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Comments on the current legislation and practice regarding the education of juvenile prisoners

In accordance with international tendencies the focus of the educational system in juvenile prisons in Hungary was also laid upon the improvement of trainings providing general or specific knowledge that would supply missing or incomplete socialization. An emphasized area of education of the condemned is their practical employment and a positive and constructive organization of their free time. It was expedient to establish such educational frames which – beside their theoretical function – would enable the improvement of certain skills. This meant the including of skill-subjects in the education. The qualification of those condemned is lower than the average all over the world. This indicates the fact that there was a disorder in the process of socialization in the case of the majority of the perpetrators. Thus, it seems handy that during the time of the detention the institutions of law-enforcement should fill these gaps. By doing so they should potentially reduce the possibility of relapsing into crime. However, according to international recommendations education and culture cannot be forced on prisoners. On the contrary, the possibility of freedom of choice should be provided for and respected.

Within the system of penal law referring to the educational programmes for juvenile offenders it is necessary that educational experts be involved in the elaboration of these programmes. The employment of educational resources in the administration of law can be considered both a question of justice-making and that of welfare. Education has a crucial role in the measures taken for the resocialization of juvenile offenders. The attempts for reintegration are followed by a cautious supposition according to which if the conditions are provided, young people can be driven back to a normal life without any crimes. These conditions include a number of factors such as healthy social and economic environment, psychological treatment of youngsters, as well as the providing of educational and professional resources with the help of which they can start a new, decent life. Thus, the main message would be that although society does not accept criminal behaviour, juveniles have the possibility to learn, to take responsibility and reintegrate in society. From the moment when a young person comes into conflict with the law up to the moment of their release and even afterwards, this is the message that has to be conveyed.

While in general education students are distinguished based on their performance, special education has the purpose of providing special help to young people in danger or in conflict with the law thus, supporting them in their reintegration into society. In order to provide such

education it is necessary to know the needs and situation of these youngsters and to set goals for their improvement.

Basically, institutional education has to implement the following goals: remedial education, acquiring information (acquiring higher qualification and knowledge), providing support for talented youngsters (vocational guidance, revealing possibilities for further education, this being the tasks of the institution), establishing the possibility for additional trainings eg. in the field of information technology and foreign languages. All these goals aim at one direction: raising the youngsters' chance on the labour market through education, so that they not only take part in the learning process but also become able to work.

According to current legislation referring to public education in Hungary paragraph 6 § (3) of law LXXIX (1993) defines compulsory education as lasting till the age of 18. Compulsory education of students requiring special education can be extended at most till the end of the school year in which they turn 20 years old. The provisions of this law refer to juvenile prisoners as well. Compulsory education lasting till the 18th birthday refers to young people who started their training in the school year 1998/99. Those who started their studies earlier fall under the provisions passed in paragraph 129 § (1) of law LXXIX (1993) saying: 'Those children who began their studies with the first year of general school in the school year 1997/98 or before have to undergo compulsory education until the end of the year in which they turn eighteen years old'. Those who started their studies after this date fall under the provisions of the law that determines compulsory education as lasting till the age of 18 [paragraph 6 § (3)]. This means that if a young person started his general school studies at the age of 6 in school year 1998/99, in 2008 he will fall under the force of compulsory education lasting till the age of 18. This is relevant because in the institutions of law enforcement the majority of young people have not started their studies at all or have just completed one or two years. Thus compulsory education lasting till the age of 18 is also influential to those prisoners who got into the institution of law enforcement any time after 1 September 1998 and had never started their general school education before.

Thus it can be clearly seen, that according to the ascending system defined by law LXXIX (1993), starting from the current year (2008) the age limit for compulsory education for young prisoners is the age of 18. Even though this new system does not change the basic structure, it requires an essentially extensive educational work in the activities of the institution. According to current legislation supplying for missing primary school education is an important educational task of the institutions of law enforcement. Based on point n) under paragraph 35 § (1) of the law 11/1979. Prison Law the condemned have the right to pursue their primary school studies or, take part in secondary or higher education. There is also a rule allowing them the right to holiday which they should spend with preparing for their exams. According to paragraph 39 § (3) in justified cases the prisoner should be given the chance to take part in secondary education or continue higher education. Young people who have already turned 18 can take part in primary school education on the voluntary principle, but it is the task of the institution of law enforcement to make them become interested in education. This is promoted by the rule according to which „young people who take part in primary school education or in their first vocational training providing them with a qualification are exempted from the obligatory labour service during the time of the training. Beside the above mentioned rules there are a number of National Commanding Orders containing regulations to be followed by these institutions as regards education and training. According to these:

1. The education and training of the condemned must be organized within the educational system in the institutions indicated by the National Commander of Law Enforcement (BVOP). In the institutions indicated for the purpose of education and training the commander is in charge to determine the number and composition of the groups to be started.

2. The condemned must be kept posted about the educational possibilities within the institutions of law-enforcement, and about their rights and obligations. There must be one person appointed within the institution that prepares and organizes the educational activities. This person prepares and organizes the schooling and the vocational trainings, keeps in touch with the people taking part in the trainings, and organizes tutoring and schoolroom activities. Preparing the exams and the yearly reports as well as preparing educational plans also belong his tasks.

