

THE PROBLEM OF PRISON OVERCROWDING WITH A FOCUS ON THE SITUATION IN THE REPUBLIC OF SERBIA

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In recent years of the 21st century, prison systems have faced an enormous increase in the number of inmates worldwide. Whether overcrowding has always been a problem or is a result of modern times is an interesting question that numerous theorists have attempted to answer by explaining this phenomenon from various aspects, pointing out possible causes, consequences, certain solutions, and characteristics of the population that characterize many prisons. There is also a significant social impact, as every society, regardless of social class, has its own opinion on the purpose of prisons and the population housed within them. How the prison population changes, what transformations it brings, and what possible ways exist to overcome prison overcrowding are key questions that the author addresses in the paper, emphasizing that overcrowding as a trend, judging by statistical data and numerous literature, threatens to exceed all capacities and inflict severe social, physical, and psychological consequences on the incarcerated.

KEYWORDS: prisons, increase in the number of inmates, causes of overcrowding, ways to reduce overcrowding, alternative sanctions, resocialization

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Introduction

Prison overcrowding as a global problem can be defined as a situation that arises when there are more inmates in prisons than the accommodation capacities allow (Grujić, Milić, 2016, p. 286). A relevant indicator of the increase in the number of inmates is the calculation of the incarceration rate per 100.000 inhabitants in a country (Ignjatović, 2018, p. 185). Due to the heavy burden on correctional facilities, the work on the development of inmates' personalities aimed at their resocialization and reintegration into social norms is hindered.

When discussing the term inmate, we should not limit ourselves solely to individuals convicted in criminal proceedings, but also include individuals who are detained during the criminal proceedings, those held in pre-criminal proceedings, as well as those who have been sentenced to some form of security measure related to deprivation of liberty. Imprisoning perpetrators of both minor and serious criminal offenses has become a common way of responding to the problem of criminality, which in turn has led to an increase in the number of inmates worldwide (Ilić, 2011b, p. 246).

Statistical data from around the world indicate that the problem of prison overcrowding is highly complex, and that attention and effort must be invested to overcome it with more rational solutions. This is a problem that affects the entire world, not just some countries or specific regions, and therefore the following is a detailed overview of the increase in the prison population both globally and in the Republic of Serbia.

Increase in the Prison Population Worldwide

The constant increase in the global prison population dates to the 1980s (Ilijić, 2015, p. 304). If statistical data were used as a relevant source, it is highly likely that by comparing them, one would conclude that prison overcrowding and the ever-growing numbers are leading to an increasingly severe crisis in correctional institutions.

In 2017, the Institute for Criminological Research at Birkbeck University in London presented an interesting statistic, stating that there were as many as eleven million people behind bars worldwide. The United States ranked first on the list of countries with the highest number of prisoners, with as many as 2,2 million. China, as a rapidly developing country, held 1,65 million inmates, while Russia ranked third with 640.000 prisoners. Brazil (607.000), India (418.000), Thailand (311.000), Mexico (255.000), and Iran (225.000) followed closely behind.

It was estimated that the country with the highest incarceration rate was Seychelles, where 799 convicted individuals per 100.000 inhabitants were behind bars.

The United States ranked second with 698 prisoners per 100.000 residents, followed by Turkmenistan, Cuba, El Salvador, Thailand, Belize, Russia, and Rwanda. In contrast to these countries that dominated the overcrowding list, it is important to highlight those that managed to remain immune to excessive numbers of inmates, such as San Marino with only 2 prisoners, Liechtenstein with 8, Monaco with 28, and Andorra with 55 prisoners.¹

By comparing data from 2020, it was highlighted that the global prison population still faces the issue of 11 million people behind bars, with at least 124 countries exceeding their accommodation capacities.² A year later, the Prison Policy Initiative reported that each U.S. state incarcerates more people than any country in the world, pointing out that New York and Massachusetts are progressive in their incarceration rates. The report also emphasized that, compared to the rest of the world, every U.S. state overly relies on prisons as a response to criminal offenses.³

If we were to analyze the prison overcrowding in European countries, we would see that the incarceration rate has also increased there. An annual growth of 2,3% in the number of prisoners in European prisons was observed during the period from 2021 to 2022, while the global prison population increased by 20% since 2000, representing 2% more compared to the total global population, which stands at 18% (Skakavac, Trajković, 2019, p. 74). The highest number of prisoners was in Turkey, with more than 300.000 inmates and an incarceration rate of 355 per 100.000 prisoners. Following Turkey, the countries with the highest incarceration rates were Azerbaijan (217), Hungary (194), and Lithuania (191). As pointed out, in addition to countries struggling with high incarceration rates, nations such as Norway (56), the Netherlands (54), and Finland (50), which have populations of less than one million, have succeeded in reducing their incarceration rates.⁴

The incarceration rate is not a static category; it is constantly fluctuating, either increasing or decreasing. It is more than evident that this is a serious global problem that needs to be stopped. Organizations that collect information about prison systems around the world attempt to demonstrate how prison overcrowding is a complex problem and that it is necessary to address it to achieve one of the main purposes of punishment — to be able to implement proper treatment of prisoners

¹ *11 million people are in prisons around the world*. Available at: <https://www.politika.rs/scc/clanak/387260/Hronika/U-zatvorima-sirom-sveta-11-miliona-ljudi> (Accessed: 31 August 2021)

² *Prisons are “in no way equipped” to deal with COVID-19*. Available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7252088/> (Accessed: 17 April 2024).

