ALTERNATIVES TO IMPRISONMENT AS SOLUTION FOR DELINQUENTS' REHABILITATION IN MODERN SOCIETIES

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Abstract: The alternatives to imprisonment start from the premises that the best protection of the society, the most efficient and the most human protection is to rehabilitate all the delinquents, using all the means susceptible to act on their personality, respecting their personality and making them to rediscover the meaning of their social responsibility. The treatment of a drug addict delinquent, as alternative to imprisonment, is one of the most controversial forms of treatment, approached in different manners by the national penal and treatment systems. Romania considers that a more efficient and more flexible system of penal sanctions is required, which to promote measures which not deprive the people of their liberty, while increasing community involvement in the enforcement of the penal justice. Such a system would have as additional effect the reduction of the number of inmates and avoiding penitentiary overcrowding, as well as remediation of the harm caused to the victims by ensuring the means necessary for the social reintegration of the delinquents.

Keywords: penal policy, penal procedure, imprisonment, rehabilitation, treatment

1. Imprisonment punishment-manner of re-education?

The criminal law, by its nature, has a deeply formalist character. For instance, the social environment of the delinquent may be considered only as a circumstance in determining the punishment between the limits stipulated by the law or, eventually, as an extenuating circumstance.

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A broader idea of proportionality between crimes and punishments, as it was formulated by Cesare Beccaria, one of the main representatives of the classic[1] school, could solve this problem[2]. He says that "the applied punishment is lived differently by the convicted, according precisely to the sensibility, social condition and level of education"[3]. Even more, he does not forget to mention that "education is the safest, but also the most difficult manner to prevent crimes"[4], and "the sciences that accompany the liberty" produce the same effect.[5]

In his opinion, the human or politic justice, unlike the divine justice and natural justice, which are, by their essence, immutable and constant, are nothing but a relation between action and the different state of the society; relation that might be altered when that action becomes necessary or useful to society[6]. Even so, no legal solution must contravene with "common sense", and people must not be "victims of a word" or of judicial formalism.[7] "*The only and true measure of crimes is the harm done to nation, and, hence, they have done wrong those who believed that the true measure of crimes is the intention of the one who commits the crime"*.[8] *"The purpose of the punishments is not to torment and grieve a sensible creature, nor to forgive a crime already committed. […] the purpose is only to prevent the guilty one to bring new prejudices upon his co-citizens and to discourage the others from committing harmful acts"*[9]. As prompt the punishment will be, and closer to the committed offence, as just and useful will be because it spares the offender from the useless and terrifying torments of the incertitude, which grows by the force of imagination and the feeling of his own weakness, and because to deprive of freedom is a punishment[10], this can not precede the decision of conviction unless is absolute necessary.[11] The certitude of a moderate punishment will always make a bigger impression than the fear of a more terrible punishment, added to the hope of exemption from punishment[12]. *„It is better to prevent crime than to punish it. This is the main purpose of any good legislation, which is the art to lead people to maximum of happiness and minimum of possible unhappiness, analyzing all the possibilities of*

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[1] Beccaria, Cesare (2001), *Despre infracțiuni şi pedepse,* Ed. Rosetti, Bucharest, p. 39-51, 96.
[2] Idem, p. 110.
[3] Idem, p. 84.
[4] Idem, p. 144.
[5] Idem, p. 140.
[6] Idem, p. 31.
[7] Cap. VIII.
[8] Idem, p. 49.
[9] Idem, p. 60.
[10] Art. 148, alin 1, lit. f, Criminal Code allows the arrestment when bail would be a danger for public order.
[11] Beccaria, Cesare (2001), *Despre infracțiuni şi pedepse,* Ed. Rosetti, Bucharest, p. 79.
[12] Idem, p. 94.

good and bad things in life. But the means used so far are usually wrong and opposed to the intended purpose. It is not possible to reduce people's disturbing activity to a geometric order without irregularities and confusion […]. To interdict a lot of indifferent actions does not mean to prevent offences that can not emerge, it means to create new ones, it means to define as you like the virtue and the vice, which are preached as eternal and unchangeable."[1]

In order to prevent crimes, Beccaria recommends[2]:

– the laws should be clear, simple, and the entire force of the nation to be concentrated on defending these and no part of it should be used to destroy these;

– the laws should favor less the classes of people that the people themselves;

– the people should fear the laws and only the laws – the fear of laws is good, but the man's fear of other man is fatal and crimes generator.

