

1. RECIDIVISM IN ESTONIA – SUMMARY

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The purpose of this chapter is to bring out in a summary format the results of the study. In order to do that the recidivism of people released from prison has been comparatively analyzed with respect to the recidivism of other groups, and, furthermore, connections with other parts of the study have been provided.

The publication of study became possible thanks to the support of the Fund of Wise Decisions with which the project “Recidivism of Criminal Offenders in Estonia and Consideration of Recidivism Risk upon Selection of Procedural Decisions and Imposition of Punishment” was carried out in 2009 and 2010.

The studies of other countries (Recidivism Report ..., 2003; Comprehensive Recidivism Study, 2002; Hypén, 2004; Drabsch, 2006; Recidivism, 2009) have shown that recidivism is higher in case of men, younger people, people who have been previously punished and have repeatedly been in prison; it was also found that people with the highest recidivism are people who have committed criminal offences against property. Women, elderly people and people who have committed serious offences against the person and sex offences have lower recidivism.

It has been found with respect to the influence of prison sentence that although it prevents the commission of criminal offences during the time they are held in prison, the recidivism of people released from prison is considerably higher when compared to other types of punishment. (Jehle, 2009; Wartna, Beijersbergen. et al., 2008). The influence of imprisonment on diminishing crime is the biggest when the so-called predisposed offenders, in case of whom being in prison prevents the commission of criminal offence and in case of whom other instruments of punishment and premature release has no influence on the prevention of the commission of new crimes (Gendreau and Goggin, 1999), are held in prison as long as possible. vt originaal

In this study the recidivism was evaluated primarily as commission of a new criminal offence after release from prison. In order to compare the recidivism rate of people released from prison to something, the recidivism of other types of sanction was also studied (e.g. pecuniary punishment, termination of proceedings for reasons of expediency).

In this study the indicator of committing a new criminal offence was the interrogation of a person as a suspect. Although it would be legally correct to consider a judgement of conviction, which has been enforced in new criminal offence, as an indicator this indicator was not used as the availability

and comparability of data is limited in this case by the duration of criminal proceedings which often last for several years. Besides, it has to be taken into consideration that pursuant to present procedural practice, many criminal matters are terminated by the Prosecutor's Office due to reasons of expediency and a question arises to which extent the commission of a new criminal offence could be discussed in these matters, if the court has not assumed any position on the guilt of a person in case of these matters.

At the same time, also in many other countries the main indicator of recidivism is the interrogation of a person as a suspect (arrest); this has been regarded as a sufficiently reliable indicator in case of which one simply has to be more cautious upon attributing meanings and interpretations. It has to be remembered that the proceedings may be terminated later with respect to the person interrogated as a suspect due to lack of evidence, or the person may be acquitted in court. There may be also situations where the act, in which a person was interrogated as a suspect, was committed, for example, before previous conviction; at the same time, there is no reason to think that these cases would substantially influence the results of analysis.

This study is predominantly based on the data of 2004 up to 2007; the basic period for registering recidivism is one year. Proceedings are terminated for reasons of expediency with respect to approximately 4500 people per year, the court convicts approximately 6000 people per year and punishes with other punishment than actual imprisonment, and approximately 2500 people are released from prison per year.

1.1. Overall recidivism rate

The recidivism rate for the 2007 procedural decisions and releases from prisons differed by groups more than twice. The rate was the lowest in case of terminated proceedings (18%) and the highest in case of people released from prison (40%). Over 24% of convicted offenders were interrogated as suspects in new criminal offences within a year after the decision.

