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RESEARCH ARTICLE

# Involuntary psychiatric treatment as a safety measure in Croatian law

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Aim: To describe and analyze involuntary psychiatric treatment as a safety measure in Croatian legislation and practice.

Methods: We used descriptive, statistical, and case analysis methods.

Results: Three key conditions must be met to apply involuntary psychiatric treatment as a safety measure: the offender had to have committed a crime while in a state of significantly diminished capacity due to mental health issues; the offense had to carry a statutory prison sentence of at least one year; and due to the offender's mental condition, there had to have been a risk of escalation in the future. Medical experts play a central role in how this measure is imposed and enforced, providing professional insights to help the court assess whether the offender had significantly diminished capacity at the time of the crime and whether psychiatric treatment is warranted and needed to address the underlying issues that may lead to an escalation in the severity of offending behavior in the future. Involuntary psychiatric treatment can be carried out within the prison system or in outpatient settings. The maximum duration of this measure is limited by the length of the sentence. The court is required to conduct periodic reviews and assess whether the legal conditions for treatment are still in place.

Conclusion: The criteria for involuntary psychiatric treatment as a safety measure are clearly defined in the legislation. Medical experts assess if mental health issues played a role in the offender's ability to comprehend the significance of their actions and exercise self-control, which is pivotal in shaping the court's decision on the offender's mental capacity and the need for treatment to reduce the risk of escalating into a more serious offense. Outpatient commitment outside of the prison system may lead to better treatment outcomes for some offenders, while the mandatory periodic reviews of legal conditions ensure judicial safeguards against human rights violations through unnecessary medical treatment.

Keywords: criminal offense; principle of proportionality; involuntary psychiatric treatment; safety measure; diminished capacity

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## Introduction

In Croatian criminal law, offenders may be sentenced to either fines or imprisonment, with the aim of achieving both general and specific deterrence, as defined in the Criminal Code ((*1*) Art. 40, Para. 1, and Art. 41). However, recognizing that punishment alone cannot effectively address certain types of offenders, the legislature mandates certain safety measures aimed at eliminating the conditions that enable or encourage repeated offending ((*1*), Art. 66), which are designed to target factors and circumstances that influence or determine behavior to varying degrees, especially in individuals predisposed or driven to antisocial or criminal behavior due to endogenous or exogenous factors ((*2*), p. 266). Predicting future behavior requires consideration of the nature of the crime, as well as existing and anticipated circumstances at the time of sentencing and thereafter. For this reason, a safety measure cannot be justified solely by the severity of the offense unless it can be reasonably predicted that the offender is likely to reoffend in the future at the time of sentencing (based on the offense and other circumstances). Consequently, assessing future risk is a "key issue" in the application of safety measures ((*3*), p. 46).

While penalties are limited by the degree of culpability and the purpose of punishment ((*1*), Art. 47), safety measures are guided by proportionality to the severity of the crime, potential future offenses, and the level of risk posed by the offender ((*1*), Art. 67). The legislature prescribes ten safety measures: involuntary psychiatric treatment; involuntary addiction treatment; involuntary psychosocial treatment; prohibitions against holding office or engaging in business activities; prohibition of driving motor vehicles; stay-away, anti-harassment, and stalking protection orders; eviction from a shared household; internet ban; post-sentence supervision; and ban from owning or acquiring animals ((*1*), Art. 65).

In 2023, courts imposed safety measures on 1,512 offenders (10.6% of total sanctions issued), with the two most frequent being involuntary addiction treatment for crimes committed under the substantial influence of alcohol or drugs (35.2% of the total) and involuntary psychiatric treatment (28.1%), jointly accounting for 63.3% of the total (**Table 1**). These two measures were ordered in cases involving threats ((*1*), Art. 139), domestic violence ((*1*), Art. 179a), child rights violations ((*1*), Art. 177), unauthorized production and distribution of drugs ((*1*), Art. 190), theft ((*1*), Art. 228), aggravated theft ((*1*), Art. 229), bodily injury ((*1*), Art. 117), serious bodily injury ((*1*), Art. 118), and murder ((*1*), Art. 110; (*4*), p. 50).

