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**RESEARCH
ON PRISONERS' ATTITUDES ON CORRUPTION
AND FIGHT AGAINST CORRUPTION WITHIN
THE SYSTEM FOR THE ENFORCEMENT OF CRIMINAL SANCTIONS IN SERBIA**

1. Introduction

After the analysis of a relevant legal and sub-legal framework⁴ (further in the text Analysis), it is now turn to determine how is all this seen from the aspect of those mostly concerned with this topic- persons who serve sentences- prisoners. Before we start to present the findings of the research in detail, we will briefly present a reference framework in which the data will be analyzed. In this way we want to achieve several things.

First, to define analytical framework of the analysis. On one hand, these are definition of corruption and anti-corruption presented in the Analysis, and on the other hand are the findings of the same Analysis related to the state of corruption and anti-corruption. Of course, it does not mean that by presenting of this framework we wish to narrow the space of our conclusion making or that our intention is to mould the gathered data in a previously set framework. On the contrary, this is a way to, in search of findings and conclusions, have a compass that will help us not to stray away in the sea of information gathered during the poll conducted among the prisoners. (Assumed) set framework gives us wideness and preciseness, while the anti-corruption analysis leads to being concrete and directs us in the process of research and analysis. And what is the most important for epistemological aspect of research, by observing the gathered data on these two levels we have opportunity to (self)control at conclusion making, and that means that we can observe the gathered data in comparison to actual but also to previous condition.

We gave definitions of corruption and anti-corruption in the Analysis. In order to better understand the analyses of the research themselves and recommendations that will derive from them, we consider as a precious to present, in few sentences, what we, as authors consider to be corruption and anti-corruption, because, exactly that perception was the basis for the creation of research instrument we used to gather data.

In the process of researching corruption in prisons, as a corruption we will consider the “state of unsustainability of an institution due to which alternative structures emerge- deviations and (pre) domination of latent functionality over the manifest one”.

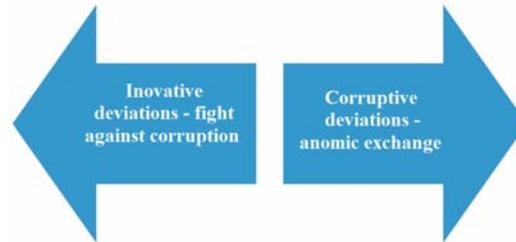
In concrete, it means that if one prison or prison system in general is not able to:

- Realize its social function (re-socialization of prisoners) and/or
- Enable realization of rights to the members of prison institution management, prison services and prisoners as clients, and/or
- Enable performance of obligations and duties, including sanctioning of rights and duties violation,

Then, the system for the enforcement of criminal sanctions is partially or completely unsustainable, which has, as a consequence, creation of two kinds of deviations: innovative and corruptive.

FIGURE No 1. Innovative and corruptive deviation

⁴ <http://www.chr-nis.org.rs/anti-corruption-analysis-of-the-law-on-the-enforcement-of-criminal-sanctions>



Innovative deviations are aimed at increasing the sustainability of an institution, i.e. reform. Innovative deviation is any activity that is aimed at combating corruption i.e. building integrity, increase of knowledge on anti- corruption, increase of punishability for acts of corruption and the building of power and interests to fight the corruption.

Opposite to innovative deviations are corruptive deviations that spoil the institution. Corruptive deviation is anomic exchange of material goods, rights and interests between two or more parties in which the ethical, professional and legal standards are violated.

Anomic exchange is done on three levels.

First level is the latent corruption - corruption of reputation and customs. The motivation of both actors is of non-instrumental nature, i.e. corruption backed by the traditional or emotional behavior. In essence of this form of corruption is an anthropological model of giving, because the corruptive media is perceived as present or a gift. The giving of is a function of observing customs. The initiator of the latent corruption is a corruptor. It is notable that there is not always the consent / will of both actors, both the corruptor and corrupted to engage in corruption.

The second level is the manifest corruption - corruption of interest and power. In this case the motivation of both sides is a targeted rational , with the clearly expressed consent of participants to in the anomic way exchange material assets, rights and interests. Corruptive media are seen as a benefit/cost for the work done. Phenomenal forms of manifest corruption are: one on one and clique (more players).

