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Reoffending - its Criminal, Criminological and Penological Aspects¹

Introduction

The presented scientific paper deals with the criminal, criminological and penological aspects of reoffending. Scientific research in the field was carried out as part of applied research supported by the Slovak Research and Development Agency. In the elaboration of the paper, we focused our work on solving the problems associated with reoffending. We believe that the issue of reoffending or its existence is an element that influences, among other things, the effectiveness of the criminal system in a given country. In the context of the elaboration of our scientific contribution we aim to point out or clarify the facts that predetermine and influence the origin and development of reoffending in the conditions of the Slovak Republic. We also aim to point out the theoretical as well as practical issues affecting reoffending and its structure. In order to fulfil our defined objectives, we consider it justified to define the basic questions or hypotheses that we will verify in the context of our scientific paper. However, when verifying the hypotheses, we will pay attention to the fact of verifying the relevant facts resulting from the scientific theoretical basis and from the application practice.²

The current form of the Slovak criminal procedure differs in many respects from the historically conditioned form of the traditionally inquisitorial model of the criminal process. This is due not only to the gradual domestication of certain elements that are not inherent in this process, but also to the gradual inclination towards the idea of the so-called restorative justice.³ Restorative justice, as we will also state in the text, has a significant impact on reoffending and its elimination. Greater use of restorative justice in prisons, resp. a large number of experts oppose the imposition of a custodial sentence. According to them, the penalty of imprisonment is contrary to the basic principles of restorative justice.⁴ However, we agree with the current prevailing view that the concept of restorative justice applies to the whole of criminal proceedings and all institutions involved in it, while the continuity of restorative ideas

¹ This work was supported by the Slovak Research and Development Agency under the Contract no. APVV-19-0102.

² This information was obtained from the facts obtained during the conducted interviews. Guided interviews were conducted with experts working in penitentiary practice for more than 10 years - Remand prisons and correctional facilities Bratislava. We conducted controlled interviews with 6 participants.

³ KURILOVSKÁ, Lucia a Stanislav ŠIŠULÁK. Dohoda o vine a treste - čiastočná privatizácia trestného konania. In: 3. Košické dni trestného práva. Košice: Vydavateľstvo ŠafárikPress UPJŠ, 2019, s. 98.

⁴ GAVRIELIDES, Theo. Reconciling the notions of restorative justice and imprisonment. *The prison Journal*. 2014, č. 4, s. 480.

may be the expected element that gives the relevant processes their overall meaning.¹

The first task in evaluating what reoffending really is and how it manifests itself in the conditions of criminal law, criminology and penology in the Slovak Republic, who is a recidivist and what are the basic attributes of reoffending is the fact of knowing the obvious connections.

In the context of the above, and, of course, taking into account the objectives, we have determined the following hypotheses or basic questions, which we will answer in our paper.

- ✓ 'Is it essential to look into or address the facts that are associated with reoffending? What are the facts? Can we influence or eliminate them?
- ✓ What facts at the theoretical level and what elements at the level of application practice determine the nature of reoffending, its origin and existence?"

By looking at the given questions and by means of the methods we have chosen, we will then continue and look at reoffending through the perspective of an optic that will purposefully lead us to the answers to the questions we have set out. In order to meet our objectives, we have chosen scientific methods that will guarantee or, as much as possible, help us in our scientific research. Among the given methods we included analysis, synthesis, observation of theoretical relevant facts connected with the given issue. Subsequently, we will also conduct guided interviews with experts from the application practice, who will clearly define the facts associated with reoffending in the application practice.

Clarification of the given facts and answering the questions set out by us is justified by its fact to point out that reoffending, whether criminal, criminological but also penological, exists, however, it is necessary to examine how it can be eliminated, or to achieve the situation when the reoffending percentage will be minimal.

Basic research questions - Reoffending in the context of basic relevant concepts

Reoffending can be classified as something complex, something that is a great burden for criminal policy as such. However, as we have already mentioned, reoffending has existed since the distant past and will continue to exist. There is the vision that the reoffending rate will be reducing, but only provided that all parts and components of the criminal system will create a complex of activities aimed at reducing and eliminating reoffending to the greatest extent possible. In order to clarify the nature of the origin of reoffending, it is justifiable to discuss the definition of the basic concepts. The definition of basic concepts will guarantee us the situation when we will be better oriented in the given, chosen issue and we will know its primary starting points.

¹ AERTSEN, Ivo. Where are we heading? In: BARABÁS, T. a kol. *Responsibilitytaking, relationship-building and restorations in prison: mediation and restorative justice in prison settings*. Budapešť: P. T. Műhely, 2012, s. 265.

As the title of our scientific paper implies, we deal in more detail with reoffending in criminal law, criminology and penology. Criminal law, criminology and penology refer to reoffending as the repeated commission of a criminal offence or criminal behaviour. For the reason stated, we encounter the terms *criminal reoffending* and also *reoffending of criminality* in the context of their meanings. In the context of the aforementioned, we would also like to mention the facts that we have acquired during our studies, the analysis of the professional literature, that it is possible to find synonymous terms in the Anglo-Saxon professional literature: *chronic offender, habitual offender, criminal lifestyle or criminal career*.

There is, of course, a legitimate difference between the characteristics and nature of reoffending in criminal law, criminology, and penology.¹ Therefore, we subsequently point out the individual definitions and characteristics that predetermine its relevance in that particular field. We believe that it is the definition of these relevant terms that is essential to the specific research and inference of the nature of reoffending.

