

Executive Criminal Law in the Republic of Serbia and European Standards

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Abstract. Enforcement criminal law is a system of legal regulations that determine the procedure, manner and conditions for the execution of criminal sanctions. Serbia also implemented European standards in the execution of criminal sanctions, with special emphasis on the level of implementation of those standards in the area of execution of criminal sanctions, in its legislation. In addition to the standards related to the conditions of serving a prison sentence, the protection of the rights of persons deprived of their liberty, the manner of treatment of persons deprived of their liberty, protection against torture, inhumane or degrading treatment and punishment is particularly emphasized. In recent decades, the increasingly prevalent view is that criminal sanctions have a weak impact on reducing the crime rate, even less on the factors that cause and shape it. Prison sentences do not achieve objective effects in changing the criminal pattern of behavior of offenders, on the contrary, they have a greater effect on increasing the risk that the offender will repeat the crime. In the conditions of globalization, digitization and international legal harmonization, the system of execution of criminal sanctions requires a high degree of common international rules that define and regulate executive criminal legislation.

Keywords: enforcement of criminal sanctions, European standards, prevention, prison sentence

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Научная статья


Исполнительное уголовное право в Республике Сербия и европейские стандарты

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Аннотация. Исполнительное уголовное право — это система правовых норм, определяющих порядок, способ и условия исполнения уголовных наказаний. Сербия также внедрила в свое законодательство европейские стандарты в области исполнения уголовных наказаний, уделяя особое внимание уровню реализации этих стандартов в сфере исполнения уголовных наказаний. Помимо стандартов, касающихся условий отбывания наказания, защиты прав лиц, лишенных свободы, порядка обращения с лицами, лишенными свободы, особое внимание уделяется защите от пыток, бесчеловечного или унижающего достоинство обращения и наказания. В последние десятилетия все большее распространение получает мнение о том, что уголовные наказания оказывают слабое влияние на снижение уровня преступности, еще меньше — на факторы, которые ее вызывают и формируют. Тюремные наказания не достигают объективного эффекта в изменении преступной модели поведения правонарушителей, напротив, они оказывают большее влияние на увеличение риска того, что преступник повторит преступление. В условиях глобализации, цифровизации и международно-правовой гармонизации система исполнения уголовных наказаний требует высокой степени общности международных норм, определяющих и регулирующих исполнительное уголовное законодательство.

Ключевые слова: исполнение уголовных наказаний, европейские стандарты, профилактика, тюремное заключение

Финансирование: работа создана в рамках исследовательской деятельности в соответствии с Планом и рабочей программой Института криминологических и социологических исследований на 2024 год, номер 451-03-66/2024-03/200039, который был утвержден Министерством науки, технологического развития и инноваций Республики Сербия.

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1. Introduction

Executive criminal law is a part of the system of criminal law, which can be viewed in two ways: as a branch of positive law and as a branch of jurisprudence. As a branch

of the legislation of a country, it deals with the organization, manner and procedures of execution criminal sanctions, first of all punishment (prison as the most significant type of punishment) and other criminal

sanctions (security measures, educational measures and conditional sentences with protective supervision, but also alternative measures), then sanctions for international crimes, other types of criminal law sanction (sanction for misdemeanors), as well as other types of criminal law measures (such as confiscation of property benefits obtained by criminal acts and misdemeanors). Executive criminal legislation, that is, the area of execution of criminal sanctions, in modern society represents mixed preventive and retributive solutions, as well as strengthening the protection of the rights of persons subject to punishment [7, c. 382–385].