Between the two above mentioned levels is extortion. Extortion is a form of corruption initiated by one who has the monopoly or the possibility of blackmail, and in a position to ask for the money or counter favor for providing the service. This form of corruption is different from the other ones for inequality of the position of corrupted and a citizen who becomes a corruptor, not at his own will.

Third level is a corruption of institution characterized by: the dominance of informal system of regulation of rights and obligations of institutions members over the formal; domination of the principle of power, status and reputation over the expertise, procedure, professionalism; lack of performance evaluation criteria; personalization of the relationship - position in corruptive institution depends on the will of a superior and subordinate's relationship to him; oligarchic distribution of management reflected in napoleonism, which is "power from above, the subordination from the bottom"; formation of chain cliques and clans.

Based on the presence of emergent forms of corruption on the level of prison, we can speak about whether corruption is an incident that is quickly detected and sanctioned, or it is about a systemic corruption that has functional importance for the formal survival of the prison as an institution. Namely, corruptive organizing is a way for a prison to survive as an institution. However, being such as an "hand-cuffed institution", prison does no longer perform a social function - the re-socialization of prisoners.

It is important to bear in mind that sustainability of the prison system is a guarantee of its institutional integrity, and that primarily means: respect of legal and sub-legal framework, the regulation of

discretion powers, transparency of decision making, rewards and sanctions. We note this because it is stated in the Analysis that in the actual normative framework, which regulates the system of criminal sanctions, there is a significant volume of unregulated discretion powers that directly influence the lack of transparency, which prevents the prison system to perform the function entrusted by society - re-socialization of prisoners.

2. METHODOLOGICAL FRAMEWORK OF RESEARCH

2.1. Concept

After the introductory part, in the next few sentences we will present the methodology that we used when investigating the condition and prospects of corruption and the fight against corruption in prisons in Serbia. As the researchers, we faced the special challenge for two reasons.

First, the very issue of corruption is yet difficult phenomenon to be caught by the researchers out of the statistics on the number of complaints filed and imposed final verdicts, i.e. measuring attitudes about its prevalence, actors, causes, effects and tolerance. Irrespective of which segment of society it is about, every researcher is faced with this problem.

Second, the area of the enforcement of criminal sanctions, the position of interviewees and the position of the organizers of the research (CSO) open many epistemological questions. Aware of this, we created a methodological framework which was supposed to give us an initial picture of corruption and the fight against corruption from the perspective of prisoners. For this reason we tried to combine "qualitative" and "quantitative" and all this in order to enable the interviewee to by filling out a written questionnaire-interview, more adequately disclose the information to be relevant for our research.

Mitigating factor in this endeavor is that Centre for Human Rights Nis has extensive experience in monitoring prisons in Serbia, which means adequate associates, knowledge of processes and procedures within the system for the enforcement of criminal sanctions in Serbia, a certain fund of knowledge experience, and a network of trust made of prisoners.

In accordance with the previously given analytical framework, a written questionnaire was created, which is a combination of closed, open and closed-open questions, divided into cell / sub-themes:

- Socio-demographic data on interviewee including the length of imposed prison sanctions,
- Corruption (definition, knowledge on corruption, evaluation of the corruption on the level of prison, personal experience with corruption and motivation for participation in the corruption),
- Anti-corruption (volume, actors and evaluation of the corruption on the level of prison, personal anti-corruptive engagement) and
- Realization of prisoners' rights and efficiency of appealing procedure.

From an instrument constructed like this we should get data that will help us determine:

- Causes of corruption, consequences of corruption, actors and their motivation for corruption
- Assumptions, actors and their motivation for fight against corruption
- Initial image of integrity on the level of prison system.

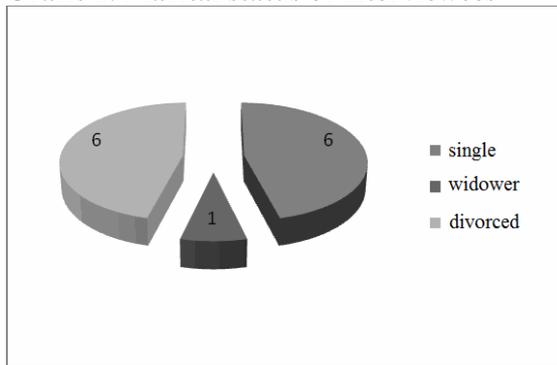
2.2. Sample

The research was realized on the snowball sample. Reasons for the selection of such a type of sample is primarily in the wish to conduct this research without participation of official prison structures and

that the number of filled in questionnaires is an additional indicator of both the context in which the research is realized and relation of a prisoner/interviewee to the research topic. The research comprised 13 interviewees, however in data that will be presented in numeric form the number that appears is less than 13. That difference is the consequence of the fact that interviewees did not always fill in all the questions, i.e. some were left blank.

