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DIVERSION MODEL OF RESPONDING TO JUVENILE DELINQUENCY AND THE ROLE OF THE SOCIAL WELFARE SYSTEM¹

ABSTRACT: Advocating for the widest possible diversionary response to juvenile delinquency is a general trend and a key tendency of modern juvenile criminal law. Scientific research and the focus on the best interests of the child strongly support the aforementioned facts. However, there is arisen a question concerning the fact how the general and abstract support for diversion and suspension of criminal proceedings, and transferring the juvenile offenders to the social welfare system, is reflected in everyday practice. Therefore, the paper starts with some introductory considerations about the concept and positive aspects of the diversion model, followed by the review of certain criticisms addressed to it. We devote the central part of the paper to the analysis of data related to Serbia and the social welfare service in Belgrade, in order to test the hypothesis of insufficiency of support for the diversion model in practice. The aim of this paper is to conceptualize recommendations for improving the practice of dealing with juvenile offenders in the juvenile justice system. We used an

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analytical-synthetic approach with the use of content analysis, normative, comparative and descriptive-statistical method.

Keywords: *diversion model, juveniles, social welfare, law.*

1. Introduction

The term diversionary reaction comes from the English word diversion, which means turning or redirecting. Diversion can be defined as the application of different modalities of treatment as part of efforts to distance juveniles from the justice system, while providing content significantly different from those typically associated with the judicial response (Osgood, & Weichselbaum, 1984). The diversionary approach also implies emphasising the restorative aspect, and including the victim in an informal reaction (Davies, 1976, p. 760). An important feature of the diversionary approach is that it does not annul the responsibility of the juvenile for the crime, although it enables the avoidance of formal proceedings and legal consequences that may arise from it (Farrell, Betsinger & Hammond, 2018).

Diversion is located halfway between the complete absence of a formal reaction and the complete criminal proceeding (Rutherford & McDermott, 1976, p. 26). True diversion prevents the youth from being formally processed by the juvenile justice system. When juvenile comes in contact with justice authorities, diversion means modifying the formal proceeding by simplifying and shortening it. Diversionary treatment is divided into that which implies the complete absence of any intervention regarding delinquent behaviour, and diversionary treatment through which the police or other competent authority directs the juvenile to diversion program (Elrod & Ryder, 2011, p. 178).

Although there is no consensus on defining the scope of diversionary response to juvenile delinquency,² it is indisputable that insisting on diversion and cessation of criminal proceedings is a solution advocated by almost all relevant international documents on prevention and response to juvenile delinquency, like the UN Standard Minimal Rules on Juvenile Justice (Beijing Rules, 1985) and the UN Standard Minimal Rules for Measures Alternative to Institutional Treatment (Tokyo Rules, 1989). National systems fully accept this form of reaction, trying to determine the broadest possible framework in

² For the purposes of this paper, the term juvenile delinquency is defined in narrow formal legal definition, according to which juvenile delinquency implies the commission of criminal acts by juveniles (Nikolić-Ristanović & Konstantinović-Vilić, 2018, p. 218).

which it could be implemented, usually with the active participation of the social welfare system. Diversion of criminal proceedings against juveniles is a standard part of the reaction to juvenile delinquency in Germany, Italy, France, as well as in the USA, Japan, New Zealand and many other countries. Therefore, the diversionary approach is one of the key tendencies in modern juvenile criminal law everywhere in the world (Kovačević, 2015).

Diversionary approach is based on a labelling theory and the theory of differential association (Kelly & Armitage, 2015, p. 119; Farrell, Betsinger & Hammond, 2018). After criminal proceeding, juvenile most often experiences a restriction of legitimate possibilities, so he/she can accept the delinquent's etiquette and repeat delinquent behaviour in the lack of other perspectives. Differential association theory explains how juvenile learn behavioural patterns in frequent and intense communication with others, which speaks to the negative aspects of the juvenile's association with delinquent peers in juvenile justice system. Therefore, the diversion model aims at removing the negative effects of criminal proceedings and institutionalisation, but also at determining personal responsibility and dealing with the consequences of crime. The diversion model considers both the empirically and scientifically confirmed claim that delinquent behaviour is, in most cases, only a transient phenomenon (Robins, 1978), and that an unbalanced reaction can bring more harm than good. That is why it tries to avoid contacting juveniles with the police, the prosecutor's office, and the court, diverting juveniles to social workers and other professionals outside the justice system. The application of diversionary measures also aims to relieve the juvenile justice system of cases classified as petty crime, which frees up resources for dealing with those juveniles whose behavior requires a more complex response. Diversionary approach enables better connection of juveniles with local resources, and thus more meaningful satisfaction of individual needs and strengthening of the relationship between the community and young people (Bukvić & Popović-Ćitić, 2016).

