

Prevention of Deviant Conduct in Minors in Romania

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ABSTRACT: The prevention of juvenile delinquency represents an important part of preventing criminality in a community, so that the legislative system had to adopt humane activities and orientations with respect to young persons for the purpose of developing non-criminal attitudes. The pursuit to prevent juvenile delinquency materialized in a series of international legal measures to ensure a balanced development of teenagers, with respect for their personalities, which have been largely taken over in national legislation, as a series of plans and programs for the young, with funds, resources and services for their treatment. In concrete terms, Romania took a series of measures in accordance with international conventions, that were inserted in the Romanian Constitution, in the Criminal Code, in special procedures of the Criminal Procedure Code, and also in special legislation for the protection and promotion of children's rights.

KEYWORDS: juvenile delinquency, prevention of crime, deviant conduct, minor, educational measures

Introduction

The prevention of deviant behavior of minors has been of concern to most countries in the world, as it is of particular importance in preventing crime in society. In this sense, various legal provisions have been adopted in the legislative system as well as humanistic guidelines for minors to develop with non-criminogenic attitudes. I would mention here the French author Raymond Gassin who supports a preventive criminology that must be in line with both the orientation of criminal policy and the Community measures adopted in various European countries. He considers that the term prevention means both to anticipate (prevent crime) and to warn (warning with the occurrence of a possible crime) (Buneci 2019, 69 where he quotes the author Raymond Gassin).

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The concern for the prevention of deviant behavior has existed since the publication of the Criminal Code in 1969, after which there was a real criminological research on juvenile delinquency. Thus, a series of studies were conducted on the investigation of several thousand minors, and their conclusions showed that minors can commit criminal acts on the basis of known but unresolved behavioral disorders, due to lack of institutions, prosecuting late, without any preventive purpose. For this reason, social control through the intervention of justice proved to be low in relation to the number of crimes committed in the form of real competition, and pre-trial detention diminished the possibilities of re-education when the court ordered by court order educational measures.

Moreover, deviant behavior is understood as a behavior that is not desired by society, and active subjects of this type of behavior, if they commit a crime, acquire the status of suspects or defendants in a criminal case. Deviant behavior also refers to violated rules that are of a misdemeanor nature. Since the 70's, it has been discussed about the delinquent behavior of minors, about the causes that generated this type of behavior, deviant behavior but also what measures are required to prevent such behaviors. In this sense, the prison sentence

for juveniles who committed crimes was eliminated by Decree 218/1977, published in the Official Gazette no. 71 of July 17, 1977.

After the 80's, other research was done on the psychic features characteristic of deviant behavior of minors, which showed that in studying their criminal behavior must take into account the principle of personality, and in addressing the issue of juvenile delinquency assessments were made according of the interpersonal maturity of each individual (Bogdan, Preda and Olaru 1983, 285-304).

Regarding the concept of "deviance", the authors Dan Banciu and Sorin Rădulescu in the work "Introduction to the sociology of deviance" (Banciu and Rădulescu 1985) showed that this concept consists in "the set of behaviors that violate institutionalized expectations, ie those expectations shared or recognized as legitimate in a social system".

The same authors after the 90's analyzed in the paper Evolutions of juvenile delinquency in Romania, research and social prevention the notion of juvenile delinquency and what criminal sanctions apply. This juvenile predilection leads to manifestations and deviant acts starting with the absence from the school program, indiscipline phenomena also manifested within the school, a violent language, physical aggression, drug use, etc. (Buneci 2019, 43).

In the situation where a minor commits a criminal offense, the court conducting the judicial investigation according to the procedure in cases with juvenile offenders provided by art. 504 - art. 520 Code of Criminal Procedure may take a non-custodial educational measure, detention in an educational center, or in the worst case, an educational measure of detention of a minor in a detention center. In relation to the minor, in case of committing offenses punishable by a fine of imprisonment or imprisonment for a maximum of 15 years, according to the special procedure of the plea agreement, a plea agreement may be concluded, with the consent of their legal representative, taking into account when choosing the educational measure. In the case of custodial educational measures, the limits of the periods for which these measures are ordered shall be reduced by one third.

The number of crimes committed by minors has increased greatly from year to year, especially for deeds provided by Law no. 143/2000 on preventing and combating illicit drug trafficking and consumption, namely drug trafficking, possession of drugs for own consumption, international drug trafficking, but also in relation to crimes against property (theft, robbery, robbery), but the number of crimes committed against minors who have become victims of society has also increased.

These aspects result from the statistics of the Public Ministry for the years 2017-2018 but also from the statistics of the National Anti-Drug Association. The statistics have the effect that means can be found to combat juvenile delinquency, so that removing some causes or reducing them will have an effect on the social environment. With these data, measures can be taken on economic causes, natural causes or other causes that increase the criminal environment, so that in the end effective measures can be taken on prevention, so that no other crimes are committed.

The data provided by the statistics are of great value for the criminal policy of any state that must know the causes of the crime and organize itself to defend and repress as much as possible such criminal acts.

In order to discuss the prevention of deviant behavior of minors, we must first consider the causes that generate and favor this type of behavior. These include lack of landmarks, lack of communication lack of respect for ethical and moral principles and highlighting appropriate role models in the family, frequent absence of parents, psychopathological problems associated with physical and sexual abuse by people in the entourage, poverty, unemployment, social exclusion and racism, non-transmission of ethical and social values by educational systems. To these can be added personality disorders, associated with alcohol and

drug use, as well as the presentation by the media and websites of absurd, excessive and unjustified lifestyles.

