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Вон. проф. д-р Никола Дујовски, Декан на Факултетот за безбедност – Скопје

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Преведувачи:
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For the Publishers:

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Contents

THE EURO-ATLANTIC VALUES IN THE BALKAN COUNTRIES

Dear,

The topic of the International Scientific Conference in Ohrid 2020 should create assumptions through scientific articles and through debate to offer answers about the situation with the implementation of Euro-Atlantic values of the Balkan countries. This is important because there are three European Union member states (Greece, Bulgaria and Croatia) in this area, which are also members of the NATO Alliance (Northern Macedonia joins this group, Albania and Montenegro), and other countries (such as Bosnia and Herzegovina, Kosovo and Serbia) are outside these structures.

This position of the countries in relation to the Euro-Atlantic integration causes numerous interactions and relations, which in many ways are specific, both for the relations between the Balkan countries and in terms of the application of criteria and values in the relations between the countries separately. The conflicting historical past has created the impression that "the Balkans are a powder keg", which is causing turmoil in politics, not only in Europe but also beyond. In that sense, it is good to create space, the academic community of the Balkan countries and beyond to try through the analysis of practices from the application of Euro-Atlantic values to offer new insights that will serve to strengthen the idea of Europe as a common home.

The conference will present papers on the following topics:

- ▪ Democracy, rule of law, human rights, their promotion and forms of protection
- ▪ International Standards for the Protection of Human and Citizen's Freedoms and Rights and the Policies of the Balkan States
- ▪ Forms of protection of freedoms and rights - experiences and perspectives
- ▪ Strengthening the rule of law and accountability of institutions
- ▪ Democracy, forms of democratic participation in government and governance
- ▪ Contemporary Criminal Theories and Crime Management
- ▪ Elections, Election Models, Electoral Participation, Election Campaigns, Free, Fair, Democratic Elections

- ▪ Accountability, transparency, control and accountability of public officials and entities exercising public authority
- ▪ Peace, non-violence and respect for the identity of man and citizen
- ▪ Freedom and equality, equality between nations, right to self-determination, national identity and dignity
- ▪ Respect for the freedoms and rights of the individual and citizen
- ▪ Individual freedoms
- ▪ Economic Freedoms and Rights
- ▪ Civil and Political Freedoms and Rights
- ▪ Equality, individual and collective, gender equality
- ▪ Solidarity, support for others, tolerance, respect for other cultures
- ▪ Religion and attitude towards traditional and other values
- ▪ Non-violence, peaceful settlement of disputes, mediation, arbitration, democratic dialogue
- ▪ How to deal with violence and terrorism
- ▪ Relation to nature and its sustainability
- ▪ Euro-Atlantic values and contemporary challenges, risks and threats
- ▪ Strategic Security Documents and Their Importance for realization of the Security Policies
- ▪ Security research approaches and methods
- ▪ Security neutrality versus Euro-Atlantic integration
- ▪ The concept of securitization
- ▪ The place and role of the intelligence and counterintelligence services
- ▪ Parliamentary control over the security system
- ▪ Safety law
- ▪ Energy security in Southeast Europe
- ▪ Practical police reform policies
- ▪ Education systems and the profile of the police profession in the Balkan countries
- ▪ Forms of bilateral and multilateral co-operation in the areas of crime, human trafficking, narcotics and psychotropic substances
- ▪ Approaches to cases of domestic violence
- ▪ Cooperation between business entities between legal certainty and security threats and risks
- ▪ Regional cooperation and regional economic policies

- ▪ The Role of International Organizations in Promoting and Implementing International Norms for the Protection of Human Rights in the Balkans
- ▪ Contemporary forms of crime and ways of overcoming them
- ▪ Contemporary forms of cybercrime (electronic: fraud, fraud, threats, theft of personal data and other forms of electronic fraud and crime)
- ▪ Forms of crime related to internet and cyber services and how they are discovered
- ▪ Criminalistic experiences, achievements, methods, means and means of combating modern forms of crime.
- ▪ Comparative experiences and the latest anti-corruption mechanisms
- ▪ The types of corruption in the security system and the judiciary

Organization committee of the International Scientific Conference

THE EURO-ATLANTIC VALUES IN THE BALKAN COUNTRIES

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MODERN CRIMINALISTIC METHODS

Marina Malish Sazdovska, PhD
Faculty of security Skopje

mmsazdovska@gmail.com

Mihajlo Sviderski, MA
mihajlo_svid@hotmail.com

Abstract

Criminalistic science uses scientific methods used in other scientific disciplines, but adapted to the specific needs of criminal investigation. Criminalistics also uses methods that are designed to be used exclusively for criminalistic purposes. Thus, methods of identifying persons by papillary line analysis, handwriting analysis using graphological methods, odor analysis, scene accident photography with stereo graphometry, comparative trace analysis with comparative microscope, photo robot creation software, and many other methods are applied in criminal investigations.

However, new methods are being developed to improve the work of criminalists who work in the field of investigating, inspecting, alibi determination, tracing and material evidence for pre-trial and court proceedings, as well as other operational-tactical measures and investigative actions. Practical field work also applies methods of profiling persons, application of modern technological means of tracking persons and situations, such as drones, which are also used in criminal intelligence, methods of detection lies, etc.

The authors of the paper analyze contemporary criminalistic methods with particular reference to their application in practical work when undertaking measures and activities within the framework of criminalistic methodology. Namely, in the process of elimination of crimes, special attention is paid to detection, proving, and clarification of crimes. Particularly important in this part are the criminalistic methods that answer the nine golden questions of criminalistic, and reveal the perpetrators.

Key words: *criminology, methods, investigations, traces, analysis, etc.*

INTRODUCTION

Criminalistics is a science that adapts the methods and achievements of other sciences and scientific disciplines to its needs, in order to detect, prove, and clarify crimes. The ultimate goal is to discover the perpetrators, the motive for the crime, the modus operandi, and other criminal characteristics of the crime. In other words, it answers to the "nine golden questions" of criminalistics. It uses methods, tools, ways, and procedures to undertake various actions, such as the realization of operational-tactical measures and investigative actions. Methods in criminalistics can be of natural or technical sciences, but also of social sciences. In addition to methods developed in other sciences, and with some adaptation applied to criminalistics, there are also original criminalistic methods. Originally criminalistic methods include confrontation, ballistics, graphoscopy, trasology and many others. (Цуклески, 2006)

There are special criminalistic methods for each type of crime. They make a set of measures and activities aimed at discovering only one type of crime as to successfully combat the crime (Angeleski,2007).

More recently, numerous methods based on the application of modern technical and technological achievements have been more frequently applied in criminalistic investigations. The development of new sophisticated ways of committing crimes by offenders and organized criminal groups using modern technical equipment and facilities necessitates modernization of criminalistic tools and methods for its detection. In fact, there are numerous ways of using computers, satellite systems, software solutions and other systems of committing modern crimes in the domain of cybercrime, money laundering, forgery, etc.

The authors of the paper will focus more on reconstruction and experimentation as actions to clarify crimes. During the reconstruction, certain actions are taken to re-examine the course of the event and establish relevant facts about the perpetrator and the course of the crime. In applying this measure, there are also new contemporary ways of carrying out the reconstruction that greatly facilitate the work of criminalists.

NEW METHODS AND TECHNOLOGIES FOR DETECTION OF CRIME

Various methods and techniques may be used within the scope of criminalistic analysis. Such are: statistical analysis of crime; analysis of patterns of crime to identify the criminal hotspots - mostly related to the use of geographic information system (GIS); network analysis (tactical analysis); analysis of telephone contacts by using sophisticated software as the Analytical program I2 or Watson; analysis of financial transactions; analysis of time series; analysis of criminal markets; risk analysis, and many other (Stefanovska, Gogov, 2015).

Application of GIS systems for combating crime is related to police actions and improvement of police work. To be more specific, certain legal solutions in Serbia treat the electronic devices for locating and tracking the results of their application as evidence in criminal proceedings. Moreover, special investigative measures, such as the controlled delivery and locating and tracking people geospatially, are evidence related techniques realized by the use of modern electronic devices for global positioning i.e. devices for automatic tracking of persons and objects. They can be used to find stolen vehicles by locating the position of the vehicle, with 2 to 5 meters precision. (Milojkovoc, Marinkovic, 2007).

Also, GIS can be used for the purpose of selection of the optimal routes for transportation of dangerous goods and in the implementation of preventive measures to minimize the risk, some forms of simulation can be exercised. Numerous models for selection of the optimal routes can be used. Such is the Geographic Information System (GIS) related to addressing the problem of routing and accurate prediction of the spatial consequences from disposal of hazardous substances. (Ristic, Indjic, Karkalic, 2014).

Other effective tools apart from the GIS systems to detect and prevent certain crimes, especially thefts, are the alarm systems. To be more specific, alarms fitted to certain facilities, vehicles, etc. are electronic devices signaling at the moment of a break-in, as a sign for police or private security agencies action. Thus, alarm systems help actions to detect perpetrators of thefts. Hence, thefts in apartments, vehicles, industrial equipment, and other facilities protected with an alarm device can be exposed.

Drones can also be used for criminalistic purposes as a means of intelligence gathering, terrain reconnaissance, etc. There are also drone

squadrons used to track the movement of terrorists and locate them. In this way, intelligence gathering can be used to plan operational actions to neutralize terrorist groups, etc. (Marina Malish Sazdovska, 2016)

Another way of applying new technologies for crime investigation is also crime mapping. There are various ways of mapping crime used in the daily practice of the police and other law enforcement agencies. One way is the use of Geographic Information Systems (GIS) as a method of crime analysis.

Furthermore, there is a system that has been used for mapping of crime in Macedonia. It is a system consisting of two parts: analysis of events, and filling the database and displaying the data from the database on a map. (Malish Sazdovska, Temelkovki, 2016). It could also be a preventive tool for reducing and combating crime in the country.

More recently, criminalists have been using new methods of identifying falsehoods or lies in the statements of the persons being interviewed. For example, the method S.C.A.N. (Scientific Content Analysis technique), is used to analyze the content of the document and to establish the reliability of the statement. This method can be applied to a written statement in writing, and can be identified the statement of a suspect, witness or a victim. (Malish Sazdovska, Nikolovski, 2018)

RECONSTRUCTION AND EXPERIMENT

In order to verify the evidence obtained or to ascertain the facts relevant to the clarification of matters, the body conducting the proceedings may determine *reconstitution of the event*. The reconstitution shall be carried out by repeating the actions or the situation under which, according to the evidence, the event happened. In cases when in the statements of individual witnesses or suspects or defendants the actions or situations are presented differently, the reconstruction of the event will, as a rule, be carried out separately with each of them.

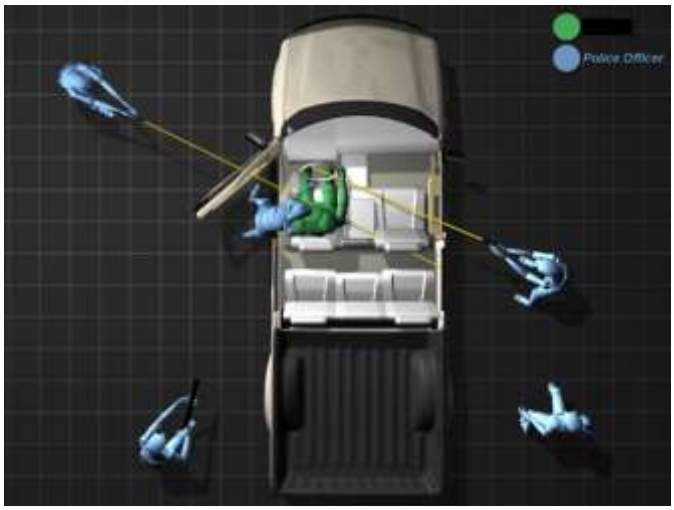
As with the crime scene investigation, during the reconstruction, the previously established facts are checked through immediate observance by the persons performing the reconstruction. In some cases, the reconstruction can be carried out in full or by partially using computer simulations. Where necessary, the crime scene investigation or reconstructing authority may seek the assistance of an expert in forensic, technical, traffic, or other occupations, who may assist in tracing, securing or describing traces, perform necessary measurements and

recordings, make sketches and photocopies, or collect other data. An expert may also be summoned for crime scene investigation and reconstruction if their presence would be of benefit to the finding or opinion.

Thus, the reconstruction is a repetition of the criminal act or of some of its situations, actions and processes, at the place where the crime was committed. In this way, reliable materials are provided, which will later serve to create certain assumptions or versions about the course of the event, i.e. the crime that has already been committed. The environment created by the reconstruction is artificially challenged, in order to create a repetition, that is, an imitation of the crime, or certain segments of the crime comitted. It uses the information and evidence found in the crime scene and the crime investigation.

The specific tasks accomplished by the event reconstruction are related to checking the actual possibility of an event or a particular action occurring under certain conditions, for a specific time or by a particular person, i.e. checking the actual possibility of some phenomena occurring under certain conditions. (Водинелиќ, 1984).

Figure 1: Crime Scene Reconstruction



(Source: http://eyewitnessanimations.com/)

In order to successfully carry out the reconstruction, detailed planning is required. Namely, the place, time, and conditions of the reconstruction should be determined, as well as the methods to be applied, the persons to be engaged, the manner of fixing the course of the reconstruction, and perhaps the most

important part - the facts and circumstances under which the whole even happened.

The course of reconstruction is as follows

- Identifying the crime scene. The crime scene will be identified according to the record of the crime scene investigation and transcript attachments, such as a photo album, sketches, recordings, etc. In addition to identifying in this way, the venue can also be identified by witness identification, victims, or accused.
- Preparatory actions after identifying the crime scene. After completing the first phase, which consists of identifying the scene, we proceed to the next phase, which implies undertaking concrete reconstruction actions. It is often necessary to make a "scene" by placing the assets and objects of the crime, with the participation of the participants in the crime and the persons who carry out the reconstruction.
- Conducting of the planned actions (Крстиќ, 1992).

Most often, the reconstruction is performed in the reverse order of the crime which is reconstructed. Namely, the evidence and traces are removed from the scene and a picture is created of the overall procedure of committing the crime. (Котески, 2009). The reconstruction is most often carried out on the spot, after the crime scene investigation. Reconstruction time should be early as the participants' memories of the event are fresh and while the scene can be more easily brought to the authentic state.

Successful reconstruction is possible if the following activities are implemented:

- detailed study of the documentation of the facts established in the preceding procedure (minutes, findings, and expert opinions, official notes, reports, statements and minutes of conducted conversations, etc.);
- determining of the purpose of the reconstruction, that is, determining of the facts and circumstances that need to be established or clarified;
- determining of the place and time of the reconstruction in accordance with the ambient conditions that existed during the particular event;
- determining of the tactics of action, the manner of repeating the event, the means to be used, and the manner of documenting;
- determination and reporting of the participants in the reconstruction;

- determining of the manner of implementation of security measures at the site of reconstruction (Жарковиќ М., Ивановиќ, 2017).

The reconstruction creates an artificial environment, using all the objects and things that were at the crime scene, implying an imitation of a situation or process at the crime scene. After the completion of the reconstruction activities, the results obtained are to be fixed and this is usually done by preparing a report. As with the other transcripts, we have an introductory section which contains data on the date, time, place, and the participants of the reconstruction. The second part, which is descriptive, contains the reconstructive actions of the crime event, and the final part contains the time of completion and signatures of the relevant participants.

In order to check the set versions and to find solutions to the disputed circumstances after the completion of the crime scene investigation, it is possible to conduct an experiment which is an artificial repetition of the crime event or some of its parts. The experiment is carried out in a systematically organized manner, in order to provide and fix all the evidence to establish the objective truth. The experiment is an independent criminal activity, different from the reconstruction and other measures. The reconstruction is carried out after a thorough crime scene investigation, with the aim to determine uncertain and unverified assumptions, or in the event of new circumstances arising during the crime scene investigation.

More recently, certain experimental activities have been carried out and in such a way that certain situations have been set up in the so-called room for criminal scene reconstruction (RENÉE C. LEE, 2009). The room for criminal scene reconstruction consists of movable walls, dolls, and plastic lightweight movable furniture, used for setting up the crime scene in the room. In this way a scene can be set for different types of crimes such as murders, thefts, robberies, etc., which will help the inspectors to obtain a clearer picture of the event. It also uses lasers to create a visible trajectory of the shooting direction, as well as special long exposure cameras to detect the circumstances. A 3-D computer scanning system can also be used for the purpose of recreating the scene of a specific crime.

The room for criminal scene reconstruction is a good police tool and an asset for both prosecuting and defense attorneys to see evidence in a sterile environment.

Figure 2: Room for reconstructing the crime scene

(Source: www.chron.com)

Thus, by using the room for criminal scene reconstruction, it is set a precisely defined scene that corresponds to the course of the crime at the scene, in order to clarify certain circumstances in the commission of the offense. In this way, persons who carry out a criminal investigation of a specific crime create versions of the event and check the information already received about the course of the crime.

CONCLUSION

New methods and techniques for detecting, proving and clarifying crimes are changing with the emergence of new ways of perpetrating crimes, especially organized crime groups; the new modus operandi also entails new ways of detecting crimes. The appearance of contemporary technical and technological solutions is also the reason for the emergence of new methods and techniques in criminal investigations. Such are the software solutions for data analysis, GIS, drones, electronic communications monitoring, etc. This improves the work of the criminalists, shortens the duration of investigations, and improves the effectiveness of combating certain crimes.

The paper has cited a number of new technological solutions that improve the work of the police and other security authorities. In fact there are several software tools that enable crime mapping, criminalistics analysis, and defining of the trends of crime by which criminalistics predictions can be carried out. There are also numerous technical assets, equipment and instruments which are used for gathering intelligence, and monitoring of persons, events, and conditions. Thus, effective police action aimed at

preventing certain criminal activities is enabled, but also quick and timely detection of recently committed crimes. This is especially important for the sophisticated ways of committing crimes, which require application of new technological solutions for detecting perpetrators of the crimes.

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SOCIETAL DEVIANCE IN THE ERA OF DISTORTED VALUES AND NORMS: EUROPEAN AND MACEDONIAN PARALELS

Saše Gerasimoski, PhD,
Faculty of Security - Skopje, St. Kliment Ohridski University - Bitola, Macedonia
sasegerasimoski@gmail.com

Abstract

We are living in an era of turbulent social changes that affect our everyday life. The contemporary societal order has been put to pressures and exposed to challenges like never before in the history of human society. Many scholars believe that what we are witnessing nowadays is an era of value ambivalence and norm relativization that is intricately related to societal deviance. Many theories, classical, modern, and postmodern elaborate these phenomena. Such are the Emile Durkheim's theory of anomie, Robert Merton's theory of strain and Zygmunt Bauman's theory of interregnum. In this paper, we are trying to elaborate those theories through the lenses of the distorted morals and values and the nexus with societal deviance in comparative European and Macedonian societal context. As far as methodology is concerned, we mainly use secondary data of available scientific literature and studies in the values and norms changes and its relatedness to societal deviance. We shall try to prove and elucidate the importance of the structural changes in values and norms and how they produce or are a product of societal deviance. Although mainly comparatively theoretical, the paper will try to overcome the possible limitations with its thorough comparative analyses of the most relevant scientific literature and research on this matter, mostly from sociological, socio-pathological, philosophical and securitological point of view. The paper will also try to summarize some relevant suggestions, proposals and recommendations on how to overcome these problems in European and Macedonian comparative perspective.

Keywords: *Societal Deviance, Values, Norms, Europe, Macedonia*

INTRODUCTION

The notion of societal deviance is considered as one of the most contested notions in societal sciences. It is especially difficult to determine and

explain it when societal values and norms are considered as standards for defining societal deviance or normality. In actual fact, the so-called societal pathology as opposed to societal normality is becoming really difficult to define when it is analysed through the theory of relativity of societal deviance and in macro-sociological terms in general. What is more important, knowing the relativity of societal standard against which the societal defiance is defined, makes understanding of societal deviance more ambiguous, especially in times of increased societal dynamics and changes.

Disparity between societal values and societal norms is a significant, if not crucial factor of societal deviance, and it was observed more than a century ago within the so called structural-functionalist sociological and sociopathological theories, such as in the theory of societal anomie and the strain theory, elaborated in the works of Emile Durkheim and Robert Merton, respectively (Durkheim, 1982; Merton, 1938; Clinard & Meier, 2011: 75-77). In the newest sociological thought, these ideas can be seen in the work of the renowned sociologist Zygmunt Bauman in liquid modernity theory and the idea of interregnum (Bauman, 2012: 49-56). Central argument of these theoretical approaches is that the societal deviance stems from the mismatch of social values (goals) and social norms (means), as a kind of structural and functional explanation of societal deviance. According to this understanding, all societal deviance is a product of distorted value-normative order on macro sociological, structural level. Opposite of that, when there is a balance and absence of mismatch or distortion between the social values and social norms in the value-normative order, then the societal normality is present.

Nevertheless, in spite of these scientifically confirmed arguments, theoretically and empirically, nowadays we are more intrigued and challenged to analyse and study the relation between societal deviance and distortion of societal values and norms in terms of what could be defined as value ambivalence and moral relativization as part of the norms relativization. In other words, we assume and see these conditions as a cause and in some cases consequence of societal deviance and a kind of attachment to the theory of societal anomie, with more profound elaboration of the value-normative distortion. Surely, in trying to explain this nexus, we will attempt to define both the notions of value ambivalence and moral relativization and relate them to the actual state of societal deviance in comparative European and Macedonian perspective.

SOCIETAL DEVIANCE AS A CAUSE OR CONSEQUENCE OF VALUE AMBIVALENCE AND MORAL RELATIVIZATION

The history of human communities and societies can be hardly conceived without the notion of value-normative order, or, shortly, societal order. The social values and norms are actually the societal glue that holds people together, creates societies and communities and does not allow their disintegration. Speaking in a more trivial way, value-normative order represents the security aspect of human communities and societies. The value-normative order is in fact equal to the security function of the society and the state in a more formal sense. When a sane value-normative order has been established, it serves as a guarantee of the societal order, security and normality. On the opposite, when there is a lack or total absence of the value-normative order, then the society is deemed chaotic, insecure, and deviant. It is a kind of sociological determinism and normative definition of societal order that explains the societal normality as opposed to the concept of societal deviance.

According to the structural-functionalist theory, the societal order exists only when social norms and social values are compatible and related in a kind of cause-consequence relation, where societal norms are a sort of precondition for achieving the societal goals. So, as long as there is not incompatibility, mismatch or conflict between social values and social norms, we can speak about societal order and societal normality. If there is incompatibility, mismatch, or conflict between social values and social norms, then a state of anomie occurs, which is usually accompanied with societal deviance or societal pathology (Zembroski, 2011: 241-241, 245-246; Ташева, 1999: 264-265). That is because social norms and social values are set in a means goals relation, so any distortion of this relation could lead to some type of societal deviance and pathology, as Robert Merton argumentatively claimed in his famous strain theory (Merton, 1938: 672-682; Shoemaker, 2010: 123; Арнаудовски и Велкова, 2017: 138). Thus, societal deviance, according to the structural-functionalist theory is a result of normative and axiological disintegration of the society (Salakhova, Bulgakov, Sokolovskaya, Khammatova & Mikhaylovsky, 2016: 10614).

But, in spite of this classical sociological explanation of the societal order (normality) and societal deviance (pathology), it seems that nowadays we are witnessing a kind of a very unique situation of defining the societal deviance that relates with this explanation, but also deepens and widens it. It is marked

with a situation of so-called moral relativization on the part of social moral norms and value ambivalence on the part of social values. We will try to define and elaborate both terms in order to sustain our definition of the contemporary concept of societal deviance.

We all know that moral norms fall amongst the most important social norms. They are the most important and the most frequent informal social norms that regulate everyday behaviour of the people (Герасимоски, Бачановиќ, Аслимоски, 2019: 43-44; Лукић, 1976: 103). These rules on which everyday life of the people is based must be supported and agreed between most of the people in a society in order to form a valid moral order, which is usually associated with valid societal order in the broadest sense of the meaning. That means that the majority of the people in a society must accept, respect and follow the moral. The valid societal moral is a standard of behaviour of people against which all human behaviour is considered acceptable (moral), or not acceptable (immoral). Shortly, there can be only one moral in a society, or one way of socially acceptable behaviour to be considered right from moral point of view, while all other behaviour is considered immoral. It means that the morals in society functions in binary terms. There can be only one moral at a time, everything else is considered immoral.

But what happens in a situation when society does not accept, observe and follow one moral? Or what happens when present and actual moral has not been followed by the majority in one society, but there is a division of the moral? This is a situation that we call moral relativization. Moral relativization is a societal condition and phenomenon where there is no a dominant moral that has been accepted, shared and observed by the people in a society, but rather a division of a moral in two or more morals that compete among each other for supremacy and establishing as a dominant moral. It is a moral division in a society that is considered as societal deviance by itself or serious precondition for societal deviance. Usually, a situation of moral relativization is matched by, or it is followed by the serious distortion of social values, usually in a form of the so-called value ambivalence. Precisely, moral relativization necessarily leads to value ambivalence, sooner or later.

Let us now see what value ambivalence means. In a sane, normal society, social and moral norms must fit social values and vice versa. As long as the moral is clearly defined and shared by convincing majority of the people, the social values are clear, stable and widely shared amongst majority of the people in a society. Social norms fit social values and that is the classical structural-

functionalist way of explaining the societal normality and societal order. But what happens when social and moral norms are in a state of moral relativization? Then, social values become unclear, baffling, contradictory, ambiguous, and not easy to follow. This is what we define as a value ambivalence. A value ambivalence is a societal situation and phenomenon where social norms are unclear, ambiguous, ill-defined, contradictory, not understood and shared between the people and usually are associated with moral relativization. Value ambivalence is also one crucial precondition of the state of societal deviance (pathology).

It is evident that moral relativization and value ambivalence go hand in hand and that there is a clear cause-consequence nexus between them. The real question to be answered is which one is cause and which one is consequence?

The logic says that moral relativization should be the cause and the value ambivalence the consequence, since ill moral behaviour would most probably lead to value ambivalence. But we must not neglect the fact that a reverse situation is possible also, when value ambivalence could affect moral relativization and even could be the cause of moral relativization. It all depends on the very dynamics of social relations and the very rate (speed) of societal changes in a period of time. So, usually and mostly, moral relativization causes value ambivalence speaking inductively. Here, we must not omit that social norms and moral norms specifically are less stable and more susceptible and vulnerable to changes in comparison to social values, which are considered to be more stable and less susceptible and vulnerable to societal changes as well. While, in some cases, speaking deductively, usually during the periods of sudden, rapid, serious, and abrupt social changes and disorganizations, such as societal anomie, societal alienation or societal transition, the value ambivalence could be even cause of moral relativization. However, these two phenomena are dependent to such an extent that it is almost impossible that moral relativization does not lead to value ambivalence or vice versa. Their interdependence cannot be disputed, only the direction of influence between them is a matter of question, although, mostly this direction follows the inductive logic of influence, as previously mentioned.

EXPLAINING SOCIETAL DEVIANCE THGOUGH DISTORTED SOCIAL VALUES AND NORMS - EUROPEAN AND MACEDONIAN EXPERIENCES

Although it is difficult to find enough direct and concrete scientific arguments that could convincingly support the thesis that moral relativization and value ambivalence lead to societal deviance in all the countries in Europe and Macedonia in specific, we will try to analyse some scientific studies done within the past three decades that could support our claim. Namely, a lot of European and Macedonian scientific studies and research conducted, especially those related to research on values, norms and morals, in some way speak about significant shift towards supporting our claim. Indeed, we cannot speak about the same terminology being used in such studies and research, but, the overall context of them speaks about clear moral relativization and value ambivalence, their mutual relatedness and their clear connection with the increase in societal deviance. It seems quite obvious, even for lay people, that our social norms and moral norms in specific, have become more loose, unclear, ambiguous and not so firm, while at the same time, people are more aware of the fact that our values have also went through a process of change, where they have become less solid, known, shared, morally supported, contradictory and mostly important, ambivalent. As we previously said, moral relativization and value ambivalence occur in a situation where people have not a single and clear moral norm or value for a certain situation, phenomenon or object, which has to be followed or which is set and known in advance. A lot of scholars have determined the societal condition of moral relativization and value ambivalence as a society overflowed with deviance, risk and uncertainty, and the typical labelling of this society is ill, precarious or risk society, as From, Bauman and Beck alluded (From, 1980, Barr, 2016; Бауман, 2016; Bek, 2001). In these terms, the explanation of the societal deviance is to be found in the very societal structure, the very societal fabric that is unsuitable, and consequently, produces societal deviance and pathology. In the lines that follow we will try to support these claims with several scientific studies and research done in the European and Macedonian context.

At the beginning, we shall focus on the findings from several European studies related with the topic of our paper. Most of the studies and researches are related with researching the European values and their changes, often not correlated with changes in moral. So, we can say that majority of the studies do

not correlate the changes in the social values with the changes in social norms and moral norms especially, while studies and researches that correlate them with societal deviance are deficient and really difficult to find. But, nevertheless, indirectly, there are clear conclusions from this studies that spot and establish such kind of correlations which support our thesis and claims.

There are several seminal European studies and much research on the value and moral changes in the last three decades. Most of them shed light on the relation between value ambivalence, moral relativization, and societal deviance.

Probably, the most known and prominent study on the European values is the European Value Survey. It is a longitudinal research of the European values and norms which has been conducting for almost four decades by University of Tilburg, the Netherlands, from 1981 onwards, and which encompasses 47 European states, according to its latest report from 2017. The survey is especially worthy since it could help clarify the nexus between the value and the moral changes and its relation to societal deviance. The study has revealed a correlation between processes of individualization and value heterogenization on one side and societal deviance on other side. As a matter of fact, the process of individualization can be regarded as a process of growing autonomy by which human choices have gradually become liberated from structural constraints and personally more independent (Beck & Beck-Gernsheim, 2002). It is the individual who has become the main point of reference in the shaping of values, attitudes, and beliefs. Norms and values have become functional, rational, and, above all, autonomous. The individualization of moral and heterogeneity of values are recognizable icons of postmodernist ideology of 'anything goes' or ethos of 'everything is possible', which influenced the spheres of deviant and indecent behavior, or, what we name as societal deviance in general. It is increasingly assumed that such behavior is accepted because, in an individualized society, people have to decide for themselves, which implies that they have to allow others to behave differently and in ways that are even deviant from the norms (Halman, 2009: 38-41). Here, we can spot different understanding and effects of the weakening of firm structural norms and moral relativization as well as the pluralization and heterogeneity of values in the Western European societies and Eastern European societies, when it comes to the relation with societal deviance. Namely, in Western European societies, the study did not reveal the correlation between moral relativization and value ambivalence with societal deviance. In general,

they remained pretty stable for almost four decades and did not increase significantly the deviant behavior in Western European societies. On the contrary, in most of the countries of Eastern Europe and Macedonia in specific, the pluralization of values, moral relativization and value ambivalence was understood quite differently and as a consequence, it produced increase in societal deviation. In other words, individualization of moral and pluralization and heterogenization of values led to moral relativization and value ambivalence, which later led to increase in societal deviance. This surely means that Eastern European societies did not understand the real meaning of these processes of value and normative change, and, consequently, they saw it as an opportunity for unrestricted freedom in behavior and understanding of freedom, which resulted in growing societal deviance.

Another study examined the relation of the Europeans towards one of the crucial values of the present times, the value of globalization. Interestingly enough, the study showed almost equally divided moral and value attitudes, based on the division of value attitudes, or the so-called value ambivalence. Namely, overall, and even within the analysed countries, the division is almost 50/50 on the part of those who favour globalisation and see it as an opportunity as well as on the part of those who see it as a threat and fear it. In this respect it also means moral relativization, since the respondents must believe that globalisation is either bad (seen as something not valuable and not to be followed), or good (seen as a value to be followed). The study also relates values and moral with societal deviance. Namely, when the respondents were asked to tell whether globalisation contributed towards societal deviation (crime in this case) or does not contribute, the answers remained equally divided (45%). Therefore, the authors concluded that there is a positive correlation between moral relativization and value ambivalence on one side and societal deviance (crime) on the other side (De Vries & Hoffmann, 2016: 26-27).

In their inspiring study and research, two Icelandic scholars (Thorlindsson and Bernburg) analyze the Durkheim's theory of anomie on a multi-level sociological range and prove the importance of social norms and social values nexus for defining societal normality or deviance on lesser societal level (mezzo and micro). They argue that societal deviance can be a consequence of societal anomie not only on macro-sociological (structural) level, but also on organizational and individual level. In other words, they indirectly support the thesis that the bigger the moral relativization and value ambivalence is present, seen through societal anomie, the greater probability of

deviant behavior exists within society (Thorlindsson & Bernburg, 2004: 271-285).

When narrowing the focus on the Macedonian neighbourhood (former Yugoslavia, Serbia and Croatia in specific), we can observe the key period of the end of the 80's and beginning of the 90's of the previous century, when dramatic changes in value and normative order occurred. The studies reflect the questions of what we analyse as moral relativization and value ambivalence. Usually, the studies and researches done speak about value and normative confusion, dissonance, conflict, relativization etc., but nonetheless, what is crucial is that they find the structural mismatch of social values and social norms (morals specially), as a major factor of distortion of value-normative order and further on, logically, as an essential factor for societal deviance (Pešić, 2016: 644-645; Kalanj, 2016: 20).

Considering Macedonian experience on this matter, we shall present the results from several studies and researches done in the previous period. Thus, in a study that we conducted with young population (students), the distortion of the system of societal values proved to be placed pretty high amongst the risk factors of deviant behaviour (it occupied the third place by its significance). The very high placement of distorted system of societal values on the scale of risk factors also tells us more on the existence of value ambivalence and moral relativization that stand behind this risk factor and determine its appearance (Gerasimoski, 2015: 49, 52).

Similar results confirming the situation of moral relativization were found in another study conducted by a group of researchers from the Faculty of Security in Skopje. In a set of questions where students from high schools in Skopje were asked about their security from socio-psychological aspect, one question convincingly underpins the relativization of moral norms. The authors conclude that the moral relativization is closely related to what they call 'crisis of the value system', which is a broad meaning for serious distortion of the value system, where value ambivalence could also be recognized (Батиќ Драгана, Аќимовска-Малетиќ, Малиш-Саздовска, Николовска, Шурбановска, Мојсоска, Мојаноски, Гогов, Иванов, 2011: 39).

In a recent interesting study, which elaborates the nexus between moral norms and deviance amongst the juvenile population in Macedonia, the author Zafirovski concludes that there is a positive correlation between the moral norms and the refraining from deviant behavior and vice versa. The author speaks about the moral crises and its relation to the value confusion. He

recognizes the narrow relation between the changes in social norms, moral and social values and their relation to deviant behavior of juveniles. But, moreover, he implicitly recognizes what we call moral relativization and value ambivalence, by saying that normative values and moral to which the younger generations are taught in the socialization settings is confronted by what they face in the real society and that is different and in most cases completely opposite to the normative values and norms (Zafirovski, 2019: 34). Thus, it is easy to understand that by this, the author in fact recognizes the moral relativization and value ambivalence.

CONCLUSION

Having summed up all that we previously discussed, now we can single out the following conclusions:

- Although classical and macro-sociological in its scope, the structural-functionalist theoretical approach in sociology and societal pathology still remains relevant in explaining the relation between the distortion of value-normative societal order and societal deviance;
- There is clear scientific relatedness between moral relativization and value ambivalence on one side and increased societal deviance on the other side, which can be proved and sustained both empirically and theoretically;
- Usually and mostly, the relation between moral relativization and value ambivalence is inductive, while deductive relation is considered rare and related with dramatic, rare and sudden societal disorganizations;
- The studies and research done on this matter so far, in European and Macedonian context, reveal some interesting similarities and differences as well;
- The main similarity of the European and Macedonian experiences is to be found in confirming the correlation between moral relativization and value ambivalence on distortion of the societal order in general;
- The differences between European and Macedonian experiences are to be found in the very understanding, extent and manifestation of the nexus between moral relativization and value

ambivalence on one side, and societal deviance on the other side (moral relativization and value ambivalence in European context do not necessarily mean increase in societal deviance, while in Macedonian and regional 'Balkan' context, moral relativization and value ambivalence almost necessarily imply increase in societal deviance).

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THE NEED OF COOPERATION BETWEEN THE PRIVATE SECURITY COMPANIES AND THE STATE SECURITY SERVICES IN THE FIGHT AGAINST TERRORISM

Ice Ilijevski, PhD
Associate Professor at the Law Faculty, St. Kliment Ohridski University – Bitola
iilijevski@hotmail.com

Zlate Dimovski, PhD
Professor at the Faculty of Security, St. Kliment Ohridski University – Bitola
zdimovski@fb.uklo.edu.mk

Kire Babanoski, PhD
kbabanoski@gmail.com

Abstract

Terrorism is a global threat to the whole humanity, which has particularly negative and harmful consequences. Terrorist attacks, incidents, and actions are a form of security endangerment with varied and constantly changing ways of committing.

The fight against terrorism is highly dependent on the efficiency of the measures and activities of the law enforcement agencies, their speed in detecting terrorist organizations, their preparatory actions and their response to a terrorist attack. This fight requires close co-operation between such entities in order to exchange information and timely detect illegal activities that precede terrorist acts.

The main subject of this paper is to discuss the measures and activities of the private security companies and the state security services in preventing terrorist acts as well as taking action following a terrorist attack. The purpose of this paper is to present the current situation and future perspectives of cooperation between the security authorities, to raise the awareness of the important role that the private security sector plays, and to enhance its well-deserved position with other security authorities in the efficient functioning of the fight against terrorism.

Keywords: *terrorism, terrorist attacks, security authorities, cooperation, relations*

INTRODUCTION

Terrorism quickly changes its character and its goals which are more ambitious, more dramatic and already have global dimensions. The terrorist organizations have their own ideology and they tend to fulfill their goals in every possible way. The activities of the members of a terrorist organization perform terrorist acts in order to cause fear among the population, among the public, to ruin the state order by forcing certain behavior by the government in order to achieve their political, religious, or ideological goals.

The evolution of the terrorism reflects its complexity, dynamism, and intensity as well as its huge danger for the national security of the countries and the whole international security. Today the international relations are characterized by the emergence of new, more dangerous forms of terrorism with the potential to cause massive consequences, making the world a hostage. [1]

The globalization and development of technology have contributed to changes in the development, organization, and structure of terrorist groups. The old traditional terrorist groups have been replaced by new ones that have the potential to act in the modern world and in the democratic society and are characterized by professionalism, efficiency and effectiveness, flexibility, use of modern technology and expert knowledge used for their terrorist purposes.

The development of the private security in the recent years has increased the number of public and private facilities and properties that the private agencies are taking care of. Within the range of their duties and responsibilities, the private security employees apply the legally granted powers to optimally protect the space and its people from any internal and external threats and dangers. The recent forms of endangering the safety of the property, facilities and people have been replaced by new hybrid threats which can significantly ruin the clients' security. They are real and very serious in the aspect of the consequences that they can cause. The attacks can occur at any place, in any time without warning the organization and the people that are part of it. The fight against terrorism necessarily requires active involvement of the private security in the system of preventing and dealing with critical incidents, including terrorist attacks.

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[1] Bockstette, C., Jihadist Terrorist Use of Strategic Communication Management Techniques, George C. Marshall European Center for Security Studies, Number 20, December, 2008

THE PRIVATE SECURITY SYSTEM AS A FACTOR IN THE PREVENTION AND THE FIGHT AGAINST TERRORISM

The new threats to the security of the states are creating new needs for security of the people and the property. The modern terrorism as one of those threats have created a need for a new way of thinking and acting in direction of prevention and combating. The movement of the methods of action towards softer targets also moves the fight against terrorism in the private sector. The trends of terrorism threats emphasize the need to invest in the private security sector which is essential to preventing the risks of terrorism.

The role of the private security workers in countering terrorism is a topic that is little talked about and is not well understood and accepted. It has become increasingly relevant after the 2001 attacks on the twin towers in the United States, where all reports say that private security workers showed great courage and professionalism risking their lives to maintain order, and evacuate and help save hundreds of lives.

The employees of the private security who work on securing the critical infrastructure such as malls, universities, hospitals etc., the public transportation objects (airports, bus stations, railway stations) have significant contribution in the antiterrorist initiatives. The covering of numerous operational positions in the facilities by the private security workers leads to early warning and risk identification and threats of possible terrorist acts. They are a visible and symbolic feature of a safeguard against terrorism. In case of an incident they are the first responders, providing first aid, securing the scene, evacuating persons, and reporting and briefing the state security services. The innovations and the changes in the terrorist tactics require appropriate measures to prevent and protect the clients, the facilities, the vehicles, the aircraft, etc. by the private security agencies.

Besides the benefit of the private security regarding the feeling of personal security, in some incidents it can help to deter or to prevent a certain attack. The private security workers are very often victims of terrorist attacks. There are cases in the world where the private security workers are killed while intercepting terrorists - suicide bombers, saving many lives. The emerging paradox is that a successful terrorist attack was successfully prevented but the victims are the ones who reacted first. The private security

agencies are positioned in the modern security services market because of their efficiency, cost-effectiveness, flexibility, and professionalism.

For that purpose, it is necessary to raise the awareness about the important role that the sector of private security has as well as strengthening of its deserved position together with the other security bodies in the functioning of the fight against terrorism.

THREATS OF TERRORIST ATTACKS ON THE CRITICAL INFRASTRUCTURE

The critical infrastructure[2] is exposed to many types of dangers and the most frequent are: natural catastrophes, human mistakes, technical problems, and criminal acts, which can have severe consequences. Therefore, its special protection is needed.

The facilities of the critical infrastructure are attractive for the terrorists for many reasons[3]. First, they can be an attractive goal for its strategic value for the societies, especially in high-industrial countries from the west hemisphere. The interference in the functioning of the critical infrastructure is an ideal opportunity for generating cascading effects; it allows the terrorists to increase the damage with only one shot and to instill fear to levels that would not be feasible by attacking "ordinary" targets. Other attacks on critical infrastructure facilities may be targeted to demonstrate the weakness of state institutions. For example, terrorist organizations may decide to invade power generation facilities, pipelines, water systems, etc., in order to disrupt the supply of basic resources and detect the vulnerability of public institutions. A third possible motivation related to the two previous ones would be the desire to gain a higher degree of publicity than it would be possible by focusing on "low profile" goals.

The threats related to the terrorism against the critical infrastructure have more dimensions depending on their nature (physical vs. cyber attacks),

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[2] CTED and UNOCT, The protection of critical infrastructures against terrorist attacks: Compendium of good practices, CTED, UNOCT and INTERPOL, 2018
https://www.un.org/sc/ctc/wp-content/uploads/2019/01/Compendium_of_Good_Practices_Compressed.pdf

[3] Ackerman, G., Assessing terrorist motivations for attacking critical infrastructures, Centre for Nonproliferation Studies, Monterey Institute of International Studies, 2007, https://e-reports-ext.llnl.gov/pdf/341566.pdf

their origin (internal vs. external attacks) and the context in which they occur (isolated or with more goals).

The physical threats directed toward the critical infrastructure can have different forms. Their common characteristic is their goal to destroy the infrastructure, to weaken or to make it inoperative in whole or partially by intervening on its physical structure, mechanical components, etc. The most frequent physical threats to the critical infrastructure include the use of explosives or incendiary devices, vehicles, rockets, grenades, and even simple tools (e.g. power switches or lighters to trigger arson), etc. to achieve total or partial collapse or destruction of infrastructure. Attacks may also include deliberate modification or manipulation of systems and processes (e.g. turning on and off machines in facilities, opening and closing piping systems, suppressing process signals, malfunction signals or alarms). The deployment of chemical, biological, radiological or nuclear weapons or substances is another characteristic type of threat to critical infrastructure. This can range from spreading contagious pathogens to food supply chains, water pipes, etc., to the use of poisonous gas at key traffic junctions and roads. It is also relevant to note that an attack on a critical facility containing chemical, biological, radiological, or nuclear material may also result in the release of such material.

Even though the cyber threats differ from the physical ones by their nature, the final result can be the same. The cyber threats differ, but they can include for example attack through:

- manipulating with the systems or data such as malware software that exploits the vulnerabilities in the computer software and the hardware components necessary for the critical infrastructure work;
- shut down of the key systems such as operating system attacks;
- restricting the access to the key systems or information by extortion or blackmail, ransom, etc.

As long as the protection of the critical infrastructure is implemented according to the directions from many national and international regulatory agencies, the threats from internal attacks, so far, have been a subject of a relatively less attention. Compared to the external subjects which can get access to the critical infrastructure through violent acts, the perpetrators of the internal attacks (the insiders) have undoubtedly much more advantages.

The insiders are often employed in the company or are suppliers. They can be the key conspirators or act as accomplices (e.g. informants) to the outside agents. They are often able to observe the processes that are not disrupted over a period of time. Their knowledge (or the ease with which they can gain knowledge) about the object concerned can be easily exploited for criminal purposes. In this area, the key preventive role belongs to the implementation of effective staff selection and verification procedures.

