transferred to our environment. The hierarchy created furthermore copies and respects the hierarchy „on the outside“, from the organised crime environment. Contributing to this capability is the knowledge of prison sub-culture widely spread in the countries of the former Soviet Union, where as a result of mass reprisals and tough sentencing policy a disproportionately larger spread of people than in other European countries acquired experience of prison, the sharing of this experience between generations, perception of this prison experience as a „normal“ part of culture, and the existence of a traditional prison elite. Thanks to this tradition and experience, specific behaviour and organisation patterns do not have to be newly developed on entry to the prison environment, but are routinely applied in their traditional and known form.

The authority of the organisation in prison is such that it also determines the behaviour of those prisoners who do not come from an organised crime environment and do not have to have their own previous experience of prison. Not even they have the courage to breach the given behavioural norms but prefer to risk conflict with official authority. Typical is obedience to leaders (who cannot be identified easily), total silence on the internal life of the group and basically also about themselves and the past. It is true that the findings agree that Ukrainians do not seek conflict either with prison staff or with other groups of prisoners. Any disciplinary penalties are mostly the result of refusing cleaning work, because this requirement conflicts with the internal rules of their sub-culture, which do not permit this work particularly for persons in the upper echelons of the hierarchy. On the other hand, thanks to their organisation (they are able to maintain contact not only inside one prison but also between prisons and outside), discipline, silence and also numbers they are able to become a powerful force in prison, to press their demands en masse, to react to perceived and presumed grievances and if necessary secretly prepare organised mass riots, which has already happened.

In contrast to the Ukrainians, **Russian nationals** in the Czech Republic are rather better off people coming from an urban environment, arriving in the Czech Republic to seek a „more European“ and more secure environment for their possible activities and investments here in view of the instability of the situation in Russia.

For this reason they do not represent typical economic immigration. They form enclaves in the Czech Republic, which, though they are relatively isolated, show a more normal social structure with greater proportion of families and more generations, which provides their members with better social backing. In prison too, according to the replies of respondents, they keep away from prisoners of other nationalities coming from the former Soviet Union, including Ukrainians (this keeping apart is mutual) and a certain tendency to regard themselves as superior. The probability of greater representation of persons with higher education and experience of living in other European countries also contributes to this.

Vietnamese, who at the present time represent the third most numerous nationality among foreigners in Czech prisons, are on the other hand generally perceived in the replies from prison staff as without problems in prison, communicative, adaptable and avoiding conflict. They do not create internal organisations, and are usually accepted in the prison environment as well. The fact that most of them have to a significant extent previously become familiar with the Czech environment and the norms that apply and are able to communicate effectively evidently shows to their advantage. Also they are predominantly in the older age category of 30-39 (45.7%). Even so, it should be remembered that in addition to economic crime a number of them have been sentenced for violent crime, sometimes committed in a group. This means that they are under certain circumstances capable of displays of violence, even though if this occurred in a prison environment it would very probably have been of an individual, not group or organised nature. A further risk factor may be the fact that the nature of their culture and the way they present themselves makes it difficult to recognise the degree of pent-up emotions and their actual psychological state, which in an unexpected situation or intensification of pressure can lead to an outburst of uncontrolled aggression (as some of the analysed cases show). Although the occurrence of drugs among Vietnamese in prison has not been indicated, findings from the cases analysed confirm the occurrence of drugs in the Vietnamese population in the Czech Republic and also according to foreign sources there is a significant occurrence of drugs among Vietnamese in prison. So this risk cannot be excluded in future. **The Chinese prison population** is as yet few in numbers here; in contrast to the Vietnamese they suffer from fundamentally greater communication problems and clearly significantly greater social isolation.

Prisoners from Islamic countries were characterised as predominantly individualists, without any significant attempt at forming associations, let alone organisations. They present a varied nationality mix with no significant internal hierarchy and little comradeship, which is shown by the prevalence of internal conflicts. Knowledge and reasonable respect for their religious requirements and standards is shown to be required (time for worship, dietary requirements, undressing). Conflicts in the prison environment may be sparked off by some of their hygiene habits, the lively way in which they present themselves and certain traits characterised by respondents as assertiveness developed to the level of a certain obsequiousness, accompanied on the other hand by unreliability bordering

on treacherousness, or aggressive reactions. A significant number of this group have been sentenced for crime linked with drug trafficking (though they themselves are usually not addicted to drugs), and for this reason the potential risk of participation in peddling drugs in prison cannot be excluded. The ability to spark off group riots is, however, excluded by respondents in view of the fact that any such attempt (which in itself is highly unlikely) would not find support among the rest of the prison population.

Prisoners from Balkan countries were characterised as somewhat similar in their mentality to Arabs. They also show a mix of several nationalities and cultures, in contrast to prisoners from Islamic countries with a more evident internal hierarchy, but like them with not much internal comradeship. Drug and violent crime are characteristic for them, which may also present a certain source of risk; it is also necessary to reckon with a probably higher proportion of persons linked to organised crime in this prison sub-population. Although their number in Czech prisons has rather fallen in recent years, if there were further conflicts in the Balkans, the inflow of migrants from Balkan states to our country could again rise dramatically, which would undoubtedly be reflected in the structure of the prison population. For both prisoners from Islamic countries and prisoners from Balkan countries more extensive contacts can be assumed in the Czech environment outside prison than is the case for Ukrainians and Vietnamese, whose social life is more significantly limited to their own communities.

Concerning foreign prisoners in general there is an almost total absence of information on any previous criminal career and minimal knowledge of the actual social and family background, skills and life to date (unless they are exceptions: individuals to whom special attention is paid in view of their known position in organised crime structures). These facts naturally make much more difficult any attempt at a differentiated approach and individualised treatment, or any prediction of possible risk manifestations. Personal statements are either only rare (particularly in certain groups such as Ukrainians), or unreliable.

In spite of that we can clearly assume for a significant number of prisoners coming from other countries weakened and disrupted family relationships, loneliness, isolation, and an identity crisis to a more significant degree than for the Czech prison population. For this reason it is necessary with foreigners to reckon on a possible reaction to this situation, which may include a whole range of manifestations from depression to aggression. Foreigners clearly do not on average differ intellectually from the Czech prison population, and are probably somewhat better educated on average. Their health condition is assessed as good (with a reference to the excellent physical condition of most Ukrainians with the exception of a number of more middle aged people marked by hard physical labour). However, certain signals indicating the occurrence of tuberculosis or other infectious diseases cannot be underestimated, especially in view of information on the extent of health problems in prison populations abroad, particularly to the east.

Drug use among foreigners in our prisons is generally considered to be less widespread than among the domestic prison population. In the future, however, it is necessary to reckon with the possibility of a rise both in drug users and in persons capable of getting involved in penetration and distribution of drugs in prisons.

Foreigners' ability to communicate and make themselves understood in the Czech prison environment was generally assessed as good; any refusal to communicate because of lack of language knowledge is assessed rather as deliberate. In relation to Czechs among prisoners of other nationalities except Vietnamese a rather bilateral aloofness is seen in prisons, otherwise the natural tendency of prisoners of the same nationality to get together is seen, further reinforced among Ukrainians by their organisation. Inter-ethnic conflicts do not appear, rather there is an attempt to avoid them; any conflicts are predominantly interpersonal. Behaviour towards prison staff is assessed as prevalingly instrumental and prisoners from certain countries and cultures (Islam, Orthodox, Balkan) have problems in respecting the authority of women; religion and religious manifestations, however, have greater significance only for prisoners from Islamic countries at present.

A clearly characteristic phenomenon is lack of interest in being sent back to serve a sentence in the country of origin (with the exception of foreigners from developed countries); on the contrary, it is almost the rule to make an application for asylum.

IV. Conclusions

The findings obtained in this research need to be assessed as a preliminary and indicative probe into the issue. For this reason it is not easy to formulate any proposals based on it in relation to dealing with foreign prisoners. For example, the solution to the dilemma of whether to place foreign nationals in prison together or separately and whether to treat them all alike regardless of their status in the internal hierarchy or whether to opt for a differentiated approach is not clear even in one single case, and each has its advantages and disadvantages. It can be said that it is possible to choose between concentration of risks or their dispersal and thus their omnipresence. In addition it is necessary to bear in mind that if dangerous prisoners (actual or potential leaders among foreigners) are more isolated or separated in selected prisons (which seems from many points of view a functional approach), this may give rise to increased risk to and thereby also greater demands on prison staff – their foreign language proficiency, emotional stability, maturity, imperviousness to influence, resistance to corruption and so on. In addition to this, total isolation of the „dangerous“ is a new situation to which this prison sub-population may react, for instance, with an even more sophisticated organisation, and completely new and unexpected problems may appear in the new conditions.

If on the other hand they are dispersed, their potential organised network may cover all prison facilities.

Recommendations formulated for future procedure in this area were, therefore, more of the nature of guiding theses, which will require further practical and research verification. They were focused on the following areas:

- the probability of exceptional events in prisons sparked off by nationals of other countries
- the probable course and organisation of such events
- possibilities of obtaining information on the persons of foreign prisoners, their previous criminal career, background and so on in cooperation with the police, strengthening of international cooperation and exchanges of information and so on
- systematic preparation of prison staff and training of specialists for work with foreigners
- specifics of prisoners of Ukrainian nationality
- internal organisation of prison work
- possible future problems

Inter-ethnic conflicts
(their causes and effects with regard to theory and empirical research)¹
2002 – 2003

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Research focus and objective:

The presented study is related to previous material² on this subject and expands it to include different perspectives. Whereas the introductory study focused on the clarification of basic terms and summarised the situation in the Czech Republic and the world, this work focuses on the following areas:

- greater attention is devoted to the reactions of law enforcement bodies for inter-ethnic conflicts (analysis of judicial records)
- schedules from police sources were supplemented and processed in greater detail³ up to 2001
- greater attention has been paid to the personality of offenders for this type of crime (development of various cases based on psychological examinations of offenders in prisons)
- for the first time a section has been included examining the depiction of inter-ethnic conflicts in the media
- a survey has been conducted of the opinions and attitudes of police officers – students of the Police Academy of the Czech Republic concerning the issue related to the relevant subject.

The monitored subject allowed various methods to be employed in addressing the research goal, all of which are incomplete, although we hope that this fragmentation will be reduced in the overall aggregation. The research analyses were performed on three main levels: legal, social and psychological, and sought to elucidate the causes of this phenomenon.

Theoretical section

This seeks to outline certain theories attributable to the relevant problem. These theories also make it possible to locate the research in a broader social framework.

The core of the discussion does not comprise individual, albeit essential moments influencing inter-ethnic conflicts, such as unemployment, group dynamics etc., even

¹ Štěchová, M., Danielová, K., Jarkovská, L., Kotulan, P., Štěch, O., Urban, L., Veverková, Interetnické konflikty (jejich příčiny a dopady z pohledu teorie a empirických sond). Praha : IKSP, 2004. 163 stran.

² Štěchová, M.: Interetnické konflikty jako důsledek rasové nevráživosti (Inter-Ethnic Conflicts as a Consequence of Racial Aversion). Praha: IKSP, 2001. 55 stran.

³ Annually published Reports on extremism in the Czech Republic. Published by the Czech Ministry of the Interior since 1996.

if these are taken into account. The aim of this section is to demonstrate how the aggregate of social relations can produce a mature subject, i.e. a free person capable of respecting the freedom of others, and the circumstances that can prevent this development, particularly in a situation where since the second world war Europe has witnessed increased emphasis on conditions for democratic participation.

The study draws in some depth upon the theories of T. Adorno, Oesterreich, E. Fromm, A. Honneth, T. Biegel, Z. Baumann, Willems, H. Lööwe and marginally also other authors working in related areas. Selected empirical research related to this issue is also presented.

The intellectual sources for the presented theories are on the one hand social psychology and on the other social philosophy. Inter-ethnic conflicts are not merely a matter of Roma and skinheads; they concern the whole of the society in which they occur. In the first section, theory seeks to explain this phenomenon from an aggregate of social, economic and political conditions, including the way in which they are reflected in family life and thus also determine the development of children's personalities and attitudes. Various distortions and lack of esteem experienced in the course of the development may also be projected on ethnic minorities (although the mechanism is the same as if political or religious opponents were involved). The chief aim of the second section is to specify and classify the problem, examine its various aspects and key factors (unemployment, group influence and other factors) in closer conjunction with empirical research. The typology of offenders shows the unclear boundary between ideological hatred and „common“ xenophobia.

The basic question remains why minorities and foreigners become victims. In a local context, the adjustment problems of victims clearly play a role. The opinion exists that minorities and foreigners are rejected because they differ in appearance and lifestyle. Fundamental problems arise with regard to tolerance in communal life – minorities and foreigners behaviour is „against local norms“. It is also the result of life in a homogenous environment which has not encountered other cultures. Openness to the world is not yet fully established and ethnic pluralism is not institutionalised. Uncertainty in contact is closely linked to attitudes of hatred towards foreigners: from a psychological perspective, antipathy towards Roma, asylum seekers and immigrants is expressed by people with low self-confidence and those who are suspicious and uncertain in their contact with others. It is also true that the more different foreigners look, the stronger the aversion against them; and the more suspicious a person is, the more he or she explains his or her motives by economic and other surrogate indicators.

The multi-layered nature of the question means that it is difficult to formulate an unequivocal opinion on the phenomenon's causes as it is presented by the literature. The widest range of psychological, social, economic and legal policy factors play a role, from those in the family and school to a nationwide context.

Analysis of Czech Police records:

The comprehensive analysis was designed to produce an overview of the extent and character of the monitored phenomenon in the Czech Republic. The data for the analysis were obtained from police statistics from 1997 to 2001. These statistics include a survey of cases where there was a suspicion of an extremist sub-text to the crime or misdemeanour, including cases motivated by racial and national intolerance, regardless of their ultimate criminal-legal qualification. Cases were selected from this survey (a total of 992) which involved conflict between persons of different ethnic backgrounds and which were motivated by inter-ethnic hatred. The following characteristics were monitored in the individual cases:

the circumstances of the crime: region, place in which the crime occurred (public space, restaurant, gambling house, school, residential house, train or railway station, municipal public transport, prison), year, month, day (weekday or otherwise), hour at which the crime was committed,

characteristics of the crime: physical violence, verbal aggression, shouting of Nazi slogans, writing of Nazi slogans, use of Nazi symbols by the offender,

consequences of the crime: injury, fight, damage to property, death of the victim,

characteristics of first three offenders: sex, age, more detailed characteristics (skinhead, punk, Roma, Vietnamese, Italian,...), size of group of offenders.

characteristics of first three victims: sex, age and ethnicity of victims.

The aim of the analysis was to describe in detail racially motivated activity and ascertain the changes that it underwent between 1997 and 2001, to find the relation between its specific characteristics and finally to determine the relations that exist between racially motivated activities and other socio-economic and socio-pathological indicators. Statistical methods comprised the use of a correlation analysis, regression analysis and a chi-square test of independence.

We found that the number of racially motivated crimes is growing slightly year upon year. Whereas in 1997, 139 cases were recorded, over the five monitored years to 2001 this figure rose to 228. The number of racially motivated crimes has thus risen by 65 % during the period of five years. The increase in the number of registered racially motivated crimes may be explained, among other things, by the heightened vigilance of the police and its greater awareness of this type of criminal activity, as well as the change in the methodology of record-keeping for such crimes. In the context of overall crime, racially motivated crimes are not very common. They are far from comprising even 1 % of general crime. Nevertheless, it is a serious crime that creates tension in relations between ethnic groups and engenders an atmosphere of fear and anxiety among ethnic minorities.

