

## ADEQUATE APPLICATION OF ALTERNATIVE MEASURES IN THE PENAL POLICY OF MACEDONIAN COURTS TOWARDS REDUCING PRISON OVERCROWDING

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### -abstract-

This paper reviews the normative framework regulating alternative measures in Macedonian criminal legislation and court penalty policies from 2017 to 2023. The initial part of this study presents alternative measures for Macedonian criminal legislation. According to the Criminal Code, the following alternative measures may be imposed on perpetrators of crimes: conditional sentences, conditional sentences with protective supervision, conditional discontinuation of criminal proceedings, community service, court admonition, and house arrest. The second section provides an overview of the penal policy of Macedonian courts over a specified period. The third section discusses the problems of overcrowding in Macedonian prisons. The problem of prison overcrowding has been recorded by both competent state institutions and international organizations, as well as by the non-governmental sector. Towards the end of the paper, concluding observations are presented regarding alternative measures, their application in court penal policy, and the problem of overcrowding in penitentiary institutions in the country. It is essential to understand that an adequate normative framework must be established for appropriate implementation of alternative measures in practice. The application of alternative measures in fair judicial procedures is an appropriate way to reduce prison overcrowding.

**Keywords:** alternative measures, penal policy, courts, prison overcrowding.

## I. INTRODUCTION

Alternative measures are important and sustainable instruments in any modern criminal justice system to combat crime without the negative effects of prison sentences, which should only be imposed as a last resort (*ultima ratio*). Utilizing prison as a last resort allows for more humane and effective approaches to justice, aligning with the principles of modern criminal law. Alternatives to imprisonment can aid in social integration, assist individuals who have committed crimes, and reduce the likelihood of reoffending. Their aim is to help offenders reintegrate into society, decrease repeat crime rates, and mitigate the negative impacts of incarceration. Additionally, they help decrease the financial costs of prisons and the chance of repeat offenses, while also benefiting society. While they do limit freedom to some extent, they enable individuals to live in society and serve their sentence for their offense. Enforcing punishments and regulations within society while also preventing the negative effects of isolation can result in enhanced long-term social protection. Implementing these measures not

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only helps decrease the number of inmates but also fosters a more rehabilitative and fair criminal justice system.

The purpose of alternative sanctions and measures is primarily prevention, wherein the retributive element is suppressed and placed in the function of the threat of punishment, reinforcing its special-preventive effect (Kambovski 2004, 943).

In other words, their purpose is to prevent a criminally responsible offender from being punished for less serious crimes when it is not necessary for the sake of criminal legal protection. It can be expected that the purpose of punishment can be achieved by warning with the threat of punishment, only with a warning, or with assistance measures and supervision of the offender's behavior at liberty.

## **II. ALTERNATIVE MEASURES IN MACEDONIAN CRIMINAL LEGISLATION**

The Macedonian Criminal Code, adopted in 1996, addressed various criminal sanctions such as imprisonment, fine, conditional sentence, and court admonition, along with safety and educational measures.

With the reform of the Criminal Code in 2004, the system of sanctions acquired an emphasized pluralistic character, with a clearly expressed tendency to suppress the dominant position of the prison sentence as the main sanction and its possible replacement with alternative measures: conditional sentence, conditional sentence with protective supervision, conditional discontinuation of criminal proceedings, community service, house arrest, and court admonition (Kambovski 2018, 131-149).

The intention behind introducing alternative measures in the criminal legal system was to limit the retributive effect of punishments and to promote the individualization of criminal sanctions. Their emergence is due to criminal political awareness that, in the fight against criminality, in addition to punishment and instead of punishment, other criminal sanctions should be accepted, which will be deprived of the retributive elements to the greatest extent and the negative consequences they leave on convicted persons, especially when it comes to extremely short sentences of deprivation of liberty. These are criminal sanctions designed on a unique platform to replace punishment. When considering the circumstances of the crime and the personal characteristics of the perpetrator, it can be expected that the offender's treatment outside prison is sufficient to correct him and to protect society from criminality (Sulejmanov 2005, 469).