Table 1. Safety measures imposed between 2019 and 2023, according to the State Attorney's Office of the Republic of Croatia ((*4*), p. 50)

| Year | Involuntary addiction treatment | Involuntary psychiatric treatment | Prohibition against holding office or engaging in business activities | Prohibition of driving motor vehicles | Other safety measures | Total |
|---|---|---|---|---|---|---|
| 2019 | 320 | 155 | 12 | 111 | 79 | 677 |
| 2020 | 321 | 220 | 7 | 71 | 267 | 886 |
| 2021 | 427 | 295 | 15 | 128 | 309 | 1174 |
| 2022 | 495 | 393 | 28 | 107 | 407 | 1430 |
| 2023 | 532 | 425 | 14 | 82 | 459 | 1512 |

Here we present an overview and analysis of the legal framework governing involuntary psychiatric treatment as a safety measure in Croatian law, supported by statistical data, insights from legal and medical doctrine, and judicial practice.

## *Conditions for imposing involuntary psychiatric treatment as a safety measure*

Courts may impose involuntary psychiatric treatment for any crime carrying a statutory prison sentence of at least one year, provided that it was committed in a state of significantly diminished capacity. Additionally, there must be a risk of escalating into a more serious offense in the future due to mental health issues causing diminished capacity ((*1*), Art. 68, Para. 1). This safety measure is imposed in combination with a sentence, ensuring that the offender is both appropriately penalized and provided with necessary psychiatric care (*5*).

What sets apart the legal position of inmates with involuntary psychiatric treatment or involuntary addiction treatment orders from other inmates with mental health issues is that the treatment is administered without their consent. This compulsory nature presents an additional challenge when administering therapy to unwilling inmates, raising concerns about the potential infringement of the inmate's fundamental human rights through enforced medical treatment. The rationale for safety measures involving compulsory treatment lies in the fact that the state is required to mitigate the risk to public safety posed by the offender's mental state ((*6*), p. 471). Beyond the legal perspective, such treatment is also justified on grounds of medical ethics (*7*). The legal position of persons subjected to treatment and certain forms of abuse of such persons is also indicated in the Report of the Special Rapporteur on torture and other cruel, inhumane or degrading treatment or punishment, which emphasizes the state's obligation to regulate and supervise practices in health institutions with the aim of preventing cruel, inhuman or degrading treatment of such persons (*8*).

## *Prescribed penalty*

This safety measure can only be imposed in judicial proceedings for alleged crimes carrying a prescribed prison sentence of at least one year. The focus is not on the statutory minimum penalty but rather on whether the sentencing framework allows for a prison term of at least one year.

In its judgment Kzz 18/2019-3 dated August 29, 2019, the Supreme Court of the Republic of Croatia found that the Zadar County Court committed a legal error by concluding that this measure could not apply to crimes with a statutory minimum prison term of less than one year (translated from Croatian in Vrhovni sud Republike Hrvatske (*9*)):

> The correct interpretation of Art. 68, Para. 1, Criminal Code/11, "(...) the court shall impose involuntary psychiatric treatment on any offender who committed a criminal offense carrying a prescribed prison sentence of one year or more (...)" shows that the legislature does not limit the application of this measure by focusing on the minimum prescribed sentence. For an accurate interpretation of this legal standard, one must consider whether the statutory framework for the offense in question permits a prison term of one year or more.

### *Definition, determination, and legal implications of diminished capacity*

The accused can be found not criminally responsible if they were unable to understand the nature of their actions or control their will at the time of the crime due to mental illness, temporary mental disturbance, incomplete mental development, or another severe mental condition ((*1*), Art. 24, Para. 2). This legal definition implies that mental capacity entails the capacity to recognize a criminal act as a socially harmful and prohibited behavior, carried out willfully and with an awareness of the causal link between the action and its consequences, and the ability to control one's actions accordingly (*10*).

Diminished capacity is viewed as a specific type of mental capacity, rather than a transitional state between mental capacity and lack thereof. Individuals with diminished capacity can understand the negative social consequences of their actions and regulate their behavior; if their behavior is unlawful, they will be held accountable and sentenced. A person is considered to have diminished capacity if their ability to comprehend their actions or control their will was impaired at the time of the crime (*11*). The distinction between mental incapacity and diminished capacity lies in the degree of impairment of biological and psychological functions. Individuals with diminished capacity have reduced intellectual and/or volitional abilities due to a biological or psychological defect, impeding their ability to act in accordance with social and legal norms. However, unlike mentally incapacitated offenders, they retain the ability to understand their actions and control their will, although with greater effort ((*12*), p. 919). Arguments against the concept of diminished capacity in criminal law have included concerns about the vagueness of the term, which could lead to arbitrary judicial decisions erroneously classifying both mentally healthy and disordered individuals as having diminished capacity, as well as fears about the "psychiatrization" of criminal law due to the expanded role of psychiatrists in the judicial process (*13*).

