

IMPRISONMENT IN SWEDEN – NORMATIVE FRAMEWORKS, CHARACTERISTICS AND IMPACT ON RECIDIVISM

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Abstract: Penal systems of Scandinavian countries, including Sweden, have developed a specific approach to punishment and punishing and a unique attitude of the society towards the perpetrators of criminal offences. As a rich welfare state with a high level of social cohesion, Sweden has a remarkably humane, but still exceptionally efficient prison system and a well organized network of aftercare treatments. Knowing that Sweden has a relatively low crime and recidivism rate, the authors of this paper analyze legislative framework for imposing and execution of imprisonment, organization and functioning of penitentiary institutions in that country, in-prison and aftercare treatments of adult and juvenile offenders and the impact of these factors on the decrease of crime rate and suppression of recidivism. Since the Republic of Serbia is about to establish new legislative and institutional framework for the application of probation, alternative sentences and post-penal treatments, Swedish solution is discussed in the paper as a potential role model, particularly when it comes to its contribution to successful re-socialization and reintegration of offenders within the community as a key factor to the prevention and suppression of recidivism.

Keywords: Sweden, punishment, prison, in prison treatment, aftercare, recidivism, re-socialization, reintegration.

1. Introduction

In the times of “prison crisis” (Mrvić-Petrović, 2007), when the role and aims of the prison in modern society and the possibility of its abolition (Sparks, 1994) are

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discussed as well as further destiny of imprisonment as criminal sentence and prisons as correctional institutions, there still seem to exist some penitentiary systems that are worth analyzing and considering as potential role models due to their remarkable features, innovative solutions, humane approach and proven efficiency in crime suppression. This refers to penal systems of Nordic countries, particularly Finland, Norway (Batrićević, 2013) and Sweden, most distinguishing feature of which is described by the phrase “Scandinavian Exceptionalism”. Although each of these countries has its own history and identity, their connections, similarities and overlaps create a unique regional, Scandinavian identity that reflects on the field of crime suppression as well. A penal Exceptionalism of all Scandinavian countries dwells upon two key features: low rates of imprisonment and humane prison conditions. Its roots are set in highly egalitarian cultural values and social structures of these countries, which was institutionalized and embedded in their social milieu thanks to the development of the Scandinavian welfare state (Pratt, 2008). Accordingly, Nordic offenders are not stripped of their basic rights and their independence is restricted only while they receive rehabilitation services that are intended to deter them from future criminal activity (Von Hofer & Marvin, 2001).

In spite of the increase in the number of reported criminal offences since 1960s, (Von Hofer, 2001), relatively low rate of all forms of crime and low recidivism rate still represent a characteristic of Scandinavian legal systems (Pratt, 2008; Von Hofer, 2001). These findings are confirmed by the data gathered on the basis of a study on recidivism conducted by Nordic Cooperation in Judicial Statistics, which show that recidivism rate in Nordic countries was 30% in two years’ period (Decarpes, & Durnescu, 2012), which is rather low in comparison to, for example recidivism rate in the United States of America that was almost 60% in 2000 (Hughes & Wilson, 2002). Specific approach to punishment and punishing, particularly in the sphere of enforcement of prison sentence and in-prison and post-penal treatment, which has been applied in these countries for decades, may be considered one of the factors that have contributed to such state (Ward, Longaker, Williams, Naylor, Rose & Simpson, 2013). Particularly, the application of the philosophy of rehabilitation in the manner that is used in Nordic prisons is claimed to be effective at reducing recidivism and crime (Kjelsberg, Skoglund & Rustad, 2007).

In Scandinavian countries, the purpose of punishment is based upon the attitude that punishments that include the deprivation of liberty are supposed to be imposed as *ultima ratio* and avoided as much as it is possible (Bondeson, 1998), since the application of re-socialization programs and treatments that are conducted outside the penitentiary institutions are considered more “natural” and appropriate (Stevanović, 2008). Even if imposing prison sentence appears to be necessary, it is recognized that going to prison is itself the punishment for crime, which means that prison conditions can then approximate to life outside as far as possible, rather than being allowed to degrade and debase all within (Pratt, 2008). With the aforementioned concept as its starting point, Swedish prison system is constantly evolving and striving to create optimal conditions for re-socialization and social reintegration of prisoners after the release, through the application of various in-prison and aftercare treatment programs (Stevanović, 2012).

2. Prison Sentence and Organization of Prison System

2.1. The Swedish Penal Code

The Swedish Penal Code was adopted in 1962 and entered into force on 1 January 1965. It contains provisions on most of the acts that constitute crimes in Sweden. The provisions on other crimes are to be found in special legislation. It also contains general provisions on all crimes, the sanctions for crimes and the applicability of Swedish law. The Code defines crime as an act defined in this Code or in another law or statutory instrument for which a punishment as stated below is provided. Unless otherwise stated, an act shall be regarded as a crime only if it is committed intentionally (Chapter 1, Section 1)³.

Swedish criminal law is familiar with several punishments. It defines a sanction for a crime as the punishments of fines and imprisonment, and conditional sentence, probation and committal for special care. This issue is regulated by the provisions of part three of the Code, entitled as "On Sanctions". According to Sec. 1 of Chapter 26 of the Code, imprisonment is imposed for a fixed term or for life in accordance with what is provided for the crime. A fixed term of imprisonment may not exceed ten years, unless otherwise provided nor be shorter than fourteen days.