Alternative measures are prescribed in Chapter Four of the Criminal Code<sup>1</sup>. Specifically, Article 48 of the Criminal Code states that the purpose of these measures is not to sentence a main offender for a less serious crime when it is not absolutely necessary due to criminal and legal protection. It may be expected that the punishment objective can be achieved through a warning with a threat of punishment (conditional sentence), only a warning (court admonition), or measures of assistance and supervision of the behavior of the released offender.

Pursuant to Article 48-a of the Criminal Code, the following alternative measures may be imposed on the perpetrators of the crimes: 1) conditional sentence; 2) conditional sentence with protective supervision; 3) conditional discontinuation of criminal proceedings; 4) community service; 5) court admonition; and 6) house arrest.

In the continuation of this paper, we will review each of these alternative measures.

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<sup>1</sup> Criminal Code ("Official Gazette of the Republic of Macedonia", No. 37/1996, 80/1999, 4/2002, 43/2003, 19/2004, 81/2005, 60/2006, 73/2006, 7/2008, 139/2008, 114/2009, 51/2011, 135/2011, 185/2011, 142/2012, 166/2012, 55/2013, 82/2013, 14/2014, 27/2014, 28/2014, 41/2014, 115/2014, 132/2014, 160/2014, 199/2014, 196/2015, 226/2015, 97/2017 и 248/2018 and "Official Gazette of the Republic of North Macedonia", No. 36/2023 and 188/2023).

## *1. Conditional sentence*

A conditional sentence is an independent (autonomous) criminal sanction. The basic meaning is to avoid the imposition and execution of a sentence against the perpetrator of a crime in certain cases. If, given his personality and the circumstances of the commission of the crime, it can reasonably be expected that he will be corrected without being sentenced, and in view of that, the execution of the sentence. According to the Criminal Code, with the conditional sentence of the perpetrator of the crime, the court determines the punishment and at the same time determines that it will not be carried out if the convict, for the time determined by the court - which cannot be shorter than one nor longer than five years (time of verification) - did not commit a new crime. Otherwise, the suspended sentence is revoked and the imposed sentence is executed (Sulejmanov 2005, 470).

The Criminal Code, in Article 49, provides for conditional postponement of the sentence, wherein the court sets a sentence for the offender and simultaneously decides that it will not be enforced if the convicted person does not commit another crime during the control period, which ranges from one to five years. Paragraph 2 states that the court may enforce the sentence if the convicted individual fails to repay the property benefit obtained from the crime, compensate for the damage caused, or fulfill other obligations specified in criminal law. The court determines the timeline for meeting these obligations within the control period. Paragraph 3 states that security measures under conditional conviction are enforceable.

From these legal provisions, it follows that the court cannot directly impose a suspended sentence without first determining the amount of the sentence and its type.

Article 50 of the Criminal Code determines the conditions for imposing a suspended sentence. According to paragraph 1 of the same article, conditional conviction may be pronounced when the offender is determined to have a sentence of imprisonment of up to two years or a fine. Pursuant to paragraph 2, a conditional conviction may be pronounced when a sentence of imprisonment has been determined with a duration of up to two years or a fine by applying the provisions for sentence mitigation (Articles 40, 41, and 42, paragraph 2). According to paragraph 3, in the decision-making process as to whether a conditional conviction shall be pronounced, considering the purpose of the conditional conviction, the court shall especially take into consideration the offender's personality, his previous life, his behavior after the committed crime, the extent of criminal liability, and other circumstances under which the crime was committed. According to paragraph 4, if a sentence of both imprisonment and a fine is determined for the offender, a conditional conviction may be pronounced for both punishments, or just for the punishment of imprisonment.

It clearly follows from the above that the conditional sentence, as an alternative measure, is imposed in order to avoid the application of the prison sentence in cases where it is a question of less serious crimes and if in the personality of the perpetrator of the crime, properties are known to convince the court that that person has no criminogenic affinities and that he is not expected to commit criminal acts in the future. The purpose of a conditional sentence is not to avoid punishment, but its application will achieve the goals of the punishment itself. From this, we can conclude that a conditional sentence has a pronounced preventive character.

