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**ANALYSIS OF THE APPLICATION OF THE MEDICAL SECURITY
MEASURES IN THE CRIMINAL LAW SYSTEM OF THE REPUBLIC OF
SERBIA**

-conclusions and recommendations-

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NOTE: An integral part of this report is a document with a scientific background and evidence of the merits of the findings written by the authors in this report.

CONCLUDING REMARKS

The results of this research, both quantitative and qualitative, indicates a very complex situation when it comes to the application or implementation of medical security measures in the criminal justice system of the Republic of Serbia, in virtually all segments, from the manner of treatment of persons with the imposed measures, to the conditions in which the institutions themselves function.

The most relevant conclusions

- Pursuant to the provisions of Art. 195(2) of the Law on Execution of Criminal Sanctions, both quantitative and qualitative data show that Special prison hospital in Belgrade (SPH) is the central institution to which the largest proportion of persons with imposed measures are sent, from all parts of Serbia, without respecting the principle of territoriality. However, it should be noted that there is a tendency that persons from all parts of Serbia are referred to hospitals under the Ministry of Health jurisdiction, in relation to psychiatric treatment measures, but it is important to keep in mind that this can be explained by the fact that persons with this measure will mostly be sent from SPH to Special Hospital for Psychiatric Diseases in Vršac (SHPD Vršac) and Novi Kneževac (SHPD Novi Kneževac). When it comes to persons with measures of compulsory treatment of alcoholics and drug addicts, the principle of territoriality is more respected in these hospitals.
- In the Special prison hospital in Belgrade, as well as in other institutions, persons with the imposed measure are primarily approached as patients in need of treatment. However, it should be borne in mind that Special prison hospital in Belgrade is organized primarily as a penal institution, which can complicate the treatment process, because the penal organization neglects some organizational aspects relevant to the treatment of persons with imposed security measures (therapeutic outings, weekend outings, etc.). On the other hand, in hospitals under the Ministry of Health jurisdiction, persons with the imposed measure are treated the same as patients without the measure, and in the case of drug and alcohol addiction they have a limited duration of treatment which may affect their motivation to treat. In addition, these hospitals differ in terms of conditions for the treatment of drug addicts and alcoholics - in SHPD Vršac the conditions for treatment of persons with these security measures are very good, while in SHPD Novi Kneževac, conditions are quite bad due to certain organizational problems of the hospital for the treatment of persons with this measure.
- A specific problem of SPH is that upon admission, persons are immediately located in a closed or semi-open ward, since an open ward, which is also provided by law, does not exist in SPH, while the degree of freedom in other hospitals is higher and persons with imposed measure are not treated differently than other patients treated in these hospitals.
- Therapeutic work in all four institutions is similar and includes pharmacotherapy, individual and group therapy, occupational therapy, etc. However, persons with shorter treatment time imposed than objectively necessary, do not have the motivation to participate in therapy,

which stands out as a very important problem, especially in hospitals at the Ministry of Health. On the other hand, SPH points out that therapeutic work with these persons relies primarily on group work, although the implementation of group therapy is difficult, while individual psychotherapy and counseling is virtually impossible due to lack of staff (medical or professional, but guards also) in relation to the number of persons with the imposed measure.

- All four institutions emphasize that great attention is paid to maintaining social contacts and involving the family in the treatment of patients. However, unlike hospitals under the Ministry of Health, in the SPH, going out from the institution is difficult for the patients due to the lack of educators who could go to the city with people who do not have the support of their families. The institution allows going out into the yard, patients go out in groups accompanied by an occupational therapist, however, there are no possibilities for therapeutic and weekend outings, organized trips, which are realized in other hospitals, primarily in SHPD Vršac.
- In all four institutions, the goals of treatment are primarily focused on establishing stable remission – decreasing or reducing psychopathological content and establishing adequate functioning, and in the case of drug addicts and alcoholics - establishing stable abstinence and strengthening the capacity for its maintenance through insight and knowledge about the disease, and through maintaining good interpersonal relations, primarily with the family.