From the point of view of the “New Penology” the entire concept of execution of criminal sanctions and measures is being reexamined. The very effectiveness of prescribed, pronounced, and executed criminal sanctions is manifested in the crime rate and the extent of recidivism. Numerous studies have shown that the crime rate does not correlate with the rate of people sentenced to prison. Although there is a widespread understanding that special prevention does not make a serious contribution to the realization of the protective function of criminal law, this does not diminish the importance of the application of criminal sanctions for the realization of the protective function of criminal law, especially because of general prevention. Criminal punishment is seen only as one of the actions that are prudently resorted to in order to mitigate the risk of criminality. The constitutional norm has the greatest legal force [6], which obligates that every law, legal acts, regulations, decrees must be in accordance with the Constitution¹ as well as the Law on Execution of Criminal Sanctions² well as the Law on Execution of Criminal Sanctions. In the Criminal Code³. The Law on Juvenile Perpetrators of Criminal

Offenses and Criminal Protection of Juveniles⁴. The Criminal Procedure Code⁵ regulates the matter of criminal sanctions.

For this purpose, the United Nations, in the fifties of the XX century, adopted documents that define standards that more closely regulate and harmonize practice at the level of the European community. Of particular importance for European countries, in the area of enforcement of criminal sanctions, are: European prison rules⁶, European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment⁷, European Convention on the Transfer of Sentenced Persons⁸ and the European Convention for the Protection of Human Rights and Fundamental Freedoms⁹ recommendations of the Committee of Ministers of the Council of Europe on release from prison (1982), prison overcrowding and inflation of the prison population (1999), parole (2003) and others [10].

The beginning of the 21st century is characterized by increased activity on the protection of the human rights of prisoners, the provision of conditions in which the prison sentence will be carried out, the definition of programs that will give the best results in the

⁴ Law on Juvenile Perpetrators of Criminal Offenses and Criminal Protection of Juveniles // Official Gazette of RS. No. 85/2005.

⁵ Criminal Procedure Code (CPC) // Official Gazette of the RS. No. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013, 55/2014, 35/2019, 27/2021 – decision of the US and 62/2021 – US decision.

⁶ European Prison Rules. URL: <http://www.hraction.org/wp-content/uploads/Evropska-zatvorska-pravila.pdf> (accessed: 04.05.2024).

⁷ The European Convention on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, adopted in 1987, and the State Union of Serbia and Montenegro confirmed this Convention in 2003 // Official Gazette of SCG – International Agreements. No. 9/2003, 5 /2005 and 7/2005 – corrected and Official Gazette of RS – International Agreements. No. 12/2010 and 10/2015.

⁸ European Convention on the Transfer of Convicted Persons // Official Gazette of the FRY – International Treaties. No. 4/2001.

⁹ European Convention for the Protection of Human Rights and Fundamental Freedoms // Official Gazette of the SC – International Treaties. No. 9/2003, 5/2005 and 7/2005 – corr. and Official Gazette of the RS – International Treaties. No. 12/ 2010 and 10/2015.

¹ Constitution of the Republic of Serbia // Official Gazette of the RS. No. 98/2006 and 115/2021.

² Law on Execution of Criminal Sanctions, ZIKS // Official Gazette of the RS. No. 55/2014 and 35/2019.

³ Criminal Code // Official Gazette of RS. No. 85/2005, 88/2005 – corrected, 107/2005 – corrected, 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94 /2016 and 35/2019.

process of execution of criminal sanctions. The enacted acts were established with the aim of harmonizing normative regulations and creating the necessary conditions in the procedure for the execution of criminal sanctions and the protection of the human rights of persons deprived of their liberty, humanizing the conditions of accommodation, methods of action, defining the goals and purposes of the execution of criminal sanctions, and determining the concept of correction of the offender's behavior. The execution of prison sentences requires the establishment of a balance between the goals of ensuring security, order and discipline in prison institutions, with its measures and recommendations it insists on the creation of appropriate living conditions for prisoners and preparations for the release of prisoners, all with the aim of successful reintegration.

