



Execution of Sentence with an Order for Community Service Work Against Adult Persons in Region of Mitrovica in the Period 2012-2016

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Abstract: The sentence an order for community service work is one of the alternative punishments that is foreseen in the criminal law of the Republic of Kosovo. As such, this kind of alternative sentence by Kosovo courts in the Mitrovica region in recent years has been largely applied, mainly to persons who have committed minor offenses. This kind of alternative punishment manifests many positive sides and is considered highly progressive punishment variants. Through this punishment the responsibility of the convicted person is increased to a higher degree, his active participation in the execution of this punishment is ensured, and the compensation of the damage and the victim is largely ensured. In this paper I have endeavored to provide valuable data regarding the execution of order for community service work in the region of Mitrovica. Within this paper, besides the volume, dynamics of the order for community service work, we have also touched some personal characteristics of persons to whom this measure was applied. This research has been conducted in the region of Mitrovica (in the territory of the Basic Court of Mitrovica) and includes the period from 2012-2016. For the purpose of providing a more accurate results about this issue, the data of the Basic Court in Mitrovica and the data of the Probation Service of Kosovo - the regional unit in Mitrovica have been analyzed.

Keywords: Execution; Order for community service work; Region of Mitrovica; Period 2012-2016; Kosovo Probation Service

1. Introduction

Punishments and alternative measures in recent decades are being applied in most of the countries of contemporary society where in finding and affirming these punishments and alternative measures, according to the overwhelming majority of authors, it can be said that the dominant influence has had the failure to enforce other penalties, especially the punishment of imprisonment in the process of re-socialization of convicted persons and their reintegration into society. According to the Council of Europe Committee on the issue of Prisoners, it is currently estimated

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that around eight million people (men, women, and children) are found in prison sentences throughout the world. So until October 5, 2004, there were 2607 in total in prisons in Kosovo. This problem has a huge financial cost for the state of Kosovo. It is estimated that for a prisoner the state expends within 10,000 Euros within a year. In addition, the application of imprisonment is increasingly being shown to be an inefficient measure in re-socializing offenders. Now the XXI century is considered as a new stage in the development of punishments and alternative measures, consolidating and massaging them as more effective measures in the fight against criminality as a more humane concept of treating delinquents. We hope that this orientation in the future will be widely accepted and prospered in all countries of the world, especially in Kosovo.

2. The Notion and Reasonableness of Sentence with an Order for Community Service Work

The order for community service work as the type of alternative punishment is of a relatively new date. On the continent of Europe, for the first time, it was foreseen by the Danish legislation in 1974. Afterwards this kind of condemnation was adopted by many other developed countries of Europe such as France, Germany, Hungary, Poland, Finland, Sweden, England, Ireland etc. The order for community service work is also foreseen in the United States of America. This type of punishment is also recommended by the European Rules (Council of Europe Recommendation No. R (92). The purpose of all countries that have foreseen this type of punishment is to reduce the short-term punishment of imprisonment. (Salihu, Hasani & Zhitia, 2013, p. 230).

The order for community service work is the third type of alternative punishment that is foreseen in the Criminal Code of the Republic of Kosovo. This kind of punishment is foreseen in accordance with the contemporary trends of the homunization of criminal law. The strategic concept of this trend is to maximize in all possible cases, instead of punishment of imprisonment, to impose alternative punishments, punishments that do not isolate the perpetrator of the offense, do not take liberty of movement and at the same time contain attributes of moral, financial punishment and certain obligations to the injured party and society that he must fulfill (Salihu, 2005, p. 480). The order for community service work, as an alternative punishment consists in the fact that in the judgment of the court, the perpetrator of the criminal offense is assigned an obligation to perform public benefit

work within the prescribed timeframe. When imposing a punishment of a general-interest order, the court orders the convicted person to perform free of charge, general-purpose work for a period of thirty (30) to two hundred and forty (240) working hours. So, as the purpose of the work is generally seen, is the resocialization of a convicted person with non-punitive measures. Normal, for the imposition of this punishment must be met in some conditions as foreseen in the Criminal Code of the Republic of Kosovo (Salihu, 2005, p. 481).

2.1. Conditions for the Imposition of Sentence with an Order for Community Service Work

In order for the court to pronounce punishment by the order for community service work, must be met the following conditions are foreseen in Article 60 of the Criminal Code of the Republic of Kosovo:

1. that the court, the perpetrator of the criminal offense has imposed a sentence of imprisonment up to one year or a fine of up to 2500 E.
2. there is an assessment from the Probation Service Report and
3. to give the consent of the convicted that he agrees-agrees to impose such a punishment (CCRK. Article, 60).

