

Executive summary

I. Juvenile crime indicators

In research papers juvenile crime is used as a general category, which denotes the legal definitions of a host of criminal offences and patterns of anti-social behaviour. The anti-social acts committed by children represent a borderline category, which may in certain cases include acts that present a danger to society that are committed by minors whose criminal liability cannot be engaged. In most cases, however, it refers to patterns of delinquency with pronounced negative implications, which nevertheless do not present a threat to society.

Compiling crime statistics represents a process of compiling data and the truthful representation of its quantitative and qualitative characteristics over a period of time (2000 to 2009) in a manner, which demonstrates the interrelation between measured indicators. The quantitative indicators of crime are essentially statistical. The quantitative indicators of essentially criminological and victimological and relate to the factors, which underline the behaviour of the child.

II. Quantitative indicators of juvenile crime

Quantitative indicators of juvenile crime are compiled mainly on the basis of the criminal statistics kept by Bulgarian institutions, with the police statistical database presenting the major challenge. The problem stems from police crime statistics making little to no use of legally define indicators relating to the age of perpetrators, which renders the majority of other indicators inapplicable or highly inaccurate due to contravening the law. The criterion *solved crimes*, accepted as a major underlying indicator, does not have a legal definition and, hence, fails to reveal the dynamics of crime. It relates solely to the work of the Ministry of Internal Affairs.

The statistical information available to the courts and the prosecution service reflect the developments during significant phases in the response of the Establishment to crime within the process of criminal law enforcement. Both statistical databases are underlined by criteria defined by law, respectively make use of established legal phraseology and terminology and provide a useful insight into the structure of crime and the profile of its perpetrators, particularly with regard to minors. They only diverge from the established statutory framework in terms of the statistical measurement of disciplinary measures (their number and type) under the heading

imposed penalties, despite the formal declaration under Anti Juvenile Crime Act according to which such measures essentially do not constitute penalties.

The statistical information of the National Statistical Institute presents a picture of juvenile crime, including the category antisocial behaviour, on a non-differentiated basis. Statistical indicators relating to the number of children entered into police statistics, temporarily institutionalized in juvenile correctional facilities for antisocial acts and criminal offences, the number of imposed disciplinary measures and the number of juvenile victims of crime are used. The content of these indicators is not clearly differentiated and there is a trend for the terms antisocial acts and criminal offences to be used interchangeably due to inaccurate or loose interpretation of definitions laid down by law.

The typical shortcomings shared by all statistical databases stem from the difficulty of accessing them and the unavailability of a methodology, which would allow for the differentiation of information specifically relating to juvenile crime (perpetrators and victims).

Nevertheless, statistics, in general, tend to be **relatively highly compatible**. There is a sufficient number of reliable and compatible sources of information about juvenile crime in Bulgaria, each of which presents a different picture of the phenomenon in terms of comprehensiveness and accuracy, whilst the compounded picture is sufficiently objective and clear.

The only incompatible indicator is *number of minors subject to disciplinary measures* as it does not contribute to gauging the antisocial behaviour of minors but solely measures the activity of the anti-juvenile crime local committees in terms of disciplinary measures imposed. In order to ensure consistency between this and the remaining indicators, it should be recalculated by a provisional method known as a translator, which adjusts any non-proportional input data about the number of minors subject to disciplinary measures and achieves a balance according to the number of minors in the age group 8 to 17 years on a regional basis.

III. Juvenile crime against minors **Sociological analysis on the basis of quantitative indicators**

There is no quantitative information showing an increase in juvenile delinquency and crime in the period 2000-2007, despite the evenly-spread but permanent increase of reported general crime. Juvenile crime was on an upwards trend until 2004 (the year when the Anti-Juvenile Delinquency Act was amended) and was then reversed. This type of crime has a relatively stable share of up to ten percent of general crime.

This is offset by a trend of deteriorating qualitative indicators of juvenile crime, in particular with regards to the indicators relating to the manner of committing crimes, the motivation of the perpetrators and a lower age limit. From the point of view of the structure of crime, theft dominates crime statistics (with a share of 70 percent of the total crimes committed by minors). There is also a permanent trend towards an expansion of the criminal contingent of minor perpetrators of drug related crimes (3-4 percent of the total number of crimes committed by minors).

In terms of the structure of delinquent behaviour, the most common forms include running away from home, homeless living and begging, truancy and the use of psychoactive drugs. Homosexuality, as a form of delinquency, and prostitution account for the lowest share of juvenile crime. After the amendment of the Anti-Juvenile Delinquency and Crime Act in 2004 and the inclusion of school truancy and engaging in homosexual acts in 2004, a peak was registered in the number of antisocial acts committed by minors.