In case of joinder of criminal offences, imprisonment may be imposed as a joint punishment for several crimes if imprisonment may be imposed for any one of the crimes. Imprisonment for a fixed term may be imposed for longer than the severest of the punishments provided for the crimes but shall not exceed the sum total of the maximum terms that can be imposed for the individual crimes. Nor may it exceed the severest punishment that can be imposed by more than: one year if the severest punishment provided is shorter than imprisonment for more than four years, two years if the severest punishment provided is imprisonment for four years or more but less than eight years; or four years if the severest punishment provided is imprisonment for eight years or more. Imprisonment for less than the longest of the minimum period provided for may not be imposed.

It is prescribed that a person sentenced to imprisonment shall, for the enforcement of the punishment, be taken into a prison unless otherwise provided. A person serving imprisonment for a fixed term shall be conditionally released when two thirds of the sentence, but at least one month, has been served. If the sentenced person seriously violates the conditions for the serving of the sentence in a prison, the date for conditional release may be postponed. Such a postponement may amount to at most fifteen days on each occasion of use. In deciding on the question of postponement consideration is given to whether the infringement may or can have other negative consequences for the sentenced person.

It is worth mentioning that the Swedish Penal Code does not contain a separate chapter that would be entirely dedicated to the status and treatment of juvenile offenders in criminal law. Instead, the provisions that are relevant to the position of

³ In further text, abbreviation Sec. will be used for "Section".

this category of perpetrators of criminal offences are systematized within Chapter 29, regulating measuring of punishment and liberation from punishment, Chapter 30, regulating the choice of sentence and Chapter 31, dealing with committal to special care. Swedish criminal law is not familiar with the punishment of juvenile imprisonment and prescribes that imprisonment, which is the same as the one for adult offenders, may also be imposed on juveniles under particular conditions and with obligatory application of specific rules for measuring of punishment.

The Code sets the age limit for criminal liability in Article 6 of its Chapter 1 by declaring that no person under the age of fifteen can be considered responsible and punished for criminal offence. Although this provision clearly demonstrates legislator's intent to impose prison sentence on juvenile offenders only in some specific cases and as *ultima ratio*, the Code allows this punishment to be imposed on both younger, as well as older juveniles. If a crime has been committed by a person who has not attained the age of eighteen, the court may impose imprisonment only if there are extraordinary reasons to do so. Namely, in such cases, the court shall in the first place sentence to closed juvenile care. If a person who has attained the age of eighteen but not twenty one has committed a crime, the court may impose imprisonment only if, in view of the penal value of the crime or other special reasons, this course of action is justified (Chapter 30, Sec. 5). However, if the court decides to impose prison sentence on juvenile offender, it is obliged to obey special rules for its measuring. This means that if a person commits a crime before attaining the age of twenty-one, special consideration must be given to his youth in determining the punishment and, in such cases, a milder punishment than that prescribed for the crime. No person shall be sentenced to life imprisonment for a crime committed before attaining the age of twenty-one (Chapter 29, Sec. 7).

2.2. Prison System – Organization and Characteristics

In Sweden, the execution of sentences falls within the jurisdiction of Ministry of Justice, but is directly entrusted to National Penal Directorate that represents an independent state body. Like other Nordic prisons, Swedish prisons also fall under one of two categories: open and closed, according to the level of restrictiveness, where the typical inmate will first go to a closed prison (Baer & Ravneberg, 2008; Pratt, 2008). In 2006, there were eighty six prisons in Sweden, the majority of which belong to institutions of open or semi-open character. The Swedish prison system consists of a large number of small facilities, providing a variety of different treatments, numerous open or semi-open prisons and a broad network of non-custodial facilities providing supervision and surveillance. There are only few prisons in Sweden that can be described as larger prisons, and they have from one hundred to two hundred beds. The largest prison in the Scandinavian region is found in Sweden and holds around three hundred and fifty inmates (Pratt, 2008). So, the majority of prisoners dwell in small prisons that usually do not have more than forty five beds. It is also worth mentioning that almost all prisoners have their own cell (Decarpes & Durnescu, 2012). The establishment of a large number of

relatively small prison facilities on both state and local level allows the prisoners to be kept under the circumstances that are as close as possible to their regular living conditions (Stevanović, 2008). Given the extensive geographical areas of Scandinavian countries, this form of prison organization allows most prisoners (unless they are maximum-security classification) to be fairly close to home and family (Pratt, 2008). Being placed and serving the prison sentence near the place of their permanent residence facilitates the re-adaptation of prisoners to ordinary living conditions and their reintegration to the community. Perpetrators who are serving short-time prison sentences are commonly directed to open prisons, as well as other convicts whose personal characteristics, according to the assessments of diagnostic centers, make them suitable to stay in open prisons (Stevanović, 2008).

In 2006, the imprisonment rate in Sweden was 82 per 100.000 inhabitants, which is relatively low, but still higher than in other Scandinavian countries, known as “low imprisonment societies”, such as Norway (where imprisonment rate is 66 per 100.000 inhabitants), Finland (where imprisonment rate is 68 per 100.000 inhabitants) or Denmark (where imprisonment rate is 67 per 100.000 inhabitants) (Pratt, 2008). However, in 2010 there were 7 106 prisoners in Sweden, which means that the prison population rate in this country decreased to 78 prisoners per 100 000 inhabitants. Almost a quarter of prisoners are on remand and 28.3% are considered foreigners (Decarpes & Durnescu, 2012).

