

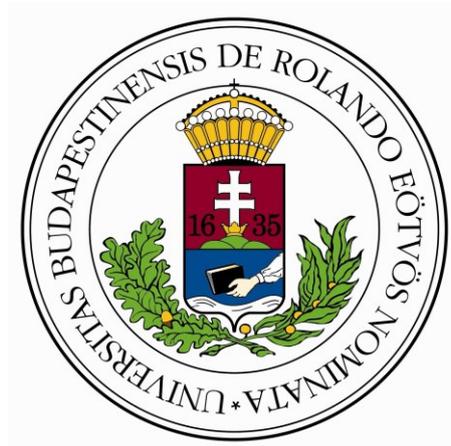
**THESES OF DOCTORAL (PHD.) DISSERTATION**

**Special prevention and desistance**

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# I. Theoretical and methodological frame of the thesis

## I.1. Introduction: Raising the issue

In the criminological discourse of the twentieth century and of the new millennium we can witness the growing popularity of the prevention approach and of crime prevention efforts. The development of the objectives and instruments of tertiary prevention<sup>1</sup> plays an outstanding role in this process. The prevention of reoffending is a task of strategic importance, that regardless of place and time, puts a heavy burden on society, especially the criminal justice system. Thus, the issue of special prevention is an eternal problem, but its preferred tools and techniques change over time. Although at the end of the twentieth century the punitive tools seemed to have triumphed among the competing trends of special prevention<sup>2</sup>, recent national and international developments imply the *relative strengthening of the goals of correctionalism and reintegration*.

In my thesis I deal with *special prevention*, which, according to section 79. of the Act C of 2012 on the Criminal Code is one of the goals of punishment. I focus on the *correctionalist approach to special prevention*, and link it to the concept of desistance. In academic literature the term *desistance from crime*” refers to the termination of criminal activity, or rather the process of ceasing and refraining from offending. desistance research not only offers a novel approach to the topic, but also adds valuable empirical findings to its background. The goal is the achievement of desistance from crime, and the interventions and measures of special prevention have to be integrated into this process, besides the criminal sanctions aiming at restoration and retribution. The prevention of reoffending is an interdisciplinary field, the study of which I consider, both as a psychologist and a jurist, exciting and useful for practice. This research area enables the integration of the knowledge, the perspectives and the methods of different disciplines.

The timeliness and relevance of my dissertation topic is guaranteed primarily by the constant growth of Hungarian prison population. This is a distressing tendency not only because of the overcrowdedness of penal institutions<sup>3</sup> and because of other severe prison harms related to the latter condition, but also because the number of former prisoners to be reintegrated is increasing. The prevention of reoffending as a goal of the criminal justice system does not only concern inmates of penal institutions but also offenders under alternative or community sanctions<sup>4</sup>, e.g. probation. Punishment is only one possible means of prevention<sup>5</sup>, and according to the results of efficiency studies quoted in my dissertation, not necessarily the

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<sup>1</sup> By tertiary prevention I mean the prevention of reoffending

<sup>2</sup> Borbíró, A. (2011) *Kriminálpolitika és bűnmegelőzés a késő-modernitásban*. Doctoral dissertation, Budapest, ELTE-ÁJK, p. 124.

<sup>3</sup> According to date on the website of the Hungarian Prison Service, the number of inmates was 18042 in 2013, resulting in an average overcrowdedness rate of 143% in Hungarian penal institutions. The latter rate was reduced by 2% in 2014, due to the increase in prison capacity.

<sup>4</sup> The wide concept of alternative sanctions refers to the alternatives to imprisonment, which aim at the reduction of prison population. Community sanctions do not only mean alternatives to imprisonment, but also imply the use of community resources in the execution of criminal sanctions.

<sup>5</sup> Sherman, L. W., Gottfredson, D. C., MacKenzie, D. L., Eck, J., Reuter, P., Bushway, S. D. (1997) *What works, what doesn't, What's promising*. A report to the United States Congress. Washington, DC: National Institute of Justice. [http://www.rolim.com.br/2002/\\_pdfs/ing.pdf](http://www.rolim.com.br/2002/_pdfs/ing.pdf)

most effective one. Thus, with regard to the future effects of punishment on human behaviour, it is not enough to study special prevention alone. The content of criminal sanctions, i.e. the *practices aiming at the prevention of reoffending* also have to be dealt with.

## **I.2. The aims and structure of the dissertation**

In our days *evidence base* is a basic requirement in the field of tertiary crime prevention, which means that we have to possess a comprehensive as possible and socially and culturally specific knowledge pertaining to the *risk and protective factors of reoffending* and to the *factors related to desistance*. However, in Hungary considerable shortcomings exist regarding research and the utilization of empirical results. Only a small number of national studies have addressed risk and protective factors<sup>6</sup> of offending and reoffending<sup>7</sup>, and with the exception of a few review articles<sup>8</sup> desistance from crime has no Hungarian literature at all. International empirical results and experiences are a strong argument for the initiation of national research projects. A *study on Hungarian tertiary crime prevention practices and their collation with foreign academic literature* could be a suitable starting point for such research. This thesis wishes to contribute to these latter research projects by summarizing knowledge on the prevention of reoffending and by adding to the empirical data, partly relying on the *results and theoretical frames of desistance research*, which is a relatively novel approach in Hungary.

*One of the central themes of my dissertation* are the structured interventions aiming at the prevention of reoffending, their theoretical background and the factors supporting desistance from crime, and their possible linkages. My thesis *also focuses on* the objectives and instruments of Hungarian tertiary prevention practice, on its anomalies, and on the experiences and attitudes of professionals working with offenders. My dissertation thus has *two main objectives*, which is also reflected by its structure. In the *first*, long and expansive part of the thesis I discuss the theories, research approaches and empirical results that form the scientific background of tertiary crime prevention practice. Before that, in the first two chapters I deal with the place of tertiary prevention in the crime prevention system and with the place of the methods and instruments under discussion among the forms of special prevention, i.e. special deterrence, incapacitation and rehabilitation. In this context I also undertake the task of unburdening the *concept of rehabilitation*, at least to the extent of this dissertation, of the negative connotations it has carried ever since the Martinsonian critique.<sup>9</sup> In order to “rehabilitate” the term I discuss the historical and conceptual issues of *rehabilitation*, and based on this review I make arguments to underpin the use of the concept

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<sup>6</sup> See e.g. Kerezsi, K. – Kó, J. (2013) *Normasértés vagy jogkövetés. Fiatalkorú fiúk kriminológiai vizsgálata*. OKRI, ELTE ÁJK, Budapest.; Solt Á. (2012) *Peremen billegő fiatalok. Veszélyeztető és kriminalizáló tényezők gyermek- és ifjúkorban*” Doctoral dissertation, manuscript, Budapest

<sup>7</sup> See e.g. Gönczöl, Katalin (1980) *A visszaeső bűnelkövetők tipológiája*. KJK, Budapest, and the relevant studies of Antal Patera and Tibor Tavassy.

<sup>8</sup> See e.g. Molnár, J. (1992) A bűnöző életmód feladása. In: Tóth K. (Szerk.) *Emlékkönyv Dr. Cséka Ervin egyetemi tanár születésének 70. és oktatói munkásságának 25. évfordulójára*. JATEPress, Szeged, 355–375. ; Szabó, J. (2011b) Fókuszban a kilépés: „Hogyan térnek jó útra a bűnelkövetők?” *Belügyi Szemle*, 7-8., 62–83.

