

APPLICATION OF ALTERNATIVE SANCTIONS IN SERBIA BETWEEN 2006 AND 2012*

Jelena Želeskov Đorić*
Ana Batrićević*

Institute of Criminological and Sociological Research, Belgrade

Normative preconditions for the introduction of modern alternative sanctions in the penal system of the Republic of Serbia were established on January 1st 2006, when current Criminal Code came into force. Since then, some alterations of relevant legislative framework have occurred and the Administration for the Enforcement of Criminal Sanctions has been making some significant efforts to implement this type of criminal sanctions as well as to improve the conditions for their application. In addition, alterations of existing national legal sources and adoption of new laws and strategic documents that would be more focused on alternative sanctions and enforcement of probation are also planned. In this paper, after brief introductory remarks on the term and importance of alternative sanctions, general statistics on the number, the structure, the release and the recidivism of persons deprived of liberty in Serbia between 2006 and 2012 are presented. After that, data on the enforcement of alternative sanctions in that period, including the number of prison staff and probation officers and other statistics pertinent to this issue are critically analyzed. Finally, in the conclusion, positive and negative aspects of the enforcement of alternative sanctions in Serbia are assessed, with special focus on the supervision of

* This paper is a result of the activities of the authors that have been conducted within the European Cooperation in Science and Technology (COST) Project Action IS1106 "Offender Supervision in Europe", which is a part of COST domain "Individuals, Societies, Cultures and Health (ISCH)".

* E-mail: jelena.zeleskov.djoric@gmail.com

* E-mail: a.batricevic@yahoo.com

*Zbornik IKSI, 1/2013 – J. Želeskov Đorić, A. Batrićević
„Application of alternative sanctions in Serbia between 2006 and 2012”,
(str. 111-129)*

offenders, and ideas and suggestions for future development and improvement of this field in our country in accordance with international standards are proposed.

KEY WORDS: alternative sanctions / deprivation of liberty / offenders / prisoners / supervision

INTRODUCTORY REMARKS

Significant changes in penal legislation of the Republic of Serbia occurred on January 1st 2006, when a set of new laws and sub-legal documents, pertinent to substantial criminal law, criminal procedure, execution of criminal sanctions and juvenile delinquents, came into force. This set of legal provisions includes: Criminal Code of the Republic of Serbia, Code of Criminal Procedure, Law on Execution of Criminal Sanctions and Law on Juvenile Perpetrators of Criminal Offences and Criminal Legal Protection of Juveniles as well as appropriate sub-legal documents, such as rules and regulations, that arrange some of the issues mentioned in the laws in a more detailed manner.

Prior to that moment, Serbian penal legislation was familiar with some forms of alternative sanctions for adult offenders such as: judicial admonition, confiscation of driving license, fine and conditional sentence. However, normative framework establishing preconditions for the functioning of a modern system of community or alternative sanctions was set in 2006, when punishment of community service was introduced. Another step towards the improvement of alternative sentencing in Serbia was made in 2009, when amendments of law on execution of criminal sentences and criminal code were made. Application of alternative sanctions was further enhanced through the adoption of the Strategy on the minimization of over-population of institutions for the execution of criminal sanctions in the Republic of Serbia for the period between 2010 and 2015¹, which recommended alternative sanctions as one of the most efficient means to achieve the decrease in the number of prisoners and reduce over-population of penitentiary institutions. The most important of these sanctions – so called house prison or enforcement of prison sentence in the premises where the sentenced

¹ Strategija za smanjenje preopterećenosti smeštajnih kapaciteta u zavodima za izvršenje krivičnih sankcija u Republici Srbiji u periodu od 2010. do 2015. godine, "Službeni glasnik RS", br. 53/2010.

person lives, with or without electronic surveillance, actually represents a special modality of execution of prison sentence and was introduced to Serbian legislation in 2009. However, its enforcement did not begin until 2011, when all necessary legislative and practical preconditions and requirements for its execution were met.

It is also worth mentioning that, in spite of being prescribed by the law, post-penal treatment and supervision of offenders has not been conducted in our country. Namely, the Law on the Enforcement of Criminal Sanctions does oblige relevant state bodies to provide assistance to former prisoners on their way to rehabilitation and social reintegration, but insufficient number of correction service offices and staff members still represent a serious obstacle for its adequate and efficient fulfillment. Correction service offices have been established in seven cities in Serbia and more are expected to be established. Moreover, some pioneer projects of non-governmental organizations participating in the conduction of post-penal treatments have been launched, but they still have not managed to become a part of regular practice. The results of these efforts are still to be assessed.

The adoption of new Law on Execution of Criminal Sanctions² was accompanied by the adoption of two sublegal acts, necessary for its implementation: Regulation on the enforcement of conditional sentence with protective supervision³ and Regulation on the enforcement of community service⁴. These legal documents regulate the duties and obligations of officer in charge of supervision of convicted person in a detailed manner. The Officer performs his duties within the Probation Service Office, which is about to become an independent service functioning under the auspices of Ministry of Justice and Public Administration. The main task of this service is to enforce the decisions of judiciary bodies, to improve public safety and to enhance social reintegration of former prisoners. The Probation Officer is nominated by the director of the Administration for the Execution of Criminal Sanctions in accordance with the proposal of Head of the Department for Treatment and Alternative Sanctions. When selecting a Probation Service Officer, the needs and personal characteristics of the convicted person must be taken into consideration. The Officer is empowered to supervise the convicted person, establish and maintain regular contacts with him, to cooperate with relevant judiciary bodies,

² Zakon o izvršenju krivičnih sankcija "Službeni glasnik RS", br. 85/2005, 72/2009 i 31/2011.

