40 years
Faculty of security
Skopje

МЕЃУНАРОДНА НАУЧНА КОНФЕРЕНЦИЈА

БЕЗБЕДНОСНИ КОНЦЕПТИ И ПОЛИТИКИ - НОВА ГЕНЕРАЦИЈА НА РИЗИЦИ И ЗАКАНИ

Hanns Seidel Stiftung

INTERNATIONAL SCIENTIFIC CONFERENCE

SECURITY CONCEPTS AND POLICIES - NEW GENERATION OF RISKS AND THREATS

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PREFACE

The states of the contemporary world are feeling the consequences of the existence of dynamic and complex living conditions, conducive to asymmetric threats and risks, terrorism threats, transnational crime, dangers related to the proliferation of weapons of mass destruction, religious radicalism and extremism, illegal migration, cyber attacks and the like.

The security assessment needs to encompass the changes in the character of the risks, threats and potential conflicts. It means that the actors that cause the risks, threats, potential conflicts and dangers are diverse, multilayered and, as certain threats, sometimes even asymmetric. Their identification is much more difficult than before, when the state was the sole actor. As risks and threats are acquiring an increasingly internal character, sub-national groups and ethnic communities have an ever more significant role. Organized crime oftentimes participates and cooperates with the involved actors, exploiting the situation, the shortage of resources, diseases, epidemics, natural disasters, the vulnerability of the social system; moreover, crime and terrorism are increasingly becoming trans-national to a great extent. The above reasons have led to a change in the matter of interest of the security policy, that is, to a change in the policy approach, and to adopting a broader concept rather than exclusively following a political – military standpoint. This change and the new security concept and its policy have affected the national security to follow the same trend.

With regard to security development, the threats and risks to the state and to the social, economic and political relations, the state order, the human potential and civic concept, the objective need for organizing independent protection of the entire territory, the international position of the state and the realistic capacities of the country play the key role.

The vulnerability of national security ranks among the top problems that people face as individuals. Unlike the theories and practice in the past period, and the forms of threats and security of that period, the development of contemporary societies determines many more security threats relating to the economic, social, health and other spheres, even internal security. At the national level, the security of the Republic of Macedonia is a precondition for successful external and internal stability and comprehensive development of the social life of institutions and citizens.

As stability is a precondition for the approach of this region to the European Union, building common mechanisms for protection against risks and threats and crisis management are important assumptions for security consolidation and swift democratic transition of the SEE countries.

The expansion of the security concept involves the emergence of new and broader potential security threats, primarily targeting economic growth, environmental destruction, violation of human rights and migration movements.

Pursuant to the risks and threats, it is necessary to conduct a demographic analysis with the focus on the demographic movements in the country and the region, taking into account the shifts in the ethnic and religious structure (which appears as the most serious ground for separation and conflict), as well as the shifts in age structure, spatial distribution and living style based on ethnic and religious affiliation and the shifts in the ratio between the working and military capable population and the dependant population.

As a political concept, security is evidently a precondition for the existence of individual and social life and means an absence of threats and protection against them. Understanding security as an inherent interest of every individual and the broader human collectives – family, society, nation and state, the international system implies the need to expand the security concept to include these collectives. Hence, theory shapes concepts such as national and international security, and in recent times, individual, societal and global security, which indicates a significant extension of new security dimensions.

The expansion of the security concept in the Republic of Macedonia provides for inclusion of new and broader potential threats to security, primarily targeting economic growth, environmental destruction, violation of human rights and migration movements.

Mission

The mission of this conference is to encourage the academia and the security experts to share information based on their use of scientific research methods and to exploit practical experience so as to create a scientific – research dimension. The idea for organizing this conference coincides with the new trends in the security field, specifically, with the new generations of security risks and threats and the interdependence of the security concepts, strategies and policies in addressing these threats.

The papers submitted through an announcement offer solutions for identifying the security risks and threats, or the destabilizing factors that cause conflicts. In this context, and in correlation with the title of the Conference and the rational assumption for full application of the offered security concepts presented in the papers treating security issues in a number of security science sub-disciplines, they should contribute to confirming the current and creating new solutions within the existing security concepts, based on a holistic approach in view of efficient and timely dealing with the security risks and threats.

Hence, the mission of the conference is to encourage the scientific researchers to share scientific knowledge aiming to shed some light on the new generation of security risks and threats and, determine at the same time the security concept and policy for dealing with such risks.

Aims

The practical aim of this conference is multifaceted, primarily given the fact that scientific and expert literature is scarce in works and analyses on this particular issue, or even if there are such works, they are characterized by a partial scientific approach, which indicates imposed effects in practice. The aim of the conference is to obtain valid results and scientifically verified knowledge in view of implementing a rational and acceptable solution for sustaining security and addressing risks and threats. The well reasoned proofs and presentations of the obtained results and the insight in the overall situation will enable considering systemic and institutional solutions, that is, a new stage in the qualitative development of this segment.

The scientific and practical objective of this scientific conference is stimulated by the following assumptions:

- How do the contemporary concepts affect the maintenance of security in our country?
- What is the impact of the complexity and specificity of the approaches to security, particularly to its development and the social political situation in the country?

- How many and what type (both in terms of quality and quantity) of researches of the basic factors for successful implementation of the basic concepts in the national security system have been conducted to date and to what extent have they affected the strategic documents with respect to using the results thereof?
- Which of the basic concepts are most suitable and applicable in the security system of the Republic of Macedonia?
- Which are the critical areas in the security system of the Republic of Macedonia that need elements for change?
- How can we come to proposals and solutions for building an efficient security system in the Republic of Macedonia, i.e. for tracing directions for creating an appropriate security policy.

Tasks

The scientific conference in Ohrid 2017, by debating its scientific works, contributes to providing answers to questions that spur scientific and public social interest. One of these issues is the definition of the new generation of security risks and threats.

Security concepts and policies will be discussed at the conference through an open and well reasoned debate.

In this way, the Faculty of Security – Skopje continues its orientation towards organizing international conferences in the area of security, contributing to the development of scientific thought and helping the policy creators (political level) and the decision makers (senior level of practitioners) on the regional, national and local level to overcome practical problems more swiftly, simply and timely they are facing using the presented knowledge and research results.

To that end, the following topics are discussed at the conference:

Topics:

- Contemporary security – a state or a social problem
- Security as a public good and its transformation in the spirit of the new generation of security risks and threats
- Peace, security and technological development
- Risk society and risk dynamics
- Threat and risk theories
- Security and insecurity, realistic and subjective threats
- Sectors and levels of security and risks (military, economic, environmental, societal and political risks).
- Systemic risks, dependence of the technological and social risks.
- Risk assessment, exposure and vulnerability
- Risk management and conflict and crisis prevention
- Possible manifestations of extremist nationalism, racial and religious intolerance
- Forms and activities related to international terrorism, organized crime, illegal migration, illegal drugs, human and weapons trafficking, dual use materials, and the consequences of weapons of mass destruction use
- Possession of substantial quantities of illegal weapons;
- Transition problems, such as corruption, urban terrorism, serious crime, including blackmails, racketeering, murders, attacks on citizens' property, economic crime,

tax evasion, insufficient building of democratic institutions system, judiciary problems

- Social problems and unemployment
- Activities of foreign special services aimed at deteriorating the security situation and thus slowing down the democratic and integration processes, particularly those related to NATO and the EU
- The consequences of the conflict of interests in terms of using the sources and roads of the strategic energy resources and impeding and blocking their import to the Republic of Macedonia
- Natural and other disasters, technical – technological disasters, human epidemics and animal diseases caused by domestic and/or external factors
- Computer crime, piracy and misuse of information technology, especially in the domain of personal data, business, official and state secret
- Degradation and destruction of the environment
- Security integration and risk prevention
- Deep political and social turmoil
- Crash of the global management system
- Corporate security as a new way of risk management.

With regard to the organization of the Conference, for eight consecutive years, it has acquired a highly renowned place in the scientific circles in the region and it has been constantly expanded in view of its further development.

Chairman of the Organizational Board
of the International Scientific Conference
Assistant Professor Marjan Gjurovski, Dr.Sc

Country	Original scientific paper	Review scientific paper	Professional paper	Negative reviews	Total work papers
Albania				1	1
Bulgaria	3				3
Bosnia and Herzegovina	1	1			2
Croatia	2	2	1		5
France	1				1
Italy	1	1			2
Kosovo		2			2
Macedonia	7	31	14	2	53
Poland		2	1		3
Romania		6	1		7
Republic of Srpska,BiH	1	2		1	4
Slovenia		2			2
Serbia	5	11	6	1	23
Turkey		1			1
United Kingdom			1		1
Total work papers	21	62	24	5	112

Geopolitics and security integrations

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THE SECURITY OF THE WESTERN BALKANS UNTIL THE END OF 2020 IN LIGHT OF THE CONTEMPORARY RELATIONS BETWEEN THE USA AND RUSSIA

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ABSTRACT

This paper elaborates the topic given in the title in light of the security military aspects of THE strategic national interests of the USA and Russia after the end of the Cold War. The starting point is to highlight the significance of the Euro - Asian region in order to accomplish dominance, with reference to its enormous resources which equal to a geopolitical centre, a cause for possible conflicts in every area between the powerful countries, including the USA and Russia. The paper underlines the fact that the world is becoming multipolar in the eyes of the centres of power and answers the question: Can the relations between 'the most powerful ones' be explained by finding common interests, and to which extent, in addition to their conflicts of interest? This paper analyses the 'hot' zones between the USA and Russia and their influence on the security of the Western Balkans, including the Republic of Macedonia.

Key words; security, war, conflict, crisis, power

Introduction

The security of the Euro-Asian region, including the Western Balkans, comes into very turbulent 'rough seas', characterised by continuation of the existent conflicts and potential new ones. The outcome of these conflicts is unpredictable. Undoubtedly, the USA and Russia are the leading conflict forces and the future events depend heavily on their decisions. The relations between these two world powerful forces marked the world security scene over a period of almost half a century after the Second World War through the Cold War, represented by the NATO pact led by the USA and the Warsaw pact led by the USSR. In the first decade after the Soviet Union fall, the newly established Russian Federation lost its primacy as the leading force, trying to stand on its own feet as a political, economic and military force. Those were the years of unipolarity marked by the US role. However, the Russian Federation (hereinafter: 'Russia') slowly, but confidently stood on its feet and made its comeback as a serious factor in the security and military area, especially in relation to the Euro Asian region.

I believe that the entire 21st century will be marked by fighting for domain over the Euro Asian region in light of strategic and geopolitical aspect, in order to control the natural resources in Siberia. The key security players will be the USA and Russia, as well as China, as an economy and finance giant which is going to become the number one world power.

The fight for Euro-Asia has made an indirect impact on the security situation in the Western Balkans, where the conflict of interests between the USA and Russia is becoming more obvious. Are their interests for this region different, i.e. irreconcilable, or mixed, i.e. common? According to the game theory, there are two situations: a) zero-sum game, in

which the players' interests are completely different, and b) non-zero sum game in which the players, having mixed interests are in an interactive condition. (Williams, P. 2008) The international conflict between the USA and Russia is a very serious game in terms of the Game theory with an unpredictable outcome, but with certain consequences for the overall security in this part of the world.

The Battle for Euro-Asia

The focus of the security conflicts in the 21st century will be/is Euro-Asia. At the beginning of the 20th century, Sir Halford Mackinder, a well-known geopolitician, presented his vision at the Royal Geographical Society saying that Euro-Asia was the centre of the world ('the heart of the world') and the power that would govern the 'heart of the world', would govern the whole world as well'.

In the book called 'The Grand Chessboard' (1997), Zbigniew Brzezinski pointed out that Euro-Asia is the biggest continent on the Earth and that it was in the geopolitical centre. According to him, the force that would dominate Euro-Asia would control two, out of the three most progressive and productive regions in the world. Only a brief glimpse on the map shows that the control over Euro-Asia assumes subordination of Asia almost automatically. In fact, 75% of the world's population lives in Euro-Asia and the majority of the physical resources are there, in enterprises, as well as below the surface of the ground. The next six successive largest world economies after the USA and the six largest consumers of military equipment are in Euro-Asia as well. All known nuclear forces, with the exception of one, and all hidden, with the exception of one - are in Euro-Asia. The two countries, the largest ones according to the size of the population, which are aspirants for regional hegemony and global impact, are also situated in Euro-Asia. According to Brzezinski, the far-reaching changes in the area of global power division urge the USA to build a strategic vision of more stable and more cooperative Euro-Asian politics. The USA, by becoming the only world super power, had a unique chance to play an active role in supporting the development of the new Euro Asian architecture, filling the void created after the disappearance of the Soviet-Chinese block which used to be dominant in this region. However, the USA missed the chance, and now, they have to work out this situation in more complex circumstances. (Brzezinski, Z. 2012)

As for Russia, it found itself in a very difficult situation in the first ten years after the end of the Cold War and the Soviet Union fall. According to **Yevgeny Primakov,** the former Russian Prime Minister, these hard times for his country were good for the West. This situation of social-economic degradation was even more hardened by the 'toothless' foreign policy. The proclaimed target of the Russian foreign policy was the entrance into the 'civilized world' with a complete negligence of the national interests. Russia started to be led by the USA policy, and obviously, Washington got used to it. However, there was one positive trait in reference to the Russian national interests. Russia managed to preserve the entire nuclear potential of the former USSR and moved to new bases on Russian territory. That's why, according to Primakov, the USSR fall does not have to be regarded as a failure in the Cold War. (Primakov, Y. 2009)

The period from 2000 to date in Russia has been marked by its stabilisation and strengthening in all important areas - economy, society, security and armed forces. Having this in mind, Russia is for sure a respectable factor in the world, especially in Euro-Asia.

With reference to the topic of this paper, the NATO pact, with its new strategy created after the Cold War, is an unavoidable factor in terms of geopolitics. In fact, NATO changed its basic strategy 'defence from the communist danger' and came out of the

countries' borders- members and its target was directed to the Euro-Asian region. In fact, it came very close to the Russian borders, which heated the West-East relations. It seems that a new version of the Cold War has been created, which is a serious challenge in order to keep peace and security, not only in the Euro Asian region, but in the whole world as well, having in mind the huge nuclear potential of the USA and Russia (over 15, 000 rockets with nuclear warheads).

Donald Trump and the US Strategic Interests

When the new President of the USA, Donald Trump, came into office, he announced some important news in the foreign policy, which attracted the attention of the experts and theoreticians of the national security science and the worldwide public. The following aspects, derived from the new American President's approach and related to the topic of my paper should be taken into consideration:

- The USA should and must keep the leading position in the world, but through new ways of acting. Thus, the current positioning in blocks is thought to be old-fashioned and new partnerships ought to be built on the basis of common interests with other countries;
- The USA would continue to upgrade its military forces and tend to modernise its nuclear component. This is supported by one of Donald Trump's first steps when he endorsed the increase of the military budget of 54 billion USD, thus bringing the total military budget of the USA to 700 billion USD. It seems that Donald Trump has a very rational approach to the military security systems. He thinks that if he cannot defeat the rivals in the military sphere (e.g. Russia), it is better to have some agreement and gain more for the country, than to come into an open armed conflict with enormous financial costs.[1]
- As an addition to the previous thesis, Donald Trump has openly stated that Russia would try to establish partnership in the fight against terrorism;
- As for the Syria-Iraq war, I think that Donald Trump would also try to build a cooperative relation with Russia (as well as with Turkey) in order to draw the most reliable outcome for the USA, in a situation in which it is clear that he cannot gain a victory for the American position unilaterally.
- Donald Trump asked from all NATO members to reimburse their finances towards the Alliance. In fact, only five member-countries pay their duties on a regular basis and this jeopardises the work of the Pact. It is obvious that Donald Trump will demonstrate a rational approach towards NATO and that he will not enter into unnecessary and expensive adventures, which were characteristic for the past two decades.
- I believe that Donald Trump will preserve his point of view with respect to achieving the US interests in the world with his slogan 'Make America great again' and 'America to the Americans'. He will look for an optimal benefit for his country and he would not avoid possible partnerships with other countries, in spite of the fact that they were considered 'irreconcilable opponents to the USA'.

[1] In these terms, Sergei Mikheev, a Russian politician, presented his interesting ideas in the Gazette 'Geopolitika', Beograd, No 102, 2017 pp 37-41

The contemporary relations between the USA and Russia are marked by the non-zero game if we consider the Game theory, when there are serious conflicts of interest, but the parties also share a set of common interests. The question is what set of interests will prevail in their game and whether the rational approach for getting an optimal outcome for both sides is a contribution to stability in the Euro-Asian region. Would the 'higher national interests' (a favourite realists' theme)[2] conceal the possible approaching to the 'common interests' and tighten up the relations with an enormous rise of finances and create a negative outcome for both countries.

Russia in the New Multipolar World

Undoubtedly, the USA would remain the most powerful country in the world as a military and economic force in the first two decades of the 21st century. However, it should be emphasised that other centres of power are appearing in this period and they would lead the world from unipolarity to multipolarity. This has been pointed out by renowned security science theoreticians, such as Henry Kissinger, in his book 'Does America Need a Foreign Policy?' (2002). It is normal to expect that some new centres of power would appear and they would give a new configuration to multipolarity. According to Yevgeny Primakov, the centres of power in the new multipolar configuration would be connected by the system of relations and interests in finance, trade and investment created by transnational companies. (Primakov, Y. 2009) In fact, the new centres of power would become interdependent and multipolarity does not have to mean that they are in conflict (confrontation) among themselves, but rather as acting together led by their common interests. That way, a new quality is achieved in the 'balance of powers' in the world and the assets from the military budget would be transferred to some productive common economic projects.

In this multipolar world, Russia finds its place in the Euro-Asian region as well. This country has managed to come out from the lethargy, characteristic for the period 1991-2000. In this period, the economy used to be deteriorated to a large extent and large sums of money were spent. Then, the US foreign policy was directed towards economic exhaustion of Russia and its elimination as a significant opponent in economy. I believe that NATO was constantly approaching the Russian western borders for these reasons and that is why the anti missile system was established. However, this Western attitude towards Russia, caused a kind of 'sobriety' among the Russian social factors, which found out that they should tighten the national economy and strengthen their military power through intensive modernisation and organisational structuring of the military and security systems. In this way, Russia created the basis for broader and more authoritative acting of its diplomacy in order to realise its vital national interests.

Current Tensions between the USA and Russia

The USA faced several anti American trends worldwide after 2006. Zbigniew Brzezinski wrote: 'America has become a fearful and lonely democracy in the world torn into political conflicts 15 years after its coronation as a global leader'. In the book called "Second Chance: Three Presidents and the Crisis of American Superpower", he presents the following anti-American trends:

- Intensification of the animosity towards the West among the Islamic countries;

[2] For realistic viewpoints and maximized power of the countries which lead to a security dilemma, Hough, P. 'Understanding Global Security' (2006)

- The explosive Near East;
- Iranian domination in the Persian Gulf;
- Reluctant Pakistan as a nuclear force;
- Uninterested Europe;
- Revengeful Russia;
- China establishes the Eastern Asian community;
- Japan becomes more isolated in Asia;
- Populist movement appears in Latin America, and
- Collapse of the non-proliferation regime. (Brzezinski, Z.2007)

The American administration faced these serious counter trends in its Foreign Policy in the following period. In the next 10 years, the US Foreign Policy made a number of moves to realise its vital national interests, which confronted the country directly or indirectly with Russia and its vital national interests. Taking this into consideration, I would stress out the following:

- Establishment of the anti missile system;
- Realisation of the scenario to forcefully change the government in Ukraine;
- Prompting and supporting the Syrian opposition to change the President Bashar Al-Assad, as a continuation of the 'Arab spring';
- Development of the scenario to create ISIL, which is directed to bringing down the President Bashar Al-Assad and creating a para-state on the Syrian and Iraqi territories on Sunni –Islam terrorist grounds;
- Strengthening its positions on the Balkans and increasing its influence in the Western Balkans.

These American moves have been marked by extreme aggression and they led to counter moves by Russia, which have complicated the security situation in this Region even more. It is also disputable whether these undertakings were productive and strategic for the USA.

- The establishment of the anti missile complex in Poland led to setting up of a Russian 'counter anti missile' system on the other side in Kaliningrad, which increased tensions in this part of the continent;
- The Ukrainian scenario, implemented by the USA, led to the change of the pro-Russian President Yanukovych and prevented Ukraine from entering the Euro Asian Union of Russia, Kazakhstan and Belorussia. At the same time, it practically initiated the secession of the Lugansk and Donetsk region and proclaiming 'New Russia" with a war conflict which has not been finished yet, on the one hand, and secession of Crimea and its affiliation to Russia after the independence referendum, on the other hand. In other words, Ukraine lost a lot of significant parts of its territory, while Russia played a genius strategic move in order to control the region in the Black Sea region (having in mind the interests of the USA and NATO for Georgia).
- Due to the Syrian crisis, Russia was able to try and develop its military capacities and imposed itself as one of the key factors for solving the crisis. In fact, both Russia and the USA have completely different ideas as to how the Syrian crisis should be solved. The USA believes that the key factor to solving the crisis is that Bashar Al-Assad has to step down, while Russia believes that it is not possible to solve the crisis without him. For the time being, the situation is status quo and the Geneva International Negotiations are without any results. However, the fact is that the USA cannot win and achieve its strategic goals by itself, without the help of its allies.

- In the current military-security constellation, the USA and NATO wanted to secure and confirm the dominant influence on the Balkans, in that way that they included Albania, while Montenegro is very close to its full membership. By this move, they have secured their domain in the Adriatic Sea and prevented any other possible penetrations in this area. Thus, the only thing that they have to solve is the 'hole' named the Western Balkans, hardened by numerous conflicts of political, national, religious and territorial nature in Bosnia and Herzegovina, Serbia, Kosovo, Albania and Macedonia. Having in mind the current confrontation between NATO and the USA and the future burdened by serious challenges related to the Euro Asian Region, they would try to find more efficient and faster solutions for the Western Balkans, which would give them a 'more peaceful and stable back'.

Influence on the Western Balkans

The contemporary relations and conflicts between the USA and Russia and their outcome would undoubtedly have a significant impact on the security situation in the countries of the Western Balkans. Some issues are raised due to the current situation:

- The countries in this part of the Balkans are situated in so called 'the line of fire' according to former Secretary of State, J. Kerry and they are in a dangerous contact zone, connected with the Islam transversal and the spread of ISIL. The danger of breeding and educating the source of Islamic terrorists has already been noted in Kosovo, Bosnia and Herzegovina and Albania, who might be used as an instrument for destabilisation of this region.
- The North of Kosovo might easily become a target for an armed aggression by Kosovo, which would lead to the completion of the Republic of Kosovo, but also to a conflict with Serbia.[3]
- In Kosovo there are active forces which plot the annexation of Bujanovac, Medvegja and Preshevo (in their terminology referred to as 'East Kosovo'), which endangers the integrity of the Serbian territory. Because of these reasons, the Serbian police and armed forces have increased, creating a tense situation.
- In Bosnia and Herzegovina, the political situation is constantly tense, especially after the Independence Referendum in Republika Srpska, burdened by the latest demand of the Croatian ethnic entity to demand independence within the country.
- There are also theses by some countries which are not from the Balkans claiming that the project for multiethnic countries in the Balkans did not succeed and national countries should therefore be formed, which would contribute to the stabilisation of the Region.[4] The experience gained through history teaches us that such projects lead to very serious wars in this region.
- The Republic of Macedonia is confronted by open interfering in its internal affairs and threats towards its territorial integrity and country's sovereignty. In addition to the persistent denials and attacks by Greece, Albania has recently

[3] Radovan Radinovic, a professor from Belgarde, is certain that this is inevitable, and Serbia should be ready to answer in a proper manner. Gazzette "Geopolitika", Beograd, Vol 102.
[4] Timothy Less, ex -officer in the Ministry of Foreign Affairs of the UK.

started a dangerous game against the Republic of Macedonia- its Prime Minister was a patron to the Albanian parties from Macedonia in creating the so-called 'Albanian platform'- and that is their condition to enter the Government after the Early Parliamentary Elections in December, 2016. At the same time, the members of the Albanian Parliament openly address the Albanians in Macedonia to organise a referendum for independence in order to create 'Republic of Ilirida' if the Albanian platform is not accepted. This call is endangering the territorial integrity of Macedonia. Furthermore, the President of Kosovo addressed the Albanians in Macedonia 'to take the matters in their hands'. All these issues contribute the political tensions in Macedonia becoming more serious and leading to an obvious destabilisation of the internal matters.

- An American Congressman's statement that Macedonia is 'a failed project' and should be divided between Bulgaria and Albania.[5]

Conclusion

With reference to the abovementioned conflicts and threats to the security of the Western Balkans, including Macedonia, a conclusion might be drawn that the old geopolitical games have not been finished yet in this part of Europe and that they can easily lead to a period of even more serious destabilisation. As for the influence of both the USA and Russia, these conclusions might be reached:

- The USA is, certainly, the most significant military-security factor, but I do not expect that it would intervene in a possible adverse conflict, but it would tend to keep the security under control by means of some 'soft' influences;
- The EU is not ready to act faster and stricter due to the problem of Brexit and its internal disagreements, but it would go on giving recommendations;
- Russia has to deal with far more military security takeovers in the Black Sea Region and along the line the Baltic Sea-Black Sea, and, certainly the Syria-Iraq war, as well as to try to relax its relations with Turkey. Thus, it would be engaged more actively, but with the help of Serbia, both in a political and military manner. That is why the Russian Ministry of Foreign Affairs reacted so sharply against the foreign meddling in the internal affairs of Macedonia.
- With reference to the abovementioned statements, Macedonia should rely more on its own forces and build a thorough assessment of its security, with a clear and precise definition of the strategic targets in the current geopolitical configurations, which should be implemented effectively by security-intelligence subjects.

We should have in mind that 'democracy by itself does not prevent terrorism, as well as the elections do not guarantee peace'. (Nye, J. Jr. 2008)

[5] The person in question is D. Rohrabacher, a Congressman and senior member of the House Committee on Foreign Affairs, in an interview for the Albanian agency 'Visione plus'

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INTER-ORGANIZATIONAL SECURITY CO-OPERATION IN EUROPE: EU'S RELATIONS WITH NATO AND THE OSCE

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ABSTRACT

The EU's influence on and in other international organizations forms an important part of the EU's overall external impact in the area of peace and security. With the onset of the EU's Common Foreign and Security Policy (CFSP) in 1991 and the EU's European Security and Defence Policy (ESDP) in 1999, the EU has relied largely on in-depth cooperation with other major security organizations, mainly in the field of 'hard security' with the North Atlantic Treaty Organization (NATO). At the other end of the spectrum, the relations with the Organization for Security and Cooperation in Europe (OSCE) have provided the EU with an opportunity to advance its competences and policies in the fields of soft security and soft power activities, such as election monitoring, human rights promotion, conflict prevention and a comprehensive approach to human security.
The article analyses how the relationship between the three organizations evolved, as well as the drivers of the respective inter-organizational relations, the overlapping policy fields and partnership and rivalry.

Keywords: security, European Union (EU), North Atlantic Treaty Organization (NATO) Organization for Security and Cooperation in Europe (OSCE).

INTRODUCTION

The subjects of the international order that have gained more importance and authority in recent decades are the international organizations with competence in the field of security and defence. The first place in terms of development and active role in maintaining international peace and the overall security is hold by the organizations that stretch in the Euro-Atlantic region. The North Atlantic Treaty Organization (NATO), the European Union (EU) and the Organization for Security and Cooperation in Europe (OSCE) are the three most important organizations in the Euro-Atlantic region that have shaped world history through their commitments in the framework of maintaining peace, security and stability. Their commitments have been with different characteristics and in accordance with the characteristics of the international order, the scope of intervention and the goals to be achieved.

As a result of the changes in the international community, especially in Europe, after the end of the Cold War, the European security organizations have evolved along with Europe's changed strategic landscape. Since the end of the Cold War, the pan-European institutions have been adjusting to the new context, expanding their membership and their mandates to new policy areas. All three organizations had to rethink their role in European security after the end of the Cold War. In the process, the European Communities approved the Maastricht Treaty establishing the European Union with a clear mandate on foreign, security and defence policy. NATO approved a new Strategic Concept in London in 1990 and added new tasks, such as crisis management, to its traditional role

of collective defence. The Charter of Paris for a new Europe was signed at the Conference on Security and Cooperation in Europe (CSCE), which was institutionalized into an international organization and became the OSCE.

The *sine qua non* for cooperation among these organizations lie in the domain similarity: 'Domain similarity implies a shared issue-area with significant, though not total overlap of competences for meaningful cooperation' (Biermann, 2008: 155). According to this assumption, the post- Cold War move of the EU, NATO and the OSCE into the field of crisis management resulted in domain similarity and functional overlap, which formed the main basis for interorganizational relations.

DEVELOPMENT OF THE EU-NATO RELATIONS

Some authors have identified three main periods in the relationship between the two organizations. The first phase (from 1990–98) included both organizations' adaptation to the new post-Cold War security environment and the first initial attempts to coordinate their tentative attempts at military crisis management. The second phase (1999– 2003) consisted of NATO's support to the build-up and operationalization of the EU's ESDP and of an institutionalization of the partnership through Berlin Plus. Finally, the third phase from 2004 to the present has been marked by increasing informal interactions in the field, but also by impasses at the political level and underlying, as well as open rivalry and competition (Varwick and Koops 2009: 102–10).

The inter-organizational relations between the EU and NATO were only possible after the end of the Cold War. After the failure of the European Defence Community (EDC) in 1954 and the integration of West Germany into NATO in 1955, a clear division of labor was established. While hard security issues became the domain of NATO, the European Community focused on politico-economic integration and soft security throughout the Cold War. During the Cold War period, direct interaction between staff members of both organizations was explicitly prohibited and, as a result, the cooperation and interaction between the two organizations were also non-existent (Ojanen 2004: 12).

However, the end of the Cold War not only ended the bipolar international structure, but also opened opportunities for European and transatlantic security organizations to expand their tasks and enter into new policy fields. As a result of both NATO's post - Cold War transformation/reorientation and the search for a new *raison d'être* and the EU's new-found ambitions in the security field –which found its institutional expression in the creation of the CFSP in 1991– the issue of EU–NATO relations slowly emerged at the beginning of the 1990s. It was particularly the involvement of all European and transatlantic security organizations in the Balkan conflicts between 1992–1995 that has been seen as the first important driver for increased, although *ad hoc*, interorganizational interaction (Caruso, 2007).

After the European Security and Defence Policy was formally launched at the June 2000 Cologne Summit, the EU and NATO started negotiations on what became the Berlin Plus package. Entering into force in March 2003, Berlin Plus was very much a NATO-driven set of arrangements for using Alliance assets and capabilities for the planning and conduct of EU operations. The Berlin plus arrangements provide the framework for cooperation between the EU and NATO. These arrangements include granting the EU access to NATO operational planning assets when it is leading crisis management operations; availability of NATO capabilities and common assets to the EU; NATO European command options for EU-led operations; and having NATO include in its

defence planning the possibility of making its forces available for EU operations (Nikodinovska-Stefanovska 2015: 217).

It was based on the idea that NATO had all the tools available for crisis management operations and there was no need to create a second (EU) military command structure. Berlin Plus basically provided for a 'borrow and lend headquarters' arrangement, thus preventing the EU from creating its own. Also, this framework was based on a mutual understanding defined by the US Secretary of State Madeleine Albright in 1999 as the "3 Ds". The purpose was not to "Duplicate" NATO assets, not to "Discriminate" against non EU NATO members and not to "Decouple" the EU from the transatlantic security architecture (Nikodinovska-Stefanovska 2015: 217). It was immediately put into practice in spring 2003 – in a way as a test-case – by the EU taking over the small NATO military mission Concordia in the Republic of Macedonia (Nikodinovska-Stefanovska 2014). The same smooth handing-over mechanism was used again in 2004, leading to the change of command from NATO's SFOR mission in Bosnia and Herzegovina (BiH) to the EU's Althea operation in December of that year (Nikodinovska-Stefanovska 2014).

The Berlin plus arrangements were the foundation for the landmark 2002 Declaration on the European Security and Defence Policy between the EU and NATO. That Declaration served as the basis for the EU-NATO cooperation on crisis-management, anti-terrorism efforts, curbing proliferation of weapons of mass destruction and ensuring EU access to NATO's planning capability.

In March 2003, the EU and NATO signed the EU-NATO Agreement on the Security of Information, an agreement that enabled full consultations and cooperation between the two organizations, including the exchange of classified information and related material.

From the early 2000, it became clear that NATO played a crucial role in allowing the EU to build up its military dimension. Closer relations between the two organizations were imperative due to political, strategic, and operational reasons. At the member-state level, the US and British traditional skepticism towards an EU-led military policy and their preferences for NATO made closer cooperation between the EU and NATO unavoidable. On the other hand, NATO acted as a 'kick-starter' for the ESDP via the Berlin Plus arrangements during the early phase of operationalization.

Overlapping policy fields, cooperation and rivalry

The root of the intensification of the relations between the two security organizations has been their parallel post-Cold War focus on the emerging security concept of military crisis management. Indeed, the convergence of the EU's newly created CFSP and NATO's newly redefined post-Cold War *raison d'etre* around and towards the new post - Cold War activity of crisis management has been identified/seen as one of the key drivers behind closer EU–NATO interorganizational relations. Domain similarity and overlap have been particularly present in the EU–NATO relationship since the onset of ESDP. At the same time, at the member-state level, both the UK and the US had the ambitions to keep NATO close to the EU in the field of military crisis management. France, on the other hand, tried to stress the EU's independence from NATO.

The EU's comprehensive approach to security was intended to be broader than most hard security focus of NATO, but the EU's move into the field of a military dimension in spite of that signified a direct policy overlap with NATO. The literature has stressed three different perspectives on the issue of the EU–NATO policy overlap. One group of authors has stressed the potential for natural synergies between the two organizations (Carp 2006). The key argument put forward was that NATO still had the comparative advantage in the

field of intense, large-scale military operations and could therefore support the lighter, more modest EU military ambitions. A second view has been to foresee a clear division of labor. This view highlights a division according to high intensity crisis management for NATO and low intensity civil-military crisis management (EU), as well as along geographic lines. Namely, the EU focuses on its own neighborhood and Africa, while NATO focuses on Afghanistan, Central Asia and the emerging transatlantic security threats.

More recently, some authors have stressed the far-reaching potential for further cooperation, based on both organizations facing the same emerging security threats such as: anti-piracy efforts, cooperation in cyber security, anti-terrorism and energy security, but also coordinated approaches to African Union capacity-building (Drozdiak 2010). These security threats are the base for potential policy overlaps and room for cooperation. However, the future of stronger joint engagement in these fields depends on the general tendencies of cooperation and rivalry.

The EU–NATO relations, like any interorganizational relationship, have been affected by both cooperation and rivalry from the very beginning. According to management and sociological theories, similarities in terms of policy aims, membership and policy tools can lead to closer cooperation and also intense rivalries. Although NATO–EU relations might be blocked at the formal and political level as a result of the Turkey–Cyprus problem, but also due to French maneuverings, the relationship proceeds to work well at the informal levels and at the military level on the ground. Namely, the disagreements between Turkey, a member of NATO but not the EU, and Cyprus, a member of the EU but not NATO, are often cited as a primary obstacle to deeper cooperation and information sharing. Some authors also point to bureaucratic rivalry and competition between the two institutions and conflicting views regarding their roles. On the other hand, some authors note that cooperation between the two institutions is already relatively functional at the working level. Furthermore, other authors point to the general lack of strategic guidance on the future of EU–NATO relations.

For the time being, NATO remains the centre of Euro-Atlantic defence/security cooperation. Some authors argue that the EU must still move ahead and develop its own military headquarters and planning capabilities in order for CSDP to become a more credible and relevant option. Although unlikely in the near term, the development of CSDP into a robust military actor able to conduct high-end combat operations would affect the future of NATO in many ways. On the other hand, a stagnant or ineffective CSDP would also have important long-term implications for the transatlantic security relationship.

The two institutions should identify and leverage mutually beneficial synergies. This is also reflected in NATO's New Strategic Concept (November 2010), which calls on NATO and the EU to "enhance our practical cooperation in operations throughout the crisis spectrum, from coordinated planning to mutual support in the field" and to "cooperate more fully in capability development, to minimize duplication and maximize cost-effectiveness" (Mix 2015). Unlike the 1991 and 1999 concepts, the Strategic Concept of 2010 lists the crisis management and cooperative security together with collective defence (Nikodinovska-Stefanovska 2012 a: 84).

Together, the EU and NATO represent the institutional toolbox that the Euro-Atlantic nations may draw on to address global challenges. Institutional structures and arrangements are imperfect, but having this toolbox presents the Euro-Atlantic community with options to choose from. Both Americans and Europeans have an interest in

establishing a stable and enhanced EU-NATO dynamic that is as efficient and effective as possible.

EVOLUTION OF THE EU- OSCE RELATIONS

In 1990, the OSCE's predecessor, the Conference on Security and Cooperation in Europe (CSCE), was thought to become one of the principle European security institutions, if not the principle institution. This ambition was part of the call for a new world order in the post - Cold War era. The Charter of Paris for a New Europe (Paris Summit, November 1990) stated, inter alia: 'Our common efforts to consolidate respect for human rights, democracy and the rule of law, to strengthen peace and to promote unity in Europe require a new quality of political dialogue and co-operation and thus development of the structures of the CSCE.' The CSCE was expected to have the quality for providing European security because of its comprehensive concept of security - including politico-military, economic and environmental and human, dimensions (initially the "three baskets"). In addition to the CSCE, from 1994 the OSCE, also had the comparative advantage over NATO and the EU of having a broad membership - from Vancouver to Vladivostok. Moreover, the OSCE's security regime is inclusive and cooperative; every member-state has an equal voice.

The OSCE was the first security organization that conceived of and adopted a concept of comprehensive and co-operative security, which the participating States have reaffirmed in major documents and decisions taken since the Helsinki Final Act of 1975. While revolutionary at the time, and still innovative today, the OSCE's unique approach to security is a crucial part of its record of achievements. This approach to security has allowed the OSCE to manage change in Europe from one century to the next.

Integral part of the Charter for European Security (Istanbul Summit 1999) is the 'Platform for Co-operative Security' a two-page operative document outlining the principles and modalities for working together with other international and regional organizations and avoiding duplication. The Platform aimed at strengthening co-operation between the OSCE and other international organizations and institutions on the basis of equality, shared values and the mutually reinforcing nature of their relationships. Also, the Platform includes modalities for the OSCE and the other international organizations and institutions to work co-operatively in a spirit of partnership and on a case-by-case basis in response to a specific crisis, as well as to new risks and challenges. Since then, the OSCE has increasingly worked in concert with external partners, including the United Nations, the European Union, the Council of Europe, and NATO and many other international, regional and sub-regional organizations and institutions. Co-operation ranges from high-level political dialogue to joint projects in the field (Nikodinovska-Stefanovska and Gjurovski 2015: 334-335).

When the CSCE was established with the Helsinki Final Act in 1975, the European Commission and the rotating Presidency of the European Community were involved as negotiators and co-signatories. Compared to the relationship between the EU and NATO, the formal relationship between the OSCE and the EU is a relatively old one, but until the 1990s the interorganizational relationship was rather modest. There were few reasons for interaction because the European Community and the CSCE had clear role divisions. Namely, the European Community was primarily concerned with trade and other economic affairs, whereas the CSCE focused on security issues. Also, the CSCE was not a proper international organization, which made interorganizational exchange impossible by definition. On the other hand, there were good reasons for interaction because of the emerging European Political Cooperation (EPC) framework in the 1970s. Then, the nine

member -states of the European Community saw the CSCE as an opportunity to implement the EPC. The CSCE actually became the first serious test case for the EPC and it proved to be quite successful. Effective coordination between the nine member-states took place and enabled a common European position in the negotiations, even to the extent that non-European Community members within NATO showed some unease and suspicion about the European voice (Romano 2009: 169).

More interaction between the European Community/EU and the CSCE/OSCE emerged in the 1990s. Several reasons for this can be distinguished and the first is the need to reassess European security, as well as, the role of the regional security institutions (i.e. EU, NATO, OSCE, and the Council of Europe) after the end of the Cold War. These institutions had to adapt to the new security environment in the 1990s and also had to redefine their relationships towards each other. Second, increasing overlap of membership was an important driver for increased interaction, especially with regard to the eastern enlargement of the EU. Third, overlapping mandates and policy fields were recognized as reasons for interaction (Peters 2004). And last, an important reason for interaction was the war in the former Yugoslavia. The Western Balkans has been a testing-ground for a huge range of political missions since the early 1990s. Both the EU and the OSCE deployed field missions as a result of which interaction and the need for coordination increased (Stewart 2008: 266; Nikodinovska-Stefanovska 2012).

Although the interaction between the EU and the OSCE increased in the 1990s, it was the launch of the EU's security strategy in 2003 that gave an even stronger impetus for further interaction. The endorsement of effective multilateralism as a key element of the EU's foreign policy led to formal and informal cooperative initiatives with the OSCE. With the launch of its security strategy, the EU touched upon threats and challenges, which traditionally were also addressed by the OSCE. The EU's focus on human security led to an overlap with OSCE's human dimension of its comprehensive security concept (Nikodinovska - Stefanovska 2015).

Overlapping policy fields, cooperation and rivalry

In spite of the fact that both organizations remained very different in legal and political terms, their policy agenda increasingly overlapped. The overlap could be identified with respect to a variety of topics falling under the human and politico–military dimension, including conflict prevention, post-conflict rehabilitation, election monitoring and assistance, terrorism, police issues, the promotion of human rights and the rule of law, the implementation of UN-sanctions and democratization.

In the 1990s and beyond, the increasingly overlapping policy fields led to a political discourse stressing the need for cooperation between the EU and the OSCE. With the expanding mandate of the EU in foreign policy the question arose to what extent the EU and OSCE can and should work together in European security. EU High Representative Javier Solana famously described both organizations as 'natural born partners' (Solana 2002).

The cooperation between the EU and OSCE since the 1990s is primarily focused on the human dimension of OSCE's comprehensive security concept (Nikodinovska-Stefanovska 2015/1). Cooperation has been improved since the EU's security strategy was launched in 2003. OSCE was mentioned as one of the organizations whose strengthening would be beneficial to the EU (European Council 2003). Without giving details, the Report on the Implementation of the European Security Strategy recognized the deepening of the relationship from 2003 onwards (European Council 2008: 11).

Concerns about rivalry or competition are also intrinsic part of the discourse about the cooperation between the European security institutions. Fears for competition between the EU and OSCE have been less pronounced compared to fears about EU's competition with NATO. The EU's evolving ESDP led to concerns about competition or conflict between the EU and OSCE. After all, the cooperation takes place within the context of a relationship between two unequal partners. The EU is the stronger organization in political, legal, and economic sense. In spite of the institutionalization that took place in the 1990s, the OSCE is a rather weak organization. It lacks a constitutional charter and its understaffing, underfunding, and inadequate competences limit the effectiveness of the organization (Møller 2012: 248). In contrast, in spite of the economic and financial crisis, the EU is a strong regional organization with a high level of economic integration and an expanding common foreign policy.

There is a tendency of the EU to use the OSCE instrumentally to reach its own foreign-policy goals. A concrete example in the case of the OSCE is the way the EU uses the OSCE to get information about a candidate country for its progress reports. The field missions of the OSCE in (potential) candidate countries are well informed and can help the EU in assessing the progress of the country concerned. Another example is that the OSCE is considered to be very useful for shaping European policy towards the Eastern neighborhood. Namely, policy officials often emphasize that communication between the OSCE and the Central Asian states is facilitated by the fact that they, as participating states, regard the OSCE as their organization, whereas the EU is an external third party. At the same time, it is obvious that OSCE's involvement in Central Asia has its limits too. The Central Asian governments generally have 'strong reservations about the OSCE's involvement within their borders, particularly when it comes to reinforcing democracy, human rights or the role of civil society' (De Graaf and Verstichel 2008: 267–268).

CONCLUSION

The subjects of the international order that have gained more importance and authority in recent decades are international organizations with competence in the field of security and defence. The first place in terms of development and active role in maintaining international peace and the overall security is hold by the organizations that stretch in the Euro-Atlantic region. The North Atlantic Treaty Organization, the European Union and the Organization for Security and Cooperation in Europe are the three most important organizations in the Euro-Atlantic region that have shaped world history through their commitments in the framework of maintaining peace, security and stability. Their commitments have been with different characteristics and in accordance with the characteristics of the international order, the scope of intervention and the goals to be achieved. As a result of the changes in the international community, especially in Europe, after the end of the Cold War, the European security organizations should have adapted themselves and their security concepts to the changing environment.

In contrast to the massive visible threat in the Cold War, none of the new threats is purely military; nor can any be tackled by purely military means. Each requires a mixture of instruments. Proliferation may be contained through export controls and attacked through political, economic and other pressures while the underlying political causes are also tackled. Dealing with terrorism may require a mixture of intelligence, police, judicial, military and other means. In failed states, military instruments may be needed to restore order and humanitarian means to tackle the immediate crisis. Regional conflicts need political solutions, but military assets and effective policing may be needed in the post

conflict phase. Economic instruments serve reconstruction and civilian crisis management helps restore civil government.

Together, the EU, NATO and OSCE represent the institutional toolbox that the Euro-Atlantic nations may draw on to address global challenges. Institutional structures and arrangements are imperfect, but having this toolbox presents the Euro-Atlantic community with options to choose from. NATO, EU and OSCE should complete each other by implementing its political and military capabilities to address the full spectrum of crisis-before, during and after conflicts. Despite the overlapping and competition that still exists, these three major European security institutions should coordinate their efforts in the complex European environment.

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JULIAN ASSANGE AND THE LAW ON DIPLOMATIC RELATIONS

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ABSTRACT

On June 19, 2012, Julian Assange, an Australian national, the founder of WikiLeaks, entered Ecuador's Embassy in London and requested diplomatic asylum from the Ecuadorian government. His aim in seeking asylum was to prevent the United Kingdom from extraditing him to Sweden, where he is wanted by the Prosecution Authority for questioning in relation to allegations of sexual molestation and rape. The decision to seek asylum followed a protracted court battle in the United Kingdom, ending with the decision of the UK Supreme Court in *Assange v. Swedish Prosecution Authority*, wherein the majority upheld the European Arrest Warrant issued pursuant to the Extradition Act 2003 (UK), seeking the arrest and surrender of Assange. While Assange's immediate concern was to prevent his extradition to Sweden, it is reported that his underlying fear is extradition from Sweden to the United States on charges relating to the activities of WikiLeaks.

On August 16, 2012, the Ecuadorian Government announced that it would grant Assange asylum, citing concerns that if he was extradited to the United States, he could face trial by a military court, cruel and degrading treatment and life imprisonment or capital punishment in response. UK Foreign Secretary William Hague stated that the UK was "determined to carry out (its) legal obligation to see Julian Assange extradited to Sweden".

This paper deals with and comments on the legal issues regarding the grant of diplomatic asylum, as well as of Assange's continued residence in the Ecuadorian Embassy. It elaborates whether the dispute is more likely to be resolved by legal principles or through political negotiations.

1. INTRODUCTION

Julian Assange, an Australian computer programmer, publisher and journalist, is the founder and editor-in-chief of the organization WikiLeaks. He founded WikiLeaks in 2006 and became globally recognized in 2010, publishing a series of leaks, which included the "Collateral Murder" video (in April 2010), showing US soldiers shooting dead 18 people from a helicopter in Iraq, "Afghanistan war logs" (in July 2010), "Iraq war logs" (in October 2010), "Cable Gate", a quarter of million diplomatic cables (in November 2010) and the Guantanamo files (in April 2011). WikiLeaks published secret information and classified media from anonymous sources. By 2015, WikiLeaks had published more than 10 million documents and associated analyses and was described by Assange as "a giant library of the world's most persecuted documents" [1].

[1] See: Interview with Julian Assange: 'We Are Drowning in Material', Der Spiegel, 20 July 2015.

Following the 2010 leaks, the United States launched a criminal investigation into WikiLeaks. In November 2010, a request was made for Assange's extradition to Sweden, where he had been questioned months earlier over allegations of sexual assault and rape [2]. Namely, Assange visited Sweden in August 2010, where he became the subject of sexual assault allegations from two women with whom he had sex. He was questioned, the case was closed, and he was told he could leave the country. In November 2010, however, the case was re-opened by a special prosecutor who said she wanted to question Assange over two counts of sexual molestation, one count of unlawful coercion and one count of "lesser-degree rape". Assange continued to deny the allegations after the case was re-opened, and expressed concern that he would be extradited from Sweden to the United States due to his perceived role in publishing secret American documents [3]. Assange surrendered himself to the UK police on 7 December 2010 and was held for ten days before being released on bail.

2. DIPLOMATIC ASYLUM

On June 19, 2012, Julian Assange entered Ecuador's Embassy in London and requested diplomatic asylum from the Ecuadorian government. On August 16, 2012, the Ecuadorian government announced that it would grant Assange asylum, citing concerns that if he was extradited to the United States, he could face trial by a military court, cruel and degrading treatment and life imprisonment or capital punishment [4] in response. Ecuadorian President Rafael Correa stated on August 18 that Assange could stay at the Embassy indefinitely[5]. UK Foreign Secretary William Hague stated that the UK was "determined to carry out (its) legal obligation to see Julian Assange extradited to Sweden".[6] Metropolitan Police guard was stationed outside the Embassy building from June 2012 to October 2015 in order to arrest Assange for extradition, should he leave the Embassy. The Police 24-hour guard was withdrawn in October 2015.

Diplomatic asylum is granted by states to individuals. A well known example is the diplomatic asylum, and refuge, granted to the Peruvian leader of the American People's Revolutionary Alliance, Victor Raul Haya de la Torre, in the Colombian Embassy in Lima, in 1949. Examples include the 1989 decision of the Papal Nuncio in Panama to allow President Manuel Noriega to seek refuge in the Nunciature of the Holy See before he agreed to give himself up to the US forces. More recently, in April 2012, the United States granted Chinese dissident, Chen Guang Cheng, asylum in the US Embassy in Beijing.

However, these examples do not mean that a legal right to seek diplomatic asylum exists, nor does customary international law require states to recognize a grant of asylum. This is stated by the International Court of Justice judgment in the *Asylum Case*, where

[2] Nick Davies, *"10 days in Sweden: the full allegations against Julian Assange"*, The Guardian, London. 17 December 2010.

[3] "Britain 'sets dangerous precedent' by defying UN report on Assange", The Guardian, London, 24 February 2016.

[4] News Release of the Foreign Affairs, Trade and Integration Ministry, Statement of the Government of the Republic of Ecuador on the Asylum Request of Julian Assange (June 19, 2012), available at: http://www.mnuree.gob.ec/eng/2012/com042.asp

[5] Nathan Gill and Randy Woods, Correa says Assange may stay in Ecuador embassy indefinitely, Bloomberg Business week, 18 August 2012.

[6] Foreign Secretary Statement on Ecuadorian Government's Decision to Offer Political Asylum to Julian Assange (August 16, 2012), available at: http://www.fco.gov.uk/en/news/latest-news/?view=News&id=800710782

Colombia unsuccessfully argued two legal points[7], that: a) it is for the state granting asylum to determine the nature of the offense for the purpose of asylum; b) Peru was obliged to grant safe passage to de la Torre out of the country. The Court could not find any relevant legal principle that it was for the country granting asylum to determine the nature of the offense due to the "uncertainty and contradiction" and the "fluctuation and discrepancy in the exercise of diplomatic asylum"[8]. According to the Court, Peru was not legally bound to accede to Colombia's request to allow de la Torre safe conduct out of Peru.

No treaty that facilitates the granting of asylum and departure to a foreign territory exists between the United Kingdom and Ecuador. It should be emphasized that the issue of diplomatic asylum was deliberately not dealt with in the Vienna Convention on Diplomatic Relations [9]. Consequently, the United Kingdom is under no obligation to recognize Ecuador's grant of asylum or to facilitate Assange's passage out of the Embassy to Ecuador.

3. THE INVIOLABILITY OF THE EMBASSY PREMISES

What are Assange's legal options for travelling to Ecuador? While he remains in the embassy, he is protected from arrest by U.K. police. According to Article 22 of the Vienna Convention on Diplomatic Relations, the "premises of the mission shall be inviolable. The agents of the receiving State may not enter them, except with the consent of the head of the mission"[10]. Widespread compliance with the rule of inviolability of the embassy is due to reciprocal benefits enjoyed by states under the law relating to diplomatic immunity. The International Court of Justice reinforced the prohibition on "any" infringement of the inviolability of the mission by the receiving state in the *Tehran Hostages Case* and the *Armed Activities on the Territory of the Congo Case*.[11] Although Ecuador is arguably in violation of Article 41(3), which provides that the mission should not be used "in any manner incompatible with the functions of the mission," the grant of asylum would not justify entry by the U.K. police [12].

In 1987, the United Kingdom enacted the Diplomatic and Consular Premises Act, which provides that land will cease to be regarded as diplomatic or consular premises if "(a) State ceases to use land for the purposes of its mission or exclusively for the purposes of a consular post; or (b) the Secretary of State withdraws his acceptance or consent in relation to the land." However, the Secretary of State can withdraw consent only if it would be "permissible under international law.[13]" Although the U.K. initially threatened

[7] See more in: Alison Duxbury, Assange and the Law of Diplomatic Relations, ASIL Insights, Vol.16, Issue 32, October 11, 2012.

[8] Asylum Case (Colombia v. Peru), 1950 I.C.J., 266, 270, 277, 279, 286 (November 20, 1950), available at: http://www.icj-cij.org/docket/files/7/1849.pdf

[9] *See* Draft Articles on Diplomatic Intercourse and Immunities with Commentaries, [1958] 2 Y.B. International Law Commission 104, § III, *available at*
http://untreaty.un.org/ilc/texts/instruments/english/commentaries/9_1_19

[10] Vienna Convention on Diplomatic Relations, Article 22(1), April 18, 1961, 500 U.N.T.S. 95 (entered into force April 24, 1964). See more: Владимир Ортаковски, Дипломатија, Факултет за безбедност, Скопје, 2017, стр. 43-47.

[11] United States Diplomatic and Consular Staff in Tehran (U.S. v. Iran), I.C.J. 3, 32 (May 24, 1980); Armed Activities on the Territory of the Congo (Congo v. Uganda), I.C.J. 168, 278 (December 19, 2005).

[12] See more in: Higgins, Rosalyn, *The Abuse of Diplomatic Privileges and Immunities: Recent United Kingdom Experience,* American Journal of International Law, 79 (1985) at 641, 646.

[13] Diplomatic and Consular Premises Act, 1987 (UK), 46, 1(3), 1(4).

to enter the embassy to arrest Assange, citing this Act as authority, this threat was quickly withdrawn. It could not be argued that by housing Assange, Ecuador has ceased to use the land for diplomatic purposes and thus that international law would allow the withdrawal of consent for the mission.

Although the United Kingdom could sever diplomatic relations with Ecuador and thus terminate the status of the embassy, Ecuador would be able, according to Article 45 (b) of the Vienna Convention on Diplomatic relations, to "entrust the custody of the premises of the mission … to a third state acceptable" to the UK. If this third state sought to include the Ecuadorian embassy as part of its own premises, inviolability could be maintained. Given the withdrawal of United Kingdom threats to enter the embassy, London seems unlikely to resort to such a measure.

4. HOW TO LEAVE THE EMBASSY?

What is the way in which Assange may leave the embassy premises to escape to Ecuador? There are a few options, however they have practical or legal problems. One option for Assange is:

a) to leave using an embassy vehicle. The means of transport of a mission are "immune from search, requisition, attachment or execution" according to Article 22(3) of the Vienna Convention. It should be emphasized that a mission's vehicle is immune from search, not inviolable. However, Assange would need to be able to walk from the embassy to a vehicle without leaving the embassy's premises. This does not appear to be physically possible.

b) Another option is for Assange to leave the embassy in the diplomatic bag, there being no limit to the size or weight of such bags. Article 27(3) of the Vienna Convention provides that "the diplomatic bag shall not be opened or detained," but paragraph (4) states that diplomatic bags "may contain only diplomatic documents or articles intended for official use." Would a breach of paragraph (4) by Ecuador justify the U.K. opening the bag in violation of paragraph (3)? According to the International Law Commission, even if a diplomatic bag is used for objects other than official correspondence or articles for diplomatic use, it must be protected as a diplomatic bag [14]. However, it is unlikely that the U.K. would countenance the use of the diplomatic bag to smuggle a person. Nevertheless, the U.K. Foreign Secretary stated that the overriding duty to preserve and protect human life might justify opening a diplomatic bag in appropriate circumstances[15].

c) Ecuador might consider accrediting Assange as their representative to an international organization, but the immunity of representatives to international organizations tends to be more limited than that conferred on diplomats. For example, Article IV, Section 11 of the Convention on the Privileges and Immunities of the United Nations confers immunity from arrest while a state representative is "exercising their functions and during their journey to and from the place of meeting." While on a mission as state representatives,

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[14] Status of the Diplomatic Courier and the Diplomatic Bag Not Accompanied by the Diplomatic Courier, 2 Y. B. International Law Commission 17, 1989.

[15] Eileen, Denza, Diplomatic Law: Commentary on the Vienna Convention on Diplomatic Relations, Oxford University Press, 2008, p.243.

individuals receive immunity only for acts performed "in their capacity as representatives [16]." Pursuant to international law, it is possible for Assange to be appointed as an Ecuadorian representative to an international organization and to receive the immunity conferred by provisions such as Article IV (depending on the organization). However, the credentials of state representatives to international organizations are subject to a process of approval, for example, through a credentials committee. Although this is usually a technical process, it is possible for credentials to be rejected.

d) Ecuador could appoint Assange as a diplomat to confer on him broad personal immunity from criminal process under Article 31(1). However, the Convention contains, in Article 8(1), a general presumption that diplomatic staff are nationals of the sending state. It is possible for a non-national to be appointed a diplomat (provided that the receiving state consents to such appointments) and to receive immunity while in transit to a post (Articles 8(3) and 40), but this possibility appears irrelevant according to Ecuadorian law, which requires its diplomats to be Ecuadorian by birth.

5. UN WORKING GROUP ON ARBITRARY DETENTION RULING

On 5 February 2016, the UN Working Group on Arbitrary Detention decided that Assange had been subject to arbitrary detention by the UK and Swedish Governments since 7 December 2010, including his time in prison, on conditional bail and in the Ecuadorian embassy. According to the group, Assange should be freed and given compensation from both countries.

The UK and Swedish governments rejected the ruling, as did the UK Secretary of State for Foreign and Commonwealth Affairs, Philip Hammond, and the UK and Swedish prosecutors. The UK maintained it would arrest Assange should he leave the Ecuadorian embassy. Mark Ellis, executive director of the International Bar Association, stated that the ruling is "not binding on British law" [17]. UN High Commissioner for Human Rights, Zeid Ra'ad al Hussein, has said that the ruling is based on binding international law. Mr. Assange stated "Now that all appeals are exhausted I expect that the UK and Sweden will comply with their international obligations and set me free. It is an obvious and grotesque injustice to detain someone for six years who hasn't even been charged with an offence."

6. CONCLUSION: LEGAL OR DIPLOMATIC SETTLEMENT

Is there an option for Assange's case to be taken before the International Court of Justice? We should have in mind that only states can bring contentious cases before the ICJ [18]. Neither Ecuador nor the United Kingdom has indicated a desire to submit a case to the Court pursuant to the Optional Protocol to the Vienna Convention on Diplomatic Relations concerning the Compulsory Settlement of Disputes [19]. Australia could exercise its right of

[16] Convention on the Privileges and Immunities of the United Nations Art. IV, 11, February 13, 1946, 1 U.N.T.S. 15, *available at* http://www.un.org/en/ethics/pdf/convention.pdf

[17] Suelette Dreyfus, "Network. This is just between us (and the spies)", *The Independent*, 15 November 1999.

[18] Statute of the International Court of Justice art. 34(1), July 26, 1945, *available at* http://www.icj-cij.org/documents/index.php?p1=4&p2=2&p3=0

[19] Optional Protocol Concerning the Compulsory Settlement of Disputes [to the Vienna Convention on Diplomatic Relations], Apr. 18, 1961, 500 U.N.T.S. 241 (entered into force Apr. 24, 1964).

diplomatic protection and bring a case on behalf of its national against the U.K., but this is unlikely.

Although international legal principles regulate the actions of the Ecuadorian and United Kingdom governments in the dispute concerning the grant of asylum to Julian Assange, the dispute is more likely to be resolved through political negotiations, having in mind Article 22 of the Vienna Convention and the inviolability of a diplomatic mission, rather than by legal principles.

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ENERGY SECURITY IN SEE AND ITS IMPLICATIONS FOR CFSP

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1. INTRODUCTION

The European energy policy was introduced only after the energy security issues have become important due to the different global crisis situations. The Lisbon Treaty was the first document to introduce such questions. The four defined goals of the Union policy on Energy are: ensuring the functioning of the energy market; ensuring security of the energy supply in the Union; promoting energy efficiency and energy saving and developing new and renewable forms of energy; and promoting the interconnection of energy networks (*The Lisbon Treaty*, Article 194).

The main debate in the field of energy security could be summed up in two main directions, or 'storylines' as stated in the *Study on Energy Supply and Geopolitics* (CIEP, 2004). Under the first one, defined as 'Markets and Institutions', there is a general assumption of continuation and intensification of markets, globalization and international cooperation leading to the multilateral system of governing the IR. Then second one, 'Regions and Empires', assumes the contemporary world "broken into more or less integrated political and economic blocks with satellite regions that compete for markets and resources with other blocks". (CIEP, 2004: 23) These two approaches to explaining the future of energy supplies from a geopolitical perspective reminds us of the general divisions in contemporary geopolitical thought as well. As Dalby suggested (2008: 415), 'there is a military, and more specifically, a strategic dimension to contemporary geopolitical thinking that is an important matter worthy of continued attention; empire is not only about military force, neither as Agnew reminds us, is contemporary hegemony primarily a matter of military force or territorial conquest'. (Dalby, 2008: 415) Imperial geopolitics was considered to be predominant in the era of pre-WW2 colonial power rule. It seems nowadays that the era of imperial geopolitics is back, but with engaging different mechanisms of ruling, domination and power. The securitization of the key security challenges led to renewed militarization worldwide. As Dalby suggests, 'this re-militarisation of global politics clearly suggests the continued relevance of Ó Tuathail's specification of the need for critical geopolitics to grapple with the culture that produces imperial attempts at domination in distant places' (Dalby, 2008: 413). The imperial storyline for the region of SEE is a constant in the geopolitical sense. Geopolitical visions for imposing power from different actors in this region left the strong imprint for contemporary relations as well. European peripheries, or neighborhoods, were often used to promote European values, but at the same time used to serve different interests as well. Periphery is geographically reasoned as a place located distant from the Centre and created through discourses of development and emphasis of the security challenges. A periphery as

a space of meaning activates a whole variety of depending, belonging, identity and security issues, as well as geopolitical imaginations and discourses (Zorko, 2017). Power related issues of belongings in the wider frame of the European continent highlight the question of borders or borderlands, as well as neighborhoods in relation with security challenges and threats.

The region of South East Europe has always been a complex region in the geopolitical sense. Political interconnections and geopolitical games of power have shaped policies within and influences from outside this region. The same points stand in the case of energy related issues and potential influences regarding energy security as well. This paper will focus upon the foreign political dimensions of energy security in the region of SEE. This partly non-integrated region is under multiple influences regarding energy issues and their geopolitical implications. "The great game of power" has nowadays shifted towards energy dependency issues and towards policies of potential influence under "the shelter" of energy investments. The new re-territorialization of energy is now taking place worldwide. Key actors in SEE are the European Union on the one, and major regional powers on the other side(s) (Russia and Turkey). The colliding interests in the energy policy of the abovementioned actors are seen in the diffusion of the foreign policies instruments and mechanisms used. The aim of this paper is to analyze the market orientation and economic background of such geopolitical positioning, as well as the implications of common European policies, such as CFSP. Although the EU did not subordinate its energy policy to the security imperative in a sense of "hard power", its strategy does not solely depend on market management and values of "the soft power" either. Since energy security is not yet integrated as part of CFSP, the main goal is to indicate the shortcomings of such approach to the security and stability in a wider frame. The space for geopolitical games related to energy issues influence both energy security and economic stability in a negative way. The region of SEE was never meant to be excluded from the European integration processes (*European Security Strategy: A secure Europe in a better World*, 2003; *Report on the implementation of the European Security Strategy - providing security in a Changing World*, 2008), but it presents European (Inner) Other (Topalović, 2000; Todorova, 2006; Čolović, 2008). From the perspective of the EU and its (south) eastern enlargement, the first storyline is optimistic and the only obtainable one. Nevertheless, regarding the latest geopolitical and geostrategic developments, the second one is a more realistic outcome of the great energy driven geopolitical games in the European neighborhood(s).

Since the first introduction of the sub discipline of critical geopolitics, the global environment has changed rapidly. New risks and threats were introduced in the geopolitical arena of actions. As Dalby suggests, the end of the Cold War "has reshaped the imagination of danger, and specifically the terrains whence threats originate, as well as the related discussions of appropriate security responses". (Dalby, 2008: 414) That is why in the sense of geopolitical analysis, a threat oriented and security-based approach is needed. Energy security will continue to play a subsequent role in IR and will continue to shape "the great geopolitical games" in the future.

2. THE GREAT GEOPOLITICAL GAME IN SOUTH EAST EUROPE: TWO STORYLINES AND TWO GEOPOLITICAL DISCOURSES

The two main discourses on energy security go along with two abovementioned storylines on interconnection of energy issues and geopolitics. The first perspective addresses the postmodern notions on globalization outcomes, re-territorialization and the

human security focus. In this perspective territory, nation states and borders play no significant role. The second one is embedded in the traditional geopolitical perspective on power and politics. Strong nation-state oriented politics of interest, national security mechanisms of defending those interests, unquestioned sovereignty, and a 'right' to act are the prerequisite for such visioning. Bottom-up against top-down approach is crucial for explaining these two opposed points of elaborations of the energy security models.

The key thesis for those believing in market mechanisms was that "post-2003 high oil prices were the result of a catching-up after two decades of declining demand for oil and that these high prices would in their return engender changes in government policies and consumer behavior, as substitution strategies took shape". (Youngs, 2009: 7) These debates clearly pointed out that the overly used discourse on the inevitable "oil peak" was misleading. (Youngs, 2009) Reserves depend on the price and due to the high prices, more reserves become profitable (Youngs, 2009). For instance, Mitchell (2006, in: Youngs, 2009: 7/4) argued that a more or less sustainable level of oil production will be reached; and the "geopolitical panic" over the non-renewability of resources was raised on the Malthusian-like error on "geological determinism". (Clarke, 2007, in: Youngs, 2009: 7/5) This storyline must include the importance of new discoveries and technical development. The final outcome of the 'Market and Institutions' approach has lead us to believe that economy and market will protect consumers from too high prices and misuse of national energy resources for political purposes (Mitchell, 2002, in: Youngs, 2009: 7/8).

Against such vision, there are analyses claiming that the crucial change in energy security has always been, and will continue to be, its geopolitical dimension. The storyline on 'Regions and Empires', fitting the abovementioned geopolitical vision, emphasizes the use of military power, strategic alliances and "searching for 'exclusive backyards'". (Youngs, 2009: 8) In the context of this geopolitical narrative lays the lack of systematic inclusion of energy security in shaping the foreign policies of consuming countries. The main argument for such envisioning was embedded in the belief that energy policy could not be understood out of the frame of "new emerging 'quadripolar' world divided between the USA, European, Asian and Middle Eastern power blocks". (Leonard, 2006, in: Youngs, 2009: 9/20) As Mommer (2000, in: Youngs, 2009: 9/15) stated, geopolitical issue "becomes pivotal in the absence of any agreement on the basic 'governance structure' of international energy meaning that the conflict-laden history of international oil in the twentieth century was bound to continue". Another key issue in the context of debates on market and geopolitics is the relation between the need for energy in the West and the political changes in the producing countries. It has become well known that oil and democracy do not fit together. Ross (2001; in Youngs, 2009: 10) claims that oil has always made democracy unlikely by easing the repression and controlling modernization. Even more radically, Friedman (2006: 31) argues that „The first law of Petropolitics posits the following: the price of oil and the pace of freedom always move in the opposite directions in oil-rich petrolist states". These issues are interconnected with the interests of Western multinational petrol companies. The debates on their influence on national governments are still vivid and grade from notions of 'limited democracy' or 'low intensity democracy' to notions of 'liberal autocracy'. Such influence balances stability and control over the non-market elements with economies based upon clear rules. (Chomsky 1992; Stubbs and Underhill, 1994; Robinson, 1996, in: Youngs, 2009: 24) To conclude, the debates on Market vs. Geopolitics were intensified as energy security found its way up on foreign policy agendas. (Youngs, 2009: 24)

Regardless of such global visions, in the region of SEE numerous geopolitical actors and scenarios interfere on a daily basis. This is not a new agenda in the region of SEE, but the question of strategic resources and energy security have become the main tool of influence gaining and power imposing games. Transport routes, the geopolitical importance of SEE and the geopolitical visions on the periphery are the key geopolitical imaginations in this case. The question could be shared between gas, oil and renewable resources demand and supply. In all cases, the region of SEE is primarily a transit region. The importance of the region lies in its geostrategic position regarding the transit routes. With respect to the example of the gas supply and dependency in SEE, the geopolitical relations could be explained. The European gas crisis in 2006 and later on in 2009 showed geopolitical patterns of behavior in energy politics and security due to the European dependency on Russian gas.

