

Área 3: Socio-familiar.

**Título: Tendencias de la delincuencia juvenil en Rumania: Determinantes sociales y cognitivos.**

Autor: Maria Roth-Szamoskozi y Andrea Kurkó-Fabian

Correo e.: [rothmari@cluj.astral.ro](mailto:rothmari@cluj.astral.ro)

Palabras clave: delincuencia juvenil, dinámica, tendencias, modelos integradores, factores sociales y psicológicos.

Resumen:

El propósito general de la investigación se centra en mostrar la evolución de la delincuencia juvenil en Rumania posterior a 1989, así como algunos de sus aspectos sociales y psicológicos. Tras 1989, el fenómeno de la delincuencia juvenil tuvo un gran crecimiento, producido por el cambio social general y el empeoramiento de los indicadores de desarrollo humano (pobreza, desempleo, abuso y abandono de menores, fracaso escolar). De una media de 414 delitos por cada 100000 habitantes en 1990, se pasó a una media de 1575 en 2000, que ha decrecido a 864 delitos por cada 100000 habitantes en 2004.

La comunicación se basa en un estudio de 420 jóvenes infractores, de los cuales se analizaron los datos sobre su situación familiar, educación, edad etc. Además se realizaron una serie de pruebas psicológicas (Escala de locus de control para niños de Nowicki & Strickland, Test de reacciones de McGuire & Priestley, Cuestionario de Personalidad de Zuckerman- Kuhlman y el Test del dilema del prisionero de A. W. Tucker). Los resultados se compararon con datos de investigaciones previas en la población rumana.

Estos datos confirmaron que los jóvenes infractores son más impulsivos y tienen una inclinación mayor a la búsqueda de nuevas sensaciones, pero su capacidad para tomar decisiones en situaciones de riesgo no difiere significativamente si se compara con el grupo de control. Al analizar los datos de las pruebas psicológicas y los descriptores de la situación social de los menores infractores, parece ser que los factores de personalidad se pueden asociar al bajo rendimiento escolar y al fracaso escolar, como determinantes de la delincuencia. Se probó un modelo integrador para analizar los determinantes sociales y cognitivos de la delincuencia.

Subject area 3: Socio-family.

**Title: Tendencies of juvenile delinquency (Romania): Social and cognitive determinants.**

Author: Maria Roth-Szamoskozi y Andrea Kurkó-Fabian

e-mail address: [rothmari@cluj.astral.ro](mailto:rothmari@cluj.astral.ro)

Key words: juvenile delinquency, dynamics, tendencies, integrative model, social and psychological factors.

## Summary:

The general purpose of the research is to present the evolution of juvenile delinquency in Romania after 1989, with some of its social and psychological aspects. After 1989, imbedded in the general social changes and the worsening of some human development indicators (poverty, unemployment, child abuse and neglect, school drop-out), the phenomenon of juvenile delinquency has been confronted with a big growths. From an average of 414 offences/100000 inhabitants in 1990, it has reached to an average of 1.575 in 2000, followed by a decrease to 864 offences/100000 inhabitants in 2004.

The presentation is based on an extensive study of 420 delinquent juveniles, whose data on family situation, education, age, etc were analyzed and the youngsters were also tested with psychological tests (Nowicki & Strickland's Internal-External Control Scale for Children, McGuire & Priestley's Testing Your Reaction, Zuckerman- Kuhlman's Personality Questionnaire and A. W. Tucker's Inmate Dilemma Test). The results were compared with previous research data on Romanian population. Data confirmed that young delinquents are more impulsive and have a higher sensation seeking tendency, but their decision making capacity in risk situations is not significantly different compared to the control group. Looking at the data of the psychological tests and the descriptors of the social situation of juvenile delinquents, it looks like personality factors are associated with low school performance and school drop-out, as important determinants of delinquency. An integrative model was tested, in order to analyse the social and cognitive determinants of delinquency.

