

Aleksandra Gruevska-Drakulevski, Ph.D.¹

GRANTING PRIVILEGES TO PRISONERS IN THE PENOLOGICAL PRACTICE OF THE REPUBLIC OF MACEDONIA

Summary

The author of the paper addresses a very important institute in the process of re-socialization of prisoners - the granting of privileges to prisoners. Privileges of prisoners are incentives that motivate prisoners to actively engage in their own rehabilitation. The basic function of privileges is to stimulate inmates to a disciplinary and responsible behavior, and exemplary efforts in work and other rehabilitative activities during the serving of their sentence. In this article the author specifically focuses on international standards and regulations in the Republic of Macedonia concerning the conditions and procedure for granting privileges to prisoners. In a separate chapter the author analyzes a number of granted privileges to prisoners in the Republic of Macedonia in the period between 2008 and 2012, and their subsequent abuse. The author concludes that our penological practice regarding privileges of prisoners has a positive attitude, because it is a very suitable method for dealing with inmates. When deciding to grant privileges to prisoners the prescribed criteria for granting should be respected. Also, prisoners should clearly acknowledge that their active involvement in the process of their own re-socialization will pay off; they will be granted privileges because of their positive behavior. On the other hand, selective granting of privileges to prisoners can have the opposite effect.

Keywords: privileges, re-socialization, rehabilitation, prisoners.

¹ Assistant Professor at the Department of Criminal Law and Criminology, Faculty of Law "Iustinianus Primus", University "Ss. Cyril and Methodius", Skopje, Republic of Macedonia.

Introduction

Privileges that are granted to prisoners are a special penological institute whose primary function is to stimulate prisoners to disciplinary and responsible behavior, and exemplary efforts in work and other educational activities during the serving of their prison sentence.²

Privileges mean granting recognition to a prisoner for his efforts in the process of re-socialization, but it is also an instrument for individualization of treatment. They represent a penological tool that has been successfully embedded in the elements for classification of inmates in order to continuously stimulate positive action. Privileges are an award for prisoners because they behaved appropriately, show initiative, and positive results in the process of re-education. Still, privileges are not to be confused with the rights of the prisoners. This institute does not expand the rights of inmates, but the inmates are given awards, i.e. support for their positive efforts.³

Privileges are granted by the director of the penitentiary institution through a previous opinion of the expert team that makes an assessment on the success of the re-socialization program. When using this institute, prison staff should always bear in mind the sensitivity of prisoners towards justice and fairness. Therefore, when they are granted privileges it is especially important to have criteria that are known to the prisoners. Improper granting of privileges may cause opposite effects on the behavior of the inmates in general, as well as of those who were granted privileges, but not on the basis of positive results. In that case, they will not be stimulated to positive actions. Therefore, the prison staff should systematically monitor the application and granting of privileges, and the effects arising from them. In accordance with this, there is a need to expand and to shrink their granting. For these reasons, the granting, or withdrawal of privileges, should be governed by a legal act that is based on objective criteria, and prisoners should be familiar with such criteria.⁴

The legislation on enforcement of sanctions, as well as penological practice, for a long period did not make a necessary distinction between the rights of inmates and their privileges. As a consequence, the rights of prisoners were exercised as privileges, which in fact resulted in a narrowing of the rights of prisoners. The

² See more: Арнаудовски, Љ./ Груевска-Дракулевски, А. „Пенологија“ (прв и втор дел), Правен факултет „Јустинијан Први“ во Скопје, 2 Август С Штип, Скопје, 2013. [Arnaudovski, Lj./ Gruevska-Drakulevski, A. “Penology” (first and second part), Law Faculty “Iustinianus Primus” in Skopje, 2 August S Stip, Skopje, 2013].

³ *Ibid.*

⁴ *Ibid.*

new Law on Execution of Sanctions (LES)⁵ makes a significant step towards distinguishing between these two institutes and the approximation of privileges to their penological essence. Privileges are methods of treatment that reward (stimulate) the prisoner and his engagement in the process of re-socialization, reward for good behavior and commitment in all activities, namely, work, education, discipline, responsibility, etc. Privileges strengthen the confidence of inmates for the future life on freedom in accordance with the legal system and the civil obligations.

In this paper the author specifically focuses on international standards and regulation in the Republic of Macedonia concerning the conditions and procedure for granting privileges. In a separate chapter the author conducts an analysis of the number of granted privileges to prisoners in the Republic of Macedonia in the period between 2008 and 2012, and their abuse.

1. Privileges of prisoners according to international standards and regulation in the Republic of Macedonia

The conditions and procedure for granting privileges, apart from the regulation through the LES, is also regulated within the **Regulation on granting privileges to prisoners**⁶, and the **House rules for inmates serving a prison sentence in a penal correctional institution**.⁷ Also, there is also regulation through international standards.⁸

The significance of granting privileges is outlined in the **Standard Minimum Rules for the Treatment of Prisoners (SMRTP)**.⁹ Thus, according to Rule 70, systems of privileges

⁵ See: Арнаудовски, Љ./ Груевска-Дракулевски, А. „Закон за извршување на санкциите: интегрален текст со предговор, кратки објаснувања и регистар на поимите со прилози“, Скопје: „Студиорум“ - Центар за регионални истражувања и соработка, 2011. [Arnaudovski, Lj./ Gruevska-Drakulevski, A. “Law on Execution of Sanctions: integral text with preface, brief explanations and registry of terms with appendices, Skopje, "Studiorum"-Center for Regional Studies and Cooperation, 2011].

