

## **THIRD STUDY COMMISSION**

### **QUESTIONNAIRE FOR 2006**

#### **Republic of Macedonia**

In accordance with the system of the criminal law in the Republic of Macedonia there is an absence of rules which stipulate that the persons who have very serious mental illness or handicap cannot be tried in the first instance criminal procedure, on the contrary, legal provisions are in force, according to which in the criminal procedure should be decided if the accused person committed a criminal act or not.

Criminally liable is the perpetrator who is accountable and who has committed the criminal act with premeditation or from negligence and in the same time he should have or could have been aware that his/her act is forbidden by law.

A perpetrator who at the time of committing the criminal act could not understand the meaning of his/her act or who could not manage his/her actions due to permanent or temporary mental illness, temporary mental disorder or retarded mental development or other especially difficult mental handicaps, is not accountable, and in the first instance criminal procedure he/she can be pronounced a security measure - Mandatory psychiatric treatment and institutionalizing in a medical facility or Mandatory psychiatric treatment at liberty.

A perpetrator of a criminal act who at the time of committing the criminal act had significantly reduced capability to understand the meaning of his/her act or to manage his/her actions, due to permanent or temporary mental illness, temporary mental disorder or retarded mental development or other especially difficult mental handicaps, can be punished lenient or can be pronounced a security measure - Mandatory psychiatric treatment and institutionalizing in a medical facility or Mandatory psychiatric treatment at liberty, if he/she has been pronounced a sentence of imprisonment, a probation with which a sentence of imprisonment is determined or probation with protective supervision.

The main purpose of the security measures is to eliminate the conditions which can influence the perpetrator to commit criminal acts in the future.

To a perpetrator of a criminal act, the court can pronounce one or more security measures, when their pronouncing is stipulated in the provisions of the Criminal Code of the Republic of Macedonia.

#### *Mandatory psychiatric treatment and institutionalizing in a medical facility*

The security measure - Mandatory psychiatric treatment and institutionalizing in a medical facility, can be pronounced to a perpetrator who had committed a criminal act in the state of unaccountability or significantly reduced accountability, if the court determines that due to that state he/she could continue committing further offences, as well as if for eliminating this danger there is a need for his/her treatment and institutionalizing in such institution. This measure will be revoked by the court, if determined that the need for treatment and institutionalization in a medical facility has ceased.

To a perpetrator of a criminal act in the state of significantly reduced accountability, who is sentenced to imprisonment, the time spent in a medical institution will be accounted in time of duration of his/her sentence. If that time is shorter than the duration of his/her sentence, the court can refer the convicted person to serve the rest of his/her sentence or to release him/her on parole. In making the decision for his/her release on parole, the court will especially consider the success of his/her treatment, his/her health condition, the time spent in the medical institution and the time remaining of the sentence.

The court will annually review the need for treatment or institutionalizing in medical facility. If based on the results of treatment, the Court determines that further need for treatment or institutionalizing in a medical facility there is not necessary, but the treatment can continue at liberty, the Court will pronounce security measure – Mandatory psychiatric treatment at liberty.

### *Mandatory psychiatric treatment at liberty*

To a perpetrator of a criminal act in a state of unaccountability or significantly reduced accountability, the court will pronounce the security measure - Mandatory psychiatric treatment at liberty, if determined that due to that state the he/she could continue committing further offences and for elimination of this danger his/her treatment at liberty will be sufficient. Under these conditions, the Court can pronounce - Mandatory psychiatric treatment at liberty to a perpetrator whose accountability is significantly reduced and he/she is released on parole, as well.

The security measure - Mandatory psychiatric treatment at liberty, pronounced to a perpetrator with significantly reduced accountability cannot be determined for longer than two years.

For the perpetrator with significantly reduced accountability and who is sentenced to imprisonment, the time spent under mandatory psychiatric treatment at liberty, is not accounted in the sentence.

If the perpetrator of the criminal act doesn't start serving the security measure - treatment at liberty or if he/she leaves from the treatment free willingly or if the conditions for pronouncing the security measure – Mandatory psychiatric treatment and institutionalizing in medical facility are in place, the Court can change the pronounced security measure with - Mandatory psychiatric treatment and institutionalizing in medical facility.

If the mental health of the perpetrator of the criminal act during the implementation of the security measure - Mandatory psychiatric treatment and institutionalizing in medical facility and Mandatory psychiatric treatment at liberty improves, that person cannot be brought before the court for the same criminal act, as that case would be res judicata.

Prisoners who while serving the sentence of imprisonment became mentally ill, will be referred to a treatment in the appropriate medical institution by a proposal of a doctor – psychiatrist, and they will remain there until there is need for that. The time spent under treatment, will be accounted in the duration of the sentence.

MACEDONIAN JUDGES ASSOCIATION

Judge Vesna Dimiskova

Trial Court Skopje I – Skopje