When speaking about the gender, all interviewees are male. Five interviewees are up to 35 years old while eight are older than 35 years.

Grafic 1. Marital status of interviewees



Half of interviewees said that they had no children. At the moment, family members take care of interviewees' children, i.e. none of the children is in the system of social care.

In respect of education, the structure of interviewees is diverse. Most of the interviewees said that they had high school level of education (6) while there the number of those with higher school (3) and primary school (2) is almost equal. One of interviewees said that he finished school abroad. When speaking about the structure of interviewees per profession, a wide range of professions may be seen- from unemployed, self-employed, blue-collars, technicians, managers of middle and higher level, entrepreneurs to free professions..

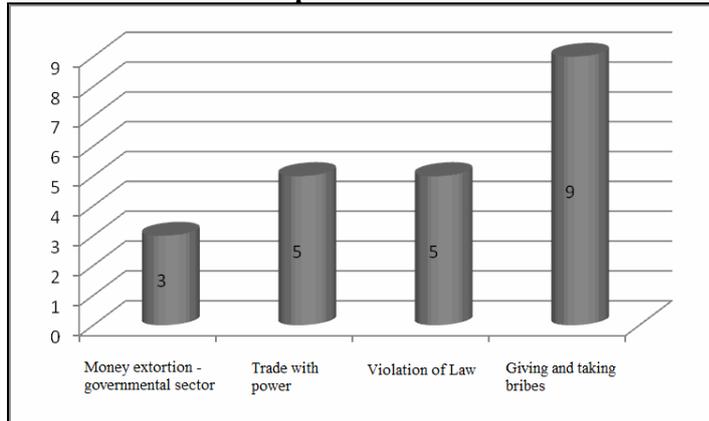
Seven out of 13 interviewees are in the prison for the first time, while others are remand prisoners (second, third and fourth time in prison) which shows a relatively high level of recidivism on this sample.

3. RESEARCH FINDINGS

At the beginning of this part of the research we want to note that research results will be presented at the level of frequency. The reasons for such presentation are, on one hand, the sample size which makes it unnecessary to cross, and on the other hand the fact that the crossing on a small sample would bring into question the anonymity of interviewees, which, given the current legal status of interviewees could have negative implications in terms of the trust and eventual speculation about the given answers.

By choosing a maximum of three answers offered to the question of what is, above all, corruption for them, we obtained the following results (see Chart 2)

Chart 2. What is corruption?



The chart clearly shows two things. First, that taking and giving bribes is something that for the most of interviewees is undeniable association with corruption, its first and real symbol. Second conclusion is more important. Namely, for violating the law and trading with power it could be rather said that they are causes of corruption, i.e. indicators of low integrity of the institution, i.e. that informal structure mastered the prison as an institution. From this data we can conclude that among the prisoners, the definition of corruption is related to the environment in which they currently are, and which is by its characteristics in high corruptive risk and low institutional integrity.

The following finding speaks in favor of this. On the scale ``yes, not always, no and I don't know`` interviewees were able to evaluate what is and what is not corruption. Giving money to a policeman was rated as corruption by almost all interviewees. It could also be said for the case when someone gives money to the tax officer to pay less tax, or if someone discovers public information for money. However, giving presents to a doctor, the intervention with the professor and the intervention at the employment were rated by the interviewees to be acts that are not always corruption. From these findings we can conclude that there is tolerance for a corruption that is in function of informal payment for services or trade with power, aimed at obtaining something legal or illegal. Thus we come to the conclusion that corruption in the prison has its own support by convicts who have been taught and forced to realize their rights in a corruptive way, and for this reason there is a tolerant attitude towards corruption. Also, this is an argument for the claim that the process of social reintegration in prisons does not give positive results, because it does not create among the prisoners a deflection from the actions that are beyond the law.