Criminological reoffending - is symptomatic of committing a criminal offence repeatedly, regardless of whether the offender has been convicted or prosecuted for a previous criminal offence.² In criminology, reoffending is usually studied by an examination of a person - recidivist, findings from psychiatric and psychological examinations of the personality of the recidivist, and sociological investigations of the social environment in which he/she moves. There is also frequent research occurring, focused primarily on the criminal specialization of offenders - recidivists.³

For the sake of comparison, we state that in the case of criminology's conception of reoffending, we do not speak of, or do not distinguish between, the reoffending of intentional criminal offence and criminal offence committed by negligence. Criminology considers the offender committing both intentional criminal offence and criminal offence by negligence to be a recidivist.⁴ It does not distinguish between them.⁵

Criminal reoffending - is characterized in the case when the same offender commits a criminal offence after having been finally sentenced by a court for another, previous criminal offence.⁶ However, the criminal law definition of reoffending must take into account the fact that there is a difference between *reoffending, concurrence*

¹ BOURKE, Andrea. Pre-Sanction Reports in Ireland: An Exploration of Quality and Effectiveness. *Irish Probation Journal*. 2013, vol.10, s. 56.

² KOLEKTÍV AUTOROV. 2021. *Kriminológia – osobitná časť. 1. diel*. Bratislava: Akadémia Policajného zboru v Bratislave, 2021, s. 149.

³ MAREŠOVÁ, Alena; BLATNÍKOVÁ, Šárka; KOTULAN, Petr; MARTINKOVÁ, Milada; ŠTĚCHOVÁ, Markéta; TAMCHYNA, Miroslav. *Kriminální recidiva a recidivisté (charakteristika, projevy, možnosti trestní justice)*. Praha: Istitut pro kriminologii a sociální prevenci, 2011, s. 20.

⁴ KLIMEK, Libor a kol. 2020. *Kriminológia vo vnútroštátnom a medzinárodnom rozmere. 1. vydanie*. Bratislava: Wolters Kluwer SR, 2020, s. 139.

⁵ MARKOVÁ, Veronika a Tomáš STRÉMY. 2019. *Trestné právo hmotné. Všeobecná časť*. s. 170.

⁶ ĎURANA, Vladimír; KORGGO, Dušan a Darina MAŠLANYOVÁ. *Trestné právo hmotné – všeobecná časť*. Bratislava: Akadémia PZ, 1995, s. 107.

of criminal offences and false reoffending. In order to avoid any confusion of these terms, we provide their characteristics.

Concurrence. We speak of concurrence if one offender has committed two or more criminal offences before being sentenced for any of them by a court of first instance and if the criminality of any of them has not been terminated.¹

False reoffending occurs when the offender commits a criminal offence between the date of delivery of the judgement of conviction by the court of first instance and the time the judgement becomes final.

Penological (penitentiary) reoffending - the penitentiary understanding of reoffending lies in the fact that the convicted person repeatedly becomes a convicted person. Thus, he/she will find himself/herself again in a service of a term of imprisonment already after completing a service of a term of imprisonment.² In the notion of penitentiary reoffending, it is justifiably important to mention the penitentiary treatment of the convicted person.³ Because, in our opinion, which is also supported by experts from the application practice, as long as penitentiary treatment is effective and purposeful, there is a high probability that the reoffending rates will decrease.

Directly connected with the concept of *reoffending* is the concept of *recidivism*. It is accepted in society that these are synonymous terms, but this is not the case at all. *Recidivism* is the dangerous state of the offender, and it follows from the given that reoffending is a product of the offender's dangerous state.⁴

The definition of the basic relevant concepts is also indispensable for answering the questions we have set out. If we do not know the basic concepts that form the primary pillar of the issue under study, we will not be able to continue our scientific activity and we will not be able to answer the questions put by us. Among other basic concepts that are associated with the issue we are studying are the following concepts.

The control of reoffending is characteristic of the control of the number of recidivists on the basis of statistical data,⁵ but also of the activities of state and non-state entities that contribute to the elimination of reoffending with their effective

¹ IVOR, Jaroslav; POLÁK, Peter; ZÁHORA, Jozef. *Trestné právo hmotné 1*. Bratislava: Wolters Kluwer, 2016, s. 307.

² MAREŠOVÁ, Alena; BLATNÍKOVÁ, Šárka; KOTULAN, Petr; MARTINKOVÁ, Milada; ŠTĚCHOVÁ, Markéta; TAMCHYNA, Miroslav. *Kriminální recidiva a recidivisté (charakteristika, projevy, možnosti trestní justice)*. Praha: Istitut pro kriminologii a sociální prevenci, 2011, s. 9.

³ MAMOJKOVÁ, Eva a Ivan NOVÁK. *Základy penologie*. Bratislava: Akadémia Policajného zboru v Bratislave, 2015, s. 110.

⁴ Kolektív autorov. *Kriminológia – osobitná časť. 1. diel*. Bratislava: Akadémia Policajného zboru v Bratislave, 2021, s. 150.

⁵ Author's note: Information on the number of recidivists can be found, for example, in the Statistical Yearbooks of the Ministry of Justice of the Slovak Republic and in the Crime Records and Statistics System, of course, if we are talking about reoffending in criminal law and penology.

means - e.g. probation and mediation, penitentiary, post-penitentiary care¹ and the activities of civic associations. We will also discuss reoffending statistics in more detail in the following text.

In the criminal law definition of reoffending, it is also possible to examine a very important fact, which is *the types of reoffending*. In order to know the types of reoffending, it is necessary to break down reoffending according to the nature of the crime committed, according to the time span between the final court decision and the commission of the next crime, but also according to the classification of reoffending in the provisions of Act No. 300/2005 Coll. the Criminal Code (hereafter referred to as "the Criminal Code").

According to the nature of the crime committed

General reoffending, non-homogeneous, we can also talk about the broader concept of reoffending. General reoffending takes into account the recurrence of criminal activity as such, regardless of what criminal offences the offender commits.

Generic reoffending, homogeneous, a narrower concept of reoffending and is characteristic of the fact that it requires the offender to have committed criminal offences of the same or similar type. The same type of criminal offence is characteristic by the same generic features of their objects, i.e. the features of facts of the criminal offence.