The court always assumes criminal responsibility at the time of the crime. When there is doubt about diminished capacity or lack thereof, the court will order a psychiatric evaluation per the Criminal Procedure Act ((*14*), Art. 325). This is a common judicial practice in cases involving brutal or unusual criminal methods, unmotivated violent acts, a history of psychiatric treatment, a known family history of mental illness, alcohol or drug dependence, or where the defendant's behavior appears atypical for a mentally healthy person. The evaluation is conducted by a court-appointed psychiatrist using normative biopsychological methods, screening for any of the four biopsychological foundations (mental illness, temporary mental disturbance, incomplete mental development, or other severe mental disorders) and analyzing their impact on the defendant's mental functions (the ability to understand the meaning of their actions or control their will).

Mental illnesses or psychoses are central nervous system disorders (primarily affecting the brain) that manifest through pathological disturbances and processes impacting most mental functions. These conditions impair reasoning and emotional processing, often resulting in a lowered or nonexistent capability to assess reality and maintain coherent behavior. Temporary mental disturbance is any short-term disruption in most mental functions, occurring under endogenous or exogenous triggers (*e.g.*, hypnotic states, intoxication from alcohol or other substances, poisoning with narcotic drugs, medical prod-

ucts or chemicals, sleep states, burnout, extreme exhaustion, delirium, intense affect like hatred, anger, fear, shock, or impulsive behaviors where impulses lead directly to action without volitional control due to chronic psychological stressors, often prompted by a "last straw" trigger). It may resolve spontaneously or through medical intervention. Incomplete mental development is a state of stunted or delayed psychological development reflected in deficits in intellectual, cognitive, linguistic, motor, and social skills and capacities. These impairments may result from genetic, psychosocial, or environmental factors, affecting reasoning and decision-making to a lesser or greater extent (*e.g.*, various degrees of intellectual disability, sensory impairments like deaf-mutism, *etc.*). Other severe mental issues encompass various mental health conditions, deviations, and impulse-related disorders that affect intellectual or volitional capacities, but do not fit into categories of mental illness, disorder, or underdeveloped mental capacity. These conditions, such as personality disorders (psychopathologies), impulse control disorders, and severe neuroses, lack pathological findings and are diagnosed through an evaluation of the offender's overall personality. Such mental conditions seldom affect criminal capacity unless they cause profound personality changes, often due to cumulative effects or specific emotional states, or through the influence of intoxicating substances like alcohol or drugs, which could impair judgment and self-control ((*13*), p. 27–28).

The role of the expert witness (psychiatrist who has been appointed by the competent court as a permanent court expert) is to identify whether the defendant suffered from mental illness, temporary mental disturbance, incomplete mental development, or another serious mental condition at the time of the crime. They assist the court in evaluating mental (in)capacity by identifying the nature, type, degree, and duration of the disorder and assessing how this mental state affected the defendant's understanding of their actions or control over their will. The duty of the expert is, therefore, to provide a diagnosis of a mental disturbance, if any, and asses its impact on the offender's understanding and self-control at the time of the crime (*15*). Their findings and opinion also help determine whether the defendant presents a risk to the public. While the expert's report serves as evidence, it is ultimately only a recommendation, and the final decision on mental (in) capacity is made by the court. Mental (in)capacity is thus a legal concept informed by medical findings (*16*). The medical expert should disclose only details that are relevant for establishing material truth in the court case while protecting other information about the defendant/patient under doctor-patient confidentiality (*17*). Unnecessary diagnostic procedures should be avoided when conducting assessments. However, contemporary methods and practices are essential for accurately evaluating the mental state of the individual under observation ((*18*), p. 437). The expert must remain impartial, unaffected by public opinion or the interests of any parties involved, regardless of the severity of the crime or public pressure (*19*). While their clear and precise expert opinion will directly answer the court's questions, in ambiguous cases where the offender's mental condition cannot be assessed with certainty based on available information, the psychiatric expert may issue a *non liquet* opinion ((*20*), p. 329).

