

# ASPECTS OF SOCIAL WORK WITH JUVENILE DELINQUENTS WHO ARE NOT CRIMINALLY LIABLE

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**Abstract.** The children who commit criminal acts and are not criminally liable belong to a vulnerable category, which deserves a particular attention from those who are responsible for their development (parents, school, child protection institutions). The paper presents the characteristics of the juvenile delinquent and the typology of the acts committed, being based on scholarly literature and statistical data for the 2010-2015 period, both at national level and at the level of Bihor county. The paper also refers to legal regulations and the role of social services for delinquent children who are not criminally liable. The high number, at national level, of juveniles who have committed a criminal act and are not criminally liable supports the need to provide services for these children so that they can be reintegrated into their families, school and society and recidivism is prevented.

**Keywords:** family, juvenile delinquency, prevention, reintegration, specialised services

## Introduction

The issue of criminal code violation by juveniles who are not criminally liable<sup>1</sup> is a complex one, both in respect of offence causality and that of assistance and reintegration measures.

Clinard and Meier (2011, p.113) consider that “The great majority of adolescents who commit acts of delinquency never 'graduate' to adult

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<sup>1</sup>According to Art. 113 of the Criminal Code, a juvenile who has not turned 14 years of age does not have criminal liability (1), and the one who is between 14 and 16 years of age shall have criminal liability if proven they committed the act with competence (2).

criminality, and the circumstances of many delinquency offenses suggest experimentation rather than enduring patterns of behavior”.

Juvenile delinquency “is not only an indicator of the actual state of society, but it also foreshadows its becoming” (Tutilescu, 2007, p.45). The way the institutions involved react to a concrete situation, national or local, the way they implement legal measures and organize the intervention is of utmost importance in approaching juvenile delinquency.

Article 40 (1) of the United Nations Convention of the Rights of the Child stipulates each delinquent child's right to be treated in a manner that promotes the child's sense of dignity and worth and which takes into account the child's age and the desirability of promoting their reintegration into society and their assuming of a constructive role within it.

In the first part of the paper traits of the juvenile delinquent and types of acts committed are presented. This part is based on results of expert studies and on the analysis of statistical data for the 2010-2015 period, both at national level and at that of Bihor county. The second part of the paper deals with the legal regulations and the role of services provided for delinquent children who are not criminally liable.

### **Traits of the juvenile delinquent and the typology of the acts committed**

Regarding the juvenile delinquent who does not have the age of criminal liability, the conclusions of a statistical analysis carried out within a study conducted by the Ministry of Justice and UNICEF Romania (2005) were the following: the highest share of the cases that came to the attention of specialised services was given by children under the age of 14, boys from urban areas, of Romanian ethnicity, most of them attending school, without criminal records, and who lived with their families when they committed the offences; in most cases the offences consisted of thefts committed together with other children in urban areas.

In the last decade, a diversification of juvenile delinquency could be noticed, with a higher and higher danger to society (as a result of increased aggressiveness and of acting in groups), a rise in the number of juvenile delinquents, a decrease in their age, most of the criminal acts being committed by ”juveniles who do not benefit from an appropriate family and social environment, do not attend school or they do not benefit from educational measures provided by their parents, tutors or social services staff” (Tutilescu, 2007, p.46).

According to Rădulescu and Dâmboianu (2003, p.18), even though poverty cannot be considered the direct cause of the rise in juvenile delinquency, it ”nurtures for the most part, in Romania, the

'street children' phenomenon, which in turn determines to a great extent the juvenile delinquency phenomenon”.

The evaluation report prepared within the project ”Promotion of the rights of children who have committed criminal acts and are not criminally liable” (implemented by the Penal Reform Foundation, the National Authority for the Protection of the Rights of the Child and the Prison Fellowship Romania Foundation, in partnership with the General Inspectorate of Romanian Police) has highlighted the following things: in the opinions of teachers, the contributing factors to delinquency are poor school attendance, teachers' inadequate behaviour towards children, dysfunctionalities in families (families that provide negative models, parents who do not supervise their children, divorced parents, indifferent parents etc.), the negative influence of bands the children belong to, models provided by the mass media, the Internet through access to pornography and violent computer games; despite the significant number of children under the age of 14 who commit criminal acts, specialised protection measures are taken only in few cases; child protection services practitioners estimate that the rate of recidivism is 30-40%; according to police records, recidivism is more common in the case of children coming from the child protection system (Văduva et al., 2009).