<sup>9</sup> Robert Martinson published in 1974, then in 1975 with his colleagues the results of their study concluding that „nothing works” in the realm of correctional treatment.

under discussion.<sup>10</sup> The terms used in the dissertation do not always reflect my own views and preferences, but rather the fulfilment of the criteria of close translation and authentic references. Because in my thesis I deal with a topic that is poorly represented in Hungarian academic literature, I have relied mainly on Anglo-Saxon academic literature and have adapted the terminology of the latter works. In this piece of literature the popularity of the term ‘rehabilitation’ is apparent even in the titles of books and extensive review articles, oppositely to Hungarian literature which prefers the term ‘resocialization’<sup>11</sup>. The notion of rehabilitation is not only used in academic literature, but also in the practice of the European Court of Human Rights<sup>12</sup> and the Constitutional Court of Hungary<sup>13</sup>, in light of which the pejorative meanings associated with the term seem groundless.

In the third, fourth and fifth chapters of my dissertation I discuss the ***theoretical and empirical background of tertiary prevention***. The main guideline for the analyses is provided by my endeavour to show how the factors related to reoffending and desistance from crime form the elements and tenets of tertiary prevention, and primarily of the theories and methods aimed at the prevention of reoffending. With this comprehensive summary I would like to contribute to the small number of Hungarian papers on this topic and to provide a theoretical framework for my empirical study. By presenting the utility of the results of empirical research in this field I also wish to argue for the need for the revival of national research on the topic of the dissertation.

The other main objective of the thesis – related closely to the first one – is to ***present and evaluate the tertiary prevention practice of the Hungarian criminal justice system***, specifically the prison service and the probation service in light of the legal background, the academic literature and the results of two empirical studies. In the sixth and seventh chapters of the dissertation – the latter containing the main conclusions – I also ***review and analyse the recent changes in the legal regulations*** pertaining to the field of tertiary prevention, specifically the institution of risk assessment. By presenting the results of my empirical research on probation supervision my further objective is to add to the knowledge on factors supporting desistance, especially on the role of probation supervision in the latter process. And last but not least, my ambition is to ***contribute to the theoretical and methodological background of further domestic research*** on the process of desistance from crime and the prevention of reoffending

### **I.3. Research questions and hypotheses**

The research questions and hypotheses raised in the dissertation are organized around three main interrelated themes, which also determine the structure of the thesis:

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<sup>10</sup> As I will get back to it later, by the term rehabilitation I mean purposeful programs and other interventions that, via the modification of different psychological factors, are potentially able to influence future behaviour and decrease the likelihood of reoffending. However, with regard to the so-called rehabilitation theories I have to accept a wider concept of rehabilitation, which also includes tools of reintegration.

<sup>11</sup> However, even Hungarian authors have different understandings of resocialization

<sup>12</sup> See e.g.. *the case of László Magyar v. Hungary* (application no. 73593/10), October 13, 2014.

<sup>13</sup> See resolutions 20/2013 (VII. 19.) and 144/2008. (XI. 26.) of the Constitutional Court of Hungary

1. A systematic review on the theoretical background of the prevention of reoffending requires the delineation of the criminal policy basis of the discussed field and the clarification of the terms used in the thesis. Since the topic of my dissertation is the crime prevention practice of the criminal justice system, my first research question concerns the place of this field in the system of crime prevention. To answer this research question I apply different taxonomies suggested in the literature, and with the help of one such model I shed light on the meaning of the term **tertiary prevention** that is frequently used in my thesis. I also try to confirm my *presumption* that the doubts pertaining to the crime prevention function of the criminal justice are not decisive in literature, and that **tertiary crime prevention through the criminal justice system is an integral part of the crime prevention system**. With regard to role of punishment and criminal justice interventions in special prevention, I examine on one hand the preventive effect of punishment itself, i.e. **special prevention**, and on the other hand the **content of criminal sanctions**, i.e. the effects of the relapse prevention interventions linked to these sanctions. According to my related *hypothesis*, incarceration, which is considered to be harsher than community sanctions and therefore should have a stronger deterrent effect, is actually not more effective in the prevention of reoffending, than *alternative sanctions*, e.g. *probation supervision*. In my opinion, it is exactly the ineffectiveness of the tools based on special deterrence in the prevention of reoffending which makes correctionalism truly relevant for criminological research and criminal policy. However, since the idea of rehabilitation has fallen into disrepute since the mid 1970s, and it is still considered to be a contentious term in Hungary, I feel it necessary to give a historical and conceptual analysis of the concept. In this analysis I focus on how the development of the **rehabilitative idea** has progressed since the crisis of the treatment model, how legal and professional frames of correctionalism have changed in the last half-century, and which factors have brought it back to the centre of attention in criminology and in criminal policy. Through my discussion I seek to support the hypothesis that the idea of the rehabilitation of offenders is not at all an overgone and legally debatable goal of criminal policy. Moreover, in my standpoint, tertiary prevention programs, i.e. rehabilitation – with the strict adherence to **human rights** and so to the **principle of voluntariness** – can be recognized as a right of the offender and, on the other side, as an obligation of the state.

2. The second global theme of the dissertation is made up of the **scientific issues of tertiary prevention practice**, which I discuss in the third, fourth and fifth chapters of my thesis. My aim is to provide an adequate theoretical and terminological background for the evaluation of the Hungarian situation concerning tertiary prevention in chapter six. My *first research question* in this topic pertains to the **empirical background of and** – determined by the latter research directions – **the approaches to the rehabilitation of offenders**. In the course of the review I seek to answer the research question how the different *approaches to offender rehabilitation* are made up, i.e. how they integrate knowledge from empirical research. One string of research I summarize pertains to the correlates, risk and protective factors of reoffending, and the other area of research I review is concerned with the factors related to desistance from crime. Besides the **risk model** and the so-called “what works” paradigm, which are based on the former research approach, I also discuss the so-called **strengths-based approaches**, illuminating the basic differences between the two paradigms.

My *second research question* concerning the topic pertains to the ***effectiveness of the prevention programs*** created within the frames of the two different approaches. In order to answer it I turn to the results of the efficiency studies and the results of those, mainly qualitative studies regarding the strengths-based programs, that are beyond the “what works” paradigm. On the one hand, I review the characteristics of effective relapse prevention programs for offenders, and on the other hand I aim to find out what the gage of effectiveness is for programs that lack strict control and criteria, particularly strengths-based programs. My assumption is that the requirement of evidence-based practice favours preventive efforts that fit into the “what works” paradigm, however recent developments indicate an increasing headway of strengths-based approaches as well. In light of the above, my *third research question* seeks to answer how risk-focused and strengths-based perspectives can be harmonized, and to find out whether the ***integration*** of the different approaches can be of additional benefit.

In my intention the analysis built around the above research questions also throws light on the ***place of psychology in tertiary prevention practice*** and shows how psychological theories, methods and empirical findings can be integrated in research and practice on rehabilitation of offenders.

3. In the third part – the longest sixth chapter – of the dissertation I describe and in light of the reviewed academic literature analyse the ***Hungarian criminal justice system’s practice on tertiary prevention***. The two criminal sanctions I examine with regard to the prevention of reoffending are ***executable imprisonment*** and ***probation supervision***, thus dealing with the the role of both institution-based and community-based programs in tertiary prevention. The frames of the analysis are provided by the research question that seeks to explore ***how the normative goal of tertiary prevention is achieved in everyday practice***. I attempt to answer this question mainly on the basis of the results of two empirical studies; in the first one I took part<sup>14</sup>, while the second one was carried out by me<sup>15</sup>. I analyse the results on tertiary prevention practice of the Hungarian Prison Service in light of the relevant legal background, the historical roots of the correctional education<sup>16</sup> idea, and the knowledge on rehabilitation theories and criteria for effective programs. In case of the findings regarding probation supervision, besides the normative and historical background I rely primarily on knowledge on desistance from crime. The exploration of the ***factors hindering the achievement of the special prevention goal of criminal sanctions*** and the knowledge and attitudes of prison professionals and probation officers pertaining to tertiary prevention are necessary in order to answer the above research question. Probation supervision also provides the possibility to study the process of desistance from crime. Therefore, the experiences of probation officers and people under probation supervision about desistance and the ***role of the different structural and psychological factors*** – including probation supervision itself – ***in the desistance process*** are also presented as a research question.

