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INVOLUNTARY TREATMENT OF PERSONS WITH MENTAL DISORDERS IN THE REPUBLIC OF SRPSKA - WHERE WERE WE AND WHERE ARE WE NOW?

Zivlak-Radulović prof.dr Nera[2]

Abstract*: The first Law on the Protection of Persons with Mental Disorders of the Republic of Srpska was passed in 2004 and in it the social interest (endangering others) and vital interest (endangering oneself) are emphasized as indications for involuntary detention of a person for treatment, and the new Law of 2020 puts medical indication (health condition) in the foreground which is in line with the humanization of attitudes towards those persons. In this paper, special emphasis is placed on the analysis of the applicability of the first adopted Law critically from the aspect of the profession which implemented it. In the empirical research we conducted on the frequency of involuntary treatment in the institution for mental disorders of the highest health level, which receives patients from all over the Republic of Srpska, we show that our data are not different from data in other European countries, according to the frequency of involuntary detention, the type of disease and the socio-demographic data of persons forcibly detained and then accommodated.. However, when viewed from the aspect of the Law, not all articles were respected, because it was influenced by objective circumstances and the impossibility of implementing certain legal stipulations. A special problem was caused by the impossibility of imposing medical measures on insane persons by the legislator. It remains to be seen whether the greater reorientation of the new Law from 2020 towards professional medical recommendations will affect better respect for the rights of those persons, but also reduce the need for their involuntary detention. What we assume is that moving away from clear legal guidelines will be a stumbling block in its implementation.*

Key words: *persons with mental disorders, involuntary detention, medical criteria, legal stipulations, previous experiences.*

INTRODUCTION

Throughout history, people with mental disorders have been viewed through the prism of fear and misunderstanding, and have often been forcibly placed in institutions in order to separate them from society. With the rise to power of 20th century totalitarian regimes, involuntary admission to psychiatric institutions has become a popular way to address the problems of politically unfit persons.[3]

In the middle of the last century, there was a movement for the deinstitutionalization of people with mental disorders, which continues today.[4] The rights of patients in psychiatric institutions during

[2] Nera Zivlak-Radulović
Associate professor, Subspecialist of forensic psychiatry
Faculty of Law, Pan-European University Apeiron,Pere Krece 13, Banja Luka,78102.
The Psychiatry Clinic of the University Clinical Center of the Republic of Srpska, Mačvanska 17,Banja Luka,78000.
Email:nera.d.zivlakradulovic@apeiron-edu.eu, nera.zivlak@kc-bl.com

[3] Buolli, M., Giannuli,AS. /2017/.The political use of psychiatry: A comparison between totalitarian regimes. *Int Journal Soc. Psychiatry*, 63, pp. 169-174. DOI: 10.1177/0020764016688714

[4] Hudson, CG. /2016/. A Model of Deinstitutionalization of Psychiatric Care across 161 Nations: 2001–2014. *Int J Ment. Health Psychiatry*,45, pp.135-153. doi.org/10.1080/00207411.2016.1167489

treatment began to be considered more seriously in 1977 with the adoption of the Declaration of Hawaii[5] and then the Madrid Declaration[6] was adopted, which states, among other things: „No treatment should be carried out against the patient's will unless the absence of treatment would endanger the life of the patient and/or those close to him. Treatment must always be in the best interests of the patient." The human rights of patients with mental disorders are becoming increasingly important and many countries have now taken guarantees and respect for these rights, in line with the United Nations Convention on the Rights of Persons with Disabilities (13 December 2006)[7] and the Dresden Declaration against Involuntary Psychiatric Treatment (7 June 2007).[8]

For years, the history of detaining people with mental disorders in hospitals has been conducted without the consent and general consideration of the person's ability to decide on it. By humanizing the treatment of these persons in accordance with the recommendations, the Law on the Protection of Persons with Mental Disorders in the Republic of Srpska was passed in 2004.[9] From that moment on, the retention of patients for treatment in hospitals began to be divided into voluntary and involuntary. The new Law[10] was passed in 2020, 16 years after the first Law. The beginning of involuntary detention and treatment in the Republic of Srpska is the responsibility of professionals, and after that it becomes part of the extra-judicial proceedings because the judicial system is included in further detention of patients on involuntary treatment, which is in accordance with the adopted Law.

The aim of this paper is to analyze the current Law, given the 16-year experience of its application in the practice of institutions and professionals in the field of mental health in the Republic of Srpska. Special attention in this paper is focused on involuntary admission of persons with mental disorders to institutions for the protection of mental health, then involuntary admission which is present in the social care of persons with mental disorders and finally involuntary treatment of insane perpetrators of crimes.

Due to the inconsistency of certain decisions when it comes to social care for people with mental disorders, Bosnia and Herzegovina and thus the Republic of Srpska faced the ruling of the European Court of Human Rights in Strasbourg, in the case of Hadžimejlić and others against Bosnia and Herzegovina.[11] This is where the question of the voluntary or involuntary placement of persons in social care institutions has arisen. Another shortcoming that we encountered was that the adoption of the Criminal Code of the Republic of Srpska in 2003[12] made a change in the treatment of persons who were declared insane for committing a crime and suffer from mental disorders. Such persons were not subjected to security measures, but were placed under the authority of the guardianship authority,

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[4] The Declaration of Hawaii was adopted in 1977 in Hawaii and confirmed at the General Assembly of the World Psychiatric Association in Vienna in 1983. The text of the Declaration of Hawaii is available in English at: http://www.codex.vr.se/texts/hawaii.html

[6] The Madrid Declaration was adopted by the World Psychiatric Association in 1996 and amended in 1999, 2002, 2005 and 2011. The text of the Madrid Declaration in English is available on the official website of the World Psychiatric Association.https://www.wpanet.org/.

[7] UN Convention on the Rights of Persons with Disabilities and its Optional Protocol (A/RES/61/106), Available from:https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html, pristupljeno 20.02.2021 godine .

[8] Declaration of Dresden against Coerced Psychiatric Treatment. 7 June 2007.Available from: http: //www.wnusp.net/documents/dresdenDeclaration.pdf, pristupljeno 20.02.2021

[9] Law on Protection of Persons with Mental Disorders, 2004, *Official Gazette of the Republic of Srpska*, No. 46/04.

[10] Law on Mental Health Protection - *Official Gazette of the Republic of Srpska No*. 67/20 of 22 July 2020.

[11] Strasbourg Judgment of 3 November 2015, Hadžimejlić and Others v. Bosnia and Herzegovina (App. No. 3427/13, 74569/13 i 7157/14)

[12]Criminal Code of the Republic of Srpska, 2003, *Official Gazette of the Republic of Srpska*, no.49/2003.

which proved inefficient and complicated, so the new Law from 2017[13] "eliminated this shortcoming."[14] The legal criteria for involuntary placement were valid for these persons, which were in accordance with the then first law on the protection of persons with mental disorders, but with insufficient information on how to act in such situations.[15] Health psychiatric institutions that dealt with the daily treatment of persons with mental disorders were not ready or had the spatial capacity to accept persons suffering from mental disorders and committed serious crimes, which created major misunderstandings during the care of these persons. This paper is an attempt to analyze what has been applicable in everyday practice, and what has proved ineffective when it comes to the protection of persons with mental disorders, from the perspective of the profession that conducted it in cooperation with the legislature.

