

## My last attempt to theft

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*The case presented is an attempt to theft in a supermarket located in North-West England. It is the story of a young Romanian offender who describes the facts from the moment he and his partners start to plan the offence until he arrives in prison, from where he talks about life in a British jail. The text emphasizes the most common offence among Romanian citizens living in this country as well as some of the typical procedures applied in this matter. The reader who had at least a single connection with Romanian prisons and judicial systems, will immediately realise that there are big differences between the two countries. Ultimately, an offence will always be seen as a crime and will be punished accordingly.*

### Overview

After Romania adhered to the European Union and the critical economical situation existing in our country, many people decided to go to the UK without considering the work conditions and the British legal system, which most of the times led to committing various offences.

Everywhere you can find articles and documentaries regarding offences committed by Romanian people living in the UK. From my experience, the nature of a large number of these offences are shoplifting, begging<sup>2</sup> and submitting false documents. I was very surprised to discover how far the offenders can go and even more surprised to see the attitude of the local authorities which most of the time, they approach the matter with plenty of understanding, compassion, moral and financial support which, from my point of view, encourages them to commit further offences.

Even though the offender reached his 8<sup>th</sup> or 10<sup>th</sup> offence committed in the last two years (as I met a case a week ago), the local authorities would still show plenty of compassion and kindness for all these people coming from 'a poor and uncivilized country'.

In relation to the subject matter, on the 11<sup>th</sup> of April this year, there was an article written in The Telegraph newspaper<sup>3</sup> mentioning the number of sentenced offences committed by the European citizens in the UK in 2010. From the total of 27.056 offences, the Romanians committed 4.343 situating us on top of the list

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<sup>2</sup> Sweeney, J. 2011, 'The secret lives of Britain's child beggars', *BBC Panorama*, 19. Oct., Available at: [http://news.bbc.co.uk/panorama/hi/front\\_page/newsid\\_9618000/9618038.stm](http://news.bbc.co.uk/panorama/hi/front_page/newsid_9618000/9618038.stm)

<sup>3</sup> Whitehead, T. 2011, 'EU migrants commit 500 crimes a week in UK', *The Telegraph*, 11. Apr., Available at: <http://www.telegraph.co.uk/news/uknews/law-and-order/8439117/EU-migrants-commit-500-crimes-a-week-in-UK.html>

along with the Polish people.<sup>4</sup> Unfortunately, there isn't any information regarding the nature of them nor other detailed information on the National Archives website.<sup>5</sup>

The case which I presented it's a classic and very frequent one in the UK. I took part in this case as an interpreter for approximately all the duration of the process, except the information regarding the life in prison which I could describe after participating, also as an interpreter, to several instruction interviews with newly prisoners.

Because the British judicial system is pretty different than the Romanian one, firstly, I would like to offer you the sentencing guideline which you can find it here: <http://sentencingcouncil.judiciary.gov.uk/sentencing-guidelines.htm>. In the following I will explain the structure and the applicability of the British judicial system.

### **Hierarchy of the courts in England and Wales**

For a better understanding of how the judicial proceedings run their course, I will come with a rough description of the courts in this country. Following the last replacement on the 1<sup>st</sup> of October 2009, the court system governing England and Wales has a pyramidal structure as follows:

1. *Courts of Trial*
2. *Courts of Appeal*
3. *Supreme Court.*

According to the nature of the matter tried in court, those above are divided into Civil Courts, where disputes between two parties take place, such as family trials, tenancy disputes, financial matters like those arising between employer and employee, etc. These are easily identified by Name vs. Name. The second category is represented by the Criminal Courts where they hear offence cases or crimes and are identified by R (Regina) vs. Name. In other words, in the first case there are two parties which can be individual people or organizations, and in the second case, Regina who represents the state is suing the person or organization for breaking the law.