The diminished capacity ruling has two legal consequences: a reduction in sentence and eligibility for involuntary psychiatric treatment. If a crime was committed under diminished mental capacity, the offender may receive a lighter sentence provided that this was

not self-inflicted ((*1*), Art. 26); in other cases, diminished capacity may justify a reduced sentence within statutory limits ((*1*), Art. 47 and Art. 48). Yet while necessary, it is not sufficient to impose the safety measure; it must be proven that the offender's capacity was significantly diminished at the time of the crime. This provision ensures that psychiatric treatment is directed at offenders who committed crimes under the decisive influence of psychopathology or mental illness/disorder ((*6*), p. 489).

In its judgment Kž-167/2021-5 dated February 15, 2022, the Split County Court denied involuntary psychiatric treatment because there was no significantly diminished capacity at the time of the crime (translated from Croatian in Županijski sud u Splitu (*21*)):

> 11.2. More specifically, under the provision of Art. 68, Para. 1, Criminal Code/11, the court shall order involuntary psychiatric treatment as a safety measure against any offender who commits a crime carrying a prison sentence of at least 1 (one) year while in a state of significantly diminished capacity and if there is a risk of escalating into a more serious offense in the future due to the underlying mental disorder that caused significantly diminished capacity. 11.3 The court of first instance accepted the findings and opinion of the court-appointed psychiatrist, Dr. D. Z., concluding that at the time of the crime, the defendant had "diminished capacity, but not to a significant degree", which precludes imposing involuntary psychiatric treatment as a safety measure.

Given the nature and purpose of this safety measure, not every instance of severely diminished capacity justifies its application. For example, temporary mental disturbance leading to a state of significantly diminished capacity at the time of the crime would not by itself suffice for imposing this measure; a more persistent form of mental disorder would be required ((*22*), p. 320).

### *Risk*

To impose involuntary psychiatric treatment as a safety measure, the court must confirm that there is a risk of recidivism if the offender is left untreated. The likelihood of escalation must be both real and immediate or there must be a serious risk of recidivism ((*23*), p. 341). This risk must be medically verified and must stem from the individual's mental disorder.

The Karlovac County Court judgment Kž-235/2023-4 dated September 7, 2023, ruled that involuntary treatment was justified for an offender diagnosed with an emotionally unstable personality. Based on the medical expert witness' opinion, the crime was committed in a state of significantly diminished capacity (translated from Croatian in Županijski sud u Karlovcu (*24*)):

> In its review of the case records and the reasoning of the contested judgment, the first-instance court considered the defendant's medical records and the psychiatric evaluation conducted by court-appointed psychiatrist Prof. Dr. D. B., concluding that the defendant's capacity to understand and control his actions was significantly diminished due to his health condition. Furthermore, due to the presence of emotional instability, a low tolerance threshold, impulsivity, and phases of depressive moods, the diagnosis of an emotionally unstable personality is warranted, indicating the need for involuntary psychiatric treatment to prevent the risk of escalating into a more serious offense. These considerations influenced the court's decision to impose a partially suspended sentence as stated in the contested judgment, along with involuntary psychiatric treatment as a safety measure, which will remain in place until the reasons for its imposition cease to exist, but no later than the end of the probationary period.

Risk assessment involves forecasting future behavior, with the crime itself serving as an indicator of the offender's potential risk level ((25), p. 49). This requires not only an evaluation of the offender's mental state and disorder or the nature and circumstances of the crime but also a thorough consideration of the offender's broader life circumstances ((26), p. 153). Potential mental disorders and the risk of recidivism and escalation must be considered prior to imposing this safety measure.

The term "more serious offense", while used in law, is not specifically defined. Generally, a more serious crime carries a longer prison sentence. It is reasonable to interpret this measure as being applicable primarily where there is a risk of escalation that poses a danger to society, such as crimes endangering life, physical or sexual integrity, grand larceny, crimes against public safety, or violent acts ((27), p. 277).

### *Administering involuntary psychiatric treatment*

Involuntary psychiatric treatment entails either involuntary commitment within the prison system or outpatient commitment. It may continue until the end of a prison term, completion of community service, expiration of the probation period, or completion of custodial detention chosen as an alternative to fine payment ((1), Art. 68, Paras. 2 and 3). If the treatment is carried out on an outpatient basis, the convict stays at home and goes for treatment to a specialized outpatient clinic.