⁶ Правилник за начинот на користење на погодности на осудени лица („Службен весник на Република Македонија“ бр.173/2011). [Regulation on the use of the privileges of convicted persons ("Official Gazette of the Republic of Macedonia" No.173/2011)].

⁷ Куќен ред за осудените лица кои издржуваат казна затвор во казнено-поправна установа, јануари 2012 година, Министерство за правда. [House rules for inmates serving a prison sentence in a penal correctional institution, January 2012, Ministry of justice].

⁸ See: Rule 70 SMRTP.

⁹ Стандардни минимални правила за постапување со затворениците, усвоени на Првиот Конгрес на Обединетите нации за спречување на криминалот и третман на сторителите на кривични дела, што се одржа во Женева во 1955 година, а е одобрен од страна на Економскиот и Социјален Совет со резолуции број 663 С (XXIV) од 31 јули 1957 година и број 2076 година (LXII) од 13 мај 1977 година. [„Standard Minimum Rules for the

appropriate for the different classes of prisoners and the different methods of treatment shall be established at every institution, in order to encourage good conduct, develop a sense of responsibility and secure the interest and co-operation of the prisoners in their treatment.

Privileges represent a set of measures to boost the confidence of the convicted person, relieve prison discipline and negative impacts of the imprisonment, maintenance of relationships with family and the outside world, encouraging the participation of the convicted person in the process of re-socialization, strengthening accountability and confidence for his preparation for life in accordance with the legal order and fulfillment of civil obligations. The prisoners may be given certain privileges as a result of their good behavior and their working efforts, as well as to induce the convicts to have good behavior, and to develop a sense of responsibility, as well as an interest and co-operation in the treatment conducted in the institution (see Article 153 paragraph 1 LES).

Privileges include: (1) *mitigating conditions in the institution* and (2) *frequent contacts with the outside world*. The type and the extent of privileges depends on the level of security and limitation of freedom of movement of the convicted person in the institution, his conduct and results achieved in the implementation of an individual program for execution of the prison sentence. Costs incurred in connection with the use of the privileges are covered by the convicted person (see Article 153 LES).

Privileges consisting of mitigating conditions in the institution are:

- *Arrangement of the living space with personal items* and
- *Frequently receiving packages and receiving packages with greater weight* (see Article 153-a paragraph 1 LES).

The arrangement of the living space with personal items consists in allowing the convict to arrange the living space in the penitentiary institution with: photos, pictures, room flowers, objects, own blanket, a TV set, audio devices (radio, MP3) or other things that the convict crafted in his spare time that are with exemplary ethical content and which does not disturb the functionality of living space, that does not interfere with other inmates staying in the same room and are not contrary to the provisions of the House Rules of the institution. This privilege can

Treatment of Prisoners⁴, Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977].

be granted to inmates with stay in groups C1, C2, C3, B1, B2 и A,¹⁰ if they fulfill the conditions for using privileges.¹¹

The convicted person can receive one more package than determined by the House Rules of the institution on monthly basis, whose weight cannot exceed 10 kg. Receiving packages with greater weight consists of a possibility for the convict to receive an additional package other the maximum number of items specified in the House Rules of the institution, whose weight cannot exceed 15 kg.¹²

The privilege of receiving a package more than the determined number, whose weight cannot exceed 10 kg., can be granted to prisoners who stay in groups C1, C2, C3, B1, B2 and A, if they meet the conditions for using privileges. The privilege of receiving packages with greater weight, whose weight cannot exceed 15 kg., can be granted to prisoners residing in groups C1, C2, C3, B1, B2 and A, if they meet the conditions for using privileges.¹³

Privileges consisting of frequent contacts with the outside world are:

¹⁰ See: Правилник за распоредување, класификација и разместување на осудените лица во казнено-поправните установи („Службен весник на РМ бр.173/2011). [Regulation on disposition, classification and displacement of convicted persons in the penal institutions ("Official Gazette" No.173/2011)]. Article 6: Inmates classified in closed unit are classified in group C1, C2 or C3. In group C1 are classified inmate whose level of risk is very high. In group C2 is classified inmate whose level of risk is high or medium. In group C3 is classified inmate whose risk level is medium or low and if against him there is not taken another proceeding or is not imposed another prison sentence. Article 7: Inmates classified in semi-open unit are classified in Group B1 or B2. In Group B1 is classified inmate whose level of risk is very high, high or medium. In group B2 is classified inmate whose risk level is medium or low and if against him there is not taken another proceeding or is not imposed another prison sentence. Article 8: Inmates classified in an open unit, whose risk level is low or very low and if against them there is not taken another proceeding or is not imposed another prison sentence, are classified in group A.

¹¹ See: Правилник за начинот на користење на погодности на осудени лица („Службен весник на Република Македонија“ бр.173/2011), [Regulation on the use of the privileges of convicted persons ("Official Gazette of the Republic of Macedonia" No.173/2011)], article 2; Куќен ред за осудените лица кои издржуваат казна затвор во казнено-поправна установа, јануари 2012 година, Министерство за правда, [House rules for inmates serving a prison sentence in a penal correctional institution, January 2012, Ministry of justice], article 84.