The Civil Courts are:

- a. *County Court – Court of Trial* which deals with smaller claims and less complex cases;

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<sup>4</sup> Daily Mail Reporter 2011, 'The migrants who commit 500 crimes a week but can't be deported because they're from the EU', *Daily Mail Online*, 11. Apr., Available at: <http://www.dailymail.co.uk/news/article-1375648/EU-migrants-commit-500-crimes-week-deported.html>

<sup>5</sup> The National Archives, 2011, Available at: <http://webarchive.nationalarchives.gov.uk/20110218135832/http://rds.homeoffice.gov.uk/rds/stats/progl.html>

- b. *High Court – Court of Trial* which deals with claims for large amount of money and complex cases;
- c. *High Court* – Divided into Chancery Division, Queen's Bench Division, Family Division it is a *Court of Appeal* which hears appeals from County Court;
- d. *Court of Appeal, Civil Division* – *Court of Appeal* which hears appeals from *High Court* cases;
- e. *Supreme Court* – The highest level of appeal.

The Criminal Courts are:

a. *Magistrates' Court* – *Court of Trial* which hears trials for low level offences. Most of criminal cases start in this court, unless the offence is very serious. It is formed by a legal advisor who makes sure that the law is followed correctly, one lay judge who sits along with two other lay magistrates. All lay members are volunteers with intensive training and meet the following qualities: good character, good understanding and communication, social awareness, maturity and sound temperament, sound judgement, commitment, reliability and must not have previous convictions. All the rest of the courts have qualified judges.

The maximum punishment which may be given in Magistrates' Court for a single offence is 6 months imprisonment and a fine up to £5,000 or 12 months for more than one summary offence, hence, all cases considered as valuing more than 6 or 12 months respectively, will be sent further to be heard in Crown Court.

b. *Crown Court – Court of Trial* where they hear more serious offences such as murder or manslaughter.

c. *Crown Court – Court of Appeal*, the normal route of appeal from Magistrates' Court. This court has the power of giving any sentence, generally it hears cases tried in Magistrates' Court either because Magistrates' Court didn't have enough power of punishment or the defendant wasn't happy with the sentence given in the first trial and he wishes to appeal further. The result is no guaranteed in his/her favour, sometimes he/she might end up with a higher punishment.

In this court we have a qualified judge with 12 members of jury chosen randomly and who are not allowed to participate if they know the defendant. The members will choose a foreman who at the end of trial will give the verdict. The defendant has the right to refuse any member(s) of the jury explaining why he wishes so. The jury has the role to listen the case and at the end, based on the evidence given in court, to come with a verdict: guilty or not guilty. According to the jury's decision, the judge will impose or not a certain punishment.

d. *High Court Administrative Court – Court of Appeal* which hears appeals from Magistrates' on points of law.

e. *Court of Appeal, Criminal Division – Court of Appeal* which hears appeals from cases tried in the Crown Court.

f. *Supreme Court* – The highest level of appeal.

Before the start of the proceedings, a plea before venue will be established. According to the defendant's plea intention, they will know if there will be a trial or not. In case that the defendant intends to plead guilty, there will be only a sentencing appearance where he will be read out the charges, the aggravating factors and mitigation and the punishment. In case the defendant decides to plead not guilty, there will be a trial where the court will hear the evidence against the defendant and at the end there will be a judgement. All trials start from the assumption that the defendant is innocent until found guilty.

For each guilty plea, any court must reduce the punishment by a third of it, the reason being encouraging people to declare guilty without going through all the trial which will result in more costs and stress for the witnesses.

Also, except the case when a tariff is already established (for example, the punishment for child abuse may be between 5-15 years, the prisoner may be realised only on that very day of the 5<sup>th</sup> year, but generally, they spend more than the minimum limit), for any prison sentence the defendant will serve only half of it and the rest may be a suspended sentence while the offender must not commit other offences or he/she may be electronically monitored etc. or may be given a community order such as unpaid work.

In order to be able to give a sentence, the courts use certain guidelines with all the instructions which are to be followed. For Magistrates' Court, the guideline is available even on the council's website. The judicial system in Britain doesn't have a penal code like in Romania or other countries, it is based on common law which means that all cases are punished according to a guide, a huge book which contains a series of offences tried along the centuries and they serve as a model for further cases.