The key characteristics of SEE states that import most or all of its gas supplies, is their dependence on Russian gas. If we compare the amounts and the percentage of dependence on Russian natural gas supplies, the leading countries are Bulgaria, Greece, Slovenia and Serbia (*The Oxford Institute for Energy Studies*, 2014: 7). In spite of the lower gas consumption, Macedonia, Bosnia and Herzegovina, as well as Moldavia also depend on Russian gas supplies completely. Two problems arise out of this fact: the region (or states in the Region of SEE) are dependent on the security (or insecurity) of transit routes and the foreign policy actions on the one hand, and they are paying the most expensive prices out of their dependency on only one source, on the other. (*Natural Gas Europe*, 2015: 1)

The security of gas supply is "a political issue of considerable importance to the economies and well being of citizens in the South-East Europe (SEE) countries. A modeling published by the European Network of Transmission System Operators for Gas (ENTSO-G) and by Energy Union Choices identified this region as the only one in Europe with a significant gas security issue in the event of an interruption of supply from Ukraine". (Staniaszek et all, 2016: 4) Their definition of the SEE region goes beyond the classical ones[1], but energy security of gas supply lies in the protection of the consumption by renewing the infrastructure and buildings. The four scenarios[2] of a dedicated renovation programme focused on gas-consuming buildings strive towards possibilities of reducing the SEE countries' dependency on Russian gas supply. According to the last one, "energy security" scenario "can dramatically reduce the vulnerability to gas supply interruption. All buildings currently using gas could be renovated within 20 years, cutting gas consumption by 70%, or over 8 bcm/a. Even in the event of a complete and prolonged gas supply disruption from Russia, the region would be able to meet its demand with reverse-flow pipelines from Western Europe and LNG terminals". (Staniaszek et all, 2016: 5) Although a bit optimistic, even this scenario relies on possible geopolitical games and draws scenarios out of the dependency on Russian natural gas.

[1] Albania, Bosnia and Herzegovina, Bulgaria, Croatia, FYROM (Macedonia), Greece, Hungary, Kosovo, Montenegro, Romania, Serbia, Slovakia, Slovenia. (Staniaszek et all, 2016: 4)

[2] Frozen (no change); Limited protection (modest increase in renovation rate); Risk Mitigation (proactive approach) and Energy security (dedicated, agressive approcah which will lead to all building renovation over the 20 years). (Staniaszek et all, 2016: 5)

3. INSTEAD OF A CONCLUSION: THE PROBLEM OF COHERENCY OF THE SECURITY ASPECT OF EUROPEAN ENERGY POLICY AND GEOPOLITICS OF SEE

European energy policy could be divided into three pillars regarding its implications and fundamental goals. The competitive inner energy market forms the first and the most permanent pillar – economic one (Buchan, 2015). The security pillar is the weak link and consists of safe energy supply and reasonable prices, while the third one, the environmental pillar is the most ambitious and deals with the wider questions of climate change (Buchan, 2015). The main differences between the pillars are within the policy creating process. The Community method is used in the economic and environmental pillar, while the security pillar is left in the area of the intergovernmental decision making processes and cooperation typical for CSFP. Accordingly, different decision-making levels are included, the EU level for the first two pillars and the national state level for the security aspect. Also, the direction of engagement is different. The economic pillar is oriented towards the dimension of the inner energy market and its liberalization regulated through different European Commission energy packages. The environmental pillar has a similar dimension related to the EU's global climate change fight, engagement and responsibilities. Nevertheless, for the security pillar the foreign dimension is the most important one. In its internal dimension, the EU tries to enhance energy security while working on externalization of the issue in imposing its rules and legislation in a wider region and the environmental goals to the broad international community. (Buchan, 2015) The attempts to include the security aspect in the Community method by securitization of energy issues were counterproductive. After the first gas crisis in 2006 and afterwards in 2009, the securitization of the energy issues led to a stronger national engagement and a lack of will to transfer competencies to a supranational level or increase the level of intergovernmental cooperation within the EU. As Natorski and Surralles (2008: 83) pointed, "the member states' collective approach to the European Energy Policy was to continue 'to do the same but better' and to achieve greater coherence through 'better exploiting the synergies and complementarities between the various, internal and external, components of energy policy' … (no matter that member states) actually shared the views of both the Commission and the EP concerning the evolution of energy as a vital security concern". (Natorski and Surralles, 2008: 83)

Along with the incoherency between the EU member states, the geographical division (regarding different routes and dependencies) and the division between 'old' and 'new' member states could be recognized. The European Commission used two gas crises, in 2006 and 2009, to improve its regulations regarding energy security issues. The third energy package was introduced to improve and speed up the process of inner energy market formation which could lead to mutual assistance and solidarity between member states and diminish the cost of an interruption in gas supply. The Commission used the Ukrainian crisis as 'a window of opportunity' (Kingdon, 1995) in this area and announced the 'European Energy Security Strategy' in 2014 followed by a '**Framework** Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy' in 2015. Both documents strive towards integrated management of interconnected areas. After the second gas crisis in 2009, the security dimension of the EEP was introduced since Russia used the gas as a tool for foreign policy actions. Such geopolitical games influenced the conclusions leading towards diversification of natural gas supply and transport. A similar finding goes along for multinational companies in the energy business. Once again, the multinational companies in 'old' and 'big' countries are those making the rules and playing the game to

their interest. Vertically integrated monopoles with state influenced or state financed structure do not support irreversible gas terminals or alternatives of gas supply due to the potential loss of influence or profit. (The Economist, 2015)

The European Union has no coherent policies in the area of energy security. Thus, future planning includes two storylines that could influence the energy security sector. The first one relies upon market and institution self-regulation, while the second imposes geopolitical frames of behavior. Nevertheless, while no consensus is reached, there are no mechanisms for action within the EU member states, as well as from the member states towards future member states or wider Europe. Such consecution leaves area for geopolitical planning and foreign policy actions of other subjects in question. The big players, such as Russia, have their own political agendas driven on the energy security issues. Nevertheless, influential member states have their own agendas interconnected with different levels of energy resource markets and dependencies. Also, even the goals of national states and their national energy companies could be different since energy security and market competition might firm two opposed categories. The decision to keep national sovereignty of the energy security issues is on the agenda of different EU member states, as a benefit for national states, and it empowers the second storyline of geopolitical actions in the energy security area. As long as energy security creates an important part of national security agendas, the second storyline will dominate.

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DEMOCRATIC CONSOLIDATION, THE CRISIS OF THE EU ENLARGEMENT AND THE POPULIST THREAT IN THE WESTERN BALKANS

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ABSTRACT

European Union (EU) enlargement is under threat. There is little enthusiasm among European member states for further enlarging of the Union. The slowing down of the EU integration process in the Western Balkans has been accompanied by a slowdown in investment in the region by EU member states. European states are facing different problems of their own making. Citizens across the continent feel less connected with the European supranational institutions and globalization processes. Economic progress has been stagnating and populist leaders have exploited anti-elitist feelings. In the Balkans, leaders imitate and improve populist strategies. New regional powers, such as Turkey, Russia, and China threaten to use the impasse in the EU enlargement process. It is necessary to improve democratic consolidation in the Western Balkans and the EU to aid the process. Consolidation of democracy in the region depends on elite consensus and cooperation, as well as remodeling key public institutions to be powerful and independent from party influences.

Keywords: populism, EU enlargement, democratic consolidation Western Balkans

INTRODUCTION

European Union (EU) enlargement is under threat. There is little enthusiasm among European member states for further enlarging of the Union. The slowing down of the EU integration process in the Western Balkans has been accompanied by a slowdown in investment in the region by EU member states. European states are facing different problems of their own making. Citizens across the continent feel less connected with the European supranational institutions and globalization processes. Economic progress has been stagnating and populist leaders have exploited anti-elitist feelings. In the Balkans, leaders imitate and improve populist strategies. New regional powers, such as Turkey, Russia, and China threaten to use the impasse in the EU enlargement process. This paper analyzes the state of affairs and discusses the methods how best to invigorate the enlargement process.

STATE OF PLAY IN THE ENLARGEMENT PROCESS

The Stabilisation and Association Process (SAP) – as a tailor-made, country-by-country, progressive approach and intermediate step on the path towards accession – has, since May 1999, been the centrepiece of the EU strategy towards the Western Balkans. On 19 and 20 June 2000, at the Santa Maria de Feira European Council, all Western Balkan countries were considered as potential candidates for EU membership. A few months later, on 24 November 2000, the prospect of possible accession to the EU was confirmed at the

Zagreb Summit. At the Thessaloniki European Council in June 2003, all EU member states declared their 'unequivocal support to the European perspective of the Western Balkan countries' and that 'the future of the Balkans is within the European Union.'

Croatia became the newest member of the EU in 2013, but European Commission President Jean-Claude Juncker epitomised, in July 2014, the current mood on enlargement inside the EU in the presentation of his political guidelines to the European Parliament: 'The EU needs to take a break from enlargement so that we can consolidate what has been achieved among the 28 [member states]. This is why, under my Presidency of the Commission, ongoing negotiations will continue, and notably the Western Balkans will need to keep a European perspective, but no further enlargement will take place over the next five years'. Despite the pessimistic outlook for the next five years, there was some progress in the Western Balkan countries as far as enlargement is concerned during the period of the previous European Commission from 2009-2014.

The European Commission's approach has been to address fundamentals first, thus prioritising reforms related to:

- the rule of law and fundamental rights;
- economic governance and improving economic competitiveness;
- strengthening democratic institutions.

(European Commission, 2014b)

These three pillars are interlinked, and progress in these areas is key to determining when countries will be fully ready to join the EU. In all the above fields, the Commission aims to make the maximum use of existing mechanisms and forums to drive reforms forward, for instance through SAA structures, accession negotiations, or Commission-led country-specific initiatives such as high-level dialogues or structured dialogues on the rule of law.

As regards the first pillar, the rule of law and fundamental rights, the Commission emphasizes that tackling the rule of law early in the accession process maximises the time countries have to develop solid track records of reform implementation. Progress under Chapters 23: Judiciary and Fundamental Rights and 24: Justice Freedom and Security will need to be made in parallel with progress in negotiations overall. The Commission recalls the existence of the "overall balance" clause of the negotiating frameworks and the possibility of stopping negotiations on other chapters if progress on rule of law issues lags behind.' (European Commission, 2014b:19).

The second pillar, strengthening economic governance and competitiveness in the enlargement countries, is crucial for meeting the economic criteria for EU membership. Reforms should be intensified to achieve sustainable growth, improve the business environment and boost investment. The reform process must be intensified as the West Balkans lag behind European Union countries including the so-called new member states. Growth in the Western Balkans has slowed down since the European wide financial crisis, while employment creation is sluggish. Convergence of living standards towards the levels of EU economies is also trailing behind. The region suffers from low investment, while emigration from the region has again become a policy issue for both the EU and the Western Balkans. Overall, reforms are slowing down and the region faces the risk of permanent marginalisation on the periphery of Europe." On 12 May 2015, the Finance Ministers of the EU and the Western Balkans adopted recommendations to ensure sound public finances and to increase competitiveness and long-term growth in the Western Balkans and Turkey. The recommendations are based on economic reform programmes that "focus on the macroeconomic and fiscal policy framework and – for the first time –

also on sectoral structural reforms, for instance regarding infrastructure, education and employment, industrial structures, business environment and trade integration." (Hahn 2015b)

In connection with the third pillar, strengthening democratic institutions, the Commission wants to better integrate public administration reform into the enlargement process, establishing 'special reform groups' with the enlargement countries 'as a forum for addressing horizontal public administration reform issues from the relevant negotiating chapters, monitoring progress and ensuring consistency'. (European Commission, 2014b:20)

The implementation of various reforms in the candidate and potential candidate countries is receiving EU support under the new Instrument for Pre-Accession Assistance (IPA II). Through IPA II, the EU will provide EUR 11.7 billion for the period 2014-2020 to support the enlargement countries in their preparation for accession and to support regional and cross-border cooperation. It is envisioned that this will further strengthen the region's stability, its economy and its investment potential. IPA II is expected to facilitate stronger ownership by the beneficiaries through integrating their own reform and development agendas. This mechanism is also expected to further anchor the civil society in the democratization and Europeanization process of the Western Balkans. The European Commission and the European Parliament are continuously working on enhancing the enlargement process in the Western Balkans.

EUROPEAN ISSUES AFFECTING THE SUPPORT FOR ENLARGMENT- RISE OF POPULISM

The strong results of populist anti-EU parties and the lowest ever turnout at the 2014 European Parliament elections represent a challenge to the democratic processes in the EU (most notably, in both France and the UK the largest number of seats went to parties advocating that their countries leave the EU – respectively the National Front and UKIP). The British exit from the EU might shake the foundations of the system and would certainly diminish the EU's international standing'. (Speck, 2014) European nation-states are unwilling to make a great leap towards a more federalist design. There is **lack of economic growth** for great number of European citizens. National income measured in purchasing power parity 2015 Euros has not grown and in some instances has decreased in a number of European countries. (The World Wealth and Income Database) The economic gains of the early years of convergence under the euro currency have been diminished by the ongoing economic crisis, and inequality and severe material deprivation has risen dramatically in the peripheral countries such as Spain, Greece or Portugal. (Caritas 2015 and European Commission, 2014d) Lack of economic growth has not deterred the processes where the super-rich elites from increasing their incomes and wealth. The so-called 'one percent elite' has continued to enrich itself in the same period where average national incomes have stagnated.

Furthermore, there is a **sense of alienation** with democracy and democratic processes and institutions across Europe. In some countries **elites are seen as corrupt**, self-promoting, and foreign to the interests of the ordinary people and the middle classes, cast. Concerns that there is a democratic deficit in EU decision-making have been compounded by popular dissatisfaction with the monetary and fiscal policy choices increasingly made by financial elites and imposed on the citizens by the politicians. Ordinary citizens across Europe feel their interests are neglected with the **loss of sovereignty to supranational institutions**. The perception is that the importance of their

national state and the interests of the citizens are overlooked by the bureaucrats in the commission in Brussels and the EU parliament. Economic and trade deals that affect the welfare of European citizens are taken seemingly with no regards to the interest of the middle classes. Moreover, economic decisions that influence everyday lives of European citizens such as investments, factory openings and closings are taken by international corporations that have no contact with the local populations.

The loss of national sovereignty is very vividly observed in the **migration of thousands of persons** to the European countries that are culturally and religiously different than the majorities on the continent. The negative perceptions surrounding immigration from the new member states that acceded to the EU from 2004 onwards, as well as the phenomenon of 'fake' asylum-seekers from the Western Balkans, is a strong factor influencing public opinion in 'old' member states such as Germany or the Netherlands. The sentiment among the average Europeans is, and the facts on the ground are such as well, that many big developed European cities have become multicultural and different than they used to be in the not so recent past. Recent uncontrolled waves of migrations of refugees and asylum seekers, as well as economic migrants, from Syria, the Middle East and Africa, have confirmed feelings in Europe that the national states are under threat of changing their demographic makeups and identities.

Globalization has aided societies and the world bringing many important benefits and material advances. However, globalization has also drastically changed ordinary lives of European citizens to the point that what was ordered, structured life now has many options to choose from, **disorienting people**. For example before the 1990s EU national states had very few television and radio channels as well as major newspapers and magazines to consult. With the advent and expansion of cable and satellite television packages, and the internet, today there millions of options where one can find news and entertainment. What used to be a common experience of watching or reading the same programs of commentators and discussing them with like- minded colleagues and friends at work, school or in pubs, today is virtually impossible. Nowadays a new very individualistic culture typical of the millennials is mixed with the artificial and rudimentary communication online on platforms such as Facebook, Instagram and Twitter. Religious institutions have lost grounds and influence. Church going on Sundays is not such a common activity anymore. Furthermore, what used to be an easy choice among consumers of European nations in the 1990s as far as buying ordinary items and commercial products is concerned, from food to clothing, from furniture to electrical appliances; it has become a complex matter with many options to choose from. Today we believe we should be able to choose everything: the way we live, the way we look, even when it comes to the coffee we buy, we constantly need to weigh our decision. That is extremely unhealthy.

The modernity with having hundreds of choices can actually make people more miserable rather than happy. (Salecl 2011) In The *Tyranny of Choice*, Salecl explores how late capitalism's shrill exhortations to 'be yourself' are leading to ever-greater disquiet - and how its insistence on choice being a purely individual matter can prevent social change. Consider also the following argument. Today, we are encouraged from all sides to view our lives as being full of choices. In modern capitalist societies people will usually try to make the best possible decision, and after making their decision they will reflect on what choices they could have made. This will often lead to regret because of the opportunity cost of by a product when there is actually a better product out there. (Schwartz 2004) This regret can overwhelm the benefits of the purchased product, and can lead to depression.

This means that the more choices there are available, the less benefit we receive from making a choice, and instead we receive more grief. Salecl shows that choice is rarely based on a simple rational decision with a predictable outcome. Late capitalism's sharp incitements to 'be oneself' can be a tyranny which only leads to ever-greater disquiet and how insistence on choice being a purely individual matter prevents social change. Today's abundance of choice makes us more anxious than ever before and less free than we might like to think. We constantly feel stressed, overwhelmed and guilty, we constantly feel that there's something even better hiding behind the next corner.

Overall these trends affect the electoral support in Europe for populist leaders, new elites that have no intentions to support further EU enlargement, on the contrary. The nation states will gain more powers within Europe if the trend of increased support for populists continues. Hereby, the juxtaposition between democracy and financial stability, 'between austerity and solidarity, and the separation between virtuous and dissolute nations, between political-financial elites and public opinion, together with the weakening of the traditional party systems, all interweave the debate on a European Union more and more linked to inter-governmentalism at the expense of the community method.' (Stocchiero, 2015:13) The weaker the EU is, the less chances for quick enlargement there are.

WESTERN BALKAN PROBLEMS

Candidate countries have become increasingly aware that the negotiations will take a long time. For example, the 2004 enlargement negotiations began on 31 March 1998 with the six best-prepared countries (Cyprus, Estonia, Hungary, Poland, the Czech Republic and Slovenia) and on 15 February 2000 with all the other candidate countries (Bulgaria, Latvia, Lithuania, Malta, Romania and Slovakia). All except Bulgaria and Romania became members in 2004, which means the negotiations lasted six years. Sofia and Bucharest joined the EU in 2007, negotiating for seven years. Croatia negotiated from 2005 to 2013. It is highly unlikely that any of the Western Balkan countries will be able to join the EU in such periods of time. Indeed, at the hearing in the European Parliament Committee on Foreign Affairs (AFET) of Johannes Hahn, the new Commissioner for European Neighbourhood Policy and Enlargement Negotiations, 'some MEPs feared that if too extended in time, the preparatory process could force some of the candidates to give up'. (Marini, 2014). Moreover, the Greek debt crisis dealt 'a serious blow to the enlargement narrative as one of sustained convergence, EU-driven modernisation, and increasing prosperity'. (O'Brennan, 2013:40).

The duration of the accession process and the declining level of foreign direct investment in the region heighten the feeling of indifference to the EU and the whole enlargement project among the regional elites, influencing a political culture of outright hostility between government and opposition parties and authoritarian tendencies in domestic politics.

Some local elites are again turning to nationalism and the EU enlargement policy towards the Western Balkans is increasingly losing its relevance. While governments seemingly align themselves with the EU agenda and work on their countries' accession, 'a large number of formal and informal economic and political elites continue to manipulate ethno-nationalist mobilisation for their own private economic interests and the preservation of political power'. (Balkans in Europe Policy Advisory Group, 2014).

In contrast to Central Europe, and as a result of the disintegration of socialist Yugoslavia in the 1990s, nation-building remains a problem for the Western Balkans. In Bosnia and

Herzegovina, the Serbian and Croatian leaders fear efforts that aim to strengthen the unitary character of the state as primarily an attempt to revise the results of the war and turn the Bosniaks as the largest ethnic group into the position of titular nation. As a result, the country's institutions barely function. No matter if the Dayton Peace Agreement stopped the war in the country, the insistence of changes of its provisions make the functioning of this state highly problematic as ethnic politics dominates the policy agenda while substantial problems and EU enlargement are put aside.

The gap between the transposition and implementation of EU laws is substantial. Since the reward of full membership would come much later, there is not much to be gained by conforming to the entire spectrum of EU demands at this stage, especially if some of the issues are related to nation-state identity concerns. Moreover, for local elites looking at neighbours from the region, such as Greece, with high youth unemployment and indebtedness, or Bulgaria, which has made limited economic progress since joining the EU, it is apparent that EU membership does not guarantee quick progress to prosperity and stability.

One of the leading regional analysts, Professor Zarko Puhoski, has argued that 'next to Sweden, Croatia is the only country which is worse off after accession, not only economically but in every respect'. (Bogdanić and Husić, 2014). Moreover, data revealed that 'the minimum wage in Bulgaria in 2013 was about 30 % less than in China and below the rate in Indonesia, Malaysia, the Philippines and Thailand'. (O'Brennan, 2013:39). Even in the newest EU member state there are fears that membership has not brought positive benefits. (PASOS 2013, PASOS 2014). The economic problems of other EU economies, such as Spain or Portugal, also influence this line of thinking.

In the successor states of former Yugoslavia, in spite of Slovenia and Croatia now being EU members, the expected results of increased economic progress were likewise not achieved: unemployment has risen sharply; the living standards for vast sectors of the population are appalling to the extent that a mass exodus to richer EU member states has been attempted. A similar migration was seen in the case of Kosovar asylum-seekers crossing the border to Hungary in early 2015. Industrial production has collapsed in all the former Yugoslav countries since democratic changes in 1991 (Lux 2011) and there is a ubiquitous feeling of hopelessness among young people, which often leads them to resort to crime or attempt to emigrate. Levels of youth unemployment are high, from 41% in Montenegro, and 46% in Serbia, to 54% in the former Yugoslav Republic of Macedonia, 57.5% in Bosnia and Herzegovina, and 71% in Croatia. (Zeneli 2014: 55). According to Eurostat data, the gross minimum wage in Kosovo is 150 Euros, in the former Yugoslav Republic of Macedonia it is 213 Euros, in Albania it is 157 Euros, in Serbia it is 235, while in Montenegro it amounts to 288 Euros (Eurostat 2015).

The economic crises in the EU led to 'less trade with Western Balkan countries, to the withdrawal of capital from the Western Balkan branches of EU banks, and a decline in diaspora remittances to the region'. (Reljić, 2014) Although measuring the actual flows of remittances to the region remains a challenging exercise, existing data indicate that there is a declining trend. For example, in Serbia, 'by the end of November 2014 remittances amounted to EUR 1.7 billion, which is about EUR 500 million less than in 2013, according to the data of the National Bank of Serbia'. (InSerbia Team, 2015). Declines in remittances have also been reported in Albania, Kosovo, and in the former Yugoslav Republic of Macedonia, Bosnia and Herzegovina, since 2011, although not in Montenegro. (World Bank 2014, Loxha, 2015). From Belgrade to Skopje, to Pristina and Podgorica, Banja Luka and Sarajevo, elites do not have very sound liberal credentials, and care most about

remaining in power as long as possible. Using various methods, including sophisticated political marketing tools, as well as brutal media spinning and control, Western Balkan leaders often win elections on populist agendas. Patronage is rampant among governing parties, and nationalistic ways of thinking dominate, posing a stumbling block to political and economic reform.

Serious corruption allegations against EULEX (the European Union Rule of Law Mission in Kosovo) have fuelled the popular belief that the EU is using double standards in dealing with the Balkans even though investigations are underway. This has aided local elites in their argumentation as to why the accession process has stalled, placing the blame on mismanagement in the European Commission. The disappointment of people who never expected the path to EU membership to be so long and so difficult is 'also playing a major role because an atmosphere of frustration, resignation, and suppressed anger now prevails while anti-EU sentiment is becoming more widespread'. (Spaskovska, 2014). Part of the fault lies with the regional elites who often give overoptimistic forecasts as to when their countries can expect to join the EU. If the proposed analytical reports by think-tanks set out dates for implementing reforms and for the completion of all the *acquis*, the governments will be independently assessed and, when they meet the targets, can claim credit for achievements; in turn, when they fall behind, they will have less credibility if they continue to make false predictions, and can be held accountable for their shortcomings.

Some twenty five years after the democratic changes citizens have grown tired of electoral promises of a better life in the future. To remain in power, Western Balkan leaders also need to tackle the fundamental problem of the region: unemployment and lack of economic development. Public finances are under duress as Albania, Bosnia and Herzegovina, Montenegro and Serbia face high levels of public debt, sizeable budget deficits, and large current account deficits. (Shera et al, 2015) Citizens from the region are in dire economic straits with a shortage of employment opportunities. They thrive on promises of new investment and project development even when their completion seems quite unrealistic (such as Belgrade on Water, or the Ljubanishta Lake Project on the Macedonian shore of Lake Ohrid). Funds are in short supply in EU member states, and this makes Western Balkan leaders turn their attention elsewhere. In fact, in the short and medium term, the EU has little to offer to the Western Balkan countries apart from the funds from IPA II. Even these funds, although not insignificant, are difficult to effectively administer and spend, and the experience from IPA I shows that 'much of the funds are in the end used by EU consultancies and NGOs'. (Karajkov, 2009) In effect, local NGOs and consultancies have little capacities for administering large EU projects and typically act as junior partners, not main implementers. Therefore, it is little surprise that most governments in the region 'are actively courting assistance and investment from different regional players such as the Gulf States, China, Russia, and Turkey, often with surprising success, as the growing ties between Serbia and the United Arab Emirates (UAE) testify'. (Van Ham, 2014:18)

In Macedonia, elites played with the emotions of the citizens when they revamped the capital city under the Skopje 2014 modernisation project, an imposing initiative meant to raise national pride and attract tourists. Using neoclassical and baroque architectural styles, the project included the construction of almost 20 new buildings, including museums, theatres, concert halls, hotels and administrative offices, fountains, colonnades, footbridges over the Vardar, and Roman galleys on the riverbanks, all invigorated with a multitude of bronze and marble statues erected to adorn the surroundings. The costs of the

project are disputed, the opposition claiming them being as high as 500 million, while the government rounding them to 208 million Euros. (Marusic 2013, Mayer 2013, Eddy 2013) On the other hand, this revamping of urban space is 'purposefully created to counter the Greek denial and the indifference of the international community to the Macedonian problems'. (Janev, 2011:34)

In February 2015, Macedonia became immersed in a political imbroglio as the Social Democrat opposition leader Zoran Zaev began releasing recordings of illegally wire-tapped phone conversations. Prime Minister Nikola Gruevski and the Head of Intelligence Service Sasho Mijalkov faced accusations that during the past few years they had secretly and illegally wire-tapped some 20,000 people, including journalists, opposition leaders, businessmen, NGO activists, academics, religious leaders, members of the judiciary, and prominent intellectuals. The content of the wire-tapping conversations was disputed, and criminal charges were filed against Zaev, including incitement to 'overthrow the constitutional order', and 'espionage and violence against top state officials'. For some time, all aspects of public life – from the bureaucracy to public enterprises to civil society – have been politicised. The recordings augmented the fear that the system of government has been designed with the objective of maximising wealth, power, and impunity for the benefit of particular groups and networks, rather than serving the public interest. Serbian Prime Minister Aleksandar Vučić recently accused the Balkan Investigative Reporting Network (BIRN) and the head of the EU delegation to Belgrade of orchestrating a campaign to spread lies about his administration. Another notable example of growing authoritarianism 'is the Montenegrin Prime Minister Milo Đukanović's recent attacks on anti-corruption group MANS and a media smear campaign against its leader, Vanja Ćalović'. (McQuay, 2015) Bosnia and Herzegovina has remained stuck as 'the cult of the "non-political expert"; a tradition of endless, sterile, abstract "reform debates"; nostalgia for the golden age of Bosnian socialism; a universal addiction and resistance to bankruptcy; the privileged salaries of public officials; regressive social transfers not aimed at alleviating poverty; the passivity of public institutions; the absence of policymaking capacity inside the administration; the low regard for democratic politics; policymaking understood mainly as legislation; the neglect of maintenance across utilities and for public infrastructure; and the "authoritarian temptation" as escape from responsibility.' (ESI, 2014c) There are signs that things might be moving after the elections and the EU enlargement consensus among parties in both entities.

Politicians in the Western Balkans have for a sustained period of time disagreed about the proper functioning of government institutions. Once a party wins elections, it 'captures the state', (mis)using public institutions and media to maximise its own influence and power (Hellman et al, 2000).Fully aware of this, opposition parties attempt to win power at all costs even if their behaviour damages the national interest. A negative EU progress report is interpreted as a media coup for the opposition. As a result, on the one hand there is minimal cooperation between government and opposition parties towards passing certain laws and regulations with a view to approximation to EU standards. On the other hand, support for EU reforms is often conditional on securing demands that serve short-term party interests. Threats and boycotts of parliament or elections or state institutions have been common in the region, most notably in Albania, and Bosnia and Herzegovina. Montenegro has in effect seen no alternation of power, while in Serbia a concentration of power in the hands of Prime Minister Aleksandar Vučić has become increasingly evident since the last election victory of the Serbian Progressive Party.

As governments usurp democratic consolidation and the EU enlargement perspective of the Western Balkans slowly progress while economic recovery stalls, public confidence in further EU enlargement has begun to wane. Since 2011, according to the survey of Eurobarometer, it has dropped from 85 % to 79 % in the former Yugoslav Republic of Macedonia, and it has fallen from 72 % to 61% in Montenegro. In Serbia the support has remained around 58%. It has gone down from the initial 58% to 49% in 2012, to high 63% in the spring of 2014, to drop back to 58% in the autumn of 2014. The most recent public opinion survey by the Serbian European Integration Office conducted in December 2014 reveals a support of 44% to the question "If there was a referendum tomorrow on the following question "Do you support our country's integration in the European Union", how would you vote?" The support in this survey has been steadily decreasing since the peak 63% in April 2011.

What is your opinion on further enlargement of the EU to include other countries in future years?[1] (%)?

	FYR Macedonia	MONTENEGRO	SERBIA
Autumn 2014	79	61	58
Spring 2014	77	69	63
Autumn 2013	79	64	50
Spring 2013	85	68	57
Autumn 2012	83	62	49
Spring 2012	88	62	58
Autumn 2011	85	72	
Spring 2011	84	72	
Autumn 2010	85		
Spring 2010	88		

Source: Eurobarometer, http://ec.europa.eu/public_opinion/index_en.htm

CONCLUSION- MOVING FORWARD

Organized crime, large-scale migration, or even the emergence of a new conflict, comprises potential threats to the security of Europe if the Western Balkan countries' accession is postponed or frozen. The increasingly indifferent feelings towards the EU from the side of elites in the Western Balkans have begun to usher in a return to authoritarian tendencies. A deceleration of the accession process would seriously undermine the credibility of the EU and its self-proclaimed 'soft power', leaving the door open for the stronger influence of rising regional powers such as Russia or Turkey. Therefore, an exit strategy should not be under consideration. On the contrary, closer integration should be moving further ahead. In recent decades, the EU has invested so much in the Western Balkan region that the region is now strongly integrated economically with the EU, which accounts for more than two-thirds of the region's total trade.

[1] There is no data on Bosnia and Herzegovina and Kosovo, while Albanian data is collected only since November 2014.

From a strategic and geopolitical point of view, the EU should re-energise the enlargement process in the region. Nevertheless, an enhanced impetus for reform from the side of the governments in the Western Balkans is a prerequisite for the success of any continuation of the enlargement process. However strategic and geopolitically important the region may be, EU membership will not be realised unless the countries concerned undertake the necessary reforms. Transparency and accountability are needed in the reforms, hence more accent should be placed on improving institutions and agencies that monitor and evaluate public policymaking. Elites in the Western Balkans must be induced to drop the prevalent confrontational mentality and move from disunity to unity in working together to further the enlargement process and democratic rule in general. Regional cooperation should be enhanced, and the EU should assist this through the various forms of multilateral institutions currently in place. There is no point in working on EU accession if the region does not improve and does not coordinate better its own activities and projects aiming to help the life of ordinary citizens. Brussels should accept that some of the regional problems, especially those involving bilateral issues and concerning 'good neighbourly' relations, will remain unresolved without the EU's direct involvement. Overall, devoid of EU accession prospects, the Western Balkan countries face the risk of a social-economic implosion and authoritarian consolidation. The Western Balkan countries need more assistance and attention from the EU than the Central European candidates that acceded to the EU in and since 2004.

Politicians in the region must comprehend that the consolidation of democracy depends on elite consensus and cooperation. A critical step for successful democratisation is the transformation of divided elites into consensually unified ones through an elite settlement of basic disputes among elites. An elite pact, settlement or political settlement is a 'relatively rare event in which warring national elite factions suddenly and deliberately reorganise their relations by negotiating compromises on their most basic disagreements'. (Burton and Higley, 1987:295) Alternatively put, formal and informal pacts between contending political actors can move relations from a stage of disruptive confrontation to one of respectful, consensus-based political competition between elite groups. This is needed in the Western Balkans as soon as possible.

The EU should apply pressure on political parties in the Western Balkans to defuse the 'winner takes all' mentality of political elites. Party dialogue and a culture of consensus-building over policy issues and institutions should be further promoted through the European Parliament, in particular the AFET, the Foreign Affairs Committee and country Rapporteurs. To aid the process, the following institutions could also be engaged: the Pre-Accession Actions Unit (PAAC), the Directorate for Democracy Support within the Directorate-General for External Policies of the European Parliament's Secretariat, and AFCO (European Parliament Committee on Constitutional Affairs). Moreover, the political groups of the European Parliament and EU Member States party political foundations (including joint cross-party efforts) should be more actively involved in promoting mutual respect and consensus-building around European integration among their sister parties in the Western Balkan region. Trainings, seminars, staff exchanges and projects should be used for this purpose.

To safeguard against the appropriation of the EU enlargement progress for the furtherance of party political interests, the EU should formally insist that candidates for key positions leading the respective country's accession process – Chief Negotiator, Minister and Deputy Minister of European Integration, Chair of the Parliamentary Committee for EU Enlargement and similar positions –are elected or appointed by a

consensus among the political parties in the respective national parliaments. The more the ruling and opposition parties are formally engaged in the enlargement process, the less they will be inclined to take a confrontational stand against the necessary reforms. Consensual policymaking will decrease inter-party bickering and defuse the tensions that contribute to the 'winner takes all' mentality. Although it might look as if the EU were trying to interfere in the internal affairs of the countries in the region, this move would signal to the elites and to citizens in the region that political settlement and consensus over EU enlargement is a crucial issue for the democratisation and socio-economic development of the Western Balkans.

Problems related to corruption and party political influence on the independence of public institutions, the media, and electoral processes are prevalent throughout the Western Balkans, a point repeatedly made in the European Commission progress reports. To address these barriers to the EU integration of the region, the EU should use IPA II to further support reforms in the 'enlargement countries'. In particular, under the public administration reform and rule of law components of IPA II, the EU should increase the focus on strengthening the independence and the competencies of five types of public institutions:

- the state/national/supreme Audit Office,
- the Broadcasting Council/media regulatory body,
- commissioner on freedom of information,
- anti-monopoly Commission
- the Ombudsman Office,
- special anti-corruption bodies, and
- the Electoral Commission.

Building consensus is a key issue here. The emergence of a system of election/appointment of officials heading these bodies through a consensual vote in national parliaments would increase the likelihood of the confirmation of highly qualified candidates by a strong majority. Among other things, the strengthening of the efficacy and the role of the above-mentioned institutions will in the short run influence the fairness of elections. Free and fair elections, where the results of the voting are not disputed by any party, should be an urgent priority.

These institutions, together with the judiciary, are crucial to further democratisation and to the effectiveness of anti-corruption drives in the Western Balkan region. The EU should through IPA II continue to insist on reform of the judiciary in the region. The enforcement of anti-corruption legislation requires an efficient, predictable, and accountable judiciary, able to hold the executive accountable under the law, and to interpret and enforce the terms of the constitution. The independence of the judiciary from direct undue interference – and the power to enforce its rulings – is crucial to anti-corruption efforts. The enforcement of rulings is the key issue, and governments in the Western Balkans must give their consent to provide the necessary resources. Given their stature, the constitutional courts in the region could contribute more to the development of public policies, and the EU could enhance this process through IPA II funds for think-tank analysis on the role and effectiveness of these courts or through twinning programmes to strengthen their capacity.

Overall these reforms and processes if put in place will greatly contribute to the strengthening of democratic consolidation in the countries of Western Balkans and improving of their readiness in the EU enlargement process. The reforms in the Balkans

countries will not suffice if current populist anti-EU tendencies prevail among member states in upcoming elections around the continent. However, it is better for Western Balkan countries to be fully democratic for their own sake, and if the EU process becomes invigorated the better for them too.

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NATO AND PARTNERS: A COOPERATIVE APPROACH TO SECURITY

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International security in today's globalized world demands a framework responsive to interconnectedness, multiplepower centers, shared vulnerabilities and dramatic change. To meet these diverse challenges that affect the security of its members, NATO as an organization must reach beyond the transatlantic arena, linking with other nations whose world views are comparable and whose capacities complement NATO's strengths. NATO's global partnerships are critical elements in providing an effective international security framework and, therefore, are a vital key to generating a stable and secure international system.

At the Warsaw Summit, NATO Allies underlined that they seek to contribute more to the efforts of the international community in projecting stability and strengthening security outside NATO territory. One of the means to do so is through cooperation and partnerships. Over the past 25 years, the Alliance has developed a network of regional partnership frameworks with 41 partner countries from the Euro-Atlantic area, the Mediterranean and the Gulf region, as well as individual relationships with other partners across the globe. NATO pursues a dialogue and practical cooperation with these nations on a wide range of political and security-related issues. NATO's partnerships are beneficial to all involved and contribute to improved security for the broader international community.

Dialogue and cooperation with partners can make a concrete contribution to enhancing international security, defending the values on which the Alliance is based, to NATO's operations and to preparing nations interested for membership.

Keywords: *NATO, cooperative security, interoperability, collective defense*

INTRODUCTION

International security in today's globalized world demands a framework responsive to interconnectedness, multiplepower centers, shared vulnerabilities, and dramatic change. To meet these diverse challenges that affect the security of its members, NATO as an organization must reach beyond the transatlantic arena, linking with other nations whose world views are comparable and whose capacities complement NATO's strengths. NATO's global partnerships are critical elements in providing an effective international security framework and, therefore, are a vital key to generating a stable and secure international system.

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THE CONCEPT OF COOPERATIVE SECURITY IN NATO

In this age of globalization and increased interdependence, as well as resource constraints, cooperation seems to be the most appropriate approach to providing security. NATO's Strategic Concept, adopted at the Lisbon Summit in November 2010, introduced Cooperative Security as a new core task in addition to the existing collective defence and crisis management. The new task was expected to bring a proactive stand towards achieving increased international harmony and cooperation, synchronizing efforts to deal with the new multidimensional threats and providing a better understanding of common problems. The uncertainty of geopolitical events and their possible multifaceted effects, reduced resources, shorter time frames, and ambiguous targets put pressure on NATO to balance soft and hard power and political and military leverage.

The Chicago Summit Declaration stated - in its very first sentence - NATO's continued commitment to strengthening our wide range of partnerships. In Chicago, NATO also committed to reinforcing the Euro-Atlantic Partnership Council, the Mediterranean Dialogue and the Istanbul Cooperation Initiative, and pledged to further develop its political and technical cooperation with its Partners (Terzi, 2013).

With this goal in mind, the Alliance advocates and coordinates a wide network of partner relationships with non-NATO countries and other international organizations around the globe in order to achieve Cooperative Security and ensure Euro-Atlantic security. In today's increasingly complex security environment, threats come from non-state entities, making it very hard to define an enemy and develop a clear action plan to counter it. NATO is approaching this issue by offering certain areas for cooperation and proposing activities which respond to mutually agreed objectives. For example, through political consultations, partners can be involved in air defence, energy security, response to terrorism, etc.; they can also take part in NATO-led operations and missions, or collaborate on increased interoperability, counter-terrorism or defence reform and capacity building, as well as on education and training. All of these opportunities should be undertaken in order to efficiently and effectively apply the idea of cooperative security, indispensable for handling the current security situation.

NATO AND PARTNERSHIPS

Dialogue and cooperation with partners can make a concrete contribution to enhance international security, to defend the values on which the Alliance is based, to NATO's operations, and to prepare interested nations for membership. In both regional frameworks and on a bilateral level, NATO develops relations based on common values, reciprocity, mutual benefit and mutual respect. NATO recognizes that dealing with today's complex new threats requires wide international cooperation and collective effort. That is why NATO has developed, and continues to develop, a network of partnerships in the security field. Brief information for each of these partnership will be given below.

In the Euro-Atlantic area, the 28 Allies engage in relations with 22 partner countries through the Euro-Atlantic Partnership Council and the Partnership for

Peace Programme. The 50-nation Euro-Atlantic Partnership Council (EAPC) is a multilateral forum for dialogue and consultation on political and security-related issues among Allies and partner countries. It provides the overall political framework for NATO's cooperation with partner countries in the Euro-Atlantic area, and for the bilateral relationships developed between NATO and individual partner countries under the Partnership for Peace (PfP) programme. Established in 1997, the EAPC succeeded the North Atlantic Cooperation Council (NACC), which was set up in 1991 just after the end of the Cold War. This decision reflected NATO's desire to build a security forum better suited for a more enhanced and operational partnership, matching the increasingly sophisticated relationships being developed with partner countries. The EAPC brings together the 28 Allies and 22 partner countries. Meetings of the EAPC are held monthly at the level of ambassadors, annually at the level of foreign or defence ministers and chiefs of defence, as well as occasionally at summit level.

On the other hand, the Partnership for Peace (PfP) is a programme of practical bilateral cooperation between individual Euro-Atlantic partner countries and NATO. It allows partners to build up an individual relationship with NATO, choosing their own priorities for cooperation. Based on a commitment to the democratic principles that underpin the Alliance itself, the purpose of the Partnership for Peace is to increase stability, diminish threats to peace and build strengthened security relationships between individual Euro-Atlantic partners and NATO, as well as among partner countries. Activities on offer under the PfP programme touch on virtually every field of NATO activity, including defence-related work, defence reform, defence policy and planning, civil-military relations, education and training, military-to-military cooperation and exercises, civil emergency planning and disaster response, and cooperation on science and environmental issues. The essence of the PfP programme is a partnership formed individually between each Euro-Atlantic partner and NATO, tailored to individual needs and jointly implemented at the level and pace chosen by each participating government. Among these partners, NATO has developed specific structures for its relationships with Russia, Ukraine and Georgia.

NATO is also developing relations with the seven countries on the southern Mediterranean rim through the Mediterranean Dialogue. NATO's Mediterranean Dialogue was initiated in 1994 by the North Atlantic Council. It currently involves seven non-NATO countries of the Mediterranean region: Algeria, Egypt, Israel, Jordan, Mauritania, Morocco and Tunisia. The Dialogue reflects the Alliance's view that security in Europe is closely linked to security and stability in the Mediterranean. It is an integral part of NATO's adaptation to the post-Cold War security environment, as well as an important component of the Alliance's policy of outreach and cooperation.

NATO's Istanbul Cooperation Initiative, launched at the Alliance's Summit in the Turkish city in June 2004, aims to contribute to long-term global and regional security by offering countries of the broader Middle East region practical bilateral security cooperation with NATO. The Istanbul Cooperation Initiative focuses on practical cooperation in areas where NATO can add value, notably in the security field. Six countries of the Gulf Cooperation Council were initially invited to participate. To date, four of these -- Bahrain, Qatar, Kuwait and the United Arab Emirates -- have joined. Saudi Arabia and Oman have also shown an interest in the Initiative.

NATO also cooperates with a range of countries which are not part of these regional partnership frameworks. Referred to as "partners across the globe", they include

Afghanistan, Australia, Iraq, Japan, the Republic of Korea, Mongolia, New Zealand and Pakistan.

NATO has also developed flexible means of cooperation with partners, across different regions. NATO can work with so-called "28+n" groups of partners, where partners are chosen based on a common interest or theme. At the 2014 Wales Summit, NATO introduced the possibility of "enhanced opportunities" for certain partners to build a deeper, more tailor-made bilateral relationship with NATO. At the same time, the Partnership Interoperability Initiative (PII) was launched to ensure that the deep connections built up between NATO and partner forces over years of operations will be maintained and deepened. In this way, partners can contribute to future crisis management, including NATO-led operations and, where applicable, to the NATO Response Force.

STRATEGIC OBJECTIVES OF NATO'S PARTNERSHIPS

The original objective of NATO's Partnership policy was to break down barriers between former adversaries and to build security through dialogue and cooperation. The objectives of today's Partnership are much more ambitious - for Partner nations are now engaged with NATO in tackling 21st century security challenges. As NATO has transformed, Partnership has developed. In every area - whether undertaking challenging peacekeeping missions, or meeting the new threats to our common security such as terrorism and the proliferation of weapons of mass destruction - Partners play an important role both in shaping and helping to implement NATO's responses to these new challenges. According to Weaver (2004,) NATO's advice and assistance, provided through Partnership mechanisms, has also become indispensable in helping Partners tackle important reform issues. Partners are part of many of NATO's core activities, from shaping policy to building defence capacity, developing interoperability and managing crises. Under NATO's partnership policies, the strategic objectives of NATO's partner relations are to:

- Enhance Euro-Atlantic and international security, peace and stability and promote regional security and cooperation;
- Facilitate mutually beneficial cooperation on issues of common interest, including international efforts to meet emerging security challenges;
- Share insights on areas of common interest or concern through political consultations and intelligence-sharing;
- Participate in a rich menu of education, training and consultation events (over 1,200 events a year are open to partners through a Partnership Cooperation Menu);
- Prepare together for future operations and missions by participating in exercises and training and share lessons learned from past operations and develop policy for the future;
- Prepare interested eligible nations for NATO membership;
- Promote democratic values and reforms;
- Contribute and enhance support for NATO-led operations and missions;
- Enhance awareness of security developments including through early warning, with a view to preventing crises. This also includes working together on research and capability development;
- Build confidence and achieve better mutual understanding, including about NATO's role and activities, in particular through enhanced public diplomacy.

That said, each partner determines – with NATO – the pace, scope, intensity and focus of their partnership with NATO, as well as individual objectives. This is often captured in a document setting goals for the relationship, which can be regularly reviewed. Bilateral (NATO-partner) cooperation documents set out the main objectives and goals of that partner's cooperation with NATO. There are three main types of bilateral partnership documents, set out below. Broadly speaking, the type of chosen document reflects the different nature and emphasis of the relationship.

- **The Individual Partnership and Cooperation Programme (IPCP)** is the standard document, developed usually every two years by the partner in close consultation with NATO staffs, and then approved by the North Atlantic Council (NAC) and the partner. It is open to all partners, and is modular in structure, adaptable to the interests and objectives of the partner and NATO.
- **The Individual Partnership Action Plan (IPAP),** which partners can take up instead of IPCPs, offer partners the opportunity to deepen their cooperation with NATO and sharpen the focus on domestic reform efforts. Developed on a two-year basis, these plans include a wide range of jointly agreed objectives and targets for reforms on political issues, as well as security and defence issues. IPAP prioritises and coordinates all aspects of the NATO-partner relationship, provides for an enhanced political dialogue and systematic support to democratic and defence and security related sector reform, including through an annual Allied assessment of the progress in reforms undertaken by each participating partner.
- **The Annual National Programme (ANP)** is the most demanding document, focused on comprehensive democratic, security and defence reforms, developed annually by the partner in consultation with NATO. The ANP is open to Membership Action Plan (MAP) nations, to track progress on the road to NATO membership; Georgia in the context of the NATO-Georgia Commission; and Ukraine in the context of the NATO-Ukraine Commission. Unlike the IPCP or IPAP, the ANP is a nationally owned document and is not agreed by the NAC. However, an annual assessment of progress in reforms is conducted by NATO staffs, agreed by the Allies, and discussed with each participating partner at NAC level.

KEY AREAS OF COOPERATION

In practice, NATO's partnership objectives which were mentioned in the previous text are taken forward through a broad variety of means. Broadly speaking, NATO opens up parts of its processes, procedures and structures to the participation of partners, allowing partners to make concrete contributions through these. In some cases, special programmes have been created to assist and engage partners on their specific needs. Key areas for cooperation are set out below:

- **Consultation** is key to the work of NATO as an alliance and is central to partnerships. Political consultations can help understand security developments, including regional issues, and shape common approaches to preventing crises or tackling a security challenge. NATO's many committees and bodies often meet in formations with partners to shape cooperation in specific areas. NATO Allies

meet with partners (individually or in groups) on a broad variety of subjects and at a variety of levels every day.

- **Interoperability** is the ability to operate together using harmonized standards, doctrines, procedures and equipment. It is essential to the work of an alliance of multiple countries with national defence forces, and is equally important for working together with partners that wish to contribute in supporting the Alliance in achieving its tactical, operational and strategic objectives. Much of day-to-day cooperation in NATO – including with partners – is focused on achieving this interoperability. In 2014, recognising the importance of maintaining interoperability with partners for future crisis management, NATO launched the Partnership Interoperability Initiative, which inter alia launched mechanisms for enhanced cooperation with nations that wished to maintain deeper interoperability with NATO.
- **Contribution to NATO-led operations and missions,** whether through supporting peace by training security forces in the Western Balkans and Afghanistan or monitoring maritime activity in the Mediterranean Sea or off the Horn of Africa. As contributors to those missions, partners are invited to shape policy and decisions that affect those missions, alongside Allies. A number of tools have been created to assist partners in developing their ability to participate in NATO-led operations, and be interoperable with Allies' forces.
- **Defence reform, capability and capacity-building, including through education and training**. For many years, NATO has worked with partners on these issues and such work can range from strategic objective setting and joint reviews, to expert assistance and advice, as well as targeted education and training. In 2014, at the Wales Summit, NATO adopted the Defence and Related Security Capacity Building Initiative *(see more below)*. The Initiative builds on NATO's extensive track record and expertise in supporting, advising, assisting, training and mentoring countries requiring capacity building support of the Alliance.

When speaking about the future of all these areas of cooperation, the Alliance should maintain and increase the level of confidence, transparency and common interpretation of the security challenges, which can be achieved through higher engagement of partner states and international organizations in the political dialogue or in shaping the strategy and decisions on NATO-led operations to which they contribute. Some degree of cooperation with other organizations, despite the differences in nature, can be beneficial for playing complementary, mutually reinforcing roles, while sharing knowledge and resources to conduct collaborative analysis and planning of activities. This approach would not only result in a wide range of partners, but also in increased coordination and interoperability on political, civilian and military levels, which is the ultimate requirement for addressing the new security environment.

CONCLUSION

An even more uncertain environment with transnational, asymmetric and unpredictable challenges means there is a need to find a new way to combine all efforts and react to the new global issues with a global approach. The third core task of NATO reflects this need to provoke a deeper and wider cooperation, but there are many limitations and questions to be answered when it comes to its practical or operational application. Cooperative security can only succeed if all partners speak the same language

and the right balance between investment and benefit is found. Cooperative security as a double-edged sword requires NATO and its partners to find this balance and use the sharpness of this weapon to diminish the security challenges.

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EUROPEAN UNION'S DILEMMA: DEMOCRATIZATION VIS-À-VIS INTEGRATION

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ABSTRACT

At the meeting of the European Council in Copenhagen in June 1993 that determined the criteria for membership into the European Union, democracy was given the first mention as one of the conditions that applicant countries must respect. The priority given to democracy reflects the fact that it is considered a core element of European political identity and an essential characteristic of the countries wishing to be admitted to the EU. The European Union's insistence on the guarantees of democracy is not based on altruism, but rather on self-interest, for it arises from the belief that the process of European integration cannot function with members that do not subscribe to the democratic principles or whose practical application of these principles is inadequate. The paper aims at elaborating the democratization process of the Balkan states, including the Republic of Macedonia, having in mind that they are all aspiring toward European Union membership, but are also facing internal issues and problems, which makes the democratization process of their societies more difficult. It is considered that democracy is the first and fundamental precondition for eventual start of the negotiation process, and it should therefore be on a high level by the time the decision for starting the accession negotiations is taken. With respect to the Regarding the Republic of Macedonia, in this present context, the decision-making process of the European Council regarding the start of the negotiations is difficult because of the open issues with its neighbours, which on the other hand, leads to disorder of the internal political juncture and a set-back in the integration process. In addition, a short brief of the political crisis in the Republic of Macedonia is given and the (un)successful engagement of the European Union in solving the two-year political crisis. At the end, a conclusion is derived based on the past experiences and understanding the present, offering lessons for future EU policy engagement in the region.

Key words: *Democracy, integration, European Union, Republic of Macedonia.*

1. INTRODUCTION

If we refer to the political series "House of Cards", in which the main character Francis Underwood played by Kevin Spacey points out that "democracy is overrated", the same point could be stressed out in the case of the Republic of Macedonia. This is due the fact that if the house of cards represents the vertical designation of democracy, it means that the lowest layer is represented by the citizens and if that layer is shaken, democracy is lost. After ending the last armed conflict in the Balkans, the states pursued the building of their democratic societies. But, dilemmas regarding security and unresolved state issues continue to dominate throughout the entire region. Fears that the instability in one state may spread through the entire region continue to define EU's policies of engagement and accession. As a result, sometimes the interest of stability is a priority over other

considerations, including the consolidation of democracy. Such approach underestimates the key lesson on European integration: democracy is the most appropriate policy for solving security issues and for state-building. In theory, the democratic consolidation of the Balkans should be a win-win solution; in practice, the road is full of political traps and dilemmas.

Building democratic regimes in the region corresponds with state-building. In the heart of the problem lies the state and its weakness for undertaking the necessary reforms for EU integration and solving the internal issues and issues with its neighbours. In the heart of the solution lies the democracy as insurance for the region to consolidate the states and societies. EU's enlargement experience with Central and Eastern Europe confirmed that, although building democracies should be the result of domestic political processes, external factors may have a role in supporting the systematic transformation. In a time when the enlargement process is struggling to be effective, the re-assessment of the relations between the EU and the Balkans is of key importance. After the accession of Croatia in 2013, given the risk that the accession pace is slowed down and overshadowed by the economic and political crisis in the EU, Europe is losing the Balkans again on nationalism and violence, as well as its influence at the expense of other actors that may not share the same views and values.

Therefore, the EU is caught in a dilemma: how to keep the EU membership hope in the Balkan states? Furthermore, leaving the states in a limbo may lead to aggravation of their weak democracies. Macedonia, a candidate since 2005, is in a constant blockade for starting the accession negotiations because of the name issue with Greece. As a result, in Macedonia almost every two years there is a political crisis triggering inter-ethnic tensions, infringing democracy and threatening the stability, falling behind with reforms and Euro-Atlantic integration. While the EU member-states could agree on the priority status of Croatia and Serbia as strategic for the whole region, similar treatment was not offered to smaller states, such as Macedonia and Albania. Achieving the balance depends not only on rigourous application of conditions: the problem is in the credibility. EU membership criteria have changed over the years, reflecting internal development, as well as the growing nuisance regarding the enlargement and potential consequences. This leads towards speculations that the democratic conditionality is used as an excuse to keep the Balkans out of the EU with no exceptions.

The consolidation of democracy was not always an EU priority. The European Commission calls for security and functioning of democracy, as well as fight against corruption and organized crime. However, the stability of institutions, rule of law, freedom of press and civil society are equally important indicators. These aspects have been given less attention and more could be made in addressing the unresolved issues that are preventing national parliaments in the decision-making and implementation process. In the short and long term, the key answers to this dilemma may only be found in the support of the complete democratization of the Balkans. This is in the interest of the citizens, but also in EU interest in order to ensure that the future enlargement will not cause the return of the EU solidarity and that all future EU member-states are consolidated democracies.

2. DEMOCRATIZATION OF THE BALKANS!?

The survival of peace relations, the continuous organization of free and fair elections and progressive regional cooperation in many areas are only part of the progress made by the Balkan states, including Macedonia. However, these achievements are mostly endangered by unresolved issues which are harmful for the region. The name issue with

Greece continues to harm the democratization and inter-ethnic relations in Macedonia. The stubborn positions of Serbia and Kosovo regarding the independence continue to undermine the transformation. The democratic weakness of Albania results in a political dead-end over the years and the B&H remains trapped in war rhetoric with the potential of destabilization.

The Balkan states are part of the extended form of democratic transition with a prospect for eventual consolidation (Pridham, 2008; pp. 56-70). This is true; having in mind that in a significant number of cases, states and their borders are still disputed (Balfour and Basic, 2010). According to some studies, there is no "consolidated democracy" on the Balkans, but Macedonia, Serbia and Montenegro are classified as "semi-consolidated democracies", while Albania and B&H are classified as "transitional governments" or "hybrid regimes", and Kosovo as "semi-consolidated authoritative regime". On the other hand, other studies indicate that only Serbia and Croatia are democracies, while the others may be collectively described as faulty democracies: they conduct free elections, but fail to secure civil and political rights or effective separation from government authorities. In other words, besides the rule of law by elected representatives, democratic performances in the region still remain without actual positive dynamics (Linz, 2002; pp. 21-35, Merkel, 2004; pp. 33-58).

Closer observation of the quality of democracy in these states may help in understanding the political dynamics and the EU options for successful influence over the region. The distinction between formal and effective democracy is useful as it enables critical assessment of democratization regarding formal criteria and essential characteristics of democracy (Kaldor and Vejvoda, 1997; pp. 59-82). Put in other words, a difference should be made between institutional/procedural aspects of democracy and the extent to which they are implemented in practice. Truly, democratic regimes are not successful everywhere with the same efficiency and there are shortcomings. By this reason, attention should be put on terms like "facade democracy" and "effective democracy", indicating that the difference rests on the "rule of law" and in its fundamental manifestation: right of freedom (Linz and Alfred, 1996).

The main reason of democracy is to entitle ordinary people with civil and political rights for guiding their lives based on their preferences. From this point of view, the right entitling people to make their own choices on individual issues and their voice to be counted for collective issues are tools in the first line of democracy. The legislative involvement of these rights creates formal democracy as a necessary component of effective democracy, although the formal rights are not enough for effective democracy. In order to have effective rights and freedoms, decision-makers must respect and follow these rights. And democratic freedoms are effectively respected only to the extent to which the elites are bound with the rule of law. Elite corruption violates civil rights and infringes the rule of law (Rose, 2001; pp. 93-106).

3. DEMOCRATIZATION VIS-À-VIS INTEGRATION: THE CASE OF THE REPUBLIC OF MACEDONIA

The EU enlargement process leads to the emergence of a unique model of democratic promotion through integration (Dimitrova and Pridham, 2004; pp. 91-112). This model was developed in the 90's for the enlargement with Central and Eastern Europe, and with the formalization of the membership criteria at the Copenhagen European Council, known as the Copenhagen criteria. The European Commission played – and still plays – an important role in monitoring the progress through annual reports. Tight

monitoring procedures induce the degree of fulfilment of the political criteria (stable institutions that guarantee democracy, rule of law, respect for human rights and freedoms and respect for the rights of national minorities) by each candidate-state.

It is necessary to stress out that the Copenhagen criteria are additional and not anticipated in the basic EU Treaties. It is *in abstracto* decision and refers to the states that eventually acquire a candidate status. The decision has a political, not a legal character and it does not obligate the EU member-states. But the moment of their emergence is one thing; the actual moment is something different. In contemporary conditions, the completeness of the Copenhagen criteria functions as a legal category. This is partly because of the fact that only one aspect of membership criteria, only the political criteria as formal/legal and written, are for the first time introduced in the Amsterdam Treaty. The political dimension that these political conditions have is that they need to be fulfilled by the time the European Commission draws up the opinion for the accession and the state acquires fulfilment of additional criteria which are not included in the EU acts. In other words, the European Commission has the legal obligation to assess only the fulfilment of the political criteria, but it does not mean that other criteria are less important.

The enlargement policy towards the Western Balkans and Turkey follows the same pattern as the states from Central and Eastern Europe, but it introduces new aspects towards the process of political conditionality. These reflect internal disturbance, as well as the specific regional and statehood context. The difficulties in implementing and adopting some of the institutional novelties with the Lisbon Treaty and the issues regarding the capacities to cope with internal differences shall, most likely, hinder the EU from manifesting some enthusiasm towards the enlargement. Also, the rise of euro-sceptic and anti-immigration political parties add additional flame to the problem. It is quite enough to observe some of the policies in EU member-states regarding refugees, migrants and asylum-seekers and to understand that the enlargement is becoming a sensitive issue.

The difficulties with the accession of Romania and Bulgaria in 2009 and the perception, *ex post facto*, that the accession was made in a fast manner, lead to the adoption of a tougher line regarding the conditions. The combination of this perception, the increased focus on good governance and the situation in the Balkans lead to a more complex mosaic of conditions, benchmarks and expectations, reflected in different degrees of integration. The Balkans is a heterogeneous region with states that entered the EU in 2013 (Croatia), through states that are "perpetual" candidates (Macedonia), to states whose statehood is being blocked and have no formal relations with the EU (Kosovo).

In the case of the Republic of Macedonia, without an elaboration of the entire crisis, I will stress out two déjà-vu situations. First, in 1998 Slovakia received a negative report regarding the fulfilment of the political criteria for the same reasons Macedonia is facing today. During the period from July 1997 until September 1998, in Slovakia there was a lack of stability in the institutions, reflected in the election of the President, controversial use of the presidential authorities, absence of the opposition from Parliament, dysfunction of its commissions, as well as the decision-making by the Constitutional Court. The elections in Serbia in April 2016 were won by the Serbian Progressive Party, a right-wing party, ruling on the principle of economic progress and growth, but with the media under its control. Slovakia is a member-state since 2004 and the EU has certain sympathies towards Serbia. Second, the crisis and the events from 24 December 2013, resulting in a boycott of the Parliament by the largest opposition party in 2013 and their return after establishing the Inquiry Commission; the crisis with the tap-wired materials, again resulting in a boycott of the Parliament by the largest opposition party in 2015 and

their return after establishing the Inquiry Commission. If you want something not to be solved, establish an Inquiry Commission.

Almost 25 years of independence, 10 years of a candidate-status and 8 recommendations for starting the accession negotiations, Macedonia today seems like going back from where it started. It simply needs to begin learning the basics of democracy again. The divided political culture, the inability of the political actors to react adequately and in the interest of the citizens, the lack of compromise and corrosion in the political dialogue, have raised the form of the continuous and protracted crisis leading towards distrust in the institutions. Without seeking and pointing to who is guilty, it is necessary to urgently restore the confidence in the institutions and build a system based on checks and balances, as the absence of democratic institutions may jeopardise the stability (for example, the events in Kumanovo). The crisis showed a high level of polarization and political commitments are necessary through dialogue and in the institutions for building the political peace on democratic basis. The return of democratic values requires patience and hard work, especially from the domestic actors. And in addition to my personal opinion that Macedonia should show seriousness and credibility, as well as capacity and capability to face the domestic crisis without international mediation, the EU should act more decidedly because the crisis in the Balkans is in EU's backyard and the past is an experience that the EU cannot wipe out.

We have brought ourselves to a very extensive use of "rule of politics" instead of "rule of law". Macedonia could be a case study where many constitutional and legislative issues are solved under the "rule of politics" principle, equal to the "peace in house" principle, thus derogating the established law. Classical examples are: first, the President's abolition as a quasi-judicial authorization to interfere in the judicial branch, where the legal practice knows no situations of withdrawal of an already given abolition, thus revoking consequences in creating a precedent for all future similar situations; and second, the dissolution of the Parliament and the return of its members after its dissolution.

So far, the fault is also on the EU side, which failed to valorize Macedonia's progress regarding its Euro-integration, only to shrug shoulders and let the pigheadedness of one EU member-state to be infinite. Therefore, in my opinion, the EU is not interested in active and long-term commitments, as the migration crisis additionally infringes the internal political situation. A large number of EU member-states do not fulfill their democratic conditionality, and if a debate is to be opened, half of the member-states do not deserve to be part of the Union. The question that could hypothetically be raised in this direction is: Is Macedonia going to be awarded with a negotiations date if it conducts the most regular elections, establish the best judiciary, implement administration and media reforms and reduce corruption to the lowest possible level? The answer, short and clear, is NO. the EU is without an answer how to integrate Macedonia outside the political conditionality. It could call upon the alibi that the reform process is ours, the integration process is for our own benefit; it is true that we make this country for ourselves, not for Brussels, but the fact prevails that, even if there was no political crisis, the EU has no answer for our integration. The EU policy towards Macedonia undermines the Union's credibility as an actor contributing to long-term stability and democratic standards. Instead of general solutions, including the unblocking of the negotiations, the EU representatives approach towards an approval of the emergent agreement whose implementation was questionable since the beginning.

In future, the EU should intensify the monitoring over the institutional performance and the decision-making process, as well as work on developing more active

diplomacy. Dysfunctional institutions and disrespect of democratic practices are dangerous for the Western Balkans and its integration in order to justify the EU policy of neutrality regarding internal political developments. The political tensions in Macedonia raised the question whether the EU could or should have done more in the early phase of the negative tendencies. The EU should also give significant emphasis on the democratic processes, and not only on the result regarding the number of adopted laws. In parallel, there should be more realistic communication on the ground about the enlargement process and promoting bigger public understanding of the pros and cons on European integration. The EU is increasingly focusing on issues regarding the rule of law and strengthening the judiciary, but even more on democracy. Only the behaviour which is legally-binding and the implementation of rights may make democracy significant in a substantive sense.

4. CONCLUSION

Consolidation of democracy is the best short-term and long-term approach for creating suitable conditions for completion of any unresolved issues. It is a precondition for the enlargement process, as well as the assurance that the Balkan states will be in a condition to undertake the necessary principles and the EU membership obligations. The EU significantly focuses on the rule of law and judiciary issues, especially in response to the fears that the organized crime and corruption might spill-over in the rest of the Europe. But democracy is more than that.

While the rule of law, corruption and organized crime are key problems for Western Balkan citizens, the EU and the entire region will benefit from an approach which is equally wider and deeper in promoting real and substantive democracy. Wider, in the sense that the whole spectrum of formal rights is necessary for achievement of effective democracy; and that the democracy could not function, *inter alia,* without freedom of expression and freedom of association. Deeper, in the sense that effective democracy is in need of real imposition of legally based rules and practices. Only legally-binding behaviour and implementation of rights may make democracy significant in a substantive sense. Therefore, the EU needs to focus on formal and substantial criteria in the assessment process of democracy in the Balkans.

The accession process should not be only on ticking reforms and adopting legislation. It should also be about the decision-making process and the extent in which the principles imposed by conditionality are applied in practice. This means use of wide range of diplomatic tools and political pressure over the Western Balkans states. This could also secure a more positive narrative for the enlargement, which the EU needs very much. Since the rejection of the Constitutional Treaty, the difficulties regarding the adoption of the Lisbon Treaty, through the economic crisis and the actual migrant\refugee crisis, the rhetoric has moved away from the grand peace and prosperity strategy throughout entire Europe. A new narrative is needed focused on the positive facts that the democratic transformation of the region in the past years is an achievement that must be consolidated. The success to make the Balkan states democratic is a great challenge for the EU and the governments, as well as a crown of the EU enlargement policy.

The EU influence in the region relies on attraction; its attraction relies on credibility. This is increasingly disappearing, especially after the financial crisis and the current migrant\refugee crisis. The best practices expected from the Western Balkan states should be followed by the EU and its member-states. The European Commission's impulse for wider anti-corruption strategy shall also increase the efforts in the candidate-states regarding the fight against corruption. It is the only way for effective addressing of the

member-states' concerns regarding the capacity of Western Balkan states to preserve their commitments in all phases of the accession process, as well as after the accession in the EU. It may also contribute to avoiding the non-enlargement policy, which still persists with the election of the new European Commission. This is especially important, having in mind that the next round of enlargement is not going to take place before 2020. The European Commission announced itself, as things are standing now, that the enlargement shall be put aside in order for the EU to consolidate from within.

One important lesson that could be learned from the Croatian negotiation process is to start with the most difficult reform areas. Chapter 23 on the judiciary and the Fundamental rights could not be addressed in several months. Therefore, the Western Balkan states should intensify their efforts in reforming the key areas, such as corruption, strengthening the independence and accountability of the judiciary, improvement of the quality of public administration – all key elements for functioning of the rule of law.

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INTERNATIONAL RELATIONS AND EUROPEAN UNION COMMON FOREIGN POLICY

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ABSTRACT

European Union member states have always recognized the need to act together in foreign policy, nevertheless this has proved to be a difficult challenge and hard to achiev. The principle of a Common Foreign and Security Policy (CFSP) was formalized for the first time in 1992 by the Treaty of Maastricht, but the creation of formal secondary instruments for diplomacy and intervention were needed following the regional conflicts in the 1990s. Such decisive actions are the European Union. With the adoption of the Lisbon Treaty and in order to implement its provisions, the treaty establishes the existence of the European External Action Service, whose task is to work in cooperation with the diplomatic services of the Member States in order to ensure consistency and coordination of the external action the Union. In fulfilling his/her mandate, the High Representative is assisted by the European External Action Service and the administrations of the Council and the Commission. In this context, the research paper aims to explore the development of the European Union Common Foreign Policy in the International Relations and the difference between the policies that are under the Union competence and those under the exclusive competence of the Member States.

