

RECIDIVISM CAN SERIOUSLY HARM SOCIETY

Liviu TOADER

Ph.D. Student, Doctoral School of Social Sciences and Humanities,
University of Craiova (Romania)

E-mail: liviutd@yahoo.com

Abstract: *Deviance in Romania is an important social problem, a phenomenon that constantly leads to research and studies aimed at analysing both the deviant behaviours of minors, young people and adults, with a view to explaining them, as well as the ways of state intervention in preventing and combating crime. A social problem, such as deviance, can affect social structure and organisation, generating reactions, attitudes, behaviours and opinions such as: What is deviance? Why does it exist? Who is responsible for its appearance? How much does it cost us? What can be done about the reduction of the phenomenon? The notion of deviance can not be understood outside the deviant's interaction with those who judge him. The punishment is becoming an essential function of public authority, for in its absence social cohesion could not be conceived, and public coerciveness is converted in this way into a constituent element of organised society. As a special form of crime, recidivism is one of the most serious social problems facing contemporary societies. Reducing recidivism remains not only an indicator of the effectiveness of structures that have target groups of prisoners or former prisoners, but also an indicator of community health. In order to support the criminally sanctioned persons, with the predilection of those released from prison it is necessary to build an institutional framework to support the former prisoner towards a positive change, from the attitude of 'to be given to me, to me' towards one of active and concrete preparation of a life away from the crime, with the active involvement of the community and institutions with the role of crime control.*

Keywords: deviance; public strategies and policies; recidivism; social problem; social reintegration.

1. Deviance and delinquency from a sociological perspective

Starting from the idea that each science corresponds to its own particular object, a reality which is imposed from outside observation and which can be studied with scientific methods, *Émile* Durkheim considers that sociology must also establish its own object, that is to say that special category of things to be dealt with only itself.

And this own object is the social fact defined by Durkheim as „any way of doing, fixed or not, capable of exerting an external constraint on the individual; or still, which is general in the scope of a given society, nevertheless having its own existence, independent of its individual manifestations” (Sudeteanu, 1924: 56).

In this context, *É.* Durkheim considered delinquency and deviance as social facts, inevitable and necessary in modern societies. According to him, people in the modern era are less constrained than they were in traditional societies. Because in the modern world there is more room for individual choice, there is inevitably some nonconformism. Durkheim acknowledged that there would never be an absolute consensus in any society about the norms and values that drive it (Giddens, 2010: 751).

Functionalist theories consider that delinquency and deviance result from structural tensions and a lack of moral regulation within society. If individual and group aspirations in society do not correspond to the rewards available, this disparity

between desire and fulfillment will be felt in the form of deviant motivations among some of the members (Giddens, 2010: 750).

As is already known, in the Durkheimian sense (sociologist É. Durkheim, author of the concept of integration), the phenomenon of deviance is characteristic of any society, regardless of the level of democracy established. Durkheim argued that deviance plays a key role in an orderly society. He argued that by explaining the deviance, we become aware of the standards we share as members of a society. And then it is no longer necessary to want to completely eliminate the deviation; rather, society must try to keep it within acceptable limits (Giddens, 2010: 752).

The sociological theory proven by experimentation as the clearest for understanding the inclination for deviance is the theory of social control. Its foundations were laid by É. Durkheim in „About Suicide.” In essence, it boils down to the assertion that insufficient social integration frees the individual from the socializing influence of his entourage, thus weakening his motivation to make the necessary effort to respect social norms.

Quoting E. Durkheim, is socially any behavior that is not due to hazard, but is regulated by „established and inevitable” rules and expectations, and „deviant” is that behavior that goes beyond the institutional and social limits acceptable by society, considered to be a moral environment. In a very well-known passage regarding the distinction between normal and pathological, É. Durkheim stated that in all human societies we find people who attract their criminal repression (Durkheim, 1895: 65).

The crime appeared to Durkheim as a normal sociology fact, because it is an integral part of life in society. To the extent that social solidarity requires everyone to share certain collective feelings, tolerating acts that strike hard in them would call into question an essential social binder. Since it is impossible for all members of a group to share collective feelings with the same intensity, there will be some who will commit acts judged as offensive by others and who will thus see themselves sentenced to a criminal penalty. A similar argument applies to deviance (Boudoun, 1992).

Durkheim said of the crime: „We do not condemn it because it is a crime, but it is a crime because we condemn it” (Durkheim, 1893: 48). This is also true for deviance: the sociologist considers that an act is deviant because it is disapproved.

Durkheim's research on deviance and delinquency proved to be extremely important, as it shifted the emphasis on individual explanations in favour of social forces. His theory of anomie inspired the American sociologist Robert King Merton, who said that „deviance represents all dysfunctional behaviors that threaten the balance of the social system.” Merton amended the concept of anomie to refer to the tension to which individuals' behaviour is subjected when accepted norms conflict with social reality (Giddens, 2010: 751).

The term deviation thus appears, for the first time in American literature, specifically in sociology, during the 1950s. That's when the notions of pathology or social disorganization were replaced.

R.K. Merton, concerned with defining the object of study of sociocriminogenesis, understood to define deviant behavior as „an abnormal reaction of normal people under normal conditions”.

Sociologist Kai Erikson wanted to test the Durkheimian thesis that the number of deviant abusers a community can afford to recognize seems to remain stable over time. Erikson published „Wayward Puritans”, a study of the 17th century deviation in

New England and the United States. His research has led him to conclude: the ability of a community to control the deviance, say, can be broadly estimated by counting prison cells and hospital beds, police and psychiatrists, courts and clinics. Control institutions often seem to regard their work as one of maintaining deviation within limits, rather than leading to its disappearance (Giddens, 2010: 752).

Deviant behaviour is behaviour that violates social norms and values, conflicting with socially, morally and culturally accepted standards within social groups or systems. It covers a wide variety of types, ranging from so-called „eccentric” behavior, defined by „unusual” gestures, peculiar clothing and behavioural disorder, to outlier, delinquent or even criminal behaviors (Otovescu, 2010: 373).

Deviance and delinquency are not synonymous, although in many situations they overlap. The notion of deviance is much more comprehensive than that of delinquency, which refers to non-conformist conduct in violation of a law (Giddens, 2010: 748).

Deviance in the sociological sense is similar to deviance in the statistical sense, deviation from the central tendency of a group, except that what is sociologically deviant is necessarily and disapproved (Boudoun, 1992: 442).

The term delinquency is of latin etymological origin and comes from the term „delinquere”, which means to be to blame, to be wrong.

According to the Explanatory Dictionary of the Romanian Language delinquency delinquency, s. f. 1. „Social phenomenon consisting of committing crimes.” 2. „The totality of offences committed at any given time in a given environment or by persons of a certain age.” [Var.: delinquency s. f.] From fr. Délinquance (DEX: 1998).

Delinquency includes motivations, conduct, heterogeneous and very diverse etiologies, random acts and nonconformist tendencies specific to adolescent subculture. In conclusion it can be said that delinquency refers only to behavior that conflicts with the law, to violation of the legal, criminal laws of the state and not to any misconduct of the behavioural type.