Regarding the offences committed by children, the results of a qualitative research (conducted by the Social Alternatives Association, AMI and UNICEF Romania, 2010, pp. 22-23) has showed the following things: the acts committed are more complex as in the previous years; adults involve children in committing offences, but children often act on their own or together with other children; children come from different environments (dysfunctional families, Roma children who drop out of school early, but also children coming from families having good financial situations but who lack parental supervision); other factors include age related rebelliousness, negative influence of peer groups, lack of education and information, models from the mass media.

The analysis of statistical data provided by the National Authority for the Protection of the Rights of the Child and Adoptions (ANPDCA) shows that in the 2010-2014 period, at national level, the most frequent offences committed by juveniles who were not criminally liable were thefts, followed by robberies, bodily injuries and rapes (Table 1); the highest number of criminal acts were committed in the South-East of the country and South-Muntenia, and the lowest number in the West and North-West of the country (Table 2); the areas with the highest number of juvenile delinquents were Prahova county, the cities of Brăila and Buzău, and those with the lowest or no delinquents at all Ilfov county, the 6<sup>th</sup> district in Bucharest and the city of Satu Mare.

**Table 1.**  
**Typology of offences committed at national level by children who were not criminally liable – 2010-2014**

	2010	2011	2012	2013	2014
Theft	1,614	2,588	2,330	2,542	1,629
Homicide	11	1	1	1	1
Prostitution	13	9	0	8	1
Robbery	134	93	157	106	76
Bodily injury	44	51	93	94	40
Rape	19	20	12	39	37
Others	375	776	581	481	420
Total	2,210	3,538	3,174	3,271	2,204

*Source:* ANPDCA, Data broken down by counties

As it can be seen in Table 2, in the 2010-2014 period the number of juvenile delinquents who were not criminally liable varied. After a significant increase in 2011 ( by 60% against the previous year, 3,538 children – which is the highest number in the five years) and a slight increase in 2013 against 2012, at the end of 2014 the lowest number of juvenile delinquents who were not criminally liable was recorded. Nevertheless, the number at the end of that year was still high, over 2,200.

**Table 2.**  
**The total number of children who committed a criminal act and were not criminally liable by the regions of the country – 2010-2014**

Region	2010	2011	2012	2013	2014
North-East	170	298	304	356	314
South-East	75	868	802	956	745
South-Muntenia	555	733	675	729	333
South-West Oltenia	124	547	518	323	233
West	242	133	132	101	61
North-West	474	191	165	165	73
Centre of the country	529	402	340	369	256
Bucharest Ilfov	41	366	238	272	189
Total	2,210	3,538	3,174	3,271	2,204

*Source:* ANPDCA, Data broken down by counties

Even though it is far away from the counties on top *at national level*, when looking at the number of juveniles who committed a criminal act and were not criminally liable, Bihor county took *the first place among the counties from the North-Western region* of Romania in 2012 and 2014.

The analysis of the data found in the annual reports of the Bihor County General Directorate of Social Assistance and Child Protection shows that between 2010-2014 the number of children who committed a criminal act and were not criminally liable rose in the first three years, then it fluctuated (Table 3), reaching a peak in 2012 (88 children) and the lowest value in 2013 (26 children). The majority of acts were committed by boys who, most often, came from rural areas. Regarding the age groups, it can be noticed that the share of offences committed by children between the ages of 7-13 increased.

**Table 3.**  
**The number of children in Bihor county who committed criminal acts and were not criminally liable, broken down by gender, age groups and the area they came from – 2010-2014**

	2010	2011	2012	2013	2014
Total number of children who committed criminal acts and were not criminally liable	48	51	88	26	28
- males	36	38	81	22	27
- females	12	13	7	4	1
- age between 7-13 years	11	17	51	13	22
- age between 14-17 years	37	34	37	13	6
- from rural areas	27	38	62	17	20
- from urban areas	21	13	26	9	8

*Source:* DGASPC Bihor, Annual activity reports

Regarding the types of crimes committed by juvenile delinquents who were not criminally liable, in Bihor county (Table 4) the most frequent acts were thefts (aggravated thefts, thefts, robberies, complicity to aggravated thefts, aggravated theft attempts, complicity to thefts), followed by breaking into buildings. It is worth noticing that during the five year period a 'diversification' of the acts committed took place, the 'range' being expanded with new criminal acts: rapes, bodily injuries, border crossing attempts, destruction, desecration of graves.