Individual, special, reoffending is characterized by the fact that the offender, after a final conviction, commits the same criminal offence as the one for which he/she was convicted. In connection with this fact, we can also say, as with the previous type of reoffending, that it is its narrower conception.

Reoffending can also be classified according to the "*specialisation*" of the offender. In this case, it is possible to speak of *monotropic reoffending*, when the recidivist always commits only the same criminal offence - a monotropic recidivist. *Homotropic reoffending* occurs when a recidivist commits homogeneous criminal offences. If a recidivist commits two types of criminal offences, we speak of *ditropic or amphitropic reoffending*. *Polytropic reoffending* is when a recidivist commits more than one type of crime.²

According to the time span between the final court decision and the commission of the next criminal offence, reoffending can be classified as follows:

Time-limited reoffending - reoffending for which the provisions of the Criminal Code stipulate a certain time span from the previous final conviction.³ For example, Section 170a (2) (a) of the Criminal Code.

Indefinite reoffending - reoffending in which the Criminal Code makes no reference to any time span in the context of which the offender is required to commit

¹ Author's note: The national project "Chance to return", whose creator is the General Directorate of the Prison and Judicial Guard Corps and partners are institutions for serving a term of imprisonment (10 out of 18) and the Centre for Labour, Social Affairs and Family.

² KLIMEK, Libor a kol. *Kriminológia vo vnútroštátnom a medzinárodnom rozmere. 1. vydanie*. Bratislava: Wolters Kluwer SR, 2020, s. 138.

³ IVOR, Jaroslav; POLÁK, Peter; ZÁHORA, Jozef. 2016. *Trestné právo hmotné 1*, s. 319.

a criminal offence after a final conviction. For example, Section 216 (2) (a) and Section 217 (2) (a) of the Criminal Code.

Reoffending as such can also be classified on the basis of its classification or *occurrence in the Criminal Code*. *Reoffending included in the general part of the Criminal Code*. We consider reoffending included in the general part of the Criminal Code as a generally aggravating circumstance - Section 37 (m) of the Criminal Code or Section 47 (2) of the Criminal Code - application of the principle of “*three times and enough*”.

Reoffending included in a separate section of the Criminal Code. Reoffending, which is an essential feature of the facts of the criminal offences, but it is also a fact that conditions the application of longer length of custodial sentence. It is usually referred to in the qualifying facts.

In the context of the facts we have presented, we have not mentioned the fact that reoffending has a decisive and fundamental *impact on the phenomenology of crime* (the state, structure and dynamics of crime), but also on *the aetiology of crime* (the causes and conditions of committing crime). Reoffending is not a one-time event. It is a process of correlation of interrelated elements, therefore it is necessary to understand and comprehend all the connections associated with it. Recidivists can be men, women, but also juveniles. It follows from the above that reoffending of criminality and its control is an issue of importance for the whole of society. Since if the offender has become an offender again, reoffending has occurred, there is a presumption that the purpose of the sentence has not been fulfilled and efforts to reform the offender have failed.

Reoffending as a problem of society

Tracking the development, multiplicity of reoffending can serve as a criterion of the effectiveness of intervention activities of the society (programmes of treatment of convicted persons, service of a term of imprisonment, alternative sentences). It is clear that if the structure of the currently applied treatment programmes does not work, the number of recidivists increases and it is necessary to change the programme of treatment of convicted persons. When reoffending is used as a criterion for the effectiveness of the programme of treatment of convicted persons, as a general rule a two-year period following the release of the convicted person from imprisonment is taken into account.¹ Also, if a high number of recidivists and a high number of convicted persons are registered, it is advisable to apply, if possible, the imposition of an alternative punishment. In this case, it is possible to find one of the answers to the questions set out by us in the introduction of the scientific paper. “Is it essential to look into or address the facts that are associated with reoffending?” It is clear from the analysis and synthesis of the expertise we have acquired during the research that the unequivocal answer is “yes”. Without knowing the facts and attributes associated with reoffending and also being able to identify them, it is impossible for us to eliminate reoffending effectively and purposefully.

It is essential to realize that reoffending is generally an aggravating factor in our country's criminal justice system. In the current wording of the Criminal Code we can

¹ WILSON, D. 2001. *Recidivism*, s. 237.

find reoffending as a generally aggravating circumstance, but the application of the provision of Section 37 (m) of the Criminal Code is optional. The court may disregard this fact depending on the nature of the previous conviction. It is thus an expression of a certain type of material corrective¹. Consideration shall be given to the type, nature, seriousness and time elapsed since the previous conviction and other individual circumstances arising from the process of seeking, evaluating and reviewing evidence.² The relationship between previous and subsequent convictions, the offender's profile and the fact that the offender is likely to continue in criminal activity and the necessary measures applicable for the purpose of his/her re-education, are also assessed. Thus, all the facts conditioning the concept of reoffending as an aggravating circumstance.

Reoffending also conditions the application of a longer length of custodial sentence in certain cases. Repeated commission of criminal offences in certain cases is a circumstance for the application, when punishing the offender, of a longer length of custodial sentence and is also a feature of selected qualified facts.³ For example in Section 145 (1), (2), (3) of the Criminal Code.

Reoffending is a statutory feature of the facts of selected criminal offences. For certain criminal offences, reoffending is a feature of the essential facts of the criminal offence, i.e. that the facts of the criminal offence are fulfilled only when the offender commits unlawful conduct repeatedly within the meaning of its objective features.⁴

Reoffending and the principle of "twice and enough". This principle is characteristic in the commission of the criminal offence of premeditated murder and is defined in the Criminal Code, specifically in Section 144 (3). *In relation to the principle of "three times and enough", which is typical in the application of Section 47 of the Criminal Code - Life imprisonment.* Life imprisonment may be imposed by the court only for exhaustively defined criminal offences listed in the Criminal Code, these are criminal offences for which the Criminal Code permits it in a special part and only under certain conditions.