¹² See: Правилник за начинот на користење на погодности на осудени лица („Службен весник на Република Македонија“ бр.173/2011) [Regulation on the use of the privileges of convicted persons ("Official Gazette of the Republic of Macedonia" No.173/2011)], article 3.

¹³ See: Куќен ред за осудените лица кои издржуваат казна затвор во казнено-поправна установа, јануари 2012 година, Министерство за правда [House rules for inmates serving a prison sentence in a penal correctional institution, January 2012, Ministry of justice], article 85.

- *Extended visits or unsupervised visits at the premises of the institution,*
- *Unsupervised telephoning,*
- *Stay with marital or extramarital partner in a separate room without supervision,*
- *Visits outside the premises of the institution,*
- *Free exit from the institution up to 7 hours,*
- *Leave up to 15 days during the year, but the leave cannot be longer than three days during a month`s period,*
- *Full or partial use of the leave outside the institution.*

The convicted person may be allowed to use the *extended visits* lasting 90 minutes in the days provided by the House Rules of the institution. The prisoner may be allowed *unsupervised visits in the institution`s premises* for up to 60 minutes on days set by the House Rules of the institution.¹⁴ The privilege *extended visits* lasting 90 minutes can be granted to prisoners staying in groups C1, C2, C3, B1, B2 and A, if they meet the conditions for granting privileges. The privilege *unsupervised visit* for 60 minutes can be granted to prisoners with stay in group C3, B1 and B2.¹⁵

The convicted person may be allowed *unsupervised telephoning* up to four times a month at a time determined by the House Rules of the institution.¹⁶ This privilege can be granted to inmates residing in group C3, B1 and B2, if they are eligible to use privileges.¹⁷

The convicted person may *stay unsupervised with marital or extramarital partner in a separate room* after two months of the classification, with duration of 90 minutes over a month on days

¹⁴ Правилникот за начинот на користење на погодности на осудени лица („Службен весник на Република Македонија“ бр.173/2011) [Regulation on the use of the privileges of convicted persons ("Official Gazette of the Republic of Macedonia" No.173/2011)], article 2; Куќен ред за осудените лица кои издржуваат казна затвор во казнено-поправна установа, јануари 2012 година, Министерство за правда [House rules for inmates serving a prison sentence in a penal correctional institution, January 2012, Ministry of justice], article 4.

¹⁵ Куќен ред за осудените лица кои издржуваат казна затвор во казнено-поправна установа, јануари 2012 година, Министерство за правда [House rules for inmates serving a prison sentence in a penal correctional institution, January 2012, Ministry of justice], article 86.

¹⁶ Правилникот за начинот на користење на погодности на осудени лица („Службен весник на Република Македонија“ бр.173/2011) [Regulation on the use of the privileges of convicted persons ("Official Gazette of the Republic of Macedonia" No.173/2011)], article 2; Куќен ред за осудените лица кои издржуваат казна затвор во казнено-поправна установа, јануари 2012 година, Министерство за правда [House rules for inmates serving a prison sentence in a penal correctional institution, January 2012, Ministry of justice], article 5.

¹⁷ Куќен ред за осудените лица кои издржуваат казна затвор во казнено-поправна установа, јануари 2012 година, Министерство за правда [House rules for inmates serving a prison sentence in a penal correctional institution, January 2012, Ministry of justice], article 87.

set by the House Rules of the institution. The privilege can be granted if a prisoner provides a Certificate of marriage. The convicted person may stay unsupervised with an extramarital partner in a separate room if he reports his extramarital partner with a statement that is self-signed during the stay in the department for admittance, and the extramarital partner should provide a statement notarized and submitted to the institution.¹⁸ The convicted person may stay without supervision with marital or extramarital partner in a separate room in the institution's premises after two months of the classification, and with a duration of 90 minutes over a month. The director of the institution regulates the days to realize this privilege with a decision. This privilege can be granted to inmates who stay in groups C1, C2, C3 and B1, if they are eligible to use privileges.¹⁹

The convicted person may be allowed to use the *visit outside the premises of the institution* with a visitor for a period of four hours per month in the municipality where the headquarters of the penal institution is. The visitor can be a person from the immediate family of the convicted person, or a person who is registered in the records of visits.²⁰ This privilege can be attained by inmates residing in groups B3, B2 and A, if they meet the conditions for using privileges, and if they have served at least: 1/3 of the prison sentence for convicted persons residing in group B3; 1/6 of the prison sentence for convicted persons residing in group B2, 30 days after the classification for inmates residing in group A.²¹

The convicted person may be allowed *free exit from the institution up to seven hours* in the municipality where the

¹⁸ Правилникот за начинот на користење на погодности на осудени лица („Службен весник на Република Македонија“ бр.173/2011) [Regulation on the use of the privileges of convicted persons ("Official Gazette of the Republic of Macedonia" No.173/2011)], article 2; Куќен ред за осудените лица кои издржуваат казна затвор во казнено-поправна установа, јануари 2012 година, Министерство за правда [House rules for inmates serving a prison sentence in a penal correctional institution, January 2012, Ministry of justice], article 6.

