

# INSTITUTE OF PAROLE IN THE REPUBLIC OF SRPSKA

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**Abstract:** *With this paper, the author wants to show the parole as a significant criminal justice, correctional and criminal - political institution. It analysis the conditions for its application, the authority that approves it, the revocation of parole and the problems associated with this institution in the Republic of Srpska.*

**Keywords:** *parole, commission for parole, convicted person, institution for the execution of criminal sanctions*

## 1. INTRODUCTION

The institute consists in the fact that persons who are in prison, for which it is reasonable to expect that there will not do the crimes and the punishment achieve the purpose of punishment, turned loose before the sentence served. The essence of parole is that the only place reversing the sentence, and not deleted, nor forgives the penalty. The nature of this institution requires that some issues such as conditions for its application, the authority that granted it, and the requirements for revocation of parole be regulated in the Criminal Code. Because the parole decision during the execution of imprisonment, it is necessary that the Law on Execution of Criminal Sanctions regulate certain issues, especially in the legislation under which the parolee decides administrative authority (the Commission for parole). In those jurisdictions for which the probation court decides, the procedure for release by the parole prescribed by the Law on Criminal Procedure.

The question of application of this institution in the EU member states, the issue that is extensively dealt with the Council of Europe in 2002, and 2003, and resulted in the adoption of specific recommendations on parole.<sup>1</sup> Recommendation 22 of 2003, the definition sets out the basic principles and application of parole as one of the most effective and najkonstruktivnijih resources to prevent recidivism and promote re-socialization, based on which the prisoner provides planned reintegration into the community with the help and supervision.

When the current issue of redundancy in prison analyze then a matter of applying the Institute of parole is even more important.

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<sup>1</sup> Recommendation of Council of Europe R (2003) on parole

## 2. PAROLE IN THE REPUBLIC OF SRPSKA

In the Republic of Srpska, the Penal Code and<sup>2</sup> Law on Execution of Criminal Sanctions<sup>3</sup> regulate Institute of parole. In Article 108 Criminal Code provides that a convicted person who has served half his sentence may be released from serving the sentence on condition that the expiration of his sentence has not committed any crime. A convicted person who is sentenced to imprisonment may be released on parole after they endure three-fifths of the condition and not to perpetrate a crime. In deciding whether the prisoner released on parole, it shall be taken of his conduct while serving the sentence, the execution of duties due to his working ability and other circumstances indicate that the purpose punished.

The analysis of the above statutory provisions, the requirements for conditional release, which must be cumulatively fulfilled, can be divided into objective (length of sentence) and subjective (related to the conduct of the convicted person while serving a sentence, or his own contribution to the re-socialization). Fulfillment of objective conditions is difficult to determine, while the subjective conditions more difficult to determine. Are there, the subjective conditions for conditional release, the Commission shall report on the institutions for the execution of criminal sanctions, because there is no direct contact of the convicted person with the Commission. It should be noted that good governance of the sentenced person in a correctional institution is not a complete guarantee for good behavior at large. Great importance to the behavior of a prisoner on parole has external factors. This means that we should meticulously studied and displayed in the report whether the milieu of the early life of convicts kept unchanged, positive or negative circumstances developed, which have previously encouraged to deviant behavior, or have contributed to such behavior, whether it is socially healthy environment in the narrowest where he lived would parole, whether he is in that environment is desirable, what is the position of the victim, the position of the environment to him as the perpetrator of the crime has taken, whether in the middle of the conditions to work on and to engage in a positive way come to the fore of his abilities and preferences, etc.<sup>4</sup>

Revocation of parole is the court (Article 109 of the Criminal Code), if convicted while on parole, commits one or more offenses for which a sentence of imprisonment exceeding one year. The court may revoke probation if the parole commits one or more criminal offenses for which a sentence of imprisonment exceeding one year. In deciding whether to revoke parole, the court shall take into account the similarity of the crimes committed, their significance, the motives from which they were committed and other circumstances indicating the reasons for revocation of parole. If the court revokes parole, a new punishment considering the earlier sentence as an already fixed will be ordered. Part of the sentence the convicted person has served the previous sentence shall be credited to the new sentence, and the time the convicted person spent on parole shall not be counted. If parole is sentenced to imprisonment not exceeding one year, a court does not revoke probation, extend the probation, during which the convicted person has spent in prison. As noted above, the remaining provisions of probation prescribed by the Law on Execution of Criminal Sanctions. The purpose of probation is that the convicted person who, during the imprisonment has been achieved some degree of social reintegration in the community to be released before it is fully served his sentence.