In the next section we will present what our participants think about the state of corruption when looking at the past three years and what are their predictions for the next three years, as well as based on what do they create their grades and expectations.

According to the interviewees surveyed, in the last three years corruption has increased a lot in prisons. Eight of them think so, three did not answer, while one of the interviewees thinks that there has been no change. On the other hand, on the plan of the fight against corruption, the volume of undertaken has been reduced, three interviewees say so, one of the participants thinks that there has been progress in the fight against corruption. Other did not answer or did not have attitude related to this issue.

Arguments for a negative assessment of the state of corruption in the past three years are (listed answers to ``open`` questions with certain adjustments to guarantee preventive protection of interviewees' identity):

- “Some do what they want to do”
- “They brought back the Head of the service who beat the prisoners”
- “Boss of influential clan with this gang controls the prison”

- “Boss of influential clan has right to semi-opened department”
- “I’ve been here for many times and I see what is being done”
- “I am not allowed to speak”
- “It is spoken in public”
- “To realize legal rights you need bonds and money”
- “They send people from Belgrade to work here because they don’t “trust” the locals”
- “That is how the system works in prison”
- “The worst go to semi-opened part”
- “Nothing has been done for years, whole families work in prisons”

Regarding the perspective, besides the past belongs to it, the corruption holds the future as well. The majority of interviewees (6) believe that corruption will grow in the next three years. We should add that four of the interviewees believe that the fight against corruption will reduce in the next three years. Only one interviewed believes that fight against corruption in prisons in Serbia will grow.

One part of the instrument was focused on issues that were supposed to give us information who and with what motives and interests enters the corruptive exchange. This is a very important data because it speaks about the functionality of corruption as a deviation, i.e. whether there was a legitimization and impunity of corruptive behavior.

According to the interviewees, more than the other, participants in the corruption are: treatment officers, judges, Treatment Program Service, influential prisoners (Table 1)

Table 1. – Corruptive actors and motivation for corruption

Actors	Number of interviewees	Motive for corruption according to the opinion of interviewees
Treatment officers	6	(Sell)give privileges for money
Judge	5	Money
Treatment Program Service ⁵	4	(Sell)give privileges for money
influential prisoners	4	Get money, privileges, reduction or mitigation of sentence
Other actors	Motive for corruption according to the opinion of interviewees	
Prisoners	Get privileges, realize rights, reduce sentence, get better work position, possibility to be “soldier”	
Prisoners’ families	Protection of prisoners, facilitation of stay in prison, reduction of sentence	
Head	The function itself bears corruption, there is no control over them, they do what they want to, money	

Most of the interviewees said that judges, heads and prisoners behaved “from case to case”, meaning that they sometimes fight the corruption and sometimes they are actors in performing corruptive acts.

When asked to evaluate who on the level of prison fought the corruption and why, we received the following answers (Table 2):

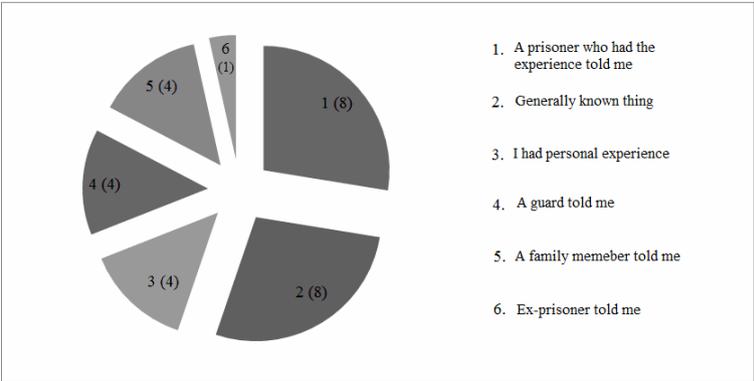
Table 2. Anti-corruptive actors and motivation for anti-corruption

⁵ Participants in the research had opportunity to give their attitude about prison services and their members. For example, about the Treatment Program Service and treatment officers then about Security Service and guards.

