

POST-INSTITUTIONAL CARE OF JUVENILE PERPETRATORS OF CRIMINAL OFFENCES IN SERBIA-KEY PROBLEMS IN LEGISLATION AND PRACTICE*

Ana BATRIĆEVIĆ, PhD*
Jelena SRNIĆ NERAC, MA *
Ljiljana MARKOVIĆ*

The lack of adequate, prompt and comprehensive post-institutional care of juvenile perpetrators of criminal offences after the execution of custodial educational measures or juvenile prison sentence is a serious obstacle for the accomplishment of their essential goal- re-education of juveniles and prevention of their recidivism. Therefore, the authors of this paper analyse legal provisions that regulate the imposing and enforcement of custodial educational measures and juvenile prison sentence as well as those that are relevant to the application of post-institutional care in the Republic of Serbia. Moreover, current state in our country in this field is presented from the standpoint of experts working with juveniles who have left institutions for the enforcement of custodial sanctions. The examples of successful social reintegration of juveniles who have been included in post-institutional care but also numerous practical problems regarding post-institutional care of juveniles are also highlighted. Finally, the steps that need to be made at normative and practical level in order to facilitate the application of post-institutional treatment of juveniles are suggested.

KEY WORDS: post-institutional care / juveniles / recidivism / reintegration / juvenile prison / correctional-institution

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* Research fellow at the Institute of Criminological and Sociological Research. E-mail: a.batricevic@yahoo.com

* Director of Centre for Prevention of Crime and Post-penal Assistance –NEOSTART. E-mail: jelena@neostart.org

* Coordinator of day-care centre at IAN Telecenter - International Aid Network. E-mail: ljmarkovic@ian.org.rs

1. INTRODUCTION: THE POSITION OF JUVENILE PERPETRATORS OF CRIMINAL OFFENCES IN CURRENT LEGISLATION OF THE REPUBLIC OF SERBIA

The prevention and suppression of juvenile delinquency and social reintegration of young offenders is a serious challenge for all contemporary legal systems (Stevanović, Batrićević, Milojević, 2016: 309). Moreover, finding an appropriate response to cases involving the commission of the most serious criminal offences by juveniles, when custodial sanctions are imposed, represents a particularly difficult and complex issue. Strictly interpreted, the term "juvenile perpetrator of a criminal offence" is not an appropriate one since criminal offence cannot exist without the guilt of its perpetrator (in accordance with objective-subjective theory of criminal offence from Article 14 of Criminal Code of the Republic of Serbia)¹ (hereinafter: CCRS). (Jovašević, 2008: 469). It is much more suitable to use the term "juvenile in conflict with the law" instead.

The position of juvenile perpetrators of criminal offences in the Republic of Serbia is regulated by the Law on Juvenile Criminal Offenders and Criminal Protection of Juveniles¹ (hereinafter: LJCOCPJ) that came into force on January 1st 2006. By adopting LJCOCPJ, Serbia regulated the position of juveniles in criminal law in one legal document for the first time and in a much more comprehensive manner in comparison to previous periods (Ćopić, 2014: 216-217). In that way, a complete body of juvenile criminal law with an array of exceptions and solutions that differ from those designed for adult perpetrators of criminal offences was created (Soković, 2008: 251).

The provisions of LJCOCPJ regulate: substantial criminal law, bodies in charge of its application, criminal procedure and the enforcement of criminal sanctions for juvenile perpetrators of criminal offences, as well as the protection of children and juveniles as damaged parties in criminal procedure. Its provisions are also applied on adults during the trial for criminal offences they have committed as juveniles (provided that other conditions prescribed by the law are fulfilled) as well as on the persons who committed criminal offences as young adults (Article 1 LJCOCPJ). Other laws such as: CCRS, Criminal Procedure Code² (hereinafter: CPC), Law on the Execution of Criminal Sanctions³ (hereinafter: LECS) are applied on juveniles only if they are in accordance with LJCOCPJ (Article 4 LJCOCPJ).

LJCOCPJ excludes the possibility of children (persons who were under the age of 14 at the time of commission of an illegal act that is incriminated by the law as a criminal offence) to be subject to criminal liability and criminal sanctions (Article 2 LJCOCPJ). According to Article 3. Paragraph 1 of LJCOCPJ, a juvenile is a person who at the time of commission of the criminal offence has attained 14 years of age and has not attained 18 years of age. A younger juvenile is a person who at the time of commission of the criminal offence has attained 14 and is under 16 years of age. An elder juvenile is a person who at the time of commission of the criminal offence has attained 16 and is

¹ Law on Juvenile Criminal Offenders and Criminal Protection of Juveniles, Official Gazette of the Republic of Serbia, No. 85/2005.