**Table 4.**  
**Typology of acts committed in Bihor county**  
**by children who were not criminally liable –**  
**2010-2014**

	2010	2011	2012	2013	2014
Theft	7	10	6	1	11
Aggravated theft	29	32	54	23	9
Robbery	-	-	6	-	2
Rape	-	-	-	1	4
Bodily injury	-	-	-	-	2
Prostitution	3	3	-	-	-
Breaking into buildings	1	-	11	-	-
Border crossing attempt without documents/with false documents	-	6	-	-	-
Destruction	-	-	4	1	-
Driving without a licence	2	1	1	-	-
Desecration of graves	-	-	6	-	-
Complicity to theft	1	-	-	-	-
Complicity to aggravated theft	1	-	7	-	-
Aggravated theft attempt	1	-	2	-	-
Others (committing antisocial acts, covering-up crimes, hitting etc.)	3	-	5	-	-

*Source:* DGASPC Bihor, Annual activity reports

According to the data available for 2015 (ANPDCA, Data broken down by counties, 1<sup>st</sup> January 2015-30<sup>th</sup> September 2015), out of the total number of 1,576 delinquent children without criminal liability at national level only two cases were recorded in Bihor county, the acts committed being thefts. When compared with the same period of the previous year, the data show that both the number of juvenile delinquents at country level (1,704 at 30<sup>th</sup> September 2014) and especially in Bihor county decreased (ANPDCA, Data broken down by counties, 1<sup>st</sup> January 2014-30<sup>th</sup> September 2014).

**The role of social work in the case of the child who committed a criminal act and is not criminally liable**

According to Art. 84 of Law 272/2004, in the case of a child who commits a criminal act and is not criminally liable, the DGASPC having

authority of the area where the child lives suggests that either the *specialised supervision measure* or that of *placement* is taken. When one of these measures is imposed, the Child Protection Commission (when the consent of the parents or of another legal guardian is obtained) or the court (when the consent is missing) shall take into consideration: the conditions that contributed to the committing of the act, the degree of social danger, the environment the child lived and grew up in, the risk of committing another criminal act, any other elements that help understand the child's situation. Art. 84 (3) stipulates the parents' obligation to attend *the counselling sessions* organised by the General Directorate of Social Assistance and Child Protection, held within a personalised psychological counselling program.

Law 272/2004 stipulates that during the entire period the social protection measures are applied *specialised services* shall be provided (in order to assist the children in the process of reintegration into society). The law also stipulated that the types of services and the standards on how they should be provided would be defined in a Government Resolution. The child shall be attended and assisted by a psychologist or a social worker, appointed by the General Directorate of Social Assistance and Child Protection in all stages of the criminal investigation (Art. 88).

Government Resolution 1439/2004 on the specialised services provided for children who commit criminal acts and are not criminally liable regulates the types of services intended for this category of children, as well as their provision both by General Directorate of Social Assistance and Child Protection and accredited non-governmental organizations (Art.1). According to Art. 5, 6 and 7 of GR 1439/2004, the following types of services can be provided: *specialised residential services* (organised as centres of orientation, supervision and support for social reintegration); *specialised daily assistance services* (organised as day care centres of orientation, supervision and support for social reintegration); *family type services* (specific training module for those people or families who ensure, in accordance with law, the special protection of a child who committed a criminal act and is not criminally liable). The normative act also includes the objectives of the activities carried out within these services, namely: preventing and fighting children's deviant acts or behaviour, educating children to respect the law, moral values, tolerance, dignity, solidarity; supporting children in their evolution towards a responsible and honest life; teaching children to be responsible for their lives and making them aware of the factors that could jeopardise their physical and moral development; children's reintegration into school, family or society.

The 2005 study of the Ministry of Justice and UNICEF highlighted the need for services that are adjusted to the needs of these children, both in respect of prevention and intervention. The answers received from institutional actors show that those who work in directorates of child protection consider their activity ineffective, while data obtained from juvenile delinquents show that they continue to commit offences, also after they reach the age when they become criminally liable and are taken over by the legal system. In addition, some other important things were presented in the study, such as the problems related to the participation at counselling sessions (they are rejected by families, the lack of money to transport children from rural areas), the absence of special centres for delinquent children (which means that these children are admitted to emergency centres, along with abused and street children), the lack of involvement and the superficiality of social workers who provide community services.

The analysis carried out by ANPDCA in March 2015, with the help of the 47 General Directorates of Social Assistance and Child Protection (DGASPC), identified as top priority need at local level *the development of counselling and support services for children and families who face juvenile delinquency, aggressive behaviour* (MMFPSPV, 2016).