## Comunicación completa:

**Maria Roth-Szamoskozi, Fabian Kurko Andrea, Oxana Sargarovski**

### **ACTUAL PRACTICES IN THE ROMANIAN SYSTEM OF JUVENILE JUSTICE**

UNICEF Romania (2006):

The alarming increase in juvenile delinquency and imprisoned children is of great concern for Romania. The number of children in conflict with the law peaked in 1998, at 43,839 cases, five times more than in 1990, when 9,244 such offenses were reported. After reaching another low level (i.e. 14,000 cases in 2001), the number of juvenile crimes went up again in 2003, to 19,167 (6.9% of the total number of crimes). To date there is no juvenile justice system in place in Romania. Due to lack of non-custodial correction measures and community-based services for the reintegration of young offenders, and poor or no understanding of child rights, judges seem to consider imprisonment to be the only alternative for punishing offenders, even for minor crimes. Judges have no special training in the area on issues relating to children and do not understand the psychological implications of imprisonment of under-age people.

#### 1. Principles and organization

Although the Romanian child protection structural reform started in 1997, the reorganization of the juvenile justice for minors is still in the phase of reparatory or isolated legal changes, not yet a comprehensive and financially based legal system.

The Romanian legislation on juvenile delinquency claims its basis from the Beijing Rules<sup>1</sup> and the CRC. Children respond in front of the law according to their intellectual capacity, emotional development and the contextual experience.

The minor aged 14 to 16 has penal responsibility only if it is proven that he/she had judgment committing the offense, while the minor over 16 years of age has penal responsibility. For a minor aged 14-16 to be held liable for committing an offense coming under the penal Law, it must be determined if the said minor has judgment or not (UNICEF, <http://www.crj.ro/files/FINAL.pdf> , oct. 2006). Judgment is determined by forensic institutions, through expert's report based on clinical examinations and additional tests (this was added by the Government Decision no. 774 of September 7, 2000).

Under the Penal Code, persons held in custody or in detention shall be examined in the presence of security personnel of the same gender. Minors shall be examined in the presence of one of the parents or legal guardian, and if they are not available in the presence of an adult member of the family of the same gender as the minor. The law does not indicate which way and who will ensure that the adults present in the examination of the minor are really representing his/her interest (for example in situations of abusive and neglectful families).

It has been recently (art. 41, law 304, June 2004) regulated that cases involving minors shall be tried by special courts. Tribunals for minors and families will be organized in each county until 2008.

Family and minors courts try as a first judicial body the following categories of cases:

1. in civil matters, cases relating to the lawful rights, obligations and interests regarding the person of minors, denial of parental rights, petitions regarding the nullity or dissolution of marriages, petitions for the approval, nullity or dissolution of adoptions, as well as cases involving family relations;
2. in penal matters, offenses committed by minors or against minor

The law mentions that judges will be designated by the chairmen of sections who decide on the composition of the panel of judges, normally at the beginning of the judicial year, with the approval of the executive college of the judicial body, seeking to ensure the continuity of the panel of judges (Unicef, 2005). All professionals (advocates, judges, prosecutors and helpers/child and family workers) involved in the justice system or in the work with children who have to face justice in both qualities as victims or offenders – have to be trained.

---

<sup>1</sup> The Beijing Rules United Nations Standard Minimum Rules for the Administration of Juvenile Justice Adopted by General Assembly resolution 40/33 of 29 November 1985

Other institutions involved in the juvenile justice system is the Body of Guardians of the municipality, who can be requested to participate in the trials and represent the children's interest in front of the court, when the parents of children are not available, or not involved, or lost their parental rights. This body of Guardians functions since before 1990, with a low number of licensed guardians. In principle, it is a non-professional body, representing the involvement of the community in the rehabilitation and best interest of the child. We consider that its limits and roles in respect with professionals and the best interest of the child are not clearly defined, and a clarification would be needed in order to avoid overlapping of duties with social services and other professional services.