## *2. Conditional sentence with protective supervision*

Pursuant to Article 55, paragraph 1 of the Criminal Code, the court shall determine protective supervision when it finds that the conditional conviction does not have sufficient influence on the offender to prevent them from committing new crimes; circumstances related to the

offender's personality or their environment justify the expectation that the purpose of the conditional conviction will be achieved if help, care, supervision, or protection measures are determined. The court determines the duration of protective supervision for a specific period during the observation period as per Article 55, paragraph 2 of the Criminal Code. The court sets the duration of protective supervision for a specific time during the monitoring period.

With the adoption of the *Law on Probation* in 2015<sup>2</sup>, the responsibility for supervising conditionally sentenced individuals is given to the competent probation authority . As per Article 13, paragraph 1 of the Law on Probation, the court must deliver the final and enforceable decision imposing a suspended sentence with protective supervision to the locally competent probation office within 15 days once the decision is enforceable. Paragraph 2 of this article states that the protective supervision for a conditional sentence is to be carried out by the locally competent probation office. Paragraph 3 further mandates that the probation officer , together with the convicted individual, develop an individual program and plan for implementing the protective supervision within 15 days of receiving the decision. This program must outline the type, duration, and manner of supervision necessary for fulfilling the obligations set forth, as well as inform the individual about the consequences of failing to meet these obligations.

The locally competent probation office, through probation officers, carries out supervision. Supervision is carried out in accordance with the individual treatment program developed by the probation officer in cooperation with the offender, taking into account the obligations imposed by the court and based on the assessment of the risks and needs of the persons on whom probation work is carried out. The person subject to probation is familiarized with the content of the individual treatment program and with the consequences of non-fulfillment of obligations, according to which he is obliged to fulfill the established procedures and measures. The individual treatment program is a roadmap for fulfilling the conditions and obligations during the probation period. Probation officers support and supervise convicted persons in fulfilling their obligations and conditions in order to reduce the risk of re-offending. As part of the implementation of the individual program and plan, the convicted person is invited to attend regularly scheduled meetings with the probation officer, and it is possible for the probation officers to visit him/her unannounced at his/her home. In case the person does not appear at an agreed meeting, the probation officer informs the Ministry of Internal Affairs about this, which ensures the presence of the convicted person.

The probation officer from the local probation office can propose to the court to replace the obligations with others or extend the protective supervision period based on the convict's behavior. If the convict fails to fulfill the obligations, the probation office warns and informs the court. If the obligations remain unmet after a written warning, the probation office informs the court within three days and proposes revoking the conditional sentence. If probation with supervision is revoked, the officer submits a report to the penitentiary where the person serves the sentence.

### *3. Conditional discontinuation of criminal proceedings*

Pursuant to Article 58-a, paragraph 1 of the Criminal Code, for a crime that carries a fine or imprisonment up to one year, the court can choose, after questioning the defendant and obtaining the consent of the victim, to halt the proceedings, on condition that no new crime is committed during the suspension. As per paragraph 2 of the same article, the proceedings can be suspended by court order for a maximum of one year. The timeframe for halting criminal proceedings is separate from the period for barring prosecution. According to paragraph 3 of the same article, if no new crime is committed by the offender within the monitoring period and

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<sup>2</sup> Law on Probation ("Official Gazette of the Republic of Macedonia" No. 226 of 25.12.2015).

no previous crimes are uncovered, the proceedings will be concluded. When deciding to implement this measure, the court must consider the offender's expressed remorse and apology, rectification of the crime's consequences, and compensation for damages inflicted.

