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## EXECUTION OF SENTENCES FOR CONVICTED WOMEN - MOTHERS WITH CHILDREN: A COMPARATIVE ANALYSIS OF SLOVAKIA, CZECHIA AND ITALY

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**ABSTRACT:** *The topicality of the choice of the article is proven by the annual increase in the number of imprisoned women in the world, which is especially highlighted by international organizations dealing with the protection of human rights. They point out the identified reasons for this increase and at the same time address the existing conditions provided by the state to imprisoned women. In general, one of the biggest problems is that prisons often do not provide the appropriate conditions required by gender diversity or specificity. And consequently, they often do not meet specific requirements at all for a very sensitive group of prisoners, namely imprisoned women – mothers. The aim of this article is to expand the knowledge base on the issue of imprisoned women – mothers, based on a comparison and to examine the solutions to this issue in the conditions of selected countries. The authors analyse and compare the conditions and legislation in three different European Union states: The Slovak Republic, the Czech Republic and the Italian Republic. The conclusions are based on the obtained results of a comparative study, the processing of which helped to reveal differences in the implementation of the addressed issue in the environment of selected countries. Finally, the authors consider de lege ferenda possible solutions in the Slovak Republic.*

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**KEYWORDS:** execution of sentence; convicted woman – mother; imprisonment; prison.

### 1. Introduction

In recent years, the discourse surrounding criminal justice reform has increasingly acknowledged the necessity of a gender-sensitive approach to incarceration (Basalo García, 2017; Fair, Walmsley, 2022). This shift stems from the recognition that traditional penal systems, historically designed around male inmates, often fail to account for the specific needs and circumstances of female prisoners, particularly those who are mothers (Abasgulyeva, Misenheimer, Ram, Tromboo, Wan Tsoi, 2024). Women in conflict with the law frequently enter the criminal justice system from vulnerable positions, often shaped by poverty, histories of abuse, mental health issues, and primary caregiving responsibilities. When these women are incarcerated, the consequences extend beyond the individual, directly affecting their children and families.

Nowhere is this more apparent than in the context of mothers of minor children who are serving prison sentences. A significant proportion of incarcerated women are primary caregivers, and their imprisonment can lead to disruptions in the child's emotional development, education, and sense of security. In some jurisdictions, the law provides for the possibility of children living with their mothers in specially designated prison wards. This model aims to preserve the maternal bond and minimize the negative impact of maternal incarceration on early childhood development. However, it also raises critical legal and ethical questions.

At the core of this issue lies a tension between two sets of rights and interests. On the one hand, the mother's right to family life and her role as a caregiver; on the other hand, the child's right to a safe, stimulating, and developmentally appropriate environment. This tension poses a challenge for lawmakers and correctional systems, who must navigate between the goals of punishment, rehabilitation, and child protection. The legitimacy and practicality of raising children in a prison environment have come under scrutiny, prompting debate over whether specialized mother-child prison wards are a humane and appropriate solution or rather a last-resort compromise.

## **2. Objective and methodology**

This article seeks to contribute to that debate by providing a comparative legal analysis of the execution of prison sentences for mothers with minor children in three different jurisdictions - the Slovak Republic, the Czech Republic, and the Italian Republic, with a specific focus on two models:

- a) imprisonment without children, where the child is placed in external care, and
- b) imprisonment with children, in specially designated and specialized prison wards.

The analysis will examine the relevant legal framework, practical implementation, and compliance with international human rights standards. Based on an analysis of Slovak legislation related to the issue in question and a comparison of European practice, the authors address the thesis that the currently functioning Slovak prison system effectively balances human rights and focuses on the needs of imprisoned mothers and their children. In their conclusions, they consider the merits of possible legislative reforms. Considering this, the authors formulate the following research question: "How do individual countries - Slovakia, Czech Republic and Italy - deal with the execution of sentences for mothers with children and what does this imply for Slovakia?" "Are the conditions of execution of sentences for mothers with children in Slovakia comparable, or rather sufficient in comparison with other countries?"

### **3. The penitentiary system of the Slovak Republic**

The legal framework governing the execution of sentences for convicted women in the Slovak Republic is primarily shaped by the Act No. 300/2005 Coll., the Criminal Code (Criminal Code) and Act No. 301/2005 Coll., the Criminal Procedure Code, as amended (Criminal Procedure Code), as well as specific regulations specifically governing the conditions of imprisonment. The Slovak legal system, like many other European systems, faces the challenge of reconciling the aims of punishment and rehabilitation with the need to protect vulnerable individuals, particularly women who are mothers. This section will explore the key legal provisions governing the imprisonment of mothers.

The criminal and penitentiary system of the Slovak Republic has progressed rapidly in recent years. The amendment to the Criminal Code, which came into effect in August 2024, has brought several changes, such as changes to the thresholds of damages that affect what is considered a criminal offence and what is considered a misdemeanour, reduction of some sentence levels, and shortening of limitation periods, etc. In 2022, the first detention centre was even opened in the Slovak Republic - the Hronovce Detention Centre. However, it appears that the Slovak Republic is only catching up with the trends already established by European states. One of the indicators of this claim is the peculiarities of the execution of prison sentences of convicted pregnant women or convicted mothers with children.

Over recent years, the enforcement part of criminal proceedings has also undergone several changes in legislation, e.g., partial changes in the conditions of detention and execution of sentences, changes in material and technical conditions related to, for example, the reconstruction of penal institutions for the execution of sentences. However, a number of issues remain unresolved in the Slovak Republic, for example as repeatedly raised by the Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) such as the equipment and condition of the penitentiary institutions, the regime and treatment of convicts, etc. (Council of Europe, 2019).

However, in this article we deal with the conditions of imprisonment of mothers with children or pregnant women, under the usual conditions of protected persons, mainly because the Slovak Republic, as one of the European Union member states, has not yet established a special penitentiary institution or only a special section in existing institutions for these persons. In the Slovak Republic, since 1992, there has been one separate facility for imprisoned women: Prison Nitra - Chrenová. Other facilities perform detention within institutions differently for male and female accused persons in sections.

#### **4. Convicted women in general**

Penitentiary institutions, colloquially prisons, as a "temporary place to live" are often perceived through a lens set by society in a distorted mirror". However, the preference for respect for the human person, respect for human personhood and the justly defined rights and duties of human beings cannot be ignored even in the environment of detention and imprisonment.

Repressive, educational and, above all, preventive measures on the prison population is a specific feature of the penal environment, in which most prisoners are men. However, in the times in which we live, we are experiencing an increase in female criminality resulting in the imposition of unconditional sentences. The life of children is therefore highly influenced by the fact that their parent is in prison and by the circumstances of the imprisonment, starting from the arrest, followed by sentencing and execution of the sentence (Maruschak, Bronson, Alper, 2021).

According to the report of the General Directorate of the Corps of Prison and Court Guard of the Slovak Republic (CPCG) on the number and composition of the accused and convicted persons in detention facilities and institutions for the execution of sentences of imprisonment, as of 1<sup>st</sup> May 2025, the number of convicted women in the Slovak Republic totalled 506 (Generálne riaditeľstvo Zboru väzenskej a justičnej stráže, 2025, p. 2).

Despite the fact that women make up a much smaller proportion of the prison population than men, their imprisonment, coupled with their isolation from society, needs a special, more sensitive, but above all more attentive approach by prison staff, particularly in the process of treatment. In relation to the offender, repression in the form of punishment is an effort to ensure that he or she never repeats the offence. In the light of current developments in social life, the growing social acceptance and recognition of women have a negative side, manifested in the various forms of crime committed by women.

Often these are persons who have been repeated victims of domestic violence, whether verbal, physical or sexual, before committing the crime, and as a result often suffer from health and psychological disorders. In the minimum level of protection, the majority of cases are first-time perpetrators of predominantly property crimes such as theft (Maťašovský, 2022, p. 24).

The prison clientele of the institute is largely made up of convicts coming from marginalized groups with weak social ties and a low standard of living. In general, the offenders are mothers of several children who themselves have not been guided towards responsibility, basic social habits and needs, least of all towards obtaining an education, which in turn leads to the commission of crimes of endangering the moral education of youth, neglect of compulsory maintenance and the like (Marešová, 2005, p. 205).

Moreover, in many cases, the mothers are single mothers, as the fathers of the children are either serving sentences or are not involved in the children's maintenance and upbringing. The consequences of such actions have a society-wide adverse impact - the break-up of the family, the loss of natural patterns of behaviour, and the burden on the State's financial system (Maťašovský, 2022, p. 24).

The execution of women's imprisonment is therefore to some extent different from the standard execution of sentenced adult males. In general, the biological, psychological and physiological aspects of convicted women come to the fore in the execution of a sentence and must be taken into account. In this context, we particularly highlight the fact that it is the contact between children and their sentence serving parent that can have a positive impact on the psychological development of the child, the imprisoned parent and the prison environment itself, including society as a whole.

