International Scientific Conference

“Towards a Better Future: Gender Equality, Cyberspace, and Law”

Conference Proceedings

Faculty of Law - Kicevo

Kicevo, 2024

CIP - Каталогизација во публикација
Национална и универзитетска библиотека "Св. Климент Охридски", Скопје

305-055.1/.2(062)
355.02:004(062)
34(062)

INTERNATIONAL scientific conference “Towards a better future: gender equality, cyberspace, and law” (2024 ; Bitola)
International scientific conference “Towards a better future: gender equality, cyberspace, and law” Bitola, 18.10-19.10.2024 : conference proceedings / [editors Svetlana Veljanovska, Angelina Stanojoska]. - Bitola : "St. Kliment Ohridski" University, Faculty of law - Kicevo, 2024. - 239 стр. : граф. прикази ; 23 см

Фусноти кон текстот. - Библиографија кон трудовите

ISBN 978-608-4670-30-8

а) Родова еднаквост -- Собири б) Сајбер безбедност -- Собири в) Право -- Собири

COBISS.MK-ID 64908293

International Scientific Conference

“TOWARDS A BETTER FUTURE: GENDER EQUALITY, CYBERSPACE, AND LAW”

Bitola, 18.10-19.10.2024

Conference Proceedings

Publisher
University “St. Kliment Ohridski”- Bitola, Faculty of Law - Kicevo

For the Publisher
Prof. Dr.sc Svetlana Veljanovska, Dean of the Faculty of Law – Kicevo

Address of the Publisher
Rudnicka BB
6250 Kicevo, Republic of North Macedonia
+ 389 45 220 267
http://pfk.uklo.edu.mk

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PREFACE

Respected,

As Dean of the Faculty of Law -Kicevo and President of the Conference Organizing Committee, I have the honor and pleasure to greet you at the beginning of our annual international conference under the motto "TOWARDS A BETTER FUTURE: GENDER EQUALITY, CYBERSPACE, AND LAW.

Why did we choose this topic?

Our country is part of the international community that is increasingly dealing with issues that are of interest to all citizens. I believe we all agree that equality of rights is a matter that is absolute and on which opinion is not divided. Equality and opportunities to strengthen the position of women in international documents is at an enviable level.
Along with this issue, we also treat the rise of technological development, which contributes to the visibility of problems in terms of equal opportunities, and law as science and practice is the connecting link, but also for finding appropriate solutions to overcome perceived problems in terms of finding and sanctioning violators of individual rights in cyberspace and social networks.
I believe that at this conference, in our papers, we will offer thoughts, analysis and proposed solutions that, as scientists, are the tools we can offer to our society. I invite you to carefully follow our presenters and our participants in the panel discussions on the topics relevant to the conference.
In this way, we will make our contribution to global partnership and show that science should get the primacy in the country.
The idea of peace, good governance and sustainable economic and social development should be the mainstay in every society that works for the benefit of its citizens.
I hope that we have a successful conference and that the conclusions that will emerge from the presentations and discussions at it will be a motive for further scientific engagement of the authors. I also think that the wider social community must realize the role of science and use the benefits of such gatherings where we discuss as researchers and theoreticians.

Prof. Dr.sc. Svetlana Veljanovska
Dean of the Faculty of Law –Kicevo

Kicevo, 2024

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Review Scientific Article
UDK 352.077:305-055.1/.2(497.7)

ADVANCING GENDER EQUALITY: RECOMMENDATIONS FOR POLICIES AND INITIATIVES OF LOCAL GOVERNMENT UNITS

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A B S T R A C T

Gender equality is a fundamental principle that is the basis of a just and progressive society. Municipalities play a key role in fostering an environment where all individuals, regardless of gender, can thrive and contribute to their fullest potential. Local self-government units in the Republic of North Macedonia are an important factor in the process of ensuring equal access to opportunities and services for women and men in municipalities their theritory.

The purpose of this paper is to provide recommendations for future municipal actions, based on an analysis of public opinion (baseline) in the field of equal opportunities. It presents a comprehensive set of recommendations to guide municipalities in enhancing policies and practices related to gender equality. By addressing key areas such as education, employment, health and community engagement, the municipality can create an inclusive and equitable environment for everyone.

Keywords: gender equality, municipalities, policy reccomendations

1. INTRODUCTION

Gender inequality pervades all aspects of social and economic life, and affects countries at all levels of development (OECD, 2017). The Council of Europe's "Gender Equality Strategy 2018-2023" highlights the importance of local governments in promoting gender equality through public service delivery, policy formulation, and ensuring equal participation in decision-making processes (Council of Europe, 2018).

Municipalities are uniquely positioned and are key actors in the process of fair, inclusive, efficient and effective governance. In building a society based on equality, it is crucial that local self-government units fully take into account the gender dimension in their policies, the organization of their work and practices. Municipalities know best the needs and context of the community, are best positioned to respond to gender inequalities, represent the main channel for the delivery of services to citizens and play a key role in socio-economic development. (Reactor, 2019). Local government units are closest to the everyday realities of their citizens and are thus in a prime position to respond to gender inequalities in a targeted and meaningful way. They understand the specific needs and challenges faced by women and men in their communities, making them essential actors in implementing tailored solutions that promote gender equality (UN Women, 2020). A more gender-balanced workforce leads to increased innovation, productivity, and competitiveness, which benefit the entire community (OECD, 2017).

While progress has been made in gender equality in North Macedonia, challenges remain. The 2022 Gender Equality Index for the country stands at 64.5 out of a possible 100, an improvement of 2.5 points since 2019 (State Staristical Ofice, 2022). This indicates that, while there have been strides in closing the gender gap, there is still significant work to be done to achieve full gender parity. Local government units must continue to be at the forefront of this effort, implementing policies that not only address immediate inequalities but also foster long-term, systemic change.

By adopting gender-responsive budgeting, promoting equal representation in decision-making bodies, and supporting initiatives aimed at women's empowerment, municipalities can drive forward the gender equality agenda. Based on a public opinion (baseline) in the area of equal opportunities, an analysis and recommendations for future measures have been prepared. The recommendations outlined in this paper aim to provide local governments in North Macedonia with actionable strategies to advance gender equality, ensuring that progress is sustained and that every citizen, regardless of gender, can contribute to and benefit from their community's development.

2. LEGAL FRAMEWORK FOR GENDER EQUALITY OF LOCAL SELF-GOVERNMENTN UNITS

The obligations and competences of the municipalities regarding the incorporation of the gender concept in their arrangement and implementation of plans, programs and budgets are regulated in several key laws:

- Law on Local Self-Government (Administration Agency, 2002),
- The Law on prevention and protection against discrimination (Ministry of Labor and Social Policy, 2019),
- Law on Equal Opportunities for Women and Men (Ministry of Labor and Social Policy, 2017),
- National Strategy for Gender Equality (Ministry of Labor and Social Policy, 2021),
- Law on Financing of Local Self-Government Units (Ministry of Finance, 2009),
- Strategy for Introducing Gender Responsive Budgeting (Ministry of Labor and Social Policy, 2012),
- Other documents.

Gender-responsive governance is reflected in several segments of the work of a municipality (Reactor, 2019):

✓ ***Gender-Inclusive Participatory Policy:*** The municipality should ensure that both women and men are involved in all phases of policy creation, from formulation to implementation and evaluation. Policies at the local level, especially those for local development, should explicitly include gender equality in their goals. This involves analyzing various policy issues—such as infrastructure, health, public safety, economic development, and education—to determine the different needs and priorities of women and men.

✓ ***Funding for Gender Equality:*** Effective implementation of gender-related legislation and policies requires financial resources to cover the costs of interventions as well as the staff needed to coordinate them. Participatory initiatives that are gender-sensitive, such as gender-responsive budgeting, are crucial for determining priorities in the municipal budget.

✓ ***Institutional Framework for Gender-Responsive Governance:*** Local self-government units need professional staff who understand the importance of incorporating a gender perspective. These staff members should lead the development of gender policies and programs that reflect the specific needs of women in the municipalities.

✓ ***Collection, Processing, and Analysis of Gender-Disaggregated Data:*** The creation of any policy begins with the collection and analysis of data to identify policy priorities and revise strategies according to the current

needs of citizens and communities. If the collected statistics are not disaggregated by gender, it becomes impossible to identify the specific problems and needs of women and girls, and to develop effective policies to address them.

✓ ***Planning of (Gender) Activities at the Local Level:*** National policies serve as an important guide for socio-economic growth and development at the national level, but they cannot encompass the specific realities and conditions of citizens in different municipalities. Decentralized governance gives local governments the mandate to develop local policies that reflect the specific socio-economic conditions of their municipalities. Local action plans for gender equality—developed based on evidence and validated through consultations with women and men in the municipality—should be used to develop interventions that address gender-specific inequalities in communities.

✓ ***Protection of Women's Rights at the Local Level:*** All the above efforts for gender-responsive governance will fail if women's rights are not first respected, protected, and fulfilled within the community. Special mechanisms are needed to address issues such as gender-based violence, one of the most widespread human rights violations, which predominantly affects women and girls.

3. RESEARCH METHODOLOGY

The research conducted has the following objectives:

- To determine the level of education and awareness on gender equality among the population of the municipality of Bitola.
- To identify significant factors and key challenges in the area of gender equality within the municipality of Bitola
- To determine priority areas for action to improve gender equality in the municipality of Bitola.
- To present identified indicators of gender equality in the municipality and provide recommendations for future steps in this field.

With the intention of determining the attitudes, problems, priorities, and challenges in the area of equal opportunities in the municipality of Bitola, a structured questionnaire was prepared that included both closed and open-ended questions to gain deeper insights within project activity for conducting survey of public opinion (baseline) in the area of equal opportunities (Tosheva & Angeloska-Dichovska, 2024). It was distributed electronically (via social media and email) to 2,000 respondents from the municipality of Bitola, with 930 responses received. To achieve broader coverage, the research team collaborated with other organizations, institutions, and partners

in distributing the questionnaire, which was also made publicly available on social media.

The survey questionnaire was structured into four parts, aligned with the research objectives:

1. General and socio-economic characteristics of the respondents.
2. Attitudes towards gender equality.
3. Local problems and priorities.
4. Access to services.

The questionnaire was anonymous, and the responses were analyzed using survey administration software - Google Forms and Microsoft Excel. The survey was conducted between March and September 2023. The analysis of the collected data was carried out using analytical methods, including description and synthesis.

4. ANALYSIS OF THE RESULTS

In the public opinion survey (baseline) on equal opportunities in the municipality of Bitola, a total of 930 respondents of both sexes were included: 486 (52.3%) male respondents and 444 (47.7%) female respondents. Of the respondents, 41.9% belong to the age category of 18-29 years old, 26.5% to the 30-39 age category, 21.9% to the 40-49 age category, 7.1% to the 50-59 age category, and 2.6% are over 60 years old. In terms of ethnicity, 91.6% of the respondents identified as Macedonian, with the rest being of Albanian, Roma, Turkish, Vlah, and Serbian ethnicity.

Regarding education levels, 1.3% had primary education, 23.9% had secondary education, 54.2% had a faculty education, 13.5% held a Master's degree, and 7.1% held a Doctoral degree. As for employment status, 25.5% of respondents were students, 8.4% were unemployed, 29.7% were employed in the private sector, 18.7% were employed in the public sector, 6.5% were self-employed, 3.2% worked in the civil sector, and 7.8% were part-time employees.

Regarding monthly income, 21.3% reported having no income, 17.4% had up to 20,000 denars, 33.6% had between 20,000 and 40,000 denars, 14.8% had between 40,000 and 60,000 denars, 5.8% had more than 60,000 denars, and 7.1% preferred not to disclose their income.

Most respondents (65.2% or 606 people) understand "visible gender equality" as equal representation and participation of both sexes in all spheres of public and private life. For about 12% (or 108 respondents), their understanding of "visible gender equality" aligns more closely with accepting and equally valuing the differences between women and men and the different roles they play in society.

According to respondents from the municipality of Bitola, gender equality is mostly represented in the following areas:

1. Education and professional development (79.4% or 738 respondents)
2. Health and social protection (50.3% or 468 respondents)
3. Use of public products and services – consumer rights (47.7% or 444 respondents)
4. Public information and media (46.5% or 432 respondents)
5. Show business (45.2% or 420 respondents)

The data analysis suggests a need for more activities and measures to promote gender equality in the following areas: labor relations and employment (23.9%), politics (28.4%), family (29.0%), economic and ownership relations (31.0%), and culture and sport (38.7%).

As the primary factor contributing to the existing unfavorable social position of women and men, 40.6% of respondents (or 378 people) cited the population's level of awareness and education. Systematic discrimination, inequality caused by socio-cultural circumstances, inequality rooted in historical circumstances, and structural gender inequality were also identified as factors with lesser influence.

The analysis confirms that three key factors or conditions can contribute to gender equality: education, legal regulations ensuring equal rights, and media literacy.

Respondents from the municipality of Bitola are not sufficiently familiar with the municipality's efforts in gender-equal budgeting. More than half of the respondents (57.4% or 534) were unaware of any gender-equal budgeting activities in the municipality, 23.2% (216 respondents) said they did not recognize such activities, and only 19.4% (180 respondents) acknowledged their existence.

The analysis also highlights that educating the population about gender equality (47.7% or 444 respondents) represents the highest priority for achieving gender equality in Bitola. Although education is identified as the most crucial factor, respondents also emphasized the importance of addressing human rights and gender equality in politics, economics, and gender-based violence, as well as creating and implementing local and public policies and strengthening institutions and organizations.

More than two-thirds of respondents (69% or 642) agree that women should be more represented in councils and local decision-making processes to promote greater gender equality. In terms of sector-based representation, respondents did not report significant differences between sectors. The greatest gender equality and representation is perceived in the public sector (38.7% or 360 respondents), followed by the private sector (33.5% or 312 respondents), and the civil sector (22.6% or 210 respondents).

Additionally, 28.4% (or 264 respondents) confirmed that they had witnessed some form of gender-based domestic violence. While more than half of the respondents (60% or 558) had not observed gender-based mobbing in the workplace in Bitola, a significant number (40% or 378) reported witnessing such incidents. The percentage of mobbing against women (18.1%) was higher than that against men (2.6%). Most respondents affirmed that the gender of the person performing a task has no impact on the quality of their work.

When asked, "What is the biggest problem you face as a member of one of the sexes?" respondents highlighted several issues, including inequality, stereotypes, discrimination, public awareness, sexual harassment, mobbing, society's outdated perceptions of gender differences, non-acceptance, family rights, prejudice, domestic violence, low education, discrimination regarding pregnancy and maternity, lack of promotion, non-recognition of maternity leave and its negative impact on career development, discrimination in performing physically demanding tasks, and limited opportunities for expressing opinions.

The research data confirms the need for actions to raise awareness of gender equality. Only 27.7% (or 258 respondents) had participated in activities aimed at raising awareness of gender equality and recognizing the specific needs of women and men in the workplace. On the other hand, nearly 70% (or 648 respondents) expressed interest in being informed about and invited to activities (such as training, seminars, round tables, and forums) organized by the municipality of Bitola to promote gender equality.

Almost 75% (or 696 respondents) believe that education is necessary to ensure equal opportunities for women and men. A portion of respondents (19.4% or 180 people) believe that certain social habits are difficult to change. On a positive note, only 5.8% (or 54 respondents) expressed doubt that education could provide equal opportunities for women and men.

Table 1. The key findings from the public opinion survey on equal opportunities of the local government

Key research findings
Understand "visible gender equality" as *equal representation and participation of both sexes in all spheres of public and private life.*
Gender equality *is mostly represented in the following areas*: education and professional development; health and social protection; use of public products and services – consumer rights; public information and media and show business.
A *need for more action* in the following area: labor relations and employment; politics, family, economic and ownership relations, and culture and sport .
Primary factor for current unfavorable position: level of awareness and education.

Three *key factors can contribute to gender equality*: education, legal regulations ensuring equal rights, and media literacy.
Majority of the respondents were *unaware of any gender-equal budgeting activities* in the municipality.
Women should be more represented in councils and local decision-making processes to promote greater gender equality.
The percentage of *mobbing against women was higher* than that against men
The gender of the person performing a task has no impact on the quality of their work
There is an *interest* in being informed about and invited to activities (such as *training, seminars, round tables, and forums*) organized by the municipality to promote gender equality.

The key findings from the public opinion survey (baseline) on equal opportunities of the local government (Municipality of Bitola) are summarized in Table 1.

5. RECOMMENDATIONS FOR MUNICIPAL POLICIES AND INITIATIVES

Ensuring gender equality in the workplace is fundamental to creating a fair and just society. Municipalities, as local authorities, have a key role to play in this process. In the area of employment, there are several critical actions that municipalities can take to promote gender equity. These include adopting equal pay policies, implementing flexible working arrangements, and establishing gender-neutral practices in hiring and promotion. Each of these initiatives can have a significant impact on reducing disparities between genders and ensuring that all individuals have equal opportunities in the workforce.

One of the most pressing issues in employment is the gender pay gap, which persists in many sectors. To address this, municipalities should adopt and implement policies in institutions under their authority that ensure equal pay for equal work. Regular reviews of salary structures should be conducted to identify any existing gender pay disparities. By thoroughly examining compensation systems, municipalities can ensure that wages are fair and reflective of an individual's qualifications and experience, rather than their gender. Furthermore, transparency in salary structures is essential to promoting accountability. When pay scales are clear and accessible, it becomes easier to detect inequalities and take corrective actions. Municipalities can lead by example, setting a standard for other employers within their jurisdiction to follow.

In addition to addressing pay equity, municipalities should advocate for and implement policies that support flexible working arrangements. The

traditional work model, with rigid hours and in-person requirements, often presents challenges for individuals balancing work with family responsibilities—challenges that disproportionately affect women. To alleviate these burdens, policies should be designed to accommodate diverse family structures and caregiving responsibilities. Parental leave policies should be inclusive and supportive of all caregivers, not just mothers, to promote shared responsibility in family care. Additionally, telecommuting options should be made available, particularly in cases where in-person work is not essential. This flexibility can help employees manage their professional and personal lives more effectively, reducing stress and improving productivity.

The availability of accessible and high-quality public services for the care of preschool-aged children is another crucial component of enabling flexible work arrangements. Municipalities should ensure that such services are not only available but affordable and of high quality. By providing reliable childcare options, municipalities can support parents, especially mothers, in remaining active participants in the workforce, thereby reducing the likelihood of career disruptions due to caregiving responsibilities.

Another important area of focus is the elimination of gender bias in hiring and promotion processes. Municipalities should evaluate their recruitment and promotion practices to ensure that they are free from bias and promote fair representation of all genders. This evaluation should include a thorough review of job descriptions, interview practices, and selection criteria to ensure that they do not disadvantage any group. Moreover, municipalities should set diversity goals and actively work towards achieving them. This could involve proactive outreach efforts to underrepresented groups or targeted initiatives to encourage women to apply for positions in traditionally male-dominated sectors.

To further promote fairness in employment practices, municipalities should establish and promote tools for reporting gender-based discrimination, particularly in recruitment and promotion processes. Employees and candidates should feel safe to report instances of bias without fear of retaliation. These tools could include anonymous reporting systems or independent review boards to investigate claims of discrimination. By creating a transparent and supportive reporting structure, municipalities can ensure that their hiring and promotion processes are truly inclusive and merit-based.

In modern societies, fostering gender equality and supporting women’s entrepreneurship are crucial for both economic and social progress. To this end, several key areas require attention and action, ranging from gender-inclusive financing and leadership development to health care and community engagement. A comprehensive approach to these issues can

empower women and ensure that all genders are provided with equal opportunities, paving the way for a more inclusive and equitable future.

One of the foundational pillars in promoting women's entrepreneurship is establishing gender-inclusive financing programs. It is essential to create initiatives specifically designed to provide financial support to women entrepreneurs. Such initiatives should include training programs that offer guidance on how to access grants and venture capital, which are vital in both the start-up phase and during the development of women-led businesses. Equally important is the implementation of financial education programs aimed at equipping women with the knowledge and skills needed to secure financing. Encouraging the formation of investment networks focused on women-led startups can create a supportive ecosystem for women entrepreneurs. Networking events that connect female entrepreneurs with potential investors are also indispensable for fostering growth and development in this sector.

Leadership and skills-building programs play an important role in furthering women's entrepreneurial potential. Offering leadership development programs is crucial to encourage women to assume leadership roles within their businesses. Equally, organizing workshops that cover key areas such as negotiation, marketing, and strategic planning can strengthen women’s capacity to manage and grow their enterprises. In today’s rapidly changing world, staying competitive also requires technology and innovation training. Therefore, it is necessary to promote digital literacy and provide women entrepreneurs with access to the latest technological tools and training. Collaboration with technology organizations, which offer coding, data analysis, and digital marketing training, can ensure that women-led businesses are at the forefront of innovation. Additionally, fostering innovative behavior through specialized programs can further enhance women’s contributions to the economy.

Mentorship programs are another vital element in supporting women entrepreneurs. Developing mentorship structures that connect experienced business leaders with those in the early stages of their careers can provide valuable guidance and encouragement. Successful women entrepreneurs, in particular, can serve as powerful mentors and role models, helping to inspire the next generation of business leaders.

Access to affordable and comprehensive health care is equally essential in promoting gender equality. In particular, reproductive health care services must be accessible to all individuals, regardless of gender. Providing education about reproductive health rights and services, and eliminating discriminatory practices related to reproductive health, is paramount to ensuring that all people are afforded the dignity and autonomy they deserve. Additionally, mental health support is critical, especially for addressing the

unique challenges faced by different genders. It is important to develop mental health initiatives that focus on gender-specific issues, including the protection and psycho-social treatment of victims of domestic violence, and specialized support for children who are victims or witnesses of such violence. Training health care workers to recognize and address gender-specific mental health problems is a crucial step in providing comprehensive health care to all individuals.

Preventive health care, focusing on both genders, should also be prioritized. Implementing programs that emphasize preventive measures for common health issues, and encouraging regular check-ups for all individuals, can significantly improve public health outcomes.

Community engagement is a key component in the fight against gender-based violence. Establishing comprehensive programs for the coordination and prevention of various forms of gender violence is essential. A robust system of protection for victims of violence is needed, including the establishment of shelters, hotlines, and referral centers for victims of rape and sexual assault. These centers can provide crucial trauma support and counseling to victims, while also raising awareness about the importance of healthy relationships. Campaigns that educate the public about gender violence and the need for intervention are crucial in preventing violence before it occurs. Moreover, adopting programs aimed at strengthening the economic independence of domestic violence victims can play a significant role in breaking the cycle of abuse.

Capacity building within municipalities is also essential for implementing gender-sensitive policies. Investing in training municipal staff to understand and apply such policies, while collaborating with gender experts and organizations, can ensure a more informed and effective approach to gender equality.

Empowerment programs must be developed to provide marginalized genders with the tools and resources they need to succeed, whether economically, socially, or politically. By offering training, resources, and mentoring to support entrepreneurship among individuals of all genders, these programs can help bridge existing gaps and foster a more inclusive society.

Education also plays a vital role in promoting gender equality. Schools must encourage the inclusion of a gender component in curricula, which challenges traditional gender roles and stereotypes. Educators should be provided with the resources and training necessary to create an inclusive and supportive learning environment. Additionally, entrepreneurship education should be integrated into school programs, with a particular emphasis on gender-inclusive content. Workshops, training programs, and mentoring

opportunities specifically tailored to women entrepreneurs can help build the foundation for future success.

Efforts to prevent gender-based violence must also extend to schools. Establishing programs that address gender harassment and discrimination is key, as is providing students with a secure system for reporting incidents of violence. Equal access to STEM (Science, Technology, Engineering, and Math) education for girls must also be prioritized. Programs that encourage girls to pursue STEM fields, along with scholarships, mentoring, and workshops, are essential in breaking down the barriers that still exist in these male-dominated sectors.

Finally, comprehensive data collection and tracking are necessary for assessing the impact of gender equality initiatives. Organizing data collection efforts that provide detailed, gender-disaggregated information is critical for identifying areas in need of improvement. Regular audits of municipal policies and practices can help ensure that progress is being made toward gender equality. Additionally, the involvement of the community, advocacy groups, and experts in providing feedback and recommendations is essential for shaping informed and effective policies.

The Commission for Equal Opportunities for Women and Men can request quarterly reports on gender equality from the administration, working in collaboration with the Coordinator and Deputy Coordinator for Equal Opportunities. These reports can be used to discuss and recommend further actions to improve the implementation of gender equality measures. Consultation with stakeholders through online data collection or annual surveys is also important for identifying the needs and priorities of all citizens—women, men, girls, and boys alike. Finally, women's priorities must be included in the planning process, ensuring their representation in decision-making bodies, so their voices are heard when final priorities are determined.

6. CONCLUSION

Municipalities have a unique opportunity and responsibility to encourage gender equality in their territories. By adopting suggested recommendations, they can create an inclusive and supportive environment where individuals of all genders can thrive. It is essential to recognize the interconnectedness of different aspects of life, from education to employment, health care and community engagement, in order to make significant progress in gender equality. Fostering gender equality and supporting women's entrepreneurship also requires a multi-faceted approach. From establishing gender-inclusive financing programs and leadership development initiatives to improving

health care and combating gender-based violence, each area must be addressed with urgency and care.

The municipality of Bitola has taken significant steps to include the gender component in its policies and programs. However, additional initiatives are needed to increase the education of the population to recognize the gender component in municipal policies and programs, as well as continuous efforts for inclusion in the previously mentioned areas. Through joint efforts, the municipality can serve as a catalyst for positive change, setting an example for a broader social transformation towards a more just future.

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Review Scientific Article
UDK 343.3/.7:331]:340.13(497.11)
343.3/.7:349.2]:340.13(497.11)

CRIMINAL OFFENSES AGAINST LABOR RIGHTS IN THE REPUBLIC OF SERBIA

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Abstract*. In the paper, the authors explain criminal acts related to labour relations in the legislation of the Republic of Serbia. Criminal legislation and labour relations are in a constant relationship, because the legislator considers labour relations as one of the important interests in society that should be protected. At the same time, there is a greater number of criminal acts that are in some way related to labour relations, such as human trafficking. The author's attention was drawn to precisely those criminal acts that have exclusively work relations for the protected object, and they deal with them in their work. In the Republic of Serbia, the legislator prescribed seven such criminal acts, which the authors deal with after the introductory considerations.*

Key words*: employment relationship, criminal offense, strike, Labour Law*

1. Introduction

Criminal legislation and labour relations are constantly intertwined both in theory and in practice (Watson 1997). On the one hand, it is inevitable that the legislator foresees a certain number of criminal offences to protect rights derived from the employment relationship (Perić 2017). On the other hand, employers must frequently take action against workers who are found guilty of crimes and sentenced to prison. This could take many different forms. For instance, an employer might be faced with a worker who

has been convicted of a crime that directly affects their job, or a criminal conviction that has nothing to do with the worker's job but prevents the worker from providing services because of their incarceration (Wentzel 2024, see also Ryan, 1963). At the same time, from a criminological point of view, the relationship between the defendant's employment and the type of crime plays a major role.

According to the European Crime Prevention Network, work-related crime refers to all infractions of laws and regulations regarding salary and employment, benefits, taxes and duties. This includes labour exploitation, forced labour, and trafficking in human beings for labour exploitation, as well as all criminal activities that may be related to, or indicative of, these crimes: benefit fraud, tax evasion and money laundering, breaching workplace safety regulations, salary extortion, and so on. Then, labour exploitation is a particularly harmful crime. First, there is the direct harm (physical, psychological and economic) to victims. Second, exploitation creates unfair competition, having a negative effect on the legal economy and labour market. Third, unfair competition in trade and labour markets, and illegally acquired wealth, may erode trust in institutions and European values. Exploiters make profit through a series of cost-cutting and revenue-generating actions. They save on wages, a safe work environment, taxes and social benefit contributions. Revenue is generated by asking inflated prices for recruitment and housing, by committing different types of benefit fraud, and by out-competing competitors. Offenders use (seemingly) legal business structures and labour mobility options (including posted labour) to create intricate, often international, subcontracting chains that serve to hide illegal activity from plain sight and hamper investigations (EUCPN 2023, 5).

When it comes to labour matters, criminal law encompasses a broad range of situations that are connected by the employer's duties for worker protection and workplace safety. Regulations also govern the penalizing of employee data protection violations and the safety of the different entities. The Criminal Code provides for seven criminal offenses related to labour relations. Namely, Chapter sixteen, entitled Criminal offenses against labour rights, foresees the following criminal acts: Violation of Labour Rights and Social Security Rights (Article 163), Violation of the Right to Employment and during Unemployment (Article 164), Violation of the Right to Manage (Article 165), Violation of the Right to Strike (Article 166), Abuse of the Right to Strike (Article 167), Abuse of the Right to Social Security Benefits (Article 168) and Disregard of Safety Measures at Work (Article 169). Although there are only seven criminal acts, it follows from the very name that they are various criminal offences.

Human trafficking is widely discussed in comparative legislation in the field of labour relations and criminal law (Turanjanin 2024). Labour

exploitation is frequently coupled with a range of offenses related to irregular work. These crimes are either carried out as part of exploitation schemes or with the intention of maximizing earnings. Money laundering, bribery (corruption), document fraud, benefit fraud, tax evasion, and infractions pertaining to workplace safety are among the items on the list. This kind of crime is known as "work-related crime" in Sweden and Norway, a term that also encompasses trafficking and exploitation. This phrase is helpful since it emphasizes how frequently "smaller" crimes are linked to or indicate labour exploitation of some kind (EUCPN 2023, 8). In the text that follows, we will deal with all the criminal acts prescribed by the legislator of the Republic of Serbia.

2. Violation of Labour Rights and Social Security Rights (Article 163)

The criminal offense of violation of labour rights and social security rights has only a basic form. The criminal offense is of a blanket character, and the existence of a criminal offense requires the conditions prescribed in, first of all, the Labour Law, and then in all other laws that regulate the given issues. When we talk about labour relations, it is often a whole complex of various laws and by-laws. A criminal offence exists in the event that a person deliberately fails to comply with law or other regulations, collective agreement and other general acts on labour rights and on special protection of young persons, women and disabled persons at work, or on social insurance rights and thereby deprives or restricts another's guaranteed right. Any person can appear as the perpetrator of a criminal offence, and is threatened with a fine or imprisonment of up to two years. The existence of a criminal offense also requires the existence of the perpetrator's awareness of not complying with the law or other regulations, collective agreement and other general acts on labour rights and on special protection of young persons, women and disabled persons at work, or on social insurance rights.

3. Violation of the Right to Employment and during Unemployment (Article 164)

The criminal offense of violation of the right to employment and during unemployment has two basic forms. In the first place, the action of a criminal offense exists in the event that a person deliberately contravenes regulations or otherwise unlawfully deprives or restricts a citizen's right to be freely employed under equal conditions in the territory of Serbia. For this form of crime, the alternative is a fine or imprisonment up to one year. In the second place, the action is also committed by a person who deliberately fails

to comply with law and other regulations or general acts on rights of citizens during unemployment and thereby deprives or restricts a guaranteed right of the unemployed person. The same punishment is threatened for this form of crime. Also, this criminal offense requires the perpetrator to be aware of not complying with the law or other regulations.

4. Violation of the Right to Manage (Article 165)

The action of this criminal offense consists of several alternatively prescribed actions and has a basic and severe form. In essence, this criminal offense is committed by any person who, by force, threat, deliberate violation of regulations or otherwise unlawfully prevents or obstructs decision-making of managing bodies or a member of a managing body to participate in the work and decision-making of such a body. A fine or a prison sentence of up to one year is threatened. Therefore, an action exists if a person 1) prevents or 2) obstructs the 1) decision-making of managing bodies or managing body to participate in the work and decision-making of such body. A more serious form of the offense exists if this criminal offense is committed by an official or responsible officer by abuse of position or authority. A fine or a prison sentence of up to two years is also prescribed for this form. Otherwise, force and threat are understood as in the case of other criminal acts prescribed in the Criminal Code of Serbia.

5. Criminal acts related to the strike

5.1. Violation of the Right to Strike (Article 166)

The right to strike is primarily provided for by the Constitution of the Republic of Serbia, and the detailed provisions are prescribed by the Law on Strike. Namely, Article 61 of the Constitution provides that employees have the right to strike, in accordance with the law and the collective agreement, and that the right to strike can only be limited by law, according to the nature or type of activity. In essence, a strike is a work stoppage organized by employees to protect their professional and economic interests based on work. Employees freely decide on their participation in the strike. A strike can be organized in a company or other legal entity, that is, in their part or at a natural person performing economic or other activity or service, or in a branch and activity, or as a general strike. The strike can also be organized as a warning strike, when it can last no longer than one hour. The decision to go on strike establishes: the demands of the employees; the start time of the strike; the meeting place of the participants in the strike if the strike is

manifested by the gathering of employees and the strike committee that represents the interests of the employees and leads the strike on their behalf.

The strike committee is obliged to announce the strike by delivering to the employer the decision to go on strike, no later than five days before the day set for the start of the strike, that is, twenty-four hours before the start of the warning strike, if no other deadline is established by this law. or activity or in a general strike is submitted to the competent body of the corresponding employers' association, the founder and the competent state body. If the strike is manifested by the gathering of employees, the place of gathering of the participants in the strike cannot be outside the business premises, i.e., outside the circle of the business premises of the employees who go on strike.

The strike committee and the representatives of the bodies to which the strike was announced are obliged to, from the day of the announcement of the strike and during the strike, try to resolve the dispute amicably. At the invitation of the parties to the dispute, representatives of the trade union, if the trade union is not the organizer of the strike, representatives of the relevant employers' associations, if the strike has not been announced by them, and representatives of the competent state bodies, i.e., local self-government bodies, may be included in the negotiations on the amicable settlement of the dispute. The strike committee and employees participating in the strike are obliged to organize and conduct the strike in a way that does not endanger the safety of persons and property and the health of people, prevents immediate material damage and enables the continuation of work after the end of the strike. The strike committee and employees participating in the strike cannot prevent the employer from using the funds and disposing of the funds used to carry out the activity. The strike committee and employees participating in the strike must not prevent employees not participating in the strike from working. The strike ends with the agreement of the parties to the dispute or the decision of the trade union, that is, of the majority of the employees, to end the strike. For each new strike, the participants in the strike are obliged to make a new decision on the strike.

The criminal offense is blanket in nature and has two forms. In the first form, a criminal offense can be committed by any person who by force, threat or otherwise unlawfully prevents or obstructs employees to, in accordance with law, organize a strike, participate in strike or otherwise exercise their right to strike. Alternatively, a fine or imprisonment of up to two years is foreseen. The concept of force and threat is understood in the same way as with other criminal acts. Any person can appear as the perpetrator of this criminal act, and the existence of intent is also required. A criminal offense will exist if the perpetrator 1) prevents or 2) hinders employees from 1) organizing a strike or 2) participating in it or 3) exercising

the right to strike in any other way. What is important is that the strike was organized in accordance with the law.

Another form exists if an employer or responsible officer who lays off one or more employees due to their participation in strike organized in accordance with law, or institutes other measures violating their labour rights. Therefore, the employer or the responsible person can come forward as the perpetrator of this form of criminal offense. The act of a criminal offense is committed if one of the mentioned persons dismisses one or more employees. In essence, a criminal offense exists even if he fires only one employee. The reason for dismissal is participation in a strike, and the strike, as with the previous form, should be organized in accordance with the law. Another way of committing an act is the application to one or more employees who participate in a strike, and because of their participation in a legally organized strike, some other measures that violate their rights from labour relations. This form is imaginary. The same punishment as for the first form of criminal offense is prescribed.

There is a partial overlap of this criminal offense with offenses under the Strike Act. Namely, the application of new persons to replace persons participating in the strike, as well as the prevention of employees from participating in the strike or the use of coercive measures in order to end the strike, is foreseen as a misdemeanour. Therefore, the appearance of *ne bis in idem* is possible.

5.2.Abuse of the Right to Strike (Article 167)

Another criminal offense related to a strike is abuse of the right to strike. This criminal offense has a subsidiary character and exists only if the elements of another criminal offense have not been met. A criminal offence exists when a person organizes or leads the strike in a way contrary to law or other regulations and thereby endangers human life and health or property of considerable extent, or if grave consequences result therefore, unless elements of some other criminal offense entail. Imprisonment of up to three years is prescribed.

Therefore, the organizer or the person leading the strike can appear as the perpetrator of this criminal act. The strike must be organized contrary to the provisions of the Law on Strike or other regulations regulating this issue. However, a criminal offense does not exist only if a strike is organized in this way. In order for a criminal offense to exist, it is necessary that as a result of this way of organizing the strike, 1) putting life and health of people or property at risk on a larger scale or 2) if grave consequences result therefore. Only if the above-mentioned consequence occurs, will there be a criminal act, which is therefore intentioned.

6. Abuse of the Right to Social Security Benefits (Article 168)

It could be said that the criminal offense of abuse of the right to social security benefits is the easiest criminal offense from this group. Namely, the act of a criminal offense exists in the event that a person 1) malingering or 2) self-inducing of 1) illness or 2) disability for work or 3) otherwise unlawfully becomes eligible to some right to social security benefit that otherwise he would not be entitled to pursue the law or other regulations or general acts (Stojanović 2019). Fines or imprisonment up to one year are alternatively threatened for this premeditated form of crime.

7. Disregard of Safety Measures at Work (Article 169)

This criminal offense is also blanket in nature. It has only one form. A criminal act is committed by a person responsible for undertaking protection measures at work who knowingly fails to observe the law or other regulations or general enactment on safety measures at work, thereby endangering life and health of employees. Imprisonment of up to three years is prescribed. If the court pronounces a suspended sentence, it may order the perpetrator to comply with safety measures at work within a specified period of time. Provisions on occupational health and safety in the Republic of Serbia are contained in the Labour Law and the Law on Occupational Safety and Health.

In the first place, the Labour Law prescribes that the employee has the right to safety and protection of life and health at work, in accordance with the law. The employee is obliged to comply with regulations on safety and protection of life and health at work in order not to endanger his own safety and health, as well as the safety and health of employees and other persons (Articles 80-82). The employee is also obliged to inform the employer about any type of potential danger that could affect safety and health at work. An employee cannot work overtime if, according to the findings of the competent health authority, such work could worsen his health condition. An employee with health disorders, determined by the competent health authority in accordance with the law, cannot perform tasks that would cause a deterioration of his health condition or dangerous consequences for his environment. In jobs where there is an increased risk of injury, occupational or other diseases, only an employee who, in addition to the special conditions established by the rulebook, also meets the conditions for work in terms of health, psychophysical abilities and age, in accordance with the law, can work.

More detailed provisions are contained in the Law on Occupational Safety and Health. Among other things, the following have the right to safety and health at work: 1) persons who are employed and persons engaged outside of employment; 2) a self-employed person; 3) pupils and students who, in accordance with the law, are on compulsory production work, professional practice or practical teaching or learning through work in the dual education system; 4) persons who, in accordance with the law, perform volunteer work; 5) persons who, in accordance with the law, perform temporary and occasional jobs through a youth or student cooperative; 6) persons sent to additional education and training on the instructions of the person in charge of employment; 7) persons participating in organized public works of general importance; 8) persons who are serving a prison sentence while working in a business unit of a prison institution (workshop, workshop, etc.) and at another place of work; 9) persons who work for the employer in accordance with special laws; 10) persons found in the working environment, if the employer is aware of their presence (Article 5). Special rights, obligations and measures related to the safety and health at work of young people (especially in relation to their mental and physical development), women who work at a workplace with increased risk that could endanger their realization of maternity, persons with disabilities and employees who have been diagnosed with an occupational disease - are governed by this and other laws, other regulations, the collective agreement, the rulebook on occupational safety and health or the rulebook on work and the employment contract (Article 6).

The employer is obliged to provide and implement preventive measures of safety and health at work in accordance with this law and the regulations adopted on the basis of this law. The employer is obliged to ensure the safety and health of the employee in all activities of the employer and at all levels of work organization and work process. The employer is not released from obligations and responsibilities related to the implementation of safety and health measures at work by appointing a legal person, i.e., an entrepreneur with a license or another person, or by transferring his obligations and responsibilities to those persons. In the event of an injury at work due to natural disasters, serious, unavoidable and immediate dangers that are beyond the control of the employer or due to exceptional events whose consequences could not be avoided despite all the measures taken by the employer, the employer is not responsible in terms of this law (Article 9). The employer is obliged, when organizing the work and work process, to provide preventive measures to protect the life and health of employees, including providing information and training to employees, as well as to provide the necessary financial resources for their implementation. Also, the employer is obliged to provide preventive measures before the start of the

employee's work and during work, by choosing work and production methods that ensure the protection of life and health at work. The employer is obliged to adjust preventive measures taking into account the changed circumstances in order to improve the existing situation (Article 12).

The criminal act is premeditated and can only be committed by the person who is responsible for taking safety measures at work. At the same time, the perpetrator is also required to be aware of not complying with the law or other regulations or general acts on safety measures at work.

8. Conclusion

Criminal offences related to work represent a wide range of different criminal acts, which are essentially blanket in nature and can only be committed intentionally. What is characteristic is the extremely wide range of norms that fall under different laws in the field of work that must be applied when examining whether the conditions for the existence of a criminal offense have been met. In the paper, we have dealt exclusively with criminal acts that are found in a special chapter of the Criminal Code of Serbia, while comparatively much attention is paid to criminal acts that are related to labour relations, but are essentially embodied through other chapters of the Criminal Code, such as human trafficking. In any case, in the criminal proceedings for the described criminal acts, one should be very careful, taking into account the changes in numerous laws and by-laws concerning labour relations.

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Review Scientific Article
UDK 305-055.1/.2:340.13(497.7)
352.075.5:305-055.1/.2(497.7)

LEGAL ASPECTS OF GENDER EQUALITY - LEGAL SOLUTIONS IN RNM

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Abstract:

The law on equal opportunities for men and women is a norm that regulates the obligation to respect the principle of equal opportunities and to respect and promote the equal opportunities of women and men in the community.

Respecting the principle of equal opportunities, the goal is to make significant changes and shifts that will lead to a better position of women and other socially vulnerable categories in every environment where they operate.

The achievement of gender equality can be practiced after the weaknesses in the community are detected, after which the improvement of the access of women and other marginalized groups of citizens to the infrastructure will be approached; improving land use and planning; promotion of women in managerial positions and good jobs; promoting sports and recreation among the female population, improving the access of women and other socially vulnerable categories and marginalized groups to health and social services.

In addition to the mentioned legal solution for regulating these situations, the role and application of the Law on prevention and protection against discrimination and the Law on prevention and protection against violence against women and family violence is important.

In this paper we will analyze these legal solutions in terms of their practical application in our country.

Keywords: equality, opportunities, discrimination, protection.

1. INTRODUCTION

The Law on equal opportunities regulates the establishment of equal opportunities and equal treatment of women and men. It defines the basic and special measures for the establishment of equal opportunities for women and men, the rights and obligations of the entities responsible for ensuring equal opportunities for women and men, the procedure for determining unequal treatment of women and men, as well as the rights and duties of the Legal Representative for equal opportunities for women and men as a person designated to implement the procedure for determining unequal treatment of women and men.

An important point is the fact that equal opportunities are regulated in: the area of health care and health insurance, social protection, access to goods and services, the economy, labor relations and employment, education and professional training, economic and ownership relations, the use of public products and services (consumer rights), culture and sports, information and communication technologies, defense and security, justice and administration, housing, public information and media, state and public administration, i.e. in all areas of social life. (Art. 1 of the Law on Equal Opportunities of women and men Sl.V of RM no. 6/2012).

The purpose of this law is to establish equal opportunities for women and men in the political, economic, social, educational, cultural, health, civil and any other area of social life. This is important because the establishment of equal opportunities is a concern of the whole society, that is, of all subjects in the public and private sector and represents the removal of obstacles and the creation of conditions for the realization of complete equality between women and men. (Art. 2 of the Law on Equal Opportunities for Women and Men Official Gazette of the Republic of Moldova No. 6/2012).

The second law that regulates equality is the law on prevention and protection against discrimination, which regulates the prevention and prohibition of discrimination, the forms and types of discrimination, the procedures for protection against discrimination, as well as the composition and work of the Commission for Prevention and Protection against Discrimination .

Its specific goal is to ensure the principle of equality and prevention and protection against discrimination in the exercise of human rights and freedoms.

And one more law will be the target of our observation, and that is the Law on prevention and protection from violence against women and domestic violence. This Law, which was adopted in 2021, regulates the actions of institutions with due care when taking measures for the prevention

of gender-based violence against women and domestic violence, the actions of institutions for the protection of women from gender-based violence and domestic violence, the mutual coordination of institutions and organizations, victim protection services and the collection of data on gender-based violence against women and domestic violence.

Its goal is prevention and prevention of gender-based violence against women and domestic violence, effective protection of victims from any form of gender-based violence against women as well as victims of domestic violence with respect for basic human freedoms and rights guaranteed by the Constitution of the Republic North Macedonia and international agreements ratified in accordance with the Constitution. The purpose of the law is based on respecting the principle of equality and eliminating stereotypes about gender roles. (Articles 1 and 2 of the Law on prevention and protection from violence against women and domestic violence, Official Journal of the RSM, No. 24/2021).

2. MEASURES AND ACTIVITIES TO IMPROVE THE STATUS OF WOMEN

We have already mentioned that achieving equal opportunities for women and men is actually promoting the principle of introducing equal participation of women and men in all areas of the public and private sector, equal status and treatment in the exercise of all rights and in the development of their individual potentials through which they contribute to social development, as well as equal benefits from the results derived from that development.

In order for this to be realized in practice, it is necessary to apply the basic and special measures defined by the Law on equal opportunities and with the full application of which there will be a long-term improvement of the conditions in the social community.

The application of the basic measures implies:

1. Implementation of normative measures in the field of health care and health insurance, social protection, access to goods and services, the economy, labor relations and employment, education and professional development, economic and ownership relations, the use of public products and services, (consumer rights), culture and sports, information and communication technologies, defense, justice and administration, housing, public information and media, state and public administration and other areas determined by this or another law that prohibit discrimination based on gender.

2. Their application in policies and programs for the systematic promotion of the principle of equal opportunities for women and men and

respect for diversity, for changing social and cultural customs regarding the behavior of women and men to remove prejudices, as well as any other practice based on the inferiority or superiority of one or the other sex or on the traditional social role of men or women.

3. Systematic inclusion of equal opportunities for women and men in the process of creation, implementation and monitoring of policies and budgets in special social areas, including the performance of functions and competencies of public and private sector entities.

4. Education for the establishment of equal opportunities as an integral part of the system of education and professional training, which ensures the readiness of women and men for active and equal participation in all areas of social life.

5. The adoption and implementation of education and professional training programs, the preparation of textbooks and school aids and the introduction of organizational innovations and modification of pedagogical and andragogical methods to remove prejudices and stereotypes in connection with the establishment of equal opportunities.

6. Carrying out a regular analysis of the contents of the curricula, programs and textbooks from the aspect of promoting equal opportunities for women and men.

Special measures are also of great importance. Their application is necessary from the perspective of taking temporary measures in order to overcome the existing unfavorable social position of women and men, which is the result of systematic discrimination or structural gender inequality resulting from historical and socio-cultural circumstances.

This means that their role is as positive measures of encouragement (positive discrimination) to encourage the creation of equal starting positions for women and men, equal treatment, balanced participation or equal social status, developing their individual potentials through which they contribute to social development and equal use of the benefits of that development.

These special measures include:

1. Taking positive measures that, under equal conditions, give priority to people of the less represented gender, until equal representation is achieved or the goal for which they were taken is not achieved.

2. Taking encouraging measures that provide special incentives or introduce special benefits in order to eliminate the circumstances that lead to the unequal participation of women and men or the unequal status of one sex against the other or the unequal distribution of social goods and resources.

3. Taking programmatic measures aimed at raising awareness, organizing activities and developing and implementing action plans to encourage and promote equal opportunities.