#### *4. Community service*

Pursuant to Article 58-b, paragraph 1 of the Criminal Code, for criminal activities for which the law prescribes a fine or an imprisonment sentence of up to three years, the court may, after the offender agrees, impose the community service measure, should the crime be committed under alleviating conditions and the offender has not been previously convicted. According to paragraph 2 of the same article, the measure shall be imposed for a time period from 40 to 240 hours, during which the defendant must work without any compensation in a state body, public enterprise, public institution, or a humanitarian organization, but not less than five hours per week, for a period of at most 12 months. If health or justifiable personal or family reasons exist, the court may extend the execution of the measure for at most six months. According to paragraph 3 of the same article, if the court pronounces a fine of up to 90-day fines or Euro 1.800 in Denar counter-value or imprisonment of at most three months, it may simultaneously decide, on the request of the convicted, in exchange for the community service sentence, whereas on the day of the imprisonment, the day fine of Euro 20 in Denar counter-value may be exchanged for three hours of community service and the total hours shall not exceed 240 hours. When deciding to exchange the sentence with the community service measure, the court will consider the gravity of the crime, the level of criminal liability, the previous non-conviction of the offender, and any compensation for the damages or removal of other harmful consequences of the crime.

With the adoption of the Law on Probation in 2015, the activities of execution and control of community service are defined as the competence of the probation authority. According to the provisions of Article 17 of the Law on Probation, the final and enforceable decision that imposes community service is delivered within 15 days from the day when the decision becomes enforceable to the locally competent probation office and the organizational unit in the administration that carries out probation work. The locally competent probation office notifies the Center for Social Work, Employment Agency, Ministry of Internal Affairs, and employer with whom the convicted person is employed about the decision by which community service is imposed.

#### *5. Court admonition*

The court admonition is a specific alternative measure of warning assigned to an adult offender responsible for less serious crimes. It is a warning from society to the perpetrator for the committed crime, while also a caution against future crimes to avoid harsher punishment. The court admonition is issued to a perpetrator (without criminogenic tendency) for light crimes, of minor importance, but not insignificant social danger. This alternative measure cannot be applied to juvenile offenders.

The perpetrator receiving a court reprimand is considered a convicted person, entered in the criminal record. If they commit a new crime (record deleted after one year from court decision finalization), they are considered a recidivist.

Pursuant to the provisions of Article 59, paragraph 1 of the Criminal Code, a court admonition may be imposed for crimes for which a sentence of imprisonment of up to one year or a fine is prescribed, and which were committed under such alleviating circumstances that make it especially petty. According to paragraph 2 of the same article, for certain crimes and under the conditions anticipated by law, a court admonition may also be imposed when an imprisonment

of up to three years is prescribed. Paragraph 3 of the same article stipulates that the court may impose a court admonition for several crimes committed in concurrence if the conditions referred to in paragraphs 1 and 2 exist for every one of these crimes. According to the provision of paragraph 4 of the same article, when deciding whether to impose a court admonition and considering the aim of the court admonition, the court should especially consider the offender's personality, his previous life, his behavior after the committed crime, the extent of criminal liability, and other circumstances under which the crime was committed.

#### *6. House arrest*

The alternative measure of house arrest aims to protect the convicted person from the negative consequences of staying in the penal institution. Its application, the Criminal Code, binds it to the crime for which a fine or a prison sentence of one year is prescribed (a relatively light crime) and to certain categories of perpetrators of crimes such as elderly people, frail people, seriously ill people, and pregnant women. Also, consent is required from the convicted person to serve the sentence under house arrest (Arnaudovski & Gruevska-Drakulevski 2013, 303).

Pursuant to Article 59-a, paragraph 1 of the Criminal Code, if the offender of the crime for which the law prescribes a fine or imprisonment of up to five years is old, weary, severely ill, or a pregnant woman, and if the court sentences him or her to imprisonment of up to three years, it may, at the same time, decide to serve the sentence in house arrest with his or her consent. According to paragraph 2 of the same article, the court may replace the imprisonment sentence with house arrest if there are conditions involving modern electronic and telecommunications devices to control the enforcement of the house arrest, whereby the convicted person is banned from leaving his home. According to paragraph 3 of the same article, the court, and a competent court in accordance with the law, shall supervise the enforcement of the house arrest, and it may determine the undertaking of certain supervision measures by the police in the place where the home of the convicted person is located, obliging it to report its enforcement on a regular basis. According to paragraph 4 of the same article, if the convicted person violates the prohibition and leaves the house, on a proposal of the competent body in accordance with the law, the court may decide that the convicted person should serve the replaced sentence in full within an institution for serving imprisonment.

