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Perspectives on Recidivism Challenges: An Overview of Croatian Justice

ABSTRACT: *This article explores the complex issue of recidivism within the Croatian criminal justice system. It begins by examining how recidivism is defined and understood, addressing conceptual challenges, comparative difficulties, normative definitions, and penological perspectives. Emphasis is placed on the methodological choices involved in measuring recidivism, which shape research outcomes and determine the extent to which findings can be compared across contexts. The analysis then turns to the Croatian setting, outlining the limitations of the domestic criminological research community and reviewing current trends. Special attention is given to the role of prosecutors, judges, and the Diagnostic Centre in shaping responses to repeat offending. The article also considers the importance of evidence-based crime policy in preventing recidivism. While international examples demonstrate that targeted reintegration measures, particularly in the field of employment, can effectively reduce reoffending, Croatia continues to face challenges linked to penal populism, insufficient evaluation, and weak institutional cooperation. The conclusion argues that progress depends on introducing a clear statutory definition of recidivism, ensuring transparent and reliable data collection, systematically evaluating interventions, and strengthening collaboration between justice institutions and researchers. These steps could lay the foundation for fairer sentencing and more effective strategies to reduce crime and instances of reoffending.*

KEYWORDS: *Recidivism, Reoffending, Evidence-Based Policy, Penology, Prison System.*

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1.

Introduction

Recidivism remains one of the central challenges in criminology and criminal justice; however, it is far from straightforward. While it is often described as a relapse into criminal behaviour, its meaning and measurement depend on legal frameworks, institutional practices, data availability, and the aims of researchers. These choices have direct consequences for how criminal justice policies are designed, how sanctions are imposed, and how the performance of the system is evaluated.

This article begins by examining how recidivism is defined, outlining different perspectives in criminology, penology, and law, and discussing the contested distinction between recidivism and reoffending. It then turns to methodological considerations, analysing how data sources, follow up periods, and indicators such as rearrests, reconvictions, or returns to custody influence research outcomes and their comparability. The discussion then narrows to the Croatian context, reviewing current trends, the limitations of available data, and the roles of prosecutors, judges, and the prison system, with a particular focus on the Diagnostic Centre. Building on this analysis, the article highlights the significance of evidence-based policy, drawing on international examples to demonstrate effective practices while pointing to the lack of systematic evaluation in Croatia.

The overarching argument is that progress in addressing recidivism requires clearer definitions, transparent and reliable data collection, and stronger institutional cooperation. The aim is to show that although Croatia faces notable challenges, there is scope for developing fairer sentencing practices and more effective, evidence-informed strategies for preventing crimes and recidivism.

2.

Insights Into recidivism: Conceptualisation and Challenges

2.1. Understanding Recidivism: Concepts and Perspectives

Recidivism is one of the most significant criminological phenomena. Therefore, the question to begin with is what is recidivism? The historical occurrence of recidivism can be traced parallel to the occurrence of punishable behaviours. Various forms of measurements and reports have appeared in criminological literature since the 19th century.¹ To comprehend any area of phenomena of recidivism, it is essential

1 Andersen and Skardhamar, 2017, p. 615.

first to consider how it was constructed and what distinctions led to its development.² The breadth of the concept of recidivism, its wide distribution, and different measurement methods make it challenging to have a unified approach and definition.

The term “recidivism” or “return” is derived from the Latin word “*recidere*,” which means “to fall back.”³ Although recidivism may appear to be a simple and generic term, commonly understood as the continuation of criminal behaviour after punishment,⁴ the literature lacks a unified definition that would enable a deeper understanding and consistent measurement. This common understanding most closely aligns with the criminological definition, which describes recidivism as a relapse into prior criminal habits, particularly following punishment, sanction, or another form of intervention.⁵ There is frequently a consensus about such a general definition, but differences of opinion arise in efforts to define recidivism and its constitutive elements more precisely.⁶ In seeking to determine what constitutes a crime and what qualifies as a repetition of crime, legislation plays a significant role.

Recidivism and reoffending in criminal law are sometimes used as synonyms,⁷ but they diverge significantly in their essence, and the act of reoffending is operationally defined differently.⁸ A substantial distinction between the concept of recidivism and reoffending is that recidivism encompasses the re-commission of any socially unacceptable behaviour.⁹ The concept of reoffending has a narrower scope and includes the re-commitment of criminal offenses. Reoffending can lead to the rearrest, reconviction, and re-sentencing of the offender to imprisonment.¹⁰ Furthermore, reoffending only includes criminal behaviour that has been officially recorded.¹¹ However, it is important to emphasise that this distinction between recidivism and reoffending, while common, is not universally accepted. Some authors support this differentiation,¹² while others contend that reoffending is a broader concept than recidivism,¹³ and still others treat the two terms as synonymous.¹⁴

In the literature, recidivism is often expressed through three situations: re-arrest, the return of the perpetrator to prison or supervision, and re-sentencing of

2 Keeney, 1983, p. 21.

3 Derenčinović, 2004, p. 164.

4 Cambridge Dictionary, 2005.

5 Blumstein and Larson, 1971, pp. 124–125; Ruggero et al., 2015, p. 1.

6 Mckean and Ransford, 2004, p. 11.

7 Schoeman, 2010, pp. 80–82.

8 Miller, 2009, p. 6.

9 Falshaw et al., 2003, pp. 207–210.

10 Langan and Levin, 2002, pp. 1–3.

11 Falshaw et al., 2003, pp. 207–210.

12 For more details see: Getoš Kalac and Feuerbach, 2023, p. 7.

13 Nagin et al., 2009, p. 120.

14 Kuriakose, 2019, p. 416.

the perpetrator for a new crime.¹⁵ The possibilities of interpretation of recidivism are left to the individual's choice in each specific case and depend on the goals and needs of the study. To be able to compare the findings of different studies, each study should clearly describe the definition of recidivism and the indicators used to arrive at that definition.

