

Sexual Crimes Against Children and a Criminological Research on the Offenders Thereof

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Abstract

Nowadays, taking action against perpetrators of sexual offenses against children is at the center of interest not only for lawyers, but also for the society. In Hungary this social opinion was considered and reflected in Act LXXIX of 2021 on the “anti-pedophile” amendments to certain Acts. As the title suggests, the Act resulted changes to a number of Hungarian legislation, most importantly to the provisions of Act C of 2012 on the Criminal Code. This study aims to review and evaluate the current substantive criminal law instruments for combating sexual offenses against children in Hungary, in particular, the stricter measures against pedophile offenders. For that end, a criminological analysis of the perpetrators of sexual assault against children is essential, as practical results can be formulated into criminal policy.

Keywords: *sexual crimes, sexual offenses against children, anti-pedophile, Hungarian legislation, criminological analysis of pedophile offenders*

I. Introduction

Every age and society has its own sexual culture, which is determined by religious and moral traditions. Societies are changing, evolving, and sexual culture follows these changes. Accordingly, it is far from being unified, and it is divided into different levels and types depending on the cultural approach¹. However, it is also noteworthy that sexual relationship between a child and an adult is „*mala per se*” – hence it has always been regarded as a violation against the basic norms of communal coexistence, regardless of the socio-political contexts – and has therefore always been strictly punished. Nowadays, taking action against perpetrators of sexual offenses against children is at the center of interest not only for lawyers, but also for the society. Protecting the physical, mental, but especially the sexual development of children is a fundamental social need, since the sexual abuse against them is severely condemned by the society. According to Balogh and Virág, the reason for this is that “*a physically and mentally immature child in a dependent position is unable to perceive or understand sexuality due to his or her vulnerability and immaturity and as a consequence of this position, the abuse may cause him or her immeasurable damage*”.

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¹ V. Szilágyi, *Szexuális kultúránk állapotáról [About the state of our sexual culture]*, in *Bűnügyi Szemle* no. 4-5, 2000, p. 6.

In Hungary, the results of a study – published by the National Institute of Criminology in 1996 – reflect the position of the Hungarian public on sexual offenses. According to this study, respondents considered the latter to be the most serious type of crime right after crimes against life. They also expressed that both offenders against life and sexual offenses deserve increased penalties as a consequence of their crimes².

This social opinion was considered and reflected in Act LXXIX of 2021 on the “anti-pedophile” amendments to certain Acts (hereinafter: Act LXXIX of 2021). As the title suggests, the Act resulted changes to a number of Hungarian legislation, most importantly to the provisions of Act C of 2012 on the Criminal Code (hereinafter: Criminal Code). This study aims to review and evaluate the current substantive criminal law instruments for combating sexual offenses against children in Hungary, in particular, the stricter measures against pedophile offenders. For that end, a criminological analysis of the perpetrators of sexual assault against children is essential, as practical results can be formulated into criminal policy. Utilizing the results of criminology as a discipline, they can justify the introduction of certain criminal law provisions.

It is to be noted for this particular research that in Hungary there are no adequate domestic researches with a large number of samples or with extended follow-up studies on the criminological characterization of perpetrators of sexual offenses against children. As confirmed by Drexler and Somogyvári; “*Such comprehensive, comparable studies and databases are not currently available in Hungary, there is only limited information on the size of the group in the category of sex offenders. There is no previous research at all on their characteristics, motivation or groups of perpetrators*”³. This is especially true for researching of recidivism, for which longitudinal (long-term) data on the crime is essential. In view of this, a significant amount of foreign sources can be relied on while researching the topic.

It is also important that sexual acts against children are analyzed by several social sciences, therefore, the definitions they use often cover psychological and psychiatric categories (such as pedophilia) or social phenomena (domestic violence)⁴.

II. Criminal law instruments to protect children

When declaring an act punishable and determining the penalties and measures, certain requirements of the rule of law must be taken into account, from which sexual offenses committed against children are no exception. According to Lévai; “*In order to protect the fundamental rights of its citizens and residents and to fulfill its international obligations, the State shall be entitled to criminalize and punish certain acts in such a way as to both respect the freedoms guaranteed by the Constitution and to guarantee the rights of victims*”⁵. The penalization of sexual acts against children is indisputable.

