



# Prisoner Rehabilitation in Serbia

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## **Purpose:**

The paper gives a brief overview of the history and past developments of prison rehabilitation in the Republic of Serbia, as well as a more detailed description of present situation in the domain of the execution of institutional penal sanctions, in both normative and practical aspects.

## **Design/Methodology/Approach:**

For the purpose of the analysis, legislative documents were taken into account, as well as official data and reports of the Prison Administration of the Ministry of Justice and NGOs reports.

## **Findings:**

The new treatment concept is based on the latest scientific achievements on crime and experiences of modern and developed penal systems Europe-wide. It is primarily focused on better classification of convicted persons by the level of risk, individual characteristics, needs and ability to adopt positive interventions through the penal system. Particularly important is that external control of work of penal institutions is provided, through the institution of Protector of Citizens. However there is still need of further developments in the domains of prison rehabilitation/treatments, and particularly of aftercare and post-penal assistance, in order to reach the substantial improvements in ex-prisoners' social inclusion, reduction re-offending rates and crime prevention.

## **Research limitations/implications:**

More reliable conclusions on overall effects of prison rehabilitations could be derived only on the basis of particularly tailored comprehensive longitudinal research. Rather new legislation and ongoing reform of the concept of prison administration are objective external research limitations.

## **Practical implications:**

This paper emphasises the importance of after care and post-penal assistance as a problem that should be addressed in comprehensive manner by Ministry of Justice, together with other relevant ministries and agencies in Serbian government.

## **Originality/Value:**

This paper is among few attempts of Serbian prisoner rehabilitation evaluation.

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**Keywords:** prison system, prisoner, rehabilitation, execution of penal sanctions, Serbia

## **1 A BRIEF LOOK INTO THE PAST: HISTORY OF PRISON REHABILITATION IN SERBIA**

In Serbia, like in some other European countries, imprisonment as a sentence was adopted only in the XIX century. In Serbian Criminal code from 1860, during the rule of duke Miloš Obrenović, there were several kinds of imprisonment sentences while the way of their execution was regulated by the Regulations of order in domestic prisons in Belgrade, Niš and Požarevac. Those rules regulated the way of reception of convicts and compulsory medical exam and the list of items inmates can possess and use, introducing standards of behaviour in the facility. Convicted persons were labelled with numbers that they had to keep at certain place, or, exceptionally, wear on themselves upon the order of the prison administration. This system was based on classic school ideas, but even then some modern innovations were introduced like privileges for good conduct or parole (Stevanović, 2003).

New established state - Kingdom of Serbs, Croats and Slovenes - in 1918 resumed the penitentiary institutions on Austro-Hungarian (Sremska Mitrovica, built in 1889) and Serbian (Požarevac, built in 1910 and Niš, built in 1913) territory. Due to the lack of uniform laws and regulations, the system of penal sanctions enforcement in this new state varied from one part of the country to another (as it was inherited), and the position of convicts was different as well. For example, the communal prison system was implemented in Požarevac and Niš, while in Sremska Mitrovica it was progressive English system (Stevanović, 2003). These differences in the system of penal sanctions enforcement were conditioned, among other things, by the architecture of prison facilities - it was impossible to isolate individual convicts in prisons without separated cells.

Subsequent unification of penal legislation in 1929 and adoption of Law on enforcement of sentence of imprisonment in 1930 provided the conditions for the unique regulation of penal enforcement system in accordance with Irish progressive model system. Due to the lack of the capacities and resources it was hard to implement this new system, so the prison regime in practice remained severe and inhumane.

After WWII new socialist state again replaced the progressive system with the communal prison system. The aim of the sanctions was not just the punishment of a convict, but also his moral transformation in "spirit of the loyalty to the fatherland, working discipline and honest relation towards the state and social relations". Conception of resocialization of convicts was adopted as a principle in penal sanctions enforcement. There were also some other improvements including classification of convicts, endeavour to apply different treatments, regulation of securing the prison facilities, way of releasing the convicts from the facilities, employing the convicts during the imprisonment and after serving the sentence, parole and alike (Stevanović, 2003).





In reform of the legislation in 1951 post-penal protection of convicts was regulated while the Law on enforcement of penal sanctions from 1961 was upgraded with latest achievements in penology. This law broadened the rights of convicts, respected the individual approach and treatment etc. Open penitentiary institutions were established and the system became fully compatible with Irish progressive system.

As a consequence of Constitutional amendments in 1974 and extending the competencies of autonomous provinces Vojvodina and Kosovo and Metohija, three parallel systems of enforcement of penal sanctions existed in Serbia till 1990.

The most important reform of the enforcement of penal sanctions in Serbia was achieved with adoption of Law on enforcement of penal sanctions in 1997. This law included international law standards and new ideas in penology. Most of institutions were open and semi-closed, criteria for treatment of convicts were harmonized, international standards of rights and freedoms of convicts were adopted, a process of classification of convicts was regulated more in detail, personality test in the reception procedure was emphasized and all penitentiary institutions were interlocked into system managed by Prison administration within the Ministry of Justice (MoJ).

From 2001, on the basis of particular strategy, reform of system of enforcement of penal sanction is going on. Some of the main goals of the reform are implemented in the actual system that will be described.

