

## THE USE OF COMPULSORY MEASURES OF MEDICAL CHARACTER (CMMC) IN LATVIA - PROBLEMS AND SOLUTIONS

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### Summary

The authors in their report give a description of the types of CMMC in Latvia. Particular attention is paid to the problem of carrying out psychiatric expertise in Latvia, as well as to the peculiarities of legislation that can cause inaccuracies in conducting and monitoring CMMC. As one of the main problems is identified CMMC in outpatient practice: how are CMMC controlled, who is responsible for control, cooperation between doctor and law enforcement agencies, financing issues.

### Introduction

The Organization of Psychiatry and Forensic Psychiatry in Latvia is provided according to territorial principle. The main Forensic psychiatric institution is Riga Center for Psychiatry and Narcology and 4 mental hospitals outside Riga. Hospital care provided six mental hospitals and two psychiatric wards in other hospitals. Outpatient assistance for mental and behavioral disorders in 2015 as a whole received 119,772 unique patients, 6.1% of Latvian population<sup>1</sup>.

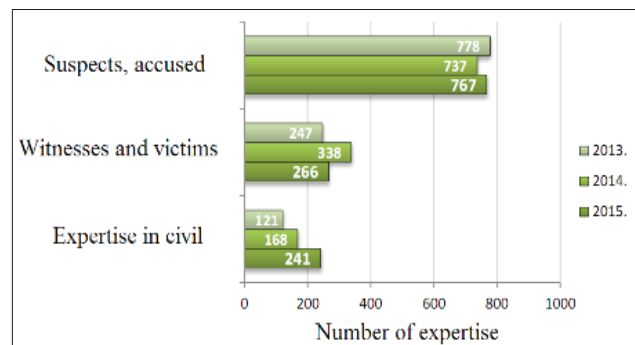


Fig. 1.

Table 1.

	2013.	2014.	2015.
Treatment in a specialized psychiatric hospital (ward) with security guards	13	32	20
Treatment of the general type of psychiatric hospital (ward)	97	86	81
Outpatient treatment medical facility	61	81	85
Medical compulsory measures are not recommended	22	33	37
Total	193	232	223

Total number of Forensic expertise count (including integrated and psychological) in different contingent groups in 2013 to 2015th per year is with a tendency to growth<sup>2</sup> (Fig. 1).

This is one of the reasons for the formation of impressive queues for the expertises. The reason for the formation of queues for the expertises is also the insufficient number of Forensic experts in Latvia.

At this stage of development of forensic psychiatry in Latvia, one of the main problems is the use of compulsory measures of medical character (CMMC). For this reason, a report was prepared reflecting the main problems and possible solutions. The authors present the short presentation of the report in this article.

### Article

The Criminal Law in Latvia provides following compulsory measures of medical nature:

- 1) out-patient medical treatment in a medical institution;

<sup>1</sup> Mental health Latvian 2015, Disease Prevention and Control Center, Riga, 2016.

<sup>2</sup> Review of the forensic examination concerned. Disease Prevention and Control Center, 2016.

2) medical treatment of a general type in a psychiatric hospital (ward);

3) medical treatment under guard in a specialized psychiatric hospital (ward).

Suggested compulsory measures in the case of suspects and defendants (limited sanity or insanity)<sup>3</sup> (Table 1).

Legal qualification of the crime, circumstances of the committing criminal offence, extent and nature of the detriment are not taken into account choosing the compulsory measures of medical nature.

What kind of compulsory medical measure apply to a person is determined on the basis of the type of mental disorder detected to a person, how such mental disorders may influence a person's behavior and what level of danger such health problems can cause<sup>4</sup>.

The economic situation in the country requires that such compulsory measure should be applied that cost less, unless person's state of health allows that. Therefore, more intensive out-patient treatment in a medical institution is applied. From the social point of view, out-patient treatment as opposed to inpatient treatment is socially more liberal, since it is implemented as a systematic monitoring of a person at physician psychiatrist, without inserting him/her in a hospital.

Significant changes in applying of compulsory measures of medical nature and the choice has to be introduced by the Concept of Criminal Penalties, the implementation of which was for the years 2009 to 2010. It provides that the group of compulsory measures provided in the Criminal Law should be supplemented with compulsory measures of public safety and in relation to compulsory measures of medical nature provide following compulsory measures of public safety:

- registering of the person in the register of psychiatric medical institutions;
- an obligation on a regular basis, like once per month to consult with a psychiatrist, every six months, to consult with specialists - a psychologist, addiction specialist, sexologist, social worker, etc. and under the expert guidance to participate in special rehabilitation programs or to receive medical assistance;

- institutionalization into a social rehabilitation center.

The main laws on which forensic psychiatric examinations in Latvia (Legal acts) are based:

- Criminal Procedure Law
- Penal law
- Civil Law

- Regulation of Cabinet of Ministers

- Forensic Expert Law

- Expertise technologies

The following are excerpts from the laws, which are the most problematic at the moment.

Basis - Criminal Procedure Law (latest update 15 January 2015):

- Section 607. Grounds for the Revocation or Modification of Compulsory Measures of a Medical Nature

- (1) If the person for whom compulsory measure of a medical nature has been specified has been cured or his or her health condition has improved, or it is detected that the health condition of such person has changed otherwise insofar that the person is no longer dangerous to the society, the head of the medical treatment institution, in which the relevant person is being treated, shall, on the basis of the findings of a physician – specialist or a committee of physicians, propose for the court to decide the matter regarding the revocation of the specified compulsory measure of a medical nature or modification to a less restricting measure.

