

Received: May 2023 Accepted: June 2023

DOI: <https://doi.org/10.58262/ks.v11i3.037>

A View of the Prevention and Issues of Persons with Mental Disabilities Serving Prison Sentences in the Czech Republic

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Abstract

The professional text looks at issues that the professional public pays little attention to. The topic is a view of persons with mental disabilities who commit criminal activity and are sentenced in the Czech prison system. The professional contribution aims to draw attention not only to terminological changes in terminology, but also to social and professional changes that are linked to work with individuals with mental disabilities in prisons. People with intellectual disabilities have the same human rights as all other people. They have the right to live, work and participate in society, they have the right to make their own decisions and to determine their own lives to the greatest extent possible. In some cases, adults with intellectual disabilities cannot fully understand the nature of legally binding actions or decisions or understand their consequences and effects. It is necessary to pay attention to prevention and to support the self-determination and responsibility of people with mental disabilities.

Keywords: *Help, Individuality, Mental Disability, Prevention, Prison, Support.*

Introduction

General characteristics of mental handicap. According to Vagnerová, Hadj-Moussová, Štech (2004), a mental handicap is, together with psychological derangement and illnesses, one of the least accepted limitations of a person.

There is significant growth in statistics on number of people with mental handicap. Data from the Czech Statistical Office shows that in the Czech Republic in 2007, there were 1,015,548 people with mental handicaps, 9,87 % of the Czech population. In 2018, there were 1,152,000 people with a mental handicap, 13% of the Czech population (Czech Statistical Office, 2019).

There are a lot of authors who defined mental handicaps and what does it mean. Therefore, we chose a definition that characterizes our understanding and attitude towards mental handicaps. "Mental handicap can be described as complex syndromic limitation of psychology (intellectual) abilities and other layers of human persona. The most important is limited development and intellectual abilities, but emotions, communication abilities, and social skills are impacted as well due to this limitation, overall education, self-development, and social involvement (Slowík, 2022).

There probably is no other discipline (except psychiatry) that would have a similar issue with terminology from an ethical perspective as psychopathic. ... psychopaedia is forced to look for new terminology due to the growing sensitiveness of society, and current terminology is becoming unacceptable (Valenta, Müller, 2021).

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With regards to the mentioned terminological nonuniformity, which is also caused by the areas of appearance in life of a person with mental handicap such as medical/health, education, social, justice ... and further reflection of attitude/help or support of focused group we should mention humanity. The humane approach defines the difference between attitudes and phenomes; it also refers to terminology that arises from diverse practices and situations related to people with mental handicaps. Furthermore, it considers the psychopadeia questions.

In the Introduction, Cimrmanová et al. (2020) hit nails on their head when they describe their approach towards people with mental handicaps primarily as an approach towards human beings. "Terminology of a person with a mental handicap is also crucial for us from an ethical perspective. The handicap influences a person's life, but it is one of many layers of a human. This is captured in the preposition "with" (Cimrmanová et al., 2020, p. 14) [*author's note: in Czech language it is "člověk s mentálním postižením"; the 's' presents the with*].

Simple presentation is visible in literature. Bajo and Vašek (1994) describe that between 1952-1989 in Czech-Slovak literature appeared, more than 20 diverse names and descriptions of the state of a person with mental handicap such as mentally mistaken, mentally deviant, mentally abnormal, mentally delayed, retarded, mentally defected, intellectually mistaken, children with mistaken cognitive development, mentally backward. Unfortunately, the most used term is mentally retarded, which initially aimed to unite the terminology across diverse disciplines such as medical, pedagogical, and social. According to Müller (2012), even the mental retardation is diverse within its definitions. Nevertheless, all descriptions have one thing in common: the overall lower point in cognitive abilities (caused by childhood development) with a lower capacity to adapt to the surrounding environment. The given deficiency can be related (and often is associated) to education, speech, and social abilities ... Mental retardation is anchored in the International Classification for Illnesses (MKN-10), which has been accepted in the Czech Republic since 1993.

The year 2022 brings a lot of crucial terminological changes in the Czech Republic from 1.1.2022, the 11th revision of the International Statistical Classification of Illnesses and Related Health Issues (MKN, ICD) published by the World Health Organisation (WHO), which was accepted by WHO in 2018.