¹⁹ Куќен ред за осудените лица кои издржуваат казна затвор во казнено-поправна установа, јануари 2012 година, Министерство за правда [House rules for inmates serving a prison sentence in a penal correctional institution, January 2012, Ministry of justice], article 88.

²⁰ Правилникот за начинот на користење на погодности на осудени лица („Службен весник на Република Македонија“ бр.173/2011) [Regulation on the use of the privileges of convicted persons ("Official Gazette of the Republic of Macedonia" No.173/2011)], article 2; Куќен ред за осудените лица кои издржуваат казна затвор во казнено-поправна установа, јануари 2012 година, Министерство за правда, article 7.

²¹ Куќен ред за осудените лица кои издржуваат казна затвор во казнено-поправна установа, јануари 2012 година, Министерство за правда [House rules for inmates serving a prison sentence in a penal correctional institution, January 2012, Ministry of justice], article 89.

headquarters of the penal institution is or in the place of residence.²² The privilege free exit from the institution up to 7 hours can be granted to prisoners with stay in group B3, B2 and A, if they meet the conditions for using privileges and if they have served at least: 1/3 of the prison sentence for convicted persons with stay in group B3, 1/6 of the prison sentence for convicted persons with stay in group B2, 30 days after the classification of inmates residing in group A. Prisoners that meet the conditions can use the privilege after: 60 days from the previous use of this kind of privilege for inmates with stay in group C3; 45 days from the previous use of this kind of privilege for inmates with stay in group B2, 30 days from the previous use of this kind of privilege for inmates with stay in group A.²³

The convicted person may be granted *leave up to 15 days during the year* in the place where he resides, or elsewhere as previously announced, taking into account that the absence during the month cannot be longer than three days.²⁴ This privilege can be granted to inmates residing in group B3, B2 and A, if they meet the conditions for granting privileges, and have served at least: 1/3 of the prison sentence for inmates residing in group B3; 1/6 of the prison sentence for inmates residing in group B2; 30 days after the classification for inmates with stay in group A. Prisoners that meet the conditions can use the privilege after: 60 days from the previous use of this kind of privilege for inmates with stay in group C3; 45 days from the previous use of this kind of privilege for inmates with stay in group B2, 30 days from the previous use of this kind of privilege for inmates with stay in group A.²⁵

²² Правилникот за начинот на користење на погодности на осудени лица („Службен весник на Република Македонија“ бр.173/2011) [Regulation on the use of the privileges of convicted persons ("Official Gazette of the Republic of Macedonia" No.173/2011)], article 2; Куќен ред за осудените лица кои издржуваат казна затвор во казнено-поправна установа, јануари 2012 година, Министерство за правда, article 8.

²³ Куќен ред за осудените лица кои издржуваат казна затвор во казнено-поправна установа, јануари 2012 година, Министерство за правда [House rules for inmates serving a prison sentence in a penal correctional institution, January 2012, Ministry of justice], article 90.

²⁴ Правилникот за начинот на користење на погодности на осудени лица („Службен весник на Република Македонија“ бр.173/2011) [Regulation on the use of the privileges of convicted persons ("Official Gazette of the Republic of Macedonia" No.173/2011)], article 2; Куќен ред за осудените лица кои издржуваат казна затвор во казнено-поправна установа, јануари 2012 година, Министерство за правда [House rules for inmates serving a prison sentence in a penal correctional institution, January 2012, Ministry of justice], article 9.

²⁵ Куќен ред за осудените лица кои издржуваат казна затвор во казнено-поправна установа, јануари 2012 година, Министерство за правда [House rules for inmates serving a prison sentence in a penal correctional institution, January 2012, Ministry of justice], article 91.

A prisoner can *fully or partially the leave outside the institution* if he is continuously engaged with work more than six months. The number of days that can be used by the convicted person from the first part of the holiday cannot be less than 12 days. The convict can use this privilege in the place of his residence or elsewhere as previously announced.²⁶ The privilege of full or partial use of the leave outside the institution can be granted to prisoners residing in groups A and B2, if he is continuously engaged with work more than six months during a penological year, and if it meets the conditions for granting privileges. The number of days that can be used by the convicted person from the first part of the holiday cannot be less than 12 days.²⁷

Conditions that the prisoner should meet in order to be granted with privileges are:

- *Good behavior, which includes providing a positive example in the surrounding and exemplary behavior;*
- *Commitment to work, which includes the execution of certain tasks and self-initiative in their realization;*
- *Encouragement of good behavior;*
- *Built sense of responsibility and*
- *Supporting the interest and cooperation in the treatment that is carried out in the institution.*²⁸

Privileges that the convicted person can use in and out of the institution are considered within a penological year. A penological year is consists of the time from the date of admittance of a convict in the prison institution until the same day next year.²⁹

For convicted persons who were in pre-trial detention before serving a prison sentence, the time required for granting a privilege or progression in a grade of more liberal type of institution, or in an institution of more liberal type, there is consideration from the date of his admittance in the penal institution, without taking into account the time spent in pre-trial detention.³⁰ Since in the Republic of Macedonia the period of pre-trial detention is too high (in many cases the detention is the

²⁶ Правилникот за начинот на користење на погодности на осудени лица („Службен весник на Република Македонија“ бр.173/2011) [Regulation on the use of the privileges of convicted persons ("Official Gazette of the Republic of Macedonia" No.173/2011)], article 2; Куќен ред за осудените лица кои издржуваат казна затвор во казнено-поправна установа, јануари 2012 година, Министерство за правда [House rules for inmates serving a prison sentence in a penal correctional institution, January 2012, Ministry of justice], article 10.