### **III. BRIEF OVERVIEW OF THE PENAL POLICY OF THE MACEDONIAN COURTS IN THE PERIOD FROM 2017 TO 2023**

Criminal law is primarily focused on establishing the goals of the criminal justice system. The criminal strategy of every state mirrors the dominant beliefs, economic conditions, political actions, social structures, and various other choices and influences within society. The modern idea of criminal policy for preventing crime should integrate all techniques and resources, encompassing both governmental actions and societal efforts. This encompasses the framework of penal sanctions.

Furthermore, we would like to highlight that the theory and practice of penalties are often connected to public opinion and its impact and role in preventing, managing, and combating crime. Therefore, in a nation like ours, in addition to the governmental system, the broader community must also be involved in addressing deviant social behaviors. It is crucial to foster a public opinion that stands against crime.

The application of alternative measures in the criminal-legal system of the Republic of Macedonia represents an opportunity to reduce the ever-present increase in the convict population in penitentiaries, promote the principle of humanization of punishment, and liberalize the penal policy for perpetrators of less serious crimes who, with these punishments,

are deprived of their free time instead of their freedom, as well as an active role of the community in the implementation of the sanction and correction of the convicted person (Jordanova 2008, 7).

Although alternative sanctions and measures, by their essence and characteristics, aim to reduce the sentence of imprisonment, practice shows that often an alternative solution is applied in a case where there is no basis for imposing a prison sentence at all. In this way, the alternative solutions are replaced with each other, and there is no positive end effect in terms of reduced imprisonment. On the contrary, after the replacement of an alternative with another alternative has not been shown to be successful, a longer prison sentence is imposed than the one that would have been initially measured and imposed. This situation can be explained by the fact that the judiciary hardly accepts innovations in penal policy and that for every new penal solution there is restraint, skepticism, and insufficient knowledge of the possibilities it offers. Hence, the rare application in practice of the way it was thought out and regulated (Lažetić-Bužarovska 2003, 62).

According to data from the State Statistics Office (MaxStat database), a total of 45,124 adults were convicted in Macedonia in the period from 2017 to 2023. A total of 22,738 fines were imposed on those same persons (provided in Article 33 of the Criminal Code) and a total of 22,299 alternative measures. Only 8 adults were found guilty and acquitted according to Article 42 of the Criminal Code. In 2021, 2022, and 2023, a total of 79 people were given a security measure without sentencing.

In the paper's continuation, a table is shown with the total number of convicted adults and the type of imposed sanction in the time period from 2017 to 2023.

Table 1. Convicted adults and the types of imposed sanctions in the period from 2017 to 2023.

Year	2017	2018	2019	2020	2021	2022	2023
<b>Total convicted persons</b>	6.273	5.857	4.712	6.351	7.634	7.769	6.528
<b>Penalties – total</b>	2.739	2.403	2.186	3.416	4.287	4.360	3.347
<b>Alternative measures – total</b>	3.534	3.454	2.526	2.927	3.323	3.383	3.152
<b>Found guilty – freed from punishment</b>	-	-	-	8	-	-	-
<b>A security measure imposed without the imposition of a penalty</b>	-	-	-	-	24	26	29

Source: The State Statistical Office

The above-mentioned statistics clearly indicate the frequent sentencing of adults by the courts in our country. Out of the total number of convicted adults from 2017 to 2023, 50.39% were sentenced, while 49.41% were given an alternative measure. The significance lies in the fact that only 0.01% of individuals were found guilty and acquitted of punishment under Article 42 of the Criminal Code. Furthermore, a mere 0.17% of individuals received a security measure without facing a sentence.

In the paper's continuation, a table displaying the total number of convicted adults in Macedonia based on the type of alternative measures imposed from 2017 to 2023 is provided.

Table 2. Convicted adults, according to the type of alternative measures imposed, in the period from 2017 to 2023.

