

CONSIDERATIONS ON RE-SOCIALISATION, SOCIAL REINSERTION AND RECOVERY THROUGH EDUCATION

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Abstract

This paper mainly aims at pointing to the criteria that make a detainee be eligible for re-socialisation. In addition to this, we distinguish between negative re-socialization, when the expected result is not obtained, and positive re-socialization, when the ultimate goal is successfully accomplished. Moreover the definition of re-socialization is provided to better understand this concept.

Keywords: *re-socialization, reinsertion, recovery, positive, negative.*

After 2000, scientific research in the field of the criminal law on the execution of penalties has taken off and the specialized literature in Romania has analyzed the main features of the prison population and the criminality nationwide, attempting to attune to the standards set by the Recommendations of the Council of Europe concerning the imprisonment norms, the alternative measures to detention, as well as the re-socialization means provided by criminal law.

Under current circumstances, re-socialization is expected to be highly integrative, as it involves not only official bodies such as the police and the prosecutor's office, but also institutions that contribute to the convicts' training, education, health, from the time when the final penalty is established until all forms of imprisonment and post criminal conditions are complied with, so that the individual could reintegrate in one's family, as well as society.

No matter how wide the cultural horizon of the individual is, how he is able to relate to the moral values of the society he lives in, in how many ways he divides his daily concerns, or no matter the way he fits into the community which has its own laws of organization and functioning, yet he is inexorably subject to his time, the age in which he lives, the laws that he has already found in the society he is willy-nilly a part of, as he belongs to a certain social class, an ethnic group, a gender group, a religion, he has a certain political position, a specific amount of wealth, as well as health. Consequently, we can say that the individual lives as a social being, contained in the tumult of the society to which he belongs, but we note that he is strongly determined and influenced by the micro-society (family, entourage, job, friends), as his concerns are close to or influenced by the micro-climate specific to any of these. If the elements of the micro-society the individual lives in are characterized by guidelines towards achieving life goals by observing the law, it is almost certain that he will feel such an influence. If the micro-society he lives in is downgraded, pauper, it is a broken home without moral values, or even if the

members of his micro-society lead a carefree life due to their owning plenty material resources and they encourage a libertine lifestyle bordering crime, then the individual will copy the same behavioural traits.

Re-socialization is the process of reintegrating a person who committed an offense punishable in some form by the criminal law, within the social system that he left, as he has improved his values according to the requirements of morality, basic principles and laws. Reintegration may be particularly difficult if the individual who has served his prison sentence and has returned to society is forced to live by the old 'arrangements', in the same family or community environment where crimes are still committed. In this case, the proper reintegration begins by leaving that environment and trying to 'restart life', which sometimes means overcoming big material and social obstacles.

Reintegration can be negative and this is relatively easy if the individual resumes old ties and habits, as, one could assume that, while serving his prison term, he has become a 'professional criminal'. Under these circumstances, the respective person is very likely to commit similar or even more serious crimes and consequently to reappear in court. On the other hand, social reintegration can be close to success when old habits are willingly abandoned in order to happily resume normal family life, to obtain a steady income, to achieve emotional stability within a cultural, educational, religious or sports environment, by pursuing a hobby that could help the individual give up crime and the pleasure of committing it.

Re-socialization is defined as a set of measures for the social reintegration of marginal social groups, offenders or certain categories of people with disabilities¹. Unfortunately, re-socialization can be negatively oriented, which could be corrected by means of the methods, programs and psychotherapy carried out in penitentiary institutions, psychiatric hospitals or programs for people with certain disabilities. Of course, in this paper, we are interested in the social

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¹ According to DEX (Romanian Explanatory Dictionary).

reintegration of the individual in the Romanian social system, by changing the deviant behaviour, relearning moral and legal rules of conduct, respecting the rights of others and the way of living in a democratic society.

