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Imposition of alternative measures in North Macedonia and comparison of probation in France and Croatia

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Abstract. When the criminal offense is mentioned, the only association is the prison sentence, as a justification that the purpose of the punishment is achieved with it. But today, modern criminal law legislation is characterized by humanity and the request for the imposition of non-institutional sanctions, in the sense that it is not always possible to expect that the desired results will be achieved with the prison sentence, which is the fight against criminality, its prevention and suppression. Fierce criticism of the short-term prison sentence and the prison sentence for its emphasized retributive character led to the emergence of new sanctions known as alternative measures, the main purpose of which is to suppress and prevent criminality, enabling the reintegration and resocialization of perpetrators of minor crimes. Although about 18 years have passed since the beginning of the application of the provisions on alternative measures in the Republic of North Macedonia, from the analysis of the statistical data, it can be noted that of the total imposed alternative measures, the conditional sentence is at the top of the list of imposed alternative measures. The purpose of this paper is, through statistical data analysis and visualizations, to determine the rate of imposed alternative measures in the Republic of North Macedonia and of imposed probation in EU member states such as France and Croatia, to compare the imposed measures in these countries, in terms of which measures are stricter in which countries, whether new measures should be foreseen and whether probation has an impact on the reduction of criminality.

Keywords: probation, alternative measures, prison sentence

1 General exposition of alternative measures

1.1 Alternative measures and its aim

When the criminal offense is mentioned, the only association is the prison sentence, as a justification that the purpose of the punishment is achieved with it. But today, modern criminal law legislation is characterized by humanity and the request for the imposition of non-institutional sanctions, in the sense that it is not always possible to expect that

the desired results will be achieved with the prison sentence, which is the fight against criminality, its prevention and suppression.

Fierce criticism of the short-term prison sentence and the prison sentence for its emphasized retributive character led to the emergence of new sanctions known as alternative measures, the main purpose of which is to suppress and prevent criminality, enabling the reintegration and resocialization of perpetrators of minor crimes.

In the modern penal legal system, the prevailing opinion is that there are situations when the application of the prison sentence, which consists of deprivation of liberty, is not proven to be appropriate in a large number of cases, therefore, as an appropriate mechanism for resolving these situations, there are measures with which the purpose of the punishment it is achieved with milder treatment and it is achieved in freedom. It is also a way out of the problem with which the current situation in prison institutions collides and that is their overload and the idea that prison is an expensive sanction for society.¹

The amendments of the criminal legislation and the alternative measures also have a wider social interest, because their pronouncement and application achieve other goals, which are of an economic and educational nature. Concretely said, with the application of these alternative measures, the prison faculties are released, on the one hand, and on the other hand, to the professionals in the penitentiary faculties are given a greater opportunity to re-educate the convicts.

The fight against criminality is complex and requires a high dedication to criminal law policy for its prevention and suppression. The high development of criminality and the resulting criticism of the prison sentence, as a central punishment and response to the turmoil of this social harm, indicates the need for other, additional means that enrich the system of measures and sanctions whose common and basic goal is the prevention of criminality.

The theory accent that the birth of the idea of alternative measures begins with the introduction of the prison sentence, which managed to win a dominant place in the legislation and grow into the strictest, but also the most frequently imposed sentence. It is primarily a normative category whose priority is to define the goals of the fight against crime. From the very beginning of the introduction of the prison sentence in the system of criminal sanctions (at the end of the 18th century), a process of finding its substitution with other, non-prison, alternative sanctions began. The process of finding alternatives to prison especially intensified in the second half of the last century and coincided with open skepticism towards prison and imprisonment, as well as fierce criticism towards resocialization, as one of the most important pillars on which criminal law and criminal policy rests after the Second World War.

In the Republic of North Macedonia, the alternative measures find their roots in the suspended sentence established in the Criminal Code of the SFRY OF 1951 and later amendments. [1]

¹ Mustafai A. (2014) The pronouncement of the suspended sentence in the emphasis of basic court of Struga, Master thesis defended in "University Ss. Cyril and Methodius", Faculty of Law "Iustinianus Primus" in Skopje

The purpose of this paper is to determine, through statistical data, the practice of applying alternative measures in the Republic of North Macedonia and comparing the pronouncement of alternative measures in the Republic of Croatia and France.

1.2 Total sentences and alternative measures imposed in the Republic of North Macedonia from 2020 to 2022 in percentage

Table 1. Total convicted people, total sentences and total alternative measures by number ²

YEAR	Total convicted people	Sentences - total	Alternative measures - total
2020	6351	1372	2927
2021	7634	4287	3323
2022	7769	4360	3383
All years	21754	12063	9633

Table 2. Total convicted people, total sentences and total alternative measures by percentage

YEAR	Total convicted people %	Sentences – total %	Alternative measures – total %
2020	100	53.79	46.09
2021	100	56.16	43.53
2022	100	56.12	43.54
All years	100	55.45%	44.28%

As shown in the above table, alternative measures have a significant place in the practice of the courts in the Republic of North Macedonia. For the period from 2020 to 2023, a total of 9,633 alternative measures were imposed, which is a percentage of 44.28% of the total of 21,754 convicted adults, of which a total of 12,063 sentences were imposed, which is a percentage of 55.45%.