³ *States of Incarceration: The Global Context 2021*. Available at: <https://www.prisonpolicy.org/global/2021.html>, (Accessed: 13 February 2024).

⁴ *Increased number of prisoners in Europe*. Available at: <https://bizlife.rs/povecan-broj-zatvorenika-u-evropi/> (Accessed: 13 February 2024).

for their re-education and reintegration into normal life. One such organization, the World Prison Brief, serves as a unique database, providing detailed and updated information on correctional facilities, their population, and incarceration rates.

The data in Table 1 show key statistics about the prison system in four countries, including the total number of prisoners, incarceration rate, prison capacity, and the percentage of overcrowding, highlighting the conditions and challenges faced by prisons in Thailand, Turkey, Brazil, and Peru.⁵

Table 1

Prison Population Trends Worldwide from 2020 to 2024

Country	Total Number of Prisoners	Incarceration Rate	Prison Capacity	Overcrowding Percentage
Thailand	274.277	391	238.250	15,1%
Turkey	314.375	366	289.974	17,8%
Brazil	839.672	390	482.875	73,9%
Peru	94.502	277	41.019	130,4%

Prison Population in the Republic of Serbia

The trend of prison overcrowding, in addition to the sharp increase at the global level, has also affected the Republic of Serbia. Starting in 2003, the number of prisoners serving their sentences has increased by 1.000 each year.⁶ Statistical data show that the number of convicted individuals and detainees in our country has more than tripled over the past twenty years. Specifically, the number increased from 3.600 at the beginning of the 1990s to 6.000 individuals deprived of their liberty in

⁵ *World Prison Brief data*. Available at: <https://www.prisonstudies.org/world-prison-brief-data> (Accessed: 17 April 2024).

⁶ *Prisons are as full as beehives*. Available at: <http://www.politika.rs/scc/clanak/74307/Zatvori-puni-kao-kosnice> (Accessed: 22 June 2021).

the year 2000. In 2004, the number rose to 7.800, and by 2012, there were as many as 11.300 convicted individuals.⁷

The Strategy for Reducing Overcrowding in the Correctional Facilities in the Republic of Serbia until 2020⁸ (hereinafter referred to as the Strategy until 2020) states that in 2012, the situation regarding accommodation capacities revealed that the biggest problem of overcrowding was in the closed departments of correctional facilities, where convicted individuals serving prison sentences of over one year were housed, particularly those sentenced to prison terms ranging from one to ten years. The number of individuals deprived of their liberty was reduced by the Amnesty Law⁹, so that on December 31, 2012, there were 10.228 people in the facilities, which still reflected the problem of prison overcrowding.

At the end of January 2020, Serbia recorded a prison population of 11.077, which represents an increase compared to 2019, when there were 10.871 prisoners. Of the total number, 16,5% of prisoners were serving sentences of less than one year, 26,6% were serving sentences from one to three years, 23% from three to five years, and 19% from five to ten years. In Serbian prisons, 24,4% of prisoners were incarcerated for drug-related offenses, 25,4% for theft, and 10,2% for murder. The average cost per prisoner was 26,3 euros.¹⁰

It is important to highlight the situation that changed everything, including life in prisons, under the name of Covid-19. Available data support the fact that Serbia was among the 20 European countries that released prisoners due to the pandemic in 2020. In the first month alone, 626 prisoners were released. On April 15, there were 105,6 prisoners per 100 available places in Serbian prisons, showing an improvement compared to January 1, when there were 107 prisoners per 100 places.¹¹

As can be seen from the data presented in Table 2, the trend of the prison population in the Republic of Serbia in 2020 reached an incarceration rate of as much as 152. In comparison, the most recent data available for January 2023 shows a total prison population of 10.787, with an incarceration rate of 162. The prison capacity was 11.957, resulting in an occupancy rate of 90,2%. This indicates the implemen-

⁷ *Strategy for the Development of the Criminal Sanctions Execution System in the Republic of Serbia until 2020*, Official Gazette of the Republic of Serbia, No. 114/2013.

⁸ *Strategy for Reducing the Overcrowding of Accommodation Capacities in Penitentiaries in the Republic of Serbia until 2020*, Official Gazette of the Republic of Serbia, No. 43/2017.

⁹ *Law on Amnesty*, Official Gazette of the Republic of Serbia, No. 117/12.

¹⁰ *In Serbia, there are still more prisoners than spaces in prisons*. Available at: <https://euractiv.rs/2-srbija-i-eu/102-vesti/16069-u-srbiji-u-zatvorima-i-dalje-vie-zatvorenika-nego-mesta> Accessed: 22 June 2021).

¹¹ *Serbia is among the 20 European countries that released prisoners due to the pandemic*. Available at: <https://euractiv.rs/10-ljudska-prava/179-vesti/15086-srbija-meu-20-evropskih-zemalja-koje-su-oslobaale-zatvorenike-zbog-pandemije> (Accessed: 22 June 2021).

tation of the guidelines aimed at reducing overcrowding in correctional facilities, as proposed in the adopted strategies (World Prison Brief data).