## **5. Convicted women – mothers with children under 3 years old and pregnant women in the Slovak Republic**

In the Slovak Republic, the legal regulation of special categories<sup>1</sup> of convicted persons is enshrined in Section 69 et seq. of Act No. 475/2005 Coll. on the Execution of a Custodial Sentence as amended (the Act 475/2005 Coll.), while this legal regulation also contains only deviations from the general legal regulation of the execution of imprisonment and has the nature of a *lex specialis* in relation to the *lex generalis* of the status and conditions of the execution of imprisonment.

The execution of women's sentences is specifically regulated in Section 74 of the Act 475/2005 Coll. One of the main deviations as opposed to general regulation is that women are granted the right to an accommodation area of at least 4 m<sup>2</sup>. This area may also be reduced for a maximum period of 6 months by decision of the director of the institution. What is not possible, however, is that the accommodation area of the pregnant convicted woman must never be reduced, even if the director of the institution concerned decides so.

For a better overview, we describe the issue in more detail in the subsections below.

### **a. Convicted mothers with a child under one-year-old and pregnant women**

Before we move on to the specifics, we will briefly explain the legal distinction between suspension, deferment, and interruption of sentences.

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<sup>1</sup> Special categories are minors, women, foreigners and stateless persons, for whom particular consideration is given to their psychological, physiological, age, ethnic and national characteristics.

A suspended sentence (in Slovak law - Section 49 et seq. of the Criminal code referred to as a “conditional sentence”) arises after the court has imposed a penalty, typically a term of imprisonment, but decides not to enforce it immediately. Instead, the execution of the sentence is conditionally postponed for a probationary period. During this time, the convicted person must comply with specific obligations, such as leading a law-abiding life or fulfilling additional restrictions imposed by the court. If the individual meets these conditions, the sentence is never carried out. However, if they reoffend or breach the imposed obligations, the court may order the execution of the originally suspended sentence. This mechanism reflects a strong emphasis on rehabilitation and the opportunity for offenders—especially first-time or less serious offenders—to avoid incarceration.

By contrast, in case of deferment of a sentence (Section 409 of the Criminal Procedure Code), the court postpones the execution of the sentence itself. Its primary function is to reconcile the enforcement of criminal sanctions with compelling humanitarian, medical, or social considerations that would render the immediate execution of the sentence inappropriate or disproportionate. According to the Slovak law, particular significance is attached to the deferment of a sentence in the case of a pregnant woman. In such circumstances, deferment serves to protect not only the health and dignity of the sentenced individual, but also the interests of the unborn child, which require heightened legal and ethical consideration. The enforcement of a custodial sentence during pregnancy may pose risks to prenatal development, access to adequate healthcare, and the overall well-being of both the mother and the fetus. Consequently, legal systems commonly provide for the postponement of the sentence until a specified period after childbirth, thereby ensuring that the immediate postnatal phase—critical for both maternal recovery and early childcare—is not disrupted by incarceration.

Unlike deferment, which operates prior to the initiation of the sentence, interruption (Section 412 of the Criminal Procedure Code) presupposes that the convicted person has already begun serving the imposed penalty, and that its execution is subsequently suspended for a defined period. The rationale underlying interruption lies in the need to ensure that the enforcement of criminal sanctions remains consistent with principles of human dignity and proportionality. Situations justifying interruption typically include serious illness, urgent medical treatment unavailable within the prison system. During the period of interruption, the obligation to serve the sentence is not extinguished but merely held in abeyance, with the expectation that execution will resume once the relevant impediment ceases to exist.

In the Slovak Republic, according to Section 63(2) of the Act 475/2005 Coll., if a pregnant woman is sentenced to imprisonment in such a case, the execution of her sentence is deferred, specifically until the child is one-year-old, after which she must start to serve the sentence again.

The sub-legislative norm – Section 3(a) of the Decree of the Ministry of Justice of the Slovak Republic No. 368/2008 Coll., which issues the Regulations for the Execution of Imprisonment, considers cases when a

woman does not yet know that she is pregnant or has deliberately concealed the pregnancy. The provision imposes the obligation of compulsory medical examinations when persons are admitted to the prison. The examination must be carried out no later than the next working day following admission. If, during the initial medical examination, the doctor establishes that the convicted woman is pregnant, the institution shall notify the court, which is empowered to decide on the deferment of the sentence, and the public prosecutor who supervises the observance of legality in the institution.

Section 409(3) of the Criminal Procedure Code also deals with the specifics of the execution of sentences of pregnant women and women caring for their own child under one year of age: *"The serving of a prison sentence by a pregnant woman or the mother of a newborn child shall be deferred by the presiding judge for one year after childbirth."*, thus excluding such execution of a prison sentence.

The interruption of the execution of a prison sentence is also dealt with in Section 412(1) of the Criminal Procedure Code, which deals with the optional (mandatory in case of women with child younger than one year) interruption of the execution of a prison sentence: *"If the convicted person, who is serving a prison sentence, develops a serious illness, the presiding judge may interrupt the serving of the sentence for the necessary time; however, the serving of the sentence shall always be interrupted in the case of a pregnant woman or the mother of a child younger than one year."*

A medical report or proof of the birth of the child shall be submitted as evidence. The mother's application shall be decided by the president of the chamber of the competent court. The mother spends this period at home with the child, but after the expiry of the one-year period she returns to prison and the child is then in the care of other persons, most often the family, or is placed in substitute personal care or in another type of care - perhaps even in an institution for children care.

The question of whether the automatic deferment of custodial sentences imposed on pregnant women until the child reaches one year of age is proportional must be assessed in light of the principles of necessity, humanity, and the best interests of the child. Such a measure pursues a legitimate aim, namely the protection of maternal health, the safeguarding of prenatal development, and the preservation of the early postnatal bond between mother and child. The first year of life constitutes a particularly sensitive developmental period, during which continuous maternal presence is widely regarded as essential for the child's physical, emotional, and psychological well-being.

According to the European Committee for the Prevention of Torture, the paramount consideration in all cases must be the well-being of the child. This principle entails, in particular, that prenatal and postnatal care provided within custodial settings should be equivalent to the standard of care available outside of the institutions. Where infants and young children are accommodated in prison, their situation should be overseen by professionals with expertise in social work and child development. The overall objective should be to create

an environment centred on the needs of the child, minimizing the visible features of detention, such as uniforms or the audible signs of confinement (European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, 2011, p. 92).

The return of the mother to prison after the child reaches one year of age introduces a distinct set of legal and social considerations, particularly concerning the child's development and well-being. The abrupt separation from the primary caregiver at a formative stage may have adverse effects on the child's emotional stability, attachment patterns, and sense of security.

This issue is also addressed in Parliamentary Assembly Recommendation No. 1469 (2000) on Mothers and babies in prison and Parliamentary Assembly Resolution No. 1663 (2009) on Women in Prison. In the first document, the Parliamentary Assembly of the Council of Europe concurs with the view of experts that early separation of a child from its mother causes long-term difficulties for the child, including impaired attachment to others, emotional maladjustment, and personality disorders. It therefore recommends that the Committee of Ministers call on member states to: a) develop and utilize community-based sanctions for mothers of young children and avoid the use of custodial sentences; b) recognize that the imprisonment of pregnant women and mothers of young children should be used only as a last resort for women convicted of the most serious crimes and women who pose a danger to society; c) establish appropriate guidelines for courts to consider imprisonment for pregnant women and nursing mothers only if a serious and violent crime has been committed and the woman poses an ongoing danger.

Social, Health and Family Affairs Committee of Council of Europe reported, that for the very small number of female offenders with infants who must serve a custodial sentence due to the serious nature of their offence and the significant risk they pose to the community, small community-based units should be created that offer high-quality care for their children. These units could be partially managed by prison services and the custodial sentence or remand could be served within the unit. The units should also allow supervised access to the outside world. While the financial cost is expected to be comparable to current arrangements, the human cost would be substantially lower (Social, Health and Family Affairs Committee Council of Europe, 2000).

#### **b. Convicted mothers with a child over one-year-old**

In the case of a convicted mother with a child older than one year of age, pursuant to Section 74(4) of the Act 475/2005 Coll., the Minister of Justice of the Slovak Republic is specifically authorized to issue an approval for the establishment of a specialized ward where convicts can have their children with them and take care of them. Such a specialized ward may be established up to 3 years of age, exceptionally up to 5 years of age of the child. However, such an option created by law does not apply if the child is entrusted by the court

to the care of another person.

In most of the European Union countries, such imprisonment of convicted women is common, but in the Slovak Republic it is not yet applied in practice. We discuss this issue in more detail below.