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<sup>14</sup> Borbíró, A. – Szabó, J. (2011) *Dezisztancia és a bűnisméltés megelőzése: kezelési programok a magyar büntetés-végrehajtási intézetekben. Empirikus Áttekintés és értékelés*. OKRI research, manuscript (Desistance and the prevention of reoffending)

<sup>15</sup> Szabó J (2014) *Harmadlagos megelőzés és kilépés pártfogoltak körében*. OKRI research, manuscript (tertiary prevention and desistance among offenders under probation supervision)

<sup>16</sup> Translation of the author (In Hungarian: büntetés-végrehajtási nevelés)

Recently considerable *legal changes* have taken place in Hungary with regard to the abovementioned criminal sanctions, and *new legal institutions* have been introduced. Among these in my thesis I focus on the legal provisions pertaining to the so-called KEK system<sup>17</sup> and risk assessment. I carry out the analysis not only with respect to the relevant international trends but also with consideration to the current situation in Hungarian criminal justice system. My related research question seeks to explore *if the conditions for the proper functioning of the discussed legal institutions are given* in the country, i.e. if the planned changes actually take place. According to my *hypothesis*, the Hungarian criminal justice system – including the Prison Service and the Probation Service – struggles with *basic systematic problems* that considerably hinder the achievement of endeavours aiming at the development of tertiary prevention and the functioning of legal institutions in charge of these latter goals.

#### **I.4. The theoretical and the methodological framework of the dissertation**

On the grounds of the complexity of the themes and goals of my dissertation, I applied a multiple approach, and also aimed at collecting data from different sources, with different methods. Due to the nature of the topic I chose to investigate and discuss it in an *interdisciplinary theoretical framework*. My thesis is dominated by the *criminological* and the *psychological perspectives*, but I also rely on the *historical approach* in order to yield an adequate background for the professional issues of tertiary prevention practice.

Criminological and psychological perspectives provide the framework for the presentation *and analysis of the scientific background of tertiary prevention*. I draw mainly on the *etiological approach* when discussing the theoretical and empirical knowledge pertaining to the risk and protective factors of reoffending, the RNR model<sup>18</sup> and some tertiary prevention programs. I also rely on the *interactionist perspective*, especially regarding the factors related to desistance from crime, some rehabilitation theories and methods, the tertiary prevention practice of the criminal justice system and my own empirical research. Formal and informal social control, the relationship between crime and the institutional responses given to it, stereotypes and preconceptions about offenders, labelling, stigmatization and social exclusion are all entities that cannot be explained solely on the basis of the traditional etiological approach. The prevention of reoffending is typically an area which – because of the complex dynamics of the social background of crime – requires the application of the interactionist perspective.

Since crime is a form of human behaviour, and its motives and the potential methods of its treatment are (partly) psychological in nature, and because of this the understanding of offender rehabilitation theories and tertiary prevention methods is not possible without the conceptual framework of psychology, the *psychological perspective* has a strong influence on my dissertation. Under the latter I do not mean a psychological area, school or trend, but a

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<sup>17</sup> Kockázatelemzési és kezelési rendszer (Risk analyses and risk assessment system) Section 92. Act CCXL of 2013 on the execution of punishments, criminal measures, certain coercive measures and confinement for administrative offences

<sup>18</sup> The RNR model is a rehabilitation theory, the so-called Risk-Need-Responsivity model.

specific approach to criminal behaviour, the so-called *psychological criminology*<sup>19</sup>. Psychological criminology deals with the role of personality, cognitive processes, socialization and other individual psychological factors in criminal behaviour, the relationship between crime and different normative factors, e.g. the influence of peers, and the differences between offenders and non-criminals. It differs from the sociological approach to crime to the effect that while the latter is concerned with the social background of offending, the former focuses primarily on individual factors and processes – including the intraindividual effects of social factors– and on individual differences relevant to criminality. Of course the psychological approach doesn't mean the ignorance of the social context of offending and reoffending, since research on complex and multifactorial phenomena like desistance, rehabilitation and reintegration requires an integrative perspective. Accordingly, I aim to emphasise the role of both social and psychological factors in desistance and the prevention of reoffending. Besides the criminological and psychological approaches, *historical perspective* also prevails in my dissertation with regard to the both the development of the rehabilitation idea and practice and the relevant Hungarian situation. In my opinion the delineation of the historical roots and the developments of recent decades is crucial in order to give justification for the concept and practice of rehabilitation.<sup>20</sup>

A theoretical framework of the dissertation, the interdisciplinary perspective and the research questions determined the *research strategy* and the applied methods. Research strategy is the framework that specifies the nature, direction and methods of the research, i.e. the concrete and practical manifestation of its philosophical and methodological background. The research strategy conforms to the research questions and hypotheses and the theoretical framework of the research, thus determining the methods to be applied. My dissertation is based mainly on *descriptive* and *exploratory research strategy*. However, despite the exploratory nature of the empirical studies presented in chapter six of the thesis, I not only rely on inductive, but also on deductive approach<sup>21</sup>. This is because in designing the questions for the focus groups and for the semi-structured interviews I drew on academic literature reviewed in earlier chapters. This also means that the evaluation of my empirical findings is neither purely theory-driven, nor purely data-driven.

Owing to the complexity of the research questions, in the empirical studies the thesis was based on, I (we) applied different methods of assessment. The exploratory and descriptive research strategy required primarily the application of *qualitative methods*. With quantitative methods the investigation of the processes and entities to be explored and described in the dissertation would only have been limitedly possible, because of the their complex interactions and the difficulty of their operationalization and quantification. Therefore quantitative data were only used in a complementary way in the dissertation.

Considering all this, in my thesis I relied on the methods of *literature review*, *document analysis* and *legal analysis*, and on the *analysis* of the findings of an earlier study and my

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<sup>19</sup> see e.g. Wortley, R. (2011) *Psychological criminology: An integrative approach*. Taylor & Francis, Introduction, 1-19., 1.o.

<sup>20</sup> Szokolszky, Á. (2004) *Kutatómunka a pszichológiában*. Osiris Kiadó, Budapest, p. 78-79.; Crow, I., Semmens, N. (2007) *Researching criminology*. Open University Press, p. 22-23.

<sup>21</sup> Induction here refers to data-driven, while deduction refers to theory-driven approach.

own empirical research.<sup>22</sup> The empirical studies were based on data from *focus-groups*, *semi-structured interviews* and a *structured questionnaire*. Despite the fact that the sample size in the studies presented in chapter six are small, I believe their findings provide an appropriate basis for the evaluation of the Hungarian situation. In determining the sample sizes for the focus groups and semi-structured interviews the empirical studies were based on, I (we) took into account the principle of saturation<sup>23</sup>. Of course, I was also limited somewhat by the possibilities and circumstances given.