MKN 11 presents a name defect of intellectual development, which includes IQ and adaptability issues. Therefore, MKN corresponds with another so-called classification called the Diagnostic Statistical Manual and its 5th revision (DSM 5) used for a diagnosis is not enough intellectual deficiency but a deficiency in adaptability as well (Bazalová, 2023; Marková, Prázdna, Jičinská, 2019).

"MKN 11 brings a name for deficiency of intellectual development while the establishment of a diagnosis is not crucial only IQ but the adaptability of a person as well. MKN 11 corresponds with another classification called the Diagnostic Statistical Manual, and its fifth revision is when a diagnosis is not enough to define lower IQ but also lower abilities to adapt within an environment. MKN 11 define deficiencies of intellectual handicap as follows: "Deficiencies of intellectual development represents groups of etiological diverse states originating from the period of development which are characteristic for significantly lower intellectual functions and lower adaptability"." (Marková, Prázdna, Jičinská, 2019, p. 63).

The approach of society towards people with mental handicaps is developing as society develops. The general experiences of the community influence the prevailing assumptions that the club holds towards people with mental handicaps. Insufficient edification or societal lack of information supports the judgment of people with mental handicaps based on emotions rather than healthy intellectual reasoning. Everyone should be included and participate in the life of a society. The rights and responsibilities of everyone, including people with mental handicap, allows reflection and responsibility for their actions. Hájková and Strnadová (2010) reflect the change of attitudes of society towards a person with a mental handicap, mainly in education and social contacts. Therefore, we can assume that the more often people are in contact with people with mental

handicaps, the more likely they are to change their attitude towards them.

Offenders or Victims with Cognitive Handicaps

Based on cognitive handicaps, when the intellectual abilities are limited, it is evident that conducting an offence is according to the cognitive skills. Therefore, it is simple and accessible. We should never forget that people with mental handicaps have the right to fair justice in court and an appropriate sentence.

There are no available statistical records to represent the number of people with mental handicaps currently imprisoned. From European countries, we know that, for example, in the Netherlands, the population is over 17,850,000, with 6% of people with cognitive handicaps. Imprisoned people with mental handicaps make up 30% (Kea, van Oppenraaij, 2021). In their research, Kea and van Oppenraaij (2021) focused on severe offences conducted by young offenders. They revealed that 56% of these young offenders have low cognitive handicaps.

According to Bajcura (2005), in the context of offences and offenders with a cognitive handicap in the Czech Republic, we are often presented with estate offences. Mainly, the violations are related to getting recourses for material things. Usually, it is an offence in which someone is more cognitively able to talk to the offender. The cause of this behaviour is that people with cognitive handicaps are often easily manipulated, and they easily incorporate the opinions and attitudes of others. It is crucial to mention here that people with mental handicaps are not critical or have a lower level of criticality. When the offence is conducted in a group, people with cognitive handicaps are often conductors of the ideas of others. They do not think about their behaviour's consequences, which does not apologize to them. However, we highlight that people with cognitive handicaps are easily manipulated. Therefore, the work of diverse experts should focus on the prevention of this behaviour. Also, we should prioritise these people's adaptation to the imprisonment process.

This topic is discussed by Pavlovský et al. (2009) who point out the diversity of studies conducted by people with lower cognitive handicaps. The offences appear mainly in the form of minor burglaries and primitive imposters. However, we could see some pyromania, sexual harassment, harm, or murders.

While assessing the personality of a person with a cognitive handicap, it is crucial to focus on the sociocultural environment from which they come. The influence of climate and family – mainly parent and their attitude towards offences is vital. Children and young adults with cognitive handicaps (especially deficiency of intellectual development = earlier, more accessible mental handicaps) could be critical about their behaviour and recognise that they are doing something that is not allowed. However, they often do not realise their behaviour's consequences for them and their surroundings. For a person with a cognitive handicap, it is crucial to understand their sentence and what it means. The sentence must be relevant and understandable so they can accept and work with it.

Hrabětová (2009, p. 177) describes ... “people with cognitive handicap can realise the punishment and issues related to their behaviour. They are not often used as witnesses because they tend to lie. It is often reasonable to require a special evaluation of their reliability. ... however, many of them have developed an understanding of their behaviour. Thus, the insanity cannot be applied.”