On the basis of reoffending, it is also possible *to increase the lower limit of custodial sentence* according to Section 38 (5) of the Criminal Code, when it is clear that if an offender repeatedly commits a crime, the lower limit of custodial sentence prescribed by law is increased by one half.

¹ Author's note: the material corrective is a specific feature of criminal law, which is intended to ensure compliance with the principle of ultima ratio, or the principle of subsidiarity of criminal law repression, i.e. that criminal law and its sanctions should be the last possible means of investigation and punishment, if other mechanisms cannot be used due to the circumstances.

² DRUGDA, Juraj. Vývoj právnej úpravy vybraných inštitútov prípravného konania. In: *Efektívnosť prípravného konania – jej skúmanie, výzvy a perspektívy: Zborník z medzinárodnej vedeckej konferencie*. Bratislava: Univerzita Komenského v Bratislave, Právnická fakulta, 2020, s. 47.

³ MARKOVÁ, Veronika a Tomáš STRÉMY. 2019. *Trestné právo hmotné. Všeobecná časť*, s. 172.

⁴ Section 378 of the Criminal Code.

Pursuant to Section 38 (6) of the Criminal Code, it is clear that if an offender repeatedly commits a particularly serious crime, the lower limit of custodial sentence prescribed by law is increased by two thirds.

Reoffending in connection with a service of term of imprisonment is also very specific. Specificity is characteristic precisely because serving a term of imprisonment is specific. It is specific precisely because a large number of convicted persons are concentrated in a certain place, which is an institution for serving a term of imprisonment. In view of this fact, it should be noted that each individual is an individuality, and therefore it is considerably difficult to concentrate such a large number of people in one place without creating tense situations and conflicts. One of the classifying factors is also reoffending. Reoffending also predetermines the classification of the convicted person in the context of the *external differentiation* of a service of imprisonment, i.e. the placement of the convicted person within the *guarding level*. The court shall, as a rule, place a convicted person for serving a term of imprisonment in an institution for serving a term of imprisonment in the following manner.

With a minimum guarding level if he/she has not, within the last ten years prior to the commission of the criminal offence, been serving a sentence of imprisonment imposed on him/her for an intentional criminal offence.

With a medium guarding level, if within the last ten years prior to the commission of the criminal offence, he/she *has been* serving a term of imprisonment imposed on him/her for an intentional criminal offence; however, any previous conviction shall not be taken into account if the offender is treated as if he/she had not been convicted.

The court shall place an offender who has been sentenced to *life imprisonment* or *an offender who has committed a particularly serious crime* in an institution for serving a term of imprisonment with the *maximum guarding level*.¹

In answering the question: "*What facts at the theoretical level and what elements at the level of application practice determine the nature of reoffending, its origin and existence?*" we take the liberty to mention the following facts that result from the application practice and have also been confirmed to us by the experts involved in the system of treatment of convicted persons, but also participate in building an effective criminal justice system in our country. According to the data processed by the Ministry of Justice of the Slovak Republic and according to the information from experts from the application practice, an element that appears to be an effective means to reduce the reoffending rate is the institute of conditional release (parole) with the ordered technical control. From 1 January 2019, when this institute was introduced, 312 petitions for conditional release were submitted by the directors of the institutions until 31 December 2020, while 201 convicted persons were released and 45 petitions have not yet been decided by the court or the investigation of the technical conditions by the probation and mediation officer is still in progress. Probation activities, i.e. activities performed by the probation and mediation officers within the scope of their work, are listed in Section 3 (1) and (2) of

¹ Section 48 (1), (2) and (3) of the Criminal Code.

Act No. 550/2003 Coll., the Act on Probation and Mediation Officers.¹ We also point to the fact that mediation programmes, activities in criminal justice have been gradually applied in Europe on the basis of legislative measures since the end of the 1970s.² We consider this fact to be very important also in view of the facts and contexts related to reoffending that we have reported.

When looking at previous figures on parole decisions for convicted persons, it should be emphasized that more than 2/3 of these figures are the result of activity in 2020. For comparison, in 2019, 143 petitions were filed by the directors of the institutions and 72 convicted persons were paroled; in 2020, 169 petitions were filed and as many as 129 convicted persons were paroled. An even more interesting finding demonstrating the justification of the implemented measures of the Penitentiary and Judicial Guard Corps and legislative changes effective from 1 August 2019 (amendment to Act No. 301/2005 Coll. the Criminal Procedure Code, which allowed conditionally released persons to apply, after 2/3 of the original sentence, for termination of technical monitoring) is the fact that while in 2019 out of 264 convicted persons who fulfilled the specified conditions, with the exception of the technical monitoring conditions, which are assessed only at a later stage of this process, 121 convicted persons did not agree with submitting a petition of the director of the institute, and in 2020, out of 209 convicted persons who fulfilled the specified conditions, only 40 convicted persons did not agree with submitting a petition of the director of the institute.

In addition to the quantitative impacts of the above-mentioned institutes, as explained to us by experts from the application practice, the Department of Applied Penological Research of the Department of Prison and Penal Enforcement of the General Directorate of the Penitentiary and Judicial Guard Corps started in 2020 with a long-term catamnestic monitoring of 98 convicted prisoners who have been released on parole until 31 December 2019 or whose remaining custodial sentence has been converted into a sentence of house arrest. The monitoring of the above sample involves evaluating the impact of the above-mentioned institutes on penological reoffending in 6, 12 and 24-month waves after the release. The results so far show that out of 58 convicted persons who were released using the above-mentioned institutes and 16 months have passed since their release, only two convicted persons have returned to serve their sentences and only one of them committed a new criminal offence while serving a sentence of house arrest.³ As the mentioned alternative to an unconditional sentence of imprisonment, the sentence of house arrest is undoubtedly perceived also with regard to its systematic inclusion

¹ KURILOVSKÁ, Lucia. Rekognoskácia probácie a mediácie v slovenských podmienkach. In: *Restoratívna justícia a alternatívne tresty v aplikačnej praxi: Zborník príspevkov z medzinárodnej konferencie*. Praha: Leges, 2015, s. 56.

