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COMMUNITY SERVICE: EXPERIENCES AND CHALLENGES OF IMPLEMENTATION IN THE REPUBLIC OF SERBIA IN THE 2015-2020 PERIOD¹

The dual nature of the community service makes this punishment, on the one hand, an effective mechanism for reducing the overcrowding of penitentiaries, while at the same time enabling effective rehabilitation and reintegration of convicts, through contribution to the local community. Despite the fact that Serbia has been facing the problem of overcrowding of prisons for a long time, and that the punishment of work in the public interest, although in different modalities, has been recognized

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for decades as one of the key mechanisms for addressing this problem, the pioneer attempts to address this problem have started fifteen years ago. The adequate preconditions to increase a share of the community service in the total number of the imposed criminal sanctions were created by the amendments to the legal framework in 2014. With this in mind, in this paper, the authors present the results of the application of the community service, collected as part of a comprehensive impact assessment research on the application of alternative sanctions and measures in the Republic of Serbia in the 2015-2020 period. The basis for the conclusions presented in this paper are founded on the basis of the data collected by triangulation of quantitative and qualitative research methods and analysed from the perspective of the efficiency, effectiveness and sustainability of the existing system. The paper also defines a set of recommendations for improving the normative framework and its application in practice and assesses their compatibility with the measures envisaged by the Strategy for the Development of the System of Execution of Criminal Sanctions for the 2021-2027 period.

Key words: criminal sanctions, execution of criminal sanctions, penology, alternative sanctions, non-institutional sanctions, community service.

1. Non-custodial, but not non-institutional sanctions

As the individual liberty is one of the most fundamental of human rights, recognized in international human rights instruments and national constitutions throughout the world. Therefore, governments have a duty to justify the use of imprisonment as necessary to achieve an important societal objective for which there are no less restrictive means with which the objective can be achieved. Imprisonment should not be taken for granted as the natural form of punishment, since it has been shown to be counterproductive in the rehabilitation and reintegration of those charged with minor crimes, as well as for certain vulnerable populations (United Nations Office on Drugs and Crime, 2007: 3-4). In addition to various deprivations of the prisoners' liberty, social and economic rights, being an expensive measure, this penalty requires significant efforts of the state administration to organize its enforcement in a manner which does not hamper human dignity of prisoners.

Being the most important sources of the international standards in the field, the Tokyo Rules (United Nations Standard Minimum Rules for Non-custodial

Measures, UN GA Res. 45/110 of 14 December 1990.) list a wide range of non-custodial sanctions and measures that involve some punitive elements even in cases when precede and/or substitute criminal proceedings: (a) Verbal sanctions, such as admonition, reprimand, and warning; (b) Conditional discharge; (c) Status penalties; (d) Economic sanctions and monetary penalties, such as fines and day-fines; (e) Confiscation or an expropriation order; (f) Restitution to the victim or a compensation order; (g) Suspended or deferred sentence; (h) Probation and judicial supervision; (i) A community service order; (j) Referral to an attendance centre; (k) House arrest; (l) Any other mode of non-institutional treatment; (m) Some combination of the measures listed above (Bishop, 1998: 42).

However, the organization and the application of alternatives to prison should be done in a manner that is not only efficient, but also guarantees the low level of deprivations compared with the prison. This requires solid normative framework, strong institutional organization as well as a vibrant and innovative interinstitutional cooperation on the national, but also on the local level. Preferably, alternative sanctions should bring additional benefits to victims and/or society. The choice of the sanction with the prevalence of the restorative character to a victim or a society is highly dependent on the very nature of the crime committed. For crimes committed against public order, there is a hardly better alternative to the prison sentence, than the community service.

Born in England and Wales, and widely implemented in Portugal, France, Norway, the Netherlands (to compare the alternative sanctions in the Netherlands and in Serbia see: Tešović, 2021: 67-94) and Finland, this sanction has proven a number of its positive effects in practice, both- as a stand-alone sanction, but also the sanction to accompany the main sanction (Grujić, 2016: 294). In the Western Balkans region, this sanction has been introduced during the 1990s.