Year	2017	2018	2019	2020	2021	2022	2023
<b>Alternative measures – total</b>	3.534	3.454	2.526	2.927	3.323	3.383	3.152
<b>Conditional prison sentence – total</b>	3.350	3.307	2.412	2.676	2.990	3.050	2.923
<b>Conditional fine sentence – total</b>	138	108	72	215	218	146	115

<b>Conditional sentence with protective supervision – total</b>	-	-	-	4	14	46	60
<b>Conditional discontinuation of criminal proceedings – total</b>	-	-	-	-	-	-	-
<b>Community service - total</b>	-	-	-	2	42	91	7
<b>Court admonition – total</b>	46	39	42	30	59	50	47
<b>House arrest – total</b>	-	-	-	-	-	-	-

Source: The State Statistical Office

According to the mentioned statistics, the Macedonian courts in the mentioned time period imposed a total of 22,299 alternative measures. When we analyze the type of alternative measures imposed, we can see that the conditional sentence was most often imposed. This is how the court determines the punishment for the perpetrator of a crime, while also deciding that it will not be carried out if the person sentenced, for the time specified by the court, does not commit a new crime - a period that cannot be shorter than one year nor longer than five years (the probation period). Therefore, out of the total alternative measures imposed, as many as 20,708 were conditional prison sentences. These sentences determine a prison sentence and at the same time decide that it will not be executed if the convicted person, for the time determined by the court - which cannot be shorter than one year nor longer than five years - does not commit a new crime. During the designated period of time, the alternative measure conditional fine sentence, which determines a fine and at the same time determines that it will not be carried out if the convicted person, for the time determined by the court, which cannot be shorter than one nor longer than five years, did not commit a new crime, was pronounced against 1,012 convicted adults.

During the mentioned time period, Macedonian courts handed down a total of 124 conditional sentences with protective supervision. In that same period, the alternative measure of court admonition was pronounced against 313 convicted adults, while the alternative measure of community service was pronounced against 142 convicted adults. Conditional discontinuation of criminal proceedings and house arrest alternative measures were not imposed in any case, that is, against any convicted adult.

In this part of the paper, we can conclude that the courts, through a penal policy, should show willingness to impose the alternative measures provided for in the Criminal Code and not resort to the imposition of short-term prison sentences, which contribute to the increase of the convict and prison population in the state.

#### **IV. ABOUT THE PROBLEM WITH OVERCROWDING IN MACEDONIAN PRISONS**

Overcrowding is not a problem that only the Republic of Macedonia is facing. Therefore, the Council of Europe also adopted *Recommendation No. R (99) 22 concerning prison overcrowding and prison population inflation* (adopted by the Committee of Ministers on September 30, 1999), in which it is indicated that overcrowding is a criminogenic factor. Hence, it has a strong influence on recidivism. Consequently, they encourage the public prosecutors and judges of the member countries for a wider application of alternatives to the prison sentence, then refer to mediation in criminal cases, dejuridization, and diversion from the formal criminal procedure (Gruevska-Drakulevski 2017, 5).

The prison system in Macedonia faces the problem of overcrowding in accommodation facilities, most pronounced in the largest penitentiary institution in the country – the Idrizovo Penal Correctional Facility with Open Department in Veles.



In conditions of overcrowding, the possibility of re-socialization, discipline, and sorting out the chaos in prisons decreases; this further results in inadequate treatment of prisoners (inability to provide work for all prisoners, proper treatment, implementation of rehabilitation programs, etc.), too much free time for prisoners causing boredom, stress, depression; the same leaves negative psychological effects on prisoners (stress, anxiety, tension, depression, feeling of helplessness, emotional discomfort, etc.) (Gruevska-Drakulevski 2017, 12-13).

According to the latest data from the Administration for the Execution of Sanctions, the total number of convicted persons serving prison terms in state-level institutions is 2,499. The capacity of the institutions is 2,113, showing an excess of 386 convicted persons. The worst situation is in the Idrizovo Penal Correctional Facility, where almost 50% of the prison population is serving sentences. The facility has a capacity for 1,187 persons, yet 1,409 convicted persons are serving sentences, which is 222 more (Ombudsman of the Republic of North Macedonia 2024, 36).