### **c. Specialized institution - ward**

An important document within the Slovak Republic is the so-called Concept of the Prison System of the Slovak Republic for the years 2022 to 2030 (Zbor väzenskej a justičnej stráže, 2022). This document was revised in 2024 (Zbor väzenskej a justičnej stráže, 2024). The purpose and goal of the concept is to create a system of cooperation between the prison system and probation in the Slovak Republic in individual time horizons, at the latest by 2030, in order to create an effective mechanism for the enforcement, execution and control of relevant court decisions.

The long-term vision and the expected state of affairs that the concept seeks to address in the framework of 16 thematically related objectives and their associated measurable tasks monitored in three time bands (short-term until the end of 2023, medium-term until the end of 2026 and long-term until the end of 2030) is to create a socially respected, modern and transparent organisation fulfilling the entire implementation procedure in accordance with European standards and the latest expert knowledge with meaningful content and goal-oriented re-socialisation activities.

The Concept identifies and describes the shortcomings in the Framework Proposal for the solution and in the Conceptual Goals and Tasks section attaches measurable tasks for their fulfilment, in relation to all accused and convicted persons, including special categories, which are also women, or pregnant women and women taking care of their own children under 3 years of age (Vláda Slovenskej republiky, 2024, p. 20).

The concept states that the priority task to be implemented is to build a specialized ward for the execution of imprisonment of mothers with children so that the convicted mother can take care of her child during the imprisonment and there is no traumatic separation of the child, with conditions imitating the home environment 2030 (Zbor väzenskej a justičnej stráže, 2022, pp. 7- 31; Zbor väzenskej a justičnej stráže, 2024, p. 16).

Within the conceptual goals and objectives specifically, it is stated as short-term tasks – *“To build a section for the execution of sentenced mothers with children up to 3 years of age.”* and *“To draft an amendment to the Act on the execution of sentences specifying the conditions for the placement of a child with a mother serving a prison sentence.”* These tasks set out in the concept have not yet been fulfilled.

Currently, the Slovak Republic does not have an actual ward/section of the penal institution for pregnant or convicted mothers with their minor children, as is the case in majority European countries. In the past, there

have been several proposals to create a separate ward for convicted pregnant women or mothers with children, but this has not been successfully completed or approved, despite the fact that the Slovak Republic is one of the last country in Europe which, in addition to such a ward for pregnant women and mothers with children, does not also have a placement committee of a prison for the execution of a prison sentence, which implies that the placement of prisoners is decided by the court.

The issue of building a specialised ward for mothers with children was already raised by the CPT Committee in its report in 2009 in Article 52: "*The CPT Committee wishes to be informed of the detailed plans for a new institute for mothers with children...*" (Council of Europe, 2009, p. 24).

Regarding the legislative and procedural aspects of the placement of mothers with children for the execution of sentences, the last initiative was the drafting of an amendment to the Act on the Execution of Sentences back in 2022. This amendment was to include the substantive and procedural conditions for the placement of convicted women and their minor children in the special sections for the execution of sentences of mothers with children and the regulation of the special conditions for the execution of sentences in those sections of the institutions. As it follows from the Report on the performance of tasks implemented by the concept of the government of the Slovak republic for the years 2022 to 2030 – Report for the year 2022, on 8 November 2022 the amendment was discussed by the Legislative Council of the Government of the Slovak Republic, which suspended the discussion and recommended the submitter to complete the amendment in connection with the major amendment to the Criminal Code mentioned at the beginning of this article (Zbor väzenskej a justičnej stráže, 2023, p. 6). Ergo, no substantive or procedural measures have been taken so far.

Thus, the Slovak Republic is still looking for a "solution" that would help to mitigate the consequences if a mother is sentenced to an unconditional prison sentence. There have been a number of proposals, either by setting up a specialised ward for mothers with children, where a woman could care for her child up to the age of 3 as a rule, or exceptionally up to the age of 5 if the child could not be entrusted by the court to the care of another person (Vláda Slovenskej republiky, 2019, pp. 20-21; Vláda Slovenskej republiky, 2024, pp. 19-21).

## **6. Global trends and comparison of Slovak legislation with selected countries**

The protection of the rights of convicts (prisoners), including women, is the subject of normative regulation contained in several international documents. The core of legislative national regulation and the boundaries that flow from international treaties and Union law have therefore member states of the European Union to some extent similar, if not identical. The starting documents are mainly:

The United Nations Standard Minimum Rules for the Treatment of Prisoners in the form of recommendations to all United Nations Member States.<sup>1</sup> This document sets out minimum standards governing the use of instruments that restrict personal liberty in prisons. It can therefore be stated that the document in question contains and lays down universal rules for the execution of imprisonment, regardless of any local specificities. The Standard Minimum Rules for the Treatment of Prisoners did not however draw sufficient attention to women's particular needs. Recognizing the need to provide global standards with regard to the distinct considerations that should apply to women prisoners and offenders UN or rather member states adopted in December 2010 so called Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders called also the Bangkok Rules. Bangkok Rules are also focusing on needs of imprisoned women and their children.

The Charter of Fundamental Rights is the European Union's bill of human rights. Its 50 articles bring together the rights and freedoms belonging to everyone in the European Union. General provisions in the Charter set out its detailed interpretation and application. Member States have a duty to respect and observe the Charter when acting within European Union law. The European Convention drafted the Charter in 1999. The European Parliament proclaimed it a year later. The Charter came into full legal effect with the Treaty of Lisbon on December 1, 2009 (European Agency for fundamental rights, 2021).

The European Prison Rules are a revised version of the United Nations Standard Minimum Rules, updated to reflect European traditions, cultural values and new prison strategies. A key aspect in the European Prison Rules is the preservation and respect for the human dignity of prisoners. The European Prison Rules were last updated in 2020. There is also synergy with above mentioned international standards, as the United Nations Nelson Mandela Rules on the treatment of people in prison drew on the earlier European Prison Rules, and the 2020 revision has in turn been able to draw on those Rules, and the 2010 'Bangkok Rules' on the treatment of women in prison. The European Prison Rules therefore provide a framework for prison authorities that is compliant with human rights and up to date with international developments (Pental Reform International, 2021, p. 3).

In the light of the above, it can be stated that there are no general or specific data or estimates within the European Union on the number of pregnant women in prison or the number of children born in prison in the European Union or outside it. One reason why figures are not accurately recorded is, for example, the United Nations Rules for the Treatment of Prisoners and Non-custodial Measures for Women Offenders, which support non-custodial sanctions for pregnant women.

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<sup>1</sup> The United Nations Standard Minimum Rules for the Treatment of Prisoners were adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Geneva in 1955. They were approved by the Economic and Social Council by resolutions 663 C (XXIV) of 31<sup>st</sup> July 1957 and 2076 (LXII) of 13<sup>th</sup> May 1977.

In the European Union, there are generally specific rules for pregnant women, depending on the individual country. It follows that there is no specific legislation that deals in detail with pregnant mothers and therefore each country has its own specific legislation. Below, we will take as an example and compare the legislation of the Czech Republic and the Italian Republic.

## **7. Imprisonment of women - mothers in the Czech Republic**

The Czech legislation on the subject is in many respects similar to Slovak legislation, but with deviations. The biggest deviation is that the imprisonment of mothers with minor children is permitted in the Czech Republic. We will examine these peculiarities below.

The execution of imprisonment is regulated, as in Slovakia, by several laws - not only at the national level but also at the European level. Since we have approached the international or European level above, we will only deal with the national level.

Like other laws, the laws regulating the prison system are based on the Constitution of the Czech Republic. The provisions of the Czech Constitution are largely similar to those Slovakia. The most important acts regulating the execution of prison sentences include Act No. 169/1999 Coll., on the execution of prison sentences and on amendments to certain related regulations (the Act 169/1999 Coll.). The fourth chapter addresses specific groups of convicts - juveniles, permanently unemployable individuals, persons with mental and behavioural disorders, foreigners and, most importantly, convicted women and mothers of minor children. The Decree No. 345/1999 Coll. of the Ministry of Justice, which issues the Rules for the Execution of Imprisonment (the Decree 345/1999 Coll.), is also an important document as it regulates the specifics and special conditions to the execution itself.

The Act 169/1999 Coll., in force since 1<sup>st</sup> January 2000, regulates the execution of women's sentences in Sections 66, 67 and 68. In essence, however, it refers only to specific categories of women who are exclusively affected by these regulations. Section 66 deals specifically with restrictions on the imposition of disciplinary sentences on pregnant women and Section 67 concerns the execution of sentences on mothers of minor children. Finally, Section 68 deals with the possibility of extending the period of suspension of sentence execution within a calendar year for mothers of minor children.