2. The contemporary evolution of the punishment from penalty to treatment

The concepts formulated by Beccaria were taken, developed and interpreted during the following centuries according to social interests and ideological currents in the field, to the evolution of the science of penitentiaries, to the notion of sanction and the notion of treatment, ending with the establishment of the International Union of Criminal Law and the adoption of dualism: punishment and security measure.

As consequence to the "waves" emerged from the promotion of positivist ideas, criminal lawyers and specialists in the science of penitentiaries in different European countries oriented towards a system of sanctions containing a certain repressive pragmatism. Hence, in France, Saleilles and Cuche tried to blend the fidelity of free choice with certain practical conclusions of the positivism. In Italy even the representatives of "Terza Scuola" (critic positivism) (Alimena, Carnevale) referred to the conciliation of determinism with the quest for a certain collective intimidation.

In 1889, as a consequence of the initiative of the Belgian Albert Prins, the Dutch Gerard Van Hamel and the German Franz von Liszt, it was established in Vienna the International Union of Criminal Law[3], that will be followed after the First World War by the International Association of Criminal Law.[4] The program of this organization statutes its neutrality towards the disagreement on free choice, its

[1] Idem, p. 138.
[2] Idem, p. 139.
[3] http://www.penal.org/?page=mainaidp&id_rubrique=13&lang=en.
[4] Idem.

desire to organize the defence of the society by efficient measures selected according to the degree of danger of the delinquent, and to search in a scientific manner, based on experience, the best formulas of criminal policy, including the penitentiaries' organization functioning.[1]

Hostile to the punishments depriving of freedom on short term, the Union will engage its members in research activities in penitentiaries domain: *"As the repressive Courts and the penitentiaries' administration compete for the same purpose, the conviction has no other value than its manner of execution, the separation consecrated by our modern law between the repressive function and the penitentiaries function must be rejected as irrational and harmful"*[2]*.* This text announces the establishment of the judge applying the punishment, institution introduced in Italy by the Criminal Law in 1930, and in France in 1945 in fact, in 1959 by law.

The dualist system – punishment and security measures – represents a step forward in the evolution of the sanction system. At the beginning of the past century the experts came to the conclusion that the protection of the society against the delinquency can not be accomplished unless two types of sanction are used: on one side the traditional punishment, measured strictly according to the responsibility of the offender, on the other side a security measure, without moral feature, but capable to remedy the degree of danger of the delinquent (a degree that can not be annulled by the punishment), attenuating it by treatment or annulling it by more radical measures. "The social defence" as it was seen at that time, the superior interest of the society prevailed deliberate over the individual liberties of the delinquents: in the doctrine pure positivist it should lead to a reaction even against the pre-delinquents, it implied measures on unlimited period and possible to be modified at any time in one sense or other in order to adapt perfectly to the evolution of the degree of danger of the delinquent. The respect of individual freedom and legality principle prevent the positivist European legislations from accepting the security measures *"ante delictum"* and the indeterminate sentence. Many countries (see France, for instance) surpassed the difficulty by calling the new implemented measures "complementary punishments" or "accessory punishments", the measures of juvenile re-education were the only ones presented and organized in 1912 as opposite to the classic punishments and submitted to a different juridical regime – comply to the principle of legality and establishment of a maximal period that could not extend over the moment of coming of age.

The great majority of the codes adopted at the end of the XIX century and the beginning of the XX century opened the path of dualism as form of organization of the social reaction.

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[1] Idem.

[2] Report at the Congress of 1893 made by E. Garçon, *Revista penală,* 1893, p. 1889.