² KURILOVSKÁ, Lucia a Ivan SVOBODA. *Kriminologické aspekty činnosti probační a mediáční služby*. 1. vyd. Bratislava: Akadémia Policajného zboru, 2021, s. 30.

³ ROČENKA Zboru väzenskej a justičnej stráže za rok 2020. [online]. [cit. 2021-05-07].

Available on the Internet: https://web.ac-mssr.sk/wp-content/uploads/2021/Statisticka_rocenka_2020/ZJVS/Ro%C4%8Denka%202020.pdf

in the list of the types of sentences that can be imposed for criminal offences committed under the Criminal Code.¹

As an application of an effective element of combating reoffending and building an effective system of elements that eliminate the origin of reoffending, it is also possible to impose *protective supervision* on an offender - recidivist. On the basis of these facts it turns out that the application of elements of restorative justice in the criminal system of our country has a high impact on reoffending or its rate.

Phenomenology of reoffending

In conceptualizing the actual impact of reoffending on society and on individuals in society, it is necessary to know the individual attributes and phenomenologies that influence the reoffending rates. Crime is generally a negative phenomenon that threatens the harmonious development of society.² Crime adversely affects the economic, social, moral and cultural condition of the whole society. Due to *the danger of reoffending*, in addition to those mentioned above, we also mention the following aspects that substantially affect society.

- Reoffending makes up a significant part of crime.
- The resistance of recidivists to society's efforts to intervene with them aimed at correcting their antisocial behaviour and their negative impact on others.
- The negative impact of recidivists on youth, novice offenders. This is particularly evident in the conditions of imprisonment, where recidivists hold a dominant position in the prison hierarchy, influencing other convicted persons, often with much greater influence than prison staff.³
- *Recidivists commit the most socially serious criminal offences.* The criminal activity of recidivists is characterized by the following typical features.
- Better preparation for the commission of a criminal offence than, for example, by first-time offenders.
- The use of improved procedures in the commission of criminal offences and smoother organisation of criminal activities.
- The danger of reoffending and recidivists lies in the fact that recidivists have a negative impact on the whole society. They affect the public, but especially its youngest members.
- Recidivists have the advantage that they are often able to react on the basis of their "criminal experience" when committing subsequent criminal offences. This includes, for example, "covering one's tracks" and the like.

As we have already mentioned, and it is also very important to draw this conclusion within phenomenology, is the statistical profile of the reoffending rate and

¹ MIHÁLIK, S. Trest domáceho väzenia v Slovenskej republike v kontexte legislatívnych zmien. In: *Ukládání trestů a jejich výkon. Sborník příspěvků z konference pořádané PF UK a UOČR dne 4. června 2020*. Plzeň: Aleš Čenek, 2020, s. 326.

² DIANIŠKA, Gustáv; STRÉMY, Tomáš; VRÁBLOVÁ, Miroslava a kol. *Kriminológia*. 3. vyd., 2016, s. 75.

³ VÁLKOVÁ, Helena; KUČHTA, Josef; HULMÁKOVÁ, Jana a kol. 2019. *Základy kriminologie a trestní politiky*. 3. vydání, s. 357.

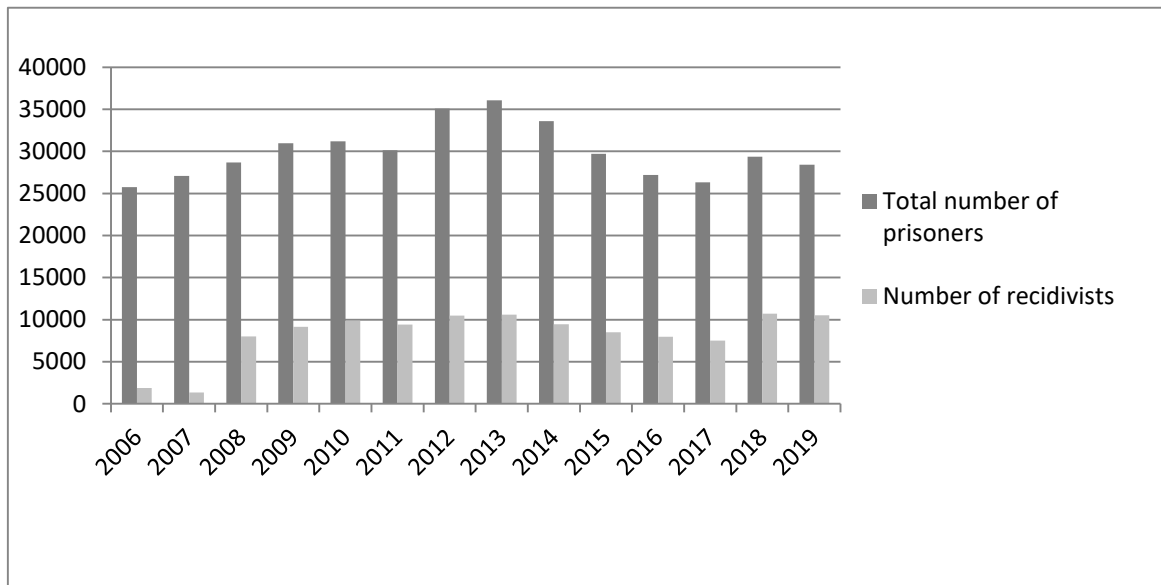
its basic elements that have been characteristic in the Slovak Republic in recent years. For the purposes of our research, we have chosen data ranging from 2006 to 2019.¹ The following data, table and graphs compiled by us, show the total number of convicted offenders, the total number of recidivists and, consequently, the numbers of recidivist males, females and juveniles.