The Act 169/1999 Coll., and subsequently the Decree 345/1999 Coll., consider mothers with children to be a specific category of convicts, as is the case in Slovak Republic. We shall highlight the Czech differences from the standard imprisonment:

In today's Decree 345/1999 Coll., the execution of women's sentences is regulated in Sections 89, 90 and 91. The current Rules for the Execution contains only one difference and novelty from earlier versions of

the same norms. It provides for the permission to wear one's own clothing and shoes during non-working hours for female convicts assigned to a supervised prison and for the permission to wear such clothing during visiting hours for female convicts in a supervised and maximum security prison. Admittedly, all the legislative changes throughout the years that have affected women's sentencing have certainly contributed to a logical "softening" of the overall impact of the prison environment on incarcerated women.

Only milder forms of disciplinary punishment (reprimand, forfeiture of property, deprivation of benefits resulting from previous disciplinary awards) may be imposed on pregnant women and women whose child-birth has not been more than 6 months.

In exceptional cases and under the conditions laid down by law, a convicted woman may be permitted to keep and care for her child while serving her sentence, as a rule until the child is 3 years old. Such women are permitted to wear their own clothing and footwear at their discretion.

#### **a. Světlá nad Sázavou Prison**

The prison in Světlá nad Sázavou in the Czech Republic, opened in year 2000 and with capacity to almost 1,000 female inmates, is the largest prison in Czech Republic where only women are placed. Women currently serve their sentences there and are assigned to low, medium and high security prisons, as well as to high security prisons. However, there are also several specialised wards dedicated to specific groups of women prisoners. Among them is a ward for mothers with children (Vězenská služba České republiky Věznice Světlá nad Sázavou, 2025).

Světlá nad Sázavou Prison is the only prison in the Czech Republic with a specialised section for the execution of sentences of mothers of minor children from one to three years of age since 2002, and section for the execution of custody of mothers with a minor child up to one year of age and, as 2004, a section for convicted mothers of minor children up to one year of age (Vězenská služba České republiky Věznice Světlá nad Sázavou, 2025).

According to the provisions of Section 67(2) of the Act 169/1999 Coll.: *"...a convicted woman may, in cases worthy of special consideration, if such a procedure is permitted by the conditions in the prison and the personality of the convicted woman, be allowed, at her request, to have her child with her and to care for it during the execution of the sentence, as a rule until the age of 3, unless such child has been entrusted by the court to the care of another person. Before making such a decision, the prison director shall request an assessment by a doctor and psychologist and the child welfare authority as to whether such a procedure is in the best interests of the child."*

It follows from the above that a mother who wishes to be placed in prison with her child must submit

her own application. This is addressed to the prison director and registered upon her admission to the prison. On the basis of the application, the convict is sent an information letter with the relevant annexes - the child's social history, the child's medical history and a statement from the convict's general practitioner, which the applicant must subsequently submit, completed by the competent authorities. The convicted person is also required to provide a copy of the child's birth certificate, a notification of receipt of State social assistance benefits (award of parental allowance), which, if accepted, would cover the convicted person's stay in prison and the needs of her child.

In the case of minors who have both parents on their birth certificates, the father's consent is required for the child to be placed with the mother in a specialised section. The mother receives basic information from the information letter sent by the social worker of the prison.

We emphasize that the woman enters one of the reception prisons without her child. Section 67(2) of the Act 169/1999 Coll. states that "*...a child may not be entrusted by the court to the care of another person.*" It is clear from this provision that if a child is entrusted by the court, for example, to foster care, this could be one of the grounds for rejecting the application. Until the applicant is escorted from the reception prison to Světlá nad Sázavou and her application is decided, she must arrange for the care of the child, preferably with a family member.

After being admitted to the admission ward of Světlá nad Sázavou Prison, the convict undergoes an initial interview with each of the professional staff members (psychologist, special educator, social worker, doctor) and the educator of the admission ward. If the woman has submitted all the supporting documents (annexes to the application) and the psychological assessment, which is the responsibility of the prison psychologist, has been completed, a committee of professional staff headed by the prison director meets. The latter, based on the information obtained about the convict and in accordance with the law, issues a decision on whether or not to admit the mother to the designated specialised section.

There is a separate bedroom for the mother and child/children, which is equipped with a bed and a cot with mattress, a lockable wardrobe for personal and children's belongings, a table with a chair and a fridge. There is a separate kitchenette for preparing children's meals, equipped with dishes, microwave, fridge, stove. There is also a bathroom with a toilet, a cultural room, a laundry room (Vězenská služba České republiky Věznice Světlá nad Sázavou, 2025).

## **8. Imprisonment of women – mothers in the Italian Republic**

The Italian legal framework for the incarceration of mothers with children is relatively progressive compared to many European Union member states. While European legislation provides general guidelines,

Italy has implemented more specific and comprehensive measures to address the needs of incarcerated mothers and their children. Throughout the years there have been many changes and amendments to the Italian legislation, however, we will not discuss them in detail. We will only address the most important of them in relation to the topic of the article.

The Act No. 354 of 26<sup>th</sup> July 1975, the Regulations on the Prison Order and on the Execution of Measures for the Deprivation and Limitation of Liberty, among the various changes to the prison system. This act introduced the possibility for imprisoned mothers to keep their child in prison until the age of three. The Act No. 62 of 21<sup>st</sup> April 2011, Amendments to the Code of Criminal Procedure and to Law No. 354 of 26<sup>th</sup> July 1975, and other provisions to protect the relationship between prisoners who are mothers and their minor children, provides for raising the age limit of children who can live in prison with their mothers from 3 to 6 years and for custody in so-called Istituti a custodia attenuata per detenute madri (ICAM) (Ministro della Giustizia, 2009).

Convicted mothers may be housed with their children in standard prison facilities, typically in separate sections or specialized wards within those prisons. These wards are adapted to allow children to stay, but they are still within the security framework of a prison. However, the preferred approach is placement in the ICAMs.

The ICAMs are attenuated custody institutes for mother prisoners, with different structural characteristics compared to traditional prisons, being very similar to real homes. They, in fact, resemble a community-type organisational model, which is realised outside traditional penal institutions, in facilities equipped with security systems that are not recognisable to children accompanying their mothers. Prison officers without uniforms and specialised operators capable of supporting the inmates in caring for their children and ensuring regular outings for the children operate inside the institution.

In these facilities, a penitentiary regime is implemented based on making the prisoner responsible for assuming the parental role, thus guaranteeing adequate protection of parenthood and childhood during the execution of the sentence, trying to avoid or, at least, reduce as much as possible the traumas that may characterise the growth of the child, who is in the condition of having a parent in prison (Giusti, 2024).

Life inside ICAM is quite different from other penal institutions. The women prisoners are allowed to move freely within the facility and the rules to be followed mainly concern the proper management of space and domestic life. From Monday to Friday, the children attend kindergarten from 8:30 am to 3:30 pm. The afternoons are dedicated to activities together with the mothers and teachers. At the weekend, the children only go out on Saturdays, thanks to the support provided to the educators by volunteers.

There is no time outside the institution spent together with the mothers. Only in rare cases does the probation magistrate authorise women prisoners to participate in certain events (e.g. school play, Mother's

Day). The kindergarten teachers periodically visit the ICAM to conduct interviews with the children's mothers. Every week there is a meeting between the operators and the women prisoners to discuss, raise critical issues and collect proposals for new activities (Marietti and coll., 2023, pp. 257-263).

In conclusion, the purpose of this institution is to reconcile the need to limit the presence of children in prisons with that of guaranteeing the safety of the community, also with regard to mothers who are the recipients of a sentence of conviction or a precautionary custody order.

There were five ICAMs in total (Associazione Antigone, 2023) in Italy, however only three of them are functioning as of today - institutes in Venice, Turin and Milan (Marietti and coll., 2023, pp. 257-263). The first ICAM was inaugurated in Milan in December 2006.

To summarise, the Italian Republic is even a step ahead of the Czech Republic as they have several ICAMs established and in operation, which offer better and more humane conditions for the execution of mothers' sentences.

## **9. Considerations *de lege ferenda* - Is privatisation of prisons the solution?**

The privatization of the prison system is defined in criminal law jurisprudence as the transfer of prisoners to facilities operated by private companies under a contract with prison administration authorities, whereby the subject of this contract is the enforcement of a sentence imposed on a convicted person by a judicial authority, to be carried out in a prison operated by a private company (Šrámel, 2015, p. 30).

Privatization is in general often associated with greater operational flexibility, which could enable the creation of specialized facilities tailored to the needs of mothers and young children. Private actors may also bring innovation in service delivery, including improved healthcare provision, psychological support, or the development of more child-friendly environments.

Privatization of prisons is not however, in general terms, a solution to the challenges of modern penal systems. It may represent a partial and context-dependent instrument of reform, the effectiveness and legitimacy of which depend on its careful limitation and alignment with the fundamental principles of criminal justice. Any adoption of privatization must be accompanied by a clear legal framework, strict state oversight, and unequivocal safeguards for fundamental rights. Further in subsection below.

