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**JUVENILE OFFENDERS IN CRIMINAL JUSTICE AND THE SANCTION SYSTEM IN SPAIN AND IN
HUNGARY**

– PhD Thesis Abstract –

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I

Summary of the preliminaries to research (thesis topic, choice of topic, and research objectives)

Thesis topic

The topic of my PhD thesis is the examination of the regulations of substantial and procedural criminal laws pertaining to juvenile offenders, and the comparison of those to their Spanish equivalents.

In the Hungarian legal literature much work has been done to analyze comprehensively the juvenile law enforcement in Hungary, and there has been some work in the Spanish literature as well, a comprehensive and comparative work at the field of the topic of my thesis, however, has not been published yet.

Choice of topic

I choose a special topic for writing my thesis: introducing the world of juvenile offenders of a country far from Hungary, in a different climate and with a different society.

Spain and Hungary are, so to speak, alien worlds to each other; there are many differences in the laws and the legal literature of the two countries; besides these differences, however, many similarities can be discovered as well therefore, based upon their comparison, I will try to draw some conclusions, ideas that the two countries could take over from each other and make use of which in legal praxis.

Many circumstances justified my choice of topic since, on the one hand, as Prosecutor for Criminal Law Enforcement and Legal Protection at the Independent Office for Legal Supervision of Criminal Law Enforcement and Legal Protection, I carry out the legal supervision of juvenile detention centers and correctional facilities, on the other, I have lectured at the Criminal Law, Criminal Procedure Law and Penal Law Department of the Pázmány Péter Catholic University for ten years, and taught special elective modules in Hungarian, English, and Spanish about the substantial and procedural laws pertaining to juvenile offenders.

In the course of my academic work I have many times had the possibility to hold lectures at universities in Spain and to visit correctional facilities on these occasions.

Research objectives

The objective of my thesis is to introduce the substantial and procedural regulations of Hungary and Spain pertaining to juvenile offenders. My goal was especially to deal with the presentation of the confinement and correction system of juvenile offenders in Hungary and Spain.

In the thesis I am searching for the answers to the questions whether it were possible to educate and correct the once faltered juvenile offender by means of the imposed penalty or correctional measure, and what we could learn from each other by contrasting the Hungarian and Spanish legal system, and how we could implement long-standing regulations already functioning well in practice that could make the conditioning and correction of juvenile offenders more effective and successful.

II

Methods applied in preparation for my thesis

Research methods

The research method was fundamentally descriptive, historical, and comparative in nature. In my research I did not work from secondary legal sources but I based it on primary and original ones; I translated the concrete legal regulations in Spanish and the few original works that the researcher can come across at this field.

The exploration and translation of the concrete regulations and the available literature in Spanish were an outcome of a many years long research in the course of which the great majority of the foreign literature was analyzed as well.

Exploring my topic I could not overlook the analysis of the international treaties and the documents available on the official home-pages of specific international organizations either. The introduction and analysis of legal sources give a descriptive character to certain chapters but the analysis of these was unavoidable to explore the correspondences and to compare the differences and similarities in the legal systems of the two countries.

To the analysis of the practical aspects of this research topic, I used the results also of my own theoretical research because also the outcomes of my data acquisition were really helpful in this regard.

I have worked as legal supervisor of juvenile detention centers and correctional facilities for five years as well as I visited various autonomous communities of Spain in the framework of the Erasmus mobility programme in the past ten years several times where I became familiarized with the everyday life in juvenile detention centers, and where I had the possibility to study the Spanish legal literature in university libraries (*Madrid San Pablo Ceu, Valencia Cardenal Herrera Ceu, Santiago de Compostela, Tenerife Santa Cruz de la Laguna*), just as to visit, and to make interviews with, Spanish professionals, judges, experts, and directors of correctional facilities.

This way my observations are based on both theoretical and practical knowledge; therefore my thesis is a product both of my research and of my professional occupation as prosecutor.

III

Short summary of thesis

My thesis is composed of three hierarchically arranged chapters.

III. 1 Foundations and definitions

The Spanish society went through a radical change in the past twenty-five years; it transformed from a forty-year dictatorial system to a democratic country. The legal, political, economical, and social reforms have been accelerating since 1986 when the country joined the European Union.