The network of penitentiary institutions in Sweden comprises state prisons, local prisons and investigative prisons. State prisons are institutions in which convicts who are serving the punishment that exceeds one year are placed. Convicts who are considered particularly dangerous or who are prone to escaping from prison are also placed in this type of prisons. The majority of state prisons are closed institutions. Local prisons are primarily intended for the placement of convicts who are serving the sentence that does not exceed one year of imprisonment. However, other convicts, who are serving longer sentences, may be transferred to these prisons during the period that precedes their release in order to be as close to the place of their residence as possible and get prepared to solve the problems they might face after the release in the most appropriate manner. There are forty nine local prisons in Sweden and their capacities are rather small – from twenty to sixty places. They are usually organized either as open or semi-open institutions. Investigative prisons belong to closed type institutions and are intended for the placement of persons who are still in the investigative phase of criminal procedure (Stevanović, 2008). All Scandinavian prisons, including the ones in Sweden are run by the state, since there has been no momentum for their privatization yet (Pratt 2008).

There are some characteristics that can be singled out as the most remarkable features of Swedish prison system. It embraces the concept of reintegration of sentenced persons in their previous living environment. The system of execution of criminal sentences is very well organized and coordinated. There is a close link between institutional treatment, post-penal treatment or aftercare and social welfare services. Prison system is comprised of several penitentiary institutions with relatively small capacities. The classification of prisoners is highly developed and

based upon both subjective as well as objective criteria. The corrections and alterations of prisoner's behavior are directed towards the outer world and are supposed to facilitate their social reintegration. The institutions that function within regular social services are used as primary as often as it is possible (Stevanović, 2012). The treatment of prisoners and the conditions they are kept fully correspond to international standards on the rights of the persons who are deprived of liberty such as The United Nations Standard Minimum Rules for the Treatment of Prisoners⁴ and The European Prison Rules⁵.

The philosophy of sentencing that dwells upon the idea of respect of prisoner's personality and his dignity, which is present in Scandinavian countries, includes four basic principles. The first principle suggests that deprivation of liberty should be reduced solely to some exceptional cases and used as rarely as possible. The second principle, called the principle of normalization, obliges relevant state bodies to apply equal rules and preconditions for social and health care on prisoners and other citizens. The third principle or the principle of closeness or nearness requires that the prisoners should be directed and placed in the facility that is closest to their place of birth or permanent residence. And finally, the fourth principle or the principle of cooperation implies that all elements of penal system including probation services, investigative prisons and regular prisons, are expected to function in a joint and coordinated manner (Lindström & Leijonram, 2007).

In a word, the most remarkable features of Swedish penal system are humane treatment of prisoners, appropriate care for their needs and active impact on offenders' behavior with special emphasis on the respect of their human rights and personal integrity. The exceptional humanity of Swedish prisons can be illustrated through the following examples, that are present not only in that country, but in other Scandinavian countries as well. Prisoners have television sets in their cells, most cells have internal sanitation and outside of maximum-security conditions, movement within the prisons is relatively relaxed. There are also common rooms or lounges for each unit, with communal television and cooking facilities for light meals. In some prisons, select inmates are entirely self-catering. In lower-security prisons, inmates are able to go to local shops themselves for these purposes. The majority of prisoners works or receives full-time education that is well beyond remedial level and the prison authorities encourage them to study for degrees by distance education. As another illustration of the exceptional qualities of Scandinavian prisons, solarium facilities are provided in a number of closed and open prisons, because absence of sunlight in the Scandinavian winter can lead to

⁴ The United Nations Standard Minimum Rules for the Treatment of Prisoners, 30 August 1955, adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Geneva, 30 August 1955, and approved by the Economic and Social Council Resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977., [Electronic version]. Retrieved July 29, 2013, from <http://www.refworld.org/docid/3ae6b36e8.html>

⁵ Council of Europe Committee of Ministers Recommendation Rec(2006)2 to member states on the European Prison Rules, *adopted by the Committee of Ministers on 11 January 2006 at the 952nd meeting of the Ministers' Deputies* [Electronic version]. Retrieved July 29, 2013, from <https://wcd.coe.int/ViewDoc.jsp?id=955747>

serious lack of Vitamin D, which particularly affects high-security prisoners, with little freedom of movement (Pratt, 2008).

However flexible (and permissive) a prison regime is and whatever material comforts are provided, prisoners are still prisoners. There are rules, levels of surveillance, record-keeping, denials of choices, deprivations and sanctions that will differentiate any prisoner from free people. Besides, it seems that Swedish closed prisons are becoming more security conscious. In 2004, there were several prison riots due to restrictions on prisoners' gym activities and communication problems between prisoners and staff. Also, a sensational escape from one maximum-security prison in Sweden occurred, which involved guards allowing guns to be smuggled in. In spite of these occasional unpleasant events, general conclusion is that exceptional conditions in most Scandinavian prisons, including the Swedish ones, do not entirely eliminate the pains of imprisonment, but surely ease them (Pratt, 2008).

3. Treatment of Prisoners

3.1. The Prison Treatment Act

The in-prison treatment of convicts in Sweden is regulated by the provisions of The Prison Treatment Act that first entered into force on 1 July 1974, and has been amended on several occasions. But not all provisions concerning the implementation of a sentence to imprisonment are dealt with in this Act. The execution of prison sentence in some particular cases and under specific circumstances is regulated by the Act on Intensive Supervision with Electronic Monitoring adopted in 2006.