These crimes are generally committed by a single offender, and in other cases in a small group, most often of two to three persons. The vast majority of perpetrators of racially motivated crimes were men aged between 15 and 25. Conflicts between people of different ethnic groups generally occurs in public spaces. Public spaces may be characterised by the fact that people generally meet

there who do not know each other, and during such meetings the most important aspect by which to judge the other person is his/her appearance – i.e. the colour of his/her skin. The fact that most crimes which have a suspected racial motivation occur in public spaces may be partially explained by the contact theory of racism (Wallace 1999), according to which people with racist and xenophobic feelings usually do not have personal knowledge of the members of ethnic minorities or immigrants.

Contrary to expectations, only a small section of offenders belonged – according to police sources – to the skinhead movement, and the proportion of skinheads involved in these incidents continues to fall over the years. This can be partly explained by changes to their movement as a result of stricter criminal sanctions for their offences, as a result of which they are rather forced to conceal their identity. Roma were the most frequent victims of racially motivated attacks. Almost all monitored cases included verbal aggression, which is quite often also accompanied by physical violence. Local differences in the incidence of inter-ethnic violence can mostly be attributed to the number of Roma living in the region.

Analysis of judicial records:

Information on the hearing and judgement of racially motivated crimes (hereinafter inter-ethnic conflicts) was obtained from criminal records lent by district and circuit courts for the purposes of their analysis. This concerned criminal cases that had been completed between 2000 and 2002. Thirty-three criminal records were analysed. According to the monitored aspects, the criminal records were analysed chiefly with the aim of determining:

- the accused's behaviour which was characterised as inter-ethnic conflict, and which was prosecuted as a criminal act, its result, causes and circumstances under which it was committed, influence of alcohol or other addictive substances,
- legal qualification used for such behaviour, concurrence with other crimes,
- sentences and protective measures imposed, or other termination of the criminal case by the district courts,
- procedural approach before the granting of court judgements and in particular the duration of proceedings before the criminal prosecution is begun, from the beginning of the criminal prosecution up to the court's judgement coming into legal force and the duration of the judicial proceedings, method by which the courts reach their decision and the form of their judgement,
- any delays in individual stages of the proceedings and their main causes,
- petition activity of public prosecutors and their reaction to variances in court judgements,
- application of proper legal remedies against decisions of courts of first instance and their outcome according to judgements of the appeal courts.

Research results: Most of those prosecuted for racially motivated crimes were male, Czech citizens of non-Roma extraction, although some Roma were also prosecuted. Their average age was very low, with a high proportion of juveniles.

Offenders generally came from lower socio-cultural backgrounds, with a preponderance of unemployed people and apprentices (in the case of juveniles).

Crimes were overwhelmingly committed by a single accused or two co-accused persons. In two cases, larger groups were recorded of seven co-accused (although these crimes were not planned and organised in advance). A high level of repeat offenders was recorded, including serious cases of homogenous relapses and crimes committed in the probation period stipulated by other court judgements.

The attitude of those charged with crimes was non-critical; they placed the blame on the victims and their provocation and only in isolated cases did they express any regret over their actions. None of them admitted to belonging to or having sympathy for extremist movements (skinhead movement). Expert psychiatric knowledge for assessing criminal responsibility was often used (even overly, without evaluating other relevant facts) with regard to those accused who were under the influence of alcohol at the time the crime was committed.

The most common victims of the monitored crimes were Roma from younger age groups, with a high proportion of unemployed. On the other hand, Roma were also charged with attacks on white victims. The crimes were always unprovoked by the victims and were motivated by hatred or intolerance. Victims also included Jews, blacks and Arabs, although no yellow-skinned Asians or citizens from the republics of the former USSR were among their number.

We can be encouraged by the fact that in more than half the cases the prosecution was begun within 14 days of the offence being committed, thereby establishing one of the basic preconditions for the rapid elucidation of decisive facts and further proceedings. The duration of judicial proceedings in the monitored cases was lower than the national average for both decisive criminal acts in 2002. Any delays in the judicial proceedings were primarily the result of lack of discipline on the part of the accused and witnesses. The accused most often received a conditional prison sentence, with the option of community service sentences also often applied. Unconditional prison sentences made up 12.7 % of all sentences imposed. The monitored cases also saw alternative methods applied – conditional suspension of the prosecution, settlement and termination of the prosecution. However, in not one case was the possibility used of imposing commensurate restrictions and obligations on the accused, particularly in cases where the offence was committed under the influence of alcohol and the accused displayed a tendency to alcohol abuse.

In some cases the police can be faulted for playing down certain cases at the beginning and regarding them as minor offences and passing them on to be dealt with by the local authority's misdemeanours committees. We consider the main fault of the courts to lie in the fact that courts did not find their expression for statements insulting the victim's race, despite these being expressly stated in the judgement's summing up.

Findings obtained from psychological examinations and psychiatric expert opinions:

Psychological examinations were conducted on eight perpetrators of offences with proven racial motivation. They comprised seven men and one woman. The examinations were conducted by a psychologist by means of conversations focusing on offenders' past histories and by an array of tests in 2003. In some cases, it was possible to have recourse to criminal records. Eight psychiatric opinions were also analysed (i.e. all that were available in the analysed records). It was found that all these perpetrators of crimes related to inter-ethnic conflicts were well below average intelligence and that their crimes often ensued from quite primitive motives. Most rejected any idea of guilt, or belittled it or transferred it to other people or circumstances. When asked to assess themselves, it became clear that they suffered from inferiority complexes, which they compensated for by means of self-centredness and by attaching themselves to their reference group (generally skinheads) and its ideology. These complexes clearly derive from emotional deprivation in their families, and from an inability to affirm themselves in a legitimate manner in society. Their family background was markedly heterogeneous, but in not one of the monitored cases was it „harmonious“. In half the cases they grew up in broken homes and developed problematic relationships with their mother or father. Their economic and social situation was generally on the border of the lowest level and complete underclass.

These individuals had only a superficial grasp of ideology. For some, we can say that the crime had no ideological motive whatsoever. For others this factor was present to a greater or lesser extent, on a scale of abusive comments aimed at Roma (which closely copy the general level of prejudices) up to activities within the skinhead movement and other similar organisations. Yet we cannot say that this ever involved the deliberate and consistent advocacy of this ideology. It rather involved the use of symbols, attendance at concerts and drinking bouts. Everything was subsumed within the group, and all acts implicitly contained the expectation of group acknowledgement and praise.

For supplementary purposes, we also studied expert psychiatric opinions from judicial records. Eight such opinions were available. Of this group, two crimes were committed in a group of two, while the other offenders acted alone. Most offenders had committed previous offences, often in the form of misdemeanours. The crimes committed by these offenders (of whom one was a woman) were very similar in nature. The offenders, generally under the influence of alcohol, usually first verbally abused Roma and then attacked them physically (in one case the victim was a Roma woman and in another a Tunisian shop assistant). The average age of the offenders was 34. Ascertained education: two had graduated from secondary school; the others were skilled workers, with one having only elementary education. All the offenders lacked any sort of family background, with most being single or divorced. Dependencies were ascertained in almost all cases: smoking, very often alcohol, most of them denied drug addiction, or this was not ascertained. Psychiatric

past histories were generally not detected; there was one case of short-term unconsciousness, one of epilepsy and aggression including a stay in a psychiatric facility.

Depiction of inter-ethnic conflict in the media:

Research into inter-ethnic conflicts also included an analysis of their media depiction in the Czech press. The aim of the analysis was chiefly to map the Czech media scene with regard to the depiction of inter-ethnic conflicts (in a Czech environment usually consisting of conflicts between skinheads and Roma) and to identify any thought, reasoning and language stereotypes which are symptomatic of reporting on inter-ethnic conflicts and their protagonists, stereotypes in the interpretation of the „reason“ for the assailants, their placement in the overall context etc. The selected materials were processed through a qualitative analysis of the documents. In the spirit of the qualitative research strategy, the specific monitored categories arose gradually during the thorough reading of articles and as part of the analysis itself. We were interested in social categorisation in intercultural contact, i.e. how persons or certain groups are referred to – in our case how victims and offenders of specific inter-ethnic conflicts are written about. We also analysed other aspects of inter-ethnic conflicts depicted by the media – the circumstances of the conflict, journalistic interpretation of the „reasons“ for the conflict, its placing in the overall context etc.

In order to analyse the depiction of inter-ethnic conflicts in the media we used press articles from 2002 which refer to specific inter-ethnic conflicts in the Czech Republic – i.e. to specific cases. These materials were obtained on an ongoing basis from two sources: first from the monitoring of Czech press journalism and columnists from the national and regional press, and secondly from the ICSP clippings service.

The research group contains newspaper and magazine articles from 2002 which provide information on specific inter-ethnic conflicts in the Czech Republic. We analysed information from the press concerning racially motivated crimes which had either just been committed or which were the subject of judicial proceedings. These generally involved new facts and circumstances or information about the case. A criterion for their selection was that the racist motive for the crime had either been proved or the possibility thereof was seriously discussed in the media. A final total of 397 articles were analysed. The **first and main group** numbering 349 articles was divided into six sub-groups and included information on a total of 65 specific cases in which inter-ethnic spite was mentioned as a motivation. The overwhelming majority (36 cases/254 articles; i.e. 55% of all cases referred to, and 72% of the articles from the first group) concentrated on events where the racially motivated crime or misdemeanour had been committed by a person (or prosecution had been brought against that person) of Czech nationality belonging to the Czech majority, and where the injured party was a Roma. In terms of frequency, this was followed by racism on the part of the Czech majority/skins

against another nationality, while a number of articles cover so-called reverse racism, i.e. racially motivated offences committed by Roma against the Czech majority. However, this was chiefly caused by the seriousness (and therefore attractive to the media) of one of four cases of reverse racism perpetrated by Roma. The selection of articles also turned up very strange cases which did not correspond to any of the listed types. For example, there was a case where Vietnamese sold records of racist songs about the Vietnamese, or several local cases where Czech skinheads in the Sudetenland disseminated anti-Czech leaflets. The **second group** comprised articles that treated racism, Nazism or extreme right-wing movements in a general way and where specific cases were only mentioned by way of illustration or as a listing of cases.

Research results: Previous ICSP research projects had shown that Roma are the most frequent victims of racially motivated violence in the Czech Republic. The media depiction of this minority group is from many perspectives interpreted very differently. Roma and activists defending their rights often consider the media as being responsible for a negative and one-sided portrayal of Roma and as one of the causes of anti-Roma attitudes on the part of the majority society. This, conversely, sees the media as being pro-Roma. The public perceives the media as part of a hypocritical conspiracy of human rights activists, intellectuals and cowardly politicians who avoid „truthfully“ addressing and solving the problems that co-existence with Roma causes for the majority. It is evident that the interpretation of the media statements is not clear-cut in any one case.

Nevertheless, most experts agree that the Czech media does not greatly contribute to improving relations between the majority and the Roma minority. Some are of the opinion that it directly „pours oil onto the fire“ and that Roma are not given sufficient space to comment on issues covered by the media. The analysis confirmed this. A major problem are imprecise statements that distort and conceal the real nature of conflicts with a racial sub-text. This primarily involves treating the problem not as a social matter but as a war between skins and Roma. Secondly, there is the presentation of attacks as equal conflicts („fight“ instead of „attack“). Thirdly, (constantly in relation to Roma) there are references to criminality and general problems as the cause of the attack (it is sufficient to recall that the Nazis, the inspiration for our „white warriors“ liquidated the Jews, who stood out for exactly the opposite reason, in order to demonstrate the absurdity of this thesis).

Most newspaper and magazine articles from our selected group covered inter-ethnic conflicts that had just happened or which were the subject of judicial proceedings at the relevant time. They thus form part of the news, which should by definition be objective, neutral, without authorial evaluation or comment. They often adopt the tabloid style of a so-called black chronicle. „Objective“ news should certainly avoid the characteristics of a black chronicle as a genre. Nevertheless, this type of journalistic work does not occur only in tabloid titles (e.g. Blesk), but also in the so-called serious press. The use of inappropriate expressions may result in the

events described being trivialised and belittled, and thereby to the dangerous banalisation of evil, which inter-ethnic conflicts most definitely are.

The research also found that, when giving information about inter-ethnic conflicts where the suspect or accused has yet to be convicted, journalists do not always consistently abide by the principle of the presumption of innocence, which is one of the most fundamental principles of criminal proceedings and criminal law in general.

The analysis of the press revealed an interesting characteristic of racially motivated crime. At a local level there may be a number of linked attacks and retaliation for which it is difficult retroactively to say who was the initiator, who the culprit and who the victim, just as sometimes there remains a question mark over the racial motive for crimes. This type of action and counter-action with a racial sub-text could be called reactive racism.

A negative factor is undoubtedly the occasional reference to the asocial habits of Roma as something that almost legitimises and justifies their attack in the media, the so-called serious press not excluded. This may involve relating the opinions of neighbours of a family that has been attacked and the colourful description of their life, drawing attention to their customs etc.

It clearly cannot be said that the media only creates a negative image of Roma or foreigners. The problem comes when they write about Roma or foreigners without giving them the opportunity to comment on the matter themselves. Foreigners are commonly the subject of statements from police spokespersons, officials or community representatives. The perspective of the protagonists of these texts, i.e. the foreigners themselves, is absent from the articles. Balance and comprehensiveness are very important when providing information about Roma and other minorities, and not only in relation to inter-ethnic conflicts.

Interviews with Roma:

The aim of the semi-standardised interviews was to establish broader contexts for the issue of inter-ethnic conflicts and to obtain subjective accounts of possible discrimination in our society from Roma themselves. We went to people who due to their education and employment are also able to see the problem from the other side, are more objective and have a certain distance from these sensitive problems and opinion on them. We spoke to four men and two women (hereinafter the interviewees) with secondary-school or university education and relevant social status (five worked in state administration and one in the media). The resulting information was the more significant for the fact that it concerned the experiences of educated Roma who obviously behave decently and are cleanly dressed and whose sole handicap with regard to their fellow citizens is the darker colour of their skin.

The situation is particularly serious as regards feelings of discrimination, which the Roma interviewees had sensed without exception since childhood and which was not overly dependent on their appearance (tidiness). They had perceived discrimination from the earliest age, in school, in the workplace and in other areas. Relations with the police are difficult. However, they also see the presence of so-called „black“ racism. They see the problem of the slow progress of integration as being two-sided.

In the view of the respondents, relations between the police and Roma are problematic. Above all, the police do not trust Roma. Although the situation has improved somewhat it is still not favourable. For example, when a Roma makes a statement it is checked thoroughly, whereas this is often not the case for non-Roma, who are generally believed. It is however a fact that Roma communicate poorly with the police and do not understand police „jargon“. According to police officers themselves at least half of policemen and policewomen look down on Roma. They don't distinguish Roma according to their dress as they know that some Roma have enough money, but believe that they have come by it illegally. The first impression of well-dressed Roma: they are foreigners. When they find that they are not, their attitude is „God knows where they got it from“. Not only the police but also ordinary people look at Roma with suspicion.