² Criminal Procedure Code, Official Gazette of the Republic of Serbia, No.72/2011, 101/2011, 121/2012, 32/2013, 45/2013 and 55/2014.

³ Law on the Execution of Criminal Sanctions, Official Gazette of the Republic of Serbia, No.55/2014.

under 18 years of age (Article 3, Paragraph 2 LJCOCPJ). A young adult is a person who at the time of commission of the criminal offence has attained 18 but has not reached 21 at the time of the trial, and who meets other conditions set forth by Article 41 of LJCOCPJ⁴ (Article 3, Paragraph 3 LJCOCPJ).

An adult who is over 21 years old cannot be tried for a criminal offence he or she has committed as a younger juvenile (Article 40, Paragraph 1 LJCOCPJ). Nevertheless, in some situations, legal provisions pertinent to juveniles can also be applied on adults. An adult who committed a criminal offence as a juvenile and who at time of trial is not yet 21 years old, may be ordered an educational measure and under provisions specified in Article 28 hereof juvenile prison sentence. When deciding which of the abovementioned sanctions to impose, the Court has to take into consideration all circumstances of the case, and particularly the gravity of the offence, time elapsed from its commission, character and behaviour of the offender as well as the purpose of the sanctions (Article 40, Paragraph 2 LJCOCPJ).

Moreover, the Court may impose special obligations, intense supervision by the social welfare centre or remand to correctional institution on the perpetrator who has committed a criminal offence as an adult but is not more than 21 years old at the time of trial, if his or her personal characteristics and the circumstances under which the criminal offence has been committed imply that these educational measures are suitable for the accomplishment of the purpose of punishment (Article 41, Paragraph 1 LJCOCPJ).

2. CUSTODIAL SANCTIONS FOR JUVENILE PERPETRATORS OF CRIMINAL OFFENCES IN CURRENT LEGISLATION OF THE REPUBLIC OF SERBIA

2.1. Criminal sanctions for juveniles - general remarks

Criminal sanctions for juveniles primarily consist of measures of assistance and socialisation with minimal amount of repression and limitation of rights and freedoms, including: help, care, supervision, removal and prevention of disturbances and creating conditions for normal and undisturbed development and maturation of a juvenile (Jovašević, 2008: 470). In the Republic of Serbia, the following sanctions can be imposed on juvenile perpetrators of criminal offences: 1) educational measures, 2) juvenile prison sentence and 3) security measures prescribed by Article 79 of CCRS, apart from security measure of restraint to be engaged in his or her occupation, business activities or duties. Educational measures can be imposed on both - young as well as elder juveniles, whereas juvenile prison sentence can be imposed only on elder juveniles. Under circumstances prescribed by the law, security measures can also be imposed on juvenile perpetrators of criminal offences (Article 9 LJCOCPJ). The application of criminal sanctions for juveniles is based upon is "the principle of gradual application" (Soković, 2008: 253), which means that less severe sanctions are applied rather than stricter ones whenever it is possible as

⁴ This refers to the situation when the court may impose special obligations, intense supervision by the social welfare centre or remand to correctional institution on the person who committed a criminal offence as an adult but is under 21 years of age at the time of trial if, the characteristics of his personality and the conditions under which the criminal offence has been committed suggest that the purpose of punishment will be achieved through these educational measures (Article 41, Paragraph 1 LJCOCPJ).

well as that custodial educational measures and juvenile prison sentence are the ultimate means of reaction (Ćopić, 2014: 218).

The purpose of criminal sanctions for juveniles is defined within the general purpose of criminal sanctions, which, according to Article 4 of CCRS, comprises the suppression of acts by which the values protected by criminal legislations are harmed or threatened. But, the purpose of criminal sanctions for juveniles also includes influencing juvenile's development and strengthening his or her personal responsibility as well as the education and proper development of juvenile's personality through supervision, protection, assistance, general and expert education in order to facilitate his or her social reintegration (Article 10, Paragraph 1 LJCOCPJ). The purpose of juvenile prison sentence also includes intense influencing on juvenile perpetrator of criminal offence not to reoffend as well as influencing other juveniles not to repeat the commission of criminal offences (Article 10, Paragraph 2).