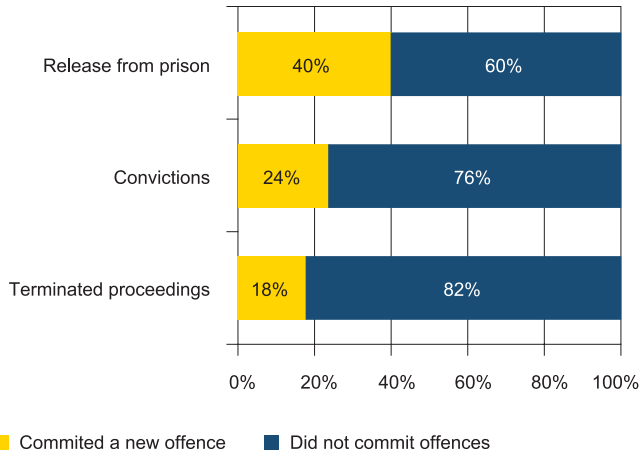


Figure 1. The one-year recidivism rate based on the 2007 database

1.2. Recidivism upon release from prison

High recidivism rate of people released from prison may refer to several circumstances. First, this refers to the inefficiency of prison sentence as a sanction targeted at changing the behaviour, on the other hand this may also show that criminal offenders with higher risk, the so-called predisposed offenders are the ones who are imprisoned in case of whom the prison does not have a shock effect either and for whom criminal behaviour is a natural part of their life which they even do not want to give up.

Within six months after release from prison, already every fourth released person had been interrogated as a suspect of committing a new crime; within a year and a half, a suspicion was filed against half of former prisoners and within three years against more than 60%. Data indicate that the recidivism rate of people released from prison has somewhat decreased over the years: when 43% of people released in 2004 committed a new criminal offence within a year and 41% in 2005 and 2006, then 40% of people released in 2007 committed new criminal offences.

The recidivism rate for people released from prison is the highest among those who have fully served their sentence, every second former prisoner from them will commit a new criminal offence within a year – this indicator has remained a steady 48%-49% during four years (2004 – 2007), in spite of the fact that the proportion of people released after serving their sentence to all released people has decreased from 82% to 49%.

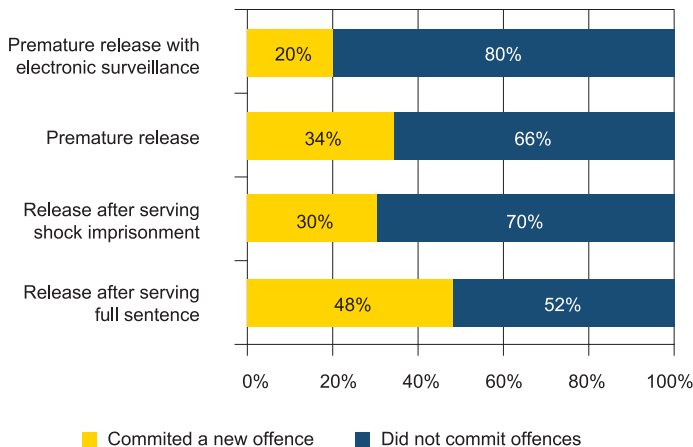


Figure 2. The one-year recidivism rate based on the manner of release (people released in 2007)

In 2007, the 12-month recidivism rate for people who had served shock imprisonment⁵³ was 30% and this has fallen over the years, just like the number of these people whom the shock imprisonment was imposed. In 2004–2006, the recidivism rate for people prematurely released remained in the range 22% to 24%, however, increased in case of people released in 2007 up to 34% – this increase was related to a new regulation of law that was accompanied by an almost twofold increase of the number of prematurely released people. In case of electronic surveillance the recidivism rate was 20% in 2007 that is somewhat less than in case of other cases of premature release.

The estimates of Estonian prosecutors and judges, who think that taking into consideration the recidivism risk is most important when the premature release of a person is considered, are also in accordance with recidivism indicators – as is seen from the increase in the relevant indicator in 2007, changes in procedural practice may bring along the growth of commission of new criminal offence. In the poll carried out in the framework of this study half of questioned prosecutors and judges thought that underestimation of recidivism risk occurs in the Estonian procedural practice today in case of premature release. The cause of this was thought to be that too much significance was attributed to a person's behaviour and the prison's opinion was too much relied

⁵³ Pursuant to § 73 and § 74 of the Penal Code, it is possible to impose the offenders the so-called shock imprisonment in case of which an offender has to serve only a short-term part of imprisonment (mostly up to 6 months) and he/she will be released on parole. The purpose of this is to create a shock effect for convicted offender and this way issue him/her a serious warning concerning further behaviour. It is found during an imprisonment with longer term (more than a few months) that a person may adjust to prison life and in such a case partial release from serving the sentence will no longer give the desired effect.

on. Bodies conducting proceedings who themselves had participated in relevant hearings found that due to big workload the judges do not have sufficient time to get to know a person or a person's situation, wherefore decisions are largely made on the basis of materials submitted by a prison.