² J. Kó, G. Virág, *Lakossági vélemények a szexuális erőszakról [Public views on sexual violence]*, in F. Irk (ed.) *Kriminológiai és Kriminológiai Tanulmányok [Criminology and Forensic Studies]*, 35/1998, pp. 250-275.

³ D. Bernadett, M. Somogyvári, *A szexuális bűnt elkövetők hazai vizsgálata büntetés-végrehajtási statisztikák alapján [Domestic investigation of sex offenders based on penitentiary statistics]* in *Belügyi Szemle*, no. 3, 2015, p. 67.

⁴ *Idem*.

⁵ M. Lévai, *A büntető hatalom és lehetséges korlátai egy alkotmányban, különös tekintettel a bűncselekményre nyilvánításra és a büntetésekre [The criminal power and its possible limits in a constitution, with particular regard to the qualification as a crime and the punishments]*, in Pázmány Péter Katolikus Egyetem [Pazmany Law Working Papers], no. 24, 2011, Budapest, p. 3.

Since criminal law is not expected to solve social and educational policy tasks, it enters when the sanctions of social means and other rights are no longer sufficient and unable to achieve the desired goal⁶.

The special nature and material weight of sexual assaults on children were already emphasized by the legislator when drafting the Criminal Code in effect. Contrary to the previous structure of the Criminal Code, „crimes against sexual freedom and sexual offenses” are now penalized independently under chapter XIX. Before that, these crimes were regulated under the chapter on crimes against marriage, family, the youth and sexuality⁷. By the restructuration, the legislator aimed to give a legal relevance to the fact that sexual crimes are indeed distinctive crimes, hence should be criminalized independently.

The general justification of Act LXXIX of 2021 also emphasizes that Hungary protects children through special measures, and that all children have the right to the protection and care necessary for their proper physical, mental and moral development. The explanatory memorandum also highlighted that since 2010, the government has made a number of provisions to protect children. It has been ensured that those who have committed serious crimes against children are not allowed to engage in activities related to the upbringing, supervision, care and treatment of children (Act CCXLV of 2013); additionally, statute of limitations does not apply to serious offenses against children, in particular sexual offenses (Act LXV of 2014); a permanent ban on occupation imposed on those who have committed a sexual offense against a child has been stipulated (Act XCV of 2017 and Act CXLIX of 2017); the penalty for sexual intercourse with a person under the age of twelve has been tightened (Act CLXXVII of 2017); other elements of the ban on occupation has been more strictly regulated accordingly (Act CXVII of 2018); the elements of human trafficking have been changed and the penalties for sexual offenses against children have been increased (Act V of 2020); the principles of punishment for violent crimes against persons committed against a relative have been determined more strictly (Act CVIII of 2020)⁸.

Actions against sexual abuse of children are reflected in substantive and procedural criminal law as well as in enforcement law. Substantive criminal law expresses the physical, mental and healthy sexual development of children as a value to be protected, not only through the creation of elements of crimes that penalize different behaviors and the severe penalties associated with them, but also through a number of other legal institutions, such as the exclusion of statute of limitation period or prolonging the starting date of the commission of the crime, as well as the compulsory application of the ban on occupation. Act LXXIX of 2021 has also been amended in a strict manner. The introduction of a register of sex offenders and regulating the scenario of practicing a profession despite the ban on occupation are important novelties.

The punishment of a sexual conduct committed against a person under the age of 18 is included in two types of regulatory constructions in the current Criminal Code: they are either regulated as “stand-alone” crimes (such as Sexual Abuse, Exploitation

⁶ V. Bérces, A. Domokos, *A családon belüli erőszak szankcionálásának büntetőjogi lehetőségeiről* [On the criminal law options for sanctioning domestic violence], in *Jogelméleti Szemle*, no. 3/2017, p. 77, http://jesz.ajk.elte.hu/2017_3.pdf [accessed on 11 November 2021].