2. Alternative sanctions in Serbia

2.1. The normative and the institutional framework

Serbia does not have a long tradition in terms of the application of alternative sanctions in the meaning of how they been applied in the western legal community for decades. However, the last 15-year period has brought some important developments. The 2005 Law on the Execution of Criminal Sanctions (LECS)² (Official Gazette of RS, no. 85/05) has introduced provisions that regulate the

2 Law on the Execution of Criminal Sanctions, *Official Gazette of RS*, no. 85/05.

execution of community service and execution of suspended sentences with protective supervision, and in 2011, the Law amending the Law on the Execution of Criminal Sanctions has introduced provisions that regulate the execution of imprisonment without leaving premises where the convict is residing, and the application of electronic monitoring towards the convict (Kolaković-Bojović, Batrićević, Matić, 2022: 10-11).

Guided by the need to ensure institutional setup for enforcement of alternative sanctions (and non-custodial sanctions and measures in general), the Department for the Execution of Criminal Sanctions (hereinafter referred to as DECS) started establishing probation offices as far back as in 2009, and practice has shown a need for the adoption of more precise provisions that would better regulate the implementation of alternative sanctions so that their execution is more efficient, applicable to a wider extent, and that all the advantages of this type of sanctioning were shown in full, whereby an equal treatment of criminal offenders across the whole territory of the RS was enabled.³ A special Law on the Execution of Non-Custodial Sanctions (LENCS)⁴ was adopted in 2014. By its adoption, it was created the normative preconditions for establishing an institutional framework and the significantly wider use of non-custodial sanctions and measures.⁵

In addition to the procedural aspects of the enforcement of every individual alternative sanction, LENCS rules the competences of the Probation Service. Therefore, pursuant to Article 3 of the LENCS, the enforcement jobs are performed by an organisational unit competent for alternative sanctions (hereinafter referred to as: Probation Service), within the DECS,⁶ within which probation offices for the area of territorial jurisdiction of one or more higher courts are formed, whereby the local jurisdiction of a probation office is determined accord-

3 Analysis of the effects of the law (Annex to the 2014 Draft Law on Enforcement of Non-Custodial Sanctions and Measures), <http://vs3836.cloudhosting.rs/misljenja/791/ana/Analiza%20efekata%20Nacrta%20zakona%20o%20izvršenju%20vanzavodskih%20sankcija%20i%20mera.pdf>, accessed on 25.11.2021.

4 Law on the Execution of Non-Custodial Sanctions, *Official Gazette of RS*, no. 44/14 and 87/18.

5 Non-custodial sanctions and measures (hereinafter referred to as: NCSM), whose enforcement is governed by the LENCS, are as follows: deferral of criminal prosecution according to a decision of the public prosecutor; prohibition to leave the dwelling; prohibition of approaching, meeting or communicating with a person; imprisonment sentence in the premises where the convicted person resides; community service; suspended sentences with protective supervision; release on parole with supervision; providing assistance to a person after the completed imprisonment sentence; preventing the commission of crimes against sexual liberty towards minors.

6 It is obvious in the definition given in such a way that the legislator did not resist the above-mentioned terminological confusion either.

ing to the place of residence or temporary residence of the person involved in the enforcement. “In performing jobs in their competence, probation offices cooperate and exchange information with state authorities, scientific institutions, local community authorities, associations and other institutions of relevance for the performance of their jobs. A probation office may hire experts and other persons for the performance of jobs within its competence, in line with the law” (Article 3, paragraphs 4-5 of the LENCS). In addition to the LENCS, the competence and proceeding of probation officers in 25 probation offices established in the RS according to the areas of the higher courts are also regulated in more detail with the Rulebook on the Manner of Performance of Non-custodial Sanctions and Measures and the Organisation and Work of Probation Officers (RMPNSMOW-PO) (Kolaković-Bojović, Batričević, Matić, 2022: 11).

2.2. Community service

The main normative framework of the community service sentence is provided in the Article 52 of the Criminal Code which rules that the community service may be imposed for criminal offences punishable by imprisonment of up to three years or a fine. It defines community service as any socially beneficial work that does not offend human dignity and is not performed for profit.

When it comes to the sentence duration, the CC limits it to not be less than sixty hours or longer than three hundred and sixty hours. Community service lasts sixty hours during one month and will be performed during a period that may not be less than one month or more than six months.

The CC also provides that, in pronouncing this penalty, the court shall give consideration to the purpose of the punishment, take into account the type of committed criminal offence, the personality of the perpetrator and their readiness to perform community service. Community service may not be pronounced without the consent of the offender. If the offender fails to perform a number of or all the hours of community service, the court shall replace this penalty with a term of imprisonment by calculating every eight hours of community service as one day of imprisonment. If the offender fulfils their obligations in respect of community service, the court may reduce the pronounced duration of community service by one quarter.