In practice, diversion appears in a number of modalities. It can be simply giving up criminal prosecution, verbal reprimand by the police, prosecutor or court, but also signing complex agreements that can predict in detail the juvenile's future obligations and consequences that he will bear if he does not adhere to the agreement. Diversionary treatment often implies various reliefs and privileges for a juvenile who adequately and timely fulfills his obligations, primarily in the form of reducing obligations and their duration. However, the scope and content of diversionary programs that will be used in practice largely depend on the available resources. Thus, some diversion

programs focus on the juvenile's engagement and contribution, while other programs contain professional assistance and support. Some of the services that can be provided are: family therapy, multisystem therapy, treatment of addiction and mental disorders, mentoring programs, educational programs, assistance in finding employment or part-time jobs, material assistance and enabling recreational and sports activities.

2. Critiques of the diversion model

The literature does not list only praise for the diversion model. Almost five decades ago, Lemert emphasised that, although it is aimed at preventing stigmatisation and traumatisation of juveniles, the diversionary approach also implies a kind of marking, and that it can influence the creation of a negative image of a juvenile offender, negative self-esteem and strengthening the pattern of delinquent behaviour (Lemert, 1971). Even then, this well-known sociologist wrote that the centre of diversion should be lowered to the local level and more informally well-designed forms of work, instead of focusing on professional institutional diagnostics and treatments that often give diversion a negative connotation.

There is more and more talk about the effect of “net-widening”, because the diversionary approach often increases the number of juveniles subjected to intervention, although the main purpose of diversion is to distance as many minors from the formal system of reaction. Thus, some researchers have concluded that a diversionary approach results in more or less invasive interventions for juvenile with whom the justice system would have no reason or basis to deal with (Pratt, 1986; Farrell, Betsinger & Hammond, 2018). This phenomenon can be associated with the pronounced intertwining of the criminal and social sectors, and kind of criminalisation of the poor (Leskošek, 2017). The involvement of a larger number of actors in the selection and use of diversionary measures, especially those that are not under the auspices of the judicial system, can cause arbitrariness, and then abuse and injustice (Bugarski, 2015).

The problem of “net-widening” is followed by the issue of legality of diversion, given that the diversionary approach implies shortened procedures and absence of formalities, losing sight of the fact that certain bureaucratic forms exist to protect defendants. Thus, we come to a paradoxical situation in which juvenile defendants, as a vulnerable and protected category, are sometimes less protected than adults. These problems are significant for countries whose legal systems originated based on the Anglo-Saxon legal

tradition, and in which juvenile can be held accountable for various forms of deviant behaviour, status offenses and similar broadly defined behaviours for which adults are not responsible. In countries whose legal systems are based on continental legal tradition, at least there is no ambiguity regarding the catalog of crimes and misdemeanours for which minors can be held accountable. However, European countries are not spared the problems of disrespecting the rights of accused juveniles, because it can happen that a juvenile without adequate information admits a crime and accepts various agreements to ensure the use of diversion instead of “real” criminal proceedings (Džamonja Ignjatović & Hrnčić, 2017, p. 65).

No less important are the objections concerning the often unfavourable attitude of the public about the diversionary model of reacting to juvenile delinquency. Namely, implementing the diversion model without examining public attitudes and without educational efforts aimed at a broad front, public may perceive this model as another way to easily forgive juveniles for non-compliance and provide social welfare measures to those who do not deserve them. In addition to the above, some authors express fears that the diversion model may have a stimulating effect on recidivism, given that the juvenile will not actually be intimidated by the experience resulting from the application of the diversion measure (Džamonja Ignjatović & Hrnčić, 2017, p. 60) which further causes distrust and public outrage.