## 2 CURRENT PRISON SYSTEM IN SERBIA

The domain of the enforcement of criminal sanctions in the Republic of Serbia is normatively regulated by the Law on the Enforcement of Penal Sanctions (LEPS, 2005, 2009) adopted in 2005 and amended in 2009, the Law on the Execution of the Prison Sentence for Criminal Offences of Organized Crime (LEPSCOC, 2009) adopted in 2009,<sup>1</sup> the Law on Juvenile Criminal Offenders and Criminal Protection of Minors (LJCOCPM, 2005) adopted in 2005, as well as the Decree on the Establishment of Institutions for the Enforcement of Institutional Sanctions in the Republic of Serbia, the special House Rules for maximum-security and closed prisons, open prisons, women's prisons, district prisons and detention facilities and other relevant sub-law regulations.<sup>2</sup>

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1 *Under stipulations set forth in this Law, the provisions hereof shall be also applicable to the execution of the prison sentence for: 1) the criminal offence of terrorism (Criminal Code, 2005, 2009: Article 312) and the criminal offence of international terrorism (Criminal Code, 2005, 2009: Article 391); 2) criminal offences under Articles 370 through 384 and Articles 385 through 386 of the Criminal Code (2005, 2009); 3) severe violations of the international humanitarian law committed in the territory of former Yugoslavia as of 1<sup>st</sup> January 1991 listed in the Statute of the International Criminal Tribunal for Former Yugoslavia, and 4) the criminal offence of accessory after the fact (Criminal Code, 2005, 2009: Article 333) if committed in relation to the criminal offences mentioned in sub-paragraphs 2 and 3 of the present paragraph (Article 1).*

2 *For instance: Regulation on oversight over the work of an institution; Regulations on disciplinary offences, measures and procedure; Regulations on the enforcement of the security measure of compulsory treatment of drug addicts and/or compulsory treatment of alcoholics; Regulations on work of the prisoner and his rights; Regulation on the organisation of work of the Training and Labour*





The overall management body responsible for Serbian prison system is Administration for Enforcement of Penal Sanctions (in the further text: Prison Administration). The Prison Administration organizes, conducts and supervises the enforcement of sentences of imprisonment imposed on adults and/or juveniles, the security measures associated with compulsory psychiatric treatment and custody in health institutions, the compulsory treatment of alcoholics and drug users, and committal to reformatories. The Administration is an administrative agency of the MoJ (LEPS, 2005, 2009: Article 9) headed by the Administration Director who is appointed by the Government of the Republic of Serbia for a period of four years.

The Prison Administration conducts oversight and control of all pertinent facilities focusing on implementation of regulations and professional work in penal sanctions enforcement, and in particular, the state of security, implementation of measures to provide for order and security, operation of security services and workload of heads of services and officers at their respective posts.

*The Prison Staff Training Centre* was established in 2004, with support of the OSCE Mission for organizing and conducting various training programmes for senior security officers, security supervisors, commanding officers, instrumental security for governors, etc. Besides that the Training Centre renders services to judiciary bodies for training of judiciary guards.

Depending on the level of security and the method of treating convicted persons, an institution may be of an open, semi-open, closed or maximum-security type. In the open-type institutions there are no obstacles to prevent escape. In the semi-open-type institutions the security service, which monitors the movement of the convicted persons, constitutes the only obstacle to prevent escape. In the closed-type institutions there are other obstacles to prevent escape (enclosing walls and technical equipment) besides the security service. In the maximum-security-type institutions the treatment of convicted persons is prosecuted with additional attention amid heightened security (LEPS, 2005, 2009: Article 12). The penal-correctional institution for women and the reformatory-correctional house are institutions of a semi-open type. The Special prison hospital, the psychiatric institution and the institute for personality testing of convicted persons are institutions of a closed type. Only a penal-correctional institution may be of a maximum-security type (LEPS, 2005, 2009: Article 13).

According to available data in Serbia in total there are 28 penitentiary institutions:

- 1 maximum security prison (KPZ Požarevac-Zabela);
- 2 closed-type prisons (KPZs Niš and Sremska Mitrovica);
- 4 open-type prisons (KPZs Padinska Skela, Sombor, Ćuprija and Šabac);
- 1 semi-closed type prison for women (KPZ for Women Požarevac);
- 1 closed-type penal-correctional facility for juveniles and young offenders (KPZ Valjevo);
- 1 closed-type special hospital prison (KPD Hospital Beograd);
- 1 semi-closed type educational-correctional facility (VPD Kruševac);

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*Service; Regulations on maintaining good order and discipline in penal institutions; Regulations on the enforcement of security measure of compulsory treatment and confinement in a medical institution, Regulation on preparations for release and assistance after release etc.*





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- 17 district prisons (in Belgrade, Vranje, Zaječar, Zrenjanin, Kragujevac, Kraljevo, Kruševac, Leskovac, Negotin, Novi Pazar, Novi Sad, Pančevo, Prokuplje, Smederevo, Subotica, Užice and Čačak).<sup>3</sup>

As shown in Table 1 and Figure 1, Serbian prison population increased significantly in the last years. The imprisonment rate in Serbia is 133 prisoners per 100.000 inhabitants. Prisons with total number of 10.500 inmates are overcrowded, having in mind that optimal capacity is around 7.000 (Mladenović, 2009).

Concerning gender distribution of convicted prisoners, the data is quite stable over time (Table 2).

**Table 1: Total number of prisoners per category (4-year period)**  
(Administration for Enforcement of Penal Sanctions, 2009)

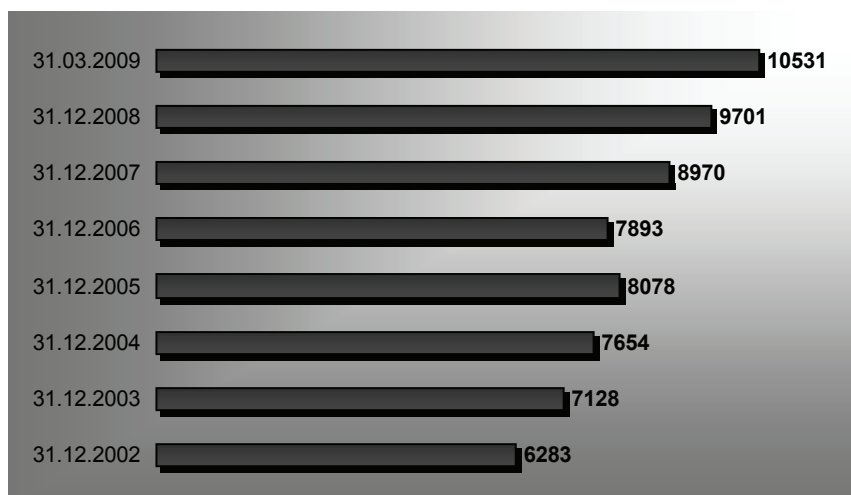
Prisoners	2005	2006	2007	2008
Convicted	11917	12711	13668	14214
Treatment measures	314	273	316	278
Detained	9903	10014	10461	12086
Juvenile imprisonment	46	50	49	50
Educational measure	242	240	213	243
Punished for minor offences	5530	5744	5388	6093
<b>Total</b>	<b>27952</b>	<b>29032</b>	<b>30095</b>	<b>32964</b>