### *Revocation of parole accompanying involuntary treatment*

If an individual with diminished capacity who had been ordered to undergo psychiatric treatment in a community setting refuses to comply, the law allows indirect enforcement through revocation of accompanying sanctions or parole. An enforcement judge can revoke parole and enforce the original prison sentence if the offender fails to continue treatment ((1), Art. 61, Para. 3, and Art. 62, Para. 2, Item 4). The court can also revoke a suspended sentence and enforce the full sentence in case of non-compliance with the psychiatric treatment order ((1), Art. 58, Para. 5).

In judgment Kž-21/2020 dated February 20, 2020, the Sisak County Court upheld the decision to revoke a suspended sentence issued by a court of first instance because the defendant ignored probation office calls and failed to initiate treatment (translated from Croatian in Županijski sud u Sisku (28)):

> The appellant is mistaken in claiming that the court of first instance incorrectly and incompletely established the facts. On the contrary, this second instance court holds that the court of first instance properly and fully established the facts by assessing all relevant evidence during the evidentiary process and correctly concluded that all grounds for revoking the suspended sentence under Art. 58, Para. 5, Criminal Code/11 were met. (…) The case record no. K-./2018 shows that the defendant received notices from the S. Probation Office for March 25 and April 8, 2019, but failed to attend or contact the probation service, nor did he provide reasoning for his absence or inability to start treatment. Consequently, this second instance court agrees with the first instance court's conclusion that the defendant is disregarding the binding judgment and shows no intention of commencing treatment.

### Place of treatment

If ordered along with a prison sentence, involuntary psychiatric treatment is carried out within the prison system, as explicitly stated in the Pula County Court judgment Kž-66/2020-6 dated April 10, 2020 (translated from Croatian in Županijski sud u Puli (*29*)):

> However, the first instance court violated criminal law by ordering the method and duration of this measure contrary to Art. 68, Para. 2 and Para. 3, Criminal Code/11, which only allows for such treatment to be administered within the prison system when accompanied by a prison sentence.

When a prison sentence is involved, the treatment is administered first and counted toward the prison term. The remaining prison sentence is served after the end of treatment (the vicarious system). In total, 163 inmates received involuntary psychiatric treatment in 2022, while on December 31, 2021, 79 inmates were still undergoing treatment ((*30*), p. 18).

For safety measures ordered alongside a fine, community service, or suspended sentence, treatment is administered in a community setting under the supervision of the probation office (*31*). Modern psychiatry generally acknowledges that outpatient treatment may yield better results than hospitalization in certain cases (*32*). When treatment is ordered alongside a fine, community service, or suspended sentence, the court will notify the probation office, which then proceeds in accordance with specific laws and regulations ((*1*), Art. 68, Para. 7). Upon receiving the court's decision, the probation office will promptly summon the individual to probation and design an individualized plan of action. If the individual fails to appear within eight days or cannot be reached at the address provided to the court, the probation office will, per the probation act ((*33*), Art. 21, Paras. 2 and 3), inform the court of its inability to enforce the order. Compliance with this safety measure is under the purview of the probation office. Probationers are required to report to their assigned probation officers at least once every three months. If they fail to fulfill their obligations as ordered by the court, the probation office will notify the relevant authorities in accordance with the Probation Procedures Regulation ((*34*), Arts. 15, 18, and 19). The Probation Act has eliminated the possibility of evading involuntary psychiatric treatment (*35*).

### Duration of treatment

Involuntary psychiatric treatment may continue until the end of a prison term, the completion of community service, the expiration of the probation period, or until the end of custodial detention chosen as an alternative to fine payment. After the first year of treatment, and at least once every year thereafter, the court must reassess whether the legal conditions for continuing the treatment still exist and issue a new decision to reflect its findings. This reassessment may also occur earlier upon the request of the administering facility, the assigned probation office, or the offender, but not sooner than six months after the last review. The court can modify the method and duration of treatment or discontinue the measure if reasons for its imposition cease to exist ((*1*), Art. 68, Paras. 3–5).