Actors	Number of Interviewees	Motive for anti-corruption based on the opinion of interviewees
Head	2	Keeps the job
Commanders of the shift	2	Keeps the job
Guards	1	Keeps the job
Other actors	Motive for anti-corruption based on the opinion of interviewees	
Treatment officers	They are not asked anything	
Judge	Honesty and justice	

Before presenting the conclusion about this part of the results, we think that it is important to show the finding that speaks about based on what were the previously given evaluations presented.

Chart 3. Informing about the corruption



Results in Chart 3 tell that presented data show have a large dose of relevance, as they were obtained based on personal experience or experiences of those involved in corruption. This is especially related to those who have had personal experience or have talked with those who had, although the fact that a large number of interviewees said it was generally known can worry.

To conclude this part. From the above findings, as the riskiest actors when it comes to corruption, interviewees see that part of the prison system that is familiar to them and on which the quality of the exercise of the rights of prisoners depends, and these are treatment officers, treatment program service, judges and influential prisoners. Also, it is obvious that corruption is in function of the missing resource exchange. On one side there are prisoners with their formally guaranteed rights, and on the other side as "guarantors and controllers" of the same rights that are in a position of decision making, i.e. in a position to (sell) give their authorization for (primarily) money they lack so as to get to the levels of earnings they consider adequate for the work they do. Prisoners' relatives are aware of the described situation and by their actions they legitimize these conditions. On the other hand the state by delaying or insufficient quality of reforms, with the absence of sanctions for corruption acts supports such a condition that ensures the existence of prisons which fail to fulfill their social function.

Related question to the above mentioned is a relationship between corruption and overpopulation. Overpopulation as an indicator of system for the enforcement of criminal sanctions reform is indicative in terms of space, but also success in the process of re-socialization of convicts. Less success in re-socialization increases recidivism of prisoners, and thus overpopulation.

That is why we asked our interviewees how they see the connection between corruption and the evident overpopulation of prisons and what is the effect of this state to corruptive behavior.

Chart 4. Overpopulation and corruption

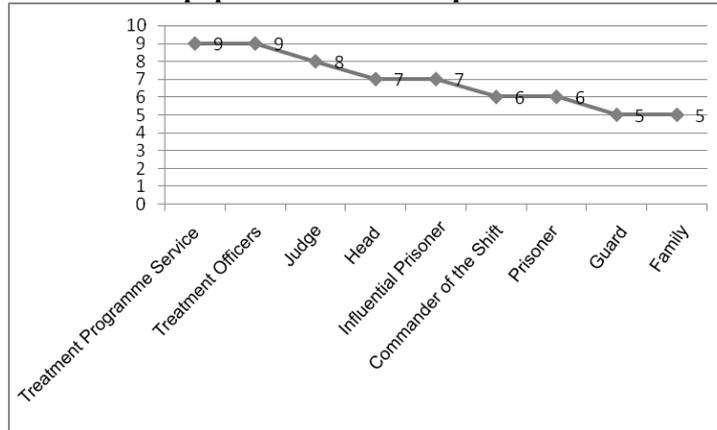


Chart 4 clearly shows that the state of prison overpopulation has a negative effect on corruption at Treatment Program Service, treatment officers, judges, heads and influential prisoners. The link between overpopulation in prisons and the level of corruption can be re-formulated in "more prisoners, more money."

When speaking about relationship of overpopulation and the fight against corruption in prisons, the majority of interviewees think that there is not interdependence between these two phenomena, i.e. that the reduction of overpopulation will not lead to the increase in the fight against corruption as well as that fight against corruption will not reduce overpopulation.

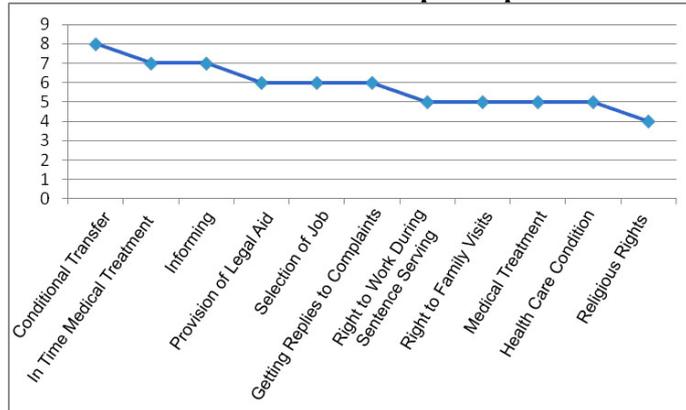
This finding can be interpreted in a way that the factors that generate overpopulation are beyond the scope of the fight against corruption, which gives us the right to claim that the state of corruption and overpopulation are consequences of unsustainability / dysfunctionality of prison system in Serbia, especially the fact that the system for the enforcement of criminal sanctions does not sufficiently perform re-socialization of convicts. Paradoxical, but overpopulation is in the interest of corrupted parts of the prison system, because in that way they "earn" their wages which the state, as an employer does not pay. As well, the state tolerates such behavior, because it is unable to pay the labor cost which would have anti-corruptive character, i.e. labor costs that would be so high that corruptive behavior would not pay off.