This was the meaning of the Swiss draft of criminal law elaborated by Stoos at the end of the XIX century, of the first Norwegian criminal law in 1902, as well as the different codes adopted between the two World Wars: the Italian criminal law in 1930, the Danish criminal law in 1930, the Polish criminal law in 1932, the Latvian criminal law in 1933, the Romanian criminal law in 1936, the Swiss criminal law in 1937 etc. The draft for the French criminal law submitted for approval in 1934 adopted the same dualist system because, as Ancel said, "*No code may be called modern unless it consecrates together with the traditional punishment, the new measure of social defence"*

The states that did not reformed the criminal law felt the urge to make space for the security measures by special laws: the Belgian Law of social defence of 9th of April, 1930, the Spanish Law of 1934 on „vagos y maleantes" etc.

Certain authors remained faithful to this dualist system, mainly the adepts of the French positive law that has in its legislative arsenal punishments and measures of security and that authorizes the simultaneous intervention of a punishment and of a measure of security against the same delinquent, being in the same time particular as regards the juvenile delinquency.[1]

The development of a special juvenile legislation was a general phenomenon in all countries and it was exercised in the same way everywhere. If some divergences existed however among legislations pertaining to the composition of the jurisdiction designated to take decisions, it is certain that this happened because they intended to give this task to an authority particularly qualified to select the treatment better suited to the personality of that in cause. Hence, the notion of treatment replaced for the juveniles the notion of sanction and, mainly, the notion of punishment. The practice was extended over the adults as well; the use on a larger scale of the

[1] Regarding the juvenile delinquents the idea of a individual treatment, susceptible to contain a repressive sanction as re-educational measure without morally blaming the individual, according to the act, emerged and developed in France in the second half of the XIX century, when were established particularly penitentiaries rules and special establishments (Fundation Mettray – 1840 law of 5th of August 1850 on young prisoners' education and patronage etc.) for the benefit of the juveniles acting with or without discernment. The enforcement of the provisions was critical until the law of 22nd of July, 1922 clarified the situation, stipulating that the juveniles up to 13 years could not be the object of an educational measure and those of 13-18 years could be convicted to a punishment if they acted with discernment. The practice proved that the Court jurisdiction treated the discernment issue according to the measure considered most favorable for the social re-adaptation of the minor; the issue was decided by the Judge. The Order of 2nd of February, 1945 succeeded to repair this problem by authorizing the Judge to choose directly the measure adequate to the minor personality; this measure could not be a punishment except for exception cases. For these cases the art. 19 allow the Judge to add to this punishment the freedom on parole, which is a safety measure.

measures of security was accelerated in France by suppressing of the punishment and by developing the movement of the new social defence. The movement of the new social defence promoted the idea that "*each delinquent must be replaced on the right path by an adequate treatment, respecting his dignity and offering the necessary assistance".* Formulated initially by Gramatica in an extremely humanist conception, that raised many objections, and reformulated by M. Ancel in 1954[1], the idea gained in all countries a huge majority of jurists and legislations.[2] It should be noticed that the critics raised by this doctrine sometimes in France did not ever referred to its applying in the penitentiaries domain.[3]

"The social defence" as it was seen by the positivists, did not care much for the individual freedom and for the interests of the "dangerous" person, and this is why it was regarded with hostility by the classic jurists and liberal spirits. At the end of the years of repression the individual freedom seemed more important as ever and the respect for the person, a totally unknown concept for the totalitarian regimes, came first. The new school aimed always to ensure the defence of the society and to reduce criminality; estimating that the best, more efficient and, in the same time human, protection of the society **consists in readapting of all delinquents, by all means susceptible to act upon their personality**, respecting their personality and making them to rediscover the meaning of their social responsibility. Also, it suggested measures for the clear benefit of that in question, in order to release him from the risk to recur to delinquency, ensuring his best adjustment to the environment.[4] The supporters of the new social defence estimated that a unique system of "measures of social defence" must replace the existent duality of punishment and security measures: "*We shall pass from punishment,* M. Ancel said, *not for juridical criteria or for administrative facilities, but for reasons regarding the personality of the delinquent".* This manner of interpretation was shared also by the dean Bouzat[5], fact that gathered eminent experts[6] that established the International Criminal and Penitentiary Commission (6th of July, 1951).