Table1 Reoffending in the Slovak Republic in the years 2006–2020

	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Men	1717	1239	7214	8203	8831	8304	9259	9338	8241	7414	6951	6422	9079	8966
Women	133	78	634	754	874	933	1016	1062	1070	957	941	985	1372	1294
Youth	42	22	165	187	176	183	194	198	153	146	95	101	254	259

Source: own elaboration from the Statistical Yearbooks of the Ministry of Justice of the Slovak Republic.

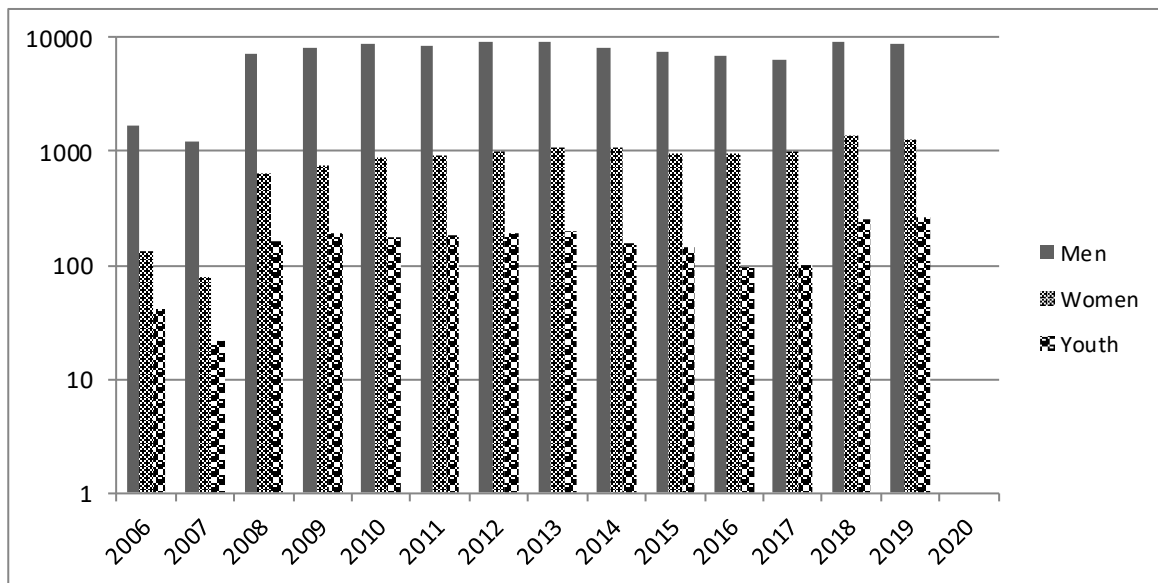
Graph 1 Share of recidivists in the total number of convicted persons



Source: own elaboration from the Statistical Yearbooks of the Ministry of Justice of the Slovak Republic.

¹ Author's note: At the time of the scientific paper, the processed data for 2020 was not yet available.

Graph 2 Share of gender in the total number of recidivists



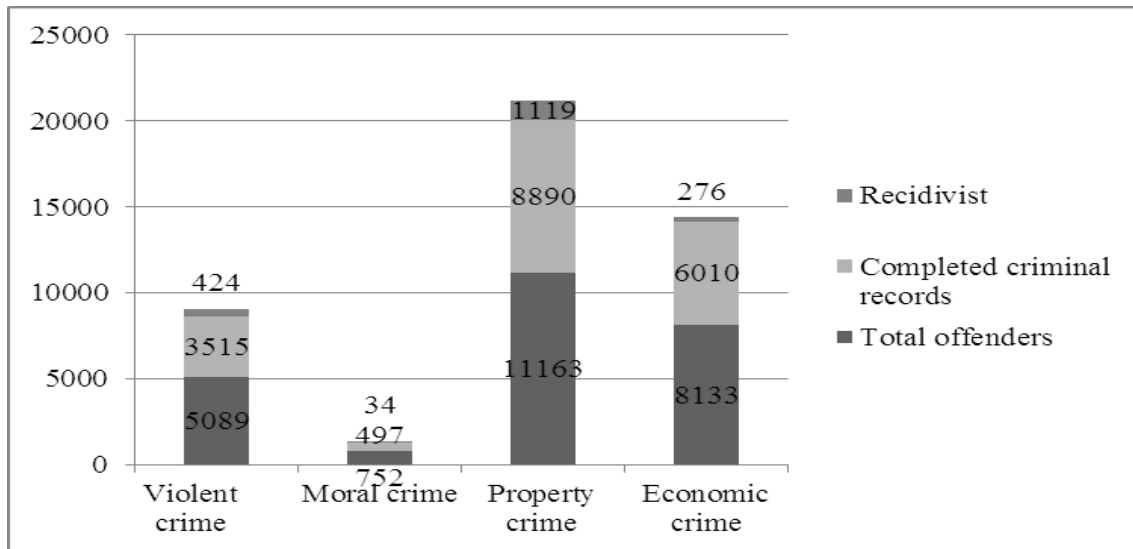
Source: own elaboration from the Statistical Yearbooks of the Ministry of Justice of the Slovak Republic.

From the information we provide, it is clear that the total number of people convicted by us who have been recidivists over the years we have treated varies. The highest number of convicted recidivists was in 2013; on the contrary, the lowest number was in 2006. Looking at the share of recidivists based on gender, we state that the highest number of recidivists is made up by male. The lowest number is of juvenile recidivists. However, it should be pointed out that the number of juvenile recidivists was highest in 2019 across the range of years examined. Compared to 2006, when the number of juvenile recidivists was at its lowest, it has increased more than 6-fold.