Keywords: European Union, Common Foreign Policy, International Relations, Agency for External Action.

INTRODUCTION

The European External Action Service (EEAS) is a European Union's (EU) department that was established following the entry into force of the Treaty of Lisbon on 1 December 2009 and was formally launched on 1 December 2010. It precedes the Directorate-General for the External Relations (DG RELEX), which was Directorate-General of the European Commission responsible for the external policy. The DG was merged into the EEAS in 2010, headed by Catherine Ashton (the High Representative). The EEAS is a complex agency with different layers and it is formed on a broad composition of staff with former DG RELEX staff, Secretary of Council' staff and national staff. Today it is headed by the HR/VP Federica Mogherini, preceded by Catherine Ashton and Javier Solana. The EEAS is unique and independent from the other EU institutions and it manages the EU response to crises, has intelligence capabilities and sits outside the EU institutions with its own independent budget. It serves as a foreign ministry and diplomatic corps for the EU, implementing the EU Common Foreign and Security Policy (CFSP) and other areas of the EU's external representation. The EEAS is under the authority of the High Representative for Foreign Affairs and Security Policy (HR), as a post also created by the Treaty of Lisbon, to whom it assists. The High Representative is also the Vice-President of the Commission and President of the Foreign Affairs Council, and his/her mandate is to conduct the Common Foreign and Security Policy ("CFSP) of the Union and

to ensure consistency of the external action of the Union as outlined, notably in Articles 18 and 27 of the TEU. The EEAS is a multi-layered foreign-policy maker together with the Commission, the Parliament, the Council and 28 EU Member States, which manages the overall CFSP and EU foreign policy-making process. It is the center of coordination in the EU foreign policy-making with a horizontal dimension (several EU institutions, such as the Commission, Parliament and European Council) and a vertical one (the MFAs of the Member States).

2 THE NATURE AND DUTIES OF THE EEAS

With the adoption of the Lisbon Treaty (TEU) and in order to implement its provisions, the treaty establishes the existence of the EEAS, whose task is to work in cooperation with the diplomatic services of the Member States in order to ensure the consistency and coordination of the external action the Union. In fulfilling his/her mandate, the High Representative is assisted by the EEAS and the administrations of the Council and the Commission. For the EEAS to become operational as soon as possible, after the Treaty entered into force, the agreement stipulates that the organization and functioning of the EEAS will be regulated further by the Council, which will act on the proposal by the High Representative after consulting the European Parliament and obtaining the consent of the Commission. Precisely, Article 27 (3) is the legal basis for the European Council to decide on the organization and functioning of the EEAS. After the entry into force of the Lisbon Treaty, the High Representative submitted a proposal on the organization and functioning of the EEAS, and by the end of April 2010, the European Council decided on the manner of organization and operation of the unit. Accordingly, on October 30, 2009, the European Council agreed on the legal framework for the work of the EEAS (EEAS doc. 14930/09). In accordance with the guidelines adopted by the European Council in October 2009, the EEAS is a service under the authority of the High Representative. It has an organizational status and supports the High Representative and his/her functions in the system of the European Union. The Council decision establishing the organization and functioning of the EEAS came into force on 26 July 2010, which establishment is based in Brussels as a functionally autonomous body of the European Union, separate from the General Secretariat of the Council and Commission with its own legal capacity necessary to perform its tasks and attain its objectives (Council Decision L 201-32/2010). This decision, in particular the reference to the term "High Representative" will be interpreted in accordance with his/her performance in different functions under Article 18 TEU (EU Treaty of Lisbon OJ C 306/2007). In coordination with the second subparagraph of Article 21 (3) TEU, the Union should ensure the consistency between the different areas of external action and between those areas and its other policies. To this end, the Council and the Commission, assisted by the High Representative, are required to ensure consistency and to mutually cooperate. The main task of the EEAS is to assist the High Representative in the preparation of proposals and their implementation following the approval by the European Council and to ensure consistency and coordination of the external action of the Union. The EEAS is placed under the authority of the High Representative of the European Union for Foreign Affairs and Security Policy (the High Representative) and is composed of a central administration and Union Delegations to third countries and international organizations. However, the foreign policy development, as defined by the Treaty, should remain primarily the responsibility of the relevant Commissioners of the Commission. Also, the Agency shall assist the President of the European Council and the President and members of the Commission in their respective

functions in the area of external relations to ensure close cooperation with Member States. The EEAS is composed of a single geographical (covering all regions and countries) and thematic desk, where duties are performed under the authority of the High Representative with close cooperation with certain departments of the Commission and Council Secretariat. The European Parliament also has a role in the external action of the Union, including its functions of political control as provided for in Article 14 (1) TEU, as well as in legislative and budgetary matters as specified in the Agreement. In accordance with Article 36 TEU, the High Representative regularly consults the European Parliament on the main aspects and basic choices of the CFSP and ensures that the views of the European Parliament are duly taken into account. EEAS assists the High Representative with respect to these obligations. Specific arrangements will be adopted which will allow access for the Members of European Parliament to classified documents and information in the area of CFSP. Pending the adoption of such arrangements, the existing provisions of the Interinstitutional Agreement of 20 November 2002 between the European Parliament and the Council apply for the access of the European Parliament to sensitive information of the Council in the field of security and defense policy (Council Agreement OJ C 298/2002). In mid-2013, the High Representative provided an overview of the organization and functioning of the EEAS and if necessary therein submitted proposals for revision of the Decision establishing the EEAS. The proposed changes were adopted in 2014.

2.1 ASSIGNMENTS

The main tasks of the EEAS are to support the High Representative in fulfilling his/her mandates as outlined in Articles 18 and 27 TEU, namely:

- Carrying out his/her mandate to implement the Common Foreign and Security Policy (CFSP) of the European Union and ensuring the consistency of the external action of the Union, including the Common Security and Defense Policy (CSDP), by submitting his/her proposals for the development of these policies to the High representative who performs under the direction given by the Council,
- Execution of his/her tenure as chairman of the Foreign Affairs Council, regardless of the normal tasks of the General Secretariat of the Council,
- Execution of his/her term as Vice-President of the Commission responsible for fulfilling the obligations within the Commission with regard to external relations and coordinating other aspects of the external action of the Union, regardless of the normal tasks of the Commission services.

The High Representative or his/her representative exercises the powers provided for in the relevant articles of the European Defense Agency, Satellite Centre of the European Union Institute for Security Studies of the European Union and the European College for security and defense, as institutions that the EEAS should support, for which the Treaty of Lisbon is guarded by the General Secretariat of the Council (EU Joint Action 551/CFSP/2004).

Also, the EEAS shall assist the President of the European Council, European Commission and the Commission in the exercise of their functions in the field of external relations.

The European Union and the European Atomic Energy Community continue to be served by a single institutional framework which is important to ensure the consistency between the external relations of both, allowing delegations of the Union to represent the European Atomic Energy Community in third countries and in international organizations.

2.2 COOPERATION

In order to ensure the consistency between the different areas of external action of the Union, and between the different areas of external action and other policies, the EEAS supports and closely cooperates with the diplomatic services of the Member States and with General Secretariat of the Council and the Commission services. In accordance with Chapter 1 of Title V of the TEU, and with Article 205 of the Treaty on the Functioning of the EU (TFEU) in carrying out its functions, the Commission services and the EEAS constantly consult each other on all issues related to the foreign activity of the Union, except for those covered by the Security and Defence policy. The EEAS shall take part in the preparatory work and procedures relating to acts to be prepared by the Commission with respect to the CFSP. In order to enforce certain administrative tasks, the EEAS may enter into certain contractual arrangements with relevant services of the General Secretariat of the Council, the Commission, or other offices or interinstitutional bodies of the Union. The EEAS cooperates for adequate support and receives adequate assistance from other institutions and bodies of the Union, including agencies, in particular the European Parliament. In order to provide a consistent and coherent policy, mostly in relation to the Commission's responsibility for operational expenses, the internal auditor of the EEAS will cooperate with the internal auditor of the Commission. For these purposes, the EEAS cooperates with the European Anti-Fraud Office (OLAF) under Regulation (EC) No 1073/1999 (1), under which the Agency is obliged to adopt a Regulation laying down the requirements for internal investigations (Regulation 1073/1999). In order to allow the agents of the European Anti-Fraud Office (OLAF) to fulfill their tasks, adequate assistance will be given to the European institutions and the Member States in accordance with their national regulations.

2.3 CENTRAL ADMINISTRATION OF THE EEAS

The Staff of the EEAS is appointed by the High Representative derived from three sources, namely: relevant departments of the General Secretariat of the Council, the Commission and the national diplomatic services of the Member States. Employment will be based on merit, to provide service personnel with the highest level of ability, efficiency and integrity, while ensuring adequate geographical balance. The EEAS will be managed by the Executive Secretary-General, under the authority of the High Representative, who will take all necessary measures to ensure the smooth functioning of the EEAS, including its administrative and budgetary management. The responsibilities of the Executive Secretary include ensuring effective coordination among all departments in the central administration, as well as among the delegations of the Union.

In carrying out his/her duties, the Executive Secretary General is assisted by two deputy general secretaries.

The central administration of the EEAS will be organized in directorates-general, in particular:

- A number of directorates-general directorates (directorates-general) composed of geographically distributed offices covering all countries and regions worldwide, including multilateral and thematic specialized departments. If necessary they will coordinate with the General Secretariat of the Council and the relevant Commission services;
- Directorate General for administration, personnel, budget, security, communications and information systems, which operates within the EEAS and is managed by the Executive Secretary General. In accordance with the usual rules of employment, the High Representative appoints the Director General for budget and administration who will work

under his/her authority and will be responsible for administration and internal budgetary management of the EEAS. Furthermore, he / she shall follow the same budget lines and administrative rules as applicable in the part of Section III of the Union budget that falls under heading 5 of the multiannual financial framework.

- Directorate for planning and crisis management, civil planning and management ability, Military Staff of the European Union and the Center for the situation of the European Union under the direct supervision and responsibility of the High Representative, who will assist in the implementation of the tasks of the EU CFSP in accordance with the provisions of the Treaty, while respecting the other competences of the Union in accordance with Article 40 TEU, which will be provided in full coordination among all EEAS structures.

The specificity of these structures, the characteristics of the functions they have, the way the employment status of the employees must be respected and the specific rules for this type of institutions.

The Headquarters of the EEAS also comprises:

- Department for Strategic Policy Planning,
- Legal Department under the administrative authority of the Executive Secretary General, who will closely cooperate with the legal services of the Council and the Commission,
- Departments for inter-institutional relations, information and public diplomacy, internal audit and inspections, and personal data protection.

In accordance with the detailed regulations laid down in Annex II of the Council Decision 2009/908 / EU of 1 December 2009 prescribing the measures to implement the decision of the European Council on the functioning of the Council Presidency and the Presidency of the Council's preparatory bodies, the High Representative appoints chairpersons of the preparatory bodies of the Council which is chaired by a representative of the High Representative, including the chairman of the Committee on Political and Security Affairs (Council Decision 322/2009) and when necessary, the EEAS and the High Representative of the EU, if they can be assisted by the General Secretariat of the Council and relevant departments of the Commission, by means of administrative law arrangements.

2.4 DELEGATIONS OF THE EUROPEAN UNION

The delegations of the European Commission become delegations of the Union under the authority of the High Representative of the EU and part of the EEAS structure. The High Representative, in agreement with the Council and the Commission, adopts the decision to open or close a delegation. Each Union delegation is under the responsibility of the Head of Delegation, who is responsible for all its activities and its staff in the delegation, whatever their status. For overall management of the work of the delegation and for ensuring the coordination of all activities of the Union he / she will be accountable to the High Representative. The Head of the Delegation receives instructions from the High Representative and the EEAS and is responsible for their execution. Also, the Commission may make specific instructions to delegations in the areas for which the Commission has an authority under the agreements and Article 221 (2) TFEU to be executed under the overall responsibility of the Head of Delegation. The delegations are made of the regular staff of the EEAS (including Heads of Delegations) and staff from relevant Commission services working under the authority of the Head of Delegation. The staff in the delegations is also the staff of the EEAS, and in some cases Commission staff when necessary to implement the budget or specific policies of the Union beyond those

under the jurisdiction of the EEAS. The Head of Delegation implements the operational credits in relation to EU projects in certain third countries which are sub-delegated by the Commission in accordance with the Financial Regulation. The operation of each delegation shall be periodically evaluated by the Executive Secretary General of the EEAS which includes evaluating the administrative and financial audits of the Executive Secretary of the EEAS, who may seek assistance from relevant departments of the Commission. Regarding the internal controls, OLAF has adequate powers in the EEAS, particularly through the implementation of measures to prevent fraud in accordance with Regulation (EC) no. 1073/1999. The High Representative shall conclude appropriate agreements with the host country, international organization or a third country and shall take all measures necessary to ensure that the host country provides the delegations of the Union appropriate employees, privileges and immunities equivalent to those set out in the Vienna Convention on diplomatic relations of April 18, 1961 (Regulation 1073/1999). The Delegations of the Union have the capacity to meet the needs of other EU institutions, especially the European Parliament, in their contacts with international organizations or third countries to which the delegations are accredited. The Head of Delegation has the power to represent the Union in the country where the delegation is accredited, to conclude contracts and to appear as a party in legal proceedings. The Delegations of the Union work in close cooperation and share information with the diplomatic services of the Member States. They all have an important role with regard to diplomatic and consular protection of Union citizens in third countries. In accordance with the third paragraph of Article 35 TEU, the delegations of the Union provide support and diplomatic assistance to the Member States upon their previous request and provides unlimited consular protection to Union citizens in third countries.

2.5 ADMINISTRATION

With the exception of the rules for specialized national experts on employment and labor regulations applicable to staff and officials of the European Communities (Staff Regulations the relations Staff Regulations) and the conditions of employment of other servants of the Union ('CEOS'- Conditions of Employment of Other Servants), including amendments to these rules in accordance with Article 336 TFEU in order to adapt to the needs of the EEAS (Regulation 259/68), the EEAS is composed of officials and other servants of the European Union, including personnel from the diplomatic services of the Member States appointed as temporary agents of the Agency and for them will apply the regulations on employment and conditions of employment of other servants of the Union. If necessary, in special cases the EEAS calls Actionable Experts (SNEs). Regarding the specialized national experts, as well as military personnel, the High Representative shall adopt rules similar to those laid down in Council Decision 2003/479 / EC of 16 June 2003 which are designated to the General Secretariat of the Council under which specialized national experts are made available to the EEAS in order to provide professional expertise (Council Decision 479/2003). In the performance of their tasks, the EEAS staff is guided exclusively by the interests of the Union. They must not seek or receive instructions from any government authority, organization or person outside the EEAS or from any person other than the High Representative. In accordance with the Staff Regulations, the EEAS staff will not accept any payments of any kind or source outside the EEAS. According to the Staff Regulations, the right to hire or contract for work belongs to the High Representative, who may delegate his/her powers within the EEAS. The employment in the EEAS is based on merit (merit), while ensuring at the same time

adequate geographical and gender balance with citizens from all Member States. In the case of non-application of these criteria, additional measures may be offered to correct the imbalance phenomenon. Representatives and agents from the diplomatic services of the Member States who temporarily work in the EEAS have the same rights and obligations and are to be treated equally, especially as concerns their eligibility to undertake all obligations under equal conditions. They do not distinguish between temporary agents coming from national diplomatic services and officials of the Union regarding the allocation of tasks to perform in all areas of activities and policies implemented by the EEAS. In accordance with the provisions of the Financial Regulation, the Member States shall support the Union in the implementation of the financial obligations of the temporary agents in the EEAS coming from Member States or diplomatic services resulting from liability under Article 66 of the financial regulation. The High Representative shall establish procedures for the selection of personnel for the EEAS, which will be undertaken through a transparent procedure based on merit (merit) in order to provide service staff of the highest standard of ability, efficiency and integrity, while ensuring adequate geographical and gender equality, and meaningful presence of nationals from all the Member States in the EEAS. In establishing those procedures representatives of the Member States, the General Secretariat of the Council and the Commission will be involved in the selection procedure for vacant posts in the EEAS. When the EEAS will reach its full capacity, the staff appointed by the Member States - temporary agents should represent at least one third of all employees in the administration, while the Permanent Representatives of the Union should represent at least 60% of all employees including staff coming from the diplomatic services of the Member States, who have become permanent officials of the European Union in accordance with the provisions of the staff Regulations. The High Representative every year submits a request to the European Parliament and the Council for filling job posts in the EEAS. The High Representative shall establish rules for mobility in order to ensure a high degree of mobility of the EEAS staff. For military personnel specific and detailed agreements apply. In general, all EEAS employees will serve periodically in the delegations of the Union and the High Representative is to establish detailed rules for this purpose. In accordance with the applicable provisions of national law, the Member States provide temporary agents in the EEAS to ensure the return and employment at the end of their period in office of the EEAS. The period in office of the EEAS cannot exceed eight years, save in exceptional circumstances and in the interest of the service, when it can be extended for a maximum period of two years. Officials of the Union serving in the EEAS have the right to apply for the posts in their institution of origin under the same terms as the internal applicants. The EEAS takes certain steps to ensure adequate staff training jointly, based on the existing practices and structures at national and EU level. For this purpose, the High Representative will take appropriate measures for the effective exercise thereof. Transitional provisions for employees are provided to the relevant departments and officials in the General Secretariat of the Council and the Commission listed in the Annex to the Decision for transfer to the EEAS. Officials and temporary agents also work in departments or functions listed in the Annex to the Decision for transfer to the EEAS. This will also apply to contracts (with the changes corresponding mutatis mutandis) with local staff appointed to these sectors and functions. Specialized national experts working in those departments or functions shall also be transferred to the EEAS upon prior consent of the authorities of the Member State of origin, which transfers will take effect on January 1, 2011. In accordance with the Staff Regulations, following the transfer of employees to the EEAS, the High Representative

will appoint the employee to a position which corresponds to the level of the employee ranking. Before 1 July 2013, the EEAS will recruit exclusively officials originating from the General Secretariat of the Council and the Commission, as well as staff coming from the diplomatic services of the Member States. After that date, all officials and other servants of the European Union are able to apply for positions in the EEAS.

2.6 BUDGET

The EEAS, by its nature, is a sui generis service that is part of the Commission and the Council Secretariat. It has autonomy in terms of an administrative budget and staff management. The EEAS has its own section in the EU budget determined by a special rate, for which the usual budgetary rules and control rules will apply. The High Representative proposes and implements the budget of the EEAS. In terms of budget neutrality, the leadership of the EEAS is guided by the principle of cost (cost-efficiency), using all opportunities for rationalization and avoidance of unnecessary duplication of tasks, functions and resources with other structures. Regulation (EC, Euro-atom) No. 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (known as the "Financial Regulation"), which should be amended in order to include the EEAS in Article 1 and establish a special section in the Union budget (Regulation 1605/2002). The duties of the officer responsible for the part of the EEAS in the general budget of the European Union shall be delegated in accordance with Article 59 of the Financial Regulation, while the operating costs remain within the budget of the Commission (Regulation 1605/2002). The High Representative shall adopt internal rules for the method of management of the administrative budget lines. The EEAS shall exercise its powers in accordance with the Financial Regulation applicable to the general budget of the European Union within the funds set aside in the budget for the purpose of the Agency. When creating estimates for the administrative costs of the EEAS, the High Representative makes consultations with the Commissioner for Development Policy and the Commissioner for Neighborhood Policy regarding their obligations and policies. In accordance with Article 314 (1) TFEU, the EEAS shall prepare a cost estimate for the following financial year, which the Commission will incorporate in the draft budget, but which may contain different estimates. Furthermore, the Commission may further amend the draft budget as provided for in Article 314 (2) TFEU. In order to ensure budgetary transparency in the area of external action of the Union, in addition to the draft general budget of the European Union, the Commission shall submit to the budgetary authority a working document in a comprehensive manner to represent all expenses related to the external actions of the Union. Also, the EEAS will be subject to the procedures for exemption (discharge), provided for in Article 319 TFEU and Articles 145-147 of the Financial Regulation, which should fully cooperate with the institutions involved in carrying out this procedure and provide where necessary additional information required, inclusively by attending their meetings related to exemption. In accordance with the applicable rules, similar to the other institutions, part of the annual report of the Court of Auditors will also be dedicated to the EEAS, and accordingly, the EEAS responds to such reports.

3. THE RELATIONSHIP BETWEEN THE EEAS AND MEMBER STATES NATIONAL DIPLOMACIES (MINISTRIES OF FOREIGN AFFAIRS - MFAS)

The relationship between the EU foreign policy structures and the national diplomacies of the member states is one of the crucial determinants of the EU's ability for coherent and effective global action and of Europe's position in the changing world order. The relationship between the EEAS (EEAS) and the Member States national diplomacies has ongoing changes pushing towards greater coherence and effectiveness of EU foreign policy and towards re-nationalization (Rosa/2015). EEAS and National Foreign Ministries should work together in making and shaping of the foreign-policy making between the Member States (MS) and the European Union (EU). However, the European diplomacy is facing challenges due to the fragmentation of the international relations of the Member States and EU in order to merge the national with European interests. Still there are several Member States whose national diplomacies are being shaped by or are shaping the EEAS. The three leading EU Member states, the United Kingdom, France and Germany, have all reacted differently to the creation of the EEAS. Under Cameron, the UK remained ambivalent to the EEAS and has contributed neither to the growth of the EEAS nor the EU. The French foreign policy tradition is based on its independence and sovereignty with the entrenchment of the French interests with a deep European commitment. Furthermore, we should consider the weight and influence of their MFAs, their seats at the UN Security Council (France and UK in the Security Council), NATO and other international institutions. From the big three, only Germany is the strongest supporter of the EEAS and does not see it as overshadowing the German Foreign Office. Other countries, like Slovenia and Greece, initially saw as well the EEAS as an opportunity to upload their priorities, which has gone in vein. In the case of the Czech Republic, Estonia and Finland, they consider the EEAS an important instrument for reinforcement of their security from Russia.

3.1 EEAS DIPLOMATIC INTELLIGENCE AND SECURITY

In the complex picture of international relations, as there are changes in the structure of the international relations, there are also changes in the patterns and practices of the flow of information. The HR has appointed a security operative to head a working group for designing the EEAS security architecture, which is seen as particularly important due to the EEAS handling sensitive information in the middle of espionage concerns from China, Russia and the USA. As part of the merger, the intelligence gathering services in the Commission and Council will be merged. These services are the Council's Joint Situation Centre (Sit-Cen) for Watch-Keeping Capability and the Commission's Crisis Room. The Situation Centre has a cell of intelligence analysts from member states who gather classified information to produce concise reports on important topics. It also runs a 24/7 alert desk based on public sources which then updates EU diplomats via SMS on current events. The Watch-Keeping Capability is composed of 12 police and military officers who gather news from the EU's overseas missions. The Situation Centre and Crisis Room would be merged and headed by the High Representative. It would give the HR an immediate and powerful asset in an emergency without having to go via the Council's Political and Security Committee first. The High Representative also has authority over the European Defense Agency, the EU Institute for Security Studies and the EU Satellite Centre, though these remain autonomous from the EEAS itself. However, although the High Representative and the EEAS can propose and implement policies, it will not do it as that role is left to the Foreign Affairs Council which the High Representative chairs. By

this, it is unclear if the Council's Clearing House (or Working Group CP 931 which deals with the EU's terrorism blacklist) would be merged into the EEAS along with these other bodies. Aside from the analytical framework based on uploading, downloading or cross-loading, there is an important observation when claiming that the Union and Member States often retreat to their national positions when responding to crises. The cooperation at the EU level usually takes place in the aftermath of a conflict. This has been repeated on so many occasions.

4 CONCLUSION

From the creation of the European Union to date, the creation of the Union foreign policy has been progressing from an intergovernmental cooperation to becoming a complex 'service,' as the EEAS is mixing inter-governmentalism and supranationalism. As of 2009, the Treaty of Lisbon hardened the formal intergovernmentalism in the decision-making, while adding supranational dimensions into the CFSP (as foreign policy) and the CSDP (as defense) of the EU. The EEAS is institutionally designed at a time of rapid changes and needs to find its voice and role. The relation between the EEAS and the National Foreign Ministries is a complex work due the density of the foreign-policy making in the EU. It is deeply relevant considering the global and domestic forces affecting the EU and the Member States. In addition, it incorporates a connection of intergovernmentalism and supranationalism into one complexity in order to foster a common European position on very contentious foreign policy issues, such as the recognition of Kosovo' sovereignty and the relationship with emerging powers like China, India, Brazil and Russia. The next challenge should be to look for a way the EEAS and the MFAs could work on solving crises like the Arab Spring, the war in Syria, the Iranian nuclear negotiations, the Israeli-Palestinian tensions, and the relations with each member of the BRICS among many others. Ultimately, the EEAS represents hybridity which makes the foreign policy exposed to the strengths and weaknesses of uncertainty. Conceptualizing the EU foreign policy has been a contested matter, reflecting the *sui generis* nature of the EU as an international actor and it does not lend itself to a single interpretative approach. There should be an overall research, where so many edited volumes have failed, and an offer for a roadmap for understanding European foreign policy-making. The EEAS is an important contribution to an under-studied topic. The methodology applied to look at the EEAS positions permits the development of a compelling argument and confirms the expectations of the European experts. It is a strong case of justifying their qualitative methodology by arguing that the explanatory power of the normative and ideological variables is central to explaining change, adaptation and reform.

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THE EUROPEAN UNION AFTER THE BIGGEST ENLARGEMENT: A DIFFERENT ANGLE OF PERCEPTION FOR THE MIGRATION PROCESSES AND POLICIES

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ABSTRACT

The goal of this paper is to determine and analyze the advantages and disadvantages of the creation and implementation of the migration policies in the European Union after its enlargement with countries from Central and Eastern Europe in 2004. The entrance of Poland, the Czech Republic, Slovakia, Hungary, Lithuania, Latvia, Estonia, Slovenia, Malta and Cyprus in the European Union has generated some changes in the national and supranational migration policies for several reasons: increase of the population in the Union, diversity of the political systems, different habits and mentality of the people in each of these countries, different levels of economic development, varieties in the systems of social care, etc.

We will also examine the impact of the acquis communautaire with regard to the migration issues and we will try to identify the anomalies in its concrete implementation which are common for these countries.

In this paper we will use the descriptive method, the method of content analysis regarding the relevant documents and the comparative method as the most frequent methods for determining the specific characteristics of the European Union member states.

At the end, we will summarize the main advantages and disadvantages concerning the migration policy after the biggest enlargement of the European Union and we will give some suggestions and recommendations as how to improve the current situation in the Union, but also in the candidate and potential candidate countries.

Key words: *migration, European, Union, enlargement, policies*

1. Introduction

"United Europe" is the motto which was promoted by Jean Monnet, Robert Schuman, Konrad Adenauer, Alide De Gaspari and other statesmen, whose aim was to see Europe integrated, unified and uniform. Their ideological and value followers confirm the high degree of integration of the construction, which began in 1951, in the areas of coal and steel and it was almost absolved with the Lisbon Treaty from 2007.

The consequences generated by the Second World War are reflected in all social segments of the citizens of the European countries, leaving prospectivelessness and apathy among European citizens. The United States gave the initial burst of rehabilitation and reconstruction of Europe by launching the plan to rebuild Europe, colloquially called the Marshall Plan (the then U.S. Secretary of State George Marshall), which foresaw the rehabilitation and recovery of the European continent. Since then, a radical shift in the

development and integration of Europe has taken place, i.e. various stages have been successively implemented until the final unification of the continent in the entity called European Union.

The subject of this paper will be an analysis of the strengths and weaknesses produced by migration processes after the biggest enlargement of the European Union in 2004 with the countries of Central and Eastern Europe.

The objectives of this paper are: to determine the causes of the migration processes in the European Union after 2004; to analyze the intensity of migration in the EU before and after 2004; to identify the advantages caused by the migrations between Eastern-Western Europe; to identify the weaknesses caused by the migrations between Eastern-Western Europe, etc.

The methodological instruments that will be used in this paper will be typical of the works in this scientific area, i.e. the historical method, the descriptive method, the comparative method and the method of content analysis will be used most frequently.

2. General overview of the biggest enlargement of the European Union in 2004 and its impact on the migration processes

The great success of the European Union and the values on which it is founded, attracted many states, which across several successful waves of enlargement have become an integral part of the Union. All these states are characterized by a turbulent past, complex political and economic conditions and exceptionally diverse economic and political backgrounds. Their accession to the European Union has contributed to the quality enhancement in the functioning of the EU, both for the current member states and for themselves. Today the European Union is made up of countries with heterogeneous social, political and economic structure (from the Western European countries to the former branch of the USSR). After all, some of the fundamental values of the European Union are multiconfessionalism, multi-ethnicity and multiculturalism. This means that the prospect of reunion is open to all European democracies, regardless of the "baggage" of their past. Of course, meeting the specific standards and criteria (Copenhagen, Madrid, etc.) is conditio sine qua non for membership in the European Union.

Free movement of goods, services, people and capital within the European Union is one of the largest democratic gains in the history of the continent. But still, although dominated by the positive aspects of using these benefits, it does not mean that they are immune to the abuse by individuals and groups. The particular "trend" of such abuses has become more frequent after the EU enlargement to the East and it implies greater caution of the "old" European Union member states with respect to the flood of immigrants from the "new" Member States.

This means that the migration policies within the European Union as an entity, but also at the level of Member States, are becoming very popular in today's conditions, caused, inter alia, by the processes of globalization and internationalization. All these waves of expansion are occurring as opposed to the rapid development of the EU policies, but this is the only way for the Union to offer a realistic perspective to the consolidation of the political stability and thus ensure prosperity for all citizens of its member states. "Undivided" Europe will reanimate the fundamental values on which it is established: democracy, rule of law, respect for human rights, protection of minority rights, thus giving the European Union the possibility to acquire a bigger role and importance in the global political and economic arena. However, despite the desire for unification of the European continent, the European Union takes into account the standards that are characteristic to it,

i.e. the new Member States have to set up their national legislation in line with the so-called acquis communautaire (“law gains” of the European Union). Additionally, they are required to respect all values and democratic practices typical of the EU, as well as to continue with their economic, social, political and legal reforms that were launched during the pre-accession period.

After the new contractual commitments from the 90's, the EU expansions were subject to the procedure which was authoritative for the expansion to the East. Then Article 0 of the EU Treaty stated, relying on the already cited ECSC and EEC papers that "any European state may apply for membership in the Union." Additional conditions were formulated with the Treaty of Amsterdam as stated in the new Article 6 TEU: "The Union is based on the fundamental principles of liberty, democracy, respect for human rights and fundamental freedoms, as well as legal statehood; these basic principles are common to all nations [1]." (Treaty of Amsterdam Amending the Treaty on European Union, 1997).

A European State that respects the basic principles stated in Article 6, paragraph 1, may submit an application for membership. It submits the request to the Council and the Council decides unanimously after hearing from the Commission and after obtaining the consent of the European Parliament, which in turn, decides by a majority vote of its members [2]." (ibid, 1997)

Due of the existing risk for the new member states to transfer systemic weaknesses into the institutional structure of the European Union and in the exercise of the policies of their national, political and economic systems (which are in a process of transition), the Union established explicit membership criteria, applicable primarily to the countries of Central and Eastern Europe and largely uniform for all potential candidates for EU membership.

Overall, we can say that some of these criteria have a legal-formal character and some only have a political character and weight. On the whole, it comes to the following criteria: "1. the applicant state must be a European country; 2. the applicant country must meet the so-called political criteria; 3. the applicant country must meet the so-called economic criteria; 4. the applicant country must accept the so-called acquis communautaire; 5. the EU must take into account its capacity for expansion [3]." (Asterud 2001 pp.431-432).

Thus, in 1993, at the European Union Summit held in Copenhagen, Denmark, a principle position was adopted that the entry doors for the countries of Central and Eastern Europe that will meet the required economic and political criteria are open. Additionally, these criteria were specifically defined and presented at this Summit. They are:

- "Achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for minorities (political criterion);
- The existence of a functioning market economy, as well as the capacity to cope with the competitors pressure and market forces within the Union (economic criterion);
- Ability to assume the obligations of membership, including adherence to the aims of political, economic and monetary union (criterion embedding the acquis communautaire).”

These criteria were subsequently supplemented or clarified at the summits in Madrid (1995), Luxembourg (1997) and Helsinki (1999) and the additional (Madrid) criterion pointed to the need for developing an administrative and judicial capacity for the application of the adopted mutual benefits (acquis).

"Although still undefined, the 'absorption capacity' increasingly appears as the fourth Copenhagen criterion and the EU is calculating about the number of its Member States. Defining the nature of the EU, including its geographic boundaries, it is fundamental to understand the concept of the absorption capacity of the EU and that is why this element is taken into account when defining the agenda for the negotiation process with each candidate country [4]." (Karakamiseva 2007, pp. 515)

In July 1997, a few weeks after the approval of the Treaty of Amsterdam, Agenda 2000 was published, under the leadership of Commission President Jacques Santer, as a central document for the challenge of the expansion to the East. It referred to the three elements of the reform of the European policies, especially the common agricultural policy, the structural policy and the environmental policy; the enlargement; and the financial framework for the period 2000 to 2006. In any case, at the beginning there were two items most closely related to Agenda 2000, as "connecting element between the reform and the expansion of the European Union." On the one hand, the question of institutional reform played a major role in the thinking of the Commission. On the other hand, almost simultaneously with the Agenda 2000, the Commission announced its attitudes toward the accession requirements of the associated states from Central and Eastern Europe.

The latest European Union member states, Romania and Bulgaria, are specific cases for analysis in terms of their views on the EU enlargement policy. Notably, despite their inclination towards further enlargement of the Union, they do not have a clearly differentiated position (in their political elites and population), due to their internal preoccupation with completing the necessary reforms, ending the transitional periods granted by the European Union and the ongoing fight against corruption and crime, as well as the acceleration of the administrative and judicial reforms that are necessary for fully merging with the European Administrative Space (EAP) and the principles that govern the judicial systems of the EU Member States and the European Court of Justice (ECJ). Declaratively, Romania and Bulgaria support the enlargement process of the European Union, although factually, specifically and operationally they are not able to contribute towards improving this process, because of the "little experience" they have within the European Union and the minimum resources allocated for this purpose. And in terms of the migration processes, it can be concluded that Bulgaria and Romania are "immigration unattractive" but "suitable for emigration."

The consequences of the migration processes after the 2004 European Union enlargement are multidimensional and complex. Namely, they caused reconfiguration of the "migration soil" within the old EU member states, changes in the labor force structure, transfer of advanced technology, knowledge, services and capital, demographic shifts, academic mobility, etc. Certainly, the migration processes carry immanent advantages and immanent weaknesses, so it would be best to make a full cost - benefit analysis in order to determine whether the largest expansion that occurred in the European Union was justified in terms of the migration policies or whether the benefits of the migration processes in the EU after the biggest enlargement outweigh the weaknesses or it is the case of the negative effects dominating over the positive.

3. Benefits of the migration policies in the European Union and its Member States from the biggest enlargement in 2004

Free movement of labor within the European Union is one of the fundamental rights in the Union, guaranteed by Article 39 of the Maastricht Treaty[1]. However, after the accession of ten EU member states in 2004, the fear of invasion of labor from the new to the old Member States has forced the EU to introduce transitional arrangements in the agreements for admission of new Member States in duration of seven years, wherefore the old Member States have the opportunity to introduce restrictive measures for labor admission to the new member states. Only a few of the old member states accepted to implement mild restrictive measures in relation to labor mobility or not to apply any transitional measures, that is, to fully liberalize the labor market.

The European Union is facing a number of challenges, such as aging population, global competitiveness and sustainability of social development systems and other challenges. Recognition, i.e. identification of the determinants of migration flows is very important for the effects they have on the countries they migrate towards and the countries in which they migrate, i.e. the countries of destination [5]. (Kahanec and Zimmermann, 2009, pp.11)

Predominant motives for migration from Central and Eastern to Western Europe are as follows: economic (more employment opportunities, better living standards, higher wages and benefits, greater perspective of career development, etc.).; political (asylum); cultural, educational, personal (family); etc. Although the economic migration motives are the most numerous, the others on the list do not lag much behind.

In terms of duration, migration can be temporary or permanent. Through temporary migration, there is a possibility for reallocation of capital, if the employee returns to his home country and invests the profits earned in the country of migration. In permanent migrations, such a possibility is excluded because the employees will not contribute to their native states neither physically nor financially.

One advantage generated by the migration processes, which constitutes a concern for the states representing the destination of the migrants, is the influx of high-skilled labor. Namely, better living standards and higher wages and benefits are a "magnet" very competent and highly qualified people from Central and Eastern Europe, who invest their knowledge, skills and professional competencies in the development of the European Union Member States of the west, of course, receiving an adequate financial compensation for that. Quite often, the industrialized countries in the western part of the EU face a deficit of competent manpower in certain sectors, such as medical personnel, engineers, programmers, etc. Hence, they are forced to look for ways to attract such personnel, among other things, from the new EU member states (Central and Eastern Europe).

Another advantage (or to be more precise, a reason) of the migration process after the enlargement of the European Union in 2004, is solidarity. It is one of the essential principles on which the European Union rests, i.e. is based on. This means that many other aspects cannot be neglected (such as competitiveness, social, cultural and educational aspects) at the expense of solidarity, but the process of European integration is not always "straight" and smooth, but rather composed of concessions, negotiations, agreements, compromises, etc.

[1] Article 39 allows workers from one Member State of the EU to work in another, under the same conditions as the native citizens

The relatively "cheap labor" that comes from Central and Eastern Europe is certainly an advantage for the employers in Western Europe, but it is a threat to the citizens of those Member States in terms of competition and labor market distortions. Given the ambivalence of the determinant, it is a "double-edged sword", seen from the perspective of employers and workers in the old member states of the European Union. Hence, the increased competition is an advantage for the employers (increased demand for jobs and reduced wages) and a threat to the workers (loss of jobs and reduced income).

A document from the World Bank notes that Lithuania is the state with the highest rate of migration (from the new member states) with 3.3% of the population that migrated in the period May 2004 - December 2005, mostly to the UK and Germany. Next states on the list are Latvia with 2.4% and Slovakia and Poland with 1% of the population [6]. (ibid, 2009, pp.8)

Increasing the quality of products and services can be categorized as "one of the merits of expansion", given the increasing work incentives and also prove the constant threat and fear of "losing the race with the competition".

Social benefits are welcomed for the migrants who usually come from countries with lower economic well-being, but they also mean a reallocation of the resources for the domestic citizens. It is interesting to note that the researches of experts across Europe have found that the countries that have greater economic and social welfare, i.e. the countries that allocate a solid amount of their budgets are a "target" of the lower skilled migrants whose primary motive for migration is just social and not economic. While the countries that do not allocate much funding for social transfers, and still have a high standard, are a "target" of the highly qualified and competent migrant workers, who see in those countries an opportunity for higher earnings. In addition, an advantage for the countries that are facing a flood of migrants is that they can make a selection of "labor", according to the country's needs in specific periods.

Technology transfer from more to less developed countries, i.e. from Western to Eastern Europe should certainly be qualified as a major advantage, generated by the expansion, due to the fact that exports of high technology means huge profits for the developed countries and new experiences, knowledge and skills for the less developed countries.

4. Weaknesses of the migration policies in the European Union and its Member States from the biggest enlargement in 2004

The weaknesses arise mainly from the previously mentioned advantages, but from the opposite perspective, i.e., the advantage for the employers can be a weakness for the workers, the advantage for the state can be a weakness for the domestic citizens, etc. One of these issues is the demographic reconfiguration after the biggest enlargement of the European Union. The integration of Europe has meant an opportunity for migration from one Union country to another, but it also means mobility of labor, which often gets out of control. We noted earlier that the countries that are "overwhelmed by migrants" can make a labor selection, but that does not guarantee that in addition to selected high-skilled migrants, there will also remain workers with low skills and competencies that will be a burden on the state, primarily from a social and demographic aspect.

Another weakness is located in the so-called absorption capacity of the country that receives the migrants, because jobs are limited to the domestic workers and the supplementary labor from the "East" causes tension and xenophobic sentiment among

natives. Of course, for Germany or France, it certainly is not a significant problem, but for countries such as Ireland, Luxembourg or Belgium it is a serious challenge.

One of the hardest consequences caused by mass migration is the "brain drain" from poorer to richer countries, generally from "East to West". In the long-term, it means the loss of an important human capital for the poorer countries and bringing into question the future of that country. On the other hand, the "brain gain" increases the development of the potential of the countries which are their final destination.

The proliferation of products and services which is a result of the migration processes meant not only increased competition, but also reduced prices and indirectly reduced state revenues from taxes and other fees.

We can speak about many other weaknesses arising from the mass migration route - Eastern - Western Europe, but due to the limited space we summarized those that are most significant.

5. Conclusion

Overall, it can be stated that the migration processes in "post-socialist Europe" are divided into two periods: before and after 2004, i.e. before and after the biggest enlargement in the history of the European Union with the countries of Central and Eastern Europe. If before the "fall of the Berlin Wall" we could talk about marginal rates of migration, there were visible shifts in the migration processes in Europe within the period 1990-2004, but the "migratory wave" occured after 2004, when the mobility of the workforce was formally allowed and when the same or similar conditions were provided for the migrants coming from the new European Union member states and for the nationals, in accordance with the EU legislation, the so-called acquis communautaire.

The transitional periods applied for the new Member States (since 2004), which have been incorporated into the accession treaties concluded with each of the countries that joined the Union in 2004, represent a kind of "defense mechanism" for the old member states from the "immigration invasion". However, despite the "fear" of the influx of migrants from Central and Eastern Europe, the experiences in the years after the enlargement, i.e. 2004-2016, showed that this fear was misperceived, i.e. the migration processes have not caused extreme, but moderate and acceptable changes.

Although the main focus in this paper was on the enlargement of the European Union in 2004 and the consequences of the migration processes in Europe, we can anticipate that in the future enlargement of the Union with the countries coming from the so-called Western Balkans, this issue will become even more actual, due to the poor economic performance of these countries, but also because of the much lower quality of life.

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WESTERN BALKANS BETWEEN EU INTEGRATIONS AND RUSSIAN INFLUENCE

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ABSTRACT

In this paper, the author analyzes the current distribution of powers between the growing role of the Russian Federation and the European Union in the Western Balkans. In doing so, he points to the fact that the countries of the Western Balkans have "divided" when it comes to the question of their relations with the Russian Federation. On the one side, Albania and Montenegro joined the EU sanctions against Russia (2014), while Bosnia and Herzegovina, Serbia and Macedonia have not done so, although this is their consensual obligation concerning the prospects of membership in the Union.

The Russian Federation's "return" to the Balkan in the past decade had three phases. The first phase rested on strengthening its influence in the energy sphere in most of the countries of the Western Balkans, later followed by the strengthening of the influence in the economic sphere. Of course, all that was, in a certain way, followed by an objective strengthening of the political influence, especially in Serbia, Bosnia and Herzegovina, as well as in Macedonia.

The author in this regard notes that the current trend of strengthening of the political influence of the Russian Federation in certain countries, but also in the whole Western Balkan region, will not be sustainable if we bear in mind that all states are obliged to fulfill the conditions on the path to EU membership. Therefore, in the long run, it will not be possible to strengthen the economic and other relations with the Russian Federation and at the same time to expect progress towards the EU integration.

Key words: Western Balkans, European Union, Russian Federation, energy sectors, economy, political influence

1. INTRODUCTION

The Russian Federation, in the period after the end of the Cold War, has been shadowed for many years by the Western influence in the Balkans [1]. Moreover, when it comes to the crisis in former Yugoslavia, its position and political actions for many years followed what was advocated primarily by the United States and the European Union. The Russian Federation, therefore, did not have significant actions when it comes to the disintegration of former Yugoslavia because it was predominantly preoccupied with the disintegration of the Soviet Union and the local armed conflicts [2].

The separation of Slovenia and Croatia from Yugoslavia, and later Macedonia and Bosnia and Herzegovina, had not occupied the attention of official Moscow. Moreover, the Russian Federation was among the first countries to recognize their independence and establish strong bilateral relations. The Russian Federation did not block the introduction

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of multi-year economic sanctions against the Federal Republic of Yugoslavia (1992–1996). Also, Russia joined the West in creating peace solutions for Croatia (Erdut Agreement, 1995) and the Dayton Peace Agreement (1995).

Russia showed a similar attitude concerning the crisis in Kosovo, essentially supporting the West in finding a particular solution. Russia was also represented in weeks-long negotiations at Rambouillet in early 1999, which did not result in a peaceful solution [3]. The beginning of the air strikes on Serbia and Montenegro, within the Federal Republic of Yugoslavia, was not accompanied by a significant diplomatic reaction from official Moscow. It was only in a few official statements that it emphasized its disagreement with the bombing of Yugoslavia.

It was the same when it comes to achieving a diplomatic resolution to the crisis in Kosovo in early June 1999, when the Federal Republic of Yugoslavia agreed to withdraw all its military and police forces from Kosovo. Although there existed a blitzkrieg initiative of Moscow to quickly redirect its forces from BiH to Kosovo, which were then deployed in the SFOR mission (Stabilization Forces), its military units still had not managed to maintain for a very long time important positions that were of strategic importance for the Serbian and Yugoslav powers (such as the airport in Priština).

The Russian Federation was trying in some way to contribute to the calming of the situation in Belgrade after the mass demonstrations that accompanied the departure from power of Slobodan Milosevic. Moreover, only a day after the mass demonstrations, which were held on 5 October 2000, the then Minister of Foreign Affairs of the Russian Federation Igor Ivanov arrived in Belgrade and talked to Slobodan Milosević and Vojislav Koštunica, who replaced him at the function of President of the former Federal Republic of Yugoslavia [4]. It has never been clear what the concrete talks between Ivanov and Milosević contained, but it was obvious that he was denied the support of the Russian Federation which recognized the results of the elections from 24 September 2000.

A few years later, Russia agreed with the principles relating to the determination of the future status of Kosovo, in which it was contained that it would preserve its integrity and that it would not belong to the neighboring countries. This position from November 2005 preceded the so-called Ahtisaari's plan on Kosovo's final status [5].

Only then, the Russian Federation changed its attitude towards Kosovo, but it should be noted that it did not excessively involve when it came to the restoration of Montenegro's independence in May 2006. On the contrary, it was obvious that Russia did not force a maintenance of the arrangement of the state union of Serbia and Montenegro, which existed from 2003 to 2006. For a long time, the European Union, through its delegates, was involved in the creation and maintenance of this creation.

Overall, the Russian Federation with minor exceptions, however, accepted the current "architecture" of the Western Balkans, i.e. the consequences of the disintegration of the former Yugoslavia. However, in the middle of the past decade, Russia strengthened its presence in the Western Balkans, notably through the conclusion of the energy packages.

Along with the above-mentioned, some countries of the Western Balkans became the members of the North Atlantic Alliance (Croatia and Albania – 2009) over the past decade, which the Russian Federation did not fully approve. Also, it has increasingly shown dissatisfaction with the fact that Montenegro, Macedonia and Bosnia and Herzegovina might accelerate the accession to NATO. Moreover, many times, official Moscow demonstrated dissatisfaction with the fact that Montenegro would, at the beginning of this year, further accelerate the accession to NATO [6]. In addition, Moscow indicated to official Belgrade that it would not easily accept the potential tendency of the

Serbian authorities to accede to NATO. In this regard, there were open announcements of reviewing their bilateral relations if it would happen that Serbia decides to accede to NATO.

Official Moscow has a visibly different attitude towards the European integration of the Western Balkans countries. To date, there was no opposition to the evident progress of the countries of the Western Balkan region within the Stabilization and Association Process [7]. Although it is evident that some countries of the region will have to simultaneously revise their relations with the Russian Federation in the process of their European integration, including the matter of the Association to the restrictive measures introduced in 2014. In this respect, it should be expected that Moscow will attempt, if not completely, to affect its closest allies in the Western Balkans (Serbia, the Republic Srpska and Macedonia) to slow down the pace of European integration and then try to use their influence globally to fully jeopardize this process.

2. THE PHASES IN STRENGTHENING THE ROLE OF THE RUSSIAN FEDERATION IN THE WESTERN BALKANS

In the second half of the past decade, Russia was increasingly becoming closer with the Western Balkans. In fact, thanks to the otherwise prearranged bonding in the energy sector with the European Union, which is largely dependent on imports of Russian gas, it tried in a certain way to establish the idea of the "South Stream" gas pipeline that should continue the supply of Europe through the Black Sea and Bulgaria and then through Serbia, Croatia and Hungary [8].

Serbia was particularly interested, in a certain way, in strengthening the presence of the Russian Federation in the field of energy, due to the sale of the Oil Industry of Serbia, but also to ensure its own energetic safety due to the South Stream. However, despite the spectacular beginning of the works on the construction of the South Stream (24 November 2013), the Russian side had, unilaterally and without prior notification to the partner countries in this project, suspended the construction of this pipeline [9]. This was indeed preceded by a very long campaign of the USA and the EU towards the countries in the "South Stream" to prevent its construction, or to actually in some way release them from the existing framework of the energy dependence on Russia.

The Russian Federation has invested in the energy and property sector of the Bosnian entity the Republic of Srpska (Bosanski Brod refinery), but in the meantime, the situation has changed. In this way, Moscow wanted through the Serbian side in Bosnia and Herzegovina to control the foreign policy of the entire country. Namely, according to the constitutional order of Bosnia and Herzegovina, a consensus of representatives of Bosnians, Croats and Serbs is necessary on all issues, including foreign policy [10]. Moscow did that by obstructing several attempts to amend the Constitution of Bosnia and Herzegovina (primarily in 2009), as well as when it came to supporting Serbian officials to organize a referendum on the Court and Prosecution of Bosnia and Herzegovina in the Republic of Srpska, and a referendum on the Day of the Republic of Srpska (January 9th). Also, in 2014, Russia pledged a substantial financial assistance to the Republic of Srpska (about 250 million euros) related to the consolidation of the budget, but it has never actually happened [11].

However, the Russian influence gradually transformed from the energy sphere to the economic/commercial sphere by virtue of numerous investments in the countries of the Western Balkans. This demonstrated that the Russian Federation would not easily give up on the Western Balkan countries. In this sense followed the investments in the Aluminum

Plant Podgorica (KAP) and then a significant investment of Russian citizens on the Montenegrin coast [12]. However, these forms of investments in the country were followed by numerous corruption scandals and problems related to the acquisition of contractual obligations. In Serbia, there was a significant influence of Russian firms in the banking sector (*Marfin bank*, *Sberbank*, VTB, etc.). Also, the Russian influence is increasingly penetrating the sphere of information (Radio *Sputnik* from 2014), then in the sphere of culture and education [13].

A similar situation was in Macedonia as well, in which, in the middle of a long political crisis, the political elite in power was trying to find alternative foreign policy partners, turning away from the West (the USA and EU), towards official Moscow. However, this did not happen because the ruling structures had become aware that they could better position themselves only if they get closer to the United States, in particular. On the other hand, the significant shift of Macedonia's foreign policy should be accompanied by the support of the ethnic Albanians and their legitimate representatives, which was not realistic to expect.

Also in Montenegro, the Russian Federation attempted, after trying to strengthen its influence in the economic sphere, to further strengthen the political influence, in order to achieve a certain predominance over the West. Russia had also largely supported some political parties and coalitions in the opposition with the primary aim of slowing down or blocking the entry of Montenegro into the membership of NATO. This was particularly evident during the election campaign in Montenegro's parliamentary elections in mid-October 2016 [14]. However, Montenegro has consistently remained on the path of the Euro-Atlantic integration and it is expected to access NATO in the first half of 2017.

Russia is more than resolutely against Bosnia-Herzegovina's and Macedonia's membership in NATO. In this sense, one can expect the support to the Serbian political parties in Bosnia and Herzegovina, as well as to certain circles in Macedonia in order to suspend the country's approach to NATO.

If in the future, the course of poor relations between the European Union and the Russian Federation continues, the countries of the Western Balkans, especially Serbia, Bosnia and Herzegovina and Macedonia, which did not impose sanctions against this country in 2014, will have a hard choice to make. This primarily refers to Serbia, which is expected to open the accession negotiations on Chapter 31 - Common Foreign and Security Policy of the European Union in 2017 [15]. Serbia has, so far, often "obscured" itself behind its specific historical, cultural and religious relations with Russia, but it seems that if it wants to speed up the process of accession to the European Union, it actually has to make a significant deviation from official Moscow, including the modification of the existing economic agreements. However, the Russian political influence in Serbia is gradually strengthening, which can lead to a significant modification of the political scene in the way of strengthening the impact of pro-Russian political parties and thus dulling the blade of the pro-European part of the government. This would result in a revival of the plans for membership in the Eurasian Economic Community [16]. It should be noted that Russian influence is considerably growing stronger in other countries, such as Bulgaria and Greece.

It is evident that the introduction of the restrictive measures from Montenegro to Russia, according to the framework established by the European Union in 2014, has contributed to the increasing involvement of the authorities in Moscow in an attempt to change the authorities in Podgorica and strengthen the pro-Serbian/pro-Russian political

factors. This showed how much the Russian political circles can affect the configuration of the political spectrum of the Western Balkans.

3. CONCLUSION: THE NARROWING OF THE REALISTIC CHOICE

The process of European integration means that the candidate countries for EU membership largely support its instrument of the Common Foreign and Security Policy and that as future state members they will change their positions in terms of domination of European legislation and values [17]. It is, in this sense, the main challenge for foreign policy positioning of the Western Balkans countries towards the Russian Federation, but also towards the influence of this country in the region. Namely, some countries of the Western Balkans, like Montenegro and Albania, almost fully aligned its foreign policy with the Common Foreign and Security Policy of the EU and in this context introduced the restrictive measures against Russia. The authorities in Pristina have done the similar.

On the other hand, Bosnia and Herzegovina, Serbia and Macedonia did not join the sanctions, although some of them are candidates for membership in the European Union. This, among other things, resulted in the fact that the level of compliance of the foreign policy of Serbia, and also Macedonia, is quite low compared to the fact that these countries are candidates for EU membership.

Therefore, it is quite clear that the strengthened political influence of Russia in these countries cannot be considered sustainable for a long period. On the contrary, the real progress towards membership in the European Union will not be possible unless there is a real reconciliation with the legal policies, but also with the instruments of the European Union. Therefore, it is expected from the Western Balkans to fully follow the foreign policy course of Brussels.

It is especially important that the Federal Republic of Germany will insist on joining these measures, and without their *de facto* implementation, there will be no progress in the context of achieving the membership of the Western Balkans into the European Union. Also, it will be uncertain whether the otherwise fragile peace in Ukraine will be preserved for a long period in this country, i.e., whether the possible new escalation of the conflict in this country will affect the re-escalation of the relations between Brussels and Moscow.

Russia, in this regard, may further revise its position in the Western Balkans and it will be either through a direct or indirect obstruction of the path of the countries in the region towards the European Union. Namely, the EU membership of these countries will demand an objective reduction of the influence of the Russian Federation in the region, both in the sphere of energy and the sphere of economy. The political influence that the Russian Federation has in the countries of the Western Balkans will be considered as an especially aggravating issue. On the other hand, its influence grows in the radical right-wing and conservative political circles (i.e., the non-governmental organizations, political parties, etc.). This may affect the further reduction in the number of citizens of the countries in the region supporting the integration of their country into the European Union.

If, however, there was a predominance of Russian influence in the Western Balkans that would imply its long-term isolation in relation to the European political, economic and security mainstream. In this way, the region could be further separated, i.e., "alienated" from Europe, which would exacerbate the "cementing" of the position of the ultimate European periphery for the Western Balkans. This would necessarily impact the inter-ethnic or interstate relations in the region, which would necessarily contribute to the

deepening of the conflict of the political actors in the field of "East-West" [18]. The instability of the political situation in that respect would be transferred to the regional and to a broader plan, which could result in multiple tensions. They would be reflected in the countries, but also in the region of the Western Balkans. The traditional and long-term divisions of certain societies and their orientation between the West and the East could be sharpened with extremely unpredictable consequences. This "division" is further expanding and contracting the ability for the minimum of social foreign policy consensus.

The political elites of the Western Balkans are still, at least verbally, ready to preserve the "fire" of European integration. However, it is very difficult to predict whether this will be sustainable in the long run without the real indicators of the will and aspirations of the European Union towards the countries of the Western Balkans. Therefore, without a clear evidence from Brussels, and also Berlin, in the future, it will not be possible to preserve the European enthusiasm in the region.

It should be noted that as long as there is a "game" between the influential global and regional actors (such as Russia, China, Turkey, etc.) in the Balkans, concerning its "integration" into the European integration processes, instability and complete internal divisions could be expected. This was confirmed by the period of XIX and XX century in the Balkans, when in the moments of objective predominance of one of the world centers the situation developed towards full escalation of an armed conflict (e.g. the period after the First Serbian Uprising, the First World War, the Balkan wars, etc.).

European integration understood more broadly, not just in narrow bureaucratic terms, actually represents the last link between the Western Balkans and Europe, from which this region had persistently and long been retreating during the armed conflict in the former Yugoslav federation (1991–2001). The perspective for membership of the Western Balkans into the European Union, therefore, represents a substitute for a belated modernization of societies and states, and the only real way to get out from the full economic backwardness and peripheral position, and closer to that circle of the European countries, which can be characterized as a semi-periphery. Of course, this process requires a real and strong strategic partnership of the Western Balkan countries with those of the EU countries that are considered extremely influential. In the current constellation of relations within the Union, this is certainly the Federal Republic of Germany, but also the French Republic.

The necessary internal modernization of the Western Balkans states and societies must be based on the elimination of the deposits of difficult and conflicting past, deposits of deleterious and historically *de facto* unfounded conservatism, religious extremism and the new wave of ethnic nationalism. This transformation of the internal reality of the local societies must, however, rest on the fact that the Europeanisation should involve wider social strata - the academic community, religious circles, scientific circles, etc. The entry of a certain country into the European Union, if it has not thoroughly adopted the change of its strategic goals and values and respect for the European standards, is not enough for the internal modernization by itself. This is proven not only by the example of the countries that joined the EU ten years ago (Bulgaria and Romania) but also when it comes to certain other countries, such as Greece.

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THE TRANSITION OF WORLD ORDER IN THE CENTERS OF GRAVITY AND THE ROLE OF THE REGIONAL "PLAYERS" ON THEIR STABILITY (THE CASE of TURKEY)

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ABSTRACT

The interdependence of states (mainly economic, security, etc.), created as a result of the globalization processes, causes spatial temporal compression that brings the centers of power very close to each other. The spatial temporal compression creates a potential conflict between the centers of power, on the one hand, and an opportunity to exert enormous power at vast distances, on the other hand.

We cannot enter the twenty –first century with a boundary system rooted in the last decades of last century, which is a recipe for disaster. Common interests, such as economy, democracy and modernization and common threats, such as terrorism, migration, climate changes and other, call for different approaches, different relationships, hence, leading to interdependence. It is a fact that the rise of some countries (BRICS Countries, Turkey, Central Asia) has launched a process of reducing the unilateral capacity and power of the super power USA. A stable Russia and a developing China, together with united Europe and the United States will be the new centers of gravity, which will create a new order. We cannot forget the sub-regional players that have an important role for the stability of these centers of gravity. In our paper, the focus will be placed on Turkey as a regional player that is very important for all centers of gravity.

Turkey has had relations with the EU for more than forty years; today, it is one of the candidate countries for EU membership. However, due to many reasons, both internal affairs and external instabilities in Turkey's neighbourhood, its relations with the EU as part of the integration process have started to oscillate. The last few years have been hard on both sides of the relations and under some circumstances and domestic policy changes, Turkey has started to turn towards other world centers of gravity instead of the EU. This break-off in the relations, however, has a negative effect on the EU as well, since Turkey is an important player in its region (given its economic, military and democratic regime), a regional mid-power and a bridge between the new centers of gravity. In this new world order, due to its features, Turkey gives additional power to the centers it gravitates towards. In other words, in the EU case, Turkey needs the EU as much as the EU needs Turkey to continue being part of this power center. The aim of this paper is to present the new world order by using the new power centers and evaluate the importance of Turkey for the EU being a center of power.

***Key words**: New world order, centers of power, interdependence, common threats, interest.*

1. INTRODUCTION

We can define the formatting of the new world order as a manifestation of global reallocation of the political power in specific global - political centres or poles. Based on that, the format of the new world order directly springs from the polarization of the world on the basis of power and the acceleration of the global - political power in specific centres or poles (Ilik, 2012). The return of Russia and the emergence of rapidly growing economies at the geopolitical scene have caused an erosion of the hegemonic position of the USA in the unipolar world (Laurent Cohen - Tanugi, 2008). The economic interest would accelerate the creation of new centres of polarization (Clinton, 2011). The creators of these centres will have the exclusive right to choose their allies (smaller countries /regional or middle powers), through which they will achieve their interests. In such alliances, the distribution of power can be performed in two ways. According to the first way, the policies of the Allies will depend on the center, and according to the second way, the power will be decentralized. That means an emergence of smaller/middle centres of power within the alliance that will have an impact in a particular region. Turkey is one of the important middle power countries that will be allied with these new power centers in terms of its geopolitical and other characteristics. In this context, this study will first examine the new emerging centers of powers; Russia and China. Afterwards, by examining Turkey, the importance of the middle powers for these power centers will be presented.

2. A TECTONIC SHIFT AT THE POLITICAL SCENE

The globalization process has created interdependence between the countries primarily in the economy, politics and national security. This situation has created new actors (such as Russia and the BRICS countries, which, have thus far been only objects or observers at the political scene), whose influence started to erode USA's stable unipolar position in the world order. Thus far, unipolarity has managed to bypass the international organizations at the expense of a lack of adherence to the international law and to pursue the U.S. national interests from a position of power. A high-ranking Russian official, Evgenij Lukyanov, argues that multipolarity calls for the opposite, i.e. respecting and supporting the international organizations, as well as overcoming the global challenges (terrorism, climate changes, migrations, etc.) through a multilateral engagement of the Great powers. According to Lukyanov, "Otherwise, we will have no rules of the game, no agreements. Violations will happen without concrete obligations, and the world will become less manageable and more chaotic*"* ("US hegemony in the world has ended" – Russia's Deputy Security Chief, 2014).

The West was responsible for the implementation of capitalism and the process of globalization. They knew other nations had no alternatives to globalization. China, as well as the countries of the Muslim world, could not offer the world a different model from capitalism and globalization. Orthodoxy and orthodox nations were the only opponents of globalism. To that end, the collapse of socialism was necessary. Although the dissolution of the Soviet Union heralded the end of the Cold War, NATO's subsequent moves proved the opposite. In a period when Russia was on its knees, several former Soviet Republics joined NATO (Latvia, Lithuania and Estonia). In South Europe, NATO's expansion continued with the accession of Bulgaria and Romania. Poland, the Czech Republic and

Slovakia also became member states. Furthermore, at the Warsaw Summit, NATO recognized three aspiring members: Georgia, Ukraine and Macedonia (Erdem, 2010). Thereby, the USA, through its NATO instrument, could control Russia's eastern borders, or as Halford Mackinder calls it, the "Heartland". According to Mackinder, "Who rules Central and Eastern Europe, commands the Heartland. Who rules the Heartland, commands the World-Island personified by Eurasia. Who rules Eurasia, commands the World" (Mackinder, 1904).

After the end of World War II, Mackinder's theory was modified by the American political scientist, Nicholas Spykman. According to Spykman, the strip of coastal land that encircles Eurasia (called Rimland) is more important than the central Asian zone (Heartland) for the control of the Eurasian continent. The concept of Rimland was divided into three sections:

- Control of the European coastland;
- Control of the Arabian-Middle East desert land; and
- Control of the Asiatic monsoon land.

The control of these regions implies control of the sea routes that lead from/towards Eurasia. From an economic aspect, the control of ports and sea routes implies control of the economic development of Eurasia. According to Spykman, "Who controls the Rimland, rules Eurasia. Who rules Eurasia, controls the destinies of the world." (Melton)

In 2001, Russian President Vladimir Putin adopted the Maritime Doctrine of the Russian Federation 2020. The aim of this doctrine is to provide maritime access to Eurasia (Oceanlaw, 2001). That will provide access to the Mediterranean Sea, which is of vital importance for the economic growth of Russia, at the same time reducing the western influence in the region.

3. RUSSIA AS A NEW CENTER OF GRAVITY

3.1. The Annexation of Crimea and Sevastopol And Improvement of the Russia-Turkey Relations

Ports, especially warm-water ones, play a key role in Russian international politics. The only Russian ports towards Europe, Arkhangelsk Oblast and Saint Petersburg, freeze under the influence of the climate conditions over a certain period of the year. Thereby, the maritime access to Europe is prevented in a particular period of the year. The other port is in Vladivostok, which leads to the Pacific Ocean. In such a situation, the Russian economic interests in Europe were achieved through Ukraine. With the crisis in Ukraine, the channel towards Europe was cut off and Russia received sanctions from the United States and the European Union. The response to this politics was the annexation of Crimea and the port Sevastopol, for which Russia signed a 20-year lease deal. The Russian Black Sea and Mediterranean Fleet is stationed in the Sevastopol base. In this way, Russia will ensure its access to warm-water ports. Simultaneously, it will demonstrate its power in the Black Sea region and the Mediterranean.

The annexation of Crimea and Sevastopol initiated the birth of the new world order in which Russia positions itself as the epicenter in geopolitics. As Russian Deputy Prime Minister Dmitry Rogozin said in 2014, "the process of unification of Crimea and Sevastopol with Russia was the sign of the end of the unipolar world" (Sputniknews, 2014) . Russia acts on the political scene regardless of the costs. It is a model similar to the western one (Hamilton & Meister, 2016).

The access to the Mediterranean Sea depends only on Turkey, which controls the Bosphorus as its gate. That implies an improvement of the relations between Russia and

Turkey. On the other hand, Turkey is a NATO member state. The improvement of the Russia-Turkey relations automatically leads to a disruption of the NATO-Turkey relations and the strategic interests of NATO. Simultaneously, Turkey is a key NATO member state as a gate toward the Middle East. The downing of the Russian warplane on Turkey's territory, the *coup d'état* attempt in Turkey, as well as the terrorist attacks, are moves that demonstrate that there are attempts to undermine the agreement between Russia and Turkey. However, after the *coup d'état* attempt in Turkey and the accusation against Fethullah Gülen's organization and the Unites Stated as the main culprits, Russia-Turkey ties will only improve.

3.2. Russian Base in Tartus - Syria

The only Russian naval facility on the other side of the Bosphorus is located in the city of Tartus, Western Syria. This base will help Russia to further strengthen its presence in the Mediterranean, primarily from a military and economic perspective. The deployment of the S-300 missile system and the presence of the navy will create a forbidden zone, thereby preventing a NATO offensive against Russia and its allies in the region. On the other hand, Syria is Russia's long-term client with respect to the arming of its military, thereby helping Russian economy. Consequently, the Russian involvement in Syria is primarily of strategic importance (theatlantic.com, 2015).

3.3. Russia-US Relations and Their Reflection on Europe

The world is at its greatest peril when the international order is moving from one system to another. According to Kissinger, "*Restraints disappear, and the field is open to the most expansive claims and the most implacable actors. Chaos follows until a new system of order is established*" (Kissinger, 2015). The presidential victory of Republican candidate Donald Trump can cause major tectonic shifts on Europe's soil. If we consider his declarations: 1. US hegemony is in decline; 2. Focus on the internal development of the United States; 3. Improving relations with Russia, which would mean lifting the sanctions against the country and having a joint approach to global threats; and 4. Improving relations with Turkey; obviously, these developments will also reflect on the European scene. Can we expect a new Yalta agreement between the United States and Russia that will divide Europe into regions of influence? The first agreement between the U.S. and Russia could be the division of influence in the Middle East. The Russian involvement in the Syrian Civil War (see the reasons we stated above) revealed that Russia has no intention to withdraw from its strategic goal. For that reason, Russia decided to withdraw from Iraq where U.S. troops are stationed.

The economic crisis, the Ukrainian crisis, as well as migration and terrorism brought to light the friction in the European Union. Concerning these issues, the European Union is *de fact*o internally divided. Lacking mutual understanding and a joint strategy, these threats lead to strengthening of nationalism, especially in the countries of Central and Eastern Europe that want to protect their national sovereignty and security. Such discord between countries is to the advantage of Russia whose aim is to conquer Europe economically, i.e. by natural gas distribution. As a result, Russia must maintain some influence in Ukraine in order to distribute the natural gas to the countries in Central and Western Europe.

According to the new President Donald Trump, China is the only threat to the United States. Therefore, the thawing of U.S. - Russia relations and the agreement to work together in order to isolate China will be costly. Instead of such a move, Russia will seek

influence in the countries of Eastern Europe with predominantly orthodox population, in order to form a so-called 'Orthodox Union' and strengthen its position on the geopolitical scene as a global player. The 'Orthodox Union' will comprise Russia, Ukraine, Georgia, Moldavia, Romania, Bulgaria, Greece, Macedonia, Serbia, Montenegro and part of Bosnia and Herzegovina. In principle, this union will not be created for the orthodox people, but only for the economic interests that the smaller countries have as transit zones for the distribution of gas to Central and Western Europe. The increasing Euroscepticism resulted in BREXIT, i.e. the British exit from the European Union that is to start in 2017.