Table 2

Trend of the Prison Population in Serbia for the Period from 2012 to 2023

Year	Total Number of Prisoners	Incarceration Rate
2012.	10.226	142
2014.	10.288	145
2016.	10.672	151
2018.	10.852	156
2020.	10.543	152
2023.	10.787	162

Causes of Prison Overcrowding

Statistical data on the number of prisoners in correctional facilities indicate that the cause of this problem cannot be attributed to a single factor. On the contrary, it is a combination of several key aspects in penal policy that need to be addressed in an appropriate manner. Therefore, numerous criminologists have been trying for decades to explain what led to the trend of overcrowding, with a primary focus on the combination of socio-economic reasons (economic crisis), increased crime rates, solutions in criminal law, strict penal policies of the courts, the abolition of the death penalty, and the inefficiency of the prison system (Ignjatović, 2018, p. 186).

Considering the complexity of the situation in prisons worldwide and in our country, given that there are numerous causes of overcrowding, the following section will explain three significant causes that lead to prison overcrowding and result in a series of consequences, which will also be discussed in this paper. Therefore, the first major cause of this trend is the imposition of short prison sentences, followed by the favoring of pre-trial detention as a measure to ensure the presence of the accused, and finally, the contribution and influence of public opinion, which has led to an increasing trend of incarcerating potential offenders.

Short Prison Sentences

Short or brief prison sentences are often the subject of criticism from many researchers due to their negative impact on individuals sent to correctional facilities. Is it even worth imprisoning individuals sentenced to short sentences if there is a risk of numerous social consequences?

Short prison sentences are understood to refer to sentences up to six months, and at most up to one year. If the primary goal of punishment is the re-educational treatment of sentenced individuals, it is noted that this could not be successfully achieved due to the insufficient time available to even start, let alone implement such treatment. This approach to dealing with prisoners sentenced to short prison sentences has led to negative consequences, primarily the loss of employment, separation from family, stigmatization by the community in which they live, and the loss of social status. As an alternative to these consequences, non-custodial measures are suggested. Over the past two decades, there has been a noticeable trend towards reaffirming short prison sentences. Researchers have proposed that, when offenders cannot be rehabilitated, imposing short prison sentences may serve as a brief but serious shock or a stress warning if they are involved in criminal activities again (Lazarević, 1974 according to Ignjatović, 2018, p. 184).

In addition to sentences up to six months, sentences from six months to two years are also very common, directly contributing to prison overcrowding. The Strategy for Reducing Overcrowding in Correctional Facilities in the Republic of Serbia for the period from 2010 to 2015 (hereinafter referred to as the Strategy 2010-2015) highlights that, between 2005 and 2009, short sentences of up to six months were imposed in 41,6% of cases.¹² Between 2011 and 2015, short prison sentences occupied a significant place in the overall structure of imposed criminal sanctions, especially sentences lasting six months to one year, which were imposed 3.184 times in 2014. There was also a notable portion of sentences from three to six months, imposed 3.772 times in the same year (Jovanić, 2016, p. 15). In 2016, the largest number of individuals were sentenced to prison for three to six months (2.269 individuals), followed by those sentenced to six months to one year (2.423 individuals) (Mrvić-Petrović, 2007 according to Tanjević, 2019).

According to the available data from the Strategy for the Development of the Criminal Sanctions Execution System for the Period 2022-2027¹³, which pertains to the representation of prison sentences in 2020, it was observed that the share of short sentences significantly decreased. Prison sentences of up to three months account for

¹² *Strategy for Reducing the Overcrowding of Accommodation Capacities in Penitentiaries in the Republic of Serbia for the Period from 2010 to 2015*, Official Gazette of the Republic of Serbia, No. 53/2010.

¹³ *Strategy for the Development of the Criminal Sanctions Execution System for the Period 2022-2027*, Official Gazette of the Republic of Serbia, No. 142/2022.

1,75%, sentences of three to six months for 3,74%, sentences of six months to one year for 6,81%, sentences of one to two years for 12,18%, and sentences of two to three years account for 14,3%.

According to the Republic Statistical Institute data for 2020¹⁴, 2.130 individuals were sentenced to prison for up to six months, and 2.699 individuals were sentenced to prison for six months to two years. The following year, in 2021, the Republic Statistical Institute reported that 2.114 individuals were sentenced to prison for up to six months, and 2.777 individuals were sentenced to prison for six months to two years.¹⁵

The most recent statistical data on the share of short-term prison sentences in the overall structure of criminal sanctions in the Republic of Serbia for 2022 indicate that they are quite prevalent. Specifically, 2.567 individuals were sentenced to prison terms of up to six months, while 3.080 individuals were sentenced to prison terms of six months to two years.¹⁶

Pretrial Detention

Another significant cause of overcrowding in prisons is pretrial detention, which serves as a measure to ensure the presence of the accused during criminal proceedings. This seems to be one of the primary causes of overcrowding, considering the numerous statistical records available on the topic. Pretrial detention is the most severe measure used to secure the presence of the accused and successfully conduct the criminal procedure. It involves the preventive deprivation of liberty, meaning a coercive measure aimed at ensuring the accused's presence in the court, rather than a punitive action. It ensures the physical presence of the accused and prevents them from either completing a crime or committing a new one (Banović, Bejatović, 2019, p. 175).

Pretrial detention can only be imposed under conditions specified by the Criminal Procedure Code (ZKP)¹⁷ and only if no other measures can achieve the same purpose. According to the ZKP, pretrial detention can be ordered if there is reasonable suspicion that the individual has committed a criminal offense, and if certain legal grounds are met. It is the duty of all organs involved in the criminal procedure and those providing legal assistance to ensure that the duration of the pretrial de-

¹⁴ Republic Statistical Office (2021) *Statistical Yearbook of the Republic of Serbia*. Available at: <https://publikacije.stat.gov.rs/G2021/PdfE/G20212054.pdf> (Accessed: 22 September 2021).