From this it results that the first instance court has to impose the sentence of a criminal offense by judgment with punishment of imprisonment and at the same time to ask the convict if he agrees that the punishment will be replaced by a punishment with order for community service work. This kind of alternative punishment can be pronounced by the court, no matter what type of offense the word is, it is sufficient for the court not to impose a fine of over 2500 euros or imprisonment for more than one year. Also, if the court finds it reasonable, this kind of punishment can also be imposed on recivists (Salihu, Hasani & Zhitia, 2013, p. 281).

3. Probation Service - General Views

Probation service is present in most of the countries of contemporary society. This service has a long and rich history of presentation and development. The term "probation" itself derives from the Latin word "probation" which means proof, probation. While, for the first time, the term "probation" was used by John Augustus in the United States of America, which has put practical use of this term. So rightly so by many authors this is considered as the father of "probation". Thus, Augustus

is considered to be the first probation officer to practice this profession on a voluntary basis (Gashi, 2013, p. 39).

From literature we learned that by 1858 Augustus granted a temporary release from prison by about 1152 men and 794 women and women, and besides that, he provided more than 3000 women who, being abandoned by society, did not enjoy sympathy or necessary protection. Meanwhile, if we take a look at the legal basic, we can conclude that the first law of probation was applied in Massachusetts in 1878, with which law also begins the creation of “the first legal sparks” for the establishment of a probationary service and so the selection of probation officers (Gashi, 2013, p. 41).

Since its appearance so far, the probation service has gone a long and feasible way of developing and transforming it. In some countries this service has a long history of development. For example, in England and Wales, this service has a 100-year experience. His origins in England and Wales can be said to be found in churches and religious movements.

In Denmark, where the probation service also has an early development history, some societies that assisted prisoners began working from 1905 with the convicts who were in proof. Today in contemporary societies, the probation service has a clear mission, giving high priority to sanctions and community measures. Thus in the developed Western countries such as Finland, Denmark, Belgium, Italy, Malta and Scotland, the main task of the probation service is to enforce sentences and measures in the community and other activities in the community. These goals, missions and tasks of this service are more or less similar in other countries that have established this institution (Gashi, 2013, p. 42).

3.1. Establishment of the Kosovo Probation Service and its Role in Supervision the Execution of Sentence with an Order for Community Service Work

The establishment of the Kosovo Probation Service as the only body at the time of its establishment in the region, which has to do with the execution of alternative punishments and the social reintegration of convicted persons is of great importance in the Republic of Kosovo in the process of fighting and preventing criminality in general.

The Service for the Execution of Alternative Sanctions and the Social Reintegration of Sentenced Persons (Kosovo Probation Service) is a new service created after the end of the Kosovo war and the deployment of the United Nations Interim Administration Mission in Kosovo (UNMIK).

This service started work on 2 December 2002. Meanwhile, on 1 November 2004, this service receives 16 other tried and tested officers and opens regional directorates (Ministry of Justice of Kosovo, Reg. QKR 2013/31).

Until the establishment of the Ministry of Justice on December 20, 2005, this service was part of the Department of Justice, established in 2001 as part of the First Pillar (Police and Justice), United Nations Interim Administration Mission in Kosovo. While UNMIK Regulation no. 2006/26, dated 27 April 2006, defines the competences of the Ministry of Justice, including the coordination and administration of the Kosovo Probation Service. This regulation sets out the legal basis for the further transfer of competencies to the Ministry of Justice.

The Probation Service of Kosovo is the central state administration body under the Ministry of Justice of the Republic of Kosovo. This service is entrusted with the execution of punishments and alternative measures, supervision, reintegration, rehabilitation and re-socialization of persons who have committed criminal offenses, including those released from prison, as well as their reintegration into society and the community

3.2. Organizational Structure of Kosovo Probation Service

The Kosovo Probation Service is the central body of the state administration under the Ministry of Justice. This service has its own identifying mark. It consists of the General Directorate of Probation Service and Regional Directorates. According to the provisions of the Law on Execution of Criminal Sanctions, the internal organization and systematization of the Probation Service is regulated by a special act approved by the Minister of Justice. This service extends its activity throughout the territory of the Republic of Kosovo. The General Directorate of Kosovo Probation Service has its headquarters in Pristina. It oversees and supervises the legality and functioning of the Regional Departments and other departments within the Probation Service.

