

Abstract

Protective treatment and security detention

The purpose of my thesis is to analyse protective treatment and security detention from the perspective of the current legislation and also to outline the planned legislation.

The reason for my research is that I want to find out in force legislation for protective treatment and security detention, determine its faults submit a recommendation to supplement of the existing legislation that would correct these deficiencies.

The thesis also deals with the question of the possibility of the imposition of protective treatment and security detention to perpetrators of serious criminal offences or who have not attained the age of criminal responsibility yet.

The thesis is composed of twelve chapters, each of them deals with different aspects of protective treatment and security detention.

Chapter One is introductory and lays down basic objectives of this thesis.

Chapter Two describes the historical development of protective treatment and security detention. Briefly deals with dualism sanctions and then deals with the development of protective measures in the Czech environment, since the establishment of Czechoslovakia to the emergence of security detention and embedding of protective treatment and security detention in new Criminal Code.

Chapter Three defines protective measures, describes the common characteristics of different sentences and protective measures.

Chapter Four defines protective treatment, deals with the necessary adequacy of granting of the protective measure and its purpose . The chapter is subdivided into seven parts. Part One describes means of granting of protective treatment, thus obligatory and facultative. Part Two deals with conditions of granting of protective treatment. Part Three deals with forms of protective treatment, thus the institutional and ambulant protective treatment. Part Four deals with four types of protective treatment from the point of view of indications and used medical methods, which are psychiatry, sexuology, and against alcohol addiction to narcotic drugs or psychotropic substances protective

treatment. Each subchapter of this part describes mentioned types of protective treatment more in detail. Part Five deals with execution of protective treatment. Part Six deals with change of protective treatment, from institutional to ambulant and reverse and also to security detention. Part Seven deals with duration of protective treatment, thus defines its maximum duration, possibility of its extension and deadlines of protective treatment.

Chapter Five deals with security detention and is subdivided into eight parts. Part One describes means of granting security detention, thus obligatory and facultative. Part Two deals with subsidiarity of security detention to protective treatment. Part Three describes individuals, to whom security detention is intended. Part Four describes reasons for establishment of security detention next to protective treatment. It mainly deals with insufficiency of security at the institutes, in which protective treatment is performed. Part Five deals with conditions, means of execution of security detention and its goals. Part Six describes current institutions for execution of security detention and informs about cases of several offenders, who were granted security detention. Part Seven deals with duration of security detention, deals with deadlines of execution of security detention and deals with duration of security detention. Part Eight deals with possibility of change of security detention to protective treatment, mutual transmission of these two institutes.

Chapter Six deals with security detention and protective treatment from the point of view of *de lege lata* a *de lege ferenda*. Thus summarizes the current legal regulation of these two institutions and considers the shortcomings of this legislation.

Chapter Seven deals with granting of protective treatment and security detention to adolescents. First it shortly defines adolescent and then it describes conditions of granting and execution of protective treatment and security detention to those offenders.

Chapter Eight deals with the question, whether its possible to grant protective treatment or security detention to offenders, who haven't reached the age of criminal liability and concludes that it is not possible, because such an offender may be granted of up to protective care only. Furthermore, this chapter is divided into two parts. Part One analyzes proposed legislation of granting of protective treatment to offenders, who haven't reached the age of criminal liability. It deals with the reasons that led to the proposed legislation which, if it is approved by Parliament, allows modification of

granting of protective treatment to offenders, who haven't reached the age of criminal liability. Furthermore analyzes this proposal. Part Two deals with proposed legislation of granting security detention to offenders, who haven't reached the age of criminal liability. It deals with proposal, which current Minister of Justice intends to present to the Parliament within debating the draft legislation which would allow granting of protective treatment. This is a proposal that aims to enable granting of security detention next to protective treatment to offenders, who haven't reached the age of criminal liability.

Chapter Nine evaluates aspects of granting of protective treatment and security detention to adolescent offenders and offenders, who haven't reached the age of criminal liability. Furthermore this chapter is divided into two parts. Part one is consideration of shortcomings of proposed legislation and Part Two is consideration of necessity of possibility of granting to adolescent offenders and offenders, who haven't reached the age of criminal liability, protective treatment and security detention.

Chapter Ten submits the proposal of new protective measure granted to adolescent offenders and offenders, who haven't reached the age of criminal liability.

Chapter Eleven compares Czech legislation of protective treatment and security detention with legislation of these protective measures in several European countries. Chapter Eleven is subdivided into three parts. Part One compares Czech legislation of protective treatment and security detention to Dutch legislation of these protective measures, Part Two with German one and Part Three with Austrian one.

In conclusion, in Chapter Twelve, I comment on the existing legislation of protective treatment and security detention and submit recommendations on how to change it.