¹⁵ Republic Statistical Office (2022) *Statistical Yearbook of the Republic of Serbia*. Available at: <https://publikacije.stat.gov.rs/G2022/PdfE/G20222055.pdf> (Accessed: 22 September 2021).

¹⁶ Republic Statistical Office (2023) *Statistical Yearbook of the Republic of Serbia*. Available at: <https://publikacije.stat.gov.rs/G2023/Pdf/G20232056.pdf> (Accessed: 23 September 2021).

¹⁷ *Criminal Procedure Code*, Official Gazette of the Republic of Serbia, No. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013, 55/2014, 35/2019, 27/2021 - decision of the Constitutional Court, and 62/2021 - decision of the Constitutional Court.

tention is limited to the shortest possible time and to proceed with urgency if the accused is in pretrial detention.

In practice, some convicted individuals spend several years in pretrial detention before their sentence is handed down. Therefore, it is important to highlight the factors that influence the length of pretrial detention. The first factor is the speed with which the investigation is carried out. The second is the capacity of the system to transport the accused from prisons to courts. The third is the availability of legal counsel and defense rights for detainees. The fourth factor is the number of cases and the resources available to conduct trials. Finally, in some cases, there may be an interest by detained individuals to delay the trial process (KING'S College London International Centre for Prison Studies, 2004).

The greatest responsibility for the increase in the number of convicts lies with the police and the prosecution, as the police are the first to arrest suspects who, through the actions of the prosecution, end up in detention. In many cases, prosecutors believe that they can more easily obtain evidence if the accused is in detention before the trial and may also hope to extract a confession of guilt from the accused. In this way, the accused, under significant pressure due to the harsh conditions in overcrowded detention units, admit to committing the crime to transition to a better environment after a final verdict. Additionally, apart from the prosecution, the courts play a significant role in the overcrowding of prisons due to delays in criminal proceedings. There is an inertia in the courts, as they do not pay attention during the criminal process to the reasons for imposing detention (Ilić, 2011b; KING'S College London International Centre for Prison Studies, 2004).

The World Prison Brief organization presents data, shown in Table 3, indicating the population of detainees from 2019-2022. When compared to the data on prison overcrowding for the same period, we can observe an increase in detainees, with the highest number in 2022 when 2.930 individuals were detained. According to the most recent data from 2023, 2.205 individuals made up the detention units.

Table 3

Trend of Detainees in Serbia from 2019-2023

Year	Numerosity	Percentage	Rate
2019.	1.903	17,2%	27
2020.	1.959	18,6%	29
2022.	2.930	27,8%	43
2023.	2.205	20,4%	33

The Impact of Public Opinion on the Problem of Prison Overcrowding

In recent years, two completely opposite tendencies have emerged regarding prison overcrowding. The first tendency relates to the highly repressive stance of public opinion, which advocates for a harsher response to crime through tightening penal policies by lawmakers and courts. This has resulted in an increasing reliance on imprisonment as the harshest sanction and the overcrowding of prisons. On the other hand, the prevailing view reflects the need to replace prison sentences with alternative sanctions. Đorđević (2015) concludes that public opinion is not fully aligned, but all signs indicate that society, or at least a large majority, supports a more repressive approach to policy.

The question arises whether the public is even aware of life in prison, given that a large number of people have never had the opportunity to visit a prison. The current situation involves the expression of public opinions through the media, which often leads to the creation of a distorted image of prisons, along with numerous prejudices, stereotypes, and misconceptions. In addition to harsh opinions, there is a significant lack of public interest in the problems faced by the population in correctional facilities, with some suggesting that inmates have received what they deserved. On the other hand, there are those who pressure the courts to impose prison sentences more frequently. If the public does become interested in a particular case, pressure increases on the courts to resolve it in a socially acceptable manner, often leading to the delivery of compromise verdicts that are not supported by solid evidence (Mrvić-Petrović, 2007, according to Ilić, 2011b).

According to the famous statesman Winston Churchill, “The mood and disposition of the public when it comes to their attitude towards crime and criminals represent one of the infallible tests of the civilization of a country”. The issue of the rights of individuals deprived of their liberty in our country triggers very negative reactions from society, especially in relation to innocent victims of criminal offenses and those who have committed these offenses. Preoccupied with their own concerns and needs, citizens have little understanding for the maintenance of penal institutions, or for redirecting funds from the state budget towards the construction and upkeep of prisons. There is also widespread ignorance, leading citizens to believe that the state should not care about the situation of those serving criminal sanctions because they are deemed undesirable. This perspective contributes to the view that the purpose of criminal sanctions is to seek vengeance against the perpetrator of the crime, that rights to healthcare, social contacts, education, and care are seen as special privileges that do not belong to these individuals, rather than understanding that these rights are guaranteed to every person as fundamental human rights (Tanjević, 2019, p. 149).

Ways to Solve the Problem of Overcrowding

Numerous researchers propose methods for addressing this issue based on the causes of the present phenomenon and a comprehensive consideration of the possibilities that could prevent further worsening of the situation.

Since prisoners differ in status, being either definitively convicted or individuals against whom a criminal proceeding is still ongoing, this fact must be considered when considering solutions to reduce prison overcrowding (Ilić, 2011a, p. 92).

Below, we will present several possibilities for solving the problem of prison overcrowding, including the application of alternative sanctions, measures, and other potential solutions.