³ Pravilnik o izvršenju uslovne osude sa zaštitnim nadzorom, "Službeni glasnik RS", br. 20/2008.

⁴ Pravilnik o izvršenju kazne rada u javnom interesu, "Službeni glasnik RS", br. 20/2008.

police officers, employers and other institutions, organizations and associations, as well as to require and obtain data contained in official records and other documents pertinent to the enforcement of conditional sentence or community service

At the moment, there are altogether 45 Probation Officers employed at Probation Service Office. They are highly educated (predominantly in the field of special pedagogy, psychology and social work) and have a lot of practical experience when it comes to working in penitentiary institutions and dealing with convicted persons. In addition, all Probation Officers passed through a one-day training organized by the Department for Treatment and Alternative Sanctions. The cooperation and communication between the Officers and the Department for Treatment and Alternative Sanctions are maintained on a daily basis, particularly if any problems appear and need to be resolved during the actual enforcement of alternative measures.

Although normative preconditions for the enforcement of alternative or community sanctions in Serbia were created in the period between 2006 and 2011, our country is about to face another legislative reform in the field of execution of criminal sentences and post-penal treatment in order to achieve harmonization with the European standards and enable full and appropriate implementation of Recommendation CM/ Rec (2010) 1 of the Committee of Ministers to member states on the Council of Europe Probation Rules, adopted on 20 January 2010⁵. Accordingly, four draft versions of documents have been created and are about to be adopted and, hence, obtain legal force: 1) Strategy of the development of the system of execution of criminal sentences in the Republic of Serbia in the period between 2013-2020⁶, 2) Law on the Execution of Criminal Sanctions⁷, 3) Law on the probation of execution of non-custodial sanctions and measures (i.e. Law on Probation)⁸ and 4) Strategy for social reintegration and acceptance

⁵ 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, <https://wcd.coe.int/ViewDoc.jsp?id=1575813>, 14.10.2013.

⁶ See: <http://www.mpravde.gov.rs/obavestenje/1561/radna-verzija-strategije-razvoja-sistema-izvršenja-krivčnih-sankcija-2013-2020.php>, 14.10.2013.

⁷ See: <http://www.mpravde.gov.rs/obavestenje/1556/radna-verzija-zakona-o-izvršenju-krivčnih-sankcija.php>, 14.10.2013.

⁸ See: <http://www.mpravde.gov.rs/files/ZAKON%20O%20PROBACIJI%2013%205-13.doc>, 14.10.2013.

of sentenced persons for the period between 2012 and 2015⁹. All these draft documents dedicate significant amount of attention to the issue of offender supervision through the course of enforcement of various alternative or community sentences and measures, as well as during the period of the application of post-penal treatments and programs.

Offender supervision is particularly important in the enforcement of probation which, according to Draft Law on probation includes: 1) supervision of the fulfillment of obligations in accordance with public prosecutor's decision to delay criminal prosecution, 2) supervision of the fulfillment of obligations derived from plea bargain agreement, 3) supervision of the execution of ban to leave one's apartment with or without electronic surveillance, 4) supervision of the execution of ban to approach, meet or communicate with a particular person, 5) organization, enforcement and supervision of community service, 6) protective supervision in case of conditional sentence, and 7) supervision of the execution of prison sentence in the premises where the convicted person lives, 8) supervision of conditionally released prisoners and 9) post-penal support and assistance. These activities are supposed to be performed by a special organizational unit in charge of treatment and Alternative Sanctions, within the Administration for the execution of criminal sentences (that functions under the auspices of the Ministry of Justice and Public Administration). The unit should function through a network of local probation offices employing probation officers and other staff-members and cooperating with other relevant state bodies and civil sector representatives, particularly non-governmental organizations who provide post-penal treatment services.

A comprehensive network of Probation Service Offices that would cover the entire territory of the Republic of Serbia is due to be established by the end of 2015.

PERSONS DEPRIVED OF LIBERTY IN SERBIA – GENERAL OVERVIEW

Statistical data on the total number of adult persons that were deprived of liberty in the period between 2006 and 2012 give us some more

⁹ See: Joka, D. (Ed.) (2012). 2011 Annual Report on Prison Administration work, Ministry of Justice of the Republic of Serbia, Administration for Enforcement of Penal Sanctions, Belgrade 84-85. and Alternativne sankcije, Bilten, br. 3/2012, Ministarstvo pravde Republike Srbije – Uprava za izvršenje krivičnih sankcija, Beograd, 2013.

Zbornik IKSI, 1/2013 – J. Želeskov Đorić, A. Batričević
„Application of alternative sanctions in Serbia between 2006 and 2012”,
(str. 111-129)

detailed information about the structure of the convicted persons by sex as well as by the type of release.