Enforcement of the community service is ruled by arts. 38-42 of LENCS. While Art. 38 provides for the obligation of the court to submit the executive decision, with the data on the identity of the convicted person obtained during the

criminal proceedings, to the Commissioner's Office within three days from the day when the decision became enforceable, Art. 39 rules that such a community service must not endanger the health and safety of the convict. The same provision limits the circle of the legal entities entitled to include the convict person in their activities to legal entities engaged in activities of public interest, especially humanitarian, health, environmental or communal activities, that concluded agreement on cooperation with DECS. The choice of the company, but also type of work and work program is determined by the commissioner. All convicts serving the community service have insurance ensured by DECS.

The Commissioner will inform the court and the Commissioner's Office about the beginning and end of the execution of a sentence of work in the public interest. Also, the Commissioner will submit a report to the court and the Trustee Service on the circumstances that significantly affect the implementation of the program. (art. 40 of LENCS)

The convict is obliged to perform the work under the community service within the prescribed time and in the manner determined by the program. If the convict is justifiably prevented from fulfilling the obligations envisaged by the program⁷, he is obliged to inform the Commissioner and the employer about it no later than within 24 hours from the occurrence of the reason for the impediment. If during the performance of the community service circumstances arise that require a change in the manner of performing work in the public interest, the Commissioner shall inform the court and the Commissioner's Office. (art. 41 of LENCS, art. 13 of RMPNSMOWPO)

According to the art. 12 of the RMPNSMOWPO, upon receipt of the court decision on the imposed sentence of work in the public interest, the Commissioner invites the convict in writing to assess the appropriate work engagement in relation to his personal characteristics, social and family circumstances, health, ability, education, expertise and employment. If the convict does not respond to the two letters of invitation, the Commissioner shall inform the competent court.

Art. 13 of RMPNSMOWPO rules the very procedure of introducing the convict to the enforcement of the community service. Namely, the Commissioner informs the convict in a simple and understandable way about the purpose of

⁷ The work program contains: personal data of the convict, data on the criminal offense and the sentence imposed in the public interest, data on the frequency of contact between the Commissioner and the convict, data on the convict's work engagement (beginning of work, place of work, type and scope of work), name and surname the employer who directly monitors the work of the convict and the deadline for completion of the sentence of work in the public interest. (Art. 13 of RMPNSMOWPO)

performing work in the public interest and his obligations, program and consequences of non-fulfilment of obligations, which the convict confirms by signing a statement that he is aware of his rights and obligations.

The commissioner personally acquaints the convict with the representative of the employer and acquaints the representative of the employer with the data on the convict that are important for the performance of work. The commissioner informs the employer about the obligation to keep records of hours worked, which he will submit to the competent commissioner upon completion of work.

The LENCS also authorizes the Commissioner to timely propose in writing to the court to reduce the duration of the sentence by one quarter if the convict fulfils all his obligations related to the community service. (art. 42 of LENCS)

Contrary, if the Commissioner, based on the notification of the employer's representative, finds that the convict grossly neglects his work obligations during the implementation of the program, he will interview the convict, give him the necessary advice and warn him of the consequences of such actions. If the convict continues to grossly neglect his work obligations even after the warning, the Commissioner will inform the court and the Commissioner's Service, stating the facts, circumstances and reasons. (art. 43 of LENCS)

For further information about the application of community service in Belgrade, Serbia as an example depicting key challenges and issues in this field see: Želeskov-Đorić, Batrićević, Petrović, 2015: 185-196.

3. The scope and the methodology of the research

As previously explained the results on the community service implementation are collected as a part of the broader research custodial sanctions and measures in the Republic of Serbia from 2015 to 2020, conducted by the expert team of the Institute of Criminological and Sociological Research⁸ during the June-December 2021 period. In order to go further than previous analysis (Ristić, Brkić, 2017: 47-62; Spasojević, Janković, Kovačević, 2018; Spasojević, 2021; Tešović, 2020) in the field, but also to build upon them, the assessment is directed towards the following aspects of application of the non-custodial sanctions and measures:

- The scope and structure of court decisions on alternative sanctions and measures and their implementation in the period from 2015 to 2020, i.e., trends in im-