All the respondents have feelings of discrimination in differing degrees. They can be specified as feelings of separation from the surroundings, non-acceptance and lack of understanding (the neighbours of a respondent, for example, put up a high opaque fence so that they could not see her family's poverty, her fellow students did not include her in their group and did not understand why she was different). According to the respondents, during their childhood Roma live in an environment of insults and have feelings of neglect and abandonment in children's society. One respondent, for example, was ordered out of a discotheque and a restaurant, during pregnancy she had insults hurled at her by skinheads etc. She also experienced discrimination in the way her siblings were treated at the employment office (what do you want, you don't have any education, we're all looking after you). Our respondents also came into contact with discrimination in the workplace (people don't want to obey a Roma), in politics (when a Roma joins a political party he or she is not expected to be seen too much; apparently this could put off potential voters).

According to the respondents, the majority do not allow Roma to realise themselves and do not want Roma in higher positions. They appreciate the interest of government and parliament in employment and education. They would welcome positive discrimination in education, although it should be strictly controlled – cooperation with Roma advisers, child care departments etc – so that it is not open to abuse and thereby the further worsening of the image of Roma in the eyes of the majority.

The respondents had a positive view of the Roma press, although they regard it as unfortunate that it is not more widely known. The Roma elite in the management of associations and magazines are, however, seen as corrupt. National majority dailies and television are seen as being slow to pick up on the issue. For example, contributions involving a minority tend to emphasise their backwardness. The only positive Roma aspect mentioned is music. Only the negative side of things is shown; you never get to see a Roma family that lives decently and which is „integrated“.

The respondents provided interesting opinions on the subject of Roma emigration abroad: e.g. that even unsuccessful emigration has a certain benefit for Roma children, who at least for that period of time are able to learn at least the basics of a foreign language and thus have the chance to continue with it when back at home; they realise their possibilities there. In the Czech Republic, Roma do not see the chance to „better themselves“ through hard work. Someone who has work abroad is lucky – multicultural environments do not perceive Roma as different, they are evaluated according to their work and behaviour and not according to the colour of their skin. Many Roma do not perceive emigration as the solution to a certain problem but as an adventure, a journey. Roma also appreciate the fact that abroad they do not have everyday feelings of discrimination, slights and rejection and on the contrary also encounter positive discrimination.

Our respondents universally saw the problem of integration as two-sided. They criticised Roma peoples' failure to make an effort, although on the other hand they stated that the majority is not willing to give Roma a chance, and that it generalises all of them as loafers and cheats.

They also criticised the lack of strategy in social policy, which leads to the abuse of the social system. They would welcome positive discrimination in education, although this should be strictly controlled so that it is not open to abuse and thereby the further worsening of the image of Roma in the eyes of the majority. As inspiration to be applied in the media they mentioned that in American films, for example, in the police, but also in offices and hospitals, whites are shown with dark-skinned work colleagues, and people are accustomed to this and are not surprised by it in reality. People must get used to the fact that Roma work for example behind the counter of a bank, in a shop, and in trams as drivers. On the question of whether a caste system functions among Roma a respondent told us that it did with regard to „degesh“ („worse“ Roma). „Better“ Roma do not eat with them even if they are invited to a wedding. Degesh are not insulted by this, they just accept it as the way things are. If degesh come to a „better“ family, they are given food but the dishes are then thrown away. (!!!)

Questionnaire survey at the Czech Police Academy:

Research goal: main questions addressed by the research performed at the Police Academy at the end of 2003: are Czech police officers racists and

xenophobes; if so, why is that the case, where are the roots of this phenomenon and isn't it rather a problem of the whole of society? What scale of values (and attitudes derived therefrom) do Czech police have in general? What sort of relationship do police officers have towards minorities in general? Is there a connection between national (ethnic) background, ways of thinking and acting in offices, and even the crimes committed?

Research methodology: questionnaire and comparison with similar research conducted on a national scale.

Research results: The questions and comparison with other similar research showed that racism is not a problem only of the Czech police but of all society. With the police it is a level of resistance (currently low and also heavily tested) to racist temptations and interpretations of reality. The problem can also be seen in the overall despair at „ethnic – minority“ crime, which creates xenophobic attitudes and emotions. The reluctance to see problems and really solve them (as a result of a certain pseudo-humanism and „bribing“ inter-ethnic co-existence with concessions) infiltrates the whole system from the top downwards. From feelings of apathy, scepticism, lethargy and anger at the despair it is only a short step to open manifestations of intolerance. And police officers often encounter „otherness“ of an ethnic nature. What respondents presented in relation to co-existence with Roma in the Czech Republic stems partially from their own experience. In the matter of resolving problems with Roma in the Czech Republic respondents conformed to the national average. Only a minority advocated radical steps bordering on racism or which could be called fully racist. In line with many experts on the issue, respondents criticised the fact that nobody, not even experts, may know statistical data about the Roma population.

It was shown that the more marked manifestations of xenophobia among the police were closely linked to their immediate work. Most of them regularly come into contact with the members of ethnic minorities, although they say that the level of preparation for these contacts is poor, or totally lacking. A difference is drawn between police's relations with various groups of foreigners and different ethnic groups. A markedly negative attitude was recorded in relation to Roma. More than half of police know a colleague who has a racist outlook, but they have an explanation and excuse for such attitude. Respondents assessed co-existence between the Roma and non-Roma population negatively.

We must consider the efficacy of a system where the vast majority of respondents have no experience of training that prepares them for work with ethnic minorities, and even if they do, they do not consider it applicable in ordinary practice, i.e. situations arise where unprepared people are sent into demanding situations full of racist and xenophobic impulses.

Violence used by organised groups and organised crime¹

2002 – 2004

Researcher responsible: PhDr. Alena Marešová

Since 1993 research has been carried out in IKSP on violence used by organised crime and has focused mainly on the following areas of acts of violent crime:

- a) **on murders which the bodies responsible for criminal proceedings relate to organised crime or the business activities of those concerned (murderers and victims) or which are designated as „contract (ordered) assassinations“**, which is a certain overlap from the issue of organised crime into the issue of serious violence committed in an organised manner – i.e. a much wider scope.

The basic criteria for assignment to the group of murders surveyed are met by those murders where

- *an entrepreneur has been convicted as the perpetrator of the murder*
- the murder victim was an entrepreneur, i.e. murders where it has been discovered that their commission could in some way relate to the business of the perpetrator or the victim
- murders which have been designated as murders committed to order

- b) **on serious forms of extortion and intimidation carried out in an organised manner when debts are collected, witnesses are coerced etc.**

In a further phase of the research, begun in 2000 and relating to findings from the first phase², an analysis was made of certain violent acts of organised crime tried by courts and detected in the period 1991-2000. (These were different cases from those in the first survey.)

The problem which the research aimed to solve was the need to demonstrate (from the point of view of criminal law) what marks out violent group criminal activity, designated in criminal law (for certain criminal offences) as a condition for more severe sentences, from violent criminal activity committed by a criminal conspiracy (the term „organised crime“ is now frequently used again). In the example of the cases studied characteristics should be specified which can be designated as an act of organised crime in the Czech Republic and characteristics according to which those who commit the criminal acts surveyed can be designated as members of a criminal conspiracy defined in the previous results of our research into organised crime. We also focused on those committing these criminal offences and any difference from those committing similar criminal offences before 1990. One of the results that came out of the research was their personality traits, from

¹ Marešová, A. Násilí uplatňované organizovanými skupinami a organizovaným zločinem. Praha: IKSP, 2004. 104 stran.

² Cf.: Marešová, A. Etiologie násilných projevů organizované kriminality (Aetiology of violent acts of organised crime). Praha: IKSP, 1995. 97 stran. ISBN 80-86008-06-1

which it was possible to predict their behaviour while serving a prison sentence or also after they have served their sentences and have been released from prison. It is this part of the findings that is the content of the article.

A total of 32 files were analysed concerning criminal offences of murder and extortion where it was suspected that there was a connection with organised crime or the offenders were members of an organised group or the criminal offences were committed to order. These were files of offenders finally convicted of criminal offences committed between 1991 and 2000. Basic data on the offenders, the victims and the facts of the offences committed were ascertained. The analysis was supplemented by an specialist examination of the specific features of violent criminal acts committed as part of organised crime, using a questionnaire and interviews ascertaining the opinions of a total of 7 experts from the ranks of investigators, criminologists and public prosecutors concerned with organised crime or serious violent crime in practice. Their opinions reflected their experience acquired up to the time the specialist survey was carried out – i.e. to the summer of 2002, and so is based on cases which were only to a minor degree similar to the cases in the criminal files we analysed.

a) Description of the cases studied

From a breakdown of cases by the areas where the criminal offences studied took place it can be seen that the vast majority of murders were committed in Prague or in the vicinity of Prague. There were a total of 10 murders. This finding also fits findings presented elsewhere. This fact was affected inter alia by the fact that it was usually in the Prague region that there were contract killings and the settling of scores between foreigners. Five of the cases of murder were committed abroad - the offenders and those who ordered the murders in this country were Czechs.

The cases studied were committed, as has been stated above, during the decade from 1991 to 2000. The convictions, however, (including appeals) were mostly in the years 1996-2002. Some cases concerned a period of several years (e.g. the Orlické cases). Some of the murderous assaults were tried as one criminal offence although there were several attacks. A total of 50 murder and extortion attacks were studied.

Table 1

More detailed breakdown of the criminal offences of murder and extortion studied

Murders – total number of cases / number of murderous attacks	27 / 45
Of which: murders effected (victim died)	26
Attempts / attempts planned (victims of the attack survived)	11 / 1
Murderous attacks planned in advance	27
-„- to order	17
Murders connected with extortion	2
Others (not planned and not ordered, where the offender or the victim was an entrepreneur)	4
Extortion – total number of cases	5

Table 2

Reasons ascertained for committing the criminal offences studied (motivation)

Seizing of money and immovable and movable assets (cars, jewellery, flats etc)	10
Debt collection	5
Killing of a partner for business disagreements	4
Attempt to avoid paying a debt	4
Liquidation of a front man (as a witness)	3
Murder of a mother for the purpose of inheriting or stealing from her – see notes	3
Murder of a husband for the purpose of inheriting from him	3
Extortion for the purpose of property gain	2
Liquidation of personal enemies	2
Conflict between hostile groups (mafia)	1
Accidental conflict	1

Notes: In some cases this occurred for a number of reasons

In one case this was the person's own mother and in the other two a step-mother

In one case the motivation was an attempt to acquire the victim's trading licence

As anticipated, greed was the basic motivation of all offenders (the perpetrators, the organisers and the contracting parties), even in those cases where when the case was tried there was talk of disagreements between entrepreneurs, front men were liquidated and close relatives of the person contracting the crime were murdered etc.

Table 3

Rewards promised or paid for carrying out the contract killing (where ascertained)

Promised	Number of cases	Paid	Notes
CZK 30,000	1	0	Reward not paid
CZK 90,000	1	CZK 50,000	Only an advance of 50,000 paid
CZK 100,000	5		In 1 case nothing was paid, in 2 cases CZK 20,000 was paid, in 1 case CZK 35,000 and in only 1 case was the promised reward paid in full.
CZK 200,000	2	CZK 200,000	In the second case nothing was paid.
CZK 300,000	1	0	Not paid.
CZK 400,000	1	CZK 200,000	
CZK 1 million	1	CZK 500,000	
DM 2,000	1		It was not proved that the reward was paid.

The promised financial rewards in the cases studied were paid only rarely, even when liquidation of the person concerned proceeded as agreed. The closer to the year 2000 a contract killing was committed, the higher the promised reward was and the more often an advance was demanded. The amount most frequently offered or demanded in our cases was CZK 100,000. If there was more than one offender - perpetrator - the financial rewards promised were shared.

Table 4

Proved gain from a murder for the contracting party:

CZK 800,000 and a car
CZK 30,000 and jewellery
CZK 1,250,000
5 million loan
flat
CZK 100,000 – 400,000 – 5 cases

Or debts written off due to the murder

CZK 34,000
CZK 300,000
CZK 2,700,000

In this information, as for rewards for a contract killing, it was also difficult to detect what the specific amount was, including the amount of the debt, and whether this gain or liquidation of the amount of the debt was the only basic motive for carrying out the murder. The question of indirect gain – for example, company profit previously divided between partners or covering up an entrepreneur’s own lack of success or debts and so on – was often not dealt with at all in court proceedings.

The results of ascertaining the relationship of murderers to victims were clear: it was readily evident that they were persons known to them. Even in the case of a contract killing the attacker usually knew the victim personally, and very often it was a person very close to the murderer. There were only four what are termed random victims, i.e. where it was not proved that the murderer knew the victim.

As regards the methods of committing a murder, criminal offences committed with a firearm predominated, which differentiates the murders studied from the general findings, where murders committed with stabbing and cutting weapons predominate. Two victims were drowned, 6 victims were strangled, 3 battered to death, 2 killed by explosives going off under a car, and 7 victims killed in another way (combined method).

Firearms were of different types: pistols, revolvers, sub-machine guns and, in one case, a crossbow.

In 11 cases a car was used – to transport the victim alive or dead, and 2 murderous attacks were perpetrated in the car.

In 4 cases a murderous attack was accompanied by extortion, threats and physical assault before the murder.

In 9 cases the victim suffered serious maltreatment.

In 4 cases the method of disposing of the body was planned beforehand.

Table 5

Perpetrators of the criminal offences of murder and extortion studied (including the contracting parties)

Offenders – males indicted – total	Of which: entrepreneurs (where stated) / unemployed	Offenders - females indicted – total	Hired offenders (only male)
78	13 / 16	4	18

Note: 21 of these persons were foreigners: 6 Ukrainians, 2 Poles, 6 Slovaks, 2 Bulgarians, 3 Russians, and 2 Georgians. They were mostly men aged up to 30. The age of the women at the time of the murder: 70, 46, 27, 25.

Some hired murderers committed more than one murder. In a number of cases more than one man was indicted for murder, even repeatedly. Where a murder was

committed by a group of offenders, this group was composed of between 3 and 5 members.

The women indicted were in 2 cases those who ordered the murder. Where they participated in the murder, this was always with at least one male.

Table 6

Victims of the criminal offences of murder and extortion studied

Victims – total number of males / of which foreigners	Of which: victims of contract killings	Victims – total number of females	Of which: victims of contract killings
37 / 7	10	8	7

Note: Victims include those who survived a murderous attack. A total of 26 persons were killed.

Foreigners: 1 Italian, 1 Vietnamese, 2 Chechens, 1 Yugoslav, 1 Bulgarian, 1 German

Of the sentences imposed on offenders, most were sentences of up to 15 years; sentences of more than 15 years were imposed on 17 offenders in the cases studied and 2 men were sentenced to life. Sentences were ordered to be served in security prisons or high security prisons.

b) From the results of the analysis

The results of the analysis¹, particularly in the part describing offenders, were compared with the specialist literature available. One of the findings which did not corroborate the previously published opinions concerned contract killers. Czech contract killers were assessed around 1995-1996 by several court expert witnesses² in a slightly exalted manner as a relatively homogeneous group and were also compared by Hubálek, who is cited later, to successful businessmen of that period. According to Hubálek, these offenders „conceive [murder] as a logical outcome of the process of doing business, which begins by borrowing money or not paying invoices, and by not honouring promises and agreements, continues by collecting debts, by extortion and terrorising debtors or business partners, and ends with their liquidation. These people talk about murder as a deal, an order, and they speak of market laws, supply, demand, business risk. They regard their arrest as business misfortune, they fear only their accomplices and those who hired them, and often do not disclose them for fear of their lives. As explanation they calmly state that if they had not done it, some Russian would have done it more cheaply. ... They live in well above average material conditions. So this is not a crime resulting from

¹ For further details refer to Marešová, A.: *Násilí uplatňované organizovanými skupinami a organizovaným zločinem* (Violence committed by organised groups and organised crime). Praha: IKSP, 2004. 98 stran. ISBN 80-7338-022-6,

² cf. Hubálek, S.: *Mladí úspěšní podnikatelé a námezni vrazi* (Successful young businessmen and contract killers). PROPSY, 1/1997. pp.4-5. ISSN 1211-5886.

poverty ...They regard themselves as professionals ... Their highest value is money, they are contemptuous of the values of work ...in custody they are desperate about being abandoned.“

In comparison with the group of successful businessmen of the same age group at that time Hubálek did not find any great differences in the general test and questionnaire psychodiagnostic characteristics. However, he found absolutely fundamental differences in favour of businessmen when ascertaining intellectual performance, emotionality and value orientation.