The Prison Treatment Act prescribes that Swedish prisons or prison wings shall be designated as either open or closed depending on the degree of security they afford. For the purpose of the placement of some types of prisoners, a closed wing can be converted into a security wing having special surveillance arrangements and limited association between inmates. This option refers to prisoners sentenced to at least two years imprisonment placed in a closed prison who may be kept separate from other prisoners if it can be feared that they are planning to escape or that others are planning to liberate them and separation is necessary to prevent such a plan from being carried out as well as if it can otherwise be feared that prisoners are especially likely to continue criminal activity of a serious nature. If in such cases, there is reason to suppose that the circumstances there described will last for a relatively long period, such prisoners may be placed in a security wing. Moreover, a prisoner may also be placed in such a wing if there are special reasons for supposing that this is necessary to prevent him or her from engaging in criminal activity of serious character during the stay in prison. A decision on placement in a security wing shall be reviewed as often as there is reason to do so and at least once each month. Instead of being placed in a security wing, a prisoner has the right to be kept apart from other prisoners if there are no special reasons against this because of his or her state of health, or if for security reasons it is especially important that he or she should not be placed outside a security wing (Sec. 20 and 20a).

When it comes to the actual terms of prison treatment, The Prison Treatment Act emphasizes that it has to be devised in a manner that is suitable to promote the prisoner's adjustment in society and counteract the detrimental consequences of deprivation of liberty. Prison treatment should be directed from the outset towards measures that prepare the prisoner for life outside prison insofar as this can be achieved without neglecting the need to protect the community. Furthermore, this Act also emphasizes that the prisoner must be prepared for release from prison in due time (Sec. 4). The Act highlights the importance of comprehensive and coordinated application of prison treatment in each individual case. Accordingly, it obliges relevant subjects to plan and carry out prison treatment with close collaboration between the various units of the Prison and Probation Service. Insofar as the achievement of treatment goals requires a contribution from other social bodies, the necessary collaboration shall be arranged with representatives of such bodies. It is particularly worth mentioning that the planning of a prisoner's treatment is supposed to take place in consultation with the prisoner and that the prisoner's close relatives should also be included in the process, provided that their participation can be conveniently arranged. In that way, the prisoner is given an opportunity to express an opinion on any planned measures that particularly affect him or her unless extraordinary reasons make such a course undesirable (Sec 5).

When deciding whether to place prisoners in open or closed prisons, the following circumstances must be taken into consideration. A prisoner should be placed in an open prison if no other placement is required for reasons of security or in order to allow him to undertake work, education or treatment that cannot be suitably provided in an open prison. When assessing the question of security consideration shall be given, *inter alia*, to whether there is danger that the prisoner will abscond or continue with performing criminal activities. In addition, the prisoner should ordinarily be placed in a closed prison if there is a risk that he or she may misuse drugs or in some other way deal with drugs during enforcement of sentence.

A prisoner sentenced to imprisonment for at least four years shall have the conditions for the enforcement of sentence in regard to placement in a prison and leaves or other sojourns outside the prison. If there are special reasons for doing so such conditions shall also be decided on for a prisoner sentenced to imprisonment for at least two years. Assessment of which special conditions to apply during enforcement shall be undertaken as soon as enforcement begins or otherwise as soon as the need to do so becomes apparent. The conditions shall be reviewed whenever there is reason to do so (Sec. 7). With allocation to the same type of prisons, prisoners in need of the education or treatment provided at a particular prison shall, if it is otherwise appropriate, be placed in that prison. Furthermore, efforts shall be made to ensure an allocation likely to promote a purposeful planning for release (Sec. 7a).

The Act contains special provisions pertinent to the placement of young prisoners and women. It is particularly emphasized that a prisoner under eighteen years of age may not be placed in a prison where he or she comes into contact with prisoners over eighteen years old unless this is considered to be in his or her best

interest. A prisoner under eighteen years of age must be kept separate from prisoners who can have a detrimental effect on his or her adjustment in the community. A prisoner who has attained eighteen but not twenty one years of age has to be kept separate from prisoners who can have a detrimental effect on his or her adjustment in the community, unless special reasons dictate another course of action. A prisoner who has not reached twenty one years of age and who has not been placed in an open prison shall preferably be placed in a prison with special activities for young prisoners (Sec. 8). A woman shall ordinarily be placed in a prison designated for women only. A woman may not be placed without her agreement in a prison where men are placed (Sec. 8a).

In its Second Chapter, the Prison Treatment Act provides detailed provisions pertinent to prison conditions and prisoner's rights. As a general guarantee of prisoners' human rights, it is declared that a prisoner must be treated with respect for his human dignity and with understanding for the special difficulties connected with a sojourn in prison. On the other hand, the prisoner is expected to show consideration for both prison staff and his fellow-prisoners and is obliged to obey the rules and follow the instructions given by prison staff (Sec. 9). During working hours a prisoner has the opportunity to work, receive education, engage in training or undertake vocational training or other specially arranged form of activity that seeks to counteract criminality or drug misuse, or take part in any other activity that is appropriate to enhance his or her possibilities to adjust in the community after release. A prisoner in need of psychiatric or other special form of treatment has to be provided with the possibility to receive such treatment if this can be arranged having regard to the length of stay in prison and his or her personal capacities. If possible, the application of such treatment should be conducted during working hours (Sec. 10).

In general, the participation of prisoners in various activities or occupations is obligatory. However, there are some situations when prisoners may avoid this obligation, such as receiving a pension or the presence of disability or sickness (Sec 12). Every prisoner is given opportunities for physical training that is suited to his age and state of health and an opportunity to spend at least one hour each day in the open air if no special difficulties prevent this (Sec. 13). Taking part in appropriate leisure activities is also one of prisoners' rights and they should be encouraged to develop interests that can contribute to personal development. Insofar as convenient arrangements can be made, a prisoner should have the opportunities to follow events in the outside world through newspapers, radio and television. His need for recreation should be satisfied to a reasonable extent. Where suitable arrangements can be made, a prisoner should be given opportunities to take part during leisure time in club or similar activities away from the prison that seek to promote adjustment in the community after release. For such sojourns away from the prison, conditions that are considered indispensable may be imposed on prisoners, including the requirement that the prisoner is placed under supervision. But, sojourns outside the prison may not be authorized if because of certain circumstances it can be feared that the prisoner will abscond, relapse into criminal

activity or misuse alcohol, drugs, other addictive drugs or a doping substance (Sec 14). A prisoner wishing to practice his religion in prison shall be given opportunity to do so to the extent that suitable arrangements can be made (Sec 15)