1. ANALYSIS OF LEGISLATIVE REGULATIONS INCLUDING INVOLUNTARY ADMISSION AND TREATMENT OF PERSONS WITH MENTAL DISORDERS IN THE REPUBLIC OF SRPSKA

1.1. Possibilities of implementing the Law on Protection of Persons with Mental Disorders in the Republic of Srpska from 2004 to 2020

The first Law on the Protection of Persons with Mental Disorders in the Republic of Srpska was passed in 2004.[16] We will try to look at this Law critically from the aspect of the profession that implemented it, and especially regarding the issue of involuntary detention, involuntary accommodation and treatment. Some articles of the Law were fully complied with through 16 years of practice, and some were impossible to comply with for objective reasons. Article 3 of this Law[17] states the difference between involuntary detention, which is within the competence of a professional or psychiatrist who conducts it, and involuntary accommodation which is under the jurisdiction of the Court which determines the duration of this accommodation after extra-judicial proceedings. It often happened that the patient was discharged home, which was notified to the court according to Article 40[18], and the court had not yet conducted extra-judicial proceedings, so it is obvious that the procedures under this Law were not respected as urgent. The question arises as to how long the involuntary detention, which is in the competence of professionals, lasted, and in the end no court decision was made on the justification and determination of the circumstances that led to that.

Article 32[19] states that upon completion of the procedure and within three days at the latest, a decision shall be made on whether a person is forcibly placed or discharged from a health institution. In principle, there were extremely rare cases in which the legal procedure was followed, when it comes to the arrival of an expert on time according to Article 33[20], which consists of a finding and opinion, which becomes part of extra-judicial proceedings and decision on involuntary placement. Due to the above, decisions were rarely handed over to persons who were forcibly detained, in order to meet the 8-day time limit, for the possibility of filing an appeal by that person under Article 37[21].

[13]Criminal Code of the Republic of Srpska,2017, *Official Gazette of the Republic of Srpska*, no.64/2017.

[14] Mitrović, Lj., Zivlak-Radulović N. /2019/. Medical security measures in the latest criminal legislation of the Republic of Srpska: Criminal law and medicine, (I. Stevanović, N. Vujičić, eds.). Belgrade: Institute for Criminological and Sociological Research, p. 105-21

[15] *Ibid*.,108. The first case after the enactment of this Criminal Procedure Code of the Republic of Srpska in 2003 was „in an empty space" because the Law on the Protection of Persons with Mental Disorders was not enacted.

[16]Law on the Protection of Persons with Mental Disorders,2004. *Official Gazette of the Republic of Srpska,* no. 46/04.

[17]*Ibid*., Main provision,Article 3.

[18]*Ibid.,* Chapter VI, Discharge from a health institution, Article 40

[19]*Ibid.,* Chapter V, Involuntary detention and involuntary placement in a health institution, Article 32

[20]*Ibid*., Chapter V, Involuntary detention and involuntary placement in a health institution, Article 33

[21]*Ibid*., Chapter V, Involuntary detention and involuntary placement in a health institution, Article 37

Article 10[22] states that a medical examination or other medical procedure may be undertaken without the consent of the person, only if without that procedure there would be severe damage to the health of that person. This Law implies that involuntary treatment is carried out as part of involuntary detention, but inconsistently sets indications for both. So, in this law, the first indication is not a medical indication as a basis for involuntary detention and admission. Article 22[23] lists mental disorders that endanger social and vital interests (one's own life and the lives of others) as reasons for involuntary detention. In the largest percentage of cases, during the involuntary detention, an involuntary treatment procedure is performed, for which the medical indication is the first and basic condition/worsening of the health condition/. Article 11[24] states that the procedures under the provisions of this Law are urgent, and that the court decides on involuntary placement, and that the health institution must inform the Commission for the Protection of Persons with Mental Disorders, established by the Ministry of Health, of any deprivation of liberty[25]. When it comes to informing the Commission for the Protection of Persons with Mental Disorders, this did not happen for objective reasons (lack of financial resources), because Article 52[26] states that costs of a commission work are borne by a health institution where a control is performed. First of all, our practice has shown that we have complied with the principles of reporting involuntary detention to the competent court within 24 hours, but in the majority of cases it happened that the court proceedings were not conducted as a matter of urgency, as stated above. In the first couple of years of the enactment of the Law, the practice of courts was that they sent requests for expertise to expert doctors from the institution that forcibly detained the person, so the question of objectivity was raised. When we told the courts that we could not be experts because the person was forcibly detained with us, we were told that there were not enough experts to participate in the extra-judicial proceedings. This enacted Law was intended to circumvent the subjectivity of the decision on involuntary placement, and judges at first, perhaps for objective reasons, could not do so in an adequate way, as there was a question of a sufficient number of experts and financial resources to respect the principles of reward and expert fees. Article 30[27] states that the Court should examine all the circumstances that are important for making a decision, ie. to hear people who have knowledge of important facts. It used to happen in one period that judges called representatives of our institution to come to court regarding these involuntary detentions, which caused us great confusion, because we did not know whether those should be doctors who forcibly detained these people, doctors who treat these patients, or other representatives of the institution. The court did not give us an answer to that, because they did not assess who the representatives of the institution who would attend these trials were. Only once during all these years, a proposal was made to interrogate persons who were forcibly detained, which was done in our institution and which is in accordance with human rights and the law. In most cases, from the aspect of the profession, it is in contradiction with their current mental state, because Article 20[28] states that a psychiatrist can approve an interview with these persons only if th health condition of this person allows it. Article 34[29] provides for the possibility of accommodating a person even after the expiration of the duration of involuntary placement specified in the decision by the court, after the health institution informs the court of the need to continue the accommodation. Generally, in our institution there were no such requests, they were exceptional. Such requests could be made to the courts by institutions designated for the involuntary placement of persons declared insane at the time of the commission of the criminal

[22] *Ibid*., Chapter III, Basic principles, Article 10

[23] *Ibid*, Chapter V, Involuntary detention and involuntary placement in a health institution, Article 22

[24] *Ibid*, Chapter III, Basic principles, Article 11.

[25] Article 52 "The commission referred to in paragraph 1 of this Article shall consist of 5 members, namely: a psychiatrist, a psychologist, a social worker, a representative of the local community and a representative of a citizens' association. The organization, work and financing of the commissions is prescribed by the Minister of Health and Social Welfare of the Republic of Srpska. The costs for the work of the commission shall be borne by the health institution in which the control is performed."

[26] *Ibid*., Article 52

[27] *Ibid.,* Chapter V, Involuntary detention and involuntary placement in a health institution, Article 30

[28] *Ibid*., Chapter III, Rights of persons with mental disorders, Article 20

[29] *Ibid*., Chapter V, Involuntary detention and involuntary placement in a health institution, Article 34

and misdemeanor offense[30] (eg the forensic ward of the Sokolac Hospital). This is just a brief overview of some of the situations that have made it difficult for us as mental health professionals to implement the Law.