In all forms and notions of social deviance, delinquency has the highest degree of social danger, because it affects the most important social relationships and values and violates the moral or legal rules and norms that guide the behavior of individuals. Regarded as a form of social deviance, delinquency is a complex social part as a result of the conjugated interaction between the individual and the environment. In fact, at the level of each company there are a higher or lower proportion of transgressions of the rules which by referring them to different criteria can take the form of deviance and/or delinquency.

Deviance is defined as any act, conduct or manifestation that violates the written or unwritten norms of society or a particular social group. Defined as a type of behaviour, which opposes the conventional or conformist one, the deviation encompasses not only the violations of the law (crimes or misdemeanours), but any „deviation” (deviation) from the rules of cohabitation and the imperatives of order of a collective life form (society, group, organization, institution, culture, subculture). In this respect, the deviance includes an extremely wide range of acts or conduct, from eccentric or bizarre ones (e.g. the adoption of an unusual outfit, a non-conformist language or gesture), incompatible with the cultural „codes” of the group or society, to the so-called immoral ones (indecent, obscenity, acts that defy public morals), which are not always sanctioned by law, and to those of an antisocial nature (criminal acts

sanctioned by criminal or social regulations (psychic diseases), in its essence, as a manifestation that offends the feelings and expectations of the collective (Vlăsceanu and Zamfir, 1998: 166).

Deviance is equivalent to deviation from the rule of conduct presumed to be universal - valid, deviation due to „pathological” disturbances of the entire social organism which manifests itself with acuity, in particular, during the processes of modernisation, industrialization and urbanisation (Vlăsceanu and Zamfir, 1998: 166).

Deviance in Romania, due to the high level, is a social problem, a phenomenon that constantly determines the realization of research and studies aimed at analyzing the deviant behaviors of minors, young people, adolescents and adults, in order to explain, prevent and combat them.

A social problem is a condition that affects a significant number of people in ways considered undesirable, about which there is a sense that something can be done through collective social action (Horton, Leslie and Larson, 2001: 463–473).

Any social problem involves a value judgment, a decision that the circumstance, the condition, is „bad”. But no circumstance or condition, however dramatic or shocking, is a social problem until the values of a considerable number of people in society define it as a problem.

Social problems are often seen as the result of dysfunctions occurring in the social order. When established rules are ignored or violated, a social problem arises.

In addressing deviance, in order to analyse social issues, we need to consider a few questions: Which deviant people and groups are involved? Are deviant people fundamentally adapted unsatisfactorily to the culture of society? Or should they be considered only members adapted to their deviant subculture? Are the deviants themselves a problem? How much of deviance is a product of labelling? Does it do evil deviance to anyone other than the deviants themselves? How much of the deviance of certain social groups stems from the inefficiency of generally accepted social norms? What alternatives exist for resolving these situations?

2. Purpose and role of punishment

The concept of punishment includes, in addition to the types, duration, modes of execution, the individualisation and the customization of the application and the possibility of acting in favour of the victim, but also for the purpose of trying to resocialise the offender.

The term punishment, having its roots in greek (paideusis), neo-greek (epédepsa – pedevo) means to sanction the wrongdoer with a teaching meant to right and be good. Therefore, the punishment comes from the greek „paideusis”, which means: instruction, education, physical or moral torment applied to someone for a crime, a crime, a mistake, a negligence or even for laziness.

The notion of punishment in the language of romanian was transmitted from the romans who called the criminal sanction „poeana”. The word, however, has even older origin because the romans took it from the greeks „poini”, and these from the sanskrit language „koena” which means verification, reckoning.

It should be noted that there is also a Latin principle enshrined „nulla poena sine lege”, with current reverberations regarding the principle of legality translated into the wording „no punishment without law”. It follows that the legal institution of

punishment is created by the positive law by the criminal law itself, which determines, specifies the punishment in the legal text.

In fact, however, punishment is a suffering for the one who has disobeyed the criminal law. After all, the „evil” done consisting of the victim's suffering must be „rewarded” with an „evil” done to the offender who must also suffer for the suffering of the victim. This suffering caused by punishment should not, however, be regarded as revenge, as it was seen in the old days, but should also be regarded as a righting, having a generous ethical function, it being a „medicine of the soul”, as Aristotle said. In his work „Ethics”, Aristotle asserts that punishment constitutes a „social utility” because the community refrains from violating the law because of the threat posed by the criminal law.

Platon also said: „Those who look only at the painful aspect of punishment are wrong. They are blind to the benefit that comes from it, and they do not know that it is the greater misfortune to have no healthy soul, but rotten, unjust and sinful.” In „The Laws”, Platon, through the voice of the Athenian said that „we must seek a cure (...) so that we do not talk, do not do, and suffer nothing that we must be ashamed of.” (Platon, 1995: 67).

The holder of the right to punish is the State, which, by virtue of that right, is capable of resolving the criminal conflict in an institutional, rational and predictable, constructive, efficient and equal manner, with care for individual guarantees, thereby ensuring fair protection of fundamental legal rights.

The power to punish becomes an essential function of public authority, for in its absence social cohesion could not be conceived, and public coerciveness is converted in this way into a constituent element of organised society.

The state, when it punishes, does good even to the punished (offender) because it, by the effect of punishment, is brought back into society. In other words, the offender, as a result of the application of the penalty, is invited to form a fair attitude towards the rule of law, the rules of social cohabitation and towards work.

„Jus puniendi” has become a powerful tool for criminal policy playing an important role in preventing crime. „Jus puniendi” is a latin phrase that can be translated as the right to punish belonging to the state. It refers to the power of the state or its punitive prerogatives. Etymologically, the expression „jus” means right, while „puniendi” means to punish, the translation of the Latin expression being the right to punish or the right to punish and has been used according to the relationship that the State has towards its citizens (Molina, 2005: p. 6).

Hugo Grotius considered that "the right of society to punish is a manifestation of reason and must remain inscribed in the margins of justice and humanity." (Grotius, 1968: 17).

The application of a penalty to the person who has violated the legal norms must lead to the prevention of criminal acts by the offender – special prevention – as well as to the discouragement of other persons in the community from committing such criminal acts – general prevention – thus defending the state against internal „aggressions” affecting the rule of law (Legal, 2021).

In the 18th century, Cesare Beccaria formulated his own opinion in relation to punishment based on social contract theory and utilitarian theory. The Italian jurist wrote that: „laws are the conditions by which people – living independently and in isolation – united in society, are able to live in a permanent state of war and enjoy a

freedom that became useless precisely because it lacked the certainty of being able to keep it as such. They gave up some of that freedom so that they could enjoy the rest of the freedom they had kept in peace and securely. Sensitive-concrete reasons were needed enough to contain the despotic impulses in everyone's soul, which could have thrown the laws of society into the previous chaos. These sensitively concrete reasons are the punishments set against those who break the laws." (Beccaria, 2007: 47).