Regional Probation Service Departments are established by decision of the Minister for the territory of the Basic Courts. Each department have some responsibilities such as: organizing and executing alternative measures and punishments, supervising the persons released from custody, organizing and implementing work on the reintegration of convicts into society within the territory of the Regional Directorate, and they also undertake measures and other actions for the implementation of the provisions of the legal and sub-legal acts within the scope of the respective Regional Directorate. Regional Directorates are directly subordinate

to the General Directorate and are responsible for their work to the Directorate. The work of the Regional Directorates is led by the directors or directors of these directorates, who are appointed by the Director General of the Probation Service of Kosovo. According to the current situation, there are 7 (seven) regional directorates in the territory of the Republic of Kosovo as follows: Regional Directorate in Prishtina, Regional Directorate in Prizren, Regional Directorate in Peja, Regional Directorate in Gjilan, Regional Directorate in Mitrovica and Regional Directorate in Ferizaj , and the Regional Directorate in Gjakova. (Gashi & Ademi, Probation in Europe Kosovo, p.14. <https://www.cep-probation.org/wp-content/uploads/2015/03/Final-chapter-Kosovo.pdf>)

The Probation Service with Kosovo on January 31, 2011 has been admitted to the European Probation Organization (CEP) as a full member and equal member. (Confederation of European Probation, www.cep-probation.org).

4. The Commencement, Manner of Execution and Termination of Sentence with an Order for Community Service Work

The issue of execution of punishments and other measures is regulated by the legal norm, constitutional provisions, criminal code, criminal procedure code and special laws that directly regulate this issue (Gashi, 2001, p. 26). In the process of executing sentences according to positive legal provisions, a number of organs participate (Hysi, 2000, p. 171).

Execution of sentence with an order for community service work commences from the day when the verdict that issued this alternative punishment becomes final and becomes final. While competent for the execution of this punishment is the Kosovo Probation Service (Gashi, 2013, p. 99).

Pursuant to the provisions of the Law on Execution of Criminal Sanctions, when the court imposes a sentence with an order for community service work, it immediately sends the judgment and all the data it possesses the probative evidence competent for the execution of this sentence (Law No. 04/L-149, 151, 1). This service also performs the oversight and performance of the order for community service work performed in the public organization or institution. In practice, there are cases when the convicted person does not perform the job at a satisfactory level. The Kosovo probation service must be notified in this regard. The legal provisions and the probationary tasks to assess whether the performance of an

order for community service work is performed at a satisfactory level and in cases of non-implementation of this work at the level as required, the probation service after its assessment notifies the court (Gashi, 2013, pp. 101-102). Usually the failure to perform work at a satisfactory level should mean delayed work at work, work-failing absences, disrespect of working rules, etc. Provisions of the Law on Execution of Penal Sanctions allow the Probation Service to make certain corrections of the overall work program. Execution of sentence with an order for community service work may be postponed or suspended only in cases provided by legal provisions.

Article 162 of the Law on Execution of Penal Sanctions provides for cases when the execution of this sentence may be postponed or suspended. These cases are mainly of a health, family, and humanitarian nature. Thus eg. postponement or suspension may be allowed in cases of sudden illness of the convicted person who requires medical treatment of the death of any member of the family obliging him to take on the role of the principal guardian of the other family members or in the case of the creation of other extraordinary circumstances which require the permanent presence of the convicted person for humanitarian reasons (Gashi, 2013, p. 104).

The postponement or suspension of the execution of this punishment may last until the healing of the illness, for which the convicted person has to file evidence of it, and in the case of the death of any member of the close family or because of the creation of extraordinary circumstances in the family, this postponement or suspension may take up to twenty (20) days (Law No. 04/L-149, article, 151, 3-6).

Provisions of the Criminal Code of the Republic of Kosovo foresee the possibility that if the convicted person does not perform the work of general benefit or partially performs it, the court may postpone the duration of the supervision within the time of verification or revoke the sentence. Whereas, in cases when the convicted person has not completed the work of general benefit or has only partially performed such work, the court orders a punishment of imprisonment where one (1) day of imprisonment is ordered for every eight (8) working hours of general non-performance. If the order for community service work is successfully carried out and there has been no delay in its performance, then the probation service informs the court that this work has been successfully completed (Criminal Code of Rep., of Kosovo, 2013, art., 60, al., 1, 2, 3).