⁷ Act IV of 1978 on the Hungarian Criminal Code, Chapter XIV.

⁸ Act LXXIX/2021 on stricter action against pedophile offenders and amending certain laws for the protection of children, General justification, <https://njt.hu/jogszabaly/2021-79-K0-00> [accessed on 15 November 2021].

of Child Prostitution, Child Pornography). The victim of these crimes can only be a minor. Or, the other method of the Code is to punish more severely an existing crime if it is committed against a child (Sexual Violence, Sexual Exploitation). The scope of the latter offenses has been expanded as a result of the amendment, as the case of harassment against a minor who has not reached the age of eighteen has been regulated as an aggravated assault.

It is worth noting that in the case of sexual abuse, the commission of a sexual act against a person under the age of fourteen is *de facto*, meaning that it does not mitigate the criminal responsibility if the perpetrator had no knowledge on the actual age of the victim.

Punishment rates for the most serious forms of sexual violence have also been risen. The penalty for violent or presumed social abuse committed against a person under the age of twelve, and the perpetration of the abuse or social offense committed against a person under the age of eighteen, ranges from five to twenty years. In the event of the cumulation of these qualifying circumstances, the sentence shall also increase, and a term of imprisonment of ten to twenty years may be imposed in the case of violent abuse of power or social offenses committed against a person under the age of twelve.

The statute of limitations shall not start until the victim reaches the age of 21 in the case of sexual offenses that are punishable by more than the five-year imprisonment. Act LXXIX. of 2021 sought to enforce the protection of minor victims of serious sexual offenses through an existing system of instruments, exclusion from parole, as a general rule, and a system of additional safeguards for exceptional cases. Therefore, it also excludes the possibility of parole for persons sentenced to imprisonment for offenses against sexual freedom and sexual morality punishable by imprisonment for a term of eight years or more. As factual behaviors or circumstances may be conceivable in the new case, which are not necessarily related to the most serious offenses, exclusion from parole may be waived in individual cases that deserve special consideration, subject to a strict security regime⁹.

The amendment also made changes in the Labor Code. The conditions of employment became stricter, since according to the current rules of the Labor Code, an employer in the field of educating, supervising, caring for or treating a minor is prohibited from employing the perpetrator of a sexual offense against a minor. This has also been extended to leisure, to employers providing sport-related services. As a result of the amendment, the definitive ban on occupation also applies to perpetrators of child pornography¹⁰.

The mandatory scope of the order of probational supervision has also been supplemented, including the probation period for imprisonment for the offense committed against a person under the age of eighteen for the offense of sexual freedom and sexual morality¹¹.

Act LXXIX. of 2021 introduced the “register of pedophile offenders” which has not existed in the Hungarian legal system before. The legal institution is a novelty only in Hungary, as it is already used in many European Union countries. In this context, it is important to point out the provision of Directive 2011/93/EU of the European Parliament and of the Council on combating the sexual abuse, sexual exploitation of

⁹ *Ibid.* Detailed justification for § 15.

¹⁰ *Ibid.* Detailed justification for § 12.

¹¹ *Ibid.* Detailed justification for § 17.

children and child pornography and replacing Council Framework Decision 2004/68/JHA. The Directive states that " *administrative measures may also be considered, such as the registration of persons convicted of the offenses referred to in the Directive in a sex offender register. Access to such records shall be restricted in accordance with national constitutional principles and relevant data protection rules*"¹².

It is clear from the settled case law of the European Court of Human Rights (hereinafter: ECtHR) that the storage of personal data in criminal records (by police and national security authorities) may be in breach of Article 8 of the European Convention on Human Rights. A number of ECtHR judgments deal with the justification for intervention¹³, one of which relates specifically to the register of sex offenders.