I do not present the results of the empirical study concerning the penal institutions in detail, but only rely on these in chapter six to the extent of answering the research questions. The analysis and evaluation of the qualitative findings of my own empirical study on probation supervision was carried out by the method of thematic analysis, while in case of the quantitative data I relied on descriptive statistical measures.

My thesis thus contains descriptive, explorative and some explanatory elements as well, and the methods applied in my empirical research are also complex. Even though the determinant role of theories and theoretical knowledge runs through the entire dissertation, my thesis *cannot be considered as a pure basic research*, because it contains statements pertaining to specific problems and suggestions for solving these problems, as well as some information that can be put into practice. It is, however, *neither pure applied research*, since its basic goals include the justification of the endeavours for offender rehabilitation, the delineation of the theoretical framework of tertiary prevention and the identification of the problems of the Hungarian system.

## II. Summary of the results and their practical implications

### II.1. Tertiary prevention and rehabilitation

1. The area investigated by the research underlying my thesis is *tertiary prevention in the criminal justice system*. Of the methods of special prevention related to this field – i.e. incapacitation, special deterrence and rehabilitation – I deal primarily with the latter. As it was found in the literature review, in these days only some dispute the preventive goal of punishment. The goal of the prevention of reoffending is included expressis verbis in the relevant Hungarian legislation in force. The question is less and less whether punishment can have any other goal besides *retribution* or *just deserts*, namely prevention, and more and more about the means of prevention. In my dissertation I do not deal with incapacitation at all, since it doesn't address the future behaviour of the offender, and protects the public from further crimes only during the sentence.

2. Criminal sanctions can influence future behaviour via two mechanisms: *special deterrence* and *rehabilitation*. The results of the empirical studies reviewed in my thesis, that compare the special preventive effect of *imprisonment* and *alternative sanctions* consistently lead to

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<sup>22</sup> See footnotes 14. and 15.

<sup>23</sup> Saturation is reached when additional sampling provides no new information on categories or codes (data saturation) or when no more information will enable the theory to be enriched (theoretical saturation)

the conclusion that purely punitive sanctions based on deterrence are not effective means of tertiary prevention. The empirical findings discussed in the literature review chapters of the thesis seem to confirm my hypothesis that *imprisonment is not more effective in the prevention of reoffending than alternative sanctions* like probation supervision. However, the latter sanctions don't appear to be much more efficient either, despite the fact that they are non-custodial sanctions. Based on all this, my dissertation does not focus on the effect of *criminal sanctions* in itself, but rather on their *content*, i.e. the rehabilitation and reintegration programs linked to these sanctions. Thus, the central theme of my dissertation is the practice of the prevention of reoffending and the rehabilitation of offenders, with special regard to the situation in Hungary.

3. In order to free the term *rehabilitation* from the pejorative associations and to answer my research question pertaining to the historical background of the rehabilitation idea, in the second chapter of the dissertation I outline the important stages of the development of the concept. The aim of the historical review is to show that today's rehabilitation endeavors have nothing to do with the medical model that has evolved in the mid-twentieth century and was overthrown some two decades later. In the period following the crisis of the rehabilitation idea and the downfall of the medical model, rehabilitative optimism has somewhat diminished, but in light of developments of the last few decades the *slogan "nothing works" seems to be outdated*. Namely, the results of the efficacy studies are encouraging, at least in the case of certain programs that adhere to specific criteria. Based on these findings the conclusion can be drawn that rehabilitation programs can be effective methods for the prevention of reoffending. However, it is also important to notice that it was not accidental that the once popular rehabilitation idea has disappeared from the scene of special prevention for a long period of time, and it was also not by chance that it took decades to revive it. If our goal is to develop a tertiary prevention practice which is not only *utilitarian*, but also effective and which adheres to *human rights, ethics* and the criteria of the *constitutional state*, we not only have to rely on scientific research findings, but also have to draw the proper conclusions from the past. Nothing, not even the justified and reasonable goal of tertiary prevention can legitimate the pathologization of offenders, the medicalization of their treatment, the crushing of their human rights and the practice of indeterminate sentencing. This statement was the starting point for my answer to the hypothesis pertaining to the professional and legal framework of correctionalism. In my opinion, recent developments – especially the *rights-based rehabilitation approach* and the evolution of the value-neutral area<sup>24</sup> of *effectiveness studies* – are guarantee against the revival of earlier practice that violated human rights and lacked scientific evidence. Rehabilitation is just as much an important goal of punishment as special deterrence, incapacitation or retribution aiming at the restoration of law and order. In my view it is the idea of rehabilitation that reflects most the recognition that crime is a *social phenomenon*, which is not merely the result of a bad decision, but is determined by a wide variety of social and individual factors, some of which are amenable to change.

4. Apart from the aim of the liberating the term *rehabilitation* from the unfavourable associations, the goal of the first part of my dissertation was to *define* the concept under

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<sup>24</sup> See Borbíró, A. (2014) Megállítható-e a forgóajtó? A bűnismétlés-megelőző programok lehetőségei. In: Hack, P., Koósné Mohácsi, B. (Ed.) *Álmok őrzője. Tanulmányok Lőrincz József tiszteletére*. ELTE Eötvös Kiadó, Budapest. 13–28., p. 14.

discussion. I attempted to situate rehabilitation within the context of other terms with a similar meaning, namely reintegration and resocialization, of which the latter is popular in Hungary. Besides reviewing Hungarian literature, I introduced a theoretical model which – by defining the different forms and aspects of rehabilitation and by illuminating their interrelations – in my opinion is a suitable framework for the interpretation of the concept. McNeill<sup>25</sup> has established an interdisciplinary categorisation model which – besides natural rehabilitation, i.e. desistance – incorporates four other forms of rehabilitation: personal or psychological, social, judicial or legal and moral rehabilitation. Starting out from this wide concept outlined in McNeill's model, ***under the umbrella term of rehabilitation I include every method, intervention and process that helps former offenders to return to society as full-rights citizens and to live a lawful life.*** Relating to the so-called offender rehabilitation theories outlined in chapter five I have to accept this extremely wide concept of the term.

5. However, since my dissertation focuses mainly on the psychological tools of offender rehabilitation, I found it necessary to provide a ***more narrow meaning of rehabilitation*** as well, that of personal rehabilitation in McNeill's model. In my interpretation this latter term includes ***aimed programs and other interventions that, via influencing personality, capabilities, behaviour, attitudes, values and other psychological factors, potentially reduce the probability of reoffending, thus promoting the success of reintegration.*** I believe pedagogic methods and even those tools of social rehabilitation or reintegration can be included in this definition, which are able to effect the psychological state and characteristics of the individual, e.g. by increasing his or her self-esteem. I find it important to emphasize that the application of psychological methods and tools in the field of offender rehabilitation doesn't mean the return of the treatment ideology, since current tertiary prevention practice that I rely on in my thesis only builds on programs that do not endanger physical and mental integrity, and do not violate the prohibition of inhuman and degrading treatment. In my opinion, if we accept the view that in many cases psychological factors play a role in offending behaviour, and that socio-demographic factors often lie in the background of the development of these individual factors, the state not only has the right to exercise punitive power, but also has an ***obligation to provide interventions*** that tackle the risk factors of reoffending, including psychological factors. On the other side, the availability of these programs – of course with the strict enforcement of the guarantees of the constitutional state and of the principle of voluntariness – can be interpreted as a right of offenders who are brought into the criminal justice system.