**Table 2: Gender structure of convicted persons**  
(Administration for Enforcement of Penal Sanctions, 2009)

Male				
On the day of 01.01.2008	Admitted in 2008	Total	Discharged in 2008	On the day of 31.12.2008
6132	7751	13793	7266	6527
Female				
On the day of 01.01.2008	Admitted in 2008	Total	Discharged in 2008	On the day of 31.12.2008
189	232	421	239	182

<sup>3</sup> Data for Autonomous Province of Kosovo and Metohija, Serbian province under ad interim administration of UN according to UN 1244 resolution, are not included. There are 7 prisons in Kosovo and Metohija. In February 2008, the Assembly of Kosovo declared Kosovo's independence as the Republic of Kosovo. Its independence was recognized by 65 UN member states and the Republic of China (Taiwan). On 8 October 2008, upon request of Serbia, the UN General Assembly adopted a resolution asking the International Court of Justice for an advisory opinion on the issue of Kosovo's declaration of independence. This process is currently ongoing. Having this in mind, all data in this paper will refer to Serbia without the territory of Kosovo and Metohija.





**Figure 1: Total number of prisoners at day (trends, 2002-2009)**  
(Administration for Enforcement of Penal Sanctions, 2009)

Type of admission	Male	Female
Voluntary admission	3125	106
Arrested and brought in	2345	78
From detention	1030	22
From penal institution on other countries	55	1
From other penal institutions in Serbia	1013	25
Apprehended after absconding	178	/
Returned after expiry of suspension	5	/
<b>Total</b>	<b>7751</b>	<b>232</b>

**Table 3: Convicted persons per type of admission to institution in 2008**  
(Administration for Enforcement of Penal Sanctions, 2009)

In the prison staff, treatment service participates with around 7 % (Table 6). In 2008, there were more than 40 prisoners per one treatment service staff member.

	2006	2007	2008
Under 1 year	4338	5872	5250
1-3 years	1792	1970	1866
3-5 years	487	553	445
5-10 years	321	372	257
10-20 years	150	147	141
40 years	7	19	24
<b>Total</b>	<b>7095</b>	<b>7933</b>	<b>7983</b>

**Table 4: Numbers of convicted persons per sentence length (2006-2008)**  
(Data provided by the Administration for Enforcement of Penal Sanctions in December 2009)



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**Table 5: Numbers of admitted convicted persons per criminal offence type (2006-2008)** (Data provided by the Administration for Enforcement of Penal Sanctions in December 2009)

	2006	2007	2008
Murder and attempted murder	268	317	218
Robbery	966	1189	738
Rape	116	166	107
Larceny, theft, concealment	2384	2467	2198
Bodily injuries	511	634	476
Fraud	251	230	261
Drug-related	941	230	261
Family violence	*	92	317
Possession of arms and threatening of safety	241	236	214
Traffic offences	435	452	387
Criminal offences with elements of organized crime	*	12	7
War crimes	*	9	8
Other criminal offences	982	955	1760
<b>Total</b>	<b>7095</b>	<b>7933</b>	<b>7983</b>

\* In 2006 the statistics for these crimes was not kept

**Table 6: The structure of the prison staff on the day of 30.08.2009** (Data provided by the Administration for Enforcement of Penal Sanctions in December 2009)

Treatment service	236
Security service	2012
Medical service	215
Training and employment service	604
General affairs service	460
Governor, deputy governor, technical secretary	46
<b>Total</b>	<b>3573</b>

Professional and specialized training of prison staff is being permanently carrying on in the Prison Staff Training Centre in Niš. According to written information provided by the Prison Administration in December 2009, twenty-three members of the treatment service from seventeen institutions successfully completed a one-year-and-a-half training course. In addition, many representatives of Prison Administration of Serbia participated in various study visits abroad with the aim to learn about the work and achievements of developed penal systems.

### 3 PRISONERS TREATMENT

#### 3.1 Assignment of Prisoners to Penal Institutions; Prison Regimes

Prisoners are committed to penal institutions pursuant to the act on assignment issued by the Minister in charge of the judiciary. Exceptionally, upon the request of a prisoner, the Head of Prison Administration may deviate from the assignment act if there are justifiable reasons to do so







and change the place of enforcement of penal sentence (LEPS, 2005, 2009: Article 37).

As a rule, prisoners with a sentence or the remaining part of sentence not exceeding one year are assigned to district prisons. Prisoners with a sentence exceeding one year are assigned to penal-correctional institutions. Female prisoners are always assigned to women's penal-correctional institutions (LEPS, 2005, 2009: Article 38).

A prisoner who has committed an offence from negligence or a person sentenced for the first time to a term of imprisonment of up to one, or exceptionally, up to three years, is assigned to an open or semi-open correctional facility. Other prisoners are assigned to closed penal-correctional institutions (LEPS, 2005, 2009: Article 39).

A prisoner assigned to a particular type of institution may be subsequently assigned to another type of institution by decision of the Head of Prison Administration if it is determined that treatment programme would be realized more effective in another institution (LEPS, 2005, 2009: Article 40).

Upon the request of a prisoner or recommendation of the Head of Penal Institution, and where there are justifiable reasons to do so, the Head of Prison Administration may transfer a prisoner from one institution to another. The Head of Prison Administration may for security reasons transfer a prisoner ex officio (LEPS, 2005, 2009: Article 116).