From our analysis it can be seen that the group of known contract killers is very heterogeneous and the traits mentioned above fit only a minority of them. Our respondents were young offenders – male, mainly Czech, who committed contract killings mostly between 1991 and 1995 and were hired „by successful entrepreneurs“ to settle their scores (what is termed „score-settling“) with other entrepreneurs or other, for various reasons, troublesome persons. The others who committed contract killings were re-offenders of violent crimes, blackmailers, robbers or also property crime re-offenders. They included foreigners who were living illegally or semi-legally in our country. Some of the murderers – Czechs – had, in turn, committed murder in another country: in Slovakia, but also in Germany, Thailand and elsewhere.

Czech offenders mainly committed murders with stabbing weapons and firearms, and often caused a sensation, for instance, by using explosives. A remarkable finding was that they often talked about their experiences to those around them and in pubs.

The only common factor that was found in all groups of murderers was that they were often psychopaths.

c) Other findings on the persons and personalities of offenders in the cases studied

I will also state certain insights and findings on the persons and personalities of offenders ascertained in the analysis of the cases studied. These are not only my insights, but also generalised results of studying the individual persons of offenders by court expert witnesses during court proceedings and findings from which the judgement imposed by the court was reached. It is possible that at least some of these could be used as arguments for preparing measures to reduce the scope for violent attacks against our fellow citizens.

1. The personality of the current murderer can be characterised mainly by the traits of being asocial, coldness of feeling, amorality, inadequacy or total lack of a sense of guilt, the absence of any demonstration of regret both while committing a murderous attack (even in the case of a first attack), and also during trial.

2. The following traits among those indicted for murder by courts were evaluated as positive in the cases studied: integrity and no criminal record previously – mainly young people, unostentatious behaviour, immature personality. Whether these traits can exactly be regarded as positive is disputable, but I exclude completely that in our cases, where those indicted most often murdered their victims face to face with a shot in the back of the head, by a knife at close quarters, by strangling them with their own hands and so on, and for the reasons given in other points, these „positive“ features have any significance, let alone any positive influence on the future of the offenders. The lack of social awareness shown by the act of murder and dangerous extortion severely restricts or completely excludes any later socialisation of the offender. Resocialisation is usually out of the question because socialisation was not completed at all in many of the surveyed offenders up to the perpetration of the criminal offence. For this reason no particularly significant change in their personality make-up and their ways of thinking and acting can be expected, even in the future. It also cannot be expected that any re-education attempts applied to convicted offenders while they are serving their prison sentences should have any major effect on these persons that would enable them to reject their former way of life and change radically after release from prison without further measures.
3. Offenders during their trial – often changed their statements to the point of denying any culpability for the murder or responsibility for it. Even during trial they threatened witnesses with physical liquidation. Together with their lawyers they often quibbled about the results of expert witnesses' opinions, tried to misrepresent them and exploit them deliberately for their own advantage, insisted on direct proof and together with their lawyers looked for procedural errors and reasons for disrupting court proceedings or repeated prolongation of them. A typical trick was to drag in non-existent foreigners as potential perpetrators of the murderous attack in the case being heard. Some of them tried in the court to alter the planned murder to mere intimidation or extortion. It can be said in general that what was stated in one verdict applies: the credibility of their statements was lessened in view of „the pragmatic relationship of these individuals to the truth, characterised by an attempt to state as true what they thought was advantageous, beneficial or desirable for them at the particular time“.
4. From opinions of expert witnesses it can be seen that in most cases the conclusion that resocialisation of the offenders being tried would be difficult, that they are discordant personalities with significant asocial features, though not with inferior intelligence. So committing murder is not connected for them with the fact that the aggression was part of their own nature, but rather with their feeling of not being part of society and their motivation for gain completed by an attempt to acquire benefits without adequate efforts (let alone longer periods of work performed for a normal wage). So the majority of them fitted the classic diagnosis of a psychopathic personality with features of lack of restraint and hysterical manifestations, in whom no mental illness or serious mental

disturbance was ascertained and the situation in which they found themselves (debt and so on) could be managed in a socially acceptable manner. All the convicts we examined recognised the danger to society of their criminal offence and were able to control their actions while the criminal offence was being committed.

5. Among the entrepreneurs on trial – those who ordered contract killings – falsified documents, problems in previous employment, when they had been employed, and suspicion of fraud (at the beginning of the 1990s) were often discovered. Some of them were even distinguished by superior intelligence, but also by egocentricity, emotional instability, reduced capability of empathy and compassion for other people and impaired self-evaluation. It was the exception for them to accept at least part of their guilt. Some of them tried to feign mental illness to escape punishment. There were clear attempts to influence or coerce witnesses.
6. Those who carried out contract killings were often assessed in their earlier life as aggressive, with a fixation on acquiring money by all possible and impossible means, but always in ways that did not involve work and with an emphasis on their own freedom, not limited and not controlled by others.
7. One citation from a verdict covers all of them: „The offender showed absolutely no respect for human life and callous promotion of his material requirements at the expense of the life of the victim“. Unfortunately this sentence can be shown to be the life credo of most of the murderers and extortioners we surveyed. I repeat that not even in one case did they show any real regret about their action, admit to the murder and the extortion and cooperate with investigators, judges and other persons in court proceedings.

In view of the fact that all these offenders are currently serving sentences, i.e. are in prison, their generalised characteristics as a relatively separate group of prisoners have become of interest to the prison system too, not only because there has been a significant qualitative shift in the characteristics of perpetrators of serious criminal offences but also because in recent years there have been visible quantitative changes in the composition of these convicts. When we compare 1992 and 2003, the number of murderers imprisoned, for example, tripled (from 540 to 1,654), those who committed deliberate bodily assault quadrupled, 3.5 times more persons who committed robbery were imprisoned (in 1992 – 1,438, in 2003 – 5,225), and finally 8 times more persons who committed extortion were imprisoned and twice as many rapists were imprisoned in 2003 than in 1992. Inter alia there is the fact that it is on these prisoners that long-term prison sentences (more than 5 years) are imposed and their number in prison is gradually but constantly rising. With the adoption of the new criminal code we anticipate that the sentences for these categories of offenders convicted will be even longer and their proportion in prisons will rise more rapidly.

When we take the results of our research into account, i.e. the finding that, in addition to murderers, persons who have committed serious economic crime predominate among those given long-term prison sentences, we can anticipate that in certain prisons designated for the serving of long-term sentences an explosive mix will appear, composed of intelligent fraudsters with extensive contacts outside the prison environment and with strong financial backing and unscrupulous murderers, sometimes of more than average intelligence, which may lead on the one hand to endangering the safety of prison staff, including increased danger of their being corrupted, and on the other hand to an increase in sophisticated planned attempts to escape and a further rise in illegal contacts of inmates with the outside world and so on. A rise can also be expected in abuse of less intelligent prisoners from among the other convicts by both these groups for various purposes, i.e. intensification and lack of transparency of what is termed the other life of prisoners.

For this reason, even if the prison service devotes itself to the problem of the increased danger from offenders imprisoned, it would be more in the interest of society, rather than for the prison service to be involved in conceiving legislative measures in the area of alternatives to imprisonment and other legislative matters, which after all is not part of the job of the executive authority, for it to devote all its powers and resources to ensuring the security of its own staff and above all to protecting society against particularly dangerous prisoners, whose isolation in prisons is for the time being the surest protection against threats to the safety of citizens and the state from further criminal acts by them.

Preventive activities as viewed by the inhabitants of towns¹

2003

Researchers: Mgr. Jakub Holas, PhDr. Kazimír Večerka, CSc.

Methodology

On the basis of an RVPPK (Republic's Committee for the Prevention of Criminality) resolution, it was decided in 2002 to carry out sociological research entitled "Inhabitants' sense of security in selected towns in the Czech Republic". The research was undertaken in selected towns that have been implementing the Comprehensive Assistance Program for the Prevention of Criminality at a local level **for more than 5 years**. The aim of the sociological research was on the one hand to ascertain the current feeling of security as experienced by town dwellers (comparison between towns), and on the other to obtain a documentary basis by which to compare the feeling of security experienced by citizens in towns before and after the application of the crime prevention programs (comparison of the situation inside a town). That's why, in addition to matters common to all towns examined, the research also included matters specific to individual towns. This should enable a comparison with previous research projects. The collection of data in the field took place in October and November 2002 in the following twelve towns: Břeclav, Česká Lípa, Karlovy Vary, Karviná, Kopřivnice, Liberec, Most, Nový Jičín, Pardubice, Přerov, Příbram, Teplice.

In all, 6235 respondents were questioned. They were selected on a quota basis. The data groups thus represent inhabitants of the relevant towns over the age of 15; the quota criteria were age, sex and education. Questioning was conducted on a face-to-face basis.

The survey was commissioned on the basis of a public tender to STEM – Středisko empirických výzkumů (the Empirical Survey Centre).

I. Quality of life in the town, security and crime prevention possibilities (joint part) Citizens perceptions of the town in which they live.

In general we can say that the respondents of individual towns did not differ greatly in their evaluation of the situation in their towns; the average evaluation of all questions submitted on a six-level scale (from positive 1 to negative 6) ranged from 2.8 to 3.4 points in all towns.

The overall assessment of the quality of life in a town in the whole group for all towns is a strongly positive assessment. Half the people questioned chose variants 1 or 2 on the six-level scale. Two-fifths assess it neutrally and only 6 % of people are dissatisfied with life in the town.

¹ Holas, J., Večerka, K. Preventivní aktivity v názorech obyvatel měst. Praha: IKSP, 2004. 102 stran.

A positive finding from the research was the fact that (although preventive programs take place in towns with a higher crime index and other socio-pathological phenomena) in no town did respondents have a heightened feeling of being in danger (i.e., respondents do not generally tend towards the extreme statement that living in the town means constant danger). A feeling of danger (or, alternatively, security) among respondents is materially linked to the positive or negative evaluation of the atmosphere between citizens in the town. Statistical processing of data indicates that citizens of towns feel good in those towns where they can rely on their fellow citizens, and where there is a general feeling of mutual trust and understanding. Respondents thus share the opinion that one can live well in towns that have this atmosphere.

The following table shows the assessment of various aspects of life in towns for all respondents and respondents from the specific towns investigated.

Table 1
Sequence of towns according to an overall assessment of the situation in those towns on a scale of 1 - 6 in all monitored areas of life and average scores for individual areas

	<i>Kopřivnice</i>	<i>Nový Jičín</i>	<i>Pardubice</i>	<i>Břeclav</i>	<i>Přerov</i>	<i>Liberec</i>	<i>Teplice</i>	<i>Čes. Lípa</i>	<i>Příbram</i>	<i>Most</i>	<i>Karl. Vary</i>	<i>Karviná</i>	<i>Average of all towns</i>
Shopping network	2.04	1.97	2.19	2.19	2.1	2.2	1.99	2.16	1.97	2.13	2.54	2.53	2.168
Lighting	2.39	2.28	2.43	2.39	2.37	2.57	2.39	2.59	3.09	2.96	2.5	2.96	2.577
Sports facilities	1.94	2.59	2.58	2.51	2.78	2.5	3.11	3.33	2.4	2.67	3.23	2.69	2.694
Health care	2.60	2.56	2.66	2.46	2.77	2.69	2.73	3.06	2.63	2.6	2.91	2.69	2.697
Transport	3.17	2.59	2.5	2.49	2.69	2.81	2.47	3.59	2.41	2.64	2.52	2.94	2.735
Upkeep of homes	2.77	2.20	2.57	2.69	2.5	2.96	2.72	2.84	2.85	3.18	2.89	3.22	2.783
Hygiene	2.59	2.56	2.65	2.83	2.85	3.01	3.13	2.88	3.48	2.4	3.09	3.34	2.901
Culture	2.57	2.70	2.35	3.22	3.41	2.43	2.63	3.34	2.88	3.21	2.97	3.52	2.936
Housing situation	3.74	4.06	3.82	4.19	4.09	3.97	3.58	4.0	4.25	3.43	4.54	4.28	3.996
Town administration	2.85	2.91	2.7	2.96	2.99	3.34	2.91	2.78	3.54	3.36	3.52	2.48	3.028
Relations between people	3.0	2.86	3.08	2.97	2.99	3.2	3.34	3.26	3.25	3.39	3.4	3.24	3.165
Environment	2.48	2.52	3.65	2.73	3.26	3.45	3.6	3.06	3.21	3.63	3.17	3.94	3.225
Employment opportunities	4.83	4.76	3.74	4.54	4.74	3.69	4.27	4.1	4.3	5.07	4.15	5.27	4.455
Police protection	2.84	2.99	2.94	2.99	3.01	3.41	3.22	3.36	3.53	3.34	3.38	3.14	3.179
Municipal police protection	2.88	3.27	2.99	3.22	3.13	3.48	3.24	3.4	3.64	3.43	3.41	3.37	3.288
Security	2.79	2.9	3.09	3.77	3.31	3.45	3.9	3.13	3.82	3.87	3.61	3.62	3.438
Risk of robbery	3.42	3.81	3.61	4.05	4.15	4.45	4.85	4.1	4.66	4.42	4.47	4.15	4.178
Satisfaction with life in the town generally	2.33	2.24	2.3	2.54	2.59	2.41	2.51	2.64	2.65	2.87	2.56	3.04	2.557
Average for town	2.846	2.876	2.881	3.041	3.096	3.112	3.144	3.201	3.253	3.256	3.270	3.357	

Note: The towns are arranged left to right according to the most positive overall satisfaction score. The three most negatively assessed aspects of life in the monitored towns are highlighted in grey.

Among other things, we asked respondents their opinion on how widespread they considered robberies as the most common form of crime in these towns. On this point, respondents in the whole group registered a high level of dissatisfaction, with 46 % considering the situation regarding robbery in the town to be poor. The inhabitants of Příbram provided the most negative result in this respect (64 % chose variants 5 or 6).

A clear positive finding from the research is the improvement in citizens' relation to police units. In not one town monitored by us did the index indicate that the majority of citizens considered the police as inefficient or incapable. In general, we could say that respondents currently assess the work of police (as well as municipal police) with cautious optimism.

The issue of crime and the security of citizens was the second most frequent response to the question "Which problems would you prioritise if you were mayor?" Of the 6 235 respondents who were included in the group of respondents and could name up to 5 problems in the town's life in a free question, 1496, or 24 %, mentioned crime and security. Only the issue of work opportunities and unemployment recorded a higher share.

Respondents compared the security situation in their town with that of other towns in the region. Half of the respondents think that the situation in their town is the same as in other towns in their region. Twenty percent believe that it is better. The same amount think that the situation in their town is worse. In all twelve towns, however, the prevailing view is that the security situation is the same as in other parts of the region. The remainder were not able to make such a comparison.