Regarding convicted women, social work with them is not only time-consuming but also psychologically demanding, as convicted women are not only more open in solving their problems but also more emotional in their reactions and require more intimate communication. Women's demands for social assistance and counselling are double compared to men's demands. These are mainly convicted women - mothers who have their children placed in foster care or institutional care. The specificity of convicted women in institutions

also influences the work of psychologists. Convicted women require long-term psychological counselling and therapeutic care. They are particularly sensitive to the loss of contact with children and life partners (Keměny, 2021).

Even if the mother is in a situation where she must enter custody or serve a prison sentence, she does not cease to be a parent. The question arises as to what will happen to her minor child(ren). Previously, these women had no choice but to entrust their child to the care of another person, e.g. the biological father or relatives or to an institutional facility. However, the separation between mother and child, due to the need for an emotional relationship between these two persons not being met, could lead to emotional deprivation of the minor, which could affect the overall development of his or her personality.

By establishing specialised wards for these women, at least some of them have the opportunity to serve their sentences together with their children, thus avoiding the above-mentioned negative influences that could affect minors for life. The main purpose of all the previously mentioned specialised wards for the execution of sentences and detention of mothers of minor children is to prevent the child from having to grow up without a mother. The effort is to ensure that the emotional bonds between mother and child are not broken. While staying in a specialized unit, a strong relationship is built between the two, which has a positive effect on both. They spend 24 hours together 7 days a week. The convicted women strengthen their parental responsibility. They gain new experiences in how to work with the child. They are encouraged to be independent. The child forms a strong bond with the mother, with whom they feel a sense of security and safety.

In many states, caregivers need to make a specific request and obtain, either separately or jointly, authorization by judicial, social and/or prison authorities to allow the child to live in prison with them. Some States also explicitly refer to further indicators such as: breastfeeding needs; lack of alternative child-care solutions; suitability of prison accommodation for the child's development; health of the child; protection of the child's safety; full parental responsibility and ability to exercise parenthood; length of the sentence; and the caregiver-child relationship before entering the prison (United Nations, 2019, p. 2).

Pursuant to Slovak legislation, the purpose of serving a sentence is to protect society and to prevent further criminal activities, but also to develop positive qualities with the aim of resocialising the prisoner. As a member state of the European Union, the Slovak Republic must adopt and implement new ways and procedures in the treatment of prisoners.

Within the Slovak prison system, contact between a child and their parent in prison is similar to standard methods of outside contact for a prisoner such as telephone calls and receiving mail and parcels. The facility and quality of contact between parent and child has a significant influence on this relationship and is key in supporting the development of a healthy bond.

The challenge is then to promote the child's voice and right of access in such a regulated environment.

However, we are of the opinion that without a specialised section for the execution of sentences for mothers with children, ideal contact between mother and child cannot be ensured even if these women are provided with more phone calls and more visits.

According to the SPACE - Council of Europe Annual Penal Statistics for 2023, Slovakia is one of the last countries where mothers are not permitted to serve prison sentences with their children (Aebi, Cocco, 2023, p. 30):

**Table 1 - Children living with their mothers inside penal institutions.**

| Country             | Are young children allowed to stay with their mother inside penal institutions? | If yes                                                                     |                                                                            |
|---------------------|---------------------------------------------------------------------------------|----------------------------------------------------------------------------|----------------------------------------------------------------------------|
|                     |                                                                                 | How many children are living with their mothers inside penal institutions? | Up to what age can they stay with their mothers inside penal institutions? |
| Variable code       | 2.3A                                                                            | 2.3B                                                                       | 2.3C                                                                       |
| Albania             | Yes                                                                             | 0                                                                          | 3                                                                          |
| Andorra             | NAP                                                                             | NAP                                                                        | NAP                                                                        |
| Armenia             | Yes                                                                             | 1                                                                          | 3                                                                          |
| Austria             | Yes                                                                             | 2                                                                          | 3                                                                          |
| Azerbaijan          | Yes                                                                             | NA                                                                         | 3                                                                          |
| Belgium             | Yes                                                                             | NA                                                                         | 3                                                                          |
| BH: BiH (total)     |                                                                                 |                                                                            |                                                                            |
| BH: BiH (st. level) |                                                                                 |                                                                            |                                                                            |
| BH: Fed. BiH        |                                                                                 |                                                                            |                                                                            |
| BH: Rep. Srpska     |                                                                                 |                                                                            |                                                                            |
| Bulgaria            | Yes                                                                             | 0                                                                          | 0                                                                          |
| Croatia             | Yes                                                                             | 2                                                                          | 3                                                                          |
| Cyprus              | Yes                                                                             | 0                                                                          | 2                                                                          |
| Czechia             | Yes                                                                             | 10                                                                         | 3                                                                          |
| Denmark             | Yes                                                                             | 1                                                                          | 3                                                                          |
| Estonia             | Yes                                                                             | 1                                                                          | 3                                                                          |
| Finland             | Yes                                                                             | 10                                                                         | 3                                                                          |
| France              | Yes                                                                             | NA                                                                         | 2                                                                          |
| Georgia             | Yes                                                                             | 1                                                                          | 3                                                                          |
| Germany             | Yes                                                                             | NA                                                                         | 3 or 6                                                                     |
| Greece              | Yes                                                                             | 7                                                                          | 3                                                                          |
| Hungary             | Yes                                                                             | 12                                                                         | 1                                                                          |
| Iceland             | Yes                                                                             | 0                                                                          | 2                                                                          |
| Ireland             | Yes                                                                             | 0                                                                          | 1                                                                          |
| Italy               | Yes                                                                             | 17                                                                         | 6                                                                          |
| Latvia              | Yes                                                                             | 5                                                                          | 4                                                                          |
| Liechtenstein       | Yes                                                                             | 0                                                                          | 3                                                                          |
| Lithuania           | Yes                                                                             | 4                                                                          | 3                                                                          |
| Luxembourg          | Yes                                                                             | 0                                                                          | NAP                                                                        |
| Malta               | No                                                                              | 0                                                                          | 0                                                                          |
| Moldova             | Yes                                                                             | 5                                                                          | 3                                                                          |
| Monaco              | Yes                                                                             | 0                                                                          | 2                                                                          |
| Montenegro          | Yes                                                                             | 0                                                                          | 1                                                                          |
| Netherlands         | Yes                                                                             | 6                                                                          | 4                                                                          |
| North Macedonia     | Yes                                                                             | 0                                                                          | 1                                                                          |
| Norway              | No                                                                              | NAP                                                                        | NAP                                                                        |
| Poland              | Yes                                                                             | 59                                                                         | 3                                                                          |
| Portugal            | Yes                                                                             | 18                                                                         | 5                                                                          |
| Romania             | Yes                                                                             | NA                                                                         | 1                                                                          |
| San Marino          | Yes                                                                             | 0                                                                          | No Limit                                                                   |
| Serbia              | Yes                                                                             | 6                                                                          | 2                                                                          |
| Slovakia            | No                                                                              | NAP                                                                        | NAP                                                                        |
| Slovenia            | Yes                                                                             | 1                                                                          | 2                                                                          |
| Spain (total)       | Yes                                                                             | 57                                                                         | 3                                                                          |
| Spain (State Adm.)  | Yes                                                                             | 46                                                                         | 3                                                                          |
| Spain (Catalonia)   | Yes                                                                             | 11                                                                         | 3                                                                          |
| Sweden              | Yes                                                                             | NA                                                                         | NAP                                                                        |
| Switzerland         | Yes                                                                             | NA                                                                         | 3                                                                          |
| Türkiye             | Yes                                                                             | 565                                                                        | 6                                                                          |
| Ukraine             | Yes                                                                             | 19                                                                         | 3                                                                          |
| UK: Engl. & Wales   | Yes                                                                             | 44                                                                         | 2                                                                          |
| UK: North. Ireland  | No                                                                              | NAP                                                                        | NAP                                                                        |
| UK: Scotland        | No                                                                              | NAP                                                                        | NAP                                                                        |

#### **a. Privatization of Prisons**

Among the current issues of imprisonment, the constant increase in the number of accused and convicted persons in prisons and lack of institutes providing specialized care for vulnerable groups is particularly significant. The increasing recognition of the unique needs of pregnant women and women caring for children under three has highlighted the limitations of traditional custodial sentences and the urgent need for alternative measures. Incarceration of this population, as stated before, not only raises serious humanitarian concerns but may also have long-term adverse effects on child development and maternal health. Consequently, legal systems are increasingly exploring not only non-custodial alternatives, such as suspended sentences, probation, home detention, but also specialized mother-and-child facilities, which allow women to fulfill their custodial obligations while preserving maternal care and the child's well-being. The implementation of such alternatives must be guided by the principles of proportionality, the best interests of the child, and respect for human dignity, and should be integrated into a broader strategy that includes prenatal and postnatal care, social support, and post-penitentiary reintegration (Romža, 2020, p. 264). Changes in the prison system, like all other changes in the field of public administration, are inherently dependent on the economic conditions of a particular country, and on the priorities that are socially and politically recognised at a given time.