Beccaria examines not only the question of punishment, but also the right to punish, what it represents, who and how it has the right to hold the offender accountable, drawing attention to the immense responsibility for law enforcement and the division of justice. „Necessity has forced people to cede part of their own freedom: it is therefore certain that everyone wants to put in the public warehouse only the smallest possible portion, only as long as it is enough to induce others to defend him." (Beccaria, 2007: 51).

Friedrich Nietzsche considered that punishment is „overdetermined by utilities of any kind" and survives because the desire to punish other people, and therefore to subordinate, coerce and transform, is very deeply rooted in human nature (Bedau and Kelly, 2015: 23).

The sociological perspective tries to overcome the limitations of other sciences (philosophy, law, criminology, etc.) which are concerned with studying punishment, by considering the social implications of this phenomenon. Without reducing its investigation only to the way in which punishment contributes to the control of crime, the sociological approach is concerned with studying the effects it has on society in general. Since punishment is seen as a social institution, sociology adopts an external positioning of analysis, through the eyes of society, focusing on identifying the social functions of punishment, on the social consequences and cultural significance of the application of different types of sanctions. Specifically, the sociological perspective aims to understand how specific forms of punishment of individuals arise, what are the social functions of punishment, how criminal institutions relate to each other, but also with other institutions, how punishment contributes to the establishment of social order and how it helps to form and maintain the power of the state, but also what are the negative/undesirable social effects of punishment and what are its extensive social costs. Among the most influential sociologists who have shown interest in studying punishment are Émile Durkheim, Michel Foucault, Norbert Elias, as well as neo-Marxist theorists Georg Rusche and Otto Kirchheimer.

É. Durkheim, who built a theory of punishment as a retribution, defined punishment as follows: „The punishment consists of a passionate, gradual reaction, which society exercises through a body, on those of its members who have violated certain rules of conduct." (Durkheim, 1893: 64).

Punishment, as a passionate reaction, presents itself as an act of revenge evolved for the defense of society. It creates the idea of a vengeful society against the individual, by this delegation of revenge by individuals to a specialized body, having the right to punish. Paul Fauconet, an illustrious disciple of Durkheim, tried to demonstrate, using anthropology and history, that punishment is a variety of the procedure for annulment of the criminal act committed, which must rehabilitate the faith disturbed by crime. In this conception, the cause of the penalty derives not from the offender, but the offence itself incorporates into it a dissolutive process. As a result, society must stop causing crime, otherwise it may not be maintained social life. His theory is full of symbolism and seeks a

substitute for crime in positive social behaviors. It is a manner of spiritualist and consensual is the following (Chiș, 2015: 118).

Utilitarian theories have also had a strong impact on ideas of punishment, with the most prominent representatives being Jeremy Bentham and John Stuart Mill who advocate for the well-being of mankind and general happiness as essential conditions of morality. Punishment thus finds its usefulness in alleviating unpleasantness and increasing the accumulation of pleasure by discouraging the commission of antisocial acts in the future.

In view of the question of criminal sanction, its purposes and justifications, the utilitarian philosopher John Stuart Mill considers that there is a fundamental element in the relations between individuals, a basic law that controls the relationship of coerciveness and supervision between community and person, even if the method used would consist of the physical force disguised as criminal sanction or the moral pressure of the members of society.

Mill believes that the most important part of morality is justice based on utility. Moral rules that prohibit people from harm to each other are more vital to human well-being than any other, they are the main element that determines all the social feelings of humanity. Only their observance defends peace between human beings; if obedience to them were not the rule and disobedience of the exception, each would see in any other a probable enemy, to whom they should always beware. The same powerful reasons that command obedience to these moral or criminal rules also require the punishment of those who have violated them, and just as the impulses of self-defense, defense of others and revenge are directed against such persons, the desire to reward or do harm becomes closely linked to the sense of justice and is universally included in this idea (Mill, 2003: 326).

Utilitarians created the idea of a penalty based on representativeness, the punishment becoming a signal, an obstacle to the commission of criminal acts. The potential offender must show a greater interest in avoiding the punishment than in risking the commission of a crime. That interest can only be the penalty to be well known by all members of society.

We cannot leave without attention the modern doctrine of „social defence”, which promotes criminal policy aimed at effectively combating the criminal phenomenon. This doctrine concerned the thoughts of the early 20th century, which created the foundations of this doctrine, and its basic conceptions are limited to: the state has an obligation to socialize those who have violated the rules of social cohabitation, not the simple right to punish them; the individual who violates these rules is declared „antisocial” on the basis of the subjective assessment of his personality; the sanction or social defence measure has a preventive, curative, educational function, not a penalty of remuneration; social defence policy puts the entire legal system at issue, its applications extending from the study of man in society and the search for means of resocialization, to general policy (Gramatica, 1972: 633).

Social defence involves, above all, protecting members of the community, so that social defence measures, whatever they may be, must be capable of first protecting each individual member of society. This is quite natural, because any social danger is objective, as a first step, by a concrete danger to one or more identifiable individuals. The consequences of the criminal act are directly reflected only in a limited number of injured persons, but the danger that the act presents affects the whole community,

because an offence committed against any individual also constitutes a threat to all other members of society. In other words, we can say that the existence of a state of social danger (and, by implication, the need for the proper response of the society to mitigate or suppress that danger) is analysed by reference to the concrete state of danger in which one or more individuals are as a result of an aggression to which they have fallen victim. Social defence is therefore inseparable from the defence of the person, of each individual member of society.

Max Weber, in his sociological analysis of the state phenomenon, made extensive use of this notion. Thus, in Weber's view, social relations involving the participation of state authority are relations of „dominance, subordination, authority, force or power. Command-obedience ratios are at the heart of power, of power relations. It is irrelevant that the act of obedience is willingly consented to by the dominated, from his understanding of the rationality and social utility of the command, or that domination is based on coercion. The punishments imposed by the power factor confer specificity on the relations of power, although power is not limited to the use of compulsion.” (Weber, 1971: 229, *ap.* Ionescu: 94).

We note that these ideas place the emphasis on the state-person relationship, in which the state appears as the „protector” of society, by less repressive means (essentially decreases the character of coercion). Punishment is a means of state coercion, for it has a political source, as well as social-political ends; the penalty is applied by the State on behalf of society and through its specialized bodies. The State, through the State bodies, as a subject of law and holder of the social values protected by the criminal law, has the right, but also the obligation to hold criminally responsible those who are guilty of committing crimes, by which the rule of law is prejudiced.

At the same time, with regard to the essence of the criminal penalty, I agree with the view that the principle of the humanism of criminal law is reflected in criminal law and its sanctions.

This principle presupposes that the legislature must provide in criminal law only those penalties which „are fully consistent with the moral and legal consciousness of society” (Pascu, 2016: 421).