In 2006 more than 12.000 persons were deprived of liberty, more than 5.600 were convicted, less than 2.000 persons were detained and 132 persons were punished for minor offences. Most of the prisoners and re-offenders were male, while a small number of female offenders were convicted. The highest number of prisoners was released by fully served sentence – 3.879, than prisoners who were released on parole – 1.561, while almost 1.516 prisoners were released with other type of release in 2006. Unfortunately, data for the staff in treatment sector in penal institution were not available.¹⁰

In 2007 total number of adult persons deprived of liberty included more than 8.700 prisoners, convicted 6.240, treatment measures 228, and detained more than 2.000 and 158 who were punished for minor offences. There were more than 6.000 men and 189 women who were convicted. Re-offenders were mainly men (7.700 prisoners) who committed re-offending. The total number of prisoners who were released in 2007 was more than 7.000 persons. Those with fully served sentence were more than 4.000, whereas on parole were almost 1.800 persons. Pardoned, sent to other countries, escaped, deceased or suspended of sentence were less than 1.500. Also, there were no data for staff employed in treatment service.¹¹

With regard to statistical data, in 2008 the total number of adult persons deprived of liberty was almost three times larger than in two previous years, with the total number of 32.671 persons. Most of the prisoners were convicted for crimes (14.214) or detained (12.086), while 6.093 prisoners were punished for minor offences. Again, the total number of male prisoners was almost ten times larger than the number of female prisoners. Less than one third of the total number of prisoners was released, precisely 4.508 persons, by fully served sentence, 1.423 prisoners were released on parole and 1.335 persons were pardoned, escaped, sent to other countries or suspended. Unfortunately, there are no available data about the number of staff employed in treatment service in that period.¹²

¹⁰ Marić, B. (Ur.). (2007). Izveštaj o radu uprave za izvršenje krivičnih sankcija u 2006. godini, Ministarstvo pravde Republike Srbije, Uprava za izvršenje krivičnih sankcija, Beograd.

¹¹ Joka, D. (Ed.) (2008). 2007 Annual Report on Prison Administration work, Ministry of Justice of the Republic of Serbia, Administration for Enforcement of Penal Sanctions, Belgrade.

¹² Joka, D. (Ed.) (2009). 2008 Annual Report on Prison Administration work, Ministry of Justice of the Republic of Serbia, Administration for Enforcement of Penal Sanctions, Belgrade.

In 2009, the total number of adult persons deprived of liberty included more than 10.000 persons. Most of them were convicted for crimes (7.463) or detained (2.601), while almost 500 persons were punished for minor offences or treatment measures were imposed on them. More than 8.700 persons committed re-offending and most of them were men. According to the available data, more than 7.000 prisoners were released, most of them by fully served sentence (4.173), on parole (1.674) and with other type of release (1.380). For the first time, data pertinent to the functioning of treatment service were available in the report. The total number of full time employed staff in penal institution included 3.408 persons. However, only, 213 persons were employed in the treatment service, which is almost ten times less than the total number of employees in other services.¹³

The data for 2010 give us similar information as the ones collected and published for 2009. The total number of persons deprived of liberty included almost 11.000 prisoners, from which 7.167 persons were convicted for crimes, 3.332 were detained, 242 were imposed treatment measures and 221 were punished for minor offences. Re-offenders were mainly men, whereas only 239 women committed re-offending. The recidivism rate was very high, more than 70%, which represents significant information when discussing the quality of post-penal treatment and the application of alternative sanctions in our country. Almost 8.000 persons were released, mainly by fully served sentence (more than 5.500 persons) and almost 1.800 persons were released on parole. Finally, it can be agreed that available data about the number of full time employed staff in the treatment service do not create an optimistic picture. Namely, the total number of staff employed in penal institution services was 3.538, whereas only 233 persons were employed in the treatment service. Having in mind the high rate of re-offending on one side and the number of persons employed in the treatment service on the other, we must consider this fact as one of the most important limitations for the efficient application of alternative sanction in Serbia.¹⁴

Statistical data for 2011 and 2012 show that around 11.000 persons were deprived of liberty¹⁵, most of them were convicted for crimes (nearly

¹³ Godišnji izveštaj o radu Uprave za izvršenje krivičnih sankcija za 2009. godinu, <http://www.uiks.mpravde.gov.rs/lt/articles/izvestaji/>, 09.07.2013.

¹⁴ Joka, D. (Ed.) (2011). 2010 Annual Report on Prison Administration work, Ministry of Justice of the Republic of Serbia, Administration for Enforcement of Penal Sanctions, Belgrade.

¹⁵ See also: Redovan godišnji izveštaj Zaštitnika građana za 2011. godinu, Zaštitnik građana, Beograd, 2012., [http://www.ombudsman.rs/attachments/Redovan%20godisnji%20izvestaj%](http://www.ombudsman.rs/attachments/Redovan%20godisnji%20izvestaj%202011.pdf)

70%), one third of them were detained, whereas a small number of prisoners were punished for minor offences or imposed treatment measures. More than 70% of re-offenders and convicted persons were men, and most of them were released by fully served sentence in both years. Only 4 persons were early released in 2012. A significant number of prisoners in 2012 was pardoned, sent to other countries, suspended of sentence, amnestied or deceased. The data about staff employed in penal institution services for both years are very similar. In 2011 the total number of full time employed persons was 395 employees in all institutional services, and only 88 persons were employed in the treatment service. In 2012, there were 333 employees, from which only 73 persons were employed in the treatment service. To summarize, the total number of persons employed in the treatment service in penal institutions in Serbia in the last few years is not satisfactory, particularly in the context of the extremely high recidivism rate of 70%.