Within DGASPC Bihor, the *Service for emergency intervention in the field of social work* provides social work services and special protection to children who commit criminal acts and are not criminally liable, and carries out campaigns to raise awareness about the issue of these children. The target group of this service includes, besides the children who belong to this category, their natural, extended or foster families and the local community these children belong to (pursuant to GR 1439/2004). According to the Annual Activity Reports, between 2010 and 2014 the Service for emergency intervention in the field of social work was involved in: the “Crime Prevention Week” campaign, the project called “The Delinquent Child – Approach and Intervention”, which was organised by DGASPC Cluj-Napoca, and the project “Childhood without delinquency” funded by the European Commission and implemented by National Authority for the Protection of the Rights of the Child and Adoptions in partnership with the Institute for Crime Research and Prevention.

A specific objective included in the National strategy for the protection and promotion of the rights of the child 2014-2020 is *encouraging social and family reintegration of children in conflict with the law and prevention of recidivism*, and the measure proposed to



achieve that is *developing the network of services involved in the work with children in conflict with the law.*

The county strategy for the development of social services in the field of social work and child protection 2012-2016 mentions among weaknesses at DGASPC Bihor *the lack of a centre for children who committed criminal acts and are not criminally liable*, and among the external factors – threats includes *the lack of specific legal regulations* for the children who commit criminal acts.

## **Conclusions**

The analysis of the statistical data at national level shows a high number of juvenile delinquents who are not criminally liable, the first place being taken the South-East area of the country, where in the past years more than 30% of the cases were recorded, with the highest figures in Brăila county.

Even though in Bihor county the number of juvenile delinquents who committed a criminal act and were not criminally liable was below the country average, the figures of the past years are a cause for concern, as the number of criminal acts committed by children under the age of 14 has increased and new types of juvenile delinquency have been recorded.

A child's delinquent behaviour is closely related to the situation of the family they come from. For this reason it is import to support families (by providing financial and material support, counselling, parenting education etc.) so that they develop and become capable of performing their parental duties and obligations properly.

Leaving the child in the family, by imposing the specialised supervision measure, is not always the best solution, as some families do not provide the appropriate environment for the child's development (either because the parental model the child is provided with is inappropriate or the parents do not carry out their duty of supervising and educating the child). In addition, the parents can be reluctant to cooperate with specialists from the social work field.

In order to support the child's social reintegration and to prevent recidivism, the children's access to specialised services is of utmost importance (Oşvat and Marc, 2014). Starting from the local needs, the General Directorates of Social Assistance and Child Protection can decided about establishing some specialised services for the juvenile delinquent who is not criminally liable. In the care centres set up for them, delinquent children can benefit from support, legal and psychological counselling with a view to their reintegration into school and society, they can attend various educational and free time activities, as well as take part in games that develop their abilities, they are helped with their

school work, they acquire independent living skills, learn how to relate to other people etc. As it is stipulated by the law, the specialised services provide counselling and support for the parents as well, and they carry out information campaigns within the community.

In order to intervene more effectively, an integrated approach and the cooperation between the institutions involved is very important (legal, educational, child protection etc.), along with observing the child in their family, at school, in the community and identifying risk behaviour, as well as monitoring juveniles after the services have been provided.

It is important to also mention the usefulness of programmes implemented by the social work and child protection institutions to prevent and fight juvenile delinquency, the role of social workers in preventing and fighting juvenile delinquency by information campaigns among children, parents, teachers to raise awareness about predelinquent and delinquent behaviour, the ways of preventing them and the consequences of deviant behaviour.

## References

- Asociația Alternative Sociale, Asociația Magistraților din Iași, UNICEF România (2010). *Analiză privind sistemul de justiție pentru copii din România*, available at [http://www.unicef.ro/wp-content/uploads/analiza-privind-sisitemul-de-justitie-pentru-copii-din-romania\\_web.pdf](http://www.unicef.ro/wp-content/uploads/analiza-privind-sisitemul-de-justitie-pentru-copii-din-romania_web.pdf), accessed on 8<sup>th</sup> February 2016
- Clinard M.B., Meier R.F. (2011). *Sociology of Deviant Behavior*, 14th edition, Belmont, CA:Wadsworth Cengage Learning
- Oșvat C., Marc C. (2014). The special protection of the juvenile delinquent. Case presentation, *Journal Plus Education (Educația Plus)*, vol 10, no.1, pp.325-335
- Rădulescu S., Dâmboianu C., (2003). *Delincvența juvenilă în România: factori de risc care determină comportamentul delincvent* (Sinteză), <http://insoc.ro/devianta/date/pdf/2003%20-%20Delicventa%20juvenila%20in%20Romania.pdf>
- Tutilesco, M. (coord.) (2007), *7 teme în 7 zile*, Editura Ministerului Internelor și Reformei Administrative, București, <http://www.editura.mai.gov.ro/documente/biblioteca/2007/7%20te-me/sapte%20teme%20in%20sapte%20zile.pdf>
- Văduva D., Nedelcu I., Petrescu M., Dumitru S., Duță T. (2009). *Promovarea drepturilor copiilor care au săvârșit fapte penale și nu răspund penal. Raport de evaluare*, Fundația Reforma Justiției Penale, ANPDC și Fundația Prison Fellowship România, <http://www.penalreform.ro/fileadmin/pri/projects/24102009/Promovarea%20drepturilor%20copiilor%20care%20au>