2. Genesis of Executive Criminal Law

In the conditions of globalization, transnational communication and international legal harmonization, the system of execution of criminal sanctions requires a high degree of common international rules that define and regulate executive criminal legislation. Although criminal law protection of social values is achieved, in most cases, through punishment as the most important criminal sanction, as a result of which it is given a repressive, retributive character, it is achieved not only through retribution, but also through the prevention of criminal acts through resocialization and correction perpetrators of criminal acts. For many years, the concept of resocialization of criminals was considered as an ideal solution in combating crime. However, the evaluation of that conception shows a number of weaknesses, and small effects in crime prevention. Inadequate effects of resocialization are reflected in all the presence of the tightening of penal policy, the revival of prison sentences, the politicization of crime and the establishment of criminal justice mechanisms in the fight against crime. The crime rate is increasing, recidivism is high, new forms of crime are appearing, the incarcerated population is growing dangerously, endangering the prison system. This further causes small effects of

institutional imprisonment, and the function of isolating the perpetrator of criminal acts is lost, as indicated by numerous studies, and the consequences are also reflected in a high rate of recidivist [4].

Punishment, as a means of punishment for socially unacceptable behavior, represents one of the oldest legal institutes. The forms and types of punishment, the way of execution of the punishment, have changed over time and adapted to social needs. The first forms of punishment were cruel and cruel, and their goal was revenge. Imprisonment did not exist as a punishment in ancient times, but imprisonment was only to ensure the execution of some other sanction.

Later, in the Middle Ages, imprisonment was used as an independent punishment, but as a form of arbitrariness, because the right to imprisonment was not according to established rules. In this period, the Catholic Church contributed to punishment with its inquisition methods, both in criminal proceedings and in deprivation of liberty. In this period, the purpose of punishment and deprivation of liberty served as a preventive measure to detain the accused until the verdict is passed or executed. The new century brought many changes in the penal system. The influence of Enlightenment ideas is reflected in the need to humanize punishment and reform convicts. The beginning of the 20th century brought changes in the execution of the sentence of deprivation of liberty. The reform of the criminal legislation brought together various forms of imprisonment into one punishment, the punishment of deprivation of liberty, with the introduction of new measures that limit or replace this punishment. In the middle of the 20th century, there was a desire to build a different model of execution of the sentence of deprivation of liberty, which, unlike the classic one, is not based on cruel rules that regulate the regime in prisons, but represents a set of ideas about the treatment of convicts [4, c. 14].

The convenience provided by the use of cheap prisoner labor opened up many questions in the application of the prison sentence, which over time suppresses the execution of death and corporal punishment. Accordingly, the concept of freedom, one of the

most important human values, established the need to ensure its deprivation in the best way, in order to avoid arbitrariness and arbitrariness, to achieve the goal of prison sentences, which is the re-education and re-socialization of convicts into society. This attitude led to the implementation of the *European Convention on Prevention of Torture and Inhuman or Degrading Treatment or Punishment*¹. The convention defines protection standards as well as control mechanisms, which the signatory countries should respect, which protects the rights of persons deprived of their liberty and preserves their dignity during their stay in prison. The development of penal policies in Europe speaks of the growing importance of the reintegration of convicts into society after serving long sentences, which is supported by a “system of progression”: the convict should move progressively through the penitentiary system, from the early days of the sentence, when the emphasis is on his punishment and retribution, until the last stage, when the emphasis should be on his preparation for release [3].

The fundamental rights of the convicted of his special rights² are clearly demarcated, although those two categories are naturally and logically connected to each other, and are regulated by the Law on the Execution of Criminal Sanctions³.

The convicted person is granted special rights as a reward for his good governance and commitment to work, which is a realistic basis for confirming and positively predicting the behavior of the convicted person after his release. Special rights are given to convicts by the director of the institution on the proposal of the re-education service, and they can only

be used by the convict who deserves them, so the Law (ZIKS)⁴ specifies the special rights that can be granted to a convicted person [2]. According to the place of use, benefits are divided into institutional benefits, which are used in the institution itself, and non-institutional benefits, which are used outside the institution. Analyzing the species [9], frequency of use and abuse of special rights and benefits given to convicts (on average in the last five years) it is noted that the highest frequency of use is regular weekend (45.71 %) and regular outings in the city (22.81 %), which is a total of 67, 10%. All other special rights are used significantly less (32.90%). From the attached, it can be concluded that it indicates that the benefit allocation mechanism is quite good and that it functions successfully. Respect for order and discipline imposed by the regime of life in the penitentiary is a necessary prerequisite for the realization of all the rights guaranteed by the law and a prerequisite for the successful and smooth development of the resocialization program [2].