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<sup>2</sup> The Criminal Code of the Republic of Srpska („Službeni glasnik Republike Srpske“, br. 49/03, 108/04, 37/06, 70/06)

<sup>3</sup> The Law on Execution of Criminal Sanctions of the Republic of Srpska („Službeni glasnik Republike Srpske“, br. 12/10)

<sup>4</sup> Gojko Lazarov: Probation and the new Code of Criminal Procedure, JPKK No. 2-3, 2002, p. 264

### 3. COMMISSION FOR PAROLE

On the parole, decision makes Parole Commission appointed by the Minister of Justice. Commission for parole consists of five members, which includes a representative of the Ministry of Justice, Supreme Court of the Republic of Srpska or district court judge, and three independent members from the relevant professional field (criminal justice, social welfare, criminal sanctions, Psychology). One of the members of the Commission's chairman, a quorum for a decision of three members. The Commission is appointed for a term of four years and brings its own rules on the manner of operation, the calling and holding meetings, consideration of applications and proposals for the head of conditional release, decision-making and decision making, and other issues that are relevant to the work. On the parole is decided upon the proposal of the head of the institution or at the request of the prisoner. Convicted persons applying for parole, which are submitted to the Commission, submitted the correctional institution in which he is serving a prison sentence. Correctional institutions with a request of the sentenced person or the head of the institution submits a proposal report should include: personal information about a convicted person (the name of one of the parents, date and place of birth, place of residence, marital status, education level, data on military service ), information on previous convictions, and being convicted, the sentence which carry a prison sentence (of the judgment, the date of its enactment, by any court of decision, which is the length of prison sentences and for which the person convicted of a criminal offense, whether the convicted person committed several offenses and is made a single sentence for all offenses, et.), data on the amnesty and pardon, the content of the judgment from which to see the exact description of the crime, doing the same manner, the information if the convicted person was an accomplice, mitigating and aggravating circumstances, and others, the calculation of the sentence (a period during which the person resided in custody, as to the date of writing endured imprisonment, and the rest of the time it takes to carry a person serving a sentence), the data that if the person began to serve the sentence by the transferred from detention or at liberty, whether voluntarily contacted to serve his sentence or is apprehended, and others., data on the possible escape from the institution where he was serving a sentence, and the time in which these flight was made, the behavior and conduct of the convicted person while serving a sentence (here the behavior of states required convicted persons in all correctional facilities in which the Republic of Srpska serving its sentence, monitored from receipt to the institution until the day of writing. In this section, which is the most comprehensive, is the qualifying group which has been placed, his intellectual level, etc.), disciplinary measures, if any person had been convicted while serving a sentence, type and duration of disciplinary actions, work engagement of convicted persons, as and its involvement in sporting, cultural and other activities, the health of a prisoner, his attitude towards crime, and its relationship to other prisoners and to workers employed in the institution, family status, its contact with its family and neighbors, using non-institutional and other benefits earned by their appropriate behavior and work engagement, during which the convicted person spent serving a sentence of suspension and the reasons for termination of alimony is granted, the opinion on the conduct of re-socialization process, and the successes in the implementation of the planned re-education program with the convicted person, report concludes with the presentation of opinions on the reasons for the institution to grant parole or not approve. When the Parole Commission decides on the proposed manager of the institution or the petition of the convicted person, the decision by the institution and the convicted person, and submitted to the court that the person is sent to serve his prison sentence, the court which rendered the final judgment, law enforcement authorities and social care authorized by place of residence or domicile conditionally discharged. Against the decision of the

Commission for parole may not be filed or instituted administrative proceedings. In case of rejection of the proposal or application for parole, a new proposal or request can be filed before the expiration of four months, in the case of imprisonment not exceeding two years or six months, if the penalty of imprisonment of two years or more, excluding from the date of final decision.

In addition to the Parole Commission, on parole decide the leaders of the institution in which a person is sentenced. This is a parole that is no longer than three months, and convicted persons who have endured at least 4/5 sentence and its behavior, dedication to work, the relation to a criminal offense and others deserve to be released to end of the sentence of imprisonment can get it.