Thanks to the welfare and its geographical location, it changed from an ‘emigrant country’ to one which accepts immigrant.

The Kingdom of Spain is made up of seventeen autonomous communities and of *Ceuta* and *Melilla*, on the Southern shores of the Mediterranean Sea. Although these communities possess limited autonomy, they have high competencies.

Hungary and Spain are completely different countries; their history, geographical location, social composition, and economy differ substantially if we compare the criminal statistics, however, we get similar results.

The ratio of juvenile offenders to the adult offenders is similar: 7% in Spain and 8.7% in Hungary. In Spain as well as in Hungary, the majority of juvenile offenders belong to the age group of seventeen years; in 2014, the number of the juvenile offenders below fourteen years was very low, 2092 in Spain, when 1482 in Hungary.

Juvenile offenders most regularly commit assaults and crimes against property in both countries.

In the introduction of my thesis I work out the main ideas and the definitions of the most important terms.

It is impossible to turn to the analytical evaluation of the legal sources and to the comparison of the legal systems of the two countries without defining the fundamental concepts. In the introduction I define the concepts of juvenility, the penalties relied on the removal of personal freedom, the facilities for the enforcement of such penalties, i.e., the juvenile detention center and the correctional facility, as well as the concept of punishment and correction, and I examine the change of the age limit in the concept of juvenility.

The literature makes emphasis on it that the goal of the juvenile criminal enforcement is not simply the mere enforcement of a sanction but the correction and education of the errant young criminal through his or her emotions, by this means deterring him or her from recidivism.

The currently operative Hungarian legislation specifically pertaining to juvenile offenders defines the goal of the punishment or measure in the improvement of the juvenile offender in the correct way and in the integration of the juvenile offender into the society.

Which instrument could be more advantageous in a specific case, the law tries to determine by prioritizing the education and protection of the juvenile offender. Punishment, in principle, is the protection of the community by the restriction of a personal right of the offender, such a reprisal-like sanction where the special preventive goals fade into the background in contrast to the general preventive ones.

The correction, on the contrary, is a process putting emphasis on the discipline of the person that deserves special preventive goals, by taking into account the resocialization at the most.

The space for the punishment is the detention center whereas the settling for the correction is the correctional facility.

The detention center is an institute where the legally defined penalty of the complete removal of the personal freedom of the juvenile offender is enforced according to the court sentence whereas in a correctional facility, in favor of resocialization, the juvenile offender is disciplined based upon a court sentence.

The institutional correctional measure does not set aside criminal accountability but complements it by concentrating on the education of the juvenile offender through the application of pedagogical methods.

III. 2 History and international perspectives

In the first two chapters of my thesis I analyze how the laws in Hungary and Spain changed during the history, whether they are in accordance with children's rights and meet the standards of the international treaties.

I examine also in which extent the evolution of the operative regulations of Hungary and Spain correspond in reality to the content of the international documents. Not only in Spain but in Hungary as well, the philanthropist movement of the eighteenth century Germany bore influence upon prioritizing the regulations related to juvenile offenders when in accordance to the thoughts of *Locke* and *Rousseau* it taught that the methodology of the education had been exhausted and it was an urgent need to approximate the education in the school to the demands of the everyday life.

In Hungary, the first regulation about the criminality age appeared in 1792. The 1795 proposal for the Criminal Code was planning to open correctional houses (*domus correctoriae*) besides the more moderate and/or stronger jails.

For the first time the *Csemegi Code* defined the concept of the juvenile criminality saying that 'who at the time of the perpetration of a felony or misdemeanor had not turned the age of 12: cannot be accused of crime by the criminal court. Who, when perpetrating the crime or misdemeanor, had turned the age of 12 but not the age of 16, if lacking the possession of the capacity of discernment necessary for recognizing the sinfulness of the act, cannot be punished for this act. This juvenile offender though can be sentenced to placement in correctional-institute, where they cannot be kept above the age of 20.'

Additional novelty of the Code was the introduction of the institutional correctional measure. *Károly Csemegi* introduced the institutional correctional measure otherwise so alien to the overall mentality of the Code because he could not ignore the positive developments in the American and the European continent.

The doubtless advantage of the Csemegi Code was the introduction of the most advanced ideas and institutions of its age; this way for the juvenile offenders it ordered the opening of the correctional facilities. The shortcoming of the Code was that it left unresolved the details of the implementation.