3. Executive Criminal Law in Serbia

The main source of criminal enforcement law in Serbia is the Law on Enforcement of Criminal Sanctions (ZIKS)⁵, which regulates the procedure for the execution of criminal sanctions against adults, organizes, implements and supervises the execution of juvenile prison sentences, community service sentences, conditional sentences with protective supervision, security measures, educational measures in a correctional institution, mandatory psychiatric treatment in health care institution, the rights and obligations of persons against whom criminal sanctions are enforced, the organization of the Administration for the Execution of Criminal Sanctions as well as the supervision of its work, the execution of sanctions for economic crimes, confiscation of property benefits obtained by a criminal act or economic offense, as well as the measure of detention, as well as other measures to ensure the presence of

¹ The European Convention on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, adopted in 1987, and the State Union of Serbia and Montenegro confirmed this Convention in 2003 // Official Gazette of SCG – International Agreements. No. 9/2003, 5 /2005 and 7/2005 – corrected and Official Gazette of RS – International Agreements. No. 12/2010 and 10/2015.

² Special rights is a name for benefits. In all previous Laws on the Execution of Criminal Sanctions, the term convenience was used.

³ Law on Execution of Criminal Sanctions // Official Gazette of RS. No. 55/2014 and 35/2019.

⁴ Ibid.

⁵ Law on the Execution of Criminal Sanctions, ZIKS // Official Gazette of RS. No. 55/2014 and 35/2019.

the defendant in criminal proceedings. In this regard, in 2021, the Ministry of Justice of the Republic of Serbia adopted the Strategy for the Development of the Criminal Sanctions Enforcement System for the period from 2021 to 2027¹.

The strategy provides frameworks for preventive mechanisms in terms of special and general prevention. Given that the execution of criminal sanctions has a retributive character in relation to the perpetrator of criminal acts, the mechanisms for combating crime are constantly being improved, and the Strategy for reducing the overloading of accommodation capacities in institutions for the execution of criminal sanctions in the Republic of Serbia² until 2020 was adopted, May 2017. years. Thinking further, the Strategy is closely connected and mutually harmonized with international instruments that more closely define the standards contained in international agreements. Furthermore, the laws regulating the execution of criminal sanctions are:

- Law on execution of criminal sanctions³;
- Law on execution of criminal sanctions for criminal acts of organized crime⁴;
- Law on execution of extra-factory sanctions and measures⁵;
- Law on special measures to prevent the commission of criminal acts against sexual freedom against minors⁶;

¹ Strategy for the development of the criminal sanctions enforcement system for the period from 2021 to 2027. URL: <https://www.mpravde.gov.rs/tekst/33173/strategija-razvoja-sistema-izvršenja-krivичnih-sankcija-u-republici-srbiji-za-period-2021-2027-godina.php> (accessed: 14.04.2024).

² Strategy for reducing the overload of accommodation capacities in institutions for the execution of criminal sanctions in the Republic of Serbia until 2020. // Official Gazette of the RS. No. 43/2017.

³ Law on Execution of Criminal Sanctions. // Official Gazette of RS. No. 44/14 and 35/19.

⁴ Law on Execution of Criminal Sanctions for Organized Crime // Official Gazette of RS. No. 72/2009 and 101/2010.

⁵ Law on execution of non-union sanctions and measures // Official Gazette of RS. No. 44/14 and 87/18.

⁶ Law on special measures to prevent the commission of criminal acts against sexual freedom against minors // Official Gazette of RS. No. 32/13.

- Law on juvenile offenders⁷;
- Criminal Law⁸;
- Criminal Procedure Code⁹.