Hrabětová (2009), as well as Pavlovský (2009), claim that offences are not acceptable for people with higher cognitive mental handicaps (severe/unspecified/profound deficiency of cognitive development). This placement is logical and reasonable as people at this level of handicap are often limited to the activities required to fulfil their basic human and biological needs. Therefore, we do not meet people with this level of cognitive handicap in offences or imprisonment. Their role is often opposite. They are often the victims. This offers another interrogatory question, which is often for not a specialist or related person as they do not know the specifics of this person.

Foreign studies, for example, Koolhof et al. (2007), are focused on relating the specialised topics of cognitive handicaps, young people, and offences. Their study proved crimes and cognitive handicaps are related. The study investigated whether young boys with lower IQs are exposed to more risk factors than those with average to high IQs. In the study, the board for IQ was 69. Serious delinquents with lower IQs have committed more offences than serious delinquents with average IQs. The boys with lower IQs with more severe crime showed more impulsive behaviour. There were no significant differences in empathy or feelings of guilt for both groups. Instead, there were higher characteristics for those qualities in more serious offences as a whole group. In comparison, those with lower IQs were more exposed to risk factors than those with average to higher IQs. The risk factors included low study results, depressive thoughts, and lower socioeconomic status, mainly concerning housing situations.

Mainly, young people with cognitive handicaps are exposed to more risk factors, and they have fewer protective factors, which equally strengthens the possibility of antisocial behaviour or criminal behaviour.

Also, here we again support the possibility that people with cognitive handicaps can be more in the environment with more people with criminal records. We can assume a pattern here since they quickly overtake others' opinions and ideas. The significant role played here is acceptance into a group, which is something that can be strengthened or supported by conducting a crime. Often, this is the beginning of "friendship" or membership in a group when a person with a cognitive handicap commits a crime just to be a part of a group. Further research might want to investigate the study results of a person with a mental handicap and the conduct of an offence.

We can use the conclusion of research conducted by van Wijk, Hardeman and Scholten (2015), who compared their research to other research (Appelman et al., 2014), which considered crime behaviour and people with cognitive handicaps. To summarise, the issues are often happening simultaneously. Usually, they were issued in dysfunctional families and relationships, financial problems, low levels of education, no employment, and friendships with people with criminal records. The authors also mention higher risks of recidivism, which is often related to the young person's social and emotional abilities and personality.

Bočková (2019), in their research, focused on the issue of attitude towards young people with cognitive handicaps during interrogatory. They highlight the need for an interrogator to familiarise themselves with as much as possible information about the person with cognitive handicap as they can; hence, it can influence the process. If any other mental illness does not accompany the cognitive handicap, the existence of the handicap might not be visible. The interrogatory room, whether an office or a particular room, should be prepared for a person with a cognitive handicap. It should be a clean environment without any interruptions, as it is easy for a person with mental handicaps to lose their focus. It is also good to weigh whether the climate is not too small or too dark. The interrogatory should reflect the level of cognitive handicap and abilities, skills, and competencies of a person.

It is crucial to mention and briefly consider aspects of victims with cognitive handicaps. Reflection on reality and the level of cognitive handicap is vital and must be reflected to choose the right attitude towards the victim with a cognitive handicap. It is essential to share and enforce that people with mental handicaps have their rights, and justice should help with its placement. Is our justice system able to do so? Can it work with this specific group?

In general, we can define the issue of any harm against people with mental handicaps, according to Walach, Petruželka and Kalibová (2020, p. 10), as "verbal, physical, sexual or any other attacks against people who offender chose due to their real or imagined handicap. ... for offences based on handicap assumptions, it is crucial that the offence happened mainly since the victim has a health handicap". Assumption offences motivated by health handicaps can be understood as disabling crimes.

Doherty (2015) points out the situations when people with handicaps were victims of burglaries, sexually harassed or even killed by people they thought to be their friends. In literature, we talk about *mate crime*. The name recalls *hate crime* while we the fact that the offender was a friend/mate of the victim. This crime is specific for disabling crime.

Sleřková and Pastorek (2022) conducted qualitative research focusing on the rights and experiences of people with cognitive handicaps who became victims. Strengthening the justice system's attitude towards people with mental handicaps does not necessarily mean legislative changes. The research revealed that the attitude of individuals is crucial – the representatives of organs active in the justice process. If the victim meets the correct person with the right intent, the victim can get through the process without harm. The system is, however, sometimes ineffective, and the victim cannot be sure they will meet the right people.