In the justice for minors the Social Assistance Services of the Municipality are also involved, who, at the request of judicial bodies conduct social inquiries in cases involving minors. There is now a discussion about the need of the Justice system to have its own, trained professionals: social workers, psychologists, probation officers, who are specialized to work with young offenders and victims, and their families. Based on the Government Ordinance no. 91/2000 and Law no. 129/2002 probation services were created: the Social Reintegration and Supervision Services (SRSS), operating under Tribunals, which prepare assessment reports for judicial bodies, with the purpose to estimate the risk to public safety or for taking preventive measures, as well as for offering information to the court to individualize punishment, in order to facilitate the rehabilitation and social reintegration of young people.

According to the Enforcement Regulations of Government Ordinance no. 92/2000, other duties of the Social Reintegration and Supervision Services include: supervision of the execution of non-custodial sanctions in order to ensure enforcement of the measures and compliance with the obligations imposed by the judicial body in the case of non-custodial sanctions; provide psychological-social assistance for the duration of the supervision; provide post-penal assistance, assistance and counseling to achieve opportunities for adaptation in the family environment, continuation of studies, compliance with legal measures, pro-social standards and values, reduce the risk to commit new offenses (Unicef, 2005).

According to the provisions in **Article 37 par. 1 let. (b) of the Convention on the Rights of the Child**, children shall not be deprived of liberty unlawfully or arbitrarily. If they are in custody, children shall be separated from adults, unless it is considered in the child's best interest not to do so. To respond to these requests, the Law 281/2003 in the chapter headed "**Special Dispositions for Minors**", sets forth special amendments regarding the hold and preventive arrest of those aged 14-16: the measures of hold and preventive arrest are taken only if the minor committed an offense punishable by law with life imprisonment or with more than 10 years imprisonment; for minors in this age group, the hold cannot exceed 10 hours, but an extension of this measure can be imposed by the prosecutor. Preventive arrest can be imposed during criminal prosecution or the trial only as an exception with a limited period (which cannot exceed 15 days). For minors who have reached 16 the duration of preventive arrest, detention can be extended to 20 days. For those who are accused of severe crimes, in exceptional cases preventive arrest during criminal prosecution can be exceeded at a maximum of 90 days. When the offenses are

punishable with over 10 years, the extension of preventive arrest, during the same phase of the penal process, can reach up to one year. For accused minors preventive arrest cannot exceed 3 days. In addition, the Code of Penal Procedure stipulates the obligation to provide immediate communication with parents and legal to the minor: Article 160 f par. 2 of the Code of Penal Procedure stipulates that “minors accused or minor defendants, detained or in preventive arrest, are provided, in all cases, obligatory legal assistance, judicial bodies having the obligation to take steps to appoint a counsel for the defense, if the minor does not have one, and to make possible for the counsel to contact directly and communicate with the arrested minor”.

These regulations are responses to the criticisms of CRC committee, which found out that (CRC/C/15/Add.199, 2003):

- A high number of children are in pre-trial detention;
- The prosecutor has discretionary powers to deny a detainee access to a lawyer for up to five days in the interest of an investigation;
- Very few children are dealt with by diversionary or alternative measures;
- There is a serious lack of capacity within the judicial system to provide rapid intervention or trial, as needed, for juvenile offenders.

The Penal law also states that both during detention and preventive arrest minors are separated from adults, in areas specifically designed. Respect of the rights and observance of the special conditions stipulated by law for minors in preventive detention and arrest are ensured by the control of a judge specially designated by the chairman of the court, by visits to preventive detention facilities by the prosecutor, as well as other bodies authorized by the law to visit preventive detainees (Unicef, 2005).

### **3. Sanctioning Minors**

**Article 40 of the Convention on the Rights of the Child** states that it is desirable to favor alternative measures to imprisonment and provide a range of restorative opportunities (guidance and supervision, counseling, probation, foster care, education and vocational training programs). The child's opportunities to develop social competence. Looking to the large number of children in prison, and the high rate of relapse after prison, keeping children out of imprisonment as much as possible. should be a priority for the juvenile system. The benefits of alternatives are recognized by Romanian specialists (Poledna, 2004, Balahur, 200). By diverting children from the punishment with imprisonment and allowing them to benefit from community services, they will be able to maintain positive ties with their family, with the school and the community and increase prospects of social integration (Unicef, 2005). Until now penal warnings, including the reprimand, unconditional acquittal and conditional acquittal are used for petty offenses, as well as fines, compensatory and confiscation.

