

COMPARATIVE EUROPEAN STUDY ON DISENFRANCHISEMENT AND RESTRICTIONS OF CERTAIN CIVIL AND POLITICAL RIGHTS AFTER CONVICTION

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One -Week International Intensive Course, Dubrovnik, Croatia, 22-27 October 2017
'Crime and Criminology in the Balkans'

- Introduction
- Croatia
- Germany



Introduction

- Aristotle University of Thessaloniki and Max Planck Institute for Foreign and International Criminal Law, 2017
- aims of the study
- honor-related forms of punishment
- intensified supervision of (ex-) offenders
- the preventative orientation of criminal law?



Introduction

- severe consequences
- significant differences between jurisdictions
- the type and legal character of such measures and the conditions for their imposition
- the purpose
- restriction of voting rights
- access to public positions, private businesses
- registration in the criminal records
- judicial control
- internal proportionality, external proportionality



Introduction

- 2017–2018
- a comprehensive comparative analysis resulting in a reader which will include (1.) country-related chapters with portrayals of the different national systems, (2.) a systematic comparison, (3.) several principled chapters addressing basic general issues on the subject



Introduction

- countries surveyed: Bulgaria, Croatia, Czech Republic, Finland, Germany, Greece, Poland, Spain, United Kingdom
- MPPG participants:
Prof. Dr. Anna-Maria Getoš Kalac,
Dr. Lucija Sokanović



Croatia

- Disenfranchisement and restrictions of certain civil and political rights as possible consequences of conviction is prescribed as general rule in Art 30 of Croatian Constitution
- the main area of regulation
- legal character, type of measure



Croatia

- special obligations
- security measures
- direct, indirect consequences
- frequency of imposition (total of 5 411 security measures have been imposed in 2011, 3 862 in 2012, 672 in 2013, 596 in 2014, 502 in 2015)
- collateral impact on third parties



Croatia

- duration
- individual (case-based) imposition or accessory (automatic) consequence
- explicit statutory conditions/criteria of imposition (offence-related, offender-related, victim-related, other)
- relevance/consideration in sentencing
- judicial control (remedy)



Germany

- **punishments:**
 - temporary ban of voting rights (active, passive) and the capacity to get or stay in a public position
 - court instructions related to residence, education, work or leisure of the convict (probation/parole order)
 - Temporary driving ban for motor vehicles (as accessory or main penalty)



Germany

- preventive penal measures of prevention and incapacitation (second track of penal measures):
 - temporary or permanent occupational ban
 - court instructions related to residence, work or leisure of the convict (intensive supervision after release from prison)
 - withdrawal of the driving licence



Germany

- aggravated status-related consequences for civil servants:
 - loss of appointment, position and status-related advantages (medical care, pension, etc.)
 - automatic status-related administrative measure upon conviction for intentional commission of a criminal offence to a prison sentence of no less than one year (six months for particular listed offences)



Germany

- further indirect consequences (other regulatory areas; “hidden” regulations)
- occupational ban for particular positions (public and private sectors)
 - lawyers, notaries, lay judges (Schöffren), public medical services, executives/CEO, private security sector, etc.
 - swimming/sports trainers, custodian in leisure activities of minors, etc. (professional and volunteer sectors)



Germany

- further indirect consequences (other regulatory areas; “hidden” regulations)
- loss of licenses, permissons
 - business license, license to run a bar or a restaurant, hunting license, gun license/permission to possess a weapon, etc.



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BALKAN CRIMINOLOGY NEWS

Newsletter of the Max Planck Partner Group for Balkan Criminology

 1/2017

BC RESEARCH PROJECTS

Comparative European Study on Restrictions and Disenfranchisement of Certain Civil and Political Rights after Conviction

Michael Kilchling & Lucija Sokanović

The Max Planck Partner Group for Balkan Criminology participates in a new comparative European study on restrictions and disenfranchisement of certain civil and political rights after conviction. The study aims to identify and analyze the various rules related to the abrogation or (temporary) restriction of certain civil and political rights which can be imposed in addition to regular criminal penalties. These restrictions can be traced back to honor-

eters. These include, first of all, the type and legal character of such measures and the conditions for their imposition. Their purpose can be either punitive or preventive, administrative, or maybe something 'sui generis'. Relevant regulations may also be found outside the penal sphere: electoral rules, labor law or educational regulations are just a few prominent examples. Not only public positions (military, police, the judiciary including lay judges,



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- Hvala – thank you.