Application of Alternative Sanctions and Measures

The insufficient application of alternative criminal sanctions in the 20th century, combined with numerous issues within the prison system and the obligation to align with European Union regulations, has compelled countries to begin implementing alternative sanctions. Despite the existence of normative sanctions such as community service, suspended sentences, revocation of driving licenses, and house arrest, their application has not been successful. These measures, although legally established, remained ineffective in practice, rendering them mere “words on paper”. This situation led certain researchers to conclude that the media’s portrayal of crime, public opinion about prisoners, sensationalized representations of serious criminal offenses and offenders, and growing public demands for the reinstatement of the death penalty could not form a basis for the development of alternative criminal sanctions (Jovanić, 2016, pp. 10-11).

Contemporary approaches to reducing prison overcrowding focus on two main directions: first, reducing the intake of individuals into prison through the application of alternative sanctions and measures, and second, shortening the length of time spent in prison through early release programs. It can be concluded that the penal policy of the courts represents a significant part of crime policy, and it should not be assumed that, within this framework, it is impossible to reduce the use of prison sentences by more adequately implementing existing sanctions. Even despite the overcrowding problem, the greater application of alternative sanctions has been requested for a long time (Ignjatović, 2012; Soković, 2013; according to Đorđević, 2015, p. 80).

Data indicates that with the rise in the number of prisoners in 2019, and the incarceration rate of 159,9 compared to the European average of 103,2, along with a large proportion of detainees among those deprived of their liberty and short-term prison sentences accounting for as much as 38,78% of all prison sentences in 2020,

there is a favorable environment for the development of alternative sanctions in the Republic of Serbia. From 2015 to 2020, the use of alternative sanctions accounted for 16,5% of the total number of criminal sanctions imposed annually, which represents an improvement compared to their 9,7% representation in 2016 (Kolaković-Bojović, Batričević, Matić-Bošković, 2022, p. 5).

Short prison sentences, as a primary cause of prison overcrowding, have long been subject to the idea of being replaced with more appropriate criminal sanctions. Although there has been a significant decrease in the proportion of short prison sentences of up to three years (from 46,84% to 38,78%), as well as sentences of up to one year (from 19,1% in 2014 to 12,3% in 2020) (Kolaković-Bojović, Batričević, Matić-Bošković, 2022, p. 18), among alternative sanctions, the most commonly mentioned are community service, restitution and compensation for damages, variations of house arrest, and weekend imprisonment.

The possibility of serving a prison sentence in the convict's place of residence was introduced in 2009 as a variation of house arrest. This was implemented due to the weak impact of short prison sentences and the limited capacity of prison systems, as well as the potential for cost reduction. Despite technical challenges, this alternative sanction has found its application in practice (Đorđević, 2015, p. 82). Data supporting this indicates that, at the beginning of its implementation, in 2011, 70 cases were executed, and by 2012, this number had increased to 528. This shows a rise in its use compared to community service, which was implemented 365 times that year, and the revocation of driving licenses, which occurred only five times.¹⁸ In 2016¹⁹, house arrest was imposed in 1.858 cases, compared to community service and revocation of driving licenses, which were imposed 331 and five times, respectively. The year 2021²⁰ saw a further increase in house arrest executions, with 2.757 cases, while community service and revocation of driving licenses were imposed in 162 cases. In 2022²¹, house arrest was imposed 2.934 times, while community service and revocation of driving licenses were imposed 169 times. In 2023²², out of all sanctions imposed, house arrest

¹⁸ *Report on the Work of the Administration for the Execution of Criminal Sanctions for the Years 2011 and 2012*. Available at: http://www.uiks.mpravde.gov.rs/images/Godisnji_2011_%20UIKS.pdf, http://www.uiks.mpravde.gov.rs/images/UKKS_izvestaj_2012.pdf (Accessed: 31 August 2021).

¹⁹ Republic Statistical Office. (2017) *Statistical Yearbook of the Republic of Serbia*. Available at: <https://publikacije.stat.gov.rs/G2017/Pdf/G20172022.pdf> (Accessed: 30 September 2024).

²⁰ Republic Statistical Office. (2022) *Statistical Yearbook of the Republic of Serbia*. Available at: <https://publikacije.stat.gov.rs/G2022/Pdf/G20222055.pdf> (Accessed: 22 September 2024).

²¹ Republic Statistical Office (2023) *Statistical Yearbook of the Republic of Serbia*. Available at: <https://publikacije.stat.gov.rs/G2023/Pdf/G20232056.pdf> (Accessed: 23 September 2024).

²² Republic Statistical Office (2024) *Statistical Yearbook of the Republic of Serbia*. Available at: <https://publikacije.stat.gov.rs/G2024/Pdf/G20242057.pdf>, (Accessed: 3 February 2025).

was ordered in 3.171 cases, showing a slight decline in the number of community service sentences and revocations of driving licenses, which were imposed in 158 cases.

Analyzing the Strategy for the Development of the Criminal Sanctions Enforcement System for the period 2022-2027 and the representation of alternatives to imprisonment from 2015 to 2020, it is evident that the most prevalent alternative is house arrest with electronic monitoring (35%), followed by house arrest without electronic monitoring (32%), community service (14%), house arrest with electronic monitoring (11%), and house arrest without electronic monitoring (8%).