A prisoner shall be in association with other prisoners during working hours unless other provisions in this Act or the special nature of the work require otherwise. If a number of prisoners at a closed prison simultaneously refuse to carry out the work assigned to them, their association may be restricted to the extent that is unavoidably necessary having regard to the conditions at that prison. A prisoner may spend as much of his free time as he wishes in the company of other prisoners unless it follows otherwise from the provisions of this Act. At closed prisons, however, association between prisoners may be restricted if this is unavoidably necessary having regard to the conditions existing at a particular prison. Prisoners may be kept separate from each other in connection with daily rest and sleep (Sec 17). At his or her own request, a prisoner may be held separately from other prisoners if there are suitable grounds to allow this and there are no special reasons against doing so (Sec 18). A prisoner may be kept separate from other prisoners if this is necessary with regard to national security, a present danger to the life or health of the prisoner or of some other persons, or serious damage to prison property; to prevent the prisoner from influencing another prisoner to seriously disturb good order within the prison; to prevent the prisoner from helping another prisoner to gain access to intoxicating substances; to prevent the prisoner from seriously molesting another prisoner or to carry out a decision on a body examination (Sec 20). Any prisoner who is kept separate from other prisoners must be given every possible easement of the conditions of his isolation (Sec 21).

In order to maintain an acceptable level of communication with the outer world, the Act allows the prisoners to have some personal possessions and to obtain or receive books, periodicals, newspapers and other things that can provide him or her with leisure activity, to the extent that it can conveniently be arranged. In general, a prisoner may possess money or obtain goods or other things in accordance with special regulations. But, in order to prevent the smuggling of unauthorized goods, the prisoners may be banned from receiving mail other than letters or other written material without special authorization (Sec 24). Correspondence between a prisoner and a Swedish official body or an international organization that has been recognized by Sweden as competent to receive a complaint from a private individual or a lawyer shall be forwarded without being scrutinized (Sec 25). In a closed prison, letters or other mail sent to or by a prisoner may be scrutinized to determine whether they contain unauthorized objects. The mail of a prisoner held on a special wing shall always be subject to such a scrutiny. If there is reason to think that mail contains an unauthorized object or if this suspicion arises during a random examination of mail, a scrutiny of mail may also be made in an open prison (Sec 26).

A prisoner may receive visits to the extent that this can be conveniently arranged. A prisoner may not receive a visit which may jeopardize prison security or which can hinder his or her adjustment in the community or which is on some other way damaging to the prisoner or some other person. If a prisoner is kept

separate from other prisoners during the investigation of a disciplinary offence, he or she may also be refused visits to the extent that this is unavoidably necessary to ensure that the purpose of the investigation is not jeopardized. A prison official can be present during a visit if security considerations require so (supervised visit). A visit by a lawyer representing a prisoner in a legal matter is supervised only upon the request of the lawyer or the prisoner. A visit may be made conditional upon the visitor submitting to a body search or to a superficial body observation if security considerations require the application of such measures (Sec 29).

Telephone conversations between prisoners and persons outside the prison are permitted to the extent that convenient arrangements can be made for them. A prisoner may be denied a telephone call that is calculated to jeopardize prison security or that can hinder his or her adjustment in the community or is in some other way damaging to the prisoner or another person (Sec 30).

A prisoner may be granted permission to leave the prison for a short period (normal leave) to facilitate his or her adjustment in the community provided that there is no manifest danger of continued criminal activity or considerable risk of some other form of misuse of the leave. When assessing this risk special consideration is given to whether the prisoner has misused or dealt illicitly with drugs within the prison or refused to give a urine sample without a valid reason. Leave may also be granted if any other special reason appears (special leave). Both, normal and special leave may be subject to necessary conditions pertinent to the place where the leave shall be spent, an obligation to report and other requirements. If close supervision is called for, it may be stipulated that the prisoner shall be placed under surveillance during the leave (Sec 32).

A special provision of the Prison Treatment Act is dedicated to preparations during the final period of the stay in prison. In this period, which precedes the prisoner's release, the prison staff is expected to be especially focused on concrete measures that facilitate his transition to a life in freedom. In order to facilitate prisoner's social reintegration, his accommodation and occupational situation together with his or her need of support or treatment measures shall be closely examined. The aim of the examination is to ensure that the prisoner to the greatest extent possible shall have his or her livelihood arranged for, with work or in some other way, and that he or she shall be provided with accommodation. If the prisoner is in need of education, training or financial, social or medical support after release, steps shall be taken to ensure that as far as possible these needs are satisfied.

A prisoner may be granted particular sojourns away from the prison in order to reduce the risk of a prisoner relapsing into crime and in general to facilitate his adjustment in the community. These include: an activity sojourn, a treatment sojourn, a sojourn in a halfway house, an extended activity sojourn. The prerequisites for granting the prisoner a facilitating release measure must be carefully considered (Sec 54). A prisoner who is granted a facilitating release measure is obliged to be of good behavior; to abstain from using alcohol or other intoxicating substance; to give a blood, urine or breath sample in order to check whether he or she is not under the influence of alcohol or other prohibited substance; to keep the Prison and

Probation Service informed on any circumstances that are of importance for the sojourn away from the prison; to maintain contact with the Prison and Probation Service in accordance with its instructions, and to fulfill the prescriptions and conditions that are applicable to facilitating release measures (Sec 59).