3. STRATEGY FOR EQUAL OPPORTUNITIES (GENDER EQUALITY)

The Gender equality strategy for 2022-2027 is the fourth in a row since the adoption of the Law on equal opportunities for men and women. It contains all the activities that should promote gender equality and improve the status of women in society.

What is particularly significant for us as lawyers is the fact that the starting point of the Strategy is the fundamental values of the Constitution of the RSM, that is, the emphasis is placed on the postulates of the rule of law, humanism, social justice and solidarity and respect for the norms of international law.

The inclusion of the clause from Article 9 of the Constitution according to which: Citizens of the Republic of N. Macedonia are equal in freedoms and rights regardless of gender, race, skin color, national and social origin, political and religious beliefs; property and social position, in the Strategy is a confirmation of the commitment that the state will devote itself to the establishment of equal opportunities for men and women in all spheres of social life.

The concept that we should work to suppress stereotypes and prejudices, to prevent gender-based violence, to advance the status of women in every respect and to value the leadership potential of women is the light motive of the Strategy, which should be implemented as a result of 2027 year. The strategy is based on the principles of legality, publicity, transparency, responsibility, accountability and intersectoral cooperation, and it is precisely because of these principles that we can assume that all concerned legal and natural persons in the country will be involved in its implementation.

3.1. International norms applied in the Strategy

The Republic of N.Macedonia, as a country that strives to become part of the European family, is currently harmonizing all legal solutions with the international declarations and conventions that we have signed in the past years. In this sphere, the starting point is the Beijing Declaration and the Platform for Action from 1996, with which, as a signatory country, we are obliged to work on improving the status of women and strengthening their role in the public and private sectors. The conclusions and recommendations of the Committee on the Convention on the elimination of all forms of discrimination against women adopted in 2018 are part of the strategic goals.

The Convention on preventing and combating violence against women and domestic violence (known as the Istanbul Convention) is also an

important document that was ratified by us in 2017 and is being implemented in domestic legislation.

We must not leave out the fifth goal of the 2030 Agenda for sustainable development of the UN, according to which the achievement of gender equality and empowerment of all women and girls can be achieved with specific goals such as:

1. Abolition of all forms of discrimination;

2. Eliminating all forms of violence in the public and private sphere, including human trafficking, sexual and other types of exploitation;

3. Eliminating harmful phenomena such as: forced marriages with children, marriages at an early age and genital mutilation of the female population;

4. Recognition and appreciation of unpaid care and housework through the promotion of shared responsibility within the family and home;

5. Full and effective participation of women and equal opportunities for leadership at all levels of decision-making in public, political and economic life;

6. Universal access to the right to ensure sexual and reproductive health;

7. Women's equal access to economic resources, land and other forms of ownership, financial services, heritage and natural resources;

8. Application of technologies that provide better conditions for promoting the emancipation of women;

9. Adoption of sound policies and acts to improve gender equality and emancipation of women and girls at all levels.

3.2. Domestic norms applied in the Strategy

The Constitution, as the highest act of the state, elaborates the issue of gender equality. In the section of laws, we will list the most significant ones on which the Strategy is based.

1. The law on equal opportunities for men and women adopted in 2006 and amended in 2012 (Sl.C.6/12) provides the basic legal framework that regulates all issues of gender equality. Here are defined the basic and special measures that should establish equal opportunities between men and women, but also define the competences, tasks, obligations and responsibilities of the entities responsible for establishing equality. The competences of the Advocate for equal opportunities are also given, which should function in all environments and contribute to the application of the Law.

2. Law on prevention and protection from discrimination (Official Gazette 258/20) as a significant instrument for dealing with the multiple and intersectional discrimination faced by women;

3. New Law on social protection (Sl.C.104/19) which, unlike the previous one, introduces reforms in the overall system of social protection, with the goal being to achieve a more effective fulfillment of the needs of the citizens of Macedonia with special emphasis on women and girls from the vulnerable categories.

4. Law on prevention and protection from violence against women and family violence (Sl.V.24/21) which incorporates the principles of the Istanbul Convention in the area of prevention and protection from all forms of gender violence.

5. Family Law (Sl.C.80/92, 9/96, 38/2004, 33/2006, 84/2008, 67/10, 156/10, 39/12, 44/12, 38/14, 115/14, 104/15 and 150/15), which is included in the Strategy from the aspect of determining the minimum age for marriage, parental rights and obligations and dissolution of marriage.

6. The Law on amendments and supplements to the electoral code (Sl.V.196/15) in 2015 introduced a quota for the representation of the underrepresented gender on the lists of party candidates of at least 40%, with every three places on the lists at least one is intended for the less represented gender and in addition at least one more place for every ten places.

7. The Law on labor relations (Official Law 74/15) regulates the obligation for equal pay for women and men and equal treatment in relation to employment, working hours, working conditions, social insurance and absence from work.

8. Minimum Wage Law (Sl.C.11/12, 30/14, 180/14, 81/15, 129/15 and 132/17) reduced the gender wage gap by equalizing the minimum wage for textile workers , the leather and shoe industry where most of the employees are women;

9. With the adoption of the Law on termination of pregnancy (Sl.V.101/19), reproductive rights were improved as one of the postulates for respecting basic human rights and freedoms.

10. The Law on health care (Sl.V.37/16) is a guarantor of equal access to health care for all women.

11. Law on free legal aid (Sl.V.101/19) enables primary legal aid to victims of gender-based and family violence, as well as assistance in the procedure for registration in the birth register, acquisition of a personal identification document and citizenship , social protection and protection of children's rights, pension, disability and health insurance, etc.

12. The Law on basic education (Sl.C.161/19) prohibits any kind of direct or indirect discrimination in basic education and upbringing.

13. In the Law on textbooks for primary and secondary education (Sl.V. 21/18), the procedures and procedures for issuing and providing textbooks in schools, which will not contain harmful and discriminatory stereotypical contents, were adjusted and specified.

14. The Law on Audio and audio-visual services (Official Gazette 184/13, 13/14, 44/14, 101/14, 132/14, 142/16, 132/17, 168/18, 248/18 , 27/19 and 42/20) elaborates fair gender and ethnic representation in media decision-making bodies, and in the 2018 amendments prevents discrimination in the media based on sex, gender, sexual orientation, gender identity and belonging to a marginalized group.

15. The Law on Audio and audio-visual services (Official Gazette 184/13, 13/14, 44/14, 101/14, 132/14, 142/16, 132/17, 168/18, 248/18 , 27/19 and 42/20) in crimes punishable by imprisonment and other measures includes domestic violence, rape and other types of gender-based violence.

16. The Law on service in the RNM army (Sl.C.14/20 and the Law on defense (Sl.C.42/20) includes the gender perspective as part of the legal decisions.

4. THE GENDER CONCEPT IN LOCAL POLITICS

The municipalities in Macedonia have an obligation within the councils of Local governments to form the commissions for equal opportunities for women and men. This body is a key element that contributes to the realization of the gender equality policy at the local level. The commissions work to improve the position of women and men at the local level, through the process of creating and adopting policies, their implementation, monitoring and evaluation of the achieved results.

The commissions have the task of promoting gender equality and coordinating the situation in this sphere at the local level.

This means that their obligation is:

- to create the policy for gender equality at the local level;
- to create a gender-balanced development;
- to develop an appropriate methodology for gender analysis of sectoral policies in the municipality;
- to identify indicators for data collection, analysis and processing that are relevant for gender analysis at the local level and
- to identify priorities in the direction of gender-balanced development of the municipality.

The fact that the local government is closest to the citizens makes it possible for all issues, including gender equality, to begin to be resolved in this environment. The awareness that citizens can achieve well-being and spiritual development without being conditioned by sex, gender, race, class affiliation or nationality in the immediate environment gives them a sense of economic and social security.

We can consider the approach to gender equality in the local environment as a matter of women's and men's rights as human rights, as an

essential condition that will take care of equal visibility, support, empowerment and participation of women in all spheres of public and private life.

The Constitution, Laws and ratified international conventions relating to women's rights promote the principle of gender equality, de jure. Does that mean that the "de facto" conditions are the same, is a topic for wider discussion not only at the local but also at the national level.

What can contribute to improving the position of women at the local level are:

- the political will
- creating policies for gender equality
- raising awareness of gender equality and
- trainings in the field of gender relations.

5. SITUATIONS WITH GENDER EQUALITY IN R.N. MACEDONIA

According to data from the State Statistics office from 2021, there are 1,836,713 inhabitants in RSM, of which 925,626 are women and 911,087 are men. In terms of life expectancy, women live 77.58 years and men 73.16 years.

The total index for gender equality in 2022 is 64.5, and by domains it is: in the area of work 70.7, in the area of money 64.3, in the area of knowledge 62.4, time 55.8, health 87.2 and 55 power.

Compared to EU member states, North Macedonia ranks fourteenth, between Italy (15) and Malta (13) and has progressed one position higher in the ranking compared to 2019 when it was ranked fifteenth.

The country lags behind the EU average by 3.5 points and by 19.4 points behind the best-ranked country in the EU – Sweden.

Compared to the last measurement of the countries of the Western Balkans region that publish the Index, the country has a higher score than all three countries – Albania (2020), Serbia (2021) and Montenegro (2019).

Comparing domains, North Macedonia has the biggest difference with the EU in the domains Money (18.1 points) and Time (9.1 points), and the smallest differences are in the domains Knowledge (0.3 points), Health (0.6 points) and Work (0.9 points) As in the previous measurement of the Index from 2019, the country has a higher score than the EU average only in the Power domain (+3.6 points).

6. CONCLUDING OBSERVATIONS

Society should strive for women and men to enjoy equal opportunities, rights and obligations. Gender equality is a fundamental value

of the Constitution of the Republic of North Macedonia as well as in numerous legal and by-laws. The goal to be achieved by applying these norms is to improve the lives of women, men, girls and boys and to contribute to a democratic and balanced society.

Strengthening gender equality requires a systematic consideration of the differences between the conditions, situations and needs of women and men in all government policies and actions. This approach means gender mainstreaming or gender mainstreaming.

One of the fundamental principles of the Charter of the United Nations adopted in 1945. Is precisely the principle of "equal rights for men and women". Although today it is not considered unusual, then for the first time in an international document the equality of women and men was recognized. The principle of "gender equality" was then confirmed in the Universal Declaration of Human Rights in 1948, through the affirmation of "equal rights of men and women". The Declaration paved the way for strengthening international commitments in the area of women's rights, which was most comprehensively done in the United Nations Convention on the elimination of all forms of discrimination against women (CEDAW) of 1979.

The convention contains a "bill of rights" for women, which defines what constitutes discrimination against women and sets out an agenda for national action to end such discrimination. North Macedonia has been a member of CEDAV since 1994. as a successor to the Convention ratified by SFRY in 1982.

In this paper, the laws in the national legislation that treat the gender issue are elaborated, and in the concluding observations we will mention the two independent institutions that are particularly important for dealing with gender discrimination. These are the institution of the Ombudsman and the Commission for prevention and protection from discrimination.

The Ombudsman of the Republic of North Macedonia is the central national institution for human rights and in its wide range of activities, the Ombudsman has the authority, among other things, to initiate legal changes to strengthen gender equality, to prepare special reports on special issues related to the equality of women and men, conduct ex officio investigations into gender-based human rights violations and participate in court cases as amicus curiae (friend of the court)

Commission for Prevention and protection from discrimination can receive petitions for discrimination based on gender and issue opinions and recommendations based on them; to initiate procedures for protection against discrimination on official duty, to issue general recommendations in case of systematic discrimination, to conduct research and carry out analyzes and activities for promotion and increasing awareness; to contribute to the

creation of laws and to produce special reports, and to participate in court cases as a party, or to intervene by submitting submissions as an amicus curiae (friend of the court).

It is of great importance that this commission has the trust of the general public and civil society so that it can make its contribution by initiating strategic procedures for protection against discrimination.

Finally, we would like to point out that the eyes of the institutions should always be open to possible gender discrimination. The contribution of the scientific community is certainly of great importance and all such researches are of great importance.

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Review Scientific Article
UDK 343.988-053.2/.6:343.1]:340.13(497.11+497.7)
343.143-053.2/.6:340.13(497.11+497.7)

PROTECTION OF MINOR VICTIMS IN CRIMINAL PROCEEDINGS OF SERBIA AND NORTH MACEDONIA[1]

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Abstract

In the paper, the author deals with a comparative analysis of the regulations of Serbia and North Macedonia, which refer to the protection of minors, who find themselves in the role of victims and witnesses in criminal proceedings. Mechanisms for the protection of minor victims, established by the Law on juvenile offenders and the criminal protection of minors and the Law on justice for children, are viewed from the discourse of the achieved international standards. The author makes suggestions for improving the regulation de lege ferenda, citing the achieved standards of criminal procedural protection, which generally or insufficiently are known in the positive law of these two countries.

Keywords: minor, victim, witness, criminal procedural protection

Introduction remarks

Modern criminal procedure is characterized by dynamism in terms of the position and role of its subjects. After the transformation from the inquisitorial to the modern procedure model, the biggest changes took place in terms of the procedural position of the accused, so that today the most attention is paid to the protection of the fundamental rights of this subject. In more recent history, changes in the procedural position of witnesses can be observed. From the former focus on the duty to respond to a summons to testify and the duty to testify itself, the emphasis is placed on protecting witnesses from intimidation. In addition to the observed transformation of the procedural position of witnesses in general, special attention is beginning to be paid to certain categories of witnesses, such as children, minors, women, the elderly, mentally ill persons and especially victims (damaged persons).

[1] "The work was created as a result of financing by the Ministry of Science, Technological Development and Innovation, according to the Agreement registration number 451-03-65/2024-03/ 200120 dated February 5, 2024." year."

During the development of the science of criminal procedural law, a special need for the protection of passive criminal law subjects was observed. One of the most striking features of the reform of modern criminal procedure is the strengthening of the procedural position of that subject. In this sense, first of all, it is necessary to demarcate the concept of injured party from the concept of victim. According to the Code of Criminal Procedure of Serbia (hereinafter: CPC), the injured party is a person whose personal or property rights have been violated or threatened by the commission of a criminal offense (Article 2, paragraph 1, item 12 of the CPC). On the other hand, victims are considered persons who individually or collectively have suffered damage, including physical or mental injuries, emotional suffering, material damage or violation of basic rights by violating the norms of national legislation or relevant international human rights documents. The term "victim" includes members of the victim's family, dependents or persons who suffered damage while providing assistance to the victim, according to the Declaration on the basic principles of justice for victims of criminal acts and abuse of power. According to the mentioned international standards, the conclusion is imposed that the concept of victim is broader (Krapac, 2010:235) than the concept of injured party (Jovanović, Galonja, 2001:80). In addition to direct victims, who directly suffered a violation of their rights by the commission of a criminal offense, which, in fact, coincides with the concept of a passive subject of a criminal offense, that is, the victim, the term victim also includes persons who were indirectly harmed by the commission of a criminal offense.

The Criminal Procedure Code of Serbia, however, does not operate with the term victim, but only with the term injured party. In this capacity, the passive subject of the criminal offense most often appears, but the victim in the proceedings can also be a family member, for example. the crime of murder. Therefore, quite justifiably, it is considered that the term injured is broader than the term victim (Škulić, 2009:105). The Law on Justice for Children of North Macedonia (hereinafter: ZPD) uses the concept of a child victim of a criminal offense (Article 1 paragraph 2 ZPD). For the aforementioned reasons, it is necessary to legally demarcate these two concepts, and to provide additional protection to victims, through a wider range of rights in criminal proceedings, which, unfortunately, was not done in the CPC from 2011, and therefore not in the Law on Juvenile Criminal Offenses and Criminal Law protect minors (hereinafter: ZOM).

1. Who are particularly vulnerable witnesses?

In contrast to the general protection against intimidation, which covers all witnesses, there are measures to protect individual, so-called. particularly vulnerable witnesses in criminal proceedings (Grubač, 2011,

267). These are witnesses who, due to their personal characteristics or the committed criminal act, are additionally endangered, and during their hearing, it is necessary to take into account the special need for protection. This category includes: minors, victims of crimes (injured), women, the elderly and mentally ill persons. Classification as vulnerable witnesses is also done according to objective criteria. Classification as vulnerable witnesses is also done according to objective criteria. Witnesses may be particularly sensitive due to the nature, manner of execution, or consequences of the execution of the criminal act (Brkić, 2005:132). Victims of sexual offenses, domestic violence and human trafficking are especially singled out. Special sensitivity can also arise from the need to testify in proceedings against a family member. However, not all particularly sensitive witnesses are victims of a criminal act at the same time. This category includes witnesses, who are particularly vulnerable due to their own personal characteristics, such as, for example, children, or the mentally ill, regardless of whether they are victims at the same time. The testimony of the mentioned categories of witnesses has specific characteristics, which should be taken into account when evaluating it.

Children (minors up to 18 years old), undoubtedly, are especially sensitive witnesses. Age and personality development are characteristics that make them vulnerable witnesses. Given that age, as a personal characteristic, has a continuous duration, the special sensitivity of the witness is not assessed on a case-by-case basis, but the child is always a vulnerable witness (Pavišić, 2009:73). Therefore, it is necessary to take into account the child's bio-psycho-social characteristics when participating in criminal proceedings, as a witness. Obtaining statements from child witnesses must be adapted to their personal characteristics.

2. General international standards for dealing with children as witnesses

In comparative law, the legislative standards of dealing with children, in the capacity of witnesses, crystallized. All known protection measures are guided by the principle of the best interest of the child, established by Article 3 of the UN Convention on the Rights of the Child. This principle obliges the legislative, executive and judicial authorities, as well as public and private institutions of social care, to adhere to this fundamental principle in their own activities regarding children. The best interest of the child is, therefore, at the basis of all procedural protection measures for minor witnesses.

Article 12 of the Convention, which establishes the child's right to express his own opinion, is important. In order to realize this right, it is necessary to provide the child with the opportunity to be heard in court or any other procedure, directly or through a representative (Article 12,

paragraph 2 of the Convention). Although this right primarily applies to minor perpetrators of criminal acts, there is no doubt that the right of a child to be heard in the proceedings belongs to minor witnesses.

The Convention apostrophizes the child's special right to privacy. According to the provisions of Article 16 of the Convention, the child is protected from any arbitrary or illegal interference with his privacy, family life, home and correspondence. The child must also not be exposed to an unlawful attack on honor and reputation. In case of unjustified derogation of this right, the child has the right to legal protection (Article 16, paragraph 2 of the Convention). It is especially important to ensure respect for the right to privacy in criminal proceedings for minor witnesses - victims.

The Convention on the Rights of the Child promotes the protection of children from all forms of sexual exploitation and sexual abuse (Article 34), from all forms of child trafficking (Article 35) and other forms of exploitation harmful to the child's welfare (Article 36). The provision from Article 37, paragraph 1 of the Convention is important for the procedural protection of minor witnesses. It protects children from torture and cruel, inhuman or degrading treatment.

3. Ratio legis of protection of minor witnesses - victims

The main reason for the separation and special regulation of protection measures for injured witnesses in criminal proceedings is the need to prevent secondary victimization. It represents the escalation of consequences caused by primary victimization, i.e. the commission of a criminal act, due to the inadequate reaction of the authorities conducting the criminal proceedings, the family and the social environment in general (Kostić, Konstantinović Vilić, 2012:450). Secondary victimization, in fact, represents an inadequate response from society, by not understanding the needs of the victim, distrust, doubting the truth of the allegations, indifference or even imposing a sense of guilt on the victim for his own victimization (Jovanović, Galonja, 2001:76). Tertiary victimization, which represents the permanent stigmatization of the victim in his own environment, can be the origin of the inadequate reaction of society to the committed criminal act. The next link in the series is the danger of revictimization, because victims without protection are more likely to be exposed to the re-commission of a criminal offense against them.

Since victimogenic predispositions due to age and psychophysical development are especially pronounced in children and minors, it is absolutely justified to expand the scope of protective measures to this category, especially sensitive witnesses. Measures for the procedural protection of minor victims are prescribed in the third part of the ZOM, under the title "special provisions on the protection of minors as victims in

criminal proceedings". The provisions of this law established a special form of procedure, with the aim of preventing secondary victimization of injured minors by applying a series of protective measures. In ZPD, the fifth part is dedicated to this type of procedural protection under the title: "Protection of child victims of criminal acts and witnesses in criminal proceedings".

4. General characteristics of the procedure with a minor victim

One of the main features of this procedural form is the specialization of its participants. Possession of special knowledge in the field of children's rights and criminal protection of minors is required for the president and members of the trial panel, the public prosecutor, the investigating judge, members of the police and the attorney of the injured minor, appointed ex officio (Article 150 and 151 ZOM). It is not clear for what reason the judges who are members of the panel are exempted from the obligation to specialize. It is even less clear what prevented the legislator from over ten years after the entry into force of the Code of Criminal Procedure from 2011, to make at least amendments in terms of omitting process participants, who no longer exist in criminal proceedings, such as the former investigating judge.

It is about the procedure, which is initiated ex officio against adult perpetrators of criminal acts enumerated by law, specified in Article 150 ZOM, when the injured party is a minor (Knežević, 2010:325). However, the possibility is left for the public prosecutor to initiate this procedural form for other criminal acts as well, when he deems it necessary for the special protection of the persons of minor victims (Article 150, paragraph 2, ZOM). Although the aspiration was to enumerate all criminal acts in which a minor is harmed, it would be good to use a general wording to foresee the conduct of this procedure for all criminal acts committed "to the detriment of minors", since the provisions of the Criminal Code on an easy way to identify which works they are. In this way, the situation is avoided that some criminal acts remain outside the scope, as is the case with e.g. using a computer network or communication by other technical means to commit crimes against sexual freedom against a minor is a criminal offense (Article 185b of the CC). This criminal offense was introduced when the CC was amended in 2009 and is not included in the provisions of the ZOM, because that law was adopted in 2005 and has not been amended or supplemented in the meantime. On the other hand, in this way, an impermissibly wide field of discretionary assessment given to the public prosecutor, to which minor injured persons will apply special protection measures, would be prevented. In the Macedonian Law on Justice for Children, the application of special provisions intended for minor victims applies to all criminal offenses in

which a minor may be the victim of execution (Article 166, paragraph 1, ZMP).

In the procedure, in which an injured minor appears, special careful treatment is required, taking into account his age, personality traits, level of education and personal circumstances (Article 152, paragraph 1, ZOM). The purpose of this provision is to prevent possible harmful consequences for the personality and development of a minor. The duty of prudent behavior includes the investigating judge, panel members and the public prosecutor. The Macedonian ZPD obliges, first of all, the court, but also other state authorities, which participate in the procedure, especially the police and the public prosecutor, to act cautiously. In addition to the mentioned participants in the procedure, the obligation of prudent behavior should be extended to other participants in the procedure, especially to the defense attorney of the defendant and the attorney of the minor victim (Peto – Kujundžić, 2004:114).

5. Limitation of multiple hearings of the minor victim

Multiple interrogations can cause particularly difficult and serious psychological consequences for minor victims. In addition, under the influence of authority and due to fear, later statements can be qualitatively different, often imbued with the child's imagination and fantasies. The need to eliminate multiple interrogations is especially pronounced in the case of child victims of sexual offenses, due to the need to suppress the trauma. The German Guidelines for Criminal and Administrative Procedures warn of the harmful consequences of hearing minor victims. It was emphasized that repeated questioning of victims can lead to significant stress and should therefore be avoided, if possible (Article 19 RiStBV). The limitation of the number of hearings of minor victims is provided for in Article 152 of the ZOM. Namely, minors, injured by the commission of a criminal offense, can be heard in the procedure a maximum of 2 times. The legislator, however, allows a larger number of hearings, if this is necessary due to the achievement of the purpose of the criminal procedure. In case of hearing more than twice, the judge is obliged to pay special attention to the protection of the personality of the minor. The aforementioned provision does not adequately protect minor victims. There are high chances for secondary victimization even with two hearings in the procedure. By applying the concept of "achieving the purpose of conducting the proceedings", the possibility is opened that the injured party may be heard 5-6 times, which in practice is most often the case. This causes irreparable damage to minors, who lose confidence in the judicial mechanism for the protection of their rights, and the stress they experience every time they appear in court becomes multiplied. There is little benefit from the obligation for the judge to take special care of the protection of the minor victim, when

negative consequences have already occurred just by coming before the court. The same effects on the psychophysical condition of minors are produced by the court routine in Serbia with a large number of postponed hearings. Any appearance at an adjourned hearing causes stress, regardless of whether the child will testify or not.

A significantly higher degree of protection is provided by the Macedonian ZPD. Examination as a witness of the child victim is conducted so that it does not produce harmful consequences for psychophysical development (Article 173, paragraph 4, ZPD). The number of tests is still not explicitly limited, but the wording progress is that the number of tests will be reduced to the number that is necessarily required (Article 173, paragraph 6 ZPD).

6. The presence of experts at the hearing of the minor victim

Bearing in mind the special sensitivity of minor victims, as well as the specificity of psychological reactions, which may arise during the hearing, in addition to the mandatory specialization of the authority conducting the procedure, the presence of experts is foreseen. Thus, in Article 151, paragraph 1 of the ZOM, it is prescribed that the hearing of minors, injured by the commission of a criminal offense, is carried out with the help of a psychologist, pedagogue or other expert. This, otherwise good solution, in terms of the protection of minors, is insufficiently elaborated and specified. The question arises as to how the professional qualification will be determined, since different professions have been listed. On the other hand, it is unclear what their role is during the interrogation. Do they talk directly with the minor victim, or do they just clarify the issues, adapting them to the age and level of development of the minor. A similar solution that stipulates the possibility of taking a statement through an expert is provided for in the ZPD, in Article 171, but without further elaboration.

7. Hearing of the minor victim via internal television

The procedural position of experts is more clearly determined in the provision of the ZOM, which allows the possibility that the hearing of a minor injured party be conducted through a factual deviation from the principle of immediacy. According to Article 152, paragraph 3 of the ZOM, a minor can be heard via internal television. In that case, the minor is in a separate room, together with a professional (psychologist, pedagogue, social worker or some other person). The parties and other participants in the procedure can ask questions to the minor victim only through a judge or expert. This, otherwise very useful measure of protection of particularly sensitive witnesses, whose benefits have been discussed, is applied based on the judge's discretionary assessment. The judge will order the application of

this measure, if he deems it necessary, considering the characteristics of the criminal offense and personality characteristics of the minor. Дилема је, на који ће начин судија ценити потребу, с обзиром на својства личности. Does it imply prior psychological expertise? If this was the intention of the legislator, it should be borne in mind that in this way the duration of the procedure is necessarily extended. But the bigger problem is that there are no technical possibilities for applying this measure in most courts in Serbia, so the legal possibility is just a dead letter.

The Macedonian ZPD foresees several solutions regarding the hearing of a minor victim. These are the use of screens to protect victims and witnesses from the view of the accused, concealing their identity or appearance, and giving evidence via videoconference. In this way, adequate protection against secondary victimization is ensured.

8. Hearing of a minor victim by deviation from the principle of immediacy

Due to the protection of minor victims in criminal proceedings, a formal exception to the principle of immediacy is foreseen. According to Article 152, paragraph 4 of the ZOM, minor victims, who appear in the proceedings as witnesses, can be heard in their own apartment. In addition, they can be heard in another room, that is, in an institution, which is specialized for hearing witnesses. Although the idea itself is certainly in favor of the protection of minor witnesses, the legal provision causes certain doubts. First of all, it is doubtful who attends the hearing, apart from the judge. Is the presence of an expert necessary or allowed? Next, it is questionable which "other room" we are talking about, since it is obviously not another room in the Court, outside the courtroom. The law also does not specify which institutions are professionally qualified to examine witnesses, which implies the appropriate support of by-laws. It could certainly be the Center for Social Work, but also other institutions, where professionals are employed, and even previously certified non-governmental organizations. Finally, the legally permitted possibility of applying the measures from paragraph 3 of Article 153 of the ZOM is confusing. As stated earlier, this provision refers to the hearing of minor victims via internal television. Does this mean that a minor can be interrogated via a video link from his apartment, which would mean only a factual deviation from the principle of immediacy. Another possibility is to make a video recording during the interrogation in the apartment of the minor, which would be reproduced at the main trial, which is allowed by the provision of paragraph 5 of Article 153 of the ZOM. In the Macedonian ZPD, it is foreseen to give a statement via video conference, as well as to record the examination of the child victim

and the witness, without further specifying the details regarding the presence of the procedural subjects.

It is a more logical option, although paragraph 5 has been perfected in terms of the command that the record must be read at the main trial (that is, the recording broadcast), when the minor victim is heard in another room of the court, that is, in his apartment. In the second case, there is no doubt, but it is unclear why the statement should be read when it was already broadcast on internal television. The parties, therefore, had the opportunity to follow the course of the examination, even to ask questions to the witness. From all of the above, it follows that the application of two protective measures (hearing via internal television and hearing in one's own apartment) is insufficiently demarcated, which makes practical application difficult.

The already mentioned legal provision from Article 152, paragraph 5 of the ZOM, according to which the record of the statement of the minor victim in the preliminary proceedings must be read at the main trial, also has shortcomings. This ius cogens norm refers to 3 situations. Quite justifiably, the legislator envisages its application to cases when a minor is heard through the use of technical means for audio-visual reproduction and when he is heard in his apartment and in another room, outside the courtroom. In this way, the potential danger of re-hearing at the main trial, in the presence of the defendant, is protected. The legislator, however, extends the application of this provision to the situation when a minor is heard in a preliminary procedure, in the classic way. Thus, the principle of immediacy is completely derogated from, and the principle of indirectness is introduced as a rule, which is not characteristic of modern criminal proceedings. It seems that it is unnecessary to oblige the court to read the record of the previously given statement, before the main trial, but to tie such action to situations, when other measures of deviation from the perceived immediacy, which were discussed, were applied (Knežević, 2010:328).

9. Limitation of the confrontation

Confrontation is one of the often used procedural actions in practice, in a procedure in which a minor victim participates, it can cause serious psychological consequences. Therefore, in the array of protection measures for this category of witnesses, one often comes across a ban on confronting the minor victim with the defendant and other witnesses. In Article 153 of the ZOM, the prohibitive norm eliminates the possibility of applying a confrontation between the accused and a minor witness, who due to the nature, consequences or other circumstances of the committed criminal act is particularly sensitive, or if as a result he is in a particularly difficult psychological state. From the stylization of this provision of the ZOM, it can be concluded that the ban on confrontation covers especially sensitive minor

witnesses in general, regardless of whether they are also damaged at the same time. A minor, who was an eyewitness to a criminal act, may be in a particularly sensitive state, due to the stress he suffered, regardless of whether any of his property was harmed or threatened. However, as the provisions of the ZOM refer only to minor victims, we believe that there is no basis for applying this provision to minor witnesses, who are not victims. Another shortcoming of the legal determination of the prohibition of confrontation consists in the fact that it does not include the possibility of confrontation between minor victims and other witnesses. Carrying out this action would have consequences almost equal to confronting the defendant. We believe that the ban on confrontation could be taken a step further, in such a way that the possibility of any minor victim being with the defendant and witnesses would be unconditionally eliminated. However, compared to the provisions of the law in the region, the ZOM foresees the highest level of protection. In the Macedonian Criminal Code, it is prescribed that confrontation between a minor victim and the accused is prohibited, if the proceedings are conducted due to the commission of the criminal offense of human trafficking, rape, sexual abuse, then crimes against humanity and international law, as well as other criminal offenses which, due to their nature, consequences or other circumstances make the child particularly sensitive or the child victim is in a particularly difficult psychological state (Article 174 of the ZPD).

10. Protection of the minor victim during face recognition

In the course of criminal proceedings, it is sometimes necessary to resolve a disputed fact about the identity of a person. With that aim, facial recognition is used to determine the identity of the accused, victim or missing person (Stevanović, Đurđić, 2007, 295). The performance of this criminal-tactical action consists of two segments. First, the witness is required to describe the face, whose identity is unknown, and then the recognition is approached, by showing the witness a group of faces. Since allowing the defendant to see the witness, who is making the identification, would represent a potential danger to the integrity of the witness, a one-sided transmissive mirror is used for the purposes of this action. In this way, the persons in the group, who are the object of observation, cannot see the witness who performs the recognition. Ensuring conspiracies in the application of this procedural action becomes particularly important, when a minor victim is found in the role of a witness who makes the identification. This need was recognized by our legislator, and he specifically regulated it in the ZOM. There is an absolute obligation to make it completely impossible for the defendant to see the minor victim during the performance of this action (Article 155 ZOM). Also, the court is obliged to act with special care

when performing the act of identification of the person by the minor injured party.

The Macedonian ZPD does not contain a provision on facial recognition, but it does have a provision on the protection of child victims and witnesses through a screen that protects the defendant from the sight of the accused, during interrogation (Article 171 paragraph 1 of the Code of Criminal Procedure).

11. Representation of a minor victim during the proceedings

An attorney is a procedural subject, whose role is to represent the interests of the victim in the proceedings. In regular criminal proceedings, the injured party, who has legal capacity, can have a proxy, as well as the legal representative of the injured party who is legally incompetent. The legal basis for acquiring the power of attorney is the power of attorney agreement, which can be made in writing or orally on the record before the court. According to the serbian CPC, the representative can only be a lawyer. The role of the attorney is to take actions in the procedure, in the name and on behalf of the injured party, within the scope of the given power of attorney. Therefore, in the regular procedure, the appearance of a proxy is optional. On the other hand, in proceedings with the participation of a minor victim, the attorney is a mandatory subject. According to the ZOM, a minor victim of a criminal offense must have a representative from the first hearing of the defendant (Article 154, paragraph 1, ZOM). That this is mandatory representation is indicated by the provision from the next paragraph, according to which a minor victim, who does not have a representative, will be appointed by a lawyer with special knowledge in the field of protection of minors. Representation costs are borne by the budget.

Our legislator, therefore, opted for mandatory representation of minor victims, for a solution similar to the appointment of an ex officio defense attorney in cases of mandatory defense. Certainly, the presence of an attorney enables more effective protection of the minor victim. Therefore, it is better to envisage the mandatory presence of an attorney from the beginning of the proceedings, rather than from the first hearing of the defendant. The legal provision can be further specified so that the minor injured party is taught about the right to choose an attorney, i.e. that the legal representative of a procedurally incompetent attorney can appoint an attorney. Since the injured party attains procedural majority upon reaching the age of 16, the legal representative of the minor injured party will most often appoint a proxy. We believe that there are no obstacles for the legal representative of the minor victim to perform the role of attorney, unless there is an interest contrary to the minor.

Mandatory representation of minor victims is provided for by the Macedonian ZPD (Article 167 paragraph 2) from the first statement during the entire procedure. As a rule, lawyers, attorneys for minor victims, are appointed from the list of those who have previously attended professional courses in the field of juvenile delinquency. Leaving the possibility for other lawyers, without specialization, is certainly not good, but it is clearly motivated by reasons of expediency, in situations of urgent action.

12. The principle of urgency of the proceedings with the minor victim

The procedure towards minors is characterized by emphasized efficiency. One of the most important reasons for emphasizing the principle of urgency is the need for the fastest possible reaction and intervention, directed towards the personality of the juvenile delinquent, in order to make a correction in behavior, during the growth and formation of a mature personality. The legislator most often recognizes this need, supporting it with a declarative periodic obligation to inform the president of the court about the progress of the proceedings against the minor. The principle of urgency has its legal expression in Article 56 of the ZOM. It obligates the participants of the procedure, that is, the authorities leading the procedure, as well as other authorities and institutions, to act with the greatest urgency, in order to end the procedure as soon as possible. Proceedings against a minor in which a minor has been harmed are also, according to ZOM, urgent (Article 157). The same provision exists in ZPD in Article 173 par 2. The legislator decided to highlight this principle in the part of the law, which contains provisions on the procedure with the minor victim. The reason is the need for effective and prompt protection of minor victims, especially victims of sexual offenses, but also of domestic violence and other serious crimes. However, although there is a declarative obligation to conduct and conclude the procedure immediately, its duration will depend on numerous other provisions of the law, especially strict deadlines for the execution of procedural actions and protective provisions on the possibility of circumventing the obligations of the actors of the procedure. Finally, the duration of the procedure depends on the consistent application of legal norms, which is an ancient cancer of the wounds of our judiciary.

13. Proposals for improving the protection of minor victims and witnesses de lege ferenda

The current legislative basis for the protection of minor victims and witnesses in Serbia and North Macedonia is a good starting point, which, however, requires further upgrading. It is necessary to regulate in more detail the position of the guardianship body in the procedure, with the aim of a

more active role of this state body. One of the consequences of conducting proceedings, in which the minor victim participates, may be the initiation of non-litigation proceedings for the deprivation of parental rights. Therefore, it is expedient to prescribe an obligation for the public prosecutor to request that the Center for Social Work initiate this procedure, with the aim of depriving the right to parental care when abuse or gross violation of the rights and duties of the parents towards the child is determined during the procedure. The procedure for deprivation of parental rights can also be initiated in Serbia, based on evidence from criminal proceedings, since, among other things, it can be initiated by the public prosecutor (Article 264, paragraph 2, of the Family Law). However, the introduction of such a provision in the Law on Minors would certainly be a positive step forward, which can contribute to a more comprehensive and effective protection of the rights of minor victims, especially children.

In proceedings with a minor victim, the primary criterion for establishing local jurisdiction may be the residence of the victim. The secondary criterion for establishing local jurisdiction is, in that case, the place where the crime was committed, if it is easier to conduct proceedings before that court. Deviation from the rule that proceedings are conducted before the court of the place where the crime was committed, which is the rule in regular criminal proceedings, is undoubtedly justified, since the main purpose is to protect the minor victim. For this reason, it would be opportune to incorporate the aforementioned provision into the ZOM of Serbia, during some future reform.

One of the more advanced solutions in comparative law, considering primarily the surrounding countries, was the existence of a victim restitution fund. According to the provisions of the previously valid Macedonian Law on Juvenile Justice from 2007, a minor who has been recognized by a legally binding court decision as a victim, i.e. injured party, has the right to submit a request for compensation from the fund of the competent court (Article 142, paragraph 1). It is also necessary that the minor has a property claim and that claim cannot be realized from the defendant's property within 6 months due to real or legal obstacles. In addition to minors, this request could be submitted by parents, guardians and the legal representative of the minor victim. When the compensation from this fund is made, the court initiates the enforcement procedure on the defendant's property. The system of restitution organized in this way was significantly more efficient and enabled timely financial satisfaction for the injured party. The current Law on Justice for Children no longer contains these provisions, but instead refers to the provisions of the Law for the payment of monetary compensation to victims of violent crimes, which certainly represents a step backwards.

The Macedonian ZPD expands the scope of protection of minor victims to the body of physical protection measures. According to Article 143 of the Civil Procedure Code, all extra-procedural protection measures provided for by the Law on Witness Protection can be applied during the procedure, in which the minor injured party participates. Not only is it possible to apply these measures, but also, if necessary, special measures to protect the psychophysical integrity of minors can be applied (Article 175 of the ZPD). In contrast to the Macedonian legislator, the measures of out-of-process (programmatic) protection of witnesses from the Serbian Law on the Program for the Protection of Participants in the Proceedings do not include minor victims. The law envisages the application of four types of measures, physical and technical protection of persons or property, change of residence, concealment of identity and ownership data, and change of identity of participants in the procedure (Article 14, paragraph 1). Anticipating the application of program protection to minor victims, without limitation to individual criminal acts, would greatly contribute to rounding off the protective system of this particularly sensitive category of witnesses.

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Original Scientific Article
UDK 364.682.42-72

INDIVIDUAL AND FAMILY RISK FACTORS AND THEIR ASSOCIATION WITH HOMELESSNESS

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Abstract

In the literature, homelessness is associated with numerous individual, family, and structural factors. Generally, it is considered that the risk of becoming and remaining homeless increases with the presence of adverse childhood experiences, conflicts between parents, absence of parental care and supervision, family dysfunction, mental and other socio-pathological behaviors in the family. Therefore, the aim of this paper is to support the theoretical knowledge about the influence of individual and family factors on homelessness with the results from the empirical research conducted in North Macedonia by project team of the Faculty of Security-Skopje (2022) titled "Pathways of homeless persons - before and during homelessness".

This paper has particular significance considering that the issue of homelessness as a social, health and security problem is often marginalized in society, and the determination of certain risk factors can be an indicator for policy makers to adopt key strategies and measures for the prevention of homelessness.

Keywords: homelessness, family, individual, risk, factors

Introduction

In order to understand and explain criminal, deviant and other social problems as complex phenomena in a society, we need to investigate them and perceive their causality, development, dynamics and duration. They can be observed as individual phenomena, but also as complex social phenomena that have their own dynamics, structure, occurrence, which are socially dangerous, in contradiction with the value system of values and cause negative consequences. In that context, homelessness as a public, social, and health problem can be considered as an individual human condition, and accordingly, the persons who are at risk of becoming homeless, or who are already homeless, can be analyzed. Or, as a negative phenomenon to analyze deep structural factors and root causes that lead to homelessness such as inequality, unequal access to public social services, uneven distribution of wealth, inadequate housing policies, especially social housing, adverse housing loans and benefits for decent housing, and so on.

At the micro-individual level, frequently asked questions are: What led certain individuals to become homeless? What individual characteristics are risk factors and increase the likelihood of entering the cycle of homelessness? What "stuck" the person in that state, and makes it impossible to get out of it?

Considering the above questions, within the framework of the scientific study *Patways of homeless during and after homelessness* (Stefanovska, Bacanovikj, Peovska, 2023),[1] part of the subject of theoretical and empirical development was the identification and analysis of individual and family factors, the conditions in which they grew up and which limited their capacities to engage in constructive social relations and connections with the primary and secondary social environment

The analysis aimed to perceive several aspects: What individual and family factors contribute to the development of a homeless career? What personal characteristics and problems make them vulnerable and thus unable to cope with the challenges in life that push them into the cycle of homelessness? How trauma in childhood affect their affectivity and deviant behavior later in life?

The mentioned questions were analyzed through quantitative and qualitative analysis of the content of the statements received during the interviews conducted with the homeless people in the premises of the Momin Potok Homeless Center in Skopje.

[1] This study was conducted by the Faculty of security – Skopje in 2022 (Стефановска, В. Бачановиќ, О. Пеовска, Н. (2023). Патеки на бездомните лица пред и за време на бездомништвото, Факултет за безбедност – Скопје). Part of the analysis that refers to the individual and family factors in this paper can be found in the research study, too.

To collect the necessary data, a list for coding certain characteristics of homeless people and an interview protocol were prepared.

Individual risk factors and their association with homelessness

In the field of criminological, sociological, psychological, and medical sciences there is extensive scientific literature on individual factors related to homeless people. They are increasingly treated as people with certain mental illnesses, psychological problems, with criminal tendencies who are socially excluded and come from the low, poor strata of society. One analysis found that out of 354 papers on homelessness, 2/3 were published in journals devoted to psychiatry, psychology, and medicine, and only 5% of the papers were published in publications devoted to political economy, economics, or housing. This is in support of the thesis that a large number of social phenomena, including homelessness, are considered as results of personal characteristics, personal choice and personal failure. This approach is also consistent with the concept of "blaming the victim" (cited in Bilinovic Rajacic & Cikic, 2021: 36).

In fact, in identifying individual risk factors, a large number of studies confirm that people with mental illnesses, who have problems with addictions, who have experienced trauma or physical and sexual victimization in the family, as well as those who cut ties with the family and cannot establish strong social relationships and bonds are most susceptible to homelessness. Suicidal behaviors are also common among homeless people (Brown, 2019:2). There are high rates of suicide, social isolation and loneliness among them (McNaughton, 2008: 14). All this leads to behavioral problems, poor school performance, broken family, criminal behavior, addictions and unemployment (Mzwandile A Mabhala, Ellahi, Massey, Kingston, 2016). Such problems make them vulnerable and, in correlation with inadequate social and housing policies, there is a great possibility to enter and remain in the cycle of homelessness. Ravenhill (2008) states that vulnerability, trauma and risky behaviors (addictions and suicidal behaviors), supported by economic and material deprivation are key individual factors related to homelessness (McNaughton, 2008: 57). In addition are also stresses the socialization (the network of established social relations) and human capital (economic, human and educational capacities) (McNaughton, 2008: 63). That means, the less constructive social relations and the less human capital, the greater the risk of entering homelessness.

Victimization and abuse in childhood are identified as significant risk factors that reduce a child's ability to successfully cope with life's challenges: achieve good school results, establish stable relationships, form a family, find

suitable employment. Experienced abuse and trauma has a long-term impact on almost every aspect of an individual's emotional and social life that can lead to a person's withdrawal to the margins of society. And when is on the periphery, there are fewer and fewer protective factors that can successfully stop the cycle of homelessness. Traumatized children lose self-esteem, often run away from home, have a disturbed self-image, experience post-traumatic stress and self-harm. Moreover, homeless persons who have faced extremely traumatic experiences in childhood, abuse and violence become even more vulnerable and a frequent object of victimization (McNaughton, 2008: 14). Especially the death of parents during childhood has a significant impact, which makes children vulnerable (Ravenhill, 2008:105, Mzwandile A Mabhala, Ellahi, Massey, Kingston, 2016, Fulton, Morianos & Spencer, 2010).

Also, a significant aspect is the problem with drugs, alcohol and other deviant and criminal behaviors. They can be considered as a cause, but also as a consequence of homelessness, as one way to withdraw or escape from the growing social problems and mental illnesses they face.

In addition, significant individual risk factors are: the frequent house moves and growing up in institutions. In the first case, the frequent house moves during childhood can cause a loss of stability, of social ties and affects the ability in later life to form stable social relationships that would be significant protective factors. In the second case, a high percentage of homeless people have experience with institutional living (in child care centers, in prisons, in psychiatric facilities or in hospitals). That experience disables or makes it impossible for some people to secure access to permanent housing or employment. Also, for some of them, who have been in foster care institutions and homes since childhood, it can be a big challenge to establish and maintain own homes (Kemp A. Peter, 1997: 75). For them, institutional life is *homeless* and being dependent on the state is a necessity and a normal state (McNaughton, 2008: 178).

Regardless of individual factors, in essence, the process of homelessness begins and is generated by the loss of the ability to resist, cope and personally struggle with experienced negative life events, such as childhood abuse, loss of a significant person, and breakup of family relations (Mzwandile A. Mabhala, Asmait & Mariska, 2017).

The analysis of factors that push the homeless person deeper and longer into the circle of homelessness is equally significant. Valuabel research on this topic was done in the eighties in America on street homelessness and the results were published in the book *Down On Their Luck: A Study of Homeless Street People (Snow, David A., Anderson)* in 1993. One of the research questios are the factors that limit homeless to get out of the cycle of street homelessness.

Why is the cycle of homelessness so hard to break? As for the entry into homelessness, also, in order to understand the exit from it, the interaction of individual and structural factors should be considered. What do homeless people face in their everyday life and do they have the health, intellectual, material and social capacities to deal with difficulties and challenges in life. As certain factors (addictions, mental illness, physical disabilities, poverty) in correlation with other factors cause some to enter the circle, they also prolog the state of homelessness. In fact, the health status of homeless people is much worse as a result of homeless life which reduces the capacities to actively engage in the labor market as a step towards exit. For example, tuberculosis is 25 times higher in homeless people than in the general population, or, they are 10 times more likely to get AIDS or gangrene due to bad lifestyle and irregular sleep (Superson M. Anita, 2020: 200). Other health problems they face are hepatitis C, cardiovascular, bronchial, and personality disorder problems (Gadermann, Hubley et al., 2021). Additional health problems occur due to frequent alcohol consumption, regardless of whether drinking was common before or during homelessness. Even mental illnesses are much more intensified and aggravated as a result of difficult struggle that a homeless person leads for survival on the street. A large number of people feel depressed, anxious and nervous (Bines, 1997: 146).