A significant role in the fight to reduce the prison population is played by fines, which are not as commonly used in Serbia despite the considerable advantages they offer. Data shows that during the period of the former Socialist Federal Republic of Yugoslavia (SFRJ), fines had a far-reaching impact, accounting for as much as 45% of all criminal sanctions imposed. However, due to high inflation rates, this percentage began to decline in the following years, reaching 10% by 1994. It was only during the period from 2000 to 2005 that progress was made, and the use of fines reached 20%. However, changes were made to this system, which required that the imposed fine reflect the financial situation and personality of the offender to serve its intended purpose. These adjusted fines were meant to replace short prison sentences and suspended sentences. Still, courts agreed that the daily system of fines created numerous problems and delayed the proceedings (Đorđević, 2015: 84-85). In recent years, there has been a slight increase in the imposition of monetary sanctions, according to available statistical data from the Republic Statistical Office of the Republic of Serbia for the period from 2018 to 2022.²³

Table 4

Number of Criminal fines Imposed in Serbia from 2018 to 2022

	2018.	2019.	2020.	2021.	2022.
Criminal Sanctions	29.750	28.112	25.487	27.208	26.200
Criminal fine	2.628 (8,83%)	2.581 (9,18%)	2.683 (10,5%)	3.432 (12,61%)	3.727 (14,23%)

²³ Republic Statistical Office (2019) *Statistical Yearbook of the Republic of Serbia*. Available at: <https://publikacije.stat.gov.rs/G2019/PdfE/G20192052.pdf>; Republic Statistical Office. (2020). *Statistical Yearbook of the Republic of Serbia*. Available at: <https://publikacije.stat.gov.rs/G2020/Pdf/G20202053.pdf> (Accessed: 23 September 2024).

In addition to the noticeable development of the trend of applying fines as an alternative to imprisonment, the imposition of conditional sentences holds a special place in the hierarchy of alternatives to imprisonment. The Republic Statistical Office, in its statistical yearbooks for the period from 2018 to 2022, highlighted the share of conditional sentences in the structure of criminal sanctions. Based on the data presented in Table 5, it can be concluded that the application of conditional sentences in 2022 was 18% lower compared to 2021.

Table 5

Number of Conditional Sentences Imposed in Serbia from 2018 to 2022

	2018.	2019.	2020.	2021.	2022.
Criminal Sanctions	29.750	28.112	25.487	27.208	26.200
Conditional Sentence	16.880 (56,7%)	16.903 (60,1%)	14.179 (55,6%)	14.488 (53,2%)	11.913 (45,5%)

After highlighting the development of the application of alternatives to imprisonment in Serbia, it is important to emphasize that, despite their lower representation, the execution of these alternatives reduces social stigmatization, effectively facilitates the reintegration of offenders into society, and creates conditions for mitigating the harm caused to the victim. Additionally, their execution contributes to financial savings and relieves the state budget, as the daily cost per offender is 15 times lower compared to imprisonment (Koki, Kovčo, 2006; Manojlović, Stefanović, 2012, according to Jovanić, 2016, p. 18).

Conditional Release

In addition to alternative sanctions, the reduction of the prison population can also be achieved through conditional release as a legal institution, which is not aimed at solving the problem of overcrowded prisons but can sometimes serve as a means of reducing the prison population (Škulić, 2016, p. 363).

According to Article 46 of the Criminal Code²⁴, a convicted person who has served two-thirds of their prison sentence may be conditionally released from serving their sentence, if during their imprisonment they have improved to the extent that it can

²⁴ *Criminal Code*, Official Gazette of the Republic of Serbia, No. 85/2005, 88/2005 - corr., 107/2005 - corr., 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016, and 35/2019.

reasonably be expected they will behave well in society, particularly not committing any new criminal acts before the expiration of their sentence. A convicted person cannot be conditionally released if, during their sentence, they have been punished twice for serious disciplinary offenses and have had their granted privileges revoked.

According to the data provided in the Strategy until 2020, between 2012 and 2015, there was an increase in the number of individuals conditionally released from serving prison sentences. In 2012, conditional release was applied in 600 cases, representing 8,14% of all persons released from prison that year. In 2013, 1.082 individuals were conditionally released, or 16,25% of all persons released from prison; in 2014, 1.230 individuals (20,6%); and in 2015, 1.581 individuals, or 26,4% of all persons released from serving their sentences.

The research conducted in 2015 in the correctional facilities in Sremska Mitrovica, Niš, and Požarevac aimed to examine the application of the conditional release institute in the period from 2011 to 2015. The results indicated that during this period, a total of 11.349 petitions for conditional release were submitted, with 1.583 approved, or 13,95%. In 2015, out of a total of 2.108 petitions, 495 individuals (23,5%) were conditionally released (Vujičić, Stevanović, Ilijić, 2017).

Data is also available for the period from 2018 to 2020, showing an imbalance in the application of conditional release by the courts. In 2018, 1.445 convicts were conditionally released, in 2019, 1.289 individuals were conditionally released, while in 2020, the number of individuals conditionally released was 1.304.²⁵

Soković (2016) suggests balancing the practice of conditional release by explaining that there are expectations regarding conditional release in terms of the rehabilitation and reintegration of convicts and the reduction of overcrowding in prison capacities. These expectations can only be achieved through the existence of a coherent criminal sanctions execution system, where conditional release is a proportionally represented segment. Otherwise, reducing the prison population through conditional release may only yield superficial results.

Expansion of Prison Capacity

Prison overcrowding brings with it inadequate accommodation conditions, prevents activities outside the cell, increases the level of violence between prisoners, and hinders the provision of rehabilitation treatment aimed at their successful reintegration (Tanjević, 2019, p. 156).