The scope of execution of criminal sanctions includes a very delicate phase in the process of crime control and prevention. There is an increasing need to achieve successful resocialization of convicts and to make recidivism prevention more effective, which represents a challenge and standards in the concept of modernization of prison systems. The characteristics of the modern penitentiary system are reflected in the increasingly complex prison structure, oth in terms of the gravity of the committed criminal acts, and in terms of personal characteristics. The determination to apply various treatments according to certain categories and needs of convicts and types of institutions is a modern approach, which is increasingly being pushed, both in our country and in most developed countries [3]. In addition to traditional programs, which include: educational program, professional training programs, work program, medical program, cultural entertainment, sports-recreational, etc., the program for dealing with sexual delinquents, the “Halfway House” program, are also applied “House for prisoners”. The modern concept of punishing criminals gives importance to extra-institutional measures, i.e., probation services, which have the role of monitoring and helping the criminal to integrate into the community [8, c. 534–540].

Training of future commissioners, professional development of judges and prosecutors was organized, a coordination body was formed and preconditions were created for the execution of out-of-office sanctions.

The project implemented by the Council of Europe with the European Commission, in order to help Serbia in the process of its accession to the Council of Europe, is to meet the standards for the management of the

⁷ Law on Juvenile Offenders // Official Gazette of RS. No. 85/2005.

⁸ Criminal Code // Official Gazette of RS. No. 85/05, 88/05 – corrected, 72/09, 111/09, 121/09, 104/13, 108/14, 94/16 and 35/19.

⁹ Criminal Procedure Code // Official Gazette of RS. No. 72/11, 101/11, 121/12, 32/13, 45/13, 55/14 and 35/19.

penal system and to make preparations for the reintegration of prisoners (including juvenile offenders) into society. The common agenda is: to reform legislation, to educate and train prison staff, and to apply alternative sanctions. Serbia has made great progress in establishing its legal framework, implementing the reform of the penal system, and has formed a special organizational unit within the ZIKS, i.e. Center for staff training, and the conditions have been created for the independent creation of various training and education of prison staff in accordance with international standards. In order to reduce the prison population, reduce the negative impact of prisons on convicts, and at the same time reduce budget costs, and by applying the law in the criminal work of the Council of Europe, the interest and warning measure — conditional sentence with protective supervision¹. The Constitution of the Republic of Serbia² prohibits the imposition and execution of the death penalty; torture, inhuman or degrading treatment or punishment, or subjection medical or scientific experiments without freely given consent; forced labor of persons deprived of liberty is prohibited, the obligation to treat the person deprived of liberty humanely and with respect for the dignity of his person is prescribed. The question of dealing with convicted persons in penal institutions is constantly raised, can prisons in general perform the role of reforming convicts? One can often hear the opinion that it would be better for many criminals not to be sent to prison, especially not those who are at the beginning of their criminal career, and for criminals with a short sentence, because it leads to dehumanization, social degradation, stigmatization, criminal infection, as well as other consequences. One gets the impression that people who are deprived of their freedom have fewer chances and opportunities to continue a normal life in the community after serving their sentence.

In the conditions of overcrowding of prisons, impossibility of quality categorization of

prisons, inconsistent classification of convicts, poor economic status of both institutions and employees, insufficiently educated personnel, it is unrealistic to expect significant effects in achieving the reintegration of criminals. Wider application of alternative sanctions provides numerous positive effects and opportunities to improve the effectiveness of sanctioning of perpetrators of criminal acts. Also, a positive effect of wider application is the reduction of the number of those sentenced to short-term prison sentences in institutions for the execution of criminal sanctions and their execution in the community.

The Law on the Execution of Criminal Sanctions in 2014 introduces a new institute — the Judge for the Execution of Criminal Sanctions and defines the role, jurisdiction, organizational and procedural framework for the actions of the judge for the execution of criminal sanctions, more effective judicial protection and supervision over respect for the rights of persons deprived of liberty. In March 2015, the Administration for the Execution of Criminal Sanctions, in cooperation with the OSCE Mission, created a Handbook for convicts, a Guide for convicts and a Handbook for detainees. which informs persons deprived of their liberty in a more accessible way about their rights during the execution of the sentence or measure and with the prescribed mechanisms for filing complaints, appeals and requests for judicial protection.