But in addition to the mental and physical disadvantages that homeless people suffer, which limits their ability to work, they also suffer from a lack of human capital, which means a lack of education, job skills or work experience, that all limits their competition in the labor market. Additional factors are poverty and violence in the family. If they are still present, is unlikely that young men or women who have been victims of violence will return to the abusive environment. In fact, the experience of domestic violence reduces the fear of aggression and violence in the streets, and makes the streets relatively safer compared to the home of the primary family (Ravenhill, 2008). In addition, homeless people face isolation, marginalization and social exclusion from the community. So, being homeless has many health and social implications that affect individuals' ability to cope with homeless life (Norman, Pauly: 2013).

Additional risk factors that significantly contribute to the maintenance of homelessness are the social ties that homeless people develop among themselves on the street (the so-called *Street level factors).* They have social, psychological and instrumental functions and undermine the opportunities for homeless people to separate. Although there is a desire among some of them to "get off the street", their daily behavior is more related to other homeless people on the street than to efforts to "get off it". Therefore, street connections reinforce their mutual connection, which is

based on frequent drinking and long sittings. Such activities prevent homeless people from focusing on other constructive activities in order to get away from everyday street life (Snow, David A., Anderson, 1993: 291–292). Moreover, the individuals themselves agree that street connections, although make the street life easier, still trap them deeper in the cycle of homelessness. As one person said, "once you get into the (homeless) life, it's easy to stay."

Among other individual risk factors that maintain homelessness, cognitive abilities are also identified in the research. The authors stress the inability of homeless people to set specific plans for leaving the street (Snow, David A., Anderson, 1993: 294). It stems from their daily routine way of life, which focuses on everyday existential issues: to get a hot meal, to provide a place to stay, to earn a penny during the day, and so on. In the research (Snow, David A., Anderson, 1993) is emphasized that homeless people are more effective in organizing life on the street, than in how to get out of that circle, because the rhythm of street life (which is life for survival) prevents long-term planning. Also, for some homeless people, getting out of homelessness is not a pressing problem and therefore they make minimal efforts and attempts to "get out" and get off the street (Snow, David A., Anderson, 1993: 293–294). That is why one of the theses is the *longer a person is on the street, the harder it is to get out of it.* The rationale is that personal resources and coping capacities are gradually lost. For example, work history, work skills and work resourses decrease, while physical disability increases. Thus, individuals become more dependent on social services, as well as on their fellow homeless who can provide material or other support in emergency situations.

According to the above, one of the conclusions is that is very difficult to "extricate yourself" from the cycle of homelessness, because several factors related to the homeless influence this process. The lack of resources and social connections, weak cognitive capacities, and the street lifestyle weaken the will and the ability to fight. The result of those risk factors is a change of homeless focus from going out to surviving on the street (Snow, David A., Anderson, 1993: 299–300).

Research results and discussion

Mental illness among homeless persons and within the family

Mental illness is considered a significant risk factor associated with homelessness, which is further exacerbated as a result of homeless life. Homeless people often suffer from depressive and anxiety disorders, trauma and other stress-related disorders, sleep disorders, personality disorders, and addiction-related disorders.

From the statements of the interviewed persons, it can be noted that a large percentage of the respondents (57%) have a history of certain mental (psychological, ie neurological) diseases or minor or major developmental disabilities. In the absence of appropriate medical documentation, the conclusions about the presence of certain mental illnesses among homeless people derive from the fact that some of them completed (or did not complete) primary education in a school for persons with special needs, some of them stayed in an institution for mental illnesses and some of them receive regular medical therapy due to their mental health condition.

The persons themselves declare that they do not feel well, and this condition exists even before entering the homeless life. The biggest percentage have mental diseases for years (some congenital or as result of living in ultimate poverty, in uncertain residential housing, in constant stress and experienced traumas in childhood). They are chronicaly homeless over 10, and some even over 15 years. This shows that significant period from their life is homeless with disturbed mentally health. A few persons got depression as a result of family relations breakdown and loss of material stability. Besides the mental diseases, five people they have physically disability. So, the broken mentally health is serious problem and risk factor for entry in the circle on homelessness, which worsens as a result of the homeless life. Homeless people are aware of their difficult psychological condition, which is especially caused by helplessness and hopelessness. It disables them from developing constructive relationships, from being able to work or to provide work and other social support. They feel burden due to daily difficulties and have no hope for any improvement, nor they expect institutional or other social assistance.

Also, 75% of homeless people do not have physical capacities, have impaired health and receive certain medications (regular therapy). They have heart diseases, bronchial diseases, stomach problems, frequent headaches, epilepsy, stress, addictions. This percentage representation of health problems among homeless people is an indicator of stress, low-quality lifestyle, poor-quality nutrition, insufficient health care, which, impairs their health. Without proper treatment and therapy, they are at increased risk to worsen their health condition. Social services understand the close connection between physical and mental health and homelessness, but, in national strategies, annual programs or other normative reglations of competent institutions, there is no special approach for more care and improvement of mental (and physical) health of that vulnerable people.

Addictions among homeless people and within the family

Addictions among homeless people are a serious problem, both before and during homelessness. Problems with alcohol, drugs and gambling, which significantly contributed to entering the homelessness, were present among ¼ of the homeless. Addiction was the main reason for family breakdown and consequently of becoming homeless for half of the reposndents. Few people had a problem with gambling, while three people had a drug addiction. Two of them are still active heroin and methadone users.

The recognition of alcohol addiction indicates that the persons simultaneously struggled with depression and they associate alcohol drinking with their severe psychological condition. It is a way to cope or escape from it, although each addiction pushes them even deeper into the "abyss". Drugs are also associated with serving a prison sentence and the drug is used in prison settings as a way to escape from both, the reality and the priosn deprivations and pains. Hence, addictions should always be seen in correlation with experienced trauma, deprivations and severe psychological conditions faced by homeless people. In that context, alcoholism and pathological gambling are dominant factors that, together with other factors, contributed to homelessness among some of the interviewed persons. While two people have overcome their addictions, the remaining seven people are still struggling with those passions.

Sociopathological phenomena, especially alcoholism and gambling, are also present in the primary family among 30% of the repondents, which was also the cause of domestic violence. Mainly, the father in a family was a chronic alcoholic, thus they lived in an abusive environment as children and experienced deep traumas.

Growing up in an environment where violence, poverty and abuse are often present leaves serious consequences for children's mental health. Alcoholism, as well as father's pathological gambling problems, contributed to the poor family situation, to family disintegration and breakdown, and finally, to sale and loss of family home.

Death and parental abandonment

In addition to the family dysfunction and the existence of different types of abuse, it can be noted that often homeless are persons who have been abandoned or neglected by their parents or family, in terms of neglect and failure to meet their basic needs for hygiene and food or left under other people care. Child abandonment by parents, leaving under other family members care, usually under grandparents care, increases the risk of

depriving children of emotional and social support, which is particularly significant in their overall development. Such experiences in childhood cause psychological stress and pressure that increases the risk of entering homelessness. About 30% of the respondents included in the research stated that care for them was left to their closest relatives (grandparents), but certain periods of time were under institutional care for neglected children. This group of homeless people still feels anger and rage because of the rejection by the parents and due to absence of love and care. In essence, the persons did not have enough valuable social network and support to be able toeasily overcome challenges that faced during their life.

Hence, a significant aspect for entering homelessness is the loss of parents, especially the mother due to her death or abandonment of their children in early childhood. About 30% of the interviewed homeless persons, have lost their mother by the teenage years (up to 14 years old) and have grown up without mother care (two were abandoned as babies, three were left at 6 or 7 years old, one at 11 years old, two lost her at the age of 14 and one person have grown up without parents). Apart from the absence of the mother, in more than 1/3 of the interviewed homeless persons, the father is also missing who often have leaved them at a young age.

People who lost their mother (or father) at a young age have spent a large part of their lives without emotional, protective, educational and other maternal help and support. It is significant to emphasize that the absence of the mother has left deep negative consequences in their emotional development. According to John Bowlby's *theory of affective attachment (*2011), the affective bond that is built between mother and child in early childhood lasts during the whole life as a permanent bond established between two people. According to Bowlby, both parents should provide the child with "a safe base in which the child and adolescent can withdraw from the outside world and where they can return, bearing in mind that they will be welcomed, physically and emotionally nourishedthat they will receive support when they are anxious and encouragement when they are scared" (cited in Стефановска, Бачановиќ, Батиќ, Пеовска, 2018: 120). Thus, those children whose parents are insensitive, neglect, abandon or reject them, there is a high risk for deviant and other criminal behavior (more about the emotional development of the personality from John Bowlby theory perspective, see Стефановска, Бачановиќ, Батиќ, Пеовска, 2018). In that context, research data show that the absence of family care, especially maternal love, causes trauma and spiritual emptiness. As one of the respondents says: *raised without parents, I have no love for parenting; I'm left on my own literally*.

To sum, losing or abandoning by parents at a young age has some association with homelessness, especially among families that live in

extreme poverty and housing insecurity. Losing parents is strongly associated with losing a home and entering homelessness.

Experienced trauma

Many studies show a strong significant association between experienced family trauma and homelessness. That has been confirmed in the research based on the results that 25 interviewed homeless persons talk about experienced violence, loss or other abuse in the primary family. Those traumatic events are caused by several circumstances: living in an abusive environment with father who is a chronic alcoholic, abandonment by or death of the mother, mental disorders and rejection from the environment, living in extreme poverty and growing up in institutions or on the street.

Most respondents are aware of their traumatic experiences and the consequences they left on their lives, including the entry into the homelessness. They do not forget the trauma associated with rejection by their own parents, as well as the physical abuse. It is interesting the comparation that gives one of the interviewed persons with a small puppy, who says*: Take a small two-month-old puppy and everyday yell at it, kick it, what will become of that child, that puppy, nothing will come out from that*. What does this statement indicate? That individual life can be completely turned into suffering and living with the consequences of childhood trauma. It confirms that trauma leaves far-reaching and lasting consequences and often causes mental disorders. It can also be concluded from the above statement that traumatized people cannot relieved from the pain on their own and have a hard time dealing with the challenges they face later in life. This means that the traumatized child without proper professional help, support and treatment will remain trapped in his disturbed mental state and continuously will have deteriorated mental health. Additionaly, the statements reveals that they lacked protection and other institutional psycho-social assistance to prevent traumatic s experiences in the childhood. So, they live remembering their traumatic events, without personal capacity to deal with the consequences that follow them trought their life.

Family risk factors and their association with homelessness

One of the most frequently mentioned and researched factors that increase risk of homelessness are family factors, which are associated with adversce childhood experiences related to abuse, abandonment, neglect, dysfunctional family environment, incarceration of a family member, addictions and presence of mental illness in family (Koh & Montgomery, 2021). Despite the fact that childhood trauma was briefly discussed in the

previous section within the framework of individual risk factors, a special focus and analysis will be given in this section because childhood trauma and abuses often occur within the family.

Adverse childhood experiences, such as emotional, sexual or physical abuse, neglect and abandonment by parents, have been shown to predict negative outcomes in adulthood, such as mental illness, addiction, chronic diseases (Couldrey, 2010: 14; Dietz & Wright, 2005: 16; Keeshin & Campbell, 2011: 401; Montgomery et al, 2013: 262; Sadiki, 2016: 35; Wenzel, Leake & Gelberg, 2001: 740) cited in (Pophaim & Peacock, 2021), but also have a significant impact on entering homelessness (Bauman et al., 2014) cited in (Bowen & Capozziello, 2022). Many homeless people have experienced negative experiences in their homes before becoming homeless, or they have shown high rates of abuse or neglect by family members (Coates & McKenzie-Mohr, 2010; Gwadz et et al., 2007; Toro & Goldstein, 2000; Zerger, Strehlow, & Gundlapalli, 2008) cited in (Milburn, et al., 2017). Research by Tsai, Edens and Rosenheck, based on the profiles of 738 adult homeless and their adversive childhood experiences, determined three clusters: homeless who had numerous problems in childhood (21%); homeless who had a broken family structure (44%); and homeless who had only a few problems in childhood (35%). Their research results showed that respondents who reported numerous childhood problems were significantly younger when they first entered homelessness (Patterson, Moniruzzaman, & Somers, 2014). If we add the fact that 42% of respondents stated that they had 5 to 10 negative experiences in childhood, it can be concluded that adversive childhood experiences determine the risk of certain physical and behavioral problems in adulthood. One of them is the risk of entering homelessness (Patterson, Moniruzzaman, & Somers, 2014). Liu et al., analyzing data from a systematic review of 29 studies and a meta-analysis of 20 studies conducted in the United States, concluded that during lifetime, 89.8% of homeless had one or more negative childhood experiences, while 53.9 % had four or more of these types of experiences. These data are significantly higher than those reported globally fromUS general population (eg, ingeneral population 38%–39% had only one negative childhood experience and 3–5% had four or more) (Koh & Montgomery, 2021). This confirms thesis that frequency of exposure to such negative events increases the risk of early entry into the paths of homelessness. Having in mind young homeless, Bender et al. (2010) determined that 57% of the interviewed homeless adolescents had an experience with a traumatic event in the family before the first episode of homelessness (Milburn, et al., 2017).

Regarding homeless women, negative experiences in childhood together with structural violence increase the possibility of experiencing homelessness. In that sense, the research conducted in Canada, by Milaney et

al., showed that homeless mothers, have a long history of traumatic childhood experiences, which together with survived structural violence, and pushed them into homelessness (Milaney, Lockerbie & Fang, 2019). The research "Service and Housing Interventions for Families in Transition (SHIFT)" carried out in the USA, showed that about 93% of respondents - homeless women had a history of trauma, while 81% had experience with more traumatic events. A large percentage of them experienced family violence from a family member, intimate partner or other known perpetrators (SAMHSA – Substance Abuse and Mental Health Services Administration, 2022). As one interviewed states: *In the end, the gate was closed for me, so I couldn't get in, and just like you can see me, I stayed outside under the clear sky … That's how my life on the street began… I couldn't get in... and so my life stayed on the street.*

Conflicts between parents, spouse violence and long-term conflict between children and parents, caregivers or other family members, are considered to be one of the primary reasons for leaving home by young people (Whitbeck & Hoyt, 1999) cited in (Milburn et al., 2017). Due to long-term conflict with parents or care givers, young homeless people can be divided into two groups, one group that is thrown out by their family and other who left the family (Marek, Strnad, Hotovcova 2012) cited in (Pavelkova, Schavel, & Skodova, 2022).

Dysfunctionality in the family sometimes leads to the break down of family relations. Separation or abandonment of a family member can be a significant traumatic experience that might exert great influence on homelessness. Data from a survey conducted in Australia shows that of those who have experienced homelessness, 62% underlines family breakdown or family conflict as main reason for becoming homeless (Moschion & van Ours, Australian Institute for Family Studies, 2017), although the impact of other factors (primarily individual) is not reduced. However, parental separation can lead to homelessness in many ways. For example, separation may require immediate relocation, which can generate a financial shock. Without sufficient savings or a social network of family and friends to cover these unforeseen expenses, low-income parents may be unable to afford safe and secure housing for their family and thus become homeless (Moschion & van Ours, Australian Institute for Family Studies, 2017). Separation between parents can also have a delayed effect on homelessness, especially for those who are financially unstable. For example, such families may be able to cope financially in the short term (for example, with their savings to cover housing costs), but not in the long run, so the worsening of their financial resources may lead them to homelessness several years after separation. Parent's separation can also create conflicts with children, which can contribute to leave the parental home. One result in following years can be state of

homelessness (Moschion & van Ours, 2019). However, data about connection between parental separation and subsequent entry into homelessness is essentially descriptive. Shinn (2007) indicates that divorce and separations often contribute to homelessness (Firdion & Marpsat, 2007; Hladikova & Hradecky, 2007; Okamoto, 2007; Philippot et al., 2007), but co-influenced by financial difficulties, domestic violence, mental illness, substance abuse, and incarceration of a family member. They show that only cumulative impact of these factors can lead some people to lose their home. Therefore, it is not completely clear whether the separation of parents as isolated factor contributes to homelessness among young people (Moschion & van Ours, 2017). Nevertheless, determining the extent of causal effect is crucial for development of a homelessness preventive policy. For example, causal effect of parental separation suggests that interventions designed to support separated families may be sufficient to reduce risk factor for homelessness (Moschion & van Ours, Do Childhood Experiences of Parental Separation Lead to Homelessness?, 2019).

According to certain statementssome of interviewed homeless has lived in functional family, but after parents' death, they end up without support and start conflicts with their brothers or sisters or with other relatives. Namely, almost every respondent which was interviewed in the research either don't have contacts with their brothers or sisters, or their contacts are very poor because of different objective and subjective reasons mentioned by the respondents. The lack from appropriate support from the close family members in certain critical life moments, very quickly push them into homelessness.

Concluding observations

Homelessness is determined by a series of individual, family and social factors related to homeless persons. The most identified are domestic violence, addiction problems, mental illness, childhood trauma and abuse, poverty, running away from home, family breakdown, poor cognitive and social skills, and absence of social support. A significant aspect of entering homelessness is the loss of parents, especially the mother due to her death or abandonment of the children at a young age. Also, most respondents have a history of certain mental (psychological, i.e. neurological) diseases or minor or major developmental disabilities. Sociopathological behaviors, especially alcoholism and gambling, are also present in the respondents' primary family in almost 30%, which is also the cause of domestic violence.

Generally, based on the research, can be confirmed the assumption that the combination of childhood trauma, any kind of abuse and lack of parental care, domestic violence and the presence of mental illnesses and

addictions, dramatically increases the risk of homelessness (Hernmani, Slusser, Struleninlg & Link, 1997) (Milburn, et al., 2017). However, it must be emphasized that these factors can cause homelessness only if they are placed within a broad social context (Hernmani, Slusser, Struleninlg, & Link, 1997). This means that is not possible to precise whether certain family factors have direct influence on the entry into homelessness, because it is always intertwined with other individual and structural risk factors. How much and to which degree family factors can influence, is a matter of individual analysis and assessment.

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Original Scientific Article
UDK 347.963:343.132]:340.13(497.11)
347.963:343.9.02(497.11)

EFFICIENCY OF INVESTIGATION AS AN INTERNATIONAL LEGAL STANDARD – EXPERIENCES OF THE PROSECUTOR'S OFFICE FOR ORGANIZED CRIME IN SERBIA

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Abstract

The process of reforming the criminal procedure legislation of the Republic of Serbia has been taking place for more than two decades. It is characterized by numerous peculiarities, and one of the key ones concerns the goal of the reform. The goal of the reform is to find the most adequate criminal procedure instruments to establish a normative basis for the desired degree of effectiveness of the investigation, and thus the effectiveness of the criminal procedure as a whole as an international legal standard. The realization of the above goal comes to the fore especially in cases of criminal offences of organized crime, considering the degree of their social danger and everything else that it entails for a society – in this case, in the Republic of Serbia. In view of this, a research was carried out, the aim of which is to answer the question: Did the introduction of the prosecutorial investigation instead of the previous judicial concept of investigation create a normative basis for its more effective implementation and thus the desired degree of efficiency of the criminal procedure as a whole, and if not, what should be done in this regard in order to achieve the set key goal of the work of the reform.

In the conducted research, for the purpose of collecting primary data, a specially designed instrument was used – a questionnaire consisting of 5 questions.

The conducted research as well as the materials on the basis of which this text was written show that the prosecutorial concept of investigation is in

the function of both its efficiency and the efficiency of the criminal procedure as a whole.

Keywords: efficiency of criminal procedure, investigation, public prosecutor, organized crime, police

1. Introduction

The process of reforming the criminal procedure legislation of the Republic of Serbia began with the adoption of the Criminal Procedure Code in 2001 (CPC 2001) and is still ongoing (working on the amendments to the CPC is ongoing, and should be completed by the end of the current year – 2024). There are several peculiarities of the work on the reform so far, but two stand out in particular. The first peculiarity is that we have not only frequent amendments and supplements to the Criminal Procedure Code as a key legal text from the set called criminal procedure legislation of the Republic of Serbia, but also the adoption of new legal texts, one of which (CPC from 2006) ceased to be valid even before the start of its comprehensive applications (Škulić and Ilić 2012). This approach of the legislator to this issue is the result of his desire to find the most adequate criminal procedure instruments to create a normative basis for the desired level of efficiency of criminal proceedings as an international legal standard, which is especially evident in cases of criminal offences of organized crime (Bejatović 2018). Secondly, in the desire to reach the key goal of the reform, which is, as we stated, the creation of a normative basis for the desired degree of efficiency of the criminal procedure, the work on the reform so far has brought numerous novelties. Key among them is the abandonment of the judicial system and the transition to the prosecutorial concept of investigation. Also, when this issue is viewed from the aspect of organized crime, there are numerous other solutions that have been brought about by the previous work on the reform of the criminal procedure legislation. Among them, two stand out. First, in the positive criminal legislation of the Republic of Serbia –Criminal Code (CC 2005) and the Criminal Procedure Code (CPC 2011), a large number of special institutes are provided for opposing this category of criminal acts. For example, in the CPC, several special evidentiary actions are standardized that can be applied against a person for whom there are grounds for suspicion that he or she committed a criminal offence of organized crime (Banović 2012). The case is, for example, with activities: covert supervision of communication, covert surveillance and recording, simulated deals, undercover investigators (Škulić 2011), etc. Also, there are three types of agreements between the public prosecutor and the defendant (Čvorović 2013) and others. Second, special laws (*lex specialis*) dedicated to the criminal legal instruments of combating

organized crime were adopted. The key among them is the Law on Organization and Competence of State Authorities in Suppression of Organized Crime, Corruption and Other Serious Crimes from 2002, which was in force until 2016, when it was replaced by the new Law on the Organization of State Bodies' Competence in Suppression of Organized Crime, Terrorism and Corruption (hereinafter referred to as: LOSBCSOC 2016). There are numerous novelties brought about by this legal text, and one of the most significant is the establishment of specialized entities for the detection, proof and adjudication of this category of criminal offences (Public Prosecutor's Office for Organized Crime; Organizational Unit responsible for Suppression of Organized Crime of the Ministry of Internal Affairs; Special Department of the Higher Court in Belgrade for organized crime).

When it comes to the prosecutorial concept of investigation as an instrument of its effectiveness and the effectiveness of the criminal procedure as a whole (Čvorović and Vince 2023), including criminal proceedings for criminal offences of organized crime (Čvorović 2022), we should first of all point out the fact that there are a number of reasons that the legislator of the Republic of Serbia was guided by when decided to abandon the judicial and move to the prosecutorial concept of investigation, which was brought about by the adoption of the Criminal Procedure Code in 2011. The key among them are:

First, a normative basis for a more efficient procedure is created, and thus one of the key goals of the reform of the criminal procedure legislation as a whole is realized (Čvorović 2019), which is confirmed by the achieved results of the practical application of the prosecutorial concept of investigation after its legalization in the competent criminal procedure legislation. In support of the correctness of this point of view, two examples were highlighted. The first concerns Germany, which adopted the Law on the Reform of Criminal Procedure Law on December 9, 1974 in order to create a normative basis for speeding up criminal proceedings, it moved from a judicial to a prosecutorial concept of investigation. Judging by the papers published at that time, good results were achieved very quickly in the practical application of the new concept of investigation (Roxin 2002). The second case concerns the criminal procedure legislation of the countries of the region, primarily Bosnia and Herzegovina, which was the first to accept this concept of investigation in the territory of the former Yugoslavia, and the results of its application after a very short time of adjustment were also satisfactory (Simović 2005);

Secondly, the degree of activity of the public prosecutor as the only authorized entity to undertake criminal prosecution of criminal offences for which criminal prosecution is undertaken *ex officio* is increasing, which is

not the case with the judicial concept of investigation in which the public prosecutor is pretty much passive and relies as a rule on what he or she obtains from the police and the investigating judge. Along with this, there is a question of the extent to which the judicial concept of investigation is in agreement with the principle of legality of criminal prosecution as a key principle of the functioning of the public prosecutor's office in the fight against crime. If we add to this the indisputable office character of the investigative judge's work as the main active subject of the judicial concept of investigation, then this argument gains additional relevance;

Thirdly, a more adequate way of regulating responsibility for the ineffectiveness of the investigation is its prosecutorial concept;

Fourth, by its legal nature, the investigation is not a judicial but a prosecutorial and police activity, etc. (Mijalković, Čvorović, Vari and Otašević 2024).

Starting from the above stated reasons as well as other reasons that speak of the advantages of the prosecutorial over the judicial concept of investigation, the CPC of Serbia from 2011 abandons the judicial and moves to the prosecutorial concept of investigation. Viewed in principle, this decision of the legislator was welcomed by the majority of the professional public. However, there are quite a few objections to the normative elaboration of the newly adopted concept of investigation. It is pointed out, it seems quite justified, that a certain number of decisions in the still valid text of the CPC are not in accordance with the generally accepted principles of standardizing the prosecutorial concept of investigation and that as such they can affect its effectiveness as one of the key goals that the prosecutorial concept wants to achieve. We list only those that are directly related to the subject of research. For example, the possibility of initiating an investigation against an unknown perpetrator and the failure to provide control instruments for the public prosecutor's decision to initiate an investigation. Next, predicting the lowest level of suspicion about the commission of a criminal offence – the grounds for suspicion as a material condition for initiating an investigation. Or, predicting the right of the suspect and his defense counsel to independently collect evidence and materials for the defense. That is, allowing the possibility for the judge for the preliminary procedure to join the investigation by ordering the public prosecutor to undertake a specific evidentiary action or several of them, etc. (Škulić 2013). In order to verify the validity of a large number of objections that stand out on the normative development of the prosecutorial concept of investigation in the current text of the CPC and its impact on its efficiency and the effectiveness of the criminal procedure as a whole, a study was conducted, the aim of which is to provide an answer to the question: Did the introduction of prosecutorial instead of the previous judicial concept of the investigation create a

normative basis for its more efficient implementation and thus the desired degree of effectiveness of the criminal procedure as a whole and if not what should be done in this matter in order to achieve the key goal of work on the reform? But before the analysis of the obtained results on the question posed in this way, the fact that not a small number of objections from the professional public of Serbia were raised on the specific normative elaboration of the prosecutorial concept of investigation, taken into account by the Working Group working on the preparation of the text of the Law on Amendments and Supplements to the CPC which should be adopted by the end of the current year, deserves attention, which in itself speaks at least about the degree of their topicality.

2. RESEARCH GOALS, HYPOTHESES AND METHODS

The objectives of the research on the topic Efficiency of Investigation as an International Legal Standard – experiences of the Prosecutor's Office for Organized Crime in Serbia are:

1. Assessing the adequacy of the introduction of the prosecutorial concept of investigation and the effectiveness of the criminal procedure;
2. Observing the effectiveness of the practical implementation of new legal solutions by the Prosecutor's Office for Organized Crime;
3. Assessment of the degree of efficiency of the pre-investigation procedure and contribution to the efficiency of the investigation

In accordance with the stated objectives of the research, the following hypotheses were set:

HO: The introduction of the prosecutorial concept of investigation contributes to the efficiency of the criminal procedure as an international legal standard

H1: Effective implementation of activities in the pre-investigation procedure by the police contributes to the effectiveness of the investigation

2.1. Description of the sample

During May 2024, a survey of public prosecutors in the Prosecutor's Office for Organized Crime, which is established for the territory of Serbia, was conducted. 21 public prosecutors, deputy public prosecutors and prosecutor's associates who acted according to the new law participated in the research. Before starting the survey, the respondents were informed about

the aim and purpose of the research, that the survey is anonymous and that individual answers will not be presented, but the results obtained only from the total sample will be used.

2.2 Survey questionnaire

For the purpose of collecting primary data, a specially designed instrument was used – a questionnaire consisting of 5 questions. The questions related to the views of public prosecutors on the effectiveness of the investigation, the contribution of the pre-investigation procedure to the implementation of international legal standards, etc. In order to statistically process the collected data, a statistical method was applied at the level of descriptive statistics, and for this purpose the software package SPSS (ver. 20) was used.[1]

3. Results

In accordance with the goals and research questions, after the conducted research, the following results were obtained for the topic "Efficiency of Investigation as an International Legal Standard – Experiences of the Prosecutor's Office for Organized Crime in Serbia".

To the question: "Can you initiate an investigation based on the criminal charges filed by the police?", the respondents answered as follows:

Table 1 - Criminal charges filed and investigations initiated

Response:	Never		Rarely		Occasionally		Often		Always	
	N	%	N	%	N	%	N	%	N	%
Number and percentage of respondents	0	0	0	0	2	9.5	9	42.9	10	47.6

To the question: Can you initiate an investigation based on the criminal charges filed by the police, the largest number of respondents answered affirmatively to this question. Of them, 47.6% always and 42.9% often, which is a total of 90.5% of respondents. Two respondents or 9.5% of them declared that they can do it only occasionally, while not a single respondent declared that they can do it never or only rarely.

[1] IBM SPSS ID: 729327.

To the question: "Do you inform the police officer who is working on a specific case about issuing an order to conduct an investigation?", the respondents answered as follows:

Table 2 – Notification of issuing an order to conduct an investigation

Response:	Never		Rarely		Occasionally		Often		Always	
	N	%	N	%	N	%	N	%	N	%
Number and percentage of respondents	2	9.5	2	9.5	4	19	1	4.8	12	57.1

To the second question: Do you inform the police officer working on the specific case about the order to conduct the investigation, the largest number of respondents declared that they do it, 57.1% always, 4.8% often, 19% occasionally and 9.5% rarely. Only 9.5% of those surveyed never do it. The received answers deserve special attention considering the fact that the CPC and any other legal text do not oblige the prosecutor to inform the police officer who works or who worked on the specific case of the order to conduct the investigation.

To question number 2: "If your answer was "Yes", do the police still take actions on their own initiative?", the respondents answered as follows:

Table 3 – Taking action on their own initiative by the police

Response:	Never		Rarely		Occasionally		Often		Always		Did not answer	
	N	%	N	%	N	%	N	%	N	%	N	%
Number and percentage of respondents	5	23.8	7	33.3	5	23.8	1	4.8	0	0	3	14.3

When asked this question, the majority of respondents (61.9%) stated that the police, even after issuing an order to conduct an investigation on their own initiative, still take action on a specific criminal case, and only 23.8% said that this never happens. The answers obtained in this way should be viewed in the context of the answers obtained to the previously asked question.

To the question: "Do you consider a period of one year justified for the completion of the investigation in criminal proceedings for criminal offences of organized crime, compared to a period of six months when it comes to regular proceedings?", the respondents answered as follows:

Table 4 – Justification of the deadline of one year to complete the investigation

Response:	Yes		No	
	N	%	N	%
Number and percentage of respondents	19	90.5	2	9.5

One of the indispensable issues when it comes to the issue in question is the issue of the deadline provided by law for the completion of the investigation, which is longer when it comes to criminal offences of organized crime. The justification of the question raised in this way is primarily based on the fact that predicting the deadline for the completion of the investigation is one of the very important instruments for achieving the desired level of its effectiveness. In response to the question, it seems quite justified considering the above reasons due to which the legislator abandoned the judicial and moved to the prosecutorial concept of investigation, the largest number of respondents (90.5%) consider the deadlines provided by law for the completion of the investigation to be justified. In contrast to them, 9.5% of the respondents believe that the deadline should be longer in such criminal cases, pointing out that it is a specific procedure, a procedure in which certain cases require a longer period of time for investigation (more persons, more expertise, more crimes).

To the question: Do you think that the effectiveness of the criminal procedure depends to a considerable degree on the effectiveness of the investigation as a phase of the previous criminal procedure?

Table 5 – The efficiency of the criminal procedure and the efficiency of the investigation as a phase of the preliminary criminal procedure

Response:	Yes		No	
	N	%	N	%
Number and percentage of respondents	16	76.2	5	23.8

Starting from the fact that the key legal and political reason for abandoning the judicial and moving to the prosecutorial concept of investigation was that it is considered to be in the function of the efficiency of the criminal procedure, as an indispensable question raised to the key subjects of the investigation, in this case the prosecutors for organized crime, was also a question of their position whether the effectiveness of the criminal procedure depends to a considerable degree on the effectiveness of the investigation. The results obtained on the question posed in this way are all expected – they are in line with the opinion of the experts in general on this issue. According to this, 76.2% of the respondents believe that the effectiveness of the criminal procedure depends to a considerable degree on the effectiveness of the investigation as a phase of the preliminary criminal procedure. However, on the other hand, the opinion of 23.8% of the respondents that the effectiveness of the criminal procedure does not depend to a considerable degree on the effectiveness of the investigation as a phase of the preliminary criminal procedure should be sought in the fact that they are holders of public prosecutor's offices who work in the Prosecutor's Office for Organized Crime where, as a rule, investigations continue significantly longer than average and where criminal proceedings as a whole, due to the complexity of criminal cases under their jurisdiction, also last significantly longer. In this context, the additional answers of four respondents from this group should be observed, which take two facts as the basis for the correctness of their position (a specific ongoing procedure and the fact that certain cases require a longer period of time for the investigation – more people, more expertise, more crimes).

4. Discussion and proposals *de lege ferenda*

The conducted research, as well as other similar research on the topic of the normative framework of Serbia as a prerequisite for the adequacy of the desired degree of effectiveness of the investigation and thus the effectiveness of the criminal procedure as a whole, have extremely great value. Two goals are achieved by the practical implementation of this type of research. First, an answer is given to the question of the adequacy of the existing normative framework for the desired degree of effectiveness of the investigation and thus the effectiveness of the criminal procedure as a whole, because it is undeniable that it depends to a considerable degree on the effectiveness of the investigation in the criminal cases in which it is carried out, which are primarily criminal cases of organized crime. Secondly, the answer is given to the question of the adequacy of the application of positive legal norms concerning the efficiency of the investigation, which has a special value considering the fact that only adequately applied norms of this

and any other character are in function of the goals of their standardization. In addition to this, the ways of achieving the required degree of adequacy of norming and application of this category of criminal law norms (suggestions of de lege ferenda are given) are indicated, which is also a function of the desired degree of efficiency of both this phase of the criminal procedure and its entirety.

Among the quite a few results achieved by the research conducted, the following deserve special attention:

First, there is full legal and political justification for abandoning the judicial and moving to the prosecutorial concept of investigation, which was brought about by the adoption of the Criminal Procedure Code in 2011. Official statistical data on the efficiency of criminal proceedings clearly show that in the last ten years, the efficiency of criminal proceedings in the Republic of Serbia has increased to a considerable degree, which was one of the key reasons for accepting the prosecutorial concept of investigation. In contrast to the average duration of criminal proceedings before the start of work on the reform of the criminal procedural legislation, which was about three years, today we have an average duration of criminal proceedings observed in general under two years. The reason for this degree of increase in the efficiency of criminal proceedings is the new solutions in the transformed criminal procedural legislation of Serbia, which also includes the change in the concept of investigation. Of course, there are other new solutions as well. The case, first of all, with simplified forms of procedure in criminal matters and the changed status of the public prosecutor in the pre-investigation procedure – their leadership position in this procedure (Bejatović 2014). Considering this, the results of the respondents were quite expected, namely the results according to which 76.2% of them believe that the effectiveness of the criminal procedure depends to a considerable degree on the effectiveness of the investigation as a phase of the previous criminal procedure. This position is in accordance with the majority position of the expert public of Serbia and corresponds to the reasons that the legislator was guided by in making the decision to change the concept of the investigation and to move from the judicial to the prosecutorial concept of the investigation. However, on the other hand, the opinion of 23.8% of the respondents that the effectiveness of the criminal procedure does not depend to a considerable degree on the effectiveness of the investigation as a phase of the preliminary criminal procedure should be sought in the fact that they are holders of public prosecutor's offices who work in the Prosecutor's Office for Organized Crime, where investigations, as a rule, last considerably longer than average and where criminal proceedings as a whole, due to the complexity of criminal cases under their jurisdiction, also last significantly longer. Due to this, this attitude of these holders of the public prosecutor's office should be

sought in this fact. But when it comes to this issue, it should be viewed in general and not only in relation to one category of criminal offences. This is all the more so when it comes to the category of the most serious criminal offences, which is the case with criminal offences under the jurisdiction of the Prosecutor's Office for Organized Crime.

The aforementioned statement regarding the normative framework of the newly adopted prosecutorial concept of investigation does not in any case mean that the normative concept of investigation, in the current text of the CPC, is normatively elaborated in accordance with generally applicable principles in this area and that nothing should be changed. On the contrary, the conducted research and a large number of scientific and professional papers published on this topic indicate that a certain number of issues of the prosecutorial concept of investigation would need to be standardized in a different way – in accordance with generally accepted principles from this field and thus create a normative basis for an even greater degree of efficiency of investigation and thus the efficiency of the criminal procedure as a whole as a key goal of the reform of the criminal procedure legislation of the Republic of Serbia.

Secondly, a necessary material condition for the initiation of an investigation – for making an order to conduct an investigation by the public prosecutor is the existence of grounds for suspicion that a certain person has committed a criminal offence, i.e. the existence of grounds for suspicion that a criminal offence has been committed in cases where the investigation is initiated against an unknown perpetrator (Article 295, paragraph 1, and Article 296, paragraph 1 of the CPC). Fulfilment of this material condition in most cases, as a rule, is determined by the public prosecutor on the basis of the criminal charges filed by the police and its attachments (Vujanović-Porubović 2024). Considering this, one of the indispensable questions when it comes to this aspect of the issue in question was the question: Can you initiate an investigation on the basis of the submitted criminal charges by the police, i.e. issue an order to initiate an investigation. The validity of this question is also contained in the fact that depending on the answer to this question by those who decide on the filed criminal charges and thus on issuing an order to conduct an investigation based on the submitted criminal charges by the police, a conclusion can be drawn about the quality of police work in the pre-investigation procedure, the result of which, among other things, is the filing of criminal charges. As it has already been pointed out, the largest number of respondents answered affirmatively to the question posed in this way. Of them, 47.6% always, and 42.9% often, which is a total of 90.5% of respondents. Such a high percentage of declarations by those who decide on the final fate of the filed criminal charges can serve as a basis for two conclusions. First, that the police carry out their powers – their duty

to discover and secure evidence of the commission of a criminal offense and the perpetrator - in accordance with Article 286. paragraph 1 of the CPC, which stipulates that the police are obliged "if there are grounds for suspicion that criminal offence has been committed which is prosecuted *ex officio* to take the necessary measures to find the perpetrator of the crime, to ensure that the perpetrator or accomplice does not hide or escape, to discover and secure traces of the criminal offence and objects that can serve as evidence, as well as to gather all the information that could be useful for the successful conduct of criminal proceedings."[2] Second, an undoubted contribution to the quality of police work in the pre-investigation procedure is provided by the public prosecutor, who in terms of Article 285 paragraph 1 of the CPC manages the pre-investigation procedure and in that capacity undertakes the necessary actions for the prosecution of perpetrators of criminal offences. Among other things, they can order the police to take certain actions in order to detect criminal offences and find suspects, and the police is obliged to carry out the order of the public prosecutor and to regularly inform him about the actions taken (Škulić 2011).

In addition to the above, the following two facts deserve attention in relation to the question raised in this way. They concern, it seems, not without reason, the criticism of a significant number of experts in Serbia of the normative features of the investigation related to the grounds for suspicion as a necessary material condition for its initiation and the possibility of initiating and conducting an investigation against an unknown perpetrator of a criminal offence. When it comes to the material condition for initiating an investigation according to the solutions of the CPC, the lowest level of suspicion about the commission of a criminal offence is required, i.e. the mere existence of grounds for suspicion of the commission of a criminal offence is sufficient. According to the majority opinion of the professional public of Serbia, this solution to this issue is subject to criticism, it seems quite justified. According to them, the initiation of the investigation must be conditioned by the fulfilment of the material condition specified in the existence of the facts and circumstances of the specific case that reasonably point to the conclusion, indicate that a certain i.e. specific person is the perpetrator of the criminal offence that is charged against him, i.e. the existence of a well-founded suspicion and not just grounds for suspicion. The initiation and conduct of criminal proceedings cannot be based on

[2] In order to fulfill this duty of theirs, the legislator has foreseen a number of actions that the police can undertake. It is not only operational tactical actions, but also actions of proof that the police undertake on their own initiative or at the request of the public prosecutor and the order of the judge for preliminary proceedings (Articles 286 and 287 of the CPC)

assumptions. It must be based on real i.e. concrete data. Starting an investigation only on the basis of suspicion or even on the basis of indications is not justified considering all its implications. There is no justification for predicting the same degree of suspicion for taking actions in the pre-investigation procedure and for initiating an investigation, which is the current decision of the legislator (Škulić 2023). If we add to this the fact that in terms of Article 7 point 1 of the CPC criminal proceedings are considered to be initiated by issuing an order to conduct an investigation and that the legislator does not foresee any instruments for controlling the public prosecutor's decision to initiate an investigation (Radulović 2012), the question becomes even more current, i.e., the presented position is even more justified.

The situation is similar when it comes to the decision of the legislator, which allows the initiation of an investigation against an "unknown perpetrator when there are grounds for suspicion that a criminal offence has been committed" (Article 295 paragraph 1, point 2 of the CPC). This solution as well is also quite justifiably exposed to criticism. As such, it not only has no justification, but is also in direct opposition to a number of generally accepted solutions in criminal material and procedural legislation. For example, it contradicts the provision of Article 14 paragraphs 1 and 2 of the Criminal Code of the RS, which clearly states that "there is no criminal offence without guilt", and the question of guilt can only be observed in the context of a concrete and not an unknown person. Or the question of the relationship between this provision and Article 286, paragraph 1 of the CPC in which the conduct of the police in the pre-investigation procedure is quite correctly prescribed, which also includes cases "When there are grounds for suspicion that a criminal offence has been committed which is prosecuted *ex officio*."

Thirdly, there are two entities to whom, according to the current CPC, the order to conduct investigation are delivered. These are the suspect and his defence counsel. In addition to these two entities, at the same time as delivering the order to conduct the investigation to the suspect and his defense counsel, the public prosecutor also informs the injured party of the initiation of the investigation, with the instructions that belong to him in connection with the committed criminal offence in general (Article 297 paragraphs 1 and 3 of the CPC). According to this, the legislator does not prescribe the obligation of the public prosecutor to inform the police officers who work or who worked on the specific case about the adoption of the order to conduct the investigation. However, despite this attitude of the legislator, the largest number of respondents declared that they do so, namely 57.1% always and 4.8% often, occasionally and rarely 33.3%. Only 9.5% of those surveyed never do it. In spite of the fact that the legislator does not explicitly

prescribe this, the behaviour of those surveyed who do it seems quite justified. It seems that there is not a single reason that would speak against the justification of such their behaviour. On the contrary, this is especially considering the fact that the public prosecutor, after issuing an order to conduct an investigation, can entrust the police with the execution of certain evidentiary actions in accordance with the provisions of the Criminal Procedure Code, and that is in not a small number of cases the police officer or police officers who have already worked or are still working on the specific criminal case. In view of all this, *de lege ferenda* proposal to prescribe, as in the case of the injured party, the obligation of the public prosecutor to inform the police officer or the police officers who worked or are still working on the criminal case in question of the issuance of the order to conduct the investigation seems quite justified. In support of the justification of such a proposal, the fact that police officers, by filing criminal charges and issuing an order to conduct an investigation based on it, is not released from the obligation to collect additional evidence on the criminal matter in question in cases where it proves necessary. Confirmation of the correctness of such an attitude are also the results of the conducted research obtained on question No. 2.

Fourth, the prosecutorial concept of investigation in itself is not unconditionally in the function of the efficiency of the investigation, and thus not in the function of the efficiency of the criminal procedure as a whole. On the contrary, in order to be in this function, it must be standardized in accordance with certain standards. One of them is predicting the deadline for the completion of the investigation. According to the solutions of the valid text of the CPC of the Republic of Serbia, there are two deadlines in which the public prosecutor should complete the investigation, and the criterion for distinguishing them is the nature and severity of the criminal offence for which the investigation is being conducted. According to this criterion, if the public prosecutor does not complete the investigation against the suspect within six months, and in the case of a criminal offence for which a special law is determined to be handled by the public prosecutor's office of special jurisdiction (a case with criminal offences under the jurisdiction of the Prosecutor's Office for Organized Crime) within of one year, he or she is obliged to inform the immediately superior public prosecutor about the reasons why the investigation has not been completed, and the immediately superior public prosecutor is obliged to take measures to complete the investigation (Article 310 paragraphs 2 and 3 of the CPC). According to the expert's understanding, the position of the legislator to foresee a deadline of one year for the completion of the investigation in criminal matters under the jurisdiction of the Prosecutor's Office for Organized Crime is quite justified, compared to a deadline of six months when it comes to regular proceedings.

This attitude, quite expectedly, is supported by the largest number of respondents (90.5%). In contrast to them, 9.5% of the respondents believe that the deadline should be longer in such criminal cases, pointing out that it is a specific procedure, a procedure in which certain cases require a longer period of time for investigation (more persons, more expertise, more crimes). In this regard, the accuracy of such views should be emphasized, because it is an indisputable fact that there are cases which, due to the specifics of the procedure (larger number of defendants, more crimes, more complex expertise, etc.), require a longer period for the completion of the investigation. However, these are just exceptions that should not be the rule. On the other hand, the key reason for switching to the prosecutorial concept of investigation is its acceleration and thus the achievement of a more efficient criminal procedure, and predicting longer deadlines for its completion would not be in that function. In addition to this, there is also the fact that it is a deadline of an instructive nature, the non-observance of which entails the obligation of the senior public prosecutor to take measures to end the investigation. In view of all this, the position of the legislator regarding the stated method of determining the deadline for the completion of the investigation seems to be quite justified. As such, it is in the function of its efficiency and thus the efficiency of the criminal procedure as a whole.

When it comes to this aspect of the issue in question, one more fact should be kept in mind. In addition to the deadline for the completion of the investigation, there are other assumptions that must be met in order for the prosecutorial concept of investigation to function as expected, namely efficiency with full respect for the freedoms and rights of the defendant and other participants in the investigative procedure guaranteed by international acts and national legislation. Achieving the goal set in this way is possible provided that the prosecutorial concept of investigation is normatively developed with full respect for the following principles: public prosecutor as the only authorized entity to initiate investigative proceedings, grounds for suspicion as a material condition for initiating an investigation; specifying the conditions under which the police can appear as an active subject of the investigation, as well as the types of investigative actions that they can undertake in such a capacity; providing for concrete mechanisms that ensure adequate cooperation between the public prosecutor and the police in the investigation; accurate and precise prescription of the conditions under which and with which evidentiary actions the court can appear as an active subject of its undertaking; anticipating the instruments for the legal and efficient conduct of the investigation, as well as the manner of the public prosecutor's actions after the end of the investigation and the consequences of non-compliance with the norms so foreseen; protection of the basic rights of the injured person arising from the criminal offence for which the investigation

is being carried out; providing for mechanisms to ensure the collection of evidence both to the detriment and to the benefit of the person against whom the investigation is being conducted.