## **II.2. The scientific background of tertiary prevention practice: research directions, rehabilitation approaches and efficacy studies.**

The scientific basis of the prevention of reoffending, rehabilitation models built on the latter knowledge and empirical evidence about the offender rehabilitation programs constitute the second theme of my dissertation. The aim of the chapters incorporating these issues was to

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<sup>25</sup> McNeill, F. (2012) Four forms of 'offender' rehabilitation: towards an interdisciplinary perspective. *Legal and Criminological Psychology*, 12, 251–264.

provide a theoretical and conceptual framework for the presentation and evaluation of tertiary prevention practice.

1. The delineation the theoretical and empirical background of the main rehabilitation approaches was based on the thorough and thematic presentation of the findings of two important research areas. One stream of research pertains to the ***risk and protective factors of reoffending*** and the other to the ***factors related to desistance from crime***. Knowledge and further research on the risk factors of offending and reoffending, protective factors and resilience<sup>26</sup> and the factors related to desistance<sup>26</sup> is crucial in order to map, understand and develop practice aiming at the prevention of reoffending. As far as I know, to date no systematic and comprehensive review has been published on this theme, and especially not on desistance from crime. Therefore, one of the aims for writing these chapters was to ***promote Hungarian criminology to keep step with international developments*** of this field.

2. The relevance of research on the factors related to reoffending is that its results help us understand why different sanctions, measures and other interventions often fail in preventing reoffending, and contribute to the development of more effective methods of prevention. A considerable amount of theories and empirical research on offending and reoffending pertains to the so-called risk factors. Risk factors are factors that increase the likelihood of offending or reoffending. The most relevant risk factors with respect to tertiary prevention are the so-called ***dynamic risk factors*** or ***criminogenic needs***, because these are amenable to targeted intervention. Besides risk factors, a growing interest is shown towards the so-called protective factors that, in spite of adverse conditions or by working against risk factors, restrain the individual from (further) offending. Risk assessment tools are built on all these factors, or rather their different combinations.

3. Protective and resilience factors show a great overlap with factors related to desistance from crime. However, ***desistance-research adapts a different perspective to criminal career than the traditional approach focusing on risk factors of reoffending; it is not concerned about the reasons why people start offending, but rather seeks to find out, which factors influence them in moving away from crime***. Recent research findings prove that many factors relevant to prevention lurk in the background of the robust link between age and desistance. Among these we can find factors of formal and informal social control – e.g. the effects of criminal sanctions – as much as different psychological variables, e.g. optimism and the motivation for change. These all play an important role in the process of desistance, since, according to empirical findings, a complex pattern of the influence of external and internal factors lies in its background.

4. Theoretical and empirical knowledge on factors promoting desistance and their interrelations has been gradually transplanted into practice, just like knowledge on risk and protective factors. The two main streams of research outlined in chapter three and four form the basis of two quite distinct ***rehabilitation approaches***, which are presented in the fifth chapter of my thesis. The perhaps most influential offender rehabilitation theory is the so-called ***RNR model***, which builds on the risk factors of reoffending, including criminogenic needs. The three basic principles of the model, the ***risk, need*** and ***responsivity principles***

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<sup>26</sup> Resilience refers to the ability or the process of successful adaptation in spite of adverse circumstances or risks.

determine the intensity, focus and method of the intervention. *Criminogenic needs*, i.e. dynamic risk factors that are most strongly related to reoffending are the targets of intervention. Highly structured risk/need assessment tools with strong methodological basis are used to assess the level of risk, which determines the intensity of the intervention, and the level of need, which informs about the focus of the treatment. The newest, fourth generation assessment tools include responsivity and protective factors as well, which can be considered as a shift away from the rigid risk-focused perspective. This approach, however, still leads to a very pragmatic, strictly regulated practice that adheres to the criteria of evidence-based tertiary prevention practice. The other approach to offender rehabilitation, contrarily, not only does not correspond to the strict criteria of the former approach, but it actually runs counter to the pragmatic and stern risk-based paradigm based on the latter. Instead of addressing the deficits of offenders, the so-called *strengths-based approach* of rehabilitation, including the *desistance-focused* and the *restorative perspective*, focuses on the strengths of offenders, i.e. the capacities and skills which can support the desistance process. Many types of programs exist that aim at the strengthening of social bonds, the restoration of harm and the compensation of the adverse effects of stigmatization and social exclusion, and despite the fact that we have much less information on their effectiveness than on the efficiency of programs based on the other approach, they are gaining popularity in the field of tertiary prevention. Notwithstanding my pragmatism, I find it a favourable tendency because – as I thoroughly discuss it in my thesis with regard to the RNR model – risk assessment tools and practice is flawed with many methodological and closely related legal problems worldwide.

5. In my dissertation, besides presenting the different rehabilitation approaches or theories, I discuss the characteristics and types of effective relapse prevention programs. I consider the *efficacy of offender rehabilitation programs* a key issue because in my opinion it is closely related to the ideological-philosophical basis of tertiary prevention and the rehabilitation of offenders. If indeed “nothing works”, then all methods and interventions aimed at the prevention of reoffending were ineffective, and consequently, it would not be necessary to rationalize their application. However, if it turns out, that some programs indeed decrease the probability of reoffending compared to other interventions or to the lack of interventions – and it seems very likely in light of the findings of criminological research –, then it is not so easy to argue for the view that rehabilitation endeavours are needless, irrational, rights violating or simply ineffective. Of course, ethical and legal worries do come up even despite the evidence of efficiency, but I believe these can be dispelled with the enforcement of the principles of voluntariness and participation, and with the application of the rights-based approach to the practice aiming at the compensation of deficits and the strengthening of resources.

According to efficiency studies, programs targeting the prevention of reoffending and the rehabilitation of offenders can be divided into three categories: “*working*”, “*not working*” and “*promising*” programs. Interventions in the first category adhere the most to the *criteria of effective programs*, e.g. high level of structuredness, adherence to the risk and need principles and to the requirement of voluntariness. All of these programs are based on *cognitive-behavioural methods*, which aim at modifying the characteristics of cognitive processes that determine one’s attitude to the world, interpretation of information and thus behaviour. Unfortunately, besides programs that work, that is exert a favourable effect on

reoffending rate, other interventions are also applied that are either ineffective – and this is the lesser of two evils – or are counterproductive. Of course, the use of obviously harmful programs should by all means be avoided, especially because some of these raise serious ethical and legal problems as well. Promising programs are a different matter. Although not enough good quality evidence on their effectiveness is available yet, in light of research findings and favourable empirical experiences it seems worthwhile to rely on them hereafter. These endeavours are usually based on the assurance of the structural conditions of reintegration, on restorative approach and on the social context of desistance from crime, although some programs have different goals, e.g. the treatment of substance abuse. Proponents of the strengths-based approach are not interested in the effectiveness of these programs per se, but how these can become a part of the desistance process, integrated among the other factors and turning points, as it were. However, within the strengths-based paradigm, there is also a theory – actually an integrative one –, namely the Good Lives Model (GLM), which enables the establishment of highly structured programs that more or less pass the test of effectiveness.