8 The Team comprised of Milica Kolaković-Bojović, PhD, Senior Research Fellow, Ana Batrićević, PhD, Senior Research Fellow and Marina Matić Bošković, PhD, Research Fellow.

posing NCSMs and their influence on the general trends in the system for the enforcement of criminal sanctions (statistic parameters);

- Analysis of the institutional framework for the enforcement of NCSMs, including the administrative capacities and technical equipment of the Probation Service (quantitative and qualitative parameters);
- The detailed analysis of the application of individual non-custodial sanctions and measures, taking into account normative solutions of applicable provisions of the Criminal Code, Law on the Execution of Criminal Sanctions, and the Enforcement of Extra-Institutional Sanctions and Measures Act, problems with enforcement, and identification of the best practices. This part of the analysis included the community service;
- Analyses of the impacts of the implementation of laws, in relation to the objectives and prediction of influences defined by the authorised proposer of the LENCS, in line with the Law on the Planning System of the Republic of Serbia⁹ with accompanying bylaws.¹⁰ The aim of this part of the analysis was to check relevance, efficiency, effectiveness and sustainability of the existing legislative and institutional framework, but also to provide a clear input for the policy makers and their future interventions in the system;

As a result of the conclusions based on the findings from the research, the expert team developed a list of recommendations for improvement of the system of non-custodial sanctions and measures (Kolaković-Bojović, Batrićević, Matić, 2022: 12-13).

The research methodology involved the application of both- quantitative and qualitative methods, including desk analysis of the secondary sources, which encompassed the available secondary material and included the existing analyses, reports and scientific research relevant for the topic; quantitative analysis¹¹, which

9 Law on the Planning System of the Republic of Serbia, *Official Gazette of RS*, no. 30/18.

10 Regulation on the Methodology of Management of Public Policies, Analysis of the Effects of Public Policies and Rules, and on the Contents of Individual Documents of Public Policies, *Official Gazette of RS*, no. 8/2019.

11 Data within the quantitative analysis includes the following sources: Statistical Office of the Republic of Serbia (SORS), which includes data on the number and structure of imposed non-custodial sanctions and measures, their territorial distribution and prevalence in relation to crimes for which they were imposed; Supreme Court of Cassation (SCC) available within the statistics of the operation of courts of general jurisdiction in the Republic of Serbia, which includes data on trends in the number of criminal cases on an annual level on the territory of the whole RS, and by the areas of all four appellate courts; Data on the basic and higher courts on the territory of RS in relation to the number and structure of decisions that imposed the following non-custodial sanctions

encompassed the processing of available statistical data on the imposition and enforcement of non-custodial sanctions and measures, including data on the share of alternative sanctions in the total number of imposed sanctions, their structure, territorial distribution and trends in the observed period. Statistical data relevant for the institutional framework and administrative capacities and the qualitative analysis, for the implementation of which questionnaires were developed for probation offices, along with protocols for expert interviews with relevant professionals in the area of the judiciary and the system for the enforcement of criminal sanctions, and quantitative data had been collected.

4. Findings

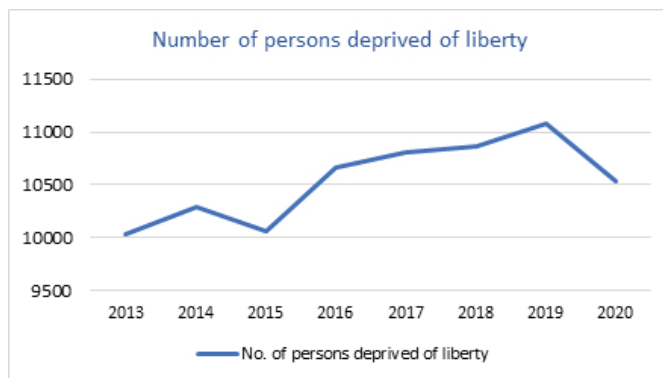
4.1. Enforcement of penal sanctions in Serbia: the current state of play

A multiannual very high incarceration rate of 159.9 compared to the European average of 103.2 at the end of 2019, places Serbia in the group of states that require continuous and comprehensive intervention in order to reduce the rate of persons deprived of liberty (Aebi, Chopin, 2016).