Another problematic aspect of the diversion model relates to participation of the private sector implementing various programs and measures. It cannot be denied that the private sector needs to ensure sustainability of its activities through admission of new service users, and that there can be a conflict of interest and an increased risk that the services provided will not be satisfactory. Truth be told, it should be noted that the literature points out that, besides financing private service providers, a diversionary approach is more cost-effective than conducting criminal proceedings and executing criminal sanctions, i.e. that cost-benefit analysis supports diversion (Wilson & Hoge, 2013, p. 514).

One of the shortcomings of the diversionary approach is its non-uniformity, that is, many variations which can imply inconsistency and improvisation on the ground (Farrell, Betsinger & Hammond, 2018). Excessive creativity in implementation can jeopardise diversion goals. This is conditioned by the scarcity of relevant evaluations that would speak about the (in)effectiveness of the diversion approach, given that it is very difficult to establish which criteria should meet the diversion program in order to compare with each other. In such circumstances, there is no appropriate

set of standards on the basis of which the outlines of a more or less unique diversion model would be formed. Non-uniformity is at the same time an advantage of the diversion model because it enables an approach adapted to the individual case.

The effects of the diversionary model of response to juvenile delinquency are still not sufficiently researched. Wilson and Hoge (2013) in a meta-analytical study, analysed the findings of 45 scientific studies on the effects of 75 different diversion programs. Although authors emphasises that, because of methodological problems, their conclusions are not generalisable, they conclude that diversion is more successful in combating recidivism than the reaction through the judicial system. However, it is interesting to note that there is no significant difference in recidivism between the diversionary modalities that involved provision of various professional services and treatment, on the one hand, and the diversionary modalities that involved giving up prosecution, on the other. Patrick and Marsh (2005) research showed there was no significant difference in the rate of recidivism between juveniles subjected to standard criminal proceeding and those on diversion, although the diversionary approach proved more effective in meeting the individual needs of juveniles.

3. Diversion model in Serbia - normative framework and practice

Diversion model of responding to juvenile delinquency was introduced in Serbia with the 2006 Law on Juvenile Criminal Offenders and Criminal Protection of Juveniles (Official Gazette of RS, No. 85/05, hereinafter referred to as: Law on Juveniles) introducing educational orders as measures of *sui generis* (Radulović, 2006). However, in a broader sense, a diversionary approach in Serbia has existed for decades. Even before the Law on Juveniles, the public prosecutor could assess the expediency of initiating proceedings against a juvenile under certain conditions (Bejatović et al., 2012, p. 57) applying the principle of opportunity.

According to Art. 58 of the Law on Juveniles, for criminal offenses punishable by imprisonment for up to five years or a fine, the public prosecutor for juveniles may decide not to initiate criminal proceeding, although there is evidence to suggest that the juvenile committed a criminal offense, if the public prosecutor considers it would not be purposeful to conduct criminal proceeding against juvenile, given the nature of the crime and the circumstances it was committed, the juvenile's previous life and his personal

characteristics. If the execution of a sentence or educational measure is in progress, the public prosecutor for juveniles may also decide not to initiate criminal proceeding for another criminal offense of a juvenile, if given the gravity of that criminal offense, there would be no point conducting criminal proceeding and imposing a criminal sanction. In these two cases, we have a simple diversion - the criminal proceeding is diverted by setting no conditions and applying no measures. When deciding, the public prosecutor has to consult the Centre for Social Welfare, as a custodial authority who provide a report on the personality and social circumstances of the juvenile.

Complex diversion or diversion with intervention occurs when applying educational orders. According to Art. 62 of the Law on Juveniles, the public prosecutor for juveniles may condition the decision not to initiate criminal proceeding with the consent and readiness of the juvenile to accept and fulfil one or more educational orders. If the juvenile fulfils the educational order, according to a report submitted by custodial authority, the public prosecutor for juveniles rejects the criminal charges. The educational order can be used even after the criminal proceeding has started, in which case the court applies this measure in order to suspend the criminal proceeding. Vasiljević-Prodanović (2017) argue that the legislator should have more precisely determined the purpose of the educational orders and to emphasise the educational influence on juvenile so that he would not commit criminal acts in the future. Non-initiation or suspension of criminal proceedings, as determined by law, cannot be considered a purpose, but actually the content of this measure: “criminal proceeding is not initiated or it is suspended if all objective and subjective conditions provided by law are met”. This is the essence of diversion with intervention, “which implies determining obligations to the juvenile in order to develop his personal responsibility, unlike simple diversion which consists only in eliminating criminal proceeding, without applying additional measures” (p. 120).