How should we help, or what should the preventive work be? We should keep trying to ensure adequate education and information about diverse realities. For example, about the relationships. This could help people with cognitive handicaps to exist in society. Parents and the community should be able to share and talk about this. Discussing sexuality and sexual harm should be incorporated into support systems, help, and care.

Support System and Help Provided to the Aimed Group of People with Cognitive Handicaps

It is essential to include all areas of life of people with cognitive handicaps in the support system. The interest is whether they have a place or activity where and how to spend their leisure time, for example. The support of an individual with cognitive handicaps should also include whether they are developing their sense of responsibility and developing enough to live independently. Learning for life is crucial for support of people with mental handicaps. People with cognitive handicaps and their families must learn to take care of themselves and their environment, take care of their finances, and travel where they need to and orient in public transport. Further, it is crucial that they can communicate, that they can say no, or that they know their rights. The number of areas which need to be highlighted is significant, and naming all these categories should be extended.

From the base of cognitive handicap arises that people with this handicap have issues with socialisation. They are not socially cognitive and adaptive skills. Therefore, in their everyday life, they might have problems in many areas such as education, living on their own, finances, relationships, families, employment, and leisure time... problems have issues assessing their behaviour, whether right or wrong. This also arises from the fast development of society when even the norms and values change fast.

Pörtner (2009) stresses that working with people, it is essential to use the so-called “*Person-focused approach*”, which means not assuming what people would be like but rather what they are like based on their skills and abilities. “The assumption of the person-focused approach is to look at the person and see their original uniqueness. One should try to understand their speech and support them to find their pathway of understanding their reality, of course, in an acceptable manner” (Pörtner, 2009, p. 15).

The support and guidance of a person with cognitive handicap play a significant role in their life. The primary base for them is family throughout their childhood and adulthood. For people with mental handicaps, the most extensive support is family, mainly parents, extended family, close friends, and partners. This type of support is called informal support. The opposite of formal support includes legislative models of support and help.

One of the most important projects realised in the Czech Republic by a Company for support of people with cognitive handicaps in Czech Republic z.s. is a publication called Methodology for Support of Social Skills, how to Lead Courses of Social Skills for people with cognitive handicaps. This publication limits and describes several chosen competencies in concrete situations, such as rules, basic communication, body communication, Introduction and meeting new people, addressing someone, interviews, reactions, self-presentation, relationships, and dangerous situations ... There are diverse methodologies for

teaching social skills. Also, it explains how to develop the most effective social skills in a person with cognitive handicap. Courses aim to create, develop and use social skills in everyday life. Through these courses, the instructor stresses that the skills learnt in the system must be transferred into everyday life outside the environment where the skills were taught. The tools of transfer are described in the methodology as they appear throughout the educational process. This is one of the adequate tools crucial during the educational process of a person with a cognitive handicap, not only in imprisonment but throughout their life. Even here, we must reflect on wishes, motivation, needs, and possibilities.

Support and help are mainly visible in intervention. It is primarily mentioned by van der Laan (2001), who lists several requirements for the intervention model. The first requirement should be the principle of need, which should focus on characteristics, risk factors or issues of individuals with cognitive handicaps. The second requirement is the assumption of the ability to react. Within this requirement, it is crucial to consider an individual's intellect, social environment, and ability to respond adequately.

The support through levelling the social competencies within people with cognitive handicaps could prevent challenging difficulties by teaching some cognitive handicaps how to create and maintain relationships and be active in society.

An interesting point is mentioned by Collot d'Escury (2005), who argues the essentiality of support and development of perspective for teaching social interactivity within people with cognitive handicaps. It was essential to connect and understand the social and emotional functioning of people with cognitive handicaps and to teach them to build their self-confidence and allow them to develop their abilities and skills within the application of learnt competencies. Firstly, those who work with people with cognitive handicaps should be able to work like that to offer support and help, and secondly, we should teach our students with mental handicaps. The orientation on tasks or limitations of one's aim needs to be developed with people with cognitive handicaps. The results will be that a person with cognitive handicaps will be able to focus on themselves, and they will not be comparing themselves with others. The program of social skills education focuses on basic things like greetings or asking for help to more complex cognitive-social skills/competencies such as empathy.

