DISCRETION OF PROBATION OFFICERS IN
INDIVIDUALIZATION OF DECISIONS CONCERNING
PROBATION INFRINGEMENTS: EMPIRICAL RESEARCH

Summary

The study analyzes aspects of the discretion of probation officers in making decisions in cases of probation rules breaches committed by probationers. The largest part of the study is dedicated to the analysis of results of the survey of probation officers. This survey was aimed at revealing the factors influencing discretionary decisions in the implementation of probation and the relationship between the decisions taken and the social-demographic characteristics of the probation officers.

The main research instrument is the probation officer’s questionnaire on discretionary situations: a methodology for determining what decision probation officers tend to apply to the cases of probation rules violations when the decision is within their discretion. In total, 129 probation officers participated in the survey.

The study found that probation officers were generally prone to use probation tools at both low and medium re-offending risk. Likewise, probation officers, in response to the probationer’s violations of probation rules, were generally inclined to make fairly rigorous decisions (i.e., to apply to the court for the abolition of probation). The discretionary decisions of probation officers were also related to the specificity of the individual situation of the probation violation. Probation officials gave great importance to the probationer’s willingness and initiative to collaborate with a probation officer during probation and his inclination to return to the previous criminal lifestyle.

Probation officers were inclined to take rigorous discretionary decisions when the probationer committed certain violations of probation obligations (did not follow the boundaries of the home area, was not at home during the time set by the judge, did not inform the probation officer about the change of residence, etc.) and did not provide reasons for such behavior. Meanwhile, when the probationer explained and justified the causes of the violations of his probation conditions, probation officers took milder
decisions. Likewise, probation officers were inclined to respond rigorously to the probationer's violations of probation conditions that were related to the content of the probationary criminal offense for which he was convicted. This shows that officials tend to individualize discretionary decisions based on the risk criterion of potential re-offending.

Also, the results of this study revealed that the severity of discretionary decisions by probation officers varies according to the level of risk of re-offending. In the cases of medium risk of re-offending, probation officers were more inclined to take tougher decisions than at low re-offending risk. In addition, it has been found that probation officers, who make stricter decisions when the risk of probationer's recidivism is low, tend to take tougher decisions when the risk of re-offending is moderate.

After examining the relationship between the discretionary decisions of probation officers and their social and demographic characteristics, it was found that a higher age was directly related to the more stringent discretionary decisions taken by probation officers. This means that older probation officers, in comparison with younger officials, are more likely to respond strictly to probation violations. Relationships between officials' work experience and the severity of the decision were identified: officials with less work experience were more inclined to respond strictly to cases where the probationer was suspected of having committed a criminal offense. Meanwhile, the discretionary decisions of probation officers were not related to gender, workplace and education.

The results of the study suggest that the rather strict discretionary decision making of probation officers is related to legal regulation that provides narrow limits of discretion. On the other hand, the results of the study revealed that, despite the legal limitation of their discretion, probation officers tend to individualize different situations of violations and to make milder decisions than those provided by the Probation Law.