OFFENDER SUPERVISION IN SERBIA FROM 2006 TO 2012

Since initial normative preconditions for the implementation of some alternative sanctions that include offender supervision (such as community service) in the Republic of Serbia were created at the beginning of 2006, when a set of new laws regulating various aspects of penal law was adopted, there are no available statistics that would depict the quality of offender supervision in this period, because its implementation did not start at the moment when the law came into force, but a bit later, due to time-consuming and preparations for its implementation. In addition, legislative framework pertinent to other alternative sentences and offender supervision was adopted later-via the amendments made in 2009 and 2011, which means that data on their enforcement is exposed in reports adopted in 2010, 2011 and 2012. Implementing of the system of alternative sanctions, i.e. community work and suspended sentence with protective supervision in 2007 represents a continuation of activities from the previous year, which was primarily focused on rounding-off the legislative framework for enforcement of these sanctions and creating and educating a team of

[20Zastitnika%20gradjana%20za%202011%20godinu.pdf](#), 10.07.2013. and Redovan godišnji izveštaj Zaštitnika građana za 2012. godinu, Zaštitnik građana, Beograd, 2013., http://www.ombudsman.rs/attachments/2766_Godi%C5%A1nji%20izve%C5%A1taj%20a%C5%A1titnika%20graana%20za%202012%20godinu.pdf, 10.07.2013.

commissioners who would directly monitor the enforcement of these sentences.

In January 2007 a selection was made of 15 commissioners from institutions in Belgrade that otherwise cover the territory of the District Court in Belgrade where the first phase of implementing alternative sanctions will be carried out. For this group of commissioners the Council of Europe Office in Belgrade organized three seminars where experts from countries with an established system of alternative sanctions presented their experiences and knowledge that is imperative for effective enforcement of these sanctions. Concurrent with the education of commissioners a working group was formed in collaboration with the OSCE Mission to Serbia tasked with designing the professional profile of commissioner, defining the training program for commissioners and drafting the text of the Rules for Enforcement of Community Sanctions and the Rules for Enforcement of Suspended Sentence with Protective Supervision.¹⁶

All these activities were successfully realized as well as two study visits focusing on a learning experience regarding the manner of realization of these sanctions in developed enforcement systems. In 2007 the Council of Europe actively cooperated with the Prison Administration in the implementation of a three -year project funded by CIDA. In the course of the year a total of 22 activities were carried out, with an aim to raise the level of knowledge on relevant European standards, improve the juvenile enforcement system, improve the system of complaints and oversight, and assist the Prison Administration in introducing the system of alternative sentencing.¹⁷

In March 2008, the Prison Administration set up Commissioners' Service within the Department for Treatment and Alternative Sanctions. Accordingly, in July 2008 the Ministry of Justice of the Republic of Serbia provided premises for operational work of the service within the building of the Judiciary Center in Belgrade. In April 2008 the first course for advanced training of commissioners was initiated within the project. The course was attended by 15 future commissioners, to whom the local experts presented the legal and organizational framework of the Commissioners' Service, while representatives of the Prison Administration of the Republic of Croatia presented the practical and operational

¹⁶ Joka, D. (Ed.), (2008). 2007 Annual Report on Prison Administration work, Ministry of Justice of the Republic of Serbia, Administration for Enforcement of Penal Sanctions Belgrade.

¹⁷ Ibid.

aspects and everyday work of the Croatian Commissioners' Service. Within the same project, in August 2008 the OSCE Mission to Serbia signed an agreement with the Probation Service of the Kingdom of the Netherlands, stipulating the engagement of experts of the Dutch probation service in the education of their Serbian colleagues. In the period between September 2008 and June 2009 they held lectures at the courses organized in order to enable an advanced training of Serbian commissioners. In the period from September to November 2008, the OSCE Mission to Serbia organized two in the series of eight courses for commissioners led by the trainer of the Dutch probation service. The courses were predominantly focused on the characteristics of the system of alternative sanctions as well as on the methodology of operation of probationary officers in the Netherlands. During the courses, foreign trainers presented the use of various diagnostic tools and instruments that would be of key importance for everyday work of future commissioners with convicted people.¹⁸