The main issues and recommendations

- Medical staff and professional teams working on the treatment of persons with a measure of compulsory psychiatric treatment and confinement in a medical institution, emphasize that due to Art. 195 of the Law on Execution of Criminal Sanctions, courts primarily designate SPH as the institution where treatment is provided. This leads to the fact that a large number of persons are accommodated in the SPH based on this measure, and this number currently exceeds by far the capacity of the hospital itself.
- ✓ Therefore, the amendment of this article of the law is suggested in the first place.
- Cooperation between institutions is adequate, special emphasis is placed on the quality of medical documentation that comes with persons arriving from SPH in SHPD Vršac or SHPD Novi Kneževac. On the other hand, it is pointed out that lately there has been a problem in cooperation mainly due to the overcrowding of hospital capacities.
- Security measures are often not timely, especially in terms of a period of several years, from the commission of the crime to the moment when the person is sent to serve the measure. It often happens that persons in the meantime seek medical help on their own and achieve satisfactory remission, so that at the time when the measure is finalized, there is no longer any need for treatment, moreover, treatment in closed conditions in such cases is counterproductive.
- ✓ It is recommended that the court takes into account the current mental state of the defendant and, if it is satisfactory, a measure of treatment without imprisonment or imprisonment without the measure may be more appropriate. However, even in such cases, the person, although already in remission, must remain in the institution for some time because of the

unofficial court rule, which implies that the court does not look favorably if a change in the measure is proposed too quickly.

- The problem of working conditions in the institution can be seen in the fact that SPH does not have a reception department - a person with a psychiatric court measure is accommodated where the accommodation capacities enable it. On the other hand, in the departments for drug addiction and alcoholism, there are admission departments where people spend up to 30 days.
- Persons with security measures, persons with a measure of compulsory psychiatric treatment and confinement in a medical institution in SHPD Vršac and SHPD Novi Kneževac arrive practically exclusively from SPH, in order to provide them with better conditions or release, while persons with alcoholism and drug addiction are mostly from the region - Vojvodina. However, it is stated that people from the given places are not sent to hospitals in those places, but elsewhere.
- As a rule, persons on the security measure of compulsory psychiatric treatment and custody in a health institution come from freedom or detention, but they must have a final court decision, which implies that they can stay in temporary accommodation until the decision to impose the measure becomes final - data show that there are cases with a long time period from the beginning of temporary accommodation until the measure becomes final.
- The issue of instruments - there is a lack of instruments that would, in addition to psychiatric, enable monitoring of the penological condition, for example, propensity to relapse, such as a risk assessment questionnaire.
- ✓ It is necessary to introduce or construct new, purposeful instruments that would enable adequate assessment not only of the treatment itself, but also of the degree of risk involved.
- For persons with security measure of compulsory treatment of drug addicts or alcoholics, forensic expertise represents significant problem. Namely, in order for the court to impose a measure, it is necessary: (1) that the person was under the influence of psychoactive substances at the time of committing the illegal act, as well as (2) that there is an addiction disease. If the second element were missing, it would be possible to talk about the self-induced incompetence from Art. 24 of the Criminal Code, in which case there is a criminal offense and there is no need to apply security measures. Proof that there is an addiction disease is often missing, mainly because this fact cannot be easily determined, since it requires use of objective tests that are not commonly used in our country. In addition, there is no uniform procedure and methodology of expertise that is followed by all court experts, on the contrary, the variations in the work of experts are significant.
- ✓ One of the possible solutions is the commission expertise, or the possibility of the expertise being overthrown by another expert.
- Cooperation with the Center for Social Work (CSW) - there are examples of good practice, but most often cooperation is lacking especially in relation to documentation, which results in an additional task for social workers from institutions in providing necessary documentation.

- ✓ It is necessary to organize trainings, meetings with those CSW's with whom there is an example of good practice, as well as with other CSW's, and to produce special research that will focus on identifying factors that contribute to good cooperation between hospitals and CSW's.
- Often the court refuses to change the measure or release, even in the case of cured persons if there is no post-penal admission and/or if the persons are convicted of a serious crime (for example murder), which leads to prolonged stay in the institution and consequent hospitalism. It seems that the court would prefer to get a guarantee that the person will not commit the crime again - however, such a prediction of individual's behaviour is impossible, and in addition, such court request would contradict the provisions of the Criminal Code, since the measure must be suspended when the need for treatment no longer exists. An additional problem arises from the CSW's position, which the court respects, and whose assessment of person's danger to the environment may be a consequence of the undesirability of person in the social community as a consequence of the crime he committed, or social stigma.
- ✓ Possible solutions can be community services, such as supported housing, halfway houses, and other types of community services that can provide post-penal reception in the community.