- (2) If a person does not carry out the compulsory measure of a medical nature specified for him or her, the head of the medical treatment institution, in which the relevant person is being treated, shall, on the basis of the findings of a physician – specialist or a committee of physicians, propose for the court to decide the matter regarding modification of the specified compulsory measure of a medical nature to a more restricting measure.

- (3) A person for whom compulsory measures of a medical nature have been specified, as well as the lawful representative or other relative of such person may submit to a court a request to revoke or modify the specified compulsory measure of a medical nature. In such cases, the court shall request from the relevant medical treatment institutions findings regarding the health condition of such person in regard to whom the request has been submitted.

- (6) The court of first instance that controls the execution of the decision shall, upon its initiative, examine the matter regarding the revocation or modification of such decision, if, within one year after determination of the compulsory measure of a medical nature or the last examination of the matter regarding revocation or modification thereof, a request or proposal to revoke or modify the specified compulsory measure of a medical nature has not been submitted.

Section 608. Procedures for the Revocation or Modification of Compulsory Measures of a Medical Nature:

- (1) A matter regarding the revocation or modification of compulsory measures of a medical nature shall be decided by the court of first instance, which controls the execution of the decision, within 14 days from the day of receipt of

<sup>3</sup> Review of the forensic examination concerned. Disease Prevention and Control Center, 2016.

<sup>4</sup> Application of the Compulsory Measures of a Medical Nature in the Criminal Procedure, Legal, Economical and Social Aspects of their Choice, Vita Zukule Paul Stradinsh University, Latvija, 2015.

the findings of a physician – specialist or a commission of physicians, or a court psychiatry expert.

• (2) A public prosecutor, defence counsel, and the representative of the person, as well as person himself or herself shall participate in a court session, unless according to the findings of a physician (expert) it should not be permitted or is not recommended due to the health condition of the person.. A representative of the relevant medical treatment institution, the person who proposed examination of the matter, and, if necessary, also the person for whom the compulsory measure of a medical nature has been specified shall be summoned to the court session.

CMMC depending on the choice of treatment benefit:

• CMMC determination and application is not intended to personal punishment for a criminal offense.

• Personal discretion restriction not CMMC goal, but the side effect caused by CMMC measures.

• CMMC applied to reduce persons suffering from mental disorders or diseases, mental health improvement and restoration

• Compulsory measures of medical character should not apply to persons who at the nature of the offense and his mental condition are not dangerous to the public

• Primary role is person health

• Choose the least restrictive means by which CMMC goal will be achieved

• CMMC on the one hand is geared to individuals with mental health disorders health improvement, on the other hand - includes protection of the public from such persons offenses

Pay attention to:

• Person's mental state

• Concomitant illness

• Social and psychological aspects

• Prognosis

• The financial burden (Cost of outpatient treatment is about 14% of the cost of inpatient treatment of the same patient)<sup>5</sup>

Further, it is worthwhile to examine in more detail which problems and questions are caused by what circumstance (law, inaccuracy or other circumstances). It is necessary at the legislative level to draw attention to some inaccuracies in the description of laws that entail difficulties for the work of experts and for ensuring CMMC.

• *Person, after the committed offense and the nature of his mental state is dangerous to the public*

What does it mean danger to the public? Thefts from shops are dangerous? Shouldn't be greater emphasis on mental health improvement as a goal?

• *If a person does not carry out the compulsory measure, the head of the medical treatment institution, shall propose for the court to decide*

In what way it is proposing? When suggests?

• *Also the person for whom the compulsory measure of a medical nature has been specified shall be summoned to the court session*

Doctor necessarily come to the courts, even if that day is irrevocable work? No one pay for it?

Some solutions to problems in the process of...:

1) March 30, 2017 was announced the Ministry of Health developed by the Cabinet of Ministers draft, which requires the court provided information content about the person who avoid CMMC.

The doctor will be obliged to write to the court about such persons. If it was outpatient treatment - then be notified within 3 months, inpatient - not later than one month.

2) Payment actuality. Latvian Psychiatric Association's initiative has been proposed project design. Psychiatrists, hopefully, will be able to receive payment for participation in the courts, but it «lies in the future».

Yet open issues...:

• Who will control CMMC failure - a doctor, a court? When will the new set of rules starts?

• What could be the payment of a "court work" (court attendance)?

• It will only be paid for attendance at court or for necessary document preparation?

• Payment for the consultation of CMMC outpatients will be greater extent than "ordinary" outpatients?

The answers to these questions are not yet available, it is a matter of time and initiative.

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**PRIVERČIAMŪJŪ MEDICININIŲ PRIEMONIŲ  
TAIKYMAS LATVIJOJE - PROBLEMAS IR  
SPRENDIMAI**

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Raktažodžiai: teismo psichiatrija, Latvija, priverčiamosios medicininės priemonės, psichiatrinų medicinos įstaigų registras, psichiatrinė ligoninė, teisės aktai, baudžiamojo proceso teisė, problemos ir sprendimai.

Santrauka

Savo pranešime autoriai apibūdina priverčiamųjų medicinos priemonių taikymą Latvijoje. Ypatingas dėmesys skiriamas psichiatrijos ekspertizėms Latvijoje, taip pat teisės aktų ypatumams,

kurie gali sukelti netikslumų vykdant priverčiamąsias medicininės priemonės. Vienos svarbiausių problemų yra priverčiamųjų medicininų priemonių įdiegimas į ambulatorinę praktiką: kaip yra taikomos priverčiamosios medicininės priemonės, kas yra atsakingi už jų kontrolę, bendradarbiavimas tarp gydytojo ir teisėsaugos institucijų, finansavimo klausimai.

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