The penological approach narrows the concept and considers recidivism as a condition in which a person continues with unacceptable or criminal behaviour after experiencing the negative effects of that behaviour and after being treated to avoid such future behaviour.¹⁶ The data collected and interpreted to understand the concept of recidivism will depend on what behaviours are defined as criminal or undesirable and how are defined the consequence or treatment of such individuals.

The literature commonly contrasts the "realist" and "institutionalist" perspectives.¹⁷ The institutionalist, or "constructionist," approach emphasises organised and lawful social responses, viewing crime as a socially constructed phenomenon shaped by societal norms, laws, and institutions.¹⁸ It highlights the importance of understanding how society defines and responds to criminal behaviour, while the realist approach focuses on collecting comprehensive data, including unreported or hidden crimes, aiming for a more accurate portrayal of crime as it exists in reality.¹⁹ Realists strive to uncover the so-called "dark figure of crime", which refers to criminal incidents that go unreported or undetected.²⁰ While realists attempt to shed light on unreported crimes, achieving a complete picture of crime is challenging, if not impossible.²¹ They seek to bridge the gap between official crime statistics and the actual occurrence of criminal behaviour.²² Nevertheless, both approaches have their disadvantages.²³ The choice of approach depends on the research goals and objectives. It is important to note that any collection of crime statistics, regardless of the approach used, involves some institutional processing to evaluate the information.²⁴

15 Rihtarić et al., 2017, pp. 541–542; Prentky et al., 1997, p. 635.

16 Musa and Ahmad, 2015, pp. 28–34.

17 Getoš Kalac and Pribisalić, 2020, p. 655.

18 Ibid.

19 Ibid.

20 Biderman and Reiss, 1967, pp. 1–2.

21 Ibid.

22 Ibid.

23 Both the institutionalist and realist approaches to crime face challenges in fully capturing the extent of criminal behaviour. The institutionalist focus on the social construction of crime may lack a comprehensive understanding of crime prevalence and be susceptible to subjectivity and bias in interpreting statistics. Similarly, the realist approach encounters difficulties in collecting complete and accurate data, particularly with unreported crimes, leading to data gaps and requiring substantial investments in time, funding, and personnel for comprehensive crime data collection. See more Ibid., pp. 3–7.

24 Ibid.

The connection between these approaches and recidivism lies in their different perspectives on understanding and measuring crime, which can influence the assessment and interpretation of recidivism rates.

From the standpoint of analysing crimes and criminal behaviour, including their repetition, the broadest possible knowledge of an individual's criminal activity throughout life would provide the most comprehensive basis for analysis. Ideally, this would involve not only crimes that are recorded or sanctioned, but also those that were never detected. However, regardless of methodology, such as victimological surveys or self-report studies, it is impossible to reach the true number of crimes committed. Researchers are therefore dependent on available sources of data, which can include court records, police statistics, prison data, or other official national figures. The scope and quality of such data are shaped by the legislative framework and the efficiency of the justice system. These sources cannot fully reflect social reality, but they nevertheless serve as a basis for research, helping to identify weaknesses within the system and pointing towards possible improvements. Consequently, the question of how to define the scope of recidivism is not merely theoretical. While ideally it would encompass all criminal activity, in practice it is constrained by methodological limitations, meaning that operationalisation and definitions of recidivism often depend on the data available and the feasibility of a given research project.

2.2. Challenges in Comparative Analysis

The terminological confusion on and around the meaning of recidivism comes to the fore in attempts to compare data at the international and national levels. When recidivism is not normatively defined at the state level, the possibility of its broad interpretation opens. This leads to distinctions in the concept of recidivism, depending on whether the data are interpreted by prisons, other penal institutions, probation services, politicians, policymakers, scholars, or others.²⁵ The question of the definition of recidivism is not only a national issue. To be able to compare data on recidivism and characterise it as "good" or "bad," we need to ensure that these data are comparable. This requires that recidivism is covered to an equal extent and that the data are collected using the same or similar methods. Disagreement about the constitutive elements of recidivism and large deviations from the rates are obstacles to quality of comparative international analysis.²⁶ Attempts to compare data on recidivism rates usually end with the conclusion that international comparisons

25 Schoeman, 2010, pp. 85–86.

26 In the criminological literature, we can find descriptions in which recidivism is described as a "fruit salad". See more *Ibid.*, p. 88.