2.2. Custodial educational measures

Educational measures comprise measures of social reaction to juvenile perpetrators of criminal offences, which are prescribed by the law and imposed by relevant state bodies with the purpose to protect the society from criminality through education, re-education and regular development of juveniles (Jovašević, 2006: 303). They include: 1) educational measures of warning and guidance, 2) educational measures of intense supervision and 3) custodial educational measures (Article 11, Paragraph 1 LJCOCPJ).

When choosing an educational measure, the Court particularly takes into consideration: juvenile's age and maturity, other characteristics of juvenile's personality and the degree of deviation of his or her social behaviour, the gravity of the offence committed, the motives for the commission of the offence, juvenile's environment and the circumstances under which the juvenile has been living, juvenile's behaviour after the commission of the offence, in particular whether the juvenile subsequently prevented or attempted to prevent the consequences of the offence, compensated or attempted to compensate the damage, whether the juvenile has previously been subject to a criminal or administrative sanction, as well as all other circumstances that may have an impact on choosing the measure that would be the most suitable to achieve the purpose of educational measures (Article 12 LJCOCPJ).

Custodial educational measures are imposed on juveniles when more permanent measures of education, treatment and acquiring of social skills are required, accompanied by juvenile's complete separation from his previous environment for the purpose of influencing the juvenile in a more intense manner. Custodial measures are imposed as the last means and can last, within the limits determined by the law, only as long as it is necessary to accomplish the purpose of educational measures (Article 1, Paragraph 4 LJCOCPJ). They include: 1) remand to educational institution (Article 20 LJCOCPJ), 2) remand to correctional institution (Article 21 LJCOCPJ) and 3) remand to special institution for treatment and acquiring of social skills (Article 23).

Educational measure of remand to educational institution is imposed in the cases when a juvenile needs to be separated from his previous environment and provide him or her with assistance and permanent supervision by professionals (Article 20, Paragraph 1 LJCOCPJ). The juvenile can stay in the educational institution for a minimum of six months and a maximum of two years. But, every six months the Court reconsiders whether

there are grounds to suspend the enforcement of this measure or to replace it with another educational measure (Article 20, Paragraph 2 LJCOCPJ). Remand to educational institution is enforced within an institution that provides accommodation and fulfils educational, medical, didactic, sportive and other developmental needs of juveniles (Article 120, Paragraph 1 LJCOCPJ). The person who has been subject to custodial educational measure of remand to educational institution can stay in this institution until he or she is 21 years old (Article 120, Paragraph 4 LJCOCPJ).

Educational measure of remand to correctional institution is imposed on a juvenile who has to be subject to intense measures of supervision and special educational programmes, along with being separated from his or her previous environment. (Article 21, Paragraph 1 LJCOCPJ). When deciding whether to opt for this measure, the Court takes into consideration a series of circumstances, including: juvenile's previous life, the level of deviation in juvenile's behaviour, the gravity and nature of criminal offence, and whether the juvenile has previously been subject to a criminal or administrative sanction (Article 21, Paragraph 2 LJCOCPJ). A juvenile can stay in a correctional institution for a minimum of six months and a maximum of four years. Every six months, the Court reconsiders whether there are grounds to suspend the enforcement of this measure or to replace it with another educational measure (Article 21, Paragraph 3 LJCOCPJ).

This measure is executed in a juvenile correctional institution, where male and female juveniles are accommodated separately (Article 124 Paragraphs 1 and 2 LJCOCPJ). An adult subject to this educational measure as well as the juvenile who becomes an adult during the enforcement of this measure is placed in a separated block of the correctional institution (Article 124 Paragraph 3 LJCOCPJ). A person subject to custodial educational measure of remand to correctional institution can stay in this institution until he or she is 23 years old (Article 124 Paragraph 4 LJCOCPJ).

Educational measure of remand to special institution for treatment and acquiring of social skills is imposed on juveniles with difficulties in psycho-physical development or with psychological disorders instead of remand to educational or correctional institution (Article 23 Paragraph 1 LJCOCPJ). It is imposed instead of security measure of mandatory psychiatric treatment and staying in a medical institution (Article 81.CCRS), if this type of institution can provide juvenile's treatment and care and facilitate achieving the purpose of this security measure (Article 23, Paragraph 2 LJCOCPJ). A juvenile can stay in a special institution for treatment and acquiring of social skills for a maximum of three years. Every six months, the Court reconsiders whether there are grounds to suspend the enforcement of this measure or to replace it with another one (Article 23, Paragraph 3 LJCOCPJ). If this measure is imposed instead of a security measure, the juvenile can stay in the special institution for treatment and acquiring of social skills as long as it is necessary. But, when the juvenile is more than 21 years old, the enforcement of the measure shall be continued in the institution for the enforcement of security measure of mandatory psychiatric treatment and staying in a medical institution (Article 23, Paragraph 4 LJCOCPJ).

