

CONCLUSIONS

LXII REGULAR ANNUAL CONFERENCE OF THE SERBIAN ASSOCIATION FOR CRIMINAL LAW THEORY AND PRACTICE

– Zlatibor, September 20-23, 2022 –

The Serbian Association for Criminal Law Theory and Practice, in cooperation with the Institute of Criminological and Sociological Research, the Ministry of Justice of the Republic of Serbia, and the Judicial Academy, and with the support of the OSCE Mission in Serbia, organized the LXII Regular Annual Conference of the Association on the following topic: “Two Decades of Criminal Legislation Reform: Experiences and Lessons “. The Conference was held from September 20 to 23 in Zlatibor.

As a result of the presented papers and the expert discussion on amendments to the criminal legislation, the following conclusions have been adopted:

1. Criminal legislation that is subjected to frequent amendments and additions undermines the legal security of the public and the effectiveness of judicial institutions.

2. In criminal legislation only those criminal law institutes that have previously been determined to be justified should be changed, abolished, and introduced.

3. Criminal law must not acquire the character of *prima ratio* means.

4. Review solutions that are not in the function of the efficiency of the criminal procedure (for example, the preliminary hearing, the valid concept of the investigation, the method of control of the prosecution, etc.) during the work on amendments to the Code of Criminal Procedure. Furthermore, enhancing the status of the injured party and reassessing the current system of legal remedies are elements that require particular consideration.

5. 18 years after the last comprehensive reform of juvenile criminal legislation, international standards in this area have reached a significantly higher level of comprehensiveness. Sole application of the provisions of the law in practice has crystallized the need to regulate certain issues differently. Bearing in mind the scope of the necessary changes, it is important to pass a new law that would comprehensively regulate the issues of both misdemeanour and juvenile criminal law.

6. In the context of criminal legislation amendments, it is necessary to introduce amendments to the Law on misdemeanours.

7. Parallel with the efforts on new legislative framework, the preparation of the set of by-laws should be prepared, in order to avoid possible inconsistencies, with the aim of implementing the law in its fullness.

ZAKLJUČCI

LXII REDOVNOG GODIŠNJEG SAVETOVANJA SRPSKOG UDRUŽENJA ZA KRIVIČNOPRAVNU TEORIJU I PRAKSU

– Zlatibor, 20–23. septembar 2023. godine –

Srpsko udruženje za krivičnopravnu teoriju i praksu u saradnji sa Institutom za kriminološka i sociološka istraživanja, Ministarstvom pravde Republike Srbije i Pravosudnom akademijom, a uz podršku misije OEBS u Srbiji, organizovali su LXII redovno godišnje savetovanje Udruženja na temu „*Dve decenije reforme krivičnog zakonodavstva: iskustva i pouke*“. Konferencija je održana od 20. do 23. septembra na Zlatiboru.

Kao rezultat prezentovanih radova, diskusija i okruglih stolova na temu izmena i dopuna kaznenog zakonodavstva, zaključeno je da je neophodno je voditi računa o sledećem:

1. Česte izmene i dopune u kaznenom zakonodavstvu negativno utiču na pravnu sigurnost građana i otežavaju efikasno funkcionisanje pravosudnih institucija.
2. U kaznenom zakonodavstvu treba menjati, ukidati i uvoditi samo one kaznenopravne institute za koje je prethodno utvrđeno da su kriminalno-politički opravdani.
3. Krivično pravo ne sme poprimiti obeležje *prima ratio* sredstva.
4. U radu na izmenama i dopunama Zakonika o krivičnom postupku, preispitati rešenja koja nisu u funkciji efikasnosti krivičnog postupka (slučaj na primer sa pripremnim ročištem, važećim konceptom istrage, načinom kontrole optužbe i slično). Uz ovo, neophodno je posebnu pažnju posvetiti poboljšanju položaja statusa oštećenog i preispitati postojeći sistem pravnih lekova.
5. Osamnaest godina nakon poslednje sveobuhvatne reforme maloletničkog krivičnog zakonodavstva, međunarodni standardi u ovoj oblasti dostigli su

značajno viši nivo sveobuhvatnosti, a i sama primena odredaba zakona u praksi iskristalisala je potrebu da se određena pitanja drugačije urede. Imajući u vidu obim neophodnih izmena, potrebno je doneti novi zakon koji bi na celoviti način uredio pitanja kako prekršajnog, tako i maloletničkog krivičnog prava.

6. U kontekstu izmena kaznenog zakonodavstva, neophodno je izvršiti izmene i dopune Zakona o prekršajima.

7. Istovremeno sa radom na novom zakonodavnom okviru, treba pristupiti i pripremi seta podzakonskih akata, kako bi se izbegle eventualne neusaglašenosti, a u cilju potpune primene zakona.