In the legal literature of our country, the concept of punishment appears as „a coercive measure, used by the State against those who are found guilty of committing crimes and consisting in depriving or restricting the exercise of rights, with the aim of re-educating the persons concerned and preventing the commission of other crimes in the future.” (Streteanu and Nițu, 2018: 281).

The Romanian Criminal Code no longer defines the penalty, but only the punishment provided for by law. The task of definition is left, on the one hand, to criminal doctrine and, on the other hand, to reduce the legal definition to the provisions of Article 187 of the Criminal Code gives specialists the opportunity to analyse the whole set of penalties, from which they can extract an appropriate definition.

Professor Ioan Chiș intended to define punishment as follows: „The punishment defines the means of coercion and force, as well as the motivation for the application of the supreme forms of sanction, exercised by the State to compensate for the damage caused to citizens or legal persons, the consequence of the commission of crimes and the need to establish the criminal order of law, by warning those who are willing to violate criminal rules, and to offer organisational possibilities of the State, such as resocialisation of criminally sanctioned persons who live in accordance with

the fundamental values and principles of living in a democratic society.” (Chiș, 2015: 299).

The provisions on the purpose of the punishment are no longer retained in the current Criminal Code (as compared to the Criminal Code of 1968) as it is contained in the law on the execution of sentences. Law No. 254/2013 on the execution of custodial sentences and measures ordered by judicial bodies during the criminal proceedings lays down the purpose of custodial sentences in Article 3, namely: „(1) The purpose of the execution of custodial sentences and educational measures is to prevent the commission of new offences; (2) The execution of custodial sentences and educational measures aims to form a correct attitude towards the rule of law, the rules of social cohabitation and work, with a view to the reintegration into society of prisoners or internees.” (Law No. 254/2013).

The institution of the criminal penalty has its legislative seat in Title III, Chapter I „Categories of Punishments” of the general part of the Criminal Code. In the Romanian Criminal Code (Law No. 286/2009), in the chapter of main penalties, are provided for life imprisonment (art. 56-59), imprisonment (art. 60) and fine (art. 61-64). Life imprisonment is the heaviest of the penalties, and is for the most serious offences, usually alternating with a prison sentence of 15 to 25 years.

The main penalty of imprisonment is provided for in Article 60 of the Criminal Code, and consists of the deprivation of liberty for a fixed period of 15 days and 30 years, and is carried out in accordance with the law on the execution of sentences (Crișu, Dunea, Michinici, et al, 2014: 136).

It should be noted that punishment is one of the three fundamental institutions of criminal law alongside crime and criminal liability.

The Constitution of Romania, in Article 23, enshrines individual freedom and the safety of the person, thus establishing two fundamental principles of the legal system: the presumption of innocence and the legality of punishment.

The individual is free to conduct his or her choices and is responsible for his or her actions, so that punishment, ethical and profound requirement of human reason, which is based on the idea of justice, is perceived as having a fundamental role in ensuring the re-education and reintegration of the individual into the community.

The need for criminal law and, by implication, the right of the State to punish is grafted onto the idea of social defence (Bulai, 1992: 10). This right is quite right, for there can be no denying to the community itself the right and the possibility to defend itself against those acts and persons who endanger its security and stability.

Professor Vasile Dongoroz and others mentioned in their famous paper „Theoretical explanations of the Romanian Criminal Code, the general part” that criminal punishment represents the concept of law instituted with the means necessary by the national state to compel the individual to comply with the law, and in the event of violation of the law – „to suffer forcibly, without his will, certain deprivations and restrictions” (Dongoroz, Kahane, Oancea, et al, 1970: 168).

Criminal punishment is a special measure of coercion by the State, which differs from other measures of state constraint, as the State's reaction to the injurious act committed, which in turn is not a criminal offence, but an offence, civil offence or breach of the discipline of work.

Professor Iancu Tănăsescu mentioned that the significance of any criminal policy lies in one characteristic: measures to punish and intimidate criminals.

Therefore, the application of the penalty is a form of the legal constraint necessary for the re-education and, by implication, the social reform of the convicted person (Tănăsescu, 1994: 171).

Punishment appears as a restoration of the balance which has been disturbed and which must be proportionate to the commission of the crime provided for by the criminal law, mandatory and determined, and will respond to the social need for justice.

Global assessments of countless attempts by criminal systems to stop the criminal phenomenon and reduce recidivism have led to the conclusion that they have not yet found the optimal solution to the situation. On the basis of practical experiments, the conviction that the solution can be offered by restorative justice has been increasingly emerged.

Restorative justice aims to balance the problems of the victim and the community, as well as the need for social reintegration of the offender, to assist the victim in the recovery process and to give all parties the right to be present and to be actively involved in justice. It also seeks to remedy the damage caused by the commission of a crime, based on an approach involving not only the parties, but also the community in general, in close liaison with the institutions specialised in the field. (Legal Dictionary, 2021).

Understanding the procedures related to restorative justice starts from understanding the action of society against the criminal phenomenon and from the justification of the action of punishing criminals.

Concerns to conceptualize the restorative justice procedure date back to the 1960.

In 1996, British criminologist Tony Marshall defined restorative justice as "the process in which the parties involved in a crime jointly determine how to deal with the consequences of the crime and its implications for the future" (Marshall, 1999: 5).

Restorative justice focuses on empowering offenders and the compensation/repair they can provide to victims. At the same time, emphasis is placed on their social reintegration both as a more humane way of treating offenders and as a concrete way to avoid recidivism.

In conclusion, it may be apparent that harmonisation with European regulations should not, however, reform the sanctioning system so strongly as to forget the purpose for which a penalty was imposed, or the humanisation of the penalty should not annul the stage by which the convict must also feel the consequences of the crime committed, since, as C. Bulai states, in *the Manual of Criminal Law. The general part*: „what is specific to punishment, as a means of re-education, is that, being the commission of particularly serious acts and therefore the need to re-educate the perpetrator, the appropriate means of this purpose can only be the measure of criminal coercion, which is punishment.” (Bulai, 2006).

3. Reducing the risk of recidivism, the main objective of the criminal justice system.

As a special form of crime, recidivism is one of the most serious social problems facing contemporary societies. For the representatives of the institutions involved in the execution of the act of justice, but also for the public opinion, the recidivism generates many concerns, due to the high costs it entails. Along with the huge costs

involved in the criminal justice system, recidivism also brings with it many unquantifiable costs. They are felt in the long term by the victims, their families and the community and relate both to the suffering of those directly affected by criminal acts, as well as to the feelings of fear and insecurity experienced by the inhabitants of areas with high recidivism (Quality of Life Magazine, 2021).

In the sense of some authors the relapse derives from re and fall, but it shows that this word is not of latin origin. Starting from the conceptual acceptance, it was found that, from an etymological point of view, the notion of "recidivism" comes from the latin term „recidivus” (Cocaină, 1995: 24), or from the latin verb „recidere” (Buzea, 1944: 715), which in translation means „relapse”, i.e., „falling into the same mistake” or „committing a mistake once again”, according to the encyclopedic dictionary. In the broadest conception, „recidivism” means „repeating the phenomenon after its apparent disappearance” (Mateuț, 1997: 51), i.e. „reiteration of crimes” (Mateuț, 2007: 214).

