

Third Commission of Study

Questionnaire about 2006

MEXICO

OF WAY THE CRIMINAL'S SYSTEMS TREAT WITH THOSE WHO ARE PSYCHICALLY SICK OR PSYCHICALLY DISABLED

How it(he,she) treats his(her,your) criminal system those populate whom psychically I fall ill or are psychically disabled, but the one who is accused of a crime? Especially, 1. There are there the rules that stipulate that someone who has a very serious mental disease or the disadvantage cannot be tried(meant) by the process of ordinary criminal court?

RESPONSE: IF, IN MEXICO I KNOW IT(HE,SHE) IS CALLED HIM A TREATMENT OF UNATTRIBUTABLE OR OF ATTRIBUTABLE DIMINISHED.

In Mexico the Measures exist for this type of cases for unattributable.

Those who exclude them of committing illicit, when to the moment to realize the typical fact, the agent does not have the aptitude to understand(include) the illicit character of that one or of behaving in agreement with this comprehension, by virtue of suffering mental disorder or intellectual retarded development, unless the subject had provoked his(her,your) mental disorder for in this condition(state) to commit the fact, in whose(which) case will answer for the typical result produced in such a situation.

Or in case the capacity to which the previous paragraph refers is considerably diminished.

The juzgador will arrange the measure of applicable treatment, already be in internment or at liberty, previously the penal respective procedure. In the first case, the unattributable one it will be hospitalized(sent inland) in the corresponding institution for his(her,your) treatment during the time necessary for his(her,your) treatment(healing), without exceeding seventy years.

If it is a question of mental transitory disorder there will be applied the measure to which the previous paragraph refers if it(he,she) needs it, in opposite case, will put on him in absolute freedom.

For the imposition of the measure to which this chapter refers, there will be needed that the conduct of the subject is not well-taken(valid).

In case of persons with intellectual retarded development or mental disorder, the safety measure will have therapeutic character in place adapted for his(her,your) application.

It can only prohibited to apply the safety measure in institutions of preventive imprisonment or of execution of penal sanctions, or his(her,your) annexes.

1. If it(he,she) is like that, is it the decision that he(it) cannot be hospitalized(sent inland), done by doctors or judges?

RESPONSE: Since already I mention in the previous article, in case the unimputability is permanent, the juzgador will arrange the measure of applicable treatment, already be in internment or at liberty, previously the penal respective procedure. For before mentioned the Judge must analyze the psychiatric expert judgments(opinions) times, already there comes a psychiatric previous opinion of the Agency of the Attorney General's office, the Judge can send to that other one is realized, to verify the disease or to certify that it(he,she) does not possess(does not rely on) the aptitude to understand the illicit one

What the test(proof) must be applied considering to be that question?

RESPONSE: The expert psychiatric one, in medicine and in psychology.

What happens to a person who commits a serious crime, but cannot it(she) be hospitalized(sent inland) by an ordinary criminal court?

RESPONSE: She will Have to be hospitalized(sent inland) in a hospital, since it can only prohibited to apply the safety measure in institutions of preventive imprisonment or of execution of penal sanctions, or his(her,your) annexes.

There is there any procedure of available court to decide if the person of defendant should do the supposed(alleged) act?

RESPONSE: It(He,She) delivers of unattributable to whom legally it(he,she) corresponds(fits) take charge of them. The judge or in his(her,your) case the competent authority, will be able to deliver the unattributable one to his(her,your) relatives or the persons who in conformity with the law have the obligation to take charge of him(it), always and when they repair the hurt(damage), bind to take the measurements adapted for the treatment and alertness of the unattributable one and guarantee to satisfaction of the judge, the fulfillment of the carried away obligations.

This measure will be able to be revoked when it(he,she) is stopped fulfilling by the carried away obligations.

1. Assume that the psychically sick one or the mental patient is not so sick that he(it) cannot be tried(meant) in an ordinary court and to find to be a culprit.

RESPONSE: In this case it is a question of the Treatment for attributable diminished. If the capacity of the author only is considerably diminished, for intellectual retarded development or for mental disorder, in the opinion of the juzgador there will be imposed he of a fourth part of the minim up to the half of the maxim of applicable sorrow(sentences) for the committed crime or the corresponding measures of safety, or both, bearing in mind the degree of unimputability, in conformity with a medical certificate rested(relied) on the judgments(opinions) expressed(emitted) for when fewer two experts in the matter.

What power has it(he,she) his(her,your) system to send for the treatment in the hospital or in the community for his(her,your) disease rather that to punish it for sending to the prison?

RESPONSE: In case of persons with intellectual retarded development or mental disorder, the safety measure will have therapeutic character in place adapted for his(her,your) application. Since it can only prohibited to apply the safety measure in institutions of preventive imprisonment or of execution of penal sanctions, or his(her,your) annexes.

What tests(proofs) need for such a (asked) order? If such a criminal is sent to the hospital rather that to the prison, for how much time is stopped he(it) in the hospital?

RESPONSE: The duration of treatment for the unattributable one, in no case will exceed the maximum of the custodial sentence that would be applied by the same crime to attributable subjects.

Concluded the time of the treatment, the competent authority will deliver the unattributable one to his(her,your) relatives in order that they take charge of him(it), and if it(he,she) does not have relatives, will put it at the disposal of the authorities of health or welfare institution, in order that these proceed in conformity with the applicable laws.

Is his(her,your) liberation decided by doctors or judges? If his(her,your) mental health recovers, can he(it) be tried then in the process of ordinary court? **RESPONSE:** In this case there will be realized the Modification or conclusion of the measure. The competent authority will be able to resolve on the modification or conclusion of the measure, considering the needs of the treatment, which they will credit by means of periodic reviews, with the frequency and characteristics of the case.

1. There is any scheme of turning aside the psychically sick or psychically disabled people who offends of the process of criminal court? Since they work really there?

Not in méxico if the person is ininputable or makes the law ill it(he,she) marks:

In case of persons with intellectual retarded development or mental disorder, the safety measure will have therapeutic character in place adapted for his(her,your) application.

It can only prohibited to apply the safety measure in institutions of preventive imprisonment or of execution of penal sanctions, or his(her,your) annexes.

1. That goes on to a fulfillment of a criminal's penalty of imprisonment that becomes seriously psychically sick or handicapped persons while in the prison?

RESPONSE: The law of execution of penal sanctions marks that in case of the unattributable ones:

That the Executing Authority will make fulfill the safety measures imposed on the unattributable ones in internment or in externación.

That the modification or conclusion of the measure of well versed safety, the Executing Authority will realize technical when and scientific it(he,she) is advisable to improve the attention of the sanctioned one, staying under the supervision that the same one establishes.

The law of execution of penal sanctions marks that in case of the psychiatric patients:

The sentenced one that has been diagnosed as psychiatric patient, will be located immediately in the Institution or area of rehabilitation Psicosocial of the Penitentiary System of the Federal District.

The psychiatric patients will be able to be day-schools provisionally under alertness of the Executing Authority when it(he,she) assembles(brings together) the following requirements:

I. Rely on psychiatric valuation that it(he,she) should establish a suitable level of rehabilitation and the existence of a good control psicofarmacológico.

The II.nd Relies on technical valuation that it(he,she) should determine a suitable alertness and familiar(family) containment, as well as a low social risk.

The III.rd Relies on legal person in charge that it(he,she) should subject itself to the obligations that the executing authority establishes.