²⁷ Куќен ред за осудените лица кои издржуваат казна затвор во казнено-поправна установа, јануари 2012 година, Министерство за правда [House rules for inmates serving a prison sentence in a penal correctional institution, January 2012, Ministry of justice], article 92.

²⁸ *Ibid.*, article 81.

²⁹ *Ibid.*, article 93.

³⁰ *Ibid.*, article 94.

maximum length), this provision should be revised. Namely, even the Criminal Code of the Republic of Macedonia³¹ stipulates that the time spent in pre-trial detention, and any arrest in connection with a criminal offense, is taken into account in the prison sentence, juvenile detention and a fine (Article 47 paragraph 1). Hence, the convicted person fulfils the formal condition. Furthermore, the penology theory always points that the process of re-socialization should start as early as the suspected person is arrested, through the process of trial, so that includes the time spent in pre-trial detention, then, when serving the prison sentence, and it continues after his release from the penal institution, through the post-penal assistance. The fact that this is not done in practice is not an excuse to have such a regulation, which foresees that the time required for granting a privilege is counted from the date of his admittance in the penal institution, without taking into account the time spent in pre-trial detention. In addition, the fulfillment of the formal criteria for granting privilege does not mean that the convict should be automatically granted one. It should not be forgotten that the material condition that the convict should meet in order to be eligible to be granted a privilege, such as, for example, good behavior, commitment to the work, encouragement of good behavior, built sense of responsibility and supporting the interest and cooperation in the treatment that is carried out in the institution, etc.

In any case, the sector for re-socialization and the Commission for privileges should always bear in mind the conditions that the prisoner should meet in order to be granted with privileges. On the contrary, if they do not make a proper assessment of the prisoner, and how he will behave when granted a privilege, there is a greater possibility for an abuse of privileges.

Due to being unjustifiably late in returning from leave outside the institution for more than 24 hours, the director of the institution will issue an order for issuing an arrest warrant. The time of being unjustifiably late in returning from a leave outside the institution for more than 24 hours is not considered in the serving of the prison sentence (see Article 153-a paragraph 3 and 4 LES).

The procedure for granting privileges is as follows.

The granting of a privilege is decided on by the director of the institution through a decision, after a previous opinion of the expert team that assesses the success of the program for re-

³¹ Кривичен законик („Службен весник на Република Македонија“ бр. 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 и 166/2012). [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 и 166/2012).]

socialization. When deciding on the privilege, the director of the institution will be guided by the principle of individualization of the execution of prison sentence. The director of the institution, when deciding upon the privilege, also decides on the need for supervision and compensation costs. The conditions and the procedure for granting privileges is established by the Minister of Justice on the basis of a proposal by the Director of the Directorate for execution of sanctions (see Article 153-b LES).

The director of the penal institution, with a decision, establishes a *Commission for privileges*. The Commission for privileges is composed of a chairman and two members, who have their own deputies of the respective sectors. Members of the Commission for privileges are officials from the sector of re-socialization and from the security sector who are experts, or senior civil servants. If a member of the Commission for privileges is an official who leads the treatment group of the convict, and if he is the one that submitted the proposal with the appropriate explanation of the grounds for the use of privilege by the convict, in that case the officer shall be excluded from the decision-making process and shall be replaced by the deputy of his sector. The Chairman of the Commission for privileges is the Head of the sector for re-socialization.³²

The Prison staff from the sector for re-socialization, who implements the program for the treatment of inmates, prepares proposals with appropriate explanation of the grounds for the use of the privileges. Officials from the sector for re-socialization submit the proposal to the Commission for privileges. The Commission for privileges submits opinions to the Director of the institution on the merits of the proposal. Finally, on the basis of the opinion of the Commission for privileges, the final decision is made by the director of the institution.³³

2. Number of granted privileges to prisoners in the Republic of Macedonia and their abuse

The analysis of data for granting privileges in the Republic of Macedonia for the period between 2008 and 2012 shows that the number of privileges that inmates were granted in 2009 has significantly increased compared to 2008, while the number of granted privileges in 2010 compared to 2009 has declined. Also, the number of granted privileges in 2012 compared to 2010 notes a decline. Data for 2011 is not analyzed, because the Directorate for

³² Куќен ред за осудените лица кои издржуваат казна затвор во казнено-поправна установа, јануари 2012 година, Министерство за правда [House rules for inmates serving a prison sentence in a penal correctional institution, January 2012, Ministry of justice], article 82.

³³ *Ibid.*, article 83.

execution of sanctions, in the annual report for 2011, does not give full details.

The data analysis shows that over the years the most commonly used privilege is leave up to 15 days during the year, but the leave cannot be longer than three days during a month's period. In 2008, 68.41% of the granted privileges were leave up to 15 days during the year, in 2009 - 76.66%, and in 2010 it drastically decreases and is 29.86% of the total number of granted privileges. In 2012 it is 32.05% of the total number of granted privileges. In 2010, the most used privilege was stay with marital or extramarital partner in a separate room without supervision (41.03%), a dramatic increase over the previous years, 2008 (2.63%) and 2009 (0.27 %). In 2011 this privilege is granted in 6.99%. Often granted privileges are free exit from the institution up to 7 hours, and full or partial use of the leave outside the institution.