A facilitating release measure shall include such conditions as are necessary for the purpose of the measure to be applied or to allow the Prison and Probation Service to exercise any necessary control. These conditions may concern: a prohibition to leave the home other than at pre-determined times; an obligation to stay within a defined geographical area; a prohibition to enter a defined geographical area or to enter into contact with a particular person; the use of an electronics device to be used in the control or any other similar conditions found to be necessary (Sec 60). The Prison and Probation Service shall control that the prisoner follows the conditions that have been imposed and in general fulfils the obligations associated with a facilitating release measure. If new circumstances so require, the Prison and Probation Service may annul or modify the conditions or impose new conditions (Sec 61). Release preparations shall be undertaken in close collaboration with the prisoner and in collaboration with the relevant administrations, organizations and individuals who are able to promote the prisoner's adjustment in the community (Sec 33).

3.2. In-Prison Treatments

In Criminological and Penological literature, the term treatment commonly refers to the manner in which the prisoners are taken care of. But treatment also represents a complex system of methods, measures and processes that are applied in order to influence the living conditions of prisoners, as well as to initiate positive changes of their personal characteristics under specific circumstances of prison isolation. The treatment includes institutional (in-prison) and non-institutional (post-prison or after-prison) re-educative measures that are applied on the perpetrators of criminal offences with the aim to enhance their social adaptation and re-socialization and enable them to accept pro-social behavioral pattern (Konstantinović Vilić & Kostić, 2006).

Swedish penal system is familiar with special measures and treatments that are intended to prevent recidivism and increase the chances of prisoners to accomplish successful social reintegration. This final step is the most essential part of the entire penal system and process of execution of a criminal sanction. However, its success depends on the results of the previous stages of re-socialization process conducted through the treatment of prisoners inside the prison walls as well as after release.

As already mentioned, Swedish prison system is organized in a manner that guarantees full respect of prisoners' human rights as declared in relevant international documents. Accordingly, the prisoners are also given the opportunity to obtain some benefit provided that they fulfill certain criteria pertinent to their behavior. This is of essential importance when it comes to finding and maintaining the motivation of both prisoners as well as staff members, lack of which may often represent key

obstacle for successful re-socialization (Nikolić, 2005). Namely, boosting motivation and motivating factors of prisoners for their post-penal reintegration represents the most important goal of all treatment programs. That is the reason why enhancing the already present motivating factors and removing the ones that have opposite effect represents a serious challenge for prison staff members. The success of this process is determined and limited by a series of factors, conditions and prison deprivations. Permissive atmosphere is considered one of the most encouraging factors since it allows the prisoners to express their individualities. Benefits, conditional release and other “rewards” for decent behavior also represent powerful factors of motivation (Nikolić, 2009). This is logical since it seems that prisons generally cannot be run by coercion. Their functioning depends on staff having a firm, confident and humane approach that enables them to maintain close contact with prisoners without abrasive confrontation (Sparks & Bottoms, 1995).

Swedish penal system is also familiar with these positive factors of improving prisoner’s motivation. The benefits that prisoners may gain depend on several factors: the type of institution they are serving their sentences in, the grade of their improvement and the prognosis of their future behavior. The system is oriented towards the most optimal method of preparation of prisoners for social reintegration after release. Accordingly, a variety of in-prison treatment programs is applied. The most common treatment programs include: prisoner’s labor, education, vocational training, leisure activities, special forms of individual and group counseling for specific categories of prisoners such as drug addicts, alcohol addicts, mentally challenged persons, persons with special needs, HIV positive prisoners, etc. The application of in-prison treatments in Swedish prisons is considered consistent and effective. It is clearly directed towards the accomplishment of goals declared in relevant legal provisions and harmonized with contemporary and innovative solutions in this field (Stevanović, 2012).

Special attention is dedicated to external and internal classification of prisoners. Classification is conducted by several diagnostic services that examine offenders’ personal characteristics, classify them according to subjective and objective criteria and direct them to those penitentiary institutions that match their expected needs in the process of re-socialization and preparation for social reintegration after release. Small capacities of penitentiary facilities (the so-called “mini prisons”) certainly represent a significant advantage when it comes to security, application of corrective programs and successful cooperation with local communities. The latter is particularly important, since community members are more likely to accept a small number of prisoners, without showing too intense resistance and negative reactions (Stevanović, 2012).

Particular pre-release measures are intended to diminish the risk of reoffending, but also to facilitate the reintegration of prisoners in their living and working environment after release. Since January 2007, the following pre-release measures are applied in Sweden: work release, care service release, half-way house and extended work release. Work release allows the prisoner to spend certain period of time during the day outside the prison facility so that he can work, participate in educational programs, professional and other organized activities. Care service

allows the prisoner to spend some time at his home or in other appropriate facilities so that he can undergo various medical or other treatments. Half way house gives prisoners the opportunity to communicate with the environment that is close to an open prison with the support and assistance of probation services and other institutions. Extended work release enables the prisoners to serve their sentence at home under intense supervision and electronic surveillance. Meanwhile, the prisoners are allowed to work, attend educational or professional programs, participate in treatments and take part in other organized activities (Decarpes & Durnescu, 2012, Lindström & Leijonram, 2007). Many prisoners who are serving short sentences in open prisons are even allowed to continue with their previous employment. For example, in one open prison near Stockholm, there is a car park for the prisoners so that they may commute to work in the morning and return in the evening (Pratt, 2008).