The First Punitive Amendment (thereafter FPA) came into effect in 1 January 1910, establishing the criminal law for juvenile offenders, and by this the regulations related to the juvenile offenders of the Csemegi Code expired. The FPA did not modified the lower age limit of juvenility, remaining the age of 12, but it raised the upper limit from the age of 16 to the age of 18. The importance of the FPA manifested itself in the introduction of the institution of measures.

The Legislative Resolution 34 of 1951 (thereafter LR) amended the FPA and introduced the disability management parallel to the correctional disciplination, and the punishments had changed as well, the prison replaced the guardhouse and the state-guardhouse with the distinction that it shall be enforced in a special institution, namely in the juvenile detention center.

The importance of the Act V of 1961 on the Penalty Code can be summarized in the fact that it raised the lower age limit of criminal responsibility from the age 12 to the age of 14.

The Act IV of 1978 defined still a person as juvenile offender who at the time of the perpetration of the crime had turned the age of 14 but had not yet the age of 18. The Act ordered the ‘improvement of the juvenile offender in the right way’ as the goal of the sanction and the sequence of the sanctions by their choice.

In the first order, on a juvenile offender, a measure without the restriction of his or her personal freedom shall be imposed. The punishment with removal of personal freedom can only be an ultimate solution (*ultima ratio*).

In Hungary, the new punitive legislation, entered into force on 1 July 2013, in contrast to the previous solution, defined the lower age limit of juvenility in the age of 12 instead of the age

of 14, in the case of juvenile offenders perpetrating flagrantly aggressive offenses affecting life, physical safety, or property; the upper limit remained the age of 18.

The offenders between the age of 12 and 14, if they have the capacity for discernment, cannot be sentenced to penalty, only measures can be imposed on them, and the single one of these measures which entails the removal of personal freedom is the institutional correctional measure.

An additional proviso is that the juvenile offender between the ages of 12 and 14 might have possessed the capacity of discernment necessary for recognizing the results of his or her act at the time of the offense.

In Spain, laws from before the thirteenth century did not contain any regulations pertaining to the legal state of minors and to juvenile offenders. Regulations for protection of children first appeared in the Ancient Code of Castile (*Fuero Viejo*) and the Royal Code (*Fuero Real*). The 13 February 1734 *Pragmatica Sanctio* aggravated the content of the penalties imposable on juvenile offenders and made emphasis on condemning juvenile offenders to suffer especially cruel punishments.

When Charles III (1759 – 1788) came to power, with the Newest Recompilation of the Laws of Spain (*Novísima Recopilación de las Leyes de España*) a new era began where the former punishments were completely abolished and they were replaced by the modern concept of guardianship.

The first Spanish Criminal Code was promulgated on 9 July 1822 and it came into force on 1 January 1823. It followed the criteria of the Roman law that set the age of criminal responsibility at seven.

The 1848 criminal code differentiated three stages in the treatment of juvenile offenders.

The 1870 criminal code introduced more humane punishments against the juvenile offenders.

The 1928 criminal code (thereafter CC) contained regulations also pertaining to juvenile offenders and set the lower age limit of criminal responsibility at sixteen as the Act of 1925 on the Tutelary Courts for Minors (*Tribunales Tutelares para Niños*) did too.

This was the first CC that directly specified the age from which the juvenile offender had responsibility for his or her act. The CC saw the fact of juvenility as a mitigating factor; if the offender had turned the age of sixteen but not yet the age of eighteen, the court applied a more moderate punishment, and the judge was entitled to ease the imposed penalty discretionally.

Also the 1944 CC set the lower age limit of criminal responsibility at sixteen and, as a mitigating factor, it introduced the institutional correctional measure against offenders between the ages of sixteen and eighteen that was ordered for fixed term until the convicted made progress.

The Act on the Tutelary Courts of Juvenile offenders (*Tribunales Tutelares de Menores*), came into force on 11 June 1948, embodying the perspectives of the educational model. The act was inspired by the positivist and correctionalist view. The model focusing on the correction did not see a *sensu stricto* offender in the young criminal because of the crime and this way it was not possible to impose penalties on the juvenile offender. The correctionalists opined that punitive and repressive measures might not be imposed on a juvenile offender but the emphasis should be put on their improvement and correction.