The educational order may last for a maximum of six months. Obligations for juvenile offender include: 1) settlement with the injured party in order to compensate the damage, apology, work or in some other way to eliminate, in whole or in part, the harmful consequences of the act; 2) attending school or going to work regularly; 3) unpaid work in humanitarian organisations or affairs of social, local or environmental content; 4) subjecting to testing and abstinence from alcohol and drug abuse; 5) inclusion in individual or group treatment in an appropriate health institution or counselling centre.

Law on Juveniles stipulates conditions for the application of educational order in such a way as to enable the diversion or suspension of criminal

proceedings in as many cases as possible. However, the question arises whether and to what extent this legal possibility is actually used in practice. In order to answer this question, we analysed the data collected by the Statistical Office of the Republic of Serbia, as well as the data provided by the City of Belgrade Centre for Social Welfare. Knowing the general social circumstances in Serbia and circumstances in juvenile justice system, we started from the assumption that the diversionary approach is used to a considerable extent as a response to juvenile delinquency, with the most often application of simple diversion and only a few modalities of complex diversion.

According to statistical data shown in Table 1, from 2016 to 2020 in Serbia public prosecutors for juveniles have not initiated / suspended preliminary proceedings on average in 61.1% of all criminal cases reported by police. In other words, the largest number of juvenile criminal cases did not go further than the prosecutor's office. The main reasons for prosecutors rejecting crime reports or suspending proceedings were the expediency and the existence of circumstances that exclude criminal prosecution. This data shows us that simple diversion (without intervention) is represented to a considerable extent in juvenile justice system of Serbia. However, we can see educational orders were used by prosecutors in a small number of all decisions not to prosecute juvenile or suspend criminal proceedings (on average 13.6%).

Table 1. Public prosecutor's office for juveniles statistics in Serbia from 2016 to 2020

	2016	2017	2018	2019	2020
Crime reports on juvenile perpetrators	3643	3465	2744	2903	2524
Preliminary proceedings not initiated / suspended	2040	2166	1640	1829	1626
Educational orders used by public prosecutor for juveniles	241	330	230	244	224

Source: Statistical Office of the Republic of Serbia

The data in Table 2 show that juvenile courts suspended criminal proceedings in an average of 19.5% of all submitted motions for pronouncing criminal sanction to juvenile. The highest number of suspensions of criminal proceedings (507 cases) was recorded in 2020, but in that year, the courts used the lowest percentage of educational orders (7.7% of cases) to divert juveniles from formal criminal proceedings. The largest number of educational orders was implemented in 2017, although that year only 11.5% of all crime reports

on juvenile perpetrators were disposed that way. As was expected, the public prosecutors used most of the educational orders for juveniles. For example, out of 277 educational orders used in 2019, the court used educational orders in 33 cases.

Table 2. Juvenile court statistics in Serbia from 2016 to 2020

	2016	2017	2018	2019	2020
Submitted motions for pronouncing criminal sanctions	2505	1992	1849	2002	1750
Proceedings suspended by juvenile court	468	355	296	318	507
Educational orders used by juvenile court	63	68	59	33	39

Source: Statistical Office of the Republic of Serbia

To gain a more meaningful insight at these numbers, we should look at the extent of the diversionary response to juvenile crime in other countries. Thus, in Germany, up to 70% of the total number of juvenile cases are resolved by applying diversionary measures (Dunkel, & Heinz, 2017), while in Belgium, 80% of juvenile cases are dealt this way (Dunkel, 2014, p. 37). We should not lose sight that there are significant differences in the scope and structure of used educational orders in different parts of Serbia. Thus, it was noticed that during the past years a larger number of educational orders was used in cities such as Belgrade, Novi Sad, Niš and Kragujevac, where international and non-governmental organisations implemented various projects, while in Eastern and Southeastern Serbia there was a scarce application of educational orders (Centar za prava deteta, 2015).

For analysing the structure of educational orders implemented in Belgrade, we used the data of the City of Belgrade Centre for Social Work from 2015 to 2018. As a custodial authority, Centres for Social Work propose, organise, coordinate implementation of educational orders, report on their enforcement (Bugarski, 2015), and thus have the most comprehensive knowledge about the use of educational orders.