Recently, the National Intelligence Council prepared a report for the CIA entitled 'Mapping the Global Future 2020' (NIC, 2004), which suggests that the European Union will disintegrate and Europe will be divided into three groups of countries:

- ***Western Bloc*** **(**Western wing of Catholic Europe**)** comprising Germany, France, Great Britain, Ireland, Austria, Italy, Spain, the Benelux countries and Scandinavia.
- ***New Europe*** comprising Estonia, Latvia, the Czech Republic, Slovakia, Poland, Hungary, Croatia, and Slovenia, or the so-called 'Eastern wing of Catholic Europe' (Both unions will be under NATO influence)**.**
- ***Orthodox Union*** (*Gas Union*) comprising the previously mentioned countries under the influence of Russia.

4. THE ROLE OF CHINA AND THE INFLUENCE OF BRICS COUNTRIES ON THE WORLD ORDER

The issue about the role played by China and its dominance in the world order is debatable. Globalization and the interdependence of the political, scientific and business relations with the outside world, such as Europe, the U.S., as well as Africa as an un-penetrated market, were the key factors that changed China's firm position. Currently, China's goal is to conquer the rest of the world economically. Having long-term plans about these values, China started to impose its influence through its megaproject "The Silk Road" by land and sea route, as well as through investments in Africa (to date, about 400 billion dollars have been invested). In order to ensure the safety and stability of its investments, China began to construct a military base in Djibouti, which location is of strategic importance and security in international trade. Simultaneously, this base will give China greater control and influence in the Red Sea and the Suez Canal as a gateway to Europe. This "Silk Road" should continue through the Balkans (Greece, Macedonia, Serbia and Hungary with the construction of a high-speed railway through these countries). Given this interest, the construction of the military base in Djibouti will respond to the threats of the terrorist organizations al Shabaab in Somalia and the Yemeni branch of al Qaeda. China is also a target of the ISIS. The decision of the Chinese president, Xi Jinping, to join the alliance of Russia and Iran for liberating Syria and neutralizing the terrorist organization ISIS, was the motive behind the ISIS terrorist attack in Kyrgyzstan. This decision is without a precedent and signifies a watershed in China's position, abandoning its neutrality and non-interference in the domestic affairs of other countries. The information that this terrorist organization counts several thousand Uyghur fighters, whose origin is from Western China and who have separatist aspirations, is cited as the second important reason why China joined the fight against terrorism, primarily against ISIS.

At the summit in the Russian industrial city of Ufa, the BRICS countries reached an agreement to build a multipolar world order in which the countries will strive towards a more equitable order in international relations. The concluding declaration suggests

establishing a New Development Bank of BRICS, as well as a reserve currency pool, which should represent a counterbalance to the International Monetary Fund controlled by the West. In addition to the summit in Ufa, the Shanghai Cooperation Organization was also founded, led by Russia and China. In addition to China and Russia, this meeting was also attended by Tajikistan, Uzbekistan, Kyrgyzstan and Kazakhstan. The member states reached an agreement for establishing an alternative world order without the dominance of the Unites States and the U.S. dollar, closer economic cooperation, as well as for tackling the crises in the world. In the ensuing period, India and Pakistan are expected to become new members of the Shanghai Pact.

5. THE INTERSECTION OF THE NEW CENTER OF GRAVITIES: TURKEY

Turkey, due to its geographical position, needs to examine a more detailed and different perspective. Geographically, Turkey is on the junction point of the main roads and could be considered as a European, a Balkan and a Middle East country. Historically, it is a well-known fact that Turkey's roots were based in the Ottoman Empire, however today it is a secular, democratic and west-oriented republic with a nearly hundred years-long past. All regional crises arising from the geopolitical, geo-economic and geo-cultural fragmentation of the Balkans, the Caucasus and the Middle East, which are the nearest land bases of the Republic of Turkey affect the country directly. This effect is driven in two directions. Sometimes the political, economic and cultural fluctuations that Turkey has experienced itself directly affect the developments in these basins and sometimes Turkey is affected by the developments in these basins. Turkey is located between the North and the South in terms of the international economic-political structure, whereas in terms of the international geo-cultural structure, it is on the transit line between the East and the West. This position should be viewed as a geo-political, geo-economic and geo-cultural integration tool that enhances Turkey's regional and global role (Sandıklı, 2011).

Turkey has been cooperating on many different levels with the Western world since the first years of the republic, it is one of the candidate countries for EU membership, as well as a member of many international organizations, especially NATO. It is natural that over such a long period of time, the relations between the Western world and Turkey have not always been perfect; however, despite all the crises that have taken place, Turkey's importance in this new period is increasing. Turkey has been an important U.S. ally since the late 1940s. After the end of the Cold War, Turkey has continued to play a critical role for the U.S. interests in many regions, such as the Middle East or the Caucasus and Central Asia. In all these areas, the U.S. - Turkey cooperation needed to achieve the U.S. policy goals. However, the U.S. Middle East policies – the intervention in Afghanistan, Iraq and the U.S. - Iranian relations – which have a direct influence on Turkey's internal and external security, have created a negative impact on the relations of the allies. All these changes have expanded Turkey's geostrategic role and interests in the region and Turkey is now less willing to automatically follow the U.S. lead on many issues. Another reason for Turkey, which had its face turned towards the West for many years, to direct its attention to other regions like the Middle East and the Caucasus is the weakening of its relations with the EU. In December 2004, the EU decision to open the accession negotiations with Turkey accelerated new reforms for membership, however the popular opposition to Turkey's membership to Europe, based on a variety of reasons, including Turkey's size, development level and cultural factors, have reduced Turkey's will even among the Western-oriented Turkish citizens (Larrabee, 2010). At this point, the

EU is already experiencing a difficult process on union level. At the same time, the coup attempt in the summer of 2016 and the state of emergency in Turkey have affected both sides negatively. However, that does not mean that Turkey has entirely abandoned the EU membership.

The end of the Cold War and the disappearance of the Soviet threat decreased the U.S.–Turkish security partnership and opened new opportunities in areas that had previously been neglected, particularly in the Middle East and the Caucasus and Central Asia. Especially after 2000, Turkey tried to implement a more geostatic foreign policy. This geostrategic perspective led to more liberal economic policies and has increased Turkey's trade with the Middle East and the Gulf region. Trade with Russia has also expanded significantly and has been an important driving force behind the visible improvement in the Turkish–Russian relations. Additionally, the political ties between the two countries have also warmed (Larrabee, 2010). The crises of Georgia and Ukraine had affected the relations between the two countries, but after the shooting down of the Russian aircraft in 2015 by the Turkish Air Force on the Syrian – Turkish border, the relations between the two countries had almost reached the point of breaking. As a result of the support provided by the Russian Government to the Turkish Government during the coup attempt and the increasing tension with the U.S., the Turkish-Russian relations have become more positive than before. On 10 October 2016, Turkey and Russia signed an inter-governmental agreement on implementing the construction of the planned Turkish Stream gas pipeline to pump Russian gas under the Turkish waters in the Black Sea towards Europe. This pipeline completely left Ukraine out of the gas transfer to Europe and the Black Sea and the Balkans except for Turkey (Bilge Adamlar Kurulu Raporu, 2014). Even in the case of the murder of the Russian Ambassador Andrey Karlov in Ankara by the Turkish assassin on December 19, 2016, Russia demonstrated a very cool attitude and took care not to harm the relations. Historically, the Turkish-Russian relations have followed a course of ups and downs. In today's world order, Russia wants to become a new power center in the international arena and it has come to the conclusion that it has to work in harmony with Turkey, which has a particularly important position in the region.

On the other hand, Turkey has recently been closely related to Central Asia and BRICS (with the exception of Russia). Turkey is the key link between the countries of Europe and Asia, both maritime and land road. Through pipelines, Turkey connects the rich energy sources in Asia to Europe where large numbers of consumers are located. The revival of the Silk Road, which made an important contribution to the enrichment of these regions in the past, can contribute to the development of economic, commercial, cultural and political relations among the Eurasian countries, regional integration initiatives and regional peace and stability (Sandıklı, 2011). At the end of 2016, Turkey became the chair of the Shanghai Cooperation Organisation Energy Club for 2017. It is the first non-full member (dialogue partner) country to be the chair of a club in the organisation. These changes on the global scene indicate, as Hüseyin Bagci, a Professor of International Relations at the Middle East Technical University in Ankara says, that Turkey is a "non-negligible country" for the global policy makers who want to establish a forum to deal with global challenges. (Bagci, 2011).

6. CONCLUSION

The international order is facing a paradox: its prosperity depends on the success of globalization, but that process produces a political backlash that often runs contrary to its aspirations. This situation has led to the growth of right-wing political parties that have strengthened the nationalist rhetoric. The resurrection of Russia on the geopolitical scene and the rise of other emerging economies contributed to further polarization and division of certain regions. The decentralization of the power of influence within the polarized regions will lead to smaller regional players who will have the responsibility to control the particular region. On the other hand, there is the danger of these players growing into big players over a certain period of time. Then, these unions can be dissolved or remodelled, imposing thus the need for redefining of the world order again.

In addition, this study examines the importance of Turkey, which is on the intersection of the new power centers. It is now evident that the unipolar order after the Cold War has begun to near its end, Russia has achieved great progress in the military field, whereas China has been successful in the economic area. In this process, Russia attaches great importance to the good relations with Turkey in order to achieve its economic and political goals. The most important reason for this is the geopolitical position dominated by the Turkish Bosporus. At the same time, this geographical feature is very important for Russian energy politics and income. A similar situation is necessary for the relations with China and the Asian countries. It is a sign that the countries of the region have attached more importance to Turkey in recent years, especially with the developments within the SCO. In fact, the relations promoted with the SCO convey a message to the Western world, which constantly makes Turkey its "other".

While Russia and the Central Asian countries have attached much more importance to Turkey, the U.S. and the EU have almost turned their back on Turkey in today's conditions. Especially the relations between Turkey and the U.S., which were allies since the Cold War, have been going through tough times. However, the close relations between Turkey and Russia are affected by the U.S. policies in the region. Briefly, no matter which power center needs access to the new resources of the world to increase its power, it will not be able to ignore the geographical feature that Turkey possesses. In this case, as we have stated above, by being allied with a new power, Turkey gets a chance to create regional influence.

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MICRO-GEOPOLITICAL BORDERS OF DIVIDED CITIES: THE CASE STUDY OF MOSTAR

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1. INTRODUCTION

According to many scholars in the field of history and political science, the 20th century was a century of aggressive division. Along with the Great War that escalated on the European land, the map of Europe was seriously converted. Back in those days, most of the European territory was made out of only few multinational empires – the Austro-Hungarian Empire, the Ottoman Empire and the Russian Empire – along with few other states which had transoceanic and trans-Mediterranean colonies such as the Great Britain, Spain, France, Portugal, Italy and Germany. After the escalation of the First World War, serious geopolitical changes led to the collapse of old empires, rise of communism and extreme national movements in Europe.

Generally speaking, those uprising phenomena clashed at one point with the liberal ideas of free market, democracy and the legal right of self-determination. Even at that time, the newly established international organization, the League of Nations, did not do much to prevent a new world war. However, it did postpone the inevitable. After the end of the Second World War, the cleavage between ideas throughout Europe remained the main issue that was yet to be overcome. The Cold War between the East and the West is by far the best example. Finally, after the collapse of communism, a common European and Transatlantic project of cooperation was offered to all interested countries in Europe in order to overcome the post-conflict issues.

The ex-communist part of Europe at the beginning of the last decade of last century had more or less a successful democratic transition with few exceptions. Yugoslavia, Czechoslovakia and the Soviet Union collapsed, which led to a new wave of national self-determination, in some cases not very successful democratic transition and establishment of new nation-states. Followed by different points of view for the future organization of the country, Yugoslavia ended up in a conflict. Slovenia, Croatia and Bosnia-Herzegovina declared independence and requested international recognition, which caused serious aggression of the Yugoslav People's Army empowered by the ideology of Serbian fascists. Slovenia did not fit into their project of *Great Serbia*, but parts of Croatia and, in specific, Bosnia and Herzegovina did. As an outcome, the last conflicts of last century that happened on the European continent were the Croatian Homeland War and the Civil War in Bosnia and Herzegovina.

Nevertheless, the recognized national borders did not prevent further divisions on local levels and micro scale geopolitics. Divided regions, cities and imagined borders are still crucial part of the geographies and geopolitical visions in this part of the world. Micro regional geopolitics and micro regional borders thus represent a key research area in this

field of studies. Micro regional borders could be defined as an upcoming phenomenon. Those borders could be geographically natural, agreed (administrative) and in case of human geography even ethnical, linguistic or religious [1] (pp. 26). In this research, cartography will be used both as a method of data collecting, as well as a method of data analysis. According to Black, mapping of boundaries is a key research issue of political cartography [2] (pp. 121). Political cartography represents an interconnection between and space and territorialisation within its nature [3] (pp. 119).

2. THE CRITERIA OF DIVISION

The war in Bosnia and Herzegovina ended by the end of 1995. However, the post-crisis management in this country had little success. The city of Mostar in Bosnia and Herzegovina is a city where one of the worst fights took place and is still considered to be an example of a divided city. Nowadays, it is considered to be divided between Croats and Bosniaks/Muslims, since the major battles that happened in this city were after the Greater-Serbian aggression on the city, the ones between former allies – Croats and Bosniaks/Muslims. In the period between 1993 and 1994, before the ceasefire agreement, the Washington Agreement, which main purpose was to stop the conflict between Croats and Bosniaks/Muslims, Mostar was the capital of the Croatian Republic of Herzeg-Bosnia, a self-proclaimed Croatian entity in Bosnia and Herzegovina. The western part of the city was under the control of the Croatian Council of Defence (CCD), the army of the entity the Croatian Republic of Herzeg-Bosnia, whereas the eastern part was under the control of the Army of RBIH, the official army of the Republic of Bosnia and Herzegovina (ARBiH). After a series of serious fights and unsuccessful negotiations, the line of division between the two parts of the city was established on *Bulevar*, the longest boulevard in Mostar. Generally speaking, the political and territorial divisions in Bosnia and Herzegovina reflect the situation that was found on the battlefields immediately after the war, in the autumn 1995 [4] (pp. 8). Since then, Mostar has had two, in many aspects, completely different parts of the same city and it is considered to be divided.

Divided cities are a subject of interest for many scholars in the field of social sciences. From a geopolitical point of view, divided cities can be considered as one of the outcomes of radical conflicts caused by deep historical divisions of ideas. It is hard to establish a general criterion when studying divided cities, but some general overview of literature [5, 6, 7, 8, and 9] led us to conclusion that there are more than few indicators that precisely define the city as divided. The first one, defined by the authors of this paper themselves, is definitely the political, cultural, religious and sport division. These criteria should be named identity criteria.

The city of Mostar, located in West Herzegovina, is by far the biggest city of Herzegovina region, a cultural and political centre situated on the Neretva River. It has a population of around 105 000 people. According to the latest census dating 2013, the national structure of Mostar indicates that 48. 41% are Croats, 44. 19% are Bosniaks, 4. 18% are Serbs and 3. 21% are members of other communities [10] (pp. 59). The Croats of Bosnia and Herzegovina view Mostar as their political and cultural centre. The Croatian Lodge of Herzog Stjepan Kosača (in Croatian: Hrvatski dom herceg Stjepan Kosača) and the Croatian National Theatre of Mostar (in Croatian: Hrvatsko narodno kazalište Mostar) are located in the west part of city, as well as the office of the Croat Member of BH Presidency.

There are also most of the head offices of BH-Croatian companies, such as the Croatian Post Mostar (in Croatian: Hrvatska pošta Mostar) and the Power Company of the

Croatian Community Herzeg-Bosnia (in Croatian: Elektorprivreda Hrvatske Zajednice Herceg Bosne). On the other hand, the eastern part of the city has post offices of BH Post Sarajevo, cultural institutions that represent Bosniaks exclusively, such as the National Theatre (in Bosnian: Narodno pozorište), the Bosniaks Cultural Community Preporod (in Bosnian: Bošnjačka kulturna zajednica Preporod), etc. Moreover, each part of the city has a different city centre, restaurants, markets and even shops. Due to the strong influence of the past conflict, a lack of deliberation among politicians and a lack of principles of consociation democracy on state level, the local elections were suspended almost nine years ago. In a political sense, Mostar is a frozen city with the same mayor for nine years, without an adequate election law and without a city council.

Most of the religious objects that both nations identify with are concentrated in either dominantly Croatian or Bosniak parts of Mostar. The majority of Croats are Catholics, which means that most of the religious objects in the western part are churches, whilst Bosniaks are Muslims so most of the objects in the eastern part are mosques. While looking at the skyline of Mostar from the surrounding hills and mountains, it almost seems like there is a kind of competition between the religious communities about who is closer to the supreme deity. In both cases, belfries and minarets are so high that it almost looks like they are only few meters away of reaching either God or Allah. As an illustration, the Franciscan church situated on the former line of demarcation has a 107. 2 meters high belfry [11]. When we did our research it was around Christmas – the western part of the city was completely decorated with Christmas lights and a Christmas festival was organized, while on the eastern part there was no sign of Christmas whatsoever. Even though Mostar likes to brag in tourist guides about being a multi-confessional city, it has no signs of coexistence and mutual respect. When it comes to religion, it is obvious that the city is indeed strictly divided.

Sport is also a delicate subject in Mostar. Taking into account only football, as most the important unimportant thing in the world, there are two most famous clubs, withal city rivals: the Croatian Sports Club Zrinjski (in Croatian: Hrvatski športski klub Zrinjski) and the Football Club Velež (in Bosnian: Fudbalski klub Velež). Both clubs play in the BH Premier League and both of them have their own stadiums – Zrinjski in the western part and Velež in the eastern part of the city. The majority of the players are, depending of which team they belong to, either Croats or Bosniaks. Even though cultural, religious, sport and everyday life are completely separated, there are some efforts to overcome the obvious division through cultural events, such as the music festival the Melodies of Mostar (in Croatian/Bosnian: Melodije Mostara) or Mostar Film Festival.

The second criterion of division is surely the one which is a little less connected with nationalism and a bit more with public finances, transportation and infrastructure. In other words, the administrative criterion. Although it is impossible to get an insight about income, life expectance, level of education and other economic criteria in both parts of Mostar separately, there are obvious divisions in this field as well. Just taking a simple walk through both parts of the city can is enough to easily spot this division. Streets, parks and buildings are in much better shape on the western part of the city then on the east.

Although most of the architecture along with all bridges was completely demolished during the war, the western part is almost completely rebuilt, whilst in the eastern part ruined architecture is still part of everyday life. The western part of the city is divided in parking zones and you are obliged to pay a parking fee - there is a public company for regulation of parking, while on the eastern part there are no zones or furnished parking places, except the private ones. The Mostar Bus today presents a

publicly financed company in the city which main purpose is to provide transport in Mostar. Each part of the city has its own director and bus lines that are supervised, although it is officially one company [12]. When looking at the route map of the Mostar Bus' lines, it is visible that only a few bus lines cross the former line of demarcation. The hospital in the west part of the city, the University Clinical Hospital Mostar (in Croatian: Sveučilišna klinička bolnica Mostar), is partially financed by the Croatian Government [13] and is far better equipped than the Regional Medical Centre "Dr. Safet Mujić" (in Bosnian: Kantonalni medicinski centar "Dr. Safet Mujić).

The third criterion is mental and is strongly connected with the geopolitical discourses and geopolitical culture. Simply said, it refers to education, collective memories and self-perception of Mostar's inhabitants. Mostar also has two different universities – the western part has the University of Mostar (in Croatian: Sveučilište u Mostaru) with Croatian as the official language, whilst the eastern part has the University Džemal Bijedić of Mostar (in Bosnian: Univerzitet Džemal Bijedić Mostar) has Bosnian as the official language. The elementary and high schools are also strictly divided between schools teaching Croatian curriculum and schools teaching Bosniak/Bosnian curriculum.

Even the street names show division – most of the streets in the western part of the city refer to some historical events or persons from Croatian history, whilst the streets in the eastern part refer to Bosnian history. Flags throughout the city also differ – there is various spectrum of flags – the official flag of Bosnia and Herzegovina, the flag of the former Republic of Bosnia and Herzegovina, the flag of the former Croatian Republic of Herzeg-Bosnia, the official flag of Croatia, the official flag of Turkey, flags of both former armies, etc. It is easy to guess which can be found in which part of the city.

To what extent can the division defined by all these criteria in *Table 1* explore the geopolitical discourses that led to the division of Mostar in the first place? To answer this question, authors of this paper strongly suggest first to make a wider historical analysis of the pre-war, war and post-war period. Since we do not have time for this kind of analysis, we will try to provide a simpler answer. As established before, the source of division in the case of Mostar is definitely the war between the ARBiH and the CCD combined with the lack of successful post-conflict management policies that should have the capacity to restore the social capital in cities affected by war, like the case of Mostar. As an outcome, the cleavage between the two national groups in Mostar deepened even more leading to the absolute division by the criteria established in Table 1.

Table 1: The criteria of division proposed by the authors.

CRITERIA	SUB-CRITERIA (DIVISION REGARDING…)
IDENTITY	Culture, religion, sports and politics
ADMINISTRATIVE	Public finances, transportation and infrastructure
MENTAL	Education, collective memories and self-perception of inhabitants

3. RESULTS OF THE RESEARCH: MOSTAR AS A DIVIDED CITY

Since the aim of this paper is to establish the perception of the local people living nowadays in Mostar, more than 20 years after the war conflict, it is purposely left to be checked as the last sub-criterion, because all the above criteria and sub-criteria help us understand all the levels of division. The final sub-criterion, self-perception of inhabitants, represents a synthesis of all the previous sub-criteria. It allows us to explore beyond the empirical image of division established here leading us into the field of geopolitical discourses and borders that can be the cause of such a strong intensity of division in

Mostar. Mental borders in people's heads show invisible divisions usually hidden from the classical geographies and spatial visions of tourists and visitors. On the one hand, these mental borders represent, as mentioned earlier, a synthesis of all the previous sub-criteria since they can be both at the same time – a cause and an effect of division. On the other hand, they are unique visions of personal reflections of the people living in the city.

The self-perception of borders between entities of all kinds is usually a reflection of stressful things and events caused previously. Mind borders established as a way of protection from the other side that did us harm are there to help us escape a possible escalation of a new stressful situation. In order to check if the city of Mostar is really as divided as it seems, this paper briefly presents a research that relies on the methodology of mental maps which main goal is to establish the depth, as well as the geopolitical patterns of division in Mostar. By doing so, the final sum up will indeed outline all sub-criteria into one that refers to the self-perception of the inhabitants.

Mental maps present a relatively new and not so dominant methodology in social sciences [14]. Nevertheless, Sebastien Caquard [15] claims that there has been an up-growth in scientific interest in combining the linkages between maps and narratives. Even more, imagining geographies has become rather popular in geopolitical analysis [16]. The main goal is to explore whether an observed entity is divided in any possible way. The city of Mostar represents a local community and the base ground of the research is, as said before, borders and elements of division that create a theoretical base for this research in micro-geopolitics. The focus group in this research encompasses 101 random inhabitants of Mostar, all over 18, from both parts of the city. Every examinee was offered a blank map of Mostar, a screenshot from Google Maps, as Figure 1 shows, and was asked to draw roughly the border(s) if he/she thinks that the city they live in has borders. They were not obliged to do so. However, the outcome was astounding.

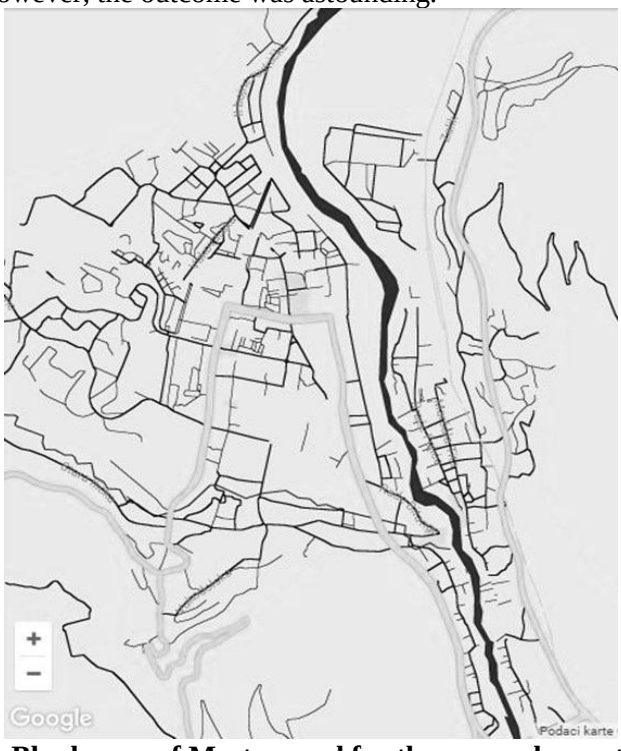

Figure 1: Blank map of Mostar used for the research questionnaire

The research took place in Mostar from the 21st until the 24th of December 2016, at various public locations throughout the city. Most of the examinees when asked to draw the possible borders were not surprised by the questions and did this as any other completely normal thing in their lives. However, there were few respondents who asked us which borders we want: the one on the Neretva River or the one established during the war conflict between the ARBiH and the CCD. In this situation, our only possible answer was to tell them to draw what they think should be drawn. One older lady told us that she does not want to draw any lines like those who fought in the war did, but that she would do it anyway since everybody in Mostar was aware that this is no longer the city it was before the war.

After the research was done, all maps were numbered and brought back to Zagreb for analysis. The simplest way to do so was to remove the white background of the maps and then stack each and every scanned map on top of each other. Combined all together, the "new" map that we got presents the true situation regarding the situation in Mostar and the borders in its inhabitants' heads. The result of this phase of research can be seen in Figure 2.

Figure 2: Borders and divisions according to Mostar's inhabitants

4. INTERPRETATION OF RESULTS AND CONCLUSION

Figure 2 clearly shows the more than obvious division of the city in the eyes of its inhabitants. The borders drawn by the respondents are strictly defined alongside river Neretva or along the boulevard that used to be a line of demarcation between the armies involved in the past conflict. In this case, Neretva presents the "natural" border between two nations, geographically determined by the river, whilst the boulevard presents the former military border that still remains in people's minds. The border on Neretva shows how the geographical factor is still a very important part for the researches in the field of contemporary geopolitics, even though the logical mental border should be on the former line of demarcation since it is evident that the main cause of division in Mostar was the past war conflict and not the fact that the river flows right through it. However, since all the borders in Figure 2 show either the boulevard or +/- 150 meters west and east from it, it should be more than clear that the hard mental border between the eastern and western part of city exists indeed and shapes everyday life in Mostar.

The final sub-criterion, the self-perception of the inhabitants, indeed proves the deep discord between the two sides in one unique city and helps us synthesize all the previous sub-criteria and criteria bringing us to the conclusion that Mostar is not just a divided city by some objective standards, but also deeply connected within the geopolitical discourses of division in people's heads. Thus, Mostar is a great example of a city which geopolitical culture which is strictly defined by means of division. This leads us to the conclusion that Mostar reached a point from which it will be even harder to remain a unique city. Unfortunately, the only way to release itself from even deeper division and political blockade is to establish two separated municipalities within one city and thus improve the social cohesion between the nations of Mostar.

The key findings are: a) Mostar is a divided city according to the mental maps of its inhabitants; b) the line of division is the frontier instead of a border; and c) the fluid division overlaps with the lines of division identified previously in the other criteria of division. The total number of respondents confirmed that the city is divided. Some of them were reluctant about dividing the city, but nevertheless they agreed that division exists. The frontier of division goes from the Neretva River to the former war line of demarcation. The Neretva River serves as a geographical line of delimitation and physical obstacle. The former demarcation line serves as geopolitical and identity delimitation of the city. Those two borders create a frontier zone and show a fluid, rather than strict, perception of the city division. The research has proven that the administrative and identity divisions are embedded in the mental perception as well. We can conclude that 20 years after the war, the divisions are still visible not just in most of the aspects of everyday life, but also in the perceptions and geopolitical visions on micro level.

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HYBRID WARFARE THROUGH THE PRISM OF UKRAINIAN CRISIS

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The history of wars as a social phenomenon is continuously evolving. This has been determined by the factors which directly reflect who will *"win the war"*, the most important factors being: changes in international relations, shifting the center of global power, the influence of global policy and the technical - technological development of weapons.

The emergence of opponents who plan and organize wars in symmetric and asymmetric ways, implies the need for a new definition of war or the emergence of *"hybrid warfare"*, which in itself represents a combination of: conventional, irregular, terrorist and criminal activities all aiming to *"win the war"*.

One of the basic purposes of this paper is to present the historical development of hybrid warfare by explaining its operational phases and methods.

The main hypothesis of this paper based on a historical method and comparative analysis attempts to determine: *"Were operational phases of hybrid warfare present in the Ukrainian crisis, from which side and in what way"*.

The comparative analysis will be based on the practical models that were previously used in crises as operational phases of hybrid warfare and they will be compared to the culmination point of the Ukrainian crisis scenario.

In addition, we will make an individual analysis of the methods of hybrid warfare that were used by the Ukrainian forces supported by NATO against the Russian separatists supported by Russia and vice versa.

Keywords: evolution of hybrid warfare, operational phases, Ukrainian crisis, NATO, Russia

1. Introduction

With the collapse of the Soviet Union and the Warsaw Pact, the international relations were unified with a strong hope that in the near future there will be less international conflicts and confrontations. Military history has, however, proved this to be a wrong hypothesis.

Nevertheless, in a short period of time, less than a decade after the collapse of the Soviet Union, a new era in international relations was opened, in which the "use of force" in resolving international conflicts and wars reincarnated as a possible option for solving them.

Practically, what we stated above was illustrated practically in both wars against terrorism in Iraq and Afghanistan. Thereby, if we want to explain the strategic objectives of hybrid warfare, it is first necessary to make an introduction of the evolutionary development of this kind of warfare.

The simplest way to define hybrid warfare is to say that this kind of warfare represents a combined use of conventional and irregular forces in the execution of the military campaign. The famous military historian Professor Peter R. Mansoor, defines hybrid warfare as a conflict which is carried out with a combined use of conventional and irregular forces (guerilla rebels and terrorists) that may be state or non-state actors.

Their common goal is to achieve common political interests. Seen from this perspective, hybrid warfare is an entirely new model of warfare. There are numerous examples of the use of modern information technology for achieving better results on tactical, operational and strategic level, even those in the writings of the Chinese philosopher Sun Tzu, whose world-renowned descriptions originate from the fifth century BC.

The irregular warfare in military history has always been classified as a serious challenge to the conventional military forces or, to be more specific, to the conventional model of warfare[1].

Over time, the guerrilla-style warfare created a very important and effective long-term impact on the impossibility of implementing NATO's effective modern military operations. The NATO operations in Iraq and Afghanistan have once again confirmed the inability and difficulties to overcome the irregular fighters without infringing human rights according to the United Nations resolutions and the accusations of the local population for disobeying the national and international regulations for public support of NATO to conduct military campaigns[2].

In 2000, the use of the term "hybrid warfare" became a unified way to describe modern warfare for the simple reason that the continued sophisticated development and progress of military technology reinforced the behavior of non-state actors and strengthened the methods of applying cyber warfare.

All this contributed to the creation or birth of this new kind of warfare, called "hybrid warfare", which has the elements of conventional and irregular forces and methods across the entire spectrum of the phenomenon of contemporary conflict that may lead to war[3].

In 2007, the famous Professor Frank G. Hoffman, defined "hybrid warfare" as a "Modern war", which incorporates in its base a comprehensive spectrum of different models of warfare, including: conventional capabilities and capacities, irregular tactics and formations, terrorist methods of violence, discrimination, cohesion and criminal activities that are manifested and implemented by non-state actors[4].

The combination of conventional and irregular methods of modern warfare has contributed to more efficient development of hybrid warfare from its previous historical forms. In the past, conventional and irregular modern military operations were applied

[1] Peter R. Mansoor, "Hybrid War in History," in *Hybrid Warfare: Fighting Complex Opponents from the Ancient World to the Present,* ed. Williamson Murray and Peter R. Mansoor (Cambridge University Press, 2012), 1-3

[2] U.S. Government Accountability Office (GAO), *Hybrid Warfare*, GAO-10-136R, Washington, 2010.

[3] Hoffman, Frank G. Hybrid Warfare and Challenges, *Joint Force Quarterly*, issue 51, 2009,34-39.

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separately compared to the fact that today they are practically used in an integrated manner. When the military campaigns conduct irregular warfare, it is an additional component of conventional warfare.

During the military conflict between Israel and Hezbollah in the course of 2006, the hybrid mode of warfare continually changed and evolved its methods and warfare instruments. The militants from Hezbollah, who were fully trained and equipped by Iran, surprised the Israeli Army by using a combination of conventional and guerrilla-style warfare, as well advanced technology in military equipment and communication - information systems; they were trained to use these advanced systems by the countries from which Iran bought this modern military equipment. If we review history chronology, we will see that hybrid warfare has been used as a combination of irregular and conventional methods of warfare[5]. In 2014, the grand military strategy of the so-called Islamic State of Iraq and Syria (ISIS), once again proved that sophisticated information technology or the so-called information or "cyber warfare" has a dominant role in the effective execution of modern military operations. There are numerous official reports from NATO which state the development of components and methods of hybrid warfare, also stated in the Strategic Concept of NATO during the Lisbon Summit of NATO in 2010[6].

During the Ukrainian crisis in 2014 and beyond, the concept of hybrid warfare has constant developed. There are numerous Western European professors who describe the word "hybrid" as tools and methods of using operational and tactical elements of the Russian Federation during the annexation of Crimea and in support of the Russian separatists in Eastern Ukraine.

Russia achieved its dominance over Crimea with advanced military technology and by engaging in a combination of conventional and irregular military operations, but also by drawing on the support of political protests, economic support of the Russian separatists and Protestants through numerous non-governmental organizations, cyber operations and constant media propaganda campaigns[7].

In an interview in July 2014, former NATO Secretary General Anders Fogh Rasmussen, described the Russian strategy of warfare in Ukraine as "methods of hybrid warfare," which he defined as "a combination of military action, covert operations and aggressive media propaganda"[8].

The Scientific Military Journal Balance in its issue of 2015, provides a complete and comprehensive definition of "hybrid warfare", which explains hybrid warfare as "use of military and non-military methods in an integrated military campaign, designed to achieve surprise, increased initiative in the theater of operations and achieving psychological advantages to the opponent through diplomatic propaganda".

Basically, all this is achieved through the sophisticated use of advanced information technology, electronic and cyber operations which are accompanied by military and intelligence components and economic pressures and sanctions.

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[5] Ibid, 9-12.

[6] Department of Defense, *Quadrennial Defense Review Report*, Washington, Department of Defense, 2010,8-10.

[7] Carolina Vendill Pallin and Fredrik Westerlund, 'Russia's War in Georgia: Lessons and Consequences', *Small Wars & Insurgencies*, vol. 20, no. 2, 2009,401-403.

[8] Mark Landler and Michael R. Gordon, "NATO Chief Warns of Duplicity by Putin on Ukraine," *The New York Times*, July 2014, 8-10.

Modern methods of asymmetric warfare are always present when the weaker opponent wants to achieve dominance over a more powerful or stronger opponent. To date, military strategy has proved that the strategy of asymmetric warfare is a successful concept[9].

In scientific discussions, the elements which have been identified in hybrid warfare, resemble those from the fourth generation of warfare, which developed its operating elements during the 1990s[10].

Chinese military strategy describes "hybrid warfare" as a development of combat elements and methods of warfare dependant on the dominance of firepower of the opposing parties; it has often been used by the weaker side, whether by its legitimate national armed forces or non-state actors. Even Chinese generals say that "hybrid warfare" represents a war without restrictive measures and rules in which nothing is "forbidden or restricted"[11].

2. Analysis of the differences between hybrid and unconventional warfare

NATO's unofficial military doctrine provides a comprehensive definition of hybrid warfare and hence the Chief of the US Military Forces, US military analysts and professors characterize it as a range of: conventional, irregular and cyber warfare[12]. On the other hand, unconventional warfare, according to the US military doctrine, which has been generally accepted in NATO's military doctrine is defined as: special combat operations, urban and non-urban guerrilla operations in a certain area[13].

Thus, we may say that some units from the legitimate national special forces of a state must be: trained, equipped and supported to be able to deal successfully with "guerrilla warfare", subversion, sabotage, illegal intelligence activities and to provide assistance in other unconventional activities.

The term "unconventional warfare", compared to the term "conventional warfare", has a completely opposite meaning. While conventional warfare represents a war between two or more conventional forces (war with guns, armored vehicles, tanks, etc.) or a war between legitimate powers with legitimate military means, unconventional warfare, as a form of warfare in modern military history, is a war with legitimate or conventional irregular forces (insurgent, terrorist, irregular, illegitimate powers), which use irregular tactics or "guerrilla tactics" of war, due to their weaker power, in order to defeat the stronger legitimate opponent.

Is "hybrid warfare" more contemporary warfare than "unconventional warfare" and why?

First, the definition of "hybrid warfare", which we stated above, incorporates all segments of irregular warfare. Irregular warfare, on the other hand, includes the following types of warfare: Shared national and collective defense, Fight against terrorism,

[9] Tim Benbow. Talking 'Bout Our Generation? Assessing the Concept of Fourth-Generation Warfare, *Comparative Strategy* 27:2 , 2008, 155–161

[10] Donald J. Reed, Beyond the War on Terror: Into the Fifth Generation of War and Conflict, *Studies in Conflict and Terrorism* 31:8, 2008, 685–689.

[11] Qiao Liang and Wang Xiangsui, *Unrestricted Warfare* , Beijing: PLA Literature and Arts Publishing House, 1999), 2-3.

[12] Timothy McCulloh and Richard Johnson. Hybrid Warfare, JSOU Report 13-4 August 2013, 3-5.

[13] FM 3-05.201, (S/NF) Special Forces Unconventional Warfare (U) 28 September 2007, 22-24.

counterinsurgency operations or (COIN) operations for stabilization and unconventional warfare[14].

By itself, this statement that unconventional warfare represents one of the vital segments of irregular warfare and having in mind that by definition irregular warfare is part of modern hybrid warfare, it is more than clear that hybrid warfare is much more contemporary warfare than unconventional warfare.

The change of the successor of the former global terrorist organization Al Qaeda, or the emergence of ISIS in 2004/05, led by its military and spiritual leader Abu Bakir Al-Baghdadi and Al-Zawahiri, changed their matrix of acting in cells. At the same time, the national strategy of the US and NATO of counterterrorism was announced, based on the grand strategy of DIME with active use of (Diplomatic, Information, Military and Economic) instruments of power[15].

American historian and diplomat Joseph Ney, stated that immediately after the Grand NATO strategy for counterterrorism, ISIS applied its grand strategy for attacking the so-called "soft" and "hard" targets according to military diplomacy.

According to the ISIS strategy, "hard targets" are explained as territorial expansion. Soft targets include the vital critical infrastructure: bridges, tunnels, airports, government buildings, shopping centers, hospitals and other facilities where the mass of people is large and where one explosion causes large effects.

Hence, this section of unconventional warfare is obsolete in comparison to hybrid warfare. In this segment, the strategy for dealing with hybrid warfare or, to be more precise, with one of its segments, cyber threats or "cyber warfare", is to conduct preventive and effective measures for security of the critical equipment and devices containing data on the nature of state secrets, protection of information systems in the banking sectors of the global economic corporations, protection of the information systems and regulating the road, railway, water, air transportation, etc.

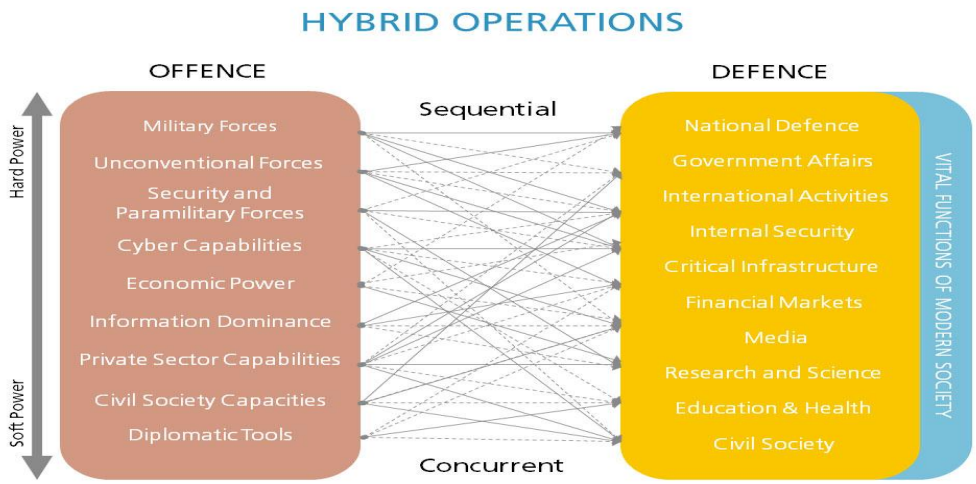

Figure 1. *The essence of Hybrid operations*[16]

[14] GAO analysis of DOD military concept and briefing documents (2012-2016).
[15] NATO, 'Defense expenditures data for 2014 and estimates for 2015: financial and economic data relating to NATO defense', press release, 22 June 2015, 2.
[16] Aapo Cederberg and Pasi Eronen. How are Societies Defended Against Hybrid Threats. Geneva Centre for Security Policy (GCSP), Geneva, 6 November 2015, 20-22.

All this brings us to the dreadful conclusion that the main difference between hybrid and unconventional warfare is that hybrid warfare is not always able to detect the opponent, because one of the hybrid warfare components are the cyber attacks[17].

Furthermore, the space theater of military operations can be unlimited and unpredictable. With the development of military technology, hybrid warfare will gain its primacy of warfare, which will make very difficult for the future NATO military operations to take certain preventive measures for protecting against cyber attacks[18].

Unlike the unconventional warfare, which by definition includes combating guerrilla warfare in actual theaters of hostilities, hybrid warfare does not include space nor a front line and will increasingly use unknown space, in which it will be very difficult to identify the enemies[19].

The basic feature of "hybrid" in terms of "unconventional" warfare is that the asymmetric actions of non-state actors or opponents will be effectively accomplished by using all the advantages provided by the military-technological progress in order to achieve their military-political and economic interests in terms of opposing the legitimate force.

Hybrid warfare as a modern form of warfare in modern military history and military theory is analyzed as a fifth generation of warfare. Unlike unconventional warfare, where the "center of gravity" of the forces can be determined by the location of execution of combat actions, in hybrid warfare, the "center of gravity" is unpredictable because the main attacks are conducted through invasion, destruction and destabilization of the strategic information systems that contain information about the political, military, economic and other facilities in which the state is exposed to a hybrid war.

3. Operational phases of hybrid warfare

Analyzing the operations that Russia has conducted in Crimea and in Eastern Ukraine, hybrid war can be described as being composed of three main phases, each of them consisting of three sections. The first, preparatory phase concentrates on mapping out the strategic, political, economic, social and infrastructural vulnerabilities of the target country and creating the necessary means for capitalizing on them. In the case of Ukraine, Russia has been in an excellent position to do so, thanks to the long common history, the tight economic and social ties between the two countries, as well as the strong connections between the political, economic and security elites[20]. The preparation phase includes these activities:

- Strategic preparation, exploring vulnerability points in state administration, economy and the armed forces.
- Establishing loyal NGOs and media channels on the territory of the target country.
- Establishing diplomatic and media positions in order to influence the international audience.
- Political preparation, encouraging dissatisfaction in the target country by using political, diplomatic and media tools.

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[17] Eve Hunter, Piret Pernik.The challenges of hybrid warfare, Analysis RKK and ICDS, April 2015, 17.
[18] United States Government Accountability Office: *Hybrid Warfare*, Washington, USA, 2010, 20-23.
[19] Huber, Thomas M.: *Compound Warfare: That Fatal Knot*, U.S. Army Command and General Staff College Press, Fort Leavenworth, Kansas, 2002, 78-82.
[20] M. Galeotti, "'Hybrid War' and 'Little Green Men': How It Works and How It Doesn't", Finnish Institute of International Affairs, 2015, 12-14.

- Strengthening local separatist movements and fuelling ethnic, religious and social tensions.

- Establishing contacts with local business people; making them dependent on the attacking country via profitable contracts.

- Establishing contacts with local organized crime groups.

- Operational preparation with coordinated political pressure, mobilizing officials and local criminal groups, mobilizing the Russian armed forces under the pretext of military exercises.

During the preparatory phase, no violence is openly engaged[21].

3.1. Offensive phase

All the weaknesses explored during the preparatory phase of hybrid warfare suddenly surface when the attacking country actually launches the full-scale hybrid offensive. From this moment on, hybrid war clearly becomes different from the traditional actions of Russian foreign and security policy described above. The key difference is that open, organized, armed violence starts to take place. The crisis erupted in a similar way in both Crimea and Eastern Ukraine: unmarked units using high-tech Russian uniforms, weapons, vehicles and equipment appeared and started to set up barricades and checkpoints, blocking the gates of the Ukrainian military and police barracks. Not a single shot was fired, but it quickly became clear that the Ukrainian units could not leave their bases without using force against the unmarked militants. Moscow probably employed the same denial strategy, hoping that it could prevent the activation of Article V of the Washington Treaty. This would be perfectly in line with the whole concept of 'new generation warfare' described earlier, where the aim is to break the target country's ability to resist by using predominantly non-military means.

The offensive phase of the hybrid war is divided into these activities:

- Organizing massive anti-government protests and riots in the attacked country, infiltrating special forces, local civilians, sabotage attacks, capturing the first administrative buildings in the targeted regions.

- The media of the attacking country launches a strong disinformation campaign.

- Disabling the central power by capturing administrative buildings in the targeted region.

- Blocking the central power's media, establishing communication and information monopoly.

- Establishing alternative political power by declaring an alternative political centre based on the captured administrative buildings, by referring to real or fabricated traditions of separatism.

- Replacing the administrative bodies of the central power with newly established political bodies.

- The media of the attacking country strengthens the legitimacy of the new political bodies.

As demonstrated both in Crimea and Eastern Ukraine, the resistance potential of the target country was broken towards the end of the attacking phase, its governance,

[21] A. Zaitsev, 'Partizanskimi metodami. Sovremennaya armiya dolzhna umet' voevat' bez linii fronta', Voenno-promishlenniy Kurier, No . 32 (550), 3 September 2014.

command, control and communications capabilities were severely damaged and it lost control over one or more parts of its territory[22].

3.2. Consolidation phase

In order to consolidate the results achieved by the hybrid war, the attacking country needs to take additional steps to further strengthen its rule. This third phase can be referred as strategic stabilization. However, in Eastern Ukraine the scenario turned out to be radically different from the Crimean. Referendums on 'independence' were organized in both regions and in both cases the results were in favor of the separatists. On the peninsula, according to the 'official' results, more than 97% of the population voted for secession from Ukraine. The consolidation phase can be described in detail in three sections as follows:

- Political stabilization of the outcome, organizing a 'referendum' and decision about independence with the strong diplomatic and media support from the attacking country.
- The new 'state' asks for help from the attacking country[23].
- Separation of the captured territory from the target country, annexation of the captured territory (Crimea) or establishment of open or covert military presence there.
- Lasting limitation of the strategic freedom of movement, loss of territory (economy, population, infrastructure, etc.)
- Ensuring full control over its territory, the attacked country is unable to join any political or military alliance.

Crucially, they demonstrated an innate understanding of the three key target audiences and their probable behavior: the Russian speaking majority in Crimea, the Ukrainian government, the international community, specifically NATO and the EU. Armed with this information they knew what to do and what the outcomes would be.

Finally, it is worth noting that comprehensive analysis is required regarding the security risks and threats to the national security of the countries which may be exposed to hybrid attacks[24] in the future. Hybrid warfare could be very dangerous, especially if it uses its instruments of power for conducting cyber attacks on critical IT structure. All this gives great importance and advantage to hybrid warfare compared to unconventional warfare. While "*de jure*" the states cannot be directly exposed to open military action with an opponent, "*de facto*" they will be indirectly exposed to cyber attacks which would "destabilize" the security and peace of the countries.

4. Conclusion

Hybrid warfare has not changed the essence of war. The methods used to achieve dominance in hybrid warfare have changed their tactics and operation, but they have not changed the objectives of the war for gaining victory. However, modern military history and warfare are continually evolving the modern military understanding of the nature of war. Thus, hybrid warfare and the most modern forms of warfare today including asymmetric, unconventional, nonlinear, irregular and a new generation of warfare in the fourth and fifth generation of warfare, has highlighted the need of professors and students

[22] P. R. Gregory, 'Putin's 'Human Rights Council' Accidentally Posts Real Crimean Election Results', Forbes, 2014, 20-23.
[23] S. Walker, 'East Ukraine goes to the polls for independence referendum', The Guardian, 11 May 2014.
[24] Thomas T. L. Russia's Reflexive Control Theory and the Military. Journal of Slavic Military Studies, vol. 17, no. 2, 2004, 237-256.

in the military academies and universities around the world to constantly and continuously develop the complexity of the armed conflicts in the XXI-st century[25].

Hence, in this context the word "hybrid" is a term used to explain practically this kind of warfare. Considering the fact that many armed conflicts and wars are on the line between war and peace, they often use different instruments of power that are not part of the traditional mode of warfare, which significantly hampers the effective execution of NATO's modern military operations and other collective security and defense systems[26].

Understanding the strategic significance of Russia in Ukraine, comes with the operationalization of a new form of warfare that cannot be characterized as a military campaign in the classic sense of the term. The invisible military occupation cannot be considered as occupation by definition. Not only were the troops already on Crimean territory stationed at the Russian naval bases, but they were also "officially" part of the autochthonous civilian militia. The deception operations occurred inside Russian territory as military exercises, including ones in Kaliningrad to increase the insecurity of the Baltic States and Poland. At the same time, the Crimean parliament officially - although not legally according to the Ukrainian constitution, asked to join the Russian Federation and the Ukrainian media became inaccessible. As a result, the Russian channels of communication propagating the Kremlin's version of the facts were able to establish a parallel reality, legitimizing the Russian actions in the realm of idea.

These will be the main guidelines for developing the Russian military capabilities by 2020:

- From direct destruction to direct influence;
- Direct annihilation of the opponent to its inner decay;
- From a war with weapons and technology to a cultural war;
- From a war with conventional forces to specially prepared forces and commercial irregular groups;
- From the traditional (3D) battleground to cyber warfare and perceptions;
- From direct clash to contactless war;
- From a superficial and compartmented war to a total war, including the enemy's internal side and base;
- From war in a physical environment to a war in cyberspace;
- From symmetric to asymmetric warfare by a combination of political, economic, information, technological, and ecological campaigns;
- From a war in a defined period of time to a state of permanent war[27].

All this leads them to believe that modern challenges have a wide range of threats to the international security that must be first identified and then appropriate effective and efficient measures are to taken to prevent and eradicate such challenges[28].

Taking into account everything that we have said above, we spent more time identifying the theoretical part of hybrid warfare and then accordingly, the suggested measures, instruments and methods for prevention and suppression of hybrid warfare.

First, what the creators of the national strategy need to do to combat hybrid warfare is to identify the methods for dealing with this type of warfare.

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[25] Smith Rupert. The Utility of force: The Art of war in modern world, New York, 2007, 32-34.

[26] Joint Publication 3-24, *Counterinsurgency Operations*, Joint Chiefs of Staff, 2009, 70-74.

[27] Peter Mattson. The Russian Armed Forces Adapted to New Operational Concepts in a Multipolar World, 2014, Riga, 12-15.

[28] Weir, William: *Guerrilla Warfare: Irregular Warfare in the Twentieth Century*, Stackpole Books, Mechanicsburg, PA, USA, 2008, 45-48.

In defining the strategy for modern types of warfare, such as hybrid warfare, the most important is to elaborate the influence and involvement of the modern diplomatic, information, military and economic instruments of power.

This increases the complexity of identifying and proposing effective measures for preventing the security threats posed by this type of warfare[29].

All this requires a comprehensive approach of the authorities and institutions responsible for dealing with this type of warfare and threats to national and international security which may arise from it.

The previous recommendations of the international scientific and political public suggested that the best guidelines for proposing effective instruments of power for preventing the modern way of warfare, must first be well coordinated and implemented on a national level in the national strategies of each NATO and EU country. Then, at the annual NATO and EU summits, each member state may provide the best suggestion, which they have implemented on a national level in their national strategy[30]. And finally, the best solutions from the NATO and EU member states can be integrated in the NATO strategy or concept for addressing this type of warfare.

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12. Timothy McCulloh and Richard Johnson. Hybrid Warfare, JSOU Report 13-4,2013.

13. FM 3-05.201, (S/NF) Special Forces Unconventional Warfare (U) 28, 2007.

14. GAO analysis of DOD military concept and briefing documents (2012-2016).

[29] Jan Rood, Frans-Paul van der Putten, Minke Meijnders, *A world without order? Clingendael Monitor* 2015,3.

[30] Margriet Drent, Rob Hendriks, Dick Zandee. **New Threats, New EU and NATO Responses, Netherlands, 2015, 22-25.**

15. NATO, 'Defense expenditures data for 2014 and estimates for 2015: financial and economic data relating to NATO defense', press release, 22 June 2015.

16. E. Hunter,P. Pernik. The challenges of hybrid warfare, Analysis RKK, ICDS, 2015.

17. US Government Accountability Office: *Hybrid Warfare*, Washington, 2010.

18. Huber, Thomas M.: *Compound Warfare: That Fatal Knot*, U.S. Army Command and General Staff College Press, Fort Leavenworth, Kansas, 2002.

19. M. Galeotti, "'Hybrid War' and 'Little Green Men': How It Works and How It Doesn't", Finnish institute of International Affairs, 2015.

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22. Aapo Cederberg and Pasi Eronen . How are Societies Defended against Hybrid Threats. Geneva Centre for Security Policy (GCSP), Geneva, 6 November 2015**.**

23. S. Walker, 'East Ukraine goes to the polls for independence referendum', The Guardian, 11 May 2014.

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29. Jan Rood, Frans-Paul van der Putten, Minke Meijnders, *A world without order? Clingendael Monitor* 2015.

30. Margriet Drent, Rob Hendriks, Dick Zandee.

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IMPLEMENTING THE CONCEPT OF COMMUNITY POLICING[1]

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ABSTRACT

The contemporary models of community policing represent different organizational innovations of police work, moving away from the traditional work of the police, creating new forms of action of the police in carrying out their duties. The basic idea behind all these models is the cooperation between the police and citizens in solving local community problems. It should be borne in mind that these models represent a whole and together they build a unified, comprehensive strategy for practical suppression of crime, its causes and conditions and other dangerous phenomena in society that threaten the quality of life in the community and disrupt the sense of security among the citizens. They give a whole new quality of police and security activities for the sake of society. These are all strategic models of community policing and each of them focuses on certain important aspects of the concept. The different models of community policing make a whole and should not be considered separately from each other. They do not apply separately, each for itself, but in a constructive and mutual respect and combination depending on the issues, resources and specific features of the community. The interconnection and interdependence of these models is the essence of community policing. Therefore, the police and the community should be familiar with these models, the possibilities offered by each of them, the way each of them functions individually, together or in combination with one another. Only the integrated application of these models is more than the sum of each of them individually. The practical implementation of a project can be more oriented towards establishing partnerships with the community and improving relations between the police forces and the communities, while others may be more focused on the identification of community problems and their solution, with more or less co-operation from the citizens.

Keywords: *community policing, police, organization, implementation.*

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1. INTRODUCTION

The contemporary models of "community policing" represent different organizational innovations of police work, moving away from traditional police work, creating new forms of action of the police in carrying out their tasks. The basic idea of all these models is the cooperation between the police and citizens in solving local community problems.

The contemporary models of "community policing" (community policing) are:

1. *Community Oriented Policing – COP*
2. *Problem Oriented Policing – POP*
3. *Neighbourhood Oriented Policing – NOP*
4. *Safe Community*

It should be borne in mind that the aforementioned models represent a whole and together they build a single, comprehensive strategy for the practical suppression of crime, its causes and conditions and other dangerous phenomena in society that threaten the quality of life in the community and violate the sense of security among its citizens. They give a new quality of the police and security activities for the sake of society. All these are strategic models of community policing and each of them focuses on certain important aspects of this concept.[2]

The different models of "community policing" form a whole and cannot be viewed in isolation from each other. They are not applied separately, each for itself, but in a constructive and mutually connected combination depending on the problem, the resources and the specifics of the community. The mutual relationship and interdependence of these models is the essence of "community policing". Therefore, the police and the community should be familiar with these models, the possibilities offered by each of them, the way in which each of them functions in a single, common, or in combination thereof.[3]

In its practical implementation, the project can be more oriented towards establishing partnerships with the community or improving the relations between the police and the community, while others may be more focused on identifying community problems and solving them, with greater or lesser cooperation from the citizens.

2. THE PRACTICAL IMPLEMENTATION OF THE CONCEPT OF "COMMUNITY POLICING"

The practical implementation of "community policing" is a complex and multifaceted process that essentially requires planning and control in order to achieve a change. This primarily involves developing a plan, training and strategy in the process of practical implementation. It also requires planning and management, as well as profound changes at every level and in every area and the police organization should be aware of all obstacles in the implementation of the project.[4] At the beginning, it is important to clarify the vision or understanding about what we want to achieve from an organization, followed by strategic planning in order to implement the necessary changes, taking into account all internal and external factors and influences. It is a normal occurrence of minor or major deviations from the estimated needs of the plan during the implementation of "community

[2] Nikač, Ž., *Policija u zajednici*, Kriminalističko policijska akademija, Beograd, 2014.
[3] Simić, B., Savremeni koncept policijskog rada u okviru zajednice, *Bezbednost*, vol. 51, br. 3, 2009, str. 157–172.
[4] Willard M. O., *Community-Oriented Policing, A Systematic Approach to Policing*, New Jersey: Prentice Hall, third edition, 2004, p. 292.

policing". What has traditionally been a major mistake of large police reforms is the assumption of the police officials that their new programs are properly and correctly applied and that in this sense the desired or anticipated results are achieved. However, it is very rare that the implementation of any new program in practice is fully consistent with the set plan of implementation. It is therefore the responsibility of the middle and senior level management in the police to constantly monitor and evaluate the implementation of community policing. It is important to promptly and accurately identify any irregularities or difficulties to ensure adequate and timely corrections on the field.[5]

Another important issue is whether community policing is implemented within the entire police organization or it starts with the formation of special units.

There is an approach to the introduction of gradual changes based on the hypothesis that something new can be established without prejudice to many other systems in the police organization. The approach to the pursued introduction of gradual changes ignores the multiplicity and complexity of factors that build up and can cause problems with the employees in certain parts of the system that have nothing to do with the "community policing".

The formation of special units to implement the concept, while the rest of the police service continues with their classic work, can condition the problem of confrontation between the two groups of police officers. However, "community policing" cannot be understood only through the operation of a special unit, because launching the concept through such a unit can lead to the misconception that the new police style does not need to be integrated in the other parts of the police organization.

On the other hand, the project could be implemented within the entire organization, if there is a critical mass striving for a change and if the middle level managers and the police officers who work in-line, are ready for the change. Changes that initially alter the old and introduce a new system of organization, constitute an approach which involves working on comprehensive vision changes. In addition to the positive experience in terms of these models, there have also been some negative experiences.[6]

It is also possible to make a compromise between these two extreme approaches. This could be accomplished in certain segments of the police organization, for small territories, but also the concept may be applied in a particular territory as a whole, including all services that cover the area.

Although the whole implementation process sounds complicated, it can be divided into a series of simple and logical processes that include: situation assessment, "SWOT" analysis, risk assessment, strategic planning and an implementation (action) plan.

2.1. Environmental scan

This process involves the study of everything that has happened, that will happen or is likely to happen, both within the organization and in the country, the region and the world, with a special focus on to what implications it will have on the work of the police. Some of these issues will be easily visible (eg. a new Police Act or any major sporting

[5] Cajner I., Faber V., Volarević G., *Strategija delovanja policije u zajednici*, Zagreb, 2003, str. 94.

[6] For example: The Police officers who have been working successfully for several years on "problem-oriented work" upon returning to their units, faced a rigid system of values in them, began to apply the traditional methods rather than those that they learned and directly applied within this model. See: Kelling, G., Robert W., Hubert W. : *Police Accountability and Community Policing,* Washington, DC: National Institute of justice and John F. Kennedy School of Government, Harvard University, 1988.

event) and others might not be as obvious (eg. assembly elections, changes in the population structure, new scientific achievements).
This situation assessment is easier to implement if it is divided in segments. The usual division is based on the following factors: political, economic, social, technological, legal and ethical.[7]

2.2. "SWOT" analysis

After we determine the trends, it is necessary to make an analysis of the manner and the time required to influence the work of the police. This is achieved by using the method of a "SWOT"[8] analysis. This analysis is an important instrument of modern management, which has been accepted in the framework of "community policing".[9] This method makes it possible to consider separately the following issues: the existing benefits that the police has in solving a specific problem, the existing weaknesses that can make it difficult to solve the problem, what can indicate (or point to it) the progress that can be taken advantage of and finally it can point to some danger that can complicate troubleshooting.[10] This would provide significant answers regarding the reassessment of the positive practices, strengths and advantages possessed by the organization; the weaknesses and problems in the previous work; recognizing and defining opportunities, positive trends and opportunities that are not fully (or until now) used and the identification of threats that may endanger the reform process.[11]
It is important to realistically consider the scope and importance of the strengths and weaknesses that we have identified. With respect to the opportunities and threats, since it is not yet certain whether they will be realized, it is necessary to analyze them additionally.

2.3. Risk assessment

In the definition of risk terms, the possible variants of action (alternatives) and the possible (insecure) achievement indicate uncertainty. A risk can be discussed only in the context of a concrete alternative. The risk does not mean a safe performance with a negative effect on the estimated negative consequence whose realization is uncertain.

Risk analysis is very difficult and it is made up of the following five factors:

1. Uncertainty about the definition of the problem,
2. Difficulties that arise in the evaluation of the facts,
3. Complexity of the disclosure of the relevant values,
4. Unpredictable behavior of the participants in the process, and
5. Ambiguity evaluation process.[12]

Opportunities, as well as risks, are the events and trends that may occur, but are not certain to happen. Some of these events can occur often, others seldom. Some of them may be more serious, some less serious. It is therefore necessary to perform their quantification, that is, an evaluation of the consequences that such events can cause and the frequency of

[7] Slaughter R., „A new framework for environmental scanning", *Foresight* 1 (5), 1999, pp. 441-451.
[8] "SWOT" analysis: SWOT = S (strength); W (weaknesses); O (opportunity) and T (threat).
[9] Simonović B., *op.cit.*, p.165.
[10] Autry C. W., Bond E. U., Harvey M., Novicevic M. M., "Dual-perspective SWOT: a synthesis of marketing intelligence and planning", *Marketing Intelligence & Planning*, Vol. 22, No. 1, 2004.
[11] About the importance of "SWOT" analysis to draw up a strategic plan in the framework of project problem oriented policing, wrote: Kevin Ford, „Organizational Change and Development", in: Merry Morash-Kevin Ford (editors): *The Move to Community Policing*, 2002, p. 142.
[12] See: Drennan L.T., McConnell A., *Risk and crisis management in the public sector,* Abingdon: Routledge, 2007.

their occurrence. Based on this, we get a clearer picture of the extent of disorders that such events may pose to the police work and new requirements can be presented to the police so that the police managers can, on the basis of these analyses, decide on further action (whether to ignore such events or to take action against them).
Such risk assessment should be conducted for each identified problem. The risk assessment will derive a short list of issues that must be addressed and also a list of features that should be taken advantage of. The police, due to the limited resources at their disposal, cannot be sanctified for resolving all identified problems, and therefore it is necessary to make difficult decisions about the choice of priorities.
In a democratic society, it is important to contribute in the process of determining the priority order and the general public. However, we should bear in mind that the knowledge which the general public has about the technical and legal aspects of police work is very limited, so that the citizens should be asked to give their opinion only on the final results they expect from the police and not about what activities the police should implement in their work.[13]

2.4. Strategic planning

Strategic planning is a process (activity) of drawing up a plan and a strategic plan is a document that is the result of the process for its implementation in practice. Strategic planning basically involves setting up goals and developing a program on how to achieve the set goals.[14]

The strategic plan usually exists at four levels. A separate document is made for each of these levels and most often there is not a single document that includes all levels.
Firstly, there must be a defined strategy. The strategy indicates the "vision" of the police work, as well as an overview of the ways in which this vision becomes a reality.
Secondly, there must be an action plan. Here, each of the defined strategic priorities is considered individually and each of them lists the goals that the police officers need to achieve in order to accomplish that priority. In addition, the action plan also defines the actions that the police will take in terms of the problems that have been identified as significant, but are not identified as priorities. Although resolving these problems is not a priority for them, it will be necessary for them to engage to a certain extent. Many of these problems can be successfully solved at the local level, with or without additional funds. For some of them it will be necessary to monitor the situation regularly in order to determine whether the police is granted adequate resources to address them. Additionally, these problems can be defined as priorities in the subsequent strategic plans, if the need arises.

With respect to the goals that are determined to be specific, measurable and achievable, adequate resources must be provided, and finally, the goals must be timely. Clear formulations are also necessary clearly stating who should do what, by which means and in what time. It should ensure that all the objectives that we define are focused on achieving the priorities.
Finally, the defined goals should be divided into a series of tasks given to specific individuals who are taken for their implementation. In this way, the chance that these

[13]Keković Z., Glišić G., Komazec N.,: „Pristup metodologiji procene rizika“, *Nauka, bezbednost, policija*, vol. 14, br. 3, 2009, str. 103-116.
[14] Simonović B., *op.cit.*, str.156.

objectives have been successfully achieved is maximized. It is necessary to ensure that all defined assignments lead to the final accomplishment of the priorities.

Furthermore, there must be a system for monitoring and evaluation of the progress achieved with regard to the desired results. There are a number of tasks of technical nature related to the project management that must be met in order to ensure timely allocation of adequate resources to the people with the appropriate skills, in order to carry out the tasks.

2.5. Implementation (action) plan

The strategic plan is usually not possible to be immediately and directly implemented. Threfore, it is often necessary to draw up an implementation (action) plan. The implementation plan can vary from one to another police organization and from one to another local community. One of the factors that affect the implementation approach is the extent of the changes that are needed.[15] In some organizations, the existing operational procedures and management practices are closely associated with "community policing", while in other departments changes are necessary. A comprehensive evaluation of the existing programs will help identify the needs related to integrating partnerships with the community, problem-solving strategies and expanded crime control and prevention tactics along with the existing practice. [16]

Communication is another important element of successful implementation and it should be timely, comprehensive and direct. It is essential that all participants in the communication understand their roles. Regular communication will encourage active participation and reduce the resistance and opposition. Communication links must exist within the police organization and between the actors at the community level. Successful implementation requires an unobstructed flow of information.

The implementation of "community policing" should represent a dynamic and flexible process. Continuous participation and feedback analysis of the actors who are inside and outside the police organization is very important when it comes to the implementation of this concept.[17] All implementation phases must be carefully planned and appropriately spaced in time in order to achieve the maximum possible success (even the best ideas can fail, if poorly implemented).

3. CONCLUSION

The changes in the modern society of the XXI century and the growing crime and other forms of threats to security have indicated that the model of centralized organization of the police and its repressive (reactive) role and bureaucratic attitude and distance from the community are largely outdated.

The transition from the traditional reactive, to action-oriented style of doing police work on the service-oriented concept of community policing is the most important positive change in the police philosophy. The introduction of the community policing concept ensued as a result of the limitations of the traditional police model that was largely reactive

[15] Simonović B., *op.cit.*, str.178.

[16] See: Community Policing Consortium, Understanding Community Policing, in: Willard M. Oliver, *Community Policing, Clasical Readings*, 2000, pp. 137-140.

[17] Sparrow M. K., *Implementing Community Policing: Perspectives on Policing*, Washington, D.C.: National Institute of Justice and John F. Kennedy School of Government, Harvard University, 1988, p.2.

in relation to crime control and unable to develop and maintain close working relations with the community in crime control. Thus, the implementation of a new model of organization and operation of the police should critically examine the traditional system, taking into account the experiences and best solutions from police practice. The ultimate objectives and scope of police reform relate to the construction of a new police organization, modern methodology of work, respect for the law, protection of citizens' rights and freedoms, police oversight and democratic development potential. By replacing the traditional model with a modern one, reducing police repression and directing the spotlight to prevention, the needs of the community will be met. Therefore, we can say that the concept of community policing is increasingly recognized as a conceptual foundation that suits a democratic police service. It is based on respect for human rights, accountability and the need to implement effective police operations in partnership with the communities. This philosophy focuses on the community and its needs through respect for human rights.

