

Restorative Approaches and Alternative Methods: Juvenile Justice Reform in the Czech Republic

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INTRODUCTION

With respect to per capita income and the standard of living, the Czech Republic (about 10.2 million inhabitants) belongs to the most developed central European countries that have joined the European Union on 1 May 2004.

There are at present five court levels in a three-instance system: district courts, regional courts, higher courts, the Supreme Court, and the Supreme Administrative Court. Alongside the system of ordinary courts, there is the Constitutional Court.

The sanction system makes a distinction between penalties, measures, and conditions. All these penalties can only be imposed after trial by the court. A number of alternatives to pretrial custody are available. Other alternatives are attached to a conditional waiver. Since the beginning of the 1990s, new forms of community sanctions have been introduced into Czech criminal law, without any remarkable pilots. That is why they were often introduced very quickly and the current law includes a varied set of alternatives (van Kalmthout et al., 2003).

The overall crime level of in the Czech Republic in the last 3 years, as expressed by statistical data, can be viewed as the continuation of a period of stagnation. In 2003 the police recorded a total of 357,740 crimes of which only 135,581 were solved.

Thirty-six crimes per 1,000 of the population were recorded by the police in the Czech Republic; the highest rate was recorded in the capital: 82 crimes per 1,000 of the Prague population (Marešová, 2003).

Considering the juvenile population there is a large gap in crime rates between 1993, which was the first year of the newly created Czech Republic, and 2003.

In 1993 there were about 540,000 juveniles in the Czech Republic, of which 10,110 were prosecuted (1,874 per 100,000 juveniles) and 659 were sentenced to imprisonment (122 per 100,000 juveniles). In 2003 there were only about 394,000 juveniles in the Czech Republic, of which 7,374 were prosecuted (1,870 per 100,000 juveniles), but only 213 were sentenced to imprisonment (54 per 100,000 juveniles). In fact, Czech criminal policy towards juveniles has been – at least according to statistical data – significantly milder in the beginning of the 21st century than in the last two decades of the 20th century.

The following text will attempt to comprehend the important changes in penal policy that took place in the Czech Republic in the last 15 years, including a brief overview of the dynamics and structure of juvenile delinquency. Based on the development in the legislation area, a new law on the Judiciary in Juvenile Matters was adopted in 2003. The Czech lawmakers opted for an interesting solution covering, within one law, the issues of criminal liability, criminal proceedings and types of measures, including criminal sanctions that can be imposed on a juvenile age group, i.e., 15-, 16-, and 17-year-old persons. In the Czech Republic this age group consisted of 395,721 persons as of 31 December 2002. This law, within a specially modified civil process, also sets up a way of handling the case and determines the types of educational measures that can be imposed on children younger than 15 years for committed offences without the existence of the lower age limit for establishing this special type of liability.

A common feature and a leading principle appearing in the entire law common to both age groups, regardless of criminally liable juveniles or children not yet criminally liable, is the emphasis put specially on restorative approaches and alternative methods. In this respect, it is a brave legislative experiment since it is not clear how a more or less rigid criminal justice system in the Czech Republic is going to apply this in practice and whether this progressive concept will be successfully transferred from the letter of law into real life.

1. MAIN TRENDS IN JUVENILE DELINQUENCY

The Czech Republic – founded as of 1 January 2003 as one of the succession states formed due to secession of Czechoslovakia into two sovereign states, the Czech Republic and Slovak Republic, with its approximately 10 million inhabitants of which slightly more than one-tenth lives in Prague – belongs to the countries that in the last 15 years underwent rapid social, economic, and cultural development. Considerable changes can be also noticed in the demographic development where we can see a drastic drop in the birth rate accompanied by a growing average age of an individual that can lead to adverse socio-economic consequences since 1990. The trend can also be seen in the area described in this material, by decreasing absolute number of delinquent children and juveniles that can lead on one hand to positive changes whereby the referred demographic group gets more qualified attention than before; on the other hand, it is possible that a higher number of unnecessary interventions of formal social control would take place. However, this statement is only pure speculation since no serious research has been conducted on this topic within the Czech Republic (Hulmáková, 2005).

In the last decade it was often possible to encounter information on the negative development of youth crimes both in the mass media and specialized literature (Marešová, 1999). Based on police statistics it has become possible since 1989 to record a relatively considerable increase in the number of criminal acts committed