are still not valid enough.²⁷ The lack of comparability in analysing recidivism rates across countries is justified by the variations in methodologies employed to measure recidivism.²⁸ The inconsistency is most often caused by different samples of offenders, measurements of recidivism, the length of the follow-up period, as well as the cultural and legal practices of a certain area.²⁹ In practice, we have an example where the application of the definition to the same extent in the countries of the United States of America led to significant differences.³⁰ The main cause of such divergence was the harsher application of the judicial system in terms of punishment. To illustrate the differences in the judicial systems and their impact on recidivism rates, it is informative to examine the variation between California and New York. The contrasting recidivism rates between these states can be attributed to the disparities in their parole systems and practices.³¹ In California, a more stringent approach is taken toward parole enforcement, with even minor violations leading to arrests and subsequent incarceration.³² Otherwise, New York adopts a more lenient approach, and this difference in approach contributes to the higher recidivism rates observed in California, while New York exhibits a comparatively lower rate.³³ It should not be assumed that utilising the same measure of recidivism across different programs or jurisdictions will automatically yield comparable findings. Variations in laws, policies and procedures between jurisdictions can make comparisons difficult. For instance, if one state has limited implementation of probation while another heavily relies on it, cohorts of released prisoners from these states will likely differ in terms of the proportion of low-risk individuals, consequently leading to disparate recidivism rates.³⁴ Only by using the definition of recidivism in the same scope, measuring over identical time periods, controlling the characteristics of the sampled offenders, and taking into account the specific factors of a particular area we will be able to compare the results and draw valuable conclusions about “what works” for whom in what circumstances and why.³⁵

In this regard, the question is whether it is possible and beneficial to reveal data that would be comparable and relevant in the meaning of the broadest concept of recidivism which includes the dark crime figure. Focusing on penological or normative recidivism, which narrows the concept of recidivism, the analysis of comparable data would highlight successful resocialisation practices. The idea is to use a narrower

27 Fazel and Wolf, 2015, p. 6.

28 Aebi, 2021, p. 284.

29 Ibid.

30 See: Goldstein, 2014.

31 Aebi, 2021, p. 284.

32 Ibid.

33 Ibid.

34 Ibid.

35 Fischer, 2005, p. 4.

approach to get an answer to the question of why treatment and consequences have a positive outcome for some offenders in the sense of not repeating socially undesirable behaviours and not for others. All of this shows that broad international comparisons are often unreliable, but more focused approaches can still provide useful insights. To move forward, it is important to look at how recidivism is defined in law and practice, since these definitions shape the way we study and interpret it. The following section therefore turns to normative definitions and categories of recidivism, highlighting how they frame our understanding of repeat offending.

2.3. Normative Definitions and Comprehensive Categories

A definition of normative recidivism, commonly described as the recommitment of a criminal act by an individual with a previous conviction, emphasises that an individual is considered a recidivist until their conviction is expunged or rehabilitation occurs.³⁶ Although the normative concept of recidivism can be defined like this, this is not a generally accepted legal definition. The main reason for the divergence in attempts to normatively define recidivism lies in the institutional detention of unacceptable or punishable behaviour. Recidivism is normatively defined through a range of distinct categories that capture various aspects of an individual's criminal behaviour.³⁷ These categories include arrest, reconviction, incarceration, parole violation, parole suspension, parole revocation, offense, absconding, and probation.³⁸ Within the arrest category, recidivism is determined by factors such as the number of arrests, recorded police contact, court appearances, time elapsed before the first arrest, and whether a conviction resulted.³⁹ Reconviction focuses on whether individuals received a jail or prison sentence, the severity of the offense, and the imposed sentence, while incarceration varies depending on the type of facility and the seriousness of the offense.⁴⁰ Parole violation takes into account the nature and seriousness of the violation, as well as whether it was police-initiated, whereas parole suspension encompasses new offenses and the number of suspensions. Furthermore, parole revocation involves new offenses, the seriousness of the offense, and the average number of good days on parole.⁴¹ The offense category includes factors such as seriousness, number, and whether it is a new offense.⁴² Absconding is

36 Getoš Kalac and Feuerbach, 2023, p. 9.

37 Maltz, 1984, p. 62.

38 Ibid.

39 Ibid.

40 Ibid.

41 Ibid.

42 Ibid.

determined by the issuance of an absconder warrant.⁴³ Lastly, probation assesses the proportion retained, length of time detained, number of violations, and the presence of a violation warrant.⁴⁴ Together, these categories provide a comprehensive framework for defining and understanding recidivism within research and evaluation contexts.

2.4. Penological Perspectives on Recidivism

Penology is the science of punishment, which, with its multidisciplinary approach, concentrates scientific and practical activity on the execution of prison sentences but also includes other types of criminal legal sanctions and substitutes for punishment.⁴⁵ Therefore, from the penological point of view, the focus is on the sentence that followed after the perpetrator was caught committing punishable behaviours. From a penological perspective, the main question that arises in the context of recidivism is why punishment fails to effectively prevent and rehabilitate offenders, prompting an examination of the factors that differentiate recidivist individuals who persist in violating the law despite punishment from those who are successfully deterred by punitive measures.