The procedure of the execution of the prison sentence for criminal offences of organized crime, organization and competence of state authorities in the procedure of the execution of a sentence, status of convicted persons and the monitoring of the execution of the prison sentence is governed by the special law - Law on the Execution of the Prison Sentence for Criminal Offences of Organized Crime (LEPSCOC, 2009). Special Department for the serving of the prison sentence for organised crime at the closed type, high security penal and correctional institution was established for the execution of the prison sentence imposed for these criminal offences. Separate premises under surveillance are to be provided at the Special prison hospital for adults who have been imposed in addition to the prison sentence for these criminal offences, the security measures of compulsory psychiatric treatment and confinement in a medical institution, compulsory alcohol addiction treatment and compulsory drug addiction treatment, including the treatment in the course of serving the prison sentence (LEPSCOC, 2009: Article 2). Head of the Directorate may, for reasons of security, transfer the convicted person to the Special Department at another penal institution, with prior consent of the Court President, and/or Authorised Judge (LEPSCOC, 2009: Article 44).

The provisions of the Law on Juvenile Criminal Offenders and Criminal Protection of Minors (LJCOCPM, 2005) governing remand and admittance of the juvenile, deferment and suspension of enforcement, allocation to educational groups, nourishment, right to visits, physical exercise, regular education and disciplinary punishment of juveniles in a correctional facility are accordingly applied to enforcement of juvenile prison sentence. In all other respects the provisions of the Law on Enforcement of Penal Sanctions are applied to execution of juvenile prison sentence.







### 3.2 Assessment Procedures upon Admission and Sentence Planning

Upon admission, convicted persons are sent to admission ward. There, the initial assessment – an individualized estimation of their health status, personality, social and criminological status is performed. A prisoner may stay maximum 30 days in admission ward.<sup>4</sup> Depending on convicts' age, personal characteristics, abilities, criminological status and attitudes toward crime there are formulated preposition of initial assignment and correctional programme.

Assignment of prisoners means determination of the group, and referring a convict to open, semi-open or closed ward. Assignment of prisoners is based on the type of criminal offence, length of sentence, level of guilt, attitude of the prisoner to the offence, prior criminal record and other criteria set out in the Rules on treatment, treatment programme, classification and subsequent classification of convicted persons (LEPS, 2005, 2009: Article 63 Para 4).

According to the Law on the Execution of the Prison Sentence for Criminal Offences of Organized Crime (LEPSCOC, 2009), any male adult convicted for criminal offences of organized crime<sup>5</sup> is committed to serve the prison sentence at the Special Department if it is established that circumstances exist indicating any danger that the convict will: 1) continue, through a convict or some other person, to steer criminal activities of an organized criminal group; 2) establish, through a convict or some other person, cooperation with some other organized criminal group to continue with criminal activities; 3) organize, through a convict or some other person, conflicts with some other organized criminal group; 4) endanger, through some other person, the safety of a Judge, Public Prosecutor or another participant in the criminal proceeding that is in force or that is completed and final or some other official who has proceeded in the pre-trial proceeding or in the proceeding for the execution of the sentence, or 5) induce another person to commit criminal offences (LEPSCOC, 2009: Article 14). Under specific circumstances, persons convicted for other serious crimes mentioned in Article 1 Para 2(1-4) of this Law (i.e. criminal offences of terrorism, international terrorism, several criminal offences against humanity and other goods protected by international law, and severe violations of the international humanitarian law committed in the territory of former Yugoslavia as of 1<sup>st</sup> January 1991 listed in the Statute of the International Criminal Tribunal for Former Yugoslavia) may be also committed to serve the prison sentence at the Special Department (LEPSCOC, 2009).

Upon entering the Special Department the convict is referred to the admittance department where he may stay up to seven days. In that period, staff at the admittance department gets familiar with the personality of the convicted person from the psychological, criminological and security aspects. Governor of the Penal Institution makes the treatment programme based on information gathered in the course of convict's stay at the admittance department and data collected during the

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4 *In accordance with the internal decision, in Educational-correctional facility in Kruševac juveniles may stay in the admission ward more then 30 days, for the sake of better diagnostics and more effective adaptation to the institution.*

5 *Within the meaning of the Serbian Law on Organisation and Competences of State Authorities in the Suppression of Organised Crime.*





criminal proceeding and the proceeding for committal for the sentence serving. Based on the treatment programme the convicted person is placed at certain premises/ groups within the Special Department (LEPSCOC, 2009: Article 26).

On admission of a juvenile to correctional facility first his identity is determined, followed by a medical examination and examination of personal characteristics in a special ward. This examination may not exceed thirty days. A qualified team of the correctional facility draws up an individualized programme of treatment. Upon examinations, the juvenile is assigned to an educational group formed according to personal characteristics and type of educational procedures needed. The educational group may have up to ten juveniles (LJCOCPM, 2005: Article 127).

### **3.3 Rehabilitation, Educational, Vocational and Special Programmes**

Generally, correctional treatments of convicted persons are individualized, in accordance to their potentials, needs, criminological status etc. The Rules on Treatment determines the treatment, treatment programme, classification and subsequent classification more thoroughly. The individual correctional programme is being created in accordance with the assessment of convict's capacities, risks and needs. Risk assessment is based on information on type and severity of crime committed, severity of sentence, a convict's attitudes toward crime and sentence, recidivism, conduct of a convict during previous imprisonments, is there any new criminal procedure against a convict, psychological, social and health characteristics.

The correctional programme may vary depending on assessment of convict's conduct, level of his/her cooperation in programme realization, achieved results and particular circumstances that may arise during serving time. According to the Rules on Treatment, the correctional programmes are being reconsidered every three months in case of sentence up to three years, every six months in case of sentence from three to ten years, and every year in case of sentence of ten or more years. The governor of the institution decides on correctional programmes, classification and posterior classification upon justified proposition of the expert team.

The analysis of effectiveness of treatment programmes, conducted by the Department for Treatment and Alternative Sanctions within the Prison Administration in 2006/2007, covered all penal institutions in Serbia. It was determined that the problems faced by staff in treatment services coincide to high extend and may be grouped into several key groups: 1) out-of-date approach to the treatment programme relying on a outworn rehabilitation concept; 2) difference in approach to treatment within different institutions due to lack of single criteria and centralized management; 3) insufficient number and inadequate training of treatment service staff; 4) under-developed team work, and 5) poor ambiantal conditions (in terms of architectural solutions of the institutions and increasing number of prisoners). Thus, status analysis indicated the need for adapting the





enforcement system to contemporary trends and specific needs of prisoners: first of all, it has started the planning and establishing of a new concept of re-socialization, i.e. the abolishing the ideological concept of 'rehabilitation' and establishing treatment of prisoners as basis for reintegration into the framework of society (Administration for Enforcement of Penal Sanctions, 2008: 32-34).