Fifth, one of the key reasons for abandoning the judicial and moving to the prosecutorial concept of investigation, not only in the criminal procedure legislation of Serbia, but also in the states of the region that acted on this issue in a similar way as the legislator in the Republic of Serbia, was that it was in the function of achieving a key goal reforms of its criminal procedure legislation, namely increasing the efficiency of criminal proceedings. Considering this, one of the questions that arises is: Has this goal of the reform been achieved or not? Official statistical data on the efficiency of criminal proceedings clearly show that in the last ten years, the efficiency of criminal proceedings in the Republic of Serbia has increased to a considerable extent. In contrast to the average duration of criminal proceedings before the start of work on the reform of the criminal procedure legislation, which was about three years, today we have an average duration of criminal proceedings observed in general under two years. The reason for this degree of increase in the efficiency of criminal proceedings is the new solutions in the transformed criminal procedure legislation of Serbia, which also includes the change in the concept of investigation. Of course, there are other new solutions. The case, first of all, with simplified forms of procedure in criminal matters and the changed status of the public prosecutor in the pre-investigation procedure – his or her leadership position in this procedure (Beljanski 2014). Considering this, the results of the respondents were quite expected, according to which 76.2% of them believe that the effectiveness of the criminal procedure depends to a considerable degree on the effectiveness of the investigation as a phase of the preliminary criminal procedure. This position is in accordance with the majority position of the professional public of Serbia and corresponds to the reasons that the legislator was guided by in making the decision to change the concept of investigation and move from a judicial to a prosecutorial concept of investigation. However, on the other hand, the opinion of 23.8% of the respondents that the effectiveness of the criminal procedure does not depend to a considerable degree on the effectiveness of the investigation as a phase of the preliminary criminal procedure should be sought in the fact that they are holders of public prosecutor's offices who work in the Prosecutor's Office for Organized Crime where, as a rule, investigations continue significantly longer than average and where criminal proceedings as a whole, due to the complexity of criminal cases under their jurisdiction, also last significantly longer. Due to this, this attitude of these holders of the public prosecutor's office should be sought in this fact. But when it comes to this issue, it should be viewed in general and not only in relation to one category of criminal offences. This is

all the more so when it comes to the category of the most serious criminal offences, which is the case with criminal offences under the jurisdiction of the Prosecutor's Office for Organized Crime.

5. Conclusion

The conducted research as well as the materials on the basis of which this text was written show that the prosecutorial concept of investigation is in the function of both its efficiency and the efficiency of the criminal procedure as a whole as one of the key goals of the reform process of the criminal procedure legislation of the Republic of Serbia, which has been going on for three decades. Considering this, the attitude of the legislator in the Criminal Procedure Code from 2011 to abandon the judicial and move to the prosecutorial concept of investigation is to be welcomed. Also, when this problem is seen from the aspect of organized crime, numerous other solutions brought by the previous work on criminal legislation reform are to be welcomed. Among them, the provision of a considerable number of special institutes to combat this category of criminal offences, the adoption of special laws (*lex specialis*) dedicated to the criminal legal instruments of combating organized crime, which, among other things, are trained and specialized entities to detect, prove and adjudicate this category of criminal offences (Public Prosecution for Organized Crime; Organizational unit responsible for combating organized crime in the Ministry of Internal Affairs and the Special Department of the Higher Court in Belgrade for Organized Crime) and others. However, such a statement by no means means that the newly adopted concept of investigation in the valid text of the CPC is normatively elaborated in accordance with generally applicable principles in this area and that nothing should be changed. On the contrary, the conducted research and a large number of scientific and professional papers published on this topic show that a certain number of issues of the prosecutorial concept of investigation should be regulated in a different way – in accordance with generally accepted principles in this field. The case is, for example, with the degree of suspicion as a material condition for initiating an investigation, predicting adequate ways of controlling the public prosecutor's decision to initiate an investigation, etc. Norming these and some other issues in accordance with the given proposals *de lege ferenda* would create a normative basis for an even greater degree of effectiveness of the investigation and thus the effectiveness of the criminal procedure as a whole. In view of this, the fact that a large number of *de lege ferenda* proposals were taken into account by the Working Group working on the preparation of the text of the Law on Amendments to the CPC, which should be adopted by the end of the current year, is to be welcomed.

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Original Scientific Article
UDK 342.738:340.13(497.11)
351.74:[343:355.40(497.11)
35.075.2:355.40(497.11)

OSINT tools - recapitulation of the powers of LEA in Serbia

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Abstract

The author is elaborating powers of Law enforcement agencies (LEA) determined by legal grounds in Republic of Serbia (RS) with special accent to the OSINT activities. OSINT as a method of gathering intelligence data is not reserved only for the intelligence agencies, but also other LEAs. The existing legal and organizational system in RS is very interesting, which is thoroughly explained by the author. There are some downsides of the powers shown in the article that suggest that LEAs in intelligence area are more in dept defined than those who are more standard oriented LEAs, but also better stipulated than those in common areas. Although OSINT is a very extremely developing area of LEAs powers enforcement there are no following legal premises accordingly developing. That is shown by the author envisaging of the difference when elaborating differences of the intelligence agencies and "common" agencies like police or public prosecutor.

Keywords: OSINT, Police, Intelligence, LEA powers, pretrial procedure

Introduction

While performing the actions of the police, state authorities as a prerogative of the governance, there are assumptions guaranteed by the most diverse international sources of law according to which the state, as well as the representatives of the state authority, are not allowed to encroach on basic human rights, without the existence of adequate frameworks established by the legal systems of the state in question[1]. In this sense, the determination of the range of rights and freedoms that enjoy this protection is growing every day. This is conditioned by the modern development of digital devices, their possibilities and capacities, as well as the ubiquitous needs of modern man and his desire to interact with others through that means. To this end, the

modern environment, which provides unimagined possibilities, dreamed of for centuries by intelligence agencies in earlier years. Such possibilities develop much earlier than the accompanying legislative reaction of the states, and thus the right form of protection is missing in the area that would be adequate in terms of protecting the standards that are guaranteed. In such a dynamic environment of efforts by state representatives and e.g. Police or intelligence agencies are the first to be settled at the expense of the preservation and protection of human rights and freedoms of man and citizen.

International legal framework

Within this area, there are international conventions dealing with this area, of which the binding convention of the Council of Europe (CE) - CETS No. 108 is for Serbia.[2] CE Convention on the Protection of Individuals in Relation to the Processing of Personal Data, and CETS no. 223[3], as an additional protocol to this convention. In addition to these sources, the EU GDPR is also important for our country[4] as one of the pillars of the protection of personal data and individuals in general, and the Republic of Serbia, as a candidate for EU membership, was obliged to implement this regulation as part of its obligations, which was done. in the Law on Protection of Personal Data - ZZPL ("Official Gazette of RS", No. 87/2018). This way of implementation implied an almost completely unsuccessful technique of " copy paste ", the so-called Acceptance of other nation's norms without adopting the spirit of this area, so we have a very problematic situation now in this area in the Republic of Serbia.

Personal Data Protection Law (ZZPL) of the Republic of Serbia

This law applies to the processing of personal data that is carried out, in whole or in part, in an automated manner, as well as to the non-automated processing of personal data that is part of a data collection or is intended for a data collection. ZZPL **does not apply** to the processing of personal data by a natural person for personal needs, i.e. for the needs of his household. ZZPL applies to the processing of personal data carried out by the handler, i.e. the processor who has its headquarters, i.e. residence or residence in the territory of the Republic of Serbia, within the framework of activities carried out in the territory of the Republic of Serbia, regardless of whether the processing is carried out in the territory of the Republic of Serbia . ZZPL applies to the

8 Nonobvious OSINT Methods that Boost Any Case (sociallinks.io)

[2]https://rm.coe.int/1680078b37

[3]https://rm.coe.int/16808ac918

[4]https://gdpr-info.eu/

processing of personal data of the person to whom the data refers who has a residence, i.e. residence in the territory of the Republic of Serbia by a handler, i.e. a processor who does not have a seat, i.e. residence or residence in the territory of the Republic of Serbia, if the processing operations are related to:

1) the offer of goods or services to the person to whom the data refer in the territory of the Republic of Serbia, regardless of whether that person is required to pay compensation for these goods or services;
2) monitoring the activities of the persons to whom the data refer, if the activities are carried out on the territory of the Republic of Serbia.

This law (Article 4) defines terms of importance for the area, among which:

1) "personal data" is any data relating to a natural person whose identity is determined or determinable, directly or indirectly, in particular on the basis of an identity marker, such as name and identification number, location data, identifiers in electronic communication networks or one , that is, more features of his physical, physiological, genetic, mental, economic, cultural and social identity;
2) "data subject" is a natural person whose personal data is processed;
3) "personal data processing" is any action or set of actions that are performed automatically or non-automated with personal data or their sets, such as collection, recording, sorting, grouping, i.e. structuring , storing, adapting or changing, revealing, viewing, use, disclosure by transmission, i.e. delivery, duplication, dissemination or otherwise making available, comparing, limiting, deleting or destroying (hereinafter: processing);

The ZZPL foresees in Article 9 the type of processing of personal data by state authorities for special purposes, defining what is involved and what this type of processing refers to. In addition to this, ZZPL also provides a distinction between certain types of persons to whom the data refer.

If it is about personal data processed by competent authorities for special purposes, the competent authority is obliged to, when processing them, if possible, make a clear distinction between data relating to certain types of persons about whom data is processed, such as :

1) persons against whom there are grounds for suspicion that they have committed or intend to commit criminal acts;
2) persons against whom there is reasonable suspicion that they have committed criminal acts;
3) persons who have been convicted of criminal offences;
4) persons harmed by a criminal offense or persons who are presumed to be harmed by a criminal offense;

5) other persons who are related to the criminal act, such as witnesses, persons who can provide information about the criminal act, related persons or associates of the persons referred to in point . 1) to 3) of this article.

ZZPL also differentiates individual personal data. Therefore, if it concerns personal data processed by competent authorities for special purposes, the competent **authority is obliged to, to the extent possible, clearly separate personal data that is based solely on the factual situation from personal data, which are based on personal assessment.**

The processing is legal according to Article 12. ZZPL only if one of the following conditions is met:

1) **the person** to whom the personal data refers **has consented to the processing of his personal data for one or more specially determined purposes** ;

2) processing is **necessary for the execution of the contract** concluded with the person to whom the data refer **or for undertaking actions** , at the request of the person to whom the data refer, before the conclusion of the contract;

3) processing **is necessary in order to comply with the operator's legal obligations** ;

4) processing **is necessary in order to protect vital interests of the person to whom the data refer or another natural person;**

5) processing **is necessary for the purpose of performing tasks in the public interest or exercising the legally prescribed powers of the operator** ;

6) processing **is necessary in order to achieve the legitimate interests of the operator or a third party, unless these interests are overridden by the interests or fundamental rights and freedoms of the person to whom the data refer, which require the protection of personal data, and especially if the person to whom the data is relations of minors** .

Paragraph 1, item 6) of this article does not apply to processing carried out by the authority within its jurisdiction.

The provisions of para. 1 and 2 of this article do not apply to processing carried out by competent authorities for special purposes.

The processing carried out by the competent authorities for special purposes **is legal only if this processing is necessary for the performance of the work of the competent authorities and if it is prescribed by law** . Such a law determines **at least the goals of the processing, the personal data that is processed and the purposes** of the processing.

Basis for processing from Article 12, paragraph 1, item . 3) and 5) of this law shall be determined by law.

If it concerns the processing referred to in Article 12, paragraph 1, point 3) of this law, the purpose of the processing is determined by law, and if it concerns the processing referred to in Article 12, paragraph 1, point 5) of this law, the law prescribes that the processing is necessary in order to perform tasks in the public interest or to exercise the legally prescribed powers of the operator.

The law from paragraph 1 of this article prescribes the public interest that is intended to be achieved, as well as the obligation to comply with the rules on the proportionality of processing in relation to the goal that is intended to be achieved, and conditions for the permissibility of processing by the handler, the types of data that are subject of processing, persons to whom personal data refer, persons to whom data may be disclosed and the purpose of their disclosure, limitations related to the purpose of processing, the term of data storage and preservation, as well as other special actions and processing procedures, including measures for ensuring lawful and fair processing[5].

Also of importance is the analysis of data processing for special purposes when these data are of a specific type. Article 18 of the ZZPL foresees, defines and prescribes these situations as follows. Processing carried out by competent authorities for special purposes, **which reveals racial or ethnic origin, political opinion, religious or philosophical belief or trade union membership, as well as processing of genetic data, biometric data for the purpose of unique identification of a natural person, data on health status or data about the sexual life or sexual orientation of a natural person, is allowed only if it is necessary, with the application of appropriate measures to protect the rights of the person** to whom the data refer, **in one of the following cases** :

1) the competent authority **is authorized by law to process special types of personal data** ;

[5] Sandra Wachter, "Normative Challenges of Identification in the Internet of Things: Privacy, Profiling, Discrimination, and the GDPR," *Computer Law & Security Review* 34, no. 3 (2018): 436–49.

2) the processing of special types of personal data **is carried out in order to protect the vital interests of the person to whom the data refer or another natural person;**

3) processing **refers to special types of personal data that the person to whom they relate has apparently made publicly available.**

ZZPL defines processing related to criminal judgments and punishable offenses in Article 19[6]. Processing of personal data related to criminal judgments, punishable offenses and security measures can be carried out on the basis of Article 12, paragraph 1 of ZZPL only under the supervision of the competent authority or, if the processing is permitted by law, with the application of appropriate special measures to protect the rights and freedoms of the persons to whom the data refer.

A single record of criminal judgments is kept exclusively by and under the supervision of the competent authority.

ZZPL art. 22. prescribes the conditions and circumstances related to information and ways of exercising the rights of persons to whom the data refer if the processing is carried out by competent authorities for special purposes. Thus, if the processing is carried out by competent authorities for special purposes, **the controller is obliged to take reasonable measures to provide the person to whom the data refer all the information from Article 25 of this law**, **that is, information related to the exercise of rights from Art. 27, 28, 32, 34, 35, 39 and 53 of this law, in a concise, comprehensible and easily accessible manner, using clear and simple words** and. **That information is provided in any appropriate way, including electronically** . As a rule, the operator provides information in the form in which the request of the data subject is contained.

The controller is obliged to provide assistance to the person to whom the data refer in exercising his rights from Art. 27, 28, 32, 34, 35 and 39. ZZPL. The operator is obliged to provide the person to whom the data refer without delay in written form with information about the action taken upon his request.

The operator provides information from Article 25 of the ZZPL and acts in accordance with Art. 27, 28, 32, 34, 35, 39 and 53 ZZPL free of charge. If the request of the data subject is clearly unfounded or excessive, and especially if the same request is repeated frequently, the competent authority may:

1. charge the necessary administrative costs of providing information, i.e. acting upon the request;

[6] Eugenia Politou, Efthimios Alepis, and Constantinos Patsakis, "Forgetting Personal Data and Revoking Consent under the GDPR: Challenges and Proposed Solutions," *Journal of Cybersecurity* 4, no. 1 (2018): tyy001.

2. refuses to comply with the request.

The burden of proving that the request is manifestly unfounded or excessive rests with the operator.

If the operator justifiably doubts the identity of the person who submitted the request from Article 27 or Article 32 of this law, the operator may request the submission of additional information necessary to confirm the identity of that person.

Police Law (ZOP)

In addition to the described sources of importance for the matter, there are also the Law on Police ZOP ("Official Gazette of RS", *no. 6/2016, 24/2018 and 87/2018*), which defines the basis of data processing in a somewhat limited sense. Information about the work of the Ministry is defined in Article 6 of the ZOP - a. The work of the Ministry is public and the Ministry regularly, timely and fully informs the public about its work, except in cases of taking measures and actions in accordance with the law governing criminal proceedings and when this would prevent the smooth operational work of the Police, or if this would:

1) violated the data confidentiality regulation;
2) violated the dignity of citizens;
3) threatened the right to personal freedom and security.

Once a year, and no later than three months after the end of the calendar year, the Ministry publishes:

1) **a report on the state of security in the Republic of Serbia, which in a transparent and public manner informs the public about the assessment of security, crime trends and other security phenomena of importance for the security and rights of citizens;**
2) **report on the work of the Ministry, which in a transparent and public manner informs the public about the development of the police, statistical data on the activities carried out and the results achieved** .

In addition to the report from paragraph 3 of this article, the Ministry **is obliged to publish quarterly information on its work on its website,** which is adopted by the competent committee of the National Assembly of the Republic of Serbia for internal affairs.

The standards of police behavior are defined by Article 33 of the ZOP - a. When performing police work, the Police adheres to established and achieved standards of police behavior, taking into account internationally generally accepted standards of behavior that refer to:

1) duty to serve citizens and the community;

2) responding to the needs and expectations of citizens;
3) compliance with legality and suppression of illegality;
4) realization of human and minority rights and freedoms;
5) non-discrimination when performing police tasks;
6) proportionality in the use of means of coercion;
7) prohibition of torture and application of inhuman and degrading procedures;
8) providing assistance to injured persons;
9) adherence to professional behavior and integrity;
10) obligation to protect secret data ;
11) the obligation to refuse illegal orders and report corruption.

ZOP introduced for the first time in Article 34 the idea of the Police Intelligence Model (POM) as revolutionary in our area. ZOP defines this model as follows. The police intelligence model represents a way of managing police affairs based on criminal intelligence information. It applies the police intelligence model in the performance of police duties. ZOP also defines Criminal Intelligence. Criminal intelligence information is a set of collected, evaluated, processed and analyzed data that is the basis for making decisions about the performance of police work. To facilitate the flow of information, a platform for communication in Article 34a of the ZOP is foreseen. Platform for secure electronic communication, exchange of data and information Platform for secure electronic communication, exchange of data and information between state authorities, special organizational units of state authorities and institutions with the aim of preventing organized crime and other forms of serious crime, is established within the framework of a special information and communication systems of the Ministry in accordance with the regulations governing records and data processing in the field of internal affairs, as well as technical capabilities. The platform is the basis for the establishment of a national criminal intelligence system. Within the framework of the platform, access is recorded, as well as the exchange of data on criminal offenses in accordance with the law regulating the suppression of organized crime, corruption and other particularly serious crimes, with the application of information security measures. As part of the actions of police officers as a duty, Art. 40. ZOP defines the following. A police officer **is obliged to keep data obtained during the performance of police duties or on the occasion of the performance of police duties** , in accordance with the law. The obligation to save data **continues even after termination of service** in the Ministry. **The Minister or a person authorized by him can release a police officer from the obligation** to keep data for the purpose of conducting judicial or administrative proceedings, if it is about data without which it is not possible to establish the factual situation and make a legal decision in that procedure. Within the framework of the

ZOP, police measures and actions are specifically defined. When performing police work, police officers in the status of authorized officials apply police measures and actions in accordance with this and other laws.

Police measures and actions in terms of this law are:

1) protection of victims of criminal acts and other persons;
2) protection of identity data;
3) police observation, observation;
4) special measures for ensuring public order;
5) filming in public places;
6) police assistance in executions and out-of-court settlement procedures;
7) polygraph examination;
8) receipt of reports on committed criminal acts and misdemeanors;
9) searching for people and objects;
10) targeted search measures;
11) measures to eliminate immediate danger;
12) criminal forensic registration, taking other samples and criminal forensic expertise and analysis;
13) public announcement of the award.

The protection of victims of criminal acts and other persons and identity data prescribed in Articles 48, 49 of the ZOP provides the following. If and as long as there are justified reasons for this , the police will take appropriate measures to protect the injured party and another person who has provided or may provide information important for the criminal proceedings or a person who is related to the mentioned persons, if they are threatened by the perpetrator of the criminal act or other persons. Measures are taken in such a way as to fully protect the confidentiality of the identity of the injured party and other persons. The method of protection is prescribed by the minister. The police protect data whose disclosure would endanger the physical integrity of the person. When submitting a written report on the content of the notification, the collection of which the Police is authorized in accordance with the law, the police officer may withhold information about the identity of the person from whom the notification was received if he/she assesses that revealing the identity would expose the person to serious danger to life, health, physical integrity or would thereby endangering the freedom and property of a person, as well as if it is a person who provides information and data in a procedure in which police powers are applied.

Information about the identity of the person who gave the notification is considered confidential and is disposed of in accordance with the law.

The protection of identity data does not apply to reports submitted by the Police to the public prosecutor or the court in accordance with the law governing criminal or misdemeanor proceedings.

One of the forms of authority shown in the ZOP is police observation, defined in Article 50. To check the notifications received and make proposals to the competent authorities for which they are authorized by law, police officers may, before there are grounds for suspecting that a criminal offense or misdemeanor has been committed, through direct police observation, to collect information and data useful for determining whether grounds for suspicion that a criminal offense or misdemeanor has been committed have been acquired[7]p. This article also provides additional guarantees for the protection of the rights and freedoms of man and citizen. Observation is carried out in public and other accessible places, without encroaching on the right to privacy of any person. Received notifications that cannot be used in the procedure and have no operational significance are destroyed within one year. The latter qualification of data of operational significance is particularly significant. This form is not in accordance with modern trends in this area. In some parts, the ZOP also defines areas that are important for the current issue. One of those is Article 52. Filming in public places. The police conducts surveillance and recording of public places, for the purpose of performing police duties, using equipment for video acoustic recordings and photography in accordance with the regulation on records and data processing in the field of internal affairs. When there is a danger that the life and health of people or property will be endangered during a public gathering, a police officer is authorized to record or photograph a public gathering. For the purpose of applying police powers, detecting and elucidating misdemeanors and criminal acts, as well as controlling and analyzing the performance of police work, the Police may conduct audio and video recording of the actions of police officers. In order to achieve these goals, a police officer may use vehicles and other means with or without external markings of the Police, with recording devices, as well as devices for recording and recognizing license plates. The intention to carry out activities must be publicly announced by the police, except when covert recording is carried out in accordance with the Code of Criminal Procedure. The data collected in this way are stored in the prescribed records. Data that cannot be used in the procedure are destroyed within one year. The manner of filming in a public place and the manner of announcing the intention of such filming shall be prescribed by the minister. Another touching and tangential moment of personal data processing is defined by Article 77, in connection

[7] Zvonimir Ivanović, "Pitanje Postupanja Sa Digitalnim Dokazima u Srpskom Zakonodavstvu," *Kriminalistička Teorija i Praksa* 2, no. 1/2015. (2015): 7–21.

with Establishing the identity of a person. Determining the identity of a person is carried out according to a person who does not have a prescribed document with him or the authenticity of such a document is suspected, if his identity cannot be verified in any other way, or on the basis of a special request of the competent authority. Identity is determined by using data from forensic records, by applying methods and using means of criminal tactics and forensics, by medical or other appropriate expertise. After the identity has been determined, a report is drawn up and forwarded to the applicant for identity determination, in accordance with the law, while the police authorities of other countries with which international police cooperation has been established by ratified agreements are also provided with direct personal data, at their request, in accordance with regulations governing the field of providing personal data. In order to establish the identity of a person, the police is authorized to publicly publish a photo -robot, drawing, recording or description of a person. When the identity cannot be determined in any other way, the police is authorized to publish a photograph of a person who cannot provide information about himself, i.e. a photograph of an unknown corpse.

ZOP treats the performance of security checks in Article 102. The security check is a set of measures and actions that determine the existence or non-existence of a security obstacle. Security interference is a fact that prevents admission to employment and work in the Ministry, admission to professional education, training and development for the needs of the Police, or other rights when prescribed by a special law. A security disturbance is defined in more detail in Article 138 of the ZOP - a. Unless otherwise specified by another regulation, a police officer has the right to perform security checks:

1) candidates for employment in the Ministry;
2) candidates for basic police training and training of fire-rescue units;
3) candidates for the enrollment of students at a higher education institution for the purposes of police education;
4) for employees of the Ministry;
5) for employment in other state bodies, in accordance with the regulations governing that area, and at the request of that body;
6) candidates for the performance of detective activities or security officers;
7) candidates for keeping and carrying weapons;
8) persons who are granted access to certain facilities, i.e. places under special security protection;
1) 8a) persons who live, work or reside on other grounds in the immediate vicinity of persons who are being protected by security;

9) in other cases determined by a special law.

The security check is carried out at the request of a state authority or other person, if that state authority or other person is authorized by law to process the type of data requested. When performing a security check, the police officer applies all other powers prescribed by the ZOP and other regulations. Collected data and records for the purpose of performing a security check represent information with a degree of secrecy in accordance with the regulations governing that area and are kept in accordance with the regulation on records and data processing in the field of internal affairs. The police officer prepares a report on the performed security check, which is certified by the immediate manager. The report on the performed security check contains the collected data, which determines the accuracy of the data from the Questionnaire from Article 142 of the ZOP , as well as other data that are important for making an assessment of the existence or non-existence of a security obstacle.

Determining the existence of security threats, security threats and the levels of checks are determined by Articles 140 and 141 of the ZOP[8]. The Ministry maintains a unique personnel record of police officers, other employees and candidates who are accepted for employment in the Ministry, in accordance with the regulation governing records and processing data in the field of internal affairs. The assessment of the existence or non-existence of a security obstacle, with an explanation, is given by the head of the organizational unit that performed the security check. The evaluation with an explanation is submitted to the applicant for the security check, and the person to whom it refers, upon personal request, is given for inspection. The assessment of the existence or non-existence of a security obstacle, with an explanation, in the case of security checks for police officers of the Security and Data Protection Service is given by a special commission from Article 141, paragraph 11 of the ZOP. Collected data cannot be used for other purposes.

The security check is performed at three different levels. The first level of security check is carried out for persons referred to in Article 102 of the ZOP. The first level of the security check involves the processing of data from the official records of the Ministry and the collection of data through direct operational field work.

The second level of security clearance is carried out for mid-level managers, for a period of five years. The second level of security check involves the processing of data from paragraph 3 of this article, as well as a complete check of data from the records of other state bodies, state

[8] Zvonimir IVANOVIĆ, "THE COUNCIL OF EUROPE AND THE FIGHT AGAINST CYBERCRIME," n.d.

administration bodies, bodies of autonomous provinces, bodies of local self-government units and holders of public authority.

The third level of security check is carried out for persons in positions and appointed persons, i.e. managers of high and strategic level in the Ministry, for a period of four years. The third level of security check involves the processing of data from para. 3. and 5. of this article, as well as data from the records of other security services. Security checks can be carried out for a shorter period in case of suspicion that there are security obstacles, as well as in other cases prescribed by law.

The second and third level of security checks are carried out by the Internal Control Department.

The security check for police officers of the Internal Control Sector is carried out by the Service for Security and Data Protection. The security check for police officers of the Security and Data Protection Service is carried out by a special commission established by an act of the minister.

CPC

CPC as one of the structural laws in this area CPC Sl. glasnik RS", no. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013, 55/2014, 35/2019, 27/2021 - US decision and 62/2021 - US decision represents another of the legal bases of action in this area by state bodies and agencies, and with it, depending on specific bodies and agencies, there are also: Law on Security Information Agency - BIA ("Official Gazette of RS", no. 42/2002, 111/2009 , 65/2014 - decision US, 66/2014 and 36/2018), as well as the Law on Military Security Agency (VBA) and Military Intelligence Agency (VOA) ("Official Gazette of RS", No. 88/2009, 55/2012 - US decision and 17/2013) and other by-laws.

Article 286 of the Criminal Procedure Code of the Republic of Serbia - CPC defines the basis for police action in this area[9]. If there are grounds for suspicion that a criminal offense has been committed for which they are being prosecuted ex officio, the police are obliged to take the necessary measures to find the perpetrator of the crime, to ensure that the perpetrator or accomplice does not hide or escape, to discover and secure traces of the criminal offense and objects that can serve as evidence, as well as to collect all information that could be useful for the successful conduct of criminal proceedings.

[9] Zvonimir IVANOVIĆ and Vladimir UROŠEVIĆ, "ULOGA SRBIJE U MEĐUNARODNOM SUPROTSTAVLJANJU VISOKO TEHNOLOŠKOM KRIMINALU," *Srbija i Međunarodne Organizacije*, n.d., 130.

In order to fulfill their duties, the police can: request the necessary information from citizens; to carry out the necessary inspection of means of transport, passengers and luggage; to restrict movement in a certain area for the necessary time, up to eight hours at the longest; to take the necessary measures in connection with establishing the identity of persons and objects; to issue a search warrant for the person and objects sought; to inspect certain facilities and premises of state bodies, companies, shops and other legal entities in the presence of the responsible person, to gain insight into their documentation and to confiscate it if necessary; to take other necessary measures and actions.

A record or an official note will be drawn up about the facts and circumstances that were established when certain actions were taken, and may be of interest for criminal proceedings, as well as about the objects that were found or confiscated.

According to the order of the judge for the preliminary proceedings, and at the proposal of the public prosecutor, the police can, in order to fulfill their duties, obtain the records of telephone communication, the base stations used, or locate the place from which the communication is carried out.

On taking measures and actions from para. 2. and 3. Art. 286 of the CPC, the police immediately, and no later than within 24 hours after the undertaking, informs the public prosecutor.

A person against whom some of the measures and actions of para. Article 2 and 3 of the CPC has the right to submit a complaint to the competent judge for preliminary proceedings.

Given that the CPC is an earlier regulation (although it has been amended several times, and even more recently) in relation to the ZZPL and ZOP, it does not provide a clear enough framework for action as can be seen, and it is necessary to consult other regulations, and of which, in particular, a significant area of the so-called Intelligence agencies.

Law on Security and Information Agency (ZOBIA)

It is of interest to analyze the Law on BIA, when defining the way of performing the agency's work. Article 9 of ZOBIA talks about the collection of data and information. Thus - the Agency, in carrying out tasks under its jurisdiction, applies appropriate operational methods, measures and actions, as well as appropriate operational and technical means that ensure the collection of data and notifications in order to eliminate and prevent activities aimed at undermining or destroying the order established by the Constitution of the Republic of Serbia, endangering security in the country and, in connection with that, undertakes other necessary measures and actions based

on laws and regulations adopted in accordance with the law. It is also very important to define the authority and authority under whose authority such a decision falls - The decision on the application of measures and methods is made by the director of the Agency or a person authorized by him.

In performing tasks within their scope, members of the Agency are authorized according to Article 10 of ZOBIA to request and receive information, data and professional assistance from state and other authorities, legal entities and natural persons, important for clarifying facts related to the performance of tasks within the scope of the Agency. No one can be forced to provide assistance, information and data, and withholding or refusing assistance, information or data must be based on reasons established by law.

Article 13 of ZOBIA defines special measures. Special measures that deviate from the inviolability of the secrecy of letters and other means of communication (hereinafter: special measures) are:

1) secret surveillance and recording of communications, regardless of the form and technical means through which the surveillance of electronic or other addresses is carried out;
2) secret surveillance and recording of communications in public and restricted areas or on premises;
3) statistical electronic monitoring of communication and information systems in order to obtain data on communication or the location of used mobile terminal equipment;
4) computer search of already processed personal and other data and their comparison with the data collected by the application of measures from point . 1)-3) of this paragraph.

Under special measures, covert surveillance and recording of places, premises and objects may be authorized, including devices for automatic data processing and equipment on which electronic records are stored or may be stored.

Special measures can be determined against a person, group or organization for which there are grounds for suspicion of undertaking or preparing actions directed against the security of the Republic of Serbia, and the circumstances of the case indicate that otherwise those actions could not be detected, prevented or proven or would cause disproportionate hardship or great danger (Article 14). When deciding on the determination and duration of special measures, it will be especially appreciated whether the same result could be achieved in a way that restricts the rights of citizens less, to the extent necessary to satisfy the purpose of the restriction in a democratic society.

If the conditions from Article 14 of ZOBIA are met, upon the reasoned proposal of the Director of the Agency, the court may order the application of a special measure. The proposal contains the name of the

special measure, available data on the person, group or organization to which it will be applied, the existence of conditions for its determination and the term of validity. The proposal is decided by the president of the High Court in Belgrade, i.e. the judge he appoints from among the judges assigned to the Special Department of that court, which is determined by law to deal with criminal cases of organized crime, corruption and other particularly serious crimes. The decision on the proposal is made within 48 hours from the time of submission of the proposal.

If, during the implementation of a special measure, a member of the Agency becomes aware that a person, group or organization is using another means of communication, an electronic or other address, or that communication is carried out in other places to which access is restricted or in other premises, he shall immediately notify the Director of the Agency. who can order the extension of a special measure (Art. 15b.). In the case of passing the order, the director of the Agency submits a proposal for subsequent approval of the extension of the application of the special measure within 48 hours. The same judge decides on the proposal within 48 hours from the time of receipt of the proposal. If he approves the proposal, the judge will subsequently approve the extension of the application of the special measure, and if he rejects the proposal, the material that has been collected is destroyed in the presence of the judge who draws up a report on it.

Law on the Military Security Agency and the Military Intelligence Agency (ZoVBA and VOA)

VBA and VOA have a very different basis in the law that regulates their competences and it corresponds to the current state of world literature in this area[10]. The collection of information is in art. 7. ZOVBA and VOA define it as data collection. According to it: VBA is authorized within its competences to collect data:

1) from public sources;
2) from natural and legal persons;
3) from state bodies, organizations and services, as well as from holders of public authority.

Article 8 explains this authorization in an additional and specific way. According to him: VBA is authorized to collect data from natural persons only with their prior consent. With the written consent of the natural person with whom the conversation is conducted, the conversation can be audio and

[10] Milan Žarković, Zvonimir Ivanović, and Ivan Žarković, "Public Video Surveillance: A Puzzling Issue for Serbian Lawmakers.," *Varstvoslovje: Journal of Criminal Justice & Security* 18, no. 2 (2016).

visually recorded. By signing the minutes, the natural person certifies the voluntariness of the conversation and the truthfulness and completeness of the recorded conversation. An authorized official of the VBA is obliged to, before collecting data from a natural person, show that person an official identification card with a badge and warn him that he is obliged to keep all information about the subject of interest of the VBA as a secret. Article 8a additionally explains which persons can still come forward as a source of data collection. Thus, the VBA can collect data from persons with whom secret cooperation has been established. In addition, Article 8b states that the VBA and the Serbian Army cooperate with each other and exchange data. And in accordance with Article 8c, the VBA collects information, in order to perform tasks within its competence, from employees of the Ministry of Defense and members of the Serbian Armed Forces and obtains insight into the documentation and data of the Ministry of Defense and the Serbian Armed Forces.

The framework for action is supplemented by obligations under Article 9. ZOVBA and VOA, according to which: State bodies, organizations and services, bodies of autonomous provinces, local self-government units, organizations that exercise public powers and legal entities are obliged to provide authorized VBA officials with access to registers, data collections, electronic databases and other official documentation as well as access to other data of importance for the application of the powers of the VBA, except for the security services and the police, with which the exchange of data is carried out in accordance with the laws regulating the security services and the police.

If the data from the register and other data collections constitute secret information, subjects, except for the security services and the police, are obliged to enable the VBA to view these registers and data collections, in accordance with the law regulating data confidentiality.

Managers and employees in state bodies, organizations and services, bodies of autonomous provinces, local self-government units, organizations that exercise public powers, legal entities and members of the Serbian Armed Forces are obliged to keep all information on the subject of interest of the VBA as secret information.

Regardless of the described provisions, the VBA cooperates and exchanges data with the Security and Information Agency and the police in accordance with the provisions of the law governing the security services and the police.

VBA is authorized to, within its jurisdiction, secretly collect data by applying special procedures and measures (Article 10)[11]. VBA is authorized to collect data by applying special procedures and measures when the data cannot be collected in any other way or their collection is related to a disproportionate risk to the life and health of people and property, that is, with disproportionate costs. The VBA collects data using special procedures and measures primarily for preventive purposes, i.e. with the aim of preventing threats directed at the Ministry of Defense and the Serbian Armed Forces. Data collected through the application of special procedures and measures for preventive purposes cannot be used as evidence in criminal proceedings.

In the event that there is a possibility of choosing between several special procedures and measures, the measure that least encroaches on human rights and freedoms guaranteed by the Constitution will be applied.

Special procedures and measures for secret collection of data under the jurisdiction of the VBA (hereinafter: special procedures and measures) are:

1) operative penetration into organizations, groups and institutions;
2) secret acquisition and purchase of documents and items;
3) secret inspection of data records, in accordance with the law;
4) secret monitoring and surveillance of persons in open spaces and public places with the use of technical means;
5) secret electronic surveillance of telecommunications and information systems in order to collect retained data on telecommunications traffic, without insight into their content;
6) secretly recording and documenting conversations outdoors and indoors using technical means;

[11] Ivanović, Zvonimir. "Pitanje Postupanja Sa Digitalnim Dokazima u Srpskom Zakonodavstvu." *Kriminalistička Teorija i Praksa* 2, no. 1/2015. (2015): 7–21.
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7) secret surveillance of the content of letters and other means of communication, including secret electronic surveillance of the content of telecommunications and information systems;
8) secret surveillance and recording of the interior of buildings, closed spaces and objects.

The implementation of special procedures and measures is regulated by the Minister of Defense, on the proposal of the Director of the VBA, with the opinion of the National Security Council. If the opinion is not submitted within 30 days from the day of receipt of the submitted request, it will be considered that the opinion is positive.

Special procedures and measures from Article 12, item . 1) to 4) of this law are undertaken on the basis of a written and reasoned order of the director of the VBA or an authorized official of the VBA authorized by him.

Records are kept of issued orders.

Article 13a more fully defines the Special procedure and measure from Article 12, paragraph 1, item 5) ZoVBA and VOA is undertaken on the basis of a reasoned decision of the competent higher court.

Special procedures and measures from Article 12, item . 6) to 8) are undertaken on the basis of a written and reasoned decision of the Supreme Court of Cassation.

Special procedures and measures from Article 12, item . 6) to 8) are undertaken on the basis of a written and reasoned decision of the Supreme Court of Cassation.

When reasons of urgency require it, and especially in cases of internal and international terrorism, the director of the VBA can order the start of the application of a special procedure and measure from Article 12 point 5) with the previously obtained consent of the competent judge from Article 13a paragraph 3 and special procedures and measures from Article 12, item . 6) to 8) with the previously obtained consent of the competent judge from Article 14, paragraph 2.

Authorized official of the VBA in the detection, investigation and documentation of criminal offenses from Article 6, paragraph 2, item . 3) and 4) and Article 6, Paragraph 3 of this law has the following powers (Art. 23):

1) checking and determining the identity of persons and identification of objects;
2) calling;
3) **request notification** ;
4) temporary confiscation of objects;
5) inspection of premises, facilities and documentation and anti-terrorist inspection;
6) observing;
7) **collection, processing and use of personal data;**

8) polygraph testing;
9) authorizations of the police for carrying out surveillance measures and recording telephone and other conversations or communications by other technical means and optical recordings of persons and taking other measures and actions, in accordance with the law regulating criminal proceedings.

When an authorized official of the VBA, in the performance of tasks and tasks under his jurisdiction, assesses that the powers from paragraph 1 of this article should be applied to persons who are not members of the Serbian Armed Forces and employees of the Ministry of Defense, the VBA immediately informs the Security and Information Agency or the police. together with which it determines the way of further action.

1) collects and checks data and information, processes, analyzes, evaluates and submits them to competent authorities;
2) cooperates and exchanges information and data with services, organizations and institutions of the Republic of Serbia that deal with security and intelligence affairs, as well as with services of other countries and organizations in accordance with established security and intelligence policy, international agreements and assumed obligations;
3) stores collected data and information in accordance with the law, by-laws and protects them from unauthorized disclosure, disclosure, use, loss or destruction;
4) plans, organizes and implements security protection of its activities, persons, facilities and documents;
5) organizes the security protection of facilities of the Ministry of Defense and the Serbian Armed Forces abroad and persons who are officially sent abroad by the Ministry of Defense and the Serbian Armed Forces;
6) protects the equipment and means used in work against unauthorized access;
7) acquires, develops and uses information systems, communication systems and data transmission systems, as well as information protection means;
8) organizes the training of VOA members, organizes specialist courses, conducts research, creates archives and publishes its own publications;
9) plans, organizes and implements internal control of the work of VOA members;

10) requests from the competent security services security checks of legal and natural persons when it is necessary to perform tasks within the competence of the VOA determined by this law;
11) plans equipment and procures things for its needs;
12) performs other tasks within its jurisdiction.

VOA also has its powers defined in Article 26. VOA is authorized to collect data within its competences:

1) from public sources;
2) from natural and legal persons;
3) by exchanging data with other security services;
4) by applying special procedures and measures.

And the application of special procedures and measures for secret data collection is defined for VOA by Article 27. Special procedures and measures for secret data collection are:

1) secret cooperation with natural and legal persons for the purpose of collecting data and information from Article 24, paragraph 2 of this law;
2) secret acquisition and purchase of documents and objects;
3) operative penetration into organizations, institutions and groups;
4) taking measures to conceal identity and property;
5) establishment of legal entities and regulation of their work in a way that does not bring them into contact with VOA;
6) covert use of property and services of natural and legal persons for a fee;
7) use of special documents and means to protect VOA, its members, premises and assets.

Special procedures and measures are undertaken on the basis of the order of the VOA director or a person authorized by him. Records are kept of the issued orders. The implementation of special procedures and measures is regulated by the Minister of Defense, on the proposal of the director of the VOA, with the opinion of the National Security Council. If the opinion is not submitted within 30 days from the day of receipt of the submitted request, it will be considered that the opinion is positive.

From the aspect of the application of powers, all the described authorities - Police, Intelligence or security agencies, as well as the holders of prosecutorial functions as managers of pre-investigative proceedings and investigations, can apply the powers shown in previous cases[12]. These

[12] Javier Pastor-Galindo et al., "The Not Yet Exploited Goldmine of OSINT: Opportunities, Open Challenges and Future Trends," *IEEE Access* 8 (2020): 10282–304, https://doi.org/10.1109/ACCESS.2020.2965257.

powers vary depending on the field of application, the stages of the procedure, and the possibilities in the procedure and outside of it are very wide for the usefulness of the data obtained in this way. Intelligence information, from the point of view of criminal-intelligence significance, is a very important element of the procedure, and in our system, intelligence information aims to bring or implement such data into established data in the form of evidence[13].

Conclusion

From the aspect of organizational strategic orientation, the collection of such data is one of the most significant activities of the prosecuting authorities, as well as from the aspect of heuristics in the actions of operational actors. The potential of this moment during the pre-investigation procedure is a crucial element of the future procedure (both investigative and main). To that end, it is of great importance to determine the proper authority for the actions of authorities in this area, which is limited by regulations on data in general, personal data and frameworks of systemic laws in the field of criminal law. The system of organization of law enforcement agencies in the Republic of Serbia and the division of responsibilities among them has its own childhood illnesses and it is very difficult to get rid of them. The presented forms of authority provide different treatments for different authorities, especially those bearing the epithet intelligence, which are more fully regulated than others. This matter acquires special specificity within the application of procedural-legal, i.e. resulting activities and relics from operational activities. Therefore, from the functional aspect, it is very important to prescribe adequately and within the framework of guaranteed rights and freedoms the application of prosecution powers in all stages of the procedure, and especially within procedural or quasi-procedural powers (from which evidence is derived in operational proceedings). OSINT, as a technology and method of intelligence data collection, absolutely requires full regulation and adequate prescribing of available measures and authorities in the application of such intelligence data collection. The best result was achieved in the regulation of powers in the application of OSINT by the VBA and VOA, but it should be noted that the area of regulation of intelligence agencies was under significantly stronger scrutiny from the Ministry of Interior and the Prosecutor's Office, and that is the reason for this state of affairs. Regardless of the justifications, it is necessary to further harmonize

[13] George Kalpakis et al., "OSINT and the Dark Web," in *Open Source Intelligence Investigation: From Strategy to Implementation*, ed. Babak Akhgar, P. Saskia Bayerl, and Fraser Sampson (Cham: Springer International Publishing, 2016), 111–32, https://doi.org/10.1007/978-3-319-47671-1_8.

the ZKP, ZOP and ZZPL considering that the former two lag behind the latter, and the type of regulation should have a model in the law on VBA and VOA. This would prevent many unknowns and illogicalities as well as possible consequences in the form of procedural violations of the procedure and possibly complaints to the Court of Human Rights due to inadequate and improper application of the powers of the prosecuting authorities of the Republic of Serbia . Of course, especially from the aspects of possible violations or encroachment on the human rights of the citizens of the Republic of Serbia by applying the existing provisions of these regulations of the authorities in question.

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Original Scientific Article
UDK 338.124.4:621.3]:305-055.2

GENDER INEQUALITY, GREEN TRANSITION AND ENERGY POVERTY: DECENT FUTURE FOR EVERYONE?

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Abstract

The global energy crisis, which began in September 2021 and was further exacerbated by the Russia-Ukraine conflict, has led many people to experience increasing financial difficulties. Under the threat of energy shortages, this conflict has intensified inflationary pressures during the post-COVID-19 recovery and caused a cost-of-living crisis. Energy poverty has hit the most vulnerable groups the hardest, including women which are the largest energy consumers in households and have lower incomes than men. In addition, energy poverty deepens existing inequalities between men and women, as it further widens the gender pay gap, the gender pension gap, and limits women's employment opportunities compared to men due to their disproportionate caregiving responsibilities. Moreover, the energy crisis has brought to light the issue of women's position in energy policy, as it has a different impact on women and men.

[1] This paper was written as part of the 2024 Research Program of the Institute of Social Sciences with the support of the Ministry of Science, Technological Development and Innovation of the Republic of Serbia.

Keywords: energy transition, gender inequality, energy crisis, energy poverty, women

Introduction

The severe impacts of climate change have increased awareness of the urgent need for significant reforms, in particular in energy sector, in order to tackle global sustainability challenges. The ongoing energy crisis has called into question the ability of countries to achieve the goals set by global initiatives such as the Kyoto Protocol, Paris Agreement, United Nations Sustainable Development Goals (SDGs) and European Green Deal (EGD) as governments of many countries have been forced to revise their energy plans (Lobanov et al, 2023). While some have increased the share of renewable energy, most have continued to rely on fossil fuels out of concern for maintaining their energy security. For instance, the 2030 Agenda for Sustainable Development, endorsed by all member states of the United Nations, contains the SDG 7 which include the ‘access to to affordable, reliable, sustainable, and modern energy for all' (United Nations, 2015). The urgency of addressing energy crisis hindered the provision of renewable energy at reasonable prices for all, energy efficiency enhacement, and the financial support to developing nations for clean technologies adoption.

The challenges in the global energy domain also exacerbated gender inequalities whose importance is emphasized across all the SDGs, including a specific goal—SDG 5: Achieve gender equality and empower all women and girls. According to the UN, it is of crucial importance to take actions to increase women emporwerment and participation in decision-making/politics, in order not to call into the questions the SDGs (Opoku et al. 2021). Women make up a large share of energy consumers, making them more sensitive to the effects of energy poverty. Additionally, due to lower incomes, women are at a greater risk of energy poverty. Unfortunately, women frequently occupy positions that offer lower wages compared to male-dominated fields or similar roles held by men. This wage gap can be attributed to factors like discrimination, undervaluation of work typically performed by women, and the concentration of women in lower-paying industries. A key dimension of gender economic inequalities in modern societies is the disparity in access to labor market participation, along with the inequalities reflected in various forms of labor market positioning and compensation (Babović, 2010).

The energy sector is characterized by a variety of ongoing gender inequalities. According to the International Energy Agency (2024), women make up just 16% of the traditional energy sector, with even fewer represented in management roles (higher-salary positions and leadership

opportunities). It should be pointed out that the obstacles, which women encounter in the energy sector, are more complex than in other areas of the economy since it is in the midst of a crucial and demanding transformation.

The links between climate change, green transition and gender equality

The implications of climate change are reshaping the roles of women and men worldwide, particularly in rural areas, where women are often strongly affected (United Nations, 2022). The climate crisis has an unequal impact on women and girls worldwide. The gender stereotypes and societal roles intensify the vulnerability of women and girls to the effects of climate change, both in daily life and during extreme weather-related crises (Castelo et al., 2024). The prevalent gender inequalities have potential to determine the impact of climate change and the effectiveness of responses to tackle these implications (Allwood, 2020). The effectiveness of measures to combat climate change, as well as their consequences on individuals, largerly depend upon determinants such as gender, socioeconomic status, income level, ethnicity, physical skills etc.

Gender equality, as a crucial factor for ensuring fairness both within and between generations, is vital for accomplishing the set goals of a green economy. Babugura (2017) point out that inter-generational equity implies that the present generation should maintain or enhance conditions for future generations while intra-generational equity means guaranteeing that everyone in the present generation can at least achieve their essential needs. The author demonstrate that individuals should have equal conditions for exercising their full human rights and for participating in and benefiting from economic, social, environmental, cultural, and political growth eithin green economy. Peng et al. (2024) argue that gender equality has a beneficial effect on green development via three possible pathways: the women's pro-environment psychology, the women's proenvironment behaviour and women's social power. The authors point out that enhancing gender equality can amplify the positive impact of women's pro-environmental attitudes and behaviors on green development, while promoting gender equality can boost women's social position and power.