At first time the 8 § (2) section of the 1973/2255 Royal Decree declared that persons between the ages of sixteen and eighteen shall be exculpated. Having not turned the age of eighteen at the time of perpetration was an excuse from condemnation. The Royal Decree is in accordance with the Article 14.4 of the International Covenant on Civil and Political Rights of 1966, i.e., “in the case of juvenile persons, the procedure shall be such as it will take account of their age and the desirability of promoting their rehabilitation.”

The 1979 Organic Act on the criminal law enforcement declared that persons having not turned the age of twenty-first shall be housed in a facility separate from the adult convicts or, if this is impossible, in a separate part of the same building. The Act also contains a regulation that convicts below the age of twenty-five shall be housed in a separate regime.

The Act of the year 1992 was the first one in Spain in which the ‘responsibility model’ appeared, a double conceptual framework aiming at the balance between the education of, and the punishment imposed on, the juvenile offender.

The in West European countries prevailing responsibility model emphasized the separate nature of the responsibility system for juvenile offenders, the necessity of broadening the wealth of instruments offering ‘differentiated treatment’ to juvenile offenders, and the importance of education.

The Organic Act of 5/2000 on the Criminal Responsibility of Juvenile offenders (*Reguladora de la Responsabilidad Penal del Menor*, thereafter LORPM) came into force on 12 January 2000.

Besides few substantial regulations, the LORPM contains mostly procedural ones. The act on the juvenile jurisdiction can be viewed as special law since the regulations pertaining to juvenile

offenders have not been incorporated in the criminal code or the procedural code but the regulations pertaining to them are enacted in a separate source.

The LORPM tried to consolidate this responsibility model legislatively that was implemented in the praxis as well. This topic was especially important for the legislators although this consolidation happened relatively late in Spain when other countries had already turned their attention to new concepts in criminal politics.

The LORPM had been the first act since 1948 which synthesized all the regulations pertaining to juvenile offenders in one complete system. According to many critics, this reform arrived too late; this delay, however, might have been a consequence of the Spanish politics.

According to the LORPM, the juvenile jurisdiction has its right place in a system separated from the general jurisdiction, with its own and special tribunals. The authority of juvenile courts is established upon the age of the offender and the offense itself.

In regards to the age limit, the act contains regulations pertaining to juvenile offenders between the ages of fourteen and eighteen. The age limits of the former acts were between twelve and sixteen.

The modification of the lower age limit involved great controversies and the legislation went against the opinion of many judges at the juvenile courts, and of the regional social agencies too.

At the same time, however, there was accord about that the upper age limit had to be modified and raised from the age of sixteen to the age of eighteen because the Spanish criminal code itself defined the age limit of adulthood at eighteen.

The LORPM differentiates between two groups in the above cohort, in the case of juvenile offenders, based upon the consequences of responsibility and the imposable measures. In the case of juvenile offenders between the ages of fourteen and fifteen, the imposed measure shall not exceed the length of two years, and between sixteen and seventeen, the length of any measure, including the confinement, shall not exceed five years.

The LORPM intended to put a greater responsibility at older juvenile offenders. This way, the juvenile offender can avoid that he or she should suddenly take the full responsibility before the court for adults as a result of a crime committed in the age of eighteen.

Although the LORPM declared solemnly that the goals of measures in the juvenile proceedings shall be pedagogic, and although the act is committed to the flexibility of the imposition and

enforcement of measures, in some cases also other aspects of the case should have been taken into consideration. These were the age, the nature and severity of the committed crime, and recidivism.

In summary it can be stated that the change of the *Zeitgeist* bore an impact on the systems of the penalties as in Hungary as well as in Spain; the special regulations pertaining to juvenile offenders became priorities.

In both countries besides the imposition of repressive penalties, putting an emphasis on improvement, the correctional facilities appeared in the nineteenth century where it became possible to separate the juvenile offenders from the adult ones.

It can be established that although differences can be noticed in the concrete regulations in regards to the age limits in each country, they represent a unified viewpoint that the capacity of discernment of the juvenile offender must be examined in front of the court.

The comprehensive analysis of the international law and of the regulations of the European Union is necessary, partly to know whether the operational regulations of the two countries were in accordance with the content of the international treaties, and it is of great importance to see what kind of tasks are to be solved by Hungary and Spain, and at which particular fields the legislation is necessary.