The increasing pressure on state-managed prison systems, driven by above-mentioned issues, financial constraints, and the growing demand for more effective and humane forms of punishment, has intensified the search for alternative models of penal administration. In this context, the limitations of exclusively state-run institutions—particularly in addressing adequate conditions of detention and providing specialized care for vulnerable groups—have brought the possibility of privatization to the forefront of legal and policy debates. Privatization is thus presented not merely as an economic option, but as a potential instrument of systemic reform, capable of introducing greater flexibility, efficiency, and innovation into the prison system.

Privatization of prisons refers to the transfer of the management, operation, or ownership of correctional facilities from government authorities to private, for-profit entities. This can involve contracting private corporations to run entire prisons or outsourcing specific services such as food provision, healthcare, or security within public facilities. In most cases, governments enter contracts with these corporations, compensating them on a per-inmate, per-day basis or through broader service agreements.

This approach has gained traction in various jurisdictions, particularly in response to rising incarceration rates, budget constraints, and pressures to increase efficiency within the penal system.

Delegating the operation of prison facilities to private entities can offer a range of benefits, primarily in terms of cost savings, efficiency, and administrative flexibility. Private companies often contend that they are

able to operate prisons at a lower cost than state institutions due to streamlined procurement processes, reduced labour expenses, and competitive management practices. For governments facing budgetary constraints and growing prison populations, privatization may appear to provide an expedient solution to financial and infrastructural challenges.

Another perceived advantage lies in the administrative flexibility of private operators. Unlike public institutions, private firms may be better positioned to introduce innovative practices, such as modern surveillance systems, vocational training programs, or specialized rehabilitation programs. Such adaptability could, in some instances, contribute to improved inmate outcomes and institutional efficiency. Furthermore, the rapid development and management of new prison facilities by private entities can serve as a short-term response to prison overcrowding, particularly where expanding the public prison estate would be costly or slow.

Despite these claimed benefits, prison privatization could potentially be criticized, particularly regarding the ethical implications and systemic risks it introduces. A primary concern is the inherent conflict between profit motives and the public interest. When incarceration becomes a commercial enterprise, there is a risk that financial considerations will override the need to maintain humane conditions, adequate staffing levels, and effective penitentiary and post-penitentiary programs. In such contexts, cost-cutting measures may result in diminished services, higher rates of violence, and poor outcomes for inmates.

The issue of privatisation of prisons is not new in the Slovak Republic (Romža, 2020, p. 269), but it is undoubtedly one of the most topical and controversial issues at present. The privatisation of the prison system is still a topical and well-established issue abroad, where elements of the private sector have already integrated the public prison system and thus created functioning models. The topic of prison privatisation has not received sufficient attention from the professional and academic public. The subject is not treated and analysed in detail.

However, the issue of prison privatisation has recently received attention, in connection with the construction of a new prison facility in Rimavská Sobota - Sabova in the form of a public-private partnership. The project represented the cheapest option for expanding prison capacity. The PPP (Public Private Partnership) method of implementation was considered slightly more advantageous than construction by the public sector. PPP financing is preferable to public debt financing if the assumption is met that the private investor will save at least 5 % on construction and 10 % on operation compared to the estimated cost of public construction (Ministerstvo financií Slovenskej republiky, 2018). On 11<sup>th</sup> March 2019, the tender for the contract - Concession for the project Construction of the Prison Facility Rimavská Sobota - Sabová was announced and conducted in several stages. Two bids from groups of contractors were evaluated. Due to complications with the procurement process, the tender was cancelled and was not further implemented (Zbor väzenskej a justičnej stráže, 2019; Caban, 2025).

Private prisons have thus, in some respects, begun to offer a potential solution under our conditions to

the long-standing problems of prison overcrowding and the absence of specialized wards for convicted mothers with minor children. There are several models of prison privatisation provided by other countries. It is therefore necessary to resolve what model would be appropriate to apply in the conditions of the Slovak Republic, so that both legal and non-legal guarantees of the legality of the execution of sentences are maintained.

On the issue of prisons, it is important to note that it concerns not only the conditions under which private prisons can be built and operated, but also the fundamental question of whether it is possible for prisons to be private at all. The very notion of a private prison does not imply that the facility is entirely managed by a private entity. It depends on the particular model, but in most cases the state retains the basic responsibility for the act of imprisonment itself and abdicates most of the obligations that arise from the services involved in the execution of the sentence (imprisonment). These services usually include accommodation, food, health care, education and employment.

In the context of the possibility of building private prisons in the Slovak Republic, it will be necessary to address the question of an effective model for the operation of private prisons in such a way that all guarantees of legality are respected. All relevant issues of construction, operation, maintenance, functioning, regime, management, control, guarding, supervision, surveillance and, in particular, the treatment of convicts will have to be agreed on a contractual basis between the state and the private entity. It can be stated that our prison legislation does not have a legal framework that both regulates and authorises the existence of private prisons.

On the other hand, our legislation does not contain any normative provision prohibiting the existence of private prisons. Some selected types of contracts known to our legal system can be used in the context of prison privatisation, particularly in the areas of construction, operation, maintenance and administration.

As stated before, there are several models to choose from. In Europe, the following models are usually used for private sector involvement in prisons:

- public finance, design and construction with private management contracts for all services;
- public finance, private construction, the state employs the prison officers, but all non-custodial services are contracted out;
- private finance, design and construction, the state employs the prison officers, but non-custodial services are contracted out; and
- private finance, design, construction and operation (Nathan, 2005).

Following the above, a realistic evaluation of prison privatization in the Slovak context must proceed from the premise that the execution of custodial sentences constitutes a core function of the state, closely linked to the protection of fundamental rights and the legitimate use of coercive power. Accordingly, privatization should not be understood as a comprehensive solution to systemic deficiencies, but rather as a limited

and carefully regulated supplementary instrument. A selective and regulated model of partial privatization may be considered appropriate.

In particular, Slovakia could allow private sector participation in non-coercive and support services, such as prison infrastructure development, facility maintenance, healthcare provision, educational and rehabilitative programs, or logistical services. Such involvement could improve efficiency and innovation without compromising the state's monopoly over the use of force and decision-making affecting prisoners' legal status.

For this model to function effectively, from our point of view, it is essential to ensure a strict delineation of competencies, whereby core custodial powers, particularly those involving restrictions of fundamental rights remain exclusively within the authority of the state, notably the CPCG. At the same time, privatization must be embedded in a robust legal framework that clearly defines the scope, limits, and conditions of private sector involvement, including licensing requirements, contractual obligations, and liability rules. Only a simple amendment to already existing legal framework would be sufficient.

Equally important is the establishment of strong oversight and accountability mechanisms, such as independent inspection bodies, judicial review, and transparent reporting obligations, in order to prevent abuses and ensure compliance with human rights standards. All private actors involved must be legally bound to adhere to both international and domestic standards governing the treatment of prisoners, with effective and enforceable sanctions in place for any violations.

## **10. Conclusions**

The aim of this article was to assess and analyse the legislative and material conditions for the execution of sentences for mothers with children in the Slovak Republic, to compare these data with the jurisdictions of the Czech Republic and the Italian Republic and to point out the shortcomings found. In conclusion, we can confirm that our aim has been fulfilled. We have compared the legislative regulation and conditions of imprisonment of mothers with children in three different countries and found that Slovakia is on the tail and catching up with European trends.

Furthermore, we concluded that the Slovak Republic, as one of the last Member States of the European Union, does not meet modern international standards because it does not have a special section/ward for mothers in which they can carry out sentences with their minor children up to 3 or 6 years of age.

Many women in prisons are primary caregivers for children. Both the exposure of children to detention settings and the separation of children from their incarcerated and serving mothers have adverse consequences.

Non-custodial sentences are preferable where possible and appropriate, and the decision to allow children to stay with their mothers in detention should be based on the best interests of the child, also considering the child's preference, according to his or her age and level of mental development (United Nations, 2011).

In many states, caregivers need to make a specific request and obtain, either separately or jointly, authorization by judicial, social and/or prison authorities to allow the child to live in prison with them. Some States also explicitly refer to further indicators such as: breastfeeding needs; lack of alternative child-care solutions; suitability of prison accommodation for the child's development; health of the child; protection of the child's safety; full parental responsibility and ability to exercise parenthood; length of the sentence; and the caregiver-child relationship before entering the prison (United Nations, 2019, p. 12).