The data processed by us and from the Crime Records and Statistics System show that the highest share of crime committed by recidivists are criminal offences against property, namely theft. This is also evident from the fact that the overall share of criminal offences committed is the highest in the case of criminal offences against property. The second group of criminal offences most frequently committed by recidivists includes criminal offences against family and youth, more specifically, the most frequently committed criminal offence is neglect of compulsory maintenance. The fewest criminal offences committed by recidivists are those listed in Title V of the Criminal Code - economic criminal offences.

For the purposes of processing our paper, we decided to point out the statistical indicators characterizing data on the number of prosecuted and investigated persons in comparison with the number of recidivists in the Slovak Republic in 2017, 2018 and 2019. Quantitative indicators characterize the most common crime, namely violent crime, moral crime, property crime, economic crime.

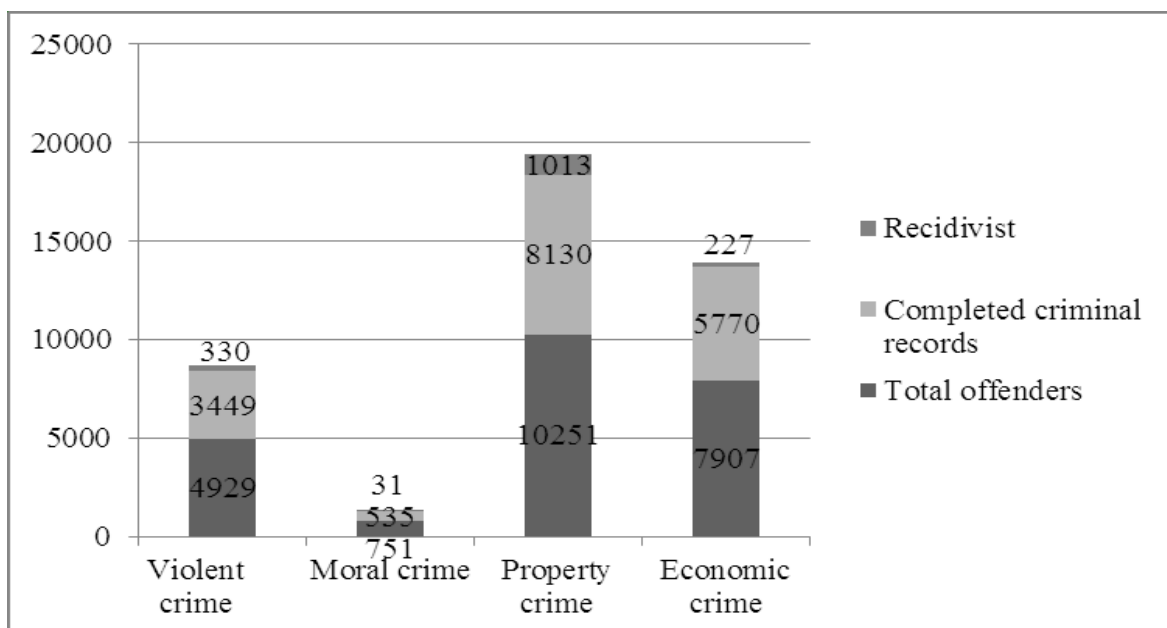
Graph 3 Share of prosecuted and investigated persons in comparison with the number of recidivists in 2017



Source: own elaboration from the Evidence-statistical system of crime the Slovak Republic.

In our analysis, the year 2017 was characterized by the fact that the highest number of recidivists was recorded in property crime. Of the total number of perpetrators, 10% of recidivists were registered in property crime. The opposite was moral crime, in which a total of 752 perpetrators were registered, of which 34 recidivists, which accounted for 4.5%. Economic crime was in second place in the total number of perpetrators in the range of crimes we compared. The percentage of recidivists in economic crime was 3.4%. The number of solved crimes in 2017 was the highest for property crime.

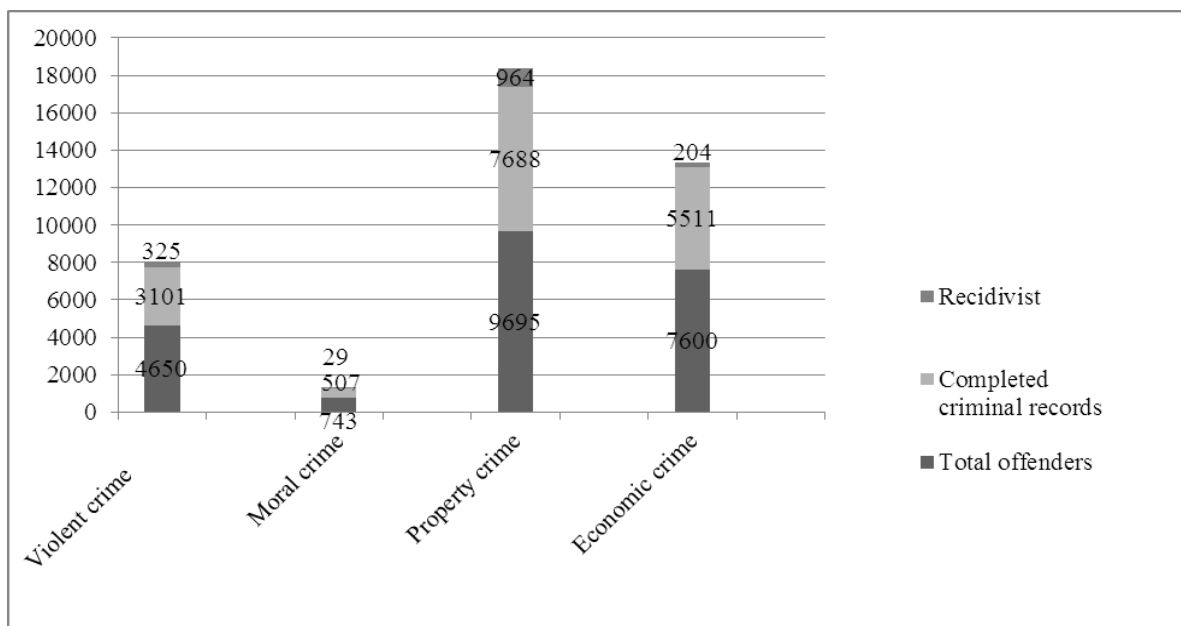
Graph 4 Share of prosecuted and investigated persons in comparison with the number of recidivists in 2018



Source: own elaboration from the Evidence-statistical system of crime the Slovak Republic.