In the thesis, amongst the documents with great impact on legal practice, I analyzed the Geneva Declaration on the Rights of the Child, the New York Convention on the Rights of the Child, the Beijing Rules, the Riyadh Guidelines, the Havana and Tokyo Rules, the recommendations of the Council of Europe, and the European Prison Rules.

It can be stated that the Spanish criminal responsibility system is in accordance with the relevant documents of the UN and the Council of Europe.

Above this, however, the documents of UN and the Council of Europe in regards to the juvenile criminal system make emphasis on the separate nature of the juvenile criminal law and the necessity of creating a system for juvenile offenders which is based upon a different treatment to the adult one.

It is apparent that, besides the criminal responsibility, the Spanish system emphasizes the correction, education, and resocialization.

The Spanish law is in accordance with the expectations of the international documents regarding juvenile offenders, which the Organic Act separately declares in the general provisions.

Spain has a separate code pertaining to juvenile offenders; in Hungary there is no separate code for this purpose. Our CC follows the almost half a century old convention that the regulations pertaining to juvenile offenders are contained in a separate chapter of the unified criminal code although the idea of a separate code surfaced many times.

The essentials of the regulation in a code would be compiling the regulations in regards to the same social relations in one code, where the criminal, procedural laws and the regulations of criminal law enhancement would systematically be collected in one document.

In Hungary, in relation to the regulations pertaining to juvenile offenders, a conceptual change would be needed, and the creation of such an institutional system that would guarantee both the education and reintegration of the juvenile offender and the protection of the community. It appears to me, that the importance of the ‘differentiated treatment’ of the juvenile offenders, compared to adults, should be emphasized, as well as the permeability between the specialized fields of law.

Despite these, however, the conclusion can be drawn that the introduction of the exceptional criminal responsibility of the juvenile offenders between the ages of twelve and fourteen is in accordance with the international documents.

The special lower age limit in Hungary is not flagrant in the international comparison either since, in Ireland, children of age of seven, in Scotland, of eight, and in England, of ten years, can be punished.

Setting the age limit is a question of politics, influenced by sociological factors and the statistics.

The descriptive analysis in the first two chapters is vital because the following parts of the thesis are built upon it; and the international law evolves parallel to, and in tight cohesion with, the Hungarian and Spanish legal systems, giving directions for Hungary and Spain which criteria they have to meet yet, and at which fields there are shortcomings still.

III. 4 Punish or correct? Detention center or correctional facility?

The thesis is centered on the imposition of the sanctions against juvenile offenders, specifically on the institutional correctional measure. In the vast majority of my thesis I am dealing with the enforcement of punishments entailing the removal of personal freedom.

In Hungary, the Act CCXL of 2013 on the Criminal Procedure came into force on 1 January 2015. According to it, the enforcement against juvenile convicts shall take place in special law enforcement institutes.

In line with the Hungarian regulations, a convict having turned the age of eighteen but not yet the age of twenty-one shall be treated as juvenile. In regards to the regulation, in the criminal law enforcement, the concept of juvenility is broader than it is in the substantial law.

The primal task of the correctional facilities manifests itself, by means of behavior correction inside the secure institutions, in transmitting social norms and behavioral rules to pupils and in educating them for a healthy life style, with special regard to the prevention of drug and alcohol consumption.

The institutional correctional measure was incorporated into the criminal procedural code by the legislator through which the enforcement of this measure was regulated on the hierarchic level of an act at the first time.

The principle defining imprisonment as the ultimate punishment (*ultima ratio*) made such institutes more and more essential that can serve the purposes, both isolation and education, and therefore the correctional facility is termed as a Janus-faced institute because the punitive and educative nature is present simultaneously during the enforcement process.

In the correctional facility, the goal and objective of the education are specific and differ from the goals and objectives of any other institutionalized form of education.

This difference is due to the life history, social and psychological characteristics of the pupils and not simply to the specific situation which made necessary their correctional education. The purpose of the institutional correctional measure is the education and training of the youth, assisting them in their progress to become a good member of the community.

The institutional correction plays an important role in sanctioning juvenile criminality since, besides the widely preventive penalties and measures, its goal is to offer suitable atmosphere and education, possibly aftercare as well, for youth from disadvantageous socio-demographic background, helping them by their integration into the society.