and measures in the observed period, on which records are kept at SORS: suspended sentences with protective supervision, house detention with or without electronic monitoring, house arrest with electronic monitoring, and obligations for release on parole; Data of the Republic Public Prosecutor's Office (RPPO) available in the annual reports on the operation of the RPPO, which includes data on the total number, structure and territorial distribution of obligations by which the deferral of the criminal prosecution is conditioned, in line with Article 283 paragraphs 1-2 of CPC (conditioned opportunity); Data from the Department for the Execution of Criminal Sanctions (DECS), which includes general data on the system for the execution of criminal sanctions (trends in the number and structure of persons deprived of liberty in the observed period, rates of incarceration, the structure of persons deprived of liberty based on the deprivation of liberty) as well as data related immediately to the enforcement of non-custodial sanctions and measures, including the number and structure of non-custodial measures submitted for enforcement on an annual level, trends relating to non-custodial sanctions and measures individually, and data on the capacities of probation offices and data on the signed agreement between DECS and public enterprises.

Data collection for the qualitative part of the analysis included: The production and distribution of a questionnaire for probation offices. The expert team fully complied with all the requirements of the authorised person in the DECS for the modification and adjustment of the questionnaires before their distribution to probation officers (through the Chief of the Enforcement Department at the DECS). The above-mentioned adjustment process implied *inter alia* singling out a set of questions from the questionnaire for probation officers into a separate questionnaire intended for the Head of the Probation Service; Expert interviews with judges, court presidents, deputies to the public prosecutor, employees in court registers, probation officers, and the current and former heads (chiefs) of the Probation Service in the Department for the Execution of Criminal Sanctions.

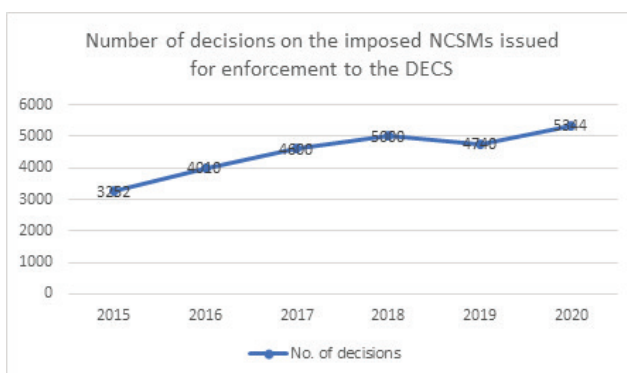
Graph 1. Total number of persons deprived of liberty per year



Wider use of the non-custodial sanctions and measures and further investments in the prison infrastructure have confirmed their positive influence in this field, as it has been well recognised in the Serbian policy framework adopted in the last decade¹², particularly having in mind the overcrowding of penitentiaries (see more: Đorđević, 2015: 75-91).

When it comes to the general indicators of the results achieved so far in the application of non-custodial sanctions and measures (NCSMs) in 2015-2020 point to the existence (except for 2019) of a positive trend, whereby the share of alternative sanctions in 2020 was 16.5% compared to the total number of the executed criminal sanctions, a significant increase compared to 2016 when it was 9.7%.

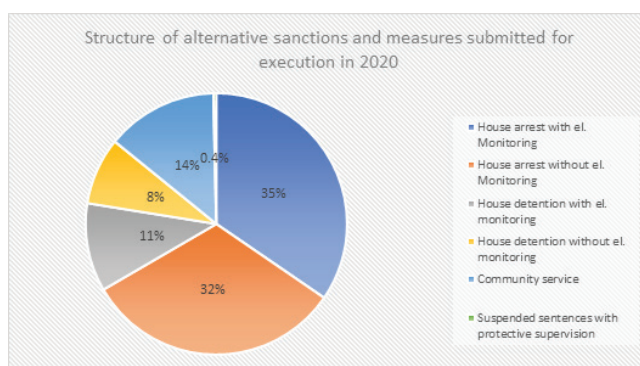
Graph 2. Trend of the use of alternative sanctions in the 2015-2020 period (Kolaković-Bojović, Batrićević, Matić, 2022: 18)



12 Strategy for the development of the system for the enforcement of criminal sanctions until 2020, *Official Gazette of RS*, no. 114/13, Strategy for reducing overcrowding in institutions for enforcement of criminal sanctions in the Republic of Serbia until 2020, *Official Gazette of RS*, no. 43/17.