The re-socialization of criminals unfolds along the entire prison term they serve², by means of an integrative concept on education, necessary medical treatment, information on the correct system of rules and behaviour, entertainment, as well as work. To be able to debate the re-socialization of the offender, the following aspects should exist:

1. a convicted person serving a prison term or undergoing an educational measure;
2. the stated purpose of the individualized educational intervention³;
3. voluntary cooperation⁴ when designing the individualized programs in order to prevent recidivism;
4. scientific methods for education, rehabilitation and treatment;
5. education is addressed to those who have suffered from negative socialization, whose bad habits are contrary to the generally accepted norm;
6. rehabilitation should be directed towards those who cannot comply in various ways with the system of rules and laws;
7. treatment entails proper therapeutic methods (surgical, medical and educational, psychotherapeutic, psychoanalytical) to reshape the personality, improving negative and criminal attitudes, changing negative motivation into positive one.

The New Romanian Criminal Code introduces the phrase ‘the reintegration of minors’ to refer to the ultimate aim of the custodial or non-custodial educational measures to be implemented. One considers that socialization measures⁵ are appropriate in this case because they could help juvenile offenders become aware of their actions, future conduct and obligations as citizens, as the sanctions that apply are not punishments as such, but they are, as a matter of fact, custodial and non-custodial educational measures. It is one of the major reasons which have made us

reconsider the re-socialization and reintegration activities for adults, especially that most of them can understand the consequences of their deeds and what they need to do if they want to change their conduct.

It might be needless to mention that one of the major problems of the reintegration of offenders is the poverty in which they have lived, are living and they are to live after they are released from detention. No matter how many educational, training or any other programs that could exert some positive influence these people are exposed to, unfortunately, poverty indefinitely marks the fate of children, young people and adults who have had to face scarcity on a daily basis all their lives.

In 2018, an Action Plan to reduce poverty and improve the inclusion of people in poverty or at risk of poverty in urban areas across the EU was drawn up⁶. Based on extensive discussion, four main insurmountable issues have been identified (child poverty; regeneration of urban deprived areas and neighbourhoods; homelessness; vulnerability of Roma people), which created the framework for the consideration of the need for access to quality services and welfare, as well as the continuous necessity to measure, monitor, and evaluate urban poverty. In Romania urban poverty has been detected spatially and socially, characteristic of all people regardless of where they live.

Consequently, an analysis regarding the reintegration of persons executing criminal sanctions (minors, young people, adults, elderly persons) should have been performed in order to take concrete measures on some practical issues which all European detention facilities, Romanian included, face daily:

- a) There are difficulties in organizing the proposed activities due to the fact that the prisoner population is heterogeneous from many points of view: education, training, property, opinions and prejudices deeply rooted in their conscience. This population is already organized based on their legal situation (length of the sentence, dangerousness, risk of relapsing, criminal experience), not on their educational needs;

² Recommendation REC(2006)2 of the Committee of Ministers to Member States on the European prison rules (adopted by the Committee of Ministers on 11 January 2006 at the 952nd meeting of the Ministers' Deputies), Principle 6: ‘All detention shall be managed so as to facilitate the reintegration into free society of persons who have been deprived of their liberty.’

³ REC 2006/2 Implementation of the regime for sentenced prisoners, art. 103: 1. ‘The regime for sentenced prisoners shall commence as soon as someone has been admitted to prison with the status of a sentenced prisoner, unless it has commenced before. 2 As soon as possible after such admission, reports shall be drawn up for sentenced prisoners about their personal situations, the proposed sentence plans for each of them and the strategy for preparation for their release. 3 Sentenced prisoners shall be encouraged to participate in drawing up their individual sentence plans. 4 Such plans shall as far as is practicable include: a. work; b. education; c. other activities; and d. preparation for release. 5. Social work, medical and psychological care may also be included in the regimes for sentenced prisoners. 6 There shall be a system of prison leave as an integral part of the overall regime for sentenced prisoners. 7 Prisoners who consent to do so may be involved in a programme of restorative justice and in making reparation for their offences.’

⁴ In the New Romanian Criminal Code art. 64 (1), art.91 (1) (c), art.117 (1), 119 (1), art.120, art.121, all these activities are regulated only if the criminal's consent exists or if he is willing to do that activity.

⁵ According to art. 135, Law no. 254 /2013 ‘(1) When implementing custodial educational measures, the aim is to reintegrate the interned person back to society as well as to raise their awareness, so that they would assume responsibility for their actions and avoid committing new offences. (2) Custodial educational measures are applied in such a way so as not to restrict exercising a person's right to privacy more than it is inherent to these measures.’