As part of the Project “Strengthening capacity for training, education and employment of convicted persons” within the framework of the EU project — IPA fund for the year 2013, a Manual on the implementation of the Istanbul Protocol in prisons and the implementation of effective investigation and documentation of torture and other forms of cruel, inhuman and degrading treatment was developed. actions or punishments and 15 trainers, employees of the security service, health service and internal supervision were trained for the application of the manual and further regular training of employees through the Training Center. A series of trainings for prison employees on the topic “Human rights in prisons and international standards” was held. In cooperation with the OSCE Mission in Serbia, the Guidelines for the

¹ The Criminal Code of Serbia from 2005, in force since January 1, 2006.

² Constitution of the Republic of Serbia // Official Gazette of the RS. No. 98/2006 and 115/2021.

behavior of employees in institutions for the execution of criminal sanctions in the case of allegations of abuse have been drawn up, in which international standards in this area are detailed, as well as domestic legislation, with detailed procedures for behavior in the institution and mandatory elements of collecting appropriate evidence, including detailed reports from doctors¹.

According to the data of the Administration for the Execution of Criminal Sanctions, the total number of persons deprived of liberty (10,540) was dominated by men (10,085, i.e. 95.8%), while the participation of women is maintained at a low level (4.2%, i.e. 455) even in relation to average values on a European scale. Such a ratio between the representation of men and women in the total prison population has been shown to be stable for years, and is regularly accompanied by a low rate of female incarceration. In terms of the representation of persons over 50 years old in the total prison population (16.7%), Serbia is in the group of European countries that exceed the general statistical mean values, and as the share of this category of convicted persons is constantly growing, this requires a consequent adjustment of the system of execution of criminal sanctions. Domestic citizens make up 97.1% of the prison population, while foreigners represent 3.7%.

When it comes to the structure of persons deprived of their liberty according to the basis of their deprivation of liberty, according to the data of the Administration for the Execution of Criminal Sanctions, out of a total of 10,540 persons deprived of their liberty, 7,301 (69%) were adults sentenced to prison for a crime committed, and 1,959 (18.6%) detainees, and a total of 639 (6%) persons were undergoing medical security measures. 21 (0.2%) persons were sentenced to juvenile prison, and 183 persons (1.73%) were sentenced to educational measures.

However, short-term prison sentences, i.e. the share of convicts serving these prison

sentences in the convict population, has significantly decreased over the past years. When it comes to convicts serving sentences of up to three years, the percentage decreased from 46.84% to 38.78%. The downward trend is even more noticeable when it comes to the total share of sentences lasting up to one year, which fell from 19.1% in 2014 to only 12.3% in 2020.

When it comes to the structure of persons deprived of their liberty according to the basis of their deprivation of liberty, according to the data of the Administration for the Execution of Criminal Sanctions on 12/31/2020, out of a total of 10,540 persons deprived of their liberty, 7,301 (69%) were adults sentenced to prison for a committed criminal offense, and 1,959 (18.6%) detainees, and a total of 639 (6%) persons were under medical security measures. 21 (0.2%) persons were sentenced to juvenile prison, and 183 persons (1.73%) were sentenced to educational measures.

4. International Standards

The European Union has passed several acts with the aim of building and implementing standards, which govern the area of executive law. All the passed acts have the goal of harmonizing the system of execution of criminal sanctions at the global level, and creating basic standards for dealing with persons deprived of their liberty, protecting their rights and human dignity. The contribution to the adoption of standards in executive criminal legislation is reflected in the adoption and implementation of modern international standards. The basic documents are: UN Standard Minimum Rules for the Treatment of Prisoners (1955), UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), Set of Principles for the Protection of All Persons in Any Form of Detention or Imprisonment (1988), UN Rules for the Protection of Juveniles Deprived of Liberty (1990), European Prison Rules (1987, 2006), European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (1987), European Convention for the Protection of Human Rights on the Transversion of Convicted Persons (1983), European Convention for the Protection of

¹ Strategy for the development of the system for the execution of criminal sanctions of the Republic of Serbia for the period 2021-2027. URL: <https://www.mpravde.gov.rs/tekst/33173/strategija-razvoja-sistema-izvršenja-krivичnih-sankcija-u-republici-srbiji-za-period-2021-2027-godina.php> (accessed: 04.05.2024).