1.1.1. Case report from practice - involuntary detention of persons

A 50-year-old woman S.S. was admitted to the Psychiatry Clinic who showed changes in behavior accompanied by heteroaggression, caused by worsening of the underlying disease. The involuntary detention of this person was undertaken, of which the Municipal Court in Banja Luka was informed in accordance with the Law. The request for admission came from the police and was caused by the suspicious circumstances of her husband's death, because immediately before his death there had been a conflict in the family (aggression directed at the husband). The autopsy of the body of the deceased established that there were no suspicious circumstances, but the death had occurred as a result of a heart attack that had occurred in the circumstances of a conflict situation and intense stress. After the treatment and stabilization of the condition, we released the patient, which we informed the court in accordance with the law, and the extra-judicial proceedings was neither conducted nor we received a decision to suspend the procedure, which remained unclear to us. After some time in the re-aggravation of the disease caused by avoiding continued treatment, the patient sued all the institutions she considered responsible from the Ministry of Interior, the Center for Social Work, the Psychiatry Clinic for violating her rights. The Municipal Court conducted the procedure, and during the procedure itself, it was evident that the condition of the patient suffering from paranoid psychosis[31] was bad, so this procedure was absurd from the beginning. We warned that it was necessary to stop the procedure until the patient's condition improved, which required treatment that she did not accept. After numerous outbursts of behavior due to the existing mental state and attacks on officials, this person was detained.

1.2 New Law on Mental Health Protection / 2020 / compared to the first Law

In the Republic of Srpska, a new Law[32] was passed in 2020. What distinguishes this Law is that it is more medically redirected. The chapters themselves support this because those are, among other things: promotion of mental health, prevention, early detection of mental health disorders, describes the treatment approach to persons, the principle of multidisciplinarity, description of the role of health professionals and associates in the treatment process, the institutions that participate in the treatment process are listed, and a special part is intended for the social inclusion of these persons and their life in the social environment after discharge from the hospital. This Law is characterized by a medical approach, ie the criteria for determining the risk assessment are emphasized, which are crucial for the decision on involuntary detention of persons with mental health disorders. Article 33 of this Law states "Regulations governing extra-judicial proceedings shall apply to the implementation of medical intervention without the consent of persons with mental health disorders in the form of

[30] *Ibid.,* Chapter IX, Commission for the Protection of Persons with Mental Disorders. "Article 54 Accommodation and treatment of insane persons is performed only in public psychiatric institutions determined by the Ministry of Health and Social Welfare of the Republic of Srpska."

[31] According to the International Classification of psychiatric disorders, paranoid psychosis or persistent delusional disorder is a mental disorder that impairs the objectivity of assessing the situation in which a person finds himself because the test of reality is impaired due to present ideas in the content of opinion, which is a feature of this disease. Preserved even above-average intelligence in these people often makes a mistake in recognizing the symptoms of this disease, because people have long been finding logical explanations for their inadequate actions.

[32] Law on Protection of Mental Health of the Republic of Srpska, 2020, Official Gazette of the Republic of Srpska. number: 67/20 of 22 Jul 2020

detention, ie accommodation in a hospital, clinical center or special hospital", which is different in relation to to the previous law, because we are only referred to the normative acts of another law. For us as mental health professionals, it is especially important that the emphasis for the involuntary admission of persons to the hospital is primarily on a significant deterioration of the medical condition, and only then on the danger to themselves and the environment. Since the law came into force at the time of the Covid-19 pandemic, we did not have the opportunity to think more intensively about its determinants, but they were somehow a continuation of everything that has been implemented in the last 20 years and more in Republic of Srpska, when it comes to improving and protecting mental health. This document has given importance to medical guidelines (health status of persons), which will certainly facilitate its implementation, but we have time to see whether moving away from legal provisions may be unfavorable, especially when it comes to cooperation with judicial institutions. In principle, it is not to be expected that mental health professionals will be ready to enter the framework of extra-judicial proceedings or criminal proceedings and get acquainted with them, which can then be a stumbling block in access to persons in need of involuntary detention. The medical reorientation of the law, along with guidelines for coordinated patient care[33], preparation for outpatient care and better outpatient care, can have a positive impact on a person's mental state and reduce the need to re-admit a patient through involuntary admission and retention. Also, the Law states that persons with mental disorders have an obligation and responsibility for their treatment, in order to prevent the deterioration of their condition and re-admission through involuntary treatment. This is certainly a good example of the balance between human rights but also obligations and responsibilities.

2. ANALYSIS OF OTHER GROUNDS FOR INVOLUNTARY ACCOMMODATION OF PERSONS IN THE LAWS OF THE REPUBLIC OF SRPSKA

2.1. Insane perpetrators - Involuntary treatment or compulsory treatment?

Until 2003, security measures were imposed on insane perpetrators of crimes in the Republic of Srpska, when they were left out of the Criminal Code of the Republic of Srpska.[34] We started from the concept that a criminal sanction cannot even be imposed to a person who has not committed a crime with all its features, ie. when guilt is lacking due to insanity. [35] "Security measures are a means of protecting society from crime provided by law imposed by a court in a procedure prescribed by law, to a perpetrator of a criminal offense due to his dangerous condition manifested as a criminal offense, consisting in deprivation or restriction of his freedoms and rights."[36]

As a consequence of this fact, it was necessary to find a solution for persons who committed crimes in an insane state, so the adoption of the Law on Protection of Persons with Mental Disorders in the Republic of Srpska[37] regulated that these persons be subjected to involuntary treatment, and that they be handed over to a jurisdiction of a guardianship authority. Guardianship authorities have often found themselves in an aggravating situation and unable to carry out the tasks given to them by amending the law. However, our then-enacted Law did not explicitly explain how and to what extent involuntary treatment was carried out for insane persons, so the approach to this problem was arbitrary. This situation has created absurdities in decision-making and the competent guardianship authorities. [38] The question has always been asked when mandatory treatment measures were imposed,

[33]Lakić,B.,Popović,T., Jovanović, S.,Hrelja Hasečić Dž. /2013/ *Coordinated mental health care*. Faculty of Medicine, Banja Luka

[34]Criminal Code of the Republic of Srpska,2003, *Official Gazette of the Republic of Srpska*, no.49/2003.

[35]See, Babić M. et al.(2005).*Comments on Criminal / Criminal Laws in Bosnia and Herzegovina,* Book I. Sarajevo, p. 328.

[36]See, Jovašević, D.,.Mitrović, Lj.,Ikanović, V./2017/. *Criminal law - general part.*

[37] Law on Protection of Persons with Mental Disorders, 2004, *Official Gazette of the Republic of Srpska*, No. 46/04.