According to the *new social defence* doctrine the social protection by readapting of the convicted constitutes for the society a real duty: only this can prevent the

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[1] *La défense sociale nouvelle*, 3-e éditions, 1981.

[2] Apud Ancel, M. (1964), *Revue de sciences criminologiques,* p. 196.

[3] Foyer, J. (1963), *Revue pénale,* p. 281.

[4] Ancel, M. (1973), *La peine dans le droit classique et selon les doctrines de la défense sociale, Revue de sciences criminelle*, p. 190.

[5] Bouzat, together with other French people: E. Garçon, Cuche, Vidal, J.A. Roux, Donnedieu de Vabres, had an important role in the activities of International Union and that in those of the International Association of Criminal Law, being for almost 30 years its general secretary and than president for ten years (1969-1979).

[6] 5-e *Cours international de criminologie*, p. 70.

delinquent from constantly falling in the responsibility of the community, more and more dangerous and less recoverable. The criminal and penitentiary policy of social defence was seen as the least onerous, the most profitable and human, consisting perfectly with the two new currents in the modern civilization: the current of Christian charity towards the unhappy fellow ones and the current of democratic fraternity of the free people equals in rights, emerged from the universal Declaration of the human rights. The influence of the *new social defence* doctrine rushed the establishment of important reforms: humanize of detention, its orientation towards the social reintegration of the convicted, distribution of the delinquents convicted to more than one year according to their personality and degree of corruption, application of a progressive regime of detention, going from imprisonment to quasi-freedom and parole, the establishment of social and medical-psychological service, generalization of parole, criminal and post-criminal legal assistance, establishment of a judge for applying punishments.

Resembling principles were adopted in 1955 by the first UNO Congress for crime prevention and delinquents' treatment. ("Minim Rules for delinquents' treatment"[1]), the document was approved by the Economic and Social Council on 31st of July, 1957 and it was reviewed by the European Committee for Criminal Matters of the European Council (subcommittee no VIII) under the presidency of the director of French Administration of the Penitentiaries and adopted by the Committee of Ministers of the European Council on 19th of January, 1973.

Some "alternative sanctions" adopted in France[2] in the second half of the past century, such as: the reform of interdiction to stay (law of 18th of March, 1955), possible measures for the treatment of the drug users defendants (law of 24th of December, 1953, respectively, the law of 31st of December, 1970) or that of the dangerous alcoholics (law of 15th of April, 1954), readapting of vagabonds within the social aid (decree of 7th of January, 1959) etc. belong to this large current of ideas. In conclusion, the science of penitentiaries engage itself on the path of the new reform of the penitentiaries, without knowing if the obtained results justify the methods of treatments.

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[1] www.un.org,

[2] Since 1976 the criminal policies were oriented in reverse as result of the increase forms of criminality that generated among the population a high feeling of insecurity. This feeling was amplified by the fact that mass-media emphasized the serious offences committed by the convicted that benefited of parole or leave of absence. The consequences of this phenomenon were the adoption of new restrictive laws: law of 22nd of November, 1978 and the law of 2nd of February, 1981, known as the "law security and liberty"