2.3. Juvenile prison sentence

Juvenile prison sentence can be imposed on an elder juvenile who has committed a criminal offence for which imprisonment of more than five years is prescribed if it would not be appropriate to impose an educational measure due to a high degree of juvenile's guilt, the nature and the gravity of criminal offence (Article 28 LJCOCPJ).

The application of juvenile prison sentence is facultative and it represents an *ultima ratio*, i.e. the last means in the reaction to criminality of juveniles (Ćopić, 2014: 223).

Juvenile prison sentence cannot last less than six months or more than five years. Juvenile prison lasting for a maximum of 10 years can be imposed for a criminal offence for which imprisonment of 20 years or a more severe punishment is prescribed, or in the case of joinder of at least two criminal offences for which imprisonment of more than 10 years is prescribed (Article 29 LJCOCPJ). This sanction is executed in a juvenile penal-correctional institution (Article 137 Paragraph 1 LJCOCPJ), whereas juvenile prison sentence imposed on female juveniles is executed in a separated block of penal facility for women (Article 137 Paragraph 3 LJCOCPJ). Adults subject to juvenile prison sentence and juveniles who become adults during the enforcement of the punishment are accommodated within a special block of the penal-correctional institution. (Article 137, Paragraph 5 LJCOCPJ).

Persons subject to juvenile prison sentence can stay in the penal-correctional institution for juveniles until they are 23. If they have not served their sentence until that moment, they are transferred to penal institutions for adults (Article 139 Paragraph 1 LJCOCPJ). By the way of exception, a person subject to juvenile prison sentence can stay in the penal-correctional institution when he or she is older than 23 if this is necessary for the accomplishment of his or her schooling or professional education or if the remaining punishment does not exceed 6 months, but in no case after attaining twenty five years of age (Article 139 Paragraph 2 LJCOCPJ).

3. ASSISTANCE AFTER THE ENFORCEMENT OF CUSTODIAL EDUCATIONAL MEASURES AND JUVENILE PRISON SENTENCE IN SERBIAN LEGISLATION

Juveniles in correctional institutions represent a specific category of users within the system of social protection. They are in need of support while being in the correctional institution as well as after leaving it. However, the return to the community represents an important period when a young person has to receive support within the community in order to keep the positive changes of his or her behaviour made as the result of treatment in the correctional institution. Unfortunately, the support system for this category of juveniles is not yet fully developed in Serbia. As a result, after leaving the correctional institution these juveniles are often left to themselves or to the family that is not capable of providing them with adequate support.

Social welfare centre plays an important role in social reaction to all forms of juvenile delinquency. Apart from participating in criminal procedure and giving expert opinion to regarding the choice of appropriate sanction, applying educational orders and non-custodial educational measures it is also in charge of post-institutional care of juveniles (Jugović, Žunić-Pavlović, Brkić, 2009: 649). According to LJCOCPJ, the social welfare centre is obliged to maintain a permanent relationship with the juvenile, his or her family and the institution the juvenile is accommodated in throughout the execution of custodial educational measure and juvenile prison sentence in order to facilitate the preparation of the juvenile and his or her family for his or her return to former social environment and reintegration into social life (Article 147 Paragraph 1 LJCOCPJ). The institution where custodial educational measures or juvenile prison sentence are executed is obliged to inform juvenile's parents, adoptive parents, guardians or close relatives that juvenile used

to live with and relevant social welfare centre about juvenile's return to his or her family at least three months before juvenile's release (Article 147 Paragraph 2 LJCOCPJ). Juvenile's parent, adoptive parent, guardian or close relative that juvenile used to live with prior to the beginning of the execution of custodial measure or juvenile prison sentence is obliged to inform the relevant social welfare centre about juvenile's return (Article 148 Paragraph 1 LJCOCPJ). Social welfare centre is obliged to provide the juvenile with necessary assistance after the execution of custodial educational measure or juvenile prison sentence (Article 148 Paragraph 2 LJCOCPJ). LJCOCPJ obliges the social welfare centre to take special care after the release of juveniles without parents as well as of juveniles whose family and financial circumstances are in disorder from serving custodial educational measure or juvenile prison sentence (Article 149 Paragraph 1 LJCOCPJ). Such care particularly refers to: accommodation, nutrition, providing clothes, medical treatment, helping with resolving family issues, finishing professional education and employment of juvenile (Article 149 Paragraph 2).