Making a decision on a person's premature release, the bodies conducting proceedings assess upon evaluating the recidivism risk that the consideration of the following factors is most important – whether they deal with an addict, whether and to which extent the person has been previously punished and whether the person has an opportunity to start work after release.

Prisoner's behaviour in prison is observed in the context of premature release primarily on the basis of existing violations of discipline and their nature – serious violations of discipline substantially hinder a person's possibilities for release. It is essential for judges and prosecutors to also consider whether a prisoner worked or studied during imprisonment. The need to consider these factors important was confirmed by a section of this study that deals with former prisoners' ability to cope in which it was found that people who had worked during imprisonment found work considerably easier after release. It was also found that the prisoner's low level of education prevents them to find work after release, wherefore acquiring education during prison sentence is important.

1.3. Recidivism of convicted offenders

Recidivism indicators of convicted offenders reflect the commission of new criminal offences by these people whom the court did not impose actual punishment, i.e. these people have been taken into consideration who had the possibility to commit new criminal offences outside at large. The 2007 recidivism rate of 24% shows that every fourth convicted offender was interrogated as a suspect in a new criminal offence within a year after a court judgement. As the data on convicted offenders actually start with year 2007, it is not possible to make more comprehensive comparisons, the 2008 data on convicted offenders do not show any changes in the recidivism rate.

Within first three months after a court judgement, a new criminal offence is committed by 8% of people, 14% within first six months and 30% within a year and a half.

By types of procedure the annual recidivism rate varied between 21% and 28%, it was the highest in case of expedited procedure and the lowest in case of criminal matters adjudicated by way of settlement procedure. A type of procedure by itself does not increase or decrease recidivism; instead it can be influenced, for example, by the structure of criminal offences and understandable punishments. For example, this can be behind higher recidivism rate of

expedited procedure that compared to other types of procedure, more thefts and people who have driven a vehicle in a state of intoxication come before the court in expedited procedure, in which case we are dealing with people who have often repeatedly committed criminal offences and in case of whom the corresponding risk is continuing.

There were also differences with respect to recidivism of convicted offenders by courts. The proportion of people who had repeatedly committed criminal offences was the lowest in criminal matters of the Tartu County Court where 20% of people convicted in 2007 committed a new criminal offence; in the Viru County Court the proportion of repeated offenders was the highest – 28%.

It came out from the poll conducted among prosecutors and judges that the recidivism risk is taken into consideration in case of court judgements primarily when the type of principal punishment is considered (pecuniary punishment or imprisonment) and whether it is possible to conditionally release a convicted offender. Bodies conducting proceedings regarded the term of punishment and supplementary punishments less important.

A fact that there was a considerable number of those who think that the court underestimates the recidivism risk of the accused when choosing the type of punishment refers to a certain discrepancy between recidivism indicators and the opinions of bodies conducting proceedings. It is difficult to find any basis to such estimate from recidivism indicators, as the recidivism rate of people punished with actual imprisonment exceeds nearly twice the recidivism rate related to other punishments. Also, the recidivism rate is quite similar in case of convicted offenders and those people with regard to whom proceedings were terminated due to reasons of expediency. Such results still refer more to an optimal evaluation of the recidivism risk both by prosecutors and judges.

Upon evaluating the recidivism risk in a situation when the imposition of actual prison sentence is considered, the bodies conducting proceedings regard the consideration of prior punishment especially important. Paying attention to this indicator is justified both by the results of this study and the studies of other countries – the more times a person has been punished, the higher the risk of committing new criminal offences.