In October 2008, the OSCE Mission to Serbia organized an important study visit to the Probation Service of the Kingdom of the Netherlands for representatives of the Commissioners' Service with the intention to provide them an insight into the methodology of enforcement of alternative sanctions in the Netherlands, in the Groningen regional center, and the seat of the Probation Service in Amsterdam. The group for the study visit included the Head of Department for Treatment and Alternative Sanctions of the Prison Administration, coordinator for alternative sanctions and four commissioners in the Commissioners' Service, as well as two representatives of the OSCE Mission to Serbia. The group was also given the opportunity to visit the Forensic Psychiatry Clinic in Groningen, and used that occasion to learn about the enforcement of community service during the visit to the University Health Center in Groningen and a welfare foundation in Leeuwarden. Upon the completion of the Training Program for judges and prosecutors on alternative sanctions in cooperation with the Council of Europe Office to Belgrade, trainers for future courses for judges and prosecutors in Belgrade courts and prosecutor's offices were selected among the participants. In November and December 2008 together with the Judiciary Center the OSCE Mission to Serbia organized the initial three out of ten planned courses. These courses were attended by the total of

¹⁸ Joka, D. (Ed.) (2009). 2008 Annual Report on Prison Administration work, Ministry of Justice of the Republic of Serbia, Administration for Enforcement of Penal Sanctions, Belgrade.

sixty Belgrade judges and prosecutors. Each course covered four topics: comparative legal framework, judiciary and prosecutorial aspects of alternative sanctions and the system of alternative sanction enforcement, i.e. the role and operation of the Commissioners' Service.

In July 2008, in cooperation with the Prison Administration the OSCE Mission to Serbia organized a round table entitled as "Establishment of the System of Alternative Sanctions in the Republic of Serbia". The course was attended by over fifty judges, prosecutors, and other legal experts, as well as officials from the Ministry of Justice purpose of the system of alternative sanctions, comparative legal review of alternative sanctions and probation, legislative framework for implementation of alternative sanctions, presentation of the role, mission and vision of the Commissioners' Service, and presentation of the program for advanced training of judges and prosecutors in alternative sanctions.

Furthermore, in September 2008, the OSCE Mission to Serbia hired a PR agency to conduct a comprehensive campaign to promote alternative sanctions in the professional community and among the general population, since alternative sanctions are a new concept in Serbia. One of the basic and very important strategic aims of the campaign is cooperation with the media. Accordingly, soon after the campaign was launched, the agency organized the first meeting for selected representatives of the media to provide the basic information on the system of alternative sanctions. Visit of the representatives of the media to the penal -correctional facility in Padinska Skela was also organized.

The office of the Commissioners' Service was officially opened in November 2008. The ceremony was attended by a large number of officials and representatives of the media. This resulted in numerous articles and news packages on national televisions in a very favorable light, both in respect to the Commissioners' Service and alternative sanctions as a concept. In late 2008 the effects of campaign were very good: from September to December 2008 the total of 89 media reports of alternative sanctions were recorded; 65 newspaper articles, and 24 news packages on national televisions. All these communications provided accurate and timely information to the public, conveying a positive attitude to alternative sanctions. This is of essential importance for the successful enforcement of alternative sanctions because these sanctions include offender's staying outside the prison facility and dwelling within the local community. Lack of local community's support, citizen's negative attitude towards the offenders serving community sentences and the stigmatization

of these offenders would undermine all the efforts to implement alternative approach to sanctioning in Serbia. That is the reason why positive media reports and constant raising of awareness on the issue were given such high priority and a significant position in the report.

During the course of 2009 the number of alternative sanctions imposed included: 42 court decisions with pronounced sentence to community service and 14 suspended sentences with protective supervision. With the support of OEBS and The Netherlands Embassy in Belgrade, six Centers for alternative sanctions were open in Subotica, Nis, Novi Sad, Leskovac and Kragujevac. Alternative forms of sanctioning were promoted in the Republic of Serbia continuously over the year together with continuous training of civil servants planned to be assigned to posts of coordinators of future alternative sanctions offices. A study visit to the Probation Service of the Kingdom of the Netherlands was organized as a part of this training. Seminars on administration of alternative forms of sanctioning were run again for judges and prosecutors in Novi Sad, Subotica, Niš and Kragujevac. In addition to the Alternative Sanctions Office in Belgrade, similar offices have also commenced their work in Novi Sad and Subotica. Good results of cooperation with local self-governments contributed to increased interest in faster implementation and administration of alternative sanctions in other towns, as well. A Memorandum of Understanding was signed on the level of the Ministry of Justice and Town Assemblies of Sombor and Šabac. Continuous cooperation and contacts with representatives of towns with which such memoranda were signed last year contributed to increase the interest in this form of sanctioning and proper appreciation of wider use of alternative sanctions all over the country. Prerequisites for opening of the alternative sanctions offices have also been provided in Niš, Kragujevac and Valjevo.¹⁹

In the course of the year the Prison Administration received 80 rulings pronouncing the sentence of community service and 3 pronouncing suspended sentence with protective supervision. Sentences pronounced on the territory of jurisdiction of the Higher Court in Belgrade (13 sentences), Novi Sad (2 sentences) and Subotica (11 sentences) were enforced as follows: 3 sentences of suspended sentence with protective supervision were successfully carried out in Belgrade sentences pronounced in previous years) and 10 sentences of community service; in the Novi Sad

¹⁹ Godišnji izveštaj o radu Uprave za izvršenje krivičnih sankcija za 2009. godinu, <http://www.uiks.mpravde.gov.rs/lt/articles/izvestaji/>, 09.07.2013.

