

REHABILITATION IN THE CRIMINAL LAW OF SERBIA

Dusan Jaksic

Center for Legal Assistance

Summary: The work is mainly theoretical and deals with the empirical research of existing literature and normative legal acts dealing with the criminal justice institute of rehabilitation. Therefore, the ideal mode that would be fair both to the convict and to the society in which the convict returns has yet to be determined, regarding the legal consequences carried by the imposed criminal sentence. After the required time served for criminal penalties, the convicted person is no longer considered an equal member of society as before. Aside from the social stigma, there are also certain legal consequences regarding the verdict. Legal consequences are consisted of the cessation or prohibition of the acquisition of certain rights. As an institution, the rehabilitation acts in the direction of abolishing the legal consequences of the verdict and creating the fiction of no previous convictions regarding the convicted person. To gain such a fiction is necessary in addition to the abolition of the legal consequences of the conviction that the time served and deleted from criminal records to the person acquired the status of being convicted. All legislation familiar with this institution, including our own, determine the conditions and the procedure needed for its acquisition. The most important conditions for obtaining rehabilitation are the passage of a specific period of time after the release and the conditions of reforming and re-integrating. According to our criminal law, rehabilitation can be assigned by an operation of law, by court or by an act of grace. Legal rehabilitation is the abolition of the legal consequences and the deletion of the conviction from the criminal records which is ex officio initiated and resolved by the authority responsible for the conduct of criminal records. Legal rehabilitation is subject only to persons convicted of lesser criminal offenses. Judicial rehabilitation may be granted to a convict who has served a prison sentence of up to five years, at his request, and provided that the court finds that all the requirements that the legislator had asked of him are met. Unlike the legislative and judicial rehabilitation, the rehabilitation awarded as an act of mercy consists of two specific features. The first is that, in general, it is not necessary for the convict to fulfill certain conditions for the rehabilitation, and the second is that a person can be rehabilitated for the convictions which are not regulated through legislative or judicial rehabilitation. This primarily refers to the imprisonment of more than five years. Acts of mercy which can be achieved by the rehabilitation are amnesty and pardon. This paper refers to the very concept of rehabilitation and its development in the Serbian criminal law, but also includes the special analytical focus on the existing solutions.

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