In other words, if the possibility arises, prison authorities should exercise discretion and assess each case individually, considering the specific circumstances of the child and family, as well as the availability of suitable alternative care within the community and/or relatives. The proposed solution of specialized wards acknowledges that a uniform policy applied rigorously across all situations, despite significant differences in context, is frequently inappropriate and may not serve the best interests of those involved.

The problem of the lack of a specialized ward could be solved in two ways, namely by completing past efforts and building the ward in the state institute for the execution of imprisonment. The second option that we have taken into consideration is more fundamental and more radical, and that is the (partial) privatisation of prisons. Such a major step would solve several problems at once, including establishing specialized institutions – wards for vulnerable groups, improve the quality of prison services, overcrowding, modernisation and, possibly, the economic problem.

To some extent the privatisation was in Slovak Republic initiated but not finished with the project Rimavská Sobota – Sabova. Should privatisation occur, to comply with all fundamental rights and principles, it will be necessary for states to ensure, when outsourcing the management of prisons to private entities, that contracts reinforce human rights, are audited to remove incentives for cutting corners on treatment, are subject to public reporting requirements, and allow for rigorous oversight and inspection mechanisms by external and independent monitoring bodies.

From an institutional perspective, privatization may offer certain advantages. It is often associated with increased operational flexibility, the potential for cost-efficiency, and the introduction of managerial innovation. Private actors may, in some instances, respond more rapidly to infrastructural needs or implement modernized systems of prison management.

However, these potential benefits are counterbalanced by significant social and ethical risks that cannot be overlooked. Our concern lies in the structural tension between the profit motive and the objectives of pun-

ishment. The deprivation of liberty constitutes one of the most severe expressions of state authority, traditionally justified by principles of justice, public protection, and rehabilitation. Transferring this function to profit-oriented actors raises the question of whether punishment can legitimately be commodified. The operation of prisons by private entities introduces incentives to reduce expenditure, which may adversely affect staffing levels, conditions of detention, and access to healthcare or rehabilitative services. Such outcomes risk falling below the standards established in instruments such as the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).

It must be acknowledged that the potential privatization of the prison system, regardless of the form in which it is implemented, would not resolve all the structural problems that have accumulated over time within Slovak Republic. Nevertheless, a carefully designed and gradual form of privatization could contribute to addressing at least some of these deficiencies.

Such an approach presupposes a clearly defined framework governing cooperation between the state and the private sector. With that said, the establishment of transparent rules and conditions regulating this relationship across legal, economic, and penitentiary dimensions should be a priority.

From a legal standpoint, regulation should explicitly permit the establishment of prison facilities outside the infrastructure currently administered by the CPCG, with decision-making authority in this regard entrusted by law to the Minister of Justice of the Slovak Republic.

At the same time, it is essential that statutory law clearly stipulate that those functions of the CPCG which involve interference with the fundamental rights and freedoms of prisoners should continue to be exercised by and be the responsibility of state authorities. In particular, responsibilities relating to guarding, supervision, oversight, the treatment of prisoners, and ensuring compliance with the legal conditions governing the execution of sentences should continue to be performed by CPCG. These competences are already normatively defined under the applicable legal framework, specifically in Section 6 of the Act 475/2005 Coll.

Such a model would establish general normative limits for the permissible forms of cooperation between the state and the private sector in the context of prison privatization, ensuring that any involvement of private actors remains consistent with the protection of fundamental rights and the core responsibilities of the state.

Rather than replacing the state's role, it may serve as a complementary mechanism aimed at improving specific aspects of prison administration. The ultimate objective must remain the preservation of legality, proportionality, and respect for human dignity. With that said international standards such as the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) emphasize that non-custodial measures should be preferred wherever possible for pregnant women and mothers of young children.

In the meantime, regarding the legislative regulation of Slovak Republic, we would propose to adopt an

identical model to the one in the Czech Republic, as our countries have the same legislative foundations and are practically identical. There is no need to create different models or other specific legislation. A few minor amendments to existing regulations would be sufficient.

For European Union countries lacking dedicated mother-child detention facilities such as Italy's ICAMs, the absence of a tailored approach risks undermining both child welfare and the rehabilitative potential of incarceration. Establishing ICAM-like structures presents a pragmatic balance between executing justice and protecting the best interests of the child. These facilities offer a humane alternative to traditional imprisonment, reduce the trauma of family separation, and contribute to lower recidivism rates among mothers and yet they are still subject to the state and the penitentiary system. As such, investing in specialized, child-sensitive detention settings is not merely a policy option but a normative step toward aligning with European and international human rights standards.

## References

1. Abasgulyeva, K., Misenheimer, A., Ram, Sh., Tromboo, H., Wan Tsoi, K., (2024). *Prison in pink: The struggles of female incarceration*. Oxford: OxJournal Law.
2. Aebi, M. F., Cocco, E., (2023). *Council of Europe Annual Penal Statistics: Prison populations. SPACE I - 2023*. Available online: [http://www.antoniocasella.eu/nume/Aebi\\_space-i\\_2023\\_5june2024.pdf](http://www.antoniocasella.eu/nume/Aebi_space-i_2023_5june2024.pdf). Accessed 28th April 2025.
3. Associazione Antigone, (2023). *ICAM. Primo rapporto sulle donne detenute in Italia. Icam*. Available at: <https://www.rapportoantigone.it/primo-rapporto-sulle-donne-detenute-in-italia/category/icam/>. Accessed 25<sup>th</sup> April 2025.
4. Marietti, S. and coll., (2023). *Dalla parte di Antigone. Primo rapport sulle donne detenute in Italia*. Available at: [https://www.rapportoantigone.it/primo-rapporto-sulle-donne-detenute-in-italia/wp-content/uploads/2023/06/ANTIGONE\\_PrimoRapporto\\_Donne.pdf](https://www.rapportoantigone.it/primo-rapporto-sulle-donne-detenute-in-italia/wp-content/uploads/2023/06/ANTIGONE_PrimoRapporto_Donne.pdf). Accessed 30<sup>th</sup> April 2025.
5. Basalo García, A., (2017). The design of women's prisons: an architectural perspective on gender-specific needs and realities of female prisoners and main requirements for improvement. *Woman in Prison: The Bangkok Rules and Beyond*. doi: 10.1017/9781780684994.012.
6. Caban, B., (2025). Nová veľká väznica na Slovensku je čoraz nepravdepodobnejšia. Bola by drahá a väzňov je stále menej. *Pravda*. Available at: <https://spravy.pravda.sk/domace/clanok/739354-nova-velka-vaznica-na-slovensku-je-coraz-nepravdepodobnejsia-bola-by-draha-a-vaznov-je-stale-menej/>. Accessed 2<sup>nd</sup> May 2025.
7. Council of Europe, (2009). *Report to the Government of the Slovak Republic on the visit to the Slovak Republic carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 24 March to 2 April 2009*. Available at: <https://rm.coe.int/1680697da3>. Accessed 4. February 2025.
8. Council of Europe. (2011). *CPT standards*. Available at: <https://www.justice.gov.sk/dokumenty/2021/05/CPTstandards.pdf>. Accessed 21<sup>th</sup> March 2026