1.4. Recidivism upon termination of proceedings for reasons of expediency

Prosecutor's Office does not send all people who are being suspected of commission of criminal offences to the court. In case of less serious criminal offences and under some other conditions, the Prosecutor's Office has

been granted the right of discretion or the right not to send a person who has committed a criminal offence to the court and terminate proceedings against the person. Prosecutor's Office has actively used this possibility in Estonia since the implementation of the Code of Criminal Procedure. The term "termination due to reasons of expediency" refers on one hand to this that when the judicial proceedings are not conducted this will help to save the state resources, but also, for example, the time and money of people who have committed criminal offences and suffered thereby. On the other hand, the expediency marks the prosecutor's conviction that people with respect to whom the proceedings are terminated can be directed to lead law-abiding life also without applying criminal punishment.

Recidivism rate in case of these people with respect to whom the proceedings were terminated has remained during the one-year observation period on the level of 18% in 2005–2008. If within first three months after the termination of proceedings 5% committed a new criminal offence, then within three years every third from people with respect to whom the proceedings were terminated committed a new crime - compared to people released from prison, this indicator is nearly two times lower.

The situations in which the criminal matters of minors who had committed criminal offences were referred to juvenile committee for hearing (Code of Criminal Procedure, § 201), the proceedings were terminated due to lack of public interest in proceedings (Code of Criminal Procedure, § 202), and proceedings were terminated due to lack of proportionality of punishment (Code of Criminal Procedure, § 203) were separately observed in this study.

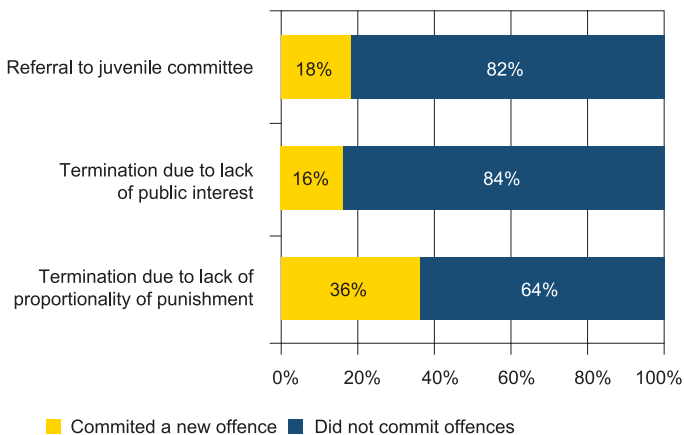


Figure 3. The one-year recidivism rate pursuant to the basis for termination (proceedings terminated in 2007)

The majority (for example, 77% in 2007) of all cases of termination is formed by proceedings terminated due to lack of public interest in proceedings based on which the proceedings are mostly terminated against people suspected of less serious criminal offences and people who have not committed any prior criminal offences. Proceedings are mostly terminated due to lack of proportionality of punishment with respect to people who have repeatedly committed criminal offences – the fact that in case of these people the rate of committing new criminal offences is higher is also referred to by the pointed out indicator.

In case of minors referred to juvenile committee we are dealing with people who have often committed criminal offences for the first time. At the same time, also in their case one could have assumed a somewhat higher recidivism rate than actually became evident from the analysis, as in general the recidivism of young people is higher when compared to other age groups.

There were no substantial differences in the recidivism rate by regions; the differences by Prosecutor's Offices were considerably smaller than in case of convicted offenders by courts. If in case of convicted offenders the difference between the court with the lowest and the highest recidivism rate was sometimes as much as eight percentage points, then in case of terminated proceedings the difference only slightly more than three percentage points – from the people with respect to whom proceedings were terminated in the Southern District in 2007 16% committed a new criminal offence within a year; however, in the Western and Viru Districts by 19%. Such difference may refer to the fact that in all districts the bodies conducting proceedings identify relatively well the people whose risk of repeated commission of criminal offences is low (and with respect to whom proceedings are therefore terminated); however, there are districts where the people with higher recidivism risk are identified better or worse. Unfortunately, the data in question did not enable to verify the validity of this hypothesis.

1.5. Age, sex and nationality of criminal offenders as the factors influencing recidivism

According to the poll conducted among prosecutors and judges, the sex and age of criminal offenders was considered as a factor substantially influencing the recidivism risk. The recidivism risk was considered to be the highest in case of 20-30-year-old people, followed by an age group of 20-year-olds. The results of this study coincided with the notion which was also confirmed by the studies of other countries.

Similar to other countries, the recidivism of Estonian women is considerably lower than that of men, however, differing still noticeably by groups – if in case of women released from prison in 2007 every third woman committed

a new criminal offence within a year, then from offenders convicted the same year 16% and from women against whom proceedings were terminated due to reasons of expediency only 9%.

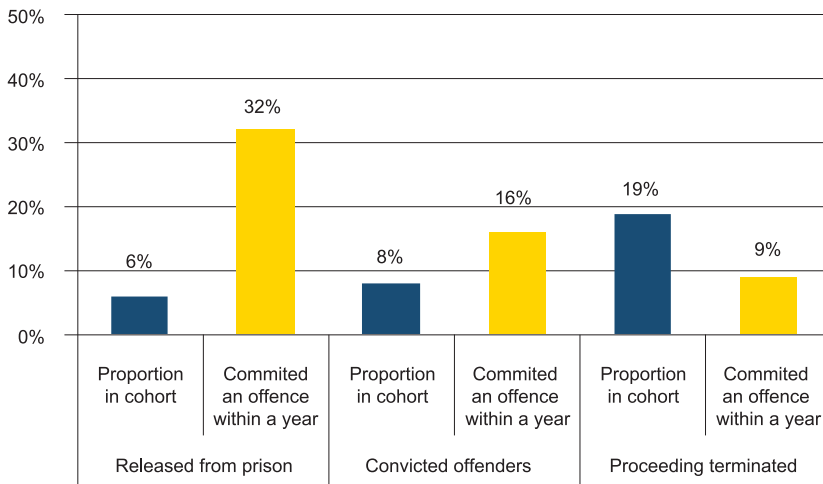


Figure 4. Proportion of women in 2007 and the one-year recidivism rate

Although the recidivism rate of women released from prison may seem to be high in comparison to other groups, it has to be taken into consideration that women formed only 6% of prisoners – women find their way to prison very seldom compared to men and it can be assumed that those who happen to go to prison have committed criminal offences also earlier and it was probably a commission of some serious crime that led them to prison sentence. That there are on the average more low-risk first-time offenders among women is also demonstrated by the proportion among those who were spared criminal punishment – women formed 19% of people with respect to whom proceedings were terminated due to reasons of expediency.

The recidivism indicators of men by given groups were considerably more homogeneous. Within a year after release from prison, 41% of men committed a new criminal offence; in case of convicted offenders the recidivism rate of men was 25% and 20% in case of terminating proceedings due to reasons of expediency.

By age groups the recidivism of young people up to 26 years old exceeded many times the recidivism of people over 54 years old both with respect to people released from prison and convicted offenders but also of people with respect to whom proceedings were terminated due to reasons of expediency. In case of termination, the recidivism rate of young people depending on age

was 20%–21%, however, the recidivism rate of people over 54 years old was 5%. The annual recidivism indicator of convicted young people reached up to 36%, while in case of people over 54 years old it remained on the level of 13%. It is important to note that both the data on convicted offenders and terminated proceedings showed that unlike men, the recidivism rate of women is the highest in the age group 27–35 years.

Table 1. The one-year recidivism rate by age groups based on the 2007 database

	Released from prison	Convicted offenders	Proceeding terminated
Under 18	59%	36%	20%
18–26	45%	29%	21%
27–35	39%	25%	17%
36–44	35%	21%	15%
45–53	26%	14%	13%
54 or more	17%	13%	5%

Certain differences in the recidivism rate stood out between national groups as well. Among people released from prison the recidivism rate of Russians was higher than that of Estonians: from the people released in 2007 a new criminal offence was committed by 34% of Estonians and 45% of Russians. In recent years, however, the recidivism rate of both nationalities has decreased (in 2004, 49% for Russians and 37% for Estonians).

Although in the poll the prosecutors and judges did not see any relevant difference in the recidivism risk on the basis of nationality (most of them thought that nationality affects the recidivism rate to a small extent), it was still pointed out that the recidivism risk is higher in case of other nationalities living in Estonia than in case of Estonians).

Although the data show a difference in recidivism indicators on the basis of nationality, there is still no reason to think, as if the Russians would be more prone to criminal behaviour than Estonians; it has to be taken into consideration that other factors differentiating national groups may manifest themselves through nationality – for example, unemployment or level of urbanization in a place of residence – thus, in case of nationality we may be dealing with an intermediated characteristic.

1.6. Differences by types of criminal offences

It has been pointed out in the recidivism studies of other countries (Recidivism Report ..., 2003; Comprehensive Recidivism Study, 2002; Drabsch, 2006) that the recidivism rate is the highest in case of thefts and other criminal

offences against property, and the lowest in case of serious offences against the person and sex crimes. In general, Estonian recidivism indicators are in compliance with these data.

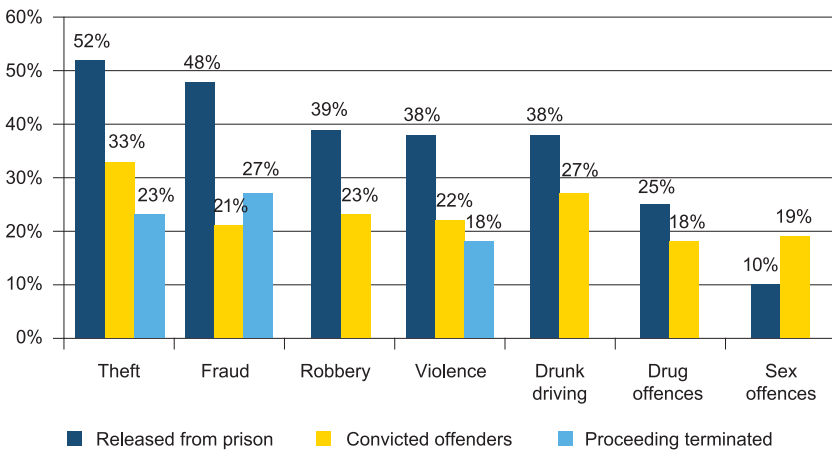


Figure 5. The one-year recidivism rate based on the 2007 database

The recidivism rate is the highest in case of people who have committed theft. Within a year, from people released from prison a new theft was committed by 52%, by 33% of committed offenders and 23% of people with respect to whom proceedings were terminated due to reasons of expediency. It can also be said based on polls and interviews conducted among bodies conducting proceedings that bodies conducting proceedings consider the recidivism risk of people who have committed thefts one of the highest. It was also found that the commission of thefts is strongly affected by drug addiction and alcohol dependence.

The opinions of bodies conducting proceedings on recidivism risks did not coincide with recidivism indicators of people who had committed drug-related and sex crimes. Prosecutors and judges found that after thefts, the risk of committing new criminal offense is higher for people who have committed namely these criminal offenses, at the same time actual recidivism indicators are the lowest both in the group of people released from prison and in the group of convicted offenders. In case of drug-related crimes the assessment of bodies conducting proceedings of recidivism risk was probably increased by their apprehension that many drug offenders themselves are addicts which significantly increases the risk of committing both drug-related crimes and other criminal offences. From the people imprisoned for both drug-related and sex crimes only a few people released from prison committed a new crim-

inal offence of the same type. At the same time, it has to be taken into consideration that only handling of large quantities of narcotic drugs is regarded as a drug-related crime; use of drugs is punished pursuant to the misdemeanour procedure.

Sex crimes were the only crimes from the observed types of criminal offence where the recidivism rate of convicted offenders exceeded the recidivism percentage of people released from prison. At the same time, no definite conclusions can be made based on this indicator because on the one hand, the number of sex offenders is small, wherefore this indicator is affected by a specific group of individuals; from the other hand, the recidivism rate of people released from prison was even higher in 2004 and 2005 (respectively 26% and 38%). Instead both in case of sex offenders and people who have committed drug-related crimes and driven a car in a state of intoxication it has to be pointed out that the recidivism rate of these groups in the groups of people released from prison and of convicted offenders was considerably more similar than, for example, in case of thefts or crimes of violence, thus one may assume that in case drunk drivers, drug offenders and people who have committed sex offences the type of sanction does not have any particular influence on the commission of new criminal offence, and probably the recidivism risk of a person who has been imposed pecuniary punishment for driving in a state of intoxication is not different from, for example, the risk of a person who has been imposed actual prison sentence. Therefore, one may think that in case of afore-mentioned criminal offences certain overestimation of recidivism risk occurs when actual prison sentence is imposed.

As for the recidivism rate, the highest recidivism risk after thefts was notable in case of people who had committed fraud or robberies. From people released from prison new criminal offences were committed within a year by 48% people punished for fraud and 44% punished for robberies; the indicators of convicted offenders were approximately two times lower in this respect. Surprisingly, in case of those whose proceedings in suspicion of fraud were terminated due to reasons of expediency, the recidivism rate was higher than in case of people who had committed thefts, and also higher than the relevant indicator of convicted offenders. This may refer to the fact that in case of people who have committed fraud the Prosecutor's Office underestimates the recidivism risk by terminating the proceedings too easily.

Prosecutors' and judges' opinions on recidivism risk with respect to frauds and robberies were quite adequate – the risk was considered nearly as high and at the same time lower than in case of thefts, however, higher than in case of crimes of violence. In case of robberies the influence of alcohol dependence and drug addiction increasing the recidivism risk was pointed out.

Judges estimated the recidivism risk of people who had committed crimes of violence somewhat higher than the prosecutors. Actual recidivism indica-

tors also refer to the fact that in case of people who have used violence, the possibility to commit new criminal offense is not substantially lower than, for example, in case of people who have committed criminal offences against property.

In case of crimes of violence, in the group of people released from prison also this was studied how the recidivism of people punished for manslaughter differed from the level of committing new criminal offences by people punished for other (less serious) crimes of violence. It became evident that the probability that a person who has been punished for manslaughter and is released from prison will commit within six months some new criminal offence is on the average three times smaller than in case of people who have committed other crimes of violence. This proportion does not considerably change when we compare criminal offences committed within four years after release: from the killers who were released in 2004 31% had committed a new criminal offence within four years, however, by 65% of people who had committed other crimes of violence. While comparing these two indicators it is evidently more relevant to point out the differences related to manslaughter which are, for example, that a large number of manslaughters are committed impulsively between people close to each other, people committing manslaughter have often not been previously punished and often there are no other factors referring to heightened recidivism risk.

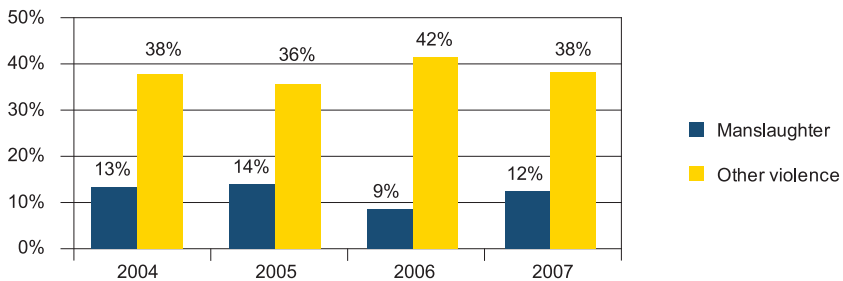


Figure 6. The one-year recidivism rate for people released from prison in corresponding year

Low recidivism rate in case of manslaughters shows that in most cases we are not dealing with people who are dangerous for the society. At the same time, while they are still people who have committed the most serious criminal offence, we cannot reproach the bodies conducting proceedings for the fact which was confirmed in this analysis that upon premature release of killers the recidivism risk is considered more thoroughly than in case of people who have committed other criminal offences.