In the *B.B. contra France* case¹⁴, the applicant was convicted of a sexual offense against minors aged 15 as a person in a position of trust. According to the facts, he served his prison sentence in 2000, and a year later he requested that the details of his conviction be deleted from the criminal record, but his request was rejected. In 2004, a French Act set up a national judicial database of persons convicted of a sexual offense and the applicant was informed of his inclusion in the database. The ECtHR has ruled that the inclusion of a person convicted of a sexual offense in a national judicial database falls within the scope of Article 8 of the European Convention of Human Rights. However, given that adequate data protection safeguards have been put in place, including that the data subject may request the deletion of the data and that the time for storing the data and access to the data is limited, a balance has been struck between competing public and private interests. The ECtHR concluded that France had not infringed Article 8 of the European Convention of Human Rights.

The aforementioned Hungarian amendment justified the introduction of the register with regard to the mental state of the victims, with its serious mental and other consequences as a result of the crime: Sexual offenses committed against a child can have serious psychological and physical consequences. According to surveys, 51-75 percent of sexually abused children later develop psychiatric problems. These consequences are even more frequent and severe if the perpetrator is a family member, close acquaintance, or a person with whom the child has a personal relationship, or who may feel unconditional because of their social status or role in the child's life. That is why it is vital for people who come into direct contact with children to be trusted¹⁵.

The introduction of the register is intended to prevent crimes against sexual freedom or sexual morality committed against children, namely by controlling persons who come into direct contact with children. In terms of practice, the data requester can enter the data request interface after electronic identification (customer gateway), for which it is necessary to enter the name of the data subject. Disclosure of the data relating to the data subject may be requested on the surface only by an adult

¹² Directive 2011/93/EU of the European Parliament and of the Council (43). <https://eur-lex.europa.eu/legal-content/HU/TXT/?uri=CELEX:32011L0093>, [accessed on 15 November 2021].

¹³ See, for example, *Aycaguer v. France*, 8806/12, June 22 2017; *M.K. v. France*, 19522/09, April 18 2013.

¹⁴ *B.B. v. France*, 5335/06, 17 December 2009.

¹⁵ Act LXXIX of 2021 on justification of the law LXXIX of 2021 on stricter action against pedophile offenders and amending certain laws for the protection of children. To the law, General justification, <https://njt.hu/jogszabaly/2021-79-K0-00> [accessed 15 November 15 2021].

who is a relative of the child or who is bringing up, supervising or caring for the child. Through the register, the surnames and forenames of the convicts, the year of birth, the place of residence restricted to the settlement, the portrait and the data on the crime committed by him or her can become known.

In view of the above, it can be seen that the current Criminal Code of Hungary relies on the deterrent effect of the law on sexual retaliation against children for retaliation on the one hand, and on the exclusion of the possibility of parole. However, the latter provision also seeks to eliminate the possibility of re-offending, as does the introduction of a register of sex offenders. The basic premise known in criminal law that not only the severity but also the inevitability of a punishment has a deterrent effect is therefore relevant to the amendment of the limitation provisions and to the elimination of non-prosecution.

A research conducted at the National Institute of Criminology in 2016 started the examination of the criminal proceedings in Budapest and five counties (Pest, Győr-Moson-Sopron, Vas, Borsod-Abaúj-Zemplén, Szabolcs-Szatmár-Bereg) for violent sexual crimes closed in 2015. A total of 153 cases were investigated. According to the research, the majority of crimes against children are committed within the family, and the vast majority of these crimes are related to the sexual abuse and abuse of children¹⁶. Other research has also confirmed that the perpetrators of such crimes are foreigners only in the least percentage (5-8%), hence, they come primarily from the families and immediate surroundings of the victims. In this context, important provisions are those relating to the prohibition of employment and the exclusion of employment in special child-related jobs, as it is possible to prevent the establishment of a potentially abusive relationship with regard to persons who pose a potential risk to children, thus preventing crime.

However, it is also important to see that the application of the various strict legal provisions already require a final judgment in which the perpetrator's criminal responsibility has been established. In addition, the extent to which these provisions facilitate the reintegration of perpetrators into society may be criticized. It is also questionable whether strict actions against perpetrators are indeed intended to protect the interests of children or merely satisfy society's need for retaliation. There is no doubt, however, that the stronger action against perpetrators of sexual offenses against children as a result of the amendment is strongly geared towards a punitive rather than a perpetrator treatment approach.