6. Beyond its illustrative value, GLM theory also assists to answer the research question pertaining to the possibilities and need of *integrating the two basic rehabilitation approaches*. In order to answer the latter research question the empirical background of the two paradigms has to be examined, since the reasonableness of combining the two approaches in practice can be deduced from their interrelations. Recidivism or reoffending and desistance are both conceptually and empirically related entities that can be interpreted as the two sides of the same coin, since, according to the static approach, desistance is operationalized as non-recidivism. Desistance research is rooted in the criminal career paradigm, and aims to explore factors supporting desistance from crime usually with the help of longitudinal studies.<sup>27</sup> Research on reoffending or recidivism is more pragmatic and narrower in scope, as in most cases it focuses on the effect of a specific criminal sanction or intervention on reoffending within a certain population, in a given time interval. In recent years a rapprochement can be detected between these two research areas that are both crucial for reintegration practice. An integration of the findings of the two approaches is all the more reasonable, as it is far from being a fact, that the key for achieving desistance is the “reversal” of risk factors of reoffending.<sup>28</sup>

In light of the above said, I find it reasonable *to combine the two rehabilitation approaches*, since no matter how effective the pragmatic perspective of the risk model focusing on the modification of behaviour is, it clearly needs complementation by the factors related to desistance and to the social context of reintegration. Risk model (RNR) pays insufficient attention to the latter factors, and it is also not concerned with many psychological variables, especially with the motivation to change, even though these have a considerable impact on one’s future behaviour and thus on the process of desisting from crime. In my opinion, the junction points for the integration of the two approaches should be the *cognitive factors*

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<sup>27</sup> Bushway, S. D., Brame, R., Paternoster, R. (2004) Connecting desistance and recidivism: measuring changes in criminality over the lifespan. In: Maruna, S., Immariegon, R. (Eds.) *After crime and punishment. Pathways to offender reintegration*. Willan Publishing, Cullompton, Devon, 85–101.

<sup>28</sup> Farrall S (2004) Social capital and offender reintegration: making probation desistance-focused. In: Maruna, S., Immariegon, R. (Eds.) *After crime and punishment: ex-offender reintegration and desistance from crime*, Willan, Cullompton, 57–84.

*related to reoffending and desistance from crime*, since *cognitive behavioural methods* are effective in addressing these variables. In planning programs based on the integrative approach, it is worthwhile to consider research findings showing that certain psychological and social factors may be more prominent at different stages of the desistance process.<sup>29</sup> Cognitive factors, e.g. the motivation for change and prosocial attitudes, seem to play a central role in the early phase of change, while in the later stages structural conditions gain more relevance, pushing cognitive factors to the background. A *holistic approach* that *takes into consideration every relevant factor* is thus crucial for a successful relapse prevention practice, and it also provides a complex framework for the presentation and evaluation of the tertiary prevention activity of the Hungarian criminal justice system.

### II.3. Tertiary prevention and desistance in the Hungarian criminal justice system

In light of the theoretical and empirical background of modern correctionalist endeavours and the results of efficiency studies, it is reasonable to inquire about the characteristics and conditions of tertiary prevention activity of the Hungarian criminal justice system. In the sixth chapter of my dissertation I undertake the task of assessing and evaluating the actual domestic situation with regard to two criminal sanctions, executable prison sentence and probation supervision in light of the normative-legal background, academic literature and the results of two empirical studies.

1. I first looked into the reoffending prevention activity of the Hungarian Prison Service. Besides discussing the development of the idea of correctional education<sup>30</sup> I reviewed the relevant provisions of *Law Decree 11. of 1979* (henceforward Bv. tvr.)<sup>31</sup> and of the new *Prison Code* (henceforward Bv. tv.)<sup>32</sup> in order to provide a legal framework for the results of an empirical study<sup>33</sup> carried out by Andrea Borbíró and I on the tertiary prevention practice of Hungarian penal institutions. As a result of the historical review and the empirical evaluation I have come to the conclusion that national penal enforcement practice *suffers from the same problems* since decades. In my view, based on Hungarian academic literature and the results of our empirical study, the most urgent anomalies besides *overcrowdedness* are *difficulties in adapting to the trends of all-time criminal policy*, problems caused by the ideologically determined *unrealistic goals and impractical expectations*<sup>34</sup>, and the constant *collisions between the goals of correctional education (resocialization, rehabilitation, reintegration) and safety*, which is reflected in the attitudes and conflicts of prison staff. These problems

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<sup>29</sup> Id. pl. Healy, D. (2010b) *The dynamics of desistance. Charting pathways through change*. Willan Publishing, Cullompton, Devon.

<sup>30</sup> See footnote 16.

<sup>31</sup> Law Decree on the execution of penalties and criminal measures,

<sup>32</sup> Act CCXL of 2013 on the execution of punishments, criminal measures, certain coercive measures and confinement for administrative offences,

<sup>33</sup> Borbíró, A. J Szabó (2011) *Dezisztancia és a bűnismétlés megelőzése: kezelési programok a magyar büntetés-végrehajtási intézetekben. Empirikus Áttekintés és értékelés*. Research report, manuscript, National Institute of Criminology, Budapest

<sup>34</sup> See Ruzsonyi, P. (2004) Hagyomány és innováció. Börtönügyi Szemle, 2004/2, 34.o.

operate through their strong interactions, and despite the now-and-then recurring reform endeavours, render the system dysfunctional.

2. Nevertheless, legal provisions and the tertiary prevention activity of the prison service reflect, in many respect, international trends and the results of research findings quoted in my thesis. According to both legal provisions and the actual activity of penal institutions it can be stated, that in our country the basis of reintegration practice is ***education, vocational training for preferable marketable skills, and employment***. The reasonableness and effectiveness of this practice, provided it is enforced, is unquestionable in light of knowledge on desistance and the prevention of reoffending. Specific institutions and provisions of Bv. tv – such as the transitional group, the imposition of milder security regulations, the rules of preparation for release, the handling units for prisoners with special treatment needs, especially the low-risk unit, and the so-called reintegration custody that has come into force on 1<sup>st</sup> April 2015 – reflect a reintegration approach, even though their enforcement may be hindered. Grants for implementing offender reentry programs and the restorative and reintegration programs established in several penal institutions show that ***Hungarian Prison Service, as far as possible, aims to keep pace with international trends*** and learn from the experiences of good practices. This process would be catalysed by the ***enhancement of knowledge on the scientific background of tertiary prevention*** practice among prison staff.

3. ***Psychological methods of the prevention of reoffending fade into the background*** behind the reintegration perspective, which is determinant in Hungarian Prison Service. Psychologists are available in almost every penal institution, but their number is extremely low compared to the number of prison population. Besides suicide prevention and administrative duties that also put a considerable burden on them, prison psychologists mainly deal with mental hygiene tasks. Prevention is not really stated as a goal they have to achieve. In my view mental hygiene care, mainly individual therapeutic sessions, life skills counselling and other ***unstructured psychological activities*** that, instead of targeting criminogenic needs, aim at helping prisoners in solving their mental problems are a ***necessary, but not sufficient part of tertiary prevention practice***. If the declared goal of punishments and criminal measures is special prevention, then its psychological methods, that is interventions which are appropriate for targeting criminogenic needs should not be missing from the system. However, the establishment of programs focusing on psychological factors of reoffending and desistance – e.g. interventions aiming at the modification of antisocial attitudes or the enhancement of motivation for change – requires the increase of the number of psychologists and the guarantee of method-specific training and infrastructural conditions, which leads us back to the lack of financial and other relevant conditions.

4. Despite the unfavourable objective circumstances, many professionals work in the Hungarian Prison System who are very much concerned about the goals of the development of offender rehabilitation and reintegration and the adaptation of foreign good practices. Based on the findings of our empirical study and my own experiences with prison staff, I believe the shortcomings of tertiary prevention are not imputable to the views and attitudes of prison governors and other professionals. There are ***motivated and more or less well-prepared professionals*** in Hungary who would take part in the development of relapse prevention and reintegration activity and the adaptation and implementation of foreign good practices, and prison governors are also very open to innovations. Besides ***some shortcomings in up to date***

*knowledge*, development is mainly hindered by *system-level obstacles*, such as the lack of financial resources, the low numbers and the work overload of prison staff, and the attitude of some prison workers. From a methodological viewpoint the main difficulty is that in Hungary *no longitudinal research findings on the factors related to reoffending and desistance from crime* and *no results of efficiency studies on the effects of offender programs* are available. *We do not even have result on the efficacy of experimental programs*. The implementation of international good practices and the development of an appropriate risk/need assessment system would require the results of such research projects.