In 2011, the privilege full or partial use of the leave outside the institution used 916 inmates, most of which (847 inmates), justified the confidence and timely returned to the institution, 21 inmate returned late in the institution, 9 prisoners were arrested with a warrant, while 12 inmates have not returned and are in escape. Also, most of the inmates were granted privilege leave up to 15 days during the year, but the leave cannot be longer than three days during a month's period, and free exit from the institution up to 7 hours. The data is presented, in its entirety, in Table 1.

In 2012 the most granted privileges were arrangement of living space with personal items that were granted to prisoners staying in the closed units (523 inmates), 232 inmates of the semi open units and 125 convicts from the open units of the penal institutions. The privilege of frequently receiving packages, and receiving packages with greater weight, was granted to 1010 prisoners and mostly to prisoners placed in the closed units (675), then, to 285 prisoners from the semi-opened units and to 50 prisoners from the open units of the penal institutions. The privilege leave up to 15 days during the year was granted to 3557 prisoners (See Table 1.).

Table 1. Number of granted privileges for the period between 2008 and 2012 in penitentiary institutions in the Republic of Macedonia.

Type of privilege	No. of privileges (2008)	%	No. of privileges (2009)	%	No. of privileges (2010)	%	No. of privileges (2012)	%
PRIVILEGES CONSISTING OF MITIGATING CONDITIONS IN THE INSTITUTION								
Arrangement of the living space with personal items	/		/		380	3,03	880	7,93
Frequently receiving packages and receiving packages with greater weight	/		/		100	0,80	1010	9,10
PRIVILEGES CONSISTING OF FREQUENT CONTACTS WITH THE OUTSIDE WORLD								
Extended visits or unsupervised visits at the premises of the institution	181	2,	1574	10,65	278	2,22	755	6,80
Unsupervised telephoning	/	/	/	/	254	2,03	1261	11,36
Stay with marital or extramarital partner in a separate room without supervision	193	2,	40	0,27	5147	41,03	776	6,99
Visits outside the premises of the institution	411	5,	36	0,24	27	0,22	68	0,61
Free exit from the institution up to 7 hours	885	12	1039	7,03	1122	8,95	1580	14,24
Leave up to 15 days during the year, but the leave cannot be longer than three days during a month's period	5028	68	11333	76,66	3745	29,86	3557	32,05
Full use of the leave outside the institution	359	4,	384	2,60	1490*	11,88	1212*	10,92

Partial use of the leave outside the institution	293	3,	377	2,55	/	/	/	/
Total	7350	10	14783	100,00	12543	100,00	11099	100,00

* The numbers are for full or partial use of the leave outside the institution

Source: Annual reports of the Directorate for Execution of Sanctions of the Republic of Macedonia for their work and the conditions in the penitentiary, correctional and educational institutions in the Republic of Macedonia for 2008, 2009, 2010, 2011 and 2012.

(<http://www.pravda.gov.mk/tekstoviuis.asp?lang=mak&id=godizv>).

The penological practice of the Republic of Macedonia notes many cases of abuse of granted privileges, particularly abuse of the privilege leave up to 15 days during the year, but the leave cannot be longer than three days during a month's period. Since, the data, according to the Annual reports of the Directorate for Execution of Sanctions of the Republic of Macedonia for their work and the conditions in the penitentiary, correctional and educational institutions in the Republic of Macedonia for 2008, 2009, 2010, 2011 and 2012 are not consistent and complete, they are analyzed for each year separately.

In 2008 there were 108 escapes of prisoners, including 16 departing from within the institution, with the rest not returning from home leave. Out of the total number of inmates who escaped, 79 have returned or are arrested through warrants, by the Ministry of Interior, while 29 people remained in escape.³⁴

In 2009 there were 143 inmates that escaped or 59 cases of inmates escaped from the open unit of the penitentiary institutions, 75 inmates did not return from home leave as a granted privilege, 3 inmates did not return from hospital treatment, while 6 convicts that were working outside the prison did not returned to the penitentiary institution from work. Out of the total number of inmates 104 were returned or arrested through warrant, by the Ministry of Interior, while others remained in escape.³⁵

³⁴ Годишен извештај на Управата за извршување санкции за работата и состојбата на казнено-поправните и воспитно-поправните установи во Република Македонија за 2008 година. [Annual report of the Directorate for Execution of Sanctions of the Republic of Macedonia for their work and the conditions in the penitentiary, correctional and educational institutions in the Republic of Macedonia for 2008].

³⁵ Годишен извештај на Управата за извршување санкции за работата и состојбата на казнено-поправните и воспитно-поправните установи во Република Македонија за 2009 година. [Annual report of the Directorate for

In 2011, the privilege full or partial use of the leave outside the institution was used by 916 inmates, most of which (847 inmates), justified the confidence and timely returned to the institution, 21 inmate returned late in the institution, 9 prisoners were arrested by warrant, while 12 inmates have not returned and are in escape.³⁶

During 2012 there were a total of 1066 disciplinary offences, 59 were escapes from prison, and 184 were abuse of granted privileges.