In all Scandinavian countries including Sweden group counseling with prisoners is organized on a regular basis in order to discuss the issues of discipline, hygiene, difficulties in adaptation, marriage difficulties, alcoholism, interpersonal relations, etc. This form of work, i.e. in-prison treatment is not based upon the self-organization of convicts but represents a form of social, psychological and psychiatric therapy (Konstantinović Vilić & Kostić, 2006).

Notable attention and a series of programs are dedicated to treatment of psychoactive substance abusers who are serving prison sentence. Only in 2006, 2200 drug addicts who were serving prison sentence participated in some kind of rehabilitation programs inside the prisons, whereas 700 prisoners were included in rehabilitation programs outside the prisons. The prisoners are frequently tested and the premises are often searched. The results of these unexpected tests and searches indicate that the majority of prisoners tend to use cannabis and amphetamines. In the past couple of years, a series of rehabilitation programs have been developed in Swedish prisons. There exist special units for providing support and assistance for prisoners who are drug or alcohol abusers and want to participate in rehabilitation programs. Other units within prisons are focused on encouraging and enhancing other prisoners to join such programs. There are also special units for different categories of prisoners, such as, for example, sexual offenders. These units realize programs that are focused on specific problems and needs of these particular categories of prisoners (Lindström & Leijonram, 2007).

4. Post-Penal Treatment

The process of prisoner's re-socialization is not supposed to end as soon as he is released from prison. On the contrary, this process is continued after the sentence has been served (Konstantinović Vilić & Kostić, 2006). Namely, after the release, former prisoners often have to overcome more serious problems and obstacles than the ones they were facing inside the prison walls, which is why post-penal treatment is necessary. Post-penal or aftercare treatment is conducted in two ways: through inner and outer assistance. The inner assistance includes advice, encouragement and guidance, whereas

the outer comprises financial support, contemporary housing, finding employment and resolving family issues (Bošković & Radoman, 2002). Comprehensive, continuous and effective aftercare programs are important for various reasons and may significantly contribute to the reduction of recidivism. Former prisoners generally tend to fear the changes that might affect their relationships with family members, friends, partners, co-workers and other members of the community, particularly if the serving of punishment lasted for a longer period of time. They often do not have adequate accommodation provided, they are unemployed, and they usually do not have anyone to rely on. However, what they fear most is the social stigma that almost inevitably follows them after the release and disables them from being accepted within the community and finding employment and legal source of income (Nikolić, 2009). Such conditions are exactly what lead a significant number of former prisoners to reoffending and re-embracing criminal pattern of behavior.

Scandinavian countries are making exceptional efforts when it comes to providing post-penal treatment through developing a network of institutions, special education of social welfare services and constant financial donations made for those purposes (Konstantinović Vilić & Kostić, 2006). Swedish system of post-penal treatments and programs fully respects the problems prisoners are facing after release. It accentuates the link between employment and re-socialization, i.e. deterrence from criminal behavior and embracing life in accordance with the law, starting from the presumption that former prisoners will not return to criminal pattern of behavior if they are provided a legal source of income through their reintegration to labor market and finding and keeping a decent job. Since 2008, the planning of enforcement of prison sentence in Sweden is conducted by a probation officer in close cooperation with officers of social welfare services, prison staff members, hospitals and representatives of other relevant institutions. During the 1980s an integrated system called "Krami" was established in Sweden. It comprises an innovative and integrated program of professional education and social skills learning intended to facilitate the reintegration to labor market of young persons in conflict with the law. This program lasts for six months, but can be prolonged up to several years in case of younger persons in need of such a treatment. The participation in the program is based upon strict respect of some basic rules. It covers four main types of activities: introduction, counseling, practical work experience and recreational activities. An important part of the program is to build the trust and confidence of young people who participate in it and to enable them to obtain working experience. The majority of the activities conducted within the program are focused on learning about the employer's demands, gaining experience and knowledge on how to find a job, etc. The primary goal of the program is to assist young people in finding the job they are interested in and to obtain knowledge and qualifications required for that particular job. Providing practical support and assistance to each of the participants also represents an important part of the program, the aim of which is to encourage young people to embrace a socially acceptable pattern of behavior, to learn to build relationships with other members of the community, to organize their own social life, resolve everyday problems and find and keep employment (Decarpes & Durnescu, 2012).

5. Conclusion

It is assumed that Scandinavian countries, including Sweden as well, have developed penitentiary systems of unique and remarkable characteristics such as: low imprisonment rate, humane prison conditions and in-prison and aftercare treatments that experts tend to describe as rather efficient and comprehensive (Pratt, 2008, Von Hoffer 2001). On the other hand, official statistics show that crime rate and recidivism rate in these countries are rather low in comparison to, for example, other European countries and the United States of America (Hughes & Wilson, 2002). Such situation might lead to the assumption that the exceptionalism of Scandinavian penitentiary systems, based upon efficient in-prison and post-penal treatments and idea of rehabilitation, could be one of the factors that contribute to successful suppression of crime in these countries, especially of recidivism (Ward, Longaker, Williams, Naylor, Rose & Simpson, 2013, Kjelsberg, Skoglund & Rustad, 2007). Moreover, it could be said that due to their humane but still efficient approach to punishment and punishing, Scandinavian countries are still managing to maintain the legitimacy of their prison systems and punishment of imprisonment in the eyes of the public, which represents one of key preconditions for their successful, safe and effective functioning.