When it comes to the structure of the imposed NCSMs, not counting special obligations that condition the deferral of criminal prosecution, house arrest with the use of electronic monitoring is dominating, followed by house arrest without electronic monitoring, then community service and home detention with or without electronic monitoring. Suspended sentences with protective supervision occur only sporadically, whereby house arrest with or without electronic monitoring, with 35% and 32% respectively, accounts for almost 70% of all NCSMs; community service makes 14%, house detention with the use of electronic monitoring 11%, house detention without the use of electronic monitoring 8%, and suspended sentences with protective supervision do not even reach half a percentage point (Kolaković-Bojović, Batričević, Matić, 2022: 16-19).

Graph 3. Structure of imposed alternative sanctions in the 2015-2019 period



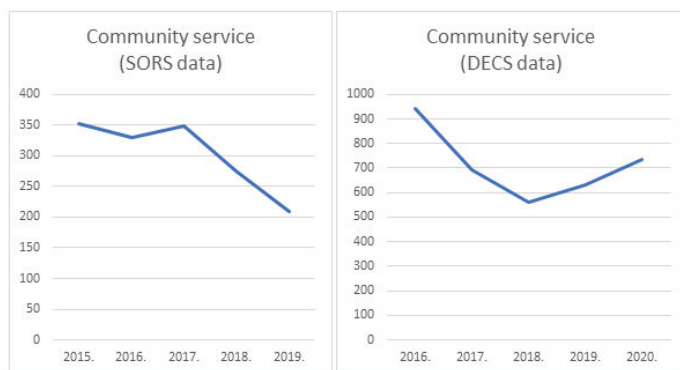
This data shows that the above-mentioned grow of the share of alternative sanctions from 9.7% to 16.5% is mostly associated to the application of the house arrest (with or without electronic monitoring, while the application of the community service is still underdeveloped.

4.2. *Community service in practice* – *achievements and challenges*

As previously explained, in attempt to comprehensively assess impact of the current legislative and institutional set up on the application of the community service in practice the ICSR research team combined quantitative and qualitative methods and analysed SORS statistics on pronouncing this sanction in the 2015-2019 period, statistics obtained from the DECS on decisions delivered for execution in the 2016-2020 period, statistics from the additional questionnaire

intended for the Chief of the Department for the enforcement of Non-Custodial Sanctions and Measures, as well as the attitudes of probation officers expressed in questionnaires and interviews.

Graph 4. Trends in the application of community service (SORS and DECS data)

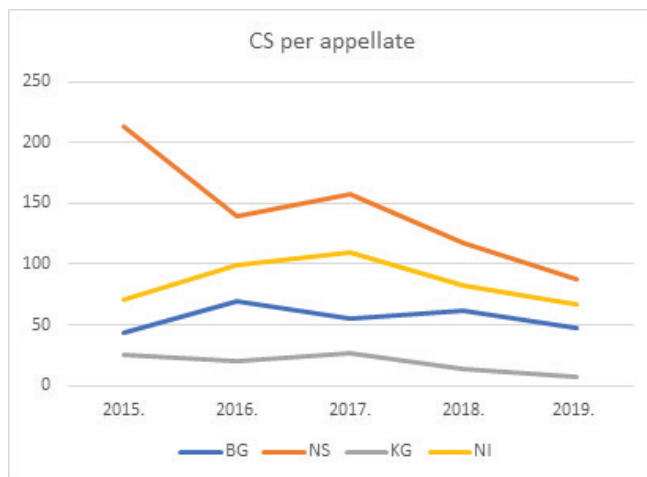


Even at the first glance on the general data on the community service, it is obvious that data from the DECS shows approximately triple values compared to that provided by the SORS based on court data. Explanation of this difference is seen in the aggregate expression of data on community service (hereinafter CS), pronounced in criminal and misdemeanour proceedings. Bearing this in mind, the SORS data is authoritative for the relation of criminal courts to CS, whereas the DECS data is relevant for perceiving the capacities for enforcement. Besides, one should also take into account that the information on enforcement, mainly with respect to trends in pronouncing, are shown with a year's delay. Bearing this in mind, a negative trend in pronouncing CS was noticeable starting from 2017, whereas based on the data by the DECS, it can be seen that the situation changed for the better in 2020 (Kolaković-Bojović, Batrićević, Matić, 2022: 39).