In accordance with the provisions of Article 41 of the Criminal Code, simply entitled „Recidive”, it is stated that: „There is a recidivism when, after the final stay of a sentence of imprisonment of more than one year and until rehabilitation or the completion of the term of rehabilitation, the convict again commits an offence with outdated intent or intent, for which the law provides for a prison sentence of one year or more. There shall also be recidivism where one of the penalties referred to in paragraph 1 is imposed on the person concerned. 1 is life imprisonment.” (Law No. 286/2009).

The state of recidivism can be defined as: the state or situation of an offender who has committed one or more offences of a certain gravity, after the final criminal conviction, a condition which gives rise to the presumption of persevering of the offender by antisocial activity and may therefore lead to an aggravation of the punishment for the offences committed in that state.

Recidivism can seriously harm society from a dual perspective: the relatively high costs of custody of an inmate in a penitentiary unit and the danger that a repeat offender poses to civil society.

According to calculations made by the National Administration of Penitentiaries (ANP), the cost of maintaining a single inmate per month is 5.180 lei and 75 money. The money provides accommodation, food, transport and security, as well as the payment of the staff in charge of the prisoners. More than two thirds of the cost per inmate is actually caused by the maintenance of the detention system.

If during detention a convicted person can derive income from the provision of services which may not be less than the gross minimum basic salary per country guaranteed in payment, in relation to the work schedule and, where appropriate, the degree of achievement of the working rule determined by the work evidence carried out in the presence of persons delegated by both Contracting Parties (art. 183 of Law No. 254/2013 on the execution of sentences and custodial measures ordered by judicial bodies during the criminal trial), upon leaving the penitentiary, persons who do not have the means of money, the ANP will ensure to them the consideration of transport to the residence or residence of the person who is released, at the level of the minimum tariffs charged by the National Railway Company „C.F.R.” - S.A., for passenger transport (Article 117 of Law No. 254/2013 on the execution of sentences and custodial measures ordered by judicial bodies during criminal proceedings). Prisoners

who can go out to work are selected from open and semi-open. These are therefore prisoners with sentences of up to 3 years, which do not involve serious or violent offences.

Prisoners are not required to go out to work. If they agree, they can earn days, get out of their sentence and increase their chances of being released on parole, being paid at least the minimum wage on the economy. It's just that the money is divided, according to the law, like this: 60% of the income goes to the penitentiary and 40% to the inmate. Of the remaining money, the convicted person can spend only 90% of the amount while he is locked up. The remaining 10% is set aside in an account to which he has access only to the prison leave.

Specialist studies have shown that individuals often leave prisons without the prospect of obtaining a job or a home, with health problems or associated with alcohol and drug addiction, etc. This phenomenon has been a topic of debate and analysis both at the level of institutions with a crime control role and at the level of the Romanian media (written media, radio and television), providing statistical data and relevant information on the evolution of recidivism and the criminal policies promoted by the Romanian state, with a view to diminishing the crime rate.

It is said that advertising is like air, that nothing can be created, built, succeeded, whether it is the promotion of a product, an organization, a party or a person, without the appeal to the knowledge and experience of communication specialists, who have become indispensable (Coman: 30).

Television is seen as the most agreeable way of information and the easiest to understand. In this context, the film industry has also demonstrated that it can be a genuine source of information.

Thus, the social problem of social reintegration was translated into a film, generically titled „2 lei 60”, a short film signed by Camelia Popa, a story that talks about categories and social prejudices, about entourage and broken relationships (Cinepub, 2021). Two inmates of different ages and social categories are released from prison on the same day. Their chances of reintegration into society start with two sixty lions, the road money they receive at the time of their release. Their struggle for reintegration is a struggle with their own nature, the prejudices of society and the temptation of an easy life offered by the old entourage. The stories of the two individuals of different ethnicities and ages are likened by the temptations that arise, through the stigma, the entourage and the violent past, that follow them, and by their struggle to keep themselves away from yet another condemnation.

At the heart of this film is the project „The ethnography of transitions to prisoners” which aims to acquire an advanced understanding of the process of social reintegration from the subjective perspective of prisoners. The processes, interactions, meanings and conflicts inherent in reintegration are examined from the perspectives of Roma and romanian prisoners.

The project „Ethnography of transitions to prisoners” has proposed to acquire an advanced understanding of the process of social reintegration from the subjective perspective of prisoners. The processes, interactions, meanings and conflicts inherent in reintegration were examined from the perspectives of Roma and romanian prisoners. In order to assess the impact of the cultural, political and social environment on the reintegration process, the research was carried out in two countries: Norway and Romania. Thus, the research universe included four distinct groups of prisoners:

20 romanian prisoners, 20 romanian prisoners of Roma ethnicity, 10 romanian prisoners imprisoned in a norwegian prison and 5 Roma prisoners imprisoned in a norwegian prison. In order to make it possible to compare between the two countries, the data collection and analysis processes followed the same pattern. (About [Justice, 2021](#)).

The study „Ethnography of transitions to prisoners” carried out in 2016-2018 at the Bucharest-Jilava Penitentiary, describes the process of reintegration, from the subjective perspective of persons deprived of liberty. Part of the conclusions of the analysis, with regard to the post-detention period, reveal the following problems with influences in the occurrence of recidivism: prisoners are released from the penitentiary with little money (2,6 RON those in Bucharest), being minority to those who have higher amounts at the time of release, as a result of work performed or coming from the family; releases may take place at late hours, with problems with the movement of the person released from home detention or to a temporary social shelter; for 95% of prisoners involved in research, the State is „non-existent”, who show distrust of it; most prisoners are in a state of heightened precariousness, especially those of Roma ethnicity or those who are socially isolated; few prisoners turn to institutions or authorities to solve their various problems or do not know who to turn to and how to proceed; most are convinced that they will be marginalised and have no chance of employment; few are homeless, but they are a very vulnerable category; lack of monitoring of former drug users or those with serious illnesses, lack of health card and impossibility of accessing medical services.

Regarding the post-detention period, Professor Ionuț Durnescu (2018) noted that it can be staggered as follows: in the first 2-4 weeks, prisoners have reduced mobility, concerned with restoring contact with the family and restoring after the traumatic experience of detention; after the first 2-4 weeks there is a desire for economic autonomy, with a chance of success if they benefit from the support of the family or a social network. The author states in the study that they have two weeks to succeed.

The findings of the research, with reference to the workplace, reveal the following aspects to be taken into account: prisoners are convinced that state support is non-existent; most choose undocumented work, associated with a whole range of risks (occupational instability, inconstant pay, inability to access medical services, etc.); earnings from work are often small and do not offer real prospects of social success away from the criminal career; lack of education and identity documents are serious obstacles to finding a decent job; one third want to emigrate; fears of persons deprived of their liberty that the existence of a criminal record may have a negative influence on finding a job; most of the time, the jobs found are seasonal and target unskilled work; entrepreneurship is sometimes a disguised form of unemployment and can be a response to the impossibility of finding a job. Although the studies presented above have targeted prisoners in certain prisons (Oradea, Bucharest-Jilava), their conclusions may be extended in terms of the relevance of the issue faced by persons deprived of liberty in prison units (Law 5, 2021).