What is the purpose of punishment, and why is important to understand the purpose of punishment in the context of recidivism? Can recidivism be reduced through harsher punishment of perpetrators, and is such an approach rightful and justified? Traditionally purposes of punishment can be divided into two categories, utilitarian and non-utilitarian.⁴⁶ Utilitarian purposes seek to achieve beneficial effects (e.g., lower frequency or seriousness of future criminal acts by this offender or others). In contrast, non-utilitarian punishment purposes embody principles of justice and fairness.⁴⁷ The most frequently accepted non-utilitarian sentencing principle is retribution, which states that offenders should be punished in proportion to their fault in committing the offense.⁴⁸ In its approach, penology tries to find a balance between utilitarian purposes, such as crime prevention through deterrence, incapacitation, rehabilitation, and moral education, and non-utilitarian purposes, which are often in conflict.⁴⁹ The purpose of punishment, to promote public safety, aims to address recidivism by either reducing the likelihood of repeat offenses through

43 Ibid.

44 Ibid.

45 Derenčinović and Getoš, 2008, p. 24.

46 Frase, 2015, p. 67.

47 Ibid.

48 Ibid.

49 Tonry, 2006, p. 17.

strategies such as incapacitation, deterrence, or rehabilitation for the offender or by deterring potential offenders from engaging in criminal behaviour in the future.⁵⁰

Recidivists have been a subject of interest for lawmakers for centuries, and legislative bodies worldwide persist in enacting increasingly severe sanctions for repeat offenders.⁵¹ In addition, more recent statutory provisions urge judges to consider an offender's prior convictions when determining the appropriate sentence.⁵² Such legal requirements are justified by the fact that recidivists have a greater chance of repeating the crime and by the fact that such perpetrators have a severe degree of culpability because they persist in committing criminal offenses even after the previous reaction by society.⁵³ Although harsher punishment for recidivists can be justified, there is still no valid empirical evidence that harsher penalties induced by judges reduce recidivism.⁵⁴ On the contrary, there are theories that harsh punishments such as long prison terms can have the opposite effect and lead to an even higher recidivism rate.⁵⁵

Punishment is expected to fulfil several purposes, including protecting society, preventing future offences, rehabilitating offenders, and expressing justice through retribution.⁵⁶ In order to accomplish these goals, punishment must be applied in a way that is both proportionate to the offence and fair towards the offender. Proportionality ensures that the severity of the sentence corresponds to the gravity of the crime, while fairness requires that similar cases be treated consistently and without bias.⁵⁷ Balancing these principles is essential for maintaining the legitimacy of the penal system and public trust in justice. Yet the question of how fairness and proportionality should be operationalised in sentencing, particularly in the context of recidivism, is a complex matter that extends beyond the scope of this article.

50 Warren, 2007, p. 1308.

51 Roberts, 2008, pp. 468–469.

52 Ibid.

53 Ibid.

54 Estelle and Phillips, 2018, p. 271.

55 Cullen et al., 2011, p. 51; Gendreau et al., 1999, p. 16.

56 See: Beccaria, 1964; Weinhofen, 1929; Shuman, 1970; Bagarić, 2001; Brooks, 2012; Roth, 2014; Frase, 2015; Carvalho and Chamberlen, 2024.

57 See: Weinhofen, 1929; Frase et al., 2019.

3.

On Measuring and Assessing Recidivism

3.1. Methodological Considerations in Recidivism Research

Recidivism research can be classified into one of three broad categories depending on the purpose.⁵⁸ The first category, known as prevalence studies, attempts to calculate the number of recidivists and the percentage of all offenses that may be attributable to them.⁵⁹ The second category of research is exploratory. Instead of attempting to assess the prevalence of recidivism, they strive to identify personal, socioeconomic, and psychological factors associated with recidivism.⁶⁰ In the third category, recidivism is used as an outcome measure in the evaluation, and researchers try to figure out the extent to which a particular program or intervention reduces the likelihood of recidivism.⁶¹ The study's purpose aids in defining the essential criteria, elements influencing the research, and methodological approach.

Various approaches are used to investigate and comprehend recidivism. Some of them are 1) longitudinal studies,⁶² which involve following a group of people over time to see their patterns of reoffending; 2) comparative studies,⁶³ which compare recidivism rates among different groups of people or jurisdictions to see the impact of specific interventions or policies; 3) meta-analyses,⁶⁴ which can provide a comprehensive overview of the existing research and can assist in identifying patterns and trends across multiple studies; 4) risk assessment tools,⁶⁵ which are used to determine the possibility of an individual's reoffending; and 5) the qualitative research methodology approach,⁶⁶ which can be used to acquire a greater understanding of the experiences and views of those involved in the criminal justice system. Furthermore, methods such as victimisation⁶⁷ and offender surveys⁶⁸ are often used in attempts to discover institutionally unrecorded data on recidivism. There is no "correct" way to measure recidivism. Instead, we should think of recidivism as a series of various performance indicators that must be carefully tuned to the goal they are meant to

58 Payne, 2007, p. 6.

59 Ibid.

60 Ibid.

61 Ibid., p. 7.

62 See: Marques et al., 1994.

63 See: Bales et al., 2012.

64 See: Latimer, 2001.

65 See: Tully et al., 2013.

66 See: Breese et al., 2000.

67 See: Kiškis, 2016.

68 See: Scurich and John, 2019.

evaluate.⁶⁹ What are the constitutive elements of recidivism, and which questions should the researcher answer before collecting relevant data? The first important question is who will be regarded as a (previous) offender.⁷⁰ Admitting or omitting more or less crime-prone individuals can significantly affect the sample's risk structure and hence the research outcomes. The second important question is what constitutes a (new) offense, i.e., the quantity and type of recorded occurrences that are thought to be indicative of recidivism.⁷¹ Common approaches include everyone arrested, convicted, or released from prison.⁷² When measures are implemented that are more stringent or have more of a backend component, the recidivism rate tends to decrease. The third question is for how long the sample should be monitored.⁷³ One person may take many years to reoffend, whilst another may only take a few days. Specification and measurement of time are crucial in recidivism analysis because of the uncertainty and unpredictability of criminal behaviour. A follow-up period directly impacts the results in a way that longer observation times yield higher recidivism rates than shorter ones.⁷⁴ The common recommendation and practice are to apply a follow-up period of two years, which could start on the day of release from prison or return to custody, but the optimal observation period (whether it be six months, a year, two years, or longer) depends on a number of variables, including the purposes of the research.⁷⁵

