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Ukládání nepodmíněného trestu odnětí svobody a jeho alternativ Imposition of Unconditional Imprisonment and its Alternatives

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Summary

Imposition of unconditional prison

One of the main directions of IKSP research tasks is society's needs in the field of penal policy and how these spur initiatives for changes in criminal legislation, for enhanced enforcement of the law, and for improvement of the sanctions system. These initiatives are identified in particular through examining the effectiveness of newly introduced institutions of criminal law – alternatives to imprisonment and diversions, and also prison sentences imposed and serving of them, and the effectiveness of justice and the prison system.

The study “Imposition of unconditional prison sentences and alternatives to this” was prepared on the basis of an assignment from the Ministry of Justice. The reason for preparing the study was that in recent years there has been a rise in the number of persons convicted to serve a prison sentence, although the Criminal Code and the Code of Criminal Procedure enable broad application of alternatives to imprisonment and diversions in cooperation with the Probation and Mediation Service. The study is divided into 11 sections.

In view of the short time period stipulated for carrying out the task we were unable to follow the standard procedure in performing the research tasks. In addition to using the main findings from previously conducted research we used analysis of statistical data from justice services as our basic method (statistics of decisions of courts and state prosecutors, the prison service, and the probation and mediation service) and also analysis of analytical material of the Probation and Mediation Service, the Supreme Court and the Supreme State Prosecutor's Office. As one of the options for acquiring relevant information to fulfil the task, we used the personal knowledge and experience of state prosecutors and judges in applying alternatives to imprisonment and diversions, in cooperation with the Probation and Mediation Service, and in the work of probation officers in applying probation and mediation elements. For this reason we administered a questionnaire on this issue to all district courts and district state prosecutors' offices.

The conclusions of the study can be summarised as follows – The main purpose of alternatives to imprisonment consists in restriction of unconditional prison sentences and in providing assistance in resolving the problem of overcrowded prisons. Short-term prison sentences should be minimised, even though they clearly cannot be excluded entirely. For this reason they should be imposed in cases of offences of medium seriousness, in which short-term sentences have typically been imposed up to now. Alternatives to imprisonment should not replace suspended sentences, for this would not reduce the prison population to any significant extent. It is shown that, even though greater imposition of alternatives to imprisonment has not been reflected in a particularly significant fall in the prison population, alternatives to imprisonment have a real chance of achieving their purpose. We cannot,

however, be under any illusion that this can be managed without being receptive to other innovations which will reflect changing external social conditions, and without greater financial expenditure on their execution. It is only with difficulty that we can envisage alternatives to imprisonment having a more positive influence in facilitating the work of law enforcement bodies. Alternative measures are designed for this in the Criminal Code. In connection with the summary of findings obtained it needs to be stressed repeatedly that the number of persons serving unconditional prison sentences in 2003 rose only in comparison with 2002. The cause was certainly not a higher number of unconditional sentences imposed. The reasons for this situation can be attributed to the fact that the influence of factors which had a favourable impact on the number of persons in prison in 2002 was reduced substantially in 2003. Here it was a matter of indicators which in addition to the number of unconditional prison sentences imposed have a decisive influence on the number of convicted persons in prison. It is a matter of numbers of persons arriving to serve prison sentences from custody or life in the community, imposition of alternatives to imprisonment and the numbers of convicted persons conditionally released.

Překlad: Marvel