The new concept of re-socialization has recently introduced best practices of developed prison systems, primarily the methodology of risk assessment, as the basis for designing of individual treatment programmes.<sup>6</sup>

In 2006, it was also introduced the individualized treatment programmes for juveniles. Also, the System of Points and Levels (SPL) was launched in the Educational-correctional facility in Kruševac: juveniles are expected to follow a number of rules and regulations and to learn what behaviour is expected of them. A Multidisciplinary Team works with a juvenile and evaluates his/her progress. A juvenile receives points<sup>7</sup> for the participation in the General Programme, which define his/her current level and promotion, which enables enjoyment of privileges related to that level. The multidisciplinary treatment plan is prepared by the Admission unit after the multidisciplinary evaluation. The key elements of this plan include: juvenile's capacities, list of current problems, risk assessment, general impression, treatment objectives, strategies and modalities to attain the goals, and criteria for release plan formulation and cooperation of the juvenile and his/her parents (Administration for Enforcement of Penal Sanctions, 2008: 42).

A new model of work has been also implemented in the Penal-correctional facility for juveniles in Valjevo. It has been established a multidisciplinary team, consisting of the representatives of all services and departments and meeting once a week. Its tasks include defining the risk assessment criteria and creating special treatment programmes (such as Anger/Aggression Management Programme and the Programme for Drug Addiction Prevention and Rehabilitation) as integral part of individualized treatment plan (Administration for Enforcement of Penal Sanctions, 2008: 44).

Prisoners are generally entitled to receive primary and secondary education which is organized within the institution. The certificate of education must not indicate that education was acquired during serving of sentence (LEPS, 2005, 2009: Article 112). Penal institutions also organize other forms of education (LEPS, 2005, 2009: Article 110), including, for instance, vocational training programmes organized by the service for training and employment.

In Penal-correctional facility in Sremska Mitrovica it has been recently founded the literacy school programme.

Generally, the prison governor may allow a prisoner external/part-time education. However, the costs of such education are borne by the prisoner (LEPS, 2005, 2009: Article 111). As stated in written information provided by the Prison Administration

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6 The risk assessment programme in the United Kingdom (OASYS) was taken as basis (Administration for Enforcement of Penal Sanctions, 2008: 34).

7 Juveniles are awarded from 0-3 points: 0- for total lack of cooperation; 1- for cooperating, albeit superficially; 2- for cooperation and adequate fulfilment of their tasks, and 3- if in cooperating and fulfilling tasks display enterprise and self initiative (Administration for Enforcement of Penal Sanctions, 2008: 44).





in December 2009, for those prisoners who are motivated to proceed the education, attending the school is being planned by the correctional programme.

While serving the sentence convicted juveniles are provided with: education, professional and vocational qualification for a vocation according to their abilities, predilection and education and work to date, in accordance with the facilities available in the correctional institution. As stipulated in the Law on Juvenile Criminal Offenders and Criminal Protection of Minors, a juvenile has to be provided with facilities to acquire primary and secondary vocational education and qualifications (LJCOCPM, 2005: Article 89). Treatment of convicted juveniles is based on participation in educational and useful work engagements with corresponding remuneration, fostering and encouraging links between the juvenile and society outside the facility by letters, telephone conversation, receiving visits, leave etc, as well as participation in sports, cultural, arts, entertainment activities and providing the possibility to practice religious needs. Qualified persons implementing treatment programmes of juveniles have to possess special skills in pedagogy, psychiatry and penology (LJCOCPM, 2005: Article 138). Working hours of the person convicted to juvenile prison sentence is determined so as to enable education and vocational training, while leaving sufficient time for physical training, cultural arts activities, religious needs and leisure (LJCOCPM, 2005: Article 141).

A female prisoner with child may keep her child until it turns the age of one; thereafter parents shall agree on whether the father will have custody or another relative or person (LEPS, 2005, 2009: Article 106). Female prisoners with children are entitled to be provided with assistance of the professional staff of the institution. In absence of maternal care, a child is provided with accommodation in special premises and professional care in keeping with the standards applying for infant nurseries. The fact that a child was born in prison must not be stated in birth certificate or other public document (LEPS, 2005, 2009: Article 107). Childbirth, accommodation and care for female prisoners and their children are free of charge (LEPS, 2005, 2009: Article 108).

Present special programmes for vulnerable groups include drug-free programmes, developed as a response toward rising numbers of prisoners with drug-related problems. 'Drug-free units' are special wards for remanding prisoners making the commitment to abstain from the use of drugs. In the last three years, they were created in Penal-correctional institutions in Niš, Sremska Mitrovica, as well as in the Special prison hospital and district prison in Novi Sad. The goal of this programme is total abstinence from psychoactive substances. The drug-free units are embroiled in both group and individual psychotherapy. The first one focuses on topics based on principles of gestalt therapy (feelings elaboration, recognition and expression), and systemic psychotherapy. Individual psychotherapy embodies a systematically structured cognitive psychotherapy and transactional communication. Special attention is paid to preparations for release including assigning the strengths, resistance and capacities of the personality to resist recidivism (Administration for Enforcement of Penal Sanctions, 2008: 48).





Post release care of persons upon the enforcement of institutional security measures takes over the competent guardianship authority (LEPS, 2005, 2009: Article 198).