Table 3. Types and number of educational orders in Belgrade from 2015 to 2018

Type of educational order / Year	2015	2016	2017	2018
Restorative order (settlement with the injured party in order to compensate the damage)	25	13	11	9
Attending school or going to work regularly	7	6	11	6
Unpaid work in humanitarian organisations or affairs of social, local or environmental content	18	15	5	5
Subjecting to testing and abstinence from alcohol and drug abuse	2	1	1	2
Individual or group treatment in an appropriate health institution or counselling centre	13	20	15	22
Total	65	55	43	44

Source: City of Belgrade Centre for Social Work

During 2015, the most commonly used educational order was restorative order - compensation for damages and an apology to the injured party, which was expected because juveniles mostly commit minor property crime. From year to year, the use of other educational orders gradually increased, in parallel with a better acquaintance of all official actors and the public with this institute of juvenile criminal law. Thus, in 2016, 2017 and 2018, the most frequently used educational order was inclusion in individual or group treatment in an appropriate health institution or counselling center. We should not lose sight of the fact that the data relating to Belgrade may differ significantly from the data relating to other regions of Serbia, given the far greater number of various health care institutions and counselling centres in Belgrade compared to other cities. This is undoubtedly important for custodial authority, public prosecutor and the court in deciding what educational order to use in each specific case.

There is a noticeable decrease in the number of educational orders for unpaid work in humanitarian organisations or affairs of social, local or environmental content during 2017 and 2018. We can only assume that this is because of significant organisational and technical requirements for implementing this educational order (organisations have to draft regulations detailing rights and obligations of parties involved, engage supervising person, submit reports, etc.). It is important to note that projects for the improvement of juvenile justice in Serbia were financed by various donations in the period from 2011 to 2017. With the cessation of funding, some activities related to implementing educational orders ended. In one period, the City of Belgrade Centre for Social

Work had memoranda of cooperation with City secretariats (for social and child welfare, culture, education, environmental protection) and organisations of Red Cross, the City Centre for Physical Culture and the Association of Citizens IAN (International Aid Network). Day Care Centre of IAN in the meantime ceased to operate due to lack of funds. We can conclude that, in the period of our research, the activity of the civil sector in the implementation of educational orders is very modest, which calls into question the possibility of meaningful implementation of these measures at the local level.

We can notice a low number of educational orders related to substance misuse during the period from 2015 to 2018. Part of the explanation is the assumption that, because of the level of addiction and behaviour problems juveniles have, prosecutors and courts are more inclined to impose educational measures. However, some authors and professionals in the field argue that resources to treat juvenile addiction are scarce, and health care institutions in Serbia encounter significant formal and essential problems in the treatment of persons under the age of 16 (Bugarski, 2015, p. 100). Bearing in mind the data on the number of drug-related juvenile criminal offenses (total of 223 criminal charges during 2018), implementing one or two educational orders related to the treatment of addiction in a city of millions such as Belgrade is insufficient. In addition, experts suggest that educational orders should encompass other forms of addiction (Republički zavod za socijalnu zaštitu i International Management Group, 2012), given common knowledge that gambling, video game addiction, and other forms of addiction are in expansion among the youth population.

Although almost a decade and a half has passed since the introduction of educational orders in Serbian juvenile justice, non-existence of by-laws that would resolve numerous doubts and specify who and in what way undertakes certain actions in the application of educational orders is still a relevant problem (Cerović, 2018, p. 262). In the meantime, the gaps have been somewhat filled thanks to project activities that have resulted in the design of appropriate procedures and the establishment of mechanisms that still function in practice today. Under the patronage of the Kingdom of Norway, in the period from 2010 to 2014, the project “Improving the availability of justice in Serbia” was implemented, within which research on the application of educational orders was conducted in ten major cities in Serbia. Then, in the period until 2017, the project “Strengthening the justice and social welfare system in order to improve child protection in Serbia” was implemented - IPA project, under the patronage of the European Union (Cerović, 2018, p. 264). Thanks to the project activities, the Draft of Standards and Procedures for the Application of Educational Orders was designed, but to this day it remains only a proposal.

As a result of the project, key role of social welfare system in the application of educational orders is recognised.