[38] In one case of expertise done by the author of this paper, a person was declared insane for committing several crimes due to the existence of Persistent Delusional Disorder or Paranoid Psychosis. Since the

why people with mental disorders spend so long in psychiatric institutions, longer than they would spend if they were sentenced for a crime not falling into the category of persons with mental disorders. Fear and inability to make adequate decisions by such persons prolonged their stay in closed institutions, not giving them the opportunity to resocialize and continue living in the external environment. "Illness and dangerous conditions are linked, so treatment also requires guarding, and due to the uncertainty of the duration of treatment, this measure is of indefinite duration."[39]

The first case that happened to us in the Republic of Srpska, after an incompetent perpetrator was left out of the Criminal Code, was in the empty space of the still unfinished Law on Protection of Persons with Mental Disorders, when our institution, in cooperation with the Center for Social Work, tried to find an improvised solution. It was a person who was in danger of recidivism, which was in line with the fulfillment of the conditions for imposing a security measure[40], but the measure could not be imposed.

In the period from 2003 to 2017 in the Republic of Srpska, on the one hand, we found ourselves in an attempt to improve relations with insane perpetrators of crimes and on the other hand with the lack of good staffing and accommodation to respect the involuntary treatment of such persons who committed serious crimes and without clear guidelines on how to proceed. Compulsory treatments were limited to a period of 6 months with the possibility of extension with reopening of the proceedings by the Court. This complicated the already present workload of the courts with re-decision-making. There was room for requests from the parties through lawyers seeking to stop treatment, justifying it with good mental health and violations of rights, and on the other hand, the community was horrified by the possibility of a person being released and the fear that the crime would not be repeated, given that it was a serious crime[41]. Of course, this has put us professionals in a situation where we often answer the question "what will happen if he kills someone again." The problems we encountered were particularly dramatic in two cases in which proposals were made for involuntary placement in institutions that do not have this type of purpose, and these were "multiple murders and serial killers".[42] [43]

And now we return to what is positive in the new Law on Mental Health from 2020, and that is that every human being has rights but also has obligations and responsibilities for their health, which in this case is a guarantee for adequate behavior towards themselves and towards others in their environment. In 2016, the Sokolac Institute for Forensic Psychiatry, which is responsible for treatment of persons who have committed criminal offenses, started working in the Republic of Srpska [44], and the measures of obligatory treatment were returned (Article 74 of the RS Criminal Code). We believe

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guardianship authorities did not know what to do, they brought him to the expert with the sentence "You declared him insane and you treat him", considering the expert responsible for the new situation.

[39] Kokolj, M. / 1995 /. Security measure of obligatory psychiatric treatment and keeping in a health institution in the light of the reform of criminal legislation. In: Ćirić J. (ed.) *Problems of reintegration and reform of Yugoslav criminal legislation*. Belgrade: Institute for Criminological and Sociological Research.

[40] The case described in the paper by Lj. Mitrović, N. Zivlak-Radulović / 2019 /: Medical security measures in the latest criminal legislation of the Republic of Srpska - in: *Criminal Law and Medicine*, (I. Stevanović, N. Vujičić, eds.). Belgrade: Institute for Criminological and Sociological Research, p. 105-21.

[41] https://www.bl-portal.com/hronika/zeljko-stevanovic-i-narednih-godinu-dana-na-lijecenju/- accessed on 20 Aug 2021. Part of the text: The appeal also drew attention to the fact that on the eve of the last decision on the continuation of involuntary treatment, completely different opinions of expert teams were submitted to the Municipal Court in Banja Luka. The expert opinions were contradictory, and the fact that the court did not explain the decision on further involuntary treatment was a sufficient signal for the defense to address the BiH Constitutional Court.

[42]See https://www.nezavisne.com/novosti/hronika/Masakr-u-Tuzli-Tomislav-Petrovic-ubio-sest-, accessed on 20 Aug 2021.

[43]See,https://radiosarajevo.ba/vijesti/crna-hronika/dossier-edin-gacic-serijski-ubica-za-kojim-traga policija/326779, accessed on 20 Aug 2021

[44] PHI "Institute for Forensic Psychiatry Sokolac", an institution that provides measures of mandatory psychiatric treatment and care of patients from all over Bosnia and Herzegovina http://www.zzfps.ba/ - accessed on 20 Aug 2021

that we have experienced experientially that we need security measures of a medical nature in the Republic of Srpska.

"BiH has experienced great failure when it comes to expelling insane perpetrators because resolving some criminal issues cannot be expected from a body or court other than the criminal court."[45]

2.2. Persons with mental disorders placed in social care institutions - involuntary or voluntary accommodation?

Article 41 of the current Law[46] deals with persons with mental disorders who should be discharged from a health institution, and due to their psychophysical condition and conditions in which they live, they are not able to take care of themselves, nor are there persons obliged by law to take care of them. Such persons are generally referred to social welfare institutions in accordance with the decisions of the guardianship authority.

In line with recommendation R (90) 22 of the Committee of Ministers of the Council of Europe, the aim is to improve the protection of the dignity, human rights and fundamental freedoms of persons with mental disorders, especially those in involuntary placement or involuntary treatment. Responsibility in relation to the guidelines given in this document rests with the countries. International practice defines the basic principles of monitoring the protection of the rights of persons with mental disabilities.[47]

The judgment in Strasbourg in the case "Hadžimejlić and Others v. Bosnia and Herzegovina"[48] showed that the manner of admission of persons with mental disorders to social welfare institutions does not meet the provisions of the European Convention on Human Rights and Fundamental Freedoms. For the above reasons, certain changes were made in the new Law (2020) in the Republic of Srpska in order to establish mechanisms for longer-term care of persons with mental disorders, including the issue of admission of these persons to social welfare institutions. The backbone of the changes is related to the discharge from the health institution, which should be coordinated with the

[45]Stojanović, Z./ 2014 /.Security measures of psychiatric treatment - compulsory psychiatric treatment as a criminal sanction, *Crimen* (V) 2/2014; p. 145–172.

[46] Law on Protection of Persons with Mental Disorders, 2004, *Official Gazette of the Republic of Srpska*, No. 46/04

[47] The ITHACA Project Group (2010). *Toolkit for monitoring Human Rights and General Health Care in mental health and social care institutions*; Health Service and Population Research Department,Institute of Psychiatry, King's College London, London.

[48] The judgment in Hadžimejlić et al. States, inter alia: "On 23 November 2006, at the request of the Center for Social Work Visoko, the Municipal Court in Visoko deprived the applicant of her legal capacity. It was determined that she was diagnosed with paranoid schizophrenia and that placement in a social care institution would be in her best interest. On 26 Dec 2006, the Center for Social Work Visoko placed the applicant under the care of her sister. On 23 Jan 2007, the Center for Social Work Visoko placed the applicant in the Drin Institute in accordance with the regulations on social protection. On 13 Jun 2011, the applicant filed a constitutional appeal in relation to the legality of her deprivation of liberty. The Constitutional Court of Bosnia and Herzegovina found that the applicant's deprivation of liberty was not "in accordance with the procedure prescribed by law" within the meaning of Article 5 Par. 1 of the Convention as she was held in psychiatric detention without a decision of the competent civil court. There has also been a violation of Article 5 Par. 4 of the Convention in that there has been no judicial review of the lawfulness of the applicant's detention. The Constitutional Court ordered the Center for Social Work Visoko to take appropriate measures to ensure the applicant's rights under Article 5 Par. 1 and 4 of the Convention.

http://www.mhrr.gov.ba/ured_zastupnika/odluke/PRESUDA%20HADZIMEJLIC%20I%20DRUGI%20protiv%20BIH.pdf accessed on 20 Nov 2021

actors from the local community and with the creation of conditions for the continuation of living of these persons in the local community.