In 2018, within the sum of the types of crime we monitored, the most offenders were recorded for property crime. The number of recidivists was also the highest in property crime, accounting for 9.9%. The second most numerous crime was economic crime and offenders - recidivists accounted for 2.9% of the total number of offenders. Violent crime was the third most numerous of the types of crime we monitored. The percentage of recidivists in violent crime was recorded at 6.7% of the total number of perpetrators. Moral crime accounted for the lowest percentage of the types of crime we monitored. Recidivists were also registered the least when committing moral crime. The highest number of completed criminal files was in 2018 for property crime.

Graph 5 Share of prosecuted and investigated persons in comparison with the number of recidivists in 2019



Source: own elaboration from the Evidence-statistical system of crime the Slovak Republic.

After the analysis and processing of the given quantitative indicators, it can be stated that in 2019 the most perpetrators were recorded in the commission of property crime. Recidivists were also recorded the most in property crime. Of the total number of identified offenders, 9.9% were recidivists. For economic crime, the percentage of repeat offenders was 2.7%. Compared to 2018, the number of perpetrators of economic crime decreased by 307 and the number of recidivists by 23. In violent crime committed by a total of 4650 perpetrators, the share of recidivists was 6.9%. Compared to 2018, we record a decrease of 556 perpetrators and 49 recidivists in property crime. In comparison with the number of completed criminal records, a decrease is recorded for each crime we monitor.

Discussion and conclusions

"Is it essential to look into or address the facts that are associated with reoffending? What are the facts? Can we influence or eliminate them? What facts at the theoretical level and what elements at the level of application practice determine the nature of reoffending, its origin and existence?"

This set of questions was outlined in the introduction and has been answered by us individually in the course of our scientific work. For the sake of summary and suggestions for further work and discussion, we take the liberty to briefly summarize the essential, relevant facts. When evaluating the facts processed by us, also with regard to answering or verifying the hypotheses set out by us, we believe that cognition and exploration of reoffending is absolutely necessary. However, it is not only reoffending that needs to be examined, but also all the facts, circumstances and elements that are associated with it. Only on the basis of all the general and common features will we be able to clearly define a specific structure for eliminating the reoffending rate in our country. In order to eliminate reoffending as effectively as possible, it is necessary, as our findings show, to involve all the competent elements that have an impact on this fact in this imaginary system of control, the “fight” against reoffending. The theoretical facts that are associated with reoffending help us identify and define its basic theoretical value that can be confronted with the application practice. The findings and verification of our hypotheses set by us led us to the fact that without a good theoretical basis and effective application practice, the reoffending rate will not be eliminated. When analyzing statistical indicators on the number of perpetrators, on the number of completed criminal files and on the number of recidivists for the years we selected, it is clear that the most frequent crime is property crime, as mentioned above. The share of recidivists in the total number of all perpetrators is also recorded in property crime. This fact implies the fact that prevention in the context of its application should be increasingly applied to property crime. However, the question is also worth saying: “Why is this the case?”, “Do perpetrators of property crimes face low penalties or are these penalties ineffective?” also affected the recurrence rates recorded in our country.

From the statistical data that we also present in our scientific paper, it is clear that the reoffending rate is decreasing taking into account the processed years; this is a very good sign that the activity carried out in this area meets the required characteristics, but this does not mean that it does not need to be more effective. On the contrary, we believe that the system for controlling reoffending needs to be further built and reduced to a minimum, including through elements of restorative justice. However, the frequency of recurrence is increasing among adolescents, which is a sign of the fact of paying attention to the essence of prevention, resp. impact on young people. If nude recurrence prevention is effective, its percentage can be expected to decline. In order to achieve this, it is necessary, in our opinion, to create and streamline current ongoing preventive activities. We believe that our scientific activities will also contribute to building and improving an effective system aimed at eliminating reoffending in our country.

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- Evidenčno-štatistický systém kriminality.

SUMMARY

The presented scientific article entitled: "Recidivism - its criminal, criminological and penological aspects" provides comprehensive information on recidivism, its criminal, criminological and penological aspects. In this context, the author points out the basic concepts, points to recidivism as a social problem and characterizes the phenomenology of recidivism. The scientific article is the result of the author's scientific activity within the APVV project entitled: "Effectiveness of the preparatory procedure - its research, challenges and perspectives" - applied research.

Key words: recidivism, recidivist, punishment.

RESUMÉ

KRÁSNÁ, Patrícia: RECIDÍVA - JEJ TRESTNOPRÁVNE, KRIMINOLOGICKÉ A PENOLOGICKÉ ASPEKTY

Predkladaný vedecký článok s názvom: "Recidíva - jej trestnoprávne, kriminologické a penologické aspekty" poskytuje ucelené informácie o recidíve, jej trestnoprávných, kriminologických a penologických aspektoch. Autorka poukazuje v týchto súvislostiach na základné pojmy, poukazuje na recidívu ako na spoločenský problém a charakterizuje fenomenológiu recidívy. Vedecký článok je výsledkom vedeckej činnosti autorky v rámci projektu APVV s názvom: Efektívnosť prípravného konania – jej skúmanie, výzvy a perspektívy"- aplikovaného výskumu.

Kľúčové slová: recidíva, recidivista, trest.