The following problem is lack of stable sources of funding that restrict strengthening of capacities and mechanisms for implementing educational orders (Satarić & Obradović, 2014). Problem with project financing is that the activities can last as long as the inflow of funds lasts, so that a significant number of established services did not take place, and the providers of those services disappeared from the field. Given that budget finances public institutions, this issue is important for the civil sector, from which, for example, a lot was expected in the management of day care centers. Day care centres for children and youth with behavioural disorders can be a kind of basis for implementing educational orders, and it is bad that there are still obstacles to licensing and standardising day care centres organised by civil society organisations (Bukvić, 2016, p. 305). In this sense, it is necessary to more clearly plan the conditions for funding licensed civil society organisations.

The next problem refers to the often inadequate cooperation between stakeholders in the juvenile justice, social welfare, health and education systems. This is, among other things, a consequence of an imprecise division of roles, and the well-known dependence of the system on personal enthusiasm and communicativeness of managers and employees. The lack of human resources at the centres for social work is especially important problem (Žegarac, 2016, p. 46), given that the reformed social welfare system is based on the dominant role of case manager who is expected to implement integrative social work, to encourage and train users to change their life and make it better (Ajduković & Urbanc, 2009, p. 510). The situation is such that centres for social work there have no experts dealing only with juvenile delinquency (Satarić & Obradović, 2014), because they have to meet the needs of various categories of users. Case manager at the Centre for Social Work may have from 100 to 300 cases a year, which include children without adequate parental care, children with developmental disabilities, children during divorce, children with behavioural problems and juveniles in conflict with the law, as well as cases that require urgent intervention to protect against abuse and neglect (Hrnčić & Radoičić, 2018, p. 84). In such circumstances, a juvenile in conflict with the law finds it difficult to break out in the first place on the list of priorities. The solution to this type of problem could be to specialise and empower professionals at social work centres to care for juveniles with behavioural problems, instead of a situation in which all professionals deal with all categories of users.

The problem of insufficient participation of the civil sector in the application of educational orders is related to the weak representation of

educational orders in smaller communities. As already mentioned, the ability of civil society organisations to work in this area currently mainly depends on occasional funding opportunities. In a system where there is no participation of civil society organisations, juveniles are referred to centralised state institutions, so that the application of the measure minimally contributes to the reintegration of minors from smaller communities in their places of residence. By the logic, larger institutions are located in larger cities, which leads to the unavailability of a significant number of services to juveniles from smaller communities. The question is whether such a system allows the local community to be informed that the juvenile is trying to conscientiously perform its obligations, and whether the implementation of the educational order in any way contributes to integration of juveniles in the local environment (Cerović & Šarac, 2017, p. 21). This problem can be solved by making case managers more intensively trained to provide services such as individual and group counselling, mediation and socio-educational activities.

The lack of a systematic approach in educating official actors is another significant problem in implementation of educational orders. Members of the civil sector rarely have the opportunity for continuous education, although the acquisition and modernisation of knowledge and skills is one of the key standards in dealing with juvenile delinquency. Employees in the centres for social work, despite adequate formal education, have only basic knowledge about the rights of the child. There are also shortcomings in skills for immediate work with juveniles (Žegarac, 2016, p. 46). Keeping in mind that there are relevant scientific and professional organisations in Serbia, resolution of the problem could be by intensifying cooperation between these organisations and the system involved in implementation of educational orders.

Furthermore, there is a problem of the impossibility of applying certain educational orders. Thus, Hrnčić and Radojičić (2018) noted that case managers in the centres for social work often opt for those educational orders for which there are personnel, technical and other conditions, instead of orders that would be appropriate to the needs of juveniles. There is no simple solution to this problem, but that sufficient resources should be allocated. On the other hand, only those orders that can be implemented should be provided by law.

Finally, we face the almost complete lack of extensive research on the effectiveness of educational orders, especially their effects on recidivism. Results of several partial researches show positive effects of educational orders on recidivism. Thus, Bugarski (2015) studied the implementation of educational orders in Novi Sad in the period from 2011 to 2014, and found that no cases of recidivism were recorded in that period, and that juveniles, parents

and official actors were mostly satisfied with the process of implementation of educational orders. Džamonja Ignjatović and Hrnčić (2017) in their study on educational orders in Belgrade, Novi Sad, Kragujevac and Niš state that both juveniles and their parents were generally satisfied with the implementation of the measures, and that they find it useful. On the other hand, Hrnčić and Radojičić (2018) found that centres for social work propose criminal sanctions and measures with incomplete respect for the criteria prescribed by the Law on Juveniles, which calls into question the expediency of those sanctions and measures. It is necessary to intensify the research, because science cannot make constructive proposals for solving problems that have not been examined in detail.