We can add that we cannot generalise, and it is essential to behave on each person's individuality and release that repetition or process of education of activities in process for whole life, not only within the group of people with cognitive handicaps. Furthermore, it is based on feeling safe and ability to focus. Changes and development are not fast but rather through small steps which are stable and visible in all areas of human beings.

People with cognitive handicaps have the same human rights as everyone else. They have the right to live, work, and participate in society. They have the right to make their own decision. However, some adults with a cognitive handicap cannot assess the relevance of offences.

“People with cognitive handicaps have similar rights as everyone else. They have the right to life, work, and participate in society as anyone else. They have the right to make their own decision, which is the basic human right and for any other development, it is important to lead to towards ability to take responsibility for their actions” (Kolektiv autorů, Inclusion Europe, 2005, p. 8).

Regarding political changes after November 1989, we can discuss a continuous line of reforms and change within diverse areas that provide care and support to people with cognitive handicaps.

Study (Víšek, Chisereu, 2023) chose to put an emphasis on finding solutions to these legal and doctrinal contradictions that presently prevent effective law enforcement initiatives from countering hybrid threats. The law enforcement agencies' fundamental, state safeguarding purposes cannot be accomplished in the absence of comprehensive national strategies recognising the existential threat posed by hybrid interference, which can turn a perfectly thriving state into nothing more than a chaos-ravaged, malleable puppet state.

Due to the aim of this paper, we will first focus on the Czech prison system. One of the main ideas and changes which consider people with cognitive handicaps is the development of a specialised department of prisons for prisoners with special needs.

Enforcement of law no. 169/1999 col. About imprisonment and change brought up by a change in § 70 points out that “offenders with cognitive and behavioural deficiency, or with personality deficiency caused by the usage of drug substances, or people mentally retarded placed in prison should have been medically assessing to receive adequate program and individual treatment, or group meetings”.

According to Jiříčka and Kejřová (2015), specialised departments should be divided as follows: a) for the imprisonment of people with cognitive and behavioural deficiencies who can participate in group therapeutical treatment. Possible types of these specialised departments are:

1. Specialised department for imprisonment with cognitive and behavioural deficiency,
2. Specialised department for the imprisonment of people with cognitive deficiency and behavioural deficiency caused by the usage of drug substances,
3. Specialised department for imprisonment of people who are mentally disabled.

Bajcura (2005) describe the aim of specialised departments as follows:

Minimalization of the possibility of using people with cognitive handicaps, limitation of conflicts between offenders and protection of offenders with cognitive handicaps to complete the process of imprisonment for people with cognitive handicaps in an environment which will not lead to the worsening of their conditions,

Preparation of offenders for their return to society or their practice to join the prison department.

According to the 2022 message, the Prison Service of the Czech Republic has 36 specialised departments in 25 prisons and five departments for people with cognitive handicaps.

A specialised pedagogue and a team of workers, such as a social worker, a psychologist, and a tutor, lead the specialised department with cognitive handicaps. This team of specialists should help the offender via individual psychotherapy, relaxation, and other therapeutic techniques. Hence, the offender with cognitive handicaps should improve their progress or skills and abilities they already have (Bajcura, 2005). For example, Hanzelová (2018) describes that in the context of social work with sentenced people with cognitive handicaps, it is a crucial skill. The social workers in the prison environment should be able to recognise the person with cognitive handicap as having unique life experiences, and an individual approach is crucial to be able to confront the prisoner with positive but also negative situations. This will be discussed in more detail in the following section.

The specialised departments of prisons for people with cognitive handicaps should have a complex and complete approach towards people to develop their social skills so they can after their imprisonment. The significant stress is put on social skills and working attitude. The regime of this department is solid and detailed. The main point is systematic work with routines and unique educational and therapeutical methods. To be concrete, it can be community meetings, therapeutic groups, social and communication pieces of training, social, legal advisory, and art therapy.

Another study mentioned was conducted by Bajcura and Zange (2019), who highlighted problems in employment during imprisonment, which is often problematic for people with lower cognitive abilities.

Another area we should mention is the legal frame of social care. The Czech Republic has a system of social care and social support. Help and support for people with cognitive handicaps is in our country anchored not only in law no 108/2006 col. But also in the Standards of Quality of Social Care or the International Agreement of Rights of People with Cognitive Handicap. The Czech Republic is where support and help provided to people with cognitive handicaps meets human and ethical principles. However, it was not always the case.