5. Structure, Volume and Dynamics of Execution of Sentence with an Order for Community Service Work against Adult Persons in Region of Mitrovica in the Period 2012-2016

The Sentence with an order for community service work is one of the most common punishments imposed and enforced in the practice of the Kosovo Probation Service. During the period 2012-2016 in the Mitrovica region, respectively in the territory of the Basic Court of Mitrovica by the Probation Service of the regional unit of Mitrovica in Kosovo, a total of 83 cases of this alternative punishment were executed (Kosovo Probation Service, 2012-2016).

Based on the data of the regional unit of the Probation Service of Kosovo, in the Mitrovica region during the research period 2012-2016, for the large persons were executed in total, as mentioned above, 83 cases according to the work order in the community service . All these punishments apply only to masculine persons and it is interesting that evidence from probation services does not mention any case of execution of this punishment against the female gender. To justify this, we will present important data regarding the execution of this penalty during the period 2012-2016, which had the following performance:

Table 1. The execution of the sentence with an order for community service work in region of Mitrovica, in years, according to Probation Service data Regional Directorate in Mitrovica

Years		Percentage %
2012	24	28.91 %
2013	26	31.32 %
2014	21	25.30 %
2015	7	8.43 %
2016	5	6.02 %
Total	83	100 %

Viewed by years on the basis of Kosovo Probation Service data to Mitrovica-Regional Unit referred to the research time period, data from Table 1 show that the execution of the sentence with an order for community service work in 2013 was mostly expressed, with 26 cases or expressed in percentage of 31.32%, followed by 2012 with 24 cases of execution of an order for general good work of 28.91%, in 2014 with 21 cases of executing the order for work of general benefit or 25.30%, while in 2015 and 2016, this type of alternative punishment was less expressed in practice with only 7 cases or 8.43% of its execution, respectively 5 cases or 6.02%.

5. Some Personal Characteristics of Persons against Whom the Sentence with an Order for Community Service Work Were Executed

Every person whom objective conditions have formed, motivated and incited in criminal activity has a structure of its own personality which distinguishes more expressive individual, psychic cultural qualities which give concrete meaning to the actor's action. In this context, the personal character of the perpetrator and also of the convicted persons in the criminological literature are mentioned; the nationality,

Nationality of convicted persons	No	%
albanian	83	100 %
Serb	/	%
Turkish	/	%
Bosnian		%
Ashkali	/	%
Rom	/	%
-	/	%
Total	83 /	100 %

age, gender etc. (Milutinovic, 1985, p. 446).

5.1. Nationality

The nationality of perpetrators of criminal offenses in general and of convicted persons is of particular importance in the fight against criminality. This analysis makes it necessary to know the fact that in the territory where this study and research has been conducted, there are living members of different communities, such as albanians, serbs, roma, etc.

In the territory in which research has been conducted, apart from Albanians live persons of different ethnicities such as Serbs, Roma, etc. But despite this ethnic diversity.

Table 2. The nationality of persons to whom a sentence with an order for community service work were executed in the period 2012-2016, according to the Kosovo Probation Service Drj. Regional in Mitrovica

The statistical from table No. 2 indicate that sentence with an order for community service work of 83 cases, were executed only against persons belong of Albanian nationality, which is characteristic if one considers the specifics of the population structure in the territory where this research was conducted.

5.2. The Age

The age of criminal offenders is important in the phenomenological aspect, and in general in the criminological aspect (Salihu, 1985, p. 133). During the researching of Kosovo Probation Service cases in Mitrovica it was noted that sentences with an order for community service work were executed against the persons of different ages. Usually when analyzing the age of offenders, respectively convicted persons, the age groups should be created into several categories separated for decades. Therefore, given what we have said, we present some statistical data in tabular form.

Table 3. The age of persons to whom a sentence with an order for community service work were executed in the period 2012-2016, according to the Kosovo Probation Service Regional Unit in Mitrovica

The ages of convicted persons	No.	%
0 – 20	1	0.83 %
20 – 30	24	28.91 %
30 - 40	27	32.53 %
40 - 50	23	27.71 %
50 -60	7	8.43 %
Over 60	1	0.83 %
Total	83	100 %

According to the data presented in Table 3, it is clear that the sentence with an order for community service work in the period 2012-2016 in the Mitrovicë / Mitrovica region was mostly pronounced against the category of people aged 30-40, with 27 cases, or expressed in percentage of 32.53%, followed by persons of age groups between 20-30 years with 24 or 28.91%, persons of age groups between 40-50 years with 23 or 27.71%, followed by persons of age groups between 50 and 60 years with 7 cases of execution or 8.43%, while it is characteristic that the sentence with an order for community service work to the category of persons between 0-20 years and over 60 in the research period was pronounced and executed with only one case or 0.83%.