Next, the number and types of disciplinary penalties are analyzed in order to make some conclusions referring to the abuse of granted privileges. One of the types of disciplinary penalty that is provided in our legislation is limitation of the granted privileges up to three months if the convict has misused the given privileges. The data show that over the years, the percentage of imposition of this type of disciplinary penalty ranges from lowest 5.72% in 2011 up to high 22.36% in 2012. In 2008 it was 9.30%, in 2009 – 13.46% and in 2010 – 7.69%. The steep rise of the imposition of this type of disciplinary penalty in 2012 leads to a conclusion that the granted privileges have been more and more abused over the years. One cannot draw up a consistent conclusion on the abuse of granted privileges only through these figures, since we do not have relevant data as to how much of the mostly imposed disciplinary penalty, referring here to solitary confinement for a period of 3 to 15 days with or without the right to work, was imposed for misuse of granted privileges.

Table 2. Number of disciplinary penalties for the period between 2008 and 2012 in the penal and correctional institutions in the Republic of Macedonia

Type of disciplinary penalty	Number of disciplinary penalties (2008)	%	Number of disciplinary penalties (2009)	%	Number of disciplinary penalties (2010)	%	Number of disciplinary penalties (2011)	%	Number of disciplinary penalties (2012)	%
Warning	45	3,80	40	3,15	28	2,34	/	/	114	9,34
public Warning	257	21,72	175	13,78	135	11,29	163	13,50	138	11,30

Execution of Sanctions of the Republic of Macedonia for their work and the conditions in the penitentiary, correctional and educational institutions in the Republic of Macedonia for 2009].

³⁶ Годишен извештај на Управата за извршување санкции за работата и состојбата на казнено-поправните и воспитно-поправните установи во Република Македонија за 2010 година. [Annual report of the Directorate for Execution of Sanctions of the Republic of Macedonia for their work and the conditions in the penitentiary, correctional and educational institutions in the Republic of Macedonia for 2010].

Taking away a part of the labor compensation in amount up to 20% of it	2	0,17	12	0,94	18	1,51	31	2,57	130	10,65
Limitation of the granted privileges up to three months if the convict has misused the given privileges	110	9,30	171	13,46	92	7,69	69	5,72	273	22,36
Referring to solitary confinement for a period of 3 to 15 days with or without the right to work	769 (13 + 756)	65,00	872 (6 + 866)	68,66	923 (101 + 822)	77,17	944	78,21	566	46,36
Total	1183	100	1270	100	1196	100	1207	100	1221	100

Source: Annual reports of the Directorate for Execution of Sanctions of the Republic of Macedonia for their work and the conditions in the penitentiary, correctional and educational institutions in the Republic of Macedonia for 2008, 2009, 2010, 2011 and 2012.

(<http://www.pravda.gov.mk/tekstoviuis.asp?lang=mak&id=godizv>).

Newspapers are filled with stories of abuse of privileges granted to prisoners, mostly for the abuse of the privilege leave up to 15 days during the year. Some of the titles in the news are: "Prisoner on leave for the weekend have robbed Stopanska Bank in Bunjakovec",³⁷ "Three prisoners walking free - escaped from

³⁷ Макфакс, „Затвореник на викенд отсуство ја ограбил Стопанска банка во Буњаковец“, 20 јануари 2013 година. [Makfaks, "Prisoner on leave for the

Prison Idrizovo”,³⁸ “Murderer, robber and thief did not returned from a weekend in prison”,³⁹ “Prisoner on weekend leave robbed a pharmacy”,⁴⁰ “Went on leave but did not returned to Idrizovo”,⁴¹ “Prisoner killed on weekend leave”,⁴² “Prisoner on weekend leave killed an old lady”,⁴³ “Prisoner on weekend leave tricked a taxi driver”,⁴⁴ etc.

These are only small number of abuse of granted privileges, particularly, the privilege leave up to 15 days during the year, but the leave cannot be longer than three days during a month’s period. Although these are isolated cases, one cannot generalize that these privileges should be abandoned, but the conclusion is that granting privileges requires greater involvement of the sector for re-socialization and the Commission for privileges to make a good assessment of the prisoner’s behavior to which a privilege is being granted.

Due to the sensational reporting of the media on cases of abuse of granted privileges to prisoners the public is reluctant for these privileges, particularly leave for a weekend, holiday, etc. of prisoners. However, granting privileges is an important institute in the process of re-socialization. They are a motive and incentive for the prisoners to actively engage in their own rehabilitation. Hence,

weekend have robbed Stopanska Bank in Bunjakovec”, 20.1.2013]. (<http://m.kajana.com/zatvorenik-na- vikend-otsustvo-ja-ograbil-stopanska-banka-vo-bunjakovec>). (Accessed at 28.9.2013)

³⁸ Сител, „Тројца затвореници слободно шетаат – побегнаа од Идризово“, 13.08.2013 година. [Sitel, “Three prisoners walking free - escaped from Prison Idrizovo”, 13.8.2013]. (<http://www.sitel.com.mk/mk/trojca-zatvorenici-slobodno-shetaat-pobegnaa-od-idrizovo-0>). (Accessed at 28.9.2013)