⁶ EU URBAN POVERTY PARTENERSHIP – Final action plan 2018, HOMELESSNESS Conference, Budapest, 21.09.2018 (<https://ec.europa.eu/futurium/en/urban-poverty/final-action-plan-urban-poverty-partnership-available>)

- b) The mental state of the person who committed the offense (direct intent; basic intent – foreseeing or not foreseeing the outcome of their actions; oblique intent) is important when classifying their offense. It is difficult to give a complete account of the mental state behind a crime because of its complexity, especially if it comes to planning and justifying personal actions or inactions, as each offender has his own representation on the causes of his crime. The guilt is placed most often than not beyond his conscience, his ability to take decisions and perform actions, placing the blame on the others (environment, family, friends, strangers that happened to be at the scene of the crime) or on adverse circumstances (drunkenness, under the effect of drugs etc.). Based on various studies conducted so far, most criminals, who have just started their prison term, consider themselves innocent or not so guilty in contrast to the severity of the penalty administered to them, as well as less guilty as compared to offenders who have committed similar crimes. Only after serving a relatively large part of their prison term they take responsibility for their actions, their violation of the law or the harm done to their victim, which causes their sorrow and desire for reformation.
- c) There is large discrepancy between the needs of re-socialization and the prison term set for the execution of penalties. The penalties – prison terms or educational measures – are individualized according to general criteria (seriousness of the offense, the dangerousness of the offender)⁷. Each offender has his own re-socialization needs, and behavioural flaws acquired during childhood (when behaviour becomes part of an individual's personality), youth (when training and education are strongly influenced by the living environment) or adulthood, when asocial or antisocial habits already mark an individual's conduct, cannot be fought against during the relatively short period of time of the penalty, especially since criminogenic factors are overwhelming;
- d) So far, detention facilities have not been specialized in providing education for adults, youth, minors, since, as a matter of fact, all re-socialization activities represent an accessory to the detention specific activities, such as security, surveillance, escorting, which vary according to the regime of the respective facility (maximum security, closed system, half-open and open). For example, in Romania, only 10% of prison staff is involved in organizing and carrying out re-socialization activities, whereas 80% deals with operational activities and 10% with logistics,
- material resources and finance. 'Alexandru Ioan Cuza' Police Academy in Bucharest is the Romanian higher education institution that prepares the personnel (officers in particular) that will work in the Romanian prison system, and their university curriculum comprises few subjects related to re-socialization, the majority being focused on police science, administrative law or criminal law. Moreover, only few of the prison staff hired from external sources have attended a course on criminal law on the execution of penalties.
- e) Putting offenders off cultural and educational concerns, creating and promoting television programs highly appreciated by the general public has resulted in a large group of citizens who find it pleasurable to watch unhealthy humour shows, films with explicit sexual content, music and concerts that encourage libertinism and challenge authority, or programs in which the role models are the people who have loose morals or the people that have become rich by breaking the law or people that have taken advantage of 'the legislative loopholes' and have committed white collar crimes. Unfortunately, even some of those who should be role models for the Romanian people, high officials from various state levels, offend trying to escape criminal charges by various methods to delay their accountability.
- f) 'White collar' criminals are highly trained, educated, have wide material resources and can easily reintegrate into the society of origin. It is because of them that the personal efforts of some common criminals, who might have been eager to change their moral values, have disintegrated or vanished into thin air. Therefore common criminals got discouraged when they realized that people holding high public offices were almost never held accountable for the great 'robberies' that occurred in Romania's economy and patrimony. Moreover, they think that what they need to do is continue being offenders and not change themselves into honest people, but change their criminal methods and partners in order to achieve their goals. This way, committing offenses becomes a habit, a way of living, an acceptable way to transform their material desires into reality. Dissolute standards of morality condone illegal conduct and there have been individuals, who have risked being sentenced to several years in prison and serving the respective term, if, by various means, they could keep some of the possessions obtained from illegal acts they committed.
- g) The aetiology of the crimes committed by