„In an attempt to harmonize regulations in the Federation of BiH, it is stated that the strategic commitment of the Government of the Federation of BiH towards deinstitutionalization and that Article 41 should be reformulated in the direction of better connection of mental health services in the health care system and with other entities in the local environment from which the person with mental disorders originates.“ [49]„Therefore, both the health sector and the social policy sector must constantly review their regulations and established practices to meet the needs of people with mental disabilities and ensure respect for the rights and freedoms guaranteed by the European Convention and the Convention on the Rights of Persons with Disabilities.“ [50] Here we certainly return to the provisions of the new Law on Mental Health in the Republic of Srpska from 2020, which establishes connections and coordination between social protection institutions, mental health centers as the primary level of health care and hospitals where people with mental disorders stay when it comes to hospital treatment.These new medically redirected legal determinants will show us whether, in the coming period through the drafting of this new law, we have improved the attitude towards persons with mental disorders, reduced the need for involuntary detention, placed persons in social welfare institutions after adequate assessments of all actors involved in this process and certainly protected human rights through respect and expression of their will.

The report of the institution of the Human Rights Ombudsman in BiH states, among other things:[51] „It is necessary to conduct an expert assessment of each person with intellectual and mental disabilities by an independent body. This body may be a court or expert body established by law solely to assess the condition and needs of persons with intellectual and mental disabilities. These assessments should be conducted periodically in relation to each person, ex officio, in order to stop the practice that the user's diagnosis, established when deciding on the placement of a person in the institution, is used as a basis for his continuous stay and treatment for several years, often for the rest of his life.“[52]

3. EMPIRICAL RESEARCH

The research was conducted at the the Psychiatry Clinic of the University Clinical Center of the Republic of Srpska in Banja Luka for the period from 01 Jul 2013 to 30 Jun 2018. Out of the total number of 8690 hospitalized patients, 312 (3.5%) were selected for further monitoring and were involuntarily hospitalized, aged 18 to 88. Other hospitalizations 8378 (96.5%) in these 5 years were conducted as voluntary.

The clinic accepts patients from the entire territory of the Republic of Srpska, so these parameters can be considered as parameters for the Republic of Srpska. The study included patients diagnosed according to the International Classification of Diseases,Tenth Revision[53]. Data from the patient's medical history and from the hospital protocol of the Psychiatry Clinic were used. These are patients who were brought exclusively due to the worsening of their mental state, that is, their

[49] More in: Mehić A., Bodnaruk, S./2014/. *Compliance of regulations on the protection of persons with mental disabilities of the Federation of BiH with international documents*. Foundation Center for Public Law Sarajevo, p. 45.

[50] Mehić A., and Sofić S. / 2014 / *Legality of accommodation of persons with mental disabilities in social protection institutions in the Federation of Bosnia and Herzegovina*. Foundation Center for Public Law Sarajevo, 2014, p. 38.

[51]*Special Report on the Situation of the Rights of Persons with Intellectual and Mental Disabilities in Bosnia and Herzegovina*. Institution of the Human Rights Ombudsman in BiH, 2018

[52]*Ibid*., Report of the Ombudsman of BiH (example of the Bakovići Institute in the Federation of BiH): On the day of the visit, the number of beneficiaries who stayed for less than 1 year was / 14 /, from 1 to 3 years / 36 /, from 3 to 5 years / 29 / , from 6 to 10 years / 86 /, from 11 to 20 years / 90 /, from 21 to 30 years / 34 /, and more than 30 years / 25 /beneficiaries. It is this indicator that indicates that for many people with mental disabilities, accommodation in social care institutions is, in a way, a permanent solution, where 55% of beneficiaries stay for 10 years or more in this Institute.

[53]*International Classification of Diseases,Tenth Revision*, World Health Organization,1992

condition was a real and not a presumed danger and there were no ones among them who were declared insane for committing a crime. Persons who were declared insane were under the authority of the guardianship authorities according to the laws in force at the time, who agreed on the field of treatment in local communities with institutions in the local community or referred these patients to the Special Psychiatric Hospital in Sokolac and then the Institute of Forensic Psychiatry which were designated by the Ministry as the institutions in charge of accepting these persons for treatment.

The main goal was to present the basic sociodemographic characteristics of involuntarily hospitalized patients, to examine whether there is a difference between involuntarily hospitalized patients in relation to gender and what are the most common diagnoses that appear as a reason for involuntary hospitalization.

3.1.Results

3.1.1 Age of patients

From the age group 18 to 29 years there were a total of 14% of hospitalized patients, 18% of patients from the age group 30 to 39 years, 22% of patients from the age group 40 to 49 years, 23% (72 patients) from the age group 50 to 59 years, 14% of patients from the age group 60 to 69 years and 7% of patients from the age group 70 to 79 years.

3.1.2 Relationship between diagnosis and age

Table 1[54]

ICD 10 diagnosis	**N**	**%**	**Age of patients**													
			18-29	%	30-39	%	40-49	%	50-59	%	60-69	%	70-79	%	80-89	%
F00-F09	30	9,62	0	0,00	0	0,00	3	4,11	4	5,48	5	12,50	11	50,00	7	100
F10-F19	63	20,19	6	14,29	11	20,00	10	13,70	16	21,92	14	35,0	6	27,27	0	0,00
F20-F29	166	53,21	28	66,67	30	54,55	43	58,90	41	56,16	19	47,50	5	22,73	0	0,00
F30-F39	21	6,73	4	9,52	6	10,91	5	6,85	5	6,85	1	2,50	0	0,00	0	0,00
F40-F48	9	2,88	0	0,00	1	1,82	3	4,11	5	6,85	0	0,00	0	0,00	0	0,00
F60-F69	20	6,41	3	7,14	6	10,91	8	10,96	2	2,74	1	2,50	0	0,00	0	0,00
F70-F79	3	0,96	1	2,38	1	1,82	1	1,37	0	0,00	0	0,00	0	0,00	0	0,00
TOTAL	**312**	**100**	42	100	55	100	73	100	73	100	40	100	22	100	7	100

Table 1 shows that the highest number of involuntarily hospitalized patients is 166 (53.21%) from the group F20-F29 Schizophrenia. The highest number of involuntarily hospitalized according to age from this group is 43 (58.90%) aged 40-49 years. From the group F10-F19 Mental disorders and behavioral disorders due to substance abuse, 63 (20.19%) patients were involuntarily hospitalized, of which 16 (21.92%) were aged 50-59.