It should also be emphasized that the protection of children is reflected not only in substantive criminal law but also in criminal procedural and enforcement law. In criminal procedure, the possibility of using covert means subject to judicial authorization to facilitate the detection of offenses against them may be considered a means of protecting children, but measures falling within the scope of "special treatment" in the spirit of child-friendly justice may also be considered as such. In addition to the segregation of the offender from society in the execution of the sentence, it is important to facilitate the reintegration into society by improving its personality.

¹⁶ K. Parti, A. Solt, G. Virág, *Gyermekkorúak meghallgatása a büntetőeljárás során Magyarországon az európai és nemzetközi standardok tükrében [Interviewing children during criminal proceedings in Hungary in light of European and international standards]*, in, Országos Kriminológiai Intézet, *Kriminológiai Tanulmányok* (National Institute of Criminology, *Criminological Studies*) 55, Budapest, 2018, p. 69.

III. Characteristics of perpetrators of sexual offenses committed against children

Several experts on the subject have stated that it is not possible to treat all sex offenders in the same way, as the reasons and motivations behind committing this type of crime are usually multifactorial, multidimensional, and a significant part of them (especially pedophiles) can be traced back to mental illness. Naturally, the manifestations of their sexual impulses are sometimes dangerous to the other party¹⁷. From the point of view of criminological investigation, it is necessary to try to define the group of perpetrators and to formulate what we mean by sex offenders and pedophiles. Much of the literature in the latter understands pedophiles and non-violent perpetrators, but it should be noted that the terms used actually cover a much wider range and are often misleading without a proper definition¹⁸.

Sexual offender is a term which is still in search for a universally acceptable definition. Put it plainly and simply, a sex offender is one who offends sexually. However, sexual behaviors within a group or community are greatly influenced by prevailing sociocultural norms¹⁹. Whether it is the commission of a crime of any kind depends on whether the person commits the legal elements of the crime. If the answer is affirmative, he is a "perpetrator" from a criminal substantive point of view. Studies in the foreign literature examining the commission of sexual offenses use different definitions of the act, with similar terms being applied to the perpetrator like 'child sexual abuse' – 'child sexual abuser', 'sexual offence' – 'sexual offender', or 'pedophilia' – 'pedophile'. The definition of 'child sexual abuse' was most accurately described by Finkelhor as „sexual abuse of children *The use of sexual violence or coercion if the victim is under the age of 13 and the age difference between the victim and the perpetrator is at least 5 years, or if the age difference between the victim is between 13 and 16 years and the victim and the perpetrator are at least 10 years.*" Importantly, the use of coercion in this formulation may also manifest itself in the perpetrator's close relationship with the child and his or her subsequent manipulation of the sexual act²⁰.

Other studies have revealed a difference between the 'child sexual abuser' and 'sexual offender' categories. This discrepancy was manifested, among other things, in the motivation for the offense, as in the case of the 'child sexual abuser', the offense alleviated anxiety, loneliness and depression, while the 'sexual offender' was generally characterized by anger and anti-community behavior²¹. It is also important to point out that the category of 'child sexual abuser' cannot be identified with the category of 'pedophile' in the literature. Pedophilia is a paraphilia defined by the Diagnostic and Statistical Manual of Mental Disorders Fifth Edition (DSM-V) published by the

¹⁷ G. Pregunné Puskás, *A szexuális bűnelkövetők terápiás kezelésének tapasztalatai [Experiences in the therapeutic treatment of sex offenders]* in *Börtönügyi Szemle*, no. 1/2011, pp. 37–52.

¹⁸ B. Drexler, M. Somogyvári, *A szexuális bűnt elkövetők hazai vizsgálata büntetés-végrehajtási statisztikák alapján [Domestic investigation of sex offenders based on penitentiary statistics]*, in *Belügyi Szemle*, no. 3/2015, p. 67.