Results that we got to the question "Who benefits from corruption?" speak in favor of this. Generally, according to the opinion of all our interviewees, everyone benefits from corruption. More than others, heads, heads of services, treatment service officers, or as one interviewee said, "those who are in positions that can make your life miserable" benefit from the corruption. In addition to these, our interviewees, as those who benefit, specified state officers and public officials who are at high governmental positions, both within the prison system, and the executive system.

In the next part of the presentation of research we will deal with the realization of rights.

Asked to say which rights they cannot realise, the participants in the research stated that these are, above all: conditional accommodation, in time medical treatment, informing, provision of legal aid, selection of job and receiving answers to complaints. (Chart 5)

Chart 5. Which interviewees the participants could not realize?



Obviously, rights that have more existential character for life of prisoners in prison are more violated, as well as those rights that are in function of the protection of these rights: provision of legal aid and receiving replies to the complaint.

According to interviewees, the prisoner may realize all the rights, if he gives money and / or show loyalty. In this way, the prisoner gets weekend leave and "free prisoners" category, better accommodation, ability to work and to have extra visits. When asked what could be gained with the corruption, one third of interviewees refused to answer because of fear.

Directly asked when and under which conditions they would participate in corruption, three interviewed prisoners said that they would not do that, one that he did not want make profit on other's misery, while three prisoners would participate in corruption only if they would protect and realize their rights in this way. The others did not answer this question.

Half of participants in the research said that they were not involved in corruption, while the two responded affirmatively. Others did not answer this question. Those who did not participate in the corruption didn't do so because "they did not have enough money" or "didn't know the terms" or "did not know whom to address."

The main obstacles to greater anti-corruption activism of prisoners are threats and fear of sanctions towards prisoners and prison staff who point to the corruption, then bad law framework, behavior of prison administration, which is non-incentive when it comes to fighting corruption.

Anti-corruption activism (report and support to the fight against corruption) at prisoners is bound to the realization of the rights that belong to them and guarantee of absence of retaliation, i.e. safety and removal of those who are the initiators of corruption in pris.

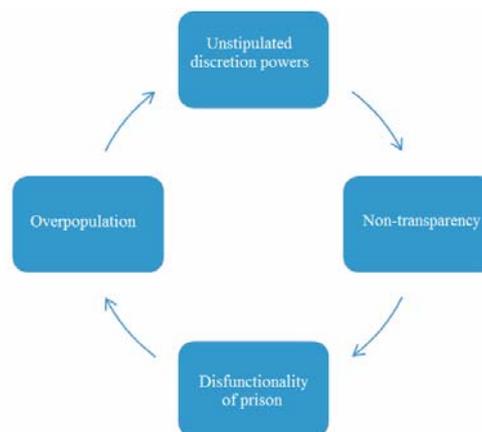
4. CONCLUSION

Based on the presented results we can conclude that the corruption on the level of prison has a system character and it means that in prisons in Serbia low institutional integrity rules and that corruption as deviation became functional phenomenon that "supports" in formal survival of prisons, but it contributes to low performance on the plan of re-socialization of prisoners. Namely, in a prison system where there is discordance between needs and resources in prison structures⁶, a great level of uncontrolled discretion competences as an instrument for "managing unsustainable institution" is given. In the context of corruption it results in the reduction of transparency especially in the area of sanctions and rewards for prisoners, as makes a direct consequence to their socialization. The failure in

⁶ This term is related to the Head of Prison and heads of services

the process of re-socialization of convicts directly increases (over)population of prisons i.e. recidivism, which brings us back to the beginning, and this is the growth of need for discretionary decision-making by prison structures. The end result is that the prison is a place of corruption exchange, which provides the existence of this institution, but it prevents it from performing system function – re-socialization of prisoners.