Having in mind the fact that the Republic of Serbia is preparing for some significant changes of its normative framework in the field of execution of criminal sentences, Swedish prison system should definitely be taken into consideration as a potential role model. Namely, the Serbian Ministry of Justice and State Administration has adopted draft versions of the following documents: Law on Execution of Criminal Sentences⁶, Law on Probation and execution of Non-custodial Sanctions and Measures⁷, Strategy for the development of the system of execution of criminal sentences in the Republic of Serbia in the period between 2013 and 2020⁸ and Strategy for social reintegration and aftercare of convicts for the period between 2012 and 2015 (Joka, 2012). Planned alterations of current legislative framework are supposed to facilitate the implementation of relevant European standards in the field of execution of criminal sentences (Stevović, 2013), especially the Council of Europe Probation Rules, adopted in 2010⁹.

All of the afore-mentioned draft documents emphasize how important the application of contemporary methods is when it comes to treatment of prisoners and their successful re-socialization and social reintegration. The development and

⁶ Radna verzija Zakona o izvršenju krivičnih sankcija [Elektronska verzija]. Preuzeto 29. jula 2013, sa <http://www.mpravde.gov.rs/obavestjenje/1556/radna-verzija-zakona-o-izvršenju-krivicnih-sankcija.php>

⁷ Radna verzija Zakona o probaciji izvršenja vanzavodskih sankcija i mera [Elektronska verzija]. Preuzeto 29. jula 2013, sa <http://www.mpravde.gov.rs/files/ZAKON%20O%20PROBACIJI%2013%205-13.doc>

⁸ Radna verzija Strategije razvoja sistema izvršenja krivičnih sankcija u Republici Srbiji 2013-2020 . [Elektronska verzija]. Preuzeto 29. jula 2013, sa <http://www.mpravde.gov.rs/obavestjenje/1561/radna-verzija-strategije-razvoja-sistema-izvršenja-krivicnih-sankcija-2013-2020.php>

⁹ Recommendation CM/ Rec(2010)1 of the Committee of Ministers to member states on the Council of Europe Probation Rules, adopted by the Committee of Ministers on 20 January 2010 at the 1075th meeting of the Ministers' Deputies, [Electronic version]. Retrieved July 29, 2013, from <https://wcd.coe.int/ViewDoc.jsp?id=1575813>

application of a broad spectrum of treatments has been singled out as one of key priorities. This refers to both in-prison as well as aftercare treatments and programs. Attention is also supposed to be given to education, professional training and reintegration of prisoners into the labor market in order to provide this category of citizens a legal source of income. In that way, they are supposed to be deterred from returning to criminal pattern of behavior. In that sense, Swedish in-prison and aftercare treatments and programs, particularly the one that is conducted in association with the National Employment Service, should be perceived as excellent examples. Special accent should be placed on post-penal treatments of adult and juvenile offenders, since this part of re-socialization process has been seriously neglected in our country (Nikolić, 2009). Aftercare programs should be conducted in association and cooperation with non-governmental organizations and regular social services, just like it is done in Sweden and other developed European countries. That would minimize the pressure on the bodies within the prison system, transfer the burden of aftercare on the local level, enable the application of more flexible programs and facilitate the reintegration of former prisoners in their former living and working environment.

However, solid normative framework does not represent the only precondition for efficient suppression of crime and recidivism. It is only the first step towards the accomplishment of that goal, but certainly not the only one. When attempting to keep up with the trends set by Scandinavian countries in the area of prison standards and treatments of prisoners, one should have in mind long tradition of egalitarianism and a high level of social cohesion these countries have. One should also consider the strong impact of welfare state affecting all spheres of life, including the execution of criminal sentences. However, one must not neglect the fact that the exceptionalism of Scandinavian prison systems is not derived solely from the material aspects of welfare state, but from the attitude that these societies have towards crime, offenders, victims and punishment in general, which comprises lack of or at least a moderate and supportable level of stigmatization, prejudice and refusal of convicts and the existence of willingness to re-accept the offender and reconcile the offender and the victim in accordance with the principles of restorative justice. Such approach actually facilitates offender's re-socialization and diminishes the risk of re-offending. Contrary to old-fashioned point of view, an innovative and a more flexible approach to the execution of prison sentence and application of aftercare treatments in cooperation with local community is supposed to increase the level of public safety and minimize the rate of recidivism. This indicates that, apart from legislative reforms, the awareness of the entire society should be changed and opened for new approaches to punishment in general, particularly when it comes to imprisonment, using Scandinavian system of prisons and in-prison and aftercare treatments and programs as a valuable guideline and an excellent role model.

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7. Resume

As one of the brightest examples of Nordic welfare state and “Scandinavian Exceptionalism” in the field of imposing and execution of criminal sanctions, particularly the punishment of imprisonment and post-penal treatment, Sweden has developed a unique and effective mechanism of crime prevention and suppression of recidivism. Legislative framework pertinent to various aspects of punishment of imprisonment in Sweden includes The Penal Code and The Prison Treatment Act. Sweden is also signatory state of numerous

international documents relevant to the protection of human rights of persons deprived of liberty. Swedish prison system consists of a large number of small prisons, which enables the placement of prisoners near their home. It is based upon high level of respect of prisoner's personal integrity and human rights. Living conditions in prisons are remarkably humane including clean and healthy surrounding, comfortable accommodation, education, professional training, appropriate entertainment, and recreation, various treatments and support and contact with the outer world. Post-penal treatments are conducted in cooperation with local community and regular social services and are intended to facilitate re-socialization, with special accent on reintegration of prisoners on labor market, in order to obtain legal source of income and give up further criminal behavior. The Republic of Serbia is preparing a new legislative and institutional framework for the application of probation, alternative sentences and post-penal treatments and should perceive the Swedish solution as a potential role model, particularly when it comes to re-socialization and post-penal reintegration of offenders within the community as a key factor to the prevention and suppression of recidivism.