5. The *new Penal Code* that has come into force on 1<sup>st</sup> January 2015 reflects a new and innovative approach also expressed by the change of the conceptual framework, ignoring the existing urgent problems of the prison system and the lack of the conditions for the establishment of new institutions. The expansion of the number of basic *principles*, the *provisions aiming to support reintegration and the achievement of efficient education and employment of convicts*, and the new *regulations on individualization and differential treatment* are all welcome developments, even though some provisions do not fit fully in the legally declared goal of reintegration. I have further queries about the so-called *KEK-system*<sup>35</sup> and *risk assessment*, which are to serve the practice of individualized and differentiated treatment of convicts. Risk assessment tools are appropriate predictors of reoffending only if they are based on research findings on the factors related to reoffending and their predictive values. Since, as far as I know, no such longitudinal research has been conducted in Hungary, *the construction of an actuarial risk assessment tool is hard to imagine in the lack of the necessary statistical data*. It is to be feared that, *without solid empirical ground*, the scale will not assess what it's meant to, in which case the efficacy of risk assessment will not exceed that of the first generation risk assessment tools. Since, according to the provisions of the Bv. tv., the result of risk assessment serve as basis for several important decisions, e.g. the classification into regimes, its application may be *a legal and ethical concern* because of the abovementioned methodological shortcoming. The establishment of a risk assessment tool, its "real life" application should be preceded by a long test period during which its applicability and predictive value could be examined. This would be necessary even if a risk assessment tool used in another country was adapted or a tool based on retrospective empirical data was established. These ideas can also be methodologically contested, the former on the ground of ignoring socio-cultural differences, while the latter because it doesn't permit the use of a control group, and only relies on data in the former files, which are usually static variables. However, in my opinion even an assessment tool based on either of the abovementioned methods would be more defensible, than a scale without any empirical basis. No matter what type of tool is implemented, I think it would be important to provide conditions for a *longitudinal study of several years' duration*, with the help of which the effectiveness of the established risk assessment system could be tested, and during which no adverse legal consequences could flow from it.

Beyond the above, I have raised questions about the feasibility of the KEK system and the reintegration practice based on risk assessment. The implementation of risk assessment practice and of tertiary prevention programs that have proven to be effective according to

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<sup>35</sup> System for the assessment and treatment of risks

international research would not only require a change of perspective, but also the assurance of the necessary infrastructural conditions, the considerable increase of the numbers of therapeutic professionals and prison staff and the organization and transaction of special trainings. The operation of programs aimed at the prevention of reoffending demands space, time and staff, and, for the time being, these conditions are not fully available in Hungarian prison system. ***Without the assurance of the conditions*** for the differentiated accommodation and individualized treatment of prisoners, ***the assessment of risk can only be an art for art's sake practice***. If present reform endeavours would mainly focus on the improvement of the objective and human resource conditions of the prison system, they would perhaps better serve the cause of offender reintegration, than do the legal provisions that beyond doubt are forward-looking and adhere to international trends, but which, in the lack of the necessary condition, will probably remain on paper.

7. Besides tertiary prevention activity of the prison service I also aimed to explore ***the role of probation supervision in the prevention of reoffending*** and reviewing recent and present changes in this field. The framework of my analysis constitutes of the historical roots, the normative-legal background and the results of an empirical study. I conducted my exploratory, qualitative research among probation officers and subjects under supervision with the help of a focus group, semi-structured interviews and a structured questionnaire for professionals. Besides probation officers' knowledge, attitudes and experiences on tertiary prevention, the focus of my research were the experiences of those under supervision, and the factors related to offending, reoffending and desistance from crime. Even though the legal and organizational background of probation supervision has changed considerably since the focus group and the interviews had been conducted, most of my findings are still valid.

The results of my research study draw attention to the ***discrepancies between the normative-legal background and the actual activity of Hungarian Probation Service***. The declared goals of this legal institution are not fully enforced in everyday practice. Even though twelve years have passed between the publication of Klára Kerezsi's study on the reform of the Hungarian Probation Service and writing this dissertation, many conclusions of the former work are consonant with my findings. According to the perceptions of probation officers who took part in my study, the most urgent problems are the ***lack of probation supervision tools***, the ***lack of institutional support***, the ***huge administrative burdens***, ***shortcomings in professional preparedness of probation officers*** and the ***lack of organized ongoing further training***. Other long-standing anomalies that have also become apparent are the weak institutional integration and lobbying position of the Probation Service, the ***lack of appropriate professional supervision, control and evaluation*** and the ***narrowing of the opportunities for organizing small-group and special programs***. "Probation supervision today is one of the most problematic, yet most promising part of the national criminal justice system."<sup>36</sup> – stated Kerezsi at the end of her study, and I believe her view is relevant in today's situation as well. Even though it is beyond doubt that the lack of appropriate tools, the ever growing administrative burdens, the shortcomings of the educational and training system and the rapid changes of institutional background exert an unfavourable influence on the enforcement of the crime prevention role of probation supervision, most of the probation

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<sup>36</sup> Kerezsi, K. (2002) A hazai pártfogó szolgálat átalakítása. *Belügyi Szemle*, 2002/2-3, 185–201., p. 194

officers I have met during conducting my research are ***dedicated, devoted and well-prepared professionals*** who not only see the problems but are also ready for seeking new possibilities for their compensation and solution. Furthermore, according to the findings of my research, a group of people under probation supervision also consider the criminal measure under discussion useful and effective.

8. The probation officers and the subjects under probation supervision who took part in my study have agreed on a surprisingly large number of issues regarding offending and the benefits and problems of supervision. The explanations and experiences of both professionals and those under supervision on the ***causes of offending*** and their beliefs and experiences on ***factors related to desistance*** from crime – with minor differences – reflect what has been written in academic literature. Both groups consider ***structural factors*** to be significant with regard to offending and reoffending, especially the *influence of antisocial peers*, the *lack of family support*, *unemployment*, *poverty* and *the lack of professional skills*. Many interviewees have also mentioned ***psychological factors***, e.g. the *motivation for change* and substance abuse. There was also a relative consent between crime professionals and those under supervision with regard to the ***factors supporting desistance***, also in accordance with the results of desistance-research. It is not surprising that the most complex and differentiated picture of desistance was drawn by those probationers, who already have experiences in this respect. Besides *social factors* they have put a great emphasis on psychological factors as well, especially on *individual decision making*. The narratives of certain subjects under supervision also shed light on the role of ***the interaction between agency and structure*** in the desistance process. This shows that in order to reintegrate them successfully, besides helping former offenders find employment and accommodation, settle family relations, and providing other structural support, we also have to put enough emphasis on psychological factors related to change.

9. The ***duality of control and support in probation supervision*** has also emerged as a theme in the interviews conducted with both professionals and probationers. However, the views on the interrelation and importance of control and supervision varied significantly. The issue there was agreement on was the problems of the limits of supporting function, even though many professionals linked the difficulty of the lack of tools also to control function. Despite the fact that in academic literature the functions of support and control are usually set against each other, my research findings have led me to the conclusion that, given the appropriate set of tools, ***these two roles strengthen, rather than weaken each other***.