[54]Legend: Division of mental disorders by codes in the International Classification, Tenth Revision
F00-F09: Organic, including symptomatic, mental disorders
F10-F19: Mental and behavioural disorders due to psychoactive substance use
F20-F29: Schizophrenia, schizotypal and delusional disorders
F30-F39: Mood disorders (affective disorders)
F40-F48: Neurotic, stress-related and somatoform disorders
F60-F69: Disorders of adult personality and behaviour
F70-F79: Mental retardation

3.1.3 Relationship between sex, diagnosis and involuntary hospitalization

Table 2

Sex	Male		Female		Total	
Diagnosis	N	%	N	%	N	%
F00-F09	24	11,37%	10	9,90%	34	10,90%
F10-F19	55	26,07%	8	7,92%	63	20,19%
F20-F29	99	46,92%	66	65,35%	165	52,88%
F30-F39	9	4,27%	12	11,88%	21	6,73%
F40-F48	5	2,37%	3	2,97%	8	2,56%
F60-F69	17	8,06%	2	1,98%	19	6,09%
F70-F79	2	0,95%	0	0,00%	2	0,64%
TOTAL	211	100,00%	101	100,00%	312	100,00%

The data from Table 2 show the total number of involuntary hospitalized patients by individual disease groups and in relation to gender, ie that 99 males (46.92%) were most often forcibly hospitalized due to diseases and conditions from group F20-F29, then 55 (26.07%) male from group F10-F19. Most females 66 (65.35%) were hospitalized due to diseases and conditions from the group F20-F29, followed by 12 (11.88%) from the group F30-F39.

Socio-demographic data, category of education showed that within this group of persons who were forcibly hospitalized, most of them are with secondary education 167 or 53.52%, with primary education 83 or 26.60% and with higher education 53 or 16.99%, without education 9 or 2.88%. When it comes to employment status, 192 people or 62% are unemployed, 63 or 20% are rettred, 47 or 15% are employed, and 10 (3%) are housewives.

3.2. Analysis and comparison of the results obtained in the research of involuntary treatment by medical professional public

Involuntary hospitalization occurs in three cases: to subject people with permanent or temporary mental disorders to treatment, ie to improve their health (medical indication), to protect society from them (social indication) and to protect themselves from their own behavior, eg suicide, self-harm, etc. (vital indication). [55]

From the point of view of medical ethics, the main psychiatric indications for involuntary hospitalization would be the loss of insight and decision-making ability, conditioned by a mental disorder, and the implementation of treatment that is expected to be successful. [56] In situations where patients lack insight into their own illness or therapeutic adherence due to severe disorders such as psychosis, major depression or manic states, finding a balance between patient autonomy and the need for treatment can be a challenge. [57]

[55] Turković, K.,Dika, M., Goreta,M., Đurđević Z./2001/. Law on the Protection of Persons with Mental Disabilities in Comments and Attachments.Zagreb .

[56] McLachlan, A.J. Mulder ,R. T. /1999/.Criteria for Involuntary Hospitalisation, Australian & New Zealand. *Journal of Psychiatry* ,33(5), p.729-33.

[57] Hustoft ,K., Larsen,TK., Auestad, B., Joa, I.,Johannessen, JO.,Ruud T.,/2013/.Predictors of involuntary hospitalizations to acute psychiatry. *Int J Law Psychiatry*, 36,p.136–43.

3.2.1. Comparison with the results in other countries according to the parameters set by the research goal

Schizophrenia, schizophrenia-like disorders, and delusional states are the leading diagnoses in involuntary hospitalizations. People with a disorder from this spectrum are often forcibly hospitalized several times. Other common conditions include: other psychotic disorders, acute manic phase as part of bipolar affective disorder, drug abuse, depression, and dementia. [58] [59]

Empirical research we have conducted has shown that the highest percentage of coercive measures is taken in acute conditions in schizophrenic psychoses, in older male patients over 40 years of age, with a high percentage of unemployed, as indicated by studies conducted in Dublin[60], Norway[61], China[62] . This is also confirmed by the research that covered the period from 1983 to 2019 (it included 77 studies from 22 countries), which indicated the connection between involuntary admission and male gender, unemployment, receiving social assistance for people diagnosed with psychotic or bipolar disorder, and previous involuntary hospitalization on admission.[63]

There are differences between countries in the ratio of the number of involuntary hospitalizations to the total number of psychiatric admissions. Our research showed a very small percentage of involuntarily hospitalized 312 (3.5%) compared to the total number of admitted 8690 patients (96.5%). In the Republic of Croatia, according to a survey from 2014, this ratio ranges from less than 1% to 2% in some psychiatric institutions[64]. In Portugal, the ratio of involuntary hospitalizations to the total number of psychiatrically placed patients was 3%, while in Sweden it was 30%[65]. Differences in cultural and social factors, the health care system and different legal procedures are the cause of the disproportionate ratio of involuntary hospitalizations among countries. [66] [67] It is considered that the greatest contribution to the differences in the ratio of involuntary hospitalizations between countries is the existence of a certain period between involuntary detention and involuntary placement in a psychiatric institution and the consequent recording of hospitalization as involuntary.

It often happens that patients after a certain short interval of a few hours, ie after the introduction of therapy, partially stabilize and accept to sign a voluntary stay, especially if they have previously had positive experiences during hospitalization. The extremely low participation rate of involuntarily placed persons with severe mental disorders in psychiatric institutions, which is often below 1% and quite exceptionally reaches 2%, raises the question of whether all other persons with mental disorders are indeed placed in a psychiatric institution with their own consent or the consent of

[58] Crisanti,AS., Love EJ. /2001/Characteristics of psychiatric inpatients detained under civil commitment legislation: a Canadian study. *Int J Law Psychiatry,* 24, p.399-410.

[59] Silić, A.,Savić, A., Čulo, I.,Kos. S. /2018/.Approach to Emergencies in Schizophrenia in University Hospital "Vrapče". *Psychiatr Danub,4*, p.203-207.

[60]Curley, A., Agada ,E.,.Emechebe, A., et al./2016/. Exploring and explaining involuntary care: The relationship between psychiatric admission status, gender and other demographic and clinical variables. *Int J Law Psychiatry,* 47,p.53–9.

[61] Hustoft , K., Larsen,TK., Auestad,B., Joa , I., Johannessen, JO., Ruud T./2013/. Predictors of involuntary hospitalizations to acute psychiatry. *Int J Law Psychiatry,* 36, p.136–43.

[62]Gou, L., Zhou, JS., Xiang, YT. et al. /2014/.Frequency of involuntary admissions and its associations with demographic and clinical characteristics in China.*Arch Psychiatr Nurs*, 28, p.272–6

[63]Walker, S., Mackay, E.,Barnett, P.,Rains, L. S.,Leverton, M.,Dalton-Locke, C., Trevillion, K., Lloyd-Evans, B., Johnson S. /2019/. Clinical and social factors associated with increased risk for involuntary psychiatric hospitalisation: a systematic review, meta-analysis, and narrative synthesis.*Lancet Psychiatry*, 6,p.1039–53.