The threats against the critical structure can be either isolated or sporadic or part of a wider plan for attack of the infrastructure in the same sector which belong to the same owner/operator or are located in a same geographical area. These include terrorist-motivated actions aimed at the critical infrastructure in much the same way as industrial espionage, where the cyber-attacks are often launched as "campaign" or serial attacks.

The identification of the patterns in similar scenarios very often requires strong analytical tools and processing of the information from huge and heterogeneous sources. Within the energy sector for example, most of the cyber attacks are not publicized because the operators do not want to share these incidents with the public. However, the possibility for recognizing the basic dynamics and the methods as soon as possible is crucial for enabling the authorities to have relevant information and to take appropriate action. This increases the capacity for responding more effectively to the ongoing attacks and to foreseeing the immediate attacks against the potential victims. [4]

In some cases, what appears to be an isolated attack aimed at relatively "unimportant" targets may in fact be part of more ambitious and individualized crime strategies. [5]

The prevention of terrorist attacks on the critical infrastructure is an activity of the subject responsible for safeguarding national security. Since the objects of the critical infrastructure are provided, maintained and protected by the private security companies, this means that the private security workers are also directly responsible for the protection of national security. Accordingly, their task is to monitor, evaluate, detect and deter plans, conspiracies, and other preparations for the commission of the terrorist

[4] OSCE, Good Practices Guide on Non-Nuclear Critical Energy Infrastructure Protection from Terrorist Attacks Focusing on Threats Emanating from Cyberspace, 2013, www.osce.org/atu/103500?download=true

[5] DHS, Advanced Persistent Threat Activity Targeting Energy and Other Critical Infrastructure Sectors, 20 October 2017, www.us-cert.gov/ncas/alerts/TA17-293A

acts as a whole. Their proactive efforts for safety measures, as well as co-operation with the State Security Service (as opposed to simply responding to an executed terrorist act) have a fundamental role in the preventive efforts to prevent terrorist attacks on critical infrastructure. The measures that are directly relevant to enhancing the prevention of terrorist attacks specifically targeted at critical infrastructure are:

- identification of the main roles and responsibilities in the area of prevention, including the level of the operators with the critical infrastructure (the overall role of the top management, the security officials, and generally, the concept that preventive measures are implemented. This is a task for the whole company and requires support from all levels);
- development of a work environment and methodologies for developing manuals, practical guidelines and standard operating procedures for use by the operators with critical prevention infrastructure;
- direct identification methods that should be widely applied or considered by stakeholders. For example, "tailor-made security" as a tool for achieving preventive goals or maintaining effective security arrangements by scouting the area to increase the likelihood of rapidly identifying terrorist preparatory activities, and
- Adoption of specific groups of preventive measures (cross-sectoral or sector-specific) by critical infrastructure operators.

NEED OF PUBLIC-PRIVATE SECURITY PARTNERSHIP AGAINST TERRORISM

The law enforcement agencies today are under immense pressure to carry out their activities to prevent and respond to various criminal activities, plus much of the work for the national security, in times of limited resources and budgets. The private security agencies are under similar pressure, but they carry out their traditional activities of protecting people, property, and information, plus contribute to the national efforts to protect the state from

external threats, as long as the profitability of the businesses that protect them is taken into account. [6]

Reacting to the real terrorist events is a task of the bodies, institutions, agencies and the authorities of the system for national security in the country. Generally, the public security sector is interested in getting and owning information about possible threats from the preparing and planning of terrorist activities and the private sector with the coverage it has over the numerous public objects and places has control over the vulnerable spots. Hence, the overwhelming need for all security services in the public and private sectors to work together, coordinate and collaborate in detecting and preventing terrorist threats is clear. Each party can and will benefit from the opportunities available to the other party. [7]

It is in the interest of both parties to work together. For e.g., the law enforcement agencies may:

- prepare the private security workers for emergency assistance (in many cases the private security workers are the first responders at the scene);
- coordinate the efforts to protect the critical infrastructure of the state, the vast majority of which is owned by the private sector and provided by the private security agencies;
- receive free training and services;
- gain additional resources and expertise for the staff;
- use specialization in certain private sector knowledge and skills (e.g. cybercrime and advanced technology),
- gather evidence in criminal investigations (e.g., through video surveillance footage at the scene),
- collect more incident information (by reporting and talking to security personnel at the scene) and
- reduce the number of calls for reporting events.

[6] National Policy Summit, Building Private Security/Public Policing Partnerships to Prevent and Respond to Terrorism and Public Disorder, Vital Issues and Policy Recommendations, 2004, p. 14-15
[7] National Policy Summit, Building Private Security/Public Policing Partnerships to Prevent and Respond to Terrorism and Public Disorder, Vital Issues and Policy Recommendations, 2004, p. 5

The private security sector can also benefit a lot from working together. This sector may:

- coordinate its plans with the public security services regarding evacuation, transport, food security and other emergencies in advance;
- obtain information from the State Security Services about the risks, threats, dangers, crime trends and other security assessments;
- develop communication links so that practitioners know whom to contact when they need help or want to report certain information;
- build understanding of law enforcement related to the corporate needs (such as confidentiality) and
- enhance the compliance with security law enforcement.

The common benefits of collaboration and partnership include:

- creative problem solving;
- increased training opportunities;
- sharing knowledge, data and intelligence;
- opportunities to "increase the strength";
- access to the community through communication technology in the private sector;
- reduced disaster recovery time.

The ability to protect the critical infrastructure in the country and to contribute to the efforts for improvement of the national security depends to some extent on the competence of the private security workers. Building partnerships is essential for effective national security.

The relationship between the state security services and the private security[8] may be more negative than positive. There are many dilemmas and confusions about the role between the public and private security sectors, especially when something needs to be done in an emergency.

If an explosion occurs at a particular factory, it can be declared by the police immediately as a crime scene, and then the company's security

[8] National Policy Summit, Building Private Security/Public Policing Partnerships to Prevent and Respond to Terrorism and Public Disorder, Vital Issues and Policy Recommendations, 2004, p. 12-13

personnel cannot respond as needed. Also, in the post-September 11, 2001 era, the law enforcement agencies are constantly conducting security risk assessments, but they are often not as closely acquainted with them as the private security is.

The relations between the state security services and the private security are mixed. The local government units can have some excellent partnerships but also some counter-productive relationships. The 2001 attack on the twin towers in the United States helped build relationships. However, the real measure of success is whether the partnership achieves anything and how long it lasts.

The concept of community policing calls the law enforcement agencies to develop relationships with different community sectors. The security service representatives should meet regularly with the members of the religious communities, business groups, sports clubs, neighborhood associations and other formal and informal citizen groups. But they do not appear to meet regularly with groups of executives and managers of corporate security companies / agencies.

Given the existing resources and the additional burdens of the law enforcement agencies, it seems that the present moment is the best time to develop new relationships with the private security and find ways to work together.

Nontheless, there are some obstacles that prevent the partnership between the law enforcement agencies and the private security agencies. First of all, sharing information is difficult. The private security agencies do not feel that they receive timely information from the police, and they also fear that the information they provide to the police may end up in a drawer. The police, meanwhile, fear that the corporate sector may not treat their information discreetly. The other topics include respect (i.e. disregard for security law enforcement), trust, differences in training and competition. Another obstacle is that the two sides may not take the scope of their common goals seriously.

The law enforcement officials do not know much about the private security powers. For example, when talking about the first responders to an incident, they usually think of themselves, firefighters and ambulances. Why not mention the private security workers? In many emergencies, they are in fact the first to arrive at the scene and can tell the police and the firefighters where to go. There is a lack of awareness of what the private security is and

what it actually does. Partially, this is due to the lack of security cohesion. For example, security is not always organized as a functional group within an organization, so the security services do not train each other for mutual assistance and usually lack interoperability in communication. We can conclude that both parties have a responsibility to improve the partnership.

The security professionals should take the initiative to organize face-to-face meetings with the law enforcement officials before a crisis occurs. Such meetings can help in building personal relationships and trust. Each party needs to educate the other about its opportunities before a crisis erupts, so that everyone will know when to call the other and what help to expect (and offer). An integrated training can break down some barriers. The private security agencies are taking their place in the system and we hope that in the future these obstacles will be overcome.

INTERNATIONAL COOPERATION AND EXCHANGE OF INFORMATION IN PREVENTING AND DETERMINING TERRORIST ATTACKS

The transnational nature of the terrorism imposes the need for intensive international cooperation (bilateral and regional) for the purpose of exchanging relevant data and information. The national systems for fight against terrorism would be insufficient and ineffective unless joint co-operation with international bodies is established. Because of this, the international community is increasingly intensifying its efforts to promote certain instruments and methods of international cooperation in preventing terrorism that would be effective in justifying their establishment. This form of international cooperation is a form of mutual co-operation and co-ordination that is given more attention because of the invaluable results it achieves.

The transnational nature of today's terrorism gives the states a powerful impetus to exchange intelligence in order to detect terrorists, prevent future terrorist attacks, and protect one another. However, the exchange of anti-terrorist intelligence information is often difficult and complex. There should be an exchange of anti-terrorist intelligence between the secret services of the states with a significant level of mutual trust. The multilateral information sharing, including the indicators of potential attacks, but also of extremist and radical actions leading to terrorist activities, are

needed to prevent negative consequences. Such an approach requires development of new analytical skills, processes, and policies. Intergovernmental instruments are needed to take full advantage of the sharing of information, together with the development of distributed intelligence products, including the development of mechanisms for the exchange of information between the two nodes - international and international.

CONSLUSION

From the stated above, we can conclude that there is a need to improve the joint response in critical incidents. In reality, in many crises, the private security workers, rather than police officers, firefighters or medical personnel, are the first to be present and responsible at the scene. For example, the private security workers are likely to make quick decisions and solutions to evacuate buildings, activate security systems or barriers, or shut down sources of chemicals leaking after a terrorist attack. The public and the private security sectors should collaborate in training, recovery planning and information sharing. The incident Command Centers that bring together various representatives of the government security institutions should include representatives of the private security sector.

Coordination is also needed to protect the critical infrastructure. The private sector owns or protects most of the country's critical infrastructure. Protecting that infrastructure is a perfect task for collaboration between the public and the private. The law enforcement agencies can share intelligence about possible threats, provide contact information and propose response / response procedures. The private security companies can conduct a vulnerability analysis and inform the state security services of places where police may need to respond.

It is very important to improve data communication and interoperability. Each entity has rich data and information that can be of great importance to the other. If public and private security services cannot network their voice and data systems at all, or if they cannot do that while protecting their information, then the communication and the cooperation will be severely disrupted.

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THE INFLUENCE OF THE MODEL OF PHYSICAL TRAINING ON THE EDUCATION OF POLICE OFFICER CANDIDATES

Jonche Ivanovski, PhD,
Associate Professor Faculty of Security – Skopje, St. Kliment Ohridski University – Bitola
jonce_i@yahoo.com

Abstract

Every country implements a specific system of police education within its educational institutions, and thus helps the police officer candidates to acquire the necessary competences, skills and knowledge through the specific implementation of the educational plans and programs. During the educational process, it is crucial to establish high quality training that would enable gradual theoretical and professional transformation of police officers, that would be focused to meet the demands arising from the complex social and security conditions in which the police profession is pursued. The Idrizovo training center of the Ministry of internal affairs implements a contemporary police educational model that is in accordance with the national and international quality standards and which serves to prepare the future police officers to professionally perform their tasks and duties. Within this educational model, a specific program for physical training is developed, that aims to provide systematic development and improvement of the basic biomotor skills within the field of martial arts. For the purpose of this study, the physical training program was tested in order to gain insights into the acquired changes and transformations of the basic biomotor abilities of the police officer candidates. Based on the analysis results of the applied statistical procedures, it was established that during the one year police officer course, positive changes of the biomotor structure of the candidates have occurred, but still, in order to meet the educational and professional quality criteria, it is necessary that the majority of candidates gain more points in the tests for bio-motor skills.

Keywords: *police education, police officer candidates, physical training, biomotor skills, descriptive statistical analysis*

INTRODUCTION

The police are the pillar of the security system in every democratic country. In order to meet these requirements, the police must be able to adhere to the professional standards and human rights and freedoms through the adequate application of the legal authorizations. The professionalism and expertise of the police are one of the main preconditions for successful performance of the security function, but as a result of complex social and public demands, adequate solutions must always be sought in order to suppress negative security phenomena that endanger that system. In order to meet specific security-related requirements that are closely connected to the pursuit of the police profession, the police education segment is very important as it provides important information on the competence of the police staff and the competence of the overall police security system (Nikač, Simic, Blagojević, 2011: 36-38).

The biggest problem regarding the modern police education system is to determine the most adequate model of police education, because the success of that model is not only related to the measurability of the quality of the curriculum and the educational process, but also to the quality of the final output of staff who completed the educational process and its results and achievements (Klisarić, Osmani, 2011: 254-273). The problem of quality standardization is not only present in the police education process, but also in all other learning areas in the everyday life where continuous efforts are made to establish quality standards that meet the most up-to-date European and world criteria (Трајков, 2007: 405-406). In order to adapt to the future requirements in the area of education and training of police officers, the general factors such as globalization, democratization, the impact of information and communication technology, changes in the value system, require that the police organizations face modern world challenges and to constantly take initiatives to implement appropriate learning strategies based on innovation and new experiences related to performing essential tasks at the working place (Marion, 1998: 55-56)

EDUCATIONAL FRAMEWORK FOR TRAINING OF POLICE OFFICER CANDIDATES AT THE TRAINING CENTER OF THE MINISTRY OF INTERIOR

The Idrizovo Training Center of the Ministry of Interior is implementing a contemporary concept of educational program for police officer candidates, which is in line with the European police education systems (Dekanoidze, Khelashvili, 2018). This new police education model which has been implemented in our country since 2007, is a result of the previously successfully implemented Twinnig project of the Dutch Police Academy with the Police Academy in Skopje in 2005 and 2006 (CARDS 2004FYR 04.04/03.01. 04 MAC01/13/002).

The purpose of the joint project was to proficiently train a competent police officer with the appropriate conceptual training to possess the knowledge and skills with high professionalism, creativity, initiative, and above all expertise in the performance of security tasks. In order to better implement the new and up-to-date concept of police education and training for future police personnel, the project itself envisioned activities that are closely linked to the challenges and needs arising from policing in contemporary social life. In this direction, the Twinnig project has designed several key components for developing and modernizing the quality of the police education process:

- Description of essential activities and competencies;
- Competency tests;
- Learning environment;
- Quality Assurance System;
- Training of teachers and trainers;
- Support with information and communication technology.

In accordance with the established dynamics for the implementation of the key components of the project, a specific methodological approach outlines the curriculum and training program for police officer candidates (http://arhiva.mvr.gov.mk/Uploads/Nastavna_programa_osnovna_obuka.pdf) in the Training Center for a total duration of 12 months. The planned timeframe for implementation of the training implies a dual learning system, i.e, nine months of training at the Training Center with a total of 1134 hours

of lectures with the trainers and 415 hours of self-study and three months of practical field training in police stations under the guidance of field trainers (mentors) - 378 hours. The alternate cycle of the training includes even distribution of the weight of the obligations arising from its specificity, i.e. theoretical study of the essential elements of the teaching material in the educational institution and practical implementation of the acquired knowledge, skills and competences in the professional environment. The dual learning system that is present throughout the training period derives from the wide range of learning activities and tasks that are divided into several different thematic units: learning how to learn; service orientation; police work, police ethics; weapons handling and firing; police-tactical field training; information and communication technology; psychology; general physical; defense techniques; English language; providing first aid; protection of public order and peace; protection of life and property; security; traffic control and regulation; dealing with a traffic accident; border surveillance; border checks, etc.

The curriculum that is delivered during the training, which emphasizes the essential activities related to the development of the knowledge and skills of future police officers, is evaluated through several different tests and methods of measuring competences, such as: competencies (on-the-job and simulations); probation-firing and handling of weapons, general physical and self-defense, first aid, English language; diagnostic test; portfolio (listener's file); practical example (in practice); simulation test (in practice and in the Training Center); and a written test of knowledge.

ORGANIZATION AND METHODOLOGY OF CONDUCTING THE PHYSICAL TRAINING AMONG POLICE OFFICER CANDIDATES

The physical training is an integral part of the basic training program which is organized for future police officers, and during the one-year course it is represented by 48 + 20 hours for the general physical training and 82 + 16 hours for the special physical training. The physical training, through the realization of the two crucial activities, aims to influence the planned and systematic development and improvement of the basic biomotor skills, the adoption and refinement of defense techniques and elements of martial arts, techniques and methods of arresting, legitimacy, tying, search, as well as developing moral-psychological characteristics and personality traits.

As a result of the specific content of the physical training program, the amount of classes provided for general physical training are designed in a way that allows objectivity in dosing the effort, diagnosing and forecasting the results of the development of the basic biomotor skills (strength, speed, endurance, coordination, precision, balance, resilience) and thus positively influencing the transformation and improvement of the overall motorics of police officers candidates.

In addition to this, an important prerequisite for effective influence on the candidate's motor status is to increase the quantity and quality of the training through continuous and discontinuous activity by the application of varying load intensities in standard and non-standard situational conditions.

Therefore, during the classes there are various exercises aiming to improve the general fitness: speed (anaerobic) endurance training, arm and shoulder strength training, abdominal muscle strength training, interval training, general (aerobic) endurance, active and passive flexibility exercises, agility and coordination exercises, balance and balance exercises, space and interference exercises (polygon) , gym and weight training exercises, etc.

As far as the specific physical training is concerned, the teaching process is divided into three interrelated stages (phases) that enable systematic development, maintenance and refinement of a large number of defense and martial art techniques and elements such as combat attitudes, falls, strikes, blockades, throws, cleanups, postures, levers, specific methods and tactical procedures for legitimizing, tying, apprehending, searching are further adopted. All of the above mentioned elements of this part of the physical training have a wide practical application in the police profession as they provide quality preconditions for the future police officers who can use this in addressing specific problem situations in which it is necessary to satisfy and fulfill the legal requirements (Ivanovski, Nedev, 2017: 11-14), and in particular the part which refers to the proper and proportionate use of coercive means (Ivanovski, Nedev, 2013: 282-286). To make it easier to meet this requirement, special emphasis is placed on physical training to implement practical (exercise) scenarios that are close in appearance and structure to the actual situations of the specific police practice.

During the realization of the teaching material provided by the physical training program a standard model for the organization (Цамбазовски, 2002: 90-96) of the lessons is applied which includes a methodical procedure for learning the exercises through the application of

several different methods: method of oral explanation, method of demonstration, method of practical exercise, error correction method and circular method. Depending on the content and structure of the classes, the most appropriate teaching methods will be applied which enable quick and efficient learning of the exercises without violating the basic didactic principles (principle of action and systematicity, principle of consistency and individualization, principle of health direction, etc.). In addition to the general methods and principles, other additional measures such as order and discipline, health, hygiene, assistance, material provision, and other conditions are also undertaken in order to raise the quality and efficiency of physical training.

SUBJECT AND PURPOSE OF THE RESEARCH

The subject of this research is the basic biomotor skills of police officer candidates measured during the one-year course at the Training Center of the Ministry of Internal Affairs.

The purpose of the research is to determine the changes and transformations occurring among the trainees regarding their basic bio-motor status under the influence of the physical training program, but also the extent to which the norms for assessing the general physical fitness of candidates satisfy the educational requirements and professional needs.

WORK METHOD

Sample of respondents

The model of physical training applied in the study includes a total of 455 male respondents at the age between 20 and 25. In this sample of respondents, during the one-year course conducted during 2018 and 2019, a total of three measurements were made following the training and teaching of the first, second, and third modules within a four-month interval. The measurements were made in a sports hall and a stadium at the Teacher Training Center by instructors in charge of physical training.

Sample of variables

The sample of variables in the research consists of a battery of six tests aiming to determine the basic biomotor status of the respondents:

- 60m Running (R60m) - to estimate maximum speed and change of direction;
- Distance Jump (JUMP) - to assess the explosive force of the lower limbs;
- Trunk Lift in 30 Seconds (ABS30) - to assess repetitive strength of abdominal muscles;
- Shaft (ZGIB) - for estimating the repetitive force on hands and shoulder strap;
- PUSH UP - for assessment of the repetitive strength of the hands and shoulder girdle;
- Running 1500m (R1500m) - to assess aerobic endurance.

The detailed description and the manner of performing the tests are set out in the Physical Training Plan and Program of the Training Center of the Ministry of Interior.

Data elaboration statistical methods

Adequate descriptive statistical procedures were used to obtain information about the condition and transformation of the biomotor abilities of the respondents during the research period. When processing the data for each measurement, the basic dispersion parameters (arithmetic mean X, standard deviation - Sd) were calculated separately, further revealing a statistically significant difference in the mean values between the three measurements using T-test for large dependent samples and finally - a method of grouping results into classes - frequency analysis (f %) was used to determine the distribution of results in the scoring categories for assessing the level of general physical fitness of the respondents.

ANALYSIS AND INTERPRETATION OF THE RESULTS OF THE RESEARCH

Table 1 shows the derived criteria and norms for assessing the general physical fitness of police officer candidates with a range of 1 to 14 points. Following the descriptive indicators in Table 2, we can clearly identify the general physical condition of the subjects in each of the applied motor tests in the first, second and third measurements. By directly comparing arithmetic averages (X) it can be seen that the differences between the first, second and third measurements are not very emphasised because the participants' biomotor achievements have similar points. In the R60m, JUMP and ZGIB biomotor tests the respondents scored 8 and 9, respectively, at PUSH UP tests the score is 8, while in the ABS and R1500m tests the score was higher and ranged between 10 and 11.

Table 1: Norms of evaluation of the biomotoric abilities of the police officer candidates

R60m	JUMP	ABS30	ZGIB	PUSH UP	R1500m
< 14,1.....**14**	190-195.....**1**	18.....**1**	1.....**1**	3.....**1**	< 6.10….....**14**
14,2-14,5.....**13**	196-200.....**2**	19.....**2**	2.....**2**	4.....**2**	6.11-6.15.....**13**
14,6-14,8.....**12**	201-205.....**3**	20.....**3**	3.....**3**	5.....**3**	6.16-6.20.....**12**
14,9-15,1.....**11**	206-210.....**4**	21.....**4**	4.....**4**	6.....**4**	6.21-6.25.....**11**
15,2-15,4.....**10**	211-215.....**5**	22.....**5**	5.....**5**	7.....**5**	6.26-6.30.....**10**
15,5-15,7.....**9**	216-220.....**6**	23.....**6**	6.....**6**	8.....**6**	6.31-6.35.....**9**
15,8-16,0.....**8**	221-225.....**7**	24.....**7**	7.....**7**	9.....**7**	6.36-6.40.....**8**
16,1-16,3.....**7**	226-230.....**8**	25.....**8**	8.....**8**	10.....**8**	6.41-6.45.....**7**
16,4-16,6.....**6**	231-235.....**9**	26.....**9**	9.....**9**	11.....**9**	6.46-6.50.....**6**
16,7-16,9.....**5**	236-240.....**10**	27.....**10**	10.....**10**	12.....**10**	6.51-6.55.....**5**
17,0-17,2.....**4**	241-245.....**11**	28.....**11**	11.....**11**	13.....**11**	6.56-7.00.....**4**
17,3-17,5.....**3**	246-250.....**12**	29.....**12**	12.....**12**	14.....**12**	7.01-7.05.....**3**
17,6-17,8.....**2**	251-255.....**13**	30.....**13**	13.....**13**	15.....**13**	7.06-7.10.....**2**
17,9-18,1.....**1**	256 +….....**14**	31+.....**14**	14 +.....**14**	16 +.....**14**	7.11-7.15.....**1**

Table 2: Basic descriptive indicators of the respondents according to the biomotor tests

Variable	R60m		JUMP		ABS30		ZGIB		PUSH UP		R1500m	
Moduls	X	Sd	X	Sd	X	Sd	X	Sd	X	Sd	X	Sd
I modul	15,78	1,23	230,23	21,15	28,73	3,09	8,67	4,75	11,56	4,88	6,21	1,31
II modul	15,69	1,02	233,16	19,04	28,97	2,66	8,64	4,77	11,52	4,85	6,29	1,38
III modul	15,53	1,59	234,98	25,88	28,87	2,53	8,84	4,60	11,39	4,60	6,27	1,92

Table 3 presents the results of the applied T-test for the significance of the differences of the arithmetic mean between the measurements. From the analysis of the results it can be seen that there are statistically significant differences between the highest level measurements (p= 0.00) in all biomotor test cases. This statistics clearly shows that among the police officer candidates there are positive changes in the manifestation of the biomotor skills during the investigated time period. The trend of significant statistical differences between measurements is not uniformly pronounced because in the PUSH UP and R1500m tests this difference is in favor of the initial (initial) measurement which is certainly not in line with the goals of the physical training program provided in parallel with passing the time for teaching to improve the results of biomotor tests. From the values of the T-test in Table 3 it can be concluded that the JUMP test has the largest difference between the measurements compared to all other tests, indicating that physical training had the most influence on the explosive strength of the lower limbs of the respondents.

Table 3: T-test of the applied biomotor tests between the measurements

R60m	(1)	(2)	(3)	**Jump**	(1)	(2)	(3)	**Abs 30**	(1)	(2)	(3)
	15,78	15,69	15,53		230,23	233,16	234,98		28,73	28,97	28,87
(1)				(1)				(1)			
(2)	2,90			(2)	-8,36			(2)	-4,62		
(3)	4,72	3,98		(3)	-11,63	-9,44		(3)	-2,12	5,53	
Zgib	(1)	(2)	(3)	**Push up**	(1)	(2)	(3)	**R1500m**	(1)	(2)	(3)
	8,67	8,64	8,84		11,56	11,52	11,39		6,21	6,29	6,27
(1)				(1)				(1)			
(2)	-2,94			(2)	-2,33			(2)	-5,89		
(3)	-4.90	-4,26		(3)	3,42	2,69		(3)	-5,12	3.29	

Table 4 shows the scorecard for assessing physical fitness that accurately determines the level of achievement of each candidate in the training. According to the total score scored in the tests, the level of general physical fitness of the respondents may range from very low physical fitness to high physical fitness.

Table 4: Score scale of evaluating the general physical fitness of the police officer candidates

< 17	Very low level of physical fitness
18 - 29	Low level of physical fitness
30 - 41	
42 - 53	Moderate level of physical fitness
54 - 65	
66 - 77	High level of physical fitness
78 - 84	

Taking into consideration the scoring criteria in the scale, Table 5 presents a percentage distribution of the achieved results separately in the three training modules. Based on the results, it can be seen that there is no significant difference in the level of physical fitness among the respondents, which means that for the most part the level of physical fitness remained unchanged during the physical training.

But despite this situation, the majority of respondents possess satisfactory biomotor quality, 35% are moderate and 40% high level of general physical fitness, while the remaining 25% have lower biomotor quality and therefore have a very low level of physical fitness. The last finding is further confirmed by the negative results of a certain number of respondents who failed to meet the minimum criteria (points) in the biomotor tests during the training. The negative results can mostly be seen in the PUSH UP and R1500m tests, then in ZGIB and ABS30 and least in JUMP and R60m tests. These findings clearly underline the need to change the current practice and the manner in selecting and recruiting police officers, because in the part of the public competition (https://mvr.gov.mk/vest/4592) that relates to biomotor skills testing (for men: at least 9 push-ups for 10 seconds, at least 16 abdominal lifts for 30 seconds, long jump from place to place with a minimum length of 220cm, 20m sprint for at least 3.35 seconds, 100m sprint for at least 15 seconds and 1500m sprint for at least 5.25 minutes) there is a complete lack of objectivity in assessing motor tests because “the potential" candidates, although successfully passing the admission requirements, still fail to meet the minimum score criteria in the biomotor tests during physical training.

Table 5: Distribution of the results of the biomotor tests taken by the respondents in points

Points category	N= 455 I modul (f%)	N=455 II modul (f%)	N=455 III modul (f%)
< 17	8 (1,75%)	9 (1,97%)	7 (1,53%)
18-29	35 (7,69%)	35 (7,69%)	33 (7,25%)
30-41	58 (12,74%)	60 (13,18%)	56 (12,30%)
42-53	78 (17,14%)	77 (16,92%)	91 (20,00%)
54-65	88 (19,34%)	88 (19,34%)	76 (16,70%)
66-77	123 (27,03%)	124 (27,25%)	124 (27,25%)
78-84	65 (14,28%)	62 (13,62%)	68 (14,94%)

Table 6: Negative results of the respondents in the biomotor tests

Variable	R60m	JUMP	ABS30	ZGIB	PUSH UP	R1500m
Moduls	**mber of respondents who did not achieve physical standards**					
I modul	20	7	5	23	57	20
II modul	12	3	4	14	47	52
III modul	7	7	1	16	52	54

CONCLUSION

With the implementation of the new and modern system of police education in our country which is based on the implementation of the educational and training standards of the police in the countries within the European Union, the need was imposed that such educational system is maximally in function of developing professional and competent staff that would respond to all security threats that threaten the country, and mostly in the part referring to preventive procedures without violation of the democratic rules of the work.

The physical training, as an integral part of this educational system, aims to equip the future police officers with the basic knowledge regarding the practical application of police powers, and in particular the application of

the means of coercion. Starting from the many preconditions that must be met when creating a physical training model, the main goal of this paper was to obtain feedback on the effects of the physical training program on the transformation and change of the basic motor skills among the police officer candidates. Summarizing the overall results of the research, it can be concluded that the tested model of physical training in most of the cases gives the desired educational effects and enables a positive motor development for the police officer candidates over the course of a year, though, due to significant shortcomings in the selection procedure, the biomotor skills of a number of candidates on the overall physical fitness score scale are very poor or "negative".

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Original Scientific Paper

THE UNSCRUPULOUS TREATMENT OF THE DISEASED IN THE MACEDONIAN CRIMINAL CODE

Katerina Krstevska Savovska, PhD
Associate Professor Faculty of Security - Skopje, St. Kliment Ohridski University - Bitola

katerina.krstevska@gmail.com

Abstract

The unscrupulous treatment of the diseased is encompassed within the Chapter 21 of the Macedonian Criminal Code titled as *Criminal Acts against Human Health.* Having in mind the basic provision of this criminal act as defined in the Article 207, i.e. the physician who, when providing physician's assistance, applies clearly inadequate means or manner of treatment, or does not apply proper hygienic measures, or in general, acts unscrupulously and herewith causes deterioration of the health of their patient, in this paper we will discuss not only the Criminal Code, but also the other relevant legislation. On the other hand, by the means of scientific analysis and description of the statistical data disposable to the Macedonian State Statistical Office, the detecting and proving activities of the Macedonian law enforcement organs shall be noted through the submitted criminal reports, initiated accusations and delivered judgments for sanctioning of the perpetrators of this criminal act. Finally, the Paper shall elaborate specific court cases with the subject of the unscrupulous treatment of the diseased.

Keywords: *unscrupulous treatment; diseased person; criminal act, Criminal Code; Republic of Macedonia.*

INTRODUCTION

Human health, as one of the fundamental human rights, is the object of protection by the criminal acts in the Chapter 21 of the Macedonian Criminal Code (CC) (1996, 1999, 2002, 2003, 2004, 2005, 2006, 2008, 2009, 2011, 2012, 2013, 2014, 2015, 2017, 2018). In essence, this protection is a continuation of the Constitution's Article 39 Paragraph 2 (1991, 1992, 1998,

2001, 2003, 2005, 2009, 2011, 2019), stipulating that the citizens have the right and duty to protect and to promote their own health and the health of others. The consequences that may result by performing these criminal acts are endangerment of the human health (creating an abstract or concrete danger) and health injury (deterioration of the health of diseased), while in aggravated cases there might be a severe bodily injury or severe health problems or death of one or more persons (Đorđević, 2009: 149). Then again, Počuča, Šarkić and Mrvić-Petrović (2013: 207), argue that the basic task of the modern medicine is to protect life and health, that is, to provide the best possible healing and prolongation of the life, while implementing all achievements in modern medicine. Considering the world population and its daily health care needs, they note that it is clear that the risk of a medical mistake that will occur during treatment is significantly increased.

The term *professional medical malpractice* was mentioned for the first time in the professional literature in the XIX century, although it was created much earlier. The first known definition was given by the German physician Virchow, who defined it as "a violation of the recognized rules of the art of healing due to a lack of proper attention or caution". In the context of modern medicine and law, the term professional medical malpractice is any treatment that is *contra legem artis* (Đurišić, 2017: 152). According to Gajdova (2019: 2), such promoted definition raised many questions because the definition itself did not give a clear and unambiguous answer… and for this reason, physicians and lawyers insist on distinction between the terms of *professional medical malpractice* and *medical accident* (in Macedonian language "несреќен случај").

Respectively, the essence of a physician's professional malpractice is the treatment contrary to the rules of the profession (*contra legem artis*), considering the non-compliance with the medical standards, which are not a permanently timed and content-based category but a variable one, where the recognized practice and established standards gradually become anachronistic and surpassed, especially in the contemporary context of rapidly advancing medical science (Vučić Popović, 2016: 26). Contrary to this, Pražetina Kaleb (2019: 70) notes that the medical procedure is justified when it fulfills three conditions: a) if it was undertaken for the purpose of treatment, b) if it was performed *lege artis*, and c) if it was taken with a consent, i.e. supposed or presumed consent. When a surgery is in question, it must be medically indicated, the patient must give a consent and the

procedure must be performed carefully and impeccably.

ANALYSIS OF THE CRIMINAL-LEGAL FRAMEWORK

Starting from the complexity of the medical behavior and activities, generally, it can be concluded that the responsibility can be ethical, professional or legal (referring primarily to criminal liability), although it is often difficult to draw a sharp line between them. The limits of the criminal liability are narrower, because the behavior of a physician will be punished if it is a result of their obviously malicious (unethical) procedure, or particularly aggravated professional mistakes (Cihlarž, 2016: 214).

Having in mind their narrow object of protection, as well as the way of endangering the protected object, the following distinction of the criminal acts against human health classified in the Chapter 21 can be made: acts of endangering health with infectious diseases; medical acts; acts in the field of drug addiction; and acts of endangering health by harmful healing and other products (Kambovski & Tupančevski, 2011: 240-241). Furthermore, several criminal-legal aspects of the responsibility of the physician and health-care professionals can be distinguished. On one hand, medicine is developing so fast, so the physician (or other health-care professional) is often facing a dilemma on the kind of methods and remedies which are to be applied to minimize the possible risks of the treatment, which are present regardless of the use of more advanced technical means and medications. And on the other hand, despite the use of much more sophisticated technical and other means, the risk of mistake is always present (Kambovski & Tupančevski, 2011: 243). In the same line is the Law on Health Protection (2012, 87/2013, 2013, 2014, 2015, 2016, 2019), by elaborating the principles on which health protection should be based, i.e. on the unity of preventive, diagnostic, therapeutic and rehabilitation measures, and on the principles of accessibility, efficiency, continuity, fairness, comprehensiveness and provision of quality and safe health treatment (Article 5), with a note that the last principle should be provided by advancing the quality of health protection with application of measures and activities that, in accordance with the contemporary achievements in the field of medical science and practice, will increase the possibility for positive outcome, will decrease the risks and other adverse consequences to the health and the health condition of the individual and the

society as a whole (Article 11). Similar protection is prescribed by the Article 2 of the Law on Protection of the Rights of the Patients (2008, 2009, 2011, 2015, 2019), stating that the protection of the patient's rights provides quality and continuous health protection in accordance to the current achievements in health and medicine, within the system of health protection and health insurance, and appropriate to the individual needs of the patient, in the absence of any mental and physical abuse, with full respect for the person's dignity and in their best interest. In addition, it stresses that the protection of the patients' rights is based on the principles of humanity and accessibility.

If the criminal act of unscrupulous treatment of the diseased (Article 207) is in question, it can be noted that it falls under the second group of acts, the so called "medical acts" - acts that are done during the physician's / medical treatment of humans. As seen from the content of its provision, the act is so called *delicta propria* (Marjanovic, 1998: 89), which means that it can be done only by a person with certain characteristics, i.e. a physician (in Macedonian language "лекар"). Based on "Wikipedia" (n.d.-b), a physician (American English), medical practitioner (Commonwealth English), medical doctor, or simply doctor, is a professional who practices medicine, concerned by promoting, maintaining, or restoring health through the study, diagnosis, prognosis and treatment of disease, injury, and other physical and mental impairments. Furthermore, in the Article 207 in Paragraph 1 the following ways by which the act can be performed when providing physician's assistance are prescribed:

- By applying clearly (obvious) inadequate means or manner of treatment,
- By not applying proper hygienic measures, or
- In general, by acting unscrupulously,
- and by doing so - a deterioration of the health situation of another shall be caused.

To be exact, unscrupulous treatment of the diseased exists when it is followed by a detrimental consequence in the form of deterioration of a person's health. In other words, it is necessary to establish the existence of a causal link between the unscrupulous treatment and the resulting detrimental consequences. Namely, it must be reliably proved that the deterioration of the health situation was caused by the physician's malpractice, i.e. that it did not

arise from the very nature of the primary disease or injury or other factors (special circumstances of the case, personal characteristics and particular conditions of the patient's organism) (Savić, 2010: 60). Moreover, physician's conduct by which they violate the rules of the medical profession and science must be "obvious", that is, must constitute a blatant mistake by the physician so that the criminal act can be stated (Pavlović, Marković & Ćetković, 2016: 19).

In addition, Paragraph 2 broadens the criminal liability towards midwifes or other health workers who, while providing medical assistance or care, behave unscrupulously and herewith cause deterioration of the health of another person. However, it should be pointed out that there is a difference in these two paragraphs concerning the type of the assistance provided. In Paragraph 1 it is a "physician's assistance" (provided by a physician), and in the Paragraph 2 it is a "medical assistance or care" (provided by a midwife or other health worker). In essence, there is a difference from the first act concerning the objective essence of the crime; the act is not performed while providing physician's assistance, but while providing medical assistance or care, which implies different actions that do not refer to assistance provided by a physician in the narrow sense (establishing diagnosis, determining therapy, etc.). These actions are continuation of the treatment of the diseased (application of therapeutic means, bandaging of the patient, diet, maintaining the hygiene, etc. (Kambovski & Tupančevski, 2011: 246).

With reference to the sentence, it can be seen that CC prescribes a fine, or imprisonment of up to three years for the perpetrator of both paragraphs. However, this sentence is provided for a perpetrator who acts with intent, which means that if the act of Paragraph 1 is committed out of negligence, then the perpetrator shall be punished with a fine, or with imprisonment of up to one year (Paragraph 3). Mrčela and Vuletić (2017: 690) observe that the attention should be directed towards two key circumstances on which the degree of culpability in negligent delicts depends. These circumstances can be taken as benchmarks, and they are: 1. Is there a breach of due diligence, or failure to comply with the rules of the profession? and 2. Are they the reason for the consequence which has been caused (foreseeable) towards the health of the patient? Criminal liability will only exist if the answers to both questions are affirmative.

It is interesting to point out that Chapter 21 ends with the criminal act titled as *Severe Acts against the Health of People* (Article 217), in which

more severe consequences of several acts are integrated, including Article 207 (the other criminal acts are defined in Articles 205 - Transmitting an infectious disease, 209 - Quackery, 211 - Unscrupulous performing of a pharmaceutical activity, 212 - Production and release for trade of harmful medical products, 213 - Production and release for trade of harmful food and other products, 214 - Unscrupulous inspection of meat for consumption, 215 - Unauthorized production and release for trade of narcotic drugs, psychotropic substances and precursors, 216 - Enabling the use of narcotic drugs, psychotropic substances and precursors, with a note that not all of their paragraphs are encompassed, just the ones strictly stated). The more severe consequences of these criminal acts imply aggravated sentences for their perpetrators. Article 217 differs criminal acts performed by intent (Paragraphs 1 and 2) from the acts performed out of negligence (Paragraphs 3 and 4). Namely, if a person is severely injured bodily, or their health is seriously damaged, because of the criminal acts defined in Article 207's Paragraphs 1 and 2, then the perpetrator shall be punished with imprisonment of one to ten years (Paragraph 1), and if one or more persons died, then the perpetrator shall be punished with imprisonment of at least four years (Paragraph 2). Further, if a person is severely injured bodily or their health is seriously damaged because of the criminal act stipulated in Article 207 Paragraph 3, the perpetrator shall be punished with imprisonment of three months to three years (Paragraph 3), and if one or more persons had died, the perpetrator shall be punished with imprisonment of six months to five years (Paragraph 4).

ANALYSIS OF THE STATISTICAL DATA

It can be noted that the statistical data about the act unscrupulous treatment of the diseased disposable to the Macedonian State Statistical Office, are very poor. Namely, the Annual reports for the perpetrators of criminal offences only contain data for the period from 2014 to 2017, that are given in the tables and charts below (Annual reports for 2018 and 2019 have not been published yet). Concerning the years before 2014, the Annual reports include data that are classified into four groups - about the entire Chapter 21, the drug related crimes divided in two sections (Unauthorized production and release for trade of narcotic drugs, psychotropic substances

and precursors - Article 215, and Enabling the use of narcotic drugs, psychotropic substances and precursors - Article 216), and the other acts.

Table 1. Reported, accused and convicted adult persons - total

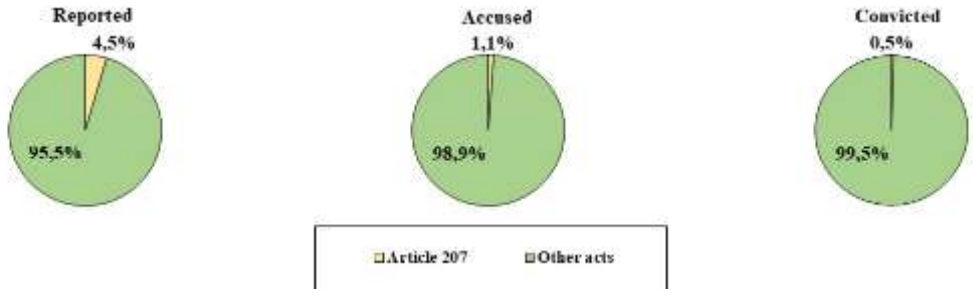
Year	Chapter and Criminal act	Reported	Accused	Convicted
2015 - 2017	Chapter 21	1590 (f. 74)	1131 (f. 52)	1049 (f. 46)
	Unscrupulous treatment of the diseased	72 (f. 19)	13 (f. 1)	5 (f. 0)
	Other acts	1518 (f. 55)	1118 (f. 51)	1044 (f. 46)

(Source: State Statistical Office, 2016, 2017, 2018)

Table 1 represents the total number of reported, accused, and convicted adult persons for the period from 2015 to 2017, which means that 2014 is not represented since there is no data in the Annual report about the reported and convicted persons (for this year there is only data for the accused persons). As seen from the Table 1 and Charts 1-3, the unscrupulous treatment of the diseased participates with very low percentage in the total number of the criminal acts within the Chapter 21, i.e. the following participation can be seen:

- In the total number of 1590 reported persons, it participates with 72 persons or 4,5%,
- In the total number of 1131 accused persons, it participates with 13 persons or 1,2%,
- In the total number of 1049 convicted persons, it participates with 5 persons or 0,5%,

which means that the participation percentage of the Article 207 is decreasing from category to category - starting with 4,5%, then 1,2% and ending with 0,5%.



Charts 1-3. Reported, accused and convicted adult persons - total
(Source: State Statistical Office, 2016, 2017, 2018)

Furthermore, if the data is analyzed from the gender issue aspect, then female perpetrators rarely appear in the role of reported, accused and convicted persons. And this remark stands not only for the Article 207, but also for the entire Chapter 21. So far, in the period from 2015 to 2017, 19 females were reported, only 1 was accused and none was convicted for unscrupulous treatment of the diseased.

Table 2. Reported, accused and convicted adult persons

Year	Chapter and Criminal act	Reported	Accused	Convicted
2014	Chapter 21	566 (f. 21)	518 (f. 18)	478 (f. 14)
	Unscrupulous treatment of the diseased	no data	6 (f. 1)	no data
	Other acts	/	512 (f. 17)	/
2015	Chapter 21	554 (f. 22)	459 (f. 16)	427 (f. 13)
	Unscrupulous treatment of the diseased	16 (f. 2)	7 (f. 1)	1 (f. 0)
	Other acts	538 (f. 20)	452 (f. 15)	426 (f. 13)
2016	Chapter 21	543 (f. 26)	361 (f. 21)	333 (f. 19)
	Unscrupulous treatment of the diseased	31 (f. 10)	5 (f. 0)	4 (f. 0)
	Other acts	512 (f. 16)	356 (f. 21)	329 (f. 19)
2017	Chapter 21	493 (f. 26)	311 (f. 15)	289 (f. 14)
	Unscrupulous treatment of the diseased	25 (f. 7)	1 (f. 0)	0 (f. 0)
	Other acts	468 (f. 19)	310 (f. 15)	289 (f. 14)

(Source: State Statistical Office, 2015, 2016, 2017, 2018)

From the data represented in the Table 2 and Chart 4, it can be observed that in 2016 the number of reported persons was higher than the other years. Namely, 31 persons was reported in 2016, followed by 25 persons in 2017 and 16 persons in 2015. As it was mentioned earlier, there is no data about reported persons in 2014. The number of accused persons is almost the same in the period from 2014 to 2016 (7 persons in 2015, 6 persons in 2014, 5 persons in 2016), however in 2017 it decreases to only 1 person. The situation concerning the convicted persons is unimportant to be considered since only 4 persons were convicted in 2016, 1 person in 2015, none in 2017, and there is no data for 2014.