#### **4. THE RELEASE OF THE CONVICTED**

The sentenced person is released from the institution of the day to read the decision on conditional release. A convicted person shall be relieved of any engagement of at least three working days prior to release, and be sure to inspect it and the prison doctor. Prisoners are entitled to a paid service to the residence or dwelling place, and if a stranger comes to the border crossing.

If the convicted person at the time of release is seriously ill or incapacitated due to illness for the trip, the institution will be placed at the nearest medical facility for treatment.

When released from the institution, the prisoner shall be issued in the discharge list that states among other data released from the institution during the time in which the convicted person must contact the competent authority of the Interior in place of residence or temporary residence. Convicted person to surrender the release of all things and objects that have been in care on admission to the institution, the fact that in the meantime received or purchased, the savings and the money received by him during his prison term. If he has no clothes and no shoes means to procure them, the institution provides them, if necessary, provide financial assistance. This in turn has a preventive function convicted after leaving the institution would not be tempted to these things and the necessary means for the first time is illicit, illegal behavior.

Convicted person is liable to dismissal from the institution; indicate the place in which to stay during the conditional release. In the event of a change of residence or temporary residence for the duration of parole, was convicted of the change required within seven days notify the competent authority in charge of internal affairs and social care body.

Convicted person who is granted parole is mandatory to apply for the duration of parole, every 15 days appears to the competent police station in the place of residence or temporary residence of the accused, which must in case of failure to report at a specified time notify the Institution. During probation, the convicted person was not allowed to leave the territory of the Republic of Srpska and B&H, except when it comes to foreign nationals or stateless persons who do not have a permanent place of residence in the Republic of Srpska and B&H. The institution in which the convicted person, the date released on parole, served a prison sentence is mandatory in cooperation with the Social Welfare and Home Affairs monitor the implementation and realization of the purpose of conditional release.

The revocation of parole, but it was the word, but it should be noted that certain provisions regarding the revocation of parole, in addition to the Criminal Code prescribed by the Law on Execution of Criminal Sanctions. This primarily relates to the revocation of parole when convicted person, the day of the parole until the day of leaving the institution, commits a serious disciplinary offense. In this case, if the decision on conditional release brought the

head of the institution on the decision on revocation of mandatory parole, and if the Commission on a proposal issues the decision from the head of the institution, the Minister of Justice shall issue a decision on revocation of parole.

However, the Minister of Justice may revoke the parole decision on the motion of the head of the institution if the convicted person, while on parole, does not occur every 15 days the local police station and body care or leave the territory of the Republic of Srpska and B&H, if it violations of public order with elements of violence and other cases when it deems it justified. The decision on revocation of parole shall be convicted person and his organs that were submitted and a decision on parole. In this decision on the revocation of a convicted person may, within three days from receipt of the decision, appeal to the Minister of Justice, but the appeal does not stay the execution. If the convicted person fails to report to the Institution to serve the rest of the sentence not served by the revocation decision, the institution shall issue a warrant to call.

## **5. RESUME**

The purpose of parole is that the convicted person, with whom he achieved a degree of re-education, released before it is fully served his sentence. Hence, the conditional release of a prisoner is a strong psychological motivation to actively participate in the process of re-education because of their adoption of desirable and undesirable constraint on behavior can greatly affect the length of time you will spend in prison. Conditional release its potential value can realize only if the convicted person is familiar with the criteria for its adoption. Although the specific issues of supervision on parole introduced in legislation of the Republic of Srpska, parole should also be accompanied by supervision that consists of measures to help.

## **REFERENCES**

- [1] Gojko Lazarov: Uslovni otpust i novi Zakonik o krivičnom postupku, JPKK br. 2-3, 2002, str. 264.
- [2] Krivični zakon Republike Srpske („Službeni glasnik Republike Srpske“, br. 49/03, 108/04, 37/06, 70/06, 73/10 i 1/12)
- [3] Zakona o izvršenju krivičnih sankcija Republike Srpske, (“Službeni glasnik Republike Srpske“ br. 12/10 i 117/11)
- [4] Preporuka Vijeća Evrope R (2003) 22 o uslovnom otpustu