The Hungarian correctional facilities, thus, have dual role in the Hungarian legal system. On the one side, they are places serving for the purpose of criminal punishment in the case of the enforcement of punishments with the removal of personal freedom, on the other side, however,

as part of the system for child protection, they are institutes the prime task of which is the surveillance, and the compensative and corrigative education of youth sentenced to institutional correctional measure.

Institutional correctional measure as retribution is applied in those cases when the gravity of the crime makes impossible such measure as well as the family environment of the juvenile offender and the socio-economical status of his or her family do not secure the socialization in an advantageous atmosphere, in case of probation. Therefore their institutionalization is required in advance of their successful education that could be helpful in the long run to compensate the incomplete socialization and to teach them how to solve their problems.

In Hungary, recently, five correctional facilities are in operation, one in *Aszód*, *Nagykanizsa* and *Debrecen* each, and two in *Budapest*, in *Rákospalota* and in the *Szőlő Street* the budget and regulations of those are determined by the Ministry for Human Capacities from 2012 on. Each institute has a specific function in regards to the specific needs of the subgroups of the juvenile convicts. In *Aszód*, only formally convicted males, in *Budapest*, males in remand are housed, whereas in the remaining three places any subcategory of the two can be housed, in the former one, females only.

In Spain, institutional correctional measure can be imposed exclusively in those cases which are defined as severe crimes by the Criminal Code or by any other criminal law, or in the course of the commitment of a less severe crime violence and intimidation were present, or if the crime was committed by imposing severe risk to the life or physical safety of others, as well as if the act defined as crime was perpetrated in group, or the juvenile offender committed it as a member of a group, gang, or any other organization, or in the name of these, even the group came into existence transitionally for committing similar crimes.

Imposing institutional correctional measure in the case of negligence or omission is excluded. The main rule is that the sum of the time intervals of the punitive measures cannot exceed two years where the time interval of being in remand shall be taken into account as well.

If the perpetrated crime falls under the specific criminal category defined by the 571-580 sections of the Criminal Code, the judge is entitled to impose on the perpetrator longer time interval between four and fifteen years of institutional correctional measure.

In Spain, in the case of committing the crimes mentioned above, the time interval of the correctional measure exceeds substantially the in Hungary imposable time interval that can last four years.

According to the Spanish regulation, in the most severe case, maximally fifteen-year long institutional correctional measure can be imposed on the juvenile offender.

It seems to me, however, that the Spanish regulation is the more favorable towards the juvenile offender in that respect that the penalty of confinement is not specified amongst the sanctions but only measures can be imposed on the juvenile offenders as well as that the enforcement does not end at release from the correctional facility but the juvenile judge can order the release of the offender by ordering surveillance with educational support on him or her.

In contrast to the Hungarian regulation, in Spain, after the formal pronouncement of the judgment, the juvenile judge proceeds in the enforcement process of the imposed measure, and not the law enforcement judge as in Hungary. The juvenile judge monitors the behavior and progression of the juvenile offender, as well as visits him or her regularly in the correctional facility.

The Spanish regulation seems to be reasonable and well established in that regard that the duties of the juvenile judges are not exhausted by the formal pronouncement of the sentence but they take part in the enforcement, are in daily contact with the juvenile offender, and have awareness of his or her personal development.

The juvenile judge is that person who knows the most the juvenile offender from the very beginning of the procedure and, possessing these pieces of information, is able to make a decision about what kind of measure were the most effective in the given case. In Spain, the juvenile judge has duties also in the enforcement process which can be understood taking into account that the judge defines only one part of the content of the measure in the verdict; the other part depends on the behavior and improvement of the juvenile offender.

In my thesis, after a rather norm-centered elaboration, I analyze how the operational regulations work in the everyday life of the juvenile correctional facilities in Hungary and Spain.

I refer to, and analyze, in detail how the operational regulations are present in the working of specific institutes (the Correctional Facility of Aszód, the Theresa of Calcutta Correctional Facility) and in the everyday life, and what rights are secured by the laws and regulations to the juvenile offenders in these two countries.