Gauging the true scale of crimes committed against children presents a considerable challenge due to these acts remaining hidden from public scrutiny for a number of objective and subjective reasons. A peak was registered in 2006, with thefts accounting for the largest share (38 percent). A conclusion is warranted that in the majority of cases the victims of crimes committed by minors are also minors. Certain types of crimes tend to be committed against victims of either sex. In the case of girls, the group of most common crimes includes sexual offences. All other types of crimes tend to be committed against boys.

IV. Risk factor definition

Risk is an objective circumstance or a host of circumstances, which increase the likelihood for a delinquent trend to develop in the behaviour of a minor against the abstract possibility of such delinquent trend to manifest itself as a criminal act committed by an arbitrary child in the community. Where delinquency is socially reprehensible, a criminogenic risk is involved. Where the risk increases the possibility of a child being harmed by a criminal act, the risk is victimological.

V. Types of risk factors

Risk factors are interrelated.

According to their origin they can be divided into external (micro-a and macro-social) and internal (individual).

According to their implications for the behaviour of a child they can be divided into primary (negative changes in the environment, which the child cannot control) and secondary (resulting from the primary negative changes in the environment or the individual, which the child can partially control). The most powerful primary factor is the age of the child, followed by the factors of the micro-social environment. This classification has extensive application in the context of the analysis of court practice used as an instrument to manage risks on the basis of its ability to recognise and act upon primary risks.

Macro-social factors have the lowest impact on children's behaviour as in principle the macro environment encourages non-deviant patterns of behaviour. Its impact is dependent on micro-social factors, which may either dispel or reinforce its messages. This study examines the impact of specific macro-social risks (generally accepted legal and moral standards, public perception of acceptable attitudes towards children, social and economic conditions, religious denomination and sects, the media).

Micro-social risks have a key significance for the emergence and consolidation of negative deviant trends in a child's behaviour because their impact is directly focused on the basic way a child perceives itself and other people in its environment; they also define the intensity and directional force of macro-social factors and the manifestation of a number of individual factors. The study sets out a detailed analysis of risk processes within the family, school and the reference environment, including ones relating to forms of violence, abuse, deprivation etc. and their symptoms and link to deviant behaviour in children.

Individual risk factors are ranked in the second place amongst micro-social risks in terms of their influence over the behaviour of children and in the first place should as a result of micro-social pressures, they consolidate into a sustainable pattern. The study sets out a detailed analysis of the biological factors (age, sex, ethnicity); psychological factors (personality, behaviour, use and abuse of psychoactive drugs, relationships and attitudes, etc.). Age is a major victimological risk, followed by child behaviour that presents a risk as an element of the criminal and post-criminal situation.

Behavioural deviancy in children is never attributable to a single risk but rather by the concurrent impact of a group of risk factors. Therefore, the study examines groups of risks of a manifest criminological and victimological impact.

VI. Risk impact

Whether a risk would manifest itself as a criminogenic or a victimological one depends on the resourcefulness of the child itself. The threshold, which separates a child victim from a child offender where the same risk factors are at work is determined by the ability of the child to recognise the factor as a negative one and respond by rejecting it. Where the resourcefulness of the young individual is below this threshold, the child does not resist but responds as a victim, without attempting to avoid or overcome the risk as it would when its resourcefulness was above the threshold. Sufficiently high resourcefulness ensures that the child will remove the risk and its behaviour will remain within the limits of socially acceptable standards of behaviour. Conversely, where resourcefulness is not sufficiently high deviant trends will emerge, which will be recognised as antisocial or criminal behaviour. Resourcefulness is a variable, which is heavily influenced by life experience, the specific situation and the type and intensity of risk stimulation, which means that children may respond differently to different risks or identical risks that manifest themselves at different times.

Where a risk situation with implications for children of greater resourcefulness occurs, the child tends to act as a perpetrator whilst where resourcefulness is lower – as a victim.

Due to the differences in the way risk influence behaviour, they tend to initially manifest themselves as victimological whilst the deviant behaviour of the child should always be interpreted as a secondary risk (a child responding detrimentally to a primary risk).

Risk factors are mutually perpetrating within a two-phase process – victimization and criminalization of a child's personality. The process is underlined by a comprehensive and all-round influence of risks on the total behaviour and outlook of the child at different stages of age transition. Therefore, they are characterised by sustainable delinquency, which is integrated into the total model of behaviour. Isolated instances of deviant behaviour are not indicative of a process but represent the result of the natural development of an individual during their adolescence.