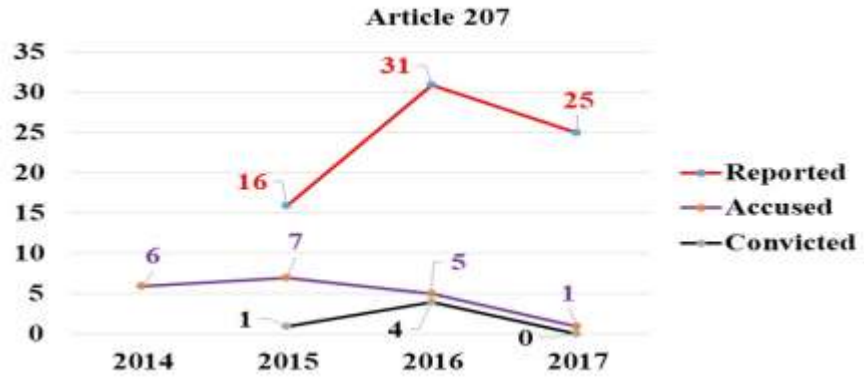


Chart 4. Reported, accused and convicted adult persons
(Source: State Statistical Office, 2015, 2016, 2017, 2018)

The 5 imposed sentences are represented in Table 3, with a remark that the other cells are intentionally left blank since there is no data in the Annual reports. As seen, in the given period, 3 main sentences were imposed - 2 imprisonment of up to 6 months, 1 imprisonment of 6 to 12 months, and 1 fine of up to 5000 MKD. There was only 1 alternative sanction imposed, i.e. probation-imprisonment of up to 3 months. Since the number of imposed sentences is insignificant, a relevant conclusion cannot be made, except that there is a mild sentencing policy.

Table 3. Convicted adult persons by the type of imposed sanction

Unscrupulous treatment of the diseased	2014	2015	2016	2017	Total
Main - Imprisonment - 6-12 months			1		**1**
Main - Imprisonment - Up to 6 months		1	1		**2**
Main - Fine - Up to 5000 MKD			1		**1**
Alternative - Probation-imprisonment - Up to 3 months			1		**1**
Total	**0**	**1**	**4**	**0**	**5**

(Source: State Statistical Office, 2016, 2017, 2018)

MACEDONIAN JURISPRUDENCE

The final decision (judgement) on the existence, or nonexistence of the criminal act Unscrupulous treatment of the diseased, is made by the court. It is understandable that the judge, as a lawyer, does not have an adequate expertise to make this decision on his own. Therefore, his decision is mainly based on forensic

expertise. Namely, it is logical that the assessment, whether the means or manner of treatment were clearly inadequate, should be done only by physicians, i.e. by those who are most competent in the relevant field of medical activity (Savić, 2010: 60).

This observation can be noted in the few judgements published on the Court's portal (a database that provides access to the jurisprudence of the Macedonian courts), if Unscrupulous treatment of the diseased is chosen as search criteria for the period from 01.01.2010 to 01.04.2020. For example, the Court of First Instance Delčevo (2012) on 27.11.2012 delivered a Judgement K.No.57/2011 by which it acquitted the accused person. The Court stated that it gave a full trust to the forensic expertise because it was prepared by leading experts in the field of health (Institute of Forensic Medicine), and according to this expertise it was determined that the accused person acted in accordance with her professional knowledge of medicine and what she knew as a physician, and it cannot be seen as a matter of an unscrupulous treatment of the diseased. In addition, it elaborated that the Institute's written opinion stressed that the given medicines were appropriate for the diagnosis made by the physician. It should be pointed out that based on the old Law on Criminal Procedure (old LCP) (1997, 2002, 2004, 2005, 2008, 2009, 2011), if the public prosecutor finds no basis for initiation or continuation of the criminal procedure, then the damaged party may stand instead as a plaintiff (so-called "subsidiary plaintiff"), and in this case the damaged party appeared as a subsidiary plaintiff.

Similar explanation can be seen in the Judgement K.No.113/10 dated 13.04.2011 of the Court of First Instance Kočani (2011). Once again, the damaged party was a subsidiary plaintiff, and the accused person was acquitted since, based on the Court's assessment, the act was not a crime according to the law. The Court explained that the actions of the accused person did not contain the essential elements of the criminal act for which he was charged because the action of the execution and its consequence were missing (by prescribing therapy the accused person did not use an obviously inappropriate means or method of treatment). Among other evidences on which the Court based its judgement was the expertise prepared by the Institute of Forensic Medicine stating that the given therapy had no effect on the occurrence or progression of the primary disease that the damaged party had already had.

In the Judgement K.No.293/10 of 27.06.2011, the Court of First Instance Ohrid (2011) concluded that from the presented evidence, the accused person as a specialist-physician in the given situation acted in accordance with the usual standards for the treatment of such injuries, which means that he acted in accordance to the rules of profession. Based on the forensic expertise prepared by the expert-witnesses of the Institute of Forensic Medicine, and in such established factual situation, the Court found that it had not been proved that the accused person had

committed the acts for which he was charged by the damaged party as a subsidiary plaintiff.

Contrary to the above acquittal judgements, the Court of First Instance Gostivar (2019) on 14.10.2019 delivered a Judgement K.No.148/19 by which it agreed with the motion for issuing a penal warrant putted forward by the public prosecutor in accordance with the Article 497 of the new LCP (2010, 2012, 2016, 2018), and sentenced the accused person with a probation-imprisonment as an alternative sanction. Based on several evidences, among which was the opinion of the medical board, the Court ruled that the dentist acted unscrupulously, by which he caused a deterioration of the health situation of the damaged party.

Another judgement of conviction was delivered by the Court of First Instance Tetovo (2019). Namely, on 12.07.2019 the Court with the Judgement K.No.416/19 found the accused person guilty because he did not apply an appropriate hygienic measures, and by doing so he caused deterioration of the health condition of the damaged party (as a medical specialist of general surgery while performing the operation on a fracture, he inserted infected fixators that caused a severe purulent infection, after which the damaged party had to have another surgery). With the judgement, that was based on the motion for issuing a penal warrant, the accused person was sentenced to 24000 MKD. Same as the case before, the evidence on which the judgement was based was composed of numerous medical documents.

CONCLUSION

As stated in the Article 19 Paragraph 2 of the Code of Medical Deontology of the Macedonian Medical Chamber (n.d.), the physician should consistently take into account the achievements of medical science and the principles of professional behavior, and also should freely choose the method and the way of treatment. When deciding on the method of treatment, physicians are obliged to rely on their knowledge and conscience, and at the same time they should be independent of various influences or inappropriate desires of the patient, their relatives and others. In connection to this obligation, there are several Macedonian legal acts that pronounce that human health must be protected and promoted. In order to realize such task, physicians must comply with the principles of humanity and accessibility, and provide the required assistance *lege artis* to the diseased. In other words, if the provided assistance was *contra legem artis*, i.e. contrary to the rules of

profession, then the physician can be held responsible for the criminal act Unscrupulous treatment of the diseased. In addition, a causal link between the unscrupulous treatment and the resulting detrimental consequences should be established, which is done by the court. However, having in mind that the judge is a lawyer, their decision is based on the forensic expertise. This can be seen through the Macedonian jurisprudence (a common characteristics of the analyzed judgments is that the court based its decision on the medical documentation, especially on the expertise provided by the Institute of Forensic Medicine), with a note that so far only few judgements were published on the Court's portal. On the other hand, such small number of published judgments is not a surprise, since there is a poor data in the Annual reports of the State Statistical Office about the perpetrators of this criminal act, with a remark that for most of the years there is no data at all. Furthermore, from the judgments that are based on the old LCP, it can be noted that the cases were initiated by the damaged party as a subsidiary plaintiff, and the court acquitted the accused persons. When it comes to the last two judgements delivered in accordance to the new LCP, in both of them the accused persons were pronounced guilty and were sentenced to a probation-imprisonment (the first case) and a fine (the second case). From the sanctions pronounced by the Macedonian courts, a mild policy tending towards the legally prescribed minimum can be seen. Therefore, as a final remark that should initiate a further debate on this issue is the Code of Hammurabi ("Wikipedia", n.d.-a), regulating the physician's responsibility for their behavior, i.e. if a physician caused death to a rich patient, they would have their hands cut off, but if they caused death to a slave, only financial restitution would have been required. This certainly does not mean that such severe sanctions should be promoted into our legal system. It means that the imposed sanctions towards the perpetrators of the criminal act Unscrupulous treatment of the diseased should be tightened in compliance to the two aims of the prevention (special and general prevention), as well as in compliance to the third aim - the justice to be realized. But then again, in order the case to reach the court, the public prosecutor as a plaintiff must be far more active in detecting and prosecuting this criminal act.

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INFORMATION FOR SAFE USE OF PAYMENT CARDS WITH SPECIAL REFERENCE TO THE MUNICIPALITY OF PRILEP

Keti Nikolovska, PhD candidate
Faculty of Security - Skopje
keti_nikoloska@yahoo.com

Snezana Mojsoska, PhD
Faculty of Security – Skopje
snezana.mojsoska@uklo.edu.mk

Stevco Jolakoski, PhD
Ministry of transport and communication
stevcejolak@yahoo.com

Abstract

The main reasons for the increase of the use of payment cards such as ATM cards, credit, and debit cards and their major role in the consumer's life as a means of payment are the economic growth, the consumer's modern way of living, and the impact of sellers for simple- non-cash payment, the modernization of computer technology, etc. Their increased use leads to the increase of frauds with them.

The aim of this paper is to see the extent to which the information for the safe use of payment cards is an instrument that assumes the role of a preventive measure. In a broader sense, this research will contribute to raising the level of security of the users, because the information itself offers a wider range of knowledge in the field of safe use. As a research technique, in order to respond to the set goals, a survey questionnaire was used as an intended sample, the survey was conducted in the city of Prilep, and it was with even distribution in relation to the gender of the respondents. The conclusion in this paper is that information is an important prerequisite for preventing possible abuses, and also the information affects the increase in the number of users of payment cards.

Keywords *(italicized, 11 pt.):* credit cards, information, security, fraud

INTRODUCTION

The term *payment cards* was first used by the American writer Edward Bellamio in 1887. Credit cards as a method of payment have been

around since the 1920s and first appeared in the United States. They started to be issued by individual companies, oil companies or hotels only to their regular customers. Some data show that they appeared in 1890 in Europe. At that time, credit cards were made of metal, fibre, or paper. In 1946, John Biggins of Flatbush the National Bank of Brooklyn, New York, invented the first real credit card. Later in 1950, Frank McNamara introduced the Diners Club credit card, and in 1958 the Bank of America released the American Express card. In 1958, Bank of America launched BankAmericard, the first universal card application in the United States. In Macedonia, Stopanska Banka AD Skopje was the first bank to issue the first credit card of the Visa brand.[1]

Credit cards have become an integral part of the world and thus, the Macedonian economy. Moderately worldwide, non-cash payments several times exceed the cash payment method. Over 20,000 financial institutions have issued over $ 1.5 billion branded cards worth about $ 3.4 billion a year. Due to the enormous use of credit cards, we have become the so-called era of "cashless society". The fact that every 8 Americans own about ten credit cards each speaks volumes about their rapid use. In Europe, the use of credit cards is much lower because the number of credit card holders per capita is 2. The credit card industry has grown over the last 20 years.

The subject of research in this paper is the information on the safe use of payment cards. This subject of research considered in two parts of determination, on the one hand the awareness of safe use belongs in the field of criminology, because it is assumed that there is some deviant behaviour in the phenomenon that is the subject of research, while payment cards are an exclusively economic instrument and belong to economic science, because today payment cards are the basic instrument for trade.

The purpose of this research is to see how informative for the safe use of payment cards is an instrument that plays the role of a preventive measure. In a broader sense, this research will contribute to raising the level of the security of users, because information itself offers a wider range of knowledge in the field of safe use. Greater information will contribute to increasing the number of users of payment cards as a non-cash payment method and the results of this research could serve to build a strategy that

[1] Heffernan Sh., Modern banking, Cass business School, City university, London, 2004

would help reduce crime, abuse of payment card, i.e., making a fake card and misuse of personal data from the payment card in e-commerce. The paper contains five sections not including abstract and bibliography.

METHODOLOGY

The following general research methods are used in this research.

- Analytical-synthetic method;
- Inductive - deductive method;
- Statistical method.

As a research technique to respond to the set goals used survey questionnaire intended sample, the survey was conducted in the city of Prilep, and the survey is with an even distribution in terms of gender of respondents. The survey questionnaire was conducted on forty respondents, of whom twenty were male and twenty were female. When researching, we will use the quantitative research method because the method can give an answer to the set goals in the research.

The subject of the research of this paper refers to the information of the citizens in the city of Prilep for safe use of payment cards, as follows:

- To determine which gender in the city of Prilep uses payment cards the most.
- To determine how many of those who use payment cards are informed about their safe use.
- To determine whether the level of education affects the greater information of the citizens in the city of Prilep.

The research covers the citizens of the city of Prilep in the period of February and March 2019.

In this paper, individual hypotheses will be tested, and some of them will be cross-referenced in order to answer the questions of whether these hypotheses are confirmed or rejected and how certain factors affect certain, set phenomena that are subject to research. The deductive method as a basis in this research, starting from the general phenomena, will allow us to reach special or individual conclusions that logically, necessarily follow from the general, but with the help of descriptive analysis to reach conclusions, i.e., to answer whether our assumptions - hypotheses are true or not.

RESULTS

If we analyze the growth trend of the number of cards after they start to be actualized from 2005 in the next 13 years, it would look like following Table 1:

Table 1 Number of cards from 2005 to 2018

Year	Number of Cards
2005	129 705
2006	184 519
2007	448 763
2008	783 648
2009	1 061 678
2010	1 294 064
2011	1 421 242
2012	1 453 202
2013	1 508 333
2014	1 535 176
2015	1,764,361
2016	1,868,414
2017	1,864,561
2018	1,857,751

Source: www.nbrm.mk

Table 1 shows that the trend points to an increase in the number of cards over the years in North Macedonia. This is quite normal given the fact that banks are constantly up to date with all the innovations in world markets and offer customers a variety of cards. On the other hand, the need for payment cards among citizens is growing due to their ease of use and the conditions they offer. According to the latest information, the number of payment cards now used in North Macedonia exceeds the number of 1,680,000.

Analytical research procedures have been performed using the SPSS software system, in which we will respond to the hypotheses with the help of appropriate descriptive analyses. We analyzed how many of the respondents in Prilep use payment cards in Table 2:

Table 2 Gender of use payment cards

gender * B1 Crosstabulation

		B1		
		yes	no	Total
	Man	15	5	20
	woman	16	4	20
Total		31	9	40

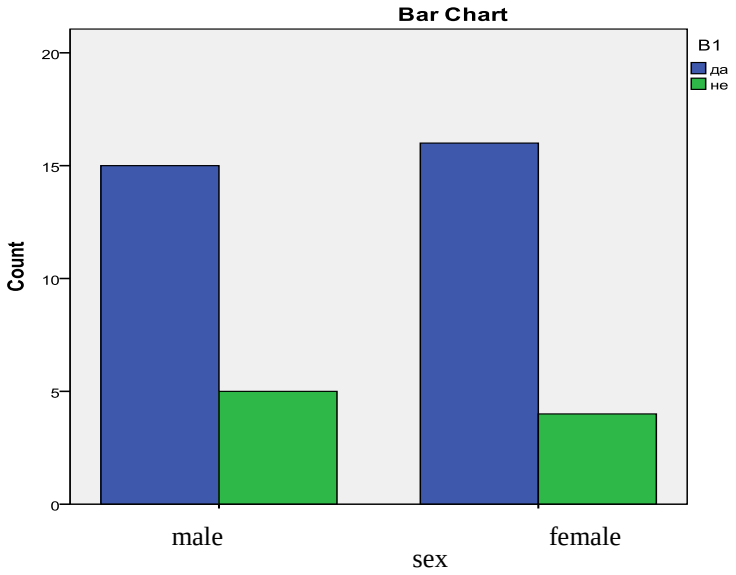

Diagram 1 Use of payment cards by gender

Using the CROSSTABS tool, the following results are obtained:

To the question whether they use payment cards out of 16 female respondents answered 9 with YES, while 4 respondents answered NO. Of the male sex, 15 answered with YES, and 5 of them answered with NO. In total, the respondents answered YES or 31 respondents and NO 9 respondents.

Graph No. 1. In a pictorial way, presents the above results from the spreadsheet.

Table 3 From those who use PC, are they informed about their safe use?

B1 * B3 Crosstabulation

		B3			
		yes	partly yes	no	Total
B1	no	0	1	8	9
	yes	9	18	4	31
Total		9	19	12	40

Table 4 Calculation of the Pearson coefficient of the variables in

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	19,274[a]	2	,000
Likelihood Ratio	19,541	2	,000
Linear-by-Linear Association	14,441	1	,000
N of Valid Cases	40		

To the question from those who answered with Yes to the question, "Do you use payment cards?" Whether they are informed about the safe use of payment cards 9 answered Yes I am, 18 I am partially, 4 I am not, while those who answered NO, None of them is informed about the safe use of payment cards, 1 answered that he was partially informed while 8 answered the question No I am not informed. The Pearson coefficient is significant at 19.27 because the asymmetry (sig = 0.005) is less than the limit 0.05). Those who responded with Yes Be more informed than those who responded with NO.

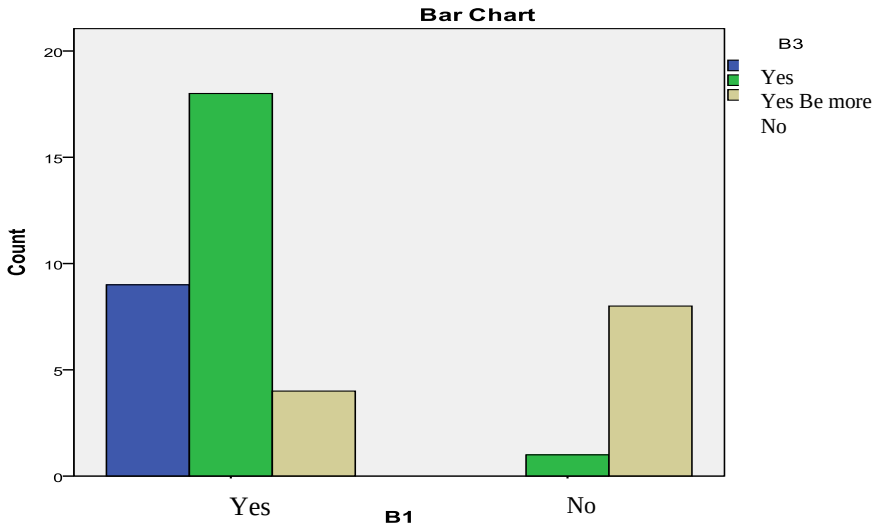

Diagram 2 How many of those who use PC are informed about safe use and how many of whom are not informed

Table 5 Median value of variables B5 and B6

	Mean	*N*	*Std. Deviation*
B*5*	6.30	40.00	2.56
B*6*	3.98	40.00	2.24

The median value of these variables whose values are interval on a scale of 1 to 10 show that it is inversely proportional to say that one is increasing and the other decreasing, which means that the greater the fear of possible abuse is, the safer citizens feel when using them. To take a closer look at these two variables, B5 and B6, which refer to the feeling of security and the feeling of fear, we will use *t*.

Table 6 Correlation

		N	*Correlation*	*Sig.*
Pair 1	B5 & B6	40	-.98	.000

Table 7 T-test

		Paired Differences							
					95% Confidence Interval of the Difference				
		Mean	*Std. Deviation*	*Std. Error Mean*	*Lower*	*Upper*	*t*	*df*	*Sig. (2-tailed)*
Pair1	B5 - B6	2.33	4.77	.75	.80	3.85	3.08	39	.004

Table 6 clearly shows that these variables have no correlation because the value is 0.98 and again confirms that these variables are not proportional.

From table 7, the value of sig e 0.004 is less than 0.05 and it can be concluded that there is a statistically significant difference, which means that the null hypothesis is rejected. According to the table, the average difference is 2.33, to determine what is the average difference between them, the square is calculated (n2). The ethaquadrant is calculated when we divide the value (3.85) 2 by the amount $(3.85)^2$+40-1.

$$n^2 = \frac{(3.85)2}{(3.85)2+40-1.}$$

The result is n2 = 0.275. This result shows an increased, moderate impact.

Table 8 Are you informed about the safe use of PC?

B3

	N	Mean	Std. Deviation	Std. Error	95% Confidence Interval for Mean		Minimum	Maximum
					Lower Bound	Upper Bound		
15-25	6	1,67	,516	,211	1,12	2,21	1	2
26-35	6	1,50	,548	,224	,93	2,07	1	2
36-45	8	1,88	,835	,295	1,18	2,57	1	3
46-55	8	2,25	,463	,164	1,86	2,64	2	3
56-65	6	2,33	,816	,333	1,48	3,19	1	3
66-	6	2,83	,408	,167	2,40	3,26	2	3
Total	40	2,08	,730	,115	1,84	2,31	1	3

The table can be used to check whether the data for the respondents in and for each group is correct.

Table 9 Are you informed about the safe use of PC?

B3 **Test of Homogeneity of Variances**

Levene Statistic	df1	df2	Sig.
1,814	5	34	,136

From this table we can see how homogeneous the results of the previous procedure are. From the attached, the significance (Sig.) of the Levene test can be ascertained. Because Sig. is 0.136, which means that the assumptions about homogeneity are not violated.

Table 10 Are you informed about the safe use of PC?

B3 **Robust Tests of Equality of Means**

	Statistic[a]	df1	df2	Sig.
Welch	5,449	5	15,292	,005
Brown-Forsythe	3,857	5	26,281	,009

This table shows the results of both tests (Welch and Brown-Forsythe), and their resistance to breaking assumptions about the homogeneity of the variance. From the above results, Welsh (Sig.) 0.005 and the Brown-Forsythe 0.009. These values are lower than 0.05, i.e., they indicate that the studied groups are not homogeneous, and the height of the coefficients is close, which indicates that there are no differences in the groups.

In the table ANOVA the value Sig 0.008 is less than 0.05 and we can conclude that there is a significant difference between the mean values of the dependent variable in the groups. This does not indicate which group differs from the other groups, but that can be seen in the following table on the Multiple Comparisons in which we can read the results only when the difference from the ANOVA table is statistically significant, i.e., when the value of Sig. is less than 0.005. which indicates the differences between the groups. In this table, those values are marked with (*) and for those values it can be concluded that the result of some groups is statistically significant groups.

Multiple Comparisons

B3

Tukey HSD

(I) возраст	(J) возраст	Mean Difference (I-J)	Std. Error	Sig.	95% Confidence Interval	
					Lower Bound	Upper Bound
15-25	26-35	,167	,362	,997	-,93	1,26
	36-45	-,208	,339	,989	-1,23	,81
	46-55	-,583	,339	,527	-1,61	,44
	56-65	-,667	,362	,454	-1,76	,43
	66паНагоре	-1,167)*	,362	,031	-2,26	-,07
26-35	15-25	-,167	,362	,997	-1,26	,93
	36-45	-,375	,339	,875	-1,40	,65
	46-55	-,750	,339	,258	-1,77	,27
	56-65	-,833	,362	,221	-1,93	,26
	66паНагоре	-1,333)*	,362	,010	-2,43	-,24
36-45	15-25	,208	,339	,989	-,81	1,23
	26-35	,375	,339	,875	-,65	1,40
	46-55	-,375	,314	,836	-1,32	,57
	56-65	-,458	,339	,754	-1,48	,56
	66паНагоре	-,958	,339	,077	-1,98	,06
46-55	15-25	,583	,339	,527	-,44	1,61
	26-35	,750	,339	,258	-,27	1,77
	36-45	,375	,314	,836	-,57	1,32
	56-65	-,083	,339	1,000	-1,11	,94
	66паНагоре	-,583	,339	,527	-1,61	,44
56-65	15-25	,667	,362	,454	-,43	1,76
	26-35	,833	,362	,221	-,26	1,93
	36-45	,458	,339	,754	-,56	1,48
	46-55	,083	,339	1,000	-,94	1,11
	66паНагоре	-,500	,362	,738	-1,59	,59
66паНагоре	15-25	1,167*	,362	,031	,07	2,26
	26-35	1,333*	,362	,010	,24	2,43
	36-45	,958	,339	,077	-,06	1,98
	46-55	,583	,339	,527	-,44	1,61
	56-65	,500	,362	,738	-,59	1,59

*. The mean difference is significant at the 0.05 level.

ith the help of the diagram, the mean values of the results obtained from different groups can be seen on a sheet. It is obvious that the answers of the respondents who are in the group of 66 years and older are the most different from the other groups. In our case, it can be stated that the respondents who are in the age group of 66 years and older are uninformed about the safe use of payment cards, unlike other groups where there is still a certain percentage of information.

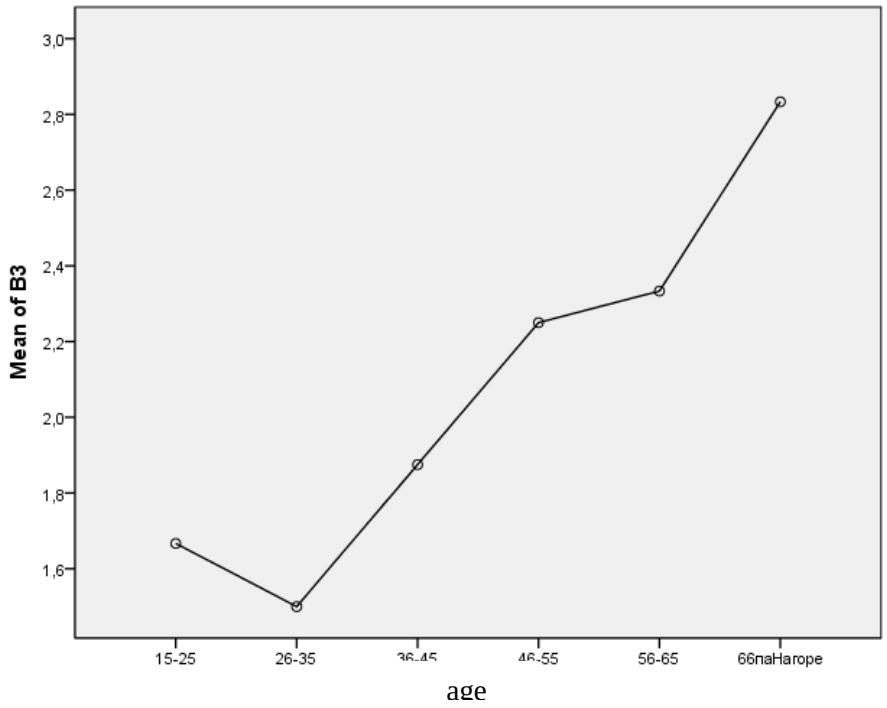

Diagram 3 Are you informed about the safe use of PC?

DISCUSSION

Awareness of the safe use of payment cards changes the habits of citizens in the Municipality of Prilep for cash payment and contributes to their involvement in the non-cash payment method. Information also breaks the barrier of the human nature of aversion to the unknown by increasing trust in the new instrument, i.e., payment cards, and increasing citizens' interest in learning about the innovations brought by digitalization and technical and technological development, which in turn enables new modern ways of trading. Banks use only one way of informing, i.e., oral information, and a conclusion is reached on their recommendations that it is not sufficient.

One way of informing does not suit every group, in this case these are the age groups where special emphasis is placed on two targeted groups which include the oldest pensioners and the youngest users of payment cards. Based on what was stated by the Managers of the Banks, it was concluded that the information considered as a marketing strategy should be determined accordingly to suit the target group so that it would have an effect.

- Recognition of the Information on the safe use of payment cards by the State as a measure that will lead to economic growth and reduce the possibility of abuse would be in favor of the citizens. Recognition would mean allocating budget funds for that purpose and involving the necessary state institutions.
- It would be good to be informed about the secure use of payment cards by VISA and MASTERCARD increase in the number of issued payment cards.

The following conclusions can be drawn from the above analytical procedures:

Hypothesis No. 1 was confirmed because there is no significant difference between the responses of males and females in terms of the question: "Do you use payment card."

From the examinations of Hypothesis No. 2 through the analytical procedures it was determined that the education affects the feeling of security and the feeling of fear.

Hypothesis No. 3 was confirmed and a conclusion was reached that there is a difference in the information of the citizens for safe use of the payment cards and it can be concluded that the oldest group of respondents is the least informed about the issue.

The citizens in Prilep do not receive the information for safe use of the payment cards from the banks but from the internet portals.

From the above, it can be concluded that information is an important prerequisite for preventing possible misuse, and also information affects the increase in the number of users of payment cards. The more informed the citizens are, the more they use the card as a means of non-cash payment.

The recommendations go in the direction of issuing banknotes with the preferred banks because they are the issuers of payment cards. It would be effective if the potential Brochure / Prospect received a security user when picking up a payment card, so that the security measures could be understood

before using the payment card. Respondents do not use the Internet as often as younger respondents; it is also thought that the media does not always have full information coverage of all citizens.

In this way, trust, the use of non-cash payments would increase, and would result in a reduction in the misuse of prepaid cards.

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Original Scientific Paper

ONTOLOGY OF SECURITY (APPENDIX TO THE ESTABLISHMENT AND DEVELOPMENT OF THE PHILOSOPHY OF SECURITY)

Cane T. Mojanoski, PhD
Faculty of Security – Skopje, St. Kliment Ohridski University, Bitola
cmojanoski@fb.uklo.edu.mk

Goce Arizankoski
Criminologist- Ministry of Internal Affairs
makelement@gmail.com

Zlatko Angjeleski
M.A. student, Faculty of Detectives and Security, FON University
zlatko.skopje.mk@gmail.com

Abstract

Security sciences and scientific disciplines (as well as all natural and social sciences), depart from those philosophically determined basic principles that are grouped into theories of the being (existence) of security occurrences (*ontology of security*), for understanding of safety occurrences (*gnoseology of security*) and the values and valuation of safety occurrences (*axiology of security*), whereby presuppose the recognition and appreciation of security occurrences, and vice versa - the recognition of security occurrences presupposes the existence and valuation of what is known, and also the valuation assumes the existence of security occurrences and the methodological and methodological possibility of their recognition. On the aforementioned philosophical basis and methodological direction - our *philosophical*, i.e., **ontological analysis and synthesis of security** (as an idea, condition, value, need, interest, function, organization and system) begins with the long-known **ontological fact** that security as a practice is as old as the human race, arising from the *materialization of human emotions and the urge for self-preservation* (the instinct of fear and the biological mechanism of survival of the organism), and the assumptions that *man's first thoughts were utterly practical*, that is, *life itself had to be safe first and foremost* - food, heat, protecting against catastrophes and avoiding danger were the first goals of reason, but also a long-established *anthropological finding* that *the need for protection, security and safety*

is based on the basic natural laws of the struggle for existence - a sufficiently firm basis for the fact that the need for safety and security is one of the *basic needs* of people.

In this paper we are making an effort to try and open up a debate regarding ontology of security as a *separate philosophical discipline* aimed at the continuous acquisition and promotion of a reference framework of chronological, current and anticipatory knowledge of the importance, the being and the idea of security (as a condition, value, need, interest, function, organization and system), as well as on the basis of security on the necessity, determinacy, continuity, importance and development of the social-security existence (human being) and humanity as an emergent form of it existence by virtue of its enduring, existential and natural-social need for security.

Keywords: *ontology of security, importance of security, being of security, idea for security*.

INTRODUCTION OF A POSSIBLE WAY TO FOUND THE ONTOLOGY OF SECURITY AS A SEPARATE PHILOSOPHICAL DISCIPLINE

Security sciences and scientific disciplines (as well as all natural and social sciences), derive from those philosophically determined basic principles that are grouped into theories of the being (existence) of security phenomena (*ontology of security*), for understanding of safety phenomena (*gnoseology of security*) and the values and valuation of safety phenomena (*axiology of security*), whereby presuppose the recognition and appreciation of security phenomena, and vice versa - the recognition of security occurrences presupposes the existence and valuation of what is known; also, valuation assumes the existence of security occurrences and the methodological and methodological possibility of their recognition (Mojanoski & Arizankoski, 2019, pp. 152-153). Contextually, we state that we will try to achieve a scientific-philosophical grouping of certain basic, philosophically determined attitudes about the being (essence, core) and the being (existence) of security phenomena, aiming at - establishing the ***ontology of security which as a separate philosophical discipline*** would develop philosophical-scientific complementarity, non-contradiction, but also qualitative difference from the science of security (asphaliology) (Mojanoski, 2010) (*Asphaliology* is a science that systemizes the existing knowledge and with the scientific – research methods, assumptions, techniques and instruments it verifies the scientific knowledge, establishes the educational

laws and contributes to improve the human security training). Consequently, we will note that the grounded and developed *ontological categorization of security phenomena* through which *the security of the reality is concretized*, among other things, also points to the thinking and understanding of security as a *historical phenomenon*, which in its various stages of history has achieved its *phenomenological practicality*, value, need, interest, function, organization and system.

Also, the ontological categorization of security has been referred to as the central issue of the *ontology of security* to determine the relationship between the social-security being, that is, the existence of man and the being itself (essence, base) of security (as state, value, need, interest, function, organization and system). The stated *central question of the ontology of security* develops a further infinite (logically funded) philosophical-security thought process of ontological questioning. - *where is security, what world does it belong to: the world of the real, the exact, or the world of the thoughtful, the ideal? (Kambovski, 2010, p. 170)* (The methodological approach to the question is taken and adapted on the basis of: Vlado Kambovski, Philosophy of Law. Otherwise, due to the limited textual space, we are unable to present in the paper other (possible) ontologically open and asked questions by us.)

In this context, we will state that despite the established *diferencia specifika* of the *philosophy of security*, hence the ontology of security from the separate security sciences and scientific disciplines (Mojanoski & Arizankoski, 2019) (For the determination of the specificity of the philosophy of security from the theory of security, ie from the separate security sciences and scientific disciplines (with general and specific orientation) which are teachings about the occurrence of (specific) threatening and stimulating security phenomena in a certain time and space, as well as for determining the differential specificity of the philosophy of security from safety teachings on methodologies, tactics and techniques for prevention, prevention, detection, research and clarification of criminal offenses (crimes and pre atrocities), the detection and apprehension of their perpetrators and the security treatment of victims of criminal offenses).

However, these philosophical disciplines cannot be separated from the *general theory of security* as a purely security discipline used by the methods of the social sciences, and in particular, the security sciences. From a *methodological point of view*, we place the ***basic hypothesis*** of *ontology of*

security in the existence of a difference between security phenomena as they are (ie, as they exist, ie being) and as they *should* exist, on which the *philosophy of security* differs, in particular security ontology can build its *axiological analysis* of the essence of security. On the other hand, it is indisputable that any philosophizing about security, its importance and being, can be developed only in the context of *existing, being and manifest security phenomena.* However, if in the essence of security as an existence we can penetrate based on experiential / empirical knowledge, in the *essence of security*, we can penetrate only with the speculative method (according to Kant, with *"pure reason"*, as opposed to empirical reason. aimed at security practice) (adapted according to: Kambovski, 2010, p. 110). Such an approach is immanent in the philosophical views of importance and being developed since *Parmenides:* in an *empirical sense*, importance cannot be perceived as a totality, and we come to its notion only through opinion (Bošnjak, 1985, p. 81).

ELEMENTARY PHILOSOPHICAL - ONTOLOGICAL CATEGORIES AS A BASIS OF THE CATEGORY SYSTEM OF THE ONTOLOGY OF SECURITY

Our *philosophical*, that is, ***ontological analysis and synthesis of security*** (from which the ontological categorization of security arises) (as idea, condition, value, necessity, interest, function, organization and system) starts with the formerly known ontological fact that the security in practice is as old as the human kind, becoming with the *materialization of the human emotions and instinct of self – maintenance* (instinct of fear and biological mechanism for organism existence) (Мијалковић, 2009, p.13), (Anžič, 1977, p. 35), (Dillio, 1996, p.17), as well as for the assumptions that the *first estimations of the human were very rational*, i.e. *the life foremost should have been safe* - food, heat, protection of natural disasters and escaping danger, were *the first goals of the mind* (Блекхо, et al., 1995, p. 11), but in previously determined anthropological establishment that the *need for protection, security and assurance is based on the basic natural laws of the existential fight* - which is the most reliable basis of the fact under which the necessity of security and assurance presents one of the *basic needs* of the human (Termiz & Milosavljevič, 2008, p. 343). In this ontological – security fact, **the being of the security and the idea of security** are expressed and

they are in causal relation with **natural – social need of the human for security (individual/ singular security**isincluded in the **social security)**, i.e. for **social – security existence (being) of the human in social shaped security reality,** as well as the **importance (essence) of the security** (the human, tribe, group, municipality, the country and the world), i.e. the *essence* of the security by which the difference of the **security appearances** are being determined, i.e. the security of other social appearances according to its importance, as well as their ontological relations and mutual influence with it (Mojanoski & Arizankoski, 2019, p. 156). The listed **categories** we have identified them as ***elementary philosophical-security, ie philosophical-ontological and theoretical categories*** and they are the basis for constituting ***the categorical system of philosophy of security, hence the ontology of security as a separate philosophical-security 2019 discipline***. (Mojanoski & Arizankoski, 2019, p. 156).

On the basis of the assumptions that the first estimations and the first goals of the human mind were – that the life, foremost should have been safe, the ontological establishment of the security that we will start with defining the *idea of security*. Namely, perception, *sense and visualization of the safety appearance*s are *sensuous,* and the term, the court, and the conclusion are *rational shapes of acknowledgement,* whereby these two degrees of acknowledgement differ in quality and in correlation of their characteristics and cognitive value (Крстић, 1988, p. 198). On the basis of the above mentioned, **the idea of security** will be defined as **determined and basic term, undefined for other terms, which scope and content differ from the immediate sensual knowledge, i.e. they are noticed as a result of combined theoretical and rational opinion funded on the socially-secured empirical or the same to be combined with theoretical materials which are directed to theoretical outcomes, which opinion can be creative, critical, exhaustive and directed towards developing an idea for naturally – social need of the human and his social security existence, as well as finding relations and establishing relations among security and other social , natural and technical aspects that enables creation of future module for knowledge funding that will enable solution of rational and theoretically security issues/ problems.** (Mojanoski & Arizankoski, 2019, p. 157). However, *before-securing, meta-securing – presents the idea of security and the security values,* and without their knowledge and validation there cannot be a functionality for the safety theory and the safety

practice, i.e. the functionality cannot be enabled for the security scientific studies and organization and performance of the security measures and activities. An essential element of the cognitive interest of the *philosophy of security*, and hence of the ontology of security, are: 1) the idea of security, which, like the idea of peace, in its essence and vocation is a world idea (Bubanja, 1987, p. 7); **2) its reflection - the reflection of the initial stage of the creation of security relations, processes and conditions (which are not created solely by natural action!)** – namely, security relations, processes and conditions generated by a social entity are preceded by the idea of security. *The philosophy of security, ie the ontology of security, should identify and determine the rational reasons and the importance (essence) of security, that is - identify and address something that precedes experience, ie something that precedes a specific security relationship and process, the specific security situation of a particular reference object, as well as the formation of a specific security structure of the society (or its individual elements) or the upgrade of that security structure (Mojanoski & Arizankosk i, 2019, p. 157).*

The social-security existence of man is one of the categories determined by both *ontological* and *sociological categorization of the security*. The term existing (in its scope and content) can be understand as ***appearance shape of human's existence on the basis of the implementation of the natural – social need of security which shape of existence has its own image in a condition that is relative, but has enough absence of physiological, psychological and social failures crucial for the human and the's organism functioning, as well as for the human's behavior oriented to meeting the lack of security*** (Аризанкоски, 2010, p. 116). In theoretical construction, the term *social – security existence of the human,* can be found **asnaturally – social need of security** as separate, crucial and essential element that is determined in the abovementioned definition with aspects accepted of some authors related to the explanations if the security is social or natural need. However, just like some authors would mention, throughout the activities that covers the knowledge and the skills of the society, individuals, groups and communities that make that society, the culture and the civilization, their needs, as well as the ways of their satisfaction has been developed and changed (Termiz & Milosavljevič, 2008, p. 345). In addition, it can be said that the basic physiological, existential needs are natural but had been transformed in social needs. Their satisfaction stays to be natural

necessity, but the ways of their satisfaction became social (cultivated and civilized) (Termiz & Milosavljevič, 2008, p. 345). For basic need, categorized as social security need and assurance, it can be mentioned that it is complex, mixed naturally- social need, that *is met* in mixed, naturally - social, individual and collective way (Termiz & Milosavljevič, 2008, p. 345). We will point out that the usage of security can be dominant to the extent of taking the role of organizer of the entire human behavior (Kuvačić, 1976, p. 9).*

Socially-secured existence of the human happens in **socially shaped security reality**, by which the entire *security content* in one *social space* or *system* can be understood, whereby they are all in condition of mutual influence of the elements in the social system that they developed unbreakable links and relations (Аризанкоски, 2010, p. 113). In theoretical construction of this term, there is a theoretical elements of *secured contents*, which, in fact are **security aspects** discovered with precise safety of the society and with them can be easily understood **sensually-available shapes of mutual action of individuals or social groups as well as of their mutual action with the nature or the technical systems, by which consequentially there is threatening or stimulation of their physiological, psychological and social needs** (Аризанкоски, 2010, p. 113).

If philosophy is more precisely a discipline that consists in *creating concepts* (Kambovski, 2010, p. 176), **the ontological determination of security is achieved by determining the scope and content of its term**. In the philosophical or ontological determination of the essence, the essence of security, one of the possible methodological ways is to determine *the definition of security*. Namely, in addition to determining the *central issue of ontology of security*, we believe that one of the key issues of security ontology is the question - what is meant by the term security? (adapted, according to: Kambovski, 2010, p. 170). Does that term denote the security specified in the empirical categories of ***security practice***: **1)** practical existence of a specific security situation, security process or security relationship; **2)** practical and safe enjoyment of a specific value or practical maintenance, realization and promotion of a specific security value; **3)** practical satisfaction of the natural and social need for security; **4)** practical

* That mechanism is clearly included in the studies of the neurosis, and socially it is pointed out in a situation of panicking, disasters or war.

maintenance and promotion of specific security relevant relevant interest; **5)** practical realization of the security function; **6)** practical establishment and realization of the organization of performing the security function; **7)** practical functioning of a specific security system; **8)** practical application of legal norms that regulate the security area? etc .; Otherwise, we will mention that with the **stated** *empirical categories* **from *the security practice*, *the security reality is* formed**, **ie *the security existance***.

The ontological analysis and synthesis of security is preceded by a *semantic discussion* in the direction of scientifically legitimate and usable clearing of the terminological plurality regarding the concept of security. – otherwise, in our opinion, this does not mean the absence of terminological plurality, because it positively contributes to maintaining the vitality of science and scientific disciplines! To this end, among other things, we consider it necessary to accept *Wittgenstein's* thesis: *Everything that can be conceived can be said* (Kambovski, 2010, p. 176); the limits of language, hence the limits of opinion, so that the philosophy of the "uttered" is a theory of reason! (Kambovski, 2010, pp. 176-177). In this regard, as well as based on the ontologically grounded definition *of human socio-security existence*, we performed one of the possible definitions of individual / individual (human) security which is a *basic categorical concept of security* formed by theoretical and practical constructions of protection and promotion of the safety of the individual (Mojanoski & Arizankoski, 2019). However, **individual/singular (human) security** is defined as **current (temporary) or relatively permanent (longitudinal, extended) individual, optimally-qualitative, established, i.e. improved and developed functional-beneficial condition of the human in which he meets its socially-natural need of security of being (existence) in precise socially shaped security reality, i.e. in certain social, national and international environment, as a result of enough absence of physiological, psychological and social lack, crucial for human and the human's organism function, i.e. as a result of sufficient and optimal protection of certain, precise or potential social, natural and technical threatening (challenges, risks and threats) after its psycho-physical status, and its moral and healthy integrity, after its materially – existential status, and its commonly-accepted and standardized freedom and rights, as well as his legitimate values and interests** (Mojanoski & Arizankoski, 2019)**.** Through the general and security history of the humanity, the security from its primary and individual

(self)protective behavior, during the time has been transformed and modified into collective (group, tribal, social, national and international) protective action (function) (Мијалковић, 2009, p. 14), so correspondingly we will mention that the human security is integrated in the ***social security***, which presents precise and potentially changeable situation in certain socially-secured space where there are consequences because of the influence of the social, natural and technical threatening and stimulations, that are not being existentially threatened, but they stimulate the social development and protection of the social values, whereby the members of the society have elementary, real and relatively possible ability of realization and protection of their values, needs, interests, freedom and rights which can be found in certain and generally accepted frame (Аризанкоски, 2010, p. 114).