The goal here is not to advocate for one particular method of measuring recidivism, since each approach serves its own purpose depending on the specific aims of the research. A prevalence study, for instance, is useful for identifying the scale of the problem, whereas an evaluative study is more appropriate for measuring the effectiveness of programmes or interventions. Exploratory studies, on the other hand, may shed light on the social, personal, and psychological mechanisms behind reoffending. Each of these approaches has value in its own right, but their coexistence also creates a lack of uniformity in definitions, criteria, and methodological choices. This inconsistency makes it difficult to compare findings across different studies, jurisdictions, and time periods. As a result, the accumulated knowledge on recidivism often remains fragmented, limiting both theoretical development and the formulation of evidence-based policies. Recognising these differences and their implications

69 King and Elderbroom, 2014, p. 2.

70 Andersen and Skardhamar, 2017, pp. 617–619.

71 Ibid.

72 Ibid.

73 Payne, 2007, p. 105.

74 According to Wartna et al., the proportion of reoffenders in Dutch sample of prior convicts is 43% after one year, 56% after two years, and 62% after three years. 74% had been reconvicted of a new offence after 8 years. These findings show that the intensity of reoffending is highest shortly after the follow-up period begins. See more Andersen and Skardhamar, 2017, p. 619.

75 Farrington and Davies, 2007, p. 22.

is therefore essential, not to propose a single measurement standard, but to critically reflect on how diverse methodological approaches shape our understanding of recidivism.

3.2. Overview of Recidivism in Croatia

In Croatia, quantitative methods predominated in empirical criminological studies, and there doesn't seem to be much domestic discussion about criminological theory and research.⁷⁶ The criminological research community in Croatia is relatively small, and most criminological studies are still dependent on single actors rather than research institutes.⁷⁷ Furthermore, victimisation studies are one of the most important topics, given that the vast majority of criminological research still depends solely on official crime statistics, with all its weaknesses.⁷⁸ Police records or information from the annual statistical reports of the Croatian Bureau of Statistics (CBS) are typically the two sources of information utilised for crime analysis in Croatia. Therewithal, the Ministry of Justice's prison statistics are also frequently used for analyses. The Croatian Bureau of Statistics is unquestionably the primary source of information on crimes that are officially reported in Croatia.⁷⁹ Perpetrators are the CBS's primary counting unit. Every year, CBS issues comprehensive "statistical reports" and "first releases" about adults, adolescents, and legal entities that have been reported, accused, and found guilty of crimes and misdemeanours.⁸⁰ The data are completely free and detailed online in both Croatian and English. Furthermore, the most recent police statistics are published online quite frequently but are only available in Croatian language. A further challenge is that the data tables, which utilise the number of cases as the counting unit, do not include any methodological justification.

The latest research on the trend of recidivism in Croatia showed a relatively stable situation, and the share of recidivism ranged between 23% and 29% in in the period from 2011 to 2021.⁸¹ Data from the Croatian Bureau of Statistics and data from report on the condition and operation of penitentiaries, prisons, and educational institutions were used for the research. Besides, recidivism was determined through three situations that include rearrest, return of the offender to prison or under supervision, and

76 Getoš Kalac and Bezić, 2017, p. 245.

77 Ibid.

78 Ibid., p. 246.

79 Getoš Kalac, Albrecht, and Kilchling, 2014, p. 158.

80 Ibid.

81 Feuerbach, 2024, p. 225.

reconviction of the offender for new criminal offense.⁸² Oscillations in the numbers shown by the data are partially due to legal changes and the transition of one sphere of drug-related criminal offenses into the sphere of misdemeanours.⁸³ Drug-related crimes are significant for the criminological analysis of recidivism because their use increases the risk of criminal recidivism; hence, drug-related crimes are considered a significant predictor of recidivism.⁸⁴ These legal changes are partly responsible for making it difficult to conclude whether recidivism in Croatia is increasing or decreasing.

In Croatia, we have a continuous trend of natural population aging.⁸⁵ Considering the fact that aging leads to a decrease in strength, energy, isolation, and thus a reduction in delinquent opportunities, we can expect lower rates of crime and recidivism in the future.⁸⁶ Such predictions are not the result of implementing crime prevention policies based on empirical data but the result of demographic conditions⁸⁷ such as natural aging and migration of the working-age population.⁸⁸

Although, according to the 2021 census, the elderly population in Croatia predominates (with the most represented age group being 50–69 years), in the total number of convicted criminals in 2022 they account for only 22% (2,737 offenders).⁸⁹ In contrast, the largest share of convicted offenders are younger and middle-aged adults aged 18–50, who represent 78% (9,618 offenders) of all convictions. The total number of inhabitants over the age of 50 is 1,698,128, which makes up 43% of the total Croatian population of 3,878,981 in 2021.⁹⁰ These figures confirm that, despite demographic aging, the younger able-bodied population continues to dominate the phenomenology of criminal offences, consistent with broader criminological findings that crime is most prevalent among younger age groups.