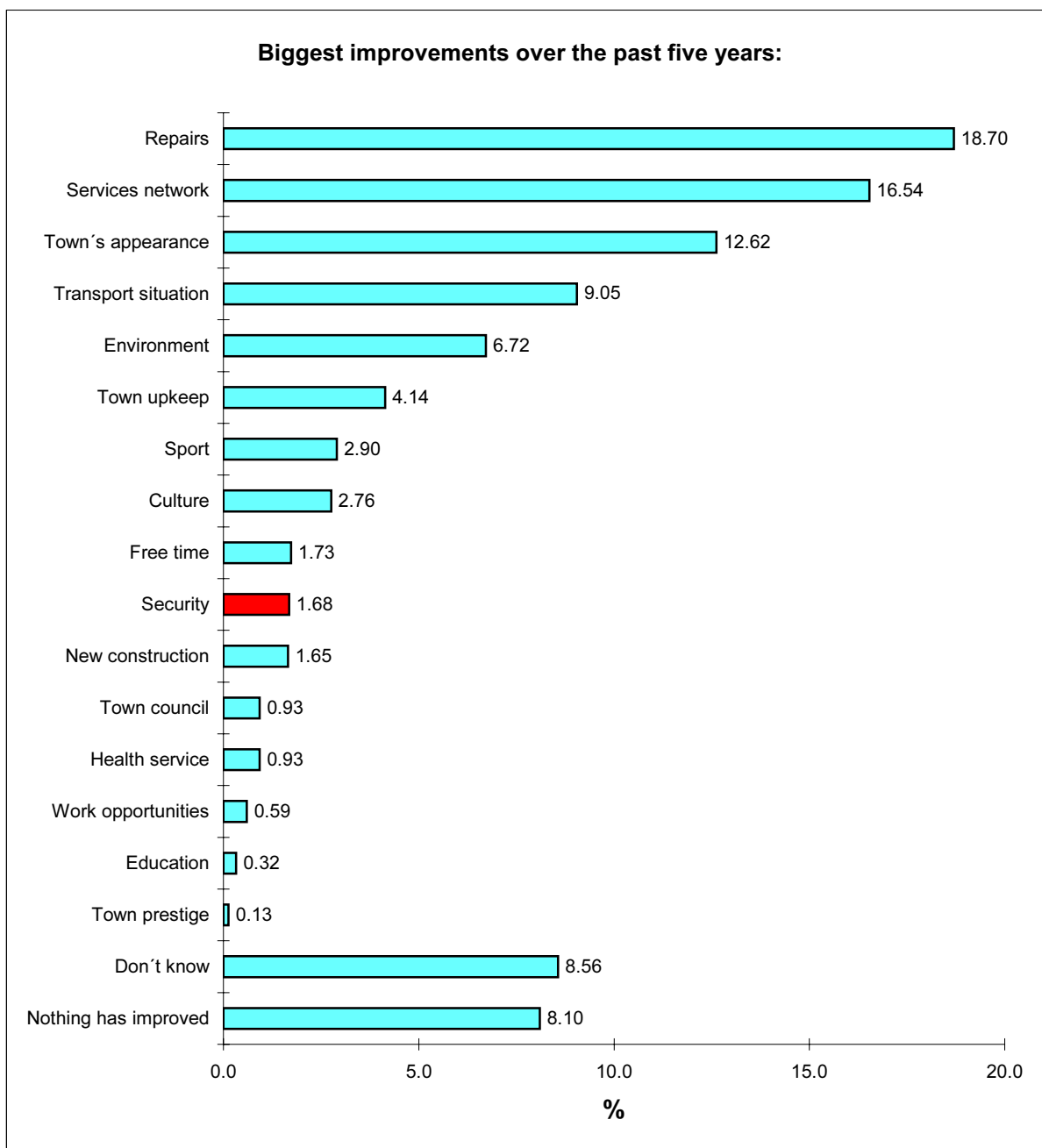
Just over half of the inhabitants of the monitored towns believe that the level of crime in their town has remained as three years ago. The proportion of those who replied that the security situation has deteriorated is slightly higher than those who said it had improved.

An indirect indication of satisfaction in a town is the frequency of people considering moving elsewhere. More than half of the inhabitants of all twelve towns have never considered moving from the town where they live. One third of people have considered it. One tenth of inhabitants are seriously considering moving from the town or have already taken specific steps towards doing so. In this respect, it is interesting that feelings of danger play only a marginal role in the reasons for considering leaving.

The degree of personal involvement in solving the problem of crime was tested chiefly by the question on respondents' willingness to contribute financially to the town's budget for measures designed to improve security. Just under one half of respondents from the monitored towns (if we can judge from verbal statements) would be willing to pay one percent monthly from their income into the municipal budget. The willingness to contribute is to a large extent dependent on a subjective assessment of a person's own financial and material situation, although this factor is not universally applicable. While the inhabitants of Most, for example, are more

likely to describe their households as in financially unfavourable circumstances and are also less willing to contribute to security measures, in Karviná, whose inhabitants assess their financial situation in a comparable way, this relation does not apply.

Dissatisfaction with the security situation in a town does not lead to a greater willingness to contribute to the municipal budget. On the contrary, people who consider their security situation in the town as better than that in other towns in the region are more likely to participate financially in measures designed to improve security.



The inhabitants of the monitored towns were also asked to assess the suitability of the proposed measures to reduce juvenile crime. There are no significant differences between the majority of items considered. Respondents consider the most effective to be those activities which seek to fill the free time of young people. Respondents also emphasise the importance of strengthening crime repression elements (more police officers, better equipment). On the other hand, respondents regard educational events and integration programs aimed at Roma as being of minimal importance. **In general we can say that citizens principally identify with methods and aims of crime prevention applied within the relevant comprehensive assistance crime prevention programs at a local level. Even those preventive approaches that attract the “least” support among citizens still have almost 60% of their backing.**

The citizens questioned also gave their opinion on the hypothetical construction of various public service institutions and places of business whose operation might trouble citizens, cause problems or cause concern. The willingness to allow the setting up of an institution in a residential area is an indirect indication of the level of tolerance; moreover, some facilities from the list submitted form part of various preventive projects (Roma centres, anti-drug K-centres etc.). The research showed that respondents are most tolerant of facilities which involve the least element of difference, i.e. that citizens would be least worried by an old peoples' home, police station and church or chapel. On the other hand, greatest resistance is aroused by homes for immigrants or Roma cultural centres. People also have quite strong reservations about the opening of a casino with roulette or a rock club near their home (women have far greater reservations in these cases).

With regard to the age of those questioned, we can say that respondents from the lowest age category (15–29 let) have the most positive attitude towards generally beneficial facilities such as contact centres for drug addicts (more than half would not be worried), homes for the homeless and refugees, and HIV centres, and in relative terms they have the least reservations against a Roma cultural centre (although 47 % would be worried, this is the only age category where the figure is below 50 %). Young respondents are also far more accepting (understandably so) of „leisure“ facilities such as casinos, restaurants or rock clubs (this area shows the largest difference between the generations from all submitted facilities). More than 50 % of the youngest respondents would not be troubled by the opening of such a club.

Table 2

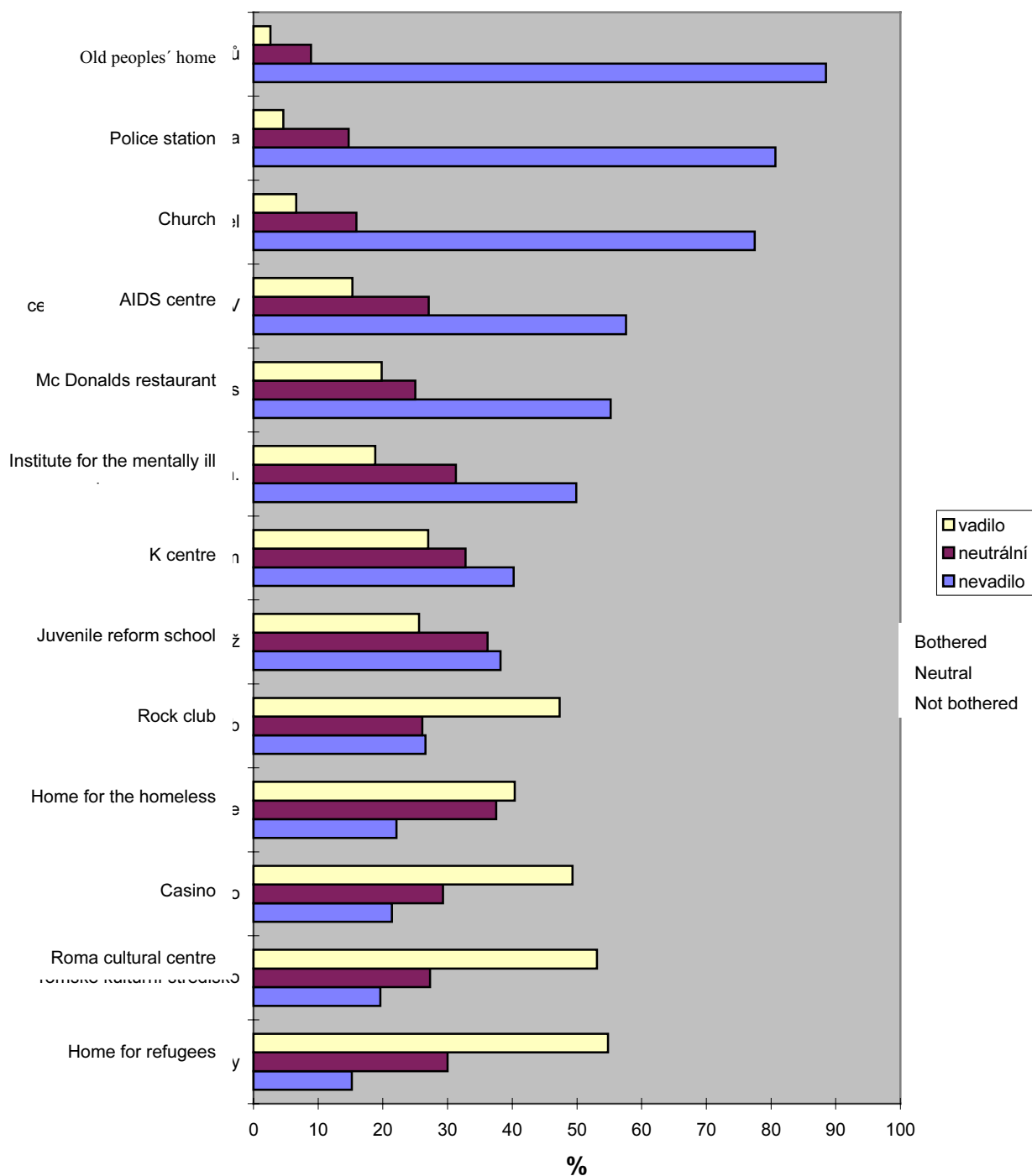
**Social facilities hypothetically set up in the respondent's residential area
(sequence according to tolerance)**

<i>Hypothetical facility</i>	<i>Not bothered (%)</i>	<i>Neutral (%)</i>	<i>Bothered (%)</i>	<i>Index</i>
Old peoples' home	87.5	8.9	2.6	2.86
Police station	80.8	14.7	4.6	2.76
Church	77.5	15.8	6.7	2.71
AIDS centre	57.6	27.1	15.3	2.42
Mc Donalds restaurant	55.2	25.0	19.8	2.35
Institute for the mentally ill	49.9	31.3	18.8	2.31
K centre	40.2	32.8	27.0	2.13
Juvenile reform school	38.2	36.2	25.6	2.13
Home for the homeless	22.1	37.5	40.3	1.82
Rock club	26.6	26.1	47.3	1.79
Casino	21.4	29.3	49.3	1.72
Roma cultural centre	19.6	27.3	53.1	1.66
Home for refugees	15.2	30.0	54.8	1.60

Note: The index is construed as a weighted value, where "not bothered" has a value of 3, "neutral" a value of 2 and "bothered" a value of 1

The negative attitude towards immigrants shown by the rejection of a home for refugees is confirmed by the response to the question whether for us immigrants are a benefit or a heterogeneous element. Almost one half of those questioned tend towards the view that immigrants are a heterogeneous element in our country.

Would it bother you if the following were opened in your area:



II. Comparison of citizens' sense of security before the launch of the Comprehensive Assistance Program for crime prevention (1996) and after five years of the program's implementation (2002)

In order to become eligible for RVPPK subsidies, individual towns were required to conduct sociological research into the concerns of their citizens

concerning crime in the municipality. These findings were intended to focus preventive programs on certain issues, locations, categories of citizen etc. Towns were allocated funds for research purposes and a specimen questionnaire; the actual survey, meaning primarily the selection of a survey agency, was left to the town administrations. However, this approach meant that the implementing companies not only completed the specimen questionnaire according to the wishes of the contracting authority (which would certainly not matter), but also modified the specific questions assigned. The result was a factual discrepancy in the outputs delivered by individual agencies. This shortcoming was extremely evident the second time around.

In comparison with the findings from 1996, the situation with regard to citizens' concerns with respect to crime in 2002 **have improved markedly**. In the mid-1990s, the predominant fear was of violent crime, i.e. murder, robbery, grievous bodily harm and rape. At the beginning of the new millennium these feelings abated somewhat, and respondents now register fewer fears concerning their own safety and the security of their families. There are of course exceptions, for example in Liberec in the mid-1990s there was generally a positive feeling with regard to the fear of crime; now we record a deterioration in all types of monitored crime, while in Karviná people are far more worried about murder.

There were increased fears however concerning pickpockets, a form of crime that still evidently cannot be contained in towns. In some cases, fears have risen somewhat with regard to public disorder and libel.

In relation to five or six years before, most towns record similar or slightly lower levels of anxiety concerning burglary of a person's home and car theft. In general terms we can say that around 50 to 60 % of respondents are worried about these types of crime, and that together with street theft they are the forms of crime about which people are most anxious.

Compared with 1996/7, in 2002, respondents universally register fewer instances where either they or members of their family were victims of crime. Most common were victims of pickpocketing, car theft and bicycle theft. Unfortunately, a more precise comparison of towns is not possible due to discrepancies between the questions asked in the towns concerned (different time spans, inclusion of purely factual crimes committed, or also attempted crime etc.). In very general terms we can say that annually approximately 15 to 20 percent of households in the monitored towns will become victims of crime.

Compared with previously, there was an increase in the number of victims reporting crimes to police bodies. The most commonly reported crimes are burglary and car theft (both over 90 %), or bicycle theft. Instances of pickpocketing are only reported in two-fifths of cases. With some caution we may say that the improved assessment of the police's activities is also reflected in the more frequent reporting of crime.

Conclusion

It is not possible to draw any fundamental conclusions from the data ascertained (in the sense of the greater or lesser effectiveness of funds spent on prevention). There are too many intervening factors involved, such as overall changes in the volume and structure of criminal activity within the state, the economic situation in regions, the role of the mass media etc. In the opinion of the authors, the primary output of preventive efforts in towns should be the awareness of citizens that the town is really addressing crime issues and that it is proceeding in ways with which people can identify. This has been confirmed – all the most commonly used types of preventive program enjoy the support of inhabitants, above all the backing given to free-time activities for children and juveniles. Concerns relating to the most serious forms of crime have fallen, and in comparison with the “wild” 1990s, there has been a gradual reduction in households’ experience of crime. More than half of those questioned had never considered leaving their town. People feel that they basically live well in their towns and that life there is not especially dangerous. They are, however, still worried by the high rates of theft.