Educational measures are the responsibility of the specialized social services within the County services for Child protection. Practice shows that the therapeutic and counseling services for troubled children within the Child protection services do not cooperate very well with the Juvenile system, and

there is little follow up between the two systems in case of children who appear in both systems. Based on the Penal Code, educational measures listed at art. 101 (reprimand, release under supervision, remand in a re-education center, remand in a medical-educational institute) have priority, the problem is that there are still few facilities and professionals which offer such services. Courts often resort to being held in custody, to the detriment of educational measures (87%, Unicef, 2005).

Though, social workers and probation officers are trained to fulfill these tasks and accompany juveniles through community integration.

#### UNICEF (2005)

In its supervision activity SRSS cooperates with the family of the sentenced person, the police, the school, other persons and institutions connected with the supervised minor, makes surprise visits, to make sure that he/she complies with the obligations imposed.

SRSS workers perceive it as a problem that assistance and counseling are only provided at the request of the supervised person. They are few those who make this request, although they are aware of this opportunity, but they think this would complicate their life, as they would have to go to SRSS more often. Nevertheless, in practice probation counselors do sit down and talk to their clients trying to counsel them and support them in solving their problems, even if they do not file a request.

From the interviews conducted at social reintegration services, it follows that the main assistance and counseling services provided to minors under supervision consist in support by supplying information and facilitating access to various institutions in order to:

- a) continue education;
- b) resume or improve family relations;
- c) obtain various documents;
- d) obtain material help or even find shelter;
- e) search and find employment;
- f) enrol in vocational training courses;
- g) access non-governmental organizations services, programs;
- h) develop social and human relations skills.

At the same time, with the assistance of psychologists they help them become aware of the causes leading them to commit an offense, to develop their capacity to empathize with the victim of the crime, to take into consideration the consequences of a certain decision, to resist peer pressure in their group.

All the probation counselors who were interviewed estimated that supervision is very effective, in the sense that very few of their clients relapsed during probation.

Nevertheless, some of the counselors consider that they cannot meet the needs of these clients adequately.

Among the problems mentioned by counselors (please see next chapter – Factors influencing the effectiveness of alternative sanctions) during interviews is the

fact that sometimes sentences reach them very late after they are pronounced and during this delay a lot of time is wasted when nothing is being done with the minor who should be under supervision. Also, there are some lost clients due to the fact that new criminal prosecution files are open on them after they have already been sentenced to probation under SRSS supervision for crimes committed before the period of probation.

Balahur, D., Probation and Community Reintegration. Probatie si reintegrare comunitara, Bucuresti., Ed.Didactica si Pedagogica, 2004

Poledna , S., Bujan , L.,(2004): Comportamentul delincvent. Factori de risc si factori protectivi/Delinquent Behaviour. Risk and Protective Factors. Raport de cercetare, III, nr. 11, Bucuresti, Ed. Didactica si Pedagogica

Poledna, S., Bratuianu, D., Dominte C., Durnescu I., Gata, L., : Activitatea de asistenta si supraveghere a persoanelor dependente de substante, in Manualul de practica in domeniul reintegrarii sociale si supravegherii , Ghid de bune practici, III, nr.9/2004, Bucuresti :Ed. Oscar Print

UNICEF Romania, [http://www.unicef.org/romania/children\\_1606.html](http://www.unicef.org/romania/children_1606.html), 2006 nov. 15)

UNICEF, CRJ (2005). *Practices and Standards in the System of Juvenile Justice in Romania*, <http://www.crj.ro/files/FINAL.pdf>

U.N. Doc. (2003). Concluding Observations of the Committee on the Rights of the Child, Romania, *RC/C/15/Add.199*, <http://www1.umn.edu/humanrts/crc/romania2003.html>