3.2.1. Prosecutors' Impact on Recidivism

The fundamental right and obligation of the state attorney is to prosecute the perpetrators of criminal offenses for crimes that are prosecuted *ex officio*.⁹¹ His duties are prescribed by Article 38 of the Criminal Procedure Act and include: taking

82 Ibid.

83 Ibid., p. 227.

84 Derenčinović and Getoš, 2008, p. 177; Håkansson and Berglund, 2012, p. 4.

85 See: Croatian Bureau of Statistics, 2022.

86 Derenčinović and Getoš, 2008, p. 170.

87 Feuerbach, 2022, p. 12.

88 See: Croatian Bureau of Statistics, 2022a.

89 See: Croatian Bureau of Statistics, 2022b.

90 See: Croatian Bureau of Statistics, 2022.

91 Pavić and Gluščić, 2017, p. 486.

necessary action to detect criminal offenses and find the perpetrators; undertaking an investigation of criminal offenses to collect data needed for the initiation of the investigation; issuing orders and conducting investigations and other evidentiary actions; proposing temporary measures to ensure confiscation of property; deciding on the postponement of criminal prosecution; negotiating and agreeing with the defendant on the admission of guilt and the sanction; filing an indictment, issuing a criminal order; filing appeals against invalid court decisions and extraordinary legal remedies against final court decisions; and taking other measures provided for by law.⁹² Regarding the prosecutors' approach to recidivism, two obligations stand out in particular: the first is that he can propose a sentence in the indictment for criminal offenses for which a fine or a prison sentence of up to 5 years is prohibited,⁹³ and the second is the authority to file appeals against court decisions if he believes that the sentence is not appropriate.⁹⁴ Suggesting a sentence in the indictment is possible only in abbreviated proceedings, and if the defendant agrees with the proposed sentence, the main hearing does not occur.⁹⁵ By recommending punishments that focus on addressing the root causes of criminal behaviour, prosecutors want to contribute to reducing the risk of recidivism. Cooperation between prosecutors and probation services is important for determining the type and measure of punishment. In the preliminary procedure, the prosecutor can ask the probation service for help when deciding on the type and extent of the criminal sanction. For this purpose, the probation office will examine and verify the specific information that the prosecutor needs, for example, information about the condition of the defendant's family, community circumstances, the victim's relationship to the committed criminal act, etc.⁹⁶ The probation office will prepare and submit a report to the prosecutor on the determined information. After considering individual circumstances, risk factors, and available support systems, prosecutors can recommend punishments or measures to mitigate the likelihood of reoffending.⁹⁷

One of the goals of punishment is to deter individuals from engaging in criminal behaviour. If sentences are perceived as overly lenient, they may fail to effectively deter potential offenders from committing crimes.⁹⁸ With appeals against court decisions, the prosecutor tries to draw attention to the perpetrators of criminal acts who continuously violate the regulations and for whom too light sentences are imposed.

92 See: Croatian Criminal Procedure Act, 2022.

93 Croatian Criminal Procedure Act, 2022 Art. 540.

94 Croatian Criminal Procedure Act, 2022 Art. 463.

95 Pavičić and Bonačić, 2011, pp. 512–513.

96 Croatian Ministry of Justice and Public Administration, n.d.

97 Croatian Criminal Procedure Act, 2022 Art. 540.

98 Brooks, 2012, p. 36.

The European Court of Human Rights also warned against such practice.⁹⁹ By filing an appeal, the prosecutor can express dissatisfaction with a specific court decision. In prosecutorial practice, decisions on whether to appeal a court's sentencing judgment are predominantly influenced by the mitigating and aggravating circumstances of the specific case.¹⁰⁰ These individualised factors tend to be decisive, reflecting a focus on the particularities of the offender and the offence. By contrast, considerations such as the abstract severity of the crime and the broader objectives of punishment, including the expression of the social harmfulness of criminal acts and the reinforcement of public confidence in the fairness of sanctions, receive comparatively less attention in the decision-making process.¹⁰¹

3.2.2. Judicial Perspectives – Recidivism's Influence on Adjudication and Sentencing

When the most serious crimes (aggravated murder, murder, etc.) are excluded from the criminal policy of the courts, it is still noticeable that the courts, on average, impose sanctions in the lower third of the sentences prescribed by law for an individual criminal offense.¹⁰² In addition, applying the institute of judicial mitigation of punishment is common.¹⁰³ According to the prosecutor's report on using conditional sentences in municipal courts and bearing in mind the number of recidivism and the general trend of reported crimes, this sort of criminal policy appears to be generally improper. To achieve not only special but also general prevention, it is important, in circumstances where a suspended sentence is insufficient, to sentence the perpetrator to prison for a suitable period of time as a reminder to everyone not to do criminal activities. In such cases, the state attorney's offices try to influence the criminal policy of the courts by filing appeals.