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THE POLICY OF TEACHING FOREIGN LANGUAGES IN SERBIAN INSTITUTIONS OF TERTIARY EDUCATION FOR LAW ENFORCEMENT OFFICERS[1]

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ABSTRACT

Knowledge of foreign languages is one of the essential requirements for both personal and professional development and functioning in the modern world and it has always been significant not only at the personal and professional level, but also at the collective, national and supranational levels. The need for acquisition and improvement of language competence becomes particularly important in the periods of dynamic developments in the field of foreign policy or during periods of serious security risks that call for international cooperation. The paper strives to give an overview of the foreign language teaching policy in the Serbian institutions of tertiary education for law enforcement officers from the time of their establishment to present day and to establish to what extent the processes unfolding in the areas of national policy, foreign policy and European integration have influenced the educational policies of the Police College, the Police Academy and their common successor, the Academy of Criminalistic and Police Studies in terms of teaching and learning foreign languages. Tertiary education institutions have a great responsibility to prepare their students for professional engagement which will take place at the international level. Crisis situations, such as the migrant crisis which has been affecting the security situation in the region for the past couple of years may raise the awareness of the need to step up the efforts aimed at enhancing the linguistic competence of prospective police officers, especially those preparing for the middle and top managerial positions.

Keywords: *foreign language teaching, European integration, migrant crisis, police officers.*

1. Introduction

Whenever education of law enforcement personnel is discussed, the focus tends to be on theoretical, mostly legal subjects, such as criminal law, criminal procedural law, international law and other areas of law that underlie all policing and crime investigation activities. In addition to this, the emphasis is frequently placed on practical training aimed at acquiring skills that would allow for better coping with service-related situations and

[1] The paper has originated from research within the project entitled *Forensic methods in criminalistics* organised and financed by the Academy of Criminalistic and Police Studies in Belgrade, Serbia.

assignments. Instruction in foreign languages never seems to be given due attention, but it is rather tolerated as part of the general-education subjects prescribed within the relevant national legislation.

Whereas this approach could be explained – although by no means justified – during the period of international sanctions and near-isolation which befell the Republic of Serbia in the late 20th century, it can hardly be regarded as acceptable nowadays, at a time of intensified international cooperation in all areas, including that of law enforcement.

Knowledge of foreign languages has always been significant, not only at the personal and professional level, but also at the collective, national and supranational levels. The need for acquisition and improvement of the language competence becomes particularly important in periods of dynamic developments in the field such as we are witnessing at present.

Even without security risks, any state which aspires to join the multicultural European community needs to provide all its nationals, including prospective law enforcers, with ample opportunity to acquire or improve their linguistic competences in keeping with the proclaimed objectives of European language policy.

2. European Language Policy

The institutional framework for the development of the European language education policy was formed primarily through activities of the Council of Europe and some of the European Union institutions. The creators of the European community were originally guided by political, economic and social goals, since the process of European integrations was initiated by constituting the European Coal and Steel Community in 1951 and the European Economic Community in 1957. However, time has shown that political and economic components cannot be separated from the sociological and cultural elements and that the goals of European policy must include due respect for its cultural heritage, preservation of its pluricultural wealth and development of plurilingualism.

There are statistical data which indicate that there are more speakers of Turkish, Portuguese or different varieties of Serbian or Croat languages in Switzerland than those who speak one of its official national languages – Romansh, or that there are more speakers in Ireland whose mother tongue is Polish than those whose mother tongue is Irish (Bugarski, 2009). Therefore the common goal of the European language education policy is that each European citizen should, in addition to his/her mother tongue, be able to speak two more European languages.

The documents of the Council of Europe and the European Union institutions proclaim the most important goals of this policy and point out the most prominent objectives of the European educational policy: plurilingualism, democratic citizenship, linguistic diversity, intercultural communication and social cohesion. As the focus of this paper is on teaching and learning languages for specific purposes in the context of the European educational language policy, we shall briefly review the provisions pertaining to professional training and tertiary education, within which a significant portion of professional training is performed.

2.1. Language Policy of the Council of Europe

Ever since its foundation in 1949, the Council of Europe has endeavoured to develop common and democratic principles based on the European Convention on Human Rights and other legal documents ratified by a large number of countries. The main goals of this organisation, which today consists of 47 member states, include promoting awareness of cultural identity and diversity of Europe, consolidating democratic stability

and finding common solutions to the challenges such as discrimination of minorities, xenophobia and intolerance. Noting the significance of language competence for achieving its main goals, the Council of Europe established a special division which deals with issues of language policy, language teaching and acquisition, the Language Policy Unit which celebrated its fiftieth anniversary in 2010.

The activities of this Unit are aimed at promoting linguistic diversity, respect for language rights, strengthening mutual understanding and democratic citizenship. The most prominent goals of this policy include pluriligualism, linguistic diversity, mutual understanding, democratic citizenship and social cohesion. The dedication to the first of these goals means that the creators of language education policies have to bear in mind that all European citizens have the right to reach different levels of communicative competences in various languages and to further develop these competences according to their needs. The preservation of linguistic diversity, as a major goal and one of the highest European values, is based on the fact that Europe is a continent on which a lot of languages are spoken and that all these languages are of equal value both as means of communication and of expressing individuality. Since mutual understanding is based on the awareness and acceptance of cultural differences, the Council of Europe advocates for creating language education policies that would pay more attention to the intercultural aspects of education. The concept of democratic citizenship implies the development of plurilingualism for all European citizens so that they should be able to take part in the democratic processes. Finally, social cohesion implies that each and every European citizen has equal opportunities for personal development, education, employment, mobility, access to information and cultural growth. The work of the Language Policy Unit in Strasbourg is complemented by the activities of the European Centre for Modern Languages, established in 1994 with the headquarters in the Austrian city of Graz.

2.1 .1 Relevant Council of Europe Documents

The activities of the Council of Europe in the field of language policy and language education are guided by the European Cultural Convention of 1954, ratified by 49 states. According to Article 2 of this Convention, each contracting party is obliged, insofar as may be possible, to encourage its citizens to study languages, history and civilisation of the other contracting parties and to facilitate such studies in its territory for the other contracting parties' nationals. Each state is also obliged to develop the study of its own language or languages, history and civilization in the territories of the other member states and to provide possibilities for their citizens to pursue any initiated studies in its territory (Conseil de l'Europe, 1954).

In addition to the European Cultural Convention, the concepts of language education policy of the Council of Europe have been outlined in numerous other acts, such as the Preamble of the Recommendation R (82) 18 of the Committee of Ministers of the Council of Europe to Member States Concerning Modern Languages (Consiel de l'Europe, 1982), which points out that linguistic and cultural diversity of Europe represents valuable common heritage and that education should be aimed at developing affirmative attitudes towards differences so that they should not be regarded as an obstacle to communication, but rather regarded as a source of mutual enrichment and understanding.

Three main goals have been defined: to cope with daily situations in a foreign country and to assist foreigners staying in their countries to cope with such situations; to exchange thoughts, ideas and feelings with speakers of other languages; and to achieve a deeper understanding of the way of life and mentalities of other nations and the significance of

their cultural heritage. As regards educational environments, schools are requested to ensure studying at least one European or a regional language in addition to the mother tongue, starting at the age of 10 and even earlier if possible, as well as to insist on developing linguistic diversity by offering students opportunities to learn more than one European or other languages and promoting international contacts with students from abroad. At the tertiary level of education, students should be offered possibilities for attaining qualifications and broadening their knowledge depending on their personal, professional and social needs and motivation.

Recommendation R (98) 6 of the Committee of Ministers to Member States Concerning Modern Langauges (Conseil de l'Europe, 1998) adopted sixteen years later, focuses primarily on the development of plurilingualism. Recognising the progress achieved by the member states since the adoption of the Recommendation R (82) 18, authors point out that language learning aimed at developing plurilingualism represents European political interest and that the needs of multicultural and multilingual Europe can be met only by significant improvement of its citizens' ability to overcome the linguistic and cultural limitations and that this goal implies the existence of a well-organised system of lifelong education financed by the relevant institutions. It also emphasises the risk of marginalisation of persons due to their lack of ability to communicate in the interactive multicultural European setting.

In addition to provisions concerning early language learning, teacher development and evaluation, it focuses on adult education and language teaching for professional purposes. It recommends organising foreign language learning for young people in order to prepare them for professional life and enhance their professional mobility, access to information and participation in international projects.

The Recommendation of (the Council of Europe) Parliamentary Assembly R 1539 (Conseil de l'Europe, Assemblee Parlemenaire, 2001) also focuses on the issue of plurilingualism. This document is dedicated to the European Year of Languages 2001 and it is significant, among other things, because it explicitly states that perfect proficiency in foreign languages is not to be sought, but rather communicative competence and development of linguistic diversity. The document defines plurilingualism as the ability to communicate in more than one language and not necessarily as perfect mastery of the languages (Conseil de l'Europe, Assemblee Parlemenaire, 2001, item 4). It proposes a number of specific measures to the member states and emphasises the significance of the *European Language Portfolio* and the *Common European Reference Framework*, upon which, in their opinion, the member states are to rely when creating their national language policies.

As regards maintaining linguistic diversity, the most important document appears to be the Recommendation of Parliamentary Assembly of the Council of Europe R 1383 from 1998. It suggests that linguistic diversity should be defined as a priority task of language education policy (Conseil de l'Europe, Assemblee Parlemenaire, 1998). The document quotes statistical data indicating that the majority of students in Europe learn English, whereas major European languages, such as German, French, Spanish or Italian, "lag far behind" and that languages spoken by millions of people worldwide, such as Portuguese, Arabic or Russian "have only a tiny place" in the curricula. Although the significance of the English language as *lingua franca* of the contemporary world is undeniable, it is not sufficient for Europe to be successful in the field of economics or to preserve its cultural diversity.

Recommendation of the Council of Ministers CM/Rec (2008) 7 is dedicated to the implementation of the Common European Framework of Reference for Languages. It states that the goal of language education policy should be coherent, transparent and efficient plurilingual education. This would help promote democratic citizenship, social cohesion and intercultural dialogue in accordance with the policy of the Council of Europe which was confirmed at the Third Summit of heads of states and governments held in Warsaw in 2005. Hence, the recommendation to all member states to create conditions for the implementation of the Common European Framework of Reference for Languages (Council of Europe, 2008a).

Finally, the European Charter for Regional or Minority Languages adopted by the Council of Europe on 24 June 1992 is the document vital to the protection of regional and minority languages. All states signatories to this Charter are committed to promote the use of regional and minority languages both in public and private life and to take measures against any form of discrimination, exclusion or unfavourable treatment. Article 8 provides for specific measures pertaining to the introduction of regional and minority languages in all stages of education, including university level (Conseil de l'Europe, 1992).

The work of the Council of Europe Language Policy Unit resulted in two publications which now represent benchmark in the field of teaching and studying foreign languages: *Threshold Level*, published in 1975, and the *Common European Framework of Reference for Languages*, officially presented in 2001. The *European Language Portfolio* was also published in 2001 after approximately three years of elaboration and – together with the previously mentioned documents has since exerted substantial influence on foreign language textbooks and teaching methods, primarily contributing to favouring communicative approach in teaching languages.

2.2. Documents published by the European Union institutions

The European linguistic landscape today comprises 23 official languages, 60 local languages and a large number of other languages spoken by migrant communities in the territory of 27 European Union member states.

Focusing on the most relevant documents, we should first mention the Resolution of the Council of the European Union of 31 March 1995 on improving and diversification of language learning which demands that in the course of education each student has an opportunity to learn at least two European Union languages in addition to their mother tongue (Council of the European Union, 1995) or the Resolution of the Council of the European Union of 16 December 1997 related to early learning of foreign languages (Council of the European Union, 1997).

The White Paper of the European Commission on Education and Training (Teaching and Learning: Towards the Learning Society) from 1995 (Commission Europeenne, 1995) emphasises the significance of knowledge of foreign languages as the main prerequisite for professional advancement in the border-free market, as well as for understanding the cultural diversity of the European continent. Learning foreign languages for the purposes of obtaining professional qualifications and professional development is particularly emphasised.

The Decision N 1934/2000/EC of the European Parliament and the Council of the European Union of 17 June, 2000 (Council of the European Union, 2000) and the Resolution of the Council of the European Union 2002/C 50/01 of 14 February 2002 on the promotion of linguistic diversity and language learning both state that linguistic competence contributes to social cohesion and represents a sine qua non condition for

mobility of the citizens. All EU member states are encouraged to take necessary steps within their capabilities to allow students to learn two or more foreign languages, as well as to promote language learning within professional education, to pay due attention to the professional development of teachers and their participation in European programmes and to encourage the introduction of contemporary didactic principles in foreign language teaching.

Following the adoption of the Conclusions of the European Council in Lisbon on 23-24 March 2000, whereby knowledge of foreign languages was listed among basic competences, together with computer literacy (European Council, 2000), the European Commission and the Council of the European Union defined three common goals that should be the backbone of educational policies in the context of the European Union in the following ten years. The report of 14 February 2001 states that three major objectives are to improve the quality of the educational systems, as means of social and cultural cohesion, creating conditions in which everyone has access to education and professional development and opening the educational institutions towards the world. The third objective implies the establishment of unique European educational space by increasing mobility and promoting foreign language learning. It is therefore vital to ensure learning of at least two European Union languages in addition to one's mother tongue, in continuity for a minimum of two years.

The conclusions reached in Lisbon were reiterated in Barcelona in March 2002, when the initiative was launched to introduce a set of common European indicators of language competences in order to gain insight into the real linguistic competences of European citizens. The initiative was approved by the European Parliament in 2006.

In 2005, multilingualism was officially listed among the responsibilities of one of the European Commissioners. Jan Figel of Slovakia was appointed the first European Commissioner for Education, Training and Culture, also in charge of other related issues, including professional development and multilingualism. Two years later, multilingualism was singled out as a separate responsibility and Leonard Orban of Romania was appointed the first Commissioner for Multilingualism on 1 January 2007. The Conclusions of the Council of the European Union of 22 May 2008 on multilingualism (Council of Europe, 2008) urged the member states and the European Commission to take steps in order to promote studying foreign languages using the European Language Portfolio and other instruments of the Council of Europe.

The European Commission has so far launched several projects aimed at popularising and facilitating teaching and studying foreign languages, such as the Lingua project of 1989, Promoting language learning and language diversity initiated in 2004, then Comenius, Grundtvig, Leonardo da Vinci and Erasmus, all within the broader project entitled Lifelong Learning Programme 2007-2013. What deserves special mention is the personal contribution of the former president of the European Commission Jose Manuel Barroso. In 2008 he gathered a group of intellectuals who designed a document proposing that the linguistic repertoire of every individual should comprise three languages: the language of identification (most frequently one's mother tongue), the language of continental communication (most probably English, but could be another) and a personal acquired language (Vučo, 2009).

All the above mentioned documents, as well as other published documents and studies strive to bring about consensus on the formation of coherent language policies based on the following concepts: plurilingualism, linguistic diversity, intercultural education, democratic citizenship, and social cohesion.

2.3. Foreign Languages and Tertiary Police Education in Serbia

Unfortunately for the European community and the world, just as numerous creative and productive aspects of human life have become increasingly internationalised, so have the criminal activities. Daily police work and crime investigation alike have become inconceivable within the restricted area of a single language. The ever increasing volume of traffic, travel and communication makes it far more likely for a contemporary police officer to be exposed to multilingual situations than in the past.

Internationalisation of criminal endeavours has been a major concern of most states and law enforcement agencies worldwide for several decades. This indicates that the education of prospective law enforcers should inevitably include foreign language courses, both general and specialised, in order to allow them better performance of police and investigative duties and to open opportunities for their professional development. Teaching and learning foreign languages is significant at all levels of police education, but we shall here focus on the tertiary education.

The first institution of tertiary education for police and security service officers in the Republic of Serbia was the so-called Higher School of Internal Affairs in Belgrade, established in 1972 as a post-secondary four (later five) semester college catering for the needs of police and other security services both in the Republic of Serbia and in other parts of former Yugoslavia and offering courses in a broad range of theoretic and applied subjects, including foreign languages. Although special language courses were organised to develop the students' communicative skills in a number of languages, including regional and minority languages spoken in the former Yugoslavia, only English and German were taught as compulsory subjects for all students and the courses lasted for four semesters, so that the students used to have foreign language classes almost throughout their schooling. Recognising new tendencies and showing appreciation for the language teachers' expert opinion, the management introduced two more foreign languages – French and Russian - in the late 1990s. The decision was motivated by the fact that all schoolchildren in Serbia at that time learned at least one or two of these languages so that at the tertiary level of education they could continue broadening their knowledge focusing on the professional registers of the language and avoiding unnecessary repetition of general language instruction.

In addition to higher education, the college offered a wide range of specialised in-service courses for law enforcement officers, including border and traffic police, crime investigation officers, etc. Most of these courses comprised instruction in a foreign language (English and/or German). In addition to this, tailor made courses in English and German were designed and provided for a number of police units and agencies, including the helicopter unit, Special Antiterrorist Unit and other specialised police services. The most extensive and ambitious project which consisted of basic language courses in English and German and a comprehensive language competence testing for all traffic officers was launched in 2003 and lasted for almost two years.

In 1993, the Police Academy was established as an institution of higher police education which specialised in educating managerial staff for the national police and security institutions. The Academy offered programmes for undergraduate four-year studies and graduate master studies and its curriculum included a four-semester course in the English language for all undergraduate students and a two-semester course of English for master degree studies.

Following an extensive reform of the police education in the Republic of Serbia, opting for a single unified institution of tertiary education in the field of policing and crime

investigation, the Government of Serbia founded the Academy of Criminalistic and Police Studies in 2006 as a merger of the two institutions previously responsible for education in the field of law enforcement. Choosing between the two theretofore existing concepts of foreign language teaching, the management decided to opt for the English language only, abolishing all other languages. Two-semester English courses are compulsory for all undergraduate students of both vocational and academic studies, taught in the first and third semesters of the criminalistics studies and in the first and second semesters of the forensics and IT studies.

It appears somewhat paradoxical that such restrictive policy regarding foreign languages was chosen at the time of intensified efforts of the country to join the European integration, with almost complete disregard for the most prominent objectives of education as proclaimed in the documents of the Council of Europe and institutions of the European Union. The course taken by the management of the Academy of Criminalistic and Police Studies with respect to foreign language instruction appears to be even more misguided in the light of the most recent developments in the region, marked by a grave and continuing migrant crisis that does not seem to be abating despite all the efforts of the international community.

3. CONCLUSION

The situation regarding teaching and learning of foreign languages in the Academy of Criminalistic and Police Studies as the only institution of higher education in the Republic of Serbia cannot be regarded to be conducive to achieving the goals proclaimed by relevant documents of the Council of Europe and the European Union, as its curriculum appears to be very restrictive both in terms of the choice of foreign languages and in the allocated duration of instruction. It would therefore be highly recommendable to take steps that would ensure better mobility of students and prospective employees of the Serbian Ministry of the Interior, contribute to their personal and professional development, enhance their job prospects and encourage participation in international projects and operations. As experienced educators, we recommend spreading the existing number of English classes to four semesters and offering optional English language courses throughout the educational process, all to ensure continuity and better retention of knowledge. At the same time, we believe that the quality of education would be considerably improved by introducing another foreign language as an additional subject, either compulsory or optional, prior to which a survey could be carried out to establish whether this should mean reinstating German, French and Russian or introducing some of the regional or minority languages or both, so that the students may choose based on their needs, motivations, characteristics and resources. Such a solution would be far more conducive to achieving the proclaimed objectives of democratic citizenship, intercultural dialogue and social cohesion.

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THE POLICE ACADEMY AS A MODEL OF HARMONIZATION OF POLICE TRAINING COUNTRIES IN THE REGION

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ABSTRACT

The need for efficient and effective police structure and therefore personnel training, as well as the need for harmonization with the contemporary democratic standards, have resulted in the establishment of the Police Academy of Banja Luka, as well as units for basic police cadet training in the framework of the Ministry of Internal Affairs of the Republic of Srpska. Basic training at the Police Academy is a special form of learning, where the participants under a specific regime of life and work adopt theoretical and practical knowledge and skills necessary for effective policing. This kind of special training has a long tradition of implementation in the police institutions of education and this paper will present the comparative solutions of the Police Academies of the countries in the region as one of the models of harmonization of police training. The empirical part of the work will include a research using a survey with the sample of 131 newly admitted students at the Police Academy of Banja Luka, where they encounter new findings about the motives for enrollment, the training concept and domains and realistic expectations.

Key words: *police academy, training, harmonization, comparative solutions.*

INTRODUCTORY REMARKS

In an era of democracy, when the greatest importance is attached to Human Rights and Freedoms, a very important role in the functioning of society is given to activities which are implemented by the police. The police as part of the state apparatus appears as the main stakeholder in the protection of all freedoms and rights that are given to the citizens by the Constitution and legislation. The Police Mission is therefore absolutely subject to public criticism, it is a service for the citizens, an area where there is a lot of room for conflict, which imposes an obligation to the police personnel, i.e. the policwe human resources to devote maximum attention, especially with respect to their education and training, because the individuals - police officers, their actions, communication,

intervention, etc. create the image of the entire organization. Police education and training receive maximum attention in order to ensure the professionalization of the police personnel who will apply in practice scientific and technical and technological achievements, knowledge and skills acquired in the course of their education and training and throughout their educational and learning process; it is necessary to select the candidates who are recruited for police officers. The process of recruitment of new police officers is carried out by the intermediate-Directorate for police training through its internal organizational Police Academy. The contemporary need for efficient and effective police structure and therefore staff training, and for harmonization with the contemporary democratic standards is best seen in the basic training of cadets of the Police Academy. Basic training in the Police Academy is a special form of learning, where the participants under a specific regime of life and work adopt theoretical and practical knowledge and skills necessary for effective policing. This kind of special training has a long tradition in the implementation of the police institutions and this paper will present the comparative solutions of the Police Academies of the countries in the region as one of the models of harmonization of police training. The empirical part of the work will include a research using a survey with a sample of 131 newly admitted students at the Police Academy of Banja Luka, where they will encounter new findings about the motives for enrollment, the training concept and domains and realistic expectations.

1. COMPARATIVE OVERVIEW OF POLICE TRAINING IN THE REPUBLIC OF SRPSKA AND THE COUNTRIES IN THE REGION

1.1. Police Training Directorate in the Ministry of Internal Affairs of the Republic of Srpska

The Ministry of Interior of the Republic of Srpska comprises the Police Training Directorate, as a separate organizational unit for the purpose of training, education and professional training of the police personnel. The Police Training Directorate includes a Police Academy as an internal organizational unit. However, before the establishment of the Police Training Centre in 2002, the education and training of the police personnel were under the jurisdiction of the Centre for the training of MOI RS personnel (1994). Following the amendments to the Law on Internal Affairs (1995), the Police College and the Police High School were established under the jurisdiction of the MOI Training Center (Pena 2006: 32).

On the basis of the General Framework Agreement for Peace in Bosnia and Herzegovina and the conclusion of the Madrid Conference on the reconstruction of the police and taking into account the needs and the new concept of education and professionalization of the police, the Police Academy in Banja Luka was established in 1999. The Police Academy of the Ministry of Interior under the Law on Internal Affairs of the Republic of Srpska (Official Gazette, no. 48/03) performs professional training and development of officers of the Ministry of Interior through basic training, as well as training and education of police officers for the needs of the Ministry of Interior of the RS and other law enforcement agencies in Bosnia and Herzegovina. The basic police training is in accordance with the Law on Internal Affairs of the Republic of Srpska and the needs of the Ministry of Interior, to the rank of police officer and junior inspector, in duration of twelve or six months (Šikman and Amidžić, 2013: 35). The candidates for basic police training are selected through an open competition from the citizens. According to the curriculum, basic police training is carried out in three phases, as follows:

- the first phase lasts for eight months and includes theoretical education,
- the second phase involves practical training in the organizational units of the police (Public Security Center) for a period of four months,
- the third phase involves the systematization of theoretical and practical training followed by the development of the final paper.

Except for the purposes of education through basic police training, the Police Academy organizes and conducts specialized training, courses and various seminars. The continuity of education for the needs of the Republic of Srpska Ministry of Interior was enabled with the establishment of the Police College (1995) and later the College of Internal Affairs in Banja Luka (by Decision of the Government of the Republic of Srpska No. 02/1-02-734/02 of 23.07.2002).

The Administration Police Training performs a particularly important role for the Ministry with respect to the education, professional development and training of the MOI personnel. In this regard, the Management prepares the curriculum, proposals, plans and education programs for acquiring fourth, sixth and seventh levels of education respectively, provides boarding conditions for accommodation and meals, as well as extracurricular activities for students and trainees and other forms of professional development, scientific research and publishing activities and performs other tasks within its competence. It is within the Board and performs the education tasks for the Police Academy and the College of Internal Affairs (Jovičić, 2005: 50).

The Police Training Directorate is the basic organizational unit of the Ministry of Internal Affairs of the Republic of Srpska, whose main task is the education and training of the Ministry members, as a strategy for strengthening the existing capabilities of the Board and further improvement of the activities of the Unit for basic and specialized training - the Police Academy and the College of Internal Affairs. The tendency of the Directorate for Police Education is to become a leader in the field of police and crime education, not only in the country, but also in the region. In this regard, in addition to the continual improvement of the basic and higher police education, the Board intends to develop and implement modern programs of specialized and regular training and specialist and master study programs. The aim is to introduce new forms of specialized courses, such as programs for countering the contemporary forms of crime (including terrorism and certain forms of organized crime), as well as community policing, crime profiling and geographic modeling. Also, there are specialized programs in the field of strategic management, policing Intelligence Led and forensic research. The College of Internal Affairs, in addition to the regular primary education, implements scientific - research projects for the Ministry, as well as projects of broader social significance. The goal is to implement the second cycle of studies, by launching specialist and master study programs. Organizing expert meetings and round tables and conferences is a well-established activity of the College of Internal Affairs, as well as publishing. The issue of cooperation with other related institutions of higher education is a topic that is always present and the institution maintains its readiness to establish and develop various forms of cooperation, with the aim of achieving the best possible quality of teaching and scientific activities.

1.2. Background and responsibilities of the Police Training Board

By Decision of the Government of the Republic of Srpska dd. 09.09.1992, the High School of Interior was founded (as a basic organizational unit of the Ministry), which specializes in education and training of personnel for police officers and technicians for Security Affairs, through regular four-year education, and also organizes courses for

civilians who are also trained for general police purposes. In accordance with the Law on Internal Affairs, in 1994 the Staff Training Centre of the Ministry of Interior was established with the function to educate and train personnel for the Ministry of Interior through regular education and organizing courses for police officers in duration of 6 months. Because of the need for trained and qualified employees of the Ministry of Interior, by decision of the Government of Republic Srpska dated 01.07.1995, the Police College was established on 21.11.1995. The educational process in the College is in duration of five semesters and the graduates receive the professional title "Lawyer of Internal Affairs". Following the establishment of the Police College, the School Center of the Ministry of Interior was founded, as the basic organizational unit of the Ministry, which comprises the Internal Affairs High School and the College under its jurisdiction.

The implementation of the Framework Agreement on the reconstruction of the police of the Republic of Srpska and the Madrid Declaration, based on the Decision of the Government of the Republic of Srpska, of 02.07.1999, the Ministry of Interior established a police academy, which started to operate on 19. 07. 1999. The activities of the Police Academy are directed towards professional development and training of trainees to carry out activities as police officers, as well as for specialist training and refreshment of knowledge and skills for the Ministry and other institutions: the Supreme Court of the Republic of Srpska, Srpska-mail, the central bank and security agencies. For the purpose of further professional training and improvement of the professional competence of the employees in the internal affairs, by Decision of the Government Office of 23.07.2002, the Police College was transformed into a Higher Education School of Internal Affairs, where the teaching process started on 01.10.2002. After graduation, the students acquire the professional title of "Bachelor of Law of Internal Affairs", according to the Regulations on organization and systematization of jobs in the Republic of Srpska, Ministry of Interior, dated 01.10.2002. The School Center was transformed into the Police Education Directorate (Miladinović and Petričević, 2013: 231).

The police training encompasses the following: training, professional education and training of personnel for work in the Ministry, preparation of curriculum, proposals, education plans and programs for acquiring fourth, sixth and seventh levels of education respectively, provision of boarding conditions for accommodation and meals, as well as extracurricular activities for students, trainees and other forms of professional development and training for work in internal affairs, maintaining records and documentation of corrective-educational activities, issuing public documents on the degree of qualification (profession) after graduation and vocational training, collaborating with higher education and other scientific institutions in the field of exchange and engagement of teachers, using the university libraries, engagement in scientific research and publishing activities and other duties related to the education and vocational training of the Ministry staff.

2. ESTABLISHMENT AND ACTIVITIES OF THE POLICE ACADEMY OF THE REPUBLIC OF SRPSKA

Annex "A" of the Madrid Declaration, in paragraph 16 stresses the need for the formation of a Police Academy in the Republic of Srpska. The founder of the Police Academy is the Government of the Republic of Srpska. The Police Academy in the Republic of Srpska was founded in 1999 and the Police Training Centre Directorate is based in Banja Luka. The lectures for students of the first class of the Police Academy began on 19 July 1999. Prior to the start, the curricula were reviewed in accordance with the needs of modern democratic standards, as well as the need for unified and harmonized

curriculum for basic police training for the Police Academies in Banja Luka and Sarajevo. In accordance with the internal organization of the Ministry of Internal Affairs and the relevant job descriptions, the Police Academy changed its name. the Unit Basic Training Police Academy performs education, professional training and development of personnel in accordance with the law, the Statute and other by-laws relating to adult education, participates in the development of curricula for all types of training courses that are conducted at the Police Academy, implements the curricula, organizes lectures for all types of courses within its competence, cooperates with organizational units of the Ministry, issues relevant public documents after the completion of the training, and of course, maintains proper records of its educational activities.

2.1. Basic Training Unit - Police Academy

The basic police training is organized as basic police training of the first level and basic police training on other levels. The basic police training is the first level of cadet training with at least the fourth level of education for police officers, training of cadets to the fourth level of education without basic police education, for police officers who had been previously employed by the Ministry of the Interior Affairs (Đukić, 2012: 79).

Refreshment training is organized for members of the Ministry who have not performed police work for more than three years and had previously performed police duties in the Ministry, for police officers from other police authorities designated to the Ministry, for decertified police officers who are waiting for a final judgment assigned to the post of the police officers, for members of the Ministry who are assigned to positions of police officers and who had previously had the status of workers in certain professions.
The training of cadets with at least fourth level of education for promotion into police officers, without pre-established working relations in the Ministry of Interior, is implemented by the object-module concept of training. The subject-modular teaching is focused on the acquisition of knowledge, skills and developing positive attitudes of the cadets, necessary for mastering the training outcomes. The training outcomes are tasks that the cadet needs to master after the completion of the first level basic police training and are defined in accordance with the terms of reference of the police officers with the rank of officer.

The curriculum of the first level basic police training is made up of three teaching blocks: objects - General topics about police work, implemented in the first phase of the 192 teaching classes - Police Skills, implemented in the first and second phase of the 416 teaching classes and expert modules implemented through 612 teaching classes. The training lasts for 12 months, in three stages, and the program contents are realized through 1,220 teaching classes. The first phase is implemented through 17 teaching weeks, including 15 weeks in the Basic Training Unit - Police Academy and two working weeks (informative practice) in the Public Security Centre Banja Luka. The program activities are carried out through 465 teaching classes. The second phase is in duration of 12 teaching weeks, out of which 8 weeks in the Basic Training Unit - Police Academy and 4 working weeks (professional practice) in the Public Security Centre Banja Luka. The program contents are implemented through 247 teaching classes. The third phase is conducted in the Basic Training Unit - Police Academy, in duration of 15 teaching weeks. The program contents at this stage are organized in 508 teaching classes. The schedule for implementation of the first level basic police training, which is an integral part of the curriculum, is specified in the plan for implementation of the subject content and modules. The evaluation of the success of the cadets is a continuous activity and assessment is made

at the end of each phase. With respect to cadets transferred from one stage to another, the outcomes of each training stage should be positively evaluated. The evaluation of cadets for their professional practice is performed by mentors from Banja Luka region at the end of the second training phase (Jovičić: 2005:68). The cadets moved to the third stage must be positively evaluated for their professional practice. Upon completion of the third training phase, the cadets will take their final exam before a commission nominated by the Chief of the Basic Training Unit - Police Academy.

The cadets who pass the exam receive a certificate of completion of the first level basic police training and should be referred to a trial period in the Public Security Centre, Ministry of Interior. In the course of the training, records of professional development are kept for each cadet, which constitute a comprehensive and systematic assessment guide for the promotion of the cadets during training. These records provide transparency of the assessment, shared responsibility for the cadets between the class teacher, the teacher, the police training inspector, the coordinator and the mentor with the aim of respecting the principle of fairness. This includes a self-assessment of the cadets, which raises the level of self-criticism and objectivity for making judgments about themselves and their progress. Upon completion of the training, the cadet starts a trial period with his/her records. The training of cadets up to the fourth level of education without basic police training, who were previously employed in the Ministry of Internal Affairs includes refreshment training which is implemented on the basis of the curricula for this type of training.

The second level basic police training is conducted through training cadets with at least a sixth level of education without basic police education, who are trained for the junior inspector rank and above and who are employed in the Ministry. It is implemented through 18 teaching weeks and the implementation of the teaching content is determined by the curriculum for basic police training for other levels. In the course of the first and second level basic police training, the cadets have boarding provided by the Police Training Directorate. The teaching process of the basic training courses is carried out by 13 teachers and 2 teachers for practical training, full-time employees in the Basic Training Unit - Police Academy and experts from the Ministry of Internal Affairs (Jovićić, 2005: 61).

3. POLICE ACADEMY OF THE MINISTRY OF INTERIOR OF THE FEDERATION OF BOSNIA AND HERZEGOVINA

Among all the criteria in the selection of candidates, the requirements relating to previous education have experienced the greatest changes in the past half century. The main causes for this are the general increase in the educational level of the population and the tendency of the police to finally professionalize. Meager police officer education cannot guarantee the society that the police tasks will be executed correctly, particularly due to the changed needs of the environment. Consequently, today in most European countries, full secondary education is required as a minimal prior learning experience and the police officers include an increasing number of members with a college or university degree.

Improving the system of the vocational building frame represents one of the crucial conditions for real professionalisation. Training and education of police personnel are the main methods of theoretical and practical preparation of the members for police service. In principle, the theoretical and practical preparation of persons for the service (professional building or forming frame) takes place prior to the entry into service at the beginning of the service and throughout the service. The terms police personnel training and education

partially overlap in content, which is understandable given the fact that these are two methods of the same process – personnel building. Training has as its primary goal the practical learning skills necessary for police work, but it also includes some theoretical content. As the primary objective of police personnel training is the acquisition of theoretical knowledge and practical skills. To avoid any confusion, building personnel refers to courses and similar forms of training, which is practiced at the beginning or during the service. By contrast, under education we mean higher and higher formal education for the police profession (Milosavljević, 1997: 548). Professional training of trainees and training of other professional members is provided by the Ministry of Interior, in accordance with the law.

Prior to the establishment of the Police Academy of the Federal Ministry of Internal Affairs in October 1998, for the purposes of education and training of law enforcement officers from the former Republic Ministry of Bosnia and Herzegovina, the Central Police College of Internal Affairs started operating in Sarajevo in 1970, as an independent institution for training the police in Bosnia and Herzegovina. Prior to that, the police officers were trained in courses lasting for six months. In addition, the candidates who have completed eight years of schooling were entitled to admission. At first, the training lasted for three years, then four, and one time they received candidates for a two-year course with previously completed two years of high school (education without general education subjects), after which the four-year education was reintroduced. Teaching and training were mostly theoretical, while the practical part meant some police or military exercises (Spahić, 2005: 118).

On the basis of the General Framework Agreement for Peace in Bosnia and Herzegovina, and in accordance with Annex 11 of the Agreement, as well as the completion of the police reconstruction in Bosnia and Herzegovina built on Bonn-Petersberg Agreement of 1996, with the strong support of the international community and the institutions in Bosnia and Herzegovina, the Police Academy of the Federal Ministry of Interior started its work in Sarajevo in October 1998. The newly established institution was designed for education and training of staff for the Federal Ministry of Interior and staff for the cantonal Ministries of Interior, and with its operation the prewar secondary school ceased functioning. In addition, the Police Academy has within its jurisdiction the training of the managerial staff, specialized training, training in handling weapons and permanent training of the police officers from existing law enforcement agencies, as well as training for the needs of the agency for protection of people and property. The new training concept for a new policing strategy is performed with the use of "new pedagogy" or practicing police actions and procedures in real-life situations, as well as with enhanced police cooperation with the local community and respecting human rights and social values. The new police training concept implies a new concept of admission of candidates. In the secondary police school, the candidates were received after the end of primary school or after completion of two years of high school. The new method introduces admission of candidates from citizens who have completed their secondary education, for basic police training in the officer rank, which lasts for twelve months. Younger inspector candidates are enrolled after college education and their training lasts for six months. Basic police training is carried out on the principle of seven months of theoretical training, four months of practical training and one month preparing for the final work, while the training for the rank of junior inspector lasts for four months of theoretical training and two months of practical training and drafting of the final paper.

4. POLICE TRAINING AND POLICE EDUCATION IN SERBIA

In Serbia, police officer training is entrusted to the Directorate for Education, Professional Development and Science Department of the Interior, whereas higher education for the police is carried out at the Police Academy. The Directorate for Education, Professional Development and Science performs professional education and training, scientific research and other activities in the field of educational activities of interest to internal affairs. The management consists of the Basic Police Training Center and specialized training and police training. The Board of Education, Professional Development and Science is responsible for the cooperation between the Interior Ministry and the Police Academy, Belgrade (Nikač: 2012: 40).

4.1. Basic police training

The first police school in Serbia was founded on 8.2.1921 and Dr. Archibald Reiss was appointed as its director. To date, police personnel training and education constitute comprehensive theoretical and practical preparation of persons for police service in the Republic of Serbia. After the Second World War, with the aim of training the management personnel, the School for non-commissioned officers of the National militia of the Ministry of Interior began working in 1947 in Vrbas. In this period, the School for the City People's militia in Pančevo and the School for Commanders of the People's Militia in Zemun were established. By decision of the Assembly of the Socialist Republic of Serbia, the Police High School "Pane Đukić"in Sremska Kamenica was opened on 01. 09.1967, which has become a major center for training and upgrading of personnel for the purposes of public security (Nikač, 2012: 40). Since the establishment of the Secondary School, the curriculum has followed the changes in the overall educational process in the country, in accordance with the requirements of the Department and the community. In light of the reform of the educational process within the Ministry of Education and Sports and the Ministry of Internal Affairs of the Republic of Serbia, the School has actively participated in this process, and in 2002 it was transformed into a basic police training center. Police officers are trained on the basic standards that are consistent with modern principles of police work, being ready to provide police services to citizens at all times, respecting the moral, ethical and professional standards and the generally accepted values of civilization (Romić, 2012: 59).

The adoption of the new Law on Police and the Development Strategy of the police training system, led to intensification of the process of transformation of the four-year high school police education in one year basic police training. The new training method is significantly more cost-effective and at the same time the quality of training has improved and the contemporary trends of most developed European countries are applied in police training. Training is for male and female participants, ages 18-25, with completed high school. By 2009, when the education of the last generation of students of the Secondary School was completed, which was registered under the old Curriculum, this school and the basic police training center existed in parallel. Today, the Center provides basic police training for male and female trainees who have completed four years of high school. The aim of the basic police training is to provide quality vocational training for uniformed police officers of general jurisdiction, who meet the needs of the Ministry of Internal Affairs of the Republic of Serbia for qualified personnel contracted posts in the area of policing. The curriculum at the Basic Police Training Centre has a modular structure and is implemented in three phases covering general topics of police work, police skills and professional modules. The basic police training is carried out for 12 months and

Basic Police Training for 36 weeks; in regional police departments the students have practical training in the two blocks, which in total last for 6 weeks. Upon completion of the third training phase at the Basic Police Training Centre, the students have the final exam before a commission appointed by the police director. The students who pass the exam are employed in the Ministry of Internal Affairs and the trainees are sent to vocational training at the regional police headquarters, where they have a special program with the participation of police officers-mentors, trained for independent work in the workplace and uniformed police officers with general jurisdiction, who have a high school diploma.

5. POLICE EDUCATION IN MACEDONIA

The former process and forms of education and training of police personnel for the Ministry of Internal Affairs in the Republic of Macedonia was carried out in the High School of Internal Affairs (1971-1977) and in the Center for training of personnel on security and social self-protection (1977-2003) in Skopje. The structure of the Centre as a separate organizational unit for certain types of education included a high school of Internal Affairs, which was transformed into a secondary police school in 1995, functioning within the regular education system (1971-1995), where personnel with upper secondary education was educated for the needs of the Republic Secretariat of Internal Affairs, department for permanent education, home students and general services. The permanent education was aimed at continuous professional training of the internal affairs employees and other bodies and organizations and units (Stojanovski i Kalajdžiev, 2006: 517).

5.1. Faculty for security and social self protection

In the past there was a strong need for police personnel with appropriate education acquired in the process of regular training and with acquired additional knowledge and skills through permanent training. The Police Academy of the Republic of Macedonia, in the exercise of its mission, was especially focused on the implementation of the national education system, education, training and scientific knowledge in direction of the identified standards and norms in the educational system of the EU Member States, the inclusion of European and world trends in the curricula andon the development of a transparent higher education institution in which the educated personnel for the police and other institutions that cover the area of security. The aim of education and training of police personnel was to educate students and train qualified personnel to be able to meet the current challenges of the time. The educational facilities were based solely on scientific background for both general education and vocational professional courses, as well as on the scope and form of police training and skills.

The Faculty of Security was first established in 1977 as part of the Centre for training of personnel on security and social self-protection. With regard to the graduates, 2,120 students came from former Yugoslav republics. As an institution of higher education, it became a member of the University "Ss. Cyril and Methodius "- Skopje. Pursuant to a separate law, the institution was abolished in 1995, the decision for termination entered into force on 31.12.2002. In 2003, a special law established the Police Academy, which incorporated the Faculty of Security as its integral part, with new modern subject programs. The first generation of students enrolled in the academic year 2004/2005. In September 2004, the University became a member of the University "St. Kliment Ohridski "- Bitola. Since its inception, following European trends, the Faculty of Security applies the European Credit Transfer System, in the study rules, which, inter alia, allows easy circulation of students between the two universities and facilitates the

exchange of students. According to the same rules, in the academic 2006/07 postgraduate studies were established (Nikač, 2012: 46). In September 2008, the Police Academy was transformed into two separate institutions. One of them is the Faculty of Security, which is also the legal successor of the Police Academy. That same year, in addition to the existing study program degree in criminology, the study program Security and financial controls was also initiated, as well as the joint study of the Faculty of Security and the Faculty of Tourism and Hospitality in Ohrid.

6. RESULTS OF THE EMPIRICAL RESEARCH

An empirical scientific research as conducted seeking to look at status indicators and connections among the new police academy cadets in Banja Luka to a total of 131. The survey was conducted in January 2017, when the newly recruited cadets at the Police Academy answered questions in a questionnaire about the motives for enrollment, the concept and domains of training and the realistic expectations. Out of the total number of respondents, most were males, 119, while 12 were female and the age structure of the respondents varied between 19 and 27 years. The general objective of this study was based on the collected and analyzed attitudes of the cadets describing and explaining the motives of entry, the methods of training and the real possibilities. The questionnaire was designed in the form of closed (orchestrated) and half-closed (half-orchestrated) questions. The total number of respondents was 131. The entire questionnaire consisted of eight questions relating to the image of the sample and their perception of basic training at the Police Academy.

In the first question, the respondents had to give their personal opinion about the motives of entry to the Police Academy, which had the following answers offered: 1) a secure job; 2) a challenging profession; 3) environmental influences on choice (family and friends); 4) unemployment; 5) Other. The largest number of respondents, 70 of them (53.4%), stated that it is job security that led them to enroll at the police academy, while 40 (30.5%) indicated that the police challenging work was their motive for entry and 21 of them (16 %) indicated that they entered the police academy under the influence of the environment and family and friends.

In the second question, the participants had to give their personal opinion about the expectations regarding training, choosing one of the offered answers: 1) adoption of new knowledge and skills; 2) pure formalism training; 3) other. All respondents or 131 (100%) indicated that they had a personal opinion that they entered training course at the police academy to acquire new knowledge and skills.

In the third question, the respondents had to give their personal opinion whether the training they had received from the academy was useful in their future police work, to which they had the following answers: 1) yes; 2) no. All respondents or 131 (100%) indicated that they thought the training they had acquired would be useful in their future police work.

In the fourth issue, the respondents were to give their personal opinion whether they were satisfied with the quality of training in line with their expectations, choosing one of the following answers: 1) I agree completely; 2) I partially agree; 3) I agree; 4) Ipartially disagree; 5) I completely disagree. The largest number of respondents, 90 of them (68.7%) responded that they agree completely, while 41 of them (31.2%) responded that they partially agree with the quality of training in line with their expectations.

In the fifth question, the respondents had to give their personal opinion on whether the duration of the training (six-month period) is adequate with regard to the level covered

by the material and the following answers were offered: 1) the period is too long; 2) the period is appropriate; 3) the period is too short. Most of the respondents,, 112 (85.4%) answered that the period of training was appropriate, while 19 of them (14.6%) responded that the time period is too short compared to the bulkiness of the material covered by the training.

In the sixth question, the respondents had to give their personal opinion on whether the basic police training contributed to expanding their professional knowledge and skills and the following answers were offered: 1) I agree completely; 2) I agree partially; 3) I agree; 4) I disagree partially; 5) I completely disagree. All respondents, or 131 (100%) stated that the basic police training contributed to expanding their professional knowledge and skills.

In the seventh question, the respondents had to give their personal opinion on whether they have information on the manner of training in the police academies in the region and the following answers were offered: 1); yes; 2) not. Most of the respondents, 100 (76.3%) responded that they were not familiar with the ways of carrying out training in the region, while 31 of them (23.7%) responded that they were familiar with the training in the police academies in the region.

With regard to the eighth question, the respondents had to give their personal opinion on whether after the completion of the training they considered that the police work is the right choice of occupation, and the following answers were offered: 1) I agree completely; 2) I agree partially; 3) I agree; 4) I disagree partially; 5) I disagree completely. All respondents, or 131 (100%) stated that they felt the police work was the right choice of occupation.

CONCLUSION

After presenting the facts, we can conclude that the Police Academy is a very systematic and well-organized system of training through which newly recruited cadets under a specific regime of life and work adopt a series of theoretical and practical knowledge and skills necessary for effective policing. As we stated in this paper, there are very similar solutions of Police Academies in the region which are organized as independent academic units or within the police administration whose primary objective is the training of new police personnel. Given its manner of work and training in all aspects, the Police Academy has imposed the need for efficient and effective police structure and therefore staff training and harmonization with modern democratic standards.

Based on the presented research results, we come to the conclusion that the newly recruited cadets of the Police Academy are very satisfied with the level and quality of the basic training, that the training has fully met their expectations, that they entered the police academy because of safety and the attractiveness of policing, that the six-month period of training is appropriate to the level and scope of the curriculum, that new knowledge and skills are gained during training, that they will continue to be used in police work, as well as that the police job is the right choice of their interest. In the future, the cadets of the Police Academy should be more informed on the manner of training at the Police Academies in the region, through exchange of cadets, joint training and cooperation.

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POLICE SUBCULTURE AND POTENTIAL STRESS RISKS

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ABSTRACT

The purpose of this paper is to highlight the importance of occupational subculture and the stressors involved in a pronounced occupational subculture. Policing is also known for its physical and mental stressors that are, arguably, more numerous than in other professions. The importance of the protective function of subculture needs to be taken into account when attempting to deal with police stress. This study describes the prevention and treatment programs that have unfortunately not been sufficiently utilized because of the police culture. The paper reviews the potential risks caused by the exclusion of police culture. It hypothesizes that those police officers who perceive themselves as "out-group" (i.e. that they are not part of the subculture), would experience more occupational stress in comparison to those who perceive themselves as a part of the group (i.e. "in-group").

Key words: police, occupational subculture, stress, stress dealing mechanisms

1 INTRODUCTION

Police proffesion faces many challenges regarding not only its relation to social circumstances, but also with respect to finding out the best solutions for the internal weakness and ongoing problems. Stress is one of the crucial modern problems caused by the nature of the job and the relationship between the people in this proffesion.

Police subculture and belonging to it is of great importance whether we observe a person as an individual (social unit) or as a professional (social role). Traditionally, the police were more interested in practical action and results than in innovations and exploration of new techniques and methods. However, along with the social and technological progress, the possibilities of the police profession are expanding and it is necessary to adapt the police to new conditions and needs of modern society. This is the challenge facing the police profession, which can be a significant source of stress. Babić defines stress as "strong, intense, negative experience, any significant change (positive or negative) in life that disrupts the balance and sets new requirements for adaptation" [1] (p. 329). This inability of effective and quick adaptation of thepolice to the modern requirements may result in: stress, disregard of the procedure due to the lack of its understanding, unclear role of the police in society, confusing police tactics, etc. On the other hand, the police can contribute to the alleviation of the symptoms of stress of their employees in different ways: using a strong and developed police subculture, motivatiing and rewarding its employees adequately, as well as conducting a variety of appropriate measures to mitigate the already known sources of stress in the police. It will primarily contribute, in accordance with the capabilities, to create a "tailor-made" work environment

for the people who work there, leading to a better functioning, performance and development of the police profession in general.

The purpose of this paper is to point out the seriousness of stress and its effects on everyday life and work of the police officers. The paper emphasizes the importance of the professional police subculture, which in many ways can contain and mitigate the sources of stress at the workplace. Hence, it is recommended to strengthen and develop the professional police subculture, underlining the need to undertake certain activities in order to prevent and solve the stress in the police profession.

2 STRESS IN THE POLICE PROFESSION

Lately, the issue of stress is becoming increasingly relevant in everyday life, but also in professional life. Stress affects negatively the physical and mental health of the police officers, their social life and the very organization which employs them suffers great damage. Different people point out to different sources of stress. Stress disrupts the normal flow of the working time.

Police profession is considered to be one of the most stressful [2] (pp. 375-400), as policemen are exposed to unusual stress and trauma. Numerous authors have written about police stress. For example, Patterson [3] (pp. 338-352) defines stress as an imbalance between what is required of a policeman and what a policeman can offer.

Given that police officers are exposed to the most violent, antisocial and generally bad elements of society [4] (pp. 43-62), the police profession contains many sources of stress:

1. Physical conditions of work (field work in all weather conditions or inadequate facilities, unventilated rooms, bad lighting, constant noise, etc. may be some of the sources of stress in the workplace);

2. Job description (constant exposure to crime and criminal activity, a profession that is a "lifestyle", shift work, frequent interruptions of the work or work monotony);

3. Interpersonal relations (petty disputes in the collective, intolerance, isolation of individuals, unprofessional conduct, petty gossip during breaks, etc.);

4. Gaps in the work organization (unclear roles, incomplete instructions, inadequate distribution of responsibilities among the staff, poor communication and poor coordination among the organizational work units, etc.)

5. Inadequate reward (low wages, lack of praise or recognition, lack of feedback) and many others. Many researchers have tried to present a complete and final list of categories of stress sources in the police profession.

For example, Stratton [5] (pp. 443-470) lists four categories:

1. Stressors within the organization;

2. Stressors outside the organization (dealing with the modern professional requirements and challenges, stressors related to the legal system and society's expectations of police conduct [6] (pp. 338-352), disrespect of the public and the media toward the police [7] (pp. 63-79) etc.);

3. Stressors arising from the nature of the work (includes events that are routinely repeated in the police work and have the potential of causing psychological and physical harm. First, referring to the use of force, making critical decisions, continuous exposure to crime and criminal activities, frequent encounters with people in distress, death, etc. [8] (pp. 123-135). Other authors [9] (pp. 338-352) report five main stressors related to the nature of police work: physical assault on a police officer, killing a person while on duty,

deaths of partners, working with abused children, pursuit, deprivation of another's life [10] (pp. 535-547), a violent murder and horrific scenes of war crimes [11] (pp. 43-62);

4. Individual stressors (specific sources of stress for an individual, family circumstances etc.).

Basically, all stressors occur within a specific organization, in this case the police proffesion. Stressful events do not occur in isolation, but most commonly they are associated and repeated several times, which leads to negative consequences. "The common symptoms of stress can be divided into four groups:

1. Physical - fatigue, tiredness, headache, sleep disturbance, muscle pain and stiffness (especially neck, shoulders and lumbar area, tachycardia, chest pain, abdominal cramps and pain, nausea, tremors, cold hands/feet, warm or cold " waves");

2. Mental - lowering of concentration and memory, indecisiveness in making decisions, confusion, loss of sense of humor;

3. Emotional - anxiety, nervousness, depression, anger, frustration, fear, anxiety, irritability, impatience, low frustration tolerance;

4. Behavioral - walking nervously, fidgeting, nervous habits (nail biting, tapping feet), increased food intake, intensification of smoking and drinking, crying, shouting and yelling, blaming others, aggression, throwing things "[1] (p . 335).

Spielberger [12] made a survey of police stress and cited three key categories:

1. Administrative-business;

2. Lack of support;

3. Physical and psychological stress.

In view of the numerous methodological problems, various researchers conducted several analyses of Spielberg's questionnaire. Thus, Martelli & Martelli [13] (pp. 443-470) confirmed that the questionnaire constitutes a valid and reliable measure of the overall stress of the police, particularly in the administrative and business, physical and psychological stress categories. Some authors [14] (pp. 231-239) suggest that when considering the sources of stress, the wider context, such as quality of life and social disorder and crime rates in certain areas and settlements, must be taken into account. From the above, we can see that the authors mainly state similar categories when talking about police stress, which differ only in the number of categories of stress or in the names of the very categories of stress.

During their daily activities, police officers enter into a special social relationship, which involves upgrading of the personality with characteristics of the police profession and its culture, while respecting the individual differences. At the same time, the existence of a strong ethic code contributes to improved performance within the proffesion. Therefore, the second part is dedicated to defining the professional police subculture.

3 PROFFESIONAL POLICE SUBCULTURE

Bearing in mind that there is very little literature on the topic of professional culture of the police, it is necessary to point out the need for its consideration. Generally, professional culture is a form of subculture. That is, it is the culture of a specific group of people that is different or "stands out" from the culture of the wider community to which the group belongs. With the help of professional subculture, the group experience is concretized and transmitted. Therefore, subculture is: "One particular, relatively closed segment of general culture, whose members share common beliefs, traditions and values, and often the manner of dress, diet, behavior and moral norms" [15]. Considering the fact

that professional associations belong to interest groups, hence professional subculture belongs to a special kind of subculture.

Professional subculture strengthens and develops along with the development of the profession. It helps to clearly define what is desirable and characteristic for the members of the police profession. In this way, the culture completes and makes recognizable one profession in comparison to other professions. As Kešetović noted, professional subculture primarily refers to: "A certain system of values, attitudes and beliefs in relation to the profession itself, clients, relations within the profession, as well as to other community groups and social phenomena that have an impact on the profession" [16] (p. 115), therefore, it is necessary for an individual to adopt that subculture to be able to exercise his/her profession.

Bearing in mind that the basic elements of culture are: 1) values, 2) standards, 3) beliefs and attitudes, 4) customs and rituals, 5) terminology and 6) symbols, we will look at each of these elements in order to present the professional police subculture.

The values that are an integral part of the professional police subculture represent an important source of motivation and guide employees to act towards achieving the professional goals and achieving the desired state. Therefore, the ultimate values that relate to the desired goal which the profession wants to achieve are equally important for the professional cultures as instrumental values, which relate to the desired behavior nourished and supported by the profession (such as diligence, teamwork, respect for rules and authority, etc.). Robins and Kutler [17] (p. 112) state that the behavior of every person who joins the organization with an already relatively established system of values is strongly influenced by that system. Values are formed by joining a certain number of individual social attitudes into a more general attitude toward a greater number of social phenomena. That general attitude includes relations which are the content of the integrated attitude and is upgraded by many new relations and attitudes. Therefore, the growth of man depends on his/her environment. In other words, individual values are upgraded with collective values; in this case, professional values.

Professional subculture implies certain norms of behavior. Norms serve to align the individual behavior, in order to avoid a discrepancy in the performance of the professional practice and to ensure harmony between the police and the community, which police serves and protects. Norms are defined by Subošić as: "The standards of work behavior, or behavior in the work process. They can be written (codified moral norms, legal and technical rules) and unwritten (undocumented moral norms). They convert the values into forms of behavior "[18] (p. 191). For successful implementation of the professional goals and development of the profession, it is important that standards are firmly accepted. "If the group standards are firmly adopted by the members of the group, it will be harder to change their attitudes. The firmness of group standards usually goes hand in hand with the assessment of their justification. Those group standards and attitudes whose justification is more confident will be insistently maintained and harder to change" [19] (p. 378). Solid professional culture involves successfully accepted professional standards.

Attitudes and beliefs are an important element of professional subculture because the profession as a social group has an important role in forming and changing attitudes, not only because it represents them, but also because it sanctions those who do not manifest such views. There are three ways in which social groups can exercise its influence in forming and changing attitudes: "1) The fact that it affects selection, filtering of communications and information that will reach out to the members of the group; 2) The

second way in which groups can exercise influence is emphasizing the group values and the authenticity of communications and communicators which the group is prone to and whom it trusts; 3) The third way of influence lies in the social support that the group provides to maintain attitudes in accordance with the collective perception "[19] (p. 361). Hence, the police will, like any other social form, work better if its members are better adapted to their status and roles. Manning [20] (pp. 472-475) notes that a significant source of stress within the police profession may be the individual autonomy at the disposal of the police officers. Due to the nature of work, the police personnel who are engaged in the "field" have the freedom, in particular, to take the initiative in the performance of their official duties and tasks, which can be one of the factors of abuse and stress. Hence, more intensive training is conducted within the police in order to reduce the stress of the police officers. Although the internal objectives and functions of the police are mainly independent of their environment, as Zhao & Thurman notice [21] (pp. 345-357), the police organization has undergone changes in order to adapt to the expectations of contemporary society. That is how a new model of police is developed - the police as a service to the citizens. Lilley & Hinduja [22] (pp. 489-490) compared the modern and the traditional police model and concluded that the modern model is considerably more oriented to the community (as a police department, service), while the traditional model is mainly oriented to law enforcement (the police as power). That had a huge effect and shaped the modern professional police culture.

In accordance with the modern requirements of society, a more current police training is the training related to the implementation of the principle of equality, anti-discrimination policy on racial, ethnic and cultural grounds and beliefs that are consistent with it. The rejection of the above principles and beliefs, as confirmed by numerous studies [23] (p. 111), can be a significant source of stress at work. The constant and consistent repetition of traditions and rituals (application of procedure), keeps the continuity of the organization for a long time, even in adverse conditions. Traditions and rituals are also part of the professional subculture. Traditions include preserving the tradition of the police organization or its organizational units, as holidays, promotions, celebrations, mourning and oath. Close-order drill, parade of units and similar activities of the police units represent the typical rituals (element) of the police subculture, which contribute to the identification of the police profession. Daily practice develops specific terms and jargon which strengthens the affiliation to the police profession, shapes a culture in return and facilitates communication in order to achieve better efficiency in achieving the professional goals. Due to the specificity of the police profession, the collected and systematized slang of the criminal structures is part of the police terminology. The police profession is recognized throughout the world for its use of symbols, such as uniforms and police badges. These are the basic elements that form the professional police subculture.

4 PROFESSIONAL POLICE SUBCULTURE– SOURCE OF STRESS OR POSSIBILTY FOR OVERCOMING THE STRESS

What to do when a police officer is expelled from a professional subculture? It is generally acknowledged that culture influences the development of personality, according to Golubović [24] (pp. 205-206) so as it: "1) channels the individual in a certain direction; 2) performs symbolization, i.e. develops appropriate responses to standard signals; 3) structures the perception; 4) leads the individual to perform the tasks specified by the society - the roles, in terms of gender, age, occupation etc .; 5) the individual refers to the society in terms of integration or conflict. "When an individual is being purged from the

collective, then he/she is in a conflicted relationship with the professional community and culture that he needs to belong to, because man is a social creature that behaves as an autonomous individual, but also as a member of a particular society, or a social group. Thus, the personality develops from "continuous process of assimilation and organization of experience that an individual derives from interaction with the environment" [25] (p. 202).

The police profession can also be viewed as a common platform built by an individual who performs the role of a police officer. Due to the specificity of police work, solidarity develops, however Bitner [26] (pp. 63-65) indicates that solidarity is incomplete, because it simultaneously develops social isolation, which is mentioned by Kešetović. [16] (P. 117). This has the effect that divides the world into "us" (those who are within the service) and "them" (those who are outside the police).

The attention on the police officers during the establishment of their work relationships is focused on the evaluation of their behavior. This is achieved by an internal, professional (self) control, which is also part of the subculture adopted through education, training and performance of the police practices and it is more part of the pedagogical (positive indoctrination) than educational work. Depending on whether the individual behavior is mainly acceptable or unacceptable, it is stimulated or discouraged (sanctioned). Control would be difficult to maintain providing that it is imposed only by force. Therefore Beker [27] (p. 84) states that: "There are more subtle mechanisms that can fulfill the same function. One of them works by influencing the way in which individuals perceive certain procedures and the possibility of their undertaking. These attitudes are transmitted by persons worthy of respect and are confirmed by experience. "

E. Rus-Ajani [28] (p. 13) notes that two models of behavior are developed through the police culture: the preferred model of "good" and undesirable model of "bad" police officer. Moreover, this way not only forms and distinguishes the desirable from the undesirable behavior, but also through criticism and sanctions "you do not behave like us," it excludes the individuals from the police community. This alienation of certain police officers strengthens the internal tensions which could further lead to their deviant behavior. Hence, Horvat states: "Whatever has a negative impact on the process of work, must have a negative impact on its result - self-realization. The man is unable to realize his human potential. He is alienated"[29] (p. 103).

The constant exposure to stress can lead to a breakdown of the immune response, which makes people who work in the police vulnerable and susceptible to the development of secondary traumatization. Zhao and Ren [30] (pp. 535-547) conducted a study in which they showed that the destructive coping mechanisms were the strongest predictors of stress in police officers. Jackson & Maslah [31] (pp. 244-259) state that police officers often use smoking, drinking, avoiding people (loss of social support) or engaging in activities that draw away their attention from the problem, as a strategy for dealing with stress. Evans et all [32] (pp. 246-258) state that police officers are dealing with their emotions by retreating into themselves or becoming cynical, authoritarian and suspicious.

If a police officer is strongly identified with his/her professional role, accepted by the collective and well adapted, then he/she develops positive coping mechanisms. Some authors [33] (pp. 338-352) state: talking with colleagues, counseling and exercise [34] (pp. 215-226) are positive coping mechanisms.

5 CONCLUSION

It is generally known that police profession is considered to be one of the most stressful. Stressors themselves are not solely the cause of the ill effects of stress, but also the non-adaptive coping mechanisms. An individual may be faced with stress in different ways, including delinquency. Hence, there are both positive and negative coping mechanisms. An important factor in coping with stress is the intensity and frequency of exposure to stress. That is, it is important for a police officer to adapt to the professional conditions and constant exposure to stress. If the reactions to the stressors involve exclusively negative emotions, especially anger and frustration, then we talk about delinquent adaptation. If the professional police subculture is strong and its elements are firmly accepted, then the adaptation of the police officers to their professional role is complete. This greatly helps the individual (police officer) to face the everyday sources of stress in a productive way.

Using the professional subculture defines the acceptable and desirable behavior of the members of the police profession. Therefore, it is necessary that during the training or education of the young personnel in designated police institutions, special attention is paid to fostering the professional police subculture. The clear message to the candidates - future police officers that the police profession is also a special lifestyle also contributes to a better selection of personnel and future functioning of the profession. Through the professional police subculture, the desirable personality traits relevant to the profession are developed and nurtured. It is therefore important to understand the importance of the professional police subculture, especially in the area of dealing with everyday stress arising from the police profession and the need for its development.

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MEASUREMENT OF COMMUNITY POLICNG – THE UNITY APROACH

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1. INTRODUCTION

The role of the Police in society is very important and it can be recognized in three general fields: a. to prevent and fight crime; b. to maintain peace and order, and c. to be a service for the citizens. The police will successfully manage all three aspects through the concept of Community policing (CP). This concept is not new, but it is very demanding in delivering the necessary security on the local level, but also in promoting and strengthening the partnership with the citizens through police integrity, protecting the community, respecting human rights and human dignity and at the same time enforcing the law. The progress in the sphere of technology has increased the expectations of the citizens from the modern state. The real challenge for the police is how to increase its efficiency and improve its service to the citizens, while integrating the new technology in its methodology. In 2015, the European Commission agreed to support a 3-year project entitled UNITY[1], which aims to address some of the above-mentioned issues. In the following pages, there is a description of the relationship between community policing in line with UNITY and the research findings of multiple work packages and research sets across 8 countries, on how the impacts of UNITY in relation to community policing will be assessed. Descriptions relating to the development of the platform relationships will be given. There is a brief description of the methodology, which leads to the 6 key impact assessment areas. The intricate process of piloting and evaluating a CP tool, to stand the test of European cultures, variety and geography.

2. COMMUNITY POLICING WITHIN THE UNITY RESEARCH

The relationship shared between any state-like entity, through its police and the communities, as environments in which the police are designated to serve, is an important one. The police, as an organization viewed in a social and public context, is the first responding representative of the preventive, corrective or repressive side of the state apparatus in the eyes of the citizen. As such, law enforcement agencies (LEAs) act as agents of enforcement, fear or reassurance. Despite that, as a public service, meaning 'a servant' to the public being paid for by public funds, the police also acts as a mechanism to cater to the needs and protect the lives of the people at the same time.

These LEAs in some limited cases have the ability to deny people their liberty and freedom, whilst having the legally enabled possibility to use force in doing so. These

[1] More information about the UNITY project can be found at: https://www.unity-project.eu/

possibilities create overlaps in the overall diagram of planning, organization and delivery of effective local policing. The effective policing on the local level is fundamental in building trust between the public and the police on all levels. Local policing is delivered in a carefully cultured manner, consistently built and improved, by familiar officers in specific geographical locations. Local community policing tends to always support strong and positive relationships between the parties involved in the complex relationship of keeping an environment secure.

True community policing requires constant work. It is a sustained effort consisting of multiple sides and more than one layer in structure. In order for the effectiveness of any CP method/tool to be ensured, constant and continuous communication and interaction remain prerequisite conditions to a functioning community policing model.

The UNITY project methodology was structured to provide a hint of the general preconditions for effective relationship between the police and the citizens. There was a need to come up with a fluid and overarching definition of the term "Community Policing" (CP) across the spectrum of national, cultural and social interpretation of all involved in the UNITY project.

The elementary operational trait of community policing is based on the localization achieved through decentralization, which in reality means the local police being geographically based in a familiar area. As such, the police are expected and encouraged to take responsibility, not only for addressing local criminal behavior on "their beat", but in facilitating information sharing protocols between themselves, local citizens and key stakeholders in order to gauge local issues and their effects on the local area. There is certain complexity in engaging the local community with the police, specifically, citizen involvement in combating local issues by working in partnership with the police. (Hail, 2015). This is done with the purpose of identifying and sourcing solutions for local problems, while delivering local policing which, in contrast to the traditional reactive style policing, has a broad focus on crime prevention.

The term 'Community policing' within the lifetime of the UNITY project is constantly evolving. At the outset of the research and development process, there were the following traits that were attributed to the CP concept:

- Working together, cooperation and collaboration;
- Building relationships of trust, confidence and understanding;
- Performance based on understanding and addressing local needs and issues, both proactively and reactively;
- Communicating, interacting and information sharing with local communities.

3. THE APPROACH

The vision and purpose of UNITY is to strengthen the connection between the police, communities and intermediaries or partner organizations to maximize the safety and security of all citizens. This is to be achieved through meeting a series of primary objectives:

- To capture best practices for cooperation between the police and the citizens;
- To develop a communications technology to facilitate, strengthen and accelerate the communication between the citizens and the police;
- To design, develop and deliver 1) training for LEAs and 2) awareness raising activities about CP.

The research of opinions and attitudes of citizens, intermediaries and police in all the different environments (national contexts), which are later also used as pilot test environments, are key in ensuring the applicability and versatility of the developed tool. There are two reasons for this. One is to assess the gains of the tool and the second is to test the science behind the approach via pilots.

When devising a new and improved community policing approach, which is to be implemented through a new form of communication method (based on IT), functionality and usability of the newly developed tool are crucial. The functionality and usability need to apply equally to diverse user groups (i.e., police, diverse citizens, different communities and organizations). These two elements need to be looked at in different usage and national contexts, through cycles of tests and pilot implementations.

Additionally, there is a need to constantly evaluate the impacts of the newly developed tool with respect to the processes and outcomes of CP in the respective user groups (i.e., police, citizens, offline and online communities as well as the public and private organizations) including:

- Performance criteria, such as: livability criteria, prevention, early identification of crime, crime reporting, including unreported and undiscovered crime;
- Relationships and collaboration between: the police, the citizens and diverse community groups;
- Acceptance of CP online by both the police and the citizens.

What the UNITY approach has in its structure is the continuous assessment of possible short- and mid-term impacts of police presence online on Community Policing success, particularly the impacts of ethical and societal issues leading to unintended side effects such as pressures on privacy and trust, resistance from users (e.g., increased privacy related behaviors and surveillance) or changes in online relationships and behaviors of the platform users.