10. The anomalies that have come to the surface with regard to the supportive function shed light on the ***practical difficulties*** that have to be faced both by professionals working in the field of tertiary prevention and subjects of reintegration. ***Shortcomings of the tools of support***, and especially the ***limits of activities aiming at financial and practical support*** are the main obstacles for endeavours pursuing the prevention of reoffending. The role of different structural factors, e.g. unemployment, poverty and low educational level in offending is unquestionable. The recognition of the existence and relevance of these factors means no difficulty at all, but their elimination or at least treatment, and the improvement of the chances of offenders or those at risk of offending seems almost a hopeless task. The reason for this is not only the scantiness of financial resources, but also the shortcomings in the cooperation between Probation Service and other state organs, e.g. employment centres,

the economic and social problems faced by the whole society, and especially ***the lack of an inclusive social environment that is willing to take an active part in reintegration***.

11. Another problem, also detected in the tertiary prevention activity of the prison system, has become apparent in my research. Individual or ***psychological factors*** – e.g. impulsivity or antisocial attitudes supporting crime – behind offending, which are although strongly linked to social factors, but are also separable from them and require different treatment methods, ***receive much less attention*** than the seemingly more obvious social factors. Psychological factors are harder to recognize, since their relevance is almost dwarfed by that of the evidently more obvious and urgent difficulties of subsistence. Even though both those under probation supervision and probation officers see the improvement of structural conditions as the key of success in tertiary prevention, in my ***view the ignorance of relevant psychological factors diminishes the effectiveness of crime prevention efforts, even given the enhancement of social circumstances***. I am convinced that besides the outstanding relevance of employment and marketable skills the development of ***personal competencies***, activities aimed at the enhancement of ***motivation*** for change and of ***responsibility***, and individual and group trainings should be elements of the toolbox of professionals working in the field of tertiary prevention, including probation officers. Besides the evidently reasonable recognition and treatment of the role of external factors in offending, it would be important to enhance motivation for change and to be aware of the fact that individuals play a decisive role in forming their behaviour. This latter theme, referred to as agency in literature, has definitely been outlined in the narratives of those probationers who, after a long criminal career, are now on the path towards ***desistance***.

12. I strongly believe that probation supervision – and community sanctions in general – has an important place in Hungarian criminal justice system, and that this measure has significant, yet unexploited potential. I base this view not only on academic literature and information obtained from probation officers, but also on those said by the interviewees under probation supervision. The preference for alternative sanctions is not only ***more humane*** and ***less stigmatizing*** than the practice of imprisonment, but it may also result in a ***more cost-effective*** criminal justice system. Nevertheless, new legal provisions that provide direction for the development of probation supervision do not serve the assurance of the conditions required for the enforcement of the discussed measure, but rather modify – here and there significantly – the professionals’ scope of activities and establish some new legal institutions, namely ***preventive probation*** and ***risk assessment***. With the former of these two legal institutions I only dealt with briefly in my research, because at the time of conducting the study the relevant legal provisions have not yet come into force, and most probation officers had no information about it at all. In my opinion, this is a criminal sanction that is disguised as a child protection measure, and thus raises quite a few legal and ethical concerns, which, however, are not the topic of my dissertation<sup>37</sup>. Therefore in this respect I

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<sup>37</sup> Reviews on this topic are available, see e.g. Dávid, L. (2013) Megelőző pártfogás vagy védelembe vétel? *Állam- és Jogtudomány*, LIV/3-4, 41–54.; Kerezsi, K., K. Kovács, E. Párkányi, J. Szabó (2015) A pártfogó felügyelet szerepe a bűnmegelőzésben, különös tekintettel a jogintézmény tervezett változásaira. *Kriminológiai Tanulmányok* 52. 148–191.

only refer to Katalin Gönczöl's opinion that I also share, which says that criminal policy in the case of juveniles may only be the ultima ratio method of crime control.<sup>38</sup>

13. From a *methodological point of view*, the same questions arise concerning preventive probation, as in the case of risk assessment. As I have already stated with regard to the risk assessment practice of the Hungarian Prison Service, *no empirical data base is available* in the country, on which the establishment of an actuarial risk assessment tool could be based. A retrospective study may be appropriate for the identification of – mainly static – risk factors that can predict reoffending, but a test based merely on static factors is unable to specify the focus and targets of intervention. The provisions of Pfr.<sup>39</sup>, which order to determine the intensity and nature of interventions based on the factors identified by risk assessment and so the level of risk, seem to be reasonable and established in light of academic literature, but their actual enforcement is problematic and may put excess burdens on probation officers, who are already overladen with tasks. Still, most professionals interviewed by me are looking forward to the establishment of a structured and unified risk assessment tool, because they expect it will ease and support decision making on the focus and intensity of interventions, which is a fair and understandable demand considering their work burdens, limits of time and tools available, and responsibility. In the case of preventive probation, however, the above mentioned methodological shortcomings raise more serious concerns.

14. Both the Hungarian Prison Service and the Probation Service are systems loaded with anomalies that limit the achievement of the goal of tertiary prevention, even though the latter goal is present on a normative level and in the attitudes of most professionals. Still, recent legal modifications concerning both areas aimed not so much to provide remedy for the long-standing problems, as to lay the foundations of a new theoretical and practical perspective which at first impression seems to be shifting towards international trends. The establishment of risk assessment that indicates a *move towards the risk paradigm*, or rather its institutionalization, is meant to make relapse prevention practice more unified and structured. However, the enforcement of the provisions that look impressive in law seems problematic in lack of the necessary empirical background. It would be expedient to create an empirical database in the country, on the basis of which the methodologically appropriate development of risk assessment and reoffending prevention practice could be achieved. The unification and standardization of the risk assessment practice of the Prison Service and the Probation Service may also be a reasonable long-term goal.

Thus, it is an urgent and timely expectation towards criminologists and state actors responsible for the assurance of the financial and infrastructural conditions for research to *plan and conduct national longitudinal research projects in order to identify factors related to reoffending, to map correlates of desistance and to assess the effectiveness of tertiary prevention programs and interventions*. Because historical, political, economic and especially socio-cultural background differs from one country to another, Hungary's country-specific features may inevitably limit the possibilities of utilizing foreign research

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<sup>38</sup> Gönczöl, K. (2010) Kriminálpolitika és bűnözéskezelés Magyarországon. *Kriminológiai Tanulmányok*, 47, Országos kriminológiai Intézet, Budapest. 72–86., p. 85.

<sup>39</sup> Decree No. 8/2013 (VI. 29.) of the Ministry of Public Administration and Justice on the activities of the Probation Service

findings for domestic purposes. It would also be helpful, if a *unified database on all criminal records and criminal justice data* was available, which would, for example, enable the carrying out of criminal career research projects.

The identification of factors related to reoffending and desistance from crime would also make it possible to achieve a *more focused and well-founded establishment and development of programs aiming at the reintegration of offenders*, of course in adherence with the criteria of the constitutional state, aiming at the attainment of the *“delicate balance between safety and the respect for human rights”*.<sup>40</sup> The nature of the circumstances under which offenders serve their sentence is decisive pertaining to their future behaviour, and thus to the further functioning of the criminal justice system. The development and the enhancement of the effectiveness of tertiary prevention practice of the criminal justice system is therefore not only an important legal and ethical goal, but it is also the interest of society as a whole.

### List of related publications:

1. Kerezsi, K., K. Kovács, E. Párkányi, J. Szabó (2015) A pártfogó felügyelet szerepe a bűnmegelőzésben, különös tekintettel a jogintézmény tervezett változásaira. *Kriminológiai Tanulmányok*, 52., 148–191.
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<sup>40</sup> Gönczöl, 2010, Ibid, p. 76.