Finally, those who may represent the defendant are divided into two categories: Barristers and Solicitors. Barristers are the only ones who have the right to speak in court, the only people who can address directly to the judge. They take the case prepared by the Solicitor who deals with everything related to the client's file. More specific, every statement, copy, additional documents needed are taken by the Solicitor as he/she is also the one who maintains contact with the client throughout the proceedings. In court, the client is represented by the Barrister who presents the case and fights for the client's interests. Any information intended to reach the judge goes usually from the client to his Solicitor who will pass the message onto the Barrister and finally the last one will hand it to the judge. There are also Solicitors Advocates who initially had the right to represent the client only in County Courts, now they can represent him/her in High Court as well. They are basically a cross between a solicitor and a barrister who ultimately won the right to represent the client in both courts.

Table 1. Hierarchy of the courts in England and Wales

	Civil Courts	Criminal Courts
Further Appeal	Supreme Court	Supreme Court
Courts of Appeal		Court of Appeal (Criminal Division)
	Court of Appeal (Civil Division)	High Court Administrative Court
	High Court (Chancery Division, Queen's Bench Division, Family Division)	Crown Court
Courts of Trial	High Court	Crown Court
	County Court	Magistrates' Court

### Shoplifting case in the UK

‘I’m 19 years old prisoner sentenced for premeditated theft and now I have plenty of time to reflect about my offence...or more accurately, offences.

I was caught in a supermarket trying to steal some products which I wanted to sell them and make some money. I went there with a lady who I barely knew and suddenly I told her my idea about making money by stealing different things from the shop. I was even trying to convince her because she looked very confused so I reminded her that we need to pay rent, food and others and we have no source of income. I shut her mouth with this explanation and she walked beside me while I was collecting a large variety of products like, textiles, bottles of wine, different sorts of food, kitchen and bath detergents and lots of chewing gum. My idea was to pretend I was one of the shop’s staff, fill the trolley and get out the back entrance with it. In fact I don’t know what I was thinking or if I was thinking because I was already convicted recently for stealing a hammer, for which I had to do 100 hours of unpaid work for the local community, mandatory attending once a week until completing the hours (unfinished at that moment), plus three months licence hence I was not allowed to commit more offences because otherwise I would be in prison. I guess I was mocking them because I knew that they can’t be very harsh on me since I’m only 19, under the legal age, 21.

As I said at the beginning, I started to collect those products, all reaching a value of more than 600 pounds (I heard this information later from the police). When I decided to leave, my partner was heading to the front entrance while I was trying to get out the back one with the trolley. The woman was retained immediately by one of the staff, something like a citizen arrest, when every person who catches somebody committing an offence, has the legal right to hold the offender until the police arrives. I was caught too and I had to wait for the police to arrive. They took us to the police station where I admitted the crime and they asked us to write a statement and informed us that according to the CCTV evidence, the case was serious enough to be presented in court where the final decision will come from a

Crown Prosecutor. I had to stay in custody until the next appearance in court while the woman was released on bail and she would appear in court the same day as me.

I spent three days in a cell waiting for them to tell me the date of the trial and what was going to happen. Soon, an offender manager from the Probation Service came to see me. She explained that her job was to write a pre-sentence report regarding my offence, the circumstances, the background, reasons for offending and if I was likely to re-offend, because the trial time wasn't long enough to cover all these aspects. Then, she would send the report in court, helping the judge to make decide the charges.

She started the interview by asking me seriously if I knew why I was there. I replied with a genuine stupid smile: «Because I wanted to steal some things from a shop». She agreed with me: «Yes, you're here for shoplifting, why are you almost laughing?». I didn't know what to say, this question amused me even more so I told her that it was better to laugh than to cry. Then she continued asking me plenty of questions about my lifestyle, family, friends, education, offence, to which I didn't want to answer honestly and she knew that.

All the interview took around an hour and half, then the offender manager told me the estimated sentence for my crime which was «between 200-300 hours of unpaid work plus the rest of hours from the previous offence or time imprisonment». None of them seemed good but after all, I think I prefer the prison.

In the same day, I heard that the same manager interrogated my partner as well and tried to get as much information as possible from her. We met later in Court for the sentencing.