Anderson et al. (2023) believe that a gender-just transition represent a opportunity to integrate the shift to low-carbon economies with meaningful progress toward gender equality. The authors demonstrate that supporting low-carbon sectors and generating green jobs can be approached through a gender equality and women’s economic empowerment lens, contributing to greater climate resilience. However, it should be noted that the prevalent opinion of the scientific community is that the policies of the low-carbon energy transition are more directed on greening the industry without

considering the underlying social dynamics and frameworks that calls into the questions the accomplishment of the defined goals (Lundström, 2018, Clarke et al., 2021). Johnson et al. (2020b) demonstrate that the adoption of low-carbon energy technologies into traditional energy systems produces gendered and social consequences that depend not only on institutional factors (the allocation of benefits and impacts, decision-making and execution) but also on the potential for gender impact assessments based on the effective participation of multiple stakeholders.

As pointed out by Johnson et al. (2020a), gender and social equity cannot be attained solely through renewable energy projects, as energy policy actions do not automatically resolve the structural issues rooted in socio-cultural and socio-economic settings. According to their opinion, green transition does not ensure that existing gender and social inequalities regarding the availability and allocation of resources will be mitigated or resolved. Women discrimination in the forms of the employment opportunities, work environment, wage equality, career selection etc., is is often aggravated by gender-specific patterns of employment segregation.

Pearl-Martinez and Stephens (2016) also express concerns that energy transition could even exacerbate gender inequality, rather than allevaiate it if the energy sector fails to overlooks the importance of gender diversity at this stage. The relationship between gender and energy remains largely overlooked by policymakers, partly due to limited awareness of how these two areas are linked. This lack of recognition stems from the common misconception that energy policies are gender-neutral and influence everyone equally, leading to insufficient consideration of gender aspects in energy policymaking (Hagenmaier, 2022). For instance, the energy sector in Europe is predominantly male-dominated. It is characterized by persistent “glass walls” and “glass ceilings” that hinder the progression of women's careers, resulting in both horizontal (the concentration of women in lower-level or less prestigious roles within the energy sector, often in non-technical or administrative positions) and vertical segregation (lack of women in higher-level or leadership positions) (Shatilova et al., 2021).

There is a notable gender disparity, with far fewer women holding positions that can affect the energy transition, whether in corporate roles, public energy bodies, or civil society initiatives (Clancy and Feenstra, 2019). Women are hit by energy injustice due to the fact that they face significant challenges in ensuring access to affordable, reliable and sustainable energy services (Feenstra and Ozerol, 2021). Buchy and Shakya (2023) point out that the access to clean energy services and green technologies for women continues to be limited by intersecting social factors and policies that overlook gender considerations. The authors make a distinguish between three interconnected obstacles, which lead to the development of gender-

blind policies and the insufficient advancement of policy development in the energy sector: pragmatic (scarce resources within government institutions), conceptual barriers (insufficient awareness of gender, intersectionality, and the power dynamics between men and women, as well as between privileged and marginalized groups) and political barriers (results from the combination of previouslu two mentioned barriers). Unfortunately, these gender-blind policies may sustain or even worsen existing gender disparities within green economies (Anderson et al. 2023).

The implications of energy poverty on gender equality

The energy crisis, further exacerbated by various extremely unfavorable internal factors, along with rising inflation and increasing energy prices, has led to the deepening of energy poverty, economic, and gender inequality. According to the recent empirical study by Min et al. (2024), at least 1.18 billion people are classified as energy poor without access to electrical power while 447 million individuals living in electrified areas who still do not use electricity. The position of the poor segments of the population has significantly worsened, as the share of food and energy in consumption is the highest among those with lower incomes. The World Economic Forum (2010) defines energy poverty as ‘the lack of access to modern energy services and products (sufficient heating, hot water, cooling, lighting, and the energy needed to operate appliances). Energy poverty can be also defined as "the result of a combination of low household income, high expenditure of disposable income on energy, and insufficient energy efficiency" (Zakon o energetskoj efikasnosti i racionalnoj upotrebi energije). The vulnerable categories of energy consumers are unable to cover the costs of essential energy sources or to provide sufficient warmth in their homes during the winter months. Unfortunately, energy poverty is accompanied by numerous negative health consequences such as colds, cardiovascular and respiratory diseases, mental health problems like anxiety, stress, and depression, as well as the higher rates or mortality during winter period (Zhang et al. 2021).

It should be mentioned that the energy poverty is exacerbated by pre-existing gender inequalities, especially in terms of income like the disparity in wages between genders; the difference in retirement benefits; and the more restricted employment opportunities for women compared to men due to their disproportionate caregiving responsibilities for children and other family members (European Parliament, 2023). Women have distinct energy needs and consumption habits compared to men, as well as among themselves. Factors such as marital status and employment play a role in shaping their energy usage (Feenstra and Clancy, 2020). Moreover, Petrova

and Simcock (2021) point out that women bear unequal responsibilities in addressing the impacts of energy poverty through various strategies and approaches which negatively affect on their well-being and demands additional emotional and physical effort. It has a multifaceted impact on the women's quality of life because it reduces the time available to them that could be used in other ways, may contribute to an increase in violence, and heightens the sense of discrimination.

Energy insecurity exacerbates the already significant caregiving burden on women as they strive to meet household energy needs. Women, particularly single parents and those over retirement age, are more prone than men to experience energy poverty at some point in their lives (Clancy and Feenstra, 2019). Unfortunately, this reflects on their access and availability of green energy resources and limit their involvement in the energy transition. For instance, Janikowska and Kulczycka (2021) explored the impact of energy transformation on energy poverty in Poland and found that unemployed women were particulary vulnerable to its consequences. The authors suggested the implementation of the Just Transition Mechanism, which will encompass a special hub for women as proactive measures against future challenges (support for transitioning from mining to other professions, training for re-entering the labor market and collaborating with educational organizations offering these cources).

Besides its negative side, the enegy poverty brings new opportunity for women empowerment and changes current gender dynamics du to the modification of the socio-technical role of women within the household. Women commonly undertook the task of controlling energy costs through modifications to home practices (tasks related to monitoring heating, lighting, and appliances), while male are seeing responsible for physical enhancements for energy efficiency.

Green transition and gender inequality

Due to the critical environmental and climate challenges, European Commision proposed European Green Deal (EGD) in 2019 and approved in 2020 as a set of strongly connected policy initiatives related to climate, the environment, energy resources, transport infrastructure, industry development, agriculture and sustainable finance with the aim of attainting net-zero carbon emissions by 2050 (European Council, 2024). This plan envisions that the EU will become climate-neutral by 2050 and implies a comprehensive transformation of society. The EGD represents a new growth strategy aimed at creating a modern, climate-neutral, and competitive economy characterized by the efficient use of available resources (European Commission, 2024).

The green economy is a model for achieving sustainable development and eradicating energy poverty, fostering vital links between the economy, society, and the environment. The green transition envisions the improvement of energy efficiency, increased energy production from renewable sources, along with a gradual phase-out of the use of fossil fuels in energy production by 2050. While this process is expected to bring numerous and diverse benefits for the economy, the environment, individuals, and society as a whole, there are legitimate concerns that the green transition will significantly impact industry and mining and fundamentally change the way the energy sector operates on both global and national levels (Zvezdanović Lobanova and Lobanov, 2023). Industries centered on renewable energy, eco-friendly agriculture, and green technologies are likely to see growth, while sectors with heavy fossil fuel dependence or significant environmental impact are expected to decline.

Table 1 provides scores and rankings for different countries across three metrics: Energy Transition Index (ETI) score, System Performance, and Transition Readiness, comparing data from 2024 and 2019. ETI represents a tool for assessing the countrys achievements in sustainable energy transition, including efforts to boost energy efficiency and reduce environmental damage. According to the World Economic Forum's Fostering Effective Energy Transition 2024 report, the best-positioned countries in the European region were Denmark and Finland, among 120 countries ranked by energy transition. These countries can be considered as frontrunners in the global effort to achieve a sustainable energy transition, showing strong system performance and readiness. Estonia recorded a notable improvement in rank from 20th in 2019 to 9th in 2024, with improved system performance (from 64 to 73.7) but a slight decline in transition readiness (from 64 to 59). Romania**,** Slovakia, and Italy rank lower, with Romania showing a drop in rank from 40th to 48th and decreased transition readiness.

Table 1. The Energy Transition Index for 2019 and 2024

Country	ETI score		Rank	System performance		Transition readiness	
	2024	2019		2024	2019	2024	2019
Denmark	75,2	72	2 (5)	72,0	72	80,1	73
Finland	74,5	73	3 (4)	70,7	72	80,1	74
France	71,1	69	5 (8)	74,7	77	65,6	60
Estonia	64,3	64	9 (20)	73,7	64	59,0	64
Netherlands	66,7	69	10 (9)	62,7	71	72,7	66
Germany	66,5	65	11 (17)	65,0	66	68,7	64
Portugal	65,4	65	14 (16)	67,0	71	62,9	59

Latvia	65,2	64	15 (23)	70,1	69	58,0	58
Spain	64,3	64	16 (25)	64,7	71	63,7	56
Hungary	62,1	59	28 (41)	68,5	66	52,4	52
Slovenia	61,9	64	29 (24)	68,2	69	52,5	58
Poland	61,3	51	31 (75)	66,0	57	54,2	46
Lithuania	63,2	65	31 (19)	61,6	72	59,6	57
Belgium	60,8	64	34 (22)	61,6	67	59,6	61
Bulgaria	60,6	51	36 (77)	66,9	54	51,2	48
Croatia	60,1	59	19 (42)	66,4	66	50,7	52
Italy	59,7	62	41 (29)	62,7	70	55,2	54
Czech Republic	59,2	57	44 (49)	67,3	61	47,2	53
Romania	58,3	59	48 (40)	69,0	68	42,2	50
Slovakia	57,5	61	49 (33)	64,6	68	46,9	54

Note: The System Performance Score evaluates how well the energy system supports economic growth, ensures energy security, and minimizes environmental impact, while transition readiness assess how conducive the environment is for implementing and supporting changes towards more sustainable energy practices. The red color indicates a deterioration, while the green color signifies an improvement in ranking compared to 2019. The numbers in parentheses in the column labeled 'rank' correspond to the year 2019.
Source: World Economic Forum (2024).

The green energy transition will reshape the labor market by opening new opportunities as well as new risks, creating new jobs while also extinguishing existing ones, making it crucial for all governments to ensure that no one is left behind. According to the International Labour Organization (2022), shifting to a green economy could create 25 million new jobs worldwide by 2030, though it might also result in the loss of up to 6 million jobs in industries reliant on resource consumption. Coal phase-out has significant gender impacts, as men predominantly occupy these roles. Consequently, the efforts to manage this transition often inadvertently center on the needs of male workers. Women are significantly underrepresented in that industry, which results in a much weaker negotiating power.

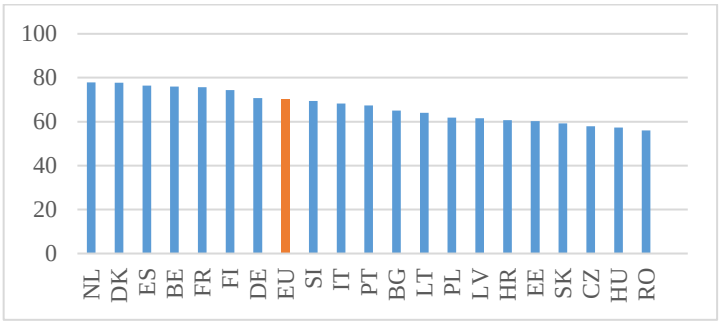
The Responsible Mining Foundation (2022) highlights that gender issues are frequently neglected, as legislative and regulatory frameworks in many mining companies often lack measures to address gender concerns. Therefore, increasing the representation of women in the energy sector is crucial for driving innovation and ensuring a more equitable green energy transition. Current and future transitions towards sustainable societies not only present opportunities for climate and environmental protection but also for strengthening gender equality.

Considering potential risks and dangers, the creators of the EGD have devised an approach so that this transition is not only 'green' and good for the environment, but also addresses and mitigates possible injustices that may

arise from its implementation. A significant shift in how humans relate to nature must also involve a corresponding transformation in social relationships. In particular, gender disparities interact dynamically with various other structural inequalities, such as age, geographical location, educational attainment, and income.

European Institute for Gender Equality published in 2023 the report titled Gender Equality Index which explores the intersection of gender inequalities with the green transition, offering a gender-focused analysis of key sectors vital to the Green Deal, including energy and transport. It also examines tools and practices designed to promote gender equality while addressing the challenges posed by climate change and the green transition. Gender Equality Index includes six core dimensions (work, money, knowledge, time, power, and health), as well as two supplementary dimensions (encounters of inequality and violence). The scale ranges from 1 to 100, where a value of 100 denotes total achievement of gender equality. Among European countries, the best position in the Gender Equality Index in 2023 was achieved by the Netherlands, with a total of 77.9 out of 100 (see Figure 1). This year's report concludes that the countries that joined the European Union under the fifth, sixth and seventh waves of enlargement are still in the group of member states that are still catching up with the others.

Figure 1. Gender Equality Index in 2023



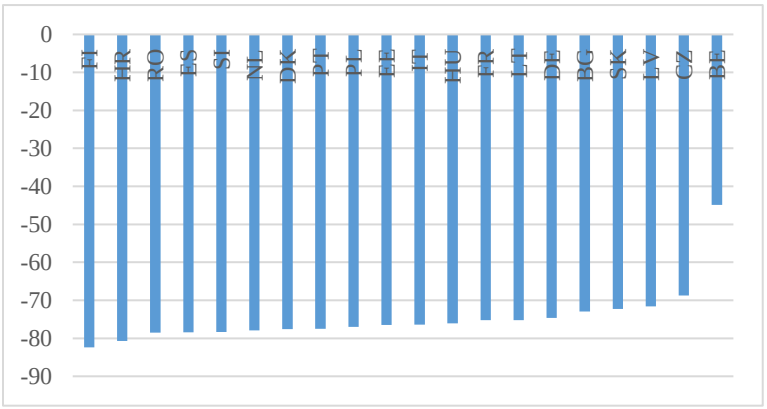
Notes: DK – Denmark; FI – Finland; FR – France; EE – Estonia; NL – Netherlands; DE – Germany; PT – Portugal; LV – Latvia; ES – Spain; HU – Hungary; SI – Slovenia; PL – Poland; LT – Lithuania; BE – Belgium; BG – Bulgaria; HR – Croatia; IT – Italy; CZ – Czech Republic; RO – Romania; SK – Slovakia.

Source: Authors work based on the data EIGE (2023)

For the energy transition to be truly effective, it must not only address gender equality but also transform gender relations, ensuring that the benefits of social changes are equally shared by men and women (Lahiri-Dutt, 2023). The aim of gender-just transitions is to harmonize advancements in gender equality, social justice promotion and fostering environmental resilience (UN

Women, 2021). Energy transition is an opportunity for the economic empowerment of women and the inclusion of marginalized groups, to encourage their leadership in the energy sector and to ensure that more women are in decision-making positions. According to the International Energy Agency (2024), Belgium ranks highest with the narrowest gender employment gap. The most significant gender employment gaps[2] in energy sector in Europe are recorded in Finland (-82,4%), Croatia (-80,7%) and Romania (-78,5%).

Figure 2. Gender employment gap (energy) based on the data from 2018



Notes: DK – Denmark; FI – Finland; FR – France; EE – Estonia; NL – Netherlands; DE – Germany; PT – Portugal; LV – Latvia; ES – Spain; HU – Hungary; SI – Slovenia; PL – Poland; LT – Lithuania; BE – Belgium; BG – Bulgaria; HR – Croatia; IT – Italy; CZ – Czech Republic; RO – Romania; SK – Slovakia.

Source: Authors work based on the International Energy Agency (2024).

The crucial steps to achieve gender balance in a sustainable green economy are eliminating legal obstacles and reforming discriminatory laws to promote gender equality, ensuring equitable distribution of caregiving responsibilities between men and women and encouraging role models and

[2] Ratio of female to male employees in a given sector/year/country within the working-age group (15-59).

targeting youth to challenge and change gender stereotypes in career choices (Kolovich and Newiak, 2024).

Conclusion

The green transition requires a holistic view of the interplay between environmental, economic and social processes in order to ensure the transition to a low-carbon economy. It requires fundamental change, not only in key industries, but also in infrastructure, social values and policies. By integrating the principles of gender equality into the just transition process, the specific challenges faced by women can be addressed. If gender equality is not explicitly included in policies, programs, and projects, gender inequalities, which are rooted in societal norms, practices, and institutions, will perpetuate.

The process of a just transition to affordable and clean energy has the potential to act as a catalyst for achieving gender equality and reducing structural inequalities between men and women. Therefore, it is necessary to implement it by looking at solutions to the root causes of energy poverty and the main energy consumers who take care of the household, which are women. The introduction of a gender perspective in energy policy is necessary in order to implement the 2030 Agenda for Sustainable Development, and solutions that should reduce energy poverty must be in line with the principle of "leaving no one behind". It is necessary to look at and explore all aspects of the gender dimension of energy poverty and develop mechanisms to support women in this area so that they become leaders in overcoming energy poverty and the energy transition in general.

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Review Scientific Article
UDK 347.96-055.2(091)
347.96-055.2:316.323.6

Women in Legal Professions: From Ancient Barriers to Modern Challenges

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Abstract
This paper focuses on the position of women in legal professions and its development from ancient times to the present, with an emphasis on comparing historical and modern approaches in different societies. For many centuries, women had significantly limited access to legal professions, which were traditionally reserved for men. In ancient Greece and Rome, as well as in medieval Europe, women were viewed as unsuitable for public and legal professions. Despite occasional exceptions where some women managed to succeed, legal roles remained largely inaccessible to them. Although it is now widely accepted that women can practice legal professions, in some conservative countries like Saudi Arabia or Afghanistan, women still face legal and societal barriers that hinder their participation in legal professions. This paper analyses how historical obstacles persist in modern times and explores the current challenges women face in their efforts to achieve equal representation in the legal sector.

Women in law, Gender equality, Legal professions, Historical barriers, Contemporary challenges

Introduction

The position of women in society has been fundamentally shaped for millennia by a range of cultural, social, and legal norms. These norms have significantly influenced women's roles not only in private life but also severely restricted their status in public life. For a long time, women were largely prevented from engaging in public functions. Legal professions, such as advocacy and the judiciary, remained inaccessible to women and were considered privileges exclusively reserved for men.

Since ancient times, rhetoric and the associated skill of mastering body language have been regarded as the cornerstone of legal education. This

included a degree of theatricality and the art of persuasion, often in a dramatic form. Lawyers were likened to actors, convincing the jury or judge through emotions, gestures, and verbal skill. Performative ability—the capacity to effectively and convincingly present arguments—thus played a key role in the successful conduct of legal disputes.

In ancient Rome, rhetoric and the art of performance were primarily reserved for men. Women were generally not permitted to act as advocates in court disputes, a restriction that is also reflected in Justinian's Digest (Peters 2022, 17-20; Vrána 2002, 22). Exceptions, such as Carfania, were rare instances of women fully engaging in legal professions dominated by men. These restrictions on women's participation in legal professions persisted through the medieval period when it was considered inappropriate for women to engage in public speaking and rhetoric in court cases. Public debates were the domain of men, and women were expected to leave the rough and chaotic world of the forum entirely to them. Public speaking by women was deemed improper and threatening to societal norms (Peters 2022, 106). This is vividly illustrated by Francesco Barbara's assertion that "*a woman's speech is as dangerous as the exposure of her limbs*" (Cox 2009, 51).

Although the early modern period introduced the first signs of significant change, it was not until the 19th and 20th centuries that women were granted access to legal education and professional legal careers. However, these changes came with numerous challenges and resistance, which persist even today. This is particularly true in conservative countries where women's participation in legal professions remains highly restricted and faces numerous barriers. This phenomenon is most evident in countries of the Middle East and North Africa, where legal and social norms continue to prevent women from fully engaging in the legal field.

The aim of this paper is to analyse and compare the historical and contemporary status of women's participation in legal professions, from ancient Greece and Rome through medieval Europe to modern times, with a focus on selected traditional conservative states such as Saudi Arabia and Afghanistan. The paper seeks to address the question of which restrictions that women faced in relation to legal professions in ancient and medieval times continue to persist today. Methodologically, an analytical-comparative approach will be employed, examining historical legal norms, societal attitudes, and their development in relation to modern legal systems and social practices, with a focus on countries such as Saudi Arabia and Afghanistan. The paper will explore not only the legal restrictions on women's access to legal professions but also the social and cultural barriers that hinder their full integration into the legal sector.

Ancient Concept of Women in Legal Professions: Ancient Greece and Rome

The status of women in ancient society was strongly defined by their roles within the family and household. Women were generally viewed as caretakers, whose primary responsibility was to manage the home and raise children. Public and political roles, including legal positions, were considered exclusively male domains (Buttin 2002, 205). This was typical of both ancient Greek and Roman societies. According to Roman views, women did not have the same rights as men, as women were seen as "*frivolous persons, incapable of responsibly managing their affairs, let alone participating in political life or holding public office*" (Kincl, Urfus, Skřejpek 1995, 57).

Ancient Greece was characterized by a patriarchal society, which was reflected in its legal and political structures. Women were considered unfit for public office, including legal positions, and were often viewed as intellectually inferior to men. Aristotle's *Politics* presents strongly patriarchal views, asserting that women were naturally subordinate in society and unsuitable for managing public affairs, which were deemed the domain of men (Aristotele 1998, 62–63). Women in ancient Greece were regarded as legally incompetent and were always represented by their male counterparts, either by their fathers or later by their husbands (Pomeroy 2007, 57). According to Kapparis, "*the assumption that women were excluded from the Athenian legal system stems primarily from the fact that, unlike free men, they could not appear in court as witnesses, plaintiffs, or in their own defense*" (Kapparis 2021, 2). However, Kapparis views this assumption as overly simplistic, as women were allowed to assert their rights within the Athenian legal system through magistrates. These officials initiated lawsuits and had the right to impose fines without the possibility of appeal. Women could also testify before arbitrators, who represented a secondary instance in relation to private legal claims (Kapparis 2021, 2).

Roman law, in contrast, was more complex and structured than Greek law. Like ancient Greek legal thought, Roman law was also heavily influenced by the patriarchal values of the time. The status of women in ancient Rome was similarly restricted, especially considering that women had limited legal capacity. Women were always to be under the authority of men. In the position of *alieni iuris*, a woman's legal actions were overseen by her *pater familias* (head of the family) or, after marriage, by her husband. Roman law, however, did not permit women in the status of *sui iuris* (when no male authority was present, such as after the death of a father or husband) to act independently in certain matters. Such a woman was assigned a

guardian (known as a *tutor mulierum*) under the Law of the Twelve Tables, whose role was to "*ensure that she did not harm herself through her frivolity*" (Kincl, Urfus, Skřejpek 1995, 75). Women were thus not regarded as equal to men, and in some cases, they were not recognized as legal subjects at all, particularly concerning public rights. Women were excluded from public office and severely limited in their ability to pursue legal professions. Like slaves, women lacked the capacity to be participants in civil litigation (Rebro 2010, 121). From the above, it is clear that women (with some exceptions) were not allowed to represent others in court or act on behalf of others. According to Justinian's Digest, such conduct would conflict with the modesty expected of their gender. Additionally, women were prohibited from holding offices that were reserved for men. "*The first case that led to this prohibition was Carfania, a very headstrong woman who so persistently harassed the magistrate with her indecent requests that it led to the rule established in the Edict*" (Monro 1904, 140).

A partial liberation of Roman women from male oversight occurred during times of war (the Punic Wars and later the civil wars of the 1st century BCE), which significantly altered the demographics of Rome. The shortage of men in society allowed women to take on more economic and administrative roles. Women were also active in the legal sector, which had previously been accessible only to men. The first woman to represent herself was a Roman prostitute, Manilia, in 151 BCE. She was accused of striking a *curule aedile*, Aulus Hostilius Mancinus (a city official responsible for maintaining public order), with a stone when he, disguised as a drunkard and wearing a wreath, attempted to enter her house. Mancinus, as an *aedile*, had the right to conduct official inspections in brothels, but he was required to wear official attire (a purple toga). Since Mancinus did not meet this requirement, Manilia, who was apparently knowledgeable about legal procedures, prevented him from entering. Manilia lost the case at the people's court, where Mancinus gained public support by displaying his injuries as evidence. The unsuccessful Manilia appealed to a higher instance (the tribunes of the people). Before them, she declared that Mancinus had come to her house dressed in non-official attire, and thus, he was not allowed to conduct a lawful inspection. Manilia successfully defended herself before this court and won the case (Aydemir, 2021, 5-6; Gellius 1946).

Another case involving a woman who participated in legal proceedings in ancient Rome was Amaesia Sentia. Although the circumstances of her case are not fully recorded, she is described in the writings of Valerius Maximus as a woman with a male soul in a female body (androgynous). She was highly respected for her ability to handle all aspects of the trial and for the decisiveness she exhibited in court while defending herself before the praetor Lucius Titius (Lefkowitz, Maureen 2016, 181).A

significant milestone concerning women's procedural rights and their roles in legal proceedings can be seen in the actions of Carfania, the wife of Senator Licinius Bucco (1st century BCE). She is known for frequently defending herself and other women before the courts, contributing to significant changes concerning women's status in legal professions. Unlike Amaesia Sentia, Carfania was considered by Valerius Maximus to be a "monster" and a "bad example of female quarrelsomeness." Carfania's behavior, contrary to the expected virtue of her gender, led Ulpian to label her as a symbol of audacity, which resulted in the issuance of an edict prohibiting women from filing lawsuits on behalf of others (*pro aliis postulare*) (Aydemir 2021, 7-8).

From these cases, it is evident that, due to societal changes, there was a brief period when women's procedural standing improved, including the ability to engage in legal professions. Regardless of the role of the *pater familias*, women could file lawsuits, be sued, and defend themselves in court. The figure of Carfania, pointing to the increasing involvement of women in legal proceedings without regard for the arts of rhetoric and oratory, led to the renewed limitation of their procedural rights and status before the courts, with the aim of returning them to their traditionally understood roles. The prohibition on women representing others sought to prevent them from engaging in matters deemed incompatible with their gender.

The Legal Profession of Women in the Middle Ages

In medieval Europe, the role of women in society was fundamentally shaped by prevailing patriarchal norms and traditional values, which often confined them to the domestic and familial spheres. Women were primarily seen as mothers and wives, and their public activities were strictly limited. According to the dominant thinking of early Christianity, women were in a subordinate and inferior position compared to men. Misogynistic tendencies later culminated in the witch trials, where the hunt for witches is often referred to as a war against women representing evil. To the monks of that time, women symbolized death and sin. Of the approximately 100,000 accused individuals, around 60,000 women were burned at the stake across Europe. The book *Malleus Maleficarum*, which played a significant role in the widespread persecution and punishment of women, often in fabricated trials, stemmed from medieval religious authorities' negative portrayal of women (Lenderová 2002, 17-19).

In the early Middle Ages, legal systems in Europe were highly diverse, affecting the status of women in law. Germanic law codes, such as the *Lex Salica* and *Lex Alamannorum*, were among the first legal texts to codify the rights and duties of women. These codes primarily addressed issues related to women's property rights and inheritance. A deeply rooted

patriarchal principle, prevalent in society at the time, is clearly reflected in these texts (LIX, § 5 Lex Salica). Women were not allowed to act as legal representatives or participate actively in legal proceedings. Their role was limited to passive participation, such as giving witness testimony. Even this role was highly restricted, as women's testimonies were often considered less credible than those of men (Fejtová 2011, 18).

The High Middle Ages saw the consolidation of legal systems, which impacted the status of women in the legal professions. Canon law, one of the most influential legal systems of the time, significantly shaped the role of women in legal life, maintaining their traditional position in the household. In the 14th and 15th centuries, universities issued regulations prohibiting women from participating in legal education. This was justified by traditional notions of female virtues and the perceived danger of women's expression. For instance, Leonardo Bruni argued in his writings that it was inappropriate for women to use the art of rhetoric: "*Why should the subtleties (of rhetoric) consume the abilities of a woman who will never see the forum?*" (Peters 2022, 106; Lenderová 2002, 17-24). However, there were notable exceptions. For example, Giustina Rocca became an arbitrator at the tribunal in Trani, Italy, in 1500, where she publicly presided over a dispute concerning the division of an inheritance (Curtotti 2023; Jebavá 2024, 20). A significant development of the late Middle Ages was that women's testimony in court began to carry the same weight as men's testimony (Ennen 2001, 165).

Contemporary Restrictions on the Status of Women in Legal Professions in Conservative Countries

Despite global efforts to promote gender equality in all areas of life, the status of women in legal professions in some countries remains significantly restricted, resembling the limitations of ancient societies and medieval Europe. Although legal frameworks allow women to practice law, cultural, social, and religious barriers often prevent women from fully engaging and advancing in these professions.

In recent decades, there have been some advancements in Middle Eastern and North African countries, including the permission for women to serve as judges or notaries. However, women still face numerous obstacles. In the Arab world, especially under the influence of Islamic Sharia law, women's roles in participating in legal proceedings have varied depending on different interpretations of sacred texts. For instance, regarding women's participation in criminal trials, some Islamic legal scholars have argued that female testimony is inadmissible in serious criminal cases (e.g., murder or theft), whereas it may be accepted in less serious cases. Some legal schools, however, permit the testimony of two women instead of one man, even in

serious criminal cases. Certain conservative scholars use Quranic verses to argue that women cannot serve as witnesses in any legal matters or hold positions like judges or lawyers, claiming they lack the intellectual capacity required for such roles. Progressive interpretations emphasize that the Quran should be understood in the context of its time, and if women possess the same skills as men, their testimony should be equally valued. According to some scholars, women can serve as judges only in cases where they are allowed to testify. It is this conservative interpretation of sacred texts that has led to the restriction of women's roles in numerous countries. These views are rooted in traditional understandings of gender roles and reflect cultural notions of women's incapacity in legal matters (Latif 2002, 68-73).

There is a certain similarity between contemporary conservative regions regarding the issue of female testimony and legal professions and ancient and medieval thought. In conservative Arab countries, women remain partially restricted in their ability to practice law. For example, in Saudi Arabia, the Personal Status Law was enacted in 2022. While its adoption was seen as an important legislative step within the broader effort to reform the existing system, in practice, it only reinforces the status quo and institutionalizes discriminatory practices, such as male guardianship over women. The provisions of this law significantly limit women's rights in matters of marriage, divorce, and decision-making over their children. Despite claims of progressiveness, the law entrenches existing patriarchal norms, including the requirement for women to obtain a male guardian's consent for marriage (*Human Rights Watch 2023)*. In terms of other legal reforms, the need for a male guardian's approval for women to start a business was abolished in 2018. Women were allowed to engage in business independently, including practicing law. However, women's status in the legal profession still faces significant challenges and limitations due to societal and religious regulations. Women in legal professions often encounter a lack of recognition and trust in their professional abilities (Andrus 2024).

Another example is the status of women in Afghanistan, which dramatically changed after the Taliban came to power in 2021. While there had been some progress in their status over the previous two decades, including access to legal education and employment in legal professions, the current situation and strict conservative views have reverted their role to traditional ones. Although women in Afghanistan, similar to Saudi Arabia, were in a restricted position compared to their male counterparts before 2021, they were nonetheless allowed to practice law. This is no longer the case since the Taliban took control, limiting women's public presence, including in legal professions. A clear example of this policy is that female judges were ordered to stay home or were replaced by male family members.

"*Such restrictions violate Articles 2 and 6 of the International Covenant on Economic, Social and Cultural Rights and Article 11 of the Convention on the Elimination of All Forms of Discrimination Against Women, which prohibit denying access to work based on gender*" (International Commission of Jurists 2023, 35; Rahimi 2023).

From the above, it is clear that the status of women in society, including in legal professions, continues to pose a major challenge in some countries, particularly those based on conservative interpretations of Sharia law. Since these countries hold deeply ingrained views about women's roles in society, practicing law for women is not based on equal footing. While there may be some efforts to introduce legislative changes in these countries, deeply rooted beliefs about women's subordination and the need for male oversight of their actions (similar to those in ancient cultures and medieval Europe) are still evident today. These social beliefs about women's traditional roles, which do not allow them to hold public office, are further reinforced, for example, in Afghanistan, where such views are also backed by legal regulations.

Conclusion

Although women's rights have seen significant progress in the past century, and many international organizations and countries continue to implement crucial measures to promote gender equality in various fields, it remains evident that the question of women's status in society still sparks considerable debate. Women today face numerous obstacles in achieving equal opportunities with men, including in the legal professions, where women in some regions continue to face significant restrictions. This paper has focused on the status of women in legal professions, reflecting on the enduring limitations that, despite declared support for women's rights in modern times, still persist. The comparison of the current legal status of women in countries like Saudi Arabia and Afghanistan with their historical status in ancient Greece and Rome and later medieval Europe shows that, despite progress in certain areas, some barriers in legal professions remain relevant.

In ancient Greece and Rome, and subsequently in the medieval period, women's status was significantly restricted not only by legal norms but also by societal norms that excluded women from public and legal life. Legal actions by women were highly limited (except for some historical exceptions) and often subject to the consent of male family members. Women's roles were thus heavily determined and focused primarily on domestic duties, with public participation left to men. This applied to their involvement in courts and the practice of law. Women were deemed unfit for the art of rhetoric, and it was considered inappropriate for them to use

oratory in legal disputes. Women's testimony was considered less reliable than men's, and their right to participate in legal processes was significantly limited.

Despite modern efforts for reform and support for women's legal status, it is clear that some of these historical limitations continue to persist today. This paper has reflected on the status of women in legal professions in relation to Middle Eastern countries. As outlined in the paper, Arab society is conditioned by traditional patriarchal norms. Conservative states, adhering to a strictly traditional interpretation of the Quran, maintain highly restrictive approaches toward women and their roles. Although, for example, Saudi Arabia recently allowed women to engage in business and practice law without a male guardian, this change was only made recently, partly under international pressure. The formal legal changes in the country thus serve more to improve its international image rather than to genuinely support gender equality. Women in certain areas of life remain restricted by male guardianship, and male roles are perceived as essential in society. Legislative changes and some progress in women's legal status (including the possibility to practice law) are not absolute and are still accompanied by many limitations and societal barriers that undermine real equality. In some countries, the status of women in public life and their ability to participate in judicial decision-making is even more restricted. This is exemplified by current Afghanistan, where the Taliban’s rise to power has dramatically worsened the status of women in society. Taliban policy once again relies on a conservative approach to interpreting Sharia law. Such an interpretation of the law can be said to revert the perception of women’s status to the time of its inception. Therefore, the current status of women in these conservative countries (under a traditional conservative interpretation of the Quran) mirrors medieval and ancient views on women's status in society. In these countries, there is a marked absence of contemporary reflections on human rights developments and gender equality issues. Although legal changes in these Arab countries attempt to partially reflect this development, in practice, women's status in society (including their professional lives) remains conditioned by traditional patriarchal norms and attitudes. Legal and institutional changes are not accompanied by changes in cultural and social paradigms. The persistent distrust in women’s capabilities and the limited value of their testimony in courts are evidence that many of the restrictions faced by women in the past have not fully disappeared.

In conclusion, ensuring gender equality in patriarchal societies (such as Saudi Arabia and Afghanistan) will require substantial effort, which, despite legal reforms, may not necessarily yield the desired results. Achieving true equality necessitates pursuing profound cultural and social changes that will dismantle enduring stereotypes and allow women to fully

engage in legal and public life on an equal basis. Only then can true emancipation of women be achieved. Such considerations, given the strong intertwining of law with religion and cultural tradition in these countries, seem highly ambitious.

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Original Scientific Article
UDK 331.5:305-021.23-055.2(497.11)"2006/2021"

THE IMPACT OF THE PUBLIC HEALTH CRISIS CAUSED BY THE PANDEMIC ON GENDER INEQUALITIES IN THE LABOR MARKET IN SERBIA [1]

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Abstract

There is an obvious tendency that employed females have lower quality jobs and work in less favorable conditions compared to their male colleagues. Researches indicate there are no signs the situation is going to change in near future having in mind that many social, economic, and legal obstacles to the strengthening of the female population remained. Their position was further worsened by the pandemic, which neutralized long-term efforts to improve the position of the female population as a vulnerable social category. The aim of this paper is to show how the pandemic in the past two years has further deepened gender inequalities and put the female workforce in an even more unfavorable position. In the paper, a descriptive and comparative method was used to analyze the position of the male and female populations in the labor market.

Keywords: *gender inequalities, female, male, labor market, pandemic, Serbia*

[1] This paper was written as part of the 2024 Research Program of the Institute of Social Sciences with the support of the Ministry of Education, Science and Technological Development of the Republic of Serbia.

INTRODUCTION

Inequality refers to unequal opportunities for a quality life in all respects. Social inequalities arise from discrimination at the level of individuals, communities, or institutions, which have long been present in the theory and practice of sociology and social sciences in general (Crossman 2022). The most common topics in science are educational inequality, gender inequality, social stratification and poverty, inequalities and social security, inequality and debt policy, racial inequality, inequality in the use of healthcare services, inequality and life satisfaction, and consumption inequality.

Inequality is present in all societies, while societies in which inequalities are reduced are more developed, richer, and healthier. Also, the example of Japan shows that a determined effort to reduce social and economic inequalities led to a higher educational level of the population, a higher standard of living, economic development, and high healthcare quality, which was reflected in the life expectancy of the population (Maksimović 2021). Among many inequalities, gender inequality stands out, which implies the inequality between men and women and represents an important sociological and economic phenomenon.

The pandemic has significantly contributed to the increase in unemployment and job losses, income decline, and, consequently, poverty and inequality growth, which finds its foothold in less-educated and unqualified workforce and exclusion from the labor market. In the modern division of labor, the population with a lower educational level is paid less and often excluded from the process of retraining. According to estimates by the International Labor Organization, the labor market crisis caused a loss of working hours in the previous year that is equivalent to the loss of 100 million full-time jobs, which is estimated to be significantly reduced in the current year (26 million jobs). The effects of employment growth will be manifested in the following year and will compensate for previous labor market losses (International Labor Organization [ILO] 2021).

As an instrument of social policy in the fight against poverty and a form of social protection, Friedman proposed the idea of a universal income or a negative tax program that would enable the stabilization of the labor market (Moffitt 2003). As early as 1968, an anti-poverty strategy was adopted that focused on "enhancing the poor's productive capacity" (Konkel, 2014, 299). Today, the concept of inequality is more complex and does not refer only to the issue of poverty. After the recovery from the economic crisis, at the beginning of the 21st century, the Sustainable Development Agenda was adopted, which refers to green jobs, human resources, the labor market, decent work, the protection of human rights and the integrity of

individuals. There is an effort to reduce inequalities, through retraining of workers and orientation towards industries that will be significant for sustainable development (Ostojić 2022, 57-58).

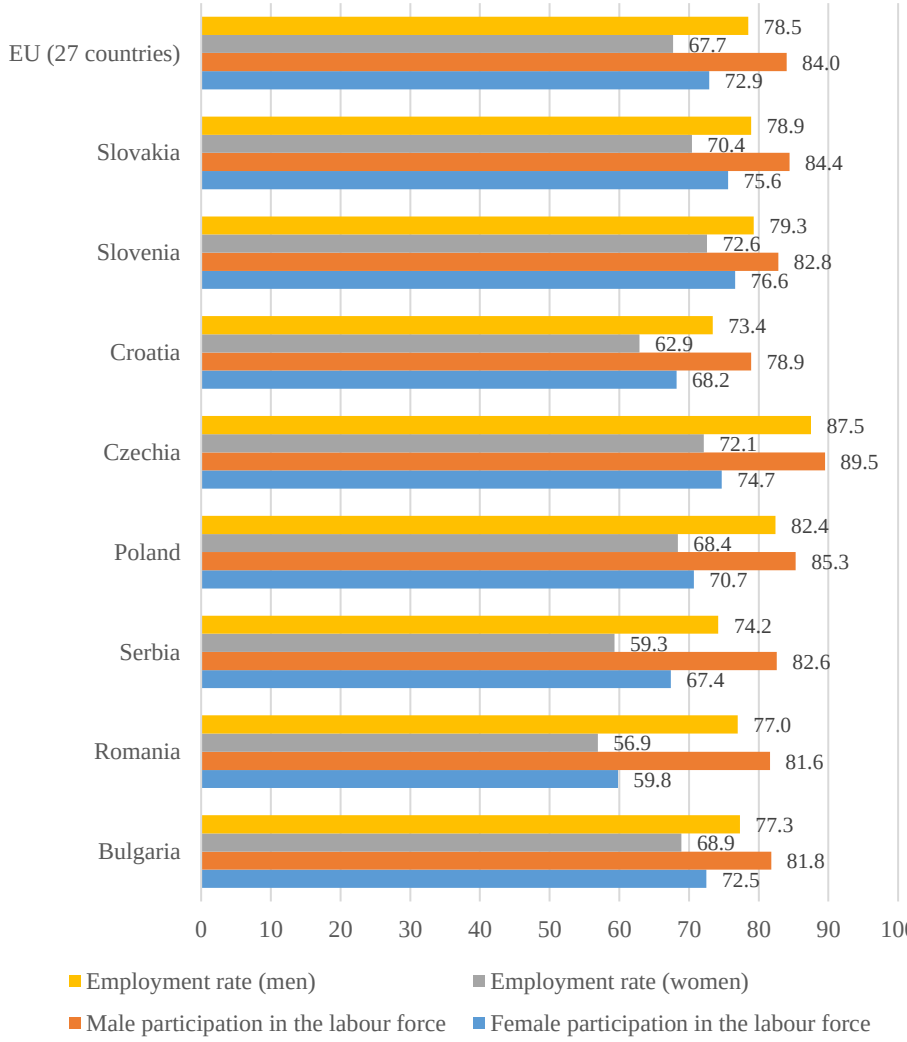
In the following, gender inequalities in the labor market will be analyzed, with a focus on the participation of men and women in the labor force and employment, engagement of the female population in senior management positions in the organization and national parliament, and the gender pay gap. Also, the subject of the research is the analysis of the impact of the pandemic on the increasing of deep-rooted gender inequalities and the deterioration of the position of the female workforce in the labor market.

GENDER INEQUALITIES IN THE LABOR MARKET

Questions of the position, place, and role of women in the social system arise from a defined framework of ethical and cultural values, which are also reflected in the field of law, while today their interdependence with the established public policy direction of society's development is increasingly highlighted (Ostojić, Maksimović and Stojković-Zlatanović 2022, 254). Generally speaking, women are faced with significantly higher obstacles when looking for a job that meets standards of decent work than men. There is obvious tendency that employed female have lower quality jobs and work in less favorable conditions compared to their male colleagues (ILO 2022). Researches indicate there are no signs the situation is going to change in near future having in mind that many social, economic, and legal obstacles to the strengthening of the female population remained. During the pandemic female position was further downgraded resulting in an additional increase in gender inequalities thus neutralizing perennial efforts on upgrading the position of females as a vulnerable social category. At the same time, the implementation of the fifth sustainable development goal – Gender equality was slowed down as well (United Nations 2022).

One of the characteristics of the female population is a lower activity rate compared to the male one, on a global scale. According to International Labor Organization data, the share of women in the total labor force (women that are employed or actively seek a job) is 47%, while the activity rate for the male population is 72% (ILO 2022). The significant difference in activity rates in favor of men (25%) is even higher in some countries such as Saudi Arabia, Egypt, India, Bangladesh, Pakistan, Afghanistan, and Jordan reaching 50% (ILO 2022). Data on activity and employment rates of the male and female population aged between 20 and 64 in Serbia as well as in neighboring countries and transitional countries are presented in Graph 1. In all observed countries, women have lower rates of both activity and

employment than men. In the EU the average activity rate for females is 73% while the average rate of activity for males (working age) is 84%. Moreover, the average rate of women's employment in the EU is nearly 68% compared to men's average employment rate of 78.5%. In Serbia, the female activity rate is 67.4% which is 15% lower than the activity rate for males. Furthermore, the male employment rate is 15% higher than the female one, which is 59.3%.



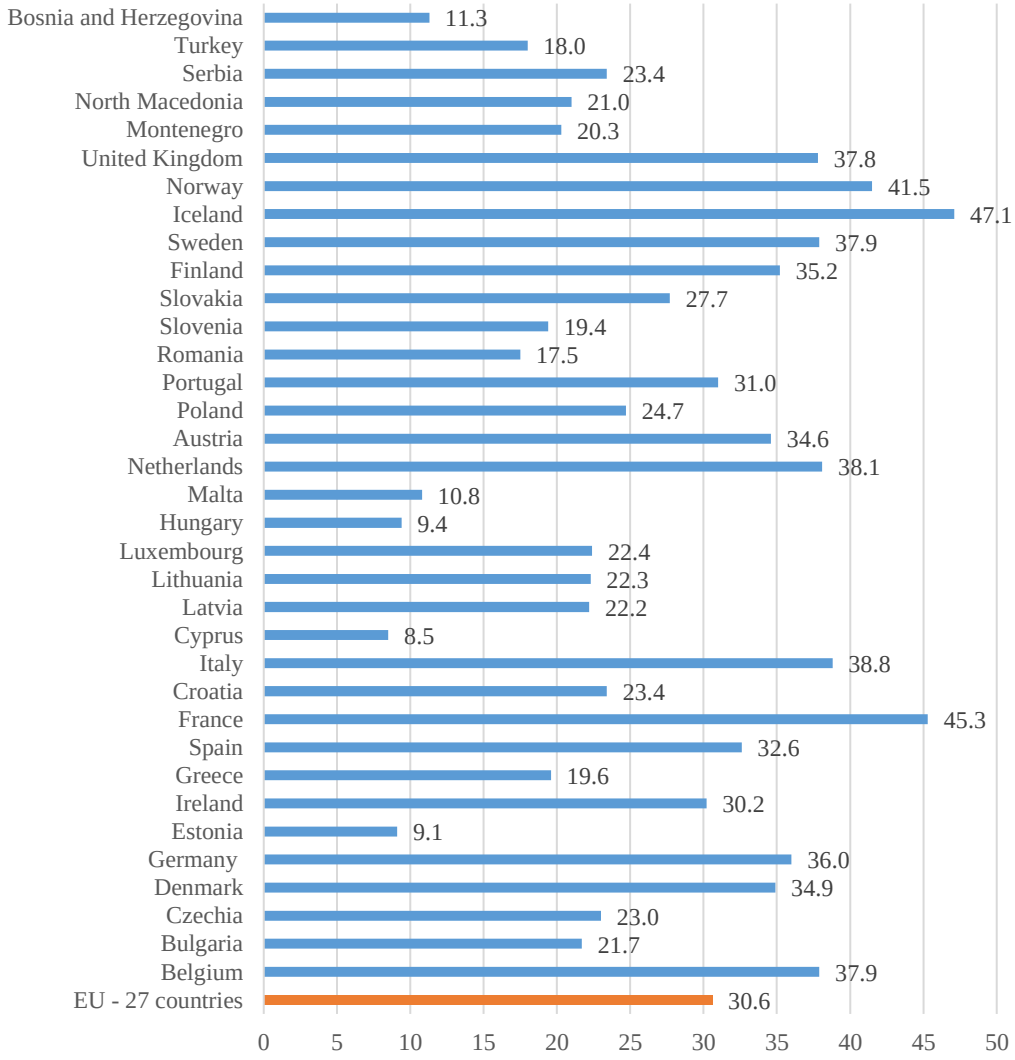
Graph 1: Activity and employment rate by sex, 2021

Source: EUROSTAT 2021

On a global scale, men earn 20% more than women on average (ILO 2020a). Public policies that are focused on the gender wage gap reduction

promote “equal salary for equal work” aimed to neutralize disparities within workplaces as well as encourage “equal salary for work of equal value” to neutralize disparities within the organization (Ministry of Labour, Employment, Veterans and Social Affairs 2018). The gender pay gap is larger in the private sector than in the public one with the biggest divergences reported in the financial and insurance sectors. In the EU, female gross earnings per hour are 13% lower than their male colleague's earnings on average (EUROSTAT 2022). In all European countries, the share of the female population aged 18-24 with at most lower secondary education who were not involved in any education or training (early leavers from education) was decreasing and presently is below 10%. At the same time, the share of the population aged 25-34 who have successfully completed tertiary studies is increasing in the EU. In some member states such are Ireland, Cyprus, Luxemburg, Holland, Slovenia, and Norway the share exceeds 60%, while in Serbia it is 41% which is close to the EU average (EUROSTAT 2022a; EUROSTAT 2022b). However, the increased representation of women in the labor market and their more favorable educational structure proved not to be sufficient factors that would reduce discrepancies in earnings between men and women in the context of diminishing gender inequalities. Less representation of women in leaders and managerial positions is one of the key factors that keep female average salaries at a lower level than the male one. In other words, fewer women in higher, better-paid positions lead to gender inequalities (Fortin, Bell and Böhm 2017).