Thus we come to the assumption of corruption determinism on the level of of prison which should be further investigated, because the character of our research does not give us right to bring the conclusions of a general nature, but to bring the initial conclusions within the available research materials



Summed up findings from the research of prisoners' attitudes speak in favor of this.

First, corruption is primarily considered to be bribery and abuse of power, but also phenomena which are not corruption, like violation of the law, the denial of rights and extortion. Definition of corruption by interviewees is not only the result of theoretical knowledge but also practical experience and adopted terms, which are influenced by social context. Also, a tolerant attitude towards some forms of corruption is not only the result of corrupt context in prisons, but also the evidence that re-socialization process is not on adequate level.

Second, participation in corruption is of general character. Anyone who can or need to realize his rights involves in corrupt exchange, because only it guarantees realization of interests, rights and needs. This applies to prisoners, their families, but also the structure of the prison, the prison staff. The dominant form of corruption is extortion that is exchange between two actors who are not in equal positions. On one hand we have prisoners who are in life extortion, without the adequate legal protection, and the other there are members of the prison system with uncontrolled discretion powers and the low probability of adequate sanctions.

Third, fight against corruption is incidental and is based on personal integrity. Paradoxically, instead of corruption being punishable, the person who points to or refuses to participate in corruption is subjected to a different range of sanctions, from mockery and ostracism to a denial of rights.

Functionality of corruption in the prison system is reflected in the fact that the majority gets something. Prison structures gain loyalty and ability to manage unsustainable institutions and the missing income. Employees in prisons in this way charge for their work and have more relaxed relationship with inmates who, by participating in corruption, gain the possibility of certainty that by paying they can get (il)legal rights.

However, the main problem is that this model of "sustainability" of the prison prevents realization of system function of the prison – re-socialization of prisoners. This results in prisons becoming

institutions in which only prisoners' freedom of movement is restricted, not re-socialization institutions. Prison becomes ``hand-cuffed `` institution that has failed in its social function.

5. RECOMMENDATIONS

All the above-mentioned findings indicate an acute need for the application of the solution from the Analysis⁷, because they are the first step on the long road of building the institutional integrity of the prison system. Their use would lead to the reduction and control of discretion competences, increase of transparency of election of management functions, increase of transparency of the system of rewards and sanctions in the part of the enforcement of treatment program, increase of effectiveness of punishment mechanisms, construction of external control mechanisms, inbuilt of explicit anti-corruption provisions in the Law and regulations and development of ethical standards. This would result in improving the position of not only inmates but also the position of all those in function of resocialization of prisoners. This is exactly the main assumption for the penitentiaries to become a place for re-socialization of prisoners, carried out by members of the prison system with a developed personal integrity and work and professional motivation.

It is therefore of particular importance to adopt and implement integrity plans as a legal obligation⁸ on the level of the system for execution of criminal sanctions in whose designing, and especially in monitoring of implementation experiences of prisoners and civil society organizations that have dedicated a longer period of time to work on the reform of the prison system, and all this should be taken into account. This prevents that the creation and implementation of integrity plans remain "closed" on the level of prison structure, which despite the best will would be yet another risky move in effort to establish an effective system to combat corruption. Development of integrity plans without taking into account the views and opinions of those who have an interest (the prisoners) and those who have the knowledge, experience and ability to look at the situation from a side at the very beginning may be doomed to failure.

By applying proposed solutions from the Analysis and effective implementation of integrity plans whose monitoring would include civil society as an external correction, would create conditions for the system response to system corruption in the prison. Only the first positive results of applying the above mentioned would create conditions to consider initiation of measures which are yet to improve the protection of whistleblowers at the prison level in a way that it would stimulate the reporting of acts of corruption and which can serve the purpose of re-socialization of prisoners. If such measures were initiated now and if their application was started, we would very soon face their abuse and the fact that another possible anti-corruption instrument was used out.

⁷ Analysis, Page 26.

⁸ Law on Anti-corruption Agency (Official Gazette 97/2008, 53/2010 and 66/2011). More on integrity plans: http://www.acas.rs/sr_cir/pocetna/41/323.htm