¹⁹ A. Aggrawal, *Paraphilias and Sexual Crimes-An Overview*, in A. Jamieson, A.A. Moenssens (eds.), *Wiley Encyclopedia of Forensic Science*, Edition 1, Chapter: *Paraphilias and Sexual Crimes – An Overview*, Publisher: Wiley, 2009, p. 1.

²⁰ J.J. College, *The Nature and Scope of Sexual Abuse of Minors by Catholic Priests and Deacons in the United States 1950-2002*, Washington, DC: United States Conference of Catholic Bishops, 2004, p. 52.

²¹ D.L. Polaschek, T. Ward, S.M. Hudson, *Rape and rapists: Theory and treatment*, in *Clinical Psychology Review*, 17, 1997, pp. 117-144.

American Psychiatric Association. Persons with a pedophile diagnosis may become offenders, but they do not necessarily commit a crime, so the two concepts cannot be paralleled. Nevertheless, there is no doubt that if a person with a pedophile diagnosis becomes a criminal, he or she should be considered a sex offender. Pedophilia is a sexual paraphilia, which means sexual attraction, not the act itself which latter is sanctioned by law.

Some studies link the perpetrator to the potential victim, so that a particular victim is related to the specific type of offender. Thus, for example, rapists often commit crimes against adults and peers²², while child sexual abusers do the same for children²³.

An important feature is that the majority of perpetrators are male. A research has found that only 1-6% of perpetrators are women. The gender of the victim and the relapse of the perpetrator may also be related. According to one study, the number of recidivists who abuse a boy is twice as high as that of an offender who abuses a girl child²⁴. However, a study also showed that perpetrators who commit a crime against a girl child are reported twice as many casualties as those who committed it against a boy²⁵. However, recent studies have also found that the highest number of victims, crimes and recidivism offenders who have committed sexual offenses against minors of both sexes are among the perpetrators²⁶.

Some scientific dissertations place the family at the center of the definition of the perpetrator and distinguish between 'extrafamiliar' i.e. out-of-family and 'intrafamiliar' i.e. intra-family sex offenders and examine their characteristics²⁷. For example, 'intrafamiliar' offenders are less diagnosed with psychopathy as well as pedophilia, while the latter are found to be more common among 'extrafamiliar' offenders²⁸.

It is important to mention that the vast majority of children who experienced abuse knew the perpetrator. Thirty percent were molested by a family member and 60 percent by someone outside the family but known to the child (neighbor, coach, family friend etc.)²⁹. 10 percent of the children surveyed were molested by a complete stranger. According to other research, 60-70% of offenders have a close relationship with the child: a (close) relative, a teacher, a family friend, a coach, or someone who can easily contact the child. The same was confirmed by a domestic study, the conclusion of which is that the child should not be feared by strangers. The research examined a

²² L.M.J. Simon, *Do criminal offenders specialize in crime types?* In Applied and Preventative Psychology 6, 1997, pp. 35-53.

²³ L.M.J. Simon, B. Sales, A. Kasniak, M. Kahn, *Characteristics of child molesters: Implications for the fixated-regressed dichotomy*, in Journal of Interpersonal Violence, 7, 1992, pp. 211-225.

²⁴ V.L. Quinsey, *Men who have sex with children*, in D.N. Weisstub (Ed.), *Law and Mental Health: International Perspectives*, vol. 2, 1986, pp. 140-172.

²⁵ G.G. Abel, J.V. Becker, W.D. Murphy, B. Flanagan, *Identifying dangerous child molesters*, in R.B. Stewart (ed.), *Violent Behavior: Social Learning Approaches to Prediction, Management, and Treatment*, New York, Plenum Press, 1981, pp. 53-63.

²⁶ D.A. Simons, C. Tyler, *The self-regulation and good lives models: Analysis of primary goods and offender type*, Symposium presented at the 29th Annual Conference of the Association for the Treatment of Sexual Abusers, Phoenix, 2010.

²⁷ D.G. Fischer, W.L. McDonald, *Characteristics of intrafamilial and extrafamilial child sexual abuse*, goo.gl/qgypbl 1998 [accessed on 15 October 2016].