The state of overcrowding is present in all penitentiaries of the closed type: Prilep Penal Correctional Facility, Shtip Penal Correctional Facility, and Idrizovo Penal Correctional Facility, as well as in most of the prisons: Penal Correctional Facility Prison Skopje, Penal Correctional Facility Prison Bitola, Penal Correctional Facility Prison Strumica, and Penal Correctional Facility Prison Tetovo. In Tetovo Juvenile Educational Correctional Facility and Ohrid Penal Correctional Facility Prison, where the wards are child perpetrators of crimes, as well as in Struga Penal Correctional Facility of open type, the capacity is filled to a lesser extent, and more than half of the accommodation capacity is free (Ombudsman of the Republic of North Macedonia 2024, 27).

According to data from the Council of Europe's annual penal statistics for 2023, the incarceration rate in North Macedonia on January 31, 2023, was 142 inmates per 100,000 residents, an increase of 25.5 percent annually. This ranks North Macedonia second among all Council of Europe members in the rise in the incarceration rate, with Moldova taking the top spot, recording an increase of 52.1 percent. Lithuania, with 8.9 percent, recorded the biggest drop in the incarceration rate on January 31, 2023, compared to the same date in 2022, ahead of Estonia with 8.8 percent and Greece with 5.2 percent. Among other countries in the region, Bulgaria recorded an 8.1 percent increase in the incarceration rate in one year, Serbia 4.2 percent, Slovenia 2.1 percent, and Albania 1.6 percent. The incarceration rate remained unchanged in Romania. Generally, the average incarceration rate in Europe has risen by 2.4 percent. Nominally, North Macedonia, with 142 inmates per 100,000 residents, ranks 15th out of 48 member states of the Council of Europe included in the analysis. The lowest incarceration rates are reported in Finland, the Netherlands, Norway, Germany, Slovenia, Denmark, Switzerland, Armenia, Sweden, and Ireland (Aebi & Cocco 2024).

It is important to note that in 2022, the average length of sentences for prisoners in European prisons was 10.1 months, which is over three times longer than the average sentence length in Macedonia, at three months, ranking our country in second place among countries with the shortest prison sentences, just behind Switzerland, where sentences averaged 2.1 months.

It is inevitable that the Ministry of Justice and the Administration for the Execution of Sanctions must make serious efforts to address the long-standing issue of overcrowding in penal institutions where it has been documented.

## V. CONCLUSION

We believe that imprisonment should be the last resort (*ultima ratio*), especially for minor crimes. Alternative measures represent a more humane and effective way to deal with less serious crimes, unlike short-term prison sentences. Their adequate application would affect the

reduction of overcrowding in prisons with perpetrators of crimes who do not necessarily have to be isolated, as well as the reduction of criminality in the country itself.

The alternatives to the prison can address the root causes of criminal behavior while alleviating the pressure on prison systems. They offer assistance for rehabilitation to help criminals reenter society effectively and alleviate the costs and strain on the prison system. Carefully implementing these options into judicial policies can advance a more just and compassionate approach to the law and notably reduce imprisonment rates. It is evident from the information presented in this paper that the implementation of alternative measures in judicial penal policy could lead to a decrease in the overcrowding of prison facilities in the country. However, it is a delicate balance - making sure public safety is maintained while also providing opportunities for redemption.

The provision of additional accommodation facilities and the effective utilization of existing facilities within penitentiary institutions across the nation, in conjunction with the proper functioning of the Probation Department as part of the Administration for the Execution of Sanctions, represent viable and practical measures that can effectively contribute to alleviating overcrowding in the prison system and curbing the increase in the number of convicts. By optimizing the use of current facilities and expanding accommodation options, alongside ensuring the Probation Department operates smoothly, we can make significant strides in managing prison overcrowding.

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13. Law on Probation ("Official Gazette of the Republic of Macedonia" No. 226 of 25.12.2015).