All seems to me as a ritual rather or even as a theatre stage when you are there. The judge had a long introduction speech full of elegant, descriptive words which could be, in fact, summarised in just a few phrases. I've been interrogated again and I agreed with the findings without any difficulty. We had a break after, then we waited for the judgement which was presented with the same kind of a very long speech almost keeping me guessing. At the end, I was convicted by the Crown Court to 2 years imprisonment from which I will serve only half and my partner 120 hours of unpaid work because it was her first offence and she wasn't the head of the action, plus, she had to report every week for a couple of months to her offender manager at the Probation Office in order to check if she would be likely to re-offend.

I felt quite relieved! I don't know why! Then I was moved to a prison where I am now and my life goes well as it is. Everyday, Monday to Friday we are released from the cells at 8am and have different activities such as: educational courses, cooking, gardening, cleaning and so on and at the end of the day we all gather to watch TV, play games, organize competitions, until 10pm when we have to go back to our cells to sleep. We also have some sorts of free facilities, accessible according to our behaviour, for example, to go once a week to the library, once a week to the gym. If we attend all those activities previously mentioned we get

even money, 10 pounds per week, which go to the canteen every Tuesday where we can choose to buy our extras: cigarettes, sweets, shampoos, phone credit or whatever else needed. We also have a scheme for getting more credit to use it for whatever we like. For example if we don't receive any visit during a month, we are allowed to make a few free phone calls, plus around 6 pounds added to the canteen allowance. We receive all the support needed, doesn't matter if it's related to health, internal problem, social or psychological, we only have to ask and in return we must not cause any trouble.

I was informed that for some of us who are going to be released soon, had a positive behaviour and worked hard, sometimes we might have the chance to meet different employers who eventually will pick their new employees to start the job once they are released. If not, we always have the chance to start from somewhere if we really want.

At the moment I don't have much to complain, I somehow miss the life outside the walls, choosing my own lifestyle. I know that after finishing my sentence, I will have to go again through the Probation Office to convince them that I am a new clean person... or at least to let them believe so!

### **Personal impressions**

I guess I have been very lucky and life gave me this extraordinary opportunity to work in the UK as an interpreter and translator (being a Romanian citizen). It's not a simple job and it's not as robotic as it seems. Each person has his/her own personality and in order to be considered by myself and by the others a good interpreter, I need to be very flexible and to leave myself aside, to understand emotions and thoughts which ultimately, I will have convert them into the other language. I think it's always something creative and intriguing.

Although I don't go there to judge or to express opinions, it's impossible for myself or any other one in my place to walk away erasing every fact seen and subsequently, not analysing various aspects.

In relation to my written story, I think there is interesting in committing an offence in a country which most of the time treats you better than yours. Everyone here has a possibility to work and get help and support whenever he/she gets stuck. It's something which I find amazing after all disputes, bad reputation and murmurs among Romanian people claiming that they are not respected or they don't have the same rights as the locals. After all this, they are still offered financial support, free education and much more. In this case I think we deal more with some sort of cultural difference and laziness coming out of too much freedom and giving without asking back too much. Many times it happens to see this attitude: no matter who I am, what I have done, I am a poor Romanian without many resources and I need help. Constantly!!! Most of the time, they blame the language barrier which will bring them to ask people around to sort out their problems because they don't speak English. The majority of them will state that they were forced to commit theft or burglary because they didn't have money!

For this reason, a number of people get enrolled to work on the person's welfare. In this case we might talk about the Probation Service, medical sector, benefits department, housing associations, charities, training programs and so on, all handing their offers. Yet, I don't find anything wrong! We are humans, we should help each other but my theory is 'help who deserves to be helped'. I'm not drastic! I'm simply annoyed and ashamed because these poor people instead of continuing with a clean life after being prosecuted, they will fall into troubles again and again. Now, I am questioning myself if the state itself and its regulations are faulty or it's just the nature of the human being.

At the end nobody is perfect! Neither the numerous systems we find all over the world. Everywhere there are strong and weak points. It is rather important to identify them and seek to adapt them to the respective society.

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