³⁹ Нова Македонија, „Убиец, разбојник и крадец не се вратиле од викенд во затвор“, 13.08.2013 година. [Nova Makedonija, “Murderer, robber and thief did not returned from a weekend in prison”, 13.8.2013]. (<http://www.novamakedonija.com.mk/DetalNewsInstant.asp?vestInstant=22635>). (Accessed at 28.9.2013)

⁴⁰ Дневник, „Затвореник на викенд-отсуство ограбил аптека“, 23.9.2013 година. [Dnevnik, “Prisoner on weekend leave robbed a pharmacy”, 23.9.2013]. (<http://daily.mk/forward/1829376/zatvorenik-na- vikendotsustvo-ograbil-apteka>). (Accessed at 28.9.2013)

⁴¹ Дневник, „Излегол на отсуство, но не се вратил во Идризово“, 13.08.2013 година. [Dnevnik, “Went on leave but did not returned to Idrizovo”, 13.8.2013]. (www.dnevnik.com.mk). (Accessed at 28.9.2013)

⁴² Дневник, „Затвореник загина на викенд-отсуство“, 26 Јуни 2012 година. [Dnevnik, “Prisoner killed on weekend leave”, 26.6.2012]. (<http://bukvar.mk/news/zatvorenik-zagina-na- vikendotsustvo?newsid=JUMW>). (Accessed at 28.9.2013)

⁴³ Нова Македонија, „Затвореник на отсуство убил баба“, 13.1.2011 година. [Nova Makedonija, “Prisoner on weekend leave killed an old lady”, 13.1.2011]. (<http://www.novamakedonija.com.mk/NewsDetal.asp?vest=1131192644&id=12&setIzdanie=22180>). (Accessed at 28.9.2013)

⁴⁴ Daily.mk, „Затвореник на викенд отсуство измамил таксист“, 9.9.2013 година. [Daily.mk, “Prisoner on weekend leave tricked a taxi driver”, 9.9.2013] (<http://daily.mk/forward/115255/zatvorenik-na- vikendotsustvo-izmamil-taksist>). (Accessed at 28.9.2013)

the public should be convinced that the abuse happens in individual cases, and as so general conclusions should not be made on the basis of a few, isolated, incidents.

Conclusion

Granting privileges is a very suitable method for restoring the confidence of the convicted person. The Commission which decides on granting privileges should always take into account the positive and the negative effects of granting privileges.

Our penitentiary practice has a positive attitude toward privileges because it turns out to be very suitable method for dealing with inmates, and for their assessment of the re-socialization process. Thus, because the inmates are not always persistent in the positive endeavors there is always a need for new stimuli in those efforts. When granting privileges, it is a positive practice to consult with all members of the prison staff that is engaged in the re-socialization process of the convicted person. In this manner, the responsibility of the inmate to whom the privilege is granted is increased, but there is also greater the responsibility for those who are involved in the process of proposing and deciding to grant a privilege. The forms and types of privileges, that the director of the institution grants, should be constantly expanding and enriching, encompassing all forms and types of engagement of the convict in the penitentiary institution.

Granting privileges is an important institute in the process of re-socialization. They are a motive, incentive for the prisoners to actively engage in their own rehabilitation.

The methods and the criteria for granting privileges should be known to the prisoners and they should be uniform for all prisoners, because selective granting privileges can have the opposite effect.

The granting of privileges such as free exit from the institution up to 7 hours, leave up to 15 days during the year and full or partial use of the leave outside the institution, are a way to check whether the re-socialization proves the expected results. When using these privileges a prisoner is placed before the temptation to misuse them or to justify the trust for which he was granted one of these types of privileges. Another positive side of these privileges is the fact that the prisoner will feel the positive effects of staying with his family, which is expected to be an additional incentive to actively engage in his own rehabilitation, after returning back to the institution, and on the other hand, these benefits in certain extent significantly reduce prison deprivation that prisoner feels.

Furthermore, the newly introduced privileges should be granted more often, privileges consisting of mitigating conditions

in the institution, such as arrangement of the living space with personal items and frequently receiving packages and receiving packages with greater weight, as well as the privileges extended visits or unsupervised visits at the premises of the institution, unsupervised telephoning, stay with marital or extramarital partner in a separate room without supervision, visits outside the premises of the institution, which also serves to reduce prison deprivations.

Of course, the decision to grant privileges should comply with the prescribed criteria for their granting, and it should be made clear to prisoners that only their positive attitude will be valued, and that their exemplary behavior during imprisonment and their active involvement in their own re-socialization process, will pay off.

To conclude, our penitentiary practice notes abuses of privileges granted to prisoners, especially the mostly used one, leave up to 15 days during the year. However, granting privileges should never be questioned since they are a tool for the successful realization of the process of re-socialization. Still, more effort should be paid to the prevention of their abuse by prisoners. This requires greater involvement of the sector for re-socialization and the Commission for privileges, towards making a good assessment of the prisoner's behavior, to which a privilege is granted.

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Стандардни минимални правила за постапување со затворениците, усвоени на Првиот Конгрес на Обединетите нации за спречување на криминалот и третман на сторителите на кривични дела, што се одржа во Женева во 1955 година, а е одобрен од страна на Економскиот и Социјален Совет со резолуции број 663 С (XXIV) од 31 јули 1957 година и број 2076 година (LXII) од 13 мај 1977 година. [„Standard Minimum Rules for the Treatment of Prisoners“, Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolutions 663 С (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977].

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