Office 2 sentences of community service were successfully completed and currently realization of 2 old suspended sentences with protective supervision is in progress; in the Subotica Office 5 sentences of community service were successfully completed and realization of 6 more is ongoing.

In September 2010 the Rulebook on Enforcement of Prison Sanction in the Premises of Prisoner's Home was adopted. It is a necessary requirement for the implementation of yet another form of alternative sanctioning in our judiciary system. Within the preparations for enforcement of prison sentence in the form of home confinement and in concert with article 45 paragraph 5 of the Penal Code of the RS the Prison Administration mounted and tested the necessary equipment, and all necessary procedures and accompanying documentation have been elaborated at the Department for Treatment and Alternative Sanctions. In this period enforcement of two sentences is currently in progress requiring the convicted persons to serve their prison sentence without leaving the premises of their place of residence (home confinement), without electronic monitoring.²⁰

In 2011 continual activities towards the promotion of alternative types of punishment in the Republic of Serbia have been strong, seminars and meetings were organized at different levels, attended by proponents of judiciary functions, especially in towns where new offices for alternative sanctions were established. During 2011 offices in Nis, Valjevo, Sombor and Kragujevac were also established. For that reason, permanent training of public servants involved in the realization of the alternative sanctions was necessary. Administration for the enforcement of criminal sanctions received 388 court decisions with pronounced sentence to community service and 21 court decisions on suspended sentence with protective supervision. Out of this number, 99 sentences to community service were realized successfully, and four suspended sentences with protective supervision. Enforcement of one suspended sentence with protective supervision was suspended because the sentenced person was committed to serve his prison sentence and it will be resumed after the latter would be enforced. Disproportion in the number of received and realized such court decisions occur because these sanctions are enforced only in towns with functioning offices for alternative sanctions (Belgrade, Novi Sad, Subotica, Valjevo, Nis, Sombor and Kragujevac). On 31 December 2011 realization of 30 sentences to community service and of 6

²⁰ Joka, D. (Ed.) (2011). 2010 Annual Report on Prison Administration work, Ministry of Justice of the Republic of Serbia, Administration for Enforcement of Penal Sanctions, Belgrade.

suspended sentences with protective supervision is in progress. Until now, 70 prison sentences in the premises where the convicted persons live have been realized successfully, using electronic surveillance, and 18 sentences were realized without the use of electronic surveillance. Only in one case, because of the violation of the treating program provisions, court decision ordering the prison sentence to be enforced without leaving the premises where the convict lives, was altered.²¹

Along with final decisions, the enforcement of restriction measure prohibiting sentenced persons to leave the apartment or place of residence started. In one case, pursuant to court decision this measure was suspended and more stringent detention measure was pronounced. On 31 December 2011 the realization of 34 sentences to home custody without electronic surveillance is in progress, as well as of 158 sentences to home custody with electronic surveillance. On December 31, 2012, the total number of enforced community service was 32, and 18 suspended sentences with protective supervisions were imposed. Since 2011, the Administration has been enforcing prison sentence without leaving the premise where the convicted persons live (in accordance with Article 45, paragraph 4 of the Criminal Code of the RS and article 174 a-e of the Law on enforcement of criminal sanctions), and the measure of house arrest imposed against the accused persons.²²

At the beginning of 2012, the new system for electronic surveillance was set in place and the equipment was received as donation of the EU. In the course of 2012, 538 prison sentences were successfully enforced in the premises where convicted person lives accompanied by the electronic surveillance and 82 sentences were enforced without electronic surveillance, also 20 measures of house arrest were imposed against the convicted persons. On December 31, 2012, 46 house arrests without the electronic surveillance were realized, as well as 228 house arrests accompanied by the electronic surveillance and 20 measures against the convicted persons were imposed.²³

²¹ Joka, D. (Ed.) (2012). 2011 Annual Report on Prison Administration work, Ministry of Justice of the Republic of Serbia, Administration for Enforcement of Penal Sanctions, Belgrade.

²² Ibid.

²³ Števović, M. (Ed.) (2013). 2012 Annual Report on Prison Administration work, Ministry of Justice and Public administration of the Republic of Serbia, Administration for Enforcement of Penal Sanctions, Belgrade.

GENERAL CONCLUSIONS

The system of alternative sanctions was introduced to the legal system of the Republic of Serbia on January 1st 2006, when current Criminal Code of the Republic of Serbia came into force. However, community sanctions and measures that belong to this type of criminal sanctions are still not being applied in the scope that would be compatible with the structure of offenders in our country. In numerous cases, alternative sanctions and measures are not applied due to the fact that there are no necessary objective preconditions for their efficient practical implementation in all geographic areas. So, even if offender's personal characteristics, type of the offence committed and other relevant circumstances indicate that the application of an alternative sanction or measure would be appropriate or suitable, the application of these sanctions may be left out in the cities or municipalities where probation services have not yet been established. Namely, the network of probation service offices has not yet been fully developed and there are still areas in which probation service offices still need to be founded. Besides, the efficiency and effectiveness of the implementation of alternative sanctions, including various forms of supervision, are jeopardized by the fact that the number of probation staff members is insufficient to cover the growing number of cases in which alternative sanctions should be imposed.