An analysis of the causality and how certain individuals continue the criminal trail is represented by the perspective of risk factors. From this point of view, there are a number of factors that strongly correlate with the risk of relapse, and their accurate

and early identification is a key aspect in the development of individualised intervention programmes on the situation of each individual.

Specialists in estimating the risk of recidivism stress that antisocial attitudes, antisocial entourage, criminal behavioural history and antisocial personality are the central variables that correlate with relapse, and other significant factors, but moderated in intensity, are: problematic family circumstances (lack of affection, poor surveillance, neglect or abuse), problematic educational or lucrative circumstances (low educational level, lucrative instability), problematic/non-constructive leisure arrangements and substance use.

Drawing on the theory of general personality and cognitive social learning, James Bonta and Donald Andrews in his paper „Psychology of Criminal Conduct” (1998), provide an overview of the theoretical context and the major knowledge bases of criminal conduct psychology. They provided the Risk/Need/Responsibility (RNR) model for assessing and treating offenders, which has guided developments around the world.

Risk assessment is a process in which the offender is evaluated on the basis of selected variables that increase the likelihood of „error” if proven to exist. These variables or „risk factors” are further divided into static and dynamic factors. Both categories are causally associated with criminal behaviour. Static factors are historically based, stable and cannot be changed. Dynamic factors are present at the moment and can be influenced. Examples of static factors include the history of previous sentences, sex, type of crime, family crime or motivation for committing previous crimes. The age at which the offender committed the first offence is a very good risk indicator of future behaviour and a risk factor that cannot be changed: if an offender was first arrested at the age of twelve, this will always exist. Typical dynamic factors include financial situation, workplace, attitudes that encourage the likelihood of criminal conduct, addiction, family relationships, friends and criminal acquaintances or recreational activities. In some sources, these dynamic factors are also referred to as „criminogenic needs”, in other words, factors that generate crime and are closely correlated with risk (Combating ill-treatment in prisons, 2021).

From the point of view of the recidivism rate, there is currently no evidence in our country, precisely because of the absence of a framework for regulating the obligations to monitor released detainees, the National Strategy for the Social Reintegration of Deprived Persons of Liberty, 2020-2024 shows. On the other hand, the data managed by the National Administration of Penitentiaries (ANP) show that the share of recidivist prisoners, from the general prison population, indicated, in the last 12 years, a relatively downward trend, as follows: 44.82% (2009), 44.93% (2010), 45.87% (2011), 45.78 (2012), 45.78% (2013), 43.00% (2014), 40.33% (2015), 38.27% (2016), 38.37% (2017), 38.44% (2018), 38.40 (2019) and 38.46 in September 2020, out of a total of 21128 custody persons (20176 men and 952 women). (National Prison Administration, 2021).

Recidivism prevention activity should mainly aim at correcting, coordinating and re-educating convicted persons, in order to facilitate reintegration into open society. Interventions to prevent recidivism must be clearly correlated with continuous risk assessment for each offender. The paradox of about 40% of offenders who reoffend is that they do not find their place in society, and government institutions with a crime control role cannot provide them with solutions to be able to suppress their

desire to commit a new crime, although a significant percentage of the population lives modestly or even in poverty without resorting to any acts against the legal provisions.

4. The concept of social reintegration

The execution of sentences, non-custodial measures and custodial measures ordered by judicial bodies during the criminal trial aims to reintegrate criminally sanctioned persons into society.

Reintegration presupposes primarily their return to society, to the community, to the family, to the area where they lived and formed as self-aware persons. Reintegration also involves changing the way of life, occupying a socially appropriate place, through which to ensure a decent, legal and personality-developing life in the future.

Education, reeducation and resocialisation are three other topical concepts for all members of society, especially with regard to criminally sanctioned persons, particularly those released from detention, who have particular deficiencies in primary education. Against particular types of criminals, the activity of education and reeducation must be approached differently, not only by trying to change conceptions of life, but also by providing opportunities to obtain, with the help of society, the means of honest and legal existence in the post-execution period.

Education involves an extension of initial education, a major change that occurs over time, compared to the previous model received in family, school and society, whereby criminally sanctioned persons develop skills, enrich their knowledge, improve their professional qualifications, reorient their attitudes and behaviours in a dual perspective: through personal development and participation in social life.

Resocialization, a new concept that also includes education and re-education, tends to make its way more and more into approaches to persons deprived of liberty. Resocialization, a process by which those who have been convicted can resume their place, role and social life prior to the execution of the sentence, of course without committing any other crimes, seems to be the main purpose of non-custodial and custodial sentences, the way in which this is achieved being a growing concern of government institutions (Chiș, 2015: 546).

Of real interest in the proposed theme, remains the perception of civil society on the process of resocialisation and reintegration of persons deprived of liberty returning to the community, family, at work, in school, given that this vulnerable category, at risk of social exclusion, is more prone in relation to the majority of the population to commit new criminal acts, using various means of meeting their own social needs, which requires increased attention on the part of the state and institutions with the role of controlling crime, in the effective management of the phenomenon of crime and recidivism.

In order to achieve the objective of social reintegration, it is necessary to link the needs of persons serving custodial sentences with issues of education, social assistance and social inclusion and to ensure the competition of local communities in carrying out this type of activities both as partners of the prison service, but also as beneficiaries of the social reintegration programme. Adapting educational and psychosocial assistance programmes to the needs of persons deprived of their liberty, the community's awareness of the importance of social reintegration of persons who have served custodial sentences, the diversification of the offer of education and

psychosocial assistance programmes and activities, with a view to involving as many persons deprived of their liberty as possible, leads to a reduction in the risk of recidivism (National Administration of Penitentiaries, 2021). However, there has never been a question of the effectiveness of these programmes in removing from the conduct of criminals the desire to reoffend. In practice, the re-education work carried out with persons deprived of their liberty must be continued **even after** their release from prison, by preventing the social marginalisation of the former prisoner. The latter involves, on the part of the community, a process of resocialization which consists of a phenomenon of abandonment of previous beliefs and attitudes, of stigmatization and social exclusion of the former convict and of learning and adoption of new conceptions and behaviors regarding the perception of the former prisoner in the community.

It is also necessary for society as a whole to promote an attitude of tolerance towards the former prisoner, therefore considering him to be a person whose problems can be solved, not by isolating him from the community, but by including him. In reality, however, this does not happen, they carry the label of ex-prisoner for the rest of their lives, most of the time. Perhaps this is precisely where approaches should be nuanced, that is, in promoting tolerance and acceptance towards such people and beyond. The principle that prisoners are deprived of their liberty in order to be rehabilitated and helped to integrate into society, and not just to be punished and isolated from the community, must be understood and applied. Such principles of social inclusion of former detainees are successfully followed in other countries in Europe, such as Norway, where only 20% of detainees are repeat offenders and the crime rate is the lowest in the world.