Based on our methodological and concrete, philosophical approach, initially, in establishing the *philosophy of security* (Mojanoski & Arizankoski, 2019), and consequently on the *ontology of security*, which approach, among other things, allowed us to set the basic hypothesis of ontology of security which hypothesis presupposes the existence of a difference between security phenomena as they are (ie, as *they exist, that is, they live*) and as they *should* exist, on which difference this new philosophical-security discipline (in emergence and development) can build its *axiological analysis* of the essence of security, confirms the long-established and well-known fact about security-stimulating and security-threatening phenomena. In this regard, we will note that security is a constitutive and immanent component of *human praxis* and *dispraxsia* (Mojanoski & Arizankoski, 2019). From a philosophical point of view, human praxis is an action, an activity that is valuable and humanly expedient, as a way of human existence (Tanović, 1972, p. 16), that is, an existence that we have defined from a security point of view as a social-security existence (being) of man. In contrast to praxsis, dispraxsia, from a philosophical point of view, implies bad work, trouble, and everything that signifies the reduction of man - in terms of value, deviation from his essential possibilities to be at the level of human activities as conscious, free and purposeful activities by the human measure of changing the world (Tanović, 1972, p. 16), that is, from a security point of view, we can, among other things, guarantee the endangerment of generally accepted and justified human freedoms, rights, values, goods and interests - or the endangerment of concrete referent object of security (individual / individuals, social groups, states, unions of states and

the international community as a whole) (Mojanoski & Arizankoski, 2019, p. 159). Based on the fact that all segments of human life, with a certain degree of probability, can be endangered, for philosophical-scientific purposes of structuring and in this paper we used the following concrete and framework conception of human threats as an individual (Termiz & Milosavljevič, 2008, pp. 352-353): **1)** ***physical threatening*** - physical harm, including life deprivation; **2)** ***psychotic-emotional threatening*** - non-excepting, disabling, not responding to emotions, denial, frustration of the positive emotions related with the family , with the close people, to the local group (neighbors, coworkers, colleagues and etc.), nation and people in general; **3)** ***psychotic-intellectual threatening*** – missing out and prevention to create an adequate system of chances for education and teaching through disorder and diffusing of self consciousness and veneration of the autochthonic values and etc.; **4)** ***oriental - valuable threatening*** **-** danger of the existing valuable system and imposition of other orientated system values; **5)** ***interesting - economic threatening*** – regarding the legal and moral threatening of the permitted acquirement and material goods management, their creation and materialization of the knowledge, skills and creative abilities; **6)** ***threatening of the requirements realization, freedom, rights and abilities in the scope and work of the labor*** **-** and enabling development and growth of the human abilities, as well as their free manifestation; infringement of a part or of the total value of working result of the human; enabling free organization and coalition of working with others; as well as free alignment because of the data protection related with the work; and **7)** ***threatening the information - communication field*** – enabling or difficulties of gathering, emission and realization of information and communications; as well as selected, shortened and prevented, or false informing, which can cause threatening of the psychophysical, healthy and moral integrity of the human and disabling his proper behavior, opinion and conclusion.

Based on the above-mentioned expansion of the basic philosophical-ontological categories, we establish ***the ontology of security*** as a special philosophical-security discipline that we will temporarily define as a **philosophical-security discipline and antithetical hierarchical orientation towards continuous acquisition and promotion. for the relevance, essence and idea of security (such as state, value, need, interest, function, organization and system), as well as for the security of security for the necessity, determination, continuity, importance and development of the**

social-security existence of man and humanity as an emerging form of his existence based on the satisfaction of his permanent, existential and natural-social need for security.

CONCLUSION

The paper presented the essential assumptions for establishing the ontology of security (as a special philosophical-security discipline in emergence and development) in order to - develop the philosophy of security, and we single out the following concluding observations:

1. We establish **the ontology of security** as a special philosophical-security discipline that we have temporarily defined as a **philosophical-security discipline aimed at continuous acquisition and improvement of the reference framework of chronological, current state and security, anticipatory knowledge of being, value, need, interest, function, organization and system), as well as the basis of security on the necessity, determination, continuity, importance and development of social security o existence (existence) of man and humanity as an emerging form of his existence based on the satisfaction of his permanent, existential and natural-social need for security.**

2. *The ontological categorization of security* directs us as a **central question** of the ***ontology of security*** to determine ***the relationship between social-security existence, ie the existence of man and the being (essence) of security*** (as a state, value, need, interest, function, organization and system).

3. Knowledge and acceptance of the scientific usability of *philosophical* and, in particular, *ontological assumptions of security science (asphaliology)*, i.e. the *philosophy of security*, and consequently, the *ontology of security* is a basic precondition in the process of *scientific research on security phenomena* as well as the *practical implementation of specific security measures and activities.* It should be noted that every security researcher in general, in addition to having acquired different types of (pre) knowledge about the subject, theory, research method and language of security science, it is also necessary to have acquired prior knowledge and in the field of *security philosophy* (but also from *other sciences* and *scientific disciplines belonging to other scientific fields, areas and regions*) which with their security-scientific usability will provide a complex and rational approach to safe research current phenomena. Consequently, we will

conclude that **there is scientific, social and educational justification for establishing *ontology of security* as a separate and authentic philosophical-security discipline in emergence and development**.

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SEMANTIC ANALYSIS OF THE ENGLISH TERMS “WHISTLEBLOWER” AND “WHISTLEBLOWING” AND THEIR TRANSLATIONAL EQUIVALENTS IN MACEDONIAN AND SOME OF ITS RELATED LANGUAGES

Vesna Trajkovska, PhD
Faculty of Security Skopje
trajkovska_vesna@yahoo.com

Abstract

The paper provides semantic analysis of the English terms *whistleblower* and *whistleblowing* and their official translational equivalents in Macedonian. It addresses the notions lexicalized by the original English terms *whistleblower* and *whistleblowing* and the challenges of the transfer of their semantic content into Macedonian.

Furthermore, the paper provides a comparative analysis of the Macedonian translational equivalents and the official equivalents of *whistleblower* and *whistleblowing* in Serbian, Croatian, Bosnian, Slovenian and Montenegrin, with reference to the original English terms.

It aims at detecting the translation strategies employed when choosing the translational equivalents in the given languages, as they are encountered in official legal documents regulating the area that the notions *whistleblower* and *whistleblowing* refer to.

Key words: *whistleblower, whistleblowing, Macedonian, English, translation*

INTRODUCTION

The emergence of new concepts in a specific culture imposes the need for their appropriate lexicalization in the language of the members of a given culture. Depending on the circumstances that have led to the development of the new concepts, speakers of the language in question may adopt different practices. When encountering the new concept that has not been lexicalized,

the most desired approach would be to rely on the lexical corpus of the target language. In this case, the speakers would most typically add a new meaning to already existing words, or coin a new word based on the word-building paradigm of the given language. However, in many cases the new concept is introduced from another culture in which it has already been lexicalized. This means that the new concept is usually introduced to the target language together with the word that lexicalizes it, as a loan translation (literal translation of the original word) or in its integral original form as a lexical borrowing, often adapted morphologically, orthographically and phonetically.

When it comes to lexicalizing new concepts in Macedonian, based on the lexicon in contemporary dictionaries of Macedonian, it can easily be inferred that its speakers usually resort to importing both the concept and the word in the form of a foreignism, either as a lexical borrowing or as a loan translation. In the last decades, a vast majority of imported words have predominately been borrowed from English, which has acquired the status of lingua franca at a global level. This practice of borrowing English words can be identified in both general and technical vocabulary, with anglicisms being used colloquially as well as officially in formal communication and official documents.

Whistleblowing is an example of a concept that has been imported into Macedonian through English. It is a relatively new concept which was introduced into the legal system with the Law on the Protection of Whistleblowers in 2015, following the practice of other European countries of legally protecting this category of persons. The obligation for drafting a law that would regulate this field imposed the need for choosing adequate terminology for lexicalizing *whistleblowing*, *whistleblowers* and other related concepts in Macedonian. In the sections that follow, we will address the scope of these two concepts and the extent to which they overlap in English and Macedonian, and we will also analyze the Macedonian lexical solutions compared to the ones of related Slavic languages, in contrast to the original English terms.

SEMANTIC ANALYSIS OF THE ENGLISH TERMS *WHISTLEBLOWER* AND *WHISTLEBLOWING*

Historically speaking, the term *whistleblower* originated as a word to refer to a person who blows the whistle, or who performs the act of whistleblowing, in its literal sense. According to Merriam-Webster Online Dictionary, the word *whistleblower* was initially used in its hyphenated form *whistle-blower* and with that form it entered the English language in the 19th century, to denote "one who blows a whistle"[1]. It was used with this meaning until around the end of the 19th century, when it took on another, this time more specific meaning, referring to a "referee in a sporting contest, who blew the whistle in an administration of rules and judgment"[2]. The same source adds that soon after, the root expression *blow the whistle* acquired a metaphorical meaning, to denote "calling attention to something, such as criminal activity, kept secret"[3]. More specifically, some authors link this metaphor to the practice of British police officers of blowing a whistle upon noticing that a person has committed an illegal act, thus alarming their fellow colleagues and the public of danger (Armstrong & Francis, 2015:583). Harris, Prichard & Rabins (2009:179) draw our attention to another possible source of the metaphor that was mentioned by Michael Davis, which follows the analogy of a train that uses a whistle to warn the people to get off the track, besides the link with a referee or a police officer blowing a whistle.

With the development of its metaphorical meaning of a person who discloses wrongdoings, in the first half of the 20th century the term *whistleblower* was used synonymously with the terms *snitcher* or *informer*, which were considered pejorative. *Whistleblower* is now perceived as a positive word that has kept the semantic feature of disclosing a wrongdoing, and this non-pejorative meaning of *whistleblower* is attributed to Ralph Nader, who "pressed the new word into the popular discourse" (Safire, 1983) in a conference in 1971, and later in a book on that subject. He actually used it to refer to a person who revealed wrongdoings in automobile industry (Armstrong & Francis, 2015:583). In explaining its etymology, Merriam-Webster Online Dictionary also elaborates on the specific legal sense with

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[1] https://www.merriam-webster.com/words-at-play/whistle-blower-blow-the-whistle-word-origins (15.06.2020)
[2] ibid
[3] ibid

which it is used today, with the meaning of "an employee who brings wrongdoing by an employer or other employees to the attention of a government or law enforcement agency and who is commonly vested by statute with rights and remedies for retaliation"[4]. The term *whistleblower* can also be found in legal acts, such as the US *Whistleblower Protection Act* of *1989*.

Whistleblower is now a commonly used term, particularly within the framework of the fight against corruption. According to Transparency International, *whistleblowing* is "the disclosure or reporting of wrongdoing, which includes corruption, criminal offences, breaches of legal obligation, miscarriages of justice, specific dangers to public health, safety of the environment, abuse of authority, unauthorized use of public funds or property, gross waste or mismanagement, conflict of interest, and acts to cover up any of the aforementioned" (Worth, 2013:6). As for *whistleblower*, it is defined as "any public or private sector employee or worker who discloses information about these types of wrongdoing and who is at risk of retribution. This includes individuals who are outside the traditional employee-employer relationship, such as consultants, contractors, trainees or interns, volunteers, student workers, temporary workers, and former employees" (ibid).

In Europe, this concept has particularly gained popularity with the adoption of laws all over the continent that regulate specifically the acts of whistleblowing and the legal protection of whistleblowers, which opened the way for finding corresponding lexical equivalents in various European languages. At EU level, United Kingdom was the first country to adopt such a legal act – Public Interest Disclosure Act (PIDA) in 1998, but it must be noted that the UK Act used the term *public interest disclosure* (Worth, 2013:19) instead of *whistleblowing*. As for the other EU countries, one may observe various practices when translating the term *whistleblower*, not necessarily used in the official laws. Thus, in some languages *whistleblower* is literally translated, in other languages it is translated with a metaphor similar to the one of whistleblowers, some languages borrow the English

[4] https://www.merriam-webster.com/words-at-play/whistle-blower-blow-the-whistle-word-origins (15.06.2020)

term *whistleblower*, other translate it with a "domestic" word that is not used figuratively, etc.[5]

ON THE MACEDONIAN TRANSLATION OF *WHISTLEBLOWER* AND *WHISTLEBLOWING*

The need for coining Macedonian equivalents of the terms *whistleblower* and *whistleblowing* arose from the necessity for drawing up a law that would protect persons who report wrongdoings, within the wider context of the country's fight against corruption. This obligation draws on several documents issued by international organizations our country has been a member of. One such document is the 2004 UN Convention against Corruption which was ratified by the Macedonian Assembly in 2007. It is important to mention that in most cases when the need has arisen for introducing new legal vocabulary into Macedonian since the country's independence, Macedonian lawmakers have most typically used the English terminology as a model. This particularly results from the fact that English is the official or one of the official languages of the institutions whose legal acts are legally binding for their member states. Also, most of the new legal vocabulary is related to concepts derived from EU legal documents, which have to be translated into Macedonian within the process of harmonizing Macedonian legislation with the one of the European Union, where the legal acts are usually drafted in English and then translated into other languages. Having this in mind, it was expected that the Macedonian terms for *whistleblower* and *whistleblowing* would be coined based on the English lexical solutions, like in other European languages.

At national level, the leading organization that pushed forward this process was Transparency International – Macedonia (TI-M), which lobbied the state institutions to draw up and adopt this type of law. From a linguistic point of view, it is interesting to note that, apart from discussing the content of the legal provisions that would regulate the issue, this organization also pointed to the need for appropriately naming these persons. It even took a proactive approach of calling upon the public to participate in choosing the

[5] For the list with the translational equivalents of *whistleblower* in various EU languages see in Worth, M. (2013). *Whistleblowing in Europe - Legal Protections for Whistleblowers in the EU (report).* Transparency International, pp. 19-21
available at: https://images.transparencycdn.org/images/2013_WhistleblowingInEurope_EN.pdf

appropriate lexical solution through a public discussion on that matter. TI-M even suggested several options that the citizens were to comment on, namely: *пријавувач (prijavuvač)*, *укажувач (ukažuvač)*, *свиркач (svirkač)*, *звонач (dzvonač)* or other similar words (Тасева, 2016:15). It is extremely important to emphasize the fact that this organization insisted on choosing/defining the adequate term for these persons that would be based on Macedonian language (ibid). This clearly indicates that TI-M did not favour the use of an anglicism in the form of a direct lexical borrowing, which should also be the desired course in searching for lexical solution for other concepts that are new to the Macedonian lexical system.

The Macedonian Law on the Protection of Whistleblowers was passed in 2015 and amended in 2018, with the original name *Закон за заштита на укажувачи (Zakon za zaštita na ukažuvači).* The very name of the law shows that the Macedonian lawmakers opted for the word *укажувач (ukažuvač)* as the official Macedonian lexical equivalent of the term *whistleblower*. However, they did not follow the etymological analogy when lexicalizing the act of whistleblowing. Thus, instead of coining a word based on the same root, they chose the expression *заштитено пријавување (zaštiteno prijavuvanje)* which can be translated in English as *protected reporting*, very similar to the expression *protected disclosure* found in PIDA. According to the definition in Article 2, Paragraph 1, it refers to "reporting or disclosure that, in accordance with this law, conveys a reasonable suspicion or knowledge that a punishable, unethical or illegal or unacceptable conduct that damages or threatens public interest was committed, is being committed or will probably be committed" (Закон за заштита на укажувачи, чл. 2, ст.1). Paragraph 2 defines the term *укажувач (ukažuvač)* as "a person from the categories regulated by Paragraph 3 of this law that in good faith carries out the act of protected reporting in accordance with this law" (ibid, pg. 2). Paragraph 3 lists all the categories of persons that are considered *whistleblowers*. A *whistleblower* may be:

- A person who is employed full-time or temporarily in the institution or the legal person that they report;
- A job candidate, volunteer candidate or intern in the institution or legal person that they report;
- A person who is a volunteer or intern in the institution or legal person that they report;

- A person who was/is hired for carrying out some work by the institution or legal person that they report;
- A person who had/has a business relationship or other type of cooperation with the institution or legal person that they report; or
- A person who uses/used services in the institution or legal person in the public and private sector that they report. (ibid, pg. 3)

As we can see from the definition, the Macedonian term *укажувач (ukažuvač)* conveys the meaning covered by the English term *whistleblower* to a considerable extent. It is impossible to expect complete equivalence in meaning, taking into account the specific cultural settings in the countries where whistleblower laws have been adopted. However, they all share some semantic features: a person who is in some kind of a work relation with an institution or a legal person in general, and the element of reporting, disclosing or making public a wrongdoing or an illegal act/behavior.

With regard to the word choice, the Macedonian translational equivalent *укажувач (ukažuvač)* is not a direct translation of the original English metaphor of *whistleblowing*. The literal translation of *whistleblower* would be *свиркач (svirkač),* which was one of the options that were publicly discussed and that is still being used informally or by speakers who are not familiar with the official translation. A question remains as to the reason behind not choosing the literal translation, which has been applied to other new concepts imported into Macedonian. Etymologically speaking, *свиркач (svirkač)* is derived from the noun *свирка (svirka)* which primarily denotes *a whistle*, or the verb *свирка (svirka)* which is the equivalent of the English verb *to whistle*. However, the verb *свирка (svirka)* may also be used pejoratively, meaning "to whistle with one's lips (at a player, performer, speaker etc.) as an expression of discontent, mocking etc. (Мургоски, 2005:1173), or "to whistle with one's lips (at a girl, woman), especially as an expression of sexual attraction etc." (ibid) which can even be perceived as a form of sexual harassment. This might be a possible explanation why the lawmakers chose not to use this root for the new word, especially if we take into consideration that in a legal sense a whistleblower is not a pejorative term. It should not leave room for reference of any kind that could lead to ambiguities regarding its use. On the other hand, the word *укажувач (ukažuvač)* is neutral, without the pejorative meaning attached to it. It is etymologically rooted in the verb *укаже (ukaže)*, with the meaning "to show,

attract the attention to/about something" (Конески et al. 2014:172). Semantically, the verb *укаже (ukaže)* contains the element of pointing to something, raising the issue of something, directing the other people's eyes towards something etc., which is what whistleblowers metaphorically do. They alert the public by pointing to the existence of some wrongdoing that has to be dealt with. Bearing this in mind, we may agree that the noun form *укажувач (ukažuvač)* can be considered an acceptable translational equivalent of *whistleblower*. However, it is interesting to note that the noun *укажувач (ukažuvač)* is a newly derived noun which was not included in the Interpretative Dictionary of Macedonian Language published in 2013 by the Institute for Macedonian Language. Hopefully, *укажувач (ukažuvač)* will find its place in the new editions and its use will be popularized among the Macedonian speakers, just as the practice of blowing the whistle in the legal sense will become a common practice among Macedonian citizens.

TRANSLATIONAL EQUIVALENTS OF *WHISTLEBLOWER* AND *WHISTLEBLOWING* IN RELATED SLAVIC LANGUAGES

As we have seen in the previous section, Macedonian lawmakers opted for a non-direct translation of *whistleblower*, which can be viewed as a positive practice of adapting the new concept's lexicalization to the linguistic and cultural setting in which the target language is used. Regarding the translation of *whistleblowing*, they chose an expression which does not share the same etymology. Bearing this in mind, it would be interesting to compare this practice with the ones of the lawmakers in some other languages from the same group of South Slavic languages.

In Serbia, the Law on the Protection of Whistleblowers was passed in 2014, one year before it happened in Macedonia. When reading the provisions in this Law, one can easily see that unlike in Macedonian, *whistleblowing* and *whistleblower* are translated with single words based on the same root. Thus, the act of whistleblowing is translated as *узбуњивање (uzbunjivanje)*, while the person who "blows the whistle" is referred to as *узбуњивач (uzbunjivač).* According to the definitions, *узбуњивање (uzbunjivanje)* means "disclosing information on violating laws, violating human rights, exercising public authority contrary to the purpose it has been granted for, threats to life, public health, security, environment, as well as for preventing large scale damage" (Закон о заштити узбуњивача, 2014, чл.2,

ст. 1). The term *узбуњивач (uzbunjivač)* is defined as "a natural person that does the act of whistleblowing related to his/her work, the hiring procedure, the use of services from state and other authorities, holders of public powers or public services, business cooperation and the right to property of a business entity" (ibid, ст. 2). Although not identical, the Macedonian and Serbian definitions still overlap with the key semantic features of the original English concept. One can easily notice that the Serbian translational equivalent, just like the Macedonian one, is not rooted in the Serbian word for *whistle*. However, it is not even rooted in the Serbian equivalent *указати (ukazati)* of the Macedonian root term *укажува (ukažuva)*. The Serbian lawmakers actually chose the root verb *узбунити (uzbuniti)* and the corresponding noun *узбуна (uzbuna).* The Serbian noun *узбуна (uzbuna)* can be translated into English as *alarm*, which means that the verb *узбунити (uzbuniti)* actually means *to raise the alarm*, or *to sound the alarm*. Semantically, a simple analogy can be drawn between the metaphors of sounding the alarm and blowing the whistle, since in both cases the person alarms the public about something that is going on, or that is going to happen, and in English it usually refers to warning the other people of danger. Therefore, we can agree that the Serbian lawmakers chose an acceptable lexical solution for conveying the meaning behind the English *whistleblowing* and *whistleblower*.

In the Croatian Law on the Protection of Whistleblowers from 2019, the term *whistleblower* is translated as *prijavitelj nepravilnosti*, while the act of *whistleblowing* is translated as *prijavljivanje nepravilnosti*. The translations show that instead of using single words, for both concepts the Croatian lawmakers chose two-word descriptive expressions. Namely, the literal English translation of *prijavitelj nepravilnosti* is *reporter of irregularities*, while the act of *prijavljivanje nepravilnosti* can be translated as *reporting irregularities*. According to the Law, *prijavitelj nepravilnosti* is "a legal person who reports irregularities related to carrying out work for the employer" (Zakon o zaštiti prijavitelja nepravilnosti, čl. 3, st. 2). Here, again, the definition covers the main elements found in the previously discussed languages. The law also defines the irregularities as "violating the laws and other regulations or reckless management of public goods, public funds and EU funds which threaten the public interest, and which are related to carrying out work for the employer (ibid, st. 1). From a lexical point of view, it is surprising that the lawmakers and the linguists in Croatia did not coin a

single word of Croatian origin that would transpose the English metaphor into the Croatian lexical system, taking into consideration the positive practice of Croatian linguists of coining new words for concepts that are usually lexicalized by anglicisms or other foreignisms in other related languages of former Yugoslav republics. *Prijavitelj nepravilnosti* is actually a descriptive translation of the original English concept. It is a neutral term which is not used figuratively.

The Bosnian term for *whistleblower* can be found in the Law on the Protection of Persons Reporting Corruption in the Institutions of Bosnia and Herzegovina from 2013. The officially established term for *whistleblower* is *uzbunjivač*, which is defined as "a person employed in the institutions of Bosnia and Herzegovina and legal persons established by the institutions of Bosnia and Herzegovina, who, due to reasonable doubt or circumstances of the existence of corruption in any institution of Bosnia and Herzegovina in good faith reports to the persons in charge or the institutions in compliance with this law" (Zakon o zaštiti lica koja prijavljuju korupciju u institucijama Bosne i Hercegovine, čl.2, b). As for *whistleblowing* they use the expression *zaštićeno prijavljivanje* (ibid, c). As we can see, the Bosnian term for *whistleblower* is the same as the Serbian one, while the term for *whistleblowing* corresponds to the Macedonian one, so the explanation of these two equivalents applies to the Bosnian terms as well.

The official Slovenian equivalent of *whistleblower* is *prijavitelj*. This term can be found in the Integrity and Prevention of Corruption Act, from 2011. The literal English translation of *prijavitelj* would be *the one who reports* or *reporting person / reporter*. This is the same term that is used in the Croatian law, but this time in the form of a single noun. *Prijavitelj* is a neutral term, just like its English equivalents, and can actually refer to any person reporting something. It lacks the word *irregularities* as the object from the Croatian expression, which implies narrowing of the concept when used in collocation with *report*, thus clearly defining the type of action that is reported. According to Article 23 of the above mentioned law, *prijavitelj* or *reporting person* "may report instances of corruption in a State body, local community, by a holder of public authority or other legal persons governed by public or private law, or a practice by a natural person for which he

believes that it contains elements of corruption, to the Commission or any other competent body"[6].

Finally, the Montenegrin lexical equivalent of *whistleblower* can be found in the Montenegrin Anti-Corruption Law. Article 4 of this Law stipulates that "a whistleblower, in the sense of this law, is a natural and a legal person that reports a threat to the public interest that indicates the existence of corruption" (Zakon o sprječavanju korupcije, čl. 4). The original text of the law in Montenegrin language uses the word *zviždač*, which is the direct translation of the English term *whistleblowing*. The notion and the metaphor of the original English term is transferred into its Montenegrin lexical counterpart, in the form of a loan translation. From all the languages that were analyzed in this section, it was only Montenegrin that imported the new word into its lexical repertoire by means of literal translation, which is probably the simplest and the most practical way of dealing with this issue, but not necessarily the best one from a linguistic point of view.

CONCLUSION

From the semantic analysis presented in the paper a conclusion can be drawn that *whistleblower* and *whistleblowing* are complex concepts that are differently translated in Macedonian and other related languages, depending on the approach of the lawmakers and translators in the corresponding countries where these languages are official.

In terms of its form and the meaning it conveys, the official Macedonian translation of *whistleblower* is an example of an adequately chosen equivalent which covers the key semantic elements found in the original English term, based on the existing lexical items from the Macedonian lexical corpus. It is the author's opinion that this practice could be used as a model for coining new words in future, whenever it is possible to avoid direct lexical borrowings from the source language. Such practice will contribute to the enlargement of the Macedonian lexical corpus, either by inventing new words or by adding new meanings to existing ones. It should also serve as a good example that can be followed by lawmakers in the other

[6] The English translation of the Slovenian Integrity and Prevention of Corruption Act is quoted from the following source: http://www.europam.org/data/mechanisms/FD/FD%20Laws/Slovenia/Slovenia_Integrity%20and%20Prevention%20of%20Corruption%20Act_2010_amended%202011.pdf (15.06.2020)

related languages that were elaborated in the paper when introducing new concepts into their lexical systems.

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THE DIRECTIVE OF THE EUROPEAN UNION ESTABLISHING MINIMUM STANDARDS ON THE RIGHTS, SUPPORT AND PROTECTION OF VICTIMS OF CRIME AND MACEDONIAN CRIMINAL PROCEDURE LAW

Oliver Bachanovic, PhD
Faculty of Security, Skopje, University St. Kliment Ohridski, Bitola

Natasha Peovska, PhD
Faculty of Security, Skopje, University St. Kliment Ohridski, Bitola

"In the first place, we witness to a serious change of social values by putting the interest of protecting victims in criminal proceedings … Justice is not just to punish an offender, but also to restore the consequences of offenses, this particular aims to prevent new victimization"- Ivo Josipović - Former President of the Republic of Croatia (28.11.2012)[*]

Abstract

In 2012, the European Union Directive (2012/29 EU) was adopted establishing minimum standards on the rights, support and protection of the victims of crime replacing the Council Framework Decision 2001/220/JHA on the standing of victims in criminal proceedings. Both documents are legally binding of the general kind, the first of that kind, when it comes to victims of crime and EU legislation.

The purpose of this paper is to introduce the importance of this Directive for promotion of the position and rights of the victim of crime and the necessity for its implementation in national legislation. Moreover, the Republic of North Macedonia, as a country that has already started the accession negotiations for EU membership, must take into account the minimum standards on the rights, support and protection

[*]https://pravosudje.gov.hr/vijesti/zastita-zrtava-u-kaznenom-postupku-jedan-je-od-prioriteta-reforme-pravosudja/138/ accessed on 26.3. 2020

of victims of crime as one of the conditions for gaining this status in the EU in the framework of harmonization of national with European legislation. In this regard, we can point the implementation of the Victims' Rights Directive as one of the priorities of Serbia in the negotiations for its accession to the EU (specifically foreseen in the Action Plan for Chapter 23 - Judiciary and Human Rights).

The main method used in this paper will be the content analysis of the Victims' Rights Directive and of domestic legislation regarding the (non) existence of provisions which imply its consistent application.

Keywords: *EU Victims' Rights Directive of Crime (2012), minimum standards, national legislation, harmonization of legislation*

INTRODUCTION

In 2001 the Council of the European Union adopted Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings that according to its nature a legal binding document for victims' rights. (Каракамишева & Ефремова, 2009)[1] Nevertheless, the knowledge of the victims, their rights and the need for assistance, support and protection have been constantly evaluated, i.e. have showed an upward line especially the standards for these issues have been increasing. In this context, within the framework of the so-called The Stockholm programme- an open and secure Europe serving and protecting citizens that was adopted at meeting held on 10 and 11 December, 2009[2] by the European Council, the Commission and Member States have been asked to examine how to improve legislation and practical support measures for protection of victims, by giving special attention, as **a priority, the support and recognition of all victims**. Furthermore, a newspaper if the result of perceived "weaknesses" of the Framework Decision, the European Commission adopted a document entitled: *Strengthening victims' rights in the EU* [3] which was prior to the Directive establishing minimum standards on the rights, support and protection of victims of crime in 2012. In this regard, the document *Resolution of the Council on roadmap for strengthening the rights and*

[1]... framework making new instruments introduced by the Treaty of Amsterdam and provided for in Chapter VI of the Treaty on European Union have a higher binding capacity as well as greater authoritative attitude, and aim to approximate and harmonize laws and regulations of Member States (more on this Каракамишева, Т., Ефремова, В. (2009)

[2] This document is published in the „Official Journal by the European Union", C 115/1, 4.5. 2010.

[3] Brussels, 18.5. 2011 COM (2011) 274 final, SEC (2011) 580 final; SEC (2011) 581 final

protection of victims, in particular in criminal proceedings by (so called "Budapest Plan")[4] was adopted by the Council of the European Union on 10 June,2011. In the aforementioned resolution is stressed that the level of the Union should act in order to strengthen the rights, support and protection of victims of crime (recitals (2) of the introductory part of the Victims' Rights Directive).

Finally, the Framework Decision of 2012 was replaced by the DIRECTIVE 2012/29/EU of THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA[5] (hereinafter: Directive on the Rights of Victims).). Its adoption is an important step in advancing the rights of victims of crime, both for EU Member States and for our country, which has been granted the status of a country that began EU membership negotiations on 25.03.2020. It is a directive of general type, i.e. a document dealing with issues related to the rights of victims of crime in general. The adoption of the Victims' rights Directive is due to the commitment of the EU to protect victims of criminal offenses and the establishment of minimum standards in relation to it, having in mind the ultimate aim "... further important steps to be implemented towards a higher level of protection of victims in the Union as a whole, especially in criminal proceedings." (recitals (4) of the introductory part of the Directive).

LEGAL NATURE AND PURPOSE OF THE VICTIMS' RIGHTS DIRECTIVE

We shall briefly dwell on the legal nature of directives in general as an EU legal instrument[6], and above all for their obligation and the means of

[4]This Resolution was adopted at the 396th Justice and Home Affairs council meeting Luxemburg,9 and 10 June 2011.

[5] This Directive was published in „Official Journal of the European Union ", L 315/57of14.11. 2012. I do notify that for the purpose of this work is used as well as the version of the Directive in Croatian language: Direktiva 2012/29/EU Europskog parlamenta i Vijeća od 25. listopada 2012. o uspostavi minimalnih standarda za prava, potporu i zaštitu žrtava kaznenih djela te o zamjeni Okvirne odluke Vijeća 2001/220/PUP, published in „Službeni list Eurpske unije "L 315/57 od 14.11. 2012.

[6]Directives as a legal instrument fall within the sources of EU law, together with *treaties, regulations, decisions, international treaties and international treaties that are part of the EC, EUROATOM, EC and EU, general principles of law and common law, conventions between Member States and the case law of the European Court of Justice.*

implementation in the national legislation" ... the directives should be taken in the national law of the country to which the directive refers. As the most common type of EU reference, directives are not directly applicable but can have a direct effect. They are binding on the state party in terms of the tasks to be accomplished, the state has right to choose the form and methods for their accomplishment. The most acceptable means of applying the directives is the process of harmonization of laws." (Каракамишева & Ефремова, 2009: 185)[7]

In this context the question arises as a relation between the introductory part of the Directive and its normative part (systematized in specific chapters concerning the rights of victims of crime, designated as minimum standards when it comes to these victims). Namely, what is the nature of the provisions that are part of the introductory with respect to the so-called normative part of the Directive, primarily in relation to their (non)obligation. Also, are these two parts complementary and successive? We have raised these questions, taking into account the legal aspects of this work. In order to answer the questions, the attention should be paid to DG Justice Guidance Document related to the transposition and implementation of Directive2012/29/EU.[8] Namely, analysing every Article of the Victims' Rights Directive , the mentioned document of implementation in particular refers to the adequate recitals systematized in the introduction (e.g. Article 1- recitals 9 -14; Article 2- recitals 19 and 20 etc.). That, above all, means that they are mutually complementary and successive. Although, according to us, the recitals have an explanatory role in the first place, and the Articles referring to the normative part represent their operationalization and are in a "firmer" form, i.e. formalized and as such, by their nature, binding. Thus, a formulation that is often used in provisions (Articles) of the rights of victim: "Member states shall ensure that victims..."). (emphasized by the authors)

The purpose of the Directive is to ensure that victims receive the necessary information, support and protection as well as to enable them

[7] Directives are the laws of the European Community which give results within the Community, as they indicate what resources should be used for each Member State separately to achieve better results in its development."

[8] The full title of the document is: DG Justice Guidance Document related to the transposition and implementation of Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA

participation in criminal proceedings (Article 1 of the Directive), with particular role supported with appropriate rights corresponding to their position during procedure, there is a tendency of victims' rights to be balanced and objective as far it is possible comparing to the rights of offender (without prejudice to the question their rights). Besides, Member States may be guided by national legislatures and to decide whether victims will recognize the status of a party to the proceedings, or will only participate in the proceedings.

"The Victims' rights Directive is an important new European legislative text and it is one of those that the Union can be proud of," said Vivian Reding, EU justice Commissioner "Every year 75 million people in the EU are victims of crime. Increasing the rights agreed under EU law will provide everyone with the right to better protection, information and support. Victims must not be forgotten (and invisible-*our note*) as well as they must be dealt with fairly. Citizens who have been victims of crime have the right to do so." In this context, it is very important to point out the importance of the Directive as part of a wider, in fact strategic EU objective: "The introduction of minimum rules for victims of crime is part of the broader EU objective of seeking to build a single European area of justice, enabling citizens to exercise a full range of fundamental rights and to have confidence in the justice system throughout the EU." (Europska komisija, 2014)

STRUCTURE OF THE VICTIMS' RIGHTS DIRECTIVE

The Directive is systematically divided into five sections: a relatively extensive and highly significant introductory section divided into 72 recitals, a normative section containing the victims' rights systematized into three groups (see below), other provisions (including those which refer to the education and training of persons dealing with victims) and the final provisions (with particular reference to the provision concerning the replacement of the previous document, more precisely the Framework Decision of the Council of 2001 with this Directive).

The introductory part of the Victims' Rights Directive sets out the basic documents and activities that preceded its adoption and thus provides an overview of the situation in this area. At the same time, in this section, the provisions that in the normative part are operationalized in separate articles are adequately explained.

Victims' rights within the Directive are systematized, relatively speaking, in three groups:1) rights relating to the **provision of information and support** (Articles 3-9); 2) rights related to **the victim's participation in criminal proceedings** (Articles 10-17) and 3) rights related to the **protection of victims and recognition of victims with specific protection needs** (Articles 18-24).

On this occasion, we would try to mention the basic principles i.e. rules from the Victims' Rights Directive as well as their implementation in the national legislation of Member States should be considered.

- the rights stipulated in the document are minimum victims' rights with possibility the states to increase the rights' list in order to provide a higher level of their protection;
- they are applied without discrimination, regardless of citizenship or country of residence of the victims of criminal offenses (of course, if the country of residence is a member of the EU) and irrespective of the seriousness of the offense;
- the victims and (under certain conditions) family members should have access to support services and to be protected from further damage, regardless of whether the crime was reported and whether they participated in criminal procedure;
- Member States are obliged to provide adequate training for the needs of victims for officials likely to come;
- They encourage cooperation between Member States and coordination of state organs, bodies and agencies in their dealings with the exercise of the rights, support and protection of victims of crime.
- For specific categories of victims (trafficking in human beings, children as victims of sexual exploitation and child pornography, gender-based violence) EU legislation establishes special protection and support provided for in specific documents.

At the very end of this section of this work and in the context of the meaning of the Victims' Rights Directive we would remind that the EU has succeeded in many cases in harmonizing Member States' legislation through the strong effect of its *aqui communautaire*. This legislation, which is harmonized according to EU standards, is required from countries as the Republic of North Macedonia, which are interested in this matter and take

appropriate action.[9] Following that direction, we can point out the implementation of the Victims' Rights Directive as **one of the priorities** of the Republic of Serbia in the negotiations for its accession to the EU (specifically foreseen in the Action Plan for Chapter 23 - Judiciary and fundamental human rights). (Nikolić- Ristanović, 2019)[10] Due to this, it becomes clear that the reform of penal legislation in our country, among other things, should move in this direction.

The question that follows is whether as a result of consistent conduction of activities for the harmonization of our legislation with the EU legislation and related reforms we would be talking about accepting a new model of criminal procedure that means proactive participation of the victim/ the injured party, more precisely for the "... model of criminal procedure which involves the victim's participation (victim participation model) which is based on *equality with the victim, respect and esteem his/her dignity".*(Simeonović- Patić & Kesić, 2016) In this occasion we will tackle the question if precisely this model of criminal procedure has been promotedi.e.it has been taken into account of international documents (the UN, the Council of Europe, the Council of the European Union, etc.) that are related fully or partially to the rights of crime victims.

POSITION OF THE VICTIM IN THE LAW ON CRIMINAL PROCEDURE

Macedonian criminal legislation (substantive and procedural), after the independence of our state (more precisely since 1991) is continually characterized in improvement of the position of victims, including injured parties, whereby one can see the detachment both positive and negative tendencies. However, according to our estimates, speaking in general, the positive tendencies have been prevailing therefore we will try to explain that in the further notice. Those changes are in both substantive as well as procedural legislation, though, because of the extent restrictions of our work, we will keep to the latter, as in the Victims' Rights Directive which is the

[9] On 25.03.2020, our country received a status to start negotiations with the EU.
[10] More details on the activities of R. Serbia in this regard: Nikolić- Ristanović, V. (2019) Od žrtve do pobednika- Viktimologija kao teorija, praksa i aktivizam, "Prometej", Beograd, p. 193.

subject of our interest. The changes in criminal substantive legislation will be mentioned only in a function of the purpose of this work.

Whether the 2010 Law on Criminal Procedure[11] in force that replaced the first Law on Criminal Procedure (hereinafter: LCP) in the independent Republic of Macedonia adopted in 1997,[12] justifies expectations in terms of victims i.e. injured parties. We do specify that one of the priorities of the strategic reform documents in the area of Macedonian criminal legislation (Крапац Калајџиев, Камбовски, Бужаровска, 2007), has been the improvement of the victims' situation as well it is one of the pillars of this reform. In this context is the question is whether victims i.e. injured parties have rights which allow them an active role in the proceedings as a party, not only as a participant in the proceedings.

Essential novelty in the 2010 LCP is to distinguish the rights of the victim from the rights of the injured party, which means that the legislator has adopted a modern decision according to which the victim is entitled to certain rights (Article 53 LCP), regardless of whether or not he / she participates in the criminal proceedings. Consequently, his/ her rights are reinforced by a list of rights belonging to the injured party, which, in addition to the rights he/she has as a victim of a crime, also include the rights recognized as a participant in the proceedings (Article 57 LCP). But immediately conclude that the position which the injured party has pursuant to our LCP is not allowed to have the status of a party in the proceedings, namely that can be if the party is involved in a civil suit i.e. a proposal. We stress that in terms of the victims' rights there has been made distinction regarding that the victims' rights in general (regardless of the case or characteristics of the victims), rights relating to victims as particularly vulnerable categories (specified as **threatened or deeply emotional victims,** according to Article 54 LCP), because of their special characteristics, and the victims' rights linked to specific crimes where the victimization level has been increased due to the nature and severity (consequences) of particular cases (against sexual freedom and gender morality, humanity and international law- Article 55 LCP). Additionally, to these, there are victims of

[11] Law on Criminal Procedure ("Official Gazette of the Republic of Macedonia" No. 150/2010, 100/2012, 142/2016 and 198/2018).

[12] The first Macedonian Law on Criminal Procedure was adopted at a session of the Assembly of the Republic of Macedonia, held on 26 March 1997 (Official Gazette of the Republic of Macedonia, No. 15/1997).

gender violence (primarily those related to domestic violence) as well as cases of hate, which have recently become one of the current topics and have been incriminated in more crimes (listed as aggravating or square circumstances under the Criminal Code) but this is not accompanied by changes in procedural law in respect of their special protection. We are obliged to note that one of the drafts of the valid LPC, and the significant changes in terms of the status and rights of the victim in the law, respect for their rights was before deferred as one of the fundamental principles of our criminal procedure. Due to different understandings within the Commission, this proposal was not accepted i.e. omitted from the final version of the LCP. Besides the fact that one of the authors of this work was summoned as an expert regarding issues related to victims, who was not permanent member of this Commission. Our opinion is that this proposal, which would have been properly operationalized in favour of injured parties as well as it would have paved the way of the acquisition of status parties in the proceedings.

What are the rights with which we can illustrate the active role of the injured party in our LCP? They would include the right of the injured party (including the private lawsuit) in the course of this procedure, the following should be performed: to point out all the facts and propose evidence, inspect the files, question the defendant, witnesses and experts, make observations and explanations regarding injured parties' statements and to give other statements and to put other proposals, as well as the right to review files and objects serving as evidence (Articles 64, paragraphs 1-3), which prescribes the obligation of the Public Prosecutor (hereinafter: the Public Prosecutor-PP) to meet the injured party and the private lawsuit for rights cited in the preceding paragraphs (paragraph 4). Furthermore, the rights of the injured party related to inspection of the record (Article 92), as well as the right during the investigative process in order the public prosecutor to be proposed that he/she could take certain actions in order to realise the prescribed rights (Article 293 LCP). [13]

[13] In this context, we would mention the experience of the Republic of Serbia citing Nikolic-Ristanovic, V., who explains the current LCP of Serbia which deprive some rights of the victim (according to their law : injured party) provided in the previous PCU containing decisions in which the victim "had a greater number of rights that are essential for its active role in criminal proceedings and access to justice."Nikolić- Ristanović, V. (2019) *Od žrtve do pobednika*- Viktimologija kao teorija, praksa i aktivizam, "Prometej", Beograd, p.208-209.

On the other hand, our LCP suspend an injured party right of a subsidiary lawsuit that the previous law had. Namely, in Article 42 of LCP, it is generally prescribed decision when a public prosecutor may waive from criminal prosecution, according to which in cases prescribed by law can waive criminal prosecution until the completion of criminal proceedings. Waiving of the public prosecutor has adequate arrangements in relation to the phase of post the arch that leads about a particular criminal part. On this occasion we will dwell on decisions related to the role of the injured party in cases of such waiving.

The right of the injured party to react to the decisions of the public prosecutor and to be the corrector of the public prosecutor possible unethical or illegal conduct is in accordance with the decision prescribed in Article 301, paragraph 4 LCP, regarding the completion of the investigative procedure, according to which he/she may file a complaint with the Senior Public Prosecutor. However, on this occasion we can conclude that the injured party has a proper stroke at all stages of the procedure. In addition to that is the decision by which he/she can submit a complaining the case of adoption orders by the public prosecutor to stop the investigation, in this situation there is a deadline for complaints well as the deadline for a response by a senior public prosecutor.

However, the decision contained in Article 341 LCP regarding the waiver of indictment by the public prosecutor, confirming the abolition of the right of the injured party to prosecute (to submit a subsidiary lawsuit) as an important right of the injured party and in addition to his/her active role in the procedure. Namely, that right is transformed into less in its meaning, the right of the injured party to submit a complaint against a decision to stop a direct procedure to the senior public prosecutor (Article 341, paragraph 3).

