

PREFACE

The Law on Amendments to the Criminal Code from 2019 introduced a life imprisonment into the system of criminal sanctions. However, even before this legal text, there were attempts to introduce this criminal sanction into the system of criminal sanctions of the Republic of Serbia. Thus, ten years after the adoption of the basic text of the Criminal Code in 2005, a draft of its amendments was presented, which provided for the implementing of a life imprisonment. After a intensive public debate, especially the criticism expressed by the scientific and professional public and above all divided views on this issue, the draft was withdrawn from the procedure and the introduction of life imprisonment was abandoned at that time, which in itself speaks of an extremely high level of relevance of the issue, not only from the criminal law perspective, but also from the criminological and criminal-political aspect in general. There are not a small number of issues that are, in theory and practice, at least more than debatable when it comes to the life imprisonment. Among them three have stood out:

Firstly, the question of the criminal-political justification of the introduction of life imprisonment into the system of criminal sanctions.

Secondly, the right of a state, especially states belonging to the continental legal system, to introduce this criminal sanction into their system of criminal sanctions should be discussed, viewed from the perspective of relevant international legal standards contained primarily in the European Convention on Human Rights and the legal opinions of the European Court of Human Rights.

The third and it seems to be the most current issue, is the question of how to regulate this criminal sanction in the criminal legislation of the state that opted for its introduction into the system of criminal sanctions. The answer to these and not only to these questions requires a broader scientific-professional discussion on the issue and then, depending on the results of these discussions, regulation in a specific legal text. After all, this is a precondition for the adequacy of any significant changes in the criminal legislation, not only when it comes to the interventions that contained such important issues as the life imprisonment is. However,

despite the indisputable necessity of such approach in legislative interventions of this character, it seems that it has not been applied when it comes to the Law on Amendments to the Criminal Code of the Republic of Serbia from 2019, ie. during the introduction of life imprisonment in the system of criminal sanctions. Rather, one could say that these legal interventions came under the public pressure after several monstrous crimes involving children as a victims and the public opinion that such perpetrators must face the most severe criminal sanctions after implementing criminal instruments that will prevent perpetrators of such crimes to ever repeat them again. To this end, the efforts went in the direction of legalizing the sentence of life imprisonment if there is no possibility of introducing the death penalty in the system of criminal sanctions and legally excluding the possibility of any subsequent interventions in the court decision sentencing perpetrators of such serious crimes, including the impossibility of release. on conditional release of a person from a penitentiary institution after a certain time spent in it and fulfillment of other conditions provided by law.

Having in mind that there is no possibility of introducing the death penalty in the system of criminal sanctions and legally excluding of the possibility to change court decision sentencing perpetrators of such serious crimes, including the impossibility of conditional release after a certain time and fulfillment of other conditions provided by law, the efforts went in the direction of legalizing the sentence of life imprisonment.

After the enactment of the Law on Amendments to the Criminal Code from 2019 with the introduction of the life imprisonment in the system of criminal sanctions as the main characteristic, academic discussions on this became more intense and the best proof for that thesis is the situation after the adoption of this legal text in the Republic of Serbia in which there was almost no expert discussion in the field of criminal law without consideration of the issue of life imprisonment. The most controversial issue that is the subject of these discussions is the decision of the legislator to exclude the possibility for a person sentenced to life imprisonment to be conditionally released after a certain time spent in a penitentiary institution, by fulfilling certain conditions prescribed by law.

This was the reason of making the Expert Report at the request of the Ministry of Justice of the Republic of Serbia regarding the issues of the manner of regulation the life imprisonment in the Criminal Code. The Expert Report was prepared and presented to the academic public not only in Serbia, but also in the countries of the region and representatives of the OSCE Mission to Serbia, at the Expert Meeting held in Belgrade on September 25th 2020 organized by the Serbian Association for Criminal Theory and Practice and the Institute for Criminology and sociological research, in cooperation with the Ministry of Justice of the

Republic of Serbia and with the support of the MDTF-JSS project on “Life imprisonment and international legal standards.”

One of the results of the Expert Meeting is the adoption of conclusions in which the participants expressed their views on the manner and conditions of implementing life imprisonment not only in the Criminal Code but in general. In order to make available, not only the text of the Expert Report and the conclusions adopted after the discussion, but also the other papers prepared after the meeting the organizers of the meeting as co-publishers of the journal “Review of Criminology and Criminal Law” suggested Editorial Board to dedicate thematic edition to this very issue, which suggestion the Editorial Board accepted. There are three key reasons why the representatives of the co-organizers of the Expert Meeting, the co-publisher of the Journal and its Editorial Board decided to take this step.

Firstly, the desire to make available for the wider professional public, not only in Serbia but also more widely, the views of the participants of the Expert Meeting on this issue.

Secondly, to help the competent authorities of the Republic of Serbia in the eventual process of reconsidering the norms of the text in the Criminal Code regarding the regulation of the life imprisonment and in which direction it should be done.

Thirdly, to point out to the professional public and the competent authorities of the countries where the Journal is used, the actuality of the issue of life imprisonment and the way of its regulation in order to comply with relevant international legal standards primarily contained in the European Convention on Human Rights and the case law of the European Court of Human Rights.

We deeply believe that all these aims that guided the co-organizers of the Expert Meeting, the co-publisher of the Journal and its Editorial will be realized in the time ahead and that this criminal sanction will be implemented in accordance with the relevant international legal standards. The roadmap of how to achieve this, in our opinion, is the material published in this issue of the Journal.

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