We cannot confuse the acceptance or toleration of the convict with that of criminal groups, where committing a criminal act is a habit, an integration, a way of earning a living or all at the same time, but it must be an attempt to understand the particular situation in which the person is in and avoid labelling in any way.

The positive evolution of the concept of resocialization in Romania, has materialized with the emergence of Law No. 275/2006. In this law, In Chapter VI, new regulations were introduced on educational, cultural, therapeutic, psychological counselling and social assistance activities, school training and vocational training of persons sentenced to custodial sentences. For the first time, the old concept of „re-education of convicts” has gone from to the new phrase „social reintegration of persons sentenced to custodial sentences” and the concept of „recovery of minors”. By Regulation implementing Law No. 275/2006 explicitly introduced the purpose of the execution of sentences, namely „assisting persons deprived of their liberty with a view to their social reintegration and preventing the commission of new offences”.

On 19 July 2013 Law No. 254/2013 on the execution of sentences and custodial measures ordered by judicial bodies during the criminal proceedings which makes it an absolute novelty to establish resocialisation procedures by category of persons convicted in relation to the regime applicable to them.

In 2015 a programmatic document of the Romanian Government on the reintegration of persons deprived of liberty called "National Strategy for the Social Reintegration of Deprived Persons, 2015-2019" was drawn up. By promoting Government Decision No 389 of 27 May 2015 on the approval of the National Strategy for Social Reintegration of Persons Deprived of Liberty, 2015-2019, a national, interinstitutional, articulated mechanism was created to support the process of social

reintegration of persons deprived of their liberty. A system was also developed to diagnose the training and professional development needs of specialists at the level of the institutions responsible for carrying out social reintegration activities with persons deprived of liberty (both during detention and post-detention and seven interinstitutional procedures were developed, five of which were approved and implemented.

Consecutive to the evaluation of the activities carried out through the implementation of Government Decision No. 389/2015, through the Monitoring Report of the National Strategy for Social Reintegration of Persons Deprived of Liberty, 2015-2019, drawn up in the form of a memorandum, approved at the Government meeting on 24 April 2019, the proposal to continue activities was validated by a new draft Government Decision, valid for the strategic cycle 2020-2024.

In the coordinates presented, the new strategy approved by Government Decision No. 430/2020 on the approval of the National Strategy for Social Reintegration of Persons Deprived of Liberty, 2020-2024.

The new document envisages the measures implemented in the period 2015-2019 that need to be continued, the development and customization of locally available social support services for people returning to the community at risk of social marginalisation, as well as new measures that need to be carried out during the reference period. At the same time, it is developing the functional reintegration of persons deprived of their liberty in the family environment, the community and the labour market, by strengthening, optimising and developing the necessary legal and procedural mechanisms.

It is considered that, in order to ensure the translation between the prison environment and the community, it is necessary to have structures in place to take over persons released, to provide them with specialized services and to monitor them, in order to successfully overcome the critical post-detention period, in which there is a high risk of a relapse into crime.

In order to increase the chances of reintegration into the labour market of persons released from detention, it is necessary to regulate the legislative framework so as to make it possible to conclude individual employment contracts for persons deprived of liberty, in particular those in open regime, given that the work performed at various economic operators requires this form of regulation of employment relations, which would have a real impact also to facilitate socio-professional reintegration.

The aim of the current strategic approach is to make criminal policies more efficient and to prevent the marginalisation of persons who have served custodial sentences or measures by increasing social involvement and empowering the community. Moving the focus from assisting the person during detention (and, by implication, improving the quality of services made available to him during his or her stay in the penitentiary), to social rehabilitation, through instruments that support autonomous living and facilitating access to support services in the community, is the foundation of the emerging directions of action for the current strategy.

This new strategic exercise gives partner public institutions the chance to resume and strengthen the partnership under the auspices of the Ministry of Justice. Reducing recidivism remains not only an indicator of the effectiveness of structures that have

target groups of prisoners or former prisoners, but also an indicator of community health.

Social reintegration can be particularly difficult when the person returning to society has to live by old habits, in the same family or entourage where crimes are committed. In this case, proper reintegration begins by leaving that climate and by trying to „restore life”, often having particularly large material and social obstacles.

Integration into work, after the release from prison of former prisoners, constitutes a particular social problem, since, in times of crisis, some companies have restructured and closed their activities, on the one hand, and on the other hand, they are hardly accepted or rejected when they declare that they have suffered a conviction. Added to this is poverty, alcoholism, unemployment, drug trafficking, the promotion of violence in the media, abuses and discrimination, which are the great scourges of Romania, and also some of the risk factors of crime (Niță, 2012: 225).

In order to support those released from prison, it is necessary to establish a partnership with civil society and the community. This involves, imperiously and necessarily, a joint action, between all public governmental institutions and NGOs with legal powers and concerns, in the field of preventing and combating antisocial acts, which is why this particularly important activity requires coordination at the level of managers (Niță, 2012: 36).

However, research shows that people are not involved in solving community problems due to their socio-economic status, the low impact of individual participation in collective participation, lack of time and money, lack of knowledge and information, and lack of confidence in their chances of being effective. Few of us worry too much about things that don't directly threaten us.

When an act once judged as deviant no longer provokes reactions, it means that it has ceased to be deviant. The notion of deviance cannot be understood outside the deviant's interaction with those who judge him (Boudon, 1997: 441).

When social reaction is to be described, value judgments abound: it would be gratuitous, partial, subjective, discriminatory, repressive, intolerant. Research shows that there is a greater tendency towards tolerance and leniency when the offender is a relative or friend of the victim than when he is a stranger.

Another study reveals the most widespread attitudes towards social problems. Possibly, the most widespread attitude is that of indifference. The general interest in a social problem, such as relapse or social reintegration, is likely to arise, only when people feel a serious threat to their living or, try a real „shock” when their values are questioned or even cancelled.

Another way to react to deviance is to tolerate it. To abstain, accept or to quietly endure the behavior of another condemned. By definition, the act ceases to be deviant, for by reaction or abstention from reaction the normative boundaries of a group are drawn. Contrary to what some claim, if behaviour is tolerated, it will not disappear by itself (Boudon, 1997: 461). There are people who believe that the best way to deal with a difficult problem is to endure it quietly, with stoicism, and so they will not even try to solve that problem. On the opposite side we find the cynicism that some people manifest towards social problems. We can see in their assertion that discussion and action on one social issue or another is just a waste of time. They believe that people are motivated only by their own interest and that other „noble” reasons are nothing but illusions.

A third type of reaction to deviance can be called stigmatization. This is how reactions that risk exacerbating the deviance are designated, instead of reprinting it. This occurs when a deviant is subject to an exclusionary measure from society which removes him from the group's area of influence.