Human Rights and Fundamental Freedoms (1950), Recommendations of the Committee of Ministers of the Council of Europe on Release from Prison (1982), etc. [7].

The work on the normative improvement of the system of execution of criminal sanctions is the result of the action of the European Convention on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, i.e. the action of the European Committee for the Prevention of Torture and Inhuman Treatment or Punishment, which through its visits to prisons, recommendations and annual reports on the situation in constantly encouraged and encouraged consistent compliance with the adopted standards in prisons. The basic content of the European Prison Rules is given through nine basic principles and that [10]:

- All persons deprived of liberty are treated with respect for their human rights;
- Persons deprived of their liberty retain all rights that were not lawfully taken away by the decision by which they were convicted or detained;
- Restrictions for persons deprived of liberty should be minimal, necessary and proportionate to the legitimate goal for which they were imposed;
- Prison conditions that threaten those rights cannot be justified by a lack of material resources;
- Life in prison should be as close as possible to the positive aspects of life in the community;
- All prisons should be arranged in such a way as to enable the reintegration into free society of persons who were deprived of their liberty;
- Cooperation with external social protection services and, as much as possible, civil society should be encouraged in prison life;
- Prison staff perform an important public function and their selection, training and working conditions should ensure that they maintain high standards in the care of prisoners;
- All prisons are regularly inspected by the state and supervised by an independent body.

In the middle of the 20th century, a great achievement in the development of penological thought was given by the Minimum Rules of

the UN on the Treatment of Prisoners. They gave guidelines for the future development and reform of the penitentiary system, while the commissions gave recommendations to national institutions, in which direction the system of execution of criminal sanctions should be developed, and the effect was reflected in the prevention of crime on a global level.

The Beijing Rule¹ is a comprehensive instrument in the application of juvenile justice. These rules govern the execution of criminal sanctions and educational measures against minors. Those for minors have the same importance as the UN Standard Minimum Rules for the Treatment of Prisoners. The UN Rules for the Protection of Minors Deprived of Liberty establish a standard for the protection of the rights of minors subject to sanctions and measures². The general principle of the Rules refers to the exceptionality of the deprivation of liberty of minors. Deprivation of the liberty of minors is applied as a last resort, and it is imposed and applied for the shortest possible duration. In addition to this basic principle in the imposition and execution of sanctions against minors, the following should also be emphasized: the principle of legality, the principle of social integration, education and prevention of return, the temporal determination of the sanction or measure, the principle of the best interests of juvenile offenders, the principle of proportionality and the principle of individualization, the principle of minimal intervention, the principle of non-discrimination and the principle of community involvement and continuity of care, as well as the application of mediation and other restorative measures will be encouraged in all phases of dealing with minors. In order to better protect minors, the Tokyo rules were adopted, the aim of which is to make an effort to avoid prison sentences, which are less successful as a rule, and to apply measures and treatment to minors outside the prison. The Tokyo Rules outline possible alternatives to institutional treatment, including diversion of proceedings before they enter the trial phase. When it comes to minors who have served

¹ They were adopted in 1985 by the UN General Assembly.

² They were adopted on November 5, 2008.

prison terms, it is necessary to take measures to help them and reintegrate them into their environment [1, c. 46]. The importance of these rules is reflected in the current time when the increase in juvenile violence is on the rise and when juveniles are given more and more sanctions, which unfortunately do not have a significant effect on the prevention of juvenile crime and where recidivism is increasingly pronounced.