²⁸ M.E. Rice, G.T. Harris, *Men who molest their sexually immature daughters: Is a special explanation required?*, in Journal of Abnormal Psychology, 111, 2002, pp. 329-339.

²⁹ American Psychological Association, *Understanding and Preventing Child Abuse and Neglect*, goo.gl/7izlG2, 2016 [accessed on 15 October 2016].

legally completed case of sexual violence and sexual coercion in respect of cases occurred in 2017 in the country's entire data set, which covered 263 criminal records. As a result of the research, it was found that the criminal records show that 89% of the victims knew the perpetrator through their friends or other contacts (289) and 48% (139) of these persons were family members³⁰.

The various studies define the categories of perpetrators on the basis of the motivation and reasons for the perpetration, in which the circumstances of the perpetration are also a priority. Among the theories explaining sexual intercourse with children, the theory that considers the most important factors listed above is named after David Finkelhor, the so-called "precondition theory". As early as 1984, Finkelhor pointed out that a comprehensive theory for the analysis of sexual abuse against children should explain why some adults are able to feel sexually aroused towards children and, at the same time, why they are unable to restrain them. The theory should also be able to explain why some individuals are unable to meet some of their emotional needs (e.g., intimacy) with adults and why they turn to children to form an inner relationship (sexuality, support, friendship)³¹.

According to Finkelhor, the factors discussed as an explanation for sexual abuse against children can be grouped into four preconditions. The first factors are related to sexual motivation. Motivations can be divided into three groups; the first is 'emotional congruence', which means the match between an adult's emotional needs and a child's characteristics; it may be manifested in the fact that the adult has an increased need for a sense of power that can be easily developed for children due to their inexperience and age, so they turn to them. "Stuck, block" can also appear as a motivation when the perpetrator is unable to meet his or her needs in a socially acceptable way, which is why he or she seeks the company of children. In Finkelhor's theory, "deviant sexual arousal" may also be a motivation that may indicate the category of pedophilia as paraphilia³².

The existence of motivation alone is not enough, it is also necessary for the perpetrator to overcome his internal barriers to inciting him or her to have sex with children, ie his or her actions to appear in the outside world. How this is done is a key question in this regard. According to Finkelhor, the removal of barriers can be facilitated by the consumption of alcohol or other substances, impulse disorder in the person of the perpetrator, psychosis, incest, or even the presence of severe stress (e.g., loss of a job, death of a relative). Control can also be loosened by social attitudes, such as an environment that favors patriarchal rights of fathers or sexual interest in children³³.

The overcoming of internal barriers is followed by the overcoming of external barriers, which is an opportunity to create an infringement. This can happen after careful and lengthy planning, but it can also result from taking advantage of a particular situation. Finkelhor pointed out that there could be a number of such situations, such as the absence of a mother or carer and a lack of proper supervision of the child³⁴.

³⁰ R. Garai, *Kitől kell féltetni a gyermekeket? Kiskorúak sérelmére elkövetett szexuális bűncselekmények a tényadatok tükrében [Who should children be afraid of? Sexual crimes against minors in the light of facts]*, in Országos Kriminológiai Intézet – Kriminológiai Tanulmányok (National Institute of Criminology – Criminological Studies) 58, Budapest, 2021, pp. 212-214.

³¹ T. Ward, D. Polaschek, A. Beech, *Finkelhor's precondition model of child sexual abuse: A critique in Psychology, Crime & Law*, no. 7:1-4, 2008, pp. 294-295.

³² *Ibidem*.

³³ *Idem*, p. 296.

³⁴ *Idem*, pp. 296-297.

If the preconditions listed above are met, the perpetrator typically has access to the child. You can then use a number of strategies to acquire and maintain sexual intercourse with your child; from giving a gift to desensitizing a child to sexual intercourse, but it can be an emotional addiction or even the use of threats or violence³⁵.

Finkelhor's theory explains why some adults are able to feel sexually aroused towards children and, at the same time, why they are unable to restrain them. By understanding the theory, the risk factors of becoming a perpetrator can also be learned, by which the realization of the commission of a crime could be reduced.