²⁵ *Approximately 1,200 prisoners in Serbia are released on parole every year.* Available at <https://www.danas.rs/vesti/drustvo/oko-1-200-osudjenika-godisnje-na-uslovnoj-slobodi/> (Accessed: 23 September 2024).

The lack of privacy, failure to comply with standards regarding space per inmate, poor hygiene conditions, inadequate isolation, and temperature issues are just some of the problems that describe the state of prison facilities and can negatively impact the resocialization of prisoners (Ilijić, 2016). Most penal institutions are characterized by poor architecture and inappropriate locations, and the problem of prison overcrowding further worsens the living conditions of prisoners, which affects security and safety within these institutions. Additionally, difficulties related to food, access to fresh water, providing clean bedding, and adequate clothing further emphasize the need to expand prison capacities to improve living conditions and safety in penitentiary institutions (Ignjatović, 2018, pp. 756-757).

Given the numerous consequences of overcrowding, it is essential, in addition to the development of alternative sanctions, to invest efforts in other activities that would contribute to solving the problem of prison overcrowding, particularly the expansion of prison capacities.

Past investments have significantly contributed to solving the issue of overcrowding in prisons. The Strategy until 2020 mentions that a new closed-type facility with special security was built in Belgrade to accommodate a total of 450 convicted individuals, which started in 2012. Between 2013 and 2015, four blocks in the Belgrade District Prison and three blocks in the Special Prison Hospital were renovated. Additionally, new capacities of 180 places were provided in the Penal-Correctional Facility in Belgrade (Padinska Skela), 50 places in the District Prison in Subotica, and 180 places for minors in the Juvenile Correctional Facility in Kruševac. The Juvenile Penal-Correctional Facility in Valjevo was reconstructed, as were certain buildings in the Penal-Correctional Facilities in Niš, Požarevac (Zabela), and Sremska Mitrovica, as well as the District Prisons in Leskovac, Subotica, Kraljevo, Novi Pazar, Negotin, and Smederevo.

The mentioned strategy highlighted significant actions taken by the end of 2020 that would improve accommodation conditions and increase capacity in closed sections of penal institutions. These activities included the reconstruction of accommodation facilities and the construction of a new pavilion in the Penal-Correctional Facility for Women in Požarevac, the construction of a new prison complex in Pančevo to accommodate 500 convicted individuals and in Kragujevac for 400 individuals, as well as the construction of a new reception building in the Penal-Correctional Facility in Niš. The reconstruction of accommodation capacities in the Belgrade District Prison, the Special Prison Hospital in Belgrade, and the construction and reconstruction of accommodation capacities in the Penal-Correctional Facility in Požarevac (Zabela), in Sremska Mitrovica, and a new building in the District Prison in Leskovac were also completed.

Considering the significant points highlighted in the Strategy until 2020, which relate to the reconstruction and construction of new facilities, it is necessary to emphasize the notable results achieved in expanding prison capacities. Investments in correctional institutions have enabled the accommodation of 11.451 inmates, ensuring space in 29 correctional facilities.

If we start from the most recent investments, the Strategy for the Development of the Criminal Sanctions Enforcement System for the Period 2022-2027 mentions that in 2020, a new pavilion was built in the Leskovac District Prison to accommodate 200 convicted individuals. In 2019, the construction of a new facility for housing female inmates was completed in the Penal-Correctional Facility for Women in Požarevac, with a capacity of 165 places in the semi-open and open sections of the facility. In 2017, the Penal-Correctional Facility in Sremska Mitrovica completed the renovation of the accommodation facility for sick individuals, as well as the construction of a new pavilion for housing 320 inmates. In the Penal-Correctional Facility in Požarevac-Zabela, the reconstruction of the facility for individuals with disabilities was completed in 2015, and in 2018, a block for housing convicted individuals was renovated. In 2019, the construction of a new pavilion for housing 216 inmates was also completed, and it is mentioned that by 2021, the construction of two pavilions with a total capacity of 440 places was expected to begin.

Application of the Principle of Opportunity

In addition to the application of alternative criminal sanctions and the improvement of prison accommodation capacities and conditions characterizing prison systems, there is an opinion that the widespread application of the principle of opportunity would contribute to overcoming the problem of overcrowding in prisons.

Article 283 of the Criminal Procedure Code regulates the postponement of criminal prosecution, stipulating that the public prosecutor may postpone criminal prosecution for criminal offenses punishable by a fine or a prison sentence of up to five years if the suspect accepts one or more of the following obligations: to eliminate the harmful consequences caused by the commission of the criminal offense or to compensate for the damage caused; to pay a certain monetary amount into the account designated for public revenue, which is used for humanitarian or other public purposes; to perform certain socially useful or humanitarian work; to fulfill overdue maintenance obligations; to undergo treatment for alcohol or drug addiction; to undergo psychosocial treatment to eliminate the causes of violent behavior; and to fulfill an obligation established by a final court decision or to comply with a restriction determined by a final court decision. The public prosecutor will specify the deadline in the order for postponing the

criminal prosecution, with the condition that the deadline cannot exceed one year. If the suspect fulfills the obligation within the deadline, the public prosecutor will dismiss the criminal report by a decision and notify the injured party about it.