Current Law on Social Protection⁵ (hereinafter: LSP) does not explicitly mention post-institutional care. But, its provisions and the provisions of LJCOCPJ clearly indicate that social welfare centres play the key role in that process. LSP defines social protection as an organised social activity of public interest the purpose of which is to provide help and empowerment of individuals and families for an independent and productive life within the society as well as the prevention of social exclusion and the elimination of its consequences (Article 2 LSP). The right to social protection is provided through the services of social protection as well as through financial support in order to provide existential minimum and support to social inclusion (Article 5 LSP). This right belongs to every individual and family in need of social help and support in order to overcome social and life difficulties and create conditions to fulfil their basic needs (Article 4 LSP).

The user of rights or services of social protection can be an individual or a family facing obstacles when trying to fulfil their needs, which is preventing them from achieving or maintaining the quality of life. The users can also be individuals or families that do not have sufficient resources to fulfil their basic needs and cannot obtain them through employment, incomes from property or other resources (Article 41 Paragraph 1).

In the context of post-institutional care of persons who have entered the institution for the enforcement of custodial sanctions as juveniles but left it as adults, it is important to mention that LSP prescribes that juveniles and adults who have not yet attained 26 years of age can be the users of social protection if their health, safety and development are endangered due to family or other life circumstances, i.e. if it is obvious that they cannot reach an optimal level of development without the support of social protection system (Article 41 Paragraph 2). In that sense, it should be noted that LSP treats juveniles and adults under 26 who are in conflict with their parents, guardians or community, whose behaviour is dangerous for themselves and their environment or who are facing difficulties due to alcohol or drug abuse as particularly suitable to be the users of social protection (Article 41 Paragraph 2, Subparagraphs 4 and 5). However, it should be noted that LSP does not explicitly single out the persons who entered the correctional institution as juveniles and left it as adults as particularly vulnerable and does not provide them with any particular kind of support. This problem is caused by terminological irregularities in the text of the law. Namely, the law defines juveniles as persons under the age of 18, whereas young persons who leave the correctional institution are usually more than 18 year old.

⁵ Law on Social Protection, Official Gazette of the Republic of Serbia, No. 24/2011.

That is the reason why social welfare centres treat them as adults and commonly provide them with a minimal amount of assistance such as a one-shot financial help.

Regardless of their obligation to provide adequate, prompt and comprehensive post-institutional care of the aforementioned persons, social welfare centres are often not capable to fully meet their needs. So, the provision of LSP that introduces the possibility of cooperation between the state and the civil sector when it comes to delivering the services of social protection in general, including not only the post-institutional care of juveniles but of adults as well (Batrićević, Srnić, 2013: 137), has particular importance for successful application of post-institutional care. Namely, LSP allows institutions and other organisations the law is familiar with that are delivering the services of social protection to cooperate with educational institutions, health institutions, police, judicial and other state bodies, associations and other legal entities and individuals. The frames and actual ways of cooperation in the area of delivering social welfare services are defined by the memorandum of cooperation between these entities (Article 7).

4. PRACTICAL EXPERIENCES IN THE FIELD OF POST-INSTITUTIONAL CARE OF JUVENILE PERPETRATORS OF CRIMINAL OFFENCES IN SERBIA

4.1. Current situation in the practice of post-institutional care of juvenile offenders in Serbia

LSP allows different forms of cooperation between social welfare centres and civil sector, embodied in non-governmental organisations who deliver the services of post-institutional care. At this moment, two non-governmental organisations in Serbia, both of which are located in Belgrade, actively participate in providing various programmes of post-institutional assistance for persons who committed criminal offences as juveniles: 1) Centre for Crime Prevention and Post-penal Assistance NEOSTART and 2) International Aid Network (IAN). Their practical experiences are briefly presented in this paper with the purpose to: 1) depict current needs in the area of post-institutional care of juveniles, 2) highlight key issues emerging in both-legislative as well as practical aspects of post-institutional care of juveniles and 3) present some positive examples from individual cases, confirming that active, comprehensive and dedicated post-institutional care can contribute to the reduction of recidivism.