### **3.4 Pre-Release and Aftercare**

The Law on Enforcement of Penal Sanctions stipulates that prisoner, at least three days prior to release, should be exempted from any labour (LEPS, 2005, 2009: Article 167), and examined by a doctor. A seriously ill person released from prison and a person unable to travel due to illness is placed in the nearest adequate medical facility by the penal institution, which bears the costs of treatment for the first thirty days (LEPS, 2005, 2009: Article 168). The penal institution is obliged to provide underwear, clothes and footwear to released prisoner who is unable to provide them himself (LEPS, 2005, 2009: Article 170), as well as to bear transportation costs to the place of residence of a released person (LEPS, 2005, 2009: Article 171).

The Law on Enforcement of Penal Sanctions generally stipulates that released persons are given necessary assistance in order to facilitate their reintegration (LEPS, 2005, 2009: Article 36). Prior to releasing the convicted person from prison, and within the treatment programme, the penal institution is obliged to determine an after-release assistance programme. In providing of that assistance the penal institution cooperates with the organizational unit within the Directorate competent for the treatment and alternative sanctions, as well as competent guardianship authority, the Police or appropriate organization or association (LEPS, 2005, 2009: Article 174).

Up to date, there were neither specific aftercare programmes nor supervision programmes for released persons. In practice, post-penal assistance is provided by local welfare institutions and NGOs – however, the system of post-penal assistance (particularly in case of adult ex-convicts) is not much effective, due to both poor material conditions of welfare system, as well as general prejudice towards ex-convicts (Soković, 2008).

The Law on Juvenile Criminal Offenders and Criminal Protection of Minors is far more detailed concerning aftercare. According to the Law, for the duration of the institutional measure and juvenile prison sentence the competent guardianship authority is obliged to maintain constant contacts with the juvenile, his family and the institution, in order to better prepare the juvenile and his/her family for the post-release phase. An institution in which the juvenile is serving his juvenile prison sentence are required to notify at least three months in advance of the scheduled leave of the juvenile, his parents, adoptive parent, guardian, and/or close relatives with whom the juvenile used to live, as well as the competent guardianship authority, and suggest measures for accepting the juvenile on his/her return (LJCOCPM, 2005: Article 147).

The release plan for a juvenile (within the multidisciplinary treatment plans) in Educational-correctional facility in Kruševac is being prepared from the first day of his/her admission. In order to succeed in creating solid release plans, parents/guardians and welfare officers are regularly invited (once a month) to attend





meetings of the expanded institution's multidisciplinary teams (Administration for Enforcement of Penal Sanctions, 2008: 42).

A parent, adoptive parent or guardian, and/or close relative with whom the juvenile used to live before serving his institutional sentence or juvenile prison sentence, is required to notify the competent guardianship authority about the juvenile's return to his family. Competent guardianship authority is required to provide necessary assistance to the juvenile, after he/she has served criminal sanction (LJCOCPM, 2005: Article 148).

On release of the juvenile from serving of institutional measure or juvenile prison sentence, the competent guardian authority takes special care of a juvenile without parents and those with disordered family and material circumstances. This care particularly includes accommodation, nourishment, provision of clothing, medical treatment, assistance in settling family circumstance, finalizing vocational training and employment of the juvenile (LJCOCPM, 2005: Article 149).

### 3.5 Contacts with the Outside World

The institution is required to enable every prisoner to notify/call his family or person designated by him immediately upon being admitted to a penal institution (LEPS, 2005, 2009: Article 61).

Every prisoner is entitled to unlimited correspondence at his own expense. In closed-type institutions with special security, closed-type institutions and closed wards of an institution, the content of correspondence is supervised. The prison governor may deny correspondence privileges to a prisoner serving a sentence in this type of institution on grounds of security. The prisoner has the right of confidential correspondence with his defence counsel, Protector of Citizens, or other state organs and international organizations for protection of human rights (LEPS, 2005, 2009: Article 75).

A prisoner has the right to telephone calls in accordance with provisions of the House Rules, at his own expense. In closed-type institutions with special security, closed-type institutions and closed wards, telephone calls may be monitored for security reasons. Monitoring of telephone calls is ordered by the prison governor (LEPS, 2005, 2009: Article 76).

Every prisoner is entitled to receive visits of the spouse, children, adopted children, parents, adoptive parents and other lineal relatives or lateral relatives to fourth degree of consanguinity: 1) once a week - in an open penal institution or open section of penal institution; 2) twice a month - in a semi-open penal institution or semi-open section; 3) once a month - in a closed or special security penal institution. The prison governor may allow a prisoner to be visited by other persons also (LEPS, 2005, 2009: Article 78).

A prisoner is entitled to be visited by his attorney or an authorized person representing him, or whom he called to give a power of attorney for representation. A visit of the authorized person may be monitored only by sight but not within hearing distance (LEPS, 2005, 2009: Article 79).







Foreign prisoners are entitled to visits by a diplomatic or consular representative of their country or the country protecting their interests, and a prisoner whose interests are not protected by any country, to visits of the representative of competent Serbian authorities and international organizations (LEPS, 2005, 2009: Article 80).

Once in three months, a prisoner is entitled to spend at least three hours in special premises of the institution with the spouse, children or other close person (LEPS, 2005, 2009: Article 82).

A prison governor may grant the special rights to prisoners who are well-behaved and diligent at work, including extended right to receive visits; visits without supervision in visitor's premises; visits in special premises without presence of other prisoners; visits outside the institution; visits to town; visits to family and relatives on weekends and public holidays; award leave up to seven days in a year; extraordinary leave up to seven days, and annual leave outside the institution. Extended right to receive visits includes other persons (distant relatives, friends and others) who may visit a prisoner (LEPS, 2005, 2009: Article 115).

The convicted person serving their sentence in Special Department for Organized Crime has, among other, the right to correspondence, telephone conversation and to visits by close relatives and other persons. He has unlimited right to correspondence with his close relatives (spouse, children, parents, adopted children, adoptive parents, brothers and sisters), and may also correspond with other persons, with the consent of the Court President, i.e. Authorized Judge<sup>8</sup> (LEPSCOC, 2009: Article 34). A convict is entitled to telephone conversation with close relatives, maximum twice a month (LEPSCOC, 2009: Article 36), as well as to visits by close relatives once a month. By way of exception, Governor of the Penal Institution may, with the consent of the Court President, and/or Authorized Judge, permit individual visits by other persons. Head of the Directorate may permit an individual visit to the diplomatic-consular representative of the country whose national is the convict, or to a representative of international human rights organizations (LEPSCOC, 2009: Article 37). Governor of the Penal Institution may, with the consent of the Court President, approve to the convict demonstrating an exceptionally good conduct the extended right to the number of telephone conversations and/or visits (LEPSCOC, 2009: Article 42).