As consequence of the universal Declaration of the human rights, proclaimed by the United Nation Assembly on 10th of December, 1948[1] and of the European Convention for saving the human rights and fundamental liberties signed at Rome in 4th of November, 1950[2], the European jurisdictional bodies[3] (the Human Rights Commission and the European Court) contributed to the reform of the sanction and penitentiary system by applying on the prisoners the stipulations of the convention. The rights generally acknowledged by the convention can not be excepted or derogated unless the exception or the derogation are explicit stipulated by the law and constitute, within a democratic society, a measure necessary for the national security, public safety, economic welfare of the country, for the preservation of the order and prevention of crimes, protection of health or moral and the protection of personal rights and liberties.[4] The Court pronounced the prisoners' right to a certain freedom of correspondence[5], the Court estimated that restrictions and derogations must be submitted to a principle of proportionality, interdiction to deprive the prisoner of the right of access to a certain jurisdiction, regardless the fact he is temporary detained or convicted, mainly in order to verify the legality of his detention, the duration of the temporary detention[6], the independent character of the authority that ordered the detention[7], the reasonable character of the term of detention to solicit to be released, the militaries detained on disciplinary basis benefiting of the right to legal assistance[8] etc. Similar issues were formulated regarding the freedom of expression, freedom of conscience, freedom of marriage and establishing of a family[9], as well as regarding the article 3 of the Convention: "Nobody may be submitted to torture, nor to inhuman or degrading punishments or treatments" that suffers no derogation.

There is no doubt that exercising justice implies the existence of a technical staff specialized in the vast domain of the law. But, unfortunately, the facilities, each times large, granted to any person in obtaining the status of lawyer[10] or even judge or magistrate, without considering his features of integrity and objectivity, diminished the advantages that could be implied by this specialization. Today, the lawyers living

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[1] http://www.onuinfo.ro/documente_fundamentale/declaratia_drepturilor_omului/.
[2] http://cedo.md/?go=articole&n=13.
[3] http://www.coe.int/t/dghl/monitoring/execution/default_en.asp.
[4] According to the provisions art. 8, al. 2 of Convetion.
[5] Decision Golder, 21 February 1975, Case Silver – report of the Commission of 10th of November, 1980.
[6] Decision Neumeister, 27 June 1968, Decision Stagmüler, 10 November 1969.
[7] Decision Schiesser, 4 December1979.
[8] Decision Engel, 24 November 1976.
[9] According to the provisions of art. 9-12 of Convention.
[10] http://www.baroul-bucuresti.ro/.

from justice are almost as numerous as those living for justice.[1] Of course, this critic might be addressed to other professions, but these do not imply so much danger; the jurists are trusted with the most precious assets: the life, the fortune and the honor of a man, which frequently depend upon the ability, the attention and the nobles proved by these professionals on precise cases.

The deficiencies in practicing justice, regarded strictly psychological, are not caused only by the frequent lack of objectivity of those who administer justice, but even more by the technical procedures used and the manner how, finally, the results of this activity are expressed.

Within the criminal trials, the state assumes the role of prosecutor and does not renounce to its rights to control – in the name of the injured part – of the evolution of the trial. Even more – the state is the one responsible, always in the name of the society that it represents, with the execution of the imposed sanctions, in case that the guilt of the accused is ascertained. For this purpose the state has at its disposal a numerous staff and expensive institutions named "penitentiaries".

Consequently, in this field the errors committed are more serious, because frequently imply not only great sufferance, but even the loss of innocent lives, or the reverse, dangerous criminals, capable to continue to harm the society, perverted and sly remain unpunished.

3. The treatment as alternative to imprisonment

In order to avoid the conviction and the detention of a drug addicted delinquent, there are available different measures, starting with the possibility to choose a treatment under control[2] or in prison (the imprisonment punishment and the compelling to treatment), to the compulsory treatment (medical hospitalize), which is the most controversial form of treatment. The compulsory treatment may be enforced at any stage of the criminal procedure: before the beginning of the criminal trial, after the trial (for instance, as measure of replacing the imprisonment punishment, in case of a suspended punishment under surveillance), during detention or as criteria for parole. There are several national systems of treatment, each conceived according to the local conditions, which illustrate the diversity of possible addressing. The sates that re-examine their measures applied in treatment and alternative punishments must

[1] Mira y Lopez, Emilio (2009), *Manual de psihologie juridică,* Ed. Oscar Print, Bucharest, p. 125.