The Institute of conditional postponement of the criminal prosecution, it is regulated with Article 43 of the LCP, in paragraph 1 is specifically prescribed that the public prosecutor with the consent of the injured party (emphasized by the author) may postpone criminal prosecution for a criminal offense for which a penalty of imprisonment up to three years is prescribed if the suspect is ready to act according to the instructions of the public prosecutor and to meet specified obligations with which reduce or remove harmful consequences of the criminal act, an end is put to the harassment that is a result of the criminal offense i.e. this is done in order the suspect to be reintegrated. Taking into consideration this decision, the aforementioned

institute of conditional postponement of prosecution is viewed not only as an expression principle of opportunity applied by the Public Prosecutor in performing duties but also as one of the restorative mechanisms.

Moreover, regarding the institute in adopting a judgment based on agreement between the public prosecutor and the suspect which is stipulated in our LCP (Article 483, paragraph 2), according to which is given limited role of the injured party in terms of the type and the amount of the indemnification claim (Article 484). Also, there is a restriction to injured party and that is the type and the amount of the indemnification claim may be subject of bargaining if there is a consent by the suspected person as well as Article 490 (paragraph 4) in accordance with another opportunity that is at the disposal of the injured party if he/she is not satisfied with the decision on the type and amount of the awarded legal claim, he/she may exercise his/ her right in a civil procedure, which must be admitted is the difficult way for the injured party to exercise this right!

What are the positive novelties in the LPC which among the other issues are as well related to the rights, support and protection of victims provided for in the Victims' Rights Directive?

Above all, there are decisions on preventing secondary and repeat victimization. Besides the previously mentioned articles that refer to victims' rights (Articles 53-55 LPC) and rights of injured parties (Article 57 LPC) as significant in this regard we indicate Article 232 LPC which prescribes a special regime for examination of particularly[14] vulnerable victims and witnesses are systemized within Chapter XVIII of the LPC concerning evidence. However, there is no doubt that the mentioned article is of limited scope as it concerns the examination of particularly vulnerable victims and witnesses. Determination of this category of persons is according to prescribed criteria; the obligation to pay particular attention by the authorities; separation in special facilities outside the premises of the body conducting this procedure; carrying out the examination by experts; and appointing a victim's proxy are significant innovations, so far unknown in our procedural legislation. We stress that with these decisions of our LCP almost

[14] Regarding the legislator's wording "particularly vulnerable "we wonder whether the legislator knows of "not particularly vulnerable victims and witnesses...". Hence, we consider the word "particularly "is not necessary or that is tautology. In support of our suggestion is Article 54 LPC where only "vulnerable categories of victims" is used.

fully complied with the standards set in the Victims' Rights Directive when this category of victims and witnesses is implied to (Article 20). Nevertheless, we wonder about the need of protection to secondary and repeat victimization of the others that is to say "ordinary" categories of victims who also need such protection.

The introduction of restorative mechanisms also contributes to the improvement of the victim's position, including his/her more active role in criminal proceedings both inside and the criminal process (before and after the procedure). Which are they? In this context we will mention, above all, the mediation (which is covered in details as a separate procedure in separate chapter as well as in Articles 491- 496), reconciliation hearing (Article 475), as already mentioned as well as commented- conditionally postponement of prosecution (Article 43). But we will not talk about the significance and benefit for victims by establishing restorative mechanisms (which sadly, according to our knowledge, sadly, have never been practiced).

At the same time, we would particularly espouse the right to compensation for the material and non-pecuniary damage caused to victims by a state fund (within the scope of the victims' rights listed in Article 53 of the LCP) in case of possibility of damages not being recovered from offender that needs to be regulated by a special law.[15]

MACEDONIAN CRIMINAL PROCEDURE LAW AND THE VICTIMS' RIGHTS DIRECTIVE

Within this part of our work, we would give an introductory and general indication which notifies that one of the weakness of our Criminal Procedure Law is even though that most victims' rights i.e. injured parties are prescribed and even listed in the LCP, they are not operationalized as the victims' rights contained in the Directive. This refers to the three groups of victims' rights (which we will address in the remainder of the question), with some of these groups as a whole being less represented in our criminal procedure law. Probably it is due to the realization that part of these rights by their very nature do not belong to the criminal proceedings. But the fact is

[15] Draft law on Payment of Compensation to Victims of Crime, Skopje, September 2019. It is a law that has been announced and drafted for a long time, but unfortunately, it has not been adopted yet by the Macedonian Parliament.

that these rights are not only complementary to those prescribed in the LCP, but are indispensable for the creation, we would have liberty to say, of a system of assistance, support and protection for victims of crime, as well as of their successful implementation. One of the possibilities how to overcome this situation is the commitment that will be exhibited in the concluding part of our work.

Next is a brief comparative overview of the provisions of the Victims' Rights Directive and their implementation in our Criminal Procedure Law. Due to the restricted scope of our work, we would have to focus on the Law on Criminal Procedure. As we have mentioned earlier victims' rights in the Directive are systematized into three groups.

The first group of the victims' rights refers to giving information and support to the victims (Chapter 2 of the Directive).

Right to understand and be understood (Article 3) - we can conclude that this right is not formulated in such a firm way i.e. prescribed in our LCP. However, certain provisions apply to this right. There is also an interesting possibility provided for in the mentioned article, since the first contact with competent official body, the victims should be supported by a person that they will choose during the whole procedure but only under certain conditions (paragraph 3). This possibility is also provided under certain conditions in our country, which we have already discussed about.

Right to obtain information from the first contact with the competent body (Article 4)- details about what type information is stated can be seen from (a) to (k) emphasizing the need that victims should be given information "without undue delay". The scope and details of information depends on the particular needs and circumstances of the victim as well as the type and nature of the offense.

Right of victims in filing charges (Article 5)- stipulates obtaining written formal charges filled by the victim concerning his/ her case (paragraph 1), and those who do not understand or speak the language of the authorities are entitled to obtain translated document free of charges (paragraphs 2 and 3). The Decision in Article 55 (paragraph 2) of the LCP is quite modest and refers only to a particular category of victims of crime against gender freedom and sexual morality, humanity and international law. We wonder why this does not apply to victims at all, even to the vulnerable category of victims.

Right of victims in obtaining information on their cases (Article 6). It is much more elaborated than in our legislation -e.g. paragraph 1, items a) and b), paragraphs 2-6 (the last one covers six sub-items) with many modalities and enabling victims at any time to revoke their decision on the need for information, and Member States should take this into account.

Right of victims to oral and written translation (Article 7)- it is stipulated the use of modern communication technologies for the interpreter's testimony, at the same time the right of defence should not be disturbed. The right is elaborated in detail in eight paragraphs. Paragraph 8 creates a dilemma, since it determines a general clause according to which this right for translation "must not postpone criminal procedure unreasonably."

Right to access victim support service (Article 8) and *Right of support from victim support service* (Article 9). These services as well as NGOs as entities that can assist victims/ injured parties are not mention in the LPC at all. It is important that these services act not only during, but also before and after the criminal procedure and that their services are free, and that the principle of confidentiality must be respected when it comes to victims. Also, family members of the victim have the right of access to these services under certain conditions which are stipulated in Article 8. Besides the general services, there are so called specialist victim support services.

The second group of victims' rights set out in Chapter 3 of the Directive refer to their **participation in criminal proceedings:**

Right of hearing (Article 10)- victims to be heard and to be able to adduce evidence. *Special rules regarding the hearing of a child,* taking into account his or her age and maturity. However, they leave the rules to be laid down in national law.

Rights in the event of a decision not to prosecute (Article 11)- details of the various cases concerning the non- prosecution and according to differences in the position of the victim in the particular penal system. The decisions in our LCP regarding this right are explained in more detail in the previous section of this work.

Right to safeguard within the Damage Correction Service (Article 12)- we do not have such official services and therefore in order to implement the Directive in national law, such services will have to be set up.

Right to legal aid (Article 13)- is conditioned by the status of a party in criminal proceedings. Regarding the legal assistance of victims in our LCP there are provisions and conditions under which it can be used. Namely, it is

referring to the victims of crimes against sexual freedom and morality, humanity and international law entitled before the examinations to discuss with free counsellor or attorney, provided that part of the procedure, i.e. only as injured parties (Article 55, paragraph 1, item 1). In our view, the dilemma is: Does the provision of Article 53, paragraph 1, item 13 also apply to this right?!

Right to reimbursement of costs (Article 14)- is a matter of cost incurred on the basis of "active participation in criminal proceedings", according to victims'/ injured parties' position in the specific legal system. This right of the victims / injured parties is not foreseen in our country.

*Right to property reinstitution (*Article 15)- property that is confiscated during the criminal procedure, which should be returned to the victim without delay, unless necessary for the purpose of the procedure itself. In this regard, the provisions of the LCP for the transfer of objects (Article 115), the return of objects (Article 119) and the provision of temporary security to a third party (Article 120). So, it is a set of rights available to the injured party to enable him/her to exercise his right to restitution.

Right to a decision on compensation by the offender during the criminal proceedings (Article 16) - it is preferable that the injury should be compensated by the offender during the criminal proceedings and within a reasonable time unless national law provides for such decisions to be taken another (for example civil) proceedings. Paragraph 2 is important in which State is required to initiate measures and stimulating the offender to make compensation to the damage/injury. This right is not explicitly mentioned in the LCP, even when it is exercised in the so-called property and legal claim provided in the adhesion procedure prescribed by "retention" i.e. with a clause normally used by judges to evade a claim and direct the injured party to litigation.

Rights of victims residing in another country (Article 17) - above all, this refers to the victims who are citizens of the EU countries this Directive is Mandatory for them. Surely those provisions are in favour to strengthen EU law and one European area of justice to be created, which is one of the goals of the Directive.

The third group of rights provided for in the Directive, contained in Chapter 4: **Protection of victims and recognition of victims with special needs of protection.**

Right of protection (Article 18) – to victims and their family members of secondary and repeat victimization intimidation and retaliation, including protection against emotional and psychological harm, as well as protection of the dignity of victims (and their families as needed) throughout of examination and testimony. This is a relatively new prescribed law but not in a comprehensive manner in the provisions of the LCP. Besides, it is not mentioned what is the specific function of the law of protection as it is clearly stated in the Directive.

Right of avoiding contact between the victim and the perpetrator (Article 19) is implemented in the LPC (Article 232, paragraph 6), according to which a specific category of victims is entitled to this right.[16]

Right to Protection of Victims During Criminal *Proceedings Investigation* (Article 20) - detailed case law (in four prescribed cases) and has already been commented on its implementation in the previous section of this work.

Right to privacy (Article 21) is in principle prescribed in the LPC, as one of the rights of the injured party but not to the victim (Article 57, paragraph 1, item 14) and it is without development.

Individual assessment of victims to determine the specific needs of protection (Article 22) - in the Directive are thoroughly listed and developed criteria as well as the basis for this assessment. The provisions of Article 54 and Article 232 of the LCP which basically are device f this assessment, strengthened by the rights of victims of crime of effective psychological and other professional assistance and support by the authorities, institutions and organizations to help the victims (Article 53, paragraph1, item 3) i.e. with the help of a psychologist, social worker or other professional (Article 232, paragraph 4). We do note that this is applied in cases when victims give testimonies and during the examination of all stages of the proceedings. However, it is necessary to work on developing an appropriate methodology for individual assessment.

Right to protection of victims with special needs of protection during criminal proceedings (Article 232). The LCP (Articles 54 and 55) is provided within the provisions on the victims' rights as well as some specific

[16]The injured party or witness of paragraph (1) of this article is not allowed to be faced with the accused and the other witnesses only upon their request (Article 232, paragraph 6 LCP). It is about examining "particularly vulnerable victims i.e. witnesses. "

provisions that operationalize this right important for the particularly vulnerable categories!

The right to protection of children as victims in the criminal procedure (Article 24) - for us these rights are specifically regulated by provisions contained in the Law on Children Justice[17] in particular (the fifth) part, in chapter sixteen with title: Protection of a child as an injured party or a witness in a criminal proceeding (Articles145-153). Analysing the already mentioned provisions, we briefly can conclude that the standards of the Directive are respected in the alleged law when it comes to children as victims.

Within the section of the Directive entitled as: **Other Provisions** (Chapter 5) very important for the realization of the prescribed rights of victims, special attention is paid to: *Employee training* (Article 25). These are persons who are likely to come into contact with victims, such as police and judicial staff, who are provided with general and specialist training to the level required for their contact with victims in order to raise their awareness of the needs of victims in order to provide them with assistance. the treatment of victims was made impartial, cautious and professional (Paragraph 1).

The issue of which other entities should be trained in the area of rights and protection of victims is regulated in paragraphs 3-5 of the same article together with the provision of general specialized training (in particularly judges and state prosecutors) by those who are liable for such training (Paragraph 2). It is no coincidence that this standard for the training of staff working with victims (general and specialized) is an issue that the Directive pays distinct attention, believing that the only way victims will receive quality service when it comes to their rights. In our legislation, this issue is mentioned in several provisions but without special insistence, except as an exception, on the responsibility of the state for the realization of such training and education. The exception to this is the Law on justice for children where is insisted on continuous training (through a year) of persons working with child victims of crimes (social workers, prosecutors, judges and lawyers).

[17]The Law on justice for children is published in the "Official Gazette of the Republic of Macedonia" No. 148/2013, and its amendments in the Official Gazette of the Republic of Northern Macedonia, No. 152/2019.

This chapter ends with provisions of Article 26 that refer to *cooperation and coordination of the services of State Member States* to increase the availability of victims to their rights set out in the Directive in national law. This involves: (a) exchanging best practices; (b) consulting in individual cases; and (c) assisting European networks dealing with issues directly related to victims' rights

INSTEAD OF A CONCLUSION

If to the above stated is added a restrictive approach in prescribing certain rights of the victim (e.g. the right to compensation by a State compensation fund and citation to a special law that has not been adopted yet etc.), or even the abolition of some pre-established rights (right to file subsidiary complaint), then the area for the victim's rights to be granted is even bigger notwithstanding the recent progress that has been made in this area. We can also add that part of the rights are stipulated but not precisely defined, which leaves possibility for their inconsistent or incomplete implementation. Besides, a particular problem might also occur due to the fact that our justice authorities are not sufficiently sensitized for victims' rights as well as overall for their role, place and significance in the procedure (police procedure, prosecution procedure and court procedure).

Finally, we would incline to considerations and recommendations de lege ferenda that choice of the Law on Criminal Procedure as a central law on the rights of victims of crimes (which include assistance, support and protection) is not the best decision because the rights of the victim are not limited to their participation in criminal proceedings. "Currently the rights are regulated by laws and bylaws in different areas", therefore the result of this is "too many norms and normative non-compliance (for example different definitions of victim)."(Hrvatski pravni centar, 2017)[18] Hence, there is a commitment of stipulating the rights of the victim by **a special law** (some authors call it "Charter of Victims") that would stipulate the victims' rights out of criminal proceedings. In this way, we would also confirm the thesis

[18] More details: Preporuke za unapređenje sustava podrške žrtavama po projektu "Ciljana i rana procjena potreba i podrška žrtvama kaznenih djela" Hrvatski pravni centar, Ministarstvo za pravosuđe i Ured za ljudska prava i prava nacionalnih manjina Vlade RH/ http://www.hpc.hr/wp-content/uploads/2017/12/TEVNAS2Preporukezaunapredjenjesustavapodrskezrtvamakaznenihdjela.pdf-accessed on 25.03. 2020

related to the victims' rights in the Directive, according to which they are broader than victims' rights within the framework of criminal proceeding.

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CYBER SECURITY IN EUROPEAN CIVIL AVIATION INDUSTRY

Tomislav Tuntev PhD
Civil Aviation Agency

Gjorgji Alceski PhD
TAV Macedonia, Ohrid St. Paul the Apostle Airport

Abstract

The increasingly emphasized need for achieving an optimal level of security within the cyber environment of "insecurity" and the growing dependence on information technology have created real conditions for developing wide range of new risks, threats and dangers, including the cyber terrorism. Keeping in mind the complexity of cyberspace and the reality that cyber-attacks are inevitable, developing a strong and effective security policy is more and more directed in the area of civil aviation as one of the most complex systems, specifically integrated in the global information and communication technology.

Aviation, as the most dynamic and fastest growing industry and at the same time the safest way of transport, is promoting a universal standardized level of safety and security, supported by relevant legislation, advanced systems and technologies and appropriate educational and training programs. The aviation as a global transport system, in terms of functional layout, can be provisionally subdivided into three subsystems: airports, airlines and air traffic management. Each of them consists of several functional elements: system user, infrastructure, controls, procedures, technologies, technical and human resources, etc., and all of them are vulnerable to cyber-attacks.

Because of this, the aim of this paper is to analyze the ongoing practices and activities that play significant role for the development of cyber security within the civil aviation sector all over the world, with an accent to the European air transportation system. The paper is describing the key factors and specific security activities and initiatives within ICAO, IATA, IFALPA, ECAC, EASA, and specially EUROCONTROL, providing accurate information of what is being and must be done on international and national level about this issue. At the same time, the paper should raise the common awareness about the significance of the need to implement contemporary aids, new technologies and advanced trainings in aim to improve the civil aviation safety and security.

Keywords: *civil aviation, cyber-attacks, cybercrime, data breaches, security, safety*

INTRODUCTION

Aviation security still remains one of the most critical area of focus amongst all stakeholders despite the multitude of different measures and investments made in enhancing security of civil aviation operations worldwide in the last 20 years. Since the terrorist attacks of 11 September 2001 in the US, there have been many more incidents that had followed thereafter. Just to name a few that were more significant: the threat from liquid explosives in 2006, the "underwear bomb" in 2009, the attempt to destroy aircraft using improvised explosive devices hidden in printer cartridges in 2010, the bomb attacks at Moscow's Domodedovo Airport in 2011 and at Burgas Airport in 2012, the Airbus A321 explosion Metrojet Flight 9268 from Egypt to St. Petersburg above the Sinai in 2015, Istanbul and Brussels airports bombings in 2016, etc. All these incidents show that even though many new security Standards and Recommended Practices (SARPs) have been introduced under Annex 17 (Security) to the Convention on International Civil Aviation Organization (ICAO), and despite the implementation of many new security measures by States and stakeholders, terrorists continue to look for new ways to carry out attacks on civil aviation operations to achieve their goals. Amidst all the efforts to deal with new and emerging aviation security threats, one major security challenge which the civil aviation community ought to quickly focus attention on lately is the threat from cyber-attacks. Security in the area of aviation every new day is less and less metal detector door, x-ray baggage scanning, body scanner or perimeter fence, and more and more digital data system protection.

CYBER SECURITY CHALLENGES FOR THE AVIATION INDUSTRY

The threats to civil aviation operations from cyber-attacks are not new. The use of computer-based systems in almost every aspect of civil aviation operations – ranging from sophisticated air navigation systems, on-board aircraft control and communications systems, airport ground systems including flight information and security screening, airline booking and reservation systems, to simply inventory and day-today office data management systems – have been going on for many years now. Similarly, cyber threats such as computer viruses and more malicious deliberate attacks

on computer systems by hackers and other adversaries are not new occurrences. With the continued growth of the global civil aviation industry, the increasing number of passengers and aircraft movements, the development of new, larger and more modern airports as well as the introduction of new and more sophisticated aircraft, there will certainly be greater use of IT as well as more advanced computer-based systems in all aspects of civil aviation operations. This is also encouraged by the permanent desire to achieve greater efficiency, to reduce the use of human resources, to have more intensive use of IT for smaller operating costs and to raise the level of cooperation between stakeholders. Many airports and airlines are also introducing more efficient ways for passenger facilitation, such as using mobile devices for electronic ticketing, check-in and immigration clearance.

These innovative measures definitely widen the digital interface between airlines and airport systems to a very large extent for the expanding number of passengers and airport users. Today, there is tremendous dependency on computer-based and IT systems in the entire architecture of a state's civil aviation system and this dependency will only continue to grow. The terrorists are increasingly using more sophisticated and modern technologies using computer-based and IT systems, so there is no doubt that cyber security is certainly the next frontier for preventing serious threats and challenges to civil aviation.

There've been a number of incidents in recent years marked as cyber-attacks which demonstrated that vulnerabilities in the civil aviation system to cyber security threats certainly exist and that must be urgently addressed. The serious threats posed by cyber-attacks have certainly been well-recognized by many stakeholders in the global civil aviation community. Many efforts have been embarked upon and more are being pursued to address these concerns – by regulators, airlines, airports, aircraft manufacturers, navigation service providers and the relevant industry international organizations and associations: ICAO, IATA (International Air Transport Association), IFALPA (International Federation of Airline Pilots Association), FAA (Federal Aviation Administration), ECAC (European Civil Aviation Conference), EASA (European Aviation Safety Association) and, of course, EUROCONTROL (European Organization for the Safety of Air Navigation).

However, there are still no unified, clear and strong international standards for cyber security design and testing, which is widely acknowledged to be an issue. In the last few years there were some initiatives

from the mentioned entities above to address the lack of standards, or to establish a new industry working group to provide guidance on how to improve cyber security on e-enabled aircraft, or to held a workshops to address cyber security, or to find the right way for better sharing of airline cyber threats among governments and airlines worldwide and asked governments around the world to take a more active stance in improving cyber security.

As the aviation industry is known for providing one of the safest types of transportation, it is mandatory for the stakeholder to consider seriously the cyber threats if they want to preserve the efficiency, security and resilience of their systems. Moreover, underestimating these new types of threats would lead to a drop in the number of users as people would are looking for a safe transportation network. To deal with these threats and to maintain a high degree of confidence, stakeholders would need to continue the efforts made to date. To strengthen its cyber security, the aviation industry could consider some of the propositions made by experts and agencies globally.

DATA BREACHES IN THE CIVIL AVIATION SECTOR

Data breaches in the aviation sector are increasingly becoming an attractive tactic for cyber criminals, due specifically to the amount of personal information that is being processed and opportunities to misuse them. Like other advanced industries, the civil aviation has completely digitalized many of its processes.

Furthermore, the air travel systems consist in myriads of digital services collecting and sharing personal data of hundreds of millions of individuals from all over the world. Booking a flight ticket is probably one of the digital processes where geographical borders have been abolished. For example, French national living in Germany can book a flight on a Japanese airline, after providing personal details to a US company and executing his payment via a Swiss bank.

Considering the rising number of breaches in civil aviation industry, addressing cyber security becomes a challenge of its own. Third-party commercial software or digital solutions from non-aviation companies are often used by airlines and airports. Tickets can now be purchased and modified with mobile devices through websites, some of which are even

directly integrated into the airline networks. Certain companies even allow their pilots to bring and integrated their own devices into the cockpit.

All these aspects including security carelessness of certain staffers are creating additional opportunities for hackers and making it more difficult for cyber experts and regulators to fully contain the threats. Because of all this, cyber security in the aeronautic sector seems now to become a priority, as regulators world-wide increase their pace in developing security rules and guidelines.

In recent years, many data breaches have been reported in this field. The most recent and popular incidents have been summarized in the table below.

Table 1. Recent biggest data breaches in the Aviation sectors

Date	Victim	Motive/Details	Country
2020			
Mar 20	General Electric	This multinational operating big company in a wide range or tech segments including aviation, power, healthcare and renewable energy, disclosed that personally identifiable information of current and former employees, as well as beneficiaries, was exposed by one of GE's service providers.	US
Feb 20	Eurowings Airline	The Lufthansa subsidiary low-cost airline has suffered a serious data breach, all users of the airline's online portal were reportedly able to temporarily view the data and bookings of other travelers who had logged in at the same time.	Germany
Feb 20	Transavia Airline	Data leak affected more than 80.000 passengers of the Dutch low-cost airline, including passenger's full names, date of birth, flight information, booking numbers, luggage purchase, etc.	Holland
Jan 20	Indian airline (SpiceJet)	SpiceJet, one of India's largest privately-owned airlines, suffered a data breach involving the details of more than 1.2 million of its passengers.	India
Jan 20	International Air Transport Association IATA	The International Air Transport Association (IATA) warned stakeholders to be cautious after fraudulent emails impersonating the organization were circulated.	World
Jan 20	Greek Banks	Greece's four main banks have cancelled and are planning to replace 15,000 credit cards, after a travel service website used by some of their customers was hacked.	Greece
Jan 20	Air China	An Air China flight attendant accused of publishing personal information on social media about the	China

		celebrities he served in the air has been suspended.	
2019			
Dec 19	TAROM Airlines	TAROM Airlines was fined €20,000 after employee leaks passenger details.	Romania
Dec 19	US aerospace & defense contractor	Major data leak from US aerospace and defense contractor (including extensive personal information on more than 6,000 Boeing employees).	US
Nov 19	Lion Air	PT Lion Mentari Airlines investigated a breach that led to personal data of passengers on its Malaysian and Thai units being leaked online.	Indonesia
Oct 19	PAL Airlines	PAL investigated a data breach that had employees' & customers' data exposed.	CAN
Sep 19	Lion Air Group	Malindo Air, a subsidiary of Lion Air Group, reportedly suffered a data breach that has compromised the information of 35 million passengers.	Malaysia
Sep 19	Teletext Holidays	TELETEXT Holidays (British travel company) left over 200,000 customers' personal details exposed in a major security breach for 3 years.	UK
Aug 19	Air New Zealand	Data breach of potentially over 100,000 Air points customers.	NZ
Aug 19	Delta Airlines	Delta Airlines sued a Chatbot vendor of customer service technology, [24]7.ai, for a breach of passenger data because of had a weak password for its systems.	US
Jul 19	Wizz Air	Hungarian budget airline Wizz Air advised 3.4 million customers to change their passwords, amid growing fears the airline may have been victim of a cyber-attack.	HU
Jun 19	Miami International Airport (MIA)	Cuban Intelligence Services successfully received confidential information regarding inner workings, airline operational records & restricted area access of MIA.	US
May 19	Airlines & travel booking sites	Iranian hacking (MuddyWater & OilRig) focused on airlines, by retrieving passenger manifests, reservations, payment card numbers and travel booking sites reservations.	Iran
May 19	Amadeus Israel	A security flaw on the Amadeus Leisure Platform site, exposed 15 million travelers' data including flight plans and sensitive data of Prime Minister & top security officials.	Israel
Apr 19	Cebu Pacific	Cebu Pacific claimed all online channels of its rewards program GetGo were temporarily disabled as it investigates a breach that hit the platform's server.	Philippine
Mar 19	Cleveland Hopkins International Airport	The airport information systems were illegally seized and a hacker didn't want to unlock the affected servers until a ransom is paid via Bitcoin, but there was not impact to the airport's security and operations systems.	US

Feb 19	Southwest, AF/KLM, Jetstar, Thomas Cook, Air Europa	Researchers discovered that multiple airline e-ticketing systems did not encrypt check-in links allowing bad actors on the same network as the victim to view flight booking details and leaving personal customer data open.	US, EU
Jan 19	Beirut Airport	The website of Beirut's Rafik Hariri International Airport was hacked and was temporarily down, just hours after hackers also infiltrated the Energy Ministry's official website.	Syria
Jan 19	Resbird Technologies (Amadeus distributor)	Customer information was stolen from an Amadeus independent distributor in India, by its own employee and passed on to a third party.	India
Jan 19	Singapore Airlines	Singapore Airlines' frequent flyer members have had their personal data potentially stolen following a software bug.	SIN
Jan 19	Airbus	Airbus disclosed data breach of its "Commercial Aircraft business" systems allowing intruders to gain access to its employees' personal information.	EU
2018			
Nov 18	Cathay Pacific	Data of nearly 9.4 million people were at risk after their personal information was accessed in a security breach witnessed by the airline.	Hong Kong
Oct 18	Heathrow Airport	Information Commissioner's Office fined Heathrow with £120,000 for failing to secure sensitive data, after employee lost a USB stick containing confidential information.	UK
Sep 18	British Airways	British Airways encountered a sophisticated breach implicating 380,000 passengers.	UK
Aug 18	Air Canada	Air Canada noticed unusual logs on its app in which criminals potentially stole personal data of customers, forcing the locking of all its 1.7 million accounts.	CAN
Jun 18	Thomas Cook Airlines	It was possible to retrieve leaked passenger information data for travelers from 2013 to 2018 from Thomas Cook Airlines.	UK
Jun 18	Flightradar24	Swedish-based flight tracker Flightradar24 suffered a massive data breach that may have compromised more than 230,000 customers	Sweden
Jun 18	Delta Airlines	Delta Airlines online customer's payment information, were affected after one of its business processing firm was breached.	US
2017			
Oct 17	Airlines & travel agencies	Attackers were spotted using spear phishing emails with malicious attachments (ELIRKS malware) to spoof airline & travel agencies' documents.	Japan
2016			

Nov 16	International Civil Aviation Organization ICAO	The Montreal-based organization was hit by the most serious cyber-attack in its history, and internal documents obtained by CBC suggest key members of the team that should have prevented the attack tried to cover up how badly it was mishandled.	World

The type of organizations in the aviation sector that could be considered as attractive targets to retrieve sensitive data by intruders are airlines, airports, aircraft manufacturers, equipment suppliers, booking systems, travel agencies and even government entities. Each of the above listed organizations could be subject to data exposure such as personal data (name, addresses, phone numbers, birth date, and social security), banking details, passport/visa information, flight plans, airline operational records, airport security information (i.e. restricted area access), and even frequent flyers data could be useful for fraud by generating fake loyalty bonus points. Technologies and platforms such as cloud storage, websites, mobile apps, maintenance organization databases as well as unencrypted database backup files are considered to be popular targets.

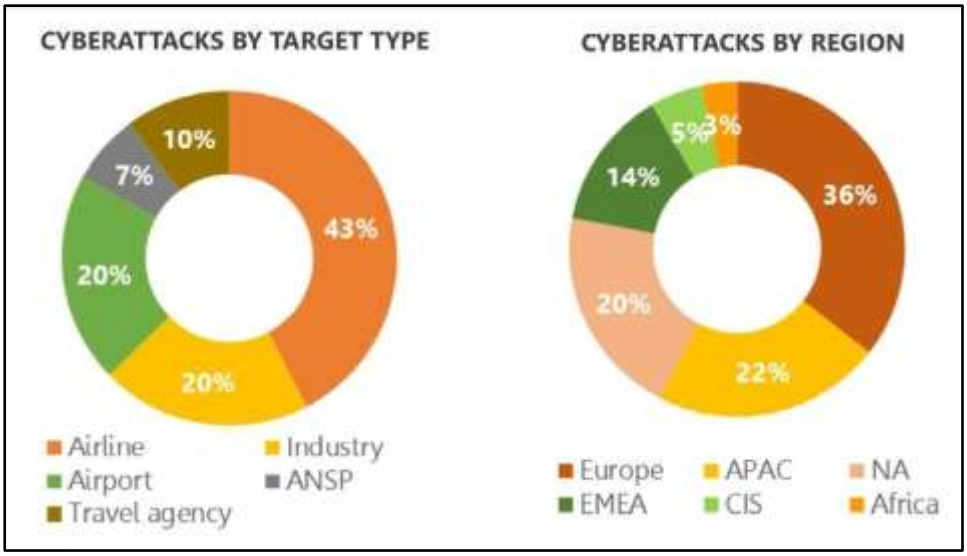

Figure 1. Cyber-attacks around the world by target type and by region in 2019

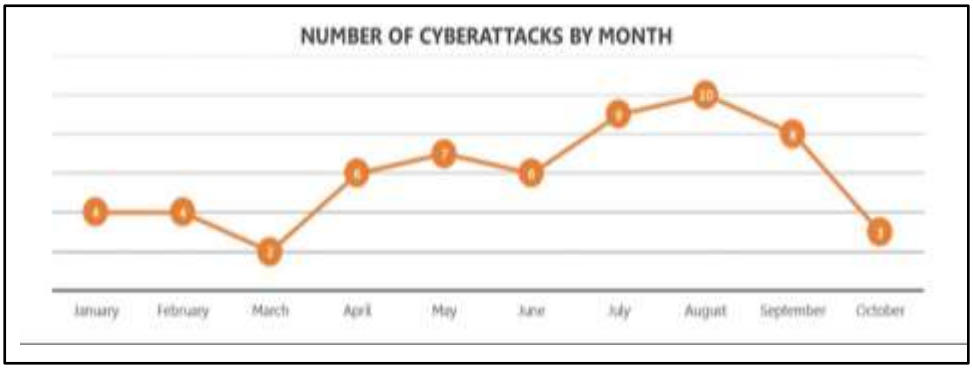

Figure 2. Total number of world cyber-attacks in 2019 by month

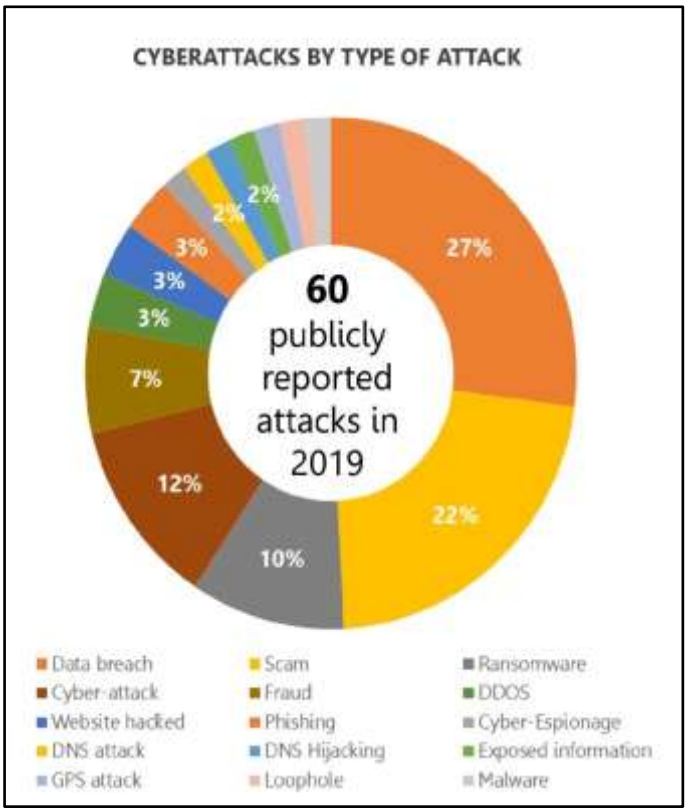

Figure 3. Cyberattacks around the world by type of attack in 2019

EATM CERT OF EUROCONTROL

Having in mind the great importance of the issue of cyber security in the field of aviation and the European global air transport system,

EUROCONTROL recently has set up a specialized cyber-attack protection body – a special team to deal with cyber threats. The EUROCONTROL's European ATM (Air Traffic Management) CERT (Computer Emergency Response Team) supports all services and products, as well as ATM stakeholders, in protecting themselves against cyber threats that would impact the confidentiality, integrity and availability of their operational IT assets and data. This specialized body provides the following services to ANSPs (Air Navigation Services Providers) and aircraft operators in EUROCONTROL's Member States:

- Proactive cyber security services within EUROCONTROL, and, on a voluntary basis, progressively to EUROCONTROL stakeholders (air navigation service providers and airport operators);
- Collection, generation and distribution of ATM-relevant cyber intelligence within EUROCONTROL and, on a voluntary basis, to EUROCONTROL stakeholders;
- Coordination of Pan-European ATM response to ATM relevant cyber security alerts and incidents, on a voluntary basis;
- Procurement of cyber services of common interest for the community (air navigation service providers and airport operators);
- Support to national CERTs for ATM-related operators of essential services.

This means the EATM CERT's mission is to support the ATM Stakeholders (ANSPs, airport operators and airspace users of EUROCONTROL Member States wishing, on a voluntary basis, to use this service) to protect themselves against cyber threats that would affect the confidentiality, integrity and availability of their IT assets and data. The scope of EATM CERT's activities includes providing prevention, detection and response capabilities, developing and distributing timely cyber intelligence and collaborating with national and international ATM stakeholders, ATM manufacturers, as well as the sectorial/national CERTs.

EATM CERT is sponsored by EUROCONTROL and operates under the authority of EUROCONTROL. This specialized body is capable to give to the constituent:

- Announcements and advisories,

- Alerts and Warnings,
- Cyber Threat Intelligence,
- Security Assessments,
- Incident Response and Coordination,
- Artefact Analysis,
- Training and Education.

Alerts and Warnings service involves disseminating information that describes an imminent or on-going cyber threat targeting the user and includes, but is not limited to, information about a threat actor, threat campaign, malware, high impact vulnerability specific to your infrastructure as well as any short-term recommended course of action for dealing with the resulting problem. Cyber Threat Intelligence consists in disseminating actionable information on targeted or other relevant cyber-attacks. This enables constituents to detect if they have been affected by similar cyber threats, prevent the occurrence of corresponding cyber-attacks on their IT infrastructure, react appropriately in case of cyber-attack, and report to EATM CERT to assist other constituents to counter the cyber threat. The aim of Security Assessments is to detect weaknesses in systems of constituent using ethical hacking techniques, vulnerability scan and configuration audits and help them harden it. Incident Response and Coordination Support assists and guides the victim(s) of the attack in recovering from an incident via virtual crisis room, phone, email, fax, or documentation on a best effort basis. This can involve technical assistance in the interpretation of data collected, providing contact information, or relaying guidance on mitigation and recovery strategies.

Artefact Analysis performs or supervises the performance of a technical examination and analysis of artefact found on a compromised system. Finally, EATM CERT provides training and education services to increase the knowledge and technical abilities of constituents within three different user groups: cyber security awareness for non-technical users who are using computer systems in their everyday business activities, special management training for the decision makers and management staff and technical trainings for technical staff who is working in IT departments, operating IT systems.

MKD-CIRT

According to the Article 26 of the Law on electronic communications, the National Center for computer incidents response (MKD-CIRT) is set up within the Agency for Electronic Communications as a separate organizational unit, as the official national point of contact and coordination in dealing with security incidents in networks and information systems, that should identify and provide appropriate and efficient response to security incidents and risks.

The main objectives of the National center for computer incidents response are:

- To provide a key role in coordinating the handling of incidents among stakeholders at national level;
- To provide an answer to dealing with computer incidents by providing the necessary services to its constituents so that to effectively deal with incidents;
- Continuously to monitor risk by collecting information about computer threats and incidents and to provide indicators on malicious traffic that comes or goes out of the country;
- To provide the constituents safety tips, information on early warning and act as a focal point for issues relating to cyber security;
- Fully cooperate and exchange information with state institutions responsible for law enforcement, especially those in the field of cybercrime, accordingly addressing legal issues that may arise during the incident;
- Continuous exchange of information, knowledge and experience with its constituents, establishing security best practices / guidelines and publishing them, as well as continuing to provide education and training for constituents and for the team members of MKD-CIRT;
- To provide assistance in the establishment of the CIRT teams as part of large organizations that manage key / critical information infrastructures (public and private) in the country;
- Continually raises awareness among citizens about the negative effects of cyber threats and cybercrime.

The Constituency of MKD-CIRT is made of all ministries, administrations and services of the government, critical infrastructure operators and the largest companies in the area of banking, transport, communications, health, energy and other strategic sectors in the country. MKD-CIRT is sponsored by the Agency for electronic communications and Ministry of information society and administration.

MKD-CIRT is authorized to handle and to address all types of information security incidents, involving both classified and un-classified information, which occur or threaten to occur, in the constituents' networks, systems and services that fall into its mandate. From the operative aspect, MKD-CIRT coordinates all activities related to incident response, providing support, help and advices to the following aspects of incident management:

	Service	Description
1	Notifications and alerts	Disclose the details of current threats and steps that can be undertaken to protect against these threats. It includes notification or warning of newfound information on cyber threats and vulnerabilities to the constituents with a recommended course of action and guidance on how to protect the system. The notifications may be preventive, warning, advisory, and guiding.
2	Remote incident response	Provide technical assistance to address the security incidents when they occur, in order to mitigate the damage and recover from the incident. Advice and technical assistance is usually provided by telephone or e-mail.
3	On-site incident response	Provide on-site technical assistance and advice to address the security incidents when they occur, in order to mitigate the damage and recover from the incident. This service is usually related or implemented for critical level incidents.
4	Vulnerability response	Assess the adequate measures necessary to respond to newly discovered vulnerabilities; assess their seriousness and impact, decide whether to issue warnings thereof or verify or further investigate their weight/impact. Overall, this approach applies to information on vulnerabilities that are publicly known.
5	Basic awareness, education and training	Implement small-scale programs for raising public awareness. Conduct basic training on computer incident response and main cyber security best practices.

NEXT STEPS IN THE FIELD OF CYBER SECURITY IN CIVIL AVIATION INDUSTRY

Despite the multitude of efforts that have been undertaken and more being pursued by various stakeholders, there still exists a number of issues and steps ahead that need to be addressed with regard to combating cyber security threats to civil aviation operations. While the road ahead may seem difficult to some, the rapidly changing global civil aviation landscape, fast pace of technological improvements and innovation, and the rising demand for operational efficiency, balanced with the critical needs to ensure safety and security, may leave stakeholders in the civil aviation community with little choice but to take up the challenge to deal with this sooner than later.

First of all, some fundamental benchmarks need to be determined by every state and their respective aviation security regulator on the issue of cyber security threats:

- It must be very clear and unambiguous determined which institution in the country is responsible for cyber security issues and measures for its civil aviation community and serves as the regulator;
- The state's authority for aviation security must be adequately knowledgeable on cyber security threats to civil aviation systems and operations, the preventive and mitigation measures and possesses the ability to regulate and audit the various civil aviation stakeholders on compliance with Annex 17 SARPs as well as the cyber security requirements of the National civil aviation security program;
- Relevant chapters or sections that cover the critical requirements regarding cyber security protection and mitigation measures must be contained in the state's civil aviation security programs: National civil aviation security program, Airport security programs, Aircraft operator security programs, National civil aviation security training program, National civil aviation security quality control program, etc.;
- Each state must have in place, at the minimum, a national civil aviation cyber security policy and going further, a national civil aviation cyber security plan.

Consequently, the following activities seem to be the most appropriate to be taken by all stakeholders:

- The aviation industry has to evolve and to introduce strong systematic tests against cyber threats in addition to the compliance testing already implemented. Internal security testing usually is disregarded because of internal constraints and a lack of expertise. It is more than important to test all the components independently and the complete systems by external experts. These experts would have the advantage to be independent, less constrained, unbiased, creative, and more than anything else expert in breaking systems.
- The aviation industry is made up of traditional isolated systems that are more and more connected and exposed. Like in other industries, for any project it is important to assess the needs and the allowance for these external links to ensure that security processes are implemented to ensure that vulnerabilities can be addressed quickly to be aware that security updates might break current certification. Critical systems should be tested by external and independent companies that have a real expertise in cyber security.
- Provide high security for critical communication systems such as the radio. This security should ensure strong authentication, confidentiality, integrity and availability. Any other unprotected communication systems should be considered as potentially compromised. Finally, it is important to check that critical and non-critical systems are isolated.
- Any company in the aviation industry should raise awareness among all the employees on the importance of considering seriously cyber threats. It is important to set up a real cyber security culture in the critical entities of this industry.
- Every company in the aviation industry should assess its needs in term of cyber security. These companies should be aware of their vulnerabilities and implement some measures to reduce them. Like any other industry, the aviation sector should consider seriously cyber security like they do for human resources, finance, operations and so on. The companies of this industry should have a deep understanding of the threats and the risks.

- Implement stronger internal policies and plans within the company. Indeed, as companies rely more and more on computer-based systems, interact more and more with other companies or people such as passengers, it is mandatory to strengthen internal policies and plans.
- Implement also recovery plan to increase resilience.

CONCLUSION

The field of aviation security is very fast changing continuously and becoming more challenging with new frontiers of cybercrime. While many states and stakeholders in the global civil aviation community are aware of the seriousness and catastrophic consequences that can become reality from cyber threats, many are still hesitate and procrastinate with tackling these challenges. Some of them are not necessarily ready or equipped to deal with such threats confronting them, at both the individual level and national system-wide level. However, the use of more advanced and sophisticated IT and computer-based systems in civil aviation operations will continue and expand even more in the future. This will exceed even the most basic functions such as data collection and processing, where heavy reliance on the security of IT systems are critical. The cyber frontier is massive and there are numerous ways that terrorists and malicious persons can use to conduct a cyber-attack on civil aviation services providers and critical infrastructure. Therefore, it is crucial that all states, ICAO and other international organizations and associations, and all civil aviation stakeholders, work together to raise the level of awareness and recognition of the cyber security threats and cybercrime. Also, it's crucial that appropriate and efficient measures and actions must be taken, even at a slower pace and with different dynamics, to protect and mitigate against cyber threats that can seriously disrupt and damage the global civil aviation system.