A juvenile under enforcement of educational measure of remand to a correctional facility has, among other, the rights to participate in organized cultural, sports and other appropriate activities outside the correctional facility; to attend classes outside the correctional facility if it has not organized education of particular type or degree and if so justified by achievement in the juvenile's rehabilitation and education to date, if this would not be detrimental to enforcement of the educational measure; to weekly visit by parent, adoptive parent, guardian, spouse, the common-law partner, adoptee, children and other lineal relatives and relatives in lateral line to fourth degree of sanguinity; to spend up to three hours

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<sup>8</sup> However, at the motion of the Governor of the Penal Institution or Head of the Directorate, if so dictated by the reasons for maintaining order, security and safety, prevention of commissions of criminal offences or protection of injured parties, the Court President, i.e. Authorized Judge may take a decision to limit or deny the right to correspondence for a certain period of time.







in private with a spouse or common-law partner once a month, in a separate room specially designated for that purpose within the correctional institution; and to have visits twice a month by other persons who do not interfere with enforcement of the educational measure (LJCOCPM, 2005: Article 128).

The governor of the correctional facility may grant the benefits to a juvenile for good conduct and dedication to work, including: extended visiting privileges; liberty in visiting the town; visits to sports, cultural and other suitable events outside the facility; visits to family, relatives or other close persons on weekends and holidays, and leave from the facility up to fifteen days (LJCOCPM, 2005: Article 129).

In addition to privileges specified in Article 128 of the LJCOCPM (2005), the governor of the facility where the juvenile prison sentence is enforced may grant a person of exemplary conduct and dedication to study and work leave to visit parents, adoptive parent, guardian, spouse, common-law partner, children, adoptee, siblings or other close persons. This leave may be granted twice a year and may last up to fourteen days each. A person convicted to a juvenile prison sentence may not be restricted in correspondence with parents, adoptive parent, guardian, spouse, common-law partner, children, adoptee and siblings (LJCOCPM, 2005: Article 142).

### 3.6 Effectiveness in Corrections

According to data provided by Prison Administration in December 2009, the effectiveness in corrections is assessed through data on reconviction, more precisely, through data on penal recidivism. As it was indicated, the penal recidivism rate is highest in the case of persons convicted to short prison sanctions (up to one year), reaching 70 %.

		N	%
Male	First-time offenders	3311	43.0
	Re-offenders	4389	57.0
	Total	7700	100.0
Female	First-time offenders	88	37.8
	Re-offenders	145	62.2
	Total	233	100.0

**Table 7:**  
**Convicted persons per re-offending and gender in 2007**  
(Administration for Enforcement of Penal Sanctions, 2008)

Generally, the participation of re-offenders in the structure of convicted prisoners in Serbia range around 60 % (Table 7).





## 4 GRIEVANCE (COMPLAINING) PROCEDURE

The Law on Enforcement of Penal Sanctions (2005) introduces for the first time a two-tier system of protection of rights of convicts in the framework of the Prison Administration, provides for judicial recourse and established the possibility to conduct control by government bodies outside the prison system, as well as independent control<sup>9</sup> by various domestic and international organizations and bodies. By Amendments to the Law adopted in 2009, new mechanisms were introduced guaranteeing protection of rights of prisoners. The Law stipulates that prisoner, in order to exercise his rights, may address Head or other authorized person from an appropriate service within the penal institution by submission. That person is obliged to provide a written and reasoned reply to the submission of the convicted person within five days. The convicted person has the right to file a complaint to the Governor of the Penal Institution (do to violations of his rights or other irregularities affecting him) who is obliged to examine the complaint and take a decision within 15 days. The convicted person who does not receive a reply to the complaint or is not satisfied with the decision taken has the right to lodge an appeal to Head of the Directorate within eight days. Head of the Directorate is obliged to take a decision on the appeal within 30 days from the day the appeal is received (LEPS, 2005, 2009: Article 114).

If the convicted person finds that his right is violated due to the treatment by the Governor of the Penal Institution, he/she may file a complaint to Head of the Directorate. If Head of the Directorate establishes that the complaint has not been filed for the reason stated, he/she transmits complaint to the competent authority and informs the convicted person. Head of the Directorate may examine the admissibility of the complaint also by direct inspection of all relevant documentation of the penal institution, discussion with the Governor and staff of the penal institution, conversation with the convict who has filed the complaint and other convicts, without presence of the penal institution employees. If it is established that the complaint is admissible, Head of the Directorate orders that violations of the convict's rights be eliminated. If he/she finds that violations of the convict's rights have been caused by the treatment of an employee, Head of the Directorate notifies in writing Governor of the Penal Institution and the person authorized for supervision; if found that the treatment by the Governor has led to violations of the convict's rights, he/she notifies the person authorized for supervision (LEPS, 2005, 2009: Article 114a). The convicted person is entitled to complain to the authorized person in charge for supervision of the penal institution operations, without presence of employees (LEPS, 2005, 2009: Article 114b).

With the aim of improving the approach to protection of rights of prisoners the staff of the Department for Protection of Rights have attended several seminars and

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9 *It is expected that the introduction of an independent oversight of the prison system (by the independent committee of the National Assembly and by the Protector of Citizens) is to be definitive step toward establishment of a national mechanism for prevention of torture, in line with the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (ratified by the Republic of Serbia in 2006) (Administration for Enforcement of Penal Sanctions, 2008).*





workshops organized by the OSCE Mission to Serbia and the Council of Europe and with participation of international experts (Administration for Enforcement of Penal Sanctions, 2008).