- [%20savarsit%20fapte%20penale%20si%20nu%20raspund%20penal%20-%20raport%20de%20evaluare.pdf](#)
- Autoritatea Națională pentru Protecția Drepturilor Copilului și Adopție, *Situații defalcate pe județe* la 31 decembrie 2010, 2011, 2012, 2013, 2014 și la 30 septembrie 2014, 2015, available at <http://www.copii.ro/statistici/>, accessed on 8<sup>th</sup> February 2016
- Convenția cu privire la drepturile copilului, adoptată de Adunarea Generală a Organizației Națiunilor Unite la 20 noiembrie 1989, <http://legislatie.resurse-pentru-democratie.org/legea/conventia-cu-privire-la-drepturile-copilului-1989.php>
- Direcția Generală de Asistență Socială și Protecția Copilului Bihor, *Rapoarte de activitate*, 2010, 2011, 2012, 2013, 2014, available at [http://www.dgaspcebihor.ro/dgaspcebihor/informatii\\_publice.html](http://www.dgaspcebihor.ro/dgaspcebihor/informatii_publice.html), accessed on 8 February 2016
- Direcția Generală de Asistență Socială și Protecția Copilului Bihor, *Strategia județeană de dezvoltare a serviciilor sociale în domeniul asistenței sociale și protecției copilului 2012-2016*, available at [http://www.dgaspcebihor.ro/dgaspcebihor/informatii\\_publice/strategie\\_2012-2016.pdf](http://www.dgaspcebihor.ro/dgaspcebihor/informatii_publice/strategie_2012-2016.pdf), accessed on 10<sup>th</sup> February 2016
- Ministerul Justiției și UNICEF România, *Practici și norme privind sistemul de justiție juvenilă din România*, [http://www.unicef.org/romania/ro/justitie\\_juvenila\\_romana.pdf](http://www.unicef.org/romania/ro/justitie_juvenila_romana.pdf)
- Ministerul Muncii Familiei Protecției Sociale și Persoanelor Vârstnice, (2016). *Notă de fundamentare* Proiect de Hotărâre a Guvernului pentru aprobarea programelor de interes național în domeniul protecției drepturilor copilului pentru perioada 2016-2018, available at [http://www.mmuncii.ro/j33/images/Documente/Proiecte\\_in\\_dezbateri/2016/2016-01-28-nf\\_hg-anpdca-pin.pdf](http://www.mmuncii.ro/j33/images/Documente/Proiecte_in_dezbateri/2016/2016-01-28-nf_hg-anpdca-pin.pdf), accessed on 8<sup>th</sup> February 2016
- \*\*\* Legea nr. 272/2004 privind *protecția și promovarea drepturilor copilului* republicată în Monitorul Oficial nr.159 din 5 martie 2014
- \*\*\* Legea nr.286 din 17 iulie 2009 Codul Penal, publicată în Monitorul Oficial nr.510 din 24 iulie 2009
- \*\*\* Hotărârea Guvernului nr. 1439 din 2 septembrie 2004 privind *serviciile specializate destinate copilului care a săvârșit o faptă penală și nu răspunde penal*, publicată în Monitorul Oficial nr. 872 din 24 septembrie 2004
- \*\*\* Hotărârea Guvernului nr. 1.113 din 12 decembrie 2014 privind aprobarea *Strategiei naționale pentru protecția și promovarea drepturilor copilului* pentru perioada 2014-2020 și a Planului operațional pentru implementarea Strategiei naționale pentru

protecția și promovarea drepturilor copilului 2014-2016, publicată  
în Monitorul Oficial nr. 33 din 15 ianuarie 2015

\*\*\* [http://www.dgaspcbihor.ro/dgaspcbh.ro/s\\_interventie\\_ru.html](http://www.dgaspcbihor.ro/dgaspcbh.ro/s_interventie_ru.html),  
accessed on 10<sup>th</sup> February 2016

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