The court cannot set a duration that is shorter than the imposed sentence. During enforcement, this measure must be discontinued if the grounds for its imposition no longer exist. This principle was affirmed in a decision by the High Criminal Court of the Republic of

Croatia, I Kž-55/2023-10, dated April 26, 2023 (translated from Croatian in Visoki kazneni sud Republike Hrvatske (*36*)):

> 1. In the contested judgment no. K-70/2022 of December 9, 2022, the Zagreb County Court found the defendant N. R. guilty of aggravated murder (criminal offense against life and limb) under Art. 111, Item 1, Criminal Code/11, as specified factually and legally in the verdict, and sentenced him to 15 (fifteen) years in prison under Art. 111, with time served from March 27, 2022, counted toward the sentence in accordance with Art. 54 of the Criminal Code/11. Based on Art. 68, Paras. 1 and 3, Criminal Code/11, the defendant N. R. was also sentenced to involuntary psychiatric treatment for a period of 5 (five) years, effective upon enforceability of the judgment. (...) 12. Although the defendant appeals the safety measure, vaguely claiming a 'violation of the right to a fair trial' without specifying the ground of appeal, this second instance court finds that by imposing a five-year involuntary psychiatric treatment measure, the court of first instance exceeded its statutory authority, thus violating criminal law, albeit not to the defendant's detriment (Art. 469, Item 5, CPA/08). While the court correctly identified the legal presumptions for imposing this measure under Art. 68, Para. 1, Criminal Code/11 (sentencing, significantly diminished capacity, and risk of escalation in the future due to mental disorder), it does not have the authority to set the duration at 5 (five) years. According to Art. 68, Para. 3, Criminal Code/11, in this specific case, involuntary psychiatric treatment may continue only until the completion of the prison sentence. The court must review the measure and determine whether conditions that justify its continuation still exist after the first year of commitment and at least once a year thereafter (Art. 68, Para. 4, Criminal Code/11), which falls under the purview of enforcement. Therefore, although the criminal law was indeed violated, it was to the defendant's benefit, as the measure cannot legally extend beyond 5 years, rendering his appeal regarding the violation of criminal law unfounded.

If legal grounds for continuing the measure still exist during its enforcement, the court will issue a negative decision, as occurred in case no. I Kž-uv-51/2022-4 by the High Criminal Court of the Republic of Croatia, dated May 11, 2022 (*37*):

> 7.1. The court of first instance rightfully concluded that the conditions for granting conditional release under Art. 59, Para. 2, Criminal Code/11, were not met, as the inmate displayed no critical reflection on the crime or prior convictions and the risk of recidivism was high so involuntary psychiatric treatment needed to continue within the penal setting. The second instance court also found no issues with the competence or objectivity of the report by the Prison Hospital in Z., as the inmate's objections were unsubstantiated. Furthermore, the inmate's allegations about his personal and family circumstances (age, marriage, father of two, health status) do not impact the decision of the first instance court as they are irrelevant to the purpose of punishment in view of the circumstances established during the prison term, which are essential for fulfilling the purpose of punishment and for preparing the inmate for lawful and socially acceptable life after release. The first instance court's finding that the inmate should continue serving the sentence is therefore justified, especially since he entirely denies any purpose of serving any term of punishment.

The maximum duration of involuntary psychiatric treatment is limited by the length of the sanction with which it is associated. The court does not set the duration in advance, as it depends on individual treatment needs, treatment outcomes, and risk levels. It can adjust the duration and specifics of involuntary commitment based on individual circumstances to ensure judicial protection of human rights, preventing the enforcement of a treatment that is either unnecessary or excessively prolonged. As the Criminal Code provides no specific procedures for discontinuing this measure if the conditions requiring it are no longer present, Arts. 4 and 45 of the Protection of Persons with Mental Illness Act are applied in such cases. According to Art. 45, discharging voluntarily admitted or invol-

untarily committed individuals from psychiatric facilities follows the same procedure as any other healthcare institution.

If the treatment period is shorter than the sentence, the court may direct the offender to serve the remaining sentence or release them on parole. When directing an offender to serve the remainder of the sentence, the court may order outpatient treatment within the prison. When considering parole, individual treatment outcomes, health conditions, the time spent in treatment, and the unserved part of the sentence are taken into account. If the court finds that the offender continues to pose a risk but that this risk can be mitigated through treatment outside prison, it may order outpatient commitment as a condition of parole ((*1*), Art. 68, Para. 6 in connection with Art. 60, Para. 2 and Art. 62, Para. 2, Item 4). In such cases, parole is not subject to general conditions for conditional release ((*1*), Art. 59), so the offender may be granted parole even if they have not served half of their prison sentence. Further, it cannot be granted if there is a risk of reoffending and the underlying causes of criminal behavior have not been addressed through treatment, as emphasized by the High Criminal Court of the Republic of Croatia in its judgment I Kž-uv-17/2022, dated February 9, 2022 (*38*):