[64]Grozdanić , V.,Tripalo D. /2013/. News in the Law on the Protection of Persons with Mental Disorders. *Croatian Yearbook of Criminal Law and Practice,*20, p.795-820

[65]Venturini F., de Moura,EC.,Bastos , PA., MartinsLC. /2018/.Profile and costs involved in long-term compulsory hospitalization of psychiatric patients. *Rev Bras Psiquiatr*, 40(3), p.306-308.

[66]Wang, JP., Chiu, CC., Yang, TH., Liu TH. /2015/.The Low Proportion and Associated Factors of Involuntary Admission in the Psychiatric Emergency Service in Taiwan,PLoS One.10(6):e0129204.

[67]Wynn, R. /2018/. Involuntary admission in Norwegian adult psychiatric hospitals: a systematic review.*Int J Ment Health Sys*t,12, p.10.

the legal representative of the voluntarily accommodated person, or perhaps the consent of the person with a mental disorder obtained through persuasion or some other illicit means, using the ignorance or insufficient mental competence of these persons? [68]

The basic principle is that health services should be based on consent and that coercion should be kept to a minimum. The WHO recommends that mental health treatments be as effective as possible, the duration of hospitalization should be limited to risk and used only if this is the only way to treat the patient.

CONCLUSION

Coercive measures in psychiatric practice are constantly determined by the triangular relationship between 1. Ensuring the fundamental rights of the patient 2. the necessity of protecting the public interest 3. the necessity of treating these patients [69]. The conclusions will try to explain whether we managed to strike a balance in this triangular relationship of coercive measures in the Republic of Srpska.

1. Since the adoption of the Law on the Protection of Persons with Mental Disorders in 2004, we have implemented it for 16 years. Definitely, this Law has given clearer legal provisions when it comes to involuntary treatment of patients. When we think about whether the implementation of the Law has been successful, we can say that it has been only in one part. The shortcomings in the implementation of the Law are, first of all, that there was no urgency in making the decision on involuntary placement because the decisions were long overdue and in the meantime the persons recovered, so we only sent notifications to the courts that the reasons for involuntary treatment had ceased. Detained persons did not have the opportunity to appeal the decisions and the mechanism of control by the Commission for the Protection of Persons was missing for the reasons already mentioned. We know that the circumstances of the lack of staff and financial resources were limiting factors both by health institutions and by judicial institutions for consistent implementation. What we are sure of is that there was not much interest or joint discussions and comments on the adopted Law during its implementation in the Republic of Srpska. We can say that we have only been partially successful and made small steps forward when it comes to protecting human rights.

2. Another shortcoming in the implementation of the Law is caused by its vagueness when it comes to long-term placement of persons with mental disorders in social protection institutions and the lack of control mechanisms, which is certainly why we encountered the Strasbourg court ruling. Only after this situation did we make joint meetings of the competent judicial authorities, health institutions and all other actors involved in this procedure, where we tried to make better control mechanisms with appropriate recommendations.

3. The exclusion of insane persons from security measures is a failure which has caused great confusion in the communication and reaction of institutions in situations of decision-making to place them in psychiatric institutions. This is evident from many examples in our practice, so we welcomed the reintroduction of medical security measures for insane persons.

4. We believe that a shortcoming of a new Law from 2020 has taken us away from the legal determinants. The complete exclusion of the explanation of the procedure during the involuntary detention of a person in a hospital is a problem for mental health professionals because it is difficult to expect that they will be ready to read other legislation and get acquainted with these procedures. The positive side of this Law is clearer medical guidelines and the obligation of cooperation and coordination of other actors from a local community in dealing with these persons. This will certainly contribute to better care for these people and their better re-socialization, which can then reduce the

[68]On the "voluntariness" of a patient's consent to placement in a psychiatric hospital and the manipulation of obtaining consent, see e.g.: Lewis, D. A. i dr./1984/.The Negotiation of Involuntary Civil Commitment.*Law & Society Review,* vol. 18, br. 4, 1984., str. 629.-650.

[69]Dressing, H., Salize H.J. /2004/. Epidemiology of Involuntary Placement Of Mentally Ill People Across the European Union .*The British Journal of psychiatry*,184, p.163-8.

need for re-involuntary treatment and long-term placement in social care institutions. When it comes to this type of cooperation, it will be made possible by the conditions created by the reform in the Republic of Srpska (Mental Health Centers in each local community).

5. We have shown through empirical research that our results do not differ from the results in the world when it comes to socio-demographic data of persons hospitalized, then the diagnosis that leads to the frequency of involuntary treatment and we also showed that we have a low percentage of involuntary detention, which is in line with other research. We believe that one of the reasons for the lower percentage of involuntary detention is persuading patients to be admitted without their real will and decision. This is certainly not an act of abuse of these persons, but a remainder of practice in psychiatry that had existed before the adoption of this law, not only in our country but also in the world. The time for reporting involuntary detention to the Court was 24 hours in the previous Law, and now that time has been extended. We expect that the extension of this time will give us the opportunity to help patients during involuntary detention and that maybe in a very short time the person agrees to continue voluntary treatment, which is certainly a better parameter of cooperation with the patient and of better and more effective treatment success.

6. A more intensive dialogue between the medical and legal professions in the field of protection of the human rights of persons with mental disorders is necessary, which has so far been largely absent in the Republic of Srpska.

LITERATURE

Babić M. et al.(2005).*Comments on Criminal / Criminal Laws in Bosnia and Herzegovina*, Book I. Sarajevo, p. 328.

Buolli M.,Giannuli AS. /2017/. The political use of psychiatry: A comparison between totalitarian regimes. *Int J Soc Psychiatry*, 63, pp. 169-174.

Crisanti, AS., Love, EJ. /2001/. Characteristics of psychiatric inpatients detained under civil commitment legislation: a Canadian study, *Int J Law Psychiatry*, 24, p.399-410.

Curley,A., Agada, E., Emechebe, A., et al./2016/.Exploring and explaining involuntary care: The relationship between psychiatric admission status, gender and other demographic and clinical variables, *Int J Law Psychiatry*, 47,p.53–9.

Declaration of Dresden against Coerced Psychiatric Treatment. 7 June 2007.

Available from:http://www.wnusp.net/documents/dresdenDeclaration.pdf,pristupljeno 20.02.2021

Dressing, H., Salize H.J. /2004/. Epidemiology of Involuntary Placement Of Mentally Ill People Across the European Union .*The British Journal of psychiatry*,184, p.163-8.

Gou, L.,Zhou, JS., Xiang, YT. et al. /2014/.Frequency of involuntary admissions and its associations with demographic and clinical characteristics in China, *Arch Psychiatr Nurs*, 28, p.272–6.

Grozdanić , V.,Tripalo D. /2013/. News in the Law on the Protection of Persons with Mental Disorders. *Croatian Yearbook of Criminal Law and Practice*,20, p.795-820

Hudson CG./ 2016/. A Model of Deinstitutionalization of Psychiatric Care across 161 Nations: 2001–2014. *Int J Ment. Health Psychiatry,*45, pp.135-153.