4. Conclusion

The diversionary model of responding to juvenile delinquency is a standard for which almost all international documents in juvenile justice plead, and which is undoubtedly accepted in most national systems of juvenile criminal law. Although in comparative practice we do not hear only praises at the expense of the effects achieved by implementing diversionary measures, this still does not call into question the need for their future more intensive and branched application. Namely, the modern paradigm of looking at the child and his position in a developed and humane society requires that the diversion model be a necessary segment of reaction to juvenile delinquency. Diversionary measures are aimed at satisfying the juvenile's needs, improving his life circumstances and creating a better perspective.

Statistical data on the prosecutor's use of diversion in juvenile criminal cases shows that simple diversion (without intervention) is represented to a considerable extent in juvenile justice system of Serbia. However, educational orders were used by prosecutors in a small number of all decisions not to prosecute juvenile or suspend criminal proceedings. Judges even less often decide to divert criminal proceedings by applying educational orders. Observing the implementation of educational orders in Belgrade, we noticed a decrease in the use of some educational orders (unpaid work), while educational orders related to substance abuse are almost never implemented.

Analysing the scientific and professional literature and the opinions of experts dealing with juvenile delinquency, we isolated several key issues obstructing the application of educational orders: the lack of by-laws that would resolve numerous doubts regarding the competence and methodology of using educational orders; lack of financial resources and uncertainty

regarding the responsibility for their provision; insufficient cooperation between entities responsible for the implementation of educational orders; scarce participation of civil society organisations; lack of a systematic approach in the education of key actors; lack of research on the effectiveness of educational orders, especially in terms of combating recidivism; and the almost complete impossibility of applying certain types of educational orders.

There is no yet fully developed a sustainable system for implementing educational orders in Serbia. There are several recommendations for improving the development of this system in our country. It is necessary to complete the legal framework that will recognise the key role of social welfare system in the application of educational orders, strengthen human, material and organisational capacities, provide stable sources of funding, improve cooperation between stakeholders in the juvenile justice, social welfare, health and education systems, and encourage participation of the civil sector.

In order for limited resources not to be wasted, it is especially important to conduct well-designed evaluative studies. Diversion model has potential to be a part of a successful policy of dealing with juvenile delinquency in Serbia. Therefore, the future of responding to juvenile delinquency, with the selective conduct of criminal proceedings, rests on targeted testing and evaluation of existing and new diversion strategies that will focus on the needs of juveniles.

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DIVERZIONI MODEL REAGOVANJA NA MALOLETNIČKU DELINKVENCIJU I ULOGA SISTEMA SOCIJALNE ZAŠTITE

REZIME: Zalaganje za što šire okvire diverzionog reagovanja na maloletničku delinkvenciju predstavlja opšti trend i ključnu tendenciju savremenog maloletničkog krivičnog prava. Naučna istraživanja i fokusiranje na ostvarivanje najboljeg interesa deteta snažno podupiru ovakav razvoj događaja. Ipak, postavlja se pitanje kako se načelna podrška

za što češće skretanje i obustavljanje krivičnog postupka, uz prenošenje tereta reakcije na sistem socijalne zaštite, oslikava na stanje u praksi. Stoga je rad koncipiran tako da nakon uvodnih razmatranja o pojmu, prirodi i pozitivnim aspektima diverzionog modela sledi osvrt na izvesne kritike koje mu se upućuju. Centralni deo rada predstavlja analiza podataka koji se odnose na Srbiju i aktivnosti Gradskog centra za socijalni rad Grada Beograda u implementaciji vaspitnih naloga, u cilju provere hipoteze o neusaglašenosti načelne podrške diverzionom modelu sa postupanjem u praksi. Cilj rada jeste i koncipiranje preporuka za unapređenje prakse postupanja prema maloletnim učinocima u sistemu maloletničkog pravosuđa. Primenjen je analitičko-sintetički pristup, uz upotrebu analize sadržaja, normativnog, komparativnog i deskriptivno-statističkog metoda.

Ključne reči: *diverzioni model, maloletnici, socijalna zaštita, zakon.*

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