4.2. Centre for Crime Prevention and Post-penal Assistance NEOSTART

Centre for Crime Prevention and Post-penal Assistance NEOSTART represents is the only non-governmental organisation in Serbia that is fully dedicated to providing the services post-institutional assistance. These services are delivered within the Programme of support for youth, which is designed for juveniles (this also refers to juveniles who became adults throughout the process of the execution of their sanction) who have left correctional institution in Kruševac or penal-correctional institution in Valjevo. This Programme represents a "bridge" between the isolated environment in these institutions and the life after release, during which juveniles are facing a series of problems and obstacles. The Programme is applied in the premises of NEOSTART in

Belgrade, where juveniles can watch TV programme, use computers, receive professional psychological support or participate in educational workshops to obtain skills necessary for successful social reintegration.⁶

In 2017, NEOSTART collected detailed statistics about its users. This sample includes 10 juveniles who left juvenile prison in Valjevo in 2017. All juveniles within the sample had dysfunctional family relations, four of them had been living in the street. Five juveniles did not have personal documents and had to wait three months to obtain them and only two juveniles managed to find a job. It is also important to mention that almost 20% of juveniles with residence in Belgrade who were sent to correctional institution did not live with their parents at the moment when they were sent to correctional institution because their parents had been deprived of parental right⁷. Since statistics show that juveniles predominantly tend to commit criminal offences against property, it is of particular importance to provide them with appropriate and legal source of income, i.e. regular employment as soon as they come out of the institution and prevent them from losing working habits they developed throughout their staying in the institution. These information clearly indicates that providing accommodation and employment for these juveniles represents a priority, which is exactly what the work of NEOSTART is focused on.

Although juveniles attend various professional trainings and courses in the correctional institution, they cannot find their place on the labour market. Thanks to citizens' donations, NEOSTART managed to provide essential tools and equipment for one of the juveniles who completed professional education for an electrician and enabled him to start his own business. This kind of support should be provided to all juveniles who leave correctional or educational institution or juvenile prison and who have completed professional trainings and courses for plumbers, house painters, central heating installers, upholsterers, hygienists, hairdressers etc. Youth Council of Kruševac conducted a research which included individual profiles for 57 juveniles from correctional institution in order to help them to become more active on the labour market after leaving the institution. This research has shown that the juveniles from Belgrade completed professional training and courses to become milling machine operators, horticulturists, bricklayers, house painters, grinder operators, metal-founders, electro-technicians, hairdressers, car mechanics, and machinist-locksmiths.

4.3. International Aid Network (IAN)

International Aid Network (IAN) is a local nongovernmental organization established in 1997 to support marginalised and vulnerable groups in development of their own potential for decent and peaceful life⁸. IAN's activities include, among other things, providing social welfare services within day-care centre for children and youth with behavioural problems.

J.I. came to IAN for the first time in 2012, upon the recommendation of social work case manager who took care of him after leaving correctional institution. At first, J.I. was willing to cooperate with IAN and was included in the programme activities. Unfortunately, his

⁶ Centre for the Prevention of Crime and Post-penal Assistance – NEOSTART, <http://neostart.org/maloletnici/>, 13.03.2018.

⁷ The data was collected within the research conducted for the purpose of Master Thesis "Characteristics of juvenile perpetrators of criminal offences with imposed custodial educational measures", Jelena Srnić, Faculty of special education and rehabilitation, Belgrade, 2015.

⁸ IAN (International Aid Network), <http://www.ian.org.rs/arhiva/vision/>, 12.04.2018.

involvement lasted only two weeks. After that, IAN lost the contact with J.I. One year later, J.I. came to IAN's day-care centre again explaining that he had spent the past year in prison in Sremska Mitrovica, where he was serving sentence for theft.

J.I. has been in the social welfare protection system since the age of 12. His parents are not married and have different nationalities and religious beliefs. Since his mother was not able to take care of him and his father was not involved in his upbringing, he was placed into an institution for children without parental care. He has been showing the signs of problematic behaviour since the age of 14, when he started socialising with problematic peers and abandoned school. At that period, he also started committing criminal offences, for which an educational measure remand to correctional institution was imposed on him. While he was in the correctional institution, his mother passed away. He managed to complete professional training for a hairdresser and obtain practical experience for this profession in the correctional institution. But, as soon as he left the correctional institution in 2012, he was faced with several problems. Due to his mixed national and religious identity, neither mother's nor father's family was willing to accept him after he left the institution. Not only was he deprived of decent accommodation and food, but he also could not find a job. Namely, in spite of having a certificate for a job that is popular on the labour market, he could not start working legally due to the fact that he did not have an ID card because he was not signed in the register of the citizens of the Republic of Serbia and did not have an ID number. Due to the lack of personal documents, J.I. could not become the beneficiary of social welfare centre's financial help and was left without any kind of assistance, support or shelter.