5.3. Gender

Gender or sexual belonging, in the participation of criminality, is also mention in the criminological literature, and is interpreted from different aspects (Gashi, 2013, p. 40). As subjects of commission of criminal offenses and consequently their punishment in general in region of Mitrovica in the period 2012-2016.

Table 4. The gender of persons to whom a sentence with an order for community service work were executed in the period 2012-2016, according to the Kosovo Probation Service Drj. Regional in Mitrovica

Analyzing data from table no.4. we conclude that a general-purpose work order has been imposed mainly on male-sex persons with 83 cases or 100% in percentage, and as it is seen above, this penalty for the investigative period has in no case been imposed on persons of the female gender.

5.4. The Recidivism

Recidivism or repetition of criminal behavior is also a special form of criminality, which interferes with a particular social risk (Halili, 2005, p. 229).

The criminal past of convicted persons	Convicted for the second time	Convicted for the first time	Total
No.	3	80	83
Percentage	3.61 %	96.38 %	100 %

During the analysis of Probation Service cases, we have encountered cases when it was imposed and executed two or more times against the same person for the same criminal offenses.

Table 5. The criminal past of persons to whom execution the sentence an order for community service work in the refion of Mitrovica in the period 2012-2016 were executed

If we analyze the data from Table No. 5, we can conclude that from the total number of execution of the sentence with an order for community service work, on 83 cases from the analysis conducted of the Probation Service of Kosovo, the regional unit in Mitrovica results that against 3 persons, the sentence with an order for community service work of general were executed two or more times or expressed in percentage 3.61%. The data in this aspect indicate that this sentence for the second time was executed against convicted persons of the criminal offense of "theft of the forest", while execution was carried out mainly in educational institutions as technical worker.

The gender of convicted persons	Male	Female	Totali
No. of persons	83	0	83
Percentage	100 %	0 %	100 %

6. Conclusion

With the entry into force of the criminal legislation of the Republic of Kosovo, in particular the Criminal Code of the Republic of Kosovo, the Criminal Procedure Code of the Republic of Kosovo and the Law on Execution, established the legal basis for the imposition and execution of this type of alternative punishment. In addition to the Criminal Code of the Republic of Kosovo, punishments and alternative measures are also foreseen in international documents and norms and as such these documents and norms create the legal and legal basis to apply in other countries as well. Alternative sanctions and measures are being consolidated and are being applied in wider proportions in all countries of the world and are giving good results in the fight against criminality which are being applied to Kosovo Replays as well. This kind of alternative punishment is yielding good results in the fight against criminality and such punishment is helping re-education, re-socialization and reintegration of convicts into society. Especially the execution of the sentence with an order for community service work in the first post-war years was considerably applied in the region of Mitrovica, in cooperation with the non-governmental organization of the Swiss "Terre des Homes". But not only in the first postwar years this kind of punishment in the region of Mitrovica in the territory of which this research has been conducted, from the official data of the Kosovo Probation Service, the regional directorate of Mitrovica, shows that the sentence with order for community service work was quite expressive. So, for example, only in the period 2012-2016, the sentence with order for community service work was executed in 83 cases. Referring to the nationality, from the data provided by the KPS cases, it results that this type of punishment for the above-mentioned period was executed against persons belonging to the Albanian nationality, whereas by gender this kind of punishment was executed mainly against persons of the male gender, while referring to the age of the persons, from the statistical data, it is clearly seen that this sentence was executed mostly against the category of persons between the ages of 30 and 40 with a total of 27 cases or 32.53 percent of the total number of 83 cases execution of the sentence with an order for community service work.

The Kosovo Probation Service is the body responsible for supervision the execution of sentence an order for community service work. The essence of the pronouncement and execution of the sentence an order for community service work consists in the humanity of punishments, the depopulation of prisons, the saving of the state budget, the reduction of the possibility of return to the crime network and the convicted person that in certain cases with his work to perform the legal obligation, and so

compensate the community for the damage done. A key feature of the role of the Probation Service is to carry out most of the activities in direct collaboration with other institutions of the criminal justice system such as the Police, Prosecution, Courts, Correctional Service, Public Institutions, Non Governmental Organizations etc.

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