Correct implementation of European probation standards requires intensive rising of public awareness on the importance and advantages of alternative sanctions, particularly when it comes to the suppression of recidivism. Accordingly, an effort should be made to change the existing ideological concept of punishment in our country, which is out of date and incompatible with contemporary solutions. The changes affecting the sphere of state reaction to crime must be accompanied by changes in the way that state and public perceive the importance, scope, possibilities and advantages of alternative sanctions in the context of crime prevention, protection of the rights and interests of perpetrators and victims, their families and the entire community. This can be achieved through media campaigns, scientific research and conferences, lectures and other forms of education designed to minimize the stigmatization of offenders and encourage the society to give them "a second chance" and through constant cooperation between state and civil sector.

ACKNOWLEDGEMENT

This paper was supported by COST Action IS1106 "Offender Supervision in Europe".

REFERENCES

- (1) Alternativne sankcije, Bilten, br. 3/2012, Ministarstvo pravde Republike Srbije – Uprava za izvršenje krivičnih sankcija, Beograd, 2013.
- (2) Bajović, V. (2009) Sporazum o priznanju krivice, *Revija za kriminologiju i krivično pravo*, 47 (3), str. 335-339.
- (3) Bejatovic, S. (2010) Krivično procesno zakonodavstvo i prevencija kriminaliteta. *Revija za kriminologiju i krivično pravo*, 48 (3), str. 33-61.
- (4) Godišnji izveštaj o radu Uprave za izvršenje krivičnih sankcija za 2009. godinu, <http://www.uiks.mpravde.gov.rs/lt/articles/izvestaji/>, 09.07.2013.
- (5) Ignjatović, Đ. (2010) Kritička analiza stanja i tendencija u krivičnom izvršnom pravu Srbije. *Crimen*, 1 (2), str.168-201.
- (6) Ilić, A. (2011) Mogući načini rešavanja problema prenaseljenosti zatvora u Republici Srbiji, *Zbornik Instituta za kriminološka i sociološka istraživanja*, 30 (1-2).
- (7) Joka, D. (Ed.) (2008) 2007 Annual Report on Prison Administration work, Ministry of Justice of the Republic of Serbia, Administration for Enforcement of Penal Sanctions, Belgrade.
- (8) Joka, D. (Ed.) (2009) 2008 Annual Report on Prison Administration work, Ministry of Justice of the Republic of Serbia, Administration for Enforcement of Penal Sanctions, Belgrade.
- (9) Joka, D. (Ed.) (2011) 2010 Annual Report on Prison Administration work, Ministry of Justice of the Republic of Serbia, Administration for Enforcement of Penal Sanctions, Belgrade.
- (10) Joka, D. (Ed.) (2012) 2011 Annual Report on Prison Administration work, Ministry of Justice of the Republic of Serbia, Administration for Enforcement of Penal Sanctions, Belgrade.
- (11) Jovašević, D. (2013) Rad u javnom interesu – teorija, praksa, zakonodavstvo, *Zbornik radova Pravnog fakulteta u Nišu*, 64 (1), str. 15-32.
- (12) Konstantinović Vilić S., Kostić, M. (2011) *Sistem izvršenja krivičnih sankcija i penalni tretman u Srbiji*, Niš: Centar za publikacije Pravnog fakulteta.
- (13) Marić, B. (Ur.), (2007) Izveštaj o radu uprave za izvršenje krivičnih sankcija u 2006. godini, Ministarstvo pravde Republike Srbije, Uprava za izvršenje krivičnih sankcija, Beograd.

- (14) Mrvić-Petrović, N. (2006) Alternativne sankcije i novo zakonodavstvo Republike Srbije. *Temida*, 9 (1), str.55-59
- (15) Mrvić-Petrović, N. (2010) Alternativne krivične sankcije u državama balkanskog regiona u V. Čolović. (ur) *Pravo zemalja u regionu*. Beograd: Institut za uporedno pravo.
- (16) Pravilnik o izvršenju kazne rada u javnom interesu, "Službeni glasnik RS", br. 20/2008.
- (17) Pravilnik o izvršenju uslovne osude sa zaštitnim nadzorom, "Službeni glasnik RS", br. 20/2008.
- (18) Radna verzija Strategije razvoja sistema izvršenja krivičnih sankcija u Republici Srbiji 2013-20120.,
<http://www.mpravde.gov.rs/obavestjenje/1561/radna-verzija-strategije-razvoja-sistema-izvršenja-krivicnih-sankcija-2013-2020.php>, 05.07.2013.
- (19) Radna verzija Zakona o izvršenju krivičnih sankcija,
<http://www.mpravde.gov.rs/obavestjenje/1556/radna-verzija-zakona-o-izvršenju-krivicnih-sankcija.php>, 08.07.2013.
- (20) Radna verzija Zakona o probaciji izvršenja vanzavodskih sankcija i mera,
<http://www.mpravde.gov.rs/files/ZAKON%20O%20PROBACIJI%2013%205-13.doc>, 08.07.2013.
- (21) 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,
<https://wcd.coe.int/ViewDoc.jsp?id=1575813> , 09.07.2013.
- (22) Redovan godišnji izveštaj Zaštitnika građana za 2011. godinu, Zaštitnik građana, Beograd, 2012.,
<http://www.ombudsman.rs/attachments/Redovan%20godisnji%20izvestaj%20Zastitnika%20gradjana%20za%202011%20godinu.pdf>, 10.07.2013.
- (23) Redovan godišnji izveštaj Zaštitnika građana za 2012. godinu, Zaštitnik građana, Beograd, 2013.,
http://www.ombudsman.rs/attachments/2766_Godi%C5%A1nji%20izve%C5%A1taj%20za%C5%A1titnika%20graana%20za%202012%20godinu.pdf, 10.07.2013.
- (24) Soković, S. (2009) Između zatvora i uslovne osude – intermedijarne sankcije, *Revija za kriminologiju i krivično pravo*, 47 (3), str. 183-196.