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Professional Paper

DETENTION - ANALYSIS OF THE DOMESTIC AND INTERNATIONAL LEGISLATION (THEORY AND PRACTICE)

Vesna Trajanovska, PhD
International Balkan University (IBU)
vesna.trajanovska@yahoo.com

Natasha Jovanova, PhD
Faculty of Security - Skopje, St. Climent Ohridski University - Bitola
natasa.akademija@yahoo.com

Abstract

This paper elaborates the key role of detention in criminal proceedings and provides guidance for its successful application in accordance with the domestic and international legal standards and human rights. Furthermore, it emphasizes the importance of the implementation of other measures to ensure defendant's presence and successful criminal case (hereinafter referred as alternative measures).

The way in which analysis of detention is applied in North Macedonian judiciary, indicates significant deficiencies in decisions ordering and continuation of this measure expressed by inadequate explanations of the legal grounds. Namely, the conclusion is that the explanations are stereotyped, non-individualized and include a retelling of the legal text of the Law on Criminal Procedure. Inescapable impression is that the approach of judges when assessing which measure to be enforced, often begins and ends with detention, instead first evaluating the possibilities afforded by other provisions of the criminal procedural legislation and which do not lead to strictly limiting the freedom of the defendant, but they mean imposing injunctions, restrictions or obligations.

The practice applied in the field of detention in North Macedonia is very common in the context of public arrests of subjects. Entities taken into custody are considered guilty since the beginning, and it is forgotten they are innocent until proven otherwise. In terms of the new law on criminal procedure, the presence of three key UNITS in deciding detention is highlighted, and those are: primary suspicion for committing a crime, explaining the grounds for granting custody and explaining why any alternative measures are not implemented. Combining alternative measures can bring results, but unfortunately in North Macedonia it is not used. Finally, this paper underlines that there must be relevant and specific

reasons before adoption of detention, and not making exceptions and emphasizing exaggerated and misused role of the media in the act of arresting.

INTRODUCTION

What is detention? Detention is a measure of procedural coercion whereby due to the unobstructed criminal procedure interferes with the right to freedom and human security. It is manifested by limiting the right to freedom of movement, freedom of communication and the right to family life, through detention of an accused (***d.e jiqe*** innocent) person for a committed crime usually in detention rooms.

Why detention is applied? This measure serves as an aid to ensure the presence of the accused before a competent court in the criminal proceedings against him. It is also a safety element that the defendant will not hamper the proceedings (e.g. work of the investigators) concerning the case in any way, nor will it affect the evidence or witnesses. Furthermore, this measure is applied in order to prevent the risk of further criminal conduct of the accused.[1]

Detention is not the only measure that can ensure the presence of the accused in front of the court and successful procedure. The Republic of North Macedonian and the international law allow a range of other measures that can be applied to achieve the same goal. These measures do not lead to restriction of freedom, but consist of imposing special obligations, restrictions or prohibitions, are more humane and cost effective, can be combined in order to ensure an unobstructed criminal proceedings, have a certain duration or a certain amount and also allow special control for compliance obligations, restrictions and prohibitions of the assigned person.

However, when it comes to efficiency in achieving the objectives of the measures for ensuring the presence and successful conduct of the proceedings, detention takes the first place. The easiness by which the detention is adopted leads to a conclusion that, at times, severity is being forgotten, cruelty and uncertainty that detention incorporates, and financial resources needed for its implementation. The right to liberty and personal security is beneficiary of protection in constitutional law, international law on human rights and within the procedural laws of the penalty area. With

[1] Gordana Buzarovska, Margarita Caca Nikoloska, Agim Miftari Jani tation; Manual for application of detention, the Association of Judges of the Republic of North Macedonia, 2009.

detention some of the fundamental human rights and freedoms guaranteed by the domestic and international rules are inevitably suspended. [2]

DOMESTIC AND INTERNATIONAL LEGISLATION

Article 12 of the Constitution of the RNM (as amended by Constitutional Amendment III) provides that the freedom of man is inviolable and it cannot be restricted, except by court decision or in cases and procedures determined by law. Court decides for the legality of their detention, without any delay. After indictment, detention is rendered or continued by a competent court and the detainee may, under conditions prescribed by law, be released on bail.

The detention may be determined only under the conditions set out in the Criminal Procedure Code (CPC).[3] The possibility of North Macedonian courts to order detention, is allowed in Article 144 of the CPC chapter XVI along with other "measures to ensure the presence of the defendant and successful conduct of criminal proceedings."

Current Code of Criminal Procedure appoints alternative measures for detention in Articles 145 - 163. Measures which can be taken against the defendant **for securing his presence and for the unobstructed implementation of the criminal procedure** are subpoena, precautions, guarantee, arrest, permanent detention, house arrest and detention. When deciding which measure to be applied, the competent authority shall comply with the requirements established for the implementation of certain measures, taken into account not applying more severe measure, if the same objective can be achieved with a more lenient. Court can simultaneously order the defendant several measures under paragraph (1) of this Article, except when it orders detention.

These measures will be revoked ex officio when the legal conditions for the application of the measures will either end or be replaced with another measure when there are conditions for it. If the defendant fails to comply with certain measures for ensuring his presence, the court may determine other measures for ensuring defendant’s presence. The defendant has the

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[2] Fundamental civil and political rights and freedoms, analysis of monitored court proceedings for the period from 01.09.2013 to 30.06.2014, Skopje, July 2014.
[3] CCP R. North Macedonia 18.10.2010.

right to inform the family or other close person for the apprehension, arrest and detention.[4]

Regarding the duration of detention, it must be reduced to the shortest necessary time. The duty of all authorities that participate in the criminal proceedings and the entities that provide legal assistance, is to act with particular urgency if the defendant is in custody. When deciding for detention, especially for its duration, special account shall be taken for proportionality between the severity of the crime committed, the punishment that can be expected according to the information available to the court and needs for determination and duration of the detention. Detention shall be revoked as soon as the grounds on which it was determined cease.[5]

CCP[6] set strict conditions which the court must comply in cases where a decision for detention is adopted.

Namely, the first condition is the existence of reasonable suspicion that the accused committed the crime. Once existence of reasonable doubt is established and decision for investigation is made, the court may order the accused **to be detained under the following legal bases:**

- is hiding, if it is unable to determine his identity or if there are other circumstances indicating an escape possibility;
- there is a justified fear that he would hide, forge or destroy evidence of the crime or if particular circumstances indicate that he will hinder the criminal proceedings by influencing the witnesses, accomplices or conspirators;
- special circumstances justify the fear that he will repeat the criminal offense or complete the attempted crime or commit a crime which he threatens with or
- subpoenaed defendant obviously avoids appearing at the main hearing, or if the court made two attempts to properly subpoena the defendant, and all the circumstances show that the defendant apparently refuses to accept the invitation.

[4] CCP R. North Macedonia Art.144 paragraph 1,2,3,4 and 5.
[5] CCP R. North Macedonia, Art. 164 (ordering detention)
[6] CCP R. North Macedonia Art. 165 (grounds for adopting detention)

The court orders detention at the preliminary procedure in written and elaborated proposal by an authorized plaintiff and only on grounds listed in the proposal by the authorized plaintiff.[7]

Law on Criminal Procedure determines a series of precautions in order to achieve the objective set out in Article 144, paragraph 1.

- a prohibition against leaving the residence or temporal residence;
- defendant is obligated to report occasionally to a specified official or a competent state authority;
- temporary seizure of passport or other document for crossing the state border, i.e. ban for its issuance;
- suspension of driving license, or a ban for its issuance;
- a ban for visiting a particular place or area;
- a ban for approaching or establishing i.e. maintaining contacts or relations with certain persons and
- a ban for undertaking certain work activities related to the crime.

Precautions may last as long as necessary, at the latest until the judgment becomes final. Every two months court ex officio, evaluates the need for duration of the precautionary measure and it can also be canceled before the deadline referred to in paragraph 2 of this Article, if it no longer required or if there are no legal grounds for the application. Precautions, upon proposal by the public prosecutor during the investigation procedure, are determined by the Judge of the previous procedure, and after indictment enters into legal force or after the submitting the prosecution proposal until the final verdict, the court before which the proceedings are conducted.[8]

On 17th of April 1997 North Macedonia by law ratified the European Convention on Human Rights - ECHR of 17 April 1997 and thus it became legally valid. According to Article 1 of the ECHR, the Republic of North Macedonia took the responsibility for respect and protection of human rights and freedoms of all persons under its jurisdiction.

ECHR is considered to be a source of law taking into account the constitutional provisions of the Republic of North Macedonia (Article 118), and it can be applied directly whenever circumstances allow and indirectly, through the incorporation of its standards into domestic legislation through

[7] CCP R. North Macedonia Art 166 (authority for detention during the preliminary procedure)
[8] CCP Republic of North Macedonia Art. 146, 3. Precautions, types of precautions.

the implementation of the decisions of European Court of Human Rights (ECHR) by comparative principle of study and eventual implementation of the decisions of the ECHR, related to other countries, where certain situations allow it.

Similarly, Article 5 of the European Convention on Human Rights provides that everyone has the right to liberty and security, and no one shall be deprived of liberty except by virtue of law. a. the lawful detention of a person after conviction by a competent court; b. the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfillment of any obligation prescribed by law; c. the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority of reasonable suspicion of having committed and offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so; d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority; (e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts, or vagrants; (f) the lawful arrest or detention of a person to prevent his effecting an unauthorized entry into the country or of a person against whom action is being taken with a view to deportation or extradition. 2. Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and the charge against him. 3. Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this article shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial. 4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful. 5. Everyone who has been the victim of arrest or detention in contravention of the provisions of this article shall have an enforceable right to compensation. All these rights are guaranteed and regulated in detail both by the previous Law on Criminal

Procedure[9] (which still applies to proceedings commenced before December 1, 2013), and through the new Law on Criminal Procedure (CCP).[10]

ILLEGAL PRACTICE OF DETERMINATION AND CONTINUATION DETENTION

In determination and continuation of detention, particularly worrying are abovementioned reasons, even when it has not met the legal preconditions. The increased number of convictions of the ECHR in Strasbourg indicate many problems when applying this least preferred measure. Their lawyers are being suggested to file complaints of decisions for detention, because by filing a complaint defendant lose the right for applying to the Court. An example for it was the case with the journalist Kezarovski, when in the initial stage was assigned a lawyer ex officio, who did not appeal to the detention decision and thus lost the right to submit an application.

This was especially noted in the case M. Sh. and others K.br.23 / 14 of the Basic Court Skopje 1. After arresting the other defendants of the case, M. Sh. was in the United States and was determined to face charges, voluntary and traveled to North Macedonia early, and when he was arrested in Austria did not request extradition, which ruled out possibility of escape. At that moment he was not authorized person in the company, where has allegedly been committed a crime and there was no possibility to repeat or complete the offence, and the danger of influencing witnesses was minimal because the investigation was in an advanced stage and they were already heard by the investigating judge. Possible influence on witnesses could have been prevented also by mitigated by determining a milder alternative measure (ex. house-arrest). Nevertheless, the detention was repeatedly extended, and M.SH. had spent over 8 months there.[11]

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[9] Official Gazette of Republic of North Macedonia "No.15 / 1997; 44/2002; 74/2004; 83/2008;

[10]Fundamental civil and political rights and freedoms, analysis of monitored court proceedings for the period from 01.09.2013 to 30.06.2014 Skopje July 2014 Helsinki Committee for Human Rights in the Republic of North Macedonia. Page 21, 22.

[11]Fundamental civil and political rights and freedoms, analysis of observed court proceedings for the period from 01.09.2013 to 30.06.2014 Skopje July 2014 Helsinki Committee for Human Rights in the Republic of North Macedonia. Pages 21, 22

In the observed proceedings, where more persons appeared as defendants, it was established that judges still determine and continue detention by collective solutions. Although in determining there is evident progress (judges in separate passages refer to each defendant individually), the practice of collective continued the detention of a group of defendants whose names are mentioned persists, but not individual review of the reasons for which each defendant's detention is continued. This is contrary to the case law of the European Court of Human Rights which ruled against Republic of North Macedonia Vasilkoski and others against the Republic of North Macedonia in 2010 and Miladinov and others against the Republic of North Macedonia in 2014.[12] In the first decision the Court stated "confirming the applicants' detention (...) the domestic courts constantly repeated the same formula using identical words. It appears that they had taken very little into account, if any at all, for the individual circumstances of each applicant, as their detention has been continued by collective detention orders. The Court has already found by the practice of issuing collective detention orders to be incompatible with Article 5 paragraph 3 of the Convention, if it allows continued detention of a group of people without individual assessment of the grounds of detention in respect of each member group."[13]

In the case T.K. and others KOK.no.51/13 of the Basic Court Skopje 1 adoption of the decisions to continue the detention against T.K., Court conducted the proceeding in a manner contrary to the European Convention on Human Rights and the practice of the European Court of Human Rights. Namely, there were committed substantive and procedural violations regarding the evaluation and argumentation of the necessity of detention continuation by the Basic Court Skopje 1 and failure to act on the appeal by the Court of Appeal in Skopje. In this case the detention was also continued collectively, without individual assessment of the grounds for each defendant. Decisive arguments in decisions which continued detention of eight defendants were stated on one page only.[14]

The judges in Strasbourg advise that the seriousness of the offenses should be taken into account, before assigning the most severe measure -

[12] Applications no. 46398/09, 50570/09 and 50576/09, Strasbourg, 24 April 2014
[13] Application no. 28169/08, Strasbourg, 28 October 2010, paragraph 63.
[14] Ibid.

custody. Cases of Mitrevski[15], Stojanovski[16], Lazarovski, against North Macedonia before the European Court of Human Rights are just examples where North of Macedonian judges made mistake in determining this measure. - The Court has also delivered judgment based on unjustified detention.

In the case Lazarovski against North Macedonia the Court stated that there had been violation; the person was detained for more than 9 hours without explaining the reasons for his detention.

In the case against Stojanovski North Macedonia the applicant alleged that his continued detention in a psychiatric hospital is no longer justified under Article 5 paragraph 1 (e) of the Convention. The Court found that there had been a violation of Article 5 paragraph 1 (d) of the Convention.

European Court of Human Rights unanimously ruled that in the case Vasilkovska and 37 others against the Republic of North Macedonia[17], there had been unjustified and prolonged detention of the defendants in the action "Snake Eye". Thus, a violation of Article 5 paragraph 3 of the right to liberty and security of the European Convention on Human Rights was made. North Macedonia should pay the applicants 2,000 euros for expenses. The Strasbourg Court did not discuss the basis of the case and the indictment raised against those from the action "Snake Eye", only the appeal of the defendants which concerned the detention.

Court of Human Rights based in Strasbourg ruled against North Macedonia in favor of North Macedonian citizens Dimitrija and Gjorgi Miladinovski who would be paid 3,000 euros each for damages and 1,350 euros for court costs. Simultaneously the ruling also applies to Dimitri Golabovski. The three persons, the court stated, were groundlessly held in custody as defendants in the process "Sunrise." According to the Court three were groundlessly held in custody and Court of Appeal did not allow an oral hearing and equal treatment in the proceedings in question and disregard of the principle of equality of arms in proceedings before the Court of Appeal. According to the initial judgment, Miladinovski brothers were sentenced to

[15] Application 11621/09 25.03.2010 25.06.2010 Mitreski against R. North Macedonia.
[16] Application. 1431/03) 22 October 2009 Stojanovski against R. North Macedonia.
[17]Application 28169/08 28.10.2010 28.01.2011 Vasilkoski and others against R. North Macedonia.

six and a half years in prison for money laundering and crime and Golabovski was sentenced to two years in prison.[18]

In the case against Mitreski of North of Macedonia, the applicant stated, in particular, that his initial order for house arrest was changed to detention in proceedings which were not contradictory as well as without holding an oral hearing. For these reasons, the court unanimously declared the complaint concerning the alleged violation of the principle of equality of arms and the absence of an oral hearing before the Council admissible, and the remainder of the application inadmissible. The Court believes that there is a violation of Article 5 paragraph 4 of the Convention in terms of the principle of equality of arms and the absence of an oral hearing before the Council, believes the finding of a violation of Article 5 paragraph 4 itself is sufficient just satisfaction in terms of any non-pecuniary damage sustained by the applicant.[19]

Velinov against North Macedonia[20] entitled to trial within a reasonable time frame in civil proceedings, there is no compensation for unlawful arrest, unlawful detention (police fail to explain the reasons why he was arrested) had no effective remedy in domestic proceedings. Declares the complaints under Articles 5, 6 (about the length of the compensation proceedings) and 13 of the Convention admissible, and the remainder of the application inadmissible; believes there is a violation of Article 5 paragraph 1 (b), paragraph 2 and paragraph 5 of the Convention.

Inappropriate and excessive adoption of detention as a guarantee that the defendant will appear at trials made North Macedonia the first country that will need to report to the European Court of Human Rights for alleged cooperation with the US intelligence agency CIA in the arrest the German citizen Khaled el-Masri at the end of 2003. Court examines the role of North Macedonian authorities in the arrest of El Masri. According to the indictment, Macedonian police in December 2003 illegally arrested Khalid El-Masri at the request of the CIA and held him in custody for 23 days.[21] The Court unanimously determined that the detention of the applicant in hotel for a period of 23 days was arbitrary, contrary to Article 5 of the Convention;

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[18]Application 46398/09, 50570/09 and 50576/09 24.04.2014 Miladinov and others against North Macedonia.
[19]Application 11621/09 25.03.2010 25.06.2010 Mitreski against R. North Macedonia.
[20]Application 16880/08 19.09.2013 19.12.2013. Velinov against R. North Macedonia.
[21]Application 39630/09) December 13, 2012. El-Masri against R. North Macedonia.

determined that the defendant is responsible under Article 5 of the Convention for the subsequent captivity of the applicant in Afghanistan; determined that the respondent State has failed to conduct an effective investigation into the applicant's allegations for arbitrary detention, as required by Article 5 of the Convention. Because of the seriousness of the violations that were identified, the applicant considered that the Court had to recognize that in the absence of any effective remedy – for which the government also agreed - the applicant was also deprived of the "right to truth", i.e. the right to just explanation of sustained suffering and the role of those responsible for such torture. Finally, the court determined that the defendant should pay the applicant, within three months, EUR 60,000 (sixty thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage.

PRACTICE IN THE REPUBLIC OF NORTH MACEDONIA IN APPLICATION OF DETENTION

The Law on Criminal Procedure in 2010 introduced a number of changes in terms of detention in order this measure to be less frequently used by prosecutors and the court. The judge of the preliminary procedure which determines detention upon a proposal of the prosecutor acts as a guarantor of the rights of the suspect. In parts of the law, it is clearly stated that detention should be a last measure that the judge should consider, it is obligatory all the evidence and facts for reasonable suspicion that someone has committed a crime to be highlighted, and then explain individually the grounds for requiring detention. Furthermore, in the solutions should also be stated the reason why the judge did not choose milder measure.

With the application of the new Criminal Procedure, old problems in relation to detention permeate: unexplained detention orders, a decision for several defendants, the presumption of innocence is not taken into serous account during the investigation, so it is stated that detention is determined because of threatened punishment and the way the crime is committed, no specific evidence and facts for reasonable suspicion that the suspect committed the crime are mentioned, as well as evidence of grounds for determining detention – I mean evidence of escape by the prosecutor or evidence for influencing witnesses. This must not be reduced to lump explanations without offering material evidence, or stereotyped phrases - that

someone has not established a family and is not employed, therefore the court accepted that he would abscond, and a person on the verge of adulthood is in question - graduate and such a thing is not expected of him. Now the court has the necessary elements that should be included in the detention decision; for example the evidence and facts to reasonable suspicion that someone has committed a crime for which detention is required, furthermore he has to explain the grounds for detention - each individually and indicate why he did not choose the milder measure but determined the most severe measure - detention. There is no choice or alternative, if the judge fails to comply with the law, such solutions are unlawful and everyone should bear responsibility for that".

Table. BASIC COURT SKOPJE 1 Skopje, ADULT CRIMINALS – 2014

Department/stage of the proceedings	Total number of cases	Detention determined (no. of cases)	Detention determined (no. of defendants)	House arrest determined (no. of defendants)	Precaution measures determined (people)	Other
Preliminary procedure	944	172	238	10	7	1 person to compulsory medical treatment
Preliminary procedure organized crime and corruption	522	118	251	2	18	/
After indictment	4036	238	/	/	/	/
After indictment organized crime and corruption	110	62	/	/	/	/
Criminal court panel	238	/	150	10	4	/
Criminal court panel organized crime and corruption	251	/	244	/	/	7 persons have been given guarantee 1 person's detention has been canceled because 1 year deadline expired

According to the statistics of the Public Prosecution Office of RSM in 2013 where it is stated that requests for the detention of 278 defendants were submitted to the Department for Organized Crime; 275 have been placed in detention, while 3 defendants were put under house arrest, which is striking figure of requested and determined detentions which ranges over 99%. Detention of 107 defendants was continued for more than 6 months.

The extension of detention should be strongly justified. The Court of Human Rights, among others things, indicate the lengthy proceedings before the Court of Appeal when deciding on appeals of decisions for continuation of detention, for which the ECHR suggests that any extension has greater weight, so explanations should be more extensive with reasonable grounds for detention.

CONCLUSIONS AND RECOMMENDATIONS

In a number of court procedures, the practice of adopting decisions on establishment and continuation of detention without having to justify the grounds for it, is concerning. The practice of collective continuation of detention of a group of defendants whose names are mentioned persists, but the decisions do not contain individual review of the grounds for which each defendant's detention is continued. Such decisions are contrary to the domestic and international law and practice of the European Court of Human Rights. Detention lasts too long, even after the completion of the investigation and interrogation of the defendants. Failure to use milder measures, such as guarantee is worrying. Detention units in prisons are overcrowded to the extent that service of detention can be considered torture, because of the poor living conditions and inadequate health care.

- Detention should be used as an exception rather than a rule, the duration should be reduced to the shortest necessary time, and first of all the possibility of using milder preventive measures should be considered.
- When determining, and especially in the continuation of the detention, judges should take the practice of the European Court of Human Rights into account, to explain in detail and review the grounds for which that have decided to take such measure, to stop the practice of signing identical stereotyped formulation decisions and to

develop an individual approach to every defendant by abandoning the practice of making collective detention decisions.

- During regular weekly detention facilities visits, the judge in charge of supervision over the living conditions of detainees should pay particular attention to vulnerable citizens and those in need of health services. When violation of rights is identified, supervising judges should inform judges of the preliminary procedure on the situation of detainees and the need for some detainees to be sent to hospital treatment outside of detention.
- Continuous training for judges and prosecutors to be made in following years, in order to reduce the number of unsubstantiated, baseless, illegal, too long detentions, to start applying other measures that are not present.
- Lawyers should fight against such decisions by filling complaints in all instances, such as public meetings before the Criminal Chamber, Court of Appeal and the Supreme Court, and finally, after so many decisions of the ECHR against North Macedonia, to submit an application before the court.

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Professional Paper

TYPES OF CORRUPTION IN UNIVERSITY EDUCATION

Marjan Nikolovski, PhD
Faculty of security - Skopje
mnikolovski66@gmail.com

Marjan Mladenovski, PhD
Euro college Kumanovo
mmladeonovski@yahoo.com

Frosina Nikolovska, PhD
Euro college Kumanovo
frosinik@yahoo.com

Abstract

Corruption as a phenomenon today is one of the most serious threats to the rule of law. It means that instead of the rule of law and its norms, individuals are governed, guided by lucrative goals and in accordance with their interests. It is a form of government dominated by self-love and self-government as a manifest form, followed by a reference to (often business) interests. Furthermore, it is a social situation and practice that adversely affects overall social development, slows down economic processes, deteriorates social security and undermines perceptions and beliefs about the value of principles, in particular the principles of legality, equality, and freedom.

Corruption poses is a serious threat to democracy, justice and human rights, justice and social justice and impedes the economic development of states. Corruption runs counter to the principle of the rule of law and poses a direct threat to democratic institutions and the moral foundations of society.

There are various forms of corruption, such as: political corruption, corruption in the judiciary, health, police, education and so on. One of the less researched forms of corruption is corruption in education with a particular aspect of higher education, a form of which is little talked about and the under-researched types of corrupt practices in higher education.

From this point of view, the Faculty of Security conducted a five-year research on "Public opinion of the citizens of the Republic of Macedonia on corruption where a significant space is devoted to corruption in education with

emphasis on the university education. The paper also provides an analysis of the Erasmus court case, which specifically addresses corruption in university education.
Key words: *corruption, shapes, corruption in university education, types*

INTRODUCTION

We can say that corruption is a constant companion in the development of a state union. It successfully adapted and existed in various socio-political and economic systems. In particular, it finds a suitable ground in economically underdeveloped countries with an unstable political system where there are serious human rights and freedoms violations. (Mojanovski C. 2014)

As a phenomenon, corruption impedes democratic development, endangers the basic and existent human rights and freedoms of the citizens, distorts competition, and thus impedes the economic development of a state. Corruption endangers the rule of law and thus directly endangers democratic institutions (Labovic, M. 2006).

It is not difficult to establish that corruption is one of the dominant themes in the everyday political and scientific discourse. It is talked about, written and analyzed. It is an ever-present problem in all spheres of human life. Certain claims indicate that the more corruption is talked about, the more perceptions of it increase, which in one way or another affects it and increases it in reality.

Many surveys conducted indicate a high prevalence of corruption in Macedonian society in many areas such as: political corruption, corruption in the judiciary, education, health, police and so on. One such survey is conducted by a non-governmental Transparency International investigating the extent of corruption within the country. It is called the Corruption Perceptions Index, which assesses the state of corruption (possible causes, as well as suggestions for future improvement). Transparency International in 2019 points out that "non-transparent appointments and decision-making procedures, as well as insufficient willingness to resolve corruption scandals, or suspicions of corruption, contribute to a loss of confidence in the government. It also points to a lack of documents, especially in the area of relations with the media and civil society, in order for the government to target the key actors in the political process.

Macedonia remains at the European bottom in terms of the level of perception of corruption. In 2018, Macedonia was at the very bottom between Kosovo and Mongolia, sharing 93rd place among 183 countries in the world covered by the analysis. Macedonia has an index of 37, which is closer to the bottom than to the top. To illustrate, Denmark, New Zealand and Finland have topped the list with an average of 86 points for years. At the bottom for years are countries like Somalia, Sudan, Syria with an index of 10-13 points. In the last year of 2019, Macedonia improved by two index points (from 35 to 37), which is 14 places higher than the 2017 report when it was ranged 107th.

DEFINING CORRUPTION

Since the emergence of the state, and with it the government, corruption has been an inherent and inevitable phenomenon in all societies throughout human history. What does the term corruption imply? Does it imply morally suspicious, inadmissible deviant behaviors of all subjects in society, regardless of their statuses, properties or will we apply the legalistic approach to testing corruption strictly in accordance with the sanctioned positive legal norms of national laws and regulations? The most generally accepted definition of corruption is abuse of public authority and positions for personal, private, and party (political) interests. This definition, as the most acceptable, represents the basic framework of the term corruption. On the one hand, the term corruption will resemble its legalistic conceptual distinction with respect to the 'grey' zones of immorality in political and public administration not legally sanctioned in the national law as criminal or criminal offenses. On the other hand, violations of international public legal norms for which there is no serious legal protection, as well as explicitly foreseen criminal offenses of property in which there is no abuse of public authority powers, as in their deepest foundation, rest on immorality or confidence-building, which means 'corruption' between various entities in various relations outside the public sphere.

Corruption may be defined as the abuse or exploitation of a public office, position or duty by overrun or non-performance of entrusted public powers for the purpose of pursuing personal, private, or party interests of a material or non-material nature.

According to the Law on Prevention and the Amendment of the Law on Prevention of Corruption, it is defined as "the exercise of office, public authority, official position and position for the benefit of any self or other". Whereas, according to the State Program for the Prevention and Repression of Corruption, the term corruption means "the abuse of one's or another's position or function to gain benefit, convenience or advantage for oneself or for another".[1]

According to prof. Miodrag Labovic, corruption can be defined as the abuse or exploitation of a public office, position or duty by overstepping or disregarding the entrusted public authority in order to pursue personal, private or party interests of a matrimonial or non-material nature.[2]

According to the State Program for the Prevention and Repression of Corruption, it can be defined as the abuse of one's own or another's position or function to gain benefit, convenience or advantage for oneself or another.[3]

Corruption by nature is created and perpetrated within and through the government. It has to be addressed in its broadest sense, not only in its one-dimensional criminogenic structure of giving and receiving bribes. But corruption is not just a crime. It is often at the border between socially sanctioned delinquency and immorality, but also in the very medium and cultural form of morally permissible behavior.

In our criminal justice system, there are 22 criminal offenses in the area of criminal corruption but the most common are passive and active bribery (bribery), abuse of power and authority, fraud, document forgery, tax evasion and others.

The topic of the paper is just one segment of corruption and that is corruption in the university education, so in the next section I will try to give an insight into the definition of corruption in university education. Corruption in university education can be regarded as any behavior that is an abuse of the official position of the university education staff for the purposes of personal material and other goods.

Education is an extremely important public area. It is a sector that has several functions, the most important of which is the production of workforce and future leaders, and the building of ethical and moral values among young

[1] Decree on promulgation of the law amending the Law on Prevention of Corruption
[2] Miodrag Labovic - Systemic Corruption and Organized Crime - Skopje - 43 p.
[3] State Commission for prevention of corruption-Skopje 2013

people, as well as their perceptions and views of the world. Corruption in higher education threatens to educate future members of the academic community, to use corrupt practices for greater success, and to create a practice that such phenomena are a common way of functioning in the society. Taking into account the reports of the European Commission in the past few years, a high level of corruption has been noticed in the public sector. Therefore, one of the most important areas through which corruption can be reduced in Macedonia is the university education.

THE PREVALENCE OF CORRUPTION IN SOCIETY

It can be said that corruption is a constant contributor to the development of a state union. It successfully adapted and existed in various socio-political and economic systems. As a phenomenon, corruption undermines democratic development, endangers the basic and existent human rights and freedoms of the citizens, undermines competition, and thus impedes the economic development of a state. Corruption also endangers the rule of law and thus directly endangers democratic institutions. Corruption reduces tax revenues, increases public spending and exploits the allocation of resources to the private sector. From the above, it can be concluded that corruption is present in all institutions and legal entities.

According to the "Will there be whistleblowers at universities" survey conducted by the Institute for Strategic Research and Education, as many as 46% of the students at state universities in Macedonia consider corruption to be a frequent occurrence at their universities. Of the forms they most recognize, 38% were forced to buy textbooks for a particular subject in order to pass their exams, 23% said they were asked for money in order to pass an exam or to obtain a higher grade, and 8% were asked to sexual service for passing the exam or getting a higher grade.

According to a second survey conducted by the Youth Education Forum, half of UKIM's students (51.2%) say that nepotism is significantly or very high in their faculties, almost 30% have directly participated or witnessed the student's acquaintance with the professor in order to obtain a higher grade or to pass an exam, 26.4% directly experienced that a professor influenced on a student’s enrolling and continuation of their studies at a university. Regarding the direct experiences of students cheating on exams, 48.6% of them cheated or knew such a case, 33.1% had experience in writing

papers for other students, and 23% of the students noted that a professor makes plagiarism.

In the period 2013-2017, public opinion polls on corruption in Macedonia were conducted by students and professors of the Faculty of Security – Skopje, titled: "Citizens' Opinion for the Republic of Macedonia on Corruption". During the past 5 years, 5310 adult citizens aged 18 - 90 were interviewed. The purpose of this research was to perform a scientific discrediting of the views of the citizens of the Republic of Macedonia on the criminological, criminal, asphaltological and criminal characteristics and consequences of corruption and corruption activities in the Republic of Macedonia[4]

For the purpose of conducting this research report, the following was prepared: Basis for discussion: "Citizens' Opinion on Corruption" and Written Questionnaire: "Corruption in the Republic of Macedonia". An integral part of the toolkit is the Inquiry Diary, the Data Processing Analytical Table, the Code of Conduct and the Guidelines for the Application of the Conversation Basis and collateral security. The basis of the discussion was designed to examine the views of the citizens, and the Written Questionnaire was sent to the staff of the institutions that directly deal with (or have a focal point) dealing with corruption (Ministry of Interior, Customs Administration, Court, Prosecutor's Office, media and NGOs). The basis of the interview and the Written Questionnaire are specifically designed for this research in the form of a socio-demographic survey, designed and structured in the form of a questionnaire, which includes the demographic characteristics of the respondents and a certain number of battery issues that rank certain manifestations of corruption. Furthermore, the degree of corruption is determined. The form of questions is basically closed and consists of constructing scales for the degree of corruption, that is, choosing variations on questions related to knowledge acquisition, experiences related to corruption or in presenting forms of fight against corruption. The survey covers the whole territory of the Republic of Macedonia.[5]

[4] The Opinion of the Citizens of the Republic of Macedonia on Corruption (Research Report)
[5] Citizens of the Republic of Macedonia on Corruption (Research Report 2013-2015)

Question Rank which professions, functions and institutions that were corrupt Respondents answered - Citizens:

	evaluated	**rating**
1	customs and customs officers	8,18
2	political leaders	8,06
3	in the political parties	8,04
4	with the judges	7,97
5	public servants	7,88
6	at the inspection authorities	7,60
7	with civil servants	7,59
8	to the prosecutors	7,27
9	at doctors and health workers	7,23
10	with university professors	**7,12**
11	for police officers and police officers	7,02
12	for sale of state land	6,96
13	in the everyday situations of the citizens	6,60
14	at the organs of denationalization	6,53
15	to the journalists	5,96
16	private entrepreneurs	5,60
17	in non-existent organizations	5,16

Expert public:

	evaluated	**rating**
1	with the judges	7,35
2	to the political parties	6,97
3	at doctors and health workers	6,76
4	to political leaders	6,54
5	to holders of state office	6,53
6	at the inspection authorities	6,49
7	to the journalists	6,46
8	to the prosecutors	6,38
9	for sale of state land	6,29
10	**to university professors**	**6,26**
11	with denationalization authorities	6,13
12	in the everyday situations of the citizens	5,95
13	customs and customs officers	5,80
14	in non-governmental organizations	5,74
15	for private entrepreneurs	5,56
16	with civil servants	5,54
17	for police officers and police officers	5,38

The presentation presents two groups of respondents, the citizens and the expert public. On a scale of 1 to 10, the degree of corruption of a particular institution or profession is assessed. Score 1 means no, and score 10 indicates the highest corruption. It can be noted that the order of the

degree of corruption in the two surveyed populations differs, but in the holders of public office (fifth) and inspection bodies (sixth) and with university professors (tenth place) overlap**.**

The politicization of society and the influence of politics in all segments of life builds a system of party monopoly that enables enormous and illegal enrichment of a small layer of people who reach out to all mechanisms without excluding corruption for the realization of their goals.

Closely related to the previous assessment of the respondents are the assessments of what forms of corruption are present in certain parts of society. Namely, respondents on a scale of "0" - no corruption on a graph scale rated the degree of corruption as "1" least and 10 the most. The following table shows the weight indicators (weighted arithmetic value $\bar{x} = ((\sum ⟦x\_1 \cdot f⟧)) / (\sum f)$). Weights are grades 1 to 10).

The following table shows the answers to the question of forms of corruption in certain segments of society - abuse of power for each year individually (for the five-year period 2013-2017).

Table number 2. Rate, according to you, which forms of corruption are present in certain parts of society - Abuse of authority (0 = no 10 = most) - - weighted arithmetic environments

	2013	**2014**	**2015**	**2016**	**2017**
1. Legislative power (Assembly)	7,00	6,62	6,60	6,29	7,00
2. Executive (Government)	7,46	7,17	6,97	6,79	7,46
3. Managing Authority (Ministries)	7,63	7,54	7,20	6,93	7,63
4. Local Government (Mayors)	7,45	7,70	7,38	7,17	7,45
5. Courts (judges)	7,57	7,69	7,01	6,81	7,57
6. Public Prosecution	6,57	6,81	6,54	6,36	6,57
7. MOI - police officers	7,19	7,44	6,79	6,70	7,19
8. Banks and savings houses	4,83	4,23	4,22	4,34	4,83
9. Health (doctors)	5,95	6,15	6,00	5,71	5,95
10. **University (professors)**	**5,17**	**5,59**	**6,23**	**5,83**	**5,17**
11. Insurance companies	3,57	4,26	4,22	4,22	3,57
12. Private Sector	4,00	4,02	4,21	4,62	4,00

The most frequent are the assessments with a high degree of abuse of power by the governing authorities in 2013 and 2017 and by the local government, respectively the mayors in 2014, 2015 and 2016. The ratings for these authorities are above 7 out of a possible score of 10, which more or less indicates that a significant number of respondents are of the view that abuse

of power is most prevalent in this part of social life. Such assessments should also be monitored in terms of the respondents' ability to meet certain requirements, more or less referred to these institutions or authorities.

Second highest level of abuse of power is addressed to the courts (judges) in 2013, 2014 and 2017, respectively to the administrative authorities (ministries) in 2015 and 2016. And the ratings for this group of institutions and functions are particularly high, ranging from about 7 out of a possible 10. The third position belongs to the executive, the courts and the administrative. Respondents in 2013 and 2017 estimated that the executive is abusing its powers. Such an assessment is given to the respondents in 2014 for the administrative authority (ministries), that is for the courts (judges) in 2015 and 2016.

University professors are rated between 5-6 on a scale of 1-10 for all five years, indicating a high degree of corruption in higher education.

On the one hand, public opinion polls indicate a high prevalence of corruption in higher education on the other hand, if a statistical analysis of the submitted and processed cases of corruption crimes in higher education can be a high discrepancy. The number of officially reported and dismissed cases is small, but public opinion surveys point to the prevalence of corruption in the entire education system, especially in higher education.

The number of reported corruption offenses in education is very low. We look for the roots of the dark figure in several directions:

- weak institutions and mechanisms for protecting students who would report corruption
- the personal interest of the student and the parents involved in corruption to remain silent about the bribe given to purchase the grade, and
- tacit solidarity with professors about their corrupt colleagues

From what has been shown, it can be seen that corrupt forms change and that different trends prevail in different time periods. So, ten years ago, standard bribery or bribery through brokers was introduced, then came up with schemes to buy items or pay services that the professor would later be able to use. As time goes by, it is becoming more and more common for students to purchase textbooks for subject placement, or to pay for their textbooks and other needed material on special bank accounts labeled as

"textbook donation". In recent years, new forms have emerged, such as plagiarism or the writing of papers for another person - forms that have received little or no attention in the legal acts in Macedonia

CORRUPTION IN THE EDUCATION SYSTEM IN MANY COUNTRIES

Corruption in the education system is a serious problem affecting the quality of schools and universities around the world, according to a report by the anti-corruption organization Transparency International, which says one in six students had to pay bribes at the educational institutions. In some parts of Africa and Asia, parents had to pay a school placement fee, which should be free. In Eastern Europe, students pay bribes so they can enroll at a university. The same report said that three quarters of Cameroonians and Russians consider their education system to be "corrupt or extremely corrupt". The results indicate a number of abuses. There are thousands of questionable schools in Pakistan without real students using state money to pay for teachers' 'ghost teachers'. Kenya's financial losses are worth 11 million textbooks, the report said. A study of 180 schools in Tanzania shows that more than a third of the funds donated do not reach the schools. In Greece there is a warning about nepotism in higher education, while in Vietnam there are subsidies to secure places in the most sought after schools. All of these data point to the prevalence of corruption in most countries in the world, ranging from relative to higher education, with different patterns of presence in different countries.

One of the reasons for corruption in university education may be the increasing need for higher education staff, which is why false degrees have become more common, more and more often used for the purpose of employing at a position for which university degree is required. This phenomenon is especially evident in the Ministry of Internal Affairs of the Republic of Macedonia, due to which the number of criminal charges filed by the Sector for Internal Control and Professional Standards to the Ministry employees who submitted a fake diploma for university education has been increasing each year.

The demand for higher education as a multibillion-dollar global business burdens fraud, says Philip Altbach, director of the Center for International Higher Education at Boston University's Pedagogical

University. Altbach calls for co-ordinated international co-operation in setting clear standards and sharing information.

Transparency International's research shows that corruption has a corrosive effect on education by raising prices and reducing the quality of education. Legal counseling has been opened in many states to help communities launch legal combat against corruption in schools and universities.

ERASMUS CASE ANALYSIS

One of the most characteristic cases of corruption in university education in the Republic of Macedonia is the “Erasmus” case, which is a corrupt activity that took place during 2015 and 2016. The case itself begins with an anonymous application by a student from the Faculty of Economics in Skopje, where corrupt activities of professors of the Faculty of Economics are exposed. Professors are reported to have demanded money bribes (exam costs ranged from 500-1000 euros), or sexual services, so that students would receive a passing exam, or pass the exam. The Public Prosecutor's Office for the Prosecution of Organized Crime and Corruption has filed an indictment charging them with: criminal offenses of bribery, bribery, receiving a reward for unlawful influence and abuse of power and authority. As the report is anonymous, no specific witness or damaged person was present, based on concrete evidence an indictment is filed, whereby the parties have the right to the closing statement, followed by the verdict. In the present case, two professors, one demonstrator and two faculty staff are indicted. All defendants from 2016 were sentenced through criminal court to a measure of prohibition to perform official duties. The measure remains in force until a final verdict is pronounced. The case itself received a judicial settlement in 2020 with convictions against the indicted professors at the Faculty of Economics in Skopje

MODUS OPERANDI - WAY OF EXTRACTION

Corrupt deals are usually hidden from the public eyes and are arranged in a 'four-eyes' manner, carried out directly by the professor or his or her mediator if no witnesses are discovered. There are usually no witnesses to this type of corruption, so there is no written evidence, as no one

has yet given anyone a paperwork to receive a ransom or other corruption transaction. Illegal profits are often obtained through trusted intermediaries, making it more difficult to detect and prove that some of the professors are corrupt. The most common method of corruption in education is bribery. There are cases when the person self-initiates to bribe the professor to obtain a passing grade.

The first type of corruption is involving high-ranking officials and government officials involved in public tenders for the construction of buildings for higher education institutions or the transfer of funds to publishing houses for textbook printing and so on.

The second type of corrupt practices is when enrolling in a college, getting a room in a student dormitory, and similar.

The third type is:

- accepting a bribe or a service for obtaining a passing exam grade;
- giving private lessons that affect the quality of regular teaching, exploitation and abuse of students in physical, sexual and other ways, as a way of giving a higher grade or passing an exam;
- selling exam / colloquium questions;
- absent from university to pursue other activities for other institutions ("dual practice");
- conducting exams outside the exam session;
- holding "private exam sessions" - holding an exam for a small group of students which is pre-arranged and the professor gets some benefit;
- plagiarism (transcript of student papers by professors);
- among the newer types of corruption is the hiring of professors in private entities as experts, most often in the firms of parents of students who wish to pass an exam or organize wedding celebrations for the professors' children;
- sponsorships payable on the transaction account for publishing textbooks;
- nepotism - instead of hiring the best students, hiring their close ones;
- Selling textbooks to professors as a condition for passing and passing the exam etc..

However, which specific forms of corruption will occur in university education depends on factors such as political, economic and social situation, cultural perceptions, ideologies of political subjects, and even language.

Certain forms that are highly represented in some countries may not exist at all in other countries.

Research points to new forms of corruption in education such as: publishing books, financing projects, attending conferences, paying funds to secret bank accounts in foreign banks, sponsoring sports clubs, various associations, charities, etc.

Corruption in university education institutions can undermine confidence in the educational system and in the educational institutions themselves. Education is an area in which many actors are involved, including social cohesion and unbreakable relationships (parents - students, professors - students, decision makers - population..), and for the time being a particularly important social category - young people. As already mentioned, education is a key element of a modern, advanced and democratically developed society. Such phenomena call into question the general consensus on the role of these institutions and education itself, bringing the whole idea of education into question. [6]

The reputation for corruption of university education can affect the interest of domestic and foreign investors, both in terms of donating funds to universities and granting scholarships to students, as well as their participation in the country's economy. In longer terms, corruption in higher education can cause significant social inequality in one country, limited access to education, creating a general climate of unfair conditions for personal and social progress, and a serious lack of quality staff in all areas.

CONCLUSION

Corruption is one of the most worrisome problems all countries face. It is present in all strata of society. It is one of the main obstacles to the functioning of the rule of law. Given that corruption is one of the biggest security problems nowadays, it is necessary to maximally and transparently condemn all attempts at corrupt behavior in all pores of society including education.

Regarding corruption in higher education, Macedonian legislation offers a solid legal framework, the compatibility of the legal solution and a

[6] Stephen P. Heyneman, „Education and Corruption", International Journal of Educational Development (2004)

logical sequence of legal provisions are noticeable. However, there is a lack of regulation on some of the corrupt practices that take place in higher education, especially in the area of new forms of corruption that emerge with new technologies. Also, in the normative part, no strategic documents for financing higher education have been adopted yet. Inadequate funding of tertiary education significantly affects the development of corrupt practices in the academic community. All that value to some members of the academic community is reaching for alternative sources of funding, and bribery is just one of them.