Under the influence of all these circumstances, he returned to criminal behaviour and was sent to prison soon after leaving correctional institution. After leaving prison, he came to IAN's day-care again. He was included in different programme activities, but counselling was the one he needed the most. Namely, after leaving the prison, J.I. thought he did not have the professional skills necessary for finding a job and was convinced that nobody would employ him because of his origins. He suffered from low self-esteem and the lack of self-confidence. The lack of personal documents, which prevented him from finding a job and receiving financial help, made his mental condition even worse. He slept in an abandoned railway wagon and struggled to stay away from problematic peers. Once again, he was under serious risk of reoffending and being returned to prison.

During several months, J.I. was receiving various types of support at IAN's day-care centre: counselling and rebuilding self-esteem through the validation of all the tasks he fulfilled within IAN's programme. He also completed training for using computer hardware and software. At the same time, IAN worked with his social welfare case manager in order to speed up the procedure for the obtaining of J.I.'s personal documents, which was actually initiated several years before.

While working with J.I., IAN's team noticed his skills and capabilities and tried to encourage him to look for a job. When after several months J.I. had to leave the abandoned train wagon he had been sleeping in, IAN's team decided to pay him a room where could stay for the next six months, hoping that in that he would obtain his ID card and get a job in the meantime.

Shortly after that, J.I. started working as a hairdresser. The support he received in the following period referred to making relationships at work, taking the responsibility for the part of the job that he was doing and respecting the rules of the employer. Meanwhile, J.I.

managed to adapt successfully and made progress in his job. The employer was satisfied with his results, which he often verbally expressed in order to give J.I. support. After several months of working at the hairdresser's studio, J.I. regained his self-confidence and became convinced that he could do his job regardless of his origins and past thanks to his professional skills, responsibility and commitment. J.I. Obtained personal documents at the age of 21. The support he received significantly minimised the risk of reoffending and J.I. has not committed a single criminal offence since he started participating in IAN's treatment.

CONCLUSION

Statistics show that custodial sanctions for juveniles are not imposed too often in Serbia (Stevanović, Batrićević, Milojević, 2016: 308). Moreover, the frequency of their application had constantly been decreasing in the previous decade (Ilić, Maljković, 2015: 114). In spite of that, custodial sanctions for juveniles have maintained their place in the system of criminal sanctions as well as in general reaction to juvenile delinquency (Ilić, Maljković, 2015: 115). In many situations, their application appears to be reasonable and necessary. However, the practice indicates that there is a lack of adequate, prompt and comprehensive post-institutional care of juveniles following the execution of custodial sanctions in Serbia, primarily due to insufficient financial resources of social welfare centres (Jugović, Žunić-Pavlović, Brkić, 2009: 650).

The lack of adequate post-institutional measures aimed at their re-socialisation and reintegration into the community might contribute to the increase of recidivism among juvenile perpetrators of criminal offences. Namely, various studies suggest that social bonds inhibit delinquent an analogous behaviours, which makes insisting on re-building social bonds throughout this process of essential importance (Intravia *et al.*, 2017: 244). On the other hand, disadvantaged environments, due to inadequate and insufficient resources are less likely to introduce pro-social bonds to youth, which ultimately increases their likelihood of reoffending (Intravia *et al.*, 2017: 248). Having in mind the impacts of the environment and social bonds on the risk of reoffending among juveniles, it is necessary to strengthen the system of their post-institutional care. This can be achieved through insisting on a more active role of all entities involved in the planning and development of programs for reintegration of juveniles who have been subject to educational measure of remand to correctional institution (Stevanović, Batrićević, Milojević, 2016: 316), as well as of those who have served juvenile prison sentence. Since numerous juveniles become adults by the moment when they are supposed to leave the correctional institution or juvenile prison, it is extremely important that in the future the connection is made between the juvenile justice system and the system in charge of adult perpetrators of criminal offences (Stevanović, Batrićević, Milojević, 2016: 316-317).

The development of post-institutional care programmes should start as soon as the juvenile enters the institution for the enforcement of custodial sanctions. The precondition for this is to establish the cooperation between the social welfare system and staff of these institutions who are in charge of preparing these programmes. Moreover, it is important to keep working continuously with juvenile's family as well as with the community that he will be returned to after the enforcement of custodial sanction (Stevanović, Batrićević, Milojević, 2016: 316-317). Cooperation with juvenile's broader community is of particular importance since, in addition to the individual risk factors associated with juvenile

reoffending, communities are considered fundamental in understanding and explaining recidivism among both - adults and juveniles as well (Intravia *et al.*, 2017: 241).