Following the first “pilot” years we hope that in many towns there is now a common perception that the crime prevention system is an inseparable function of the modern town which cannot be overlooked.

Juvenile offenders at the turn of the millennium¹

2003

Researcher responsible: PhDr. Kazimír Večerka, CSc.

Co-researchers: Mgr. Jakub Holas, PhDr. Markéta Štěchová,
JUDr. Simona Diblíková, PhDr. Ing. Jan Neumann, CSc.

The study by a team of authors from the ICSP (the Institute for Criminology and Social Prevention) is linked to research work conducted in a previous period when the team was studying the issue of socio-pathological manifestations among children². The central theme of the research was the description and criminological assessment of children who, due to behavioural problems (whether in the family, at school or in another environment) during their young life have been sent by the courts to remand or reform institutions. The work involved an analysis of all criminal offences committed by these children over one calendar year in the entire Czech Republic.

The current research work – whose subject was the **analysis of juvenile crime** – was more multi-layered and included various perspectives on the problem. The first part of the work provides statistical data on juvenile crime over several last years. This passage is followed by theoretical reflections on juvenile crime in broader criminological contexts (juvenile delinquent behaviour and social reactions thereto).

The remaining part of the publication covers several research probes into the issue of juvenile delinquency. The most extensive in territorial terms was research conducted from annual documentary records (supervisory records from public prosecutor's offices) of juveniles charged with criminal offences in eight district public prosecutor's offices. This was supplemented in more serious cases by a study of the content of court records pertaining to the convicted juveniles. In the publication's text, quantitative information is directly supplemented by a number of illustrative cases. The sample for this research contained a total of 484 young people aged 15 to 17 (i.e. juveniles). We can say that in its way it was a continuation of the aforementioned event, mapping the annual criminal incidence level of children with serious behavioural problems. The next research project analysed certain characteristics of the prison population of young men (total of 154 convicted juveniles from prisons in Všechny and Opava) and women (50 convicted juveniles from the prison in Pardubice).

The third research project described in the publication focused on the crime of robbery under Section 234 of the criminal code committed by juveniles as the

¹ Večerka, K., Holas, J., Štěchová, M., Diblíková, S., Neumann, J. Mladiství pachatelé na prahu tisíciletí. Praha: IKSP, 2004. 139 stran.

² Večerka, K., Holas, J., Štěchová, M., Diblíková, S. Sociálně patologické jevy u dětí (Socio-pathological Manifestations among Children). Praha: IKSP, 2000. 215 stran.

main or co-offender. The issue is placed within a theoretical framework of legal definitions; „robbery“, behaviour is then considered in the broader contexts of aggression, aggressiveness and assertiveness and the issue is finally addressed from the perspective of motive and motivation, the offender’s characteristics and the typology of the robbery.

The authors subsequently paid special research attention to the analysis of their own research data relating to the crime of robbery and its perpetrators.

Introductory statistical data

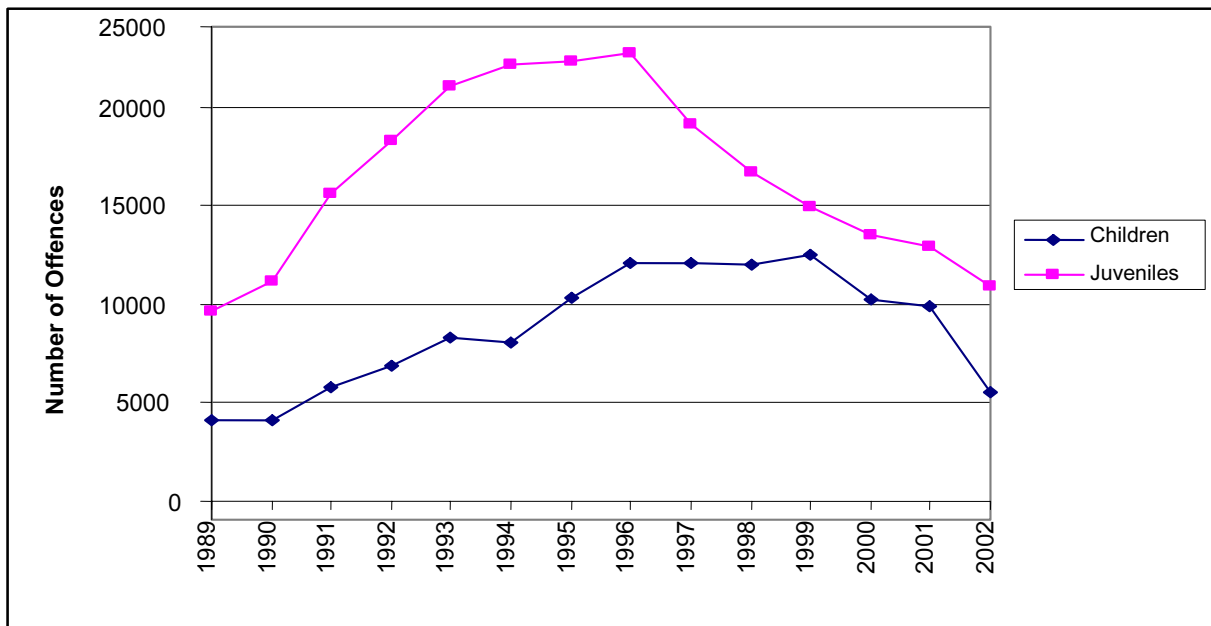


Table 1

Absolute and relative incidence frequency of prosecuted offenders according to specific types of crime (data for 2001 and 2002)

Type of criminal activity	Year	Children		Juveniles		Adults	
		abs. no.	%	abs. no.	%	abs. no.	%
Property crime	2001	6 517	72.2	6 676	72.0	39 060	35.7
	2002	3 074	59.3	4 703	61.1	34 102	30.7
Violent crime	2001	1 218	13.5	1 035	11.2	14 537	13.2
	2002	1 024	19.7	1 157	15.0	15 175	13.7
Immoral crime	2001	134	1.5	146	1.6	1 128	1.0
	2002	112	2.2	194	2.5	1 148	1.0
Other crime	2001	1 163	15.2	1 414	15.2	54 826	50.0
	2002	975	18.8	1 644	21.4	60 656	54.6
Total	2001	9 032	100.0	9 273	100.0	109 551	100.0
Total	2002	5 185	100.0	7 698	100.0	111 081	100.0

Traditionally, the main form of crime committed by young offenders are property offences, above all ordinary theft and burglary. The proportion of young people up to the age of 18 involved in property offences was at its highest in 1996, when it comprised one-third of all offenders from all monitored statistically important groups. It is estimated that they play an equally large role in unresolved property offences. The number of juveniles prosecuted for property offences culminated in 1994, when 4.5 times more juveniles were prosecuted than in 1989. Since 1995 their number has decreased. However, the reduction in the proportion of juveniles has been compensated by the proportion of child offenders, and in 2000 children even outnumbered juveniles as perpetrators of property offences.

Table 2

Ordinary theft – proportion of offender categories as a percentage of total prosecuted persons

Year	Children	Juveniles (15 – 17)	Youth (children + juveniles)
1994	9.39	23.34	31.73
1995	10.22	20.70	30.92
1996	12.57	19.06	31.64
1997	11.35	17.30	28.64
1998	10.79	15.32	26.11
1999	10.87	14.72	25.59
2000	10.55	13.44	23.99
2001	10.31	13.68	23.99
2002	5.75	11.18	16.93

Table 3

Burglary - proportion of offender categories as a percentage of total prosecuted persons

Year	Children	Juveniles (15 – 17)	Youth (children + juveniles)
1994	12.28	18.65	30.93
1995	15.76	18.88	34.64
1996	16.78	18.76	35.54
1997	17.85	16.38	34.23
1998	16.50	15.75	32.25
1999	18.12	14.94	33.06
2000	19.93	15.06	35.00
2001	18.24	15.55	33.79
2002	11.13	15.16	26.29

Table 4

Robbery - proportion of offender categories as a percentage of total prosecuted persons

Year	Children	Juveniles (15 – 17)	Youth (children + juveniles)
1994	9.79	19.17	28.96
1995	11.54	20.54	32.09
1996	11.16	19.78	30.94
1997	9.47	18.01	27.48
1998	10.08	15.83	25.92
1999	11.96	15.16	27.12
2000	12.40	14.84	27.24
2001	13.64	16.03	29.67
2002	9.32	16.40	25.72

Field research results

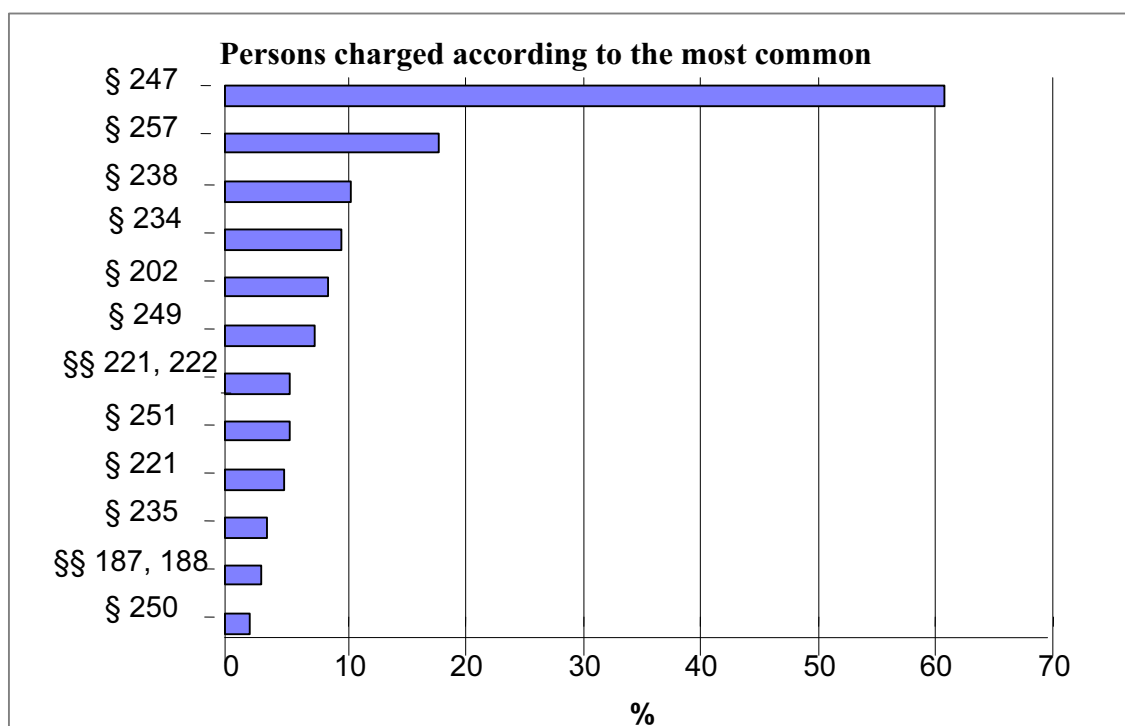
The selection of districts for the analysis of supervisory and judicial records for juveniles was made with the aim of ensuring that the research category included all the regions from the previous territorial administrative system (i.e. 7 regions plus Prague) and that within each region the district (in Prague the quarter) was chosen that would represent the region in our research by using similar methodology for the incidence of juvenile crime. In each region we thus selected the district that over the previous three years registered the average incidence of juvenile crime for that region. The three-year period was intended to exclude random changes in the dynamic of the incidence of crime in specific districts and the average figures for criminal activity were used to offset local regional extremes.

The researchers set out to familiarise themselves with all supervisory records for juveniles with permanent residence in the relevant districts for a period of one year (from 1 July 2000 to 30 June 2001), and in cases of more serious crimes to supplement such data with a study of criminal records. Records were analysed that concerned juvenile crimes for which charges were brought.

In all, research workers from the Institute for Criminology and Social Prevention analysed 484 offences committed by juveniles in the selected districts. Of these, 445 were committed by men (91.9 %) and 39 by women (8.1 %). With regard to age, 152 clients (30 %) were under the age of 16 at the time the crime was committed, 168 (35.4%) were under 17, and 155 (32.6 %) were just before the age of majority, i.e. just under 18.

Property offences¹ (not counting the crime of robbery under Section 234 of the criminal code²) were committed by 377, i.e. 77.9 % of juveniles charged. This figure rises to 412, or 85.1 % if the crime of robbery is included. Violent criminal acts (again excluding robbery) were committed by 53 juveniles charged, i.e. 11 %, and by 98 juveniles charged, i.e. 20.2 %, if robbery is included. In other words we can say that youth crime predominantly concerns property offences, and to such a degree that four out of the five of juveniles charged committed a property offence without using violence against the person. This finding contrasts sharply with the general lay opinion, which to a large extent is formed by the slanted lens of the media, which suggests that crime committed by young people generally involves aggression.

A criminological analysis of the types of criminal activity clearly demonstrates that the vast majority of juvenile crime can be located under the crime of **theft** (Section 247 of the criminal code)³.



This section's dominance is quite clear - 296 charged juveniles (i.e. 61.2 % of all analysed juveniles and 78 % of all young people who have committed a property offence without using violence) fall under the terms of this section.

¹ Property offences also included crimes under Section 178a-poaching, Section 247-theft, Section 248-embezzlement, Section 249- unjustified use of another person's property, Section 250-fraud, Section 251- aiding and abetting, Section 254 – concealment of an item and Section 257-damage to another person's property.

² Under Section 234 of the criminal code, the crime of robbery is committed by someone „who uses violence or the threat of immediate violence against another person in order to seize another person's property,,.

³ Under Section 247 of the criminal code, the crime of theft is committed by someone „who appropriates another person's property by seizing it,,.