In addition to the general data, when it comes to the territorial dispersion of the decisions on the community service, based on the organisation (territorial jurisdiction) of appellate courts, in the 2015-2018 period, the Novi Sad appellate was obviously the leader concerning pronouncing community service sanctions as 3 to 5 times as many SC sanctions were pronounced in the area of this appellate, compared to the remaining three. This trend is not so strange, having in mind that the courts from the territorial jurisdiction of Novi Sad Appellate Court are usually the most open to test innovative practices and initiatives. Meanwhile,

courts in the jurisdiction of the Kragujevac Appellate Court, in the observed period, rarely opted for the community service, which has resulted, together with the declining trend prevalent in the territory of the RS, in only 7 CS sanctions pronounced by courts within this appellate court area, compared to 87 pronounced by courts within the Novi Sad appellate, in the same year.

Graph 5. Trends in pronouncing community service per appellate (SORS data)

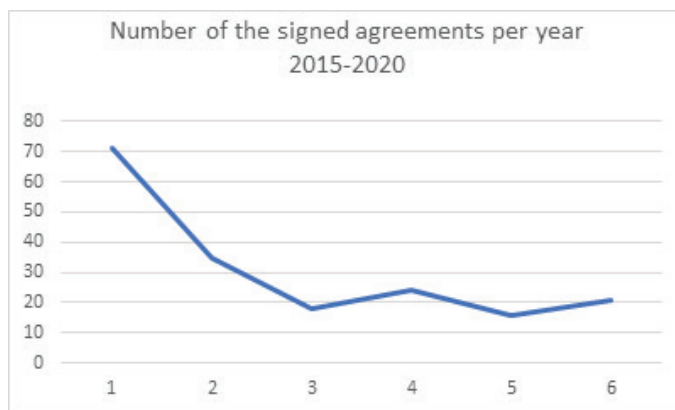


Beyond the normative, and the aspects relevant for the court decisions imposing the community service, even more important is the issue of the challenges in the enforcement of this sanction. This has been also confirmed through the qualitative analysis, where judges said that their decision (not) to impose community service is largely dependent on the capacities for and the practices in the enforcement of the community service. Some of them also said that judges should not make this choice on the basis of the situation in the enforcement sector, but confessed that they cannot ignore the risk that the sanction possibly may not been (at all or adequate enforced).

In attempt to explain the patterns, gaps and challenges associated to enforcement as referred by judges, the research team distributed questionnaires to commissioners, but also to the former and the current head of the Probation Service, as well as a ten follow up interviews with the commissioners.

The buzzword of the qualitative analysis was “cooperation”. Namely, the success of this exercise is largely dependent of the partnership with numerous public enterprises throughout the territory of the RS. According to data obtained from the DECS, 185 such agreements were signed in the observed period.

Graph 6. Agreements between Prison DECS and the public enterprises
2015-2020 period



Although this information seems encouraging on first sight, what is worrying is the fact that the number of newly signed agreement has been low in recent years. Of course, it is not out of logic to sign the most of the agreements in the initial period in order to ensure the start of the implementation. However, this numbers should be increased, not only to increase the number of the potential DECS partners, but also to ensure more variety in available enforcement programs.

Additional reason for concern is the uneven geographic allocation of the signed agreements, whereby most are in the area of AP Vojvodina, as many as 124, or 67% of the total number of the signed agreements. This puts a new light on the poor availability of the basic conditions for the community service enforcement at the territory south of Belgrade.

The ICSR research team explored also the structure/type of work done in the scope of the community service. The utility activities are dominating in the data provided by probation officers, followed by activities of health and welfare protection institutions, while environmental activities appear only sporadically. The reasons for this could be found in the legislative framework which allows only agreements between DECS and public enterprises, which *per se* restricts the possible choice of the work and therefore efficient application of the community service sanction (Kolaković-Bojović, Batrićević, Matic, 2022: 40).

Beyond the restrictions associated to the number of the agreements and the type of the work, an important source of challenges could be found in the quality of cooperation between the Probation Service and public enterprises with which

agreements have been signed. Here it is important to mention a sort of discrepancy between the quantitative and the qualitative assessment of such cooperation given by commissioners. Namely, 10 probation officers scored this cooperation as good, 8 as satisfactory, 3 probation officers said the quality of cooperation varies depending on which legal entity is involved, and 1 probation officer said they do not have any opinion about that. Differently from the overall positive quantitative assessment, as of the normative framework s of the cooperation, the quality analysis given in their interviews shed a bit different light and brought a plenty of problems at the table. They especially pointed out the issue of the frequent changes in the management structure of the enterprises, which humpers all attempts to ensure sustainable understanding of the very purpose and importance of the community service on their side. Thus, they point to the existence of a need to organise meetings with representatives of employers and management of the enterprise more frequently, to prevent prejudice within management structure in term of the working arrangements concerning convicted persons.