An assessment is made on the role that diversity (e.g., in terms of gender) and different (national/legal/societal) contexts play in the adoption and successful use of the new tool for online community policing. The developed community policing platform and the CP interventions which take place in reality are evaluated for their impacts. As of January 2017 there have been pilots implemented in 4 countries (Croatia, Estonia, Germany and Belgium). This evaluation process takes into account the short- and mid-term effects for law enforcement agencies, as well as individual citizens, local, regional and national communities and private and public partners of CP efforts. This is something which is related to an important element of the UNITY approach identified as: COM (Current operating model) or TOM (Target operating model) [2] within the project architecture scheme.

4. THE PLATFORM

The UNITY platform is where the notion of 'community policing' and the 'needs' of the overall environment are supposed to meet. One of the biggest challenges in creating successful and accepted information technology is not the technology development, but the social factors. It is important to note that the relationship between the social context and technology is interactive rather than unidirectional. Technology also shapes our interactions, as can be easily witnessed in the influence of social media developments on

[2] More information about COM and TOM can be found at:
https://www.unity-project.eu/wp-content/uploads/2015/12/D4-4-Extant-CP-vs-TOM-2nd-Report.pdf

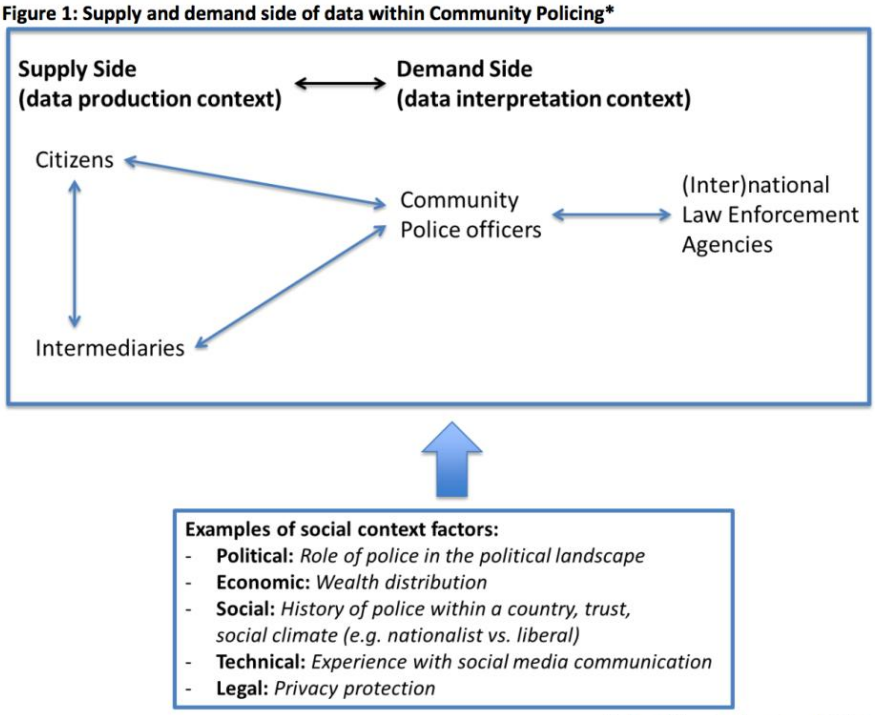
our communication patterns. This transformative power of technology is one of the main reasons why it is actually introduced in organizations and communities. The basic assumption within UNITY is therefore that the introduction of a technological tool can transform CP for the better. A full prediction of the social consequences of any technological adaptation is not possible. Nevertheless, a thorough analysis of the social context can help understand the parameters of the environment in which the technology will be used.

In addition to the demand side of data, the supply side is also embedded in its social context, since the social context impacts the type of data individuals provide and the interpretation of these data (Jacobs & Bayerl, 2015). Figure 1 demonstrates what this means within the context of the UNITY platform.

- The supply side refers to the production of data by individuals who are socialized in a specific cultural context, who provide data to the police or other relevant intermediaries of the police (e.g. governmental services and organizations, such as ministries, health, fire, transport and social services), in the context of a specific culture (which may be their own, but is not necessarily so).
- The demand side refers to the collection (i.e., the what, when, why, how, etc. of sampling data) and the interpretation of data by community police officers socialized in a specific cultural context. In our Unity context, citizens and intermediaries are expected to provide CP officers with information. The CP officers process, analyze and distribute the data to other national and international law enforcement agencies if necessary.

To make things somewhat more complicated, it could be someone else at the police doing the analysis instead of the community police officers. Certainly, the police are also providers of information/data, certain types in certain contexts, within the CP. In order for the CP to work, especially in a preventative way, the police need to share data with intermediaries and to keep the public updated about their work and motivated to be involved in their local communities. Thus, communities and intermediaries can also constitute the demand side of data. Both the police and the external groups demand and supply information. (Unity Deliverable 3.3 (1st Stakeholder analysis – differences)). Such examples include social media profiles of local police organizations.

Figure 1: Supply and demand side of data within Community Policing*



*Adapted from Jacobs & Bayerl, 2014.

UNITY, through its piloting and evaluation, takes into account the effects on individual citizens (individual effects), collective within the communities (subgroup effects), effects within communities (group effects) and effects on organizations, as well as relevant cross-level effects. Inter-organizational effects are considered where necessary in order to account for impacts of the developed technology for the collaboration between the police and relevant partner organizations in the CP efforts.

The impact evaluation is concentrated on technology acceptance/adoption, virtual and offline communities and social movements. The evaluation process is based on established evaluation frameworks addressing attitudinal, affective, behavioral, performative and relational aspects.

In order for the UNITY product to be developed into a functioning tool, evaluation and testing are carried out. Having different kinds of potential end-users included in the development stages of the platform is key to enabling participatory design of its functions and capabilities.

To be able to achieve a true and systematic development of the technology platforms, the focus is placed on exploring these two aspects:

1. Functionality and usability testing - piloting
   (To ensure that new technology meets the requirements that guided its design and development), and
2. Technology acceptance and adoption – impact assessment
   (Designed to establish to what extent users are willing to adopt the newly developed tool, but also to identify which factors may influence the willingness or the actual usage of the tool by individuals, groups or organizations).

5. METHODOLOGY TO ESTABLISH THE KEY AREAS USED TO ASSESS UNITY

In total, we base our analysis on 572 structured interviews obtained in two rounds of data collection, one in the context of Deliverables D3.1-D3.4 (focus on definitions of CP and general best/effective practices), the second in the context of Deliverables 2.3 and 3.4 (focus on ICT acceptance and use). Of the total of these interviews, 170 were conducted with members of the police forces and 402 with community members and intermediaries.

Round 1. Best/effective practices and current state of CP

Table 1 provides the number of interviews performed in the first round of data collection. Out of the 323 participants, 62% were male, 35% female (2.8% without gender information). Across countries, gender distribution ranged from 43% to 74% male. The average age of participants across all countries was 43.1 years (range: 18-85 years). Tenure within the police was on average 17 years (range 0.5 to 44 years; police sample only).

Table 1. Number of interviews analyzed for CP definitions/best practices per country and group*

Country	External	Police	Total per country
Belgium (BE)	28	11	39
Bulgaria (BG)	28	10	38
Croatia (HR)	28	10	38
Estonia (EE)	28	10	38
Finland (FI)	27	10	37
Germany (DE)	29	9	38
Macedonia (MK)	28	10	38
Great Britain (GB)	39	18	57
Total	235	88	323

***Deliverable 7.3**

Round 2. Existing CP tools and expectations for new tools

This round consisted of 249 interviews, 82 with police, 91 with young monitor members and 76 with intermediaries (see Table 3 for details).

When mapping out the desired mix of backgrounds for communities and intermediaries, the following criteria were taken into account (see Table 2 for details):

- Communities: Relevance of the minority and intermediary group for community policing efforts and eligibility of the groups to participate on legal grounds (e.g., above 18 years of age)
- Intermediaries: an organization or group that supports community policing efforts for and with young members of the minority group in the country
- Police: members of the police force that are involved in community policing efforts for and with the main community group.

Table 2. Communities and intermediaries interviewed in round 2*

Communities	Intermediaries
Ethnic minorities, religious minorities, refugees, hooligans	Youth workers, youth councils, teachers, teachers' unions, sports clubs, addiction services, rescue services, universities, municipal councils, churches, media, Red Cross, volunteers, hospitals

***Deliverable 7.3**

Out of the 249 interviewees, 62.5% of the respondents were male, 37.5% female. Across countries, gender distribution ranged from 20.0% - 73.3% female. The average age of participants across all countries was 34.5 years (range: 18-69 years). Tenure within the police was on average 18.5 years (range 0.5-43 years; police sample only). See Table 3 for the number of interviews performed during this round of data collection.

Table 3. Number of interviews analyzed for D2.3 and 3.4 per country and group*

Country	Police	Community	Intermediaries	Total per country
Belgium (BE)	10	10	10	30
Bulgaria (BG)	10	10	10	30
Croatia (HR)	10	10	10	30
Estonia (EE)	10	10	10	30
Finland (FI)	10	11	10	31
Germany (DE)	10	20**	7	37
Macedonia (MK)	10	10	10	30
Great Britain (GB)	12	10	9	31
Total	82	91	76	249

***Deliverable 7.3 **Germany chose to interview two community groups (10 interviews per group).**

6. BENCHMARKING WHAT IS RELEVANT TO COMMUNITY POLICING

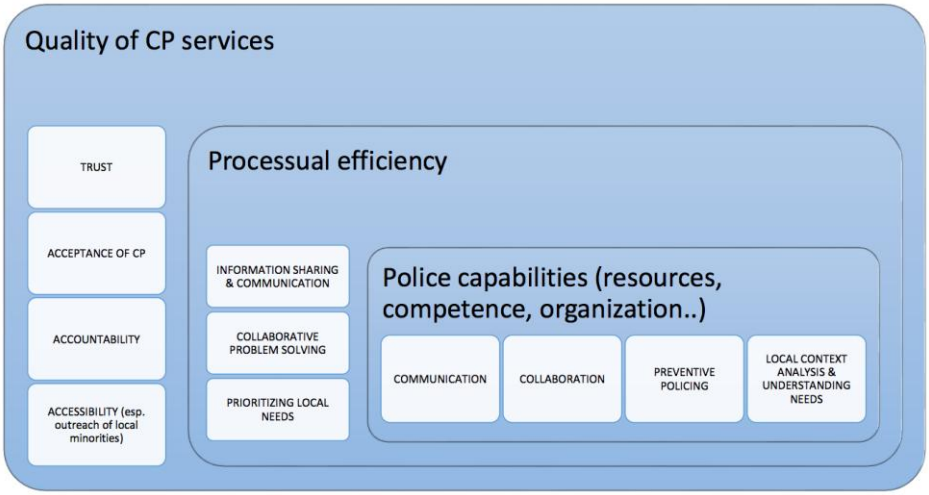
Community policing is by definition embedded in its respective communities. Therefore, its success factors are contingent on the requirements and expectations of each of these communities. The research we have conducted in 8 countries[3] has yielded the following six key areas as being relevant to assessing the impact of UNITY on the CP context:

1. **Trust and confidence building;**
2. **Accountability;**
3. **Information sharing and communication;**
4. **Addressing local needs;**
5. **Collaboration;**
6. **Crime prevention.**

[3] Data from eight Unity countries: six pilot locations (Belgium, Croatia, Estonia, Finland, Germany and the UK) and two additional countries (Bulgaria and Macedonia). The findings stem from two sources: data collected in the context of Unity/WP2&WP3 and data extracted from external sources, i.e., existing, publicly available documents. The Unity data was collected at the same time and as part of the two rounds of WP3 interviews (Aug-Oct 2015 and Jan-Mar 2016) and with the same participants (see D3.1-D3.4 and the sample description below). The early time point ensured that the data collection was conducted before a previous engagement with relevant communities or intermediaries through Unity had taken place so that the measures represented a true 'pre-engagement' or baseline measurement.

These six elements or areas can be summarized into three interlinked CP components such as outlined in Figure 2, namely police capabilities, processual efficiency and quality of the CP services. The baseline measurements addressed all three areas and the findings are structured accordingly to present out current knowledge of police and community views on CP processes and performance.

Figure 2. Component areas of community policing*



***As illustrated in Deliverable 7.3**

7. THE CASE OF MACEDONIA

After the research at the level of 8 countries yielded these six areas of interest for baseline measurements, a survey was done in Macedonia as to look at how both civilians and police value the identified areas in terms of significance.

The online survey was conducted between November and December 2016, a total of 144 respondents gave their assessment on the importance of each of the six relevant areas.

Out of the 144 surveyed, 44% were female, 84 individuals were between the ages of 25 and 44. 83% of the respondents identified themselves as Macedonians. 53.2% or 75 persons identified themselves as civilians. The rest of the respondents were: 21 police officers, 23 persons involved in police education (teaching), 10 persons involved in police education (students/cadets), 12 persons which identified themselves as 'Other'.

The participants in the survey were asked to provide their opinion by giving 1 to 6 values for importance to each of the six identified areas of interest.

Crime prevention in policing and **accountability of police** were ranked as the two most significant elements in the context of community policing. This is true for both civilians and respondents related to police organizations. These are the two areas that the respondents in this survey pay the most attention and significance to, when they are asked to associate it to the notion of CP and then put a value to them. One is in the realm of police capabilities and the other falls in the realm of quality of CP services. The rest of the identified areas were closely grouped together and they remain equally important for both contribution and further improvement of the relationship between citizens and the police with the introduction of a CP tool which would eventually enable positive results in these established impact assessment areas.

8. CONCLUSION

Community Policing is based on: Communication, interaction and sharing of information between the police and external groups and that is where the measuring and assessment of any tools related to CP should be focused. The assumptions and values underlying this conclusion are highly contingent on the social context. This refers to the perceptions of Community Policing within a country (between police forces, their partners and their communities) and across countries. The external (political, economic, social, technical and legal) environment largely determines the goals, tasks, stakeholder groups and the required resources for CP.

Many definitions of community-oriented policing emphasize that police officers work closely with the local citizens and community agencies in designing and implementing a variety of crime prevention strategies and problem-solving measures. Many of our interview partners emphasized the need to improve the cooperation and collaboration between the police and the community. Yet, there was no consensus on whether the role of the police as law enforcer should be changed from a static, reactive, incident driven bureaucracy to a more dynamic, open, quality-oriented partner with the community. Quite some voices in our sample, in the police and external groups alike, also described the police tasks as being something that should be conducted without a direct involvement of the communities. The police should be available and function as reliable crime fighters. Many respondents did not see a need for enhanced cooperation and relationship building of the police with the communities. However, our findings also indicate that police officers, their partners and communities, recognize that the police cannot solve every public safety problem by themselves. Therefore, it is important to remember not to try and measure the immeasurable.

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UDK:351.74:005-022.326.5(497.7)

POLICE MANAGEMENT WHEN DEALING WITH CRISIS SITUATIONS IN THE REPUBLIC OF MACEDONIA

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ABSTRACT

Police as a State Administration body is part of the crisis management system responsible for prevention, early warning and dealing with crisis representing risks for the citizens' lives, goods and health. The Police is a key segment in dealing with crisis situations while police management is a fundamental tool for the success of the police organisation responsible for protection of citizens' lives, personal safety and personal property.

The success in dealing with crisis situations requires proper and efficient management achieved by continuous improvement of the police work and increased professionalism, particularly in the field of dealing with crisis situations. The necessity of proper police management when dealing with crisis situations is a result of the need for achieving the main goals of the state institutions, which is to create safer environment for the citizens.

Key words - management, police, crisis situations, monitoring, evaluation and assessment, decision making and mentorship.

1. INTRODUCTION

The Police is a significant factor of the society and a component of the crisis management system. Its task is to ensure national security in the country. In addition, the fact that it can efficiently perform the given tasks even when dealing with crisis situations should be taken into consideration.

The Police should be adequately trained, equipped and well-founded with appropriate normative and legal instruments; it should build quality human resources which are necessary for successful management. Only in this way, it will be able to acquire sufficient power and authority to efficiently perform its work tasks. The strengthening of the capacities in the area of management skills of the Macedonian police organisation will largely contribute to the improvement of the success of the Macedonian police. The effectiveness and efficiency of these skills primarily depend on the modern management manners, appropriate police experience, personal competences and capabilities and appropriate education.

In this sense, it must be emphasised that guiding, governing or management are key tools that lead the organisation towards its set goals. If management has not been performed well and if the set goals have not been met, the successful functioning and the very existence of the organisation will be brought into question. Therefore, police success in conducting the assigned tasks will depend on the management both in regular and crisis situations.

Management is defined as a process of planning, organising, governing, coordinating and controlling human, material, financial, information and other resources to meet the goals of the organisation under optimal conditions[1].

As for a large number of basic terms, especially the terms in the social sciences the managements belongs to, different authors give different definitions of management, especially if they are compared in different stages of its development.

Many authors define management via the components of the management process and their relation towards the resources. In this sense, the following definition which is insignificantly modified according to Stones and Freemen (Stones & Freemen, 1989:3) could be considered as relatively complete:

Management is a process of planning, organising, equipping, governing and controlling the work of the members of the organisations, as well as using all available organisational resources to achieve the set goals of the organisation[2].

This definition may be considered as more comprehensive, but it should also be known that it does not cover everything this terms includes. As a result of this, the content of management should be determined through its components, as well as the function and the role of each manager separately in order to obtain a clearer picture of this basic term.

2. POLICE MANAGEMENT SYSTEM IN CRISIS SITUATIONS IN THE REPUBLIC OF MACEDONIA

The Police as part of the Ministry of Interior is responsible for the national security of the country; its main function is protection of the basic human rights and freedoms and legal orders, prevention and detection of crime, as well as maintaining public peace and order in society[3].

When dealing with crisis situations, the main task of the Police, as one of the subjects in the Crisis Management System, is to protect the lives, personal security and property of the citizens, as well as to provide assistance and support to the citizens in case of emergency. Pursuant to the Law on Police, the Police provides assistance to state authorities, municipalities and the city of Skopje, legal and natural persons in saving people and material goods from natural and other disasters[4].

For the purposes of successful conducting of the assigned tasks, there needs to be an efficient police management system in crisis situations, which has been established as an organisation to carry out certain security tasks whose fulfilment is necessary for the society to deal with the occurred crisis situation[5].

The governance and management in crisis situations involves a number of tasks for achieving strategic and tactical guidance of the police organisation, regulating certain processes and controlling the performance of the tasks. The content of the governance

[1] Radosavljević, Ž. i Tomić, R. „*Menažment u modernom biznisu",* Novi Sad, 2007

[2] Stoner J.A.F., and R.A. Freeman, Management, 4th ed., Englewood Cliffs, NJ, Prentice Hall, 1989, p.4

[3] For more details see: Милосавлевич, Б. „Наука о полиции" Полицијска академија, Београд, 1997; Also: Пенков, К. „Управление на човешките ресурси в полициата ", Академија на МВР, Софија, 2008

[4] "*Law on Police*", Official Gazette of the Republic of Macedonia, No. 114, 2006, Article 6

[5] For more details see: Dujovski, N. Mojsoska, S. „Management in police with a special review on management in comlex security situations", International scientific conference researching security: approaches, concepts and policies, 02-03 Juni 2015, Ohrid, Volume I, Faculty of Security- Skopje, Skopje, 2015, pp.272-276

related tasks may be found in the duties of the heads competent for dealing with a crisis situation, and they include, inter alia[6]:

- Organising and directing the work process in a crisis situation;
- Control of the work course and the results;
- Providing work discipline;
- Providing positive working environment and good human relations;
- Decision making regarding material, technical and similar issues;
- Providing functioning of the internal communication system in a crisis situation;
- Taking responsibility for the work of the organisation before competent authorities and the public and taking actions regarding their requirements;
- Solving certain issues characteristic for the crisis situation.

Governance during a crisis situation is a key function on which the success of the subjects in the Crisis Management System depends, including the police, and every official manager is a holder of many complex and different roles. There is a prevailing opinion in the police that managers should acquire personal experience in the performance of the police tasks, especially in cases of dealing with crisis situations before coming to a manager's position under whose competence is dealing with crisis situations.

When dealing with crisis situations, police management is an activity conducted by the heads of certain organisational units in the police who need to be included in the process of addressing the crisis situation.

The contents of the work the heads conduct while performing their work tasks within the frames of their competences established by laws and bylaws are ***the functions in the management process***. Successful management depends on the theoretical and practical knowledge of the management functions that the heads of the organisational units have, as well as their previously acquired personal experience in this area[7].

According to Fayol, management as a process (guidance, governance) is divided in five main functions: planning, organising, commanding, coordinating and controlling.

Having in mind the specificity of the Police as an organisation, especially the specificity in the guidance, there are justifiable reasons for the division of the police management process into nine mutually conditioned, related and intertwined functions. These functions are: 1. Monitoring and Assessment 2. Decision Making 3. Planning 4. Organising 5. Commanding 6. Coordinating 7. Controlling 8. Informing and Exchange of Information, and 9. Analysis and Evaluation[8].

Practice shows that the expansion of the management functions in the police management process by two functions before planning (monitoring and assessment, and decision making) and two functions after controlling (informing and exchange of information, and analysis and evaluation) is necessary and justifiable. This expansion completes the police management system, and these functions will enable rapid and efficient response of the Police to all possible challenges when dealing with crisis situations.

[6] The tasks of the official managers are prescribed in the Act for Systematisation of the Work Positions in the MOI; For more see: Boin, A. Hart, P. Štern, E. Sandeljus, B. „The Politics of Crisis Management", Public Leadership under Pressure, Cambridge University Press, 2005

[7] For more details see: Малиш Саздовска, М. *„Прирачник за безбедносен менаџмент"*, Факултет за безбедност-Скопје, Скопје 2014, стр.7-8

[8] Стевановић, О. *„Руковођење у полицији"* друго, измењено и допуњено издање, Полицијска академија, Београд, 2003, стр.150

2.1 Monitoring and Assessment of the Crisis Situation

The Republic of Macedonia is a country susceptible to natural hazards, such as earthquakes, forest fires, floods, droughts, extremely high temperatures and landslides. Earthquakes pose the greatest risk of infrastructure damages and loss of human lives. Forest fires are the most common type of catastrophe, whereas the intensity of the floods is continually increasing. In addition to these types of dangers, there is also a considerable risk of extensive snowfall and avalanches, landslides, droughts and cracking of reservoirs' dams. In the last few years, the number of natural disasters caused by weather conditions has greatly increased.

The above-mentioned dangers are only a part of the wider range of risks that have occurred throughout the country in the last few years. Some of them caused human victims and injuries, as well as major damages to the material, cultural and natural resources of the country[9].

Therefore, determining the risks and dangers or the vulnerabilities is very important. This can only be done by: a) identifying risk indicators, b) establishing indicators for identification of possible performers of terrorist activities and following them, and c) establishing indicators for identification of possible attack targets. They are evaluated in order to proactively determine ways to prevent their occurrence, to mitigate the consequences, as well as to completely avoid the potential crisis.

On the basis of the above-stated, we must say that in order to successfully prevent and mitigate the consequences of the dangers, as well as to completely avoid the crisis, there needs to be previous monitoring and assessment of the natural phenomena and events, the crisis situation, as well as monitoring and assessment of the work and the results of the organisational units competent for dealing with the crisis situation. The monitoring and assessment of the crisis situation is included at all levels in the police organisation, but mostly at the personnel level. It is conducted in all areas (linear and territorial principle) or in certain crisis areas (functional approach).

Monitoring of the crisis situation is performed in a certain territory where data are collected, processed and further used for forecasting, assessment and planning[10]. Police officers collect the data on a crisis situation in several manners, including: by direct observation, during checking and establishing the identity of persons, by collecting information from citizens (via direct conversations, informal communication, by phone, received written information, via electronic communication means), media, etc. The heads of the organisational units use the collected and processed data to evaluate the crisis situation, forecast and assess and plan the necessary activities in order to prevent, protect and mitigate the greatest risks and threats of natural disasters, as well as disasters caused by man.

The assessment of the crisis situation is a synthetic conclusion about the situation with detailed description of its characteristics by the area and territorial units. The assessment refers to the current situation which is explained with facts from the recent past and partially indicates the tendencies in the near future. The assessment should determine the probability of occurrence of some risk event, as well as the consequences of it.

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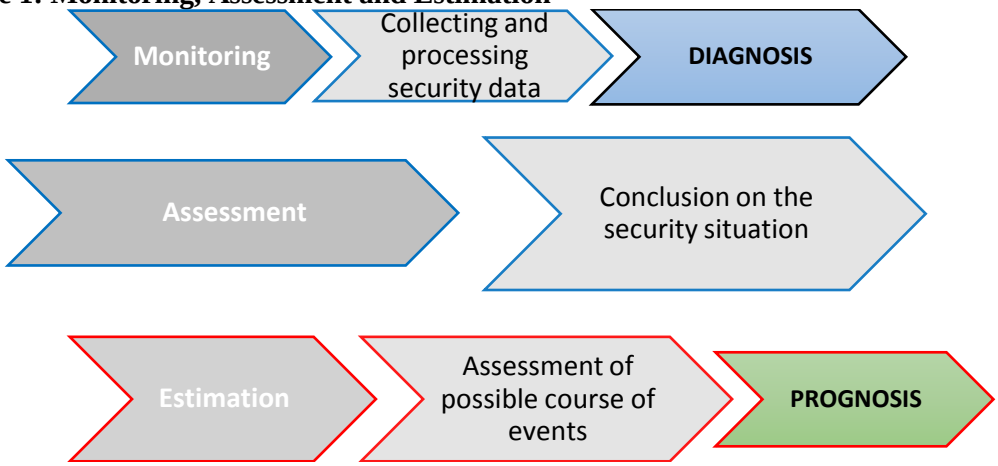
[9] Analysis for *„Проценка на капацитетите на Република Македонија за борба против трговија со оружје за масовно уништување и подготвеност за справување со последиците од катастрофи“,* Скопје, 2015, p.14-15.

[10] Стевановић, О. *„Руковођење у полицији“* друго, измењено и допуњено издање, Полицијска академија, Београд, 2003, стр.151; Also see: Arjan van den Born and Arjen van Witteloostujin, *„Policing Opportunities and Threats“*, COMPOSITE Project, 2011

Additionally, it is used to monitor and develop new technologies and to suggest new solutions for strengthening and intensifying the cooperation among the institutions for prevention of risks and dangers from a certain crisis situation, thus raising the security level in the community[11].

The estimation (forecasting) of the crisis situation and further development of events is an intellectual process of the head officials in the Police whose objective is to estimate (forecast) the possible course of events and the development of the crisis situation in near future on the basis of an analysis of the collected data[12]. The estimation is of utmost value since it is the basis for timely decision making, planning and organising of the Police, as well as for undertaking preventive measures and activities. The monitoring and assessment as a step in the guidance have a character of a **"diagnosis"**, whereas the estimation (forecast) has a character of a **"prognosis"** of the development of the crisis situation as illustrated in Image 1[13].

Image 1: Monitoring, Assessment and Estimation



2.2 Decision Making in a Crisis Situation

When dealing with a crisis situation, decision making is one of the most important functions in management, which provides professional and legal policing. The objective of decision making in crisis situations is to make a decision that will enable overcoming of the occurred crisis situation. The decision making process, when dealing with a crisis situation, is especially difficult due to the unexpectedness of the event, complexity and the irregular character of the situation itself, as well as the pressure of the immediate head officers and the public.

The decisions are made by the heads of the organisational units competent for dealing with crisis situations, as well as the entire personnel in the Police competent for undertaking measures and activities when dealing with a crisis situation[14]. Therefore, it is

[11] For more details see: Anzelj, D. „Menagment v policiji", Fakulteta za druzbene vede, Ljubjana, 2001

[12] Стевановић, О. *„Руковођење у полицији"* друго, измењено и допуњено издање, Полицијска академија, Београд, 2003, стр.153

[13] Станковски, Т. „Менацирање на полицијата во справување со кризни состојби во Република Македонија", необјавена докторска дисертација, Скопје 2016, стр.86

[14] For more details see: Boin, A. Hart, P. Štern, E. Sandeljus, B. „The Politics of Crisis Management", Public Leadership under Pressure, Cambridge University Press, 2005, p. 46-48

very important to strengthen the decision making capacity. This can be achieved by training employees to make decisions when dealing with the occurred situations by continuous learning when undertaking direct actions, as well as via previously planned trainings for decision making under pressure.

Decision making is a process of selection from different possible alternatives where all identified possibilities are taken into consideration, the consequences of each possibility are identified and assessed and an alternative which is most acceptable to meet the objectives of the organisational units of the Ministry is selected in accordance with the principle of opportunity[15].

The implementation of the decision includes: notifying all organisational units and employees to whom the decision refers, implementing the decision, monitoring the activities for implementation of the decision.

Decision making is the basis for policing. The decision to undertake the necessary measures is the beginning of the action for meeting the planned goal, which is to prevent or overcome the problem that has occurred.

The heads mostly decide under the influence of several factors, such as insufficient information about the problem and how to solve it, lack of personnel, time, material and technical means, the inability of the personnel to remember all relevant facts and the limitation of their intelligence. The fact that the environment in the organisational unit where the decisions are made greatly influences the decision making process should be taken into consideration.

When the head is familiar with the task and when he/she has precise, measurable and firm data pertaining to the result of several predicted solutions, he/she makes a decision in conditions of certainty. On the other hand, when the head knows little about the alternative solutions and their possible result, he/she makes a decision in conditions of uncertainty. However, we can rightly conclude that making the right decision primarily depends on the personal capacities of the head of the unit.

2.3 Tutorship

There needs to be a transfer of knowledge in the organisational units, as well as mechanisms and procedures for successful dealing with the reasons leading to a crisis, which is actually a component of the prevention of crisis situations. The transfer of knowledge in these police units should be a regular practice which occurs as a result of the specific conditions where police officers apply measures and activities oriented towards prevention or dealing with a crisis situation.

The police head officials with long-term experience need to transfer their knowledge gained from experience to the newly employed police officers. The tutorship is the best way to transfer the knowledge gained from professional experience, and the experience in the area of crisis situations transferred by mentorship creates conditions for prevention of crisis situations. This shows that tutorship is an excellent method in policing and a professional upgrade of the police officers who need vocational training and assistance.

The existence of tutorship in police, especially in the organisational units competent for dealing with crisis situations, is a result of the awareness of its importance

[15] *„Упатство за процесот на носење одлуки во Министерството за внатрешни работи“,* Министерство за внатрешни работи, Скопје, 2015, чл.2; Also see: Boin, A. Hart, P. Štern, E. Sandeljus, B. *„The Politics of Crisis Management“*, Public Leadership under Pressure, Cambridge University Press, 2005

as a manner of transferring the knowledge gained from experience. Tutorship, as a manner of transferring theoretically and practically gained knowledge by police heads with great work experience to the less experienced police officers, always leads to efficient undertaking of prevention measures, thus reducing the consequences of certain dangers or risks.

According to the above-stated, it can be concluded that tutorship, as a manner of transferring the knowledge gained in the area of crisis situations, is a good tool for preventing crisis situations.

3. CONCLUSION

On the basis of the above stated, we may conclude that the Police, with its entire capacity of resources at its disposal, has the key role in dealing with crisis situations.

In order to increase the efficiency when dealing with a crisis situation, the capacities of the Police need to be further strengthened, especially in the area of situation monitoring, assessment and evaluation, decision making and tutorship as a manner of transferring the knowledge gained from experience.

The abovementioned results lead to the conclusion that monitoring, assessment and evaluation of the safety situation is a key function of the police management process on which the success of the police in preventing, early warning and dealing with a crisis situation largely depends.

Decision making is the starting point for the activities in the Police and the basis for taking actions, planning and commanding which leads to activities for preventing or dealing with the crisis situation that has occurred.

On the basis of the results to date, we may conclude that there is tutorship in the Police and it is the best way to transfer the knowledge gained from experience in the area of crisis situations which will enable building strategies for prevention of crisis situations.

The successful dealing with a crisis situation largely depends on monitoring, assessment, estimation and decision making as management and tutorship functions.

Given the above, we may rightly conclude that the efficient and effective police management in a crisis situation depends on the theoretical and practical knowledge of the management functions in crisis situations, while placing special emphasis on the monitoring and assessment, decision making, as well as tutorship as a manner of transferring knowledge gained from experience.

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UNDERCOVER POLICING: A PSYCHOLOGICAL REVIEW

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ABSTRACT

Undercover policing, or covert policing operations, is one of the law enforcement investigative activities, used only for serious crimes in case where all other operational methods are exhausted, given its cost and risk. Although a very specialized, highly sensitive and complex research area in policing, it has received little attention, nor is it sufficiently present as an issue in the scientific journals. The specific nature of this nonstandard police tactic is related with unique experience and stressors, multiple identity issues, high risk and maladaptive post symptoms found as consequences. These suggest the importance of a special safeguard team and process, where psychological interventions have significant role through all its operational phases. Another issue is the legitimacy of undercover operations and techniques, their legal framework and systematic placement.
This paper will be focused on explaining the psychological aspects related to undercover policing, such as the specific psychological strain, the related stressors and required personality traits, as well as the specific psychological skills and services. The psychological input is important and recommended in order to maximize the effectiveness in all operation phases, neutralize the negative psychological effects and consequences and to ensure more secure re-integration in the current work contexts.

Key words: undercover, psychologist role, undercover training, undercover identity

INTRODUCTION

In an era of modern and sophisticated crime, undercover operations are found as an effective alternative or supplement to the traditional investigative approaches, which have become more common practice of law enforcement in recent decades. Hence, the *undercover operation* can be ***defined*** as a complex strategic police-tactical method, with conspiratorial nature, used only for serious criminal offences, organized crime and international crime, when other tactical methods cannot be used or when the applied methods did not yield the appropriate or expected results. Therefore, the *undercover operative* is a police officer who is planted in a targeted criminal environment under false identity, in order to detect the criminal structure, mostly their leaders. In general, *undercover activities* can be directed toward collecting evidence for detection, clarification or proving of criminal acts or for prevention of future planned offences. It means collecting evidence and providing adequate information as guidance for future forensic or prosecution work, while the targets may or may not be identified in advance. (Цуклески, 2009)

There is a difference between an American Undercover Agent and a Covered police officer. Unlike the United States, European law does not allow an involvement of the undercover operative in criminal activities nor in any of their elements or any provoking, which limits the undercover officer to a *passive role* in the activities of the criminal organization. In Macedonian ***legal framework***, covered operatives are regarded as

one of the special investigative measures (Матовски, 2005), which can be used in special defined cases, only with the order given by the public prosecutor or investigative judge, in duration of four to seven months at the most. The operatives can take part in a criminal procedure as protected witnesses, whose identity is officially secret, while the activities must be appropriately documented from the beginning of the action, with the mark "strictly confidential". Thus, the data, information, documents and objects can be used in criminal proceeding as legally valid evidence only if the procedure has been properly conducted according to the law.

The underpinning reasons for the strictness of the procedure and the high selectivity of its use are the temporarily suspended human rights due to the protection of the general social values as "issues of a greater importance", taking into account both the personal and professional sacrifices that the operatives need to make facing unique stressors. The ***sensitivity in performance*** comes from two threats: not to be discovered (conspiratorial character and secret identity) and keeping away from the "punishable zone", which implies the need for solving the perpetual battle between these two requirements. All this "limits" the "freedom" of the operation in legal and operational terms. On the other hand, there is the need for careful balance between meeting the operational objectives and mental health damage prevention, given the secret nature, *"Double life"* or *"Life under the legend"* and danger, mostly in a long-term assignment that exerts great psychological pressure on the operative. (Ninić, 2015)

Hence, considering the disadvantages of this technique, it is recommended that the management formulates and implements organizational ***guidelines and procedures*** for the operative's activities in ***six-phased progression*** with adequate implementation of psychological services in all phases. As part of the intelligence sphere, this task can be included only in the ***operational policing*** group of police activities, and thereby in the most complex and classified type, given the two criteria - *covert and deceptive*, while the majority of police work is overt and non-deceptive. The operation is a product of a team effort, consisted of the undercover officer, a commander, an investigator, supervisors, the contact officer, support personnel, etc. The ***safeguard team*** is intended to provide critical selection, education, stress inoculation, monitoring, debriefing or reintegration support and risk management services to the undercover team, with the main objective - to maximize effectiveness and efficiency and minimize the negative possibilities and consequences of the operation (Krause, 2008, Vasquez & Kelly, 1989).

PSYCHOLOGICAL PROFILE OF THE "IDEAL UNDERCOVER OFFICER"

Psychological characteristics have the crucial impact on the undercover officer's effectiveness, especially if the enormous psychological demands of this job are taken into account. Very few studies for psychological predictors are present in scientific literature, mostly because of the highly classified activities with very complex performance that limits the possibilities of the researches or publishers and also given the confidentiality and cost of the selection procedure know-how (Picano & Roland, 2012). It is interesting that many personality traits traditionally viewed as desirable for a police officer and even for an undercover officer, have been shown as uncorrelated with the success or even as related with increased risk of psychological problems or internal conflict in the undercover officer, mostly the militaristic mindset that is required in the typical police training. However, there are some drafts regarding the desirable characteristics for this occupation.

The most consistent precondition is that the candidate is a *volunteer*, so as to believe in the goals and methodologies and also to avoid the conflict between their ethical

values and the understanding of the purposes of the law enforcement duties toward the citizens. The approaches are different regarding the *age and police or other life experience*. While some agencies prefer recruitment of young officers, in their early twenties or directly from the recruit training ranks in order to avoid "quasi-militaristic" behavior seen in older and experienced police officers that often reveals their undercover true identity; others prefer experience and maturity that correlates with "secure police identity" explained by psychological stability, which reduces the chances for losing the moral compass or experience psychological damage on the account of developing identity issues while knowing its dangers (Wamsley, 2015; Miller, 2006). Other preferred general characteristics include single persons or married without children, high memory capacity, knowledge of another language or the street slangs and terms, importance of knowledge about the area of infiltration and the persons need to be investigated and the factor of *style* that may prevent the agents from achieving success. (Geberth, 1979)

Contrary to the traditional view of giving importance to the manipulation and "dissembling" of normal self, the personality traits such as *self-discipline* and *self-awareness* have proved to be the basis of some crucial performance requirements, such as: high *acting capacity* both with the ability to maintain real identity in restrictive and risky circumstances; *ability to accept orders and their changes* together with perseverance in loyalty while the level of agency contacts is kept low; perseverance in motivation for *long time away from close environment and people;* or making and maintaining *personal relationships* with different kinds of people accepted in advance that may be ultimately betrayed as part of a larger mission (Wamsley, 2015; Miller, 2006).

In terms of the *Five Factor Model*, emotional stability, conscientiousness and openness to experience are proposed as important positive predictors in hazardous occupations (Hogan and Lesser, 1996). Others found that high-risk operational positions are consistently higher on emotional stability, conscientiousness, compared with the general population, while extroversion and agreeableness vary with the population, and in special sub dimensions (Darr, 2011; Callister et all, 1999). Personality traits are indirectly related to mental health through undercover experience, so Introverted with high Neuroticism were associated with poorer mental health than Extroverted with low Neuroticism, while the poorer mental health is related with career dissatisfaction (Girodo, 1991a). Extroversion and strong acting abilities induce narcissism and "brashness" that describe the typical undercover operative personality profile needed to mislead a target, and they have been linked with psychological and disciplinary problems. In a prolonged assignment, they tend to get exaggerated in extreme vigilance that exceeds the commitment on the object and uncover the identity. That explains the "high womanizing and vigilance and fast cars across Internet behavior" in order to fit in a role, as the negative consequence of a wrong approach (Wamsley, 2015).

The high-reliability and high-risk operational professions have a set of core psychological attributes, where the undercover officer is one of the nonmilitary groups and according to Girodo (1997), the attributes necessary for success are: operational security; adaptability and problem solving; stress resistance related with emotional stability; initiative; good team interpersonal relations; role adherence and maintaining self-discipline; daring and imagination; misrepresentation and tradecraft (Picano & Roland, 2012). According to Love (1990), selection should be based on skills like: first flexibility, motivation and stress tolerance as primary skills, followed by team orientation, decision making, interpersonal skills, attention to detail, appropriate caution and restrain, and also

organization and planning, written communication, oral communication, persuasiveness and basic law enforcement and undercover orientation.

PSYCHOLOGICAL EFECTS OF UNDERCOVER WORK

The specific nature of undercover work is based on facing a variety of unique stressors that sets it apart from all other professions. In order to prevent the undercover operative's mental status break down, as a key requirement against mission failure, they need to be timely and appropriately recognized and managed. Therefore, the initial team knowledge and understanding of the stressors has great importance for operation success. Thus, the major ***sources of stress*****ors**, typical for the undercover work (Band & Sheehan, 1999; Miler, 2006), are usually neutralized by: *1. agent-supervisor relationship*, mostly coming from the agent's misperception for lack of management commitment – bringing in the officer when making a decision will affect the operation course, providing protective information that will support the undercover role before the operation, emphasizing that the psychological and emotional well-being are more important than any money or investigation, *2. maintaining the role requirement, especially when it is unsuitable* – avoiding individuals with substantial differences in cultural, ethnic or geographic backgrounds, as well as selection and training improvement, *3. personal relationship with targets* – monitoring the thoughts and feelings at regular intervals, *4. resisting over-identification with the targets or losing identity* – maintaining contact with the team, *5. lack of recovery time* – the operation needs to be properly planned, *6. personal problems in daily life* – enhancing the scenario by giving reasons to the target not to expect the operative's constant presence *7. lack of context and strain in private relationships* – regular contacts with the agency or hiring somebody who is comfortable in those operational settings, or *8. technical difficulties* – training for work with recording equipment and the operative needs to have the right to veto if the situation dictates it.

The mental strain as a result of the high amount of stress, mostly in cases of psychological unfitness in the undercover work, may produce side psychological effects that harm the operative's mental health and behavior, leading to impaired effectiveness, disclosed identity or resorting to breaking the law and threatening citizens' rights. This can be mostly prevented by means of adequate selection procedures, appropriate training and monitoring and adaptation of the formal roles to ensure the safety of the officer's health. Additional limitation is the resistance to therapy of those officers that need it the most.

The most frequent consequence of identity struggle is the ***"lose of self"***, as psychological phenomenon of the true self suppression in order to adopt the totally new persona, while both are in strong contrast in terms of the law. This implies a high risk of developing a *"split personality"* or experiencing *"self as unreal"*, traits characteristic for the *dissociative personal disorder*, in which "multiple identities recurrently take over a person's behavior" (Чадловски, 2000). The highest risk of completely losing the identity battle is perceived in long term *"deep cover"*, where the problems appear in the re-integration phase; and in *"subversive"* operations with the risk of losing the agent affiliation and succumbing to breaking the law. It comes as a result of getting identified with the criminal group beliefs or becoming emotionally attached to some new relations, ending thus with a complete abandonment of the core identity. The reason can be the psychological phenomenon, named the ***Stockholm syndrome***, *conflict of allegiance* or *"capture bonding",* that appears as a result of the survival instinct or ego defense mechanism in experiencing powerlessness, when the need to survive becomes stronger than the impulse to hate the person-enemy, hence developing "positive feelings and

sympathy toward the captors' goals and negative toward the police or the authorities" (Mackenzie, 2008).

The reactions of undercover work are comparable to *trauma*, with consequences that can range from depression, PTSD to suicide, or many side effects of different combinations, such as corruption, anxiety, disciplinary problems, substance abuse, interpersonal problems, paranoia or identity strain arising from paranoia, extreme narcissism, hypervigilance, filings of isolation and self alienation, guilt, value system changes or criminal sympathy. The difficulty of separating the criminal identity at work and the personal identity at home is called *prolonged role-play* or ***role strain***, which upgrades with the degree of stress during the assignment (Farkas, 1986). Finally, the development of maladaptive coping strategies, as emotional detachment cynicism, sexual promiscuity, substance abuse or high risk behaviors can influence the operative's personal, professional and social live after the assignment.

It has been demonstrated that the symptomatology pattern in undercover officers does not differ from other psychiatric patients, contrary to the reports for suffering psychological problems unique to undercover work, which is possibly a consequence of the conventional psychiatric assessment scale that is not sensitive to the unusual psychological reactions resulting from the undercover work. Most vulnerable, in incidence and severity, are the young operatives or those with little or no prior undercover experience, engaged in long term assignments, while the results differ in terms of the period (post-operational (Love et all, 2008) or operational phase) or when the psychological interventions are most required (Girodo, 1991b). Uncontrolled false identity reappearance was found to be more likely expressed among those with higher score on Dissociative Experience Scale and those with altered physical appearance, while the strongest impact on such identity disturbances is made by the cognitive factors and the strain from status inconsistence (Girodo, et al, 2002).

THE PSYCHOLOGIST'S ROLE IN THE UNDERCOVER OPERATIONS

Departments throughout the world have different operational procedures regarding the inclusion of psychologists in this type of operations. The psychological role requirements are complex and specific for these operations, so hiring a psychologist without appropriate knowledge, personality and skills that also differ across the operation's phases, will impair or completely destroy the operational success. Therefore, the management team must first know and understand the contribution of the psychological services in order to make the appropriate decision for engagement and selection of a psychologist and then must sure enappropriate utilization for maximizing the operation success. It is important to first briefly describe the aims and activities of the different operational phases (Vasquez & Kelly, 1989; Miller, 2006; Wamsley, 2015; Hibler, 1995; Krause, 2008, Dorfman & Zeins, 1983) so as to avoid the false outlook of overlapping with the roles of the other team members.

The ***selection*** is the most critical phase, given that not everyone can overcome the undercover pitfalls, so inadequate implementation of this process can lead to personal and operational tragedy. That implies assessment of relevant professional knowledge (tactics, weapons, legal principles, undercover strategies, evidence collection, etc.), psychological capacities (traits, abilities and skills) and other qualities that depend on certain roles, such as race, gender, necessary physical appearance, language knowledge, etc. The *most suitable techniques* include: background and performance review, psychological testing,

structural interview, role play scenarios, special simulations, recognition by former operatives or screening board.

In the screening process, the psychologist has the crucial role to predict future performance by *maintaining appropriate instruments* during the *assessment*. This procedure is most complex and expensive in case of high demanding, complex, dynamic and unpredictable performances, where the traditional and other security profession predictors cannot respond. Undercover operations have the lead position in this group, considering the unique mental pressure and the variety of undercover roles. The screening process has two aims: elimination of candidates who cannot function in an undercover capacity or are not advised to do so because of certain life stages and detection of those that are most likely to succeed in such assignment. That implies risk assessment of psychological problems of emotional instability or psychopathology and then of psychological capabilities that best fit in the nature or duration of the assignment. Additionally, information must be obtained to determine the most appropriate degree of cover, the most suited environment, the problems that the individual is likely to experience in the assignment, the problems in establishing or maintaining relationships and the motives for applying. The wrong reasoned motives, such as fantasies from films for glory, "romantic" or "adventure" expectations in order to escape from the less desirable work or unpleasant personal life, perceptions as opportunities for faster career progress etc., need to be eliminated. At the end, the psychologist needs to create his/her final opinion for the candidate's suitability for undercover work, the most appropriate candidate for a certain assignment and thus format the operational team.

The purpose of the ***training program*** is development and sharpening of the operational performance by means of acquiring the necessary knowledge and skills, generally oriented toward the operative's successful fitting in his/her role, resisting to stressors and identifying the moments of being psychologically compromised. Most importantly, the training must be adequate to the specific assignment, but also general undercover training should not be neglected, given the need for "de-policing" the recruits or establishing secure police identity and a value system for those who lack the traditional police training. Also, the lack of information about the assignment additionally increases the pre-operational stress (Farkas, 1986). The most appropriate training methods are classroom instruction and panel discussion, role play or group exercises, simulations or on-the street training, while the most important training areas differ depending on the team and the assignment.

The psychologist role is *educational* for the operatives and the team, mainly oriented to: introduction of detected relevant psychological aspects that need to be upgraded in different personalities, identities and assignments; psychological risks and most probable stressors; coping strategies as a reaction to stress, differences between adaptive and maladaptive strategies and the consequences of their development. Furthermore, the psychologist has an *active role in training* by implementing some programs for enhancing the team' mental preparation and self-awareness for remaining resilient when facing expected and unexpected stressors. Experience has proved that the most appropriate for this purpose was the well-known and demanding SERE program, used in the U.S. Army Special Forces (U.S. Army Regulation 350-30, 1985), given that stressors are most related to those of combat soldiers. The SERE psychologist needs to be specially certified and educated, whose roles are very demanding and complex, including evaluator, safety observer, educator, consultant and researche, and operational psychologist during repatriation efforts.

In the ***planning*** phase, the psychologist assists in providing *psychological profiling* of the investigation target; *assesses* the best matching officer for the target; *consults* in the construction of the cover identity according the operative personality, assignment and environment; *enhances the team effort*, by setting the interpersonal relations and clears the team understanding of the operational goal and their roles in it. The pre-operational meetings are intended to make and unify the plan about the activities, establish the periods, places and ways of communication or activities in emergency situations.

In the ***deployment*** all prior phases come together and all the plans, knowledge and skills are tested. The operatives on the field must deal with the challenges and "ensure happiness" by themselves, in addition to the team support. The team' main role is to *monitor* the process, from an operational and psychological point, since identifying, avoiding, eliminating, resolving and minimizing the operational problems ensure the psychological health and operational success, in which managers tend to neglect the operatives' mental health. In addition, stress management is both the operative's responsibility and an agency obligation. The base of the operation is the supervisor-operative relationship quality that moderates the stress and risk of the Stockholm Syndrome development (Farkas, 1986), as the largest management concern. Therefore, the psychologist chief intervention is *complementing the communication failures* that occur among the team members. While *monitoring* of the psychological members' readiness during the assignment, the psychologist needs to *assist the stress management assess*ment, *alarming* and *discussing* with the operative and the team about the any faced issues. Given the sensitivity of this phase, the psychologist must have, as a minimum, relevant knowledge of the undercover work and be specialized in police/operational psychology. The psychologist can be integrated in the operation as a regular contact or arranged on when is needed base, but in doing so the confidentiality of the officer's information and the whole operation must be maintained. Also, the team should not neglect the *transition in the role period*, mostly in case of uniformed officers and *out of the role*, in case of a long term deep cover after an assignment.

After the decision for termination of the operation, the ***reintegration process*** is very important for maintaining the operatives' expiration date, preventing problems in the organizational and private environments and also protecting the judicial outcome. As an extremely sensitive period for the operatives, the management is obligated to assist this process and treat them well regardless of the mission outcome. The assistance degree depends on the type, duration and assignment environment, while the activities consist of organizing re-orientation training and debriefing courses, preparing the peers supportive attitude, providing different opportunities for discussion and expression of feelings and observations, encouraging psychological professional support acceptance. The psychologist role is *counseling*, as well as *assessing the mental readiness* of the operatives for returning to their professional duties. Except the PTSD, the needs are mostly oriented to dealing with the post-deployment stressors, such as the feeling of guilt for betraying the cover identity relationships, missed professional and personal life or mission failure; or other feelings such as frustration, irritability, concern for their security, lack of confidence for the duties and other reflections related with the psycho-social adjustment.

CONCLUSIONS

Law enforcement agencies use the undercover operation for gaining prosecutable evidence from inside the criminal organization. The description of "doing bad for doing right" suggests special "rules of the game" that only a small number of people is able to play, as well as unique experience and stressors that need to be dealt with. While human rights are timely suppressed, success is uncertain and not easy to achieve. The outcome is attributed to a team effort, based on a high level of planning, assessment and stress management capacities. The great psychological and professional requirements, risks and sacrifices imply special procedures that need to be taken for mission protection and success. It includes integrating a psychologist in the team, whose main role is being the 'honest broker' between the involved members and parties, ensuring that all their needs and risks are understood and addressed in view of the most positive outcome. That means application of the behavioral principle and skills to improve the security managers' decision-making during the operation, by direct and indirect assessment, assessment and selection of personnel, training and stress management. The psychological views can be used for upgrading the current operational practices and introducing possibilities for proper psychological involvement in this kind of operations, mostly for departments and security experts that have not had such experience.

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APPLICATION OF PROFILING IN POLICE WORK – ADVANTAGES AND DANGERS

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ABSTRACT

New technologies have undoubtedly brought about a number of advantages due to which their usage and application is undisputable. On the contrary, it is precisely due to their positive results that their application is becoming increasingly present and comprehensive. However, that comprehensive quality has brought another of their sides into focus, related to threats not only to the privacy of a limited number of individuals, but also to the social-legal and political framework of democracy and the rule of law. This framework was created at a certain point in history with the purpose of providing constitutional instruments for the individual that one can use to respond to threats against one's rights and freedoms.

Profiling as such is analyzed in this text, and particular attention is paid to the legal aspects of profiling and risk profiling which is a difficult task of the national legislation, particularly of the practical application of the principle that the rights of those persons that generate profiles must be balanced with the citizen right to transparency and right to access data processing logic. The legal status of profiling is largely, incompletely or unclearly regulated. Its unreliable legal nature creates issues of ownership and copyright regarding personal identity, especially if we take into account that identity has a relational and relative meaning which is due to the fact that identity building as such requires constant interaction and "negotiation" between the respective individual and his immediate or indirect environment.

At the same time, this text elaborates on the issue of intelligent environment which is an exceptionally complex one, although its complexity is hidden and does not include monitors and keyboards. Particularly interesting and significant is its ability to perform monitoring in real time. Due to the fact that the environment will always be one step ahead of the individual, the concept of intelligent environment raises many questions and presents the biggest challenges so far regarding privacy as one of the basic human rights indispensable to maintaining democracy and the rule of law.

Key words: profiling, intelligent environment, human rights and freedoms

Introduction

In police work, profiling is an activity undertaken in uncovering criminal activities and can be identified as "the inference of a set of characteristics (profile) about an individual person or collective entity and the subsequent treatment of that person/entity or other persons/entities in the light of those characteristics."[1] This broad definition covers the classical practices of data mining and data matching as well as some newer "risk profiling"

[1] Bygrave, L. A. (2002) "Data Protection Law: approaching its rationale, logic and limits," Kluwer Law international taken from Geradts, Zeno; Sommer, Peter (2008), "D 6.7c: Forensic Profiling", FIDIS Deliverables 6(7c)

practices. Certain technologies of data mining and data matching or forensic risk profiling are presently used as a reason to initiate or intensify police action and often to start a prosecutorial investigation, and the only basis of making that sort of decisions is an automatic one, meaning the decision is made by a machine and not a human. The threat concerning citizens emerges from the fact that "risk" is an invention built on an imaginary fear and imaginary coping technologies. In a risk society, police work often does not only mean undertaking repressive and preventive measures to control those acting against the law, but it is increasingly becoming an activity of surveillance, generating knowledge on the population later used to easily govern and rule. The focus is on knowledge, because it determines the choice of citizens that are of interest to the police, as well as the point at which someone will be included in or excluded from surveillance. Supporters of risk society theories stand for everyone and everything to be known through surveillance mechanisms. "Everyone is assumed guilty until the risk profile proves otherwise."[2]

Types of Profiling

Profiling in general can be divided into: 1) individual profiling referring to the classic or reactive manner of linking clues and information gathered from the crime scene to the possible offender and his/her identification, and 2) group profiling aiming to connect multiple data bases and searching through them in order to discover new links among existing data. At the same time, data mining and risk profiling techniques are used for the purpose of preventing crime and represent a new approach of proactive police work.

Profiling of a person is the activity of connecting data identifying an individual person, and such data can be either biometric or behavioral pointing only to one specific individual. For example, a profile of an offender can be made from a found DNA sample and a shoe print. That profile is then compared to data in the police database and data matching is used to identify the offender. The data matching method is the traditional retrospective way of offender profiling, linking the individual to his personal identification data[3], for example, by identifying the offender through fingerprints or determining the probability of two fingerprints belonging to the same individual. The aim of profiling in those cases is "to help investigators examine evidence from crime scenes and victim and witness reports to develop an offender description. The description can include psychological variables such as personality traits, psychopathologies and behavior patterns, as well as demographic variables such as age, race or geographic location. Investigators might use profiling to narrow down a field of suspects or figure out how to interrogate a suspect already in custody."[4] Contrary to data matching, group profiling involves proactive practices of data pattern identification, meaning finding patterns and correlations in large databases, discovering certain algorithmic profiles from these patterns and correlations and consequently identifying people which could fall under these computer generated profiles.[5] When such group profiling is used in police work it is called forensic risk profiling[6].

[2] The United Kingdom Parliament, Home Affairs, Third report, 24 May 2007, http://www.parliament.the-stationery-office.co.uk/pa/cm200607/cmselect/cmhaff/76/7606.htm#a52 available at 08.01.2014

[3] Steinbock, D. (2005). "Data Matching, Data Mining, and Due Process." Georgia Law Review 40(1)

[4] Psychology and Law enforcement - Criminal profiling, 2004, http://www.apa.org/monitor/julaug04/index.aspx, available at 28.11.2014

[5] Steinbock, D. (2005). "Data Matching, Data Mining, and Due Process." Georgia Law Review 40(1)

[6] Ribaux Olivier, (2008) Definitions: FIDIS Future of Identity in the Information Society (No. 507512)

More and more authors emphasize the main difference between "classical" individual profiling using cross checking and matching methods and the newer method of risk profiling and describe it as new knowledge acquired by using the second method, although since the possibility of interconnecting databases, the data matching technique as such is no longer "benign" in view of the consequences. Contrary to cases where this technique was used for the sole purpose of verifying data and information regarding a potential offender by comparing them to data entered in a separate database, interconnecting databases actually highlights the issue of the processed data quality, particularly regarding their updating, validity etc. However, risk profiling as a method raises an essential issue in view of human rights, due to the asymmetry of knowledge that it creates between the person doing the profiling and the person being profiled. Here, we are not speaking of asymmetry of the effective access to personal data, but of asymmetry of the effective access to knowledge. By using these newfound patterns and models of acting, relations and correlations, as well as by the application of the profile built on them, new knowledge is gained regarding the person who the model was applied on. That knowledge is owned by the profile "owner" who gains power over the person being profiled. Particularly if said knowledge is protected as a trading secret, intellectual property or classified information, then the citizen whom that knowledge could be applied on has no access to it whatsoever. Although it does not fall inside the domain of crime, the following example is given by author Hildebrandt on how knowledge acquired by profiling could influence our choice and autonomy: "Precisely because a person is not aware of the profiles that are applied to him/her, he/she may be seduced to act in ways he/she would not have chosen otherwise. Imagine that my online behavior is profiled and matched with a group profile predicting that the chance that I am a smoker who is on the verge of quitting is 67%. A second profile predicts that if I am offered free cigarettes together with my online groceries and receive news items about the reduction of dementia in the case of smoking I have an 80% chance of not quitting. This knowledge may have been generated by tobacco companies, which may use it to influence my behavior. In a way, this kind of impact resembles Pavlov's stimulus-response training: it does not appeal to reason, but aims to discipline or seduce me into profitable behavior. My autonomy is circumvented as long as I am not aware of the knowledge that is used. "[7]

Zarsky underlines that knowledge generated by profiling machines is like providing "its users with answers to questions they did not know to ask"[8]. He particularly addresses differences between classification based on previously defined modules and data mining techniques which cause unexpected groupings (clusters) and claims that this type of knowledge is new compared to traditional social sciences, which begin by hypothesizing on the population and are tested by sample application. Contrary to traditional social sciences, in the case of discovering knowledge in databases, hypotheses occur in the process of data mining and are tested on the entire population as opposed to only one sample. [9]

Fayyad and a group of authors describe automatic profiling in the general sense as a process of research and knowledge discovery in databases where mathematical

[7] Mireille Hildebrandt,(2008), Profiling and the rule of law, Identity Journal Limited
[8] Zarsky T Z. (2002–2003) "Mine Your Own Business!" :Making the Case for the Implications of the Data Mining or Personal Information in the Forum of Public Opinion, Yale Journal of Law &Technology
[9] Same as the previous,

techniques are used to detect relevant patterns and models of behavior.[10] The process of discovering knowledge in databases generally consists of the following steps:[11]

1. Data recording
2. Data aggregation
3. Identification of patterns (models) in data (DM)
4. Interpretation of the outcome
5. Checking the outcome (testing)
6. Applying the profiles

The third step is what we call data mining in the sense of using mathematical algorithms in order to locate correlations, clusters, common rules and other patterns. An example of such profiling using genetic algorithms is driver fatigue detection. This type of profiling is called biometric profiling and uses a combination of the person's silhouette, eye movement frequency and yawning frequency in order to determine driver fatigue. Data is acquired with the aid of a network which has a transmitting learning algorithm operating in its background.

The most famous example of risk profiling is monitoring of airplane passengers where the profile forms the basis of the decision to allow or prohibit flight boarding, to hold someone for questioning etc.[12] In this case, risk evaluation techniques are used to prevent crime. However, in the case of risk profiling, data problems, i.e. privacy, protection do not occur solely due to database interconnection, but also because of the issue of how to protect individuals from arbitrary decision making, information asymmetry and offensive and excessive surveillance. A suitable information, as well as legal protection must be built in order to prevent disadvantages prevailing over advantages of the technologies described above.

Risk Profiling

Forensic risk profiling is defined by two central features 1) hypothetical information gathered from aggregated data and 2) its proactive character, while the profiling process itself is usually accompanied by two other features: 3) automatically made decisions and 4) secrecy, concealment of the causes involved i.e. the logic of data processing.[13]

The first aspect making forensic risk profiling different from the more classical methods of police work is the fact that it is not limited to information about individuals (for example, biometric data of a certain individual), but uses statistical data gathered from large databases (such as a profile of an average terrorist developed out of certain patterns, correlation patterns). Of course, risk profiling can still aim to identify a certain individual, but data patterns (for example, their fingerprints) by which a certain individual is being compared are not a separate indicator, but a hypothetical construction deducted from information on different people. The profile applied to the individual is hypothetical, assumed. It does not match any of the persons whose data were used and it is often on its basis that the future behavior of an individual is determined.

[10] Fayyad UM, Piatetsky - Shapiro G, Smyth P, Uthurusamy R. (1996) Advances in Knowledge Discovery and Data Mining .AAAI Press/MIT Press Meno Park: California-Cambridge, Mass.-London England

[11] Mireille Hildebrandt (2008), Profiling and the rule of law, Identity Journal Limited,

[12] Steinbock, D. (2005). "Data Matching, Data Mining, and Due Process." Georgia Law Review 40(1)

[13] Coudert Fanny, Katja de Vries, (2008) Legal implications of forensic profiling: of good old data protection legislation and novel legal safeguards for due processing, Future of Identity in the Information Society (No. 507512)

Considering that risk profiling uses a construction derived from data gathered from multiple persons, it uses an algorithm for drawing patterns which are secret and unavailable to the public. The reason for it is not only that disclosing this algorithm can lead to an invasion of privacy, but also the fact that the disclosure itself can render the algorithm useless (the passenger check done by certain criteria is definitely not going to be as useful if everyone knows exactly what are the criteria followed). At the same time, disclosing the algorithm can be an infringement of intellectual property of the person that constructed or ordered it, sometimes with very high stakes and expenses.

The second specificity of forensic risk profiling is the fact that it can be used in a proactive manner precisely due to its hypothetical character, meaning the predicted future behavior of the persons the profile is being applied to. Instead of searching for individual matching of clues left behind at a crime scene, profiling can be used to prevent crime (for example, not allow a potential terrorist to board a plane) or to build hypotheses on characteristics that need to be looked for (for example, a bank card fraudster is probable to carry over 15 credit cards on them, because a significant majority of the fraudsters in the database had over 15 such cards).

Risk profiling by the police, presently mostly used to detect possible terrorists using air transportation, will become more widespread in the future and will generally be applied to other everyday activities of people. [14] This means that people not fitting within a certain profile will be put under suspicion of being criminals or terrorists and will be subjected to stricter police control, and those that do not fit the profile at all or fit less will stay outside of police control. Additionally, a danger exists that this kind of profiling will sometimes be counterproductive because it indicates focusing on one threat and overlooking other threats. It could also generate distrust in safety institutions due to the possibility of it creating police prejudice towards some ethnic, religious and other minorities and causing more aggressive police measures against them.

Its proactive or hypothetical character leaves risk profiling outside the second part of the police work which is basically directed towards a potential court unraveling. The profile used to detect high-risk air passengers is not designed to be used as evidence in a criminal procedure, but to prevent this type of passengers from boarding the plane when there are not enough other bases for suspicion that would allow further action. The passenger who was told they cannot board the plane will often not even be aware of the fact that they were subject to profiling and will simply assume that they seemed suspicious. This means that forensic risk profiling will often be hidden, far from the verification and transparency of a court process, because it is not so much part of the criminal procedure as it is, in itself, a hypothetical result. "Data matching and data mining give no process as the law understands that term. There is no notice, no opportunity to be heard, no confrontation with evidence, no reason given – only a result."[15] In every theory of a fair procedure, decisions based solely on results of data matching and data pattern identification are flawed and incomplete, which is a serious problem in situations where substantial interests of citizens are involved.

[14] The Royal Academy of Engineering Dilemmas of Privacy and Surveillance,(2007), Challenges of Technological Change, London

[15] Steinbock, D. (2005). "Data Matching, Data Mining, and Due Process." Georgia Law Review 40(1)

Legal Aspects of Automatic Decision Making

Risk profiling, as it was pointed out, is an automatic decision making without human evaluation and it can result in significant consequences for the individual. Automatic decision making systems are currently more often applied in the private sector, for example, banks increasingly rely on automatically made decisions regarding the extent of an approved credit than on the client's creditability. It is a similar situation with insurance companies, as well as other entities. Still, institutions in our country do not make these decisions automatically. They are made by credit boards or other entities based on data received by means of automatic processing in databases. However, it does not mean that these systems would not be of interest to the police if we consider that the law in some cases prescribes retaining specific data for the purposes of fighting crime. For example, Internet providers in the EU have an obligation to retain communication data and that obligation is established by the Data Retention Directive 2006/24/EC [16] before they are transferred to crime fighting institutions. Similarly in our country, Article 115a of the Law on Electronic Communications gives the police the right to use data from operators of public communication networks.

Automatic decisions have their upsides as well, such as the possibility of avoiding human subjectivity, however many questions arise regarding possible negative consequences.

The Framework Decision of the EU on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters contains an Article dedicated to making automatic decisions on individuals by crime fighting institutions[17]. Article 7 of the Decision prescribes that solutions deriving from unwanted legal consequences for the data subject or having a serious impact on him, and based solely on automatic data processing with the purpose of evaluating certain personal aspects of said data subject, will be allowed only if prescribed by law that at the same time establishes measures for protection of the legitimate interests of the data subject.

Still, the provision mentioned above can hardly provide any true protection and capacity of individuals to influence the decision making process of powerful public and private institutions. Automatically accepting the validity of reached decisions is at the same time related to reducing human responsibility in the criminal procedure and decision making process. Therefore, certain questions are asked in cases of damage caused by profile application, for example: how will it be determined who is to be held accountable for this damage? Should the software programmer, the profiling service provider, the controller or the profile user be deemed responsible? This issue of accountability is particularly complex in the case of automatic decisions based on profiling or in the case of intelligent environments.

Profiling is a prerequisite for autonomic computing and the smart environment made possible by a new technological infrastructure working "independently", meaning making a large number of decisions without human intervention. Autonomic computers shall involve distributive intelligence deriving from networked objects that are in constant

[16] Directive 2006/24/EC of the European Parliament and of the Council on the retention of data generated or processed in connection with the provision of publicly available electronic communications services or of public communications networks and amending Directive 2002/58/EC of 15 March 2006

[17] Council Framework Decision on the Protection of Personal Data Processed In the Framework of Police and Judicial Cooperation in Criminal Matters, 2008/977/JHA of 27 November 2008, Official Journal of the European Union L350/60, 30.12.2008.

communication, machine-to-machine, in real time and it is not clear how, in case of a damage, can accountability be attributed to any one of the points of intersection in this network. Decisions made in such a case are not deliberate in the traditional sense of the word and are not made by a certain human or even inhuman agent in this network. Accountability can be based on objective accountability, but the big problem is how can criminal accountability be determined if it cannot be established who the guilty person in this type of situations is.[18]

The principles established in the Convention for Protection of Individuals with regard to Automatic Processing of Personal Data (Convention 108) and adopted in all European legislations require that the process of data processing be transparent for the public and that it provides information on existing evidence, as well as reasons and aims for establishing them and that data subjects have access to the logic of the processing algorithm.

However, there are certain limitations in police work due to the nature of the job, which sometimes needs to stay secret up to a certain point. That does not exclude transparency, on the contrary, it remains key to government control and human rights protection, however it is necessary that the application of the principle is adjusted to this area. It is not a simple task, particularly in risk profiling with secrecy of the process as its main feature especially regarding concealment of used algorithms. And the algorithm contains the answer to the question of what the reasons for the computer to give a certain result were, i.e. what are the reasons underlying the necessity to make certain decisions.