What is missing is a scientific research on this form of corruption, a state strategy to tackle this problem, and a developed scientific thought on the subject.

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THEORETICAL APPROACHES IN EXPLAINING SECURITY (INTERNATIONAL RELATIONS, HUMAN SECURITY AND ENVIRONMENTAL SECURITY)

Aleksandar Ivanov, PhD
Associate Professor, Faculty of Security – Skopje, Skopje, Idrizovo, North Macedonia, *aleksandar.ivanov@uklo.edu.mk*

Snezhana Nikodinovska-Stefanovska, PhD
PhD, Full professor, Faculty of Security – Skopje, Skopje, Idrizovo, North Macedonia, *snikodinovska@gmail.com*

Srna Sudar, PhD Student,
Faculty of Security – Skopje, Skopje, Idrizovo, North Macedonia, Head of Center for Technology Transfer, Institite-Center of Excellence for Research and Innovation, University of Montenegro,
srna@ucg.ac.me

Abstract

The idea of security is complex and has achieved popularity with many scientist in the field of political studies, almost throughout the 20th century. The liberalism promoted by Woodrow Wilson, whose culmination we see with the 1938 Munich Agreement, was questioned with the most destructive war that happened on the planet. With the creation of the bipolar order of international relations the understanding of security was mainly through the classic and modern realism, neorealism, structural realism, based on the work of Thucydides, Machiavelli, Morgenthau.

However, after the Helsinki Agreement and the creation of the largest regional security organization in the world, as well as according to some authors as Ulrich Beck, Barry Buzan and others, the meaning of the idea of security changed. Namely, security became not only security at the external borders of a country. Security became the security of a person, but also in an ultra-radical sense – security of the environment.

This paper is divided into 4 parts: 1. Introduction; 2. Approach to security in international relations; 3. The concept of individual security; 4. The concept of environmental security;

Findings

Scientific review of the knowledge related to different aspects in security research.

Methods

The paper follows the qualitative approach. It is based on literature review the authors have made, i.e. the overview of theoretical findings on basic questions and conceptual determination of the above mentioned parts of the chapter. Also, the inductive and the deductive approach were applied while analyzing the theoretical observations.

Keywords: *Security; Environment; International relations; Human security;*

INTRODUCTION

The phenomenon of security means seeking answers to some of the following questions: 1. Who (what) is subject to protection? 2. Existence of a state of absence of fear, i.e. existence of a state of freedom of action; 3. Promotion and protection of human rights; 4. Existence of dignity in people, which is certainly closely related to equality and: How universal is this category and ultimately to what extent does it apply to each individual?

The authors agree that security is related to both objective danger (conflicts or other type of objective/real threat) and potential danger (latent danger that can be real, but also fictitious and fake). Threats: 1. Are associated with objective endangerment of a certain group (state, territory); 2. Threaten the normal way of life of people (closely related to the concept of certainty of relationships and processes); and require coordinated action by a central authority.[1]

We can see the importance of security through the following example given by Friedman in terms of what can be done in the name of security: censorship can be imposed, political rights can be suspended, young people can be deported! (Zedner, 2009, p. 12)

[1] One of the main reasons for the perception of security as ”“state, national or group” may be the result of the organized way of life of the people in which the state is central to governance. Hence, the authority of the state, the organized government that has sovereignty over a certain territory as a regulator, promoter and protector of social relations have largely left room for it to be perceived as a factor of security/insecurity, constructiveness and destructiveness. The availability of the means to use force, something for which the state enjoys a monopolistic position, is crucial in this regard.

Security is a "promiscuous concept". It is explored as social security, health and safety, financial security, policing, human security, environmental security, international relations and peacekeeping and security. The noun security, according to Walbert, is an umbrella term that houses various governance practices and governments, budgetary practices, political and legal practices, as well as social and cultural values and habits. The author is of the opinion that security cannot be constituted as an independent scientific discipline. Security studies are particularly prominent with the overlap and development component, generating a new concept of transdisciplinary studies. In short, according to Walbert, safety is too big an idea to be framed in the structures of a discipline. (Zedner, 2009, p. 9-10).

APPROACH TO SECURITY IN INTERNATIONAL RELATIONS

The conventional history of international relations, especially political science, has presented too many theses on how the field of international relations has evolved.

The dramatic events of the 1980s, coupled with the collapse of the USSR, shaped the political landscape of world politics. As a result, there have been calls for systematic research into theories and approaches, as well as the analytical categories used by scientists working in the field of international relations.

Liberal theory

The liberal tradition of international relations has a strong significance in international relations, and cannot be said to be subordinate to realism. Neoliberal institutionalists often present themselves as the last intellectual challenge of neorealism, so it is not surprising that many feel compelled to ground their approach in an older historical tradition. Even Michael Doyle, who is one of the principal advocates of the International Liberal Theory, concedes that "although no canonical meaning of liberalism persists, students of international relations have, nevertheless, ascribed a set of core theoretical insights to this particular tradition of thought". (Schmidr, C., & Brian, 1998, p. 435)

Kenneth Waltz (1959) in his work, *Man, the State and War*, provided what has become a standard interpretation of the liberal tradition of international relations. Liberal theories correspond to what Waltz termed "second image" explanations for the cause of war; that is, arguments which content that international conflict is a consequence of flaws in the internal organization of states… By utilizing the insights of liberal political theorists, such as Jeremy Bentham, John Stuart Mill, and Immanuel Kant,Waltz derived several theoretical assumptions that define the essence of the liberal view of international relations. These assumptions include: one, that there was an objective harmony of interests in both domestic and international society; two, the war-does-not-pay argument, an idea that Waltz explained was rooted in classic free-trade economic theory; three, a belief in the inherently peaceful proclivities of democratic forms of state; and four, faith in world public opinion as an effective sanction in securing the peace. (Schmidr, C., & Brian, 1998, pp. 435-436)

Realism and neorealism

The basic ideas of realism are that individuals are organized into states and that each state wants to achieve in the maximum way its national interests defined in strength. Realists base their conception of the role of force in international interests on one motive – national interest. Namely, they believe that the state starts from its national interests which are causally related to the policy of force, because it determines and secures them. States exist in an anarchic international system where there is no hierarchically placed authority or center.

The realists start from the "real state" of things in the MoD. This real situation is constant and unchangeable because it arises from the unchanging human nature which is dominated by the instinctive need for power struggle – which in the final analysis is determined by the MoD. (Representatives: Thucydides, St. Augustine, Machiavelli, Hans Morgenthau, George Kennan, Kissinger).

The neorealists accepted the basic ideas of realism, but faced with the changes in the MoD (development of international trade, integration and cooperation, opening of East-West cooperation channels), introduced some corrections, i.e. all these changes could not be explained exclusively by the theory of force. So the neo-realists started with a new paradigm.

According to Waltz, the state was retained as a major actor in international politics; force is retained as the basis of theoretical analysis, but it is not exclusively military; the balance of power is maintained which allows the main actors not to go into war.

In different theories of realism it is obvious that individual authors have different approaches, but what connects them in "one realism" is their insistence that there is a unitary autonomous state as the main actor and international anarchic system in which they act. This is what unites them and, on the other hand, distinguishes them from the supporters of liberalism and radicalism in IR.

Reflectivism

In addition to the stated theoretical approaches in the study of international relations, other approaches have been developed, such as reflectivism, which, for example, argues that rationalism (based on positivism, which is the basis of the liberal and realist school) ignores important aspects of international politics by advocating positivist conception of social science and using it to discover facts through "gold standard" ways of studying. Reflectivism describes the rationalist's theorizing as a problem that has a role in solving specific puzzles, but ignoring important aspects of international politics, such as morality and ideas. Moreover, the reflectivism system is given as a timeless one. Reflectivism argues that there is no singe fact to be discovered. (Soltani & Yusoff, 2012, p. 11)

Constructivism

Alexander Wendt introduced constructivism as a strong analyzing way for the events occurring in the world. Constructivism is a response to the mainstream approach of rationalism, including realism, liberalism, and reflectivism. Constructivists try to close the methodological and ontological gap between rationalists and reflectivists. They believe that practice determines internal norms. Territoriality, security, enemy, and threat are constructed by practices of agents. Therefore, constructivists argue that rationalists cannot ignore realities which can be understood through observation. Constructivism argues that states define identities in relationship

to other states. Nonetheless, its analysis is different from realism. In contrast to realism, it believes that structure is a result of social relations such as common knowledge, and interactions more than materialistic capabilities. Meanwhile, perceptions, expectations and common knowledge forming the structure are determinant factors. (Soltani & Yusoff, 2012, pp. 12-13)

Constructivists argue that the principal concepts of realism are security, self-help and anarchy. Based on constructivist ideas, these concepts are institutions that are relatively stable sets of identities and interests. However, they are codified and derive their meaning on the basis of "norms, formal rules", which are based on collective knowledge in the process of actors' practices and socialization. They are cognitive entities that do not exist apart from the actors' ideas about the world, so they are "nothing but beliefs". On this basis, all the concepts such as security, self-help, and threat are institutions that retrieve their meanings under the situation of anarchy. (Soltani & Yusoff, 2012, p. 13)

In the theories of international relations, although different meanings have been attributed to the term "security", there has been consensus on the concept of security, based on the definition of Walfers (1952). The feeling of fear is the center point for the definition of security, while the lack of threat has been emphasized as the factor that causes the elimination of the feeling of fear.

THE CONCEPT OF INDIVIDUAL (HUMAN) SECURITY

Since its introduction in UNDP's Human Development Report 1994, "human security" has been a topic of lively debate.

The UNDP Human Development Report (1993) introduced the concept of human security as a shift from the security of the state by the military protection of a country's borders to the security of people by a variety of measures to protect people from a diversity of threats. Human security was therefore people-centered, multidimensional, interconnected and universal. The following year, the HDR 1994 defined human security as "the safety from such chronic threats as hunger, disease and repression and; protection from sudden and hurtful disruptions in the patterns of daily lives, whether in homes, jobs or communities." It elaborated the need for a variety of actions to respond to these problems, including measures of disarmament

to free up resources to make the new actions possible. (Jolly & Ray, 2007, p. 458)

National perspectives on human security and the policy proposals they lead to also do much to answer the critics of the human security framework. The critics appear to focus on five difficulties with the concept:

- Human security, they argue, merely involves renaming problems which have already been recognized in other contexts which already have perfectly good names. What is gained by combining them together under a new label (Ayoob, 1997);
- Human security does not have any definite parameters, therefore anything and everything could be considered as a risk to security (Paris, 2001);
- Human security, when broadened to include issues like climate change and health, complicates the international machinery for reaching decisions or taking action in relation to the threats identified;
- Human security risks engaging the military in issues best tackled through non-military means (Knudsed, 2001);
- Human security under the UN risks raising hopes about the UN's capacity, which it cannot fulfill. (Jolly & Ray, 2007, p. 459)

The 2004 UN Agreement to establish a Peacebuilding Commission provides a new challenge and opportunity to apply human security analyses proactively. It remains the political will and motivation of the governments to implement policies for preventing or mitigating different forms of human security, which will inevitably vary from country to country. Nonetheless, analyses of human security can still be of great importance and value, even if not directly put into operation.

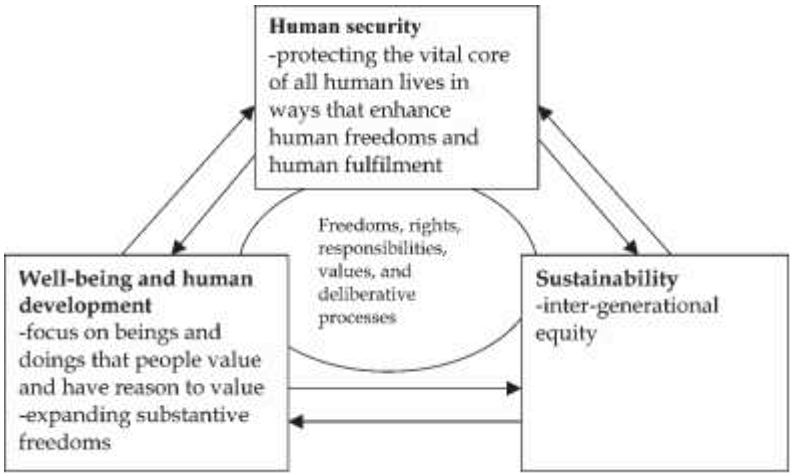

Figure 1. Human security, well-being and sustainability (Anand & Gasper, 2007, p. 451)

THE CONCEPT OF ENVIRONMENTAL SECURITY

The Nobel Peace Prize in 2004 awarded to the environmental activist Wangari Maathai is a clear indication that the international community recognizes the interdependence between environmental security and safety of people (individual security). In the report of the World Summit held in 2005 the Secretary General of UN, Kofi Annan, underlines that "Humanity will not enjoy security regardless of the development, will not enjoy the benefits of development without security, and will not enjoy both objectives and their ideas without respecting human rights." (Liden and Enestrom 2005, 17)

The question of environmental protection undoubtedly is viewed as a security issue, both in terms of actions, regarding the endangerment of the environment and also in terms of realization of the rule of law through the mechanisms of governance.

Simply, man realizes that the security threats and concerns have become more numerous and they include a number of issues such as: 1. diseases and droughts; 2. floods and hurricanes; 3. industrial pollution; 4. degradation of the environment 5. threats to the safety of people from conflict, hunger and lack of resources.

Undoubtedly, the concept of security is associated with the risks and dangers that arise. Regarding the environment they are very numerous and

complex. The source of these threats can be either caused by nature or caused by man. On a global level, a significant step was made by the recognition in the 1990s of the fact that climate change is here and now, biodiversity is seriously threatened and resources are being exploited on a level that is unsustainable in the long run. With these facts the sources of threats to the security are becoming increasingly numerous, and one of the major dimensions of this security has been human environment. While, on one hand, the concept of national security (a concept that has in mind the threats to the sovereignty of states primarily by external factors – e.g. military aggression or internal factors – e.g. social unrest or civil war) has been always present and therefore policy makers are necessarily taking it into account during their policy-making, on the other hand in the case of the environment that is not the case. Therefore, the environmental activities on a global international level started to take place during the 1970s, i.e., at the time when the Rome Club published *The Limits to Growth*. (Hulme 2009, 4. cited by: Meadows, D.H., Randers, J., Meadows, D.L., Behrens, W.W.) This theory argues that the limits of the economic growth in the world will be constrained by the limited resources (and according to the authors) the unsustainable exploitation of resources, together with the population growth, creating carelessness towards nature and the environment, whereby the concept of national sovereignty of the states and their sustainability and inviolability of their borders becomes irrelevant, when in fact, there is a threat by something much more serious, a threat in front of the man where he, at a given moment, is simply powerless.

The attempt of the scientific, the professional and the political community to define the notion we are discussing, is in the last few decades. *The Limits to Growth,* published by the Rome Club, and the Conference in Stockholm could be cited as the first two very important developments in the building of a systematic, argumentative approach to the study of the environment. Bellow we are presenting some of the definitions of various authors about the meaning of environmental security. (Belluck, et al. 2006)

„Environmental security (or environmental safety) reflects the ability of the state or the society to endure deprivation of resources, the environmental risks, either the sudden changes or the conflicts and tensions, that are environmentally related"; „Scientifically based studies, which make fusion of physics with the scientific discipline of political economy, are suitable means for predicting the future conflicts that arise to some extent as

a result of the environmental degradation"; „Those activities and policies that provide security from hazards associated with the environment and that are resulting from natural or human processes based on ignorance, accidents, mismanagement and that happen within or outside the national borders"; „Environmental security is a state of a particular group, whether individual, collective or national, which is systematically protected from environmental risks caused by inadequate environmental processes as a result of ignorance, accidents, mismanagement or incorrect design"; „Environmental security is also the protector of the natural environment and the vital interests of the citizens, the society, the state as from external as well as from internal influences, processes which can have opposite effects and trends in the development that threatens the human health, the biodiversity and the sustainable functioning of the ecosystems, as well as survival of the humans"; „Environmental security is a condition of protecting the vital interests of the individuals, the society, the natural environment from threats that result in natural and anthropogenic impacts on the environment". (Belluck, et al. 2006, 4)

Principle 25 of the Rio Declaration summarizes the interlaced relationships between environmental protection, human rights and socio-economic development, concluding that there is interdependence between the variables: 1. peace; 2. development; and 3. environmental protection. In 2012 Rio+20 was held. The results have not been astonishing. The economic and financial crisis overshadowed the discussions about the green policies. However, the tragicomic negotiations in Copenhagen in 2009, and the "Rio+20" conferences, kindly speaking, didn't demonstrate much of a progress.

As a result of the industrial and the technological development, as well as the changes resulting from it, the concepts of "human" security and "individual security" are being developed, but also the concepts of "environmental security" and "sustainable development" are being formed, so subsequently we can argue that a complementary concept of the previously mentioned terms is being developed, the "sustainable development-sustainable security" concept. (Mileski (Милески) 2011, 10-15)

Population growth, the required economic growth, and the social pressure for improvement of infrastructure duplicates the efforts to protect the human health and the environment, and in that regard the environmental

security should be a result of a systematic and transparent decision-making, at the same time very often constituting difficult mission. (Belluck, et al. 2006, 3) The phenomenon of the "risk society" by the German sociologist Beck at the end of the 1980s is largely based on people's perceptions related to the environment and their health.

By environmental security Mileski understands: "public security depending on the hazards and related to the environment, caused either by natural or by human processes. Environmental security is a state of dynamism between man and the environment, which includes the recovery of the environment damaged by any military operations and also an improvement of the resource shortages, environmental degradation and the biological threats that can lead to social tensions and conflicts. Respectively, the environmental security is a term that theorists and practitioners use to indicate the link between the environmental conditions and the security interests". (Mileski, Ekoloshka bezbednost (Милески, Еколошка безбедност) 2006, 23-25)

The Brutland Commission also recognizes the need of expansion of the traditional approach with regard to the security and implies that there is a need for a comprehensive approach of the international and the national security, especially regarding the traditional understanding as a military power and its potential for defense or attack. The actual sources of insecurity also include the unsustainable development. (Werner 2009, 138, cited by: Commission, Our Common Future: Report of the World Commission on Environment and Development, 1987, p. 290)

Juna and Top define the environmental security according to two dimensions. The first refers to the maintenance of the ecological balance, which is necessary to provide backup and availability of the resources to the systems that sustain life. Secondly, the prevention and management of conflicts that are stimulated by the struggle over resources which are lacking or are being degraded. (Werner 2009, 38)

According to Chris Ring the environmental security implies "a process that effectively responds to the changing environmental conditions that have the potential to decrease the peace and the security in the world. Achieving our goals for environmental security, means planning, as well implementing programs for prevention and reduction of changes caused by anthropogenic activities." In this definition there are three visible elements:

- Causes (anthropogenic activities that alter the environment);
- Caused changes that can disrupt the peace and security; and
- Need for action referred to as "planning and implementation of programs for prevention and reduction of changes caused by anthropogenic activities."

According to the above considerations, it is obvious that people have to feel safe in order to function normally. Among these dimensions the concern for the future is also present; the concern and the obligation for leaving something for the future generations. Therefore, the necessity of environmental protection in order to ensure long term and sustainable peace in the world is today more clear than ever before. Scientific findings have confirmed the threat, and global leaders are aware of it.

Most of us would not have put into question the existence of the emergent and potential risks and dangers when it comes to terrorism, drug trafficking, armed conflict, human trafficking, etc. But when it comes to risks and dangers that exist and are being possible threats to the environment the questions remain not so determined. The people who work and are aware of the environmental protection and its security implications agree that the knowledge of the environmental dimension of security could have been monitored even in the 1970s, when people dealing with security issues, as well as policy makers concluded that threats to the security of the states did not begin and end with the Cold war and the nuclear arms race.

The question of environmental protection considered as a security issue is being regarded as a fact of material actions that endangers the environment, but also is being considered as a question of achieving the rule of law throughout the mechanisms of governance. In this respect, security could be seen as a function, but also as an organization, by which we understand a government-organized institutional treatment of the threats and the risks which are present in all spheres of human life on daily basis.

The recognition of the importance of the environment as a result of the increased scientific interest, as well as that of the general public is a result of the available information that suggest the problems which today's generations are facing due to the destructive potential of the modern world.

Albert Gore already in the late 1980s raises the question of environmental protection and he continues to do so his entire life. According to Gore, the urgency of dealing with climate change consequences results

from man's moral and strategic obligation. In this regard, Gore argues that "the environment is a matter of national security, an issue directly and without delay affecting the interests of the states and the welfare of people." (Weber 2001, 2005, 2010, 190) The fact that Al Gore was vice president of the United States, a country that in the 1990s was at the zenith of its power, and the actual achievements of Clinton's administration with regard to environmental protection is open for discussion. For example, the discussion can begin as a question of whether economic interests have won over environmental interests. (A Case Study, Albert Gore, the Vice president that failed in results.)

This discussion could also be expanded for the Democrats as a political movement in the United States. Madeleine Albright in 1997 in her capacity as Secretary of State said that "the environmental degradation is not simply irritation, but is a real threat to national security." On Earth Day in 1997 Albright submitted the first annual report of the Secretariat of State of the United States under the title "Environmental Diplomacy: The environment and the US foreign policy," emphasizing in the report that the global damage to the environment threatens more and more the health of the American people and the future of US economy, and that the problems of the environment are often at the center of the political and economic challenges the United States face in the world. (Simmons 1999, 1) Considering her access to information, probably Albright knew what she was saying.

More authors suggest that there were repeated attempts for redefining security, especially after the termination of the Cold War. Thus, for example, John Barnett lays down several major areas of environmental security discourse:

1.The efforts to redefine security;
2.Theories of the environmental factors in violent conflicts;
3.Environmental security of a particular nation; the links between the military and the questions related to the environment;
4.The agenda for "environmental security"; and
5.The question of securitization. (Barnett 2001, 8)

The determination of the environmental degradation for us has an exceptional importance, as it represents a precondition for the consistency of the terminology in order to discuss environmentally related topics. In short,

this term can be described as a process in which the functions of the biosphere that provide living conditions are decreased. These processes involve atmospheric pollution, climate change, soil degradation, deforestation, loss of biodiversity, pollution of plants and animals with chemicals or radioactive substances. What the people can do in order to reduce the smooth progress of these processes is to refrain from activities that exercise anthropogenic impact on the environment. Some authors define the environmental (in)security as a problem, which results from environmental degradation, defining the security risks of those people suffering the consequences from environmental degradation. (Barnett 2001, 17-20)

Regarding the questions about the involvement of the environment in security doctrines, we frequently use the example of asking a general question, whether we are considering the possible environmental damage while we develop a strategy for aggression or a strategy for defense. Nevertheless, back in the 1960s the environmental protection was not on the agenda of global politics. Although making huge progress since then, unfortunately, some countries, USA for example, do not have constant and steady position towards environmental protection. China and India are among those countries, as well. It seems that in the USA, when they make two steps forward, the next administration takes at least one step back.

Environmental protection today is on a much higher ground that it was decades ago. Of course, the challenges are here, and as it seems the environment, again, is going to be "saved" by the technological progress and development in much higher degree, than by restricting the man's needs in our contemporary consumer-based societies.

CONCLUSION

The development of international relations, the emergence of states in the 17th century, the constant wars, and especially the decisive Thirty Years' War were a turning point along with the Renaissance, which resulted in the dynamic development of science in many different ways in the following centuries.

In this sense, security, as always an important element of human basic instincts, which is among the highest needs in the hierarchy of human needs, undoubtedly has found its place.

Due to the initial creation of states and the almost constant military conflicts in history, scientists in the early 20th century initially began to study security by studying the behavior of states, thus minimizing the role of the individual, because he, according to that way of thinking is less important than ideology, national interests, etc.

Hence, we find the first theoretical approaches in the science of international relations which are still relevant, as was elaborated in the text.

But as the Cold War drew to a close, scientists emerged trying to redirect the security reference object to the individual, among other things, given the state's capacity to abuse its coercive monopoly. That is why a school appears that diverts the attention of security, making man an object of security. These approaches involve, inter alia, some of the following considerations. Each of the definitions of human security includes the common threat, concerns the need to contextualize the experiences of insecurity, and develop policy responses based on the focus of security for the individual, not the state. Central goal of the concept becomes mitigating threats to the insecurity of individuals, and the reasons of insecurity are subsequently broadened to include threats to socio-economic and political conditions, food, health, environmental, community and personal safety.

In parallel with these processes, starting from the 1960s, authors (Rachel Carson), the Rome Club, the Brutland Commission appear, which in turn are the basis for the development of what we call environmental security, as a basic precondition for the survival of human life as we know it.

It remains the task of science to deepen all these theoretical approaches and find solutions, because security will remain an immanent feature and challenge for the future with numerous, different and still unknown risks and threats. Only an interdisciplinary approach to this question can find answers to these threats, which will enable a person to live a decent life free from coercion and fear.

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Original Scientific Paper

COMPUTER FORENSIC IN FUNCTION OF CRIMINAL INVESTIGATION

Svetlana Nikoloska PhD
St Kliment Ohridski University – Bitola
Faculty of Security - Skopje
svetlana.nikoloska@uklo.edu.mk

Marija Gjosheva, PhD
gjoshevamarija@gmail.com

Abstract

Computer forensics is increasingly finding its place in the criminal investigation of criminal offenses in order to shed light on and provide the evidence necessary to initiate criminal proceedings against the perpetrators of crimes that have misused computer technology in criminal activities. Criminal investigation is a procedure of using tactics, techniques and methods aimed at detecting, clarifying and providing evidence through legally prescribed operational-tactical measures and actions, investigative actions and special investigative measures. The Macedonian legislator in the criminal procedural legislation envisages measures and actions for providing electronic evidence which is relevant in computer crimes, but also in specific criminal situations electronic evidence has its meaning in the process of clarification of other classic and economic crimes. This paper analyzes the steps and procedures for extracting, processing and presenting electronic evidence that represent data contained in computer devices, data transmitted through computer systems and networks in order to adapt them to a form acceptable to judicial authorities based on the analysis of all evidence bases the verdicts on the perpetrators who are charged with a specific computer or other crime. An analysis of the actions of the competent investigative and judicial bodies in the process from detection to verdict is made by analyzing reported, accused and convicted perpetrators of the most committed computer crimes, but an analysis will be made for the need of electronic evidence in other crimes through analysis of case.

Keywords: *Computer forensics, Forensic research, Computer devices, Electronic evidence, Perpetrators of crime*.

INTRODUCTION

Forensics is the process of using scientific methods to provide, analyze, and present evidence in court. The practice in ancient Rome in criminal charges was as follows: the case to be presented to a group of public officials at a court hearing, where the defendant and the plaintiff in public presented their facts and evidence to the Judicial Council in order to convince them of their a version of the veracity of the case, presenting material and intangible evidence, visible and invisible (latent) evidence on the basis of which the trial chamber renders the verdict. Some of the evidence is visible, material, but bigger part of it is invisible depending on the criminal situation, with "suspicion" that it exists, but it needs to be processed in special techniques and made visible and acceptable to the investigating and judicial authorities. It is a task of forensics, which is based on proven scientific methods and techniques, as well as procedures in the process of discovering and gathering evidence, and their provision and storage are aimed at enabling their application in court. The beginning of forensics in scientific circles was taken in 1248 when the Chinese physician Hei Dawn Yu wrote the book entitled "The washing away of wrong". This suggests that forensics began to be studied much earlier than in 1904, when the first facial dactyloscopy was performed, and in the United States it was not until 1930 that it was used. In the 1980s, DNA analysis and profiling of the perpetrator began to develop, and DNA was used as evidence in court only in the late 1990s (Ganiya, 2019).

The inclusion of forensics in the investigation and resolution of criminal offenses starts from the place of commission of the crime through effective detection of objects and traces as material evidence and objects bearers of traces for their provision for further expertise, analysis and storage. Upon discovery, objects and traces are specially packaged, marked, stored and transported to appropriate laboratories for their expertise. Really important is the fact that the "chain of custody" is established for each case as evidence from the moment of its discovery until its presentation in court (Jackson & Jackson, 2009).

With the development of the society, and especially the technological development, the benefits, in addition to the positive sides, also have negative

ones, which are most often manifested by the abuse of technology for criminal purposes. This is especially evident with the massiveness of information technology and its penetration into all pores of social life from application in the family, schools, state bodies and institutions, economic and industrial facilities and daily increasing the number of users of information technology represented by a large number of devices which are performing automatic data processing. There is also electronic communication through computer networks and systems on the Internet, which enables very fast private and business communication of citizens, but also communication of criminals who not only use communication for organization in committing crimes, but also abuse it as a tool of execution and the object of criminal action. The misuse of computer devices, systems and networks as a tool or object of a criminal attack, necessitates the provision of invisible "latent" electronic evidence.

This requires scientific methods and techniques of extracting electronic evidence in a form acceptable to the judicial authorities so that they can apply it in the overall analysis of all the evidence on the basis of which they will pass the judgment.

The need to apply scientific knowledge, skills and techniques for finding, providing and storing electronic evidence is the subject of a special branch of forensics, and that is the computer forensics. Computer forensics is a set of scientifically proven methods and specialized tools for identifying, collecting, storing, analyzing, and presenting evidence related to the reconstruction of computer devices, systems, and network abuse. Computer forensics enables the discovery, provision and storage of invisible electronic evidence in a form acceptable to the judiciary.

Criminal investigation is a process of operationalization of legal measures and actions aimed at detecting, clarifying and providing relevant evidence to investigate a criminal problem that has a complex nature and its clarification is a complex procedure of applying criminal tactics, techniques and methods. Criminology as a science, in addition to developing its own methods and techniques used in forensic research, also uses knowledge, skills, techniques and methods from other sciences that are adapted to illuminate and provide evidence of a specific criminal event.

CRIMINAL OFFENSE - PERPETRATOR– LAST

In cases of misuse of computer devices, computer systems and networks in the criminal activity of perpetrators, the team of investigators includes specialists in the field of computer forensics who contribute to the extraction, provision, storage and presentation of electronic evidence. Macedonian criminal law in recent years has accepted several recommendations from international conventions, especially the Convention on Computer Crime in terms of providing legal measures and actions to provide electronic evidence as special types of evidence that differ from material and ideal evidence that was recognizable and acceptable. for the judiciary. In addition to the legal provisions for providing electronic evidence, Standard Operations Procedures for Computer Crime have been adopted on the manner and techniques of criminal police and forensic experts from the Ministry of Interior of the Republic of Northern Macedonia who are responsible for clarifying and providing electronic evidence and always participate. In operational teams for criminal investigation of criminal situations in which it is necessary to provide electronic evidence.

COMPUTER FORENSICS

Computer forensics is a branch of forensic science that deals with the legal methods of providing and processing electronic evidence extracted from a computer or other computer data carrier. Computer forensics investigates all media for extracting and transmitting data in order to find and analyze documentation or other electronic evidence related to a particular criminal activity. Nowadays, the term computer forensics is increasingly becoming digital forensics because in addition to computers as a means of execution, other digital devices are increasingly emerging such as digital cameras, mobile phones, smartphones, personal digital assistants, etc (Ćosić & Bača, 2010).

Computer forensics is the process of investigating the detection of illegal activities that have elements of a crime under the Criminal Code. This process consists of methods of collecting, securing, storing, analyzing and presenting evidence that can be found on personal computers, servers, radio stations, transmission media, computer networks, databases, mobile devices

and all other information and electronic devices that have the ability to process, transfer and store (store) data in electronic form. The investigation process must be based on scientifically proven methods and legally prescribed procedures in order for the evidence provided to have the value of evidence accepted by the judiciary. Computer forensics is based on computer science, but also on forensic science, because it collects and analyzes data that are further used as evidence in court in order to establish criminal liability for the perpetrator of a specific crime.

Computer forensics deals with the collection of electronic evidence from the site of a computer crime and the provision of evidence for the path of computer data and the consequent occurrence of each individual computer incident. There is a source, a path and a victim in every computer incident. What needs to be answered first is whether it is a computer incident, because very often the suspicions of a computer incident after providing the evidence are clarified that it is not an incident - a crime, but a technical error or something else (James & Norby, 2009).

CRIMINAL INVESTIGATION

Criminal investigation is developed in special disciplines, is different types of criminal investigation aimed at specific investigations of a special group of crimes (Rachel, 2010), that have the same or similar criminal characteristics. Criminal investigation is operationalization, investigation of a criminal problem that has a complex nature and depending on the initial knowledge and facts available, it is planned to activate the most adequate criminal-technical means, tactical methods and scientifically or practically based methods needed to determine the most optimal pathways on a specific operational (i.e. criminal) case (Angeleski, 1996).

Criminal investigation is a process or system that should be applied in the clarification of criminal situations, through the application of measures and actions and a continuous and connected process of action and coordination between operational and investigative bodies, in order to fully shed light on criminal cases by providing relevant evidence through legal proceedings and procedures according to "case studies" - the method of investigation of the criminal case in full, by clarifying and proving all committed crimes, which are is the perpetrators and their connection and

responsibility for the specific crimes committed and their criminal role in the criminal case.

The criminal investigation is related to several stages: the phase of obtaining information - operational information, and then follows the planning phase, the phase of implementation of specific measures and activities and the phase of submitting a report on the specific criminal situation by filing a criminal complaint or submitting a report to the public prosecutor, but certain measures and activities continue until a final court ruling.

Criminal investigation is a complex procedure and depending on the received report and the obtained operational knowledge of the police, a series of measures and actions are taken to confirm the initial information by applying legal measures and actions for which the police has authorization for their application (Criminal Procedure Code, NMK). All measures and actions are notified to the Public Prosecutor, and by order and coordination of the Public Prosecutor in the criminal investigation, investigative actions and special investigative measures are applied depending on the character and complexity of the criminal situation and the process of providing evidence for full clarification of criminal proceedings. Criminal investigation is a process of taking a series of measures and actions, but when the criminal situation indicates elements of abuse of computer devices, systems and networks, it is necessary to provide electronic evidence, but also to provide other items that are computer data carriers like personal computer digital cameras, cameras, mobile phones and media in which computer data is stored - USB, CD, DVD, etc. In the criminal investigation, especially in situations when it is necessary to find objects - computer devices and components and computer data contained in other media, the following investigative measures and actions are taken upon a reasoned order of the court at the request of the public prosecutor: research (Art. 180-192); Investigating a computer system and computer data (Article 184); Temporary provision and seizure of items or property (192 - 199); Temporary seizure of computer data (Article 198); Dealing with data that is a banking secret, property in a bank safe, monitoring of payment operations and transactions on accounts and temporary suspension of execution of certain financial transactions (Article 200); Recording of temporarily confiscated documents, documents and technical recordings (Article 201). Methods for securing evidence are most often used: Statement of the accused (Art. 205 - 211); Witnesses (Articles 212 - 232);

Expertise (Art. 236 - 243); Recordings and electronic evidence (Art. 250 - 251). For specific criminal offenses, which include some of the computer crimes, the application of special investigative measures is determined when there are grounds for suspicion. (Article 253) These are part of the legally prescribed investigative measures, the application of which can provide evidence, as follows: Monitoring and recording of telephone and other electronic communications in a procedure determined by a special law; Monitoring and recording in a home, closed or enclosed space belonging to that home or business space marked as private or in a vehicle and entering those premises for the purpose of creating conditions for interception of communications; Secret surveillance and recording of persons and objects with technical means outside the home or office space marked as private; Secret inspection and search in a computer system; Automatic, or otherwise, search and comparison of personal data and insight into realized telephone and other electronic communications. (Art. 252)

Depending on the nature of the criminal situation and the grounds for suspicion of criminal investigation, a police officer from cybercrime and a computer forensic officer from digital forensics are appointed to form an investigation team in order to contribute to the provision, analysis and storage of electronic evidence, and the participation in the preparation of a full report or criminal charge after which the public prosecutor further proceeds with the filing of an indictment.

THE ROLE OF COMPUTER FORENSICS IN CRIMINAL INVESTIGATION

Computer forensics is important for forensic research in the context of the increasing use of computer devices, networks and systems in the connection, preparation and execution of crimes. Just as criminals use information technology and computer systems and networks to connect, negotiate, organize, and carry out criminal activities, so do criminal investigators use measures, actions, and techniques to find, extract, and adjust electronic evidence that correlates with other evidence on confirmation of the grounds for suspicion to the extent of reasonable suspicion and indictment by the competent public prosecutor against the perpetrators of criminal offenses (Nikoloska, Methodology for Computer Crime Investigation, 2013). It is a complex procedure, but if the crime is fully investigated, then the effects of

the criminal investigation will be achieved, the purpose of which is undoubtedly not only to discover the crime, find the perpetrator and convict him, the ultimate goal is completely clarification on the basis of evidence, sanctioning of perpetrators and confiscation of criminally obtained proceeds.

The criminal investigation starts from the first moment of receiving any kind of information that a computer crime has been committed, or the information is directed to a perpetrator or a group of perpetrators for whom there is information that they are committing computer incidents. Through operational checks that are planned and undertaken in a short period of time, the general suspicions should be at the level of grounds for suspicion of taking more serious steps or taking measures and activities to determine the nature of the computer incident, and then planning and providing digital evidence as well as finding and apprehending the perpetrators. These are measures that are performed in the pre-investigation procedure, or pre-trial procedure, but this is the phase where the emphasis is on forensic research, because without a well-conducted criminal procedure, there is no good criminal procedure, then the perpetrators are "a step forward or an advantage". All missed actions or measures in the pre-investigation procedure, make "holes or evidence gaps" that are difficult to fill in the stage of the criminal procedure, and hardly any court would impose a sanction without good and relevant evidence.

Computer forensics, or computer forensic science, is a combination of technology and science that seeks to determine how a computer system is involved in a crime. The science of computer forensics includes knowledge of the methods and procedures used in analyzing and collecting data (evidence). Technology is a set of different tools that allow the application of methods and procedures that are subject to the scientific side of forensics. The criminal act can be committed on any computer connected to a local or global network regardless of its geographical location. Also, the computer-attacker can be geographically located at any point on the globe. Couple attacked computer - an attack computer can be within the borders of one country or be housed in different states. This means that they can be accommodated in the same country or in different countries, i.e. forensic scientists are often forced to collect digital evidence in one country and show it in court in other countries. This fact itself requires the introduction of certain rules for the collection, distribution and presentation of digital

evidence that will be relevant to all countries (Stoilkovski, Kaevińk, & Gelev, 2012).

There are three types of forensics that deal with computer systems and electronic evidence. Evidence does not have to be created by a computer, but by something else that we always associate with a computer, such as a printer, router, or pocket computer (James & Norby, 2009).

- **The first type is traditional computer forensics**, which is the collection of digital evidence from a computer, disk, or device that includes a computer or is thought to be able to create or process electronic (digital) data.
- **The second type of computer forensics is cyber-forensics or network forensics.** It includes gathering evidence that certain digital data has passed through a medium between two points in the network. Evidence that is collected in this way is always collected by drawing conclusions from a device in the path. For example: physically we cannot see the data that passes through the Internet. But a sniffer analyzer can be used to record data packets as they are sent and to get an interpretation of that data packet. Or we should make a comparison between the transcripts of the sender and the recipient of the two devices that are thought to have been transferred between them and draw a conclusion from the transcripts, usually by directly collecting data from the hard disk.
- **Forensic software analysis** that deals with identifying the author, part of the software code from the code itself.

The criminal investigation of computer incidents is a step-by-step approach to the "truth". The first steps are undoubtedly tied to more indications and of course more versions. The first step taken should be to answer the question: Is it a crime or something else?, and then with the other steps taken and answer the other eight golden criminal questions - Who (committed the crime)?; When (it is done); Where (is it done)?; How (is it done)?; With what (is it done)?; With whom (is it done)?; Who or what (is damaged)? and Why (is it done) ? (Vodinelic, 1984).

Criminal investigation as a process should be well planned and coordinated with persons who will participate in the research process, concretizing their tasks in accordance with the legal powers and determining

the time and place of conducting specific investigative measures (apartment interest) or determining special investigative measures. - Which, over which persons and for what period of time? In principle, the investigation of computer incidents, as well as other criminal cases, should not be investigated spontaneously, but "step by step", and this should be proposed and implemented by authorized officials from the Department of Computer Crime and Digital Forensics.

Each step within one phase of the investigation leads to the other step and thus ensures the control of previous activities within each of the planned steps. This is an investigation in 4 steps (Rosenblatt, 1995):

- Initial investigation.
- Tracking the attacker.
- Discovering the identity of the attacker and
- Detention or arrest.

According to Peter Stevenson, the criminal investigation process is divided into seven separate steps (James & Norby, 2009):

- To eliminate what is obvious.
- To formulate a hypothesis for the attack.
- To reconstruct the crime.
- To detect the computer from which the attack was performed.
- Analyze the computers that are the source, the target of the attack and those who served as intermediaries.
- To gather evidence, if possible, the computers themselves.
- To hand over the conclusions and evidence to the investigators and the persons who are prosecuting the perpetrators (plaintiff) in accordance with the law.

It is indisputable that criminal research should be done "step by step", but depending on the criminal situation, it requires the need to act quickly, but also to act at the request of international cooperation due to the nature of the computer incident, whether and what evidence or measures are needed to be undertaken in one or more foreign countries. Rosenblatt's (Rosenblatt, K. S. 1995) views on the categorization of the six objectives of conducting

research and providing evidence are precisely aimed at fully elucidating the criminal situation:

- Understand how the hacker enters the system.
- To obtain the necessary information to justify a wiretapping device in the telephone line used by the hacker.
- To find out why the hacker chose the victim's computer.
- Gather as much evidence of the breakthrough as possible.
- Gather information that could narrow the list of suspects or at least establish that the hacker is not an employee.
- Document the damage caused to the victim, including the time and effort the victim spent investigating the incident and determining the extent of the damage done to the computer.

In the implementation of the research process, appropriate procedures should be followed, which refer to the following actions: Checking the records, log files, and other information about the offspring.

- Gathering information from people who might know certain details about the case.
- Control of all stages of the investigation.
- Search engine optimization (locating a compromised computer).
- Search for the resources of the suspect / suspects (home, business premises, internet cafe, etc.
- Providing digital evidence and their analysis.

ELECTRONIC EVIDENCE

According to the international definition in the field of forensic science, electronic (digital) proof is any information in electronic form that has proof value and which is adapted or transmitted in such a form. The term electronic proof includes computer stored or generated evidence, digital audio and video proof signals, digital cell phone signals, digital fax machine information and signals from other digital devices. So, electronic evidence is any information generated, processed, stored or transferred in digital form that the court can accept as authoritative, is any information composed of digital 1 and 0, stored or transferred in digital form, as well as other possible

copies of the original digital information that has probative value and on which the court can rely, in the context of forensic acquisition, analysis and presentation.

The term "electronic proof" implies any relevant data sufficient to provide clarification and proof of a crime by the use of computer devices, networks and systems, which can be provided by extracting computer data in the form of texts, images, videos, phonograms, financial statements, etc.

In 1984, the FBI began developing a laboratory and computer evidence testing program that grew into a single CART (Computer Analysis and Response Team) team, which was later formed at several stations in the United States. In the United States today, forensic analysis is performed in well-equipped laboratories. The use of electronic evidence is reflected in the way the Federal Criminal Laboratory in the United States was set up in February 1999, SWGDE - Scientific Working Group for Digital Evidence. SWGDE members are under oath (judicial authorities) and experts who are not under oath are scientific workers. The FBI sponsors SWGIT (Scientific Working Group in Imaging Technologies), for the electronic processing of data and images for the needs of the judicial system after previously defining and specifying the terms for acquisition, storage, processing, analysis, transmission and output format - photography (Whitcomb, 2002).
There are three categories of electronic evidence in computer incidents:

- Transitional data or information that is lost after turning off the computer;
- Sensitive data or data that is scaled to the hard disk (HD).
- Temporarily accessible data or data stored on the HD hard drive.

Electronic proof (EP) consists of a number of indirect factual evidence, none of which must be excluded for any reason. The evidence must be complete, complementary (practically intertwined) or practically non-existent. n. crack at the conclusion, most importantly for the establishment of solid evidence. In the process of collecting and analyzing digital evidence, it is necessary for the authorized persons of the investigation to adhere to certain principles, which, among other things, are in some way part of the planning concept of the investigation or the most common or most appropriate way of conducting the investigation process, and that would be the following:

- In dealing with digital evidence, all general forensic procedural principles must be strictly enforced.
- Before and during the provision of digital evidence, no action shall be taken to change the digital evidence.
- Only a well-trained person can access the original digital proof when it is needed.
- All activities related to the collection, storage, access or transfer of digital evidence must be fully documented, stored and made available to the interested parties in the computer incident (the victim, the suspect, the lawyers - the defense counsels, etc.)
- The official person handling digital evidence is responsible for all activities related to digital evidence when in his or her jurisdiction.
- Digital evidence is transmitted only on the basis of a census from both parties (the one who gives it and the one who receives it), in accordance with legal regulations - usually with a certificate of submitted and received cases and evidence.
- Providing appropriate transfer or transportation of digital evidence as well as appropriate conditions for their storage (Nikoloska, Methodology for Computer Crime Investigation, 2013).