The guidelines for the prevention of juvenile delinquency¹, the Riyadh Rules, aim to influence and guide UN members to engage young people in socially useful activities, in order to have a better development path, encourage children's development, avoid punishment and criminalization of minors, in order to avoid conviction or imposing other sanctions on young people.

European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment², is aimed at persons deprived of their liberty, which defines the standards of protection and control mechanisms that will be applied in the European Union, with the aim of protecting their rights with clear indicators regarding the treatment of persons deprived of their liberty and the preservation of their dignity during their stay in prison. International standards on protection against torture include a strict prohibition on authorities to carry out, encourage or tolerate torture, cruel, inhuman and degrading treatment or punishment of any person, and in order to achieve the greatest level of harmonization of regulations and practice in the area of execution of criminal sanctions and creation of a basis for the full implementation of standards in dealing with persons deprived of liberty, protection of their rights and human dignity. In order to ensure control over the implementation of the convention, the European Committee for the Prevention of Torture was founded, which aims to prevent torture, inhuman and degrading treatment of persons deprived of their liberty.

¹ They were adopted in December 1990.

² It was adopted in 1987, and the state community of Serbia and Montenegro confirmed this Convention in 2003.

European prison rules especially emphasize the need to respect human dignity, which is why the prison staff is required to treat prisoners in a humane and efficient manner, with the application of modern work and management methods.

European prison rules have a goal [5, c. 39]:

— Establishment of a certain number of standards in all aspects of prison administration that are of essential importance for humane conditions and positive procedures in modern and progressive systems;

— Giving incentives to prisons and prison administrations to develop strategies, management style and practical basis of good modern principles of purpose and fairness;

— Stimulation of professional attitudes of prison staff in order to achieve conditions in which staff can achieve the greatest success for the benefit of society as a whole, care for prisoners and in terms of their own job satisfaction;

— Providing realistic criteria based on which the prison administration and persons responsible for examining the conditions and administration in prisons can make a valid assessment of the results and measure progress towards higher standards.

5. Conclusion

There is a wide range of different types of punishments that have been imposed on perpetrators of criminal acts, seen throughout history. In the middle of the 20th century, there was an aspiration to build a different model of execution of the sentence of deprivation of liberty, which, unlike the classic model, is not based on rigid rules that regulate the regime in prisons, but represents a set of ideas about the treatment of prisoners. Normative solutions in the regulations of the Republic of Serbia are based on contemporary and modern solutions in the area of enforcement of criminal sanctions.

The imposition and enforcement of criminal sanctions of an institutional nature is the basic form of criminal law response to criminal behavior. Through them, general and special prevention is reflected. The correctional process that our society has opted for, requires fundamental changes in the direction of redefining the prison system, which must, according to its organization, categorization

of institutions, classification of convicts, and training of employees, meet the requirements required by the conception of the system.

The negative consequences related to the prison sentence, as well as the overall implementation of institutional treatment, and its effectiveness, are reflected in the high rate of penological criminal recidivism (penological recidivism), the increasing overcrowding of penal institutions, the increasing financial expenses for their financing and the increasing number and more and more convincing knowledge about the small positive and large negative effects of treatment in prison institutions. The international documents, which our country has ratified, have one common goal, which is to standardize the system of execution of criminal sanctions, to the greatest extent possible, on a global level, to establish basic standards in the treatment of persons deprived of their liberty, to protect their rights and human dignity.

Despite the increasingly strict criminal policy, the crime rate is not decreasing. Punishment certainly affects the reduction of crime and serves as a warning to others that the violation of legal norms entails a reaction from the state. Imprisonment reduces crime by preventing criminals from committing new crimes, but after leaving prison, a high percentage of criminals relapse. There is general agreement that criminal sanctions achieve greater effects if they are certain and if they are implemented quickly. The certainty of detection of the crime, the speed of the conviction and the referral to the execution of the criminal sanction have a significantly greater effect on crime prevention than the length of the sentence. The contemporary tendency in the reaction to crime is to find new crime prevention measures that are manifested in the application of non-institutional treatment and a greater number of imposition of alternative criminal sanctions.

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