Another cause that leads to crime is the economic influences that may exist in the development of a normal society, so that there is no major discrepancy between the poor and the rich. Thus progress and well-being have an overwhelming effect on crime, and if the laws governing the sanctioning of crimes (we refer here to criminal law) are consistent and have a certain prediction of reality, they lead to a decrease in the number of crimes.

A special influence on prevention has the education of the individual, who from childhood through the knowledge he acquires through school education can form him into becoming a person who analyzes all the time when performing certain acts to distinguish between good and evil, between legal and illegal.

The European Parliament issued a Resolution on 21.06.2007 to combat the phenomenon of juvenile delinquency, adopting several strategies at both national and European level, based mainly on the prevention and integration into society of juvenile offenders.

Over time, several measures have been taken to prevent juvenile delinquency through a number of international regulations. We mention here the 1989 Convention on the Rights of the Child, the UN Standard Minimum Rules for the Administration of Juvenile Justice - Beijing 1985, the 1990 UN Rules for the Protection of Young Persons the Principles for the Prevention of Juvenile Delinquency in Riyadh 1990, the Council of Europe Convention on Action against Trafficking of human beings since 2005.

Moreover, these normative acts mentioned above have shown that minors who do not have a family environment or it is not suitable for their development will have the right to protection but also to special assistance from the state such as: to be placed in within a family or their placement in certain appropriate child care institutions. Provisions are also provided for minors with physical or mental disabilities to benefit from a life that allows them a spiritual, mental, moral, social development, ie to ensure a decent and fulfilled life.

Incumbent Member need not apply juvenile delinquents punishment or inhuman, degrading, not torture, and in the worst situation can be taken against them a deprivation of liberty.

In criminal proceedings, in accordance with Directive 2013/48/EU (on the right to have access to a lawyer in criminal proceedings and European arrest warrant proceedings, as well as the right to have a third party be informed of deprivation of liberty and the right to communicate with third parties and consular authorities during deprivation of liberty) of the European Parliament and of the Council in which it is under the regime of a deprivation of liberty measure to be able to inform a family member about this.

In the case of the trial of a minor, it is necessary to carry out a social investigation that shows the conditions in which he lives and the circumstances of the person as well as the background of the minor.

The principle of the presumption of innocence as analyzed by EU Directive 2016/343 of the European Parliament and of the Council refers to the fact that minors even if they are under a preventive measure or awaiting trial are considered innocent and are required to receive legal advice free of charge, to be able to continue their studies and to be able to perform paid work on a case-by-case basis.

Romania has also taken a series of measures to adopt legislation in line with international conventions regarding the legal regulation of minors. We can mention here the Romanian Constitution - art. 49 Protection of children and young people, the current Criminal Code governing the criminal liability of minors, the Code of Criminal Procedure governing the framework of preventive measures and other procedural measures applied to minors but also the Special Procedure in cases of juvenile offenders. Regarding the preventive measures applied to minors in the Code of Criminal Procedure were regulated in art. 243-244 special provisions regarding these measures, in which detention and pre-trial detention may be

ordered against the minor only exceptionally and only provided that the effects that deprivation of liberty would have on his personality and development are not disproportionate to the purpose pursued by taking these measures. The execution of the detention and preventive arrest of minors is done in relation to the particularities of the age, so that these preventive measures do not prejudice their physical, mental or moral development.

Also, Law no. 272/2004 on the protection and promotion of children's rights, Law no. 254/2013 (with subsequent amendments) regarding the execution of sentences and custodial measures ordered by the judicial bodies during the criminal proceedings and Decision no. 299/2014 of the Romanian Government on the organization and functioning of the National Authority for the Protection of the Rights of the Child and Adoption. According to Law no. 304/2004 on the organization of the judiciary, courts for minors and the family were set up as special courts.

The legislator established by Law no. 252/2013 on the organization and functioning of the probation system (published in the Official Gazette, Part I no. 512 of August 14, 2013) the organization and functioning of the National Probation System at the central level and at the level of the territorial structures in order to contribute to the administration of the act of justice. The provisions of this law provided that juvenile defendants be assessed by the probation counselor at the request of the courts. In this sense, an evaluation report will be prepared where the following data will be entered: family situation, background, school situation, health status and if there is a risk that the minor will continue to commit other criminal acts.

By Law no. 9/2018, Law no. 35/1997 on the organization and functioning of the People's Advocate (republished in the Official Gazette, Part I no. 181 of February 27, 2018). Thus, by amending this law, the institution of the Child Advocate is under the coordination of the People's Advocate and acts in order to promote and protect the rights of children up to 18 years, supports and encourages the observance and promotion of children's rights, under the law and Law no. 272/2004 on the protection and promotion of children's rights, republished, with subsequent amendments and completions.

Conclusion

Given the multitude of legal provisions on minors regarding the protection and prevention of deviant behavior of minors, I think it would be beneficial to unify the legislation into a single special law governing the rights, procedural guarantees and protective measures of minors.

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Romanian Criminal Code.

Romanian Code of Criminal Procedure.