Summary of other research findings

The following main conclusions can be drawn from research into the complete annual occurrence of juvenile crime in 8 public prosecutor's offices:

- all age categories of juveniles were equally represented;
- at the time the crime was committed every fifth person charged was a pupil at either an elementary school or a special elementary school;
- only just under 5% of persons charged studied at a secondary school at the time the crime was committed;
- with regard to the fact that charged juveniles most often come from the first year of vocational schooling, or for various reasons (usually due to expulsion) have stopped attending, we can generally say that the vast majority of offenders only have elementary education;
- three-quarters of juveniles were only charged with one offence, while just under 10% had more than two offences. These data in a general sense indicate that juvenile offenders are not particularly dangerous;
- a significant proportion of the damage caused by anti-social behaviour can be attributed to the violent and inexpert means by which the charged persons steal items; on the other hand, this type of action may be important for juveniles;
- juvenile offenders often steal items from cars (chiefly car radios and obligatory car equipment), or vehicles themselves, bicycles and mobile telephones. We can say that this type of theft is encouraged by the fact that, as is well-known to juveniles, on the one hand few people take notice of such crime, and on the other that it is relatively easy to sell on stolen items, including at official bazaars and pawn shops;
- juveniles primarily steal from the communal areas of houses (cellars, corridors) or from holiday cottages and garages; almost ten percent also dared to steal from apartments (although this mostly involved various forms of cunning making possible non-violent entry into the flat) or in shops, offices or other places of business in a similar manner;
- more than one-fifth of charged juvenile offenders obtained cash directly from crime, and these cases more often than not involve physical violence towards the item or the victims. Nevertheless, of all the analysed cases only 13 involved physical violence that resulted in long-term absence from work on the part of the victim. A very common form of obtaining cash (38 juveniles charged) was the simple appropriation of money that the owner had not guarded with sufficient care (often due to the influence of alcohol on the part of the victim) or about which he had boasted. The same applies to valuables;
- a relatively frequent form of property crime is the theft of non-ferrous metals and other raw materials and their subsequent sale in scrap-yards. Juvenile offenders often act together with co-offenders below the age of 15 or with adult offenders, often family members;
- violent crime primarily concerns older categories of juvenile offender with uncompleted elementary education, often from special schools. The causes of assault are not precisely specified in the records (or the judgements). Victims generally state that they were „attacked without reason“ and the accused counter by claiming that they were provoked by the victim's prior behaviour. In some

- cases, both parties to the action have, for unascertained reasons (which unfortunately are rarely investigated in any depth by authorities competent in criminal matters), an interest in covering up the real motives for the conflict;
- immoral crime comprises a negligible part of overall crime. We may surmise that a significant proportion of these offences remain undetected due to the victims' fear of secondary victimisation;
 - we may only surmise the real motivation for criminal activity from public prosecutor's and court materials with a significant degree of caution. Personal gain is most often given as the motive without any further analysis (and often this is actually the case). However, there are certain indications that other motives such as the low legal awareness of young offenders (combined with little trust in the legal means of enforcing the law), the desire to punish asocial behaviour on the part of the victim (whether assumed or real), revenge or envy (in particular a feeling of inequality of wealth, the inability to defer satisfaction of one's needs to a later time or to forget about them). Nevertheless, we can locate one of the most important motivations for crime in boredom and unstructured free time on the part of offenders and their need to vent off their feelings and experience something adventurous and exciting. Sometimes, criminal activity seems to be inspired by a desire for inappropriate enjoyment and an escape from everyday problems. In this respect we should also take into account the not insignificant (even if difficult to prove from records) influence of alcohol abuse and non-alcoholic drugs (often only possible to surmise indirectly from the *modus operandi*);
 - a major role in creating the conditions for the delinquency of juvenile offenders can be attributed to a clear educational deficit – education that has failed to control the offender's personal impulsiveness, has led to an emotional deprivation and has neglected the cultivation of reason. A major influence can be found in demonstrably unstable family backgrounds and frequent criminal infection in clients' close surroundings.

The research into juvenile crime was conducted before codification of Act No. 218/2003 Coll. (Act on Juvenile Justice). This time dimension for the research work enabled us not only to analyse the current state of juvenile crime, it also meant that the work could be reliably used for comparative purposes in the future assessment of the new Act's effectiveness, where necessary.

Our analytical activity has shown us that new legislative changes are greatly needed in order to bring about the more professional and appropriate treatment of young people. New legislation – in accordance with modern criminological theories – emphasises the individualisation of prevention and suppression, a more focused reaction on the part of society to the inadequate development of specific individuals in their social field. We believe that the realisation of this new trend – if it is not to remain simply at the level of proposed changes – requires significant improvement in the whole criminal-law and remedial process, above all with regard to analytical information, remedial instruction, supervision and consultancy. We may expect that the pre-trial proceedings will see a sharper shift than has previously been the case in the interest of the competent authorities in acquiring information on the

personalities and social determinants of offenders' lives, that the information value and competence of these reports and expert opinions will be examined in greater detail, that the overall concept of the treatment of offenders will improve, and that help and supervision will be provided on a more balanced basis. This clearly requires changes in the competence and approach of persons who have to comply with this new trend in the judicial system for juveniles, which will require a certain amount of time and significant organisational measures and financing. Our research makes it abundantly clear that information on the personality and other characteristics of juvenile offenders and their social background, as we discovered in the criminal records for juveniles (both quantitatively and qualitatively), will under no circumstance be sufficient for the proper application of Act 218/2003 Coll. In the future, we shall definitely not be able to accept the formal method by which information is provided on clients involved in criminal proceedings, information which unfortunately all too often fails to confirm anything except that the person providing a report knows nothing about the client.

Our analysis of the development of crime in the Czech Republic in recent years has shown that the claim that „crime among children and juveniles is rising dramatically“ is an unfounded myth. Although we should be careful in interpreting statistical data on crime (which only records detected and registered crime, and may be influenced by a variety of factors stemming from the penal policy applied), we can confidently state that the level of crime among juveniles has stabilised at the least. The vast majority of registered crime among young people in the Czech Republic concerns property offences.

An analysis of the crime of robbery confirms that many such crimes which formally meet all the criteria of robbery do so chiefly because the offender, at some point of the (often inadequately thought-out and prepared) „program“, used violence (or more often threat of violence) for personal gain because it seemed at the time the best way to achieve the objective of the attack. Robbery thus often arises as excess in the context of the clients' property offences.

The most dangerous aspect of property offences committed by juveniles using elements of violence is their possible acceleration. Current methods for carrying out these offences bear the hallmarks of „apprenticeship“ and a certain amateurism; juveniles are often part of a larger gang managed by older co-offenders. They often play a peripheral role, keeping watch and acting as „footsoldiers“ – roles which however are part of a learning process. Where juveniles figure as the oldest member of a group of minors, the crime is usually of an experimental nature and a result of mutual „egging-on“.

Despite the limited information available on offenders' criminal careers, their previous asocial behaviour and educational shortcomings, the analysis demonstrates one striking fact: in addition to the large majority of accused, whose delinquency is characterised by isolated youthful excesses, a group can be defined which has systematic problems with abiding by social norms. Their school behaviour has been problematic since childhood, they are involved from an early age in various acts of petty crime, and they are well-known to social workers and local police. By the age

of sixteen or seventeen they have already been involved in several misdemeanour proceedings, petty offences dismissed due to their being under-age and have often also received a conditional sentence. Modern criminology's¹ approach to these „chronic offenders“ is to differentiate between the methods used for their resocialisation and those used for „normal juvenile delinquents“.

Research projects have also confirmed that one of the current myths is the belief that juvenile crime affects all social levels almost equally. We can say categorically that – at least as far as they are registered – juvenile offenders (particularly those we found serving prison sentences) come from unstimulating and unstable family backgrounds, that they are formed (or often deformed) in the family by family members without the ethical or moral prerequisites to provide a good upbringing, persons without education and qualifications, with a poor attitude to work and an irresponsible approach to their own lives or those of their partners and children. The family background is often marked by various types of real shortcomings; we have to agree with the criminologist R. Mendel, who says: „Prevention can succeed if we identify the risk factors that lead young people into crime, and if we concentrate on these risks and try to override them by positive influences... Crime committed by young people does not have just one cause, although if we were to identify a single common factor that runs through all cases it would certainly be a certain type of family failure.“²

The development of juvenile crime is exacerbated by the extraordinary lack of legislation and investigation concerning the activities of pawn shops, scrap-yards and various bazaars. Unfortunately, our clients are aware that there is nothing easier than to sell their stolen goods in these purchase and sale „structures“ – always, of course, well below their value. Pawn shops (particularly those with uninterrupted operations) often serve as sale points for stolen items. The trades licensing act³ still does not make it obligatory for an entrepreneur to demand a reliable document to verify the identity of a party interested in concluding a pledge agreement, or the obligation of such a person to prove their identity by producing such a document.

The analysis of offences committed by our clients shows that it would do no harm in the future to address those circumstances that made possible the perpetration of criminal acts. In this respect we have in mind matters that, although not directly the subject of criminal proceedings against juveniles, could – if handled in the right way – even create the basis for other criminal or civil-law proceedings, and consequently lead to parents paying greater general attention to their offspring. Many things that become apparent (or, more accurately, are only indicated) to us from records or expert opinions testify to a pathological situation in the client's family, school and social environment that is so extreme that it would be appropriate to analyse this further and, chiefly for the benefit of the client's future life, to take adequate (i.e. often also unpopular) measures in relation to the client and his/her insufficiently active social environment.

¹ Čírtková, L. Dva pohledy na delikvenci dětí a mladistvých (Two Views of Children's and Juvenile Delinquency). *Kriminalistika* 4/2003, pp. 241–250

² Mendel, R. A. Méně slov a více pomoci (Less Words and more Help). Praha: IKSP, 2002. 28 stran.

³ Act No. 455/1991 Coll. on Trades Licensing Act

Trafficking in women from the perspective of the Czech Republic¹

(The research forms part of the UN project – criminal justice response to trafficking in human beings in the Czech Republic and Poland)

2003 - 2004

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Methodological guarantor - UNICRI

Research purpose, aim and methodology

The demonstration project - *Global Programme against Trafficking in Human Beings* - examines the possibility of implementing those requirements in the Protocol on the prevention, suppression and punishment of trafficking in human beings, particularly women and children, which supplements the UN Convention against international organised crime.

The guarantor for the whole project was ODCCP/CICP (the UN office for drug control and crime prevention, and the UN centre for international crime prevention). The project's methodological guarantor was UNICRI (the UN Inter-regional Crime Research Institute).

At a national level, the project focuses on improving the effectiveness of law enforcement functions and other criminal justice responses. Emphasis is placed on questions of trafficking in women for reasons of sexual exploitation and forced labour with regard to organised crime and on how the judicial system reacts to foreign women who are trafficked into the Czech Republic, and on Czech women who have been repatriated to the Czech Republic from other countries.

The project's aim was to improve the existing level of information and propose effective measures to suppress and prevent trafficking in human beings. At a regional and international level, the project focused on cooperation between key authorities in the countries of origin, transit and destination. The aim of the research is to obtain information for more effective informal cooperation between state institutions and non-governmental organisations. The findings obtained can also be used in proposing an institutionalised function model for the protection of witness and help for victims.

The Government of the Czech Republic entrusted the implementation of this project in the Czech Republic to the Ministry of the Interior – its prevention department. The Institute for Criminology and Social Prevention (ICSP) - scientific-research office of the Ministry of Justice was appointed the guarantor of the research activity in the Czech Republic.

¹ Trávníčková, I., Luptáková, M., Nečada, V., Přesličková, H., Trdlicová, K. Obchodování se ženami z pohledu České republiky. Praha: IKSP, 2004. 158 stran.

Employees from the following authorities and institutions also contributed towards the project's implementation in the Czech Republic: the Police of the Czech Republic – Alien's Registration Police, the Department for the detection of organised crime in the Criminal Police and Police Investigation Service, the Police Academy, and also Czech embassies abroad, the public prosecution service and the courts. From among non-governmental institutions the project enjoyed the assistance of employees from La Strada, IOM, the Czech Catholic Charity Association and the Diocese Charity of České Budějovice.

The field research, which focused chiefly on monitoring and coordinating the activities of individual entities assisting the victims of organised trafficking, was performed in the Czech Republic and specifically in České Budějovice as the selected locality. The project duration was stipulated by UNICRI as 10 months.

The guarantor of the entire international research project, the individual parts of which take place in various countries, is ODCCP/CICP. The methodological guarantor is UNICRI, which also stipulated the uniform methodological tools to be used. UNICRI stipulated the choice of techniques and prepared the text of the checklist document and questionnaires.

The following techniques were used to collect data for the field research:

1. List of Topics for Case File Analysis - (checklist)
2. questionnaire - experience of international and non-governmental organisations and experts in the fight against trafficking in human beings in the Czech Republic
3. questionnaire for sources from the criminal justice system and law enforcement bodies (trends relating to offenders and the involvement of organised crime groups)
4. tool for in-depth interviews with Czech victims (research focused on victims' experiences)
5. questionnaire for embassies (trends relating to offenders and the involvement of organised crime groups)

Statistics as a further source of data

We used the statistics of the Ministry of the Interior, particularly those from non-standard data reports compiled by the Police Board of the Czech Republic and the Alien's Registration Police and Border Police Directorate. We also used statistical data compiled by the Ministry of Justice's department of organisation and supervision for the period 1996 - 2001 summarising the total number of crimes and number of offenders (their age and sex) under Section 246 of the Criminal Code for each monitored period and individual localities.

Other methods used

- **analysis of expert sources and publications**

the research team used the available foreign publications (see literature in the report's appendix), materials from the Ministry of the Interior, volumes from seminars and conferences and articles in the specialist Czech press, particularly in the periodicals *Trestní právo* (Criminal Law), *Policista a Kriminallistika* (The Police & Criminology).

- **press analysis**

included monitoring the daily press from 1 June 2003 to 31 December 2003. Altogether, 150 reports were gathered from 29 national and regional daily titles. This method was only used to illustrate information already obtained as we are aware that the dissemination of information is subject to its attractiveness for readers. The modishness of certain issues (drugs, prostitution, murder, trafficking in human beings, etc.) significantly distorts the informative value of these reports, which are often interpreted for a specific purpose.

- **comparative techniques**

were used to study the effectiveness of and changes to the criminal code of the Czech Republic in line with the ratified international treaties concerning the monitored issue. Comparisons were made of criminal codes in the Czech Republic from 1921 to the present. We studied international treaties and protocols ranging from 1904 2002.

Summary

On the basis of the data and information obtained by this empirical research we can describe trafficking in women as a form of organised crime in the Czech Republic as follows:

Under section 246, the criminal offence of trafficking in women was provided for, as a result of the ratification of international treaties, in the criminal code of the Czech Republic (Czechoslovakia). Nevertheless, in past years this offence has rarely if ever appeared before the Czech courts. The turnaround occurred in the 1990s, when together with a change in the social system there was a liberalisation of the laws enabling international travel, the introduction of a free market economy and a reduction in social security benefits. There was also a rise in socio-pathological phenomena, particularly drug abuse and prostitution. The increase in criminality also sees the occurrence of offences related to organised crime. This is also attested to by the statistical data. In the past few years, our courts have sentenced 15 to 20 persons a year (the highest number - 25 people - in 1999) for the offence of trafficking in women¹.

Today, when experts come across cases of trafficking in human beings these always concern trafficking for the purpose of sexual relations, or prostitution, as according to the current legislation in the criminal code, in the Czech Republic criminal trafficking in human beings may be prosecuted only for that purpose.

Alongside crime related to the production and distribution of drugs and arms dealing, trafficking in women remains in the long-term perspective the most „proprietary“ commodity of international organised crime (as is evident for example from the long-term study performed by ICSP since 1995).

We can count the following among the generally acknowledged constants influencing the existence of this specific form of organised crime: the imbalance in international economic relations, economic weakness and political instability in the countries of origin, infringements of human rights, inequality of the sexes both in law and in practice (i.e. the feminisation of poverty, gender discrimination, poor approach to education and professional opportunities), constant demand for „sold sex“ and a restrictive migration policy.

Although the aforementioned aspects are not prevalent in current Czech society, similar tendencies can also be detected in it.

The factors enabling the rise in sexual exploitation are many: delayed legislative response to the increase in socio-pathological phenomena, in particular prostitution, an over-emphasis on the principles of market behaviour, impossibility of self-realisation and social uncertainty, general tendency to the lower financial valuation of women in work processes, high unemployment in certain districts² Czech Republic, insufficient public information, a distorted system of values and legal awareness, a person's lack of moral self-respect and trivialisation of the health risk, the longing of women to escape a boring lifestyle without any future and the social controls of the original environment.

¹ Section 246 of the Criminal Code on trafficking in human beings for the purpose of sexual relations

² The term „district“ used in the applies to the previous territorial administrative structure in the Czech Republic

Also important are the myth of an easy and comfortable life of affluence in the West, the continuing naivety of women when seeking „well-paid work abroad“, a suitable partner – marriage, etc. Often there is strong economic pressure on women from the social environment.