In addition to the already explained challenges, commissioners explained the existence of a series of practical, specific problems, mostly associated to the usual working hours of the public enterprises. Namely, if a convicted person needs to exercise his/her obligation within community service, but needs some flexibility in terms of the working hours, being already employed, this will be mostly impossible due to the limited working hours of the public enterprises (mostly does not work in the afternoon).

They also mentioned a lack of efficient mechanism in cases when convicted person avoids to start enforcement of the sanction, since the Criminal Code does not recognise properly this situation.

Another serious problem is identified mostly in the small towns where there are serious challenges to ensure proper implementation and the monitoring of the community service. Namely, people mostly know each other which frequently results in a misconduct, where there is a formal record on the community service done, but without real presence/work of the convicted person. The commissioners emphasized that there is a lack of accountability in such cases.

Also, the commissioners noticed that frequently there is no efficient communication between Probation service and the enterprises in cases when a convicted person breaches their obligations and therefore further actions are needed.

Finally, the commissioners claim a lack of administrative capacities of the Probation Service, where commissioners are overburden by administrative work and struggling to deal with the workload, but also with the huge backlog.

5. Conclusions

Despite the numerous benefits for the offender, for the system of the enforcement of criminal sanctions and for the society at large, the community service sanction remains underdeveloped at the legislative level, but even more in practice. The lack of interinstitutional cooperation, poor mechanisms of accountability and almost publicly invisible information on this mechanism and all the benefits it can bring, prevent from the wider application in practice.

Considering this it seems that one of the most effective measures to address possible challenges will be to establish teams at the local community level, with the participation of representatives of the judiciary, probation officers, representatives of local self-governments, employer associations, chambers of commerce, public enterprises and other relevant entities, with the purpose of improving cooperation concerning the enforcement of community service, as well as its wider application and promotion in the local community.

In addition to fostering this interinstitutional dialogue, there is a non-disputable need to work on raising the general public's awareness with regard to the benefits of community service for an individual and the community as a whole.

Finally, amendments to the existing legislative framework, but also continuous strengthening the administrative capacities of the Probation Service should be used to address above identified challenges.

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RAD U JAVNOM INTERESU: ISKUSTVA I IZAZOVI PRIMENE U REPUBLICI SRBIJI U PERIODU OD 2015. DO 2020. GODINE

Dvostruka priroda rada u javnom interesu čini ovu kaznu, s jedne strane, efikasnim mehanizmom smanjenja prenaseljenosti zavoda za izvršenje krivičnih sankcija, dok istovremeno omogućava efikasnu rehabilitaciju i reintegraciju osuđenih lica, kroz doprinos lokalnoj zajednici. Uprkos činjenici da se Srbija duži vremenski period suočava sa problemom prenaseljenosti ustanova za izvršenje krivičnih sankcija, kao i da je kazna rada u javnom interesu, iako u različitim modalitetima, već decenijama prepoznata kao jedan od ključnih mehanizama adresiranja ovog problema, a pionirski pokušaji primene započeli pre petnaestak godina, tek izmenama zakonskog okvira iz 2014. godine, stvoreni su adekvatni preduslovi za povećanje njene zastupljenosti. Polazeći od pomenutih pretpostavki, autorke u radu predstavljaju rezultate primene kazne rada u javnom interesu, prikupljene u sklopu sveobuhvatne procene uticaja primene alternativnih sankcija i mera u Republici Srbiji u periodu od 2015. do 2020. godine. Autorke zaključke zasnivaju na podacima prikupljenim triangulacijom kvantitativnih i kvalitativnih istraživačkih metoda, sagledavajući ih iz ugla relevantnosti važećih zakonskih rešenja, kao i efikasnosti, efektivnosti i održivosti postojećeg sistema. U radu je definisan i set preporuka za unapređenje normativnog okvira i njegove primene u praksi i procenjena njihova kompatibilnost sa merama predviđanim Strategijom razvoja sistema izvršenja krivičnih sankcija za period 2021-2027. godine.

Key words: *krivične sankcije, izvršenje krivičnih sankcija, penologija, alternativne sankcije, vanzavodske sankcije, rad u javnom interesu.*