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The court's reaction to offences committed by juveniles

ABSTRAKT

Artykuł stanowi podsumowanie badań przeprowadzonych w Instytucie Wymiaru Sprawiedliwości Ministerstwa Sprawiedliwości w ramach projektu „Stosowanie środka wychowawczego w postaci umieszczenia w młodzieżowych ośrodkach wychowawczych oraz środka poprawczego w świetle danych statystycznych i badań aktowych”. Opracowanie składa się z trzech części: opisu próby, charakterystyki zebranego w sprawach materiału dowodowego oraz analizy czynników wpływających na decyzję sądu. Taka konstrukcja pozwoliła udzielić odpowiedzi na trzy podstawowe pytania: kim byli nieletni, wobec których sąd orzekł jeden z najsurowszych środków wymienionych w art. 6 Ustawy o postępowaniu w sprawach nieletnich, jakim materiałem, tj. jakimi informacjami o nieletnich, dysponował sąd podejmując decyzję o powyższym oraz czy wydane w sprawie orzeczenia były zgodne z zaleceniami instytucji pomocniczych.

Introduction

The research have been conducted in Institute of Justice Ministry of Justice. Study included 370 case files of 397 juveniles against whom, in 2014, courts adjudicated educational and correctional measures. This group was referred as „the test group”. In the course of research, there was collected data about 60 juveniles, against whom the court has applied other measures or discontinued proceedings. Regarding the significant disproportion between the both group, 60 juvenile’s group couldn’t name as a “control group”.

Paper is shared on three short part: description the researched sample, collected evidence and the analysis of the factors influencing the judge’s decision. It allowed to answer on the basic questions: who were juveniles to whom the court has applied the strictest measures mentioned in the article 6 of the Act on proceedings in juvenile cases, what evidence had the juvenile court used in taking a decision in relation to a specific person and how decisions issued by the court were consistent with the recommendations of the „supporting institutions”.

Description the examined sample

In the examined sample was 319 boys and only 78 girls. In 322 cases the cause of proceedings was committing of a criminal offence. Symptoms of demoralization were recorded only in 75 cases. Age of the respondents was varied and dependent on evidence initiating proceedings. More than 60% juvenile who committed offences was between 15 and 16 years old. The most active in this field exhibited 15-years old girls and 16-years old boys. Different trend was

noticed in the juveniles who showed symptoms of demoralization. In this group, girls was older than boys – about 70% of them had 15-16 years while the 75% boys had only 13-15. Most of respondents have problems in school (more than 80% skipped classes, about 70% repeated classes and got poor grades). Respondents have problems outside of school too (about 70% smoked cigarettes, drank alcohol and run away from home). More than 90% had previous experience with the justice. On average, half had earlier ordered probation, every fourth – youth educational centres, 20% also – a obligation to a particular conduct, 15% was reprimanded.

Offences committed by juveniles were directed mainly against property (about 50%). 17% juveniles committed an act directed against life and health (including one murder, four attempted murders and three assaults leading to death). In 17% was reported offences directed against freedom.

Evidence

Article 32b Act on proceedings in juvenile cases, obliges the judge to collect in the course of proceedings comprehensive knowledge of juvenile, family environment, health situation and living condition. The legislator mentions the sources of this information, mainly hearing a juvenile and juvenile's parents, but also take all necessary actions to aim of comprehensive clarification of the case. Gathering appropriate material allows get to know a juvenile. This knowledge is very important in the decision process. It enables to use of an educational or corrective measure accordance with the principle of individualization.

During the research was checked what evidence had court before took a final decision about to use of youth educational centre and corrective measure.

In 99% case files were diagnostic opinions. In 96% these opinions have been prepared in accordance with court decision. Mostly of them – 98% – contained suggestions for using the educational or the corrective measure. It should be noted that this high percentage of recorded evidence of the diagnostic opinion did not appear in any previous Polish research. It was due to regulations – article 25 Act on proceedings in juvenile cases obliges the judge to collect the diagnostic opinion before use of for example youth educational centres and corrective measures, so in all the researched cases.

The next evidence which was noticed during research was juvenile's hearing (in 98%) and also hearing of juvenile's parents (87%). During the analysis the result of the research, the material contained in the hearings was evaluated rather scepticism. In the juvenile's hearing was especially found the answer on three questions: "if juvenile parents alive", "if juvenile go to school", and if so "to which class". In hearing of juvenile's parents was also data about child behaviour.

Environmental interview was collected in 84% cases. Half of them included recommendations for using a particular measure. In nearly 60% of cases were collected the school opinions, in 9% cases – psychiatric opinions. In the files sometimes appeared also other evidence, for example medical documentations or opinions from the juveniles institutions.

Factors influencing the judges decisions

It was analysed the factors that influence the decision of the court to rule a youth educational centre and a corrective measure. Adopted seven groups of factors, including: demographic, family, juvenile behaviour in school, juvenile behaviour outside of school, earlier contact with the justice

system, the type of offence and the suggestions of the supporting institutions. For each group were defined variables.

Due to the large disproportion of distribution of the answers, to verify the impact of individual factors selected variables was recorded in each of the two groups of juveniles: directed to youth educational centres and directed to youth custody centres without suspension. It was also identified the expected direction of the relationship: the likelihood of a decision strictest measure referred to in Article 6 of the Act with respect to individual categories of independent variables.

It was assumed that:

1. Corrective measure was often predicated to older boys.
2. Less likely ruling the corrective measure was for juvenile who grow up in a full family, in which there were no problems in the form of: alcoholism and crime.
3. For juvenile who repeated classes, played truant, received bad grades, behaved aggressive against both teachers and peers was more likely ruling corrective measure.
4. The strictest measure was often predicated to juvenile, who made educational problems, run away from home, committed criminal acts and behaved aggressively outside of school.
5. Probability ruling the strictest measure increased when the juvenile had earlier contact with the justice and adjudicated educational measures.
6. Corrective measure was used mainly to juvenile who had committed the most serious offences and juvenile to which the decision was made on the basis of committing more than one offence.
7. Likely to apply a particular measure for juvenile increased recommendations in this regard contained in the diagnostic opinions.

The dependent variable was "kind of the measure." Other analysed variables were defined as independent variables. Dependencies between individual variables were examined for using cross tables and selected statistical measure (V Kramer's). Most of them proved to be statistically significant.

As a result of the analysis, it was said that juveniles who have been referred to:

- youth educational centres were: mostly boys, often younger (49,4% 13-14-years old), less trouble-making in school and outside, every third had previous contact with juvenile justice, about 30% had ordered probation, 4,3% were in youth educational centre, 20% - in youth sociotherapy centre;
- youth custody centres were: mostly boys, in 15 years and above, made trouble in school and at home, 53,3% had previous contact with justice, to 49,6% had applied probation, 81,7% – were before in youth educational centre, 63,3% were pupils of the youth sociotherapy centre.

Literature

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Ustawa z dnia 26 października 1982 r. o postępowaniu w sprawach nieletnich (t.j. Dz. U. z 2016 r. poz. 1654).

ABSTRACT

The article is a summary of research that have been conducted in Institute of Justice Ministry of Justice. Paper is shared on three short part: description the researched sample, collected evidence and the analysis of the factors influencing the judge's decision. It allowed to answer on the three basic questions: who were juveniles to whom the court has applied the strictest measures mentioned in the article 6 of the Act on proceedings in juvenile cases, what evidence had the juvenile court used in taking a decision in relation to a specific person and how decisions issued by the court were consistent with the recommendations of the „supporting institutions”.

Słowa kluczowe: nieletni, sąd dla nieletnich

Key words: juveniles, juvenile court