Alternative measures were pronounced more in 2020 with 46.09%, in 2022 with 43.54%, less in 2021 with 43.53%.

1.3 Total registered, accused and convicted people in the Republic of Croatia from 2020 to 2022 in percentage

² State Statistical Office (2020, 2021, 2022) Reported, accused and convicted perpetrators of criminal offences (adults and children), Statistical reviews, Skopje

Table 3. Total number of convicted peoples and number of conditional sentences, partially conditional sentence and community work by number

YEAR	Total number of convicted peoples	Total number of inmates	Conditional sentence Partially conditional sentence Community work
2020	13615	1935	10494
2021	14471	2047	11128
2022	12355	2096	11260
All years	40411	6078	32822

Table 4. Total number of convicted and inmates' peoples and conditional sentence, partially conditional sentence and community work in percentage

YEAR	Convicted peoples %	Inmates - %	Conditional sentence Partially conditional sentence Community work
2020	100	14.21%	77.07
2021	100	14.14%	76.89
2022	100	16.96%	91.13
All years	100	15.04%	81.22%

Alternative measures also take a significant place in the practice of courts in the Republic of Croatia. For the period from 2020 to 2023, a total of 32,822 alternative measures were pronounced, which is a percentage of 81.22% of the total of 40,411 convicted adults, of which a total of 6,078 prison sentences were pronounced, which is a percentage of 15.04%.

Alternative measures in relation to the prison sentence were more pronounced in 2022 with 91.13%, in 2020 with 77.07%, less in 2021 with 76.89%.

1.4 Total accused peoples in France from 2020 to 2022 in percentage

Table 5. Total number of inmates and probationers by number³

YEAR	Total number of inmates	Total number of probationers	Total prison sentence and probation
2020	82923	169667	252590
2021	75021	166044	241065

³ Direction of prison administration Data Office, Ministry of Justice (May, 2023), **Statistical series of people placed under the custody of justice 1980 – 2022**

2022	83267	180974	264241
All years	241211	516685	757896

Table 6. Total number of inmates and probationers by percentage

YEAR	Total inmates %	Total probationers %
2020	32.82%	67.17%
2021	31.12%	68.87%
2022	31.51%	68.48%
All years	31.88%	68.17%

Probation also has a significant place in the practice of courts in France. Comparing them with the number of imprisoned peoples from the above, we conclude that in France, alternative measures are pronounced massively, that is, twice as much. For the period from 2020 to 2023, a total of 241,211 were closed, which is a percentage of 31.88% of people, while 516,685 alternative measures were imposed per person, which is a percentage of 68.17%.

Alternative measures in relation to imprisoned peoples were pronounced more in 2021 with 68.87%, in 2022 with 68.48%, less in 2020 with 67.17%.

1.5 Volume and structure of alternative measures – probation in the Republic of North Macedonia, Republic of Croatia and France

Table 7. Total number of inmates and probationers by percentage

Countries	Year	Alternative measures - probation by number	Alternative measures Probation - Total %
Republic of North Macedonia	2020-2022	67.17%	44.28%
Republic of Croatia	2020-2022	68.87%	81.22%
France	2020-2022	68.48%	68.17%

From the given tables, we can conclude that the Republic of North Macedonia is becoming a "more rigorous" country because alternative measures compared to other punishments are imposed less, while alternative measures in the Republic of Croatia and France are imposed more compared to prison sentences. Percentage wise, for the period from 2020 to 2022, the Republic of North Macedonia has pronounced 44.28% alternative measures while 55.45% fines. What does the Republic of North Macedonia mean: 11.17% have pronounced fines rather than alternative measures. This is not the case of the Republic of Croatia, which for the period from 2020 to 2022 has pronounced 81.22% alternative measures of 15.04% imprisonment, which means alternative measures have been imposed 66.18% more. While in France, the imposition of alternative measures amounts to 68.17% of 21.88% prison sentences, which means 36.29% more alternative measures are pronounced.

2 Conclusion

From this analysis it is concluded that in the Republic of North Macedonia in 2022 there is an increase in the pronounced alternative measures of 0.01% compared to 2021, while compared to 2020 there is a decrease in the pronounced alternative measures of 2.55%. The Republic of Croatia in 2022 has a significant increase in the pronounced alternative measures by 14.24% compared to 2021, while compared to 2020 there is an increase of 14.06%. In France in 2022 there is a decrease in the pronounced alternative measures of 0.39 % compared to 2021, while compared to 2020 there is an increase of 1.31 %.

From this analysis, it can be concluded that all three countries aim to use the prison sentence, when there are opportunities and conditions, as an ultima ratio, because they increasingly believe that with the imposition of alternative measures and sanctions and with probation, resocialization can be achieved much more success. Although the analysis shows that the Republic of North Macedonia, in comparison with Croatia and France, imposes more punishments than alternative measures, but nevertheless all countries believe in the positive effects that probation brings with them and above all they believe that by applying them a greater result will be achieved and that is reduction of criminality.

References

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