In 2003, Norway was the first country in the world that introduced fully transparent recruitment procedures in companies and adopted the law that required minimal representation of 40% for both genders on the board of directors of limited liability companies (Maida and Weber 2022). Moreover, in cases when candidates applying for a job position are equally qualified preference would be given to the gender that is in the minority. Full transparency of procedures and candidate’s competencies for a job position as major selection criteria are key features of employment policy with foreseen sanctions for non-compliance with the defined appointment policy of the board of directors (Deloitte 2022). In the strategy Europe 2020 European Commission recommended to member states adopt laws requiring that women's participation in the executive boards of listed companies has to be 40% at least (European Commission 2010). Until October 2020, France, Belgium, Portugal, Greece, Austria, Italy, and Germany introduced mandatory national quotas for insufficiently represented gender on executive boards of listed companies (Deloitte 2022).



Graph 2: Positions held by women in senior management positions, 2021

Source: EUROSTAT 2021a

The tendency that has been observed for years is that women in management positions are more often employed in positions of the lower level of management, which is most often associated with the administration or human resources, while men are mostly employed in the highest leadership positions in organizations (top management) that are connected with the decision-making process. Graph 2 shows the share of women in

senior management positions in European countries (EUROSTAT 2021a). According to the latest available data for 2021, a woman is employed in every third managerial position (European Union average). Among the countries with an almost equal share of men and women in senior management positions, Iceland (47%), France (45%), and Norway (41.5%) stand out. Also, according to the data for the countries of the European Union, in 16 countries there are at least 25% of women on the boards of listed companies, while the number of countries with a minimum one-quarter female participation in 2018 was 14 (Deloitte 2022). In Serbia, 23.4% of women occupy management positions, while Hungary and Estonia stand out for the lowest female participation (less than 10%). Having in mind that in 2010 the share of the female population in leadership positions in Serbia was 12.4% there is a clear tendency of improvement (EUROSTAT 2021a). From advanced neighboring transition countries, Slovakia is closest to the European average (27.7%). The share of women in the national parliament of Serbia is about 40%, while the average value for the countries of the European Union is 33%, and rates close to 50% are achieved by Iceland, Sweden, and Finland (EUROSTAT 2022c).

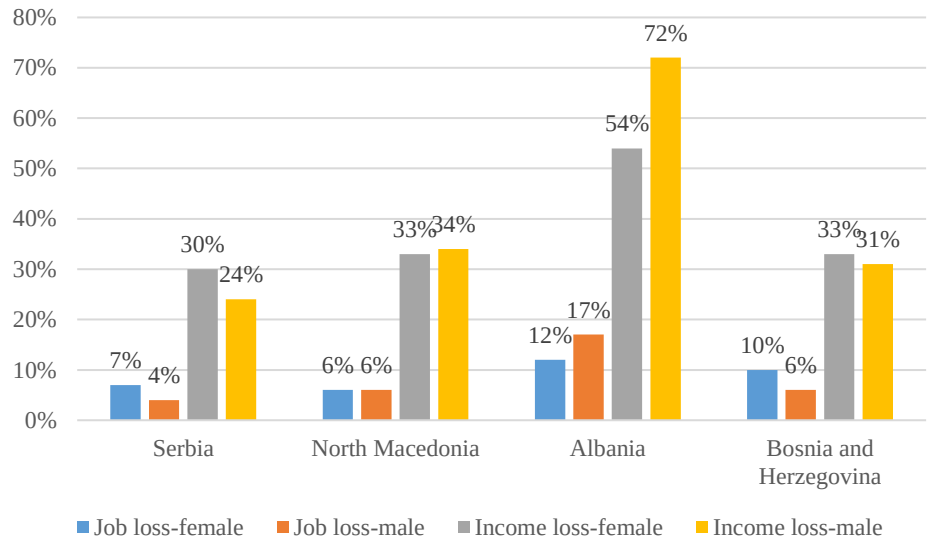
More than half of the gender pay gap is due to the lack of women in corporate management. (Fortin et al. 2017). Also, it has confirmed that a positive change as a decline in vertical segregation, which refers to barriers to the advancement of employees of a certain gender within a company or sector, contributed significantly more to the improvement of the position of women in the labor market than positive changes in horizontal segregation manifested through reduction of limited opportunities for women in certain professions in which the dominant position is achieved by the male (Fortin and Huberman 2002). Also, the main reasons for the decline in vertical segregation are found in the growth of education, knowledge, work experience, and expertise of the female population.

In Italy, after the introduction of mandatory quotas, the representation of women on corporate boards increased four times (Maida and Weber 2022). On the other hand, it was investigated how the introduction of quotas contributes to women in other positions in the company and whether there is a spillover of positive effects. In the case of Italy, it was confirmed that the quotas contributed to a moderate increase in the number of women in the highest managerial positions in the company and thus to their moderate representation in the workplaces that bring the highest earnings. In the same way, the companies that had the most women on the boards also had the largest number of newly appointed women general directors. However, if we look at women who are employed in hierarchically lower positions, the positive effects of the introduction of quotas did not contribute to a significant improvement in their status (Maida and Weber 2022). Similar

conclusions were reached in research on the introduction of quotas in Norway, as the first country that decided on this reform to improve the position of women in the labor market and reduce gender inequalities (Bertrand et al. 2019). Compared to Italy, Norway has a higher representation of women in the workforce and in better-paid positions with a lower gender pay gap which indicates more gender egalitarianism. However, the increased number of women on executive boards did not affect the improvement of women's positions working at lower-ranked workplaces in the corporate sector. At the same time, mandatory quotas had a positive impact on younger women at the beginning of their careers that perceived the measure as an important incentive in their career development toward top positions in companies (Bertrand et al. 2019).

THE INFLUENCE OF THE PANDEMIC ON THE DEEPENING OF GENDER INEQUALITIES

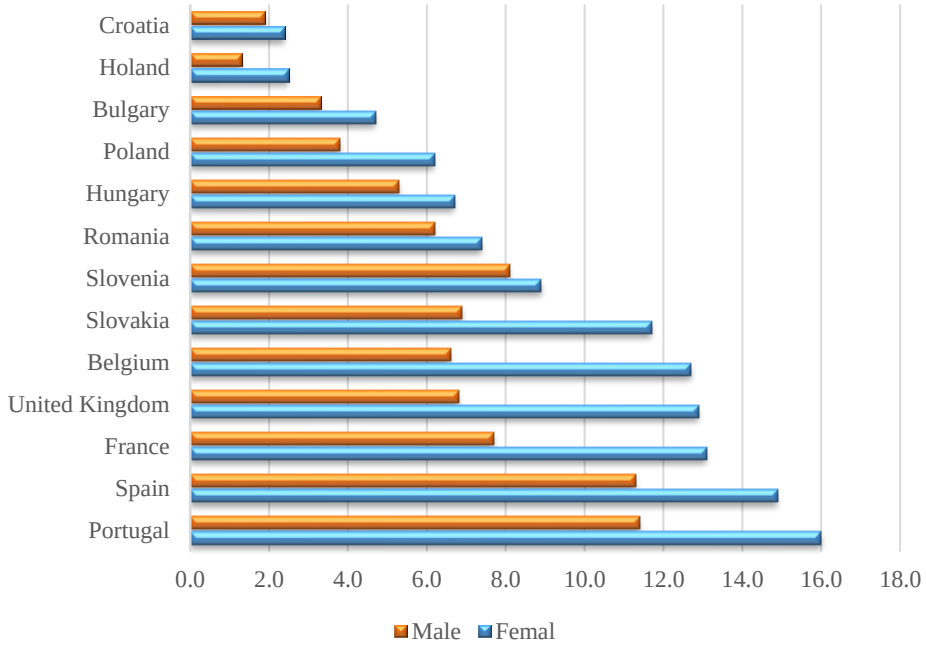
The public health crisis caused by the pandemic also affected the labor market, reflecting a decrease in employment, but also in the loss of jobs, working hours, and workers' income. The estimated loss of working hours at the global level is 12%, while labor income recorded a drop of 10.7% for the first three quarters of 2020 compared to the same period of the previous year (ILO 2020). The economic crisis caused by the pandemic contributed to more women losing their jobs than men. Globally, 26% of women reported job loss following the outbreak of the Covid-19 crisis, compared to 20% of men (Flor et al. 2022). The data from Graph 3 indicate the situation in Serbia and neighboring countries. In Serbia, 7% of women reported being unemployed after the onset of the public health crisis, compared to 4% of men. More women lost their jobs in Bosnia and Herzegovina (10% of women and 6% of men), but in North Macedonia, an equal share of both sexes are represented at 6%, while only Albania registered more unemployed men (17%) than women (12%) of the observed countries (United Nations Entity for Gender Equality and the Empowerment of Women [UN WOMEN] 2021). Also, if we look at how many percent of the female and male population reported the loss of at least one source of income after the outbreak of the pandemic, in Serbia women are also in the lead (30%) compared to men (24%). In North Macedonia and Bosnia Herzegovina, the share is equal between the sexes and amounts to around 30%, while in Albania 72% of men reported the loss of at least one source of income compared to 54% of women (UN WOMEN 2021).



Graph 3: Proportion of people who reported loss of job and loss of at least one source of income since the spread of COVID-19, by sex, 2021

Source: UN WOMEN 2021

The factor that determines women's lower earnings is certainly working time. Namely, according to research by the International Labor Organization, in almost all countries there is a higher proportion of women with part-time work than men. Also, it is estimated that the pandemic contributed to a disproportionate decrease in the earnings of men and women. Women's earnings fell by 8.1%, while men's earnings fell by 5.4%, which was significantly more affected by reduced working hours than the increased number of layoffs and job losses (ILO 2020). Graph 4 shows the loss in earnings of men and women after the pandemic. In all countries, women's wages fell more than men's wages. Those differences are most visible in Portugal, where women's wages fell by 16%, while men's wages fell by 11.4% between the first and second quarters of 2020. A similar situation is characteristic of Spain, where women's salaries have decreased by 15%, compared to men's salaries, which have decreased by 11.3%. The lowest decrease in wages was recorded in Croatia, namely for the female population by 2.14% and 1.9% for the male population (ILO 2020).

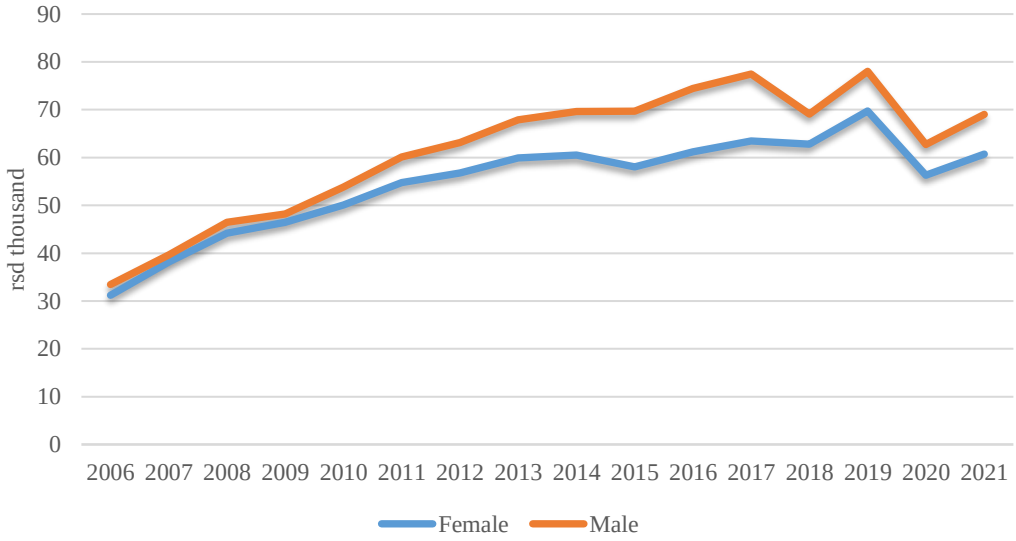


Graph 4: Total wage losses by gender between the first and second quarters of 2020, by sex (%)

Source: ILO 2020

If a more detailed analysis of the gender wage gap were conducted, according to whether work status implies full-time or part-time work, it would be seen that for men and women employed in a full-time job, according to the available data for 2020, the gender pay gap in the EU countries ranges from -1.8% in Italy (the female population earns more than men by 1.8% on average) to 24.6% in Latvia (EUROSTAT 2022d). The gender wage gap from the perspective of part-time employment also takes a negative value of -4.8% only in Italy, while high positive values in favor of the male population were recorded in Portugal (20.1%), where women's wages fell the most, followed by Spain (20.7%) and Croatia, where despite the lowest and almost uniform reduction in wages of the male and female population of around 2%, the gender wage gap reaches a value of 23.1%, the highest among European countries (EUROSTAT 2022d). Analyzing the data of the Statistical Office of the Republic of Serbia, the wage gap between men and women was the most pronounced in 2017, amounting to 14000 dinars in absolute terms, as shown in Graph 5. The current difference in earnings in favor of the male population is still present and is almost 50% lower than the

difference that was reached in 2017 (Statistical Office of the Republic of Serbia [SORS] 2020).

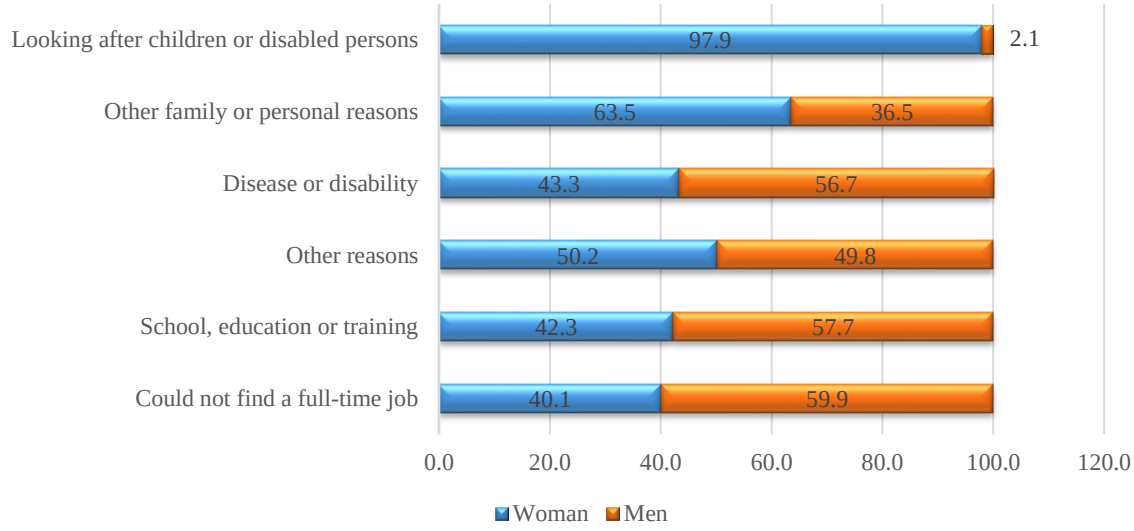


Graph 5: Average net earnings of employees by sex, 2006-2021

Source: SORS 2020

Significant participation of women in part-time jobs that bring them benefits disproportionate to those available to full-time employees is linked with their higher involvement in care for family members. In Serbia, care for family members is a cause for a part-time job in 98% cases for women and only in 2% cases for men, which is indicated by Graph 6. Motives for a part-time job may be illness, education or training, or inability to get a full-time job. Also, among the inactive population, which is out of the labor force and does not seek employment due to taking care of family members, with a share of 90%, women are the most represented (SORS 2022). Of the total number of women who lost their jobs due to the impact of the pandemic, almost 16% were forced to resign and terminate the contract with employer due to taking care of family members, compared to only 5% of men (SeConS 2020). This fact raises concerns that care about family members may become a significant obstacle to the economic strengthening of women and their integration into the labor market, particularly after the COVID-19 crisis. During the pandemic, the dominant factor for losing jobs for both men and women was cease of business operations of companies where they were employed. The second important factor that increased unemployment during the pandemic was the expiring of work contracts that were not extended (SeConS 2020). Moreover, women were much more involved in unpaid

housework than men. During the pandemic, household activities were much more intensive than before thus creating additional responsibilities and burdens for women (SeConS 2020a).



Graph 6: Reasons for employment in part-time jobs in Serbia by sex, 2021

Source: SORS 2022

In Serbia, women's employment prevails among administrative officers (60%), professionals and artists (59%), service and commercial jobs (57%), professional associates and technicians (53%) (SORS 2020a). According to the latest data for 2018, the Gender Equality Index in Serbia is 58 points[2], achieving a slight increase of 5.6 points compared to the previous value of the index from 2014 (Babović and Petrović 2021). Also, what attracts attention is that the greatest growth was achieved precisely in the domain of power (9.2 points), especially in the subdomain of political (5.2 points) and social power (17.7 points), while a decrease was recorded in the subdomain of economic power (-1.8). These results indicate that the quotas, which stimulate the representation of women in legislative bodies, as well as the greater representation of women on the boards of organizations, had a positive effect on strengthening the social and political power of the female population. On the other hand, due to the absence of appropriate economic policies that would stimulate the economic empowerment of women, progress in the sub-domain of women's economic power was also absent (Babović and Petrović 2021). Likewise, even though education is one of the

[2] The Gender Equality Index in the European Union is 67.4 points.

factors that contribute to differences in the gender pay gap, it is important to emphasize that progress has not been achieved only in the domain of knowledge and education (-0.9 points), which indicates a decline in the participation in the education of both men and women and increase in the gender gap in favor of women. What is missing is better representativeness of women in professions such as engineering, mathematics, and technology, which bring higher earnings and contribute positively to overcoming gender income inequalities. Traditionally in those professions, women are less represented than men and are in a disadvantageous position when trying to get a job or to keep it although they have the same qualifications as their male colleagues (ILO 2020a). In Serbia, approximately 70% of women were employed in the service sector (commerce, education, health, and social protection) which was hardest hit by the pandemic (Bradaš, Reljanović and Sekulović 2020). The COVID-19 crisis put the health sector and its employees under enormous pressure. Almost two-thirds of all health and social workers are women that were on the front lines during the pandemic (United Nations 2022; UN WOMEN 2020). The crisis hit hardest micro, small, and medium-sized enterprises where most women entrepreneurs work (Srdić 2021).

According to an International Labour Organization study, it is necessary to reduce gender inequalities in the labor market and enable the female population easier access to sectors with higher productivity that are expected to contribute to an increase of the labor force by 5.4% at the global level, raise of employment by 5.3%, gross domestic product growth of almost 4%, raise of tax revenues by 1.5 trillion dollars as well as poverty reduction in underdeveloped regions (ILO 2017). Women in Work Index[3] reflects the extent to which the pandemic affected the reduction of women's participation in the labor market and the increase in unemployment, thereby causing significant damage to the female population (Price Waterhouse 2022). In order to neutralize the negative effects of the Covid-19 crisis and compensate for the missed progress in gender equality and the economic empowerment of women, the employment and participation of the female labor force in the labor market must grow faster than before pandemic.

[3] Women in Work Index represents a weighted average of indicators related to the economic empowerment of women in OECD countries, which is expressed by the ability of women to participate in the labor force and to be employed, as well as by gender wage parity. The average result for OECD countries in 2020 is 64, while in 2019 it took the value of 64.5. It is estimated that without a pandemic the value of the index would be 65.9, which is expected to be realized during this year, with the condition of a faster recovery of the labor market. The first three countries, according to the value of the index, are New Zealand (76.7), Luxembourg (76), and Slovenia (75.6).

Among the countries with high index values, Slovenia should be singled out, as an advanced neighboring transition country, which records a high share of 90% of full-time employed women, as well as a gender gap in labor force participation of only 5% (Price Waterhouse 2022).

CONCLUSION

The pandemic has made a significant impact on the further deepening of widespread labor inequalities. In order to make up for lost progress in gender equality and women's economic empowerment, employment and female participation in the labor market needs to grow faster than before the pandemic. Factors that strongly contribute to the gender wage gap are the underrepresentation of women in management positions in organizations, part-time employment, caring for family members that inhibit their participation in the labor market and professional progress, the lack of educated female workforce in better-paid professions, etc. Likewise, the public health crisis caused by the pandemic contributed to more women than men losing their jobs and canceling their employment contracts so that they could take care of their families in the new conditions that brought them an additional burden. The largest percentage of women are employed in the service sector, which is most strongly affected by the crisis, namely in the trade, education, health, and social protection sectors, and women, as the most numerous representatives of health and social workers, were in the front lines in the fight against the pandemic. Also, the largest number of women entrepreneurs is registered in the sector of micro, small and medium enterprises and entrepreneurs, and it is important to indicate that this sector suffered the most intense negative consequences of the Covid-19 crisis. In order to reduce the gender pay gap, it is necessary to increase the representation of women in quality and better-paid workplaces. To promote a work-intensive business culture, it is necessary to support policies that promote active women that participate in the workforce, women that are well-educated, trained, economically empowered, and women that are not discouraged when looking for new employment after losing a job. In addition to the aforementioned, health conditions, as well as work in the informal economy also contributes to reduced activity of women in Serbia. According to estimates, it will take almost 60 years to achieve full gender equality in Serbia, taking into account the current trends and future projections of the Gender Equality Index. Women, as a vulnerable category in the labor market, are significantly more sensitive and more affected by crises. Therefore, it is important to take care of their social rights in the private and public sector, enable the absence of a partner to provide support and share family responsibilities so that women can commit to work and professional

advancement, significantly stimulate female entrepreneurship and provide it with adequate support in crises.

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Review Scientific Article
UDK 343.3/.7-055.2:004

GENDER-BASED CYBER CRIMES LEGAL RESPONSES AND CHALLENGES

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Abstract

Gender-based cyber crimes have emerged as a significant concern in the digital age, disproportionately affecting women and marginalized genders. This paper explores the various forms of gender-based cyber crimes, including cyberstalking, online harassment, and non-consensual distribution of intimate images. It examines the legal frameworks and responses implemented across different jurisdictions to combat these crimes, highlighting both successes and shortcomings. The paper also addresses the challenges faced in enforcing these laws, such as jurisdictional issues, the anonymity of perpetrators, and the evolving nature of technology. Through a comprehensive analysis, this study aims to provide insights into improving legal responses and developing more effective strategies to protect victims and hold offenders accountable.

Keywords: Gender Equality, Digital Technologies, Human Rights, Online Harassment, Digital Divide, Empowerment.

INTRODUCTION

Technology has advanced significantly in the digital age, but it has also given rise to new illegal activities, such as gender-based cybercrimes. These crimes include a variety of damaging behaviors like cyberstalking, online

harassment, and the non-consensual distribution of intimate photos. They disproportionately affect women and marginalized genders. To tackle these problems, one must have a thorough awareness of the legal options available and the difficulties in preventing gender-based cybercrimes.

This paper aims to explore the legal frameworks and responses to gender-based cyber crimes across various jurisdictions, focusing on the effectiveness and limitations of current laws. It will also examine the challenges faced in enforcing these laws, including jurisdictional complexities, the anonymity of perpetrators, and the rapid evolution of technology.

To achieve the objectives of this study, a combination of qualitative and quantitative research methods will be employed. The analytical method will be used to study legislation, official documents, reports from local and international institutions, and academic literature related to the topic.

The paper is structured in the following manner: The idea of gender-based cybercrimes and its several manifestations will be covered in the first section. The analysis of legal frameworks and responses in various countries will be covered in the second section, with an emphasis on both positive and negative developments. The final section will discuss the difficulties in enforcing these regulations, including issues with jurisdiction and developments in technology. To better protect victims and hold perpetrators accountable, the study will conclude with recommendations for strengthening current legal strategies.

CONCEPT AND FORMS OF GENDER-BASED CYBER CRIMES

Gender-based cyber crimes have become a pervasive issue in the digital era, significantly impacting women and marginalized genders. These crimes encompass a variety of harmful behaviors that exploit the anonymity and reach of the internet to target individuals based on their gender (Halder and Jaishankar, 2011). Among the most prevalent forms of gender-based cyber crimes are cyberstalking, online harassment, and the non-consensual distribution of intimate images.

Cyberstalking involves the use of the internet or other electronic means to stalk or harass an individual, group, or organization. It often includes monitoring, identity theft, threats, and gathering information to harass. This form of cybercrime can lead to severe psychological distress and a sense of insecurity among victims (Citron, 2014).

Online harassment, another common form, includes sending threatening or abusive messages, spreading false information, and engaging in behavior intended to intimidate or humiliate the victim (Jane, 2016). This can occur on social media platforms, through email, or via other online communication

tools. The anonymity provided by the internet often emboldens perpetrators, making it challenging to identify and prosecute them.

The non-consensual distribution of intimate images, often referred to as "revenge porn," involves sharing private, sexual images or videos of individuals without their consent (UNDOC, 2024). This act is not only a violation of privacy but also a form of sexual abuse that can have devastating emotional and social consequences for the victims (Franks, 2017). The rapid dissemination of such content online exacerbates the harm, making it difficult to contain and remove.

These gender-based cyber crimes are not isolated incidents but are part of a broader pattern of gender-based violence that reflects and reinforces societal inequalities. They exploit the digital landscape to perpetuate harm, often with long-lasting effects on the victim's mental health, reputation, and personal safety. Addressing these crimes requires a nuanced understanding of their nature and the development of robust legal frameworks to protect victims and hold perpetrators accountable.

LAW ENFORCEMENT REACTIONS AND STRUCTURES

The legal responses to gender-based cyber crimes vary significantly across different jurisdictions, reflecting diverse approaches to addressing these complex issues (Armiwulan, 2021, 104). Many countries have enacted specific laws to combat cyber crimes, including those that are gender-based, while others rely on broader legislation to address these offenses.

In the United States, for example, federal and state laws provide various avenues for prosecuting cyber crimes. The Violence Against Women Act (VAWA) includes provisions that address cyberstalking and online harassment, offering legal recourse for victims (Sjöholm, 2022, 94-95). Additionally, several states have enacted laws specifically targeting the non-consensual distribution of intimate images, recognizing the unique harm caused by this form of cybercrime (Ibidem, 103).

In the European Union, the General Data Protection Regulation (GDPR) provides a robust framework for protecting personal data, which can be leveraged to address certain aspects of gender-based cyber crimes (Affoum et al., 2023). However, the enforcement of these protections varies across member states, leading to inconsistencies in the legal responses (Ahmed, 2019). Some countries, like the United Kingdom, have introduced specific legislation, such as the Malicious Communications Act and the Protection from Harassment Act, to tackle online harassment and cyberstalking (Costello and Hawdon, 2020, 1403).

Despite these efforts, significant challenges remain in effectively enforcing laws against gender-based cyber crimes. One major issue is the

jurisdictional complexity of cyber crimes, which often involve perpetrators and victims in different countries (Council of Europe, 2020). This can complicate the process of investigation and prosecution, as legal authorities must navigate varying legal systems and cooperation agreements (Abah, 2016).

Another challenge is the anonymity provided by the internet, which can make it difficult to identify and apprehend perpetrators. While technological advancements have improved the ability to trace online activities (Jirovsky, 2022), cybercriminals often use sophisticated methods to conceal their identities, posing a significant obstacle to law enforcement.

Moreover, the rapid evolution of technology means that legal frameworks must continually adapt to address new forms of cybercrime. This requires ongoing legislative updates and the development of specialized expertise within law enforcement agencies to keep pace with emerging threats (Al-Soud and Dweri, 2024, 284).

While there have been significant strides in developing legal responses to gender-based cyber crimes, numerous challenges persist. Addressing these issues requires a coordinated effort across jurisdictions, continuous adaptation of legal frameworks, and enhanced cooperation between legal authorities and technology experts to effectively protect victims and hold perpetrators accountable.

CHALLENGES IN ENFORCING LAWS AGAINST GENDER-BASED CYBER CRIMES

Enforcing laws against gender-based cyber crimes presents numerous challenges that hinder the effective protection of victims and the prosecution of offenders. One of the primary obstacles is the jurisdictional complexity inherent in cyber crimes. These offenses often involve perpetrators and victims located in different countries, complicating the legal processes required for investigation and prosecution (Ahmed, 2019). International cooperation is essential but can be difficult to achieve due to varying legal systems, differing levels of technological advancement, and inconsistent enforcement of cybercrime laws.

The anonymity provided by the internet is another significant challenge. Perpetrators can easily conceal their identities using various techniques, such as virtual private networks (VPNs), encryption, and the dark web (Awanisa, Perbawati, and Hasyimzum, 2023, 529). This anonymity makes it difficult for law enforcement agencies to trace and identify offenders, thereby impeding the investigation process. Even when perpetrators are identified, gathering sufficient evidence to secure a

conviction can be challenging due to the technical nature of cyber crimes and the need for specialized expertise (Rodriguez et al., 2018, 65).

Technological advancements also pose a continuous challenge to the enforcement of laws against gender-based cyber crimes. As technology evolves, new forms of cybercrime emerge, requiring constant updates to legal frameworks and enforcement strategies (Angrraheni et al., 2021, 201-202). Law enforcement agencies must stay abreast of these developments and invest in ongoing training and technological resources to effectively combat cyber crimes. This need for continuous adaptation places a significant strain on resources and can lead to gaps in enforcement.

Moreover, there are societal and cultural barriers that affect the enforcement of laws against gender-based cyber crimes. Victims may be reluctant to report these crimes due to fear of stigma, shame, or not being taken seriously by authorities (Hasan et al., 2022). This underreporting can result in a lack of data and awareness about the prevalence and impact of gender-based cyber crimes, further complicating efforts to address the issue (Sjöholm, 2022, 186). Additionally, societal attitudes towards gender and technology can influence the prioritization and allocation of resources for combating these crimes.

The enforcement of laws against gender-based cyber crimes is fraught with challenges that require a multifaceted approach. Addressing jurisdictional complexities, overcoming the anonymity of the internet, keeping pace with technological advancements, and tackling societal barriers are all critical components of an effective enforcement strategy (Armiwulan, 2021, 106). Enhanced international cooperation, investment in technological and human resources, and efforts to raise awareness and support victims are essential steps towards improving the enforcement of laws against gender-based cyber crimes and ensuring justice for victims.

CONCLUSION

Gender-based cyber crimes are a significant and growing threat in the digital age, disproportionately affecting women and marginalized genders. These crimes, including cyberstalking, online harassment, and the non-consensual distribution of intimate images, exploit the anonymity and reach of the internet to inflict harm. Despite various legal frameworks and responses across jurisdictions, substantial challenges persist in effectively addressing these crimes. Jurisdictional complexities, the anonymity of perpetrators, and the rapid evolution of technology are major obstacles to enforcement. Additionally, societal and cultural barriers contribute to underreporting and insufficient prioritization of these crimes.

To address these issues, it is crucial to enhance international cooperation to tackle jurisdictional complexities and facilitate cross-border

investigations. Investing in technological resources and specialized training for law enforcement agencies is essential to keep pace with the evolving nature of cyber crimes.

Continuous updates to legal frameworks are necessary to address new forms of cybercrime and ensure that laws remain relevant and effective. Raising awareness and supporting victims through public education campaigns and accessible reporting mechanisms can help overcome societal barriers and encourage more victims to come forward.

Finally, fostering a culture of accountability and respect for digital privacy and security is vital to prevent gender-based cyber crimes and protect vulnerable individuals in the digital space. A comprehensive and coordinated approach is essential to effectively combat these crimes and ensure justice for victims.

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Review Scientific Article
UDK 342.9:[305-055.1/.2:004(4-672ЕУ)

THE ROLE OF ADMINISTRATIVE LAW IN PROMOTING GENDER EQUALITY IN CYBERSPACE IN EU COUNTRIES

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Abstract
This paper examines the critical role of administrative law in promoting gender equality within cyberspace across EU countries. As digital platforms become increasingly integral to social and economic activities, ensuring gender equity online is essential. The study evaluates the effectiveness of existing administrative frameworks in addressing gender disparities and fostering inclusivity in digital environments. The paper identifies best practices and areas needing improvement by analyzing key legal instruments, policies, and case studies from various EU member states. The findings highlight the necessity for robust administrative measures to combat gender-based discrimination and harassment, thereby creating a more equitable digital landscape. The research underscores the importance of continuous legal and policy advancements to uphold gender equality in the rapidly evolving cyberspace of the EU.

Keywords: Administrative Law, Gender Equality, Cyberspace, EU Countries, Legal Frameworks, Gender-Based Discrimination

INTRODUCTION

In the digital age, cyberspace has become a crucial domain for social, economic, and political interactions. However, this rapid digital transformation has also highlighted significant gender disparities, necessitating robust legal frameworks to ensure equitable access and protection for all genders. Administrative law, with its regulatory and

oversight functions, plays a pivotal role in addressing these disparities and promoting gender equality in cyberspace. This paper aims to explore the effectiveness of administrative law in fostering gender equality within the digital environments of EU countries.

The research methodology to achieve this work's objectives combines qualitative and quantitative methods. We will use the analytical method to study legislation, official documents, reports from local and international institutions, and academic literature related to the topic. Additionally, case studies from various EU member states will be examined to identify best practices and areas needing improvement.

By analyzing the role of administrative law in promoting gender equality in cyberspace, this paper seeks to contribute to the ongoing discourse on digital rights and gender equity, offering insights and recommendations for policymakers and legal practitioners in the EU.

The structure of the paper is organized into three main sections. The first section, Laws and regulations pertaining to gender equality in Cyberspace, provides an overview of the existing administrative laws and policies in EU countries that aim to promote gender equality online. The second section, Challenges and Gaps in Administrative Law, critically examines the shortcomings and challenges these legal frameworks face in effectively addressing gender disparities in cyberspace. The final section, Innovative Approaches to enhancing gender equality in Cyberspace, highlights successful case studies and offers recommendations for strengthening administrative laws to better promote gender equality in the digital age.

LAWS AND REGULATIONS PERTAINING TO GENDER EQUALITY IN CYBERSPACE

The European Union (EU) has established a comprehensive legal framework to promote gender equality, which extends into the realm of cyberspace. This section examines the key administrative laws and policies that aim to ensure gender equality online, highlighting their implementation and effectiveness through practical examples.

The EU's commitment to gender equality is enshrined in several foundational documents, including the Treaty on the Functioning of the European Union (TFEU) and the Charter of Fundamental Rights of the European Union (European Union, 2012). Article 157 of the TFEU mandates equal pay for equal work, while the Charter explicitly prohibits discrimination based on sex and ensures the right to gender equality in all areas, including employment, education, and access to goods and services (European Union, 2012).

One of the pivotal directives in this context is the Directive 2006/54/EC on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (European Commission, 2006). This directive has been instrumental in shaping national laws to promote gender equality in the workplace, which increasingly includes digital work environments.

The EU Gender Equality Strategy 2020-2025 outlines specific actions to address gender disparities in the digital sector (European Commission, 2020). This strategy emphasizes the need for gender-balanced participation in digital education and careers, the elimination of gender stereotypes in digital media, and the protection of women and girls from online violence and harassment.

For instance, the Digital Education Action Plan (2021-2027) aims to foster gender equality by encouraging more women to pursue careers in science, technology, engineering, and mathematics (STEM) (European Commission, 2020). The plan includes initiatives to provide digital skills training and support for female entrepreneurs in the tech industry.

One notable example of administrative law promoting gender equality in cyberspace is the Code of Conduct on Countering Ilegal Hate Speech Online, which was launched in 2016 (European Commission, 2016). This code, developed in collaboration with major IT companies, aims to combat online hate speech, including gender-based harassment. Companies like Facebook, Twitter, and YouTube have committed to reviewing and removing illegal hate speech within 24 hours, demonstrating the practical application of administrative policies to protect gender equality online.

Another example is the Women in Digital (WiD) Scoreboard, which monitors women's participation in the digital economy across EU member states (European Commission, 2021). The scoreboard provides valuable data that helps shape policies and initiatives to close the gender gap in digital skills and employment.

The EU's administrative laws and policies provide a robust framework for promoting gender equality in cyberspace. Through directives, strategies, and practical initiatives, the EU aims to create a more inclusive digital environment. However, continuous evaluation and adaptation of these frameworks are necessary to address emerging challenges and ensure their effectiveness in fostering gender equality online.

CHALLENGES AND GAPS IN ADMINISTRATIVE LAW

Despite the robust legal frameworks and policies established by the EU to promote gender equality in cyberspace, several challenges and gaps persist. This section critically examines these shortcomings, highlighting

practical examples and citing relevant scientific literature to provide a comprehensive understanding of the issues at hand.

One of the primary challenges in promoting gender equality in cyberspace is the inconsistency in the implementation of administrative laws across EU member states. While the EU provides overarching directives and strategies, the actual enforcement and effectiveness of these laws can vary significantly from one country to another. This inconsistency can lead to uneven protection and support for gender equality online.

For example, a study by Barker and Olga (2020) found that while some EU countries have made significant strides in implementing gender equality policies in digital spaces, others lag due to a lack of resources, political will, or cultural resistance. The study highlights the need for more uniform enforcement mechanisms to ensure that all member states adhere to the same standards of gender equality in cyberspace.

The rapid pace of technological advancement poses another significant challenge. Administrative laws often struggle to keep up with the evolving nature of digital platforms and Technologies (Nimani et al., 2023). This lag can result in outdated regulations that fail to address new forms of gender-based discrimination and harassment online.

For instance, the rise of social media platforms has introduced new challenges in regulating online behavior. Sing (2018) argues that existing administrative laws are often ill-equipped to handle the complexities of social media, where gender-based harassment can occur in more subtle and pervasive ways. They call for more adaptive and forward-thinking legal frameworks that can respond to the dynamic nature of digital environments.

Enforcement of administrative laws in cyberspace is another critical issue. Even when robust laws are in place, ensuring compliance can be difficult. Digital platforms often operate across multiple jurisdictions, complicating the enforcement of national laws. Additionally, the anonymity provided by the internet can make it challenging to identify and hold perpetrators accountable.

A practical example of this challenge is the enforcement of the General Data Protection Regulation (GDPR), which includes provisions for protecting individuals from online harassment and discrimination. While the GDPR has been a significant step forward, its enforcement has faced hurdles due to the cross-border nature of digital platforms and the sheer volume of online interactions. Zaguir et al., (2024) note that despite the GDPR's strong legal framework, its effectiveness in protecting gender equality online is limited by these enforcement challenges.

Cultural and social attitudes towards gender roles and equality also play a significant role in the effectiveness of administrative laws. In some EU

countries, deeply ingrained gender stereotypes and biases can undermine the implementation of gender equality policies in cyberspace.

Suzor et al., (2019) discuss how cultural resistance to gender equality can manifest in various ways, from subtle biases in policy enforcement to overt opposition to gender-inclusive initiatives. This resistance can hinder the progress of administrative laws aimed at promoting gender equality, making it essential to address cultural and social barriers alongside legal reforms.

The challenges and gaps in administrative law highlight the need for continuous evaluation and adaptation of legal frameworks to effectively promote gender equality in cyberspace. Addressing inconsistencies in implementation, keeping pace with technological advancements, ensuring robust enforcement, and overcoming cultural barriers are crucial steps towards achieving a more equitable digital environment in the EU.

INNOVATIVE APPROACHES TO ENHANCING GENDER EQUALITY IN CYBERSPACE

In addition to addressing the challenges and gaps in administrative law, it is essential to explore innovative approaches that can enhance gender equality in cyberspace. This section delves into various strategies and initiatives that have shown promise in promoting gender equity online, supported by practical examples and academic citations.

One of the most effective ways to promote gender equality in cyberspace is through digital literacy and education. Empowering individuals with the skills and knowledge to navigate digital environments safely and confidently can help bridge the gender gap. Educational programs focusing on digital skills, cybersecurity awareness, and online etiquette are crucial.

For example, the EU's Digital Education Action Plan (2021-2027) includes initiatives aimed at increasing digital literacy among women and girls. By providing targeted training and resources, the plan seeks to encourage more female participation in the digital economy. A study by Hajdinijak and Damianova (2019) found that digital literacy programs significantly improved women's confidence and competence in using digital tools, thereby promoting greater gender equality in cyberspace.

Also, Estonia has been a pioneer in digital education, with initiatives like the ProgeTiiger program, which aims to enhance digital skills among students, including girls. This program has significantly increased female participation in STEM fields, contributing to greater gender equality in the digital sector.

Public-private partnerships (PPPs) have emerged as a powerful tool in promoting gender equality online. By leveraging the resources and expertise

of both the public and private sectors, PPPs can implement comprehensive strategies to address gender disparities in digital spaces.

A notable example is the WePROTECT Global Alliance, a coalition of governments, technology companies, and civil society organizations working together to end online child sexual exploitation. This alliance has developed innovative tools and policies to protect children, including girls, from online abuse. Duta (2021) highlights the success of WePROTECT in fostering collaboration between stakeholders to create safer online environments for vulnerable groups.

The French government has partnered with tech companies through the French Tech Mission to promote gender diversity in the tech industry. This initiative includes mentorship programs, funding for female-led startups, and campaigns to encourage women to pursue careers in technology.

Innovative legal and policy approaches are also essential in promoting gender equality in cyberspace. This includes the development of new regulations that specifically address emerging issues related to gender and digital Technologies (Mishra, n.d).

For instance, the Istanbul Convention on Preventing and Combating Violence against Women and Domestic Violence has been instrumental in shaping national laws to protect women from online harassment and abuse. The convention's provisions have been integrated into the legal frameworks of several EU countries, leading to more robust protections for women in cyberspace. Doe and Roe (2019) argue that the Istanbul Convention serves as a model for other international agreements aimed at addressing gender-based violence in digital environments.

Technological innovations, such as artificial intelligence (AI) and machine learning, offer new opportunities to enhance gender equality online. These technologies can be used to detect and mitigate gender-based harassment and discrimination on digital platforms.

For example, AI-powered moderation tools have been implemented by social media companies to identify and remove harmful content more effectively. Tildesley et al., (2022) discuss how AI algorithms can be trained to recognize patterns of gender-based abuse and take proactive measures to prevent it. However, Miller also cautions that these technologies must be designed and implemented with a strong ethical framework to avoid biases and ensure fairness.

Innovative approaches, including digital literacy programs, public-private partnerships, legal and policy innovations, and technological advancements, are crucial in promoting gender equality in cyberspace. By exploring and implementing these strategies, the EU can create a more inclusive and equitable digital environment. Continuous evaluation and

adaptation of these approaches are necessary to address the evolving challenges and opportunities in the digital age.

CONCLUSION

This paper has examined the pivotal role of administrative law in promoting gender equality in cyberspace within EU countries. The analysis has highlighted the strengths and weaknesses of existing legal frameworks and policies, as well as innovative approaches that can enhance gender equity in digital environments.

The EU has established comprehensive legal frameworks that provide a solid foundation for promoting gender equality in cyberspace. These frameworks are essential for guiding member states in developing and implementing gender-inclusive policies. However, despite the robust legal frameworks, inconsistencies in implementation across different EU countries pose significant challenges. These disparities can lead to uneven protection and support for gender equality online.

The rapid pace of technological change often outstrips the ability of administrative laws to keep up. This lag can result in outdated regulations that fail to address new forms of gender-based discrimination and harassment. Ensuring compliance with administrative laws in the digital realm is complex, particularly given the cross-border nature of digital platforms and the anonymity provided by the internet. Deeply ingrained gender stereotypes and biases can undermine the effectiveness of gender equality policies. Addressing these cultural and social barriers is crucial for the successful implementation of legal frameworks.

To address inconsistencies, the EU should work towards harmonizing the implementation of gender equality laws across member states. This could involve establishing more uniform enforcement mechanisms and providing additional support to countries lagging. Administrative laws must be continuously updated to keep pace with technological advancements. This requires a proactive approach to legal reform, ensuring that regulations remain relevant and effective in addressing emerging challenges. Enhancing the enforcement of administrative laws in cyberspace is essential. This could involve developing more sophisticated tools for monitoring compliance, as well as fostering greater international cooperation to address cross-border issues.

Investing in digital literacy programs, particularly for women and girls, can help bridge the gender gap in digital skills and participation. These programs should be widely accessible and tailored to address the specific needs of different demographics. Collaboration between the public and private sectors can amplify efforts to promote gender equality online. Public-

private partnerships should be encouraged to develop innovative solutions and share best practices. Efforts to promote gender equality in cyberspace must also tackle cultural and social barriers. This could involve public awareness campaigns, educational initiatives, and community engagement to challenge and change harmful gender stereotypes.

By implementing these recommendations, the EU can create a more inclusive and equitable digital environment, ensuring that gender equality is upheld in all aspects of cyberspace. Continuous evaluation and adaptation of legal frameworks and policies will be essential to meet the evolving challenges and opportunities of the digital age.

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Review Scientific Article
UDK 327:[341.171(4-672ЕУ):341.123

LEGAL STATUS OF EUROPEAN UNION IN UNITED NATIONS

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Abstract

Paper examines legal and political framework of cooperation between EU and United Nations in order to provide an insight into relations between EU and UN in today's international system. Crucial questions in the research are: When and why do Member States decide to act together in United Nations? Which are the factors that determine willingness of European Union to work through and with United Nations? Whether European Union can be considered as a regional organisation in terms of Article 52 and 53 of Chapter VIII of United Nations Charter? Whether United Nations Security Council can use European Union as regional organisation for some of the coercive actions? What is the legal status of European Union at the United Nations General Assembly? What is the legal status of European Union at the United Nations Security Council?

Keywords: Law of the European Union, international law, EU Common Foreign and Security Policy, United Nations General Assembly, United Nations Security Council.

INTRODUCTION

Any multilateral forum represents a dilemma for its members: is it just a medium for asserting and defending national interests, or an institutional outlet that could constrain national egoism and promote compromise towards achieving collective goods and sense of community? This dilemma is particularly sharp in the case of United Nations and especially in the case of UN Security Council (Brsakoska Bazerkoska 2011, 1).

As an intergovernmental organisation, United Nations are premised upon and protective of state sovereignty. States are key members of United

Nations and they control decision-making process. Moreover, UN membership is reflection of sovereign equality of member states (Brsakoska Bazerkoska 2011, 1). However, UN multilateralism allows blocks and regional political groupings in its institutional and political process. Therefore, this terrain is suitable for EU action. Besides the fact that many EU Member States have traditionally viewed United Nations as arena for national diplomacy, they coordinate themselves on EU common position, including drafting of EU statements and adoption of EU positions on Resolutions and other texts within UN processes (Brsakoska Bazerkoska 2011, 1).

According to Laatikainen and Smith, Union has its own approach to multilateralism: European Union seeks to pool sovereignty and create common foreign policy in many policy arenas. European Union has potential to be an important power in shaping global events. However, European Union has exploited this potential more in economic sphere than in political and security spheres. Through Common Commercial Policy European Union has used its power to promote global free trade and promote itself as world's largest trader. On the other hand, EU has been less capable of speaking with single and reliable voice on global political and security issues (Brsakoska Bazerkoska 2011, 1).