Hustoft, K.,Larsen TK.,Auestad, B.,Joa, I.,Johannessen,JO., RuudT. /2013/. Predictors of involuntary hospitalizations to acute psychiatry, *Int J Law Psychiatry*, 36,p.136–43.

The ITHACA Project Group (2010). ITHACA Toolkit for monitoring Human Rights and General HealthCare in mental health and social care institutions; *Health Service and Population Research Department,Institute of Psychiatry, King's College Londo*n, London

Jovašević D.,Mitrović Lj.,Ikanović V.,/2017/: *Criminal law - general part.*.

Criminal Code of the Republic of Srpska, *Official Gazette of the Republic of Srpska*, no.49/2003.

Criminal Code of the Republic of Srpska, *Official Gazette of the Republic of Srpska*, no.64/2017.

Kokolj, M. / 1995 /. Security measure of obligatory psychiatric treatment and keeping in a health institution in the light of the reform of criminal legislation. In: Ćirić J. (ed.) *Problems of reintegration and reform of Yugoslav criminal legislation.* Belgrade: Institute for Criminological and Sociological Research.

Lakić B.,Popović T., Jovanović S., Hrelja Hasečić Dž. /2013/: *Coordinated mental health care*. Faculty of Medicine, Banja Luka

Lewis, D. A. i dr./1984/. The Negotiation of Involuntary Civil Commitment, Law & *Society Review,* vol. 18, br. 4, str. 629.-650.

McLachlan,A.J.Mulder R.T. /1999/.Criteria for Involuntary Hospitalisation, Australian & New Zealand *Journal of Psychiatry* ,33(5), p.729-3

Mehić A., Bodnaruk, S./2014/. Compliance of regulations on the protection of persons with mental disabilities of the Federation of BiH with international documents. *Foundation Center for Public Law* Sarajevo, p. 45.

Mehić A., and Sofić S. / 2014 / Legality of accommodation of persons with mental disabilities in social protection institutions in the Federation of Bosnia and Herzegovina. *Foundation Center for Public Law* Sarajevo, 2014, p. 38.

Mitrović Lj., Zivlak-Radulović N. / 2019 /: Medical security measures in the latest criminal legislation of the Republic of Srpska - *in: Criminal Law and Medicine*, (I. Stevanović, N. Vujičić, eds.). Belgrade: Institute for Criminological and Sociological Research, p. 105-21.

Silić, A.,Savić A.,Čulo I., Kos S. /2018/.Approach to Emergencies in Schizophrenia in University Hospital "Vrapče", *Psychiatr Danub*,4, p.203-207.

Stojanović, Z. / 2014 /. Security measures of psychiatric treatment - compulsory psychiatric treatment as a criminal sanction, *Crimen* (V) 2/2014; p. 145–172.

Turković, K.,Dika, M., Goreta,M., Đurđević Z./2001/. *Law on the Protection of Persons with Mental Disabilities in Comments and Attachments*.Zagreb .

UN Convention on the Rights of Persons with Disabilities and its Optional Protocol (A/RES/61/106). Available:https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html , pristupljeno 20.02.2021 godine

Wang, JP., Chiu, CC., Yang, TH., Liu TH. /2015/.The Low Proportion and Associated Factors of Involuntary Admission in the Psychiatric Emergency Service in Taiwan*,PLoS One*.10(6):e0129204

Venturini, F, de Moura, EC., Bastos, PA. , LC. Martins /2018/. Profile and costs involved in long-term compulsory hospitalization of psychiatric patients, *Rev Bras Psiquiatr*, 40(3), p.306-308.

Walker, S.,Mackay, E., Barnett, P., Rains, L. S., Leverton ,M., Dalton-Locke, C., Trevillion, K., Lloyd-Evans, B, Johnson, S. /2019/.Clinical and social factors associated with increased risk for involuntary psychiatric hospitalisation: a systematic review, meta-analysis, and narrative synthesis,*Lancet Psychiatry*, 6, p.1039–53

WHO.The ICD-10 Classification of Mental Behavioral Disorders, Clinical descriptions and diagnostic guidelines. Beograd: Zavod za udžbenike i nastavna sredstva; 1992.

WPA (1983) Declaration of Hawai; Austria, Approved byt he General Assembly o fthe World Psychiatric Association in Vienna 40.

WPA (1996) Declaration of Madrid; Spain, Approved by the General Assembly oft he World Psychiatric Association in Madrid.

Wynn, R. /2018/. Involuntary admission in Norwegian adult psychiatric hospitals: a systematic review, *Int J Ment Health Syst*,12, p.10.

Law on Protection of Persons with Mental Disorders, 2004, *Official Gazette of the Republic of Srpska*, No. 46/04.

Law on Mental Health Protection - *Official Gazette of the Republic of Srpska* No. 67/20.

PRISILNO LIJEČENJE LICA SA MENTALNIM POREMEĆAJIMA U REPUBLICI SRPSKOJ - GDJE SMO BILI I GDJE SMO SADA?

Prof. dr sc. med. Nera Zivlak-Radulović

primarijus

specijalista psihijatrije

supspecijalista sudske psihijatrije

Univerzitetski Klinički centar Republike Srpske

Klinika za psihijatriju

Apstrakt: *Prvi Zakon o zaštiti lica sa mentalnim poremećajima Republike Srpske je donešen 2004 godine i u njemu se kao indikacija za prisilno zadržavanje lica na liječenju stavlja socijalni interes (ugroziti druge) i vitalni interes (ugroziti sebe) a novi Zakon iz 2020 godine u prvi plan stavlja medicinsku indikaciju (zdravstveno stanje) što je i u skladu sa humanizacijom odnosa prema ovim licima. Poseban akcenat je u ovom radu stavljen na analizu primjenljivosti prvog donesenog Zakona kritički sa aspekta struke koja ga je provodila. U empirijskom istraživanju koje smo sproveli o učestalosti prisilnih liječenja u ustanovi za mentalne poremećaje najvišeg zdravstvenog nivoa,koja prima pacijente sa cijelog područja Republike Srpske, pokazali smo da naši podaci nisu različiti od podataka u drugim zemljama Evrope, po učestalosti prisilnog zadržavanja, vrsti bolesti i sociodemografskim podacima lica koja se prisilno zadržavaju a potom i smještaju. Međutim kada se gleda sa aspekta Zakona nisu ispoštovani svi članovi, jer su na to uticale objektivne okolnosti i nemogućnosti sprovođenja određenih zakonskih odrednica. Poseban problem je izazvala nemogućnost izricanja mjera medicinskog karaktera neuračunljivim licima od strane zakonodavca. Ostaje nam da vidimo da li će veća preusmjerenost novog Zakona iz 2020 godine prema stručnim medicinskim preporukama, uticati na bolje poštovanje prava ovih lica ali i smanjenje potrebe za njihovim prisilnim zadržavanjem. Ono što pretpostavljamo je da će udaljavanje od jasnih zakonskih smjernica biti kamen spoticanja u njegovom sprovođenju.*

Ključne riječi*: lica sa mentalnim poremećajima, prisilno zadržavanje, medicinski kriterijumi, zakonske odrednice, dosadašnja iskustva.*