Traffickers obviously exploit inequalities between men and women, making use of a „traditional“ stereotype where women are perceived as sexual objects.

The easiest sources of Czech victims for trafficking in women are areas with large unemployment and towns with high tourism and increased supply (and demand) of all types of sex services. Experts record the most frequent localities as North Bohemia, West Bohemia, North Moravia, South Moravia, Prague and Brno. Potential victims are sought among women who are dissatisfied with their earnings find themselves, in difficult life situations and women working as prostitutes. The mental immaturity and social naivety of minors is often exploited.

The most common source countries (in the opinion of experts) include the Ukraine and other states of the former Soviet Union, Slovakia, Romania, Bulgaria, while there are also women from Vietnam, the Philippines, Thailand and countries of the former Yugoslavia. These women generally live in the Czech Republic either on the basis of tourist stays or false invitations.

Methods of procuring and obtaining subsequent victims of trafficking

The methods of procuring Czech women are generally very informal. Contact between the person trafficked and the recruiter is most often established through friends, common acquaintances, or from hearsay. It's not unheard of for the contact to be arranged by a member of the victim's family. Contact is made in the place of residence, a restaurant or bar, hotel, discotheque, etc., as well as on the street.

As far as the formal mediation of contacts is concerned, it is still not common for contact to be made via an agency (employment, marriage, travel); instead, the predominant tendency is for small ads to be made by a single person, or directly by the owners of erotic establishments.

Records available to us from cases dealt with by our courts over the last four years show that women in the Czech Republic are mostly lured abroad under the pretext of well-paid and attractive employment, such as work as a bargirl, dancer, hostess, companion, etc. However, those responsible for this criminal activity who offer such employment intend from the beginning that the main or even sole activity will be prostitution. Women who respond to the offer are generally sold to erotic clubs or pimps to work as street prostitutes.

If the first contact is made via a group of people, this is more likely to occur through an employment agency than marriage agencies, travel agencies or other institutions. The persons and agencies that contact women and hire them often use fraudulent and deceptive techniques.

A further problem lies in the fact that agencies sign contracts with girls in which they promise legal employment. The contracts are legally valid; our law however cannot cover the treatment of women abroad.

When committing this crime, it is in no way necessary for the transport of women abroad to be made against their will. The majority of women are lured by

the vision of an easy and comfortable life with high earnings, and leave the Czech Republic voluntarily after being falsely informed by the offender of the situation they will find themselves in abroad.

The predominantly financial motivation is also shared by a large number of women who worked as prostitutes before becoming victims of trafficking. It is not uncommon for the women affected to have offered sexual services on the street or in border nightclubs before being sold. According to the available records, Czech women offering sexual services to wealthy clients or foreigners in hotels or erotic salons of a higher standard or in exclusive private clubs have not become victims of trafficking. It was confirmed that girls below the age of majority are also sold abroad. From a criminological viewpoint it is important to state that women offering sexual services (particularly on the street) are a very high-risk group in terms of victimisation.

If we differentiate between victims of trafficking according to the manner in which they are procured, they can be categorised according to the level of victimisation as follows:

- women who went abroad knowing that they would work as prostitutes but unaware of the conditions under which they would perform this work
- women who accepted work that is very close to prostitution (striptease dancers, masseurs in erotic clubs) and could expect that they would find themselves in situations where they would have to work as prostitutes
- women who were deceived and had no idea that they would have to work as prostitutes, having been offered work as waitresses, companions, baby-sitters, etc.
- women who were taken abroad by force and once there compelled to work as prostitutes.

Trafficking routes

As with other forms of organised crime, the patterns and routes for trafficking in women are highly flexible and change quickly. The exact route for the movement of victims depends on the specific conditions in the transit or destination countries and their changes, most often due to police checks. Usually only the original locality is known in which the victim was obtained, and the destination place.

According to our empirical data, the main destination countries for women trafficked from the Czech Republic are Germany and Austria, followed by France, Italy, Spain, the Netherlands, Switzerland, Belgium and the USA.

From the information obtained it is evident that the Czech Republic, which was once solely a source and transit country, is now also turning into a destination country, particularly for women from the former Soviet Union.

According to experts, physically dangerous situations during the journey to the destination country only occur if the transit is demanding in terms of time or if the victim is transported across the border illegally, generally against her will.

Real travel documents are often obtained and used to cross borders - after crossing the state border, however, the trafficked victim disappears or exceeds the

period permitted by the visa. Traffickers also use false documents to obtain common travel documents or use altered or falsified documents. A standard method was to exchange the photograph on a stolen passport; recently there has been a slight increase in the forging of the entire document.

Involvement of organised crime

In only two cases from the 15 criminal files analysed were the offenders convicted as members of an organised group. The first case concerned a loose network of three offenders who knew each other and who did not assign specific roles among themselves.

In the second case, a total of six offenders were involved in the organised trafficking of seven women. The leader of the group obtained the cooperation of his brother in the criminal activity, and the other members were also acquaintances of his from his place of residence. Neither in this case did the group have a fixed structure or differentiation of the offenders' individual roles. The offenders usually performed their roles as agreed among them.

In three cases married couples were involved in trafficking in women. In one case the offenders were two experienced women who had themselves worked as prostitutes abroad, and one other case involved two women who had long-term experience in profiting from prostitution in the Czech Republic. In eight cases one person was responsible for trafficking women abroad.

The current experience of bodies responsible for criminal proceedings shows us that despite the continuing occurrence of low-scale activities performed by a few individuals, a far more important role is played by large business entities and internationally linked networks of offenders, which together comprise a sophisticated and highly organised „sex industry“.

At present those groups predominate which involve not only Czechs but also foreign nationals in the trafficking in human beings from the Czech Republic. These concern citizens of the following states: Russia, the Ukraine, Chechnya, Dagestan, Moldavia, Germany, Switzerland, Italy, Austria, Slovakia, Bulgaria, Romania as well as Vietnamese, Kosovo Albanians, Serbs and Croatians.

The analysed data makes clear that Roma family clans (mainly based in North Moravia) are also involved in the crime of trafficking in human beings from the Czech Republic.

The majority of experts agree that small groups trafficking in human beings are linked to larger international organisations:

Experts put the approximate number of members in a group as between 6 and 10, and sometimes up to 20 members. Thus far, no cases have been recorded of larger numbers being involved in this form of criminal activity. Although the estimates of experts differ somewhat on the number of persons involved in the specific phases of the trafficking in human beings, they do not consider it to exceed more than 5 at the stage of recruitment and the arrangement of documents. Larger numbers (although no more than 10 people) only play a role in transport, or in placing the person in the destination country. This number, however, also comes to

include all successive „owners“ of the victims, or of the premises where prostitution is carried out.

Most experts agreed that organised crime groups involved in trafficking in human beings in the Czech Republic use specialists. The most common types of specialist services used are those of lawyers, accountants and state officials, as well as bankers and employees of the Alien's Registration Police.

Criminal groups trafficking in human beings/women, which are active in the Czech Republic, do not focus on any specific sectors of the labour market.

Threats of violence used when trafficking in human beings generally concern Russian-speaking criminal groups (made up of Chechens, Russians and Ukrainians), Bulgarians and Roma, if they are in the group.

In cases where the criminal organisation controls the whole process of trafficking from procuring the women up to specific cases of sexual exploitation their influence over the victim is extremely strong.

More than one-third of experts believe that persons who traffic in human beings exert territorial control over the recruitment of trafficked persons. Experts regard the connection between violence against recruiters from other groups and territorial control as being relatively frequent. In the opinion of experts, the geographical activities of criminal groups is also conditional upon the specific place from which the organisation's leaders come, or the place where the group is based.

The most frequent method of permutation is the movement of victims between localities within one country, which in the opinion of experts often or almost always takes place, or the sale of a victim abroad. The movement of victims between different organised crime groups chiefly occurs if there are problems with victims or in the event of heightened interest on the part of the police in the group's activities.

This means that the current trafficking in women is not only an international migration process but can also take place and does take place within the territory of a single state.

Views differ on the extent to which organised criminal groups provide victims of trafficking with a new identity. One-quarter of experts believe that this does not in fact take place; 11 % state that this only occurs sometimes and the same number of respondents stated that offenders often change people's identities by changing their documents.

Experts estimate that in the Czech Republic hidden corruption of up to at most 30 % exists in cases of trafficking in human beings.

At present, one of the protective measures (as well as being a means of multiplying profit) is to accumulate a variety of criminal activities within a single organised crime group. The preferred combination is obviously trafficking in human beings and exploitation of prostitution; experts also refer to trafficking in human beings and the illegal production and distribution of narcotic and psychotropic drugs and so-called „money-laundering“.

Where experts expressed an opinion on current changes and trends in trafficking in human beings in the Czech Republic, they emphasised that the relevant changes concern the involvement of organised crime groups. Groups that originally focused on different types of crime have merged; Russians and Roma,

Slovaks, Roma and Ukrainians, Russians and Bulgarians have continually formed alliances. Experts see the individual phases of organised crime among these groups as more sophisticated. A significant change in the victim profile is related to a reduction in their age. Groups still seek somewhat asocial types and women who prefer financial gain. Concentrated attention is also paid to women who have already offered sexual services, either voluntarily or under pressure.

In this respect, experts have often stated that one possible reason for the high degree of latency is that far fewer women (and not only women) are actually forced into prostitution through violence, threats of violence or deceit. The majority of women enter into prostitution entirely of their own accord, being motivated exclusively by financial gain. Almost always there is at the beginning an agreement between the „trafficker-mediator“ (pimp) and the „victim“ (the prostitute), and in the majority of cases this is a voluntary agreement on both parts with the aim of obtaining economic benefit. Some of the women are then not surprised by the actual reality and cooperate for the satisfaction of both sides.

Where law-enforcement bodies detect the crime of trafficking in human beings, they often come across a marked unwillingness and reluctance on the part of the women themselves to testify against their „employers“ as this would signify a loss of „employment“ (working as a prostitute) and therefore also a source of financial earnings.

A smaller proportion of the women are surprised by the harsh reality and attempt to back out of the „contract“. Neither in these cases, however, are women often willing to initiate criminal proceedings or to testify before a court, as they generally have justified fears that they will not be offered sufficient protection to ensure their safety. This problem chiefly concerns foreign women trafficked into the Czech Republic, and especially those who are illegally resident in the Czech Republic. In the event of detection they run the risk of unconditional expulsion, practically no help or support whatsoever from the state, and also the risk of new trafficking or other threat; in the worst case risk to their life and health.

Detection of this crime is sometimes due to reports of crime being made by the injured parties (prostitutes). Such reports are motivated by various reasons, the absolute majority of which concern the attempt to get free from the “employer“, given that escape is generally extremely difficult. A common motive is revenge against the “employer“, for example due to the unequal distribution of financial earnings. The injured party is then willing to cooperate with the law-enforcement bodies and to testify. In reality, however, she doesn’t intend to stop working as a prostitute; on the contrary, she intends to carry on working as a prostitute in another establishment. This approach is also used to remove the competition.

Experts unequivocally agree that women who work as prostitutes and become „victims“ of the crime of trafficking in women (human beings) can be divided into two basic groups. Into women who work as prostitutes on an entirely voluntary basis, and women who are forced to work as prostitutes through physical or psychological violence, entrapped by cunning or deception, etc. Nevertheless, in cases recorded from both groups there is a clear unwillingness on the part of women to cooperate in bringing to light the crime of trafficking in human beings, even if there are differing reasons for each category of women.

As regards the investigation, elucidation and detection of trafficking in human beings, results clearly depend on the willingness of „victims“, if they are found and identified, to testify as witnesses during the criminal proceedings and to convict the organisers.

Conclusion

The information obtained makes it possible to state that groups of offenders involved in trafficking in human beings in the Czech Republic are at various levels of the development of organised crime. The existence of organised groups has been proven by information from selected criminal files and in particular the common opinions of experts.

Groups involved in trafficking in human beings in the Czech Republic are not currently interlinked and have not yet developed into large structured criminal organisations, do not have clearly demarcated middle and higher levels of management, but do have the characteristic signs of organised crime. A typical sign in all the analysed cases is a link with abroad, i.e. contacts and activities of the persons involved which exceed the borders of the Czech Republic. The criminal activity is planned and coordinated and (generally) involves the division of tasks and the desire for long-term and maximum profits.

All the analysed groups concentrate only on one type of criminal activity (a sign of the lower level of development with regard to organised crime) and are often parts of a wider international criminal network, although not subordinate to it. The relationship is rather one of cooperation or the fulfilment of various functions and specific tasks.

Some Czech groups function on a relatively independent basis, although according to experts the role of Czech citizens is primarily to provide services, (their knowledge of „local“ conditions is particularly appreciated), or to work as hired part-timers. Experts believe that Czechs often work as mediators between Russian or Ukrainian traffickers and West European pimps.

This means that in organised crime dealing with trafficking in human beings (women), Czech citizens act both as individuals executing tasks for foreign organisations or organisers at various levels, and as organisers and leaders of their own groups.

There has been no significant change in the structure of organised crime groups involved in trafficking in women from that contained in the empirical research project „Prostitution as one of the possible activities of organised crime“ which was carried out in the Czech Republic in 1995.

We can again fully identify with the conclusions of this research

Analyses of criminal files demonstrate that the criminal activity is planned and coordinated, that there is (generally) a clear demarcation of tasks and that the offenders are internationally connected. Other formal signs of organised crime, such as multi-tier organisational structure and the attempt to penetrate official social structures, were not ascertained from the available information.

Although criminal activity linked to trafficking in women is mentioned as one of the developed forms of organised crime in our country, the research was unable to adequately confirm this. This is the result not only of a lack of specific information, and the concomitant delays, difficulties and legislative problems in proving such criminal activity at a legal level, but also of general awareness. It is a form of crime that is considered to fit naturally with organised crime and the enormous illegal profits that are to be gained from prostitution are almost automatically connected with organised crime. Our own findings concur more or less with these conclusions.

Any differences concern the original statement that „... another possibility why organised crime in the Czech Republic has not yet become strongly linked to prostitution is the relatively marked spontaneous offer of women who work as prostitutes, thus rendering the activity less attractive and lucrative for offenders involved in organised crime. The fact that organised prostitution predominantly involves people from a Roma ethnic background, who are often unwilling or unable to provide further cooperation, may also play a certain role“. This conclusion no longer applies, as both the statements of experts and analyses of criminal files show that Roma have already become involved in organised crime groups engaged in trafficking in women from the Czech Republic, but especially within the Czech Republic.

As in other lucrative forms of crime (the production and distribution of drugs, theft of antiques, car theft, etc.), organised crime groups have found their own means of operation within this type of crime by taking advantage not only of the spontaneous offer of women but also of the existing structure of offenders.

We may infer that Czech citizens involved in the organised crime of trafficking in women assert themselves chiefly in cooperation with foreign groups (or offenders) at no higher than the middle level of these groups. They most commonly provide services, or executive functions or work as hired part-timers.

In response to the work of bodies responsible for criminal proceedings, the demand for specific services and the number of competitors the structure of the individual criminal groups is becoming ever more flexible. The involvement of individuals-specialists who take on specific services and who can also stand outside the organised group's structure enable such a group to respond quickly to market needs. Far more often than previously cooperation is also taking place between individual organised groups, which allows for the rapid reorganisation of illegal activities.