Taking into account these facts, the article will provide an insight into relations between EU and UN in today's international system. As European Union cannot be a member of United Nations, coherence between EU Member States within UN institutional structure and on different issues will be explained. Furthermore, relations between United Nations as global international organization and European Union as regional *sui generis* alliance of sovereign and independent states will be explained through different theories on international relations (Brsakoska Bazerkoska 2011, 2).

If it wants to be influential it is necessary for the European Union a world managed by a comprehensive, effective multilateral system. This means that the EU wants to see strong international organisations those who are entrusted with peace and security management and organisations that act in a binding multidimensional arrangement that would be effective in combating global challenges (Ateljević 2018, 292).

These words of the former director of the EU Institute for security studies are current today and multilateralism is one of the basic principles of the EU's international action. Rule-based multilateralism and international system underlying the fondation of a strong international institutions are in the greatest interest of the EU (Ateljević 2018, 292). Regarding issues of preserving international peace and security, United Nations are at the center of such system. What this means specifically for the European Union can be

established on the basis of practice of cooperation so far and based on interpretation of UN Charter (Ateljević 2018, 292).

THEORETICAL PERSPECTIVES

The need for European Union's presence in United Nations institutional structure can be explained by a range of theoretical perspectives. Although EU-UN relations have many variables, crucial questions that are often posed are: when and why do Member States decide to act together in United Nations?; and which are the factors that determine willingness of European Union to work through and with United Nations? (Brsakoska Bazerkoska 2011, 2).

According to authors with realist approach towards international relations, Member States of European Union coordinate their policies in United Nations when it allows them to better defend their interests rather than acting alone. Therefore, EU positions in United Nations are largely influenced by Member States' interests and they reflect compromises found among them (Brsakoska Bazerkoska 2011, 2). Furthermore, when it comes to common foreign policy of European Union and its slow response to crisis in international relations, realists locate explanation in deep historical and cultural roots of Member States' security interests. According to them, those roots have undermined ability of European Union to define and promote single European foreign policy (Brsakoska Bazerkoska 2011, 2-3). According to Piner Tank, loss of economic sovereignty as a result of economic integration and common trade policies has strengthened the determination of Member States to maintain their sovereignty over foreign and security policies (Brsakoska Bazerkoska 2011, 3).

Institutionalists as well as constructivists, see European Union positions at United Nations as compromise between interests of Member States, but argue that the possibility of such compromise might be higher within European Union than in other coalitions of states that are much looser. Fundamental political tendencies within European Union to search for common positions and institutionalized mechanisms for coordination contribute to the creation of such compromises (Brsakoska Bazerkoska 2011, 3).

According to Brantner and Gowan, constructivist interpretations hold that European Union members or more precisely their delegates in Brussels, New York or Geneva, through their daily coordination on the ground, might be 'socialized' into abandoning unilateral action and extending coordination because they find it 'appropriate' to coordinate their policies at United Nations even if it is not necessarily the most rational approach in a given case, or the one likely to maximize benefits (Brsakoska Bazerkoska 2011, 3).

Furthermore, there are different approaches when defining factors that determine European Union's willingness to work through and with United Nations. According to Kagan, it is because of its weakness that Europe pursues multilateral strategies. He argues that multilateral strategies reflect power or, rather, absence of power, that is – weakness (Brsakoska Bazerkoska 2011, 3).

According to Manners, EU is predisposed to multilateralism. By acting through United Nations it gains capacity to shape behaviour of others (Brsakoska Bazerkoska 2011, 3).

An alternative set of scholars see EU-UN relations in terms of European Union's normative power. Normative power theory implies a critique of US policy. According to Laatikainen and Smith, contrast between United States and European Union perspectives on multilateralism could not be more stark. While European Union has embraced effective multilateralism as cornerstone of its foreign policy, United States has embraced aggressive policy of pre-emption and diplomatic tone that is skeptical of and impatient with United Nations multilateralism (Brsakoska Bazerkoska 2011, 3-4).

However, according to them, European Union is not yet good enough at multilateralism to act as a leader, much less to counter US anti-multilateral tendencies (Brsakoska Bazerkoska 2011, 4).

Nevertheless, when explaining EU-UN relations, there is no constantly superior theory. Instead, different theoretical models explain European Union's engagement in different issues at United Nations. Security dimension of EU-UN relations is best explained by the realist theory. On the other hand, European Union approach towards the issues that don't challenge its security policy are better explained through reference to the European Union's 'natural' attachment to international law (Brsakoska Bazerkoska 2011, 4).

European Union is committed to a global order based on international law, including principles of United Nations Charter, which ensure peace, human rights, sustainable development and lasting access to global commons. This commitment translates into an aspiration to transform rather than simply preserve the existing system (Commission, European External Action Service 'European Union Global Strategy for Foreign and Security Policy' COM 2016, 39).

In its relations with the wider world, the Union shall uphold and promote its values and interests and contribute to the protection of its citizens. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of United Nations

Charter (Consolidated Version of the Treaty on European Union [2016] OJ C202/17).

EUROPEAN UNION AND CHAPTER VIII OF UN CHARTER

It can be addressed two questions related to foreign policy relations between European Union and United Nations. First and foremost question that arises is whether European Union can be considered as regional organisation in terms of Article 52 and 53 of Chapter VIII of United Nations Charter? More precisely, can European Union be viewed as regional security and political organisation that deals with issues of preserving international peace and security? Second question is whether United Nations Security Council can use European Union as regional organisation for some of the coercive actions? (Ateljević 2018, 293).

New development that brought UN Charter was Chapter VIII and clear division of work and responsibilities between the Security Council and regional / international organisations, so that United Nations primary mission in safeguarding international peace and security is not jeopardized, and functioning of established regional organisations can not be endangered:

Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action provided that such arrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations (Article 52, paragraph 1 of UN Charter, Chapter VIII: Regional Arrangements).

In this sense, United Nations Charter leaves possibility of establishment and acting of regional organisations in three ways:

1. As security organisations of collective / mutual defense in accordance with the right of self-defense (Article 51 of the UN Charter);

2. As an organisation that Security Council can authorize to make concrete coercive action in order to apply decision (Security Council Resolution) made in context of Chapter VII of UN Charter and

3. As an organisation that can act in purpose of peaceful settlement of disputes, in particular in local disputes or with mandate of UN Security Council (Ateljević 2018, 294).

When it comes to the first and second form of international action, an example of NATO and EU is illustrative as two European security organisations. In the Founding Act, NATO does not refer to Chapter VIII, only refers to the General Purposes and Principles of the UN Charter (Preamble of North Atlantic Treaty 2023). It is established as a collective defense organisation guaranteed by Article 51. The logic of the founders of NATO was to confront the Eastern Bloc if an armed attack occur from the

East during the Cold War. By Security Council Resolution 787 (1992), para. 12, NATO was brought into the position of a regional organisation (Paragraph 12 of United Nations Security Council Resolution, S/RES/787 (1992) 16 November 1992). More precisely, there are four operations on the territory of the former Yugoslavia in which NATO participated applying the decisions of the Security Council in accordance with Article 53. Those are the following operations: *Operation Maritime Monitor*, *Operation Sharp Guard*, *Deny Flight* and *Close Air Support* (Ateljević 2018, 294).

It is interesting that by entry into force of the Lisbon Treaty, European Union has become *sui generis* alliance of collective defense, but not formal and legally explicit regional organisation in sense of Chapter VIII:

If Member State is the victim of armed aggression on its territory, the other Member States shall have towards it an obligation of aid and assistance by all the means in their power, in accordance with Article 51 of the United Nations Charter. This shall not prejudice the specific character of the security and defence policy of certain Member States (Consolidated Version of the Treaty on European Union [2016] OJ C202/39).

European Union *de facto* acts as an organisation of a regional character within the meaning of Chapter VIII. Already in Lisbon Treaty, principle of multilateralism is alive. Article 21 gives direction:

Union's action on international scene shall be guided by principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world: democracy, rule of law, universality and indivisibility of human rights and fundamental freedoms, respect for human dignity, principles of equality and solidarity, and respect for principles of United Nations Charter and international law (Consolidated Version of the Treaty on European Union [2016] OJ C202/28).

Union shall seek to develop relations and build partnerships with third countries, and international, regional or global organisations which share principles referred to in the first subparagraph. It shall promote multilateral solutions to common problems, in particular in the framework of United Nations (Consolidated Version of the Treaty on European Union [2016] OJ C202/28).

Although Lisbon Treaty does not explicitly define EU as a regional arrangement or agency in sense of Chapter VIII, EU and UN approach with each other very pragmatically, in practice. One of the examples of EU-UN multilateral pragmatism is successful transfer of powers between EUFOR mission in Chad and in Central African Republic and UN mission (MINURCAT) in the states mention above, in March 2009. United Nations Security Council praised European Union for successful engagement of EUFOR and supporting United Nations activities in these two countries, in

particular its contribution in delivering humanitarian aid and preserving security in the regions of its area of responsibility (Ateljević 2018, 301).

EUROPEAN UNION AT THE UNITED NATIONS GENERAL ASSEMBLY

With regard to status of European Union in United Nations, it should be noted that European Community, represented by European Commission, had only observer status at the United Nations General Assembly and its committees, Economic and Social Council and its commissions and subsidiary bodies, and in several funds and programmes. However, European Community did not have observer status at the Security Council (Brsakoska Bazerkoska 2011, 5).

European Commission's original information office in New York officially became delegation to United Nations in 1974, when it was granted observer status at 29th General Assembly by Resolution 3208: 3208 (XXIX). *The General Assembly*, wishing to promote co-operation between the United Nations and European Economic Community, *requests* Secretary-General to invite the European Economic Community to participate in the sessions and work of the General Assembly in the capacity of observer (United Nations General Assembly Resolution A/RES/3208).

After the Lisbon Treaty entered into force in December 2009, European Union was granted international legal personality. Therefore, in an effort to achieve greater visibility, through its High Representative for Foreign Affairs and Security Policy, European Union sought from UN an EU right to speak at the United Nations General Assembly (Brsakoska Bazerkoska 2011, 6).

Most recent developments regarding this issue are brought by Resolution A/RES/65/276, voted by United Nations General Assembly in May 2011. In accordance with present resolution, representatives of European Union, in order to present positions of European Union and its Member States as agreed by them, shall be:

(a) Allowed to be inscribed on the list of speakers among representatives of major groups, in order to make interventions. (b) Invited to participate in general debate of General Assembly, in accordance with the order of precedence as established in the practice for participating observers and level of participation. (c) Permitted to have its communications relating to the sessions and work of General Assembly and to sessions and work of all international meetings and conferences convened under auspices of Assembly and of United Nations conferences, circulated directly, and without intermediary, as documents of Assembly, meeting or conference. (d) Also permitted to present proposals and amendments orally as agreed by States members of European Union, such proposals and amendments shall be

put to vote only at request of Member State. (e) Allowed to exercise the right of reply regarding positions of European Union as decided by presiding officer, such right of reply shall be restricted to one intervention per item.

(b) Representatives of European Union shall be ensured seating among the observers.

(c) Representatives of European Union shall not have the right to vote, to co-sponsor draft resolutions or decisions, or to put forward candidates (United Nations General Assembly Resolution A/RES/65/276).

EUROPEAN UNION AT THE UNITED NATIONS SECURITY COUNCIL

Issue of EU membership at the UN Security Council represents another complex matter. There are two main reasons for this. First of all, issues dealt within UN Security Council are matters that belong to Common Foreign and Security Policy. European Union has the necessary competence to act, but only under condition that there are Council Decisions (previously known as common positions) that are reached between Member States (Brsakoska Bazerkoska 2011, 7).

Second, Security Council deals with the most threatening of issues for states' sovereignty – that of security. Hierarchy of power in international system is nowhere as pain staking evident as in the procedures of Security Council, which institutionalizes three classes of states: permanent members, elected members, and states which have little chance of ever serving on UN Security Council. As permanent members, Great Britain and France have obligations to uphold United Nations Charter, but they also protect their own vital interests and promote the interests they hold in common with their EU partners. As key players in European foreign policy cooperation they are naturally pushed to act together, but pressures of activities in Security Council also expose the important divergences between views of the world of two states (Brsakoska Bazerkoska 2011, 7).

Author notes that following Brexit and withdrawal of Great Britain from EU, France remains the only permanent member of Security Council that promotes common EU interests.

According to UN perspective, under Article 31 of United Nations Charter, Security Council may invite any UN Member State or competent person to participate in its discussions.[1] Catherine Ashton has already

[1] Article 31 of United Nations Charter: "Any Member of the United Nations which is not a member of the Security Council may participate, without vote, in the discussion of any question brought before the Security Council whenever the latter considers that the interests of that Member are specially affected".
https://www.un.org/en/about-us/un-charter/chapter-5 accessed 17 March 2023.

addressed UN Security Council on EU-UN cooperation and on cooperation between United Nations and regional and sub-regional organisations (Brsakoska Bazerkoska 2011, 7).

EU perspective is given in Article 34 of Treaty on European Union as amended by Treaty of Lisbon:

1. Member States which are also members of United Nations Security Council will concert and keep the other Member States and High Representative fully informed. Member States which are members of Security Council will, in the execution of their functions, defend the positions and interests of the Union, without prejudice to their responsibilities under provisions of United Nations Charter. When the Union has defined a position on a subject which is on United Nations Security Council agenda, those Member States which sit on Security Council shall request that High Representative be invited to present Union's position (Consolidated Version of the Treaty on European Union [2016] OJ C202/35).

However, the reading of Article 34 is not complete without taking into consideration the limitations provided with Declaration No. 14 concerning the common foreign and security policy, adopted at Lisbon Intergovernmental Conference. The conference aimed at preventing EU's new diplomatic competences to affect individual Member States powers in international organisations. Declaration No. 14 concerning the common foreign and security policy states:

The Conference underlines that the provisions covering the Common Foreign and Security Policy including in relation to the High Representative of the Union for Foreign Affairs and Security Policy and External Action Service will not affect existing legal basis, responsibilities, and powers of each Member State in relation to formulation and conduct of its foreign policy, its national diplomatic service, relations with third countries and participation in international organisations, including Member State's membership of Security Council of United Nations (Consolidated Version of the Treaty on European Union [2016] OJ C202/343).

This formulation in the Treaty of Lisbon was mainly made under influence of two Member States of European Union that are permanent Security Council members – Great Britain and France. Throughout time, their tendency has been to ensure that there is no room for misunderstandings over freedom of national maneuvering which they want to continue enjoying in United Nations Security Council. They have no objection to consulting, informing and coordinating with their EU partners, but they see their United Nations status as representing a higher calling and they would not be even bound by the existing commitments to common European positions (Brsakoska Bazerkoska 2011, 8).

According to Hill, idea of single European seat in United Nations Security Council, long canvassed by both integrationist states within European Union and those in the outside world who wish to see reform of Security Council membership, has no chance of being implemented in foreseeable future. Even though the idea of reforming the Security Council has been present for a long time, the current composition does not reflect power balances of twenty-first century (Brsakoska Bazerkoska 2011, 8).

EUROPEAN UNION IN UNITED NATIONS AFTER LISBON TREATY

During Solana's ten year mandate, European Union became more visible actor both on global stage and on East River. With extensive experience in high politics, Solana has pushed boundaries of High Representative's mandate to a level that would probably be unacceptable to many Members if there was someone else on this position with less political weight. High Representative spoke on an equal footing with top UN officials, including both Secretaries-General and number of UN Special Representatives for crisis regions and addressed the Security Council a dozen times (Jeličić 2010, 57-58).

European Union will continue to strengthen its influence in Security Council by attending the sessions of that body more frequently, through a larger number of speeches, statements and submitted documents. Marko Jeličić considers it is almost inconceivable that European Union in current international order could get a seat in Security Council – this requires completely unified foreign policy of the Union, and then consensus of world's leading powers. Neither of these two items seems achievable in near future (Jeličić 2010, 61-62).

Today, European Union is the strongest non-state partner of United Nations and its most active observer. It will be important for the Union, in whatever capacity is performed in General Assembly, to speak with one voice, because that will continue to be an important indicator of its foreign policy development (Jeličić 2010, 62).

In addition to maintaining a high percentage of cohesion of 27 Members in General Assembly, the European Union should expand cooperation with third countries. Even with full unanimity of all Members, candidates and potential candidates, as well as support of Western allies, not a single European Union proposal could pass General Assembly without support of at least some of more than 130 developing countries (Jeličić 2010, 63).

Degree of mobilization of these countries in defending attitudes and values of the European Union will be one of the measures of success of its foreign policy in the world organisation (Jeličić 2010, 63).

CONCLUSION

As European Union cannot be member of UN, coherence between Member States of European Union within United Nations institutional structure remains crucial in creating and implementing single European foreign policy in this world organisation. All Member States of European Union which are also Members of United Nations must bear in mind that they not only represent their national interests in this world organisation but they also represent the interests of European Union in United Nations. In that way, we can be sure that values of European Union are fully respected on the world stage.

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Review Scientific Article
UDK 341.231.14:[305-055.1/.2:004

INTERNATIONAL HUMAN RIGHTS LAW AND GENDER EQUALITY IN THE CONTEXT OF DIGITAL TECHNOLOGIES

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Abstract

The rapid advancement of digital technologies has significantly impacted various aspects of society, including human rights and gender equality. This paper explores the intersection of international human rights law and gender equality within the context of digital technologies. It examines how digital platforms and tools can both advance and hinder gender equality, highlighting the dual role of technology as a facilitator of empowerment and a potential source of discrimination. Through a comprehensive analysis of legal frameworks, case studies, and policy initiatives, this study identifies key challenges and opportunities for promoting gender equality in the digital age. The findings underscore the necessity for robust international legal standards and proactive measures to ensure that digital technologies contribute positively to the realization of gender equality and the protection of human rights globally.

Keywords: Gender Equality, Digital Technologies, Human Rights, Online Harassment, Digital Divide, Empowerment.

INTRODUCTION

The integration of digital technologies into various facets of society has brought about profound changes, influencing how individuals interact, work, and access information. These advancements have significant implications for international human rights law and gender equality. Digital technologies can serve as powerful tools for promoting gender equality and providing platforms for advocacy, education, and economic empowerment. However, they also pose challenges, such as the potential for digital discrimination, privacy violations, and the perpetuation of gender biases.

In the context of digital technology, this article seeks to investigate the relationship between gender equality and international human rights law. It focuses on the rules, conventions, procedures, and difficulties involved in making sure that technological breakthroughs respect human rights and advance gender equality.

To accomplish the goals of this study, a combination of qualitative and quantitative methods was used in the research technique. International legislative frameworks, official papers, reports from international agencies, and pertinent scholarly material will all be examined using the analytical method.

The paper is structured in a particular manner so that the idea of gender-based cybercrimes and its several manifestations will be covered in the first section. The second part will discuss the global regulatory landscape, focusing on standards and regulations governing digital technologies and their impact on gender equality. The third part will delve into case studies and policy initiatives, highlighting the role of digital technologies in both advancing and hindering gender equality. Finally, the paper will identify key challenges and propose recommendations for ensuring that digital technologies support the realization of gender equality and the protection of human rights worldwide.

THE CONCEPT AND PRINCIPLES OF INTERNATIONAL HUMAN RIGHTS LAW AND GENDER EQUALITY IN THE DIGITAL AGE

Digital technologies have revolutionized various aspects of human life, including communication, education, and economic activities. These technologies have the potential to significantly advance gender equality by providing new opportunities for empowerment and participation. However, they also present unique challenges that must be addressed within the framework of international human rights law.

International human rights law provides a comprehensive framework for the protection and promotion of gender equality. Key instruments such as the Universal Declaration of Human Rights (UDHR), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and the International Covenant on Civil and Political Rights (ICCPR) establish the fundamental rights and freedoms that apply to all individuals, regardless of gender. These instruments emphasize the principles of non-discrimination, equality before the law, and the right to participate in public life.

Digital technologies can serve as powerful tools for promoting gender equality. They offer platforms for advocacy, education, and economic empowerment, enabling women and marginalized groups to access information, connect with others, and participate in the digital economy. For instance, online education platforms can provide women with access to educational resources that may not be available locally, while social media can amplify voices advocating for gender equality and human rights.

Despite their potential benefits, digital technologies also pose significant challenges to gender equality. Issues such as digital discrimination, online harassment, and the digital divide can exacerbate existing inequalities. Women and marginalized groups are often disproportionately affected by these challenges, facing barriers to accessing and benefiting from digital technologies (Areiqat, 2024, 1089). Additionally, the lack of robust legal frameworks and enforcement mechanisms can hinder efforts to address these issues effectively.

International human rights law plays a crucial role in addressing the challenges and harnessing the opportunities presented by digital technologies. Establishing clear standards and obligations provides a basis for holding states and other actors accountable for ensuring that digital technologies are used in ways that promote and protect gender equality. This includes the development and implementation of policies and regulations that address issues such as digital discrimination, online harassment, and the digital divide.

The intersection of international human rights law and gender equality in the context of digital technologies presents both opportunities and challenges. While digital technologies have the potential to advance gender equality, they also pose significant risks that must be addressed through robust legal frameworks and proactive measures (Ceia, Nothwehr and Wagner, 2021). By leveraging the principles and standards of international human rights law, it is possible to ensure that digital technologies contribute positively to the realization of gender equality and the protection of human rights globally.

GLOBAL REGULATORY LANDSCAPE AND DIGITAL TECHNOLOGIES' IMPACT ON GENDER EQUALITY

The global regulatory landscape plays a pivotal role in shaping how digital technologies impact gender equality. As digital technologies continue to evolve, international and national legal frameworks must adapt to address the unique challenges and opportunities they present. International standards and regulations provide a foundational framework for addressing the impact of digital technologies on gender equality. Key international instruments, such as the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), establish obligations for states to promote and protect gender equality in all spheres, including the digital realm (United Nations, 1966; United Nations, 1979). These instruments emphasize the importance of non-discrimination, equal access to resources, and the right to participate in public life.

The United Nations has also developed specific guidelines and recommendations to address the intersection of digital technologies and gender equality. For example, the UN Women's Global Norms and Standards on Gender Equality and the Empowerment of Women in the Digital Age provide a comprehensive framework for integrating gender perspectives into digital policies and initiatives (UN Women, 2024). These guidelines highlight the need for inclusive digital policies that ensure equal access to digital technologies and address barriers faced by women and marginalized groups.

At the national level, countries have implemented various regulations and policies to address the impact of digital technologies on gender equality. These measures often focus on ensuring equal access to digital resources, protecting individuals from online harassment and discrimination, and promoting digital literacy and skills development (Stovpets et al., 2023). For instance, the European Union's Digital Strategy includes specific provisions aimed at promoting gender equality in the digital economy, such as initiatives to increase women's participation in STEM fields and support for female entrepreneurs (European Commission, 2015). In addition to regulatory measures, many countries have established independent bodies and institutions to monitor and address issues related to digital technologies and gender equality. These institutions play a crucial role in enforcing regulations, providing support to victims of digital discrimination and harassment, and promoting awareness and education on digital rights and gender equality.

Despite the progress made in developing regulatory frameworks, significant challenges and gaps remain. One of the primary challenges is the rapid pace of technological change, which often outstrips the ability of legal

frameworks to keep up. This can result in regulatory gaps that leave individuals vulnerable to digital discrimination and other forms of harm (Ceia, Nothwehr, and Wagner, 2021, 34). Additionally, the lack of harmonization between international and national regulations can create inconsistencies and barriers to effective enforcement. Another significant challenge is the digital divide, which disproportionately affects women and marginalized groups (Ibidem). Access to digital technologies and the internet remains uneven, with many individuals lacking the necessary resources and skills to fully participate in the digital economy. Addressing these disparities requires targeted policies and initiatives that focus on bridging the digital divide and ensuring equal access to digital resources.

The global regulatory landscape plays a critical role in shaping the impact of digital technologies on gender equality. While significant progress has been made in developing international and national frameworks, ongoing efforts are needed to address the challenges and gaps that remain. By continuing to adapt and strengthen regulatory measures, it is possible to ensure that digital technologies contribute positively to the realization of gender equality and the protection of human rights globally.

CASE STUDIES AND POLICY INITIATIVES: DIGITAL TECHNOLOGIES AND GENDER EQUALITY

The practical application of digital technologies in promoting gender equality can be observed through various case studies and policy initiatives worldwide. These examples illustrate both the potential benefits and the challenges associated with integrating digital technologies into efforts to achieve gender equality.

One notable case study is the use of mobile technology to improve women's access to financial services in Kenya. The M-Pesa mobile money platform has revolutionized financial inclusion by providing a secure and accessible means for women to conduct financial transactions. This has empowered many women economically, enabling them to start businesses, save money, and access credit. The success of M-Pesa demonstrates how digital technologies can bridge gaps in traditional financial systems and promote economic empowerment for women (Jack and Suri, 2011).

Another significant initiative is the "She Will Connect" program by Intel, which aims to reduce the gender gap in internet access in sub-Saharan Africa. This program provides digital literacy training to women and girls, helping them to develop the skills needed to participate in the digital economy. By addressing the digital divide, the program seeks to empower women with the knowledge and tools necessary to leverage digital technologies for personal and professional growth (Ertem, 2024).

In India, the Digital India campaign has included specific measures to promote gender equality. The campaign's focus on expanding internet access and digital literacy has had a positive impact on women's participation in the digital economy. Initiatives such as the Common Service Centers (CSCs) provide digital services and training to rural women, enabling them to access government services, educational resources, and employment opportunities. These efforts highlight the importance of inclusive digital policies that consider the unique needs and challenges faced by women (Department of Electronics & Information Technology, 2015).

Despite these successes, challenges remain in ensuring that digital technologies contribute positively to gender equality. Online harassment and cyberbullying are significant issues that disproportionately affect women and girls. For example, a study by the Pew Research Center found that women are more likely than men to experience severe forms of online harassment, such as stalking and sexual harassment (Duggan, 2017). Addressing these issues requires comprehensive legal frameworks and enforcement mechanisms to protect individuals from digital violence and ensure safe online environments.

Policy initiatives at the international level also play a crucial role in promoting gender equality in the digital age. The United Nations' Sustainable Development Goals (SDGs) include specific targets related to gender equality and digital inclusion. Goal 5 aims to achieve gender equality and empower all women and girls, while Goal 9 emphasizes the importance of building resilient infrastructure, promoting inclusive and sustainable industrialization, and fostering innovation. These goals underscore the need for coordinated efforts to integrate gender perspectives into digital policies and initiatives (United Nations, 2015).

The case studies and policy initiatives from around the world demonstrate the potential of digital technologies to advance gender equality. However, they also highlight the challenges that must be addressed to ensure that these technologies are used in ways that promote and protect the rights of women and marginalized groups. By learning from successful examples and addressing the barriers that remain, it is possible to harness the power of digital technologies to achieve gender equality and uphold human rights globally.

CONCLUSION

The integration of digital technologies into various aspects of society has profound implications for gender equality and international human rights law. While digital technologies offer significant opportunities for advancing gender equality by providing platforms for advocacy, education, and

economic empowerment, they also present unique challenges. Issues such as digital discrimination, online harassment, and the digital divide can exacerbate existing inequalities, particularly for women and marginalized groups.

International human rights law provides a robust framework for addressing these challenges, emphasizing principles of non-discrimination, equality before the law, and the right to participate in public life. However, the rapid pace of technological change and the lack of harmonization between international and national regulations pose significant challenges to effective enforcement and protection.

To ensure that digital technologies contribute positively to gender equality and the protection of human rights, several key recommendations can be made. It is essential to develop and implement comprehensive legal frameworks that address the unique challenges posed by digital technologies. These frameworks should include specific provisions to protect individuals from digital discrimination and online harassment, as well as measures to bridge the digital divide and ensure equal access to digital resources. International and national regulatory bodies should work together to harmonize regulations and ensure consistent enforcement. This includes establishing independent institutions to monitor and address issues related to digital technologies and gender equality.

Targeted policies and initiatives should be developed to promote digital literacy and skills development, particularly for women and marginalized groups. By providing the necessary resources and support, these initiatives can empower individuals to fully participate in the digital economy and leverage digital technologies for personal and professional growth.

Ongoing efforts are needed to raise awareness and promote education on digital rights and gender equality. This includes public campaigns, educational programs, and partnerships with civil society organizations to ensure that all individuals are informed about their rights and the opportunities and challenges presented by digital technologies. By implementing these recommendations, it is possible to harness the power of digital technologies to achieve gender equality and uphold human rights globally.

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Review Scientific Article
UDK 343.1:004
343.24/.26:004

USE OF INNOVATIVE TECHNOLOGICAL SOLUTIONS IN THE CRIMINAL JUSTICE SYSTEM AS AN OPPORTUNITY TO IMPLEMENT CERTAIN ALTERNATIVE MEASURES

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Abstract

The main focus of this paper's research is centered around utilizing technological solutions to the criminal justice system, with a particular focus on how technology can be used to implement particular alternative measures. Electronic monitoring and GPS tracking, automated reporting systems, virtual rehabilitation programs, and predictive analytics and risk assessment tools are some of the technological solutions that legal practitioners can apply in the performance of their work tasks. The use of these modern technological solutions certainly has the potential to create more equitable, effective, and efficient criminal justice systems. This research paper highlights the benefits of using technological solutions in this context while also emphasizing its challenges and ethical significance. The paper under discussion examines the body of research and studies to demonstrate how technology might improve efficiency, reduce recidivism, and promote criminal justice system reform.

Keywords: justice system, criminal justice, alternative measures, technological solutions.

INTRODUCTION

The traditional legal system relies heavily on imprisonment as a means of punishment. However, people are increasingly aware of recent effective and restorative alternative sanctions and their cost-effectiveness.

The criminal justice system has encountered many issues and issues through its history and now. However, there is a common consensus on the fact that the latest advances in technology in the criminal justice system greatly improve the efficiency of the entire legal system in the country.

Nowadays, the current criminal justice system is based on the progress of technologies that improve crime prevention, arrest criminals, secure fair trials, and support rehabilitation. The criminal judicial system has a major change in relation to containing modern technology. In particular, technical results provide practical solutions to various parts of the criminal judicial system. It is important to emphasize that artificial intelligence has a significant impact on law enforcement through the automation of many tasks. In fact, artificial intelligence has many applications such as facial recognition, surveillance, video analytics and biometric authentication.

1. INNOVATIVE TECHNOLOGICAL SOLUTIONS IN THE CRIMINAL JUSTICE SYSTEM FOR THE IMPLEMENTATION OF ALTERNATIVE MEASURES

Technology has altered how alternative methods are utilized in the criminal justice system. Authorities have the ability to closely observe individuals on probation or parole using electronic monitoring, data analytics, and digital communication tools, enabling them to monitor progress and take necessary actions promptly. This extent of oversight and assistance has proven to be successful in promoting adherence to court mandates and securing positive results for both offenders and the community.

Furthermore, incorporating technology for alternative measures can enhance transparency and accountability within the criminal justice system. Electronic records, case management systems, and online reporting methods enable stakeholders to quickly retrieve information, monitor results, and assess the impact of different therapies. This approach based on data not only aids in making informed choices, but also enables ongoing enhancement in implementing different solutions to address the varied needs of all individuals within the justice system.

Innovative technologies are highly advantageous for the criminal justice system in utilizing alternative measures and sanctions. Electronic monitoring and GPS tracking, automated reporting systems, virtual rehabilitation programs, and predictive analytics and risk assessment tools are the most convincing options among these solutions. These innovative technological solutions are mentioned in the following sections of this paper.

a) Electronic monitoring and GPS tracking

In recent years, electronic monitoring (EM) has gained prominence in corrections as a pre-trial supervision alternative to local jail, for medium and high-risk felony offenders placed on community supervision in lieu of incarceration, and as a mandated community supervision requirement for serious offenders released from prison. Additionally, there has been a recent proliferation of laws that require the use of EM, especially global positioning systems (GPS), for specified sex offenders supervised in the community for enhanced supervision (Bales et al., 2010).

The practice of using electronic monitoring and GPS tracking to oversee individuals outside of prison has become common. Law enforcement agencies have the ability to utilize these advanced technologies to promptly track an individual's whereabouts and verify their adherence to court-ordered limitations like curfews, boundaries, and maintaining distance from victims. These technologies provide numerous valuable advantages. Using electronic monitoring helps to lower instances of repeated offenses while under constant surveillance and promptly establishing regulations. Furthermore, utilizing electronic monitoring is a more affordable option compared to imprisonment, helping reduce the financial strain on the criminal justice system. Additionally, it should be emphasized that electronic monitoring enables offenders to keep their jobs, engage in educational programs, and meet their family obligations, which ultimately supports their reintegration into society.

b) Automated reporting systems

The increasing availability and use of mobile technology have allowed for innovative solutions to address a range of issues, especially in relation to health behaviour change. Such technological advances have also created opportunities within the justice context and the past decade has seen the development and use of mobile technology in the criminal justice system (Taylor et al., 2023).

Automated reporting systems like kiosks and mobile apps enable individuals under supervision to report to probation officers frequently without the need for face-to-face meetings. These systems enhance offender supervision by improving availability, efficiency, data collection, compliance, and risk assessment in the criminal justice system. Specifically, these automated systems utilize biometric information to confirm the identity of people participating in illegal actions. One of the numerous advantages of utilizing automated reporting systems is the convenience of accessing them. This minimizes the necessity of lengthy travels, enables offenders to remotely file reports, and helps with meeting reporting obligations. Moreover, the incorporation of these technologies enhances effectiveness by enabling correctional services to efficiently oversee a larger number of cases,

concentrating their attention on individuals identified as more at risk. These systems are crucial for gathering key data to analyze the adherence to guidelines and find behavior patterns that suggest a potential relapse.

c) Virtual rehabilitation programs

The use of simulation modeling in criminal justice dates back to the 1970s. Early models were developed to capture the realities of the criminal justice system, to identify what changes were needed, and how small changes would affect the overall picture. Significant time and effort were devoted to these projects and although they achieved some success, the complex nature of the criminal justice system and the difficulties associated with improving and maintaining the models prohibited wide spread adoption in the field. Some of the problems with early simulation projects were the lack of data to validate models, the lack of technical skills needed by staff to design and build the models, and the technical difficulties with software programming to transform models into computerized representations (Taxman & Pattavina, 2013).

Virtual rehabilitation programs are famous for their ability to be tailored, allowing for personalized interventions that cater to the specific needs of each person. Moreover, with the inclusion of interactive and multimedia resources, these programs encourage greater engagement and are becoming a viable alternative to traditional rehabilitation programs. Furthermore, this virtual rehabilitation program has numerous benefits, including scalability, which permits multiple individuals to participate at the same time, leading to enhanced affordability and flexibility. In comparison to traditional approaches, incorporating interactive and multimedia elements can greatly enhance participant involvement and retention of information.

d) Predictive analysis and risk assessment

Different types of risk assessment have been utilized in probation since the 1920s, but advancements in statistics and computing, along with the availability of large administrative databases and improved computing capabilities, now enable more precise and effective use. Machine learning and non-linear function approximation methods can be efficiently utilized for forecasting purposes. A significant modern use involves using it to forecast "upcoming danger" in order to guide decisions in the criminal justice system. Some examples are deciding probation releases for individuals, setting probation conditions, making bail recommendations, and sentencing.

Risk assessment is not relevant to deterrence or to moral education. However, both risk assessment (the incapacitation of higher-risk offenders) and risk reduction (the rehabilitation of offenders) are of central importance

in forward-looking consequentialist theories. Without at least some ability to validly estimate an offender's risk of recidivism (e.g., through the use of actuarial assessment instruments) and hopefully to reduce that level of risk (e.g., through the use of evidence-based psychological interventions), there would be few positive consequences flowing from consequential theories of sentencing (Monahan & Skeem 2016).

Risk assessment can provide an empirical estimate of whether an offender has a sufficiently high likelihood of again committing crime to justify incapacitation. That is, within a range of severity set by moral concerns about the criminal act of which the offender has been convicted, risk assessment can assist in determining whether, on utilitarian crime-control grounds, an offender should be sentenced to the upper-bound of that range (Skeem & Monahan 2011).

Risk assessment can provide an empirical estimate of whether an offender has a sufficiently low likelihood of committing additional crime to justify an abbreviated period of incapacitation, supervised release (probation/parole), or no incapacitation at all. Within a range of severity set by moral concerns about the criminal act of which the offender has been convicted, risk assessment can assist in determining whether, on utilitarian crime-control grounds, an offender should be sentenced to the lower-bound of that range (Monahan & Skeem 2014).

Risk assessment can also inform correctional strategies to reduce an offender's risk status. Any valid tool can be used to identify higher-risk offenders to prioritize for more intensive services, placing others at appropriately lower levels of service. Programs that match the intensity of correctional services to offenders' risk level have been shown to reduce recidivism (Lowenkamp et al. 2006).

2. BENEFITS OF THE UTILIZATION OF TECHNOLOGY IN THE IMPLEMENTATION OF ALTERNATIVE MEASURES

Integrating technology into the criminal justice system, especially in the use of alternative measures, has extensive advantages. These encompass higher productivity, efficient resource utilization, reduced reoffences, and improved accessibility and flexibility.

Some of the most significant ***benefits*** of using technology in the implementation of alternative measures are:

a) Efficiency and Cost-Effectiveness

Technology can enhance efficiency by optimizing different procedures within the criminal justice system. Utilizing electronic devices for

automated monitoring of criminals decreases the need for continuous human surveillance. The expenses of housing, feeding, and providing medical care for inmates make traditional incarceration very costly. Electronic surveillance and online rehabilitation programs come at a much lower cost. Utilizing teleconferencing for trials can expedite legal proceedings by removing the requirement for physical transportation of defendants, witnesses, and attorneys. This reduces both time and transportation costs to and from court.

b) Reduction in Recidivism

Continuous supervision of criminals through electronic monitoring helps to prevent the commission of new crimes. Research indicates that the chances of committing further offenses are lower for individuals under electronic monitoring as opposed to those in prison. Online rehabilitation programs are significant for offering essential therapeutic and educational resources for offenders. These plans are superior to conventional methods as they address all requirements.

c) Accessibility and Flexibility

Technology enables remote participation in court proceedings and rehabilitation programs. Individuals residing in rural or isolated regions may see significant advantages if they struggle to reach conventional in-person services. They have the option to participate in hearings and consultations via teleconferencing instead of making lengthy journeys. With the flexibility of online planning, participants have the freedom to engage with materials at their own speed and convenience. Due to this flexibility, individuals can more effectively integrate their rehabilitation with other responsibilities, such as employment or family, leading to increased participation rates and improved results. Teleconferencing and other technological tools can enhance access to justice for individuals facing barriers like physical disabilities or inability to take time off work for court appearances.

d) Enhanced Monitoring and Accountability

Electronic monitoring devices can gather immediate information on the whereabouts of criminals and criminal activities. This information can be utilized to confirm the court's directive and evidence since it is compromised. This data's immediacy enhances accountability and the capacity for timely action. Analyzing data can provide valuable insights into the varying advantages of alternative strategies. Experts in criminal justice can earn additional credits by reviewing the proposal to engage in the trial program in order to identify the most appropriate treatment approach for all categories of offenders. Integrating technology into the criminal law system can bring numerous benefits such as enhancing efficiency, cutting costs, lowering

crime rates, and improving accessibility. These benefits showcase the technology's possibilities.

3. CHALLENGES AND ETHICAL CONSIDERATIONS OF THE UTILIZATION OF TECHNOLOGY IN THE IMPLEMENTATION OF ALTERNATIVE MEASURES

The criminal justice system has traditionally been slow to adopt new technologies, but recent years have seen a surge of interest and investment in technology solutions aimed at improving its operations. The potential benefits of technology in criminal justice include increased efficiency, improved accuracy, enhanced public safety, and reduced costs (Khan 2023).

The impact of technology on the criminal justice system is significant and far-reaching, affecting every aspect of law enforcement, from investigations and evidence collection to court proceedings and corrections. Technology has the potential to improve the efficiency and accuracy of the criminal justice system, but it also presents challenges and ethical concerns that must be addressed (Khan 2023).

Incorporating technology into the criminal justice system offers advantages, but also presents challenges and ethical dilemmas. Taking these matters seriously is crucial to guaranteeing that technology usage upholds fairness, justice, and safeguards individual freedoms and rights. Although technology brings benefits to the legal system, it also presents notable difficulties and ethical dilemmas. It is crucial for technology to address these concerns in order to enhance equity and justice while safeguarding individual rights and freedoms.

Some of the most important ***challenges*** in the introduction of alternative measures through technology are: privacy and surveillance; digital divide, bias and fairness, and quality of interaction. These will be described in more detail in the following sections of this paper.

a) Privacy and Surveillance

While technology has aided law enforcement agencies and provided many protections for suspects and offenders, legal reforms designed to address the risk of cybercrime have been designed in a way that creates the risk of human rights abuses.

Recent advances in global positioning technology, however, permit law enforcement officials to electronically monitor parolees and probationers through ankle bracelets that track the second-by second location of each individual. As a consequence, parolees and probationers who are required to wear these bracelets may be deterred from committing new crimes because

they know that these devices would place them at the scene of any crimes they commit, essentially ensuring a conviction (Yeh 2010).

Specifically, ankle bracelets, GPS trackers, and other types of electronic monitoring can greatly intrude on privacy. There have been worries regarding the utilization and storage of data gathered by these devices concerning an individual's actions and conduct. Ongoing electronic monitoring is able to violate privacy and lead to embarrassment. People who are being monitored might feel like they are always being observed, leading to a decrease in their mental and emotional well-being as well as their general life contentment. Gathering and keeping personal data using electronic monitoring and other technical methods will pose significant security hazards. Potential data breaches may result in misuse and unauthorized entry to personal data.

b) Digital Divide

Certain individuals do not have access to the necessary technology for participating in trials, teleconferences, or online rehabilitation programs. Because of the digital divide, people lacking the required technology may encounter disparities in the criminal justice system. Variations in technological skills can impact an individual's capacity to utilize online platforms and video conferencing tools, despite their accessibility. The outcomes vary based on your level of comfort and familiarity with technology. The necessary infrastructure for implementing technology interventions in rural or underdeveloped areas may not be adequate for high-speed internet access. This could further exacerbate disparities and diminish the efficacy of other measures.

c) Bias and Fairness

Computer tools utilized to evaluate risk and make decisions in the criminal justice system have the ability to mirror and uphold existing prejudices. If biased information is input into the algorithms, the outcomes will be biased as well, resulting in unfair treatment of specific groups, particularly minorities and disadvantaged groups. Employing intricate algorithms in decision-making can lead to uncertainty, hindering comprehension of the reasoning for a specific decision. Transparency problems erode the trustworthiness and responsibility of the criminal justice system. Ensuring equitable distribution of technological measures is crucial to prevent disproportionate impact on certain groups. Individuals with lower economic status may be more likely to experience electronic surveillance, exacerbating existing disparities.

d) Quality of Interaction

Teleconferencing influences the efficacy of communication in legal proceedings for defendants, lawyers, judges, and witnesses. The lack of non-verbal cues and subtleties in in-person interactions can influence the results of trials and the perception of fairness. The effectiveness of the online-based rehabilitation program relies on its structure and implementation. Ineffective programs with poor design and limited engagement may not be as helpful as traditional in-person programs in assisting participants with their recovery needs.

Some of the most important ***ethical considerations*** for the use of technology in the implementation of alternative measures are: informed consent, proportionality and necessity, and legal and regulatory frameworks. The following sections of this paper will briefly explain them.

a) Informed Consent

It must be ensured that people understand and are willing to consent to the use of technological interventions. There should be clear communication about the potential risks, benefits and impacts of these technologies.

b) Proportionality and Necessity

The degree of monitoring, both electrons and other forms, should correspond to the severity of the crime and the level of individual risk. Excessive dependence on these technologies can lead to monitoring and restrictions of personal freedom. This should only be used if the technology is considered favorable and meets specific needs. The use of technology will harm the reliability and authority of the justice system in a random or unreasonable way.

c) Legal and Regulatory Frameworks

To check the use of technology in criminal justice systems, a strong legal and regulatory framework is required. By resolving the concerns of prejudice, privacy, data security and justice, these strikes should ensure that technical intervention measures are adopted in morality and wisely. Adequate monitoring methods are needed to monitor the use of technology and guarantee accountability. Review and control of the application of technical measures to maintain justice and protect individual rights can be carried out by independent bodies.

CONCLUSION

Technology plays a major role in various aspects of today's contemporary society, one of which is the criminal justice system. In other words, technology effectively changes how investigative procedures, evidence collection and examination, and court decision-making are carried out.

The integration of technology in the criminal justice system has significantly eased the acceptance of different methods. The progress of technology enhances the recognition of criminals, the management of proof, and the legal procedure, contributing to the effectiveness, efficiency, and equity of the criminal justice system. Advancements in technology can help law enforcement agencies and courts to expedite procedures, enhance communication, and overall boost case efficiency. Therefore, different approaches to lower reoffending rates and aid in the reintegration of criminals, leading to improved results, are being put into practice.

Integrating technology can improve the criminal justice system by providing new methods to reduce costs and improve operational efficiency, while also reducing criminals' ability to commit more crimes. Recognizing and dealing with obstacles promptly is crucial, particularly in relation to privacy concerns, accessibility, and fair technology distribution. Greater positive impact on the justice system as a whole is anticipated with the progress of technology. We think that in future studies concerning this matter, there should be a concentration on creating ethical guidelines and successful methods to guarantee that technology and its solutions are utilized to uphold the values of fairness and equality.

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Review Scientific Article
UDK 346.9:340.13(497.7)
346.9:340.13(497.16)

TRADE DISPUTES - THE REPUBLIC OF NORTH MACEDONIA AND MONTENEGRO

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ABSTRACT

The bilateral relations between the Republic of North Macedonia and Montenegro are nurtured at a high diplomatic level, which undeniably covers various areas and spheres of action and cooperation.

It is one of those areas that is composed of parts that are governed by regulations governing international commercial law, including domestic commercial norms that serve as a tool for both countries to pay attention to in terms of regulating the title that constitutes this labor.

The Republic of North Macedonia and Montenegro have very fair and friendly bilateral relations without any open or unresolved issues between them to this day, they have signed a multitude of international agreements and they are members of similar international organizations considering that thair commercial and economic legislation is also largely identical.

The goal in the future is to approach an even greater intensification and improvement of cooperation. In this direction, there is a mutually accepted positive attitude and recommendations from the state representatives of both countries.

Keywords: international trade law, bilateral relations, laws, trade disputes and courts.

INTRODUCTION

The main reason for the existence of international law and the decisive factor for its composition remains the need and characteristics of the global political system.

International trade law is in many aspects one of the most dynamic branches of The law.[1]

This paper should focus on the effectiveness and efficiency of the trade dispute resolution mechanisms in the Republic of North Macedonia and Montenegro.

This paper will also focus on the obstacles and challenges in the application of international trade law, as well as the ways to overcome them.

In particular, this research includes an extensive analysis of current legislation and trade dispute resolution mechanisms.

The resolution of possible trade disputes and the transfer of good practices by international standards can be a step towards establishing stronger and firmly sustainable bilateral relations.

LEGAL REGULATION FOR RESOLVING TRADE DISPUTES IN THE REPUBLIC OF NORTH MACEDONIA AND MONTENEGRO BEFORE THE COMPETENT COURTS

In the part about judicial competence for the resolution of commercial, i.e. economic disputes in the Republic of North Macedonia before the competent courts, the following four laws will be distinguished:

1. The law on civil procedure;
2. The Law on Obligation Relations;
3. The law on Notary;
4. The law on commercial companies;

In the area of judicial competence for the resolution of commercial, i.e. economic disputes in Montenegro before the competent courts, the following three laws will be distinguished:

1. Law on Internal Trade or in the Macedonian language the Law on Internal Trade;
2. The Law on Civil Procedure or in Macedonian the Law on Civil Procedure;
3. Law on Obligational Relations or in the Macedonian language Law for Obligational Relations;

It is obvious that the resolution of commercial, i.e. business disputes in the Republic of North Macedonia and Montenegro is based on mostly the

[1] International Trade Law, Kicevo 2014, Sasha Dukoski, page number 2;

same laws that contain similar rules, however, some differences are insignificant and in principle do not change the factual situation in practice.