Stigmatised deviants (i.e. labelled and excluded) will be forced to develop solutions that will allow them to survive rejection by society by methods not always compliant but the rules of social cohabitation.

5, Conclusions

As a special form of crime, recidivism is one of the most serious social problems facing contemporary societies. For the representatives of the institutions involved in the execution of the act of justice, but also for the public opinion, the recidivism generates many concerns, due to the high costs it entails. Along with the huge costs involved in the criminal justice system, recidivism also brings with it many unquantifiable costs. They are felt in the long term by the victims, their families and the community and relate both to the suffering of those directly affected by criminal acts, as well as to the feelings of fear and insecurity experienced by the inhabitants of areas with high crime rates.

Recidivism occurs when, after leaving prison or after executing a non-custodial sentence, the individual does not choose the path of rehabilitation, but relapses in the old patterns of behavior, committed one or more crimes.

Studies and investigations into criminal execution studies show that punishment is not sufficient to reduce recidivism and protect the community, although the execution of custodial sentences and educational measures aims to form a fair attitude towards the rule of law, the rules of social cohabitation and work, with a view to the reintegration into society of convicted persons.

Criminal policy makers, practitioners and researchers have tried to identify the most viable measures by which the state can intervene effectively to keep criminals under control who repeatedly threaten the safety of their community.

By promoting and entering into force Law No. 252/2013 on the organisation and functioning of the probation system and Law No. 253/2013 on the execution of punishments, educational measures and other non-custodial measures ordered by judicial bodies during the criminal trial, the reintegration and social reintegration of former prisoners and criminally sanctioned persons has become one of the priority objectives of the work of the Romanian Government. In both normative acts the social reintegration of criminally convicted persons appears as a clear and programmatic strategy, with the involvement of the criminally convicted person as well as the community in the execution of punishments and non-custodial educational measures ordered by the judicial bodies during the criminal process. The aim of the measures of Community sanctions and measures is to reduce the social costs of the enforcement of criminal sanctions and measures by reducing the population of prison units, harnessing the socio-economic potential of offenders and maintaining the safety of the community.

The aim of regulating the execution of sentences, non-custodial educational measures and other non-custodial measures aims to ensure the balance between the protection of society by maintaining the rule of law, preventing the commission of new offences, and keeping in the community the person who has committed one or more

acts provided for by criminal law. In order to achieve the objective of social reintegration, it is necessary to involve local authorities in the process of social reintegration of criminally sanctioned persons.

Thus, the organisation and conduct of the execution of non-custodial sentences and measures is carried out, in the cases provided for by law, by institutions in the community, under the coordination of the probation service. In particular, legal persons governed by public law participate in the conduct of the abovementioned activities, by decision of the probation counselor or, where appropriate, by provision of the judge delegated to the execution.

Legal persons governed by private law may also be involved in activities of organising and carrying out the execution of non-custodial sentences and measures if they are empowered under the provisions of Article 20 of Law No. 253/2013 on the execution of sentences, educational measures and other non-custodial measures ordered by judicial bodies during criminal proceedings. For example, only companies that have granted a public service may apply for the organization of the execution of unpaid work for the benefit of the community. The consideration of the benefits of persons performing unpaid work for the benefit of the community within companies shall be transferred to the State budget, unless the consideration of the benefits is used to finance vocational qualification courses for persons under the supervision of probation services.

Also, by developing the new strategy approved by Government Decision No. 430/2020 on the approval of the National Strategy for the Social Reintegration of Deprived Persons of Liberty, 2020-2024, the development and customization of locally available social support services for persons returned to the community at risk of social marginalisation and new measures to be carried out during the reference period are envisaged. The new document also aims at the functional reintegration of persons deprived of their liberty in the family environment, the community and the labour market, by strengthening, optimising and developing the necessary legal and procedural mechanisms.

In order to increase the chances of reintegration into the labour market of persons released from detention, it is necessary to regulate the legislative framework so as to make it possible to conclude individual employment contracts for persons deprived of their liberty, in particular those in open regime, given that the work performed at various economic operators requires this form of regulation of employment relations, impact and to facilitate socio-professional reintegration.

The aim of the current strategic approach is to make criminal policies more efficient and to prevent the marginalisation of persons who have served custodial sentences or measures by increasing social involvement and empowering the community.

Recent studies show us that the legislature uses alternative measures where possible, as soon as there are the prerequisites for the recovery without deprivation of liberty of the convicted or criminally sanctioned person, the use of the institutions of pardon, amnesty, renunciation of punishment, postponement of the application of the sentence, suspension of the execution of the sentence under supervision, conditional release. All these measures tend towards the lower use of the custodial sentence, which is carried out in the environment in which other convicts with a negative influence on those with whom they come into contact are also carried out.

The concept of resocialisation in the current conditions of the execution of the sentence is more comprehensive, taking into account the multitude of variants of the execution of the sentence that are related to the co-ordination of the personality and behaviour of the condemned person in order to reintegrate socially.

Reintegration presupposes primarily their return to society, to the community, to the family, to the area where they lived and formed as self-aware persons. Reintegration also involves changing the way of life, occupying a socially appropriate place, through which to ensure a decent, legal and personality-developing life in the future.

Rehabilitation of the convict is one of the last doctrinal elaborations called to justify the punishment, according to which the punishment is meant to change or transform the personality of the offender in accordance with the provisions of the law. The punishment must look forward, not to the seriousness of the offence, but rather to the ability of the convicted person to change by the punishment imposed, by its duration and intensity.

The application of the punishment must lead to the influence of the conscience of the condemned and this is achieved by completing the mutual function of coercion with that of re-education of the punishment. The re-education of the offender is aimed at both special and general prevention for other members of society who, knowing the punishment, adapt their conduct.

Some experts and practitioners consider that punitive responses are inadequate, they need to be replaced by therapeutic correctional strategies, which focus on conduct reform, treatment, induction and resocialization. As regards the effectiveness of this measure, some authors have pointed to a reduction, but not large, in criminal behaviour, especially in the first period after release in the case of prisoners.

We believe that the humanisation of the sanction is the only right step towards social reintegration, and the aim of rehabilitation must be closely linked to the negative or positive behaviour of the convict. The assumption is the basis of the conviction's recovery, and we note that Dostoievsky's statement, respectively, is still topical: "the degree of civilization of a nation is measured by its prisons" (extracted from Feodor Mikhailovici Dostoievsky's novel, *Memories of the House of the Dead*, written in 1862, after he had also been in prison).

In conclusion, we note that reducing the recidivism rate remains not only an indicator of the effectiveness of structures that have target groups of prisoners or former prisoners, but also an indicator of community health.

My invitation is to ponder possible answers to questions such as: „What kind of ex-prisoner do you want to meet on the street? With one helped to reintegrate into society or a hard one in the penitentiary who, not being supported by the community in the process of social reintegration, will return with the same beliefs and problems as when he entered?” or „Did you know that recidivism costs? And a lot more?”.

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