For the sake of understanding the theoretically researched primary sources, I visited the institutes mentioned above, and scrutinized the efficiency of the theoretical regulations in praxis and I examined whether the regulations are sufficient for the realization of the goals as set out in the regulations.

III. 5 Conclusions

In the fifth part of my thesis I deal with the question what the two countries can learn from each other, what kind of measures and well served methods could be transferred on institutional level.

The fifth part of my thesis is searching for the answer also to the question how the application of the principles settled down in the international documents can be guaranteed.

The jurisprudence takes different attitudes towards the issue whether the currently operative regulations are feasible for the prevention of juvenile recidivism and the protection of the community.

In my thesis, based upon my theoretical knowledge and practical experience, I demonstrated that Hungary would, according to the expectations of international documents, be supposed to ensure the protection and correction of juvenile offenders in detention centers, similarly to correctional facilities, by more effective means than the current regulation.

In my work I demonstrated that the conventional punishment, the imposable confinement, is not necessarily able to prevent recidivism therefore, besides the confinement, the institution of the institutional correctional measure is needed as well which pays attention also to the interests of the juvenile offenders.

My conclusion is that the current legal solutions do not allow the judge to pronounce solely institutional correctional measure against the juvenile offenders as it is the case in Spain, nor acknowledge the legal professionals the real effectiveness of the institutional correctional measure in prevention, denying the need for correctional facilities specifically for juvenile offenders.

In my thesis, by contrasting the Spanish example to Hungary, I tried to demonstrate why such a system which is exclusively based on punishments with the removal of personal freedom cannot work properly in the correction of faltered juvenile offenders.

In Hungary, the chosen topic of interest is getting more and more emphasis in the literature as well as in everyday life and, according to my opinion, its relevance will indeed rise in the near future.

Members of the Office of the Commissioner for Fundamental Rights and of the Hungarian Helsinki Committee, as prison monitors, visited the juvenile detention centers and correctional facilities several times. Upon a visit to the Aszód Correctional Facility, they ascertained that the follow-up of the juvenile offenders sentenced to institutional correctional measure and the supervision of them, on an institutional level, would be reasonable since the current system of aftercare offered by the very few volunteers does not seem to be capable to serve well for this purpose.

In the Spanish system there is no distinct plan for the prevention of juvenile criminality nor for the follow-up of juvenile offenders.

In Spain, the prevention puts emphasis rather on the amelioration of social conditions, defining the equality as a goal, this way making the commitment of crimes unnecessary.

In Spain, as stated by directors of correctional facilities, the 80% of the juvenile offenders do not commit crimes again after release; in Hungary, the ratio is even the opposite, the rate of recidivism is 80%.

The comparative analysis is not sufficient to draw any conclusions although it can be stated that imprisonment of the criminalized juvenile offenders in the crowded detention centers is not suitable for the correction of them.

The correctional facilities, in contrast, with their better equipment, are capable to create the illusion of being at home. As in the detention centers, the juvenile offenders live in regimes, in the correctional facilities they live in groups, and their number is different as well; in the correctional facilities it is maximized in twelve, in special groups in not more than eight, whereas in the cells of detention centers, even up to fifteen people can be housed, and there are differences also in the number of the professionals who take care for them.

In contrast to detention centers, the correctional facilities belong to the child and youth protection system.

In many cases only 'luck' is responsible for it whether the juvenile offender gets into detention center or correctional facility for the same crime.

In my opinion, it can bear a positive effect on the juvenile offender that the correctional facility allows more freedom and, depending on their behavior, they can visit home for a legally determined interval of time.

By rewarding and creating a safe atmosphere, a positive effect can be achieved in personality development. Improvement and reward are in tight correlation. Youth housed inside of secure institutes are longing for rewards in the same way as in the outside world. On many occasions they appreciate attention, interest, a good word, and confidence like rewards because they did not have experience of good care in their personal history.

It can be stated that appropriate and proportional rewarding does have greater impact than punishment could ever have.

The role of the institutes for the imposition of penalties, above the punitive task, is correction and resocialization of the juvenile offenders. Due to the specific characteristics of their age, the complex care for the juvenile offenders can still be effective.

Every child wants to be the hero of his or her story and, behind their everyday actions, there is an idealized picture of the self which tells where he or she wants to get in his or her own life therefore the criminalized youth must be taught in the secure institutes be able to choose the right path in his or her decision.