The tutor draws the condemned's attention to collect or to help in the collection of the required documents before the beginning of the training. The condemned can ask for his admission to the training by handing in an application form. If the admission requirements are met (valid documents certifying school qualifications, valid medical certificate), upon request and based on the commander's recommendation the condemned may be transferred to another institution of law enforcement where he can take part in higher education or vocational training. According to the regulations primary and secondary education should be organized within the given institution however, there is possibility for the application of the so-called "*external system*" which enables the condemned to continue his studies and take exams outside the prison, if he has the commander's permission. In this case the regulations for external labour should be properly applied. According to the rule if there is the possibility, the operation of foundational or religious schools should be rendered within the institution. In case the required documents of the condemned are not collected until the beginning of the courses, he may ask to take a levelling exam in the organization of the school that carries out the teaching. Studies must be continued even during the time of the paid leave in case the condemned spends it in the institution. With the commander's permission the condemned who have meanwhile been released can return to the institution in order to take their exams. Their intention of taking this opportunity has to be confirmed before their being released. The institution in charge of the training has to inform the students about the exam dates by post. In case the prison does not or just partly covers the expenses of the participation in the primary education within the educational system, the condemned have to be asked for a written declaration about the amount of the expenses covered by them. Participation can only be permitted if the expenses of the training are covered. A prisoner taking part in education or training can only be transferred to another institution, if there he can continue his studies. In other cases, the permission of the director of methodology must be asked for before the transfer. If the condemned was transferred to a certain institution with the purpose of his continuing his studies and he decides not to continue them, he can be transferred back to the initial institution. Permission for education outside the institution can only be given if the condemned was included in a group with low security risk level.

The interest and participation of juveniles in education and in vocational trainings is also promoted by scholarship funds provided since the mid-'90s. In other words, if the condemned takes part in education instead of working, during this period he is entitled to get an amount of money determined by the regulation. Those who take part in primary education, vocational training or further education – if not set to work – are entitled to get one third of the basic wages during the time of the training. From this amount of payment no taxes can be deducted. Primary education must be particularly promoted and encouraged. Books and school equipment and any further expenses for the training of those taking part in primary education must be provided by the prison organization. For those who take part in other forms of education this support can, but does not have to be given. The prisoners preparing for exams or accounts in primary, secondary or technical education must be exempted from work for the period of 5 working days every school year. On training days – regardless of the length of the training time – the students are given one hour reduction on work. When calculating the holiday, one has to take into account the time that those taking part in primary, secondary and technical

education within the educational system spent on the training and on preparation for exams thus being off their workplace. This time must be considered as working time. The educational institution issues the certificates and diplomas without indicating the person's being kept a prisoner. According to executive decree 1009/2004 (II. 26) referring to the enforcement of short and long-distance goals set by the National Strategy for Preventing Crimes, in order to support the social reintegration of those kept in the institutions of law enforcement, education must be organized during the time of their detention. They must be given the chance to take part in vocational trainings and technical training programmes like IT courses and other related trainings for adults from the National Qualification Registry.

On the other hand, there is a possibility for those being kept in an institution of law enforcement to take part in private tuition if organizing traditional education should come up against difficulties or if the participation of the condemned in these trainings was disadvantageous from the perspective of the certain institution (or if the prisoner takes part in higher education).

In the case of juvenile prisoners school education has a much more important role than in the case of adults. Young prisoners generally have a weakly developed personality with low educational level and get into the institutions through critical socialization processes. In their life outside the institution they usually did not have the possibility (family background, absence of a model) or the motivation to take school and learning seriously. In the course of the research it turned out how the absence of school socialization and the effect of this had a strong influence on the development of their personality. The majority of these youngsters have not only fallen out of the learning process but they did not take part in the socially important community activities organized by the school either (school trips, visits to museums, theatre, competitions). These children are not motivated, and without parental support learning becomes for them a tedious and unnecessary activity full with failure and negative experiences. Most of the children getting into the prisons used to be private pupils before, and have certificates of completing only one or two school years. The operation of the private tuition system is contradictory in itself as even those children can become private pupils who have difficulties with learning and would rather spend their time hanging around with their friends instead. The fact that the acquired certificate does not accord with the educational level of the children determines the content of the education. As a result, the absence of school socialization, the private pupil status, the consequences of being overaged, the fact that the educational level is in accordance neither with qualification nor with age, are all factors that undermine the necessity and acceptance of school education by prisoners. These characteristics clearly indicate how youngsters getting into these prisons start their studies full with experiences of failure and without any motivation. Thus it is a key issue whether these young people can be convinced of the importance of learning and that of acquiring knowledge and qualification? Will they become cooperative in the educational process or rather stay passive observers?

ZUSAMMENFASSUNG

In Zusammenhang mit den internationalen Tendenzen, im Mittelpunkt des institutionellen Erziehungssystems, steht auch in Ungarn die Förderung der Allgemeinbildung und Fachbildung, die die fehlende oder unvollständige Sozialisierung ergänzen möchte.

Ein wichtiges Gebiet bei der Erziehung der Verurteilten ist ihre zielgerechte Beschäftigung, sowie die Organisierung einer positiven und konstruktiven Ausfüllung der ihnen zur Verfügung stehenden Zeit. Innerhalb dessen stellt die Bildung eines der wichtigsten Elemente der Resozialisierung dar.