9. Council of Europe, (2019). *Report to the Slovak Government on the visit to the Slovak Republic carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 19 to 28 March 2018*. Available at: <https://rm.coe.int/168094fd71>. Accessed 4. Feb. 2025.
10. Council of Europe, Social, Health and Family Affairs Committee. Council of Europe. (2000). *Mothers and babies in prison*. Available at: <https://assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewHTML.asp?FileID=8953&lang=EN>. Accessed 22<sup>th</sup> March 2026
11. Council of Europe. Parliamentary Assembly. (2000) *Recommendation No. 1469 (2000) on Mothers and babies in prison*. Available at: <https://pace.coe.int/en/files/16821/html>. Accessed 28<sup>th</sup> March 2026
12. Council of Europe. Parliamentary Assembly. (2009) *Resolution 1663 (2009) on Women in prison*. Available at <https://pace.coe.int/en/files/17733/html>. Accessed 28<sup>th</sup> March 2026
13. European Agency for fundamental rights, (2021). *EU Charter of Fundamental Rights*. Available at: <https://fra.europa.eu/en/eu-charter>. Accessed 21<sup>st</sup> April 2025.
14. Fair, H., Walmsley, R., (2022). *World Female Imprisonment List*. 5<sup>th</sup> edition. London: ICPR – Institute for Crime & Justice Policy Research. Available at: [https://www.prisonstudies.org/sites/default/files/resources/downloads/world\\_female\\_imprisonment\\_list\\_5th\\_edition.pdf](https://www.prisonstudies.org/sites/default/files/resources/downloads/world_female_imprisonment_list_5th_edition.pdf). Accessed 20<sup>th</sup> April 2025.
15. Generálne riaditeľstvo Zboru väzenskej a justičnej stráže, odbor kontroly a organizačno-právnych činností, (2025). *Správa o počte a zložení obvinených a odsúdených nachádzajúcich sa v ústavoch na výkon väzby a ústavoch na výkon trestu odňatia slobody k 1. máju 2025*. Available at: <file:///C:/Users/kralikova1300173/Downloads/%C5%A0TATISTIKA%20za%20apr%C3%AD%202025.pdf>. Accessed 1<sup>st</sup> May 2025.
16. Giusti, L., (2024). *Cosa sono gli ICAM?* Available at: <https://www.giuridicamente.com/l/cos%E2%80%99e-l%E2%80%99istituto-dell%E2%80%99icam/>. Accessed 30<sup>th</sup> April 2025.
17. Kemény, I., (2021). Päťročné skúsenosti v zaobchádzaní s odsúdenými ženami. *Slovenské väzenstvo*. No. 2/2021. Available at: <https://www.zvjs.sk/api/file/file-preview/212a60a0-8fc7-451b-a9ba-dc25313b8299.pdf>. Accessed 24<sup>th</sup> April 2025.
18. Marešová, A., Kotulan, P., Martinková, M. (2009) *Výzkum prvovězných žen Sonda do problematiky žen v ČR v posledních cca 10 letech poprvé trestně stíhaných a poprvé vězných*. Institut pro kriminologii a sociální prevenci. Praha. ISBN 978-80-7338-082-Accessed 20<sup>th</sup> March 2026
19. Maruschak, L. M. – Bronson, J. – Alper, M., (2021). *Parents in prison and their minor children: Survey of prison inmates 2016*. US Department of Justice, Bureau of Justice Statistics Special Report.
20. Maťašovský, I., (2022). Charakter trestnej činnosti odsúdených žien vykonávajúcich trest odňatia slobody v Levoči. *Slovenské väzenstvo*. No. 1/2022 ISSN: 2644-5816. Available at: <https://www.zvjs.sk/sk/publikacie>. Accessed 20. April 2025.
21. Ministero della Giustizia, (2009). *La detenzione femminile – Supplemento ain n. ½ di Pena & Territorio*. Available at: [https://www.giustizia.it/giustizia/it/mg\\_1\\_12\\_1.page?facetNode\\_1=4\\_48&facetNode\\_2=3\\_1&facetNode\\_3=3\\_1\\_6&facetNode\\_4=0\\_2&facetNode\\_5=0\\_2\\_12&contentId=SPS60122&facetNode\\_6=3\\_1\\_6\\_0&previousPage=mg\\_1\\_12#toc3](https://www.giustizia.it/giustizia/it/mg_1_12_1.page?facetNode_1=4_48&facetNode_2=3_1&facetNode_3=3_1_6&facetNode_4=0_2&facetNode_5=0_2_12&contentId=SPS60122&facetNode_6=3_1_6_0&previousPage=mg_1_12#toc3). Accessed 28<sup>th</sup> April 2025.
22. Ministerstvo financií Slovenskej republiky, (2018). *Projekt novej väznice dostal od analytikov zelenú*. Available at: <https://www.mfsr.sk/sk/media/tlacove-spravy/projekt-novej-vaznice-dostal-od-analytikov-zelenu.html?forceBrowserDetector=pc>. Accessed 28<sup>th</sup> April 2025.
23. Nathan, S., (2005). *The European Market for Privatised Correctional Services: Developments and Implications*. Available at: <https://www.epso.org/sites/default/files/article/files/PSIRUprisonreport2005-2.pdf>. Accessed 28<sup>th</sup> April 2025.

24. Penal Reform International, (2021). *Short Guide to European Prison Rules*. Available at: [https://cdn.penalreform.org/wp-content/uploads/2021/09/PRI\\_Short-guide-to-the-European-Prison-Rules\\_WEB.pdf](https://cdn.penalreform.org/wp-content/uploads/2021/09/PRI_Short-guide-to-the-European-Prison-Rules_WEB.pdf). Accessed 21<sup>st</sup> April 2025.
25. Rimava.sk, (2024). *Budúcnosť výstavby novej väznice v Rimavskej Sobote je otázná. Ministerstvo zámer prehodnocuje*. Available at: <https://www.rimava.sk/spravy-z-regionu/buducnost-vystavby-novej-vaznice-v-rimavskej-sobote-je-otazna-ministerstvo-zamer-prehodnocuje/>. Accessed 28<sup>th</sup> April 2025.
26. Romža, S. 2020. Limity a perspektívy výkonu trestu odňatia slobody u dospelých odsúdených, v neštátnych ústavoch na výkon trestu odňatia slobody v Slovenskej republike, vzhľadom na právne a mimoprávne záruky zákonnosti. In Štát a právo. [online]. 2020, vol. 7, no. 4. pp. 262-278. Available at: <https://doi.org/10.24040/sap.2020.7.4.262-278>. ISSN 1339-7753. Accessed 29<sup>th</sup> March 2026
27. Šrámel, B. (2015). *Privatizácia väzenského systému: áno alebo nie?* In: Trestné právo, 2015, No. 1. p. 30-34. ISSN 1211-2860
28. United Nations, (2011). *United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders with their Commentary*. Available at: [https://www.unodc.org/documents/justice-and-prison-reform/Bangkok\\_Rules\\_ENG\\_22032015.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Bangkok_Rules_ENG_22032015.pdf). Accessed 24<sup>th</sup> April.
29. United Nations. General Assembly, (2019). *Global study on children deprived of liberty*. Available at: <https://docs.un.org/en/A/74/136>. Accessed 29<sup>th</sup> April 2025.
30. Vězeňská služba České republiky Věznice Světlá nad Sázavou. *Výkon vazby a trestu odnětí svobody matek nezletilých dětí*. Available at: <https://www.vscr.cz/organizacni-jednotky/veznice-svetla-nad-sazavou/sekce/vykon-trestu-odsouzenych-matek-s-detmi>. Accessed 21<sup>st</sup> April 2025.
31. Vězeňská služba České republiky Věznice Světlá nad Sázavou. *Vnitřní řád pro odsouzené Věznice Světlá nad Sázavou. VS - 242480-3/ČJ-2024-800030-VŘ*. Available at: <https://www.vscr.cz/organizacni-jednotky/veznice-svetla-nad-sazavou/sekce/vnitri-rady>. Accessed 1<sup>st</sup> May 2025.
32. Vězeňská služba České republiky Věznice Světlá nad Sázavou. *Základní informace*. Available at: <https://www.vscr.cz/organizacni-jednotky/veznice-svetla-nad-sazavou/sekce/zakladni-informace>. Accessed 21<sup>st</sup> April 2025.
33. Vláda Slovenskej republiky, (2019). *Odpoveď Vlády Slovenskej republiky na správu pre Vládu Slovenskej republiky o návšteve Slovenskej republiky, ktorú uskutočnil Európsky výbor na zabránenie mučenia a neľudského či ponižujúceho zaobchádzania alebo trestania (CPT) v dňoch 19. marca až 28. marca 2018*. Available at: <https://rm.coe.int/168094fd74>. Accessed 21<sup>st</sup> April 2025.
34. Vláda Slovenskej republiky, (2025). *Odpoveď Vlády Slovenskej republiky na správu pre Vládu Slovenskej republiky o návšteve Slovenskej republiky, ktorú uskutočnil Európsky výbor na zabránenie mučenia a neľudského či ponižujúceho zaobchádzania alebo trestania (CPT) v dňoch 28. novembra až 9. decembra 2023*. Available at: <https://rm.coe.int/1680b52d4a>. Accessed 21<sup>st</sup> April 2025.
35. Zbor väzenskej a justičnej stráže, (2022). *Koncepcia väznenstva Slovenskej republiky na roky 2020 až 2030*. Available at: <https://rokovania.gov.sk/RVL/Material/27142/1> Accessed 20. April 2025.
36. Zbor väzenskej a justičnej stráže, (2023). *Správa o plnení úloh vyplývajúcich z Koncepcie väznenstva Slovenskej republiky na roky 2022 až 2030 za rok 2022*. Available at: <https://rokovania.gov.sk/RVL/Material/28189/1>. Accessed 21. April 2025.
37. Zbor väzenskej a justičnej stráže, (2024). *Revidovaná Koncepcia väznenstva Slovenskej republiky na roky 2020 až 2030*. Available at: <https://www.slov-lex.sk/elegislativa/legislativne-procesy/SK/LP/2024/268/sprievodne-dokumenty?stadiumUuid=4b126368-b3f7-4019-b095-423543d9401c>. Accessed 25. April 2025.
38. Zbor väzenskej a justičnej stráže, (2024). *Výstavba väzenského zariadenia Rimavská Sobota – Sabová*. Available at: <https://www.zvjs.sk/sk/tlacove-spravy/vystavba-vazenskeho-zariadenia-rimavska-sobota-sabova>. Accessed 2<sup>nd</sup> May 2025.