> 8.1. The court of first instance reasonably concluded, based on reports from the Directorate for Prison System and Probation and the Prison Hospital, that the success of the individualized prison sentence program for inmate N. N. was rated as 'satisfactory,' with a high risk of criminal recidivism and a medium risk of causing serious harm to himself or others. The court of first instance also correctly observed that the inmate had prior convictions, including for the same offense of endangering life and property through generally dangerous acts or means, thus making him a repeat offender. During the 13-year, 6-month prison sentence imposed by the Slavonski Brod County Court, case no. K-43/05 dated October 19, 2006, the court initially granted parole based on an assessment that he would not reoffend, yet he continued to offend. 8.2. Additionally, the court of first instance correctly noted that the offender had been sentenced to both involuntary psychiatric treatment and involuntary addiction treatment, which could extend until the end of the prison term, and that he had been enrolled in the specialized "Basic Treatment Program for Inmates with Alcohol-Induced Disorders" and "Recidivism Prevention for Addicts through Training and Empowerment" programs, based on a decision by a team of experts. Furthermore, the first instance court correctly noted that according to a medical certificate from the Prison Hospital, the inmate believed that he did not require treatment, despite the psychiatrist's assessment that treatment was necessary for addiction issues that he completely downplayed. The inmate was also diagnosed with a mixed personality disorder. For these reasons, the prison denied the inmate's parole request. 9. Consequently, despite certain favorable factors (no ongoing disciplinary or criminal proceedings), this second instance court holds that the first instance court issued a sound conclusion and that the inmate does not meet the requirements for parole under Art. 59, Para. 2, Criminal Code/11-II, considering his addiction to psychotropic substances, signs of personality disorder, prior criminal record, lack of remorse, and the ongoing need for treatment that he refuses to acknowledge.

If the prison term, probation period, or time allowed for community service ends, involuntary psychiatric treatment must be discontinued even if the treatment is not completed. The legislature imposes this limit to address potential human rights concerns ((*39*), p. 456). In such cases, treatment can continue under the general provisions of the Protection of Persons with Mental Illness Act (*40*) applicable to individuals who have not been sentenced and are not subject to safety measures.

### *Temporary release privileges*

According to the Act on the Enforcement of Prison Sentences ((*41*), Arts. 139 and 140), temporary release for inmates who have been sentenced to involuntary psychiatric treatment in addition to imprisonment is granted by the prison warden.

#### Involuntary psychiatric treatment facility

Involuntary psychiatric treatment imposed alongside a prison sentence is carried out at the Zagreb Prison Hospital, a penitentiary with the status of a healthcare institution ((*41*), Art. 23, Para. 1). Inmates subject to involuntary psychiatric treatment are predominantly treated for personality disorders and/or substance abuse (drugs and/or alcohol), post-traumatic stress disorder, or permanent personality changes following catastrophic events. A smaller percentage suffer from some form of psychotic disorder, psychoorganic syndrome, intellectual disability, or sexual preference disorders ((*31*), p. 149).

## Conclusion

While punishment is society's primary response to criminal behavior, it is not always sufficient. In some cases, prison sentences should be paired with involuntary psychiatric treatment to reduce the risk and likelihood of reoffending.

Three key conditions must be met to apply involuntary psychiatric treatment as a safety measure: the offender had to have committed a crime while in a state of significantly diminished capacity due to mental health issues; the offense has to carry a statutory prison sentence of at least one year; and due to the offender's mental condition, there has to be a risk of escalation in the future. These prerequisites align with the principle of proportionality, and when cumulatively met, the court is required to impose this safety measure.

Medical experts play a central role in how this measure is imposed and enforced, providing professional insights to help the court assess whether the offender had significantly diminished capacity at the time of the crime and whether psychiatric treatment is warranted and needed to address the underlying issues that may lead to an escalation in the severity of offending behavior in the future. Involuntary psychiatric treatment can be enforced either within the prison system or on an outpatient basis. The court may revoke probation or a suspended sentence if the offender refuses to comply with the involuntary psychiatric treatment order. The maximum duration of this measure is limited by the length of the associated sentence. The court is required to conduct periodic reviews and assess whether the legal conditions for treatment remain relevant. This provides judicial protection against human rights violations in case of unnecessary medical treatment.

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