The current legal system in Croatia determines recidivism only in terms of sentencing, according to Article 47 of the Croatian Criminal Code.¹⁰⁴ This article states that when deciding on the type and measure of punishment, the court will consider all the conditions that impact the harshness of the sentence. The court is required to consider the offender's prior life, in which case the legislature leaves it up to the courts to freely determine whether a previous conviction is a mitigating or aggravating circumstance. Although a past conviction is not strictly defined as an

99 State Attorney's Office of the Republic of Croatia, 2021.

100 Novosel, 2004, p. 745.

101 Ibid.

102 State Attorney's Office of the Republic of Croatia, 2021.

103 Ibid.

104 See: Croatian Criminal Code, 2024.

aggravating circumstance, it is more frequently utilised in court to justify harsher punishments.¹⁰⁵

The notion of imposing harsher punishments on recidivists has been debated for decades and continues to raise fundamental questions. Is it justifiable to subject individuals who repeatedly breach societal rules to more severe sanctions as a form of retribution? Does the imposition of harsher penalties genuinely deter future offending? And does such an approach align with the principle of proportionality, which requires that punishment correspond to the seriousness of the offence? These questions illustrate that discussions on stricter sanctions cannot remain confined to theoretical or normative considerations but must also be informed by empirical evidence. Without a sound understanding of why individuals reoffend and how legal, social, and institutional factors influence this process, harsher sanctions risk becoming merely symbolic rather than effective instruments of crime prevention. Although providing definitive answers lies beyond the scope of this chapter, the issues raised underscore the need for further research into the complexities of recidivism and the true impact of punitive measures. In this context, the use of the convict criminology approach is particularly valuable, as it highlights the lived experiences of offenders and the insights they can provide into the causes of reoffending and the barriers to reintegration. Despite its importance, this perspective remains underdeveloped in Croatia, which underscores the necessity of giving greater attention to offenders' voices in both research and practice.

3.2.3. Recidivism Within the Prison System – The Role of the Diagnostic Centre

The Diagnostic Centre is essential in treating recidivism in Croatia's prison system. It processes prisoners (medical, psychological, social, and criminological) to implement the principle of individualisation of punishment. The main goal is to create a prison sentence execution program with a proposal for a specific penitentiary or prison where the prisoner will serve his sentence.¹⁰⁶ According to the Act on Execution of Prison Sentences, the competent county courts refer all men and women who have been sentenced to a prison sentence of more than six months to the Diagnostic Centre.¹⁰⁷ All adult persons who have been ordered to undergo mandatory psychiatric treatment as a security measure, as well as persons whose sentence has been taken over for execution according to an international agreement or a special law, are also referred. If the prison sentence is shorter than six months, and if the remaining part

105 Grozdanić et al., 2004, pp. 570, 572, 580.

106 Croatian Minister of Justice and Public Administration, n.d.

107 See: Croatian Execution of Prison Sentence Act, 2021.

of the sentence is less than six months, the execution judge will direct the convicted person to serve the prison sentence in the nearest prison according to the place of residence.¹⁰⁸

Perpetrators are held at the Diagnostic Centre for 30 days to assess the offender and to make individual proposals.¹⁰⁹ A multiple risk assessment is carried out in the Diagnostic Centre, which includes three categories: the first includes species assessment and the level of risk that exists during the execution of the sentence for the prisoner himself and for other prisoners in his environment, the second refers to the risk of criminal recidivism, and the third refers to the risks that may occur due to the misuse of the facilities made available to the prisoner in the form of more frequent contacts with the society.¹¹⁰

In the process of dealing with recidivism, the Diagnostic Centre looks at it from three perspectives: criminological, penological, and legal. The legal method comprises a codified and restrictive point of view in which a recidivist is solely defined as someone who has a prior conviction that has not been expunged from their criminal record by the expiration of the statute of limitations. The criminological approach tries to reveal the true situation; therefore, in addition to data from criminal records, data collected from prisoners, data from court expert reports, and data available on the internet or obtained from other persons are also used. The penological approach considers data from the temporary archive, such as own criminal records, data from a juvenile prison, or data on a remand prison stay.¹¹¹

Recidivist prisoners and primary offenders are separated to avoid criminal infections. After the prisoner is sent to serve his sentence in the penitentiary or prison that is thought to best respond to his needs, the prison administrator must review the success of the program's execution every six months.¹¹² The purpose of such a check is not to evaluate the success of the treatment but to check the extent to which the individual prison sentence execution program¹¹³ was successfully carried out. Unfortunately, other forms of inspection of the evaluation of the treatment do not exist.¹¹⁴

108 Croatian Execution of Prison Sentence Act, 2021 Art. 54.

109 Feuerbach, 2022, pp. 22–24.

110 Ibid.

111 Feuerbach, 2024, p. 232.

112 Ibid.

113 An individual execution program of a prison sentence consists of pedagogical, work-related, healthcare, psychological, social, and security procedures tailored to the characteristics and needs of inmates, as well as to the capabilities and types of the correctional facility or prison. In a broader sense, treatment encompasses all actions directed toward inmates with the purpose of their rehabilitation and social reintegration. On the official website of the courts of the Republic of Croatia, *Information on the execution of prison sentences*. In: Official website of the courts of the Republic of Croatia, n.d.

114 See: Official website of the courts of the Republic of Croatia, n.d.

4.