Efficient prevention of delinquency and deviant behaviour in adolescents requires at both institutional and micro-social level aimed at reinforcing and strengthening the resourcefulness of the young individual due to these patterns indicating that a child is at risk and the basic prerequisites are in place, which would allow it to overcome the risks. This precludes repression as an initial response because by definition it encroaches on and does not enhance resourcefulness and may reinforce the criminogenic repercussions and influence of existing risks.

Early repression and the disproportionate severity of resulting penalties represents a form of repression, which aims to sanction the behaviour of the child and does not address the underlying causes and may affect the child's resourcefulness to a degree, which would transform it into a victim for a long period to come.

Where an assessment is made of the type of risk prevention policy, attention should be given to the fact that addressing primary risks almost always terminates the influence of secondary risks and exists in a symbiosis with primary risks, enhancing their impact, particularly where several primary risks are compounded. Therefore, risk prevention policies should be focused on primary risks and enhance the child's capacity to resist them.

VII. Court practices with implications for the recognition and management of criminogenic risks

Court practice is not consistent in sustainably recognising the interdependence between primary and secondary risks and concentrates primary on addressing secondary risks.

In practice, the study does not explore any specific links between the negative trends in personal development and the environment in which a child is brought up. The influence of risks (particularly secondary risks) within the context of individual cases is difficult to gauge in precise terms due to such risks reinforcing certain behavioural uncertainties that are typical of the age group concerned and there is no practice, which allows a determination to be made as to the extent to which the behaviour of a child during this period is typical or not.

Therefore, secondary risks are recognised as aggravating circumstances or as an element of the prerequisites for a disciplinary sanction, i.e. they are judged as a form of the authentic behaviour of the child, which it was free to choose. Hence the trend towards overrating the control a child is capable of exercising over secondary risks. The latter was interpreted as the result of causative factors of the environment, of which the child had not control, warranting a conclusion that the child was at risk and, therefore, needed protection, in a relatively limited number of cases. These are isolated court decisions, which are an objective indication of the point of view of the reporting judge and not of general court practice.

Furthermore, court practice fails to recognise certain risks as such as a matter of a general conclusion. Such cases include child discrimination on the basis of ethnic, economic or other factors and forced labour in the family (particularly within the 14-16 age group). Apart from making a general reference to the fact that children in this age group are engaged in labour,

which is not proportionate to their age, the courts fail to rule on the position of effective labour exploitation. On the contrary, early child labour tends to be seen as a positive development and a manifestation of social maturity by analogy to adult individuals although court rulings in many cases establish that children have dropped out of school for that reason.

Analogies to adulthood distort justice, notably in respect of the substance of correctional measures imposed. The common scope of application of the most severe correctional measures covers borderline cases between child victimization and criminalization. The practice relating to their enforcement is strongly indicative of the ways in which criminogenic factors are identified, interpreted and managed jurisdictionally.

In this regard two groups of problems arise, which have implications mostly for the attitude towards transitional correctional measures and the motives for their enforcement.

The imposition of correctional measures may never be used as a sustainable criterion allowing the way in which criminogenic risk factors influence a child to be judged. Such measures are addressed at the child and may give rise to effects with implications for the ability of the child to determine their behaviour and manage life situations. Its success depends on the extent to which it is capable of reducing the dependency of the child on risks present in their immediate environment thus increasing their resourcefulness and capacity to overcome them. Its authentic purpose is not to influence the environment itself but rather the mechanisms, which allow a child to interact with that environment. In this regard, it may solely be used as an instrument for the indirect management of secondary risks and is incapable of addressing primary risks, which by rule have the strongest criminogenic effect.

The majority of court rulings acknowledge the failure of previously imposed correctional measures aimed at limiting the deviant trends in children's behaviour but few analyse the causes underlying this failure. Such court rulings frequently also acknowledge the failure to enforce child protection measures or enforce such measures in a timely manner. Court practice further indicates drastic cases of failure of the competent authorities to take action over prolonged periods, particularly where child protection measures were in order, despite their awareness of the risks in the environment in which children were brought up. Due to the intended purpose in these cases being protection of the child, the measure could never have produced the correctional effect and is therefore irrelevant from the point of view of risk dynamics.

The law enforcement intervention itself may act as a criminogenic risk or a factor reinforcing the influence of such risks. A classic example is the imposition of isolation correctional measures, particularly where seeking to ensure the protection of the child. In this regard the absence of any consistent court practice relating to the determination of the length of stay in correctional facilities for minors is a case in point.