This means that the legislation of the two countries, when it comes to the resolution of business disputes, that is, trade disputes, in each of them, contain much more similarities than differences between them.

LITIGATION PROCEDURE LAW IN TWO COUNTRIES

The Law on Civil Procedure abbreviated ZPP was adopted on September 13, 2005, by the Assembly of the Republic of Macedonia and was published in the Official Gazette of the Republic of Macedonia No. 79/05 of September 21, 2005, entered into force on September 29, 2005 year, and its implementation began after the expiration of three months from the date of entry into force, i.e. from December 29, 2005.

Up to this point, there are four amendments and additions that are concerned with the Law on Civil Procedure, namely:

This law is a legal act that regulates the rules and procedures used in civil litigation before the competent court.

It also aims to provide a proper and fair framework for solving civil disputes.

This is a dynamic law that can be changed and has been changed for several years from the day it was passed for the first time until today, to improve the judicial system and adapt it to changes in society and technology.

However, in any case, the main and essential goal of this law is to ensure the fair and efficient resolution of disputes in the legal system.[2]

In the third part, Chapter XXIX, with the provisions of Article 429, concluded with Article 438, procedures in disputes of small value are regulated.

This applies to disputes in which the claim relates to a monetary claim that does not exceed the amount of 600,000 denars.

Then, in the same third part, in Chapter XXVIII, with the provisions of Article 417, concluded with Article 428, the Procedure for payment order is regulated, especially under point 2 of the Procedure for objection to notarial payment order.

Concerning the procedures for objection to a notary's payment order, the Law on Notary is also applied as lex specialis so that the meaning is determined by the provisions of Part V. Notarial payment order starting from

[2] Commentary on the Law on Civil Procedure, Prof. Dr. Cyril and Kimo Chavdar, Third Revised and supplemented edition -, "Akademik" Agency Skopje 2016, page number 1;

the provisions of Article 68 and ending with the provisions of Article 81 the law.

Likewise, in correlation with this, which is established the board for the procedures for objection against a notary's payment order, which were initiated before the competent notary, but after a timely objection from the debt continued before the court following the provisions of the Law on Civil Procedure, the Legal Opinion is also taken into account at the Department for Civil Cases at the Supreme Court of the Republic of North Macedonia at the sessions that took place on February 23, 2015, which ensured a unique application of justice and equal emphasis on court practice concerning this type of court procedure about delivery on the expert opinion, for the proceedings and discussion at the court and for the proposal to cancel the clause on the validity and enforceability of the notarial deed.

But, in Chapter XXXI, with the provisions of Article 461, concluded with Article 473, the Procedure in commercial disputes is regulated.

The essence of these disputes is the provision of Article 461 paragraph 2 of the Law on Civil Procedure, with which the legislator prescribed the following, "In business disputes for monetary claims, the value of which does not exceed 1,000,000 denars, and according to which the procedure is brought with a lawsuit before the court, the parties are obliged, before filing the lawsuit, to try to resolve the dispute through mediation.

Therefore, paragraph 3 of the same article stipulates the following, "When filing a lawsuit, the plaintiff is obliged to attach written evidence issued by the mediator that the attempt to resolve the dispute through mediation has failed."

Finally, in paragraph 4 of the same article, the following should be provided: "The court will dismiss a claim that is not accompanied by the evidence from paragraph (2) of this article."

This leads to the obvious conclusion that in the Macedonian civil legal system when a court is established for the initiation of an economic dispute for a monetary claim whose value does not exceed 1,000,000 denars, there is an obligation before the initiation of the dispute to attempt to resolve the dispute for the first time. to mediation, and if the mediation fails, then the plaintiff acquires the right to file a lawsuit before the competent basic court, which will attach as evidence the written evidence from the mediator that the attempt to resolve the dispute through mediation was unsuccessful, as this is contrary action on this or skipping the order to conduct the mediation procedure for the first time, and then to file a lawsuit, i.e. directly submitting a lawsuit to the court, will result in that lawsuit being dismissed.

Attention should be paid to the above segments of the Law on Civil Procedure because it is with the above-mentioned procedures that economic and commercial disputes in the Republic of North Macedonia could arise

between companies or legal entities, between natural persons, and between legal and natural subjects.

The Law on Civil Procedure in Montenegro is a legal act that regulates in detail the rules and procedures related to court cases and proceedings before the courts in this country.

This law includes rules for filing a lawsuit, responding to a lawsuit, evidentiary procedures, and other court procedures.

Special procedures are regulated in the third part of this law, as is the case with special procedures that are regulated in the same way, that is, in the third part of the Macedonian Civil Procedure Law.

With the provisions of Chapter XXX, "Procedure for disputes of small value", starting with the provisions of Article 446, concluding with the provisions of Article 454, and specifically with the provisions of Article 447 paragraph 1 of the Montenegrin Law on Civil Procedure, it is regulated that it deals with disputes for a monetary claim whose value does not exceed 1,000 euros.

If a parallel is drawn with the Macedonian Law on Civil Procedure, it is evident that the procedures of small value are regulated in the two laws in the field of special civil procedures, however, there is a difference in the amount of monetary claims.

Then, with the provisions of Chapter XXXI, "Procedure for economic disputes", the rules for managing this type of dispute are regulated.
Application of the provisions of Article 455 including Article 460.

In addition to the fact that the two Civil Procedure Laws regulate the procedure for commercial disputes, the main difference is that in Montenegro, the legislature did not submit a lawsuit to the competent commercial court conditional on the prior mandatory conduct of the mediation procedure.

The procedures for issuing a payment order are regulated by the provisions of Chapter XXXII.

The application of the provisions of Article 461 including Article 471.

The procedure is to a large extent similar to the one prescribed by the Macedonian Law on Civil Procedure, however, the difference is that the Montenegrin law does not recognize the Procedure for an objection against a notary's payment order.

Unlike the Macedonian Law on Civil Procedure, with the provisions of Chapter XXXVI of the Montenegrin Law on Civil Procedure, the procedure for the European payment order, which does not exist in the Republic of North Macedonia, is regulated.

LAW ON OBLIGATION RELATIONS IN THE REPUBLIC OF NORTH MACEDONIA AND IN MONTENEGRO

In an inextricable connection with the above-mentioned civil proceedings, the Law on Obligatory Relations is particularly determined, since the provisions of this law have their application in almost every economic or commercial case, and their application in the specific dispute also depends on the fate of the claim, i.e. whether it will be adopted or rejected.

Obligatory relations according to the systematics of the Civil Code can be established based on legal transactions, based on similar legal transactions, and based on law.

The common feature of all these obligation relationships is the fact that their settlement is based on a private autonomous decision.[3]

The system of private order is formed by the principle of private autonomy.

As all principles and private autonomy in one case gain greater importance in another case less importance.

This also applies to the sphere of contractual obligations[4].

The general feature of all legally based obligation relationships, that is, obligation relationships similar to legal transactions, is the relativity of the relationship that is based on it.

This is a consequence of the right established in the freedom based on the agreement for free decision-making not only for the obligation relationship but also for the parties to the agreement.[5]

Relativity in the obligation relationship is a model for the formation of obligation law.

Go describes the character of the obligation relationship, but does not challenge the universality[6].

The Law on Obligatory Relations, or ZOO for short, regulates the rules and relations between the affected parties, in which case it is usual for a creditor and debtor meeting, or so-called participants in the obligation relationship.

The adoption of the Law on Obligatory Relations in the Republic of North Macedonia is an integral part of the reform of the entire private law, which, as is known, goes in several directions:

- Reformulation of trade legislation (antimonopoly law, unfair competition law, consumer law, etc.) and

[3] Staudinger, Civil Code, Basics of Civil Law, lamina, May 2008, page number 186;
[4] Staudinger, Civil Code, Fundamentals of Civil Law, lamina, May 2008, page number 187;
[5] Staudinger, Civil Code, Fundamentals of Civil Law, lamina, May 2008, page number 192;
[6] Staudinger, Civil Code, Fundamentals of Civil Law, lamina, May 2008, page number 193;

- Activities for the construction of a new civil law, i.e. the regulation of ownership relations, specific real rights, securing the rights of creditors (through manual pledge, mortgage, fiduciary ownership), changes and additions to the legal regulations on bond relations, as well as adequate changes in civil proceedings - litigation, non-litigation, and enforcement.[7]

The Law on Obligatory Relations was adopted by the Assembly of the Republic of Macedonia at the session held on February 20, 2001, published in the Official Gazette of the Republic of Macedonia No. 18/2001 and entered into force on March 13, 2001.

The laws amending the Law on Obligation Relations were published in the Official Gazette of the Republic of Macedonia No. 4/2002 and No. 5/2003, and the most extensive amendments and additions were published in the Official Gazette of the Republic of Macedonia No. 84/2008 of July 11, 2008.

The latest amendments and additions to the Law on Obligatory Relations were published in the Official Gazette of the Republic of Macedonia on July 20, 2023.

The following applies to the Law on Obligations:

-Removal of relapses and anachronisms that are the rest of the previous system;

- Adjustment to the Law on Obligatory Relations with new general economic relations;

- Complete regulation of specific relationships i

- Adoption of certain provisions from other laws and their incorporation into the Law on Obligatory Relations before their nature is worked out.

The following parts of the Law on Obligatory Relations are particularly significant:

- Living on obligations;
- Actions on obligations;
- Various types of obligations;
- Sales;
- Exchange;
- Bank monetary deposit;
- Application to provisions for banking operations;

-Governing law in case of conflict of laws;

The area of monetary bond relations is particularly significant.

That is, for this purpose, when the Law on Obligation Relations was formed, a greater number of meetings of the working group with bankers and

[7] Commentary on the Law on Obligation Relations, Prof. Dr. Cyril and Kimo Chavdar, Third Revised and additional edition, Akademik Skopje, 2012, page number 6;

businessmen were held, which aimed to modify the existing solutions following the principles of the market economy.

The Law on Obligation Relations of Montenegro was adopted on August 7, 2008, when it was published in the Official Gazette of Montenegro number 047/08.

Amendments were made to the Law on Obligation Relations on April 3, 2017, when it was published in the Official Gazette of Montenegro number 022/17.

If the content of the Montenegrin Law on Obligation Relations is analyzed, the impression is that there are too many similarities with the Macedonian Law on Obligation Relations.

At the same time, the Law on Internal Trade is also applied to resolve trade, that is, economic disputes in Montenegro.

It is a special law that was adopted on August 15, 2008, when it was published in the Official Gazette of Montenegro number 49.

This law regulates internal trade, conditions, and forms of trade, protection against unfair competition and trade, and supervision over the application of this law.

Such a law does not exist in the Republic of North Macedonia.

CONCLUSION

The relations between the Republic of North Macedonia and Montenegro from the point of view of international trade law are significant and complex.

There is a dynamic context in front of them that may result in various challenges and opportunities in the future.

The impression is that the bilateral relations between the Republic of North Macedonia and Montenegro are friendly and cooperative.

This paper presents the legal regulation for the settlement of trade, that is, economic disputes in the Republic of North Macedonia and in Montenegro, where the analysis showed that such regulation contains too many similarities and very small insignificant differences.

The analysis showed that during the settlement of commercial disputes, both countries use almost the same legislation in terms of the primary and most important application of the Law on Litigation Procedure and the Law on Obligation Relations, as the driving legislation, all through the domestic courts.

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Review Scientific Article
UDK 305-021.23-055.2:334.72(497.7)

THE POWER OF PRESENCE: PUSHING FOR WOMEN ON CORPORATE BOARDS OF COMPANIES LISTED ON THE MACEDONIAN STOCK EXCHANGE

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Abstract:

With a 10-year delay, in 2022, the European Parliament adopted the 'Women on Boards Directive,' which mandates listed companies to implement quotas to enhance gender diversity on corporate boards across the EU by 2026. In the Republic of North Macedonia, for the first time in 2022, the new corporate governance code for listed companies on the official market of the Macedonian Stock Exchange (MSE) enacted a voluntary target of 30% female board representation to be reached by 2025. Under the "comply or explain" approach, the Code mandates companies to disclose their gender balance statistics and provide an explanation for any failure to meet the target. This paper explores the gender composition of the companies listed on the MSE. It seeks to enrich the public policy decision debate on the relevance and appropriateness of adopting mandatory gender quotas *vis-a-vis* introducing voluntary targets to promote gender diversity on corporate boards.

Keywords: boardroom diversity, gender balance, mandatory gender quotas, voluntary targets

Introduction

The lack of women in decision-making processes, particularly on corporate boards, has emerged as a critical concern (Burke, 2000,157; Burke & Vinnicombe, 2009,157). The business case for women on boards is widely recognized, albeit still hugely debated. A growing number of academic research studies show that women's participation in decision-making is positively correlated with the financial performance of companies. According to surveys by McKinsey&Company, gender-diverse companies are more likely to outperform financially. Each McKinsey&Company report for 2015, 2018, 2020, and 2023 has found a steady upward trend in the financial outperformance gap. The 2015 report found that top-quartile companies had a 15% greater likelihood of financial outperformance versus their bottom-

quartile peers. For 2023, that figure hits 39 percent (McKinsey&Company, Diversity matters even more, 2023,4). In 2014, Crédit Suisse surveyed 3,000 companies globally (across 56 countries) and found that Companies with higher female representation in leadership tend to achieve sound financial returns and outperform in the stock market. 'Diverse teams are empirically associated with higher returns on equity, higher price/book valuations, and superior stock price performance' (Credit Suisse, 2014,5).

In 2018, a report from MSCI showed that having women on boards increased corporate productivity (MSCI ESG Research, Thomson Reuters, 2018). Improving the gender balance in the boardrooms enhances the board's effectiveness and supervisory role due to the added diversity in skills, experiences, and ethical values. This balance also improves the quality of the board's decisions and enhances the legitimacy of the company's practices (Bear, S., Rahman, N., & Post, C. 2010,207-221).

Gender equality is a significant economic opportunity beyond mere fairness or mathematical logic. A growing body of evidence shows that gender equality pays dividends. In a study of Fortune 500 companies, Catalyst found that firms with higher gender diversity in management had 35 percent better return on equity (ROE) and 34 percent better Total return to shareholders (TRS) than firms with poor gender equity. Tapping into women's unique contributions and experiences can strengthen organizations in male-dominated industries and add trillions to global GDP (Catalyst, 2011, 6).

Research conducted by the International Monetary Fund (IMF) has also linked productivity to gender diversity, suggesting that narrowing the gender gaps is macro-critical and can impact macroeconomic growth and financial stability and reduce income inequality (IMF, Closing the gender gap).

Despite, gender imbalance in executive and leadership positions in the work environment is a global phenomenon. The percentage share of women's representation compared to men's is limited even though women represent around half of the total population and have a high 49% participation rate in the labor force (World Bank data, 2023).

More so, the consequences of the COVID-19 pandemic, amplified by the war in Ukraine with its economic spillover effects, such as the energy crisis and inflation, have deepened the gender gap in all areas. The World Economic Forum's 2024 Global Gender Gap Report demonstrates the urgency to accelerate efforts to close the gender gap. The report concludes that with current rates of progress, it will take 134 years, that is, until the year 2158 or five generations, to achieve gender parity (Global Gender Gap Report, 2024,18). By comparison, before the pandemic, it was estimated that it would take 108 years to achieve gender equality (Global Gender Gap

Report 2018,10). Although no country has achieved full gender parity, the top nine countries (Iceland, Finland, Norway, New Zealand, Sweden, Nicaragua, Germany, Namibia, and Ireland) have closed up to 80 percent of their gap. Iceland remains at the top, having closed 93.4 percent of its gender gap, leading the index for over a decade and a half. The Republic of North Macedonia ranked 58th out of 146 countries, demonstrating the best performance in political empowerment.

The State Statistical Office of Macedonia published two editions of the Gender Equality Index (2019 and 2022) to monitor progress over time. It scored 62 points in 2019 and 64.5 points in 2022. If this pace continues, the country will need ~57 years to achieve parity (State Statistical Office, 2023).

Policy interventions to improve female representation on corporate boards

Gender diversity in top corporate positions is a central topic in the public debate on corporate governance (Buchwald&Hottenrott, 2019,741-760). Achieving gender equality in economic decision-making requires addressing this gender gap in board representation. Given the slow pace at which businesses integrate more female representation in their governance and senior management, governments have started getting involved (Labelle, Francoeur, and Lakhal, 2015,340-363). Generally, two recognized approaches are used to tackle board gender equilibrium - a binding regulation that sets mandatory quotas paired with precise enforcement mechanisms and a disclosure-based regulation that introduces voluntary targets.

Everywhere gender quota proposals ignite heated debates between opponents and proponents. There are arguments in favor and against both approaches. The most common objection to mandatory gender quotas is that such a regulation is inconsistent with the merit and competence principle. In 2022, perhaps unsurprisingly, after a decade of negotiations, the European Union (EU) adopted a Directive on improving the gender balance among directors of listed companies, commonly known as the Women on Boards Directive. The Directive was proposed in 2012 and adopted in November 2022 by the Council and the European Parliament. The Directive 2022/2381 mandates that large stock-listed companies within the EU must achieve one of the following objectives by mid-2026: at least 40% female non-executive directors or have at least 33% female representation among both executive and non-executive directors (article 5 of the Directive). In addition, each country will have to foresee effective and proportionate penalties, such as fines or annulment of nominations (Article 8 Penalties and additional measures). Countries with existing gender quotas (e.g., Norway, Spain, France) are exempt from applying the Directive if they can prove their laws

effectively achieve the mandated targets. Only nine of the 27 member states had quota legislation at the time of the Directive's adoption.

Corporate governance code for companies listed on the Macedonian Stock Exchange

The Republic of North Macedonia has yet to implement the EU Directive on improving the gender balance among directors of listed companies in its domestic legal framework. It has taken a softer voluntary approach by adopting the corporate governance code to solve, among other things, the lack of women on corporate boards and leadership. The Code applies to listed companies on the official market of the Macedonian Stock Exchange (MSE) that meet the criteria set out in the listing rules, that is, to a handful number of companies (27 out of 91 in 2022 and 28 out of 89 in 2023 met the criteria). The corporate governance code was adopted in 2021 and came into force in 2022. Article 2.13 of the Code stipulates that listed companies will undertake measures to reach at least 30% female representation on boards (both management and supervisory boards) by 2025. The Code is based on the "comply or explain" approach and requires companies to disclose the status of their board's gender balance figures and provide reasons for failing to meet the target (if applicable).

Data: MSE has been tracking gender diversity on corporate boards since 2020, a period prior to the adoption of the Code, and publishes a report annually that provides an overview of diversity on boards of listed companies.

Data distinguishes two categories of companies: - those making up the MBI-10 Index and all companies listed on the official market of MSE.

The tables below summarize the board gender makeup results. The presence of women on all listed company boards rose slightly to 25.4% in 2023, up from 24.8% the previous year. The low number of female executive directors, standing at 16.5% in 2023, can be highlighted.

Year	**No. of listed companies in the official market of MSE**	**Total number of members in management boards**	**% share of men and women in management boards of listed companies**		**Gender % as executive directors or chairpersons of management boards of listed companies**	
			female	male	female	male
2023	89	559	25.4%	74.6%	16.5%	83.5%
2022	91	581	24.8%	75.2%	16.5%	83.5%
2021	92	590	23.6%	76.4%	19.6%	80.4%
2020	98	632	24.2%	75.8%	15.3%	84.7%

Table 1 Source MSE. Data refer to all companies, not only to those that the Code applies to.

Year	% gender share on the management board of MBI10 companies		% of male and female directors in MBI10 companies	
	female	male	female	male
2023	26.5%	73.5%	20%	80%
2022	25.3%	74.7%	0%	100%
2021	25.5%	74.5%	0%	100%
2020	26.3%	73.7%	0%	100%

Table 2 Source MSE

As the data suggests, most corporate boards have just two female directors or a limited number of women directors. Moreover, the chair position remains male-dominated even among the companies' constituents of the MBI-10 Index. As presented in Table 2, in 2023, 20% of chair roles were held by women. While the percentage might not seem very low comparably, this number represents only two women in the C-suites of the MBI-10 companies.

Consequently, they can still be considered as what is known as 'token women'. A term coined by Professor Rosabeth Kanter indicating that a tiny minority of women within a group is perceived as unqualified and accepted as a disadvantage.

Table 3 below summarizes the number of women in management and supervisory boards of companies' constituents of the MBI-10 Index as of July 2024. There is a certain degree of spread, though most companies still have only two women on boards (viewed cumulatively, management and supervisory board). While the effects of the Code on boardroom composition may be nascent, the current numbers suggest that MBI-10 companies are on the way to hitting the target.

MBI-10	Total cumulative number of members in management and supervisory boards	Women on management and supervisory boards July 2024	
		Cumulative number for both boards	%
KMB	11	3	27%
ALK	8	2	25%
MPT	9	2	22%
MTUR	7	2	29%
UNI	9	2	22%
TEL	13	4	31%
TTK	10	3	30%
NLB	9	2	22%
GRNT	8	3	38%

STB	10	2	20%
Total	**94**	**25**	**27%**

Table 3 Authors own calculation based on company disclosures on SEI net

The Power of Presence

Even though MSE also publishes the number of companies with female directors or presidents of management boards that made profit and loss, exploring and assessing the relationship between board gender makeup and financial performance in the context of companies listed on the Macedonian Stock Exchange or drawing definite conclusions is premature, given that the number and percentage of women on the board is still meager.

There is a 30% rule. Numerous studies (Torchia, M., Calabrò, A. & Huse, M. 2011; McKinsey & Company 2023; Rahi 2024) indicate that achieving a critical mass fosters an environment where women are no longer seen as outsiders (or tokens). A clear shift occurs when there is a minimum of 30%, a point that makes the synergetic impact on corporate sustainability performance visible. The results indicate that attaining a critical mass—going from one or two women (a few tokens) to at least three women (consistent minority)—makes it possible to enhance firm innovation (Carlson 2012, 352). McKinsey & Company Report notes that companies with a representation of women exceeding 30 percent (and thus in the top quartile) are significantly more likely to outperform those with 30 percent or fewer financially (McKinsey & Company, Diversity matters even more, 2023,13), thus indicating the hefty price tag of a lack of diversity. While it is outside the scope of this paper to measure gender effects on company financial performance, and even as the data on board composition of the MSE listed companies may suggest a perceived lack of influence of women on the boards, that does not necessarily indicate that their presence there is not driving positive change. There are studies whose findings suggest that the presence of women may indeed improve corporate governance and lead to better decision-making. On boards, the presence of a woman has been shown to improve male board members' attendance at board meetings and their preparation for them (Wiersema& Marie Louise, 2023).

When women participate on a board of directors, attendance rates for meetings are higher, the quality of discussions improves in a broader range of alternatives, and better decisions are made because diversity counters the phenomenon of group thinking that can occur in homogeneous groups (Joecks, J., Pull, K., & Scharfenkamp, K., 2024, 205-227). In group dynamics, the presence of women plays a crucial role in mitigating the phenomenon known as "pluralistic ignorance," i.e., when individuals underestimate how many others share their concerns or opinions. Although

male directors may want more information on board-related issues, women are more willing to acknowledge gaps in their understanding. This breaks down the illusion of unanimous understanding within the group, ultimately benefiting the entire board.

Conclusion

Norway demonstrates that gender quotas work. It was the first country in the world to pass legislation specifying gender representation on company boards of public liability companies, or Allmennaksjeselskap (ASA), requiring at least 40% female representation in board composition. The law was passed in 2006 with a two-year transition period and went into force in 2008. 'Firms that did not comply by January 2008 would be forced to dissolve' (Ahern&Dittmar 2012,138).

While Norway was and continues to be one of the countries with the highest rates of working women and the highest percentage of women in politics, paradoxically, the representation of women in positions of power in work organizations stood at 6% in 2002. The quota law led to significant changes in the gender composition of corporate boards. Hence, by 2008, all boards of public limited companies had reached the goal of 40 percent. The data for 2023 shows that female representation on Norwegian boards stands at 45% (Nordic Spencer Stuart Board Index).

Notwithstanding, in December 2023, the Norwegian Parliament expanded the quota law to other types of companies, including private limited liability companies. According to the legislative proposal, only 20% of the board directors in Norwegian private limited liability companies are female. The newly passed law will apply to approximately 20,000 entities by 2028 (Sagerup, 2024).

Furthermore, that quotas work and can be very effective, is also demonstrated by a recent study by Harvard's professor Audrey Latura and University of Bath professor Ana Catalano Weeks. The study explored gender equality within nearly 1,000 companies in Italy and Greece over the same period in which Italy mandated gender quotas for corporate boards. Greece did not (a comparable economy with no such policy serving as a control). While both countries had a similar percentage share of women in company boards before Italy adopted the quota law, between 2011 and 2019, the post-quota period, women's share of board seats in Italy grew from 5% to 36%. Over the same period in Greece, the growth has only been from 6% to 9%. (Latura & Weeks, 2022,7). The study concluded that quotas in board composition have tangible and measurable impacts on conditions for women throughout the company. The impact is striking. By the study's measurement, attention to gender equality issues increased by over 50%, even increasing

the importance of women and men within an organization assigned to these issues (Latura & Weeks, 2022,3).

Klettner (2016), on the other hand, argues that while voluntary targets are non-binding and not as effective as mandatory quotas, there are strong arguments to comply with them given stakeholder expectations, the need for legitimacy, and value and efficiency gains (Klettner 2016,715-739). Nonetheless, in the Macedonian setting, data shows sluggish progress. Inspired by the Woman on Board Directive, albeit less ambitious, there is a new draft-Company Law, which, as per the draft published for public debate in articles 397, 426, and 414, imposes a binding minimum gender quota of 30%, but remains silent on any sanctions for noncompliance. The draft Law has yet to pass procedure and be adopted by the Parliament.

Evidence suggests that inadequate sanctions mechanisms lead to non-compliance. Mandatory gender quotas paired with precise enforcement mechanisms are far more effective at increasing the number of women in the boardroom than voluntary targets (Atinc, Srivastava,&Taneja, 2021, 685-706). Likewise, as Latura and Weeks highlight, board quotas work as intended. However, they are conditional upon how they are designed, i.e., the extent to which they apply to most companies in the country ("comprehensive" vs. "limited") and the degree to which they penalize noncompliance ("hard" versus "soft") (Latura & Weeks, 2022,2). In summary, countries with the highest share of women on boards are those with comprehensive spread and hard sanctions.

Despite the downsides to and issues surrounding quotas as a policy lever to close the gender gap, if Macedonia is to reap the value and financial benefits of board diversity in companies, it should not only make the Code's target a legal imperative but stipulate clear and severe sanctions. If the Law remains muted on sanctions, elevating the gender mandate from target to gender quota (from Code to Law) will cause little to no change, while compliance and the benefits of compliance will be symbolic.

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Review Scientific Article
UDK 364.63-027.553-055.2(497.7)
343.85:343.54/.55-055.2(497.7)

DOMESTIC VIOLENCE: DEFINITIONS AND CONCEPT

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Abstract

In the 21st century, the family continues to be a source of pain, fear and hatred, a place where the common life of married partners is often unbearable. There is a gap due to the economic situation and different socio-economic conditions. The emancipated family teaches female children equality, rejection of patriarchal stereotypes and prejudices imposed by the collective memory of prejudices about gender inequality. Even Freud objected to women being given the right to vote as inferior beings, incapable of genius.[1] But scientific research establishes that there is no difference in the intelligence of male and female children. A multi-faceted and multi-sectoral approach is therefore needed. Some potential solutions include: education and training emphasizing the importance of healthy relationships that can help prevent domestic violence from occurring.

Keywords: family, domestic violence, abuse, prevention of domestic violence

Introduction

One of the primary conditions for the manifestation of domestic violence in modern times is the cycle of abuse. This cycle usually includes three phases: the tension-building phase, the acute beating phase, and the honeymoon phase.[2] During the tension-building phase, the bully may become

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increasingly irritable and may start lashing out verbally or physically. During the acute phase of battering, the abuser becomes physically violent and the victim may suffer serious injuries. Finally, during the honeymoon phase, the abuser may apologize for their behavior and try to make amends, but this is often short-lived and the cycle begins to repeat itself. Another important condition of domestic violence in modern times is the use of technology to perpetuate the abuse. This includes cyberstalking, monitoring phone calls and text messages, and using social media to harass and intimidate victims. This form of abuse can be difficult to avoid because it can follow victims even after they leave their abusers. Additionally, domestic violence often occurs in the context of power imbalances in relationships. Abusers may use their position of power to control their victims and prevent them from seeking help or leaving the relationship. This can be especially difficult for victims who are financially dependent on their abusers or who have children together. Poverty makes it impossible for victims to escape the cycle of abuse.

1. Concept and definition of domestic violence

Violence takes different forms. Hence the definition is different. It may not be noticed, it may be evaluated as a transient or isolated phenomenon, it may be marginalized and suppressed, therefore flexibility in definition is not allowed. It must not be associated with the past, with the traditional dimensions of dominant values and beliefs that every woman is worthy of love and therefore touchable for everyone. The protection of elders and parents and the belief that everything a parent does is for the good of their offspring, can lead the child to become a victim and accomplice in violence. The difference in the definition of domestic violence and the term family, caused by theoretical orientations, in this chapter will offer a simpler concept of the term definition. Since the term definition is very broad and cannot be equally applicable everywhere, we will try to distinguish it from other social phenomena through the presentation of several definitions.

There are theses that start from the fact that violence has always existed, that it is immanent to human nature (engl. nature or nurture dilemma). But violence is not biologically determined or innate in certain individuals, groups or societies. Those theses are fatalistic and realistically man could not consciously manage his life if he submits to the ingrained urges of violence. Other theses, which see the influence of society as a factor in violence, are objected to because they do not pay attention to the innate tendencies of the individual. Historical evidence confirms that violence has

existed since the earliest ages and is an actus hominis, ingrained in human nature. But the reasons for its existence are sought wherever there is conflict.

The term domestic violence was used to describe a state of disorder caused by an internal rather than an external factor.[3] The term domestic violence in the 20th century replaced the terms wife abuse, wife beating, battered woman as inappropriate with liberal politics. The words intimate partner, violence and family violence were used as synonyms for the words domestic violence, and Johnson used the term "intimate terrorism".[4] In current literature, the term domestic violence refers to violence between current and former intimate partners, and the term family violence includes violence other than between partners and against close relatives, children and parents.

In France, the term domestic violence (fran. la violence familiale) is used, and in Germany domestic violence (häusliche Gewalt), less often family violence (Familiengewalt).[5]

Domestic violence is a term used to describe a pattern of behavior practiced by one intimate partner to assert power and control over the other. Criminological science conceptually equates violence and aggression. According to some theorists, the term violence is equated with the human need to bring destruction into interpersonal relationships, and according to others, aggression as a biological reaction is a response to the existing threat to which the existing danger is responded to.[6]

There is no one and only accepted definition for the term family and domestic violence. Depending on the context, different definitions determined by cultural-ideological factors are used. In the ontological literature, there are three concepts of violence:[7]

1. A broad concept, derived from structural theory, and how violence defines all injustice and inequality.

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2. A narrow concept that focuses on physical force and causing injury to another.

3. A legitimist concept that reduces the notion of domestic violence to any legal or illegal use of force.[8]

Some legislations, such as Austria's, have accepted the broad concept and define domestic violence as violence between persons living in a common household, and kinship or intimate relationship is irrelevant. In other legislations, such as in the United States, blood or emotional ties are emphasized regardless of whether the subjects live in a joint household. Some foreign research has a strong focus on intimate partner violence, and more often on female partners. Society is constantly lowering the threshold of tolerance towards domestic violence, which further intensifies prevention, recognition and the fight for its suppression.

The most important world health organization WHO[9] defines violence against an intimate partner as one of the forms of violence against women. The World Health Organization positions the intention as a qualifying element, which depends on whether the use of force will be marked as violence, or the resulting injuries will be the result of unintentional infliction. According to her, "violence is the intentional use of physical force and power against oneself, another person, against a group or community, so that, as a result, there may be injuries, psychological injuries, deprivation, neglect or death".

Professor Ignjatovic cites three definitions of violence: a broad one that encompasses a multitude of different phenomena; a narrow one that implies the intentional infliction of physical and psychological injuries on another and it is the most acceptable for him and he calls it "personal violence" as well as definitions based on legitimacy that include those that foresee the intentional infliction of injuries and which are not incriminated as a crime.[10]

Under the term domestic violence, professor M. Milosavljevic describes "the various acts, actions and behaviors of individuals, groups, social institutions, organizations or societies, which involve the application of physical, psychological, political or any other force, which threaten the physical, psychological or social integrity of a person".

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[9] World Health Organisation, “About WHO”, available at: https://www.who.int/about/

[10] Milosavljević M., Violence against children, Faculty of Political Sciences, Belgrade, 1998, p. 33.

The Institute of Justice in Michigan - USA[11] under the term domestic violence means violence in the family that has happened more than once, from occasional incidents in which insults are used in anger, or cases in which a husband and wife, frustrated with each other, exchange slaps or push each other. Furthermore, according to this institute, domestic violence is control by one person over another, followed by the use of numerous tactics that can be criminal and non-criminal acts. In committing the crimes, blows, strangulation, attacks with weapons, pushing, scratching, biting, rape, grabbing, threats of violence, stalking and destruction of property are used. Non-criminal offenses include the use of demeaning comments, interrogation of children or other family members, threats of suicide or attempted suicide, control of funds and monitoring of all activities of an intimate partner.

According to the Council of Europe Convention on preventing and combating violence against women and domestic violence, "domestic violence"[12] refers to all acts of physical, sexual, psychological, or economic violence that occur within the family or household, that is, between former or current spouses or partners, regardless of whether the offender shares or has shared the same residence with the victim.

The preamble and articles of the Convention are integrated into the European legal framework for the protection of human rights, presented, through the CEDAW[13] Convention, instruments of international humanitarian and criminal law. It stipulates that violence against women and domestic violence can no longer be seen as a private matter, but that states have an obligation, through comprehensive and integrated policies, to prevent violence, protect victims and punish perpetrators. With the development of society, the definitions of domestic violence are also changing.

Research by Graham-Kevan & Archer found that perpetrators of intimate terrorism or predatory violence are more men prone to escalating violence. The same research confirmed that in situational partner violence there were fewer violent events.[14]

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[11] Michigan Judicial Institute, Domestic Violence: A Guide to Civil and Criminal Proceedings, Volume 4, 2013, available at https://www.courts.michigan.gov/495cf4/siteassets/publications/benchbooks/dvbb/dvbb.pdf

[12] Council of Europe, Action against violence against women and domestic violence Istanbul Convention, Available at: www.coe.int/conventionviolence

[13] The Committee on the Elimination of Discrimination against Women (CEDAW) is the body of independent experts that monitors implementation of the Convention on the Elimination of All Forms of Discrimination against Women. The CEDAW Committee consists of 23 experts on women's rights from around the world.

[14] Graham-Kevan N., Archer J., Does controlling behavior predict physical aggression and violence to partners? Journal of Family Violence, 2008, p. 539–548.

The semantic problem of defining the terms family and domestic violence is determined by their abstractness. Numerous cultural aspects also influenced these social phenomena. Therefore, numerous theorists (such as Daniel Hill) think that family and marriage should not be defined.

According to Murdock's[15] functionalist approach, the family has four universal functions: sexual, economic, reproductive, and educational. Those functions corresponded to the pre-industrial period. With industrialization, the perception of the structure and functions of the family changes, so the family acquires the function of primary socialization and emotional stability. Because of the temporal discourse, the notion of family changes and adapts. It also depends on the space, that is, the country, in which the definition is determined. Therefore, the definition depends on the social concept and the normative corpus.[16]

Throughout the historical framework, the family has undergone many developmental changes. Definitions show changes in concept due to different social perception. Many anthropologists believe that the consciousness of the family appeared in the epoch of the Neanderthal as a precursor of modern homo sapiens. They treated the family as the most important invention in the developing society along with the existential inventions, the emergence of fire, the means of work and language as a means of understanding in the community. In that primitive family, with divided roles for each participant, there was a much more equal position of its members, unlike the families from the old century to today. Even archeological research from the Neolithic period confirms the existence of communities composed of parents and children, similar to today's.[17]

The past knew a two-parent and heterosexual family, but today's concept of the family cannot accept such a patriarchal category of family due

[15] Reiss I. L., The Universality of the Family: A Conceptual Analysis, Journal of Marriage and Family Vol. 27, No.4, 1965, p. 443-453.

[16] Human Rights of Women: Intersectionality and the CEDAW, International Review of Law11(2): „There are different competing notions of what a family is in modern society, and any choice by the state of one of the competing notions to be promoted would be highly controversial. I suggest that it is simply not within the state's role to choose the right notion of the family from all the ones available in today's marketplace of ideas, nor is it within its role to choose someone else to choose; it is simply not the function of the state — or, at any rate, a statestyling itself a 'liberal democracy' — to be attempting to decide these deep value-laden questions", 2022, p. 223-237.

[17] Murdock G., P., – Four essential functions of the nuclear family, available at: https://revisesociology.com/2014/02/09/functionalist-perspective-family/

to the emergence of various homosexual, single-parent and adoptive families.[18]

The concept of family is defined differently in our positive legislation. In Art. 18 of the Family Law,[19] the family is defined as a living community of parents, children and other relatives if they live in a joint household. The household comes into being with the birth of children and with adoption (Article 2), and the relationships in the family are based on equality, mutual respect, mutual help, sustenance and protection of the interests of minor children.

Article 33-a prohibits any type of violence in marriage and family. Chapter VI-A of the Law on Family is titled as domestic violence and in the provision of Article 94- any type of violence between family members is prohibited regardless of gender and age.

Article 17 of the Law on the Family, under family violence means harassment, insult, threat to security, physical injury, sexual or other psychological or physical violence that causes a feeling of insecurity, threat or fear from the spouse, parents, or children, or other persons living in a marital or extramarital union, or in a joint household, from a former spouse or persons who have a common child. They are in close personal relationships, including relationships arising from adoption and guardianship, siblings, half-brothers and half-sisters, older members of the family or joint household, persons - members of the family or joint household whose business capacity is partially or completely withdrawn .

In Art. 18 of the Family Law, the family is defined as a living community of parents and children and other relatives if they live in a joint household. It occurs with the birth of children and with adoption (Article 2), and the relationships in the family are based on equality, mutual respect, mutual assistance, sustenance and protection of the interests of minor children. According to the case law of the ECtHR from Valiantos and others v. Greece the definition of the family is constantly evolving in view of the development and changes of the perception of the community as non-standard. With the common view that a homosexual couple of two adult men living apart should benefit from the assistance granted to families, the broader concept of family is accepted. In our opinion, Greece acted correctly, which admitted in the proceedings before the court that by preventing same-

[18] National Council on Family Relations, The Origin of the Family Kathleen Gough Journal of Marriage and Family Vol. 33, No. 4, Special Double Issue: Violence and the Family and Sexism in Family Studies, Part 2, 1971, p. 760- 771.

[19] Family law, pure text Official Gazette of the Republic of Macedonia, no. 153 of 20.10.2014, 80/1992, 9/1996, 19/2000 79/2001, 38/2004, 60/2005, 33/2006, 84/2008, 117/2009, 67/2010, 156/2010, 39/2012, 44/2012, 38/2014, 115/2014, 104/2015, 150/2015, 122/2018, 51/2021, 53/2021, 199/2023.

sex couples from being able to use the same benefits as married couples, discrimination is being carried out against informal same-sex communities.[20] Our state does not regulate same-sex unions or other forms of registered partnership. This violates the right to private and family life for everyone. Because of the obligation to ensure equal conditions for everyone and respect for the decisions of the ECHR[21], it is necessary for our country to comply with the legislation and ensure the right to private and family life of same-sex partners.

The law on prevention and protection from domestic violence against women and domestic violence established a system to prevent, protect and fight against domestic violence and introduced preventive measures for protection and repressive measures for punishment. Effective protection against all forms of gender-based violence against women and family violence is provided with respect for basic human freedoms and rights, guaranteed by the Constitution of the Republic of North Macedonia and international agreements.

In the provision of Article 3 of the Law on Prevention and Protection from Domestic Violence, it was defined that domestic violence means bullying, insulting, endangering safety, bodily harm, sexual or other psychological, physical or economic violence that causes feelings of insecurity, endangerment or fear, including threats of such actions against a spouse, parents or children or other persons living in a marriage, cohabitation, or joint household, as well as against a current or former spouse, common-law partner, persons who have common child, persons who are in a close personal relationship, regardless of whether the perpetrator shares, or shared the same residence with the victim. [22]

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[20] European Union law 31. Articles 7, 9 and 21 of the Charter of Fundamental Rights of the European Union, which was signed on 7 December 2000 and entered into force on 1 December 2009, read as follows: Article 7 "Everyone has the right to respect for his or her private and family life, home and communications." Article 9 "The right to marry and to found a family shall be guaranteed in accordance with the national laws governing the exercise of these rights."

Article 21 "1. Any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation shall be prohibited. 2. Within the scope of application of the Treaty establishing the European Community and of the Treaty on European Union, and without prejudice to the special provisions of those Treaties, any discrimination on grounds of nationality shall be prohibited."

[21] Grand Chamber case of Vallianatos and others v. Greece, (Applications nos. 29381/09 and 32684/09), available at: https://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=001 128294&filename=001-128294.pdf&TID=uynnlohkyr

In the Glossary (Art. 3) of the new Law on prevention and protection from domestic violence against women and domestic violence, the identical definition of domestic violence is retained as harassment, insult, threat to safety, physical injury, sexual or other psychological, physical or economic violence that causes a feeling of insecurity, threat or fear, including threats of such actions against a spouse, parents and children, or other persons living in a marital or cohabiting union, or in a shared household, as well as against a current or former spouse friend, common-law partner, or persons who have a child together, regardless of whether they are in a close relationship or not.

The law on prevention and protection from domestic violence against women and domestic violence, as the most consistent with the provisions of the Istanbul Convention, defines "violence against women" as a violation of human rights, discrimination against women and denotes all acts of gender-based violence that lead to or likely to lead to physical, sexual, psychological, economic injury, or suffering to women, including direct and indirect threats and intimidation with such acts, extortion, arbitrary restriction and/or deprivation of liberty, whether occurring in public or private life.[23]

With systemic changes in the attitude towards domestic violence and raising people's awareness of gender roles from their earliest childhood to old age, we can expect a positive change in terms of the consequences caused by this widespread phenomenon.

The need for continuous training of professionals, above all of social workers and police officers, is emphasized in order to quickly recognize hidden signs of family abuse and violence and to take effective measures to protect the victims.

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[23] Helsinki Committee for Human Rights, The New Law Against Violence Against Women and Domestic Violence, violence is a positive step, institutions should prepare for its consistent application, 2020, available at: https://mhc.org.mk/news/noviot-zakon-protiv-nasilstvo-vrz-zhenite-i-semejnoto-nasilstvo-e-pozitiven-chekor-instituciite-da-se-podgotvat-za-negova-dosledna-primena

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Professional Article
UDK 355.02:[327:911.3
355.02:[327:913
341.232:355.45

GOALS AND APPLICATION OF THE THEORY OF THE REGIONAL SECURITY COMPLEX IN INTERNATIONAL RELATIONS

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Abstract

The theory of the regional security complex (TRBC) (Buzan and Waever 2003) is most appropriately positioned between the various regionalist approaches in international relations, both in terms of theory building and empirical research on regional security. The goals of this paper are threefold: a) to present the TRBK in the study of regional security; b) to evaluate the character and relationship of TRBK and other theories of regional security and c) perceive the relationship of TRBK and other theories.

Keywords: regionalism, regional security, theory of regional security complex (SRCC), regional security order, geopolitics

INTRODUCTION

Modern studies of security have been developed on the basis that deviate from the traditional understanding of security, and are mostly related to the policies of the great powers, which decisively influence the security dynamics at the global level, and to the change of power in the international system after the Cold War which led the global and systemic level of analysis in international relations to explain less and less the emerging security dynamics in the region. In the initial period of the post-Cold War "unipolar moment" when the USA had absolute dominance at the global level, and after 2008 the growing regional powers, especially those of the BRICS order,

sought to strengthen their position at the center of the security complex. Some countries such as China have increasingly asserted themselves on a global scale, especially with geo-economic projects, such as the Belt and Silk Road initiative. In the last 15 years, the United States has been challenged by the power of other countries, which is why new economic and security interests are being created in the regional and international field, while smaller states are leading a policy of multilateralism. That is, smaller countries pursue their interests at the regional level (Thompson, 1973). For most countries, security interests arise from geopolitical relations in the regions.

1. Understanding security?

In the book (People, States and Fear, 1991, second edition), in the study of security, the level of analysis is introduced as a subsystem, although, as they point out (Ejdus 2017, 238), Ronald Yalem (Ronald Yalem) has been mentioned since recently this level of analysis, and to that is added Volkan's (Kenneth Waltz) system of international politics. The approach of Buzan and colleagues within the framework of the Copenhagen school is that the contemporary concept of security is an intersection of the global, neorealist and constructivist view of international security, where the neorealist view of the state is in accordance with the constructivist ontology, which allows the use of the theory of securitization in security. sector in the analysis (Buzan and Waever 2003). This can be characterized as crucial, because it is based on theoretical assumptions of the structural theory of international relations. In essence, Buzan takes the state as the primary unit from the structural elements, which as the subject of security shapes the security dynamics at the regional level.

The change in global world relations and the technological revolution can make security dominant at the global and regional level, although security remains national.

The Copenhagen School, in accordance with the expanded understandings, produced a sectoral analysis that observes security in five sectors - political, military, economic, environmental and social, and each of these sectors has characteristic references in security. In the military and political sectors, references are taken to states, political elites and individuals, in the economic sector national and global orders are understood, while in the environmental sector they are seen through the ecosphere. Social security, on the other hand, refers to securing collective identity through social groups. It is noted that the analysis covers the political and military sectors that largely

determine securitization and de-securitization, although Buzan and colleagues believe that the dynamics of the security complex is in general with the security sector.

The theory of the regional security complex has a special understanding of the security region because it refers to a special set of relations between states and other subjects.

2. Global security through the prism of the region

The regional level of analysis is most suitable for a better understanding of the structure of global security. The authors Buzan and Waever point out that the dynamics of different regions fit into the global dynamics in which all countries participate, but which are dominantly shaped by the great powers. (Buzan and Waever 2003, 445).The relationship between the global and regional levels affects the stability of the regional complex (RBC) and the politics of the "global security structure". TRBK is important for the study of international security because it takes into account the concept of security that is defined and suitable for theoretical definition and research and examination, it is measurable and reliable and ready for cross-definition in comparison with other concepts. TRBK is a theory based on a systemic and comprehensive view of international security.

The security complex is defined as a set of states whose main goal is security perception whose main perception and problems are so related that the problems in national security cannot be measured or analyzed separately. That is why regional security is important and the states should agree on the mutual belonging of the functional space. The security complex in the region must be seen through the lens of security. Depending on whether safety is observed from a single sector or a complex one, processes can be homogeneous or heterogeneous. However, the big powers have influence here as well. Once the region would position itself, would there be quality action? But it is significant that the regions are not independent actors and therefore the goals should be set to satisfy the international security.

Conclusion

TRBK is a driving force for the development of regional security. Regions are important for security units. It is therefore necessary to combine all studies and use all analyzes for perspectives in the regions and for international security.

Neighboring countries look to each other to create security and create modern security systems, respecting the different traditions of the countries. Access to regional security is important and necessary for stability and security.

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