Data from 2013 indicate that the institution of postponing criminal prosecution was implemented in 2.024 cases. It was concluded that in most criminal offenses, the application of the principle of opportunity occurred in a small number of cases. An example is the criminal offense of serious bodily injury, where attempts were made to apply this principle to 40 suspects, but it was successfully applied only to 7 (17,5%). For the criminal offense of minor bodily injury, the application of opportunity was even weaker, at only 12,39%. The principle was applied in 22,78% of cases for the criminal offense of endangerment with dangerous weapons, 14,69% for endangerment of safety, 30,79% for domestic violence, 17,09% for theft, 18,26% for fraud, 29,22% for the unauthorized possession of narcotic drugs, and 10,19% for violent behavior. These criminal offenses typically carry prison sentences, so the weak application of the principle of opportunity results in frequent criminal proceedings for these offenses and further overcrowding of the prison system in Serbia. A rare example of successful application of this principle is the criminal offense of endangering public traffic, where the principle was applied in 57,47% of cases, and the criminal offense of falsification of official documents, where the application of the principle was the highest so far, at 90% of cases (Dimovski, Kostić, 2016, pp. 169-170).

Analyzing the principle of opportunity, i.e., the cases with dismissed criminal charges from 2014 to 2018, it is evident that the number of dismissed charges was recorded for 17.779 individuals in 2014, 21.400 in 2015, 20.290 in 2016, 16.957 in 2017, and 18.251 individuals in 2018 (PREVENT, 2019).

The application of the principle of opportunity, or postponing criminal prosecution, serves its purpose by providing special obligations that condition the delay in prosecution. This way, the suspect does not engage in the criminal process, which allows for relief not only of the judicial system but also of the penal institutions. Despite highlighting this opportunity, the application of the principle has declined due to the decrease in the number of criminal cases during 2020, caused by the COVID-19 pandemic. The lack of statistical data indicating the trend of the use of the postponement system, and the importance of its application, shows that there is some inconsistency in the special obligations required for postponement, as 83,2% of the measures involve payment of money for humanitarian purposes, 9,8% involve eliminating harmful consequences, 4,1% involve performing socially useful work, 2,2% involve fulfilling overdue maintenance obligations, 0,3% involve undergoing addiction treatment for alcohol or drugs, and 0,2% involve undergoing psychosocial treatment to eliminate

the causes of violent behavior. Some observed problems in implementing these special measures include unclear delineation of responsibilities between public prosecutors and trustees, as well as the inability to clearly control the implementation of measures concerning the abstinence from alcohol and drugs. Therefore, it is emphasized that it is necessary to regulate the normative framework governing the institute of opportunity (Kolaković-Bojović, Batrićević, Matić-Bošković, 2022, pp. 29-30).

Conclusion

Based on the achievements so far in addressing prison overcrowding, it can be concluded that the efforts invested are not sufficient, although some changes are evident. It is essential, as recommended, to focus on possible measures that would contribute to alleviating prison capacities, thus improving the position of convicted individuals in correctional facilities.

Constant sentencing to prison may lead not only to overcrowding of the prison system but also to more serious problems, such as the deterioration of prisoners' mental health, a decrease in their ability to reintegrate into society, and an increase in recidivism rates. Although prison sentences are necessary for serious crimes, they do not represent the only way to combat crime. Therefore, it is important to focus on alternative sanctions that, if properly implemented, would most contribute to reducing the prison population.

The contribution of alternative sanctions in Serbia is currently relative, meaning that their impact has not yet fully realized its potential, as it depends on factors such as the level of implementation and support from relevant authorities. However, a slight increase in their imposition can be observed, indicating the possibility of reducing the number of incarcerated individuals if the relevant authorities focused more on the development and implementation of a different penal policy.

In addition to prison sentences, the growing number of detainees also contributes to the burden on accommodation capacities, as the data in this paper suggests that the excessive imposition of detention, as a measure to ensure the defendant's presence, contributes to the worsening of this problem. There is also a negative impact from the public, whose views on the prison population contribute to greater stigmatization of convicted individuals, leading to their return behind bars.

Reducing overcrowding in correctional facilities requires a comprehensive approach through efforts to stabilize the current situation by reforming the judicial system, increasing the use of alternative criminal sanctions, and improving conditions in prisons. Every problem can be solved if approached in the right way.

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PROBLEM PRENASELJENOSTI ZATVORA SA OSVRTOM NA STANJE U REPUBLICI SRBIJI

Milica Simović^a

Poslednjih godina 21. veka zatvorski sistemi suočeni su sa enormnim porastom zatvorenika širom sveta. Da li je oduvek postojao problem prenatrpanosti zatvora ili je rezultat modernog doba, zanimljivo je pitanje na koje su pokušali dati odgovore brojni teoretičari kroz objašnjenje ovog fenomena sa različitih aspekata ukazujući na moguće uzročnike, posledice, određena rešenja kao i karakteristike populacije koja karakteriše mnoge zatvore. Prisutan je takođe i veliki društveni uticaj, s obzirom da svako društvo bilo kog društvenog sloja ima sopstveno mišljenje o svrsi zatvora i populaciji smeštenoj u njih. Kako se kreće zatvorska populacija, koje promene donosi sa sobom, kao i koji su mogući načini prevazilaženja prenaseljenosti zatvora ključna su pitanja na koja se autor osvrće u radu, kroz isticanje da prenatrpanost zatvora kao trend, sudeći na osnovu statističkih podataka i brojne literature, preti da prevaziđe sve kapacitete i nanese velike društvene, fizičke i psihičke posledice po osuđenike.

KLJUČNE REČI: zatvori, porast broja zatvorenika, uzroci prenatrpanosti, načini smanjenja prenatrpanosti, alternativne sankcije, resocijalizacija

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