- (25) Soković, S. (2011) Savremene globalne tendencije u kontroli kriminaliteta (karakteristike, perspective i osvrt na domaće prilike). *Crimen*, II (2), 212-226.
- (26) Stevanović, Z. (2012) Ostvarivanje ideje o izgradnji probacionog sistema u Srbiji. *Revija za kriminologiju i krivično pravo*, 50 (3), str. 87-103.
- (27) Stevanović, Z., Igrački, J. (2013) Sistem probacija u Evropi – iskustva koja treba koristiti u S. Bejatović. (ur) *Nova rešenja u kaznenom zakonodavstvu Srbije i njihova praktična primena*. Beograd: Srpsko udruženje za krivičnopravnu teoriju i praksu.
- (28) Stevanović, Z., Igrački, J. (2013) Usklađenost primene alternativnih krivičnih sankcija u Srbiji sa Evr opskim standardima u L. Kron i A. Jugovic (ur) *Kriminal, državna reakcija i harmonizacija sa Evropskim standardima*. Beograd: Institut za kriminološka i sociološka istraživanja.
- (29) Stevović, M. (Ed.) (2013) 2012 Annual Report on Prison Administration work, Ministry of Justice and Public administration of the Republic of Serbia, Administration for Enforcement of Penal Sanctions, Belgrade.
- (30) Stojanović, Z. (2009) Opravdanost i dometi alternativnih krivičnih sankcija i alternativnih formi postupanja, *Revija za kriminologiju i krivično pravo*, 47 (2), str. 21-40.
- (31) Stojanović, Z. et al. (2009) *Alternativne krivične sankcije i pojednostavljene forme postupanja*, Beograd : Srpsko udruženje za krivičnopravnu teoriju i praksu, Udruženje javnih tužilaca i zamenika javnih tužilaca Srbije.
- (32) Strategija za smanjenje preopterećenosti smeštajnih kapaciteta u zavodima za izvršenje krivičnih sankcija u Republici Srbiji u periodu od 2010. do 2015. godine, "Službeni glasnik RS", br. 53/2010.
- (33) Tanjević, N. (2011) Ka evropskim trendovima u kaznenoj politici: alternativne sankcije u Srbiji, *The alternative sanctions in Serbia. Revija za bezbednost*, 5(2), str. 125-139.
- (34) Važić, S. (2009) Skraćeni krivični postupak u S. Beatović. (ur) *Pojednostavljene forme postupanja u krivičnim stvarima i alternativne krivične sankcije*. Beograd: Srpsko udruženje za krivičnopravnu teoriju i praksu.
- (35) Zakon o izvršenju krivičnih sankcija "Službeni glasnik RS", br. 85/2005, 72/2009 i 31/2011

PRIMENA ALTERNATIVNIH SANKCIJA U SRBIJI IZMEĐU 2006. I 2012. GODINE

Normativni preduslovi za uvođenje modernih alternativnih sankcija u kazneni sistem Republike Srbije uspostavljeni su 1. januara 2006. godine, kada je na snagu stupio važeći krivični zakonik. Od tada su se desile i određene izmene relevantnog zakonskog okvira, a Uprava za izvršenje krivičnih sankcija je činila značajne napore da implementira ovaj tip krivičnih sankcija, kao i da unapredi uslove za njihovu primenu. Pored toga, izmene postojećih nacionalnih pravnih izvora i usvajanje novih zakona i strateških dokumenata koji bi bili više fokusirani na alternativne sankcije i primenu probacije su takođe planirani. U ovom radu, nakon sumarnih uvodnih napomena o pojmu i značaju alternativnih sankcija, predstavljene su opšti statistički podaci o broju, strukturi, otpustu i povratu lica lišenih slobode u Srbiji između 2006. i 2012. godine. Nakon toga, kritički su analizirani podaci o izvršenju alternativnih sankcija, uključujući i broj zatvorskog osoblja i poverenika i druge statističke podatke koji se odnose na tu problematiku. Konačno, u zaključku je izvršena procena pozitivnih i negativnih aspekata izvršenja alternativnih sankcija u Srbiji, a posebnim fokusom na nadzor prestupnika, a predložene su i ideje i sugestije za budući razvoj i poboljšanja u ovoj oblasti u našoj zemlji u skladu sa međunarodnim standardima.

KLJUČNE REČI: alternativne sankcije / lišenje slobode / prestupnici / zatvorenici / nadzor