

CONCLUSIONS

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

-Zlatibor, September 22 – 24, 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 LXI Regular Annual Conference of the Association on the following topic: “Non-institutional Measures, Simplified Forms of Treatment and Other Criminal Law Instruments of Reaction to Criminality and Positive Criminal Legislation”. The Conference was held from September 22 to 24 in Zlatibor. More than 300 representatives of the judiciary and other practitioners in the field of criminal law and the academic community participated in the consultation.

As a result of the presented papers and the expert discussion, the following conclusions have been adopted:

1. The criminal legislation of the Republic of Serbia, in terms of penalties, belongs to the stricter criminal legislation, and in that direction, it is enough to work on harmonizing the penal policy of the legislator and the courts, without further interventions in the Criminal Code in this matter.
2. Expand the normative basis for the possibility of imposing alternative criminal sanctions and create factual opportunities for their wider application in practice.

3. Pay more attention to the fine, as a criminal sanction, with the aim of its wider application in practice.
4. In the application of simplified forms of procedure in criminal matters, there is a discrepancy between the norm and practice, which must be resolved having in mind that the simplified forms of procedure should be the main instrument for the efficiency of solving criminal cases as one of the main goals of the entire process of reforming the criminal procedural legislation of the Republic of Serbia.
5. In imposing the measure of detention, it is necessary to pay more attention to the specification of the conditions for the application of the measure and the international legal standards on the exceptionality of the application of the measure of detention as well as to give more importance to the alternative measure of detention
6. To change the prosecutorial jurisprudence which assumes that imposing the obligation to pay a certain amount of money in cases of application of the postponement of criminal prosecution (diversion of the procedure) is the main modality of the principle of the opportunity of criminal prosecution, having in mind that such a practice is not in accordance with the goals that should be achieved by applying the principle.
7. It is necessary to pay more attention to the position of the injured person in cases of conditional postponement of criminal prosecution and deciding on his property claim.
8. It is necessary to enact a new law on juvenile offenders instead of amending the existing law. A special attention needs to be given to the issue of the misdemeanour procedure.
9. In the upcoming legislative amendments in the field of judicial legislation, it is necessary to take into account the proposals and suggestions presented at the round table held on the topic “Amendments to the Constitution - the next steps to ensure the desired way of functioning of holders of judicial functions”.

ZAKLJUČCI

LXI REDOVNOG GODIŠNJEG SAVETOVANJA SRPSKOG UDRUŽENJA ZA KRIVIČNOPRAVNU TEORIJU I PRAKSU

-Zlatibor, 22 - 24. septembra 2022. godine-

Srpsko udruženje za krivičnopravnu teoriju i praksu u saradnji sa Institutom za kriminološka i sociološka istraživanja, Ministarstvom pravde RS i Pravosudnom akademijom, a uz podršku misije OEBS u Srbiji, organizovali su LXI redovno godišnje savetovanje Udruženja na temu „*Vaninstitucionalne mere, pojednostavljene forme postupanja i drugi krivičnopravni instrumenti reakcije na kriminalitet i pozitivno kazneno zakonodavstvo*“. Konferencija je održana od 22. do 24. septembra na Zlatiboru. Na savetovanju je učestvovalo preko 300 predstavnika pravosuđa i drugih praktičara u oblasti krivičnog prava i akademske zajednice.

Kao rezultat prezentovanih radova, diskusija i okruglih stolova, usvojeni su sledeći zaključci:

1. Krivično zakonodavstvo Republike Srbije, po zaprećenim kaznama, spada u red strožijih krivičnih zakonodavstava, te je u tom pravcu dovoljno raditi na usklađivanju zakonodavne politike zakonodavca i sudske kaznene politike, bez intervencija u krivičnom zakoniku po tom pitanju.
2. Proširiti normativnu osnovu za mogućnost izricanja alternativnih krivičnih sankcija i stvoriti faktičke mogućnosti za njihovu širu primenu u praksi.
3. Novčanoj kazni, kao krivičnoj sankciji, posvetiti veću pažnju u cilju njene šire primene u praksi.

4. U primeni pojednostavljenih formi postupanja u krivičnim stvarima prisutan je nesklad između norme i prakse koji je neophodno otkolniti jer su pojednostavljene forme postupanja ključni instrumenat efikasnosti rešavanja krivičnih stvari kao jednog od osnovnih ciljeva celokupnog procesa reforme krivičnog procesnog zakonodavstva Republike Srbije.
5. U određivanju mere pritvora neophodno je posvetiti veću pažnju konkretizaciji uslova za primenu mere i međunarodnom pravnom standardu o izuzetnosti primene mere pritvora i dati veći značaj alternativni meri pritvora.
6. Nalaganje obaveze uplate određenog novčanog iznosa u slučajevima primene odlaganja krivičnog gonjenja kao ključnog vida načela oportuniteta krivičnog gonjenja kao pravila nije u saglasnosti sa ciljevima koji treba da budu postignuti primenom načela.
7. Neophodno je posveti veću pažnju položaju oštećenog lica u slučajevima uslovnog odlaganja krivičnog gonjenja i odlučivanja o njegovom imovinskopravnom zahtevu.
8. Neophodno je doneti novi zakon o maloletnim učinioicima krivičnih dela umesto izmena i dopuna postojećeg zakona, čijim bi se odredbama između ostalog detaljno uredio i prekršajni postupak.
9. U predstojećim normativnim aktivnostima u radu na setu pravosudnih zakona neophodno je uzeti u obzir i predloge i sugestije iznesene na okruglom stolu održanom na temu “*Izmene Ustava - sledeći koraci obezbeđenja željenog načina funkcionisanja nosilaca pravosudnih funkcija*”.