[2] Also see the provisions of art. 19^1, respectively 19^2 of the Law no. 522/2004 to complete and modify the law no. 104/2000 regarding the prevention and control of illicit drugs traffic.

structure their programs according to necessities and international principles in the field[1]. For better understanding we offer several examples:

- In the Islands of Cape Verde and Portugal if the drug addict delinquents convicted for certain offences associated to drugs abuse submit themselves voluntary to a treatment imposed by the Court, the Court may pronounce the suspended sentence under surveillance; if the drug addicted does not follow the imposed treatment or does not comply to the obligations imposed by the Court, this may revoke the suspended sentence and order the enforcement of the punishment.
- In France there are several possibilities within the criminal justice system. For instance, if the drug addict follows the treatment up to term decided by the Court the criminal prosecution may be ceased; the drug addicts may, also, present themselves voluntary and anonym in order to follow a treatment.
- In Malaysia if the medical tests relieve that an arrested person is drug addict a magister may decide that the person should follow treatment in a rehabilitation center, under strict control.
- In Sweden the Court may decide that a delinquent should follow treatment; under this circumstance the courts have the power to cease the criminal prosecution against the drug addict, providing that is not accused of an offence punishable with more than one year imprisonment.
- Certain states in USA created special Courts designated to judge the cases of a large number of small delinquents that enter in the system of criminal justice as result of committing of some offences associated to drug abuse, and to offer treatment by preserving the influence and the judicial powers necessary to deal with the delinquents. These Courts conduct inculpates for relatively minor offences, such as possession for consume or purchase of drugs for personal consume, towards educational programs for treatment or professional training and survey their activities. At the end of the program the criminal prosecution may be ceased (releasing from criminal prosecution) or the delinquent may be released on parole. Those who do not comply with the obligations imposed by the Court are convicted to progressive punishments including imprisonment.
- In Venezuela a person found in possession of a small quantity of illicit drugs destined to personal consume is tested in a non-penitentiary prevention center under the control of a criminal judge. If the result of the testing proves that the person in cause is drug addict this person must submit to a compulsory treatment recommended by specialists under the supervision of the judge (occasional drug users may be released under the same conditions).

[1] For instance, Tokyo Rules

The encounter between a delinquent that committed offences associated to drug abuse and the system of criminal justice may constitute a good opportunity for this one to get treatment, mainly if is a minor offence and the respective person has not been yet involved in large criminal activities. The clinic needs may be investigated and a diagnostic may be established and based on it a treatment program that is not available in the criminal justice system or in penitentiary may be recommended. Even more, including of stipulations regarding the possibility of treatment in the legislation regulating the drugs consume[1] allow the Courts to pronounce easily other punishments than criminal sanctions. The decision of a Court to order a treatment shows the delinquent the gravity of the committed act helping him in the same time to get treatment for a period long enough to pay results. Also, the Court must take that the treatment would not be more restrictive than the sanction itself.

The treatment programs must be studied carefully by the authorities and their objectives must by clear stipulated. For instance, the programs are generally meant to:

- allow the persons in cause to adopt and have on a long term a life style free of drugs consume;
- to reduce the demand of illicit drugs;
- to fight against criminality;
- to help drug addicts to improve their health and their chances of social re-insertion;

These measures must be taken even from the moment of initiating the evaluation mechanism in order to establish measures to accomplish the objectives. The authorities must take into consideration, as much as possible, the different contradictory factors, such as the need to guarantee a judicial procedure to protect the civil rights, the needs for treatment and other humanitarian aspects, as well as the objectives of the fight against drugs. Ideal would be that the drug addicts that committed offences associated to drug abuse would benefit of a program adapted to their needs, on a period long enough to obtain positive results. Also, the relapses should be prevented by post-treatment measures; the efficiency of these programs is depending upon the experience of those who implement the programs, upon the number of available places in specialized centers, upon a close cooperation between the criminal justice and the public health structures, as well as upon the necessary resources to guarantee success. The penitentiary should not be excluded from this equation: treatment services for the drug addict prisoners should function within these.