⁷ According to art. 74, the New Romanian Criminal Code: '(1) Establishing the length or amount of a penalty shall be made on the basis of the seriousness of the offense and the threat posed by the convict, all of which shall be assessed based on the following criteria: a) the circumstances and manner of commission of the offense, as well as the means that were used; b) the threat to the protected social value; c) the nature and seriousness of the outcome produced by the offense or other consequences of the offense; d) the reason for committing the offense and intended goal; e) the nature and frequency of offenses in the convict's criminal history; f) the convict's conduct after committing the offense and during the trial; g) the convict's level of education, age, health, family and social situation. (2) When the law stipulates alternative penalties for the offense, the criteria stipulated in par. (1) shall be a factor in selecting one of those alternatives.'

educated, well-informed people who either hold important political positions or assets can be explained by their struggle, which at first is honest, to achieve a lawful purpose perhaps pursued for years, using their own personal resources or those of the institution they work in, and, when the aim is achieved, accomplished, they need a new target, a higher social standing, more wealth, more recognition on the national or international social scale. Then, naturally comes the use of illegal means, connections and partnerships with the underworld, such as drug dealers, human traffickers, arms dealers, and, consequently, the whole structure will shortly collapse like a house of cards. The re-socialization process for this kind of individuals should begin with a psychological examination to identify what determined them to paranoidly seek ways to gain power, and then, blinded by power, to accept and embrace corrupt moral and social values.

- h) It is impossible to achieve re-socialization with a certain type of criminals, that is with people who are mentally ill, having polymorphic psychopathies, serious degenerative diseases, psychotic and paranoid individuals with serious behavioural disturbances, who may commit offences when left unattended by their rightful guardians. These individuals, although they are criminally liable, as well as others⁸, who are mentally ill, suffer from dissociative identity disorder, so that their behaviour differs from one day to the other, and even one situation to another. They may seem normal people until a trigger is pulled which unleashes behaviour that can cause aberrant acts characterized by extreme gravity⁹.
- i) According to the statistical data of the Romanian Prison Service, at the beginning of 2018, 1938 persons were under pre-trial arrest, 8908 convicted persons were sent to half open prisons, 3430 convicted persons were sent to open prisons, 6341 convicted persons were sent to closed prisons, 1539 convicted persons were sent to maximum security prisons, 288 convicted persons were sent to an educational facility, 119 convicted persons were sent to a detention centre. Basically in the last five years, the trend has gone downward: 2013 –

33434 convicts; 2014 – 30156 convicts; 2015 – 28334 convicts; 2016 – 27455 convicts; 2017 – 23450 convicts). Habitual offenders represent the following percentages out of the total prison population per year in Romania: 45.78% - 2013; 43% - 2014; 40.33% - 2015; 38.27% - 2016; 38.37% - 2017. It seems that the percentage of habitual offenders is in decline, however, that the absolute value is constant, around 40% of the total prison population¹⁰.

Since habitual offenders have 'benefited' from the numerous programs provided by the detention facilities where they served their sentence terms and since most of them have been released on parole, two research hypotheses could be inferred:

- a) the first hypothesis assumes that offenders have complied with the requirements of the programs, nevertheless they have failed to change their values and mentalities;
- b) the second hypothesis assumes that it is impossible for former offenders to reintegrate into society, because this society is not prepared to receive them and give them a 'second chance', or that former offenders lack training and education related skills, which makes it difficult for them to exploit the advantages of living in a free society, of engaging in legally lucrative activities which could yield enough income to allow them to live by observing not only the law, but also other people's life, rights and property.

Conclusions

As far as the process of social rehabilitation, social reinsertion and educational recovery is concerned, we could say that its outcome is not always positive, that most of the times the path towards reaching the set goal is so steep that the convict has to get rid of the old habits in order to be welcomed by the society, he has to acknowledge a pro social behaviour and commit to psychological counselling programs in order to overcome temptations and obstacles that may interfere with his desire to assimilate as much as possible so that he could return to the right path.

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⁸ The Diagnostic and Statistical Manual of Mental Disorders (DSM) by the American Psychiatric Association and the Classification of Mental and Behavioral Disorders (ICD) by World Health Organization point to 76 disorders and symptoms or clinically recognizable set of symptoms and behavior (https://Lista_de_tulburări_psihic_Legături_externe, accesat în 17.10.2018 (n.a.).

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