Another reason why juveniles are not given adequate support after leaving correctional institution includes the legal imperfections of current Serbian legislative framework regulating this issue. LJCOCPJ does not dedicate too many provisions to the issue of post-penal care. LSP does not single out persons who entered the correctional institution or juvenile prison as juveniles and left it as adults as particularly vulnerable category. LECS and CCRS, as well as the Law on the Execution of Extrajudicial Sanctions and Measures prescribe that adults who are serving prison sentence have to be given adequate support while preparing for release and during the post-penal period. However, these laws do not mention juveniles in the similar context. Although the correctional institution and the supervising officers service both fall within the jurisdiction of the Administration for the enforcement of criminal sanctions, relevant legislative provisions fail to regulate the post-penal treatment of juveniles in a comprehensive manner. The need to change the described imperfections of the laws has been highlighted as one of the priorities in the Strategy for the Development of the System of Execution of Criminal Sanctions in the Republic of Serbia until 2020. The Strategy recognises juveniles placed in the correctional institution as a particularly vulnerable group within the system for the execution of criminal sanctions and emphasises that specialised programmes should be designed in order to facilitate their reintegration in the society after the execution of this custodial educational measure. For that reason, LJCOCPJ should be amended in order to facilitate a more effective and comprehensive approach to post-institutional care of juveniles. It should provide a more active role for the representatives of the social welfare centres, judiciary, education system, police and local community. In addition, more space should be made for the creation of new post-penal support programmes.

Draft version of Strategy for Social Reintegration and Aftercare of Convicted Persons for the Period between 2015 and 2020 was presented at the end of 2015. The Draft Strategy underlines that post-institutional care represents the weakest spot when it comes to juveniles placed in correctional institution. It also highlights the fact that these persons do not receive adequate support from social welfare centres because they usually leave the correctional institution as adults. Therefore, when it comes to juveniles placed in the correctional institution, the Draft Strategy gives high priority to the following activities: designing a programme of psycho-social support in order to facilitate their active participation in social life after leaving the institution, analysing their needs in the period after leaving the institution and improving the cooperation between social welfare centres and the representatives of local self-government. The adoption of this Draft Strategy would enhance the progress in the area of post-institutional care and support and allow a more comprehensive approach to this issue (Srnić, Vulević, 2016: 17).

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Dr Ana Batrićević

Naučni saradnik Instituta za kriminološka i sociološka istraživanja, Srbija

MA Jelena Srnić Nerac

Direktor Centra za prevenciju kriminala i postpenalnu pomoć - NEOSTART, Srbija

Ljiljana Marković

Koordinator dnevnog centra u IAN Telecentru - International Aid Network, Srbija

POSTINSTITUCIONALNI PRIHVAT MALOLETNIH UČINILACA KRIVIČNIH DELA U SRBIJI - KLJUČNI PROBLEMI U ZAKONODAVSTVU I PRAKSI

Nedostatak adekvatnog, blagovremenog i sveobuhvatnog postinstitucionalnog prihvata maloletnih učinilaca krivičnih dela nakon izvršenja zavodskih vaspitnih mera ili kazne maloletničkog zatvora je ozbiljna prepreka za realizaciju njihovog osnovnog cilja - prevaspitanja maloletnika i sprečavanja njihovog recidivizma. Zato autori u ovom radu analiziraju zakonske odredbe kojima je regulisano izricanje i izvršenje zavodskih vaspitnih mera i kazne maloletničkog zatvora, kao i one koje su relevantne za sprovođenje postinstitucionalnog prihvata u Republici Srbiji. Zatim je iz ugla stručnjaka koji rade sa maloletnicima koji su napustili ustanove za izvršenje zavodskih sankcija predstavljeno aktuelno stanje u našoj zemlji u toj oblasti. Navedeni su primeri uspešne socijalne reintegracije maloletnika koji su bili uključeni u postinstitucionalni prihvata, ali i brojni praktični problemi u vezi sa postinstitucionalnim prihvatom maloletnika.. Konačno, ukazano je na korake koje je neophodno napraviti na normativnom i praktičnom planu kako bi se omogućila primena ustanove postinstitucionalnog prihvata maloletnika.

KLJUČNE REČI: postinstitucionalni prihvata / maloletnici / recidivizam / reintegracija / maloletnički zatvor / vaspitno-popravni dom