IV. Conclusion

There is no doubt that trauma caused by experiencing sexual abuse in children determines and distorts the emerging personality. Therefore, childhood grievances – especially if they are chronic and recurrent – are not only associated with current stress symptoms and anxiety, but also fundamentally affect the whole personality³⁶. On the one hand, a childhood concussion can cause emotional, relationship problems – anxiety, depression, lack of confidence, inability to intimacy, sexual problems etc. – until adulthood. On the other hand, it fundamentally transforms thinking: it changes the notions of the security of the world, the reliability of people, the predictability of events, the notion of self-efficiency³⁷. Other studies have shown that children who have been victims of sexual abuse are more likely to have post-traumatic stress disorder and other anxiety disorders, depression and suicidal ideation³⁸.

In the view of all these, criminal law takes strict measures against sexual offenses committed against children. The study concludes that the provisions of the Hungarian Criminal Code are shifting towards deterrence by severe penalties and other legal institutions, as well as retaliation against perpetrators, legitimized by public opinion. This process is described in Act LXXIX of 2021. The stricter regulation introduced as a result of an enactment of the law. The law also saw a reduction in the recidivism of offenders in the introduction of strict criminal law provisions (exclusion from the possibility of parole), which may be particularly justified for offenders whose regular behavior has become part of their life cycle, or, given their extremely violent personality, the goal of crime prevention is best achieved through isolation.

It is clear that this type of crime requires decisive action, but it is also important to keep in mind the extent to which strict provisions help to reintegrate offenders into society. In addition, it is important to emphasize that the results of criminological investigations of perpetrators reveal different motivations and personality traits that could ultimately lead to a new approach to tackling the crimes in question and the treatment of perpetrators.

³⁵ *Idem*, pp. 297-298.

³⁶ G. Virág, G. Kulcsár, A. Rosta, *Erőszakos bűnözés [Violent crime]*, in A. Borbíró, K. Gönczöl, K. Kerecsi, M. Lévy (eds.), *Kriminológia – Második, átdolgozott kiadás [Criminology – Second Revised Edition]*, Wolters Kluwer Hungary, Budapest, 2019, p. 577.

³⁷ *Idem*.

³⁸ J.J. Broman-Fulks, K. J. Ruggiero, R.F. Hanson, D.W. Smith, H.S. Resnick, D.G. Kilpatrick, B.E. Saunders, *Sexual assault disclosure in relation to adolescent mental health: Results from the National Survey of Adolescents*, in *Journal of Clinical Child and Adolescent Psychology*, 36(2): 260-266, 2007, Taylor & Francis DOI: 10.1080/15374410701279701, https://libres.uncg.edu/ir/asu/f/Broman-Fulks_2007_Sexual_Assault_Disclosure.pdf, 2007 [accessed on 16 October 2016].

Ultimately, the importance of recognizing sexual offenses against children, which requires a sense of social responsibility and a social environment that strengthens and protects the victim, cannot be overemphasized. As Garai points out; *"For all crimes, we have to talk about the hidden crowd, but for sexual crimes, this secret concealment is perhaps hiding an even higher-than-average, indefinite number of victims"*³⁹. There are specific causes of criminal latency, including the criminal sensitivity of the victims and potential witnesses, the personality of the perpetrator and the victim, the influence of the perpetrator on the victim, and even the degree of trust in the authorities and the investigative activity of the investigating authorities⁴⁰. In addition, it is key to recognize the signs of crime – or, worse, the signs of what has already happened, as a means of raising public awareness of the mechanism of such crimes and the symptoms of the victim's behavior and appearance. In this context, it is important to point out the appropriate intervention of the various "indicators" (kindergarten, school, health care institution etc.), as children who cannot expect safety and understanding from their families cannot count on other help. In the vast majority of minors who had suffered sexual abuse, they did not primarily tell their relatives what had happened to them or asked for help, but voted for outsiders (contemporary relationships, class teacher)⁴¹.

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³⁹ R. Garai, cited, p. 203.

⁴⁰ *Idem*, p. 204.

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