Ministry's efforts to re-socialise persons held in custody, prisoners and those serving a conditional sentence

Summary of audit results

The SAO audit provides an overview of preventive measures applied to persons, who already have committed offences, and to persons held in custody for the purpose of preliminary investigation.

According to the Penal Code the aim of the penalty is to influence the offender to refrain from offences in the future, i.e. re-socialisation, and to protect public order, i.e. isolation. Re-socialisation affords the person the opportunity to return to the society and to act in accordance with the standards set by the latter. This would reduce the probability of offences in the future, increase the overall sense of security in the society and cut public expenditure on the maintenance of prisoners and on the compensation of damages.

Main conclusions and proposals

Imprisonment and probation supervision

According to the assessment of the SAO the prisons are currently unable to serve their purpose that is influencing the convicted offenders to refrain from offences in the future. Most prisoners have minimum involvement in useful activities during the period of serving the sentence, which further increases their remoteness from the society (in October 2001 only 25% of prisoners were engaged in working activities). 74% of prisoners are serving a second or further sentence.

Probation supervision is, compared to imprisonment, more likely to ensure that after serving the sentence the person is able to cope in the society without committing any offences. The SAO finds that probation supervision is well organised and that it has proved itself as a system oriented towards the achievement of goals. Probationers have the obligation to work, reside permanently in the same location, participate in training programs, regularly visit the probation supervisor, and, where appropriate, take psychological counselling sessions. Training periods and seminars are organised for probation officers on a permanent basis, the first steps have been taken towards the implementation of the principles of result-based management and the service standards for probation supervision are being developed. Only 10% of probationers are sent to custodial institutions to serve their sentence.

One of the most important things in the re-socialisation of prisoners is to complete the probation supervision phase before the sentence has been fully served. In 2000 some 31% of prisoners or 351 persons were released prematurely on the condition that they undergo probation supervision. In 2001 a total of 258.3 million kroons were taken directly from the state budget to detain 4,709 persons held in custody and offenders (54,841 kroons per person). In the same year the probation supervision departments spent 20 million kroons on the supervision and service of 7,104 probationers (2,815 kroons per person).

The SAO proposes that all prisoners should be required to complete the probation supervision or open prison phase before the sentence is fully served.

In his letter of response to the SAO the Minister of Justice said that the completion of the probation supervision or open prison phase should be a natural part of imprisonment. However, the Minister does not have a clear plan of action to achieve this in reality.

Request of sentences by the Prosecutor's Office

The Minister of Justice has failed to ensure that Prosecutor's Office would consider the effect on the person's re-socialisation each time it requests a sentence. The SAO finds that the prior to the prosecution the prosecutors gather little information on the social and financial situation and the personality of the accused. For example, in 2001 the personality profile was drawn up in only 16.7% of all cases.

The SAO proposes to create a mechanism requiring the request of sentence to take account of the re-socialisation risks and costs in the case of each person accused at trial.

The Minister of Justice agreed with this proposal in his response and said that this is necessary indeed. The goal is to elaborate the relevant methods. The SAO, however, finds that the Minister has not done

enough, because methods alone, without the support of appropriate management, control and reporting systems, cannot ensure that each request of sentence would take account of the effect on the person's re-socialisation.

Establishment of the cost accounting system

The Ministry of Justice does not know exactly how much it costs per person to enforce different sentences and preventive measures (provision custody, imprisonment, probation supervision, community service etc).

The SAO proposes that a cost accounting system should be established to indicate the constituent elements of the cost of enforcing the sentence, and that financial management should be applied to allow managing such costs in accordance with the goals.

One of the goals of the Ministry of Justice in 2002 is to introduce the management and cost accounting system in the Ministry and its government area. This entails the introduction of activity-based cost accounting, which allows assessing the effective expenditure on cost units and activities. The system will be put into operation in January 2003.

Reporting system

The Minister of Justice does not require the prisons to furnish information on the results of re-socialisation or assess the prisons' work on the basis of these criteria. The reports mainly focus on the extent of implementation of certain activities without examining the quality.

The SAO proposes that the assessment of the performance of prisons should, first of all, refer to progress in the re-socialisation of prisoners. The prisons' reports could focus on the implementation of individual treatment programs, which, when prepared with due care, should give the prisoner maximum preparation for successfully managing his/her life after release.

The Development Strategy of the Ministry of Justice up to 2005 lays down the objective of determining the criteria for assessing the performance of the prison system and individual prisons. The SAO finds it positive that this objective is included in the Development Strategy, but the Minister of Justice is not willing to explain what has actually been done to achieve this objective and whether and how the individual treatment programs are intended to be used for reporting purposes.

Recommendations to the Parliament

The Penal Code provides that besides the protection of public order the aim of the penalty is to influence the offender to refrain from offences in the future, i.e. re-socialisation. The latter is a goal attributable to all types of penalties, including imprisonment.

According to the assessment of the SAO the prisons are unable to re-socialise the prisoners. Today the prisons constitute primarily isolation facilities and, as a rule, a person released from there cannot cope in the society without committing new offences.

In the light of the above and provided that the Penal Code stipulates that re-socialisation is one of the purposes to be served by the penalty, we recommend the Parliament to adopt a clear position as to which types of offences and groups of persons call for increased attention to factors impeding re-socialisation, and therefore to prefer penalties without imprisonment (probation supervision, pecuniary penalty etc).

To this end we recommend the Parliament to ask the Minister of Justice to give an overview of the penal policy currently applied in order to get an indication of which penalties the Prosecutor's Office has requested for different groups of persons and which penalties the courts of law have imposed. In this context we recommend the Parliament to pay particular attention to the structure to be observed by the Minister of Justice when giving such information so that the Parliament would get an adequate picture.

The Parliament could use this analysis to adopt a position as to which penalties are currently too strict or too mild, and instruct the Minister of Justice to prepare for the amendment of the legislative framework of penal policy (i.e. the Penal Code) and to guide the practice of requesting and imposing penalties.

Furthermore, we recommend the Parliament to require the Minister of Justice to submit regular reports on the penal policy actually applied in the country

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