## 5 MAIN PROBLEMS IN THE ENFORCEMENT SYSTEM OPERATIONS

The European Commission published their 2008 Report on Serbia specifying that the prison system reform would be continued on the basis of set priorities, and that it was noted that prison administrations were much more professionally responsive to complaints of prisoners. Thus, the Department for Protection of Rights of Prisoners established a more effective system of responding to prisoners' complaints. In 2008 the Moj – Prison Administration submitted regular reports to the European Commission on implementation of priorities of the system of enforcement of penal sanctions (Commission of the European Communities, 2008).

For the national programme of integration of the Republic of Serbia into the EU a paper was prepared on the scope of Administration's activities which would provide the basis for implementation of system reform and harmonization with the European standards in this area.

Relating to regular scope of work of the staff in the Department for Protection of Rights of Persons Deprived of Liberty in 2008 (pardons, early release, suspension of imprisonment, work for the duration of the prison sentence, change of place of sentence serving, transfer of prisoners and decisions on grievances and complaints of prisoners), the following trends were identified:

*Overcrowding* of institutions seriously jeopardizes the system functioning and quality and safe management of these institutions. Some penitentiary institutions practically have no room to place new prisoners in. In some of the institutions, internal redistribution was undertaken to overcome the current problems, but in practice it appeared that such interventions were associated with different problems (quality security before all). The problem may be resolved only by increased capacity of the Administration in general, which remains one of the priority tasks. In order to overcome this problem successfully, it is necessary to implement a series of changes and interventions in the enforcement system itself, both on the regulatory and organizational levels, and primarily in improvement of the level of security of these institutions and persons serving their sentences there or being the staff.

*Standard of prisoners* in general is impaired because of accommodation of many people per room, but under the conditions it is satisfactory.

*Security* of the institutions is generally satisfactory, but there is room for improvement of operations of some services. One of the priority tasks is providing for technical equipment within the integral technical protection system, procurement of equipment, vehicles and most importantly recruitment of new staff in the security services. The current system is associated with many shortcomings, it is not sufficiently prompt or effective, and the increasing number of prisoners makes the staff shortage acute.





The *human resource problem* is not present only in the security service, but in other departments as well, since except in larger cities recruitment of new staff for health care and treatment/reform of prisoners is becoming increasingly difficult. Compliance with the statutory and human rights of prisoners is on a much higher level that it used to be in the previous years which may be explained by better regulations, treatment procedures, staff training on the importance of respect for rights of persons deprived of liberty and better level of information of prisoners, themselves. Better transparency of the system for media reporting and access to governmental and non-governmental organizations are also praiseworthy.

Health care of prisoners is provided under complex conditions since only a few institutions are able to provide satisfactory primary health care. Other institutions provide health care through local systems hiring doctors from hospitals or local health care centres. The Special prison hospital is overcrowded with increasing number of patients treated from addictions. Under the conditions it can hardly take over the role of the central hospital for the system of enforcement and it is necessary to consider the possibility of displacement of at least a part of the patients.

Work of prisoners is not on a satisfactory level, but the underlying causes are very complex enquiring comprehensive activity of the Administration in general, and establishment of the new concept of training and labour.

The population of prisoners in all categories still shows the identified unfavourable trends, suggesting the need for serious response of the society in terms of prevention and criminal-legal response, as well as enforcement of the sentence. Otherwise, without substantial growth and specialization, the system of enforcement of sanctions may face more serious problems.

Finally, the treatment programmes for particularly vulnerable prisoners or groups of prisoners with specific problems are insufficient and poorly developed. For instance, as it was indicated in Council of Europe's Report to the Government of Serbia on the visit to Serbia carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in 2007, assistance to prisoners with drug-related problems is still underdeveloped. While it was assessed that construction of 'drug-free' units was a welcome development, a further progress is needed, particularly having in mind CPT's position that the provision of assistance to prisoners with drug-related problems should be comprehensive, combining prevention policies with programmes for medical detoxification, psychological assistance, substitution and rehabilitation (Council of Europe, 2009: 40).

## 6 CONCLUDING REMARKS

The new treatment concept is based on the latest scientific achievements on crime and experiences of modern and developed penal systems Europe-wide. It is primarily focused on better classification of convicted persons by the level of risk, individual characteristics, needs and ability to adopt positive interventions through the penal system.





One of the positive results of the recent judicial reform in Serbia is the harmonization of a penal-executive law with international and regional standards, including the European prison rules from 2006, particularly in the domain of accommodation, work and education of prisoners, their contacts with outside world and other rights of persons deprived from liberty, as well as concerning oversight over penal institutions' work. Particularly important is that external control of penal institutions work is provided through the institution of Protector of Citizens.<sup>10</sup>

Treatment, i.e. reform of prisoners is associated with numerous shortcomings since the concept has been in use for years now, but it is not pertinent to the current population of prisoners, their current state or needs. Very frequently, due to subjective evaluation and blurred criteria, the approach in place leads to collision between the re-socialization needs on the one hand, and interests of the society to be protected from perpetrators of serious crimes on the other.

Investing further efforts in establishing of the system of alternative sanctions would enable not only reduction of prison overcrowding, but also proper reintegration and reduce recidivism for those who committed less serious or accidental crimes.

Generally, developing both the educational/vocational and treatment programmes for adult prisoners including specific programmes for particular groups,<sup>11</sup> as well as measures targeting the reduction of prisoners' isolation during sentence serving, seems to be important future tasks within Serbian system of enforcement of penal sanctions. In relation to this, increasing the number of staff, primarily in the treatment and security service as well as professional services directly involved with persons deprived of liberty and reduction of superfluous administration, is also seen as an important future step.

Finally, further development of post-penal assistance which would substantially increase chances for reintegration and social inclusion of ex-prisoners and subsequently reduce re-offending rate and improve the crime prevention, perhaps is the most significant but also the most demanding assignment.

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10 According to the Law on Protector of Citizens (2005, 2007), the Protector of Citizens has authority to freely access correctional institutions and other places where persons deprived of liberty are held and to speak with them in privacy (LPC, 2005,2007: Article 22).

11 For instance, implementation of special programmes (departments) for anger control, counseling for sexual offenders etc.





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