The Importance of Evidence-Based Crime Policy in Recidivism Prevention

The strategy of developing and executing policies and decision-making processes based on a comprehensive study, data, and scientific evidence is referred to as evidence-based policy.¹¹⁵ It emphasises using empirical evidence to inform policy decisions and assess the effectiveness of policies and programs.¹¹⁶ Policymakers should use research findings, data analysis, and expert opinion to make informed decisions. Besides, they should use evidence to understand the potential repercussions of various policy alternatives, select the most successful actions, and avoid or reduce unexpected consequences. The importance of evidence-based policy is unquestionable, and the idea of evidence-based policies was recognised yet during ancient Greece. Even then, Aristotle proposed that different kinds of knowledge should inform rulemaking.¹¹⁷ But still, to this day, in many areas of social policy, such as education, poverty reduction, and crime prevention, government programs are often implemented with little regard to evidence.¹¹⁸ Nonetheless, it is possible to find representative examples of evidence-based policy to curb crime by preventing recidivism, which can serve as a model for future policies. One such example is a Pager's study on evidence-based policy for successful prisoner re-entry, which examines the challenges offenders encounter during reintegration and emphasises the crucial role of employment in reducing reoffending.¹¹⁹ The author applies a rigorous academic methodology by using statistical evidence, research studies by reputable academics, empirical modelling, policy analysis, and a historical perspective. Supporting ex-offenders throughout this initial transition is presented as an essential policy objective, as it enables them to achieve stability and become indistinguishable from individuals who have remained arrest-free.¹²⁰ Moreover, by providing inmates support services, the aim is to enhance employability and reduce the risk of recidivism.¹²¹ This study demonstrates how evidence-based approaches can provide valuable guidance for developing more effective crime prevention policies.

115 See: Pager, 2006; Warren, 2007; Hinkkanen and Lappi-Seppälä, 2011.

116 Parkhurst, 2017, p. 14.

117 Ibid.

118 Goddard and Myers, 2017, p. 152.

119 Pager, 2006.

120 Ibid.

121 Ibid, p. 512.

In Croatia, scientists systematically warn about the lack of evidence-based policy and the dangers of policies based on penal populism.¹²² One of the main issues is the lack of evaluation studies in which resocialisation efforts of any level would be monitored.¹²³ The lack of such studies makes reviewing the policies and improving such systems difficult. The preventive criminal legal policy should base its strategic action on scientific data, expert analyses, and in-depth knowledge of the phenomenological determinants of recidivism. Recidivism research contributes to creating the evidence basis required for effective and efficient crime prevention methods.

5. Conclusion

Recidivism remains one of the central challenges of criminology and criminal justice, both in terms of its conceptualisation and its measurement. Despite its seemingly straightforward definition as a relapse into criminal behaviour, the absence of a unified understanding across criminological, penological, and legal perspectives complicates its analysis. The distinction between recidivism and reoffending, although frequently employed, is not consistently recognised, which further undermines the comparability of research findings. Differences in definitions, follow-up periods, and data sources create substantial obstacles for international and national comparisons, leaving the accumulated knowledge fragmented and often inconclusive.

Turning to the specific context of Croatia, empirical criminological studies rely predominantly on quantitative methods. Challenges in the criminological research community, dependence on official crime statistics, and limited domestic discourse on theory underscore the need for a more nuanced approach. Recidivism trends in Croatia, analysed through rearrest, return to prison, and reconviction, show a relatively stable situation, with recidivism ranging between 23% and 29% from 2011 to 2021. Legal changes, particularly in drug-related offenses, contribute to oscillations in the reported data, making it challenging to assess the overall direction of recidivism in the country. Within the justice system, prosecutors and judges both influence recidivism outcomes. Prosecutors shape sentences through proposals, plea agreements, and appeals, with decisions driven mainly by the aggravating and mitigating factors of the individual case. Courts, meanwhile, tend to impose sanctions in the lower range of statutory limits and often apply suspended sentences or judicial mitigation. Prior convictions are not formally defined as aggravating, but they are

122 Getoš Kalac and Feuerbach, 2023, p. 16; Kalac and Bezić, 2017, pp. 245–246; Šprem, 2023, p. 33.

123 Mikšaj-Todorović and Buđanovac, 1998, pp. 91–92.

often treated as such in practice. Both prosecutorial and judicial approaches highlight the difficulty of balancing deterrence, fairness, and proportionality in sentencing. In the prison system, the Diagnostic Centre plays a central role by conducting medical, psychological, social, and criminological assessments to individualise punishment and manage risk. It approaches recidivism from legal, criminological, and penological perspectives. Although this structure helps separate primary offenders from recidivists and tailor sentence plans, the lack of systematic evaluation of treatment outcomes remains a weakness, limiting the ability to learn from practice.

Moreover, evidence-based policy represents a crucial but underdeveloped area in Croatian crime prevention. International examples, such as studies on prisoner re-entry, highlight how targeted support, particularly employment, can reduce reoffending and promote successful reintegration. In Croatia, scholars warn of the risks of penal populism and the absence of evaluation studies, which hinders the improvement of resocialisation programmes. Developing a culture of evidence-based policymaking, grounded in systematic research and evaluation, is essential for creating effective preventive strategies.

Considering the persistent challenges surrounding recidivism in the Croatian justice system, several recommendations can be made to strengthen both research and practice. First, it is necessary to introduce a clear statutory definition of recidivism in legislation, so that legal, administrative, and research practices are aligned, and the concept is applied consistently. Second, data collection and reporting should become more transparent, with clearer explanations of the methodologies used, including details on sources, sampling, and follow up periods, which would improve the reliability of information and allow for more meaningful comparisons. Third, future research should include the voices of prisoners and draw on the experiences of prison and probation staff who are in daily contact with offenders, as these perspectives offer valuable insights into the barriers to reintegration and the effectiveness of interventions. Fourth, systematic evaluation studies are needed to identify which programmes and sanctions genuinely work in reducing reoffending. Finally, stronger collaboration between institutions, such as the police, courts, prisons, probation services, and research bodies, is essential for improving data quality, supporting evidence-based policymaking, and creating a more coherent response to recidivism.

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