The European Data Protection Supervisor makes reference to the practice of the European Court of Human Rights, stating that domestic law should be precise enough to show citizens in which circumstances and under which conditions are public authorities allowed to retain information of their private life and use them. The law "should be accessible to the person concerned and foreseeable as to its effects."[19] "As regards the requirement of foreseeability, the Court reiterates that a rule is "foreseeable" if it is formulated with sufficient precision to enable any individual – if need be with appropriate advice – to regulate his conduct".[20] In the Case of Leander v. Sweden, the Court defines transparency in this very sense: "The law must be sufficiently clear in its stipulations in order to provide citizens with appropriate indicators as to the conditions in which and under which public authorities have the power to apply this type of potential violation of private life. (This is a court case of a secret check in the process of employing staff in the national security sector performed in an established register – author's note).

Additionally, where the application of the law consists of secret measures, closed to checks by the individual persons they are applied to or to the wider public, the law itself – as superior to the accompanying administrative practices – has to indicate the scope of any discretionary rights granted to the competent authorities, with sufficient clarity, taking into consideration the legitimate aims of the respective measures in order to provide

[18] S. Gutwirth, M. Hildebrandt: Some Caveats on Profiling (2010) in the edition: Data Protection in a Profiled World, DOI Springer

[19] **European Court of Human Rights,** Case of ROTARU v. ROMANIA, (Application no. 28341/95)**,** JUDGEMENT, Strasbourg**,** 4 May 2000, paragraph 53

[20] **European Court of Human Rights,** Case of ROTARU v. ROMANIA, (Application no. 28341/95)**,** JUDGEMENT, Strasbourg**,** 4 May 2000, paragraph 55

individual persons with an adequate protection against the arbitrary interference in their private life.[21]

In the framework of the EU, in the domain of justice and internal affairs, there was a several- years- long public hearing on the Framework Decision on Data Protection expected to promote the transparency of the procedure. However, it failed to fully meet the expectations and suffered severe criticism even in the course of the public hearing. The European Data Protection Supervisor assessed that the solutions were not in accordance neither with the general formulations of Convention 108 of the Council of Europe, nor with the lowest common degree of access which would violate EU citizens' fundamental rights, as well as the efficiency of the crime fighting institutions.[22]

There seems to be a double challenge here. First, today's legal framework lacks adequate protection in view of group profile application, because the question arises in certain cases whether the data are actually personal and whether legislation of personal data protection is applicable. For example, when the relevant group profile determines the credit limit of an individual, then it is not contestable if the application of the said profile in a case like this becomes personal data. But the situation is different when it is a group profile which indicates that all persons with a certain set of attributes (regarding revenue, neighbourhood of residence, gender, profession, education etc.) carry a specific credit risk. This profile can be applied to a variety of people, however until applied to an individual, it is a result of the pattern identification method and not personal data in the sense of Convention 108 and other legal acts in the EU and in our country. Paradoxically, group profiles which could have an impact on multiple persons remain excluded from the legal regulations or it is still at least contestable whether they are encompassed by the law. Thus, the right to access to the logic of group profile processing is limited to very specific circumstances which could rarely be applied. In addition, the fact that such profiles are generally protected as a trading secret or intellectual property nearly makes the legal right to access to processing logic a mission impossible.

The second and perhaps an even greater challenge regards the right to access to relevant group profiles, the implementation of which requires a technological and organisational structure enabling the exercise of such rights. Without such socio-technical infrastructure there can be no efficient judicial remedy. "Only if such an infrastructure is in place, can the rule of law, especially the particular combination of positive and negative freedoms discussed above, be sustained".[23]

Therefore a necessity arises to clearly determine the status of group profiles in legislation before they are applied and on that depends the degree of transparency of the entire process.

Conclusion

The requirement to apply profiling transparency in the area of crime and police work in theory and practice meets various interpretations, including the opinion by state institutions that it would be contrary to a large part of the activities of institutions with police authorization. The threat that transparency poses to the usefulness of the computer

[21] **European Court of Human Rights,** Case of LEANDER v. SWEDEN, *(Application no. 9248/81)* JUDGEMENT, Strasbourg, 26 March 1987, paragraph 51

[22] Third opinion of the European Data Protection Supervisor on the Proposal for a Council Framework Decision on the protection of personal data processed in the framework of police and judicial co-operation in criminal matters, 27.04.2007

[23] Hildebrandt Mireille (2008), Profiling and the rule of law, Identity Journal Limited

algorithm is the usual argument against it, stating that profiling techniques are usually applied with the purpose of detection and prevention (such as following, search etc.) which have to be successful when the person profiled has not been notified. Consequently, a new question arises: What about privacy and fair procedure? The present stance is that forensic risk profiling and the remaining information techniques are out of reach of the classical meaning of a fair procedure in the same way as they are outside of the reach of any other form of democratic and constitutional control.

Personal data protection principles established in the current legal framework of Europe and our country are not sufficient and alternative measures need to be created, which will protect and at the same time provide citizens with legal solutions regarding the protection of rights and freedoms without needing to remove the hidden nature of forensic profiling.

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PERCEPTIONS OF THE PROFESSION AND WORKING CONDITIONS AS PRECONDITIONS FOR COOPERATION BETWEEN THE POLICE AND PRIVATE SECURITY IN LARGE CITIES

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Despite the growing presence of private policing, particularly in highly urbanized areas, there has been comparatively little empirical work about the relationships between private and public policing and the preconditions and modalities of cooperation between the police and private security. Given the fact that police officers and private security guards perform the same or similar tasks, but with entirely different priorities and based on different regulations, and therefore, applying significantly different methodologies, the goal of this paper is to determine some basic preconditions for the relations and cooperation between police officers and private security guards. The study was conducted on a representative sample of police officers in the Zagreb Police Department and a representative sample of employees of private security companies based in Zagreb. Data were collected in an anonymous and voluntary survey of police officers and private security guards using a questionnaire that was created in Slovenia (Dvojmoč, 2012). The descriptive analysis and Chi-square test reveal some significant differences in the police officers' and private security guards' perceptions of their professions and working conditions. The given results have indicated that the police profession is valued much more than private security and that the working conditions and in-service training are much better in the police than in private security, although police officers are not satisfied with their salaries and working equipment. One can conclude that there is a need for the introduction of some new forms of cooperation between the public police and private security sector in Croatia, such as joint training.

Keywords: *police, private security, cooperation, working conditions, perceptions*

1. INTRODUCTION

The public police is no longer the sole provider of security in contemporary society (Jones, Newburn, 2006). However, it is unclear to what extent these other providers of security services are prepared for such tasks and to what extent they are willing to cooperate with the police as the main public security service (Sotlar, Meško, 2009). The pluralisation of police tasks means that the traditional police tasks are now being taken over by some other bodies and institutions, including through initiatives of local authorities, private entrepreneurship and citizens' initiatives (Newburn, 2008). Since police officers and security guards are the most numerous members of the "pluralistic police family" in Croatia, as well as in many other countries, it is understandable that such cooperation requires a good relationship between the police and the private security guards and the organisations they belong to. It should, however, be kept in mind that the police and private security operate in different spheres: the police describes itself as an institution in charge of safety, public order and obedience of the law, while private security is an economic activity primarily driven by profit. The motto of the police is "to protect and to serve", whereas the motto of private security is "to protect and to earn money" (Sare, Prenzler, 2011).

An efficient police organisation not only implements new crime prevention strategies and policies, but also develops local resources in terms of forming partner coalitions and creating new crime control knowledge and skills in order to make such policies sustainable and to provide long-term positive results in a given area (Newburn, 2008). This is particularly relevant in preventing urban crime, which implies cooperation between the police, the city authorities, the private sector and the citizens (Rudell, Thomas and Patten, 2011). This very fact is emphasised in international documents and recommendations for crime prevention, such as the Introductory Handbook on Policing Urban Space (2011) or the Guidelines for Crime Prevention. Therefore, it is essential to identify the factors that could contribute to the development and advancement of such collaborations, as well as the factors that represent significant obstacles in that regard.

Research of this type is still rare and fragmentary in Croatia and other countries in this part of Europe (Wakefield, 2003; Sarre, 2005), therefore, every attempt at an empirical approach to this area represents a scientific contribution to the police sciences, which are still in their infancy and are developing in this area. This results in the fact that they still have not managed to achieve a satisfactory level of influence on public administration in creating and implementing modern public policies and strategies.

The goal of this paper is to determine the opinions of the police officers and private security guards in the city of Zagreb as the main urban centre in Croatia, regarding their working conditions and salaries, since the differences in that respect may represent an obstacle for successful cooperation between these two significant parts of the security system.

2. METHODS

2.1. Sample

The target population of this research are the police officers of the Zagreb Police Department and the private security guards in the area of Zagreb who, on 1 January 2013, had been working full-time for at least three years for the above stated employers. A representative sample of police officers from the Zagreb Police Department and a representative sample of employees from private security companies with headquarters and work place in Zagreb were formed from the target population. The criteria of representativeness for both groups were gender, age, education level, years of working experience and position in their respective organisation. The sampling framework was based on the list of employed police officers in Zagreb Police Department and on the list of employed private security guards in three security companies headquartered in Zagreb. The sampling was probabilistic in order to exclude subjectivity and bias in the selection of respondents.

2.2. Data collection and analysis methods

For the requirements of this research, data were collected in an anonymous and voluntary survey of police officers and private security guards. The respondents provided answers based on the Likert scale that includes five possibilities: from complete disagreement to complete agreement. The original questionnaire was created as part of the research conducted in Slovenia on the relationship between police officers and private security guards (Dvojmoč, 2012), which has been modified and extended for this research. Namely, the results obtained in Slovenia cannot be applied to the entire area of the post-socialist countries of former Yugoslavia due to the differences in the social, economic and political circumstances in each of these countries. Nevertheless, taking into account that these countries, deriving from a common socio-political context, started developing their state institutions simultaneously, it can be assumed that they share enough similarities to enable the transfer of the research instruments with minor modifications.

The obtained data were analysed descriptively in order to gain insight into the absolute and relative values for each variable, separately for police officers and for private security guards. The statistical significance and inter-relations between the particular opinions on work and belonging to the public police or private security have been tested with the Chi-Square Test.

3. RESULTS AND DISCUSSION

The analysis of the perception of the working conditions and salaries of the police officers and the private security guards begins with their personal affective attitudes toward their own professions, given that this is one of the key motivational factors.

Table 1. I love my job

								Total
			Absolutely no	**Mostly no**	**Both yes and no**	**Mostly yes**	**Absolutely yes**	
	Police	N	5	14	48	130	123	320
		%	1.6%	4.4%	15.0%	40.6%	38.4%	100.0%
	Security guards	N	25	40	140	117	41	363
		%	6.9%	11.0%	38.6%	32.2%	11.3%	100.0%

Chi-Square Tests

	Value	**Df**	**Asymp. Sig. (2-sided)**	
Pearson Chi-Square	**110.287[a]**	**4**	**.000**	
Likelihood Ratio	**115.507**	**4**	**.000**	
N of Valid Cases	**683**			

a. 0 cells (0.0%) have expected count less than 5. The minimum expected count is 14.06.

The data contained in Table 1 indicate how much the respondents love their job. In the sub-sample of police officers, it can be noticed that the respondents are very devoted to their job: as much as four-fifth (79.0%) of the respondents mostly and absolutely love their job, followed by 15.0% of those who replied with both yes and no. Almost insignificant is the percentage (7%) of the respondents among the police officers who mostly do not love or absolutely do not love their job. The distribution at the other end of the continuum should also be noted: 40.6% of police officers mostly love their job and an almost equal percentage (38.4%) absolutely loves their police job. These data are significant since they indicate the motivation of the police officers in their job.

A significantly different situation is found in the sub-sample of the private security guards: equally dominating are those who both love and do not love their job (38.6%) and those who mostly love their job (32.2%). Compared to the sub-sample of police officers, there are more than three times less private security guards who absolutely love their job (11.3%). The difference among the two sub-samples is even greater at the other end of the continuum since there are four times more security guards who absolutely do not love their job (6.9%), as opposed to 1.6% among the police officers. If we add to this the 11% of the private security guards who mostly do not love their job, which is again almost two and a half times more than in the sub-sample of police officers (4.4%), it can be concluded that, as much as 17.9% or almost one-fifth of the private security guards do not love their job. Along with the ambivalent respondents (38.6%), it is somewhat alarming that slightly over half of the private security guards do not have a positive affective attitude to their job. This raises the question of the motivation of the private security guards for their job.

The statistical parameters related to Table 1 indicate that there is a statistically significant and clearly expressed difference between the two observed sub-samples of respondents.

Table 2. I have adequate equipment for my job

								Total
			Absolutely no	Mostly no	Both yes and no	Mostly yes	Absolutely yes	
	Police	N	67	81	103	44	19	314
		%	21.3%	25.8%	32.8%	14.0%	6.1%	100.0 %
	Security guards	N	36	48	110	114	52	360
		%	10.0%	13.3%	30.6%	31.7%	14.4%	100.0 %

Chi-Square Tests

	Value	Df	Asymp. Sig. (2-sided)
Pearson Chi-Square	61.500[a]	4	.000
Likelihood Ratio	63.162	4	.000
N of Valid Cases	674		

a. 0 cells (0.0%) have expected count less than 5. The minimum expected count is 33.08.

The data from Table 2 are related to the adequacy of the work equipment available to the police officers and the private security guards. The sub-sample of police officers indicates some disturbing information: if we add those that do not have adequate equipment (21.3%) to those who mostly do not have adequate equipment (25.8%), we arrive at an alarming 47.1% of police officers who are not adequately equipped for their job. Another worrying fact is that almost one-third (32.8%) of the police officers assesses that they do have or do not have adequate equipment, whereas it is particularly worrying that only 20.1% of the police officers encompassed by this research believe that they mostly and always have adequate equipment.

In terms of their work equipment, the situation is more favourable in the sub-sample of private security guards, dominated by those who mostly have adequate equipment for their job (13.7%), although there is an almost equal relative share of those who have or do not have adequate equipment (30.6%). It means that nearly half (46.1%) of the private security guards mostly or absolutely have adequate equipment for their job, which is double as much compared to the police officers. However, the lack of adequate equipment seems to be twice as rare in the private security companies than in the police: compared to the police officers, there are two times less private security guards (23.3%) who absolutely do not have adequate equipment or mostly do not have adequate equipment.

The statistical parameters related to Table 2 indicate the statistical significance of the described differences, which further contributes to the severity of the data obtained on the police work equipment inadequacy.

Table 3. I am satisfied with the working conditions

								Total
			Absolutely no	**Mostly no**	**Both yes and no**	**Mostly yes**	**Absolutely yes**	
	Police	N	42	75	126	59	16	318
		%	13.2%	23.6%	39.6%	18.6%	5.0%	100.0%
	Security guards	N	69	67	118	79	30	363
		%	19.0%	18.5%	32.5%	21.8%	8.3%	100.0%

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	11.517[a]	4	.021
Likelihood Ratio	11.609	4	.021
N of Valid Cases	681		

a. 0 cells (0.0%) have expected count less than 5. The minimum expected count is 21.48.

The data presented in Table 3 provide an insight into the satisfaction of the respondents with their working conditions. Given the previously described shortage of adequate equipment for performing the police tasks, it is interesting to note that the police officers and the private security guards are not significantly different when it comes to their satisfaction with their working conditions. Those who are or are not satisfied with their working conditions prevail in both groups: 39.6% of the police officers and 32.5% of the private security guards. It is interesting to note an almost equal relative share of those who are dissatisfied with their working conditions among the police officers (36.8%) and among the private security guards (37.5%). 18.6% of the police officers are mostly satisfied with their working conditions, as well as 21.8% of the private security guards, whereas, in both observed groups, there is the least number of those who are absolutely satisfied with their working conditions: 5.0% among the police officers and 8.3% among the security guards.

It can also be noted that the difference in the satisfaction with the working conditions is statistically significant, yet expressed only to a small extent. It is obvious that the work equipment is not the only factor of satisfaction with the working conditions, as there are other circumstances that influence positively the satisfaction of the police officers and influence negatively the satisfaction of the private security guards.

Table 4. I have appropriate communication with clients

								Total
			Absolutely no	Mostly no	Both yes and no	Mostly yes	Absolutely yes	
	Police	N	4	5	37	154	118	318
		%	1.3%	1.6%	11.6%	48.4%	37.1%	100.0%
	Security guards	N	13	12	41	158	138	362
		%	3.6%	3.3%	11.3%	43.6%	38.1%	100.0%

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	6.647[a]	4	.156
Likelihood Ratio	6.958	4	.138
N of Valid Cases	680		

a. 0 cells (0.0%) have expected count less than 5. The minimum expected count is 7.95.

Table 4 presents one of the rare elements of the working conditions in which the police officers and the private security guards do not exhibit statistically significant differences, the element being the appropriateness of their communication with clients. In both groups dominates the positive perception of their communication with clients; the relative majority of police officers (48.4%) and private security guards (43.6%) mostly agrees with the statement that they have appropriate communication with their clients, followed by 37.1% of the police officers and 38.1% of the private security guards who absolutely agree with the statement. There is an almost equal share of those who are indecisive when it comes to assessing the appropriateness of their communication with clients: 11.6% of the police officers and 11.3% of the private security guards. Larger relative deviances in terms of belonging either to the police or private security have been found in relation to not having appropriate communication with clients. Namely, among private security guards, there are relatively two times more of those who mostly disagree with the statement that they have appropriate communication with clients (3.3%) than among police officers (1.6%). Furthermore, there are twice as many private security guards who absolutely do not agree with the statement that they have appropriate communication with clients (3.6%) than police officers (1.3%). However, as evident from the data presented in Table 4, these relative shares are based on low absolute values, meaning that they should not be given greater importance.

Table 5. I am adequately paid for my job

								Total
			Absolutely no	Mostly no	Both yes and no	Mostly yes	Absolutely yes	
	Police	N	90	76	110	34	9	319
		%	28.2%	23.8%	34.5%	10.7%	2.8%	100.0%
	Security guards	N	169	76	80	29	9	363
		%	46.6%	20.9%	22.0%	8.0%	2.5%	100.0%

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	26.502[a]	4	.000
Likelihood Ratio	26.798	4	.000
N of Valid Cases	682		

a. 0 cells (0.0%) have expected count less than 5. The minimum expected count is 8.42.

The data presented in Table 5 show to what extent police officers and private security guards agree with the statement that they are adequately paid for their job. Police officers are divided on this issue, although the emphasis is mostly on the negative assessments: half of them (52.0%) do not agree with the statement that they are adequately paid, followed by as much as one-third of them (34.5%) who are indecisive in this regard. Thereby, more precisely, 23.8% of the police officers mostly disagree with this statement and 28.2% of the police officers completely disagree. Out of the rest, 10.7% of the police officers mostly agree that they are adequately paid and only 2.8% completely agree.

The dissatisfaction with their salaries is clearly dominating among the private security guards, which makes it more clear why, despite being better equipped, they are less satisfied with the working conditions compared to the police officers. It is obvious that the private initiative is more focused on equipment than on people, whereas in the police, as part of state administration, it is the other way around. Clearly, people would always strive to be paid more for what they do, which has also been noticed among police officers. Nevertheless, among the private security guards, there is almost a half of them who absolutely do not agree with the statement that they are adequately paid for their job (46.6%), which is almost double compared to the police officers (28.2%). Over half of the private security guards (74.8%) absolutely and mostly do not agree that they are adequately paid for their job. In the private security guard sub-sample, as well as among the police officers, this is followed by those who are indecisive in this regard (22.0%). There is a small, equal amount of those who mostly agree that they are adequately paid (8.0%) and those who absolutely agree (2.5%).

The observed differences in the assessment of how adequately the police officers and private security guards are paid are statistically significant, yet less prominent, as evident from the parameters related to Table 5.

Table 6. My job is not valued enough in society

								Total
			Absolutely no	**Mostly no**	**Both yes and no**	**Mostly yes**	**Absolutely yes**	
	Police	N	65	105	104	37	8	319
		%	20.4%	32.9%	32.6%	11.6%	2.5%	100.0%
	Security guards	N	137	87	88	31	18	361
		%	38.0%	24.1%	24.4%	8.6%	5.0%	100.0%

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	30.582[a]	4	.000
Likelihood Ratio	31.143	4	.000
N of Valid Cases	680		

a. 0 cells (0.0%) have expected count less than 5. The minimum expected count is 12.20.

Table 6 depicts another potential reason for dissatisfaction among the private security guards, namely, the reputation of their profession in society. It is easily visible that they perceive themselves significantly worse compared to the police officers. Nevertheless, in both observed groups, there is a minute number of those who believe that their job is valued enough: 14.1% among the police officers and 13.6% among the private security guards; however, among the private security guards, there are double as many of those who absolutely agree with the statement that their job is valued enough in society (5.0%) than in the sub-sample of police officers (2.5%). On the other hand, among the private security officers, there is double the number of those who absolutely do not agree with the same statement (38.0%) as compared to the police officers (20.4%). It can be concluded that an absolute majority of those who do not agree with the statement that their job is valued enough in society prevails both among the police officers and the private security guards: in this case, the sub-sample of police officers amounts to 53.3% and the sub-sample of private security guards as much as 62.1%. Indecisiveness in the assessment of the validity of the statement that their job is not valued enough has been recorded in as much as a third (32.6%) of the police officers and a fourth (24.4%) of the private security guards.

The previously stated differences in the assessment of the reputation of their own job among the police officers and the private security guards are statistically significant, as evident from the statistical parameters related to Table 6.

Table 7. My job is dangerous

								Total
			Absolutely no	**Mostly no**	**Both yes and no**	**Mostly yes**	**Absolutely yes**	
	Police	N	2	19	57	92	149	319
		%	0.6%	6.0%	17.9%	28.8%	46.7%	100.0%
	Security guards	N	12	27	118	97	109	363
		%	3.3%	7.4%	32.5%	26.7%	30.0%	100.0%

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	33.431[a]	4	.000
Likelihood Ratio	34.557	4	.000
N of Valid Cases	682		

a. 0 cells (0.0%) have expected count less than 5. The minimum expected count is 6.55.

In Table 7, it is depicted how dangerous our respondents consider their job to be. Clearly dominating among the police officers are those who perceive their job as dangerous: exactly three-fourths of the police officers (75.5%). These data become even more impressive upon closer inspection; almost half of the police officers (46.7%) agree that their job is dangerous and over one-fourth (28.8%) of them mostly agree with this statement. Only 17.9% of the police officers are indecisive, whereas the share of those who mostly disagree with the statement that their job is dangerous (6.0%) and of those who absolutely disagree (0.6%) is relatively insignificant.

A prevailing number of the private security guards consider their job dangerous: somewhat over half of them (56.7%), which is significantly less compared to the police officer sub-sample (75.5%). If we take a closer look, it is evident that 30% of the private security guards believe that their job is dangerous, whereas 26.7% believe that their job is mostly dangerous. However, compared to the police officers, there are double as many respondents among the private security guards who are indecisive when it comes to the perception of how dangerous their job is (32.5%). A nearly equal relative share of the private security guards mostly disagrees with the statement that their job is dangerous (7.4%) as among the police officers (6.0%). On the other hand, there is a significant difference in the relative share of those who absolutely disagree with this statement: 3.3% among the private security guards and less than 1% among the police officers.

The observed differences are statistically significant, that is, it can be concluded that the police officers and the private security guards are statistically significantly different in terms of perceiving how dangerous their job is.

Table 8. My job requires a considerable amount of knowledge and skills

			My job requires a considerable amount of knowledge and skills.					Total
			Absolutely no	Mostly no	Both yes and no	Mostly yes	Absolutely yes	
Sub-sample	**Police**	N	1	3	34	120	162	320
		%	0.3%	0.9%	10.6%	37.5%	50.6%	100.0%
	Security guards	N	6	30	113	143	71	363
		%	1.7%	8.3%	31.1%	39.4%	19.6%	100.0%

Chi-Square Tests

	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-Square	103.373[a]	4	.000
Likelihood Ratio	110.194	4	.000
N of Valid Cases	683		

a. 2 cells (20.0%) have expected count less than 5. The minimum expected count is 3.28.

It is evident from Table 8 that a tiny share of both police officers and private security guards perceives that their job does not absolutely and mostly require considerable amounts of knowledge and skills. Only 1.2% of the police officers mostly and absolutely disagree with that statement, while the same holds true for 10% of the private security guards. The largest share of police officers (50.6%) completely agrees with the statement that their job requires a considerable amount of knowledge and skills, whereas 37.5% mostly agree with that statement. 10.6% of the police officers believe that their job does or does not require a considerable amount of knowledge and skills. As opposed to the police officers, the highest share of private security guards (39.4%) perceives that their job mostly requires a considerable amount of knowledge and skills, 31.1% perceive their job to require or not to require a considerable amount of knowledge and skills. 19.6% of the private security guards absolutely agree with the statement that their job requires a considerable amount of knowledge and skills.

Based on the statistical parameters related to Table 8, the deriving conclusion is that there is a statistically significant difference in the perceptions of the two observed groups.

Table 9. I am thinking of changing jobs

			I'm thinking of changing jobs.					Total
			Absolutely no	Mostly no	Both yes and no	Mostly yes	Absolutely yes	
Sub-sample	**Police**	N	88	70	84	39	39	320
		%	27.5%	21.9 %	26.3%	12.2%	12.2%	100.0%
	Security guards	N	44	28	110	73	108	363
		%	12.1%	7.7%	30.3%	20.1%	29.8%	100.0%

Chi-Square Tests

	Value	Df	Asymp. Sig. (2-sided)
Pearson Chi-Square	76.456[a]	4	.000
Likelihood Ratio	78.516	4	.000
N of Valid Cases	683		

a. 0 cells (0.0%) have expected count less than 5. The minimum expected count is 45.92.

From Table 9, it can be concluded that the largest share of police officers (27.5%) is absolutely not thinking about changing jobs, whereas a similar percentage of them (26.3%) is both thinking and not thinking of changing jobs. 21.9% of the police officers are mostly not thinking of changing jobs, whereas the same share of respondents (12.2%) is mostly and absolutely thinking of changing jobs. The largest share of the private security guards (30.3%) is both thinking and not thinking of changing jobs, whereas a similar share (29.8%) is absolutely thinking of changing their jobs. 20.1% are mostly thinking of changing jobs, whereas 7.7% are mostly not thinking of changing jobs. 12.1% of the security guards are absolutely not thinking of changing jobs. This leads to the conclusion that the private security guards are thinking more of changing jobs compared to the police officers.

The statistical parameters related to Table 9 indicate that the differences in the perceptions among the police officers and the private security guards are statistically significant.

4. CONCLUSION

The pluralisation of police tasks is taking place in the majority of advanced democratic societies, however in different manners and at a different pace depending on the particular social, political and cultural context, whereby, in urban areas, the dominance of the private security sector can be noticed. Commercial security companies have become the key component of the pluralisation of police tasks throughout Europe and the world (Loader, 2000; Shearing, Kempa, 2000). For the above stated reasons, criminologists and security practitioners see a huge potential in the partnership between state police and private security. Such partnerships are obviously only possible if at least a minimum level of competencies and professional integrity of both sides is ensured.

The results of the presented research conducted in Zagreb, Croatia's largest urban centre, indicate that the police officers are statistically significantly more satisfied with

their working conditions and salaries than the private security officers. The research has also shown that policing is recognized and valued as a profession, which does not apply to private security.

According to Wakefield and Button (2014), the trends of professionalizing private security and harmonizing public and private police are crucial for the future of the security services quality in modern world. The results of the described research support this statement; moreover, the results indicate specific problems of the Croatian police related to certain disadvantages in terms of equipment. It can reasonably be assumed that the differences in the perceptions between the public police officers and the private security guards make their cooperation more difficult, along with the difficulties that each of these two fundamental sectors of urban security have to cope with on a regular basis.

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THE CITIZENS OF THE REPUBLIC OF MACEDONIA ABOUT THE PUBLICITY OF THE POLICE WORK

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ABSTRACT

This paper analyzes the research results of several battery questions related to the assessment of police work within the period 2008 - 2017. It is a field research, conducted in all mountainous regions in the Republic of Macedonia, including between 30 and 40 municipalities. The number of respondents ranged from 1032 in 2017 to 1440 in 2011. (By years, it is: in 2008, 1163 respondents, in 2009, 1318 respondents, in 2010, 1309 respondents, in 2011, 1404 respondents, in 2012, 1240 respondents, in 2013, 1138 respondents, in 2014, 1167 respondents, in 2015, 1016 respondents, in 2016, 1044 respondents and in 2017, 1032 respondents). The sample is structured as multi-staged and it belongs to the group of intentional samples. It has been constructed by choosing municipalities in every mountainous region that will be later covered by a field activity. The subject of the analysis are the questions concerning the contact, feelings, attitude of the media toward decentralization, the use of modern technologies and the responsibility and accountability of the police in front of the citizens and the institutions.

Key categories: public, media, accountability, police, responsibility

Introduction

Public character and accountability in the decision-making process of the institutions are specific of social and political life in general (Damjanović, Mijat, 2002). They are the minimum conditions for participation of the citizens in the public life of the community. The secret and mysterious life is not a life, neither a scene of collective action and confrontation of opinions. The public is the basic form of social life, since without it, there is no free expression of opinions and interests of the people, democratic relations and control and there is no requirement for policy and civil status of the person (Held, 2008, p. 307-324). The closed, secretive and orchestrated life is actually a form of vegetation and insufficient recognition of the existence of "another life". That another life has various types and in an outstanding environment it is expressed through various "whispers" and narrations, gossip, exaggeration, insinuations and causes distrust by whispering and "tapping." Such forms of "life" have followed every policy to date and they represent an obstacle to the exercise of the democratic political processes (Mojanoski C. T., 2002).

Modern society cannot be established as a political entity, if it does not create these conditions for development of public oversight and accountability. There are two ways for creation of public and political life. The first is relatively free and democratic and influences the creation of the necessary conditions. It cannot be prescribed, but rather created in the general terms of personal freedom, association, public struggle and civic charity. The second is autocratic and bureaucratic (Ideološki i politički konflikti (Osvrt na kulturu dijaloga), 2011). In this respect, political and public life is not generated, but

fabricated. Its features are fictional public life rather than independent; manipulating "the people" with ready-made and prefabricated ideals and manifested rallies, propaganda cheers and staged shares attic relations between citizens and policy orchestrated mechanism of propaganda and agitation; restrictions on the political interest and self-expression of the groups and citizens from a permitted and controlled area that provides and regulates power; turning citizens into a passive object of the manipulation that is being exercised only under its influence, under the influence of the government or the individual economist the society becomes a naked society. It is a negative form of the wider political society and public. (Barsamian & Čomski, 2004).

What does the accountability mean? It means that the work of the police, the overall and individual attitude of the bodies, the departments and the organizations and individuals, of every police officer toward the strategies for police operations, the appointment procedures and budget management are supervised by different oversight institutions. Accountability is related to the submission of a report for the completed activities and to the agreement for taking responsibility for the failure of a task delegated with the act (Matić & Podunavac, 1995). It appears as a mechanism that ensures consistency, timeliness, professionalism, competence and consistency in executing (or delegating) tasks and responsibilities. Accountability is specific for all bodies in which, by virtue of law or another act, there is a transfer of responsibility (Masleša, 2001), (Masleša, 2008) (Stojanovski, 1997).

A separate indicator for the degree of openness of the police work is its willingness to cooperate with the forms of external control (checks, inspections, etc.). Most civilian oversight institutions deal with complaints against the police. However, the extent of their involvement in the consideration of the complaints varies considerably. While some supervisory organizations are responsible for receiving and investigating complaints in cases of serious misconduct or when it seems that there are inconsistencies in the internal control, other organizations are limited to monitoring and reviewing investigations conducted by the authorities (Stojanovski, 1997). Similarly, while some bodies have no impact on the punishment for the misconduct, others can make recommendations on disciplinary action or even have the power to impose sanctions.

A special, but especially dispersed form of supervision by civic associations and their own initiative as part of the societas civilis, are the so-called think- tanks (think-tank). They usually consist of a group of intellectuals who regularly meet and discuss and analyze important issues in a specific area of their expertise), and also organize peaceful rallies and other forms of expression of views by their own civil initiative (Heywood, 2009) (Held, 2008). Additionally, there is a special contribution of the civil initiative organizations, through public debates, presentation of research results and continuously raising open questions about the functioning of the police and proposing alternatives and possible solutions, or aiming at exposing scandals and crises and empowering citizens and their making complaints about the police actions (Damjanović, M., 2002). The NGOs, the media, the think-tanks and the research institutes monitor the establishment and functioning of the police, security and other services, based on public sources, raise questions, debates or use other democratic means. Individually, the citizens can seek protection through special tribunals, the ombudsman, commissioners, inspectors general, as well as national and international courts, such as the European Court of Human Rights (Mojanoski, 2002, p. 280).

The successful exercise of democratic control and the strengthening of the principle of accountability and publicity in the work of the police is a template of the

dominant political culture. It is usually related to the general cultural template and the behavior that goes further than the laws and the other legal norms. Nevertheless, the laws should give a framework that encourages culture of openness and respect for human rights.

Finally, but equally important for ensuring the monitoring is the role of the media. They are a powerful means for informing the public about the work of the police.

The main characteristic of modern police work is the idea that the police and the citizens work on fulfilling the common goals- safe community and safe life of the citizens. For affirmation of its successes and for strengthening the trust among the citizens, the police should approve their actions. A precondition for getting support from the public is the openness of the police work and the nourishing of the communication and the mutual understanding between the police and the citizens (Milosavljević, 1992).

The police and the police organization are subject of research in many disciplines and sciences (Masleša, 2008), (Stojanovski, 1997), (Shane, 2013), (Sheptycki, 2002). The modern sociological and political logical approaches toward the police are focused on the fact that it is a distinct entity and it has its own tasks and authorities, organizational structure, staff, means and specifications that are its *diferentia specifica* in one or another. By its position and functions, it has an important role in society and the exercise of those functions is in constant interaction with society. If we have in mind the fact that the surrounding of the police system, grosso modo, consists of the global society in which the central part belongs to its most organized part- the state. The attitudes that ‘’the society shapes the function of the police, or that function in bottom line comes from the needs, the conditions and the relations in a certain society and once confirmed content of the police function changes along with the changes in the society’’ (Milosavljević, 1992) are becoming increasingly expressed. The interaction is reciprocal (Bayley, 2006, p. 159). It means that the police system manifests positive (or negative) impulses and initiatives toward the environment. In the first case, the police is a factor that creates a positive climate, brings order and safety to the environment, or it is a factor that enables and encourages the prosperity of the society. Conversely, in the second case the police appear as an obstacle of the development of social trends. In separate cases, it can appear as a brake to social development, an instrument of the partisan interests and a tool for conservation of the social relations. There are numerous examples in history for these two forms of functioning of the police system.

We will remind in this paper that the interaction between the police system and the environment does not occur only on the level of the global society, but also locally on the level of distinct segments of society, related to the execution of the regular police tasks. It is about acting in an environment which structurally and institutionally is a complex whole and has its marks. They can be of different nature, such as: nationality, religion, age, gender, economy, political party or other structures. Numerous and diverse organizations, institutions and social systems belong to this context, which are, in one way or another, in constant interaction (Barsamian & Čomski, 2004), (Habermas 2012) (Milosavljević, 1992). Observed from the angle of social structure, it can be concluded that the social environment of the police is reflected in numerous complex shapes, in contradictory requirements and conditions that demand complex procedures and actions. Such complex and numerous events, conditions and forms are conducive to establishing specific relations between the police system and individual segments of the social environment. The specific relations of interaction manifest themselves as separate influences followed by different intensity, content and meaning. Given account to the intensity, content and meaning of influences, as especially important areas of interaction of the police system and the social

environment, they can be given a certain dominant and distinctive form of relationship as a relationship between the police and:

- a) the citizens;
- b) distinct social and ethnic groups;
- c) the media (Milosavljević, 1992).

However, with the development of modern society and the emphasized role and importance of the state, applied in the forms of state interventionism, influencing women to undertake a number of tasks, the police function is increasingly unmasked as the most organized and effective institution. In such circumstances, the social function is emphasized, which means that the police in the society is organized to prevent disorder and violence and to establish control over the clash between the stronger and the weaker. This concept for the position of police in society has contributed to limiting the freedom of the individual. The strengthening of the state and police makes the citizen appear as a subject in relation to public administration and hence, enjoy certain rights. It thus changes the overall political role of the citizen. He/she is an active factor in the political system who decides who will form the government and control the management (Bayley, 1996).

Such social conditions contribute the relations between the police and the citizens acquire new shapes and contents. The police, from a conceptual perspective, is oriented toward the demands and the needs of the citizens, toward respecting the freedoms and rights and is ready to promptly react to those requests (Bayley, 1996). The political function is complex. It basically covers preventing and managing conflicts, the application of regulations, especially those that in one way or another mean a restriction of certain individual freedoms and rights of citizens (Grabosky, 2009). An integral part of these contents is also the application of physical coercion on behalf of the state against the entities that violate the law. Among the citizens, there are such who consider themselves "prospective police" or having been police officers; officers for many are "bad heralds" and "visible reminder of the dark and repulsive side of human behavior" (Milosavljević, 1992).

We should have in mind that the police have always been an epitome of powerful organization and the police officer an epitome of a person with a delegated right for arresting and even using indirect force against the citizens (Crank, Murray, Irlbeck, & Sundermeier, 2011). Of course, there are some misunderstandings, especially when the police officers forget their true goal and the legal dimensions of their authority. The manifested shape of this kind of behavior is the emphasized reliance on strength and in practice every citizen is seen as a potential criminal. That creates a practice of unequal application of the law. The public is especially sensitive to the cases of unequal treatment by the police of certain categories of citizens, especially the vulnerable categories (the homeless, the LGBT), sexual and other minorities, people with different political affiliation, etc. Hence, we come to two contradictions according to which the police organization endeavors and acts as a closed system, more or less successfully, concealing its weaknesses and failing to inform the courts and the public about its activities, especially to present the opinions that emphasize the inadequate treatment and errors in police work. It is the traditional model of police, according to which it does not try to establish closer relations with the citizens and the public (Held & McGrew, 2010). This attitude, as assumed, has a negative impact on the relations between the police and the citizens. These relations are generally satisfactory, sometimes solid. The perceived weaknesses of the poor relations with the public are presented in the form of mutual mistrust, passive attitude of

citizens toward criminal events in their environment and failing to provide assistance to the police, expressed criticism for the police, manifestations of intolerance, open antagonism or cases of conflict with the police (Maljević, Datzer, Muratbegović, & Budimlić, 2006).

The experiences show that in the overall functioning of the police, especially in the execution of the main tasks, important success can hardly be achieved or efficiency in action can be created if the police does not have the respect, support, collaboration and help from the citizens. We should underline that the success of the police nowadays cannot be measured only by the number of solved criminal acts and undertaken actions, but also by how positive are its relations with the citizens. This is particularly important to be stressed because in divided societies, such as the Macedonian, it is crucial for the police to impose itself as the protector of human rights, not as a government service or service of political and party nomenclature (Matić & Podunavac , 1995).

The area of police relations with the citizens incorporates many mutually conditioned components. The most important being as follows: '(1) the relation to the citizens as users of the services and subjects with personal rights and freedoms (*human relations),* (2) the relation to the citizens as subjects of social control and collaborators of the police in its work and (3) the relation to the citizens as a factor of the public opinion (*public relations)'* (Milosavljević, 1992)

The existence of mechanisms implies that there is an interaction with the community, or that the police is available to the citizens when and where they need it. Such concept implies that the police organization is ready and has enough resources to answer appropriately to the citizens' needs when it comes to accidents, criminal acts and other emergencies and that the perceptions of the staff for their role have been changed. The police and its organization should identify themselves more as an element of the community and less as an instrument of the government. That process is neither easy nor simple. Also it cannot be done by a decree. Long-term, committed and systematic activity of all stakeholders is necessary for its implementation. As the police closeness to the citizens is a philosophy, a concept and a strategy of acting of this organization for the fulfillment of its goals, it is necessary to use its resources (Sheptycki, 2002). The most direct way of communication for protecting the lives and the property of the citizens are the emergency phone lines that the citizens can use to ask for help. The way of functioning of these lines is an indicator of the relations between the police and the citizens and the extent to which the practices of police working according to the model of community policing have been adopted (Shane 2013).

The main characteristic of modern police work is the idea that the police and the citizens are working on achieving the common goal - safe and secure community lives. To affirm their successes and to strengthen the trust among the citizens, the police should constantly work on getting public approval. A prerequisite for obtaining public support is the publicity in policing and fostering the communication and mutual understanding between the police and the citizens.

Methods and instruments

With respect to the perception of the police by the citizens, we will present the results of the survey conducted on the territory of the Republic of Macedonia in the period 2008-2017. It is a field research, conducted in all mountainous regions in the Republic of Macedonia, covering between 30 and 40 municipalities. The number of respondents ranged from 1032 in 2017 to 1440 in 2011. (By years, it is: in 2008, 1163 respondents, in 2009, 1318 respondents, in 2010, 1309 respondents, in 2011, 1404 respondents, in 2012, 1240

respondents, in 2013, 1138 respondents, in 2014, 1167 respondents, in 2015, 1016 respondents, in 2016, 1044 respondents and in 2017, 1032 respondents. The sample is structured as multi-staged and it belongs to the group of intentional samples. (Mojanoski, 2015). It is constructed by selecting municipalities in every mountainous region that will later be a subject of the field activity. An urban or rural core was constructed in each inhabited place and the principle of moving to the right was chosen. Every fifth family was visited in each place, or every 20^{th} family in the collective buildings. The choice of the interviewee was based on the principle of the closest birthday of an adult person living at that address. The instrument according to the responding method is a structured interview. Each researcher kept a diary (Mojanoski C. T., 2012). The survey was conducted every year in the period from January 8 to 20.

The instrument is constructed in a form of a socio-demographic survey with certain sets of closed type battery questions with answers from the Likerts scale (from I don't agree at all to I fully agree and I cannot estimate), a battery of questions with dichotomy answers, multiple choice questions and open questions. This paper will analyze the questions regarding the perceptions of the citizens about the work of the police and its attitude toward them. (Mojanoski C.T..2015)

Results and discussion

This paper discusses some of the questions regarding the trust in the police and the police attitude toward the implementation of the principle of publicity. Subject to analysis are the citizens' views of the police. The answers to this question are indicators referring more or less to the individuals' images as a result of the social reality.

Table 1 14. Please tell us how do you feel about the police?

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
1	43.63	42.03	14.06	16.12	16.38	17.02	24.68	16.83	15.23	14.44
2	44.41	39.45	41.18	42.04	40.36	42.86	41.65	37.20	39.66	41.67
3	10.50	8.42	12.83	12.09	15.42	14.29	12.17	15.65	14.75	15.21
4	1.12	9.33	19.56	18.62	17.43	15.61	13.88	17.91	18.49	17.34
5	0.34	0.76	12.38	11.12	10.41	10.23	7.63	12.40	11.88	11.34
Total	**100.0 0**	**100.0 0**	**100.0 0**	**100.0 0**	**100.0 0**	**100.0 0**	**100.0 0**	**100.0 0**	**100.0 0**	**100.0 0**

Legend:

1 I feel it is a service that takes care of me and my property

2 I feel it is a responsible state body

3 I feel it is a body in service of the ruling party

4 I think that it serves more to the state and takes little care of me

5 I can't make an assessment

The offered distribution leads to the estimation that the average rating by 41.05% of the citizens in the past ten years was the option "I feel it is a responsible state body", 22.4% rated the police "as a service that takes care of me and my property", then 14.93% consider it " serves more the country and takes little care of me", 13.13% believe that it is the "authority in the service of the ruling party" and 8.95% state they are "unable to assess". It is interesting to note that the citizens in the surveys of 2008 and 2009 have a high score (43.63% in 2008 and 42.03% in 2009) in terms of the attitude that the police are perceived as a service that takes cares of the property and the respondents. Such an attitude has seen variable magnitudes that do not exceed more than 24.68% in 2014. These results

are an indicator of the social context and the relation of the police towards the citizens and their concerns. The relatively more stable relationship in the structure of the evaluations of the police indicates that the citizens view the police as "I feel it is a responsible state body". From the perspective of the pace of development of this attitude, it may be determined that in 2009 it decreased by -11.17% in comparison to 2008, the next year it increased to 4.39%, in the next 2011 for 2.09%, in 2012 it fell down to 4.00%. A more visible jump in the pace of development of trust is observed in the year 2013 with 6.19%. The following two years there was a decline by -2.82%, i.e. 10.68%, in 2016 in respect to 2015 when there was an increase by 6.61% and in 2017 year by 5.07%. Such dynamics in the assessment in the past decade may be due to the significant number of stakeholders, but it is basically dependent on the social conditions, the media presentation, as well as the relation of the police towards the citizens.

More visible changes appear in the attitude of the citizens about that the police 'is a body in service of the governing party'. The pace of development shows jumping results: it marks a jump of 109.65% in 2010 compared to 2009, then in the next 4 years it decreases from -4.81% in 2011 to -6.39% in 2012, from -10.44% in 2013 to -11.08% in 2014. It was noticed that the pace of development shows a higher rate in 2015 of 29.03% compared to 2014, then in the next year it decreases to 3.24% and to -6.22% in 2017.

These results are undoubtedly a reflection of the social conditions and the role of the police in solving complex social problems, especially in those situations in which the use of the police powers and the police attitude to the citizens and their public expression of discontent or the exercise of the right to protest come to the forefront. Namely, certain events that had the character of peaceful protest, the period of its abuse and the use of "disproportional force", especially towards the protestors is one of the possible reasons for the high rates. They are of course only an indicator of the sections in the consciousness and the notions of citizens and the experience of the police organization in society. The reasons for such attitudes can be different, which is not the subject of analysis in this paper.

Table 2 17. Have you ever had a contact with the police?

	2008	**2009**	**2010**	**2011**	**2012**	**2013**	**2014**	**2015**	**2016**	**2017**
1 yes	74.98	58.27	61.73	64.44	61.61	63.53	69.58	62.01	70.11	62.98
2 no	25.02	41.73	38.27	35.56	38.39	36.47	30.42	37.99	29.89	37.02
Total	**100.0 0**	**100.0 0**	**100.0 0**	**100.0 0**	**100.0 0**	**100.0 0**	**100.0 0**	**100.0 0**	**100.0 0**	**100.0 0**

The data in Table 2 indicate in general that the respondents, i.e. the citizens, move within the four categories, hence, from confirmation in 2008, to more than a half in 2009. It is specific that a dominant average of 64.93%, or almost two-thirds of the citizens declared that they had had contact with the police. This response is a consequence not only of the specificity of the question on the one hand, but also of the fact that the police services incorporate a considerable number of services related to the issuance of personal, traffic and other documents that are necessary for unimpeded movement of the individual in society. It should also be kept in mind that in this period a change of personal documents was carried out, especially in 2008 and 2009, when a significant part of the citizens were directed towards the state authorities, in particular to the police services; even though organizationally these services belong to other administration bodies, because of the longstanding practice they were linked to the internal affairs bodies, which were more or less perceived as "the police". The relationship between the public and the police

with respect to the police activities is analyzed through the degree of consent regarding the attitude of the media and the information pertaining to decentralization.

Table 3 28.5. The media (TV, radio, press) widely broadcast information about decentralization that directly affect public safety

	2009	2010	2011	2012	2013	2014	2015	2016	2017
1 I don't agree at all	3.13	1.99	4.73	2.99	3.32	3.28	4.43	4.60	4.94
2 I don't agree	11.24	13.08	14.81	13.19	11.76	12.86	16.04	15.04	15.12
3 I can't say	39.68	41.55	35.33	40.13	42.91	39.78	36.12	44.92	38.86
4 I agree	38.53	35.96	35.74	36.49	34.20	36.24	34.74	28.16	33.82
5 I fully agree	7.42	7.42	9.39	7.20	7.81	7.85	8.66	7.28	7.27
Total	**100.00**	**100.00**	**100.00**	**100.00**	**100.00**	**100.00**	**100.00**	**100.00**	**100.00**

In terms of the citizens' perception of the police, it can be seen that the majority of the citizens have a negative attitude or they do not want to answer the question. Those who express the attitude 'I can't estimate' make up one third and there is a decrease to 44.92% in 2016 indicating the conclusion that the citizens choose this option which is more or less neutral. The following table presents the dichotomy of the answers, in such a way that the first three values of the Likert's scale indicate a negative response mapped to "no" and fourth and the fifth assessment which present a positive response are marked by "yes".

Table 4 28.5. The media (TV, radio, press) widely broadcast information about decentralization that directly affect public safety

	2009	2010	2011	2012	2013	2014	2015	2016	2017
No	54.05	56.62	54.87	56.31	57.99	55.91	56.59	64.56	58.91
Yes	45.95	43.38	45.13	43.69	42.01	44.09	43.41	35.44	41.09
Total	**100.00**	**100.00**	**100.00**	**100.00**	**100.00**	**100.00**	**100.00**	**100.00**	**100.00**
				development ratio in percentage %					
No		4.75	-3.09	2.62	2.98	-3.59	1.22	14.08	-8.75
Yes		-5.59	4.03	-3.19	-3.85	4.95	-1.54	-18.36	15.94

It can be noted that in the dynamics of development presented in this paragraph the highest negative rate, i.e. decline (for that particular impact) is noted in 2016 -18.36%. The underlying reasons are numerous. It should be kept in mind that at the beginning of this research the year was characterized by the contrasted and at times conflicting rhetoric of the leading political forces in the country and the differences about conducting early elections, hence it can be assessed that the citizens expressed caution, not only because of the created perception of the police work and appearance and the public release of illegal over-heard conversations, but for other numerous reasons as well, especially because of the created image of "using" the police and its technical resources and other potentials, the issues related to corruption and the opening of "affairs" with media presentation of corruption and corrupt contents.

In this respect, it is interesting to present the paragraph how the police effectively use the media. The following Table presents the responses of the respondents in the past nine years.

Table 5 28.10.The police uses the media(TV, radio, press, internet) efficiently for informing the public

	2009	2010	2011	2012	2013	2014	2015	2016	2017
No	47.60	42.17	48.26	45.55	40.69	45.06	50.20	54.50	49.81
Yes	52.40	57.83	51.74	54.45	59.31	54.94	49.80	45.50	50.19
Total	**100.00**	**100.00**	**100.00**	**100.00**	**100.00**	**100.00**	**100.00**	**100.00**	**100.00**

The positive views are dominant, according to which the police effectively use the media for informing the public.
In this context, the question about the degree of success of the police in informing the population itself about the activities related to public safety should also be answered.

Table 6 28.6. The police informs the citizens independently (without the media) and successfully about all activities related to public safety

	2009	2010	2011	2012	2013	2014	2015	2016	2017
No	73.76	76.07	71.86	79.40	70.69	74.35	77.26	78.74	77.62
Yes	26.24	23.93	28.14	20.60	29.31	25.65	22.74	21.26	22.38
Total	**100.00**	**100.00**	**100.00**	**100.00**	**100.00**	**100.00**	**100.00**	**100.00**	**100.00**

The data show that the negative attitudes are dominant ranging from three-quarters to four. Why are these differences? A possible, although not a single answer is that the responses in the previous paragraph include the use of the media, the technological means and the informing efficiency of the police; the second segment refers to "all activities related to public safety". Additionally, the differences are due to the fact that the perceptions incorporate different ideas of the citizens and that the citizens encounter the activities associated with public safety on a daily basis.
In closing this presentation of the research results, we will have to display the attitude of the citizens regarding the accountability of the police to the citizens and their representatives.

Table 7 30.10. The police is accountable to the citizens and their representatives with regard to its work

	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
No	76.94	45.29	44.03	48.01	50.49	43.87	58.7	46.45	52..4	54.17
Yes	23.06	54.71	55.97	51.99	49.51	56.13	41.3	53.55	47.61	45.83
Total	**100.00**	**100.00**	**100.00**	**100.00**	**100.00**	**100.00**	**100.00**	**100.00**	**100.00**	**10..00**

The data show that the notions of institutional responsibility have seen a different dynamics. It is a result of the fact that every year a special group of respondents was surveyed and it is not always that the issues are properly treated in the media and other interpretations arise, which, in one way or another, affect the notions of the citizens with regard to the position of the police and the police organization in society.

Conclusion

The research results illustrate that in the past ten years the citizens of the Republic of Macedonia have perceptions of the publicity of the police work, which differ in terms of the dynamics and way of assessment in comparison to the different answers and the issues that determine a certain intensity of the relationship. The differences are also due to the fact and the awareness that the contemporary police is as a professionally competent and equipped structure, with the knowledge and technical means to fight against the increasing wave of organized crime and new threats, as well as to ensure national and international security, especially in terms of the threats and dangers from terrorism and other forms of violence. Therefore, it seems necessary to emphasize the exceptional task of the police to maintain peace, to prevent and solve local crime and to improve the quality of life of the people. In this effort, a special task is to strengthen the sense of security among the citizens through the affirmation of the principle of work transparency. An integral part of publicity is accountability. It is especially important for the application of laws, the provision of citizens' freedoms and rights, the strengthening of the principle of fairness and legality in the procedure, as well as creating an image of its development as a structure that works on solving the problems together with the citizens. It is considered that a significant condition for the exercise of the principle of accountability is the maintenance of efficient and effective instruments of internal and external supervision, as well as the fostering of transparency and partnerships for cooperation between the police and the citizens.

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Criminology and criminal law in the function of security

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EUROPE'S QUIET CRISIS: 'MISSING' MIGRANT CHILDREN

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The current refugee crisis is the greatest humanitarian challenge that the EU has faced since its foundation. Men and women, old and young, all have been part of the recent influx of asylum seekers into the European Union. But a lesser-known story about it is the rapid rise of the number of children migrants traveling without an adult guardian. It has become increasingly clear that children, many of them unaccompanied by a parent, relative or guardian, are in the forefront of the crisis. Since 2008, about 198,500 unaccompanied minors have entered Europe seeking asylum, according to data from Eurostat. (Connor, P., Krogstad, M., 2016, p.1)

The closure of European borders and the lack of an effective strategy to cope with waves of refugees often leave unaccompanied minors crossing into Europe with no one to turn to. Authorities try to avoid responsibility for their care and protection. The existing EU and national measures are poorly implemented. Unsurprisingly, many children have lost trust in the institutions and measures intended to guarantee their rights, safety and well-being. These underlying problems have contributed to deplorable reception conditions, particularly in refugee camps, while prolonged uncertainty about children's legal status has left them 'living in limbo'. Such outcomes have in turn exposed vulnerable children to smugglers and human traffickers, and it is conservatively estimated that at least 10,000 unaccompanied migrant children are currently missing in the EU. (European Union Committee, 2016, p.6)

This article provides an overview of the regulations covering this area. It also discusses the particular challenges of creating a coherent, sustainable, and consistent approach towards unaccompanied minors, analyzing the current policies and the changing trends that policymakers must take into account as they address the phenomenon of child migration.

Key words: unaccompanied minor, refugee crisis, regulations, trends, missing children

1. INTRODUCTION

The past few years, an unprecedented number of people from Middle Eastern and African countries, many of them fleeing war, persecution and unrelenting poverty[1], have been crossing borders into and within Europe, thus representing the biggest refugee surge since World War II. [2]

Children[3] represented an increasing proportion of people arriving after arduous, often dangerous journeys. More than one in five of refugees and migrants who have crossed the Mediterranean Sea to Europe is a child (IOM &UNICEF, 2015, p.1)

In recent years, the juvenile element of the immigration influx in European countries, has been changing gradually, not only in numbers and provenance, but also in the category of children involved. The growing number of children who travel without a parent or guardian and claim asylum in Europe as unaccompanied[4] is another serious concern.

The numbers of these migrant children entering the EU, and the risks they face either *en route* or after their arrival, are all too apparent. When confronted with the migration of unaccompanied and separated children, European national legal frameworks and government policies are known to be in continual conflict between the more or less repressive enforcement of their asylum and/or immigration rules and an ambiguous (but timid) interpretation of the international and national legal instruments created for the care of children 'in need', regardless of their origin or nationality. There is often a marked discrepancy between, on the one hand, the rights to which migrants in general, and child migrants in particular, are entitled according to international legal standards and, on the other, the effective protection they receive and the difficulties they experience in the countries where they live and work and through which they travel.[5]This dispersion and confusion, combined with a lack of adequate responses to the main objectives of migrant children, mean that a significant number remain outside the control of the relevant authorities and care institutions (UNESKO, 2010). As a result, these unprotected migrant children live in situations of increasing vulnerability and instability. Such outcomes have

[1] The majority of people seeking entry to Europe are fleeing conflict and violence in their home countries. Over 12 million people inside Syria are in need of humanitarian assistance and over four million have fled the country, according to the UN. Iraqis too are facing a resurgence of violence and conflict, including in relation to so-called Islamic State: over four million Iraqis are currently displaced within and outside the country, according to UNHCR. In Afghanistan, Somalia, South Sudan, the Central African Republic, Mali, Nigeria and Eritrea, protracted conflicts and crises threaten the lives of millions of civilians, forcing many to leave their home country in search of safety and security in Europe and elsewhere. (Metcalfe-Hough,V., 2015, p.2*)*

[2]A record 1.3 million migrants applied for asylum in the 28 member states of the European Union, Norway and Switzerland in 2015 – nearly double the previous high water mark of roughly 700,000 that was set in 1992 after the fall of the Iron Curtain and the collapse of the Soviet Union, according to a Pew Research Center analysis of data from Eurostat, the European Union's statistical agency. (Connor, P., 2016, p.4)

[3] According to the United Nations Convention on the Rights of the Child, "a child means every human being below the age of eighteen years".

[4]'Unaccompanied minor' means a minor who arrives on the territory of the Member States unaccompanied by an adult responsible for him or her whether by law or by the practice of the Member State concerned, and for as long as he or she is not effectively taken into the care of such a person; it includes a minor who is left unaccompanied after he or she has entered the territory of the Member States (European Union: Council of the European Union, *Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted).*

[5] A major problem for children is that they are considered as migrants before they are considered as children – this automatically lowers their legal protection, as international standards regarding children are much more elaborated and more widely ratified than those regarding migrants. (European Union Committee, 2016, p.6)

in turn exposed vulnerable children to smugglers and human traffickers, and it is conservatively estimated that at least 10,000 unaccompanied migrant children are currently missing in the EU.[6]

2. THE CURRENT SITUATION

It is not possible to say with certainty how many unaccompanied migrant children are in Europe as a whole[7], but since 2010, about 179,000 unaccompanied minors have entered Europe seeking asylum, according to data from Eurostat, the EU's statistical agency. The first significant jump came in 2014, when the number of unaccompanied minors seeking asylum almost doubled compared with 2013, from 13,760 to 23,160. A year later, in 2015, the total quadrupled to a record 104,200. (Eurostat, 2017)

The great majority of unaccompanied minors are teenage boys. In 2015, about three-fourths of unaccompanied minors seeking asylum in Europe were males ages 14 to 17.[8] Most of the asylum applicants considered unaccompanied minors were Afghans (since 2010, about four-in-ten of Europe's unaccompanied minors – 71,965, or 40% – have travelled from Afghanistan). But recent rates of unaccompanied minors seeking asylum in Europe are very high also for Syrians with 22.000, Eritreans with 11.135, Somalis with 10.365 and Iraqis with 7.085 of all asylum applicants. (Eurostat, 2017)

Exact figures for unaccompanied children who go missing are difficult to establish, as saturated registration systems mean that Europe does not have a full and clear picture of the number of children arriving, nor is there efficient tracking of their onward route.[9] Double registration is common, for instance, when minors cross borders; they eventually "re-appear" on official registers in another country.[10] The 10 000 children reported missing by Europol (European Parlament, 2016) are reported to have absconded very shortly after registration, so total numbers are much higher as many children go missing before being

[6]Among the missing minors are those who "*disappear after identification and assignment to a host community*" ("missing") and those "*who choose immediately to escape from the institutions of the host country to reach other destinations*" ("transit"). (Treviso Local Group, 2016, p.1)
In general, across European Member States, there is no consistency in the definition of "missing children". Only half of the European Member States hold statistics on UAMs who went missing or absconded; where statistics are available, these are often not comparable or not systematically collected. Only a minority of countries report to have specific legal or procedural regulations on missing migrant children (Austria, Finland, Ireland and Romania). (European Commission, 2013)

[7]The European Council on Refugees and Exiles (ECRE) noted that, in 2013, 12,770 unaccompanied migrant children entered the EU without seeking international protection, compared with 12,725 seeking asylum. It thus appears that as many unaccompanied
children do not make asylum applications as do. (European Union Committee, 2016, p.8)

[8]49.85 % were males ages 16-17, 27.74 % ages 14-16 and just 9.33 % were less than 14 years.

[9]While systematic and comprehensive data on the disappearance of unaccompanied children in Europe is unavailable to date, it is clear that the rate of children that go missing from care facilities is staggering – and continues to increase in the recent refugee crisis. In 2015, the Swedish coastal town of Trellerborg reported that 1000 out of the 1900 who had arrived in the town had gone missing within the span of a month. The Italian Ministry of Welfare declared that 62% of the children that had arrived between January and May 2015 were unaccounted for. In January 2016, the Federal Criminal Police (BKA) reported that 4749 unaccompanied child and adolescent refugees are considered to be missing, of which 431 were younger than 13-years-old. (Missing Children Europe, 2016, p.10)

[10]Frontex also stated that double counting occurs in its published statistics: "Frontex provides monthly data on the number of people detected at the external borders of the European Union. Irregular border crossings may be attempted by the same person several times in different locations at the external border. This means that a large number of the people who were counted when they arrived in Greece were again counted when entering the EU for the second time through Hungary or Croatia." (IOM's Global Migration Data Analysis Centre, 2016, p.5)

registered, while others disappear during prolonged waiting periods or when asylum applications are refused.

Key trends for missing children have nevertheless been identified: approximately 25% of the disappearances of unaccompanied children seeking asylum happen within the first 48 hours upon arrival, and up to half of unaccompanied children go missing each year from the reception centers.

The figures, however underestimated, do serve to demonstrate that this is a real, widespread and long lasting problem, that unaccompanied minors are often just as determined as adults to find a better life and escape life-threatening home situations, whether in the country of origin or in transit, that the problem often has its roots in the very systems designed to care for minors (lack of appropriate information, protracted procedures, refusal - or fear of refusal - of refugee status) and finally, that children are the among the most vulnerable victims of traffickers and other criminals. (Committee on Migration, Refugees and Displaced Persons, 2016, p.9)

3. CHALLENGES OF UNACCOMPANIED MINORS MIGRATING TO EUROPE

Unaccompanied minors are exposed to divergent risks and lack of effective protection in all stages of the migration process. Policy gaps in the international, regional and domestic legislation leads to unaccompanied minors falling through the bureaucratic cracks. As they are typically dealt with fewer than two different sets of laws, immigration legislation and child-protection legislation, the child's best interests[11] are not always fully respected.

Even though the right to asylum for them is laid down in European and international law[12], child migrants regularly face obstacles to accessing asylum procedures. They do not always fully understand what the asylum process entails, the rights they are entitled to, and what process they have to undergo. Long waiting times, the absence of a translator or refusing to give an application form are examples of informal practices of authorities, which obstruct them to apply for asylum (Slot, L.,2016, p.27). Also many witnesses criticized the apparent lack of willingness to accept responsibility for unaccompanied migrant children. This reluctance is demonstrated in many ways, including by passively allowing unaccompanied children to transit the territory, actively waving them through at borders to neighboring states, not allowing them to enter at all, or allowing them to enter only to fail to respond to their needs (European Union Committee, 2016, p.24). As a result, many migrant children have been uprooted once, twice or even more frequently.

In several countries, unaccompanied minors are not correctly registered as minors, are therefore treated as adults. If treated as adults, they could be detained for periods up to or

[11] A fundamental challenge – common to all separated and unaccompanied children – is how to find a 'durable solution' for them, defined as a sustainable solution that ensures that the unaccompanied or separated child is able to develop into adulthood in an environment which will meet his or her needs and fulfill his or her rights as defined by the Convention on the Rights of the Child and will not put the child at risk of persecution or serious harm. (UNHCR and UNICEF, 2014, p.22)

[12] The EU had adopted a range of legislative and policy instruments which contain specific provisions on unaccompanied children that are consistent with international human rights standards, particularly in respect of their rights to appropriate legal advice and representation, protection, medical attention, education, accommodation and family reunification, but so a lot of what should be being implemented remains a dead letter. (European Union Committee, 2016, p.35)

over 18 months.[13] On the other hand, when children declare themselves to be under 18, this is frequently viewed with suspicion by national authorities. The alleged child is interrogated and medically tested in order to assess his/her age. (Hammarberg, T., 2010, p.176). In many cases, they are presumed to be adults and are therefore kept in detention on the assumption that the declaration of minority was false. The official attitude is colored by a 'culture of disbelief', as immigration officials presume that applicants attempt to abuse the asylum system.[14] In some European states, all located children have to undergo an age-determination medical test even when they hold valid identification documents (Hammarberg, T., 2010, p.176). In many cases, administrators, immigration commissions, and tutelary judges fail to take a child-sensitive approach and to listen carefully to the factual basis for the children's asylum claims.

Beyond these specific issues, which appear to be particularly prevalent, there is also evidence of a more generalized suspicion directed at unaccompanied migrant children throughout Europe. Some witnesses highlighted notions that these children pose a threat to national security through potential ties to terrorism, or are "criminal" and "illegal" migrants. In this context, a lot of people look at these children as dangerous children, when in fact they are children in danger (European Union Committee, 2016, p.22).

Protracted asylum proceedings and variances in the implementation of the law mean that the lives of many unaccompanied migrant children are effectively put on hold pending the initiation of proceedings, as well as while awaiting their outcome.

It is in these circumstances that about half of the children arriving alone run away from the asylum centers or shelters within two days of their arrival, for the above reasons, but also sometimes spontaneously through discouragement and frustration at the apparent complexity and length of processes they face, or for fear of being sent back home or to the country where they first arrived (Committee on Migration, Refugees and Displaced Persons, 2016, p.8). Only a fraction of these vulnerable children in their search for a better life, are able to reach family members in other European countries. The rest end up in situations that are even worse than those they have left. They are victims of kidnapping, trafficking, labour and sexual exploitation, compulsory organ donation, drug dealing, smuggling and begging.[15] A worrying number of these children disappear (Missing Children Europe, 2016, p.27). However, despite the enormous risks to which unaccompanied migrant children are exposed, their disappearance is usually underreported.

In discussing the phenomenon of missing children across Europe research shows that the disappearances of unaccompanied children are not prioritized and are not given the same urgency and care that would be provided for citizens. Only a minority of countries report to have legal or procedural regulations on missing migrant children (European Commission, 2013, *p.5*). Another problem is the lack of cross border cooperation in reporting, tracing and identifying missing unaccompanied migrant children and the lack of

[13]European Union Directive allows such detention. (European Parliament legislative Resolution of 18 June 2008 on the proposal for a Directive of the European Parliament and of the Council on common standards and procedures in Member States for returning illegally staying third country nationals.)

[14] "Many Member States are truly concerned about cheating; you say that you are 17 but you are 19, you say that you are unaccompanied but your parents sent you because they hope for family reunification and benefits." (European Union Committee, 2016, p.15)

[15]At least 15 % of registered victims of trafficking are children, and child trafficking is reported by member states as one of the most sharply increasing trends in the EU (Commission to the European Parliament and the Council, 2016, p.4)

reliable and comparable data, which is compounded by and contributes to widespread double-counting. (European Union Committee, 2016)

In particular, this hinders the ability of the authorities to trace and protect missing unaccompanied migrant children and thereby increases their vulnerability to smugglers and human traffickers.

4. CONCLUSION

In the current European situation, what is emerging is a progressive increase in the number of migrant children, accompanied or not, all with specific vulnerabilities that require targeted, impartial and inclusive administration. European policies on immigration to date have been marked by a lack of a child-centered approach: this leads to situations in which migrant children are up against regulations, bureaucratic-administrative and socio-cultural barriers which inevitably threaten their rights and often their lives.

The Council of Europe in 2011 stated that "a child is first and foremost just a child, and then a migrant" (Committee on Migration, Refugees and Population, 2011). Therefore, despite the awareness that all children are children regardless of their migrant status, many of them in Europe are living at high risk of poverty, exploitation, violence and social exclusion. Among these, unaccompanied minors are particularly vulnerable especially at a time when, for whatever reason, they leave the protection systems in place in various European countries and risk becoming part of criminal circles where they are fated to be subjected to systematic violation of their basic human rights.

The disappearance of many unaccompanied migrant minors is in many cases the final consequence of the failures and omissions by the authorities and requires the introduction of legal and procedural regulations on missing migrant children. There is consequently a need to establish more precise and reliable information by sharing international databases and by aggregation of data from different sources on the number of missing unaccompanied minors, where they are located and at what stages of migration they are likely to go missing, as well as on migration routes and on criminal networks.

Europe cannot afford to fail our young newcomers, their fate is ours and they have much to contribute – if given a chance. The first step is to recognize that they are human beings.