Within the socio-political changes in the Czech Republic in 1989, the change in transformation shifted the area of social care. Transformation meant changes in the system, its financing, education, places, and forms of providing social care. It led to improvement in life quality. The process of transformation in the Czech Republic took time because preparing the new law took almost 12 years, and the law in this area was enforced in 2007 (Čámský et al., 2011).

Social work with people committing crimes happens in many forms, depending on the condition of the crime. The result of social workers is also crucial during an alternative sentence. According to Lukáš et al. (2018), working with clients sentenced to prison with probation is the most complicated area.

Another thing we should mention is the education of people with cognitive handicaps. The radical change was enforced due to school law no 82/2015 col, which changed law 561/2004 directionol. and law ndirection 27/2016 col. The school law in § two talks about the change in equal attitude towards the education of all pupils without any discrimination. The Law no 27/2016 col. Focus on teaching pupils with special education needs and gifted pupils. The main aim of education is to fulfil the education of all pupils without any differences. For those who might not be able to complete their education, these pupils provide enough support to fulfil their education in mainstream schools.

Daněk (2023) opens up interesting ideas ... Case conferences involving the convicted person, their child in the children's home and a psychologist or social worker could be very beneficial. The advantage of such conferences should be better psychological well-being of the child in the children's home. It would also improve the convict's preparation for contact with the child after release from prison. We are convinced that children in care with experience of parental incarceration are among the hardest hit, most vulnerable group. Society needs to realize that the issue of parental incarceration has a greater impact on these children. They require maximum support and a professional approach from the professionals involved. It is therefore essential that the education and training of educators in children's homes be enriched with knowledge of resocialisation and prison issues. In this way, it will be possible to meet the needs of children who experience the comorbidity of trauma caused by the incarceration of their parents and are also exposed to the influence of the institutional environment.

Aging is a natural physiological process that involves a number of changes affecting the organism. Changes in the physical field are reflected in education primarily by worsening resistance to adverse and disruptive influences, loss of energy, by reducing sensory capacity (Špatenková, Smékalová, 2015).

Conclusion and Recommendation

Regarding inclusive trends and diversity in society, the number of people in handicapped communities, not only those with cognitive handicaps, but we should also focus more on problems with crime and people with cognitive handicaps. More research should focus on dependability in forensic psychology, criminology, or social pathology. Literature, not only Czech but international literature as well, should focus more on people with cognitive handicaps and crime, whether conducted by someone with a handicap or on someone with a handicap. We should cognitively handicap review more as another risk factor for offences.

Through evident paper, it is obvious that society should focus on education and overall shared information about cognitive handicaps and people with cognitive handicaps. If the general society knows how to communicate with people with cognitive handicaps, there might be a better general attitude towards this group. Furthermore, people with cognitive handicaps should be more included in society. The amount of time that people with mental handicaps spend in society is low, and that negatively influences the general knowledge and attitude towards them. However, it also influences people with cognitive handicaps; hence, the base of cognitive handicaps would benefit from being exposed to society, and society would benefit from being exposed to people with cognitive handicaps. Nevertheless, the education of people working with people with cognitive handicaps

would also benefit from deeper knowledge, mainly in social and communication skills.

Another area that would benefit from improvement would be socioeconomic status and the family environment in which people with cognitive handicap and their families live. As demonstrated throughout this paper, family and environment significantly influence one's development, and for people with cognitive handicaps, this applies more. The prevention we could offer is to maintain an adequate level of life condition. Also, family cooperation with some organisations focused on support of people with cognitive handicaps is crucial.

The long-term question that needs to be discussed is the placement of alternative sentences for people with cognitive handicaps.

Further research might want to focus on the study results of a person with cognitive handicap in the context of offences. Another focus could be on people with cognitive handicaps and where it is hard to recognise the cognitive deficiency. Young people with cognitive handicaps are a group of people who have received more attention lately. There is a growing trend in acknowledging they are part of society and their place in society. However, there is often an issue that there are no resources and tools to recognise whether the young person has some cognitive deficiency. Also, the economic side should be discussed as the economic resources concerning young people in imprisonment are often not discussed.

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