[1] In Romania, the possibility of treatment for drug addict delinquents was introduced in legislation by the provisions of the art. 19^1, respectively 19^2 .of the Law no. 522/2004 to complete and modify the Law no. 143/2000 regarding prevention and control of the illicit drugs traffic.

If we want to avoid delinquency we must fight to obtain the highest possible normality, individual and collective (to reintegrate the individual into society, to make him to have a normal life, to teach him to live normal); sending him to prison would stigmatize him, and the gap between him and the society would grow deeper.

The delinquency is a simple deviance of the behavior, which is always seen as a result of the impact between the individual tendencies and those of the environment. Hence, it is easy to understand that there will be cases when the prophylactic activity will be exercise especially upon the personal or social environment. As long as the norms of mental hygiene and social cohabitation based on the precise knowledge of limits and possibilities of the present generation will not be known and respected well enough, the number of delinquents will continue to be very high and the criminal sanctions will not reduce significant this number.

The percentage of recidivists is alarming in all countries, mainly if we consider the fact that many of them learned, while they were in prison, how to escape unpunished next time.

On the other side it is not less true that the present social organization deprives the rehabilitated delinquent of all resources necessary to a normal reintegration in the society: everywhere he will be regarded with fear, suspicion or repulsion, except in the so-called "inferior levels" of the society, those he should in fact avoid. All these factors contributes to shape the type called "regular delinquent", which represents a calamity in the big cities and a bad example in the small cities (the disposition towards delinquency, the insufficient change on personal level and the large difficulties faced by the former delinquents).

4. Conclusions

In Romania should be established a system of criminal sanctions mare efficient and flexible that would promote measures non-depriving of freedom and would increase the involvement of the community in applying of criminal justice (in our country is still functioning a system of punishment according to laws elaborated more than 40 years ago). Such system would have as complementary effect the diminution of the numbers of prisoners and avoid the over-agglomeration of the penitentiaries, and would also offer a compensation for the victims by ensuring the means for reintegration of the delinquents into society carrying out works in the benefit of the community.

In the present the tendency to impose detention as main criminal sanction instead of other forms of punishment seemed to be generated by the public concern that justice is not done unless the delinquents are kept in detention for a period long enough. If they are not kept at all in prison, the public is offended when they return into society, and feels an increase risk of insecurity. In consequence it is necessary to create awareness

and sensibility among the public regarding the advantages of the sanctions based on community, because there are justified reasons to recommend promotion of the measures non-depriving of freedom, including the treatment of the addicts, as form of criminal sanction.

The measures non-depriving of freedom have a considerable potential value for the community, and the criminality and its effects represent an important financial burden for the society. Also, the administration of criminal justice is expensive, and applying the measures non-depriving of freedom, including treatment, cost less than detention. More precisely, the cost to apply a sentence may be lower than the cost of detention. Plus, indirect financial advantages may result by reducing the social cost of detention and reducing criminality, as regards the development of the community and the compensation for the victims. This fact may be in conformity with the customs and traditional practices of solving the conflicts. In the same time, the measures non-depriving of freedom might have negative consequences upon those they are imposed. The detention in prison can not be considered a proper sanction for a large area of offences and for many types of delinquents, especially in the case of those who will probably not recur, of those convicted for minor offences and those that need medical, psychiatric and social help. The imprisonment leads to breaking the connections with the community and obstruct the reintegration into society. It weakens the sense of responsibility of the delinquents and their capacity to make their own decisions. There for, avoiding the measures non-depriving of freedom consolidates the perspective of a better reintegration of the delinquents into society, and of an increased awareness of the social values and of the active involvement of the local population in the social rehabilitation of the delinquents.

A number of measures non-depriving of freedom have the unique advantage to make possible the control over the delinquent's behavior allowing, in the same time, his development under natural conditions. This fact offers the possibility to develop the delinquents' sense of responsibility, reducing the probability of committing new offences and helping them to become responsible citizens, useful to society.

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