Electronic proof management is a complex task that requires the preparation of special procedures for handling and managing digital evidence, which means a certain responsibility for authorized persons who participate in the extraction and management of digital evidence, if not acted upon. When it comes to digital evidence, technology has made it possible to create copies that are true to the original in every way. In this case, the presentation of copies is in principle acceptable, although originals exist and are available. In practice, it is even preferable to present copies to remove any doubts about the possibility of changing the original. Even a printed form of a digital document is considered valid unless it can display all the information necessary for the process.

The expert in the ICT research team should provide:

- No evidence should not be damaged, destroyed or compromised in any way in the forensic acquisition procedure and computer analysis;
- No possible computer virus should be inserted into the computer being tested during the acquisition and analysis process;

- With the extracted potentially relevant evidence, it should be properly manipulated and protected from possible mechanical or electromagnetic damage;
- To establish an uninterrupted chain of storage and maintenance of the integrity of the evidence;
- The functional aspect to be compromised as soon as possible, or not at all;
- To obtain any necessary information during the forensic acquisition and analysis, the suspect should gather all the necessary information from the forensic expert on the manipulations committed during the criminal act on the suspicious computer.

There are several tools that are suitable for analyzing forensic evidence on a disk. However, despite the differences in implementation, they all have several similarities. Today's forensic computer equipment differs in only one way: it is based entirely on DOS or allows analysis in MS Windows (of course, this does not apply to Unix-based tools).
However, forensic equipment allows the analyst (James & Norby, 2009) to:

- Make a bitstream image of the target disk;
- Do text searches, general and specific (is either list search - specific or requesting an email address or jpeg file - in general).
- Write specific search entries;
- Make MD5 hash of disks and files;
- Make a list of files and directories on the target disk;
- To search for deleted files and data, data in file slack and data in cache or exchange files.

Documentation of electronic evidence is the final stage of the criminal analysis of digital evidence and everything that has been found, extracted and analyzed should be "put on paper" or a report of all evidence should be made individually, and then a comprehensive analysis of all evidence and prepares a final document - expertise. The responsibility for the analysis of the evidence and for the preparation of the report lies with the person who has the obligation based on a written act for analysis or expertise of the electronic evidence.

ANALYSIS OF REPORTED, ACCUSED AND CONVICTED PERPETRATORS FOR THE MOST IMPORTANT COMPUTER CRIMINAL OFFENSES IN THE REPUBLIC OF NORTH MACEDONIA FROM 2014-2018

Computer forensics has a major role to play in shedding light and providing evidence in cybercrime, as well as in providing indirect evidence in classical and economic crime. From the most conducted research on computer crime, data were obtained that the most committed crimes classified in the Criminal Code of the Republic of Macedonia are: Damage and unauthorized entry into a computer system under Art. 251 and Making and using a fake payment card under Art. 274 - b. Namely, according to the research for the period 2011 - 2016, the property and financial computer crimes as the most committed criminal act is Damage and unauthorized entry into a computer system under Art. 251 is for which 82.7% have been reported, for Preparation and use of a credit card under Art. 274 - b 15.1% were reported, only a small part were reported for other crimes. In order to continuously investigate this crime and analyze the perpetrators from the moment of reporting to their conviction, it is important to draw conclusions about the quality of the provided electronic evidence (Nikoloska, Computer crime in the Criminal Code of Republic of Macedonia with a special reference on computer crimes against property, 2017).

Table no. 1 Scope, structure and dynamics

Year	**Art. 251**			**Art. 274 – b**			**Total**		
	Re.	De.	Co.	Re.	De.	Co.	Re.	De.	Co.
2013	41	33	27	0	0	0	**41**	**33**	**27**
2014	30	14	14	/	/	/	**30**	**14**	**14**
2015	50	20	20	13	25	25	**63**	**45**	**45**
2016	74	18	16	0	4	4	**74**	**22**	**20**
2017	**74**	**18**	**17**	**0**	**10**	**8**	**74**	**28**	**25**
Total	**269**	**103**	**94**	**13**	**39**	**37**	**282**	**142**	**131**

Based on the data shown in Table no. 1 for reported, accused and convicted perpetrators of the most committed computer crimes in the Republic of North Macedonia, it is concluded that the primacy of the most committed crime in the investigated period 2013-2017 is Damage and unauthorized access to a computer system under Art. 251 with 269 reported perpetrators from the total of 282 reported and 13 reported for Making and using a fake payment card under Art. 274 - b. Of the reported defendants, 142 perpetrators were convicted for the first offense, and a total of 131 perpetrators were convicted for the second 39, for the first offense 94 and for the second 37. The percentage of convictions against accused perpetrators is 92.3%, and in 48.7% were reported, which indicates the appropriate application of investigative measures and actions in the field of providing, analyzing and storing electronic evidence. According to the data on the structure of the works by years, it can be noticed that in certain years (2016 and 2017) there are no reported for the second crime, and there are defendants and convicts. This is a result of the re-qualification of the crime after the filing of the criminal complaint and as a result of the conducted investigation with the coordination of the public prosecutor and the comprehensive expertise of the electronic evidence the acts are re-qualified, but it can be the result of the procedures from reporting to sentencing.

CASE STUDIES

Case number 1

The Sector for Computer Crime and Digital Forensics has filed criminal charges to the Primary Public Prosecutor's Office in Skopje due to the existence of grounds for suspicion against the person A.T. from Skopje, for the criminal act Damage and unauthorized entry into a computer system, according to Article 251 paragraph 1 of the Criminal Code of the Republic of Macedonia. The suspect committed the crime in 2014 by unauthorized access to an administrator user in a computer system - computer server unit "WIN-KLS5VM0LT8C" owned by the company "Nextsense LLC" from Skopje, which hosted the website www.exploringmac.com and then acquired administrative privileges and changed the official content of the website, is unauthorizedly installed new files, making computer data unusable and

useless. From the submitted logs for all performed unauthorized announcements to the host-server, the same was analyzed where IP addresses were determined, from which it is accessed with time and date.

In the process of criminal investigation, several measures and actions have been applied in order to provide relevant evidence. A search was conducted in the home and the premises of the reported person, during which the computers were found and temporarily confiscated with a confirmation certificate. Based on the process of elucidating the provision and analysis of electronic evidence, investigators of Sector for Cybercrime and digital forensics found that the elements of Internet access, the accessed IP addresses and virtual memory media compared to the analyzed logs and attached files at the critical time from the damaged host server, that they are the same according to the IP addresses, URL paths and files obtained from the expertise of the temporarily confiscated computer equipment. The applicant unauthorized access to the server, using an administrator account to login to the server computer unit, as the final part of accessing the content attached to the specified computer system thus enabling and performing unauthorized access, change and damage to computer data - digital content hosted on the website on the server, thus making it difficult and normal for the computer system to function - the host server as well as the contents in it.

Case number 2

During 2015, the Sector for Cyber Crime and Digital Forensics, after previously received reports from Macedonian Banks, as well as a report from the one Embassy in Skopje for misuse of payment cards of their citizens in several Macedonian internet outlets. Appropriate measures and actions were taken, i.e. a search of a home, during which several invoices for ordered products from several points of sale, laptop computer, SIM cards, several mobile phones and USB sticks were found and confiscated.

Also, among the found products were a telephone set that used all three disputed mobile numbers used in the conduct of illegal transactions, as well as the number of which was falsely presented as a police inspector. After the case was clarified and the provided evidence, criminal charges were filed against A.K. from Skopje due to the existence of grounds for suspicion that he committed criminal offenses "Making and using a fake payment card" and "False representation". With the intention to gain illegal property gain, in the

period from January to May 2015, he obtained bank data from real payment cards, ie from the holders of foreign payment cards, with which he made several successful and unsuccessful illegal transactions on Macedonian Internet outlets. He bought a Samsung Galaxy S-G900F Galaxy S5, LTE Black Color, HTC Desire 500 white, LG G3 S D7 black, Samsung Galaxy S4 GT-I9506, Smartphone Samsung S5 Mini SM-G800 black. With that, the suspect realized nine successful illegal transactions with four counterfeit payment cards in the total amount of 104,439 denars and 13 unsuccessful illegal transactions with four different counterfeit payment cards in the total amount of 177,480 denars and 1,940 US dollars. In addition to the above, the defendant, with the intention to gain illegal property gain on February 6, called the owner of one of the points of sale and introduced himself as an employee of the Ministry of Interior, is as "Inspector Todorov" who managed the action and was in charge of delivery of the Samsung S5 phone, black, and said it was necessary to return the phone to the fast delivery company and deliver it to the person because they were working on the case.

CONCLUSION

Computer forensics will increasingly play an important role in the criminal investigation of cybercrime, but it will and will play a role in providing and analyzing indirect evidence in classic criminal offenses and electronic evidence will be direct and indirect evidence. in economic crimes, especially the acts committed in the business relations between the legal entities with elements of computer forgery. Primacy still has the crime that was first incriminated in the Macedonian Criminal Code, Damage and unauthorized entry into a computer system and is especially notable for criminal activities of unauthorized entry into a computer system.

In the Republic of North Macedonia, cybercrime is a real criminal phenomenon faced by police officers, prosecutors and judges. That is why attention is paid to the acquisition of knowledge in this area, but the key role in the enlightenment process is played by professional police officers from the Sector of Cyber Crime and Digital Forensics of the Ministry of Interior, which is responsible for enlightenment and access at all stages electronic evidence. Based on the analyzed cases from the practice, all of them have been acted upon by this Sector, regardless of which part of the State the

crime has taken place. Regarding the quality of the provided evidence, it can be concluded that in the process of the investigation over 90% of the defendants are convicted persons, which would mean that the electronic evidence is successfully extracted and is acceptable to the judicial authorities.

In non-cybercrime offenses, forensic experts mainly provide evidence of the use of electronic devices to communicate with perpetrators before, during, and after the commission of crimes, and in those criminal situations, expert examinations of electronic phones are made. Communication of the perpetrators, which gives a picture of the criminal organization and structure of the perpetrators.

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CRIMINAL OFFENCES AGAINST HUMANITY AND INTERNATIONAL LAW IN REPUBLIC OF NORTH MACEDONIA

Blerta Ahmedi Arifi, PhD
South East European University, Faculty of Law
Ilindenska 335, 1200 Tetovo, Republic of North Macedonia
blerta.arifi@seeu.edu.mk

Abstract

Despite the harsh policies in this area with the aim of halting migration flow, during the last several years, a considerable number of cases of crimes have been evidenced. They all belong to the group of "founding slavery and transportation of persons in slavery" which are incriminated in Article 418 of the Criminal Code of the Republic of North Macedonia, in Chapter thirty-four in the group of "Criminal offences against humanity and international law".

This research paper reflects on and analyzes the criminal policy of the Republic of North Macedonia on the illegal migration and other criminal offences related to this phenomenon, based on the explanation of the phenomenology of the types of these crimes, such as: Human trafficking (art.418-a); Smuggling of migrants (art.418-b); Organizing a group and instigating performance of crimes of human trafficking, trafficking of juveniles and migrants (art. 418-c); Abuse of visa-free regime with the member countries of the EU and the Schengen Agreement (art.418-e), etc. This paper will reflect on the structure, dynamics and the volume of the crimes mentioned above based on the official statistical data published by the State Statistical Office of the Republic of North Macedonia for the period of January 2007 to December 2018.

Additionally, this research attempts to reflect the real picture of the reported, accused and convicted perpetrators of the crimes which are subject of this research, as well as provide some detailed data analysis on the indicators such as gender, age, the number and the type of the criminal offences during 2007 and 2018, the type of the decision of the court, the type of the sentence applied.

Keywords: *smuggling migrant, transporting of persons in slavery, abuse of the visa-free-regime, human trafficking.*

INTRODUCTION

This research analyzes the phenomenology of some types of criminal offences that are incriminated in the Criminal Code of Republic of Macedonia, in Chapter thirty four within the group of the "Criminal offences against humanity and international law"[1] such as Human trafficking, Smuggling of migrants, Organizing a group and instigating performance of crimes of human trafficking, trafficking in juveniles and migrants, and Abuse of the visa-free regime with the member countries of the European Union and the Schengen Agreement. The crimes mentioned above are evidenced mostly as conducted in North Macedonia for the period from 2007 to 2018, based on the official data published by the State statistical office of the country.

The data is presented in six specific tables providing information such as the total number of the convicted persons for the period 2007-2018, numbers by the type of the crime they have committed, the gender of perpetrators, and the sanctions sentenced. All the data presented have been collected from ten different publications per each year of the research period that this paper covers. More detailed data are presented for 2017 and 2018. For 2019, the Statistical Office has not published the data yet. Additionally, the paper analyses the juridical sanctioning of the criminal acts mentioned above, based on the Criminal Code of the country. Namely, it presents the legal framework for these criminal offenses as well as the criminal sanctions for the various forms as stipulated within the Criminal Code.

Many other crimes are incriminated in the Criminal Code in the chapter "Crimes against humanity and international law", but there is no a registered case for the research period specified in this paper for the mentioned crimes. This is one of the reasons why those criminal acts are not treated in this paper, but also, they do not belong to the group of crimes linked with illegal migration. The crimes mentioned above include: genocide, crime against humanity, crimes of aggression, war crimes against the civil population, war crime against wounded and sick, war crimes against prisoners of war, use of not allowed battle means, approving or justifying genocide, crimes against humanity or war crimes, abuse of chemical or biological weapons, organizing a group and initiating commission of

[1] Criminal Code of Republic of Macedonia, 1996 (Consolidated text)

genocide and war crimes, unlawful killing and wounding of an enemy, unlawful confiscation of objects from killed and wounded on the battlefield, harming a parliamentarian, cruel behavior with wounded, sick or with prisoners of war, unjustified delay in repatriation of prisoners of war, destruction of goods under temporary protection or cultural heritage, instigation of aggressive war, abuse of international signs, organizing groups and instigating commission of genocide and war crimes, liability of the commandants and other superiors, liability of the inferior for crime committed upon order by the superior, and racial or other discrimination. (*Criminal Code of R.M.* 1996, Art. 403-417 "Official Gazette" No./year 37/1996)

CRIMINAL POLICY FOR CRIMINAL OFFENCES AGAINST HUMANITY AND INTERNATIONAL LAW REGULATED IN THE CRIMINAL CODE OF THE REPUBLIC OF NORTH MACEDONIA

This part of the paper presents the criminal policy of the criminal acts which belong to the group of *founding slavery and transportation of persons in slavery* which are incriminated in article 418 of the Criminal Code of the Republic of North Macedonia within the group of the "Criminal offences against humanity and international law"[2]. The positive legislation of North Macedonia is presented, i.e. the articles of the Criminal Code which incriminate these actions. The purpose is to present the legal framework for the criminal acts mentioned above, given that they are interrelated. There are six differrent criminal acts incriminated in Article 418 of the Criminal code, linked to illegal migration and similar acts linked with its criminal structure, but since there are differences between them, different criminal sanctions are applied to each of them. For example, in terms of sanctioning the forms of these actions from the easiest to the most serious forms, respectively the cases when aggravating circumstances are presented, when the perpetrator of these criminal offenses is an official person who commits the criminal offense during the exercise of official duty, or when the victim is a child, the

[2] Criminal Code of Republic of Macedonia (Consolidated text) The revised text contains the following amendments to the law published in the "Official Gazette of the Republic of Macedonia" no.80/99, no.4/2002, no.43/2003, no.19/2004, no.81/2005, no.60/06, no.73/06, no.7/08, no.139/08, no.114 / 09, no.51/11, no.135/11, 185/11, no.142/12, no.166/12, no.55/13, no.82/13, no.14/14, no.27/14, no.28/14 , no.115/14 and no.132/14.

punishment is more severe. The acts sanctioned in Article 418 which are presented below are those that are represented the most in our country for the period from 2007 to 2018, and they are incriminated in the Criminal Code as following:

- The criminal act **Founding slavery and transportation of persons in slavery** is incriminated as following in the positive Criminal Code of the country: "Whosoever by violating the rules of international law places another person in slavery or in some similar relation, or keeps them under such relation, buys, sells, hands the person over to another, or mediates in the buying, selling or handing over of a person, or instigates another to sell their freedom or the freedom of a person they support or who supports them, shall be sentenced to imprisonment of one to ten years. Whosoever transports persons under slavery or similar relation from one country to another shall be sentenced to imprisonment of six months to five years. Whosoever commits the crime referred to in paragraphs 1 and 2 against a juvenile, shall be sentenced to imprisonment of at least five years". **(Criminal Code of the Republic of North Macedonia, Art. 418, (1,2,3))**
- The criminal act **Human trafficking** is incriminated as following: "Whosoever by force or serious threat causes delusions or other forms of coercion, by kidnapping, deceit, or abuse of their position and abusing pregnancy or the position of weakness of another person, or the physical or mental disability of another, or by giving or receiving money or other benefits in order to obtain agreement of the person that has control over another person, or in any other manner turns, transports, transfers, buys, sells, harbors or accepts persons for the purpose of exploitation through prostitution or other forms of sexual exploitation, pornography, forced labor or servitude, slavery, forced marriages, forced pregnancy, unlawful adoption or similar relations to it, begging or exploitation for purposes forbidden by law, or illicit transplantation of human organs, shall be sentenced to imprisonment of at least four years. Whosoever seizes or destroys the ID, passport or other identification document in order to commit this crime, shall be sentenced to imprisonment of at least four years. Whosoever uses or makes it available for another to use sexual services or other type

of exploitation of persons knowing that they are victims of human trafficking, shall be sentenced to imprisonment from six months to five years. If the crime is committed by an official person while performing their service, they shall be sentenced to imprisonment of at least five years. The consent of the human trafficking with the intent to exploit them, as anticipated in paragraph 1, is not significant to the presence of the crime from paragraph 1…". **(Criminal Code of the Republic of North Macedonia 1996, Art. 418-a, (1-7))**

- The criminal act **Trafficking of migrants** is incriminated as following: "Whosoever by force or by serious threat commits an assault on the life and body, by kidnapping, deception, covetousness, by abuse of their official position and the position of weakness of another, illegally transfers migrants over the state border, and the one that makes, procures or possesses a false traveling documents for such purpose shall be sentenced to imprisonment of at least 4 years. Whosoever turns, transports, transfers, buys, sells, harbors or accepts migrants shall be sentenced to imprisonment of one to five years. If, during the commission of these crimes the life or health of a migrant is threatened, or the migrant is subject to particularly humiliating conduct or brutality, or the migrant is prevented from exercising the rights determined by international law, the offender shall be sentenced to imprisonment of at least five years. If the crime is committed against a juvenile, the offender shall be sentenced to imprisonment of at least eight years. If the crime is committed by an official person while performing their service, they shall be sentenced to imprisonment of at least five years. The objects and means of transport used for committing the crime shall be seized, in accordance with Article 100-a of this Code". **(Criminal Code of the Republic of North Macedonia 1996, Article 418-b (1-6))**
- **Organizing a group and instigating performance of crimes of human trafficking, trafficking in juveniles and migrants: "**Whosoever organizes a group, gang or other association for committing the crimes from Articles 418-a, 418-b, 418-d and 418-e, shall be sentenced to imprisonment of at least eight years. Whosoever becomes a member of the group, gang or other association from paragraph 1, or in some other way helps the group, the gang or the association, shall be sentenced to imprisonment of at least one year. A

member of the group from paragraph 1, who reveals the group before it commits the crime within it or on its behalf, shall be acquitted from the sentence. Whosoever calls for, instigates or supports the commission of crimes referred to in Articles 418-a, 418-b, 418-d and 418-e, shall be sentenced to imprisonment of one to ten years". **(Criminal Code of the Republic of North Macedonia 1996, Art. 418-c (1-4))**

- The criminal act **Trafficking with a child** is incriminated as following: "Whosoever induces a child to sexual activities or enables sexual activities with a child or persuades, transports, transfers, buys, sells or offers for sale, obtains, supplies, harbors or accepts a child for the purpose of exploiting them in sexual activities for money or other forms of compensation or other forms of sexual exploitation, pornography, forced work or servicing, begging or exploitation for an activity prohibited by law, slavery, forced marriages, forced fertilization, illegal adoption, or forces consent as a mediator for child adoption, illegally transplants human organs, shall be sentenced to imprisonment of at least eight years. Whosoever commits this crime by the use of force, serious threats, delusion or other form of forcing, kidnapping, defraud, abuse of the position or pregnancy, powerlessness or physical or mental disability of another, or by giving and receiving money of other benefit for the purpose of obtaining consent of a person controlling another person, or the act is committed over a child younger than 14 years shall be sentenced to imprisonment of minimum ten years. Whosoever knowing, or being obliged to know that he or she is a victim of human trafficking, shall be sentenced to minimum imprisonment of eight years. The user of sexual services given by a child younger than 14 years shall be sentenced to imprisonment of at least 12 years". **(Criminal Code of the Republic of North Macedonia 1996, Art. 418-d (1-10))**
- The criminal act **Abuse of the visa-free regime with the member states of the European Union and of the Schengen Agreement** incriminated as following: "Whosoever recruits, instigates, organizes, shelters or transports persons to a member state of the European Union or of the Schengen Agreement in order to acquire or exercise social, economy or other rights contrary to the law of the European Union, to the regulations of the member states of the European Union

and of the Schengen Agreement and to the international law shall be sentenced to minimum four years of imprisonment…**(Criminal Code of the Republic of North Macedonia 1996, Art. 418-e(1-5)).**

PHENOMENOLOGY OF CRIMINAL OFFENCES AGAINST HUMANITY AND INTERNATIONAL LAW IN NORTH MACEDONIA

In this part of the paper six tables are presented which show in detail the number of Criminal offenses against humanity and international law evidenced for the period from 2007 to 2018 in North Macedonia. The number of perpetrators reported, charged and tried-convicted and found not guilty for the crimes mentioned above is shown in each of them, as well as the types of criminal sanctions imposed for the specific criminal offenses, like the sentences as punishments and alternative measures. From the data we can analyze the way that the dynamics of these crimes has developed during the 10-year period in the country in the increasing or decreasing trend during the period of this research. This is related also to the migration phenomenon in the world in recent years, which has also influenced North Macedonia. The harsh criminal policy provided by the positive legislation of the country for these offenses is quite visible, because according to statistical data most of the sanctions imposed are imprisonment and very few are alternative measures or other sanctions.

T-01: Convicted adult perpetrators by total criminal acts, specific types of criminal offences against humanity and international law and gender during the period: 2007-2018

T-01	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Total Convicted [3]	9639	**9503**	**9801**	**9169**	**9810**	**9042**	**9539**	**11683**	**10312**	**8172**	**6273**	**6273**
Criminal offences against humanity and international law	**44**	**91**	**72**	**67**	**44**	**67**	**78**	**147**	**208**	**91**	**55**	**55**
Female	**2**	**3**	**5**	**2**	**2**	**2**	**5**	**2**	**10**	**4**	**1**	**-**
Trafficking in minors			**10**	**-**	**3**	**7**	**5**	**18**	**6**	**-**		
Other			**62**	**-**	**41**	**60**	**73**	**7**	**-**			
Smuggling of migrants								**98**	**177**	**73**	**50**	
Human trafficking								**1**	**4**	**1**	**1**	
Abuse of visa-free regime with the EU member states								**13**	**14**	**6**	**2**	
Organizing a group and inciting to commit the crimes of human trafficking and migrant smuggling									**7**	**5**	**2**	
Enslavement and transportation of enslaved persons										**6**	**-**	

((Perpetrators of criminal offenses in 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017; State Statistical Office of the Republic of Macedonia, Skopje: Statistical review 2.4.8.07 (594), p. 70, Statistical review 2.4.9.11 (631) p. 68, Statistical review.4.11.15 (698) p. 60, Statistical review 2.4.12.09 (724), p. 56, Statistical review 2.4.13.11(754), p. 66, Statistical review 2.4.14.11(789), p. 56, Statistical review, 2.4.15.12 (823), p. 78, Statistical review 2.4.16.08 (854), p. 58, Statistical review 2.4.17.09 (878), p. 58, Statistical review 2.4.18.07 (898), p. 58; Reported, accused, and convicted adult perpetrators of criminal offences and children in conflict with the law in 2018: LVII 2.1.19.17, p. 6 (T-03: accused adult perpetrators by type of criminal offence, decision and gender), State Statistical Office of the Republic of Macedonia, Skopje, 2019; Perpetrators of criminal offenses in 2017, Statistical review 2.4.18.07 (898), p. 47, State statistical office of the Republic of Macedonia, Skopje, 2018).

In Table 1, convicted adult perpetrators by total criminal acts and by specific types of criminal offences against humanity and the international law and gender for the period from 2007 and 2018 are shown, while specifying the total number of convicted adults for each year as well as the number of female adults that were convicted during this time period in the Republic of North Macedonia.

[3] Perpetrators of criminal offenses in 2017, Statistical review 2.4.18.07 (898), p. 47, State statistical office of the Republic of Macedonia, Skopje, 2018

In 2007 we have 9639 convicted adults, in 2008 a total of 9503 convicted adults, in 2009 a total of 9801 convicted adults, in 2010 a total of 9169 convicted adults, in 2011 a total of 9810 convicted adults, in 2012 a total of 9042 convicted adults, in 2013 a total of 9539 convicted adults, in 2014 a total of 11683 convicted adults, in 2015 a total of 10312 convicted adults, in 2016 a total of 8172 convicted adults, in 2017 a total of 6273 convicted adults and in 2018 a total of 6273 convicted adults.

Something that can be noticed immediately in this table is the fact that there is a tendency of decline in the numbers of convicted adults in our country for the total number of crimes during the last few years, especially for the last three years of the research period. For the period from 2017 to 2018, we can see that the number of convicted adults decreased by 50% compared to the period from 2014 to 2016.

Another indicator in Table 01 reflects the number of the convicted adults in the country for 2007 - 2018 period by specific types of criminal offences against humanity and the international law and also specifically the number of females convicted for these types of crimes. We can see a very small number of females convicted during the ten-year period that the research covers compared to that of males convicted. Namely, for 2007 from a total of 44 convicted adults only 2 were female adults, in 2008 from a total of 91 convicted adults only 3 were female adults, in 2009 from a total of 72 convicted adults only 5 were female adults, in 2010 from a total of 72 convicted adults only 2 were female adults, in 2011 from a total of 67 convicted adults only 2 were female adults, in 2012 from a total of 67 convicted adults only 2 were females adults, in 2013 from a total of 78 convicted adults only 5 were female adults, in 2014 from a total 147 of convicted adults only 2 were females adults, in 2015 from a total of 208 convicted adults only 10 were female adults, in 2016 from a total of 91 convicted adults only 4 were female adults, in 2017 from a total of 55 convicted adults only 1 was female adult and in 2018 from a total of convicted 55 adults there is no female adult convicted.

Comparing the number of the total convicted adults for the period from 2007 and 2018 and those convicted for crimes against humanity and international law, the number of those convicted for crimes against humanity and international law is very low compared to the total number of the convicted perpetrators.

Based on the data presented for the number of crimes against humanity and the international law, we can see a considerable number of convicted perpetrators in some specific years such as 2014, 2015, 2016. Also, considering that in the last years the migration phenomenon has had a big rise, the statistics show a decrease of the number of the convicted adults for the crimes linked to trafficking migrants and other acts similar to it, around 50% less in the last two years of the research period compared to the other years covered in the data provided above. This is a positive indicator that shows that the preventive policy against these crimes and generally the migration policy of our country has yielded positive results and it has shown to be effective.

Table 1 also presents the number of the convicted adult perpetrators by specific crimes from the group of the crimes against international law and humanity, specifically those of the group Founding slavery and transportation of persons in slavery, such as: trafficking in minors, smuggling of migrants, human trafficking, abuse of visa-free regime with the EU member states, organizing a group and inciting to commit the crimes of human trafficking and migrant smuggling, enslavement and transportation of enslaved persons and others from 2007 to 2018 in the country. [4]

For the criminal act *Trafficking in minors* in 2007, 2008, 2010, 2016, and 2017 no adult perpetrators were convicted, in 2009 there were 10 convicted, in 2011 there were 3 convicted, in 2012 there were 7 convicted, in 2013 there were 5 convicted, in 2014 there were 18 convicted and in 2015 there were 6 adults convicted perpetrators. For the criminal act *Smuggling of migrants* in 2007 - 2013 no adult perpetrators were convicted, in 2014 there were 98, in 2015 there were 177, in 2016 there were 73 and in 2017 there were 50. For the criminal act *Human trafficking* in 2007 - 2013 no adult perpetrators were convicted, in 2014 there was 1 convicted, in 2015 there were 4 convicted, in 2016 there was 1 convicted and in 2017 there was 1 convicted. For the criminal act *Abuse of visa-free regime with the EU member states* in 2007 - 2013 no adult perpetrators were convicted, in 2014 there were 13 convicted, in 2015 there were 14 convicted, in 2016 there were 6 convicted and in 2017 there were 2 convicted. For the criminal act *Organizing a group and inciting to commit the crimes of human trafficking*

and migrant smuggling in 2007 - 2014 no adult perpetrators were convicted, in 2015 there were 7, in 2016 there were 5, in 2017 there were 2 convicted. For the criminal act *Enslavement and transportation of enslaved persons* in 2007 - 2014 and in 2017 no adult perpetrators were convicted, there were only 6 convicted in 2016. For other types of crimes against humanity and international law there were 62 convicted in 2009, 41 convicted in 2011, 60 convicted in 2012, 73 convicted in 2013 and 7 convicted in 2014.

T-02: Accused, convicted and not convicted adult perpetrators by type of criminal offence, decision and gender in 2018[5]

	Accused persons total	Female	Convicted persons	Persons not convicted				
				Total not convicted	Investigation Terminated	Charge dropped	Charge rejected	Security measures
Total	7423	677	6273	1150	590	208	310	42
Crimes against the humanity and international law	56	3	55	1	2	1	1	-

(***Accused adult perpetrators by type of criminal offence, decision and gender, 2018,*** in "Reported, accused and convicted adult perpetrators of criminal offences and adults in conflict with the law, 2018", T-03, p.6, Publisher: State Statistical Office Skopje, Stojanka Krsteva, Toni Krstev, 30.05.2019 LVII/ No: 2.1.19.17) http://www.stat.gov.mk/PrikaziSoopstenie.aspx?id=14&rbr=2985

Table 2 shows the number of the accused, convicted and not convicted adult perpetrators by the type of criminal offence, decision and gender specifically for 2018 in North Macedonia. Based on the data presented, there is a total of 7423 accused persons for all types of crimes, out of which 677 are females. Also, from the total number of accused, 1150 are not convicted, while 6273 are convicted, from which: for 590 the investigation was terminated, for 208 the charges were dropped, for 310 the charges were rejected and for 42 of them a security measure was applied.

Specifically, in 2018 for the crimes against humanity and international law, there were 59 accused persons, one of them was female, 55 were convicted, and only 4 were not convicted. For two of them the

[5] There is no data published for the number of the reported perpetrators of Crimes against the humanity and international law in 2018 in the website of the State Statistical Office of Republic of North Macedonia! Neither there is still no publication published for 2019 about the Crime perpetrators in the country (last access on the statistical office website: July, 2020)

Investigation was terminated, for one of them the charge was dropped and for one of them the charge was rejected. The data in Table 2 show that when comparing the number of the accused and convicted adults in 2018 for the general crime to those accused and convicted for the crimes against humanity and the international law, there is a very low tendency for committing crimes against humanity and international law (only 59 were accused for these crimes). However, there is approximately 98% of the accused persons that were convicted – found guilty (from 59 accused 55 were convicted), as presented in table n.03:

T-03: Accused, convicted and not convicted adult perpetrators by types of criminal offences and gender in 2017

Crimes against humanity and international law	Accused		Convicted		Persons not convicted
Founding slavery and transportation of persons in slavery	Accused	Female	Convicted	Female	Not convicted
Total	**59**	**1**	**55**	1	**4**
Smuggling of migrants	53	-	50	-	-
Organizing a group and inciting to commit the crimes of human trafficking and migrant smuggling	2	-	2	-	-
Human Trafficking	1	-	1	-	-
Abuse of the visa-free regime with the member countries of the European Union	3	1	2	1	-

(Perpetrators of criminal offenses in 2017, Statistical review 2.4.18.07(594), p.42, T:09-Accused adult perpetrators by types of criminal offences, decision and sex), p. 58, T:13- Convicted adult perpetrators by types of criminal offences and type of sentence), State statistical office, Skopje, 2018) http://www.stat.gov.mk/PrikaziPublikacija.aspx?id=43&rbr=723

Table 3 shows the number of the accused, convicted and not convicted adult perpetrators by the type of criminal offence and gender specifically for 2017. Based on these data there are totally 59 accused for Crimes against humanity and international law, specifically for crimes of the group Founding slavery and transportation of persons in slavery. 53 persons were accused for Smuggling of migrants, 2 persons were accused for Organizing a group and inciting to commit crimes of human trafficking and migrant smuggling, 1 person was accused for Human Trafficking and 3 persons were accused for Abuse of the visa-free regime with the member countries of the EU. Only one female was accused and convicted for the criminal act Abuse of the visa-free regime with the member countries of the EU.

As for the convicted persons, there are 55 convicted adults in total for Crimes against humanity and the international law, concretely for Founding slavery and transportation of persons in slavery, as following: 1 of them is female as pointed above for the act of Abuse of the visa-free regime with the member countries of the EU, 50 adults were convicted for Smuggling of migrants, 2 persons were convicted for Organizing a group and inciting to commit the crimes of human trafficking and migrant smuggling, 1 person was convicted for Human Trafficking and 2 persons were convicted for Abuse of the visa-free regime with the member countries of the EU.

T-04: Convicted adult perpetrators for Crimes against humanity and international law in 2017 by types of criminal offences and type of sentence

Convicted	**Punishments Total**	Punishments		**Alternative measures Total**	
55	**47**	**Main - Imprisonment**	Secondary – Expulsion of a foreigner from the country	**8**	Probation (Imprisonment)
Total Crimes against humanity and international law	**55**	**39**	**8**	**8**	**8**
Smuggling of migrants	**50**	**36**	**8**	**6**	**6**
Organizing a group and inciting to commit the crimes of human trafficking and migrant smuggling	**2**	**2**	**-**	**-**	**-**
Human trafficking	**1**	**1**	**-**	**-**	**-**
Abuse of the visa-free regime with the member countries of the European Union	**2**	**-**	**-**	**2**	**2**

(Perpetrators of criminal offenses in 2017, Statistical review 2.4.18.07(898), T:13 (Convicted adult perpetrators by types of criminal offences and type of sentence) p. 58-59, T-15: (Convicted adult perpetrators by types of criminal offences and by types of applied alternative measures) p.78-79, State statistical office, Skopje, 2018) http://www.stat.gov.mk/PrikaziPublikacija.aspx?id=43&rbr=723

Table 4 presents the number of convicted adult perpetrators for crimes against humanity and international law in 2017 by types of criminal offences and with special emphasis on the type of sentences imposed, their types and their number. The data presented divide the criminal sanctions specifically to how many of them were sentenced with main sentences, punishments and secondary punishments, as well as the number of the other sanctions as a total and concretely the number of alternative measures issued as a sentence for

the concrete crimes presented in Table 4. During 2017, there were 55 convicted perpetrators for the crimes mentioned in Table 4. The court issued 47 punishments and 8 alternative measures for the convicted adults for the crimes mentioned in the table.

As shown in Table 4 the highest number is that of sentenced punishments (total of 47), from which 39 were issued a main sentence - imprisonment and 8 a secondary punishment - Expulsion of a foreigner from the country. Also 8 sentences were alternative measures - Probation (Imprisonment).

For the crime *Smuggling of migrants* 50 sentences were issued as punishments for the total cases of the convicted adults for this type of crime as following: 36 imprisonments as main punishments, 8 Expulsion of a foreigner from the country as secondary punishments and 6 alternative measures - probation. For the crime *Organizing a group and inciting to commit the crimes of human trafficking and migrant smuggling* only 2 sentences were issued as main punishments - Imprisonments, for the total of two cases of convicted adults for this type of crime.

For the crime *Human trafficking* only one sentence was issued as a punishment- with imprisonment as the main punishment, for the one case convicted for 2017. For the crime *Abuse of the visa-free regime with the member countries of the European Union* 2 sentences were issued as alternative measures - Probation.

As we can see from the data presented in Table 4, the most commonly conducted criminal act from the group of the crimes on *Founding slavery and transportation of persons in slavery* in 2017 in North Macedonia was *Smuggling with migrants* (50 cases from a total of 55), and the most frequently sentenced punishments were the main punishments, specifically the Imprisonment. This is another fact that proves the harsh criminal policy for this group of criminal acts which are sanctioned in the Criminal Code of the country.

T-05: Convicted adult perpetrators by types of criminal offences and applied main sentence – imprisonment, fine and types of applied alternative measures in 2017

Total	**Main sentence**									**Alternative measures**					
	Imprisonment							**Fine**	**Alternative measures**	Probation	Imprisonment				
55				**39**				**0**	**8**						
Convicted perpetrators	All	**Life imprisonment**	5-10 years	3-5 years	2-3 years	1-2 y	6-12 m			Probation	All	over 1 year	6m-1 year	3-6 m	to 3 m
Total Crimes against humanity and international law	**55**	**0**	**17**	**7**	**2**	**11**	**2**	**0**	**8**	**8**	**8**	**4**	**3**	**-**	**1**
Smuggling of migrants	**50**	**0**	**15**	**7**	**2**	**10**	**2**		**8**	**6**	**6**	**4**	**2**	**-**	**-**
Organizing a group and inciting to commit crimes of human and migrant traffic.	**2**	**0**	**2**	**-**	**-**	**-**	**-**	-	**6**	**-**	**-**	**-**	**-**	**-**	**-**
Human trafficking	**1**	**0**	**-**	**-**	**-**	**1**	**-**		**-**	**-**	**-**	**-**	**-**	**-**	**-**
Abuse of the visa-free regime with EU count.	**2**	**0**	**-**	**-**	**-**	**-**	**-**	**-**	**2**	**2**	**2**	**-**	**1**	**-**	**1**

(Perpetrators of criminal offenses in 2017, Statistical review 2.4.18.07(898), p. 68-69, T:14- Convicted adult perpetrators by types of criminal offences and applied main sentence - imprisonment, fine and applied prohibitions (main and secondary), p. 78-79, T:15, State statistical office, Skopje, 2018) http://www.stat.gov.mk/PrikaziPublikacija.aspx?id=43&rbr=723

Table 5 presents data for the main sentences – imprisonment, fine, and types of applied alternative measures in 2017 for the convicted adult

perpetrators by types of criminal offences from the group of the crimes against humanity and the international law. As shown in Table 5, there are a total of 39 sentences issued as main punishments- Imprisonments, 0 fines (as main or secondary punishments), and 8 alternative measures. In Table 5 there are no data on the other 8 secondary punishments sentenced in 2017 for the crimes that are researched - *The Expulsion of a foreigner from the country*, however those data are presented in details in Table 4. With them, there are overall 55 punishments that were sentenced during 2017 for crimes against humanity and international law - 47 punishments (9 imprisonments, 8 Expulsions of a foreigner from the country and 8 alternative measures - probation). The purpose of Table 5 is to present the duration of the punishment Imprisonment sentenced for specific crimes and also the specified Probation- with Imprisonment. As we can see there are more numbers of Imprisonments sentenced for the duration 5-10 years, a total of 17 cases, 11 imprisonments with duration 1-2 years, 7 imprisonments with duration 3-5 years, 2 imprisonments with duration 2-3 years and 2 imprisonments with duration 6-12 months. There is no imprisonment sentenced with life imprisonment for any of the cases registered. For the alternative measures, which are 8 in total during 2017 for the mentioned crimes, all of them are probation - Imprisonments, namely, 4 probations with imprisonment over 1 year, 3 probations with 6 months to 1 year and 1 up to 3 months. As shown in Table 5, the most commonly committed crime in 2017 was trafficking with migrants and the most frequent sentence was main punishments - Imprisonment, sentenced exactly to these perpetrators of this crime (from a total of 39 punishments, 36 were sentenced for this crime, 2 for *Organizing a group and inciting to commit the crimes of human trafficking and migrant smuggling* and 1 for *Human trafficking*.)

T-06 Convicted adult perpetrators by total applied security measures, confiscation of property and confiscation of objects in 2017

	Total	Total – Security measures	Confiscation of property	Confiscation of objects
	Total convicted perpetrator	Compulsory psychiatric treatment and custody in a health institution		
Total Crimes against humanity and international law	**55**	**-**	**-**	**45**
Smuggling of migrants	**50**	**-**	**-**	**43**
Organizing a group and inciting to commit the crimes of human trafficking and migrant smuggling	**2**	**-**	**-**	**2**

(Perpetrators of criminal offenses in 2017, Statistical review 2.4.18.07(898), p. 85, T:16, State statistical office, Skopje, 2018) http://www.stat.gov.mk/PrikaziPublikacija.aspx?id=43&rbr=723

Table 6 presents the data for the number of security measures applied to the convicted adult perpetrators for specific crimes against humanity and international law during 2017. From a total of 55 convicted perpetrators, 45 security measures were applied. Namely, 43 Confiscations of objects for 50 convicted perpetrators of Smuggling of migrants and 2 same measures for 2 convicted perpetrators of the crime Organizing a group and inciting to commit the crimes of human trafficking and migrant smuggling.

CONCLUSION

This research reflected on the phenomenology of criminal offenses related to illegal migration and similar acts in the Republic of North Macedonia. The criminal code of the country lists several criminal offenses in the chapter "Criminal offenses against humanity and international law", specifically Article 418 entitled *Founding slavery and transportation of persons in slavery*. Under Article 418 several offenses were listed, which were also the subject of study in this paper, such as: Trafficking in Minors, smuggling of migrants, Organizing a group and inciting to commit the Crimes of human trafficking and migrant smuggling, Human trafficking and Abuse of the visa-free regime with the member countries of the European Union (Articles 418 a, b, c, d, e).

In the first part of the paper the positive legal provisions of the Criminal Code which sanction the above-mentioned criminal offenses were presented, in order to reflect their legal framework, since the criminal

phenomenology of these criminal offenses explains the manner of manifestation of these criminal offenses, the forms of their presentation - from the easiest to the most serious. All this is regulated by the Criminal Code - presenting their aggravating circumstances in some cases, which in turn lead to more severe sanctions for those actions. Thus, the purpose of the theoretical treatment of the provisions of the Criminal Code was initially to present how many forms of criminal offenses are provided in the criminal legislation of the country of the nature of illegal trafficking of migrants, human trafficking and children, etc., with other details which are provided in relevant articles - such as the forms of manifestation, the perpetrator, the victim and the type of criminal sanction.

Regarding the criminal sanctions provided by the Criminal Code for each criminal offense addressed in the first part, but also from the statistical data presented in the second part of the paper, it can be concluded that the criminal policy towards these criminal offenses is harsh. This is proven by the fact that these actions are punishable by a long-term imprisonment in most cases, which was confirmed through the data provided for the period 2017 and 2018, showing that for over 80% of the persons convicted based on these offenses the main sentence is the punishment - imprisonment, with very few cases having alternative measures and secondary sentences.

The second part of the paper presented the tables with detailed data, showcasing how this criminal phenomenon, i.e. the object of research is present in our country. The data are provided by analyzing 10 separate publications published by the Statistical Office of the Republic of North Macedonia for each year from 2007 to 2018. The tables provide cumulative and simplistic overview of the data, all the while providing as much information as possible by combining the data obtained from 10 separate publications. The emphasis was placed on data analysis for the last two years of research 2017 and 2018, which reflected the number of criminal offenses committed during these years, the number of persons reported, charged and tried - found guilty and innocent, and the types of criminal sanctions imposed in each case and security measures applied against the perpetrators of these actions. It can be concluded that in our country from 2007 to 2018 we have a variety of the number of these criminal offenses, an increase during the years from 2014 to 2016 and a large decrease in the cases during 2017 and 2018. The most common type of crime committed is illegal trafficking in migrants,

although there are very few cases each year of other criminal offenses of this group.

So, according to the dynamics, it is reported that in the recent years we have a decrease in these crimes, although for 2019 we have no data published by the Statistical Office. According to the structure, the criminal offenses committed are several - all of the acts provided by articles 418 and 148-e in the Criminal Code. By volume - the highest number of crimes are trafficking in migrants with detailed numbers in the tables in the second part. By studying the dynamics, structure, and volume of these crimes, the real criminal phenomenology of this criminal phenomenon in our country has been reflected. I consider that we still need to work on advancing the preventive policy against these criminal offenses in order to further reduce the number of this criminal phenomenon in our country.

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