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"MATCH-FIXING" IN MACEDONIAN FOOTBALL - REAL CRIMINAL ACTIVITIES OR A HIDDEN DARK FIGURE OF CRIME

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ABSTRACT

The football game is considered to be the second most important thing in most parts of the world, which strikes with its simple creativity, dynamics, but before everything else – the uncertainty of the result. The unique popularization of the football game triggered its rapid evolution and enabled it to find a significant place in the sports industry as one of the most profitable industries in the world with a huge capital inflow. Through its aggressive politics for making profit, the vast number of betting shops around the world triggered the globalization of the offer for betting the results of football matches, because they provide an opportunity for betting in almost every country in the world where the football game is officially organized. The high popularity, the enormous financial profits and the result's uncertainty which is always present during the football matches is where the criminal organizations see the opportunity for their activities including cheating and match fixing, which creates the possibility for acquisition of massive illegal profit. Furthermore, their suspicious activities benefit from the belated incrimination of this appearance with legal interventions in many countries, as well as from the inactivity of the national football federations when it comes to alerting about occurrences of fraud by match fixing in the games in their leagues. At the beginning, the responsible football associations FIFA and UEFA could not realize the big threat for the integrity of the football game by match fixing in football, which contributed to a global expansion of this criminal activity. The question is: do such criminal organizations exist in Macedonian football, who should take the responsibility for match fixing in football and which are the legal regulations the country has in order to prevent and repress the appearance of such criminal organizations which gain huge illegal profits by fixing matches? These are only part of the questions which we will attempt to answer in this paper and we will do that by analyzing the legal incriminations and the results obtained from the questionnaire which was conducted with a representational sample of respondents.

Keywords: match fixing in football, fraud, sports betting, legal sanctions, personal views

1. INTRODUCTION

Organized crime has always been common in activities including: white slavery, arms trafficking, drug trafficking and nowadays it is also very common in football – the second most important thing in life according to many people. Criminal syndicates from Italy, Russia, Albania and the former Yugoslav republics, led by the triads from China and Singapore, with the help of match fixing and different types of bets and gambling have established a perfectly organized illegal betting industry and gambling affiliations which aim to manipulate the results of the football matches (www.european-lotteries.org/sports-betting-terminology).

This criminal activity is widely spread and it takes place in approximately 60 to 80 FIFA member countries. According to the Europol information from 2014 regarding match fixing, 7% of 27000 matches that have been monitored by UEFA are under suspicion of match fixing (www.europol.europa.eu/newsroom/news/update-results-largest-football-match-fixing-investigat ion-in-europe). Taking into consideration this ratio of match fixing in football, the criminal organizations are destroying the credibility and integrity of the game and are making the unpredictable predictable – which is the main reason why millions of fans around the world watch football – *the uncertainty and unpredictability of the results.* In this sense, there is a well known maxim "the essence of sports is the unpredictability of the outcome" (Adcroft &Teckman, 2008: 615).

The transnational character of this criminal manifestation has also struck Macedonia and the Macedonian First Football League, as well as the international football matches which can be found on the betting lists around the world. For the local and international match fixing organizations, the Macedonian football matches are also becoming target areas of interest for gaining illegal profit. The Macedonian Football Federation and the bodies responsible for fighting this type of criminal activities should not allow corruption to become part of the Macedonian football matches because it would destroy its integrity, ethics and credibility. Because of the danger imposed by this criminal activity, it must be operated in synchrony and with the mediation of all relevant parties which participate in the conduct and organization of the process (players, referees, football club presidents, managers, sports institutions, etc.), since this type of corruption is as serious as any other type of corruptive behavior present in our society. In order to protect the credibility of the football matches and the thousands football fans, it is necessary to work and find permanent solutions that would help in removing the harmful consequences caused by football match fixing.

2. FOOTBALL AND BETTING

The modern football game includes technical and tactical maneuvers preformed by the players, who make extraordinary and difficult physical efforts, charged with emotions shared with the fans, giving their best to achieve personal and group success which will help them to grow professionally and reaffirm their reputation. All this is organized by the national federations that are responsible for the regularity of the national and international competitions, as well as of the Cups. These matches are under the administration of the European and International football federations FIFA and UEFA that together with the fans, sponsors and TV companies develop the sport/football industries. According to the report of the accounting and consulting company Deloitte (www.deloitte.com/content/dam/Deloitte/global/Documents/Audit/gx-football-money-league-2015.pdf), the profit of the European football market for the season of 2014-15 was 22 billion EUR, while 54% of this money come from the 5 most popular European

leagues: the English Premier League where the football stadiums were approximately 96% full on every match, or 36000 visitors per match in average, the German Bundesliga with 90% and approximately 42000 per match, the Spanish Primera Division with approximately 25700 visitors per match, the French Ligue 1 with average 23000 visitors per match and the Italian Serie A with approximately 21600 visitors per match. This statistics says a lot about the dedication and passion of the fans that have been lucky enough to buy tickets and be part of the matches in the above mentioned leagues. Apart from these numbers, we can also add the millions of fans who watch on TV the games of their favorite football clubs and for which the TV companies pay high prices to provide live stream of the matches.

The football matches around the world are also carefully observed by another powerful industry and that is the betting and gambling industry. In this case, the betting shops are directly connected and represent a symbol of the football matches because they only pay a fee in order to include the matches in their betting lists and, in return, they offer certain types of sponsorship to support the activities of the national and international federations. Betting on a football game basically means predicting the result of the game, how the game proceeds, goals and kicking. When the match is included in the betting papers by the betting shops, the possible financial gain is calculated according to the betting odds of the predicted results multiplied by how much money the person bets. The betting odds of the result of a certain game express in percentage the possibility of achieving that result and it is determined by many factors, such as placing of the team in the tables, results from previous matches, team composition, injured players, the competitor and many other factors. The betting odds are inversely proportional to the money that has been offered on the given result of the football match that is subject to betting.(http://tajnekladionica.bloger.index.hr/post/kako-kladionice-racunaju-koeficijente/6660367.aspx).

Since the appearance of online betting, the globalization of this industry contributed to an increased number of betting offers for football matches organized by the national federations, such as the national championships in several categories, the national cups, the international games and there is the opportunity to bet during most of these matches. While the legal betting shops perform their activities through the national and international gambling associations and institutions which establish the norms and rules of legal working, there are illegal betting shops, out of which the majority are located in Asia, where betting and gambling are extremely popular, albeit illegal activities, or where gambling and betting are strictly prohibited or the betting conditions are not regulated and are under the control of the Asian criminal syndicates or “Triads”. According to the estimates for 2013, which also include legal and illegal sports betting shops and markets, their annual profit is between 435 and 625 billion GBP (British Pounds) and 70% of the profit comes only from football betting. The Italian journalist and researcher Antonio Talia who has investigated the illegal betting in Asia for a longer period of time says that Singapore is the epicenter of such activities because all the profit that comes from illegal betting in Asia goes directly there where the criminal organizations have established a system of betting shops that is perfectly organized in order to manipulate the football matches and their results. The criminal syndicate in Singapore is closely related to the manipulations of the football games and the criminal organizations from the other parts of the world, the Italian, Russian, Albanian mafia and the mafia from the former Yugoslav republics which gain enormous profit, obtained illegally by match fixing.

Europol report also writes about the importance and high prevalence of this criminal phenomenon (www.europol.europa.eu/newsroom/news/update-results-largest-football-match-fixing-investigati on-in-europe) since 06 February 2013, when the outcome of the joint police action from 13 countries was revealing a criminal organization involved in football match fixing. 425 people were accused: referees, players, managers, as well as criminals for match fixing of more than 380 professional football matches, including qualification matches from the European Championship and FIFA World Cup and two games from the UEFA Champions League. Moreover, 300 football matches have been identified as suspicious, most of them from South Africa, Asia and Middle America. This international match-fixing affair is a big challenge for inspectors and prosecutors. One fixed match can involve up to 50 suspects from 10 different countries around the world which means that it is a case covered by different jurisdictions, definitions and legal measures.

3. DEFINING THE TERM MATCH-FIXING

Defining the term 'match-fixing' is extremely important for incrimination of this manifestation, especially in countries which o have not experienced such activities, as well as for harmonization of the differences in the criminal codes in the countries which have faced such illegal activities. Taking into consideration the numerous kinds of sports, individual or group, which have been part of match fixing and other illegal activities, defining this criminal manifestation has been complex.

Some sports experts refer to match-fixing as a manipulation, corruptive activity, and in this regard, the Convention on the Manipulation of Sports Competitions of the Council of Europe states that the manipulation of sports competition is a previously arranged activity to influence or inappropriately change the result completely or partially and in that way make the unpredictable predictable in order to benefit certain parties.

The French research centre IRIS treats this manifestation as a type of sports corruption, an attempt to manipulate the outcome of the game in order for some parties in the betting industry to gain profit and obtain payoff from the gamblers.

(Gorse and Chadwick, 2011) define sports corruption as an illegal, immoral or unethical action which deliberately tries to influence and change the result of the competition (or part of it) in order to gain profit to the advantage of one or more parties involved in such activity.

The National Policy on Match-Fixing in Sport defines sports match fixing as a manipulation of the result or manipulation of certain game events which cannot be predicted by the fans, teams, managers, referees and other parties involved in the match. This type of behavior includes: a) deliberate match fixing, completely or partially predetermined results; b) deliberate kicks and underperformance; c) deliberate draws or withdrawal from the match; d) interfering and obstructing the players and the other staff; e) abusing information that gamblers received by insiders in order to manipulate the result or the unpredictable circumstances.

Interpol-IOC handbook (Beutler, 2016) on protecting sports from competition manipulation uses the same definition as the Council of Europe's Convention on the Manipulation of Sports Competitions and it points out to the differences in different sports, adding that match fixing is an inappropriate manipulation of the game which changes the team and players placing on the lists, completely or partially predetermined results regardless of the fact which team scores a goal first or which player received a red card, etc.

4. REASONS FOR MATCH-FIXING

The reasons, as well as the responsibilities for the manifestation and wide distribution of the match fixing phenomenon can be found in several factors:

- *Anthropological and psychological components of the human being* which are present in every normal human being such as: greed of gain (insatiability), need of luxury and glamour, etc (Labovic, 2016: 23). The average human being always has the affinity to earn money without much effort, i.e., most of the people want 'fast money' or to gain money without making big efforts;
- *International and national football federations* which were not able to predict on time that this manifestation (the match fixing) will develop so quickly and which have acted with trivialization, non-transparency and absence of coordination from the beginning of this criminally organized activity;
- *Inadequate criminal and legal response* regarding this activity and the insufficient punishments in the countries that have legally regulated this criminal activity;
- *Uncoordinated international collaboration,* mostly in the part referring to the investigative procedures, in other world, no special investigations about criminal activities of this kind are carried out.

5. TYPES OF MATCH-FIXING IN FOOTBALL

Depending on the motives of the parties that fix matches, we can classify them in two categories
www.europarl.europa.eu/RegData/etudes/BRIE/2016/580891/EPRS_BRI580891_EN.pdf)

Match-fixing motivated by the desire to qualify for a competition. The basic characteristic of this type of match-fixing is the absence of the financial gain and profit related to betting. In this case, achieving victory and points for better future and placing of the team is of primary importance. The other aspects of this type of match-fixing include: avoiding to lose a match, obtaining points to achieve a higher rank, avoiding stronger rivals and competitors in further tournament matches. This type of match- fixing can include the whole team or only part of the team that is crucial in the game organization.

Match-fixing with the primary aim of achieving profit. In such cases of match-fixing, the primary goal of the parties that fix football matches is to achieve illegal financial gain by betting the final result of the whole or only parts of the match in the betting shops and fixing scores at the end or during the match.

This is the most prevalent type of match-fixing and there are different manners in which match fixing can be achieved. The person or party that fixes the match, i.e. the corruptor, in order to achieve financial gain and the result they want, hires a person before the match who is directly related to the game. After the match and after achieving their goal, the corruptor pays off the person who directly 'fixed the match'. In most of the cases, the persons who are directly involved in match fixing include: (Haberfeld, 2013: 270):

- **Owners of football teams,** who alone or together with a corruptor, mutually or individually, have the power to influence the team coach to include players for a certain game who do not have the potential of winning the competitor, to introduce the wrong strategy or tactics, to exclude the crucial players of the team and in that way provide a result that is in the interest of the betting process and thus obtain illegal financial gain or another type of nonmaterial benefit;

- **The key players** of the team, the goalkeeper who in agreement with the 'match-fixer' or under a threat, as the last defense player can make a mistake on purpose or

receive goal/goals deliberately and in that way influence the natural course of the game, and, finally, achieve the result that is necessary for making profit in the betting shops;

- **Defense players/ defenders,** mostly those in the midfield are of extreme importance for proper and successful defense. These players can deliberately make bad assessments in certain aspects of the game, not go offside, make fouls, violate the rules, cause penalties, receive a red card and many other deliberate mistakes which will weaken their team and influence the final result of the match making it favorable for illegal betting;

- **The referee,** who willingly, for financial or other nonmaterial benefit, or under a threat, can violate the football rules by giving red cards for violations that do not require a red card, by ignoring cases of offside, awarding the players of the opposite team with penalty kicks when there is no need for that and many other irregularities which can seriously damage one of the teams and favor the other one in order to achieve the previously determined illegal goal;

- **The team coach/manager.** It is difficult to fix a match on one's own, but in collaboration with a player from the team it would be much easier. The coach/manager could ask the players to play according to a tactic which would prevent them from giving their maximum or he would compose a team of players who would not be able to achieve big success or he will change the players, and in by that, he would debilitate his own team on certain parts of the field. With such actions, the coach/manager can directly influence the result of the match and thus help the corruptor to gain illegal profit.

In such illegal activities, in this case match fixing, it is very important that the participants in match fixing do not draw the attention of the participants in the match, the fans and reveal the process of match-fixing or become suspicious with their behavior. For these reasons, a perfect scenario of match-fixing includes only two defense players, the goalkeeper and the central midfielder from the team to lose, while more specific types of match-fixing require the participation of more players from one or both teams or the participation of the referee in the match-fixing.

6. MACEDONIA AND MATCH-FIXING IN FOOTBALL

Macedonia has also entered the list of countries in which match-fixing takes place. The first illegal activity of this type was noticed after the match played on 13 July 2004 in Skopje, between 'FC Pobeda' from Prilep and 'FC Pyunik' from Erevan, Armenia, on the first qualifying round of the UEFA Champions League. FC Pyunik won the match (3:1), even though FC Pobeda was expected to win the game. This result on the first competition, as well as the result from the rematch (1:1) that took place in Erevan had a financial impact on the European betting shops which were not able to protect themselves from the match-fixing and lost 4-5 million EUR or more than 15 million EUR on a global level (http://fokus.mk/koga-milenko-nedelkovski-beshe-svedok-protiv-prilepska-pobeda).

The betting shops pressed charges in UEFA for suspicion of match-fixing, and as a result, the UEFA hired the famous Belgian betting expert Karl Dhont who had investigated the case thoroughly for five years taking into consideration every betting paper which contained that particular game in the European betting shops, as well as all betting papers that were rejected and not accepted by the betting shops. Based upon his findings, the UEFA instigated a disciplinary action on 17 April 2009 (https://arbitrationlaw.com/sites/default/files/free_pdfs/CAS%202009-A-1920%20FKP%20et%20al%20v%20UEFA%20Award.pdf) at the Court of Arbitration for Sport for unsporting behavior according to Article 5 from the UEFA Disciplinary Code, for violation of the rules of the UEFA Statute against FC Pobeda from Prilep, the team's

manager and owner Aleksandar Zabrcanec and Nikolce Zdravevski, a player and team captain. During the court proceedings, the expert stated that after analyzing the money and betting papers bet on the defeat of FC Pobeda that were ten times higher than expected, came to the conclusion that this match was obviously fixed. For the first time in such proceedings, statements from protected witnesses and participants in the match were taken into consideration which helped in solving the case.
In the absence of important material evidence and based on the investigation about this match and the testimonies of the protected witnesses, a verdict was reached, according to which FC Pobeda from Prilep was punished with a prohibition to play in matches organized by the UEFA for 8 years, Aleksandar Zabrcanec was permanently banned from every football game, while Nikolce Zdravevski, a football player and team captain was released from all charges related to match- fixing.

This was the first case in which the UEFA with the participation of an expert in match-fixing and protected witnesses instigated a case in court. According to the analysis of the independent agency "Sportradar", which is a world leader for monitoring matches and betting, in 2013 Macedonia was the seventh in Europe on the ranking list of football corruption. In the period between June 2009 and November 2012 it was noticed, that there were 37 suspicious matches in Macedonia, a figure that places our country among the top 10 out of 53 European countries. "Sportradar" has not published the particular matches and teams involved in this activity. (http://vecer.mk/sport/makedonija-sedma-vo-evropa-po-mestenje-na-natprevari).

This time-span, as well as the time-span before that, was obviously the most favorable for match fixing. The academician and sport journalist Deklan Hill, who is an expert in topics related to match fixing around the world, in his book 'The Fix', speaks about the expansion of this type of criminal activity in Macedonia. His colleague, via e-mail, received an offer by a former Macedonian football player to 'buy' a previously determined betting result of a match in the Macedonian Football League. The game had been previously fixed by both teams according to the parameter three points for one of the teams in the first part of the season and three points for the other team in the second part of the season. The football player who made that offer also planned to participate in the game and the majority of the players were also informed about the match fixing. Furthermore, the football player who made the offer, had received several offers to participate in other matches and he had informers in almost every team to inform him in case of match-fixing. He considered the Macedonian Football League as one of the most corrupted leagues in Europe, mostly in the second parts of the seasons. In addition, he also offered collaboration for match-fixing in other European Football Leagues, where he had friends and informers, most of them football players, who would give him 100% accurate information about matches that are fixed.

One of the most typical cases of match-fixing in football is the game in the Macedonian League between 'Sileks' from Kratovo and 'Metalurg' from Skopje which was played on 18 May 2015 in Kratovo. One of the players in this match offered a financial compensation of 1200 EUR to four of his teammates in order to make 'Sileks' lose the game. The teammates rejected this offer and played professionally and according to the rules and they won the match with the result 3:1. This case was a typical attempt of match-fixing. A few days later, the football player who tried to fix the match and his four teammates who received and rejected the offer were seriously threatened and intimidated by two Bulgarian and two Macedonian citizens who were proved to be the corruptors. They wanted the money back, 40000 EUR, 15000 EUR from the football players who

rejected the matc- fixing and 25000 EUR from the player who tried to bribe his teammates. The football players who rejected the match-fixing reported this case to the police, after which the football player who tried to bribe his teammates was charged with an offence for unauthorized money offer (Unauthorized offer of gifts) and attempted bribery according to Article 253, paragraph 4 from the Criminal Code of the Republic of Macedonia.

Among the most noticeable corruptors and participants in match-fixing from Macedonia, who acted in Macedonia, Italy and Germany are: Rade Trajkovski and the former coach of FC 'Ohrid', Dragan Antic, who are also known by the international police organizations Interpol and Europol and the organizations for monitoring and early prevention of football match-fixing Sportradar (https://integrity.sportradar.com/wp-content/uploads/sites/15/2014/12/Sportradar-Security-Servic es_World-Match-Fixing-The-Problem-and-the-Solution1.pdf). Furthermore, we could also include Hristijan Ilievski, who fixed football matches in Italy and who is closely associated with the Italian football scandal 'Calcio Scommesse'. (http://tvorbis.com.mk/?p=5500). These three corruptors, despite their individual criminal activities, have also collaborated with Almir Gegic and were part of the criminal organization called 'Cigani' (Gypsies) which has collaborated with the mafia in Singapore related to match-fixing.

7. CRIMINAL AND LEGAL JUSTICE RESPONSES OF THE LEGISLATION OF THE REPUBLIC OF MACEDONIA TO (FOOTBALL) MATCH-FIXING

Over the past years, as a result of huge scandals regarding match-fixing, mostly in the countries where the football game is very popular and where this game is used for making illegal profit and financial gain, the urge for fighting and destroying such criminal activities has become apparent. In this context, in 2013, right after Europol started a detailed investigation about a few cases of match fixing at a global level, in the Republic of Macedonia, the question was raised regarding its criminal and legal regulation, in other words, about incrimination of the match fixing as an offence.

For this purpose, the Assembly of the Republic of Macedonia voted for and the Government adopted amendments and modifications of the Criminal Code that refer to the issue of match fixing, in other words, the Articles 247-'Defraud', 253-'Unathorized reception of gifts' and 253a-'Unauthorized offer of gifts' were amended and modified accordingly. Furthermore, the criminal offence 'Defraud' from Article 247 was modified with another paragraph according to which, a person, who with the intention of attaining unlawful property gain for himself or for another person, defrauds another person by false presentation or by covering up facts relating to a sport match or a fixed sport match, or keeps the person under defraud and herewith induces him/her to do or not do something which causes damage to his/her own or another's property, shall be punished with 1 to 10 years of imprisonment.

In the parts referring to match-fixing, offences related to active and passive bribery can also be found. Furthermore, the offence 'Unauthorized reception of gifts' from Article 253 from the Criminal Code of the Republic of Macedonia, which states that the organizer or participant in the competition, who directly or indirectly asks for or accepts a gift or another material or nonmaterial benefit for himself or for another person, with the intention of neglecting the interests of the legal or physical entity that organizes the competition and aims for unpredictable results shall be punished with 1 to 5 years of imprisonment. An important aspect of these amendments and modifications is the sanctioning of arbitrators in reception and offer of gifts, which plays an important role in the process, as well as the

introduction of responsibilities for the legal entities that have committed this type of offence.

With respect to active bribery, or the offence 'Unauthorized offer of gifts' from Article 253a from the Criminal Code of the Republic of Macedonia, a new amendment was added according to which a person who directly or indirectly promises or offers a gift to an organizer or participant in a match in order to neglect or ignore the interests of the physical or legal entity that organizes the match to obtain results that do not depend on the match shall be punished with 1 to 5 years of imprisonment.

These amendments and modifications to the Criminal Code of the Republic of Macedonia are extremely important because they are mostly focused on preventing match fixing, as well as removing the corruptive influence that could deceive the citizens and cause serious damage to their property. If the number of such activities increases, sport would lose its essence, fair-play, victory moments and process of integration, which are considered as indirect sports gains and it would make it a simple occupation based on profit and nothing more.

8. RESULTS FROM THE RESEARCH FOR 'MATCH-FIXING IN FOOTBALL' IN THE REPUBLIC OF MACEDONIA

Within the frames of this paper, a cross-sectional study was conducted with the goal of investigating the public opinion about the prevalence of football match-fixing in the Republic of Macedonia. In order to obtain relevant information that will depict the real picture of this criminal phenomenon in our country, a field research was carried out in 2016 in Skopje and it included three betting shops: 'Sport Life', 'Zlatna Kopacka' and 'Mozzart'. 100 respondents by random choice were included in the survey in the above mentioned betting shops (most prevalent were the respondents who actively bet on football games for more than one year). The questionnaire that was used contained 10 close-ended questions. With the help of these questions, the goal was to receive answers to the following: Do respondents know what is 'match-fixing'?; Do the respondents bet on a football game after receiving anonymous information about match-fixing?; Was the result of the match that had been fixed the same as the one in the anonymous information?; Is match fixing common in the Macedonian Football League?; Do the respondents bet on football matches from Macedonian leagues that can be found in the betting shops newspapers?; Do the results of the matches that have been fixed in the Macedonian leagues correspond to the results from the anonymous information?; Are there any legal regulations about sanctioning activities related to match fixing in the Republic of Macedonia and are they adequately applied?; Which legal and physical entities in the country should be responsible or accused for match-fixing in football?

With respect to the answer to the first question, and taking into consideration the experience of the respondents in sports betting, 77% of the respondents are familiar with the term 'match-fixing', while the remaining 23% have heard about it, but they could not define the term adequately. The high representation of affirmative answers to this question says a lot about the systematic misuse and manipulation present in sports games and the involvement of different criminal organizations that use different methods for fixing matches in sports. As a result of the high number of match fixing incidents (in football), 59% of the respondents who received anonymous information have betted on fixed matches, 19% of the respondents have not betted on a fixed match after receiving anonymous information, while 22% have never received anonymous information about match fixing. From the games that were betted on after receiving anonymous information

about match fixing, only 5% of the results were completely in accordance with the anonymous information, 68% of the results were partially in accordance, while 27% of the results were not in accordance with the anonymous information about match-fixing. Following the European, and the trend of football match-fixing on a global level, 96% of the respondents consider that this criminal phenomenon is also present in Macedonian football leagues. These data are confirmed by the answers of 72% of the respondents who received information about match-fixing in football. Regarding the results of match fixing, 17% were correct, 59% were partially correct, while 24% were incorrect. In regard to the legal regulations about sanctioning match fixing and similar behaviors in the Republic of Macedonia, 51% of the respondents believe that their application is problematic and was never properly applied, 46% of the respondents do not know that there are legal regulations on this criminal phenomenon, while only 3% of the respondents believe that there are such regulations and that they are properly applied. The answers to the last question about the entities responsible and involved in match fixing indicate that the football teams and their members (president, administration, coach and players) X=4.10, were the most responsible, followed by the football federations (referees, controllers) with X=3.44, criminal organizations with X=3.34, betting shops with X=3.07 and little responsibility of the police and judicial bodies with X=1.62. These findings undoubtedly confirm the fact that match-fixing is a serious criminal phenomenon for which several physical and legal entities across the country are responsible (guilty).

9. CONCLUSION

Match-fixing, as well as doping in sports, hooliganism and racism are the biggest problems that sports is facing in the 21st century. The manifestation of match-fixing in football has become an extremely dangerous evil that causes damage to football and to other sports. This criminal activity, which is slowly but surely destroying football systematically, has developed very quickly and has influenced sports in a negative way.

The results of the questionnaire indicate the real situation of match-fixing in the Republic of Macedonia and they represent a good starting point for all bodies related to sports to participate and try to prevent this socially damaging manifestation. The public opinion should not be ignored, on the contrary, it should mobilize, inspire and lead to a greater national and international cooperation among the bodies responsible for fight against the organized criminal groups. A greater transparency in the fight against match-fixing will send a clear message that the Macedonian football federation and the governing bodies will not allow sport manipulation and corruption. If we take into consideration the effective trends that are applied in the countries in Western Europe, in a preventive and educative manner before all, we can expect that we will be able to respond to the existing and future challenges and threats that result from the global manipulation of match-fixing.

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DEVELOPMENT OF THE CRIME OF RAPE THROUGHOUT THE HISTORY OF CRIMINAL LAW AND ITS TENDENCY TODAY

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ABSTRACT

Rape as a violent act, a social phenomenon and one of sexual offenses caused moral condemnation, public contempt and punitive reaction. This reaction is changed and developed throughout human history. The norms of criminal law in the past criminalized more forms of such conduct, while the recent legislation based on the perspective that human sexuality is part of a person's intimacy and sexual freedom stipulates that the state should not criminalize certain types of conduct under the criminal law unless they are accompanied by coercion or various forms of abuse. The subject of our work is a review of the crime of rape throughout its development in the most famous written laws from the the period of antiquity, the Middle Ages until the new history of the criminal law in Serbia and an analysis of its legal nature in different periods of human society. Our goal was to determine whether there are differences and what are these differences between the norms defending this type of illicit behavior in the early written codes and the applicable norms of criminal law by a comparative method. Additionally, we tried to point out the possible directions of further development of the criminalization of this crime given the trend towards the spread of sexual freedom as a result of the constant social changes in terms of understanding sexual morality.

Keywords: *rape, criminal law, sexual freedom, sexual morality.*

1.Introduction

The issue of gender relations and sexuality as a phenomenon is the foundation of human life, it is a natural need of every human being, which results in the creation of new individuals, which enables reproduction and continuation of life. Sexuality is a normal, natural state, which means a sexual intercourse between male and female species which leads to reproduction. In societies of prehistoric humankind until today, sexuality has always been limited by special moral feelings and legal norms, which have resulted in the introduction of penal measures against those forms of sexuality that invade the discretion of the choice of sexual partners. Sexuality has to be differentiated from rape. Rape is a violent act and one of the sexual offenses that has always caused moral condemnation, public contempt, and punitive reaction. This reaction has throughout history been different and has changed, due to the time and place in which such offenses were committed. The

aim of our work is to provide an insight into the criminal law and the place of the crime of rape in this law. We will point to its specific features throughout the development of society from the perspective of the formation of the state and the law at a given time period. By using a historical and comparative method, we will provide an analysis of the crime of rape in the most famous written codes of ancient times and the Middle Ages and an analysis of the criminal legislation of Serbia since the nineteenth century. We will try to answer how the crime of rape is treated today in relation to the past and what are the differences or similarities of the criminalization of rape in different laws. Finally, we will point out the possible tendencies of criminalization of this crime in the future.

2.The crime of rape in the Ancient World

Antiquity in general history represents a time unit which according to most authors is determined as the period from the beginning of the first forms of state in the fourth millennium BC until the fall of the Western Roman Empire in the fifth century AD. It started with the transformation of the tribal communities in the autonomous city-states, primarily in Mesopotamia (a Greek word whose translation is "between rivers") which is in the space between the Tigris and the Euphrates (the area of today's Iraq), then the emergence of Egypt, ancient Greece and the Roman empire in the territory of Europe, North Africa and East Asia. Along with the development of the states in this period, to a greater or lesser extent, the law or the criminal law was developed with its standards that, intert alia, stipulate protection of the sexual morality and sexual freedom that existed in that time. Thus, the first legal documents in the history of mankind were written in Sumerian Cuneiform on clay tablets dried in the sun. As this script was expanded to Mesopotamia and the Middle East, a large number of subsequent legal texts were also preserved in the Cuneiform script (lat. Cuneus - pin). This is the case not only with the Hammurabi and Babylonian law, but also with the Hittites, Assyrians and other lesser-known rights (Avramović, 1998: 73.). With respect to the discovery of the Code of Hammurabi in 1901, there is a theory that the legal code in the old East began in Babylon. The subsequent discoveries of cuneiform legal texts resulted in new knowledge about the origin and the age of the first written legal texts, but with different attitudes regarding their periodization. The order of occurrence of cuneiform texts from Mesopotamia is as follows:

1. Ur-Namu Code passed around 2100 B.C.
2. Code Lipit-Ishtar was created around 1930 B.C.
3. Laws of Eshnunna dates from the period about 1720 B.C.
4. Code of Hammurabi was adopted around 1680 B.C.

The Ur-Namu Code originated from southern Mesopotamia, in the city of Ur and was written in the Sumerian language. It has been preserved in fragments and there are several norms of sexual morality, including "seduction": "If a woman of a free man, using magic, feeds another man and he lies with her, this woman to kill a man is free". Furthermore, the same Code provided that if someone's slave forcibly seized someone else's virginity, the owner must pay five pieces of silver. The Lipit-Ishtar Code comes from southern Mesopotamia and it is written in the Sumerian language. It dealt with issues of freedom of slaves, lease, theft and inheritance law (Ibidem: 74-75, 99). The Code of the city-state Eshnunna is similar to Ur-Namu Code and is known as the Laws of Bilalama, named after the city ruler. It was written in Akkadian language on two tiles that are well preserved and can be found in the Iraqi Museum of Antiquities in Baghdad. The 31st Article states: "If a man takes the virginity of another man's slave, he must pay a third of a mine silver; slave remains the property of her owner." The regulation of marital and family

law occupied an important place in the ancient codes and their importance was higher that for issues related to sexual morality; the punishment for infidelity had ranged from exile to death penalty (women were thrown into the river), while the pecuniary penalties, according to the available and found parts of the said Code, were prescribed for the violent seizure of an innocent slave. Rape or other unlawful sexual activities carried out by the members of the free population are sanctioned with Article 26 of the Laws of Bilalama: "If a man has the permission from his father and mother, to kidnap and deprive her virginity by force, he commits an offense punishable by death and is to be killed "(Višić, 1985: 115-117).

2.1. Code of Hammurabi

The Code of Hammurabi is named after the Babylonian emperor Hammurabi, written in the Akkadian cuneiform script. It contains segments of the old common law, some norms of the previous Sumerian legal proceedings and provisions of the new legislation. The Code is printed on a black stone stele (panel) in height of over two meters and contains 282 regulations. It is considered one of the most important surviving Code of ancient time partly because it codified the norms concerning the regulation and court proceedings and civil and criminal law and in part because it provided a partial basis and influenced the later state codes after Babylon (Nikolić, 2010: 1). One of the main features by which the Code of Hammurabi is recognized is the brutal system of sanctions, which is dominated by the death penalty, talion and mutilation. Sanctions often depended on the status of the offender or the victim and were less severe for the members of the ruling class (eg. Putting out the eye or breaking a bone to a slave was punishable only by paying a certain amount) (Avramović, 1998: 86). The punishment for deprivation of life or loss of status or for offenders of sexual offenses in the Hammurabi time was no accident. On the one hand, the cruelty and the almost dramatic symbolism conveyed the message that evil will reach the perpetrators, and on the other hand, it points to the deepest moral feelings in the community given the unacceptable sexual act offences (Rittossa, 2014: 511). Thus, Article 130 states: " If a man violates the wife (betrothed or child-wife) of another man, who has never known a man, and still lives in her father's house, and sleep with her and be surprised, this man shall be put to death, but the wife is blameless " (Levine, 1997-2001: 92). This would be the only provision that contains the elements of today's crime of rape found in the Code. In terms of the passive subject, it applies only to married, minor and innocent female persons and does not provide for cases where the victim is unmarried or married and a virgin and thus remains the assumption that the common law regulated such cases. Furthermore, in connection with the violent sexual relations there are no specific regulations regarding the class of belonging of the victim and the perpetrator, which was to a greater extent prescribed in the aforementioned older codes. On the other hand, there are a significant number of regulations governing marriage and family relations and an interesting fact is that adultery was punishable, but also Article 129 stipulates: " If the wife of a free man is caught lying with another man, they shall both be tied up and drowned in the water; but if the husband decides to let his wife live, than the king shall let the man live“. It is clear that the Babylonian society was intolerant of such behavior as seen by the weight of the prescribed sanctions and again the master of slaves or women is the one who has the discretion to decide upon the sanction and to apply it. Incest was also considered difficult because it was a misdemeanor for which the most serious penalties were prescribed, including Article 157 stating: " If a free man has sexual relations with his mother after the death of his father, both of them shall be executed by burning.".

Furthermore, Article 154 stipulates: "If a free man has sexual relations with his daughter, that man shall be exiled "(Višić, 1985: 135.) If we leave aside the moral dilemma which of these two forms of incest is more unacceptable or they are equally unacceptable, it is clear that the Code prescribes the death penalty for the son and the mother, on the other hand, the penalty for the father is expulsion from his native town. This indicates the different roles of the father and the other family members and slaves, where he is in a privileged position because he has the ownership over them. Rape, incest and adultery are behaviors that Babylonian society did not tolerate and were punishable. Different penalties were prescribed for the members of different social layers, but the criminal law at that time did not provide for other forms of manifestation of sexual offenses that are present in modern legislation.

2.2. Greek law

Usually, the term ancient Greek law in a broader sense includes a set of legal rules that applied in the Greek world, from the historical formation of the Greek people (ie. from the settlement of Dorians, Ionians and Aeolians and their merging with the local population in about 1200 B.C.) to the Hellenistic period (Avramović, 2005: 33.). The first Greek state appears as express city-states under the general heading "polis" whose state and social systems show many differences, but also some basic similarities because their social structures were very similar and they shared a more or less similar religion, language and culture. Without going into the general interpretation of these issues, we will deal with the legal regulation of the individual polis in the part that prescribes the criminal law through Gortyn Code as one of the most important matches of the Code at that time and the criminal law of Sparta and Athens.

The Gortyn code was created in mid-fifth century B.C. in the Cretan city-state Gortyn and represents an example of phase transition from primitive to developed right and the oldest preserved codification of the legal history of Europe. It consists of XII columns that mostly govern the matters of private law. One segment of the other columns prescribed the offenses against sexual freedoms of that time, stating: “If one commit rape on a free man or woman, he shall pay 100 staters, and if on the son or daughter of an apetairos ten, and if a slave on a free man or woman, he shall pay double, and if a free man on a male or female serf five drachmas, and if a serf on a male or female serf, five staters. If one debauch a female house-slave by force he shall pay two staters, but if one already debauched, in the daytime, an obol, but if at night, two obols. If one tries to seduce a free woman, he shall pay ten staters, if a witness testify“„(Nikolić, 2005: 31.). Also, there is a provision that prohibits adultery: „If one be taken in adultery with a free woman in her father's, brother's, or husband's house, he shall pay 100 staters, but if in another's house, fifty; and with the wife of an apetairos, ten. But if a slave with a free woman, he shall pay double, but if a slave with a slave's wife, five“ (Ibidem: 32). We note that the penalties prescribed for those incriminations in terms of belonging to different social classes are less severe than the earlier codes of ancient times as they mainly prescribe fines rather than physical punishment. Also, it is clear that the free man enjoyed legal protection as a passive subject. This solution was applied in the modern history of criminal law of our country just last decade. We note that the time of execution of an act of rape affected the sentence, whereof the penalty for a rape committed at night was double than for a rape committed by day. The fines prescribed for a rape of innocent and slaves who previously had a sexual relationship were not the same, which supports the conclusion that children and minor slaves were specially protected. Similar to the old codes of Mesopotamia,

adultery was prohibited and punishable by fines that were not very high, which suggests the beginning of a period of more liberal attitudes toward adultery as a socially unacceptable behavior.

Lycurgus was the legendary founder of the Spartan state and the first laws were passed during his rule (Kandić, 1973: 53). In Sparta there was no strict prohibition of sex, jealousy and possessiveness of men. Spartan women had full sexual freedom. Adultery was not punishable and marriage was not concluded from love but from the need to ensure the country's posterity. Therefore, it was not a shame if a woman became pregnant with a physically more capable man than her husband, because that guaranteed healthy and strong offspring (Avramović, 1998: 129). Hence, unlike the famous Code of that time, the Spartan norms had intended to maintain military discipline in the population. The womanwais seen as someone who was capable of securing the survival of the offspring of Spartan society.

The criminal law in Athens (and in other Greek cities) bore for a long time the mark of tribal beliefs. Whether an action would be treated as a criminal offense or not, the state left up to the individual and the general will, as a result of the close integration of the public and private interests. Hence, the killer could be released from all charges if, among other things, he found his wife, mother, sister or daughter in the performance of adultery and killed the man on the spot. The woman in this case was divorced and the man could either be spared from publicity or the perpetrator could be punished for the damage be being charged a fine or subjected to humiliation by putting radishes in his anus in front of the assembled citizens. Rape, in relation to adultery, was punishable in a milder form -only by a fine. Solon rape introduced fixed penalty of 100 drachmas, but from the fourth century BC the jury was unable to determine the length of the sentence. This sum was paid by the kirios (master) of the raped woman and the same amount was also paid by the offender and the country. The court proceedings were initiated by private prosecution, in the same form as for applying force to damage another person's property. Thus, rape had almost the same treatment as the offenses against property, because the woman is the property of her husband (Avramović, 1998: 129).

2.3. Roman law

The first codified legal code in Rome was a Law on 12 tables, built in the fifth century BC in order to limit the power of the consul, who in an exhaustive way regulated the entire field of social relations (Stanojević, 2003: 53). The eighth and ninth Tables were about offenses, but Law Table 12 did not mention rape, nor illicit behavior in the sphere of sexuality. Julius law on adultery (lex Julia de adulteriis) passed in the 18th century BC prescribe offenses related to adultery and in the text, among other things, "To no one after this one does consciously and maliciously fornication or adultery," and "If a father to his daughter, who is subordinate to his authority or (daughter) who upon his approval, while he has been in power, entered into marriage with her husband, is found in his or son in law home with adulterers, but on this occasion he called the father in law, the law allows the father of that adulterers can kill without accountability, but only by simultaneously killing the daughter "and" Who the woman caught in adultery kept, forgave the adulterer caught in the house "(Romac, 1973: 35-37). At the time of the last attempt to restore the Roman Empire, which was done with some success, Emperor Justinian, made the most significant codification of the Roman law contained in four collections. In Justinian law, a woman who violated the loyalty to her husband was physically punished and imprisoned in a monastery where her husband could take her after two years or leave

her thee as a nun. Such rights of the father and husband of a woman who committed adultery originated from the past and were applied in the period of the empire; also a father who found his beloved daughter in adultery had the responsibility to kill both the adulterer and his daughter on the spot, but if he killed only one of them it would correspond to a murder. In the same situation, the husband had the right to kill his wife, but if he killed her the excitement, he would be punished witha very lenient sentence; he was obliged to divorce her or otherwise fit it as a procurer. The woman's accomplice in adultery, could be killed by the husband only when it came to the edge, to a person who was fighting for money with beasts in the circus or libertinus. There were penalties for rape and other obscene acts. Debauchery with a minor girl was punished so that if the guilty was a member of the upper classes, he was expelled and if he was a member of the lower classes he was sent out to work in the mines (D, XLVIII, 19, 38, 3). Pandering was also punished, while abortion was punished by the death penalty or exile (D, XLVIII, 19.39; D XLVII 11, 4) (Blagojević, 1955: 71).

3.The crime of rape in the Middle Ages

The Middle Ages, according to most authors, began in the fifth century and ended in the fifteenth century and during this period there was great social and economic change. Feudalism was a new socio-economic formation, which was characteristic of that period. The development of society followed the development of law and most of them protected sexual freedom. In this section we will look at several Codes, which were among the most important at that time and those are the Salian law, the Dusan's code and the Constitutio criminalis Carolina's German Code.

3.1 Salian law

Salian law (lex Salica) is a code of customary law of the Salian Franks and it is one of the oldest called barbarian Codes that emerged during the reign of Clodovic in the period 481-511. Written in iniquitous Latin, the first version contained 65 members and had undergone several subsequent processings and supplements containing predominantly norms of criminal law. Criminal offenses against sexual freedom are contained in Chapter XXV entitled About adultery and slaves which prescribes nine articles including: "1. If someone rapes a free girl, he is adjudicated to pay 62 ½ solids, 2. If someone promises to free the girl with her consent and mutual agreement, he is adjudicated to pay 1,800 dinars, which is 45 solids, 3. If a free man promises another's slave and it is proven, he is adjudicated in that he must pay to the slave's master 600 dinars, which is 15 solids, 4. If someone promises the king a slave, he is adjudicated to pay 1200 dinars, which is 30 solids, 5. However, if a free man publicly lives with someone else's slave, he will remain with her in slavery, 6 Similarly, a free woman, if she marries someone else's slave, will remain with him in slavery, 7. If a slave promise someone else's slave and because of crime the slave dies, the slave will either pay the slave's master 240 dinars, the equivalent of 6 solids, or be castrated. The master of the slave will reimburse the value of the slave, 8. If the slave did not die, he will either receive 300 beatings or pay 120 dinars to the master, which amounts to 3 solids, 9. If slave steals someone else's slave against her will, he will pay the slave's master 120 dinars, which is 3 solids“ (Kandić, 1992: 116).

3.2. Dusan's code

In feudal Serbia in mid-fourteenth century, there was a complex relationship between the nobility and the exploited population – commoners; therefore, the need emerged to establish the legal order and affirm the supremacy of the emperor. After being crowned in 1346, Serbian King Stefan Dusan initiated the creation of a statute law, so in 1349 the assembly in Skopje adopted the first part and in 1354 the Council of Serres adopted the second part of the Code, which we know as Dusan's Code. In the last section of the Code, without special systematization, there are provisions of the criminal law and judicial proceedings (Šarkić, 2005: 96-97). This code is made up of two hundred and one articles. Two articles of the Code deal with obscene or violent actions as behavior that is prohibited and punishable. In Article 53, entitled "On taking by force" stands if any lord takes a noblewoman by force, let both his hands be cut off and his nose be slit. But if a commoner takes a noblewoman by force, let him be hanged; if he takes his own equal, let both his hands be cut off and his nose slit. In Article 54, entitled "About noblewoman adultery" stands that if a noblewoman commits fornication with a man, let the hands of both be cut off and their noses slit (Jašić, 1968: 172-173). The Code, in accordance with social ethics, considers every form of immoral sexual act or sexual act that does not involve only vaginal sex. As can be seen from the above articles, this Code prohibits gross indecency and sexual violence, as well as in the similar period of the Middle Ages, protects sexual freedom in a limited form, with no distinction between age or type of sexual violence (Krkljuš, 1999: 77-99). The only form of penalties is related to the class principle and to increased protection of the nobility, or the higher social class, which means that Dusan's Code is based on the class principle for offenses against sexual freedom of another person. This Code, however, clearly takes account of such harmonious affiliation of the perpetrator and the victim, because the attempt of a commoner to rape a noblewoman was punished by death, while the perpetrator who rapes a woman from his class was punished by mutilation. On the other hand, the Code still did not take into account the possibility that a nobleman rapes a woman from the lower class, so it can be assumed that in practice there were many such examples and for such transgressions noblemen went unpunished.

3.3. Constitutio criminalis Carolina's German Code

Constitutio criminalis Carolina's German Code, named by Emperor Charles V, published in 1532 is the most important criminal justice monument of late feudalism. This Code introduces a precise definition of criminal concepts (attempt, complicity, negligence, accountability...). Article 116 prescribes punishment for unnatural adultery, if a man has a sexual intercourse with an animal, a man with a man, a woman with a woman, which was punished with death by burning. Article 117 prescribes punishment for adultery with close relatives, while Article 119 provides for the punishment for rape. "If someone commits violence and against the will of a married woman, a widow or an innocent girl, the criminal deserves the death penalty .." The same Article also sanctions the attempted rape (Vajs, 1996: 165-167). The penalties for these crimes are the most serious and brutal method of execution modeled on the basis of most medieval laws.

4. The crime of rape in the modern laws of Serbia

The military conquest of the Balkan Peninsula by the Ottoman Empire caused the collapse of the Serbian medieval state, and thus establishing of a state authority and applying the canon law of Islam. At the beginning of the 19th century, there were uprisings in Serbia for liberation from the Ottoman rule, simultaneously leading to the creation of the first laws. The first laws of that time were the laws of Prota Matija Nenadovic in 1804 and then "Kaznitelni zakonik" – Criminal Code in 1807. These laws did not contain provisions on rape and rape was punished by the customary law. The Criminal Code of Serbia (Kaznitelni Zakonik za Knjaževstvo Srbiju), 1860, in section 20, paragraph 191 stipulates the crime of rape, three basic forms and a qualified form. Paragraph 1 states: When any person, male or female, by force or threat of coercion commits fornication with that or another person. According to this regulation only a male can be perpetrator. Paragraf 2 refers to the resistance of passive subjects and other illicit sexual acts. Paragraph 3 stipulates rape of a minor under 13 years of age and finally prescribes the most severe form of rape resulting in death (Memedović, 1984: 85-87). After the creation of the common state of Yugoslavia, 1929, the Criminal Code of Yugoslavia was passed, which is considered as a modern bourgeois code. The crime of rape is prescribed in section 4 entitled Criminal offenses against public morality. Article 269 of the Criminal Code provided for the crime of rape. Rape is committed by a person toward a female person who is not married to him, by force or threat of simultaneous danger to life or body for coercion into sexual intercourse. The second paragraph determined the specific form of the crime of rape in which accountability and culpability are required when the perpetrator makes the victim unconscious, or if the victim is otherwise disabled, and has sexual intercourse. The penalty provided for these offenses is imprisonment of up to ten years (Zbirka zakona, Krivični zakonik Kraljevine Jugoslavije 1929: 103). It is evident that the subject is a male and the passive entity may only be a woman and a woman who is not married to the perpetrator. The qualified form provides for those situations where death occurrs as a result of the rape and the penalties are higher. The Criminal Code of Yugoslavia (FPRY) from 1951, is the first codified and complete system of substantive criminal law in new Yugoslavia (Memedović, 1984: 100). The crimes against sexual freedom are defined in Chapter XVI "Criminal acts against personal dignity and morality“. In the context of this Chapter, sexual protection is provided in ten articles. Article 179 of the Criminal Code defines the crime of rape. The act of commission consists of coercion into a sexual intercourse by force or threat of an immediate attack upon the life or body of a female person with whom the perpetrator is not in a marriage. The penalty provided for this offense is imprisonment of up to eight years. A qualified form of the crime of rape is a result of actions causing bodily injury or death of the victim. The penalty provided for qualified form of the crime is rigorous imprisonment of at least two years (Krivični zakonik FPRY, 1951: 82). As evident from the description of the offense, the victim of rape may be a person of the female sex and only if she is not married with the perpetrator. These solutions are similar to the earlier decisions of the Code. This law was amended twice in 1959 and 1973. In 1977, a new penal code of SR Serbia entered into force. Rape is defined in the twelfth section, in Article 103 of the Criminal Code of the Socialist Republic of Serbia of 1977 under the group of offenses against personal dignity and morality. The offenses in this group are directed against personal dignity and morality and discretion in sexual life and against sexual morality (Jovanović, 1995: 37). The current Criminal Code of the Republic of Serbia dated 2006 defines crimes against sexual freedom under section eighteen. Rape as the primary criminal offense in this group is defined in Article 178: (1)

Whoever coerces another person to sexual intercourse or an equal act by use of force or threat of immediate attack upon the life or body person close to him, shall be punished with imprisonment of three to twelve years; (2) If the offense referred to in paragraph 1 of this Article is a threat that this person is close to him or reveals something that would harm his honor or reputation or threatens with another serious harm, it shall be punished with imprisonment from two to ten years; (3) If the offense specified in paragraphs 1 and 2 of this Article results in a serious bodily injury to a person, the act or the offense was committed by several persons or in a particularly cruel or degrading manner or against a minor or the offense resultc in pregnancy, the offender shall be punished by imprisonment of five to fifteen years; (4) If the offense specified in paragraphs 1 and 2 of this Article resultc in death of the person against whom the offense was committed or if the offense is committed against a child, the offender shall be punished by imprisonment of at least ten years (Official Gazette Of the R. Serbia, 2005). The Current Criminal Code of the Republic of Serbia has introduced novelties in the provisions regarding the crime of rape and general novelties in the chapter prescribing this crime. Thus, the previous name of the chapter Offenses against personal dignity and morality is replaced by another name - Criminal acts against sexual freedom. The question is what is now the object of protection of the offenses defined in this Chapter. It is certainly freedom, or sexual freedom, unlike the previous object of protection of personal dignity and morality. As for the crime of rape from the former Criminal Code that contained the traditional elements with the legal description of the crime, following the modern tendencies of the applicable European criminal legislation, the Criminal Code introduces some novelties concerning the crime of rape. Thus, the crime of rape is widespread and includes the rape committed against a spouse. Also, there is no distinction between the sexes of the passive and active subjects, which means that the perpetrator may be a woman and the victim may be male. It is another question whether it is practically possible, but any possibility is legally allowed. Another novelty refers precisely to the act of commission - sexual intercourse or an equal act, which was previously referred to as the act of committing the crime of unnatural sexual act. One of the questions is what would be the actions relating to a sexual intercourse with an equal, for which different authors give different interpretations. The main problem is to set clear the boundaries between a voluntary sexual act and one that is carried out using coercion. It is important that there is a passive subject, refusal or acceptance to participate in a sexual act for the existence of a criminal offense. The Istanbul Convention (CoE Convention on preventing and combating violence against women and domestic violence) ratified by Serbia in late 2013 ("Official Gazette of the R. Serbia – International Agreements" No. 12/2013) emphasizes the importance of this issue. This Convention does not consider coercion as a constitutive element of the crime of rape and assumes that it is (and other forms of sexual violence) as possible without the use of coercion. Therefore, legislators should keep the crime of rape in its present form and prescribe a new criminal offense which, if coercion is not applied, is lesser than the crime of rape. It is less important what it would be called (eg. sexual act without the consent or sexual violence) and it would be a lesser form than the crime of rape (Stojanović, 2016: 2-3, 19).

5. Conclusion

Rape is a violent act and one of the sexual offenses that have always been socially unacceptable. By examining the ancients criminal laws throughout history, especially with respect to the state of Mesopotamia, ancient Greece and Rome, we conclude that they are specific and unique to the slavery social system and have been incurred on the basis of the customs of the time. The invention of the alphabet led to the first written law and codification where rape and adultery have their place. These crimes have been criminalized as offenses whose perpetrators did not bear very serious consequences, ranging from exile to death penalty. Such penalties could protect the honor of the husband or the father who had the most significant social place because he was the owner of his family and the slaves that belonged to him; the man who had unlimited power over the family was harmed by the offense of adultery and rape. The penalties were not the same for all and thus those with the lowest incomes suffered the most serious penalties, while the penalties for the most privileged ones were the lowest.

The criminal laws of the Middle Ages were written along the lines of those of ancient times, and during this period there was great social and economic change. Religion had a major impact on the state. The penalties for rape were severe and ranged up to death penalty. There was a different criminal justice treatment of members of different classes.

In Serbia, throughout its legislative history, rape as a crime has always been present in the penal codes and it has undergone changes over time. The applicable Criminal Code of the Republic of Serbia has introduced novelties in the provisions regarding the crime of rape and a general novelty in the chapter prescribing this crime. The object of protection against the crimes in the chapter containing the crime of rape is freedom, in contrast to the previous object of protection of personal dignity and morality. We believe that such a change makes sense because morality as a protected object from the previous Code could be understood too broadly, while dignity can be offended by some other crimes as well. The change, compared to all other codes, means that the offense was extended to rape committed against a spouse. Also, there is no distinction between the sexes of the passive and active subjects, which means that the perpetrator could be a woman and the victim could be a man. All new provisions incorporated in the new Criminal Code are intended to keep up with the development of modern society, as society changes as well as its moral norms. What was once unthinkable, for example, same-sex relationships and communities and what tacitly caused moral condemnation is in some way acceptable today. It is expected that the law will become less restrictive in future in terms of sexual freedom, taking into account however that any kind of coercion and violence is unacceptable.

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Private prisons

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Introduction

With the reforms made in criminal law, and especially the reforms in the French legislation in 1781 and the introduction of imprisonment, the need arose for institutions where the sentence would be executed. The penitentiary systems have appeared in various forms through history, ranging from a system of common prison to a system of prison cell (Auburn and Philadelphia system), progressive prison systems to today's modern form of penitentiary institutions whose goal is rehabilitation of the prisoners. The reason for so many variations of the penitentiary systems is that all of them failed in some aspects, possess certain shortcomings and have faced different problems. The quest for perfection does not stop today neither. However, the results indicate something else. The world is facing serious problems related to crime, and consequently, to an increased number of persons brought in front of the courts and imprisoned in the penitentiaries. The number of convicts is growing every year and the penitentiary systems are facing a serious problem with overcrowding and huge financial costs for their maintenance. All this leads governments to seek alternative solutions in solving this serious problem.

In recent decades we are witnesses to a global movement aimed at privatizing almost all goods and services that are produced or provided by the state authorities. The capitalist free market supported by the desire to reduce the cost for managing state institutions has led governments to seek an alternative solution for almost every sector managed by them, including of course, the penal system and the penitentiaries, as its part. Private prisons are institutions owned or managed only by private profit-oriented companies where the execution of the sentence – deprivation of liberty is being administered. Private prisons are different from those in state ownership because the state keeps the right of ownership over the prison building, but pays to the private companies to manage them.

The term "private prisons" is used to describe one of the two models of management of these institutions.

- The first is where the entire management of the prisons is under contract with a private for-profit or non-profit organization. It means that the state is the one that builds and continues to possess the prison facilities, but their management contract is given to the private company which must manage the prisons in a predetermined manner. Meanwhile, the state does not take part in the daily management of the prison, except that it conducts controls to ensure that the agreement is respected. This is the first model of prison privatization.
- The second model involves a for-profit company that makes all the work, from designing the prison facilities, through its construction, to management and financing. [1]

[1] What is a private prison?, from: http://www.wisegeek.com/what-is-a-private-prison.htm

Our penal system is facing prison overcrowding as well. Statistics show that the number of convicted persons with a sentence of imprisonment is increasing from year to year. In 2011, we had a total of 2212 prisoners in our prisons, but in 2015 that number increased to 3087. The concern, especially for the international organizations, about the conditions in our prisons is justified if we take into consideration the fact that this number is far from the real capacities for accommodation of prisoners in our prisons.

If we take into consideration the fact that this number is far from the real capacities for accommodation of prisoners in the prisons, the concern, especially from international organization,s about conditions in our prisons, is justified.

In the text below, the focus will be placed on the history of the private prisons in the countries where they are most prevalent (US and UK), with a brief analysis of the pros and cons of these institutions and at the end we will focus on the situation in our country and the reforms made in the Law on Execution of Sanctions.

2. History of Private Prisons

Maybe the idea of privatizing penitentiaries is a relatively new phenomenon whose expansion is still expected, but its presence in the US and UK has longer history. In the Middle Ages, the idea that governments are responsible for the administration of justice, especially the right of deprivation of liberty, became so well embedded in the minds of the citizens that they were convinced in the idea that deprivation of liberty is an "internal – or a core function of government". But even then the state responsibility for deprivation was not well placed so the state, in that time too, made contracts with different private organizations to provide services related to prisons, including prison management. Private and mostly non-profit organizations have played an important role in prison management and have worked with young offenders for a long time. Even the first houses of refuge for youth (Society for the Reformation of Juvenile Delinquents, New York, 1852) were created by private organizations. During the sixties of the last century, the number of institutions for juveniles in private hands in the USA had rapidly increased. In 1989, the number of institutions for juveniles operated by private companies was 2.167, while the number of these institutions under state governance was 1.100 (McDonald, Fournier, Russel-Einhour & Crawford, 1998).

The phenomenon of private prisons appeared in the public in the middle of the '80s of last century, when Corrections Corporation of America (CCA) offered to take control of, in that time troubled, prison system in the state of Tennessee. CCA offered to the state a contract for leasing the prison facilities for 99 years. This contract weighed 250 million dollars. In return, the CCA requested a number of prisoners who would be housed in their facilities and provided adequate compensation; however, the CCA had to ensure that the prison would meet the standards set by the federal judge. The State initially rejected this proposal, but the current situation in the prison system and the frequent remarks by the state authorities that the country prisons and the conditions in them constantly violated the US Constitution contributed to the CCA offer becoming quite popular and had caused much media attention and a widespread debate.

The private sector had made the first access to prison in 1987 when the US Immigration and Naturalization Service (INS) began to hire services from private companies to keep illegal immigrants until hearing and deportation. This kind of agreements for rental services represents the first step of the contemporary "private prisons industry" in the USA. That was the way in which today's major players in private industry began their work. The Corrections Corporation of America (CCA) is one of the major

companies in this sector that took over the penitentiary system in Tennessee in 1983. The following year, CCA opened the first private prison in Houston, Texas. Wackenhut – also one of the largest private security companies today entered into business with private prisons after getting a permit to build a prison near Denver, Colorado, for the Office of Immigration and Naturalization. The Correctional Services Corporation started in a similar way, by getting a contract to manage the immigration jail in Seattle, Washington in 1989. Nowadays, these companies are one of the most profitable companies in the USA with a profit of several billions dollars (McDonald, Fournier, Russell-Einhourn & Crawford, 1998).

Until the 18th century, the prisons in England and Wales were operated by individuals for private profit. During the next century, the government gradually began taking over the management of prisons. When the transportation to the American colonies ended in 1775, the government initially responded by holding prisoners in floating ships in the Thames. After a while, these ships were under the control of private companies. The next 200 years and more, all prisons in the UK were under state control. For the British citizens the idea for prison privatization was unacceptable. They believed that it would be the same as placing the army or the police in the hands of private companies. But in the last 20 years, this opinion has changed and now, as one of the private companies stated, it is "the second largest market for private prisons" (Coyle, 2005).

Adam Smith Institute was the first to advocate for a modern process of privatization of the prisons in UK in 1984 with a proposal submitted to the government for privatizing the prison buildings and privatization of the management of the prisons, saying that it would help overcome the relentless costs of the prison system and the lack of vacancies or the overcrowding in prisons; the private companies using innovative managerial and technological methods and resources through concentration of the investing capital would be able to overcome these problems (Austin, Coventry, 2001). Today in England 14 fully private prisons exist in the UK and over 40 in the USA.

3. Arguments FOR and AGAINST private prisons

Generally, there are many reasons for introducing private prisons in the penitentiary systems of a country, but also there are reasons that contradict the privatization of these institutions. In this part of the paper we will present the arguments for and against private prisons in a country.

3.1. Arguments FOR

The supporters of the idea for private prisons are pointing the current conditions in the prisons as a justification for the existence of private prisons in the first place. The privatization of the prisons is seen as a solution to the problem with overcrowding, as part of the prisoners will be transferred to the private prisons. Accordingly, the researches indicate that private companies, specifically in the USA, where they are most common, they choose locations in the local communities for construction of the new institutions where the largest benefit would be gained, including for the local population, with respect to new employments, increasing the consumption etc. (Camp & Gaes, 2002).

There are researches that show that the private subjects can secure new capacities faster and cheaper than state institutions. According to the research of Bales in 2005, the state needs more than two years to build a new prison, while the private companies can build the same for four months less period (Antonuccio, 2008). In regards to the costs for new prisons, it is 24% more expensive for the state institutions than for the private

companies. As an illustration of the above stated, we can quote the example of the prison in Houston - Texas, where the price of one prisoner accommodation built by a private company costs 14.000 dollars and the same is provided in a period of six months, while the construction of one prisoner accommodation built by state institutions costs twice more, 24.000 dollars, and it is provided within a period of 30 months (Perrone & Pratt, 2003).

So here comes the question – what is the reason for such financial and time differences? The research indicated that the private companies have shorter procedures and therefore they save time and money too. Thereby, they do not waste precious time on administrative procedures and they reallocate the saved resources for securing additional equipment, which also shortens the time period.

As we mentioned above, the main reason for giving over the command of prisons to private companies was principally to better the conditions in the prisons and to cut down on the costs. That is one argument more that goes in favor of these institutions. The researches show that state prisons operate with a much greater number of prisoners than their actual capacity, while the private prisons always operate with a number of prisoners smaller that their capacity, or in other words, the researches show that the private prisons are functioning with the capacity of 82% crowding (Blakely & Bumphus, 2004).

The researches imply that the program for psychoactive substances abuse treatment is more successful in the private prisons than the one in state prisons. It is an additional argument in favor of the private prisons. The researches made in the USA show that 28% of all prisoners in the private prisons take courses in these programs, while in the state prisons the number of prisoners that attend these programs is only 14% (Antonuccio, 2008).

In the private prisons, the prisoners earn more than in state prisons. It is a small difference of 10%, but depending on the length of the sentence, it could create a significant difference in the total sum which is given to the convicted person at the end of the sentence (Blakely & Bumphus, 2004). The American professor of sociology Charles Logan (1992) made a research which shows that with respect to the living space and the degree of secure order, the private companies are achieving better results than the prisons managed by the states. At the same time, Logan noted that the private prisons are characterized by greater flexibility and experience with the management personnel, a higher level of enthusiasm, a sense of belonging of the subjects of the formal system, as well as behavior in accordance of the provided house rules and house order in the prison.

As a last advantage of the private prisons is the belief that it would be easier in them to conduct certain testing of the new philosophies for the ways of execution of the prison sentence, with application of modern penitentiary programs aimed towards resocialization of the convicts and decreasing the rate of recidivism.

3.2. Arguments AGAINST

In addition to the numerous arguments that justify the existence of private prisons, it is not everything as bright as it seems. There enough reasons for cutting down private prisons and thus stop the process of privatization of these institutions. The antagonists of the idea for private prisons underline the question of legitimacy as their first and main argument.

The most important argument for not giving permission to the private companies to manage the prison institutions is the question of legitimacy. Pursuant to the Fifth and

Fourteenth amendment of the Constitution of the USA[2], the private companies cannot be allowed to decide for the right of freedom and especially those private companies that gain profit. With the privatization of prisons, the exclusive right of the state to punish the committers of criminal offences is handed over to private companies. As a justification of this standpoint, we can bear in mind the fact that people are most commonly guided by material interests and most of their decisions are guided by such motives. The same is with the private companies managed by one person or a group of people that will not be guided by the principle of protecting the human rights and freedoms in the accomplishment of their goal (Logan, 1992).

As it was mentioned above, one of the main reasons for transferring the command of the prisons to private companies was to solve the problem of insufficient living space in state prisons. However, researches show that privatization does not solve this problem in its entirety. According to the research of Anderson (2009,) private prisons are creating a new problem of a social and humanitarian character. According to his research, the legislations that decided to give permission to private companies to establish and manage prisons, are solely guided by short term financial results, not having in mind the long term effects, such as implementation of certain legal regulations and recidivism. Although the conspirers of this idea claim that private prisons offer more flexible options for application of new penitentiary programs, the actual results show the opposite. According to Anderson (2009), the rate of recidivism does not differ between private and state prisons.

Having in mind the fact that the private prisons are established by companies whose main goal is to gain profit, this profit-oriented politics of the companies could be taken as a counter argument against the privatization of prisons. If the aim is to gain the greatest profit possible, it means that the expenses are reduced in every possible way, including the expenses for various penitentiary treatments and services that prisoners are entitled to. In the research of sociologist Logan (1992), state prisons remain better in providing medical care and medical advice than private prisons.

Guided by financial criteria, private prisons also save in the training of the employees in different services of their formal system, by cutting down the hours of their training program. The research made by Chang and Thompkins (2002), indicated that the employees in private prisons are earning 18.000 American dollars, while the employees in state prisons are earning 23.000 American dollars and this is the reason for the higher rate of fluctuation of employees in the private prisons during the year, or in other words, more employees resign in comparison to the state prisons. This rate of fluctuation in the private prisons goes around 43%, while in state prisons it is around 15%. A huge 71% out of the entire number of those who are no longer employees in the private prisons resign themselves, 21% are fired, 7% are transferred to other institution and 0.6% are retired. This type of statistics is very different in state prisons: 63% out of the entire number of employees that stop working there resign themselves, 15% are retired, 22% stop working in the prisons for unknown reasons. The obtained results suggest that private prisons lead less flexible politics from the state prisons in regards to employment. Furthermore, the

[2] According to the Fifth Amendment of the Constitution of the USA, the federal government can not deprive anybody of his life, freedom or property without proper legal proceedings. According to the Fourteenth amendment, all levels of the USA government must behave in accordance with the law (principle of legality) and all should be provided with a fair procedure. Read more about the amendments on: Due process, Retrieved 18, November 2013, from http://www.law.cornell.edu/wex/due_process.

training program for the security employees in the private prisons lasts for 35% less than the same training program in the state prisons, which in an indirect way affects the quality of the program itself (Blakely, Bumphus, 2004).

If the number of the convicts is compared to the number of employees in the prison, it could be seen that the results of that comparison go in favor of the state prisons. In private prisons, there are 6.7 convicts to 1 prison officer, while in state prisons there are 5.6 convicts to 1 prison officer. If we link the obtained results with the rate of violence in private and state prisons, the rate goes around 40 attacks between convicts and 9 attacks by the convicts against the prison officers in the private prisons, opposed to 19 attacks between the convicts and 10 attacks against prison officers in state prisons; this leads to the conclusion that these results are based on the fact that private prisons employ less members of different services and that leads to a decreased safety rate in the private prisons in comparison to state prisons. The fact that in the private prisons there is a larger amount of psychoactive substances than in state prisons testifies about the work of the security services. Even though the number of prison escapes is relatively small, a larger number of escapes occur in private prisons. This claim is supported by the fact that in 1999 there were 23 prison breaks in private prisons, while only one prison break occurred in state prisons (Blakely, 2004).

When it comes to the quality of the services that private and state prisons in the USA offer, the researches show that certain private prisons provide much worse diet than state prisons. The private prison Taft Correctional Institution offers a diet with lesser quality, less various and smaller portions in comparison to all prisons that are under the command of the federal government. (Dimovski, 2014).

The purpose of the punishment is to resocialize the convicted persons. However, in order to achieve this purpose, it is necessary that the convicted person is set free on a conditional dismissal after a specific period of serving the sentence, when the legal regulations have been met. This is a regular practice when it comes to state prisons, but not in the private prisons. As we have mentioned before, the private prisons are guided by profit, so earlier dismissal means a loss to the working force and that leads to less profit (Anderson, 2009). Hence comes the question: what resocialization we are speaking about if the convicted person is not given conditional freedom so that the state can see whether the resocialization process has succeeded. This method that the private prisons practice is totally counter-productive.

Private prisons depend on the captures of the primary convict, and also on the recidivists. The private companies that manage the prisons tend to keep the course of regular serving of the sentence by various actions that break the law and they do it by lobbying. Or in other words, the private companies support those politicians that represent their interests. In the campaign in 1998, certain private companies that manage private prisons financially supported 361 candidates in 25 confederate states with a total sum of 540.000 dollars. 87% out of the total number of supported candidates won. It is necessary to quote that certain private companies, beside the legal ways for lobbying and financing the parties, also use illegal activities for accomplishing their interests. The private prison Correctional Services Corporation (CSI) illegally organized the transport of several prisoners in a period of four years. Another example of the illegal activities of the private prisons is the case from the confederate state of Alaska, in which the owner of a private prison was convicted to six months of imprisonment for paying at least 20.000 dollars to politicians that were to provide him a permit for building another prison. In 2009, another case was linked with corruption in private prisons. In that case, a private house of

correction paid 2.6 million American dollars to two judges not to pass alternative sentences and not to accept an arrangement with a plea bargain for more than 100 juveniles (Anderson, 2009).

Another problem that comes with the private prisons is the achieved level of resocialization of the prisoners under their jurisdiction. The research conducted in 2005 by Patrick Bayer and David Pozen (2005) shows that the private penitentiary institutions for juveniles have a high rate of recidivism because in these institutions, in contrast to state prisons, there is no program for reeducation and correction of the convicts and the program for resocialization of the convicts is not applied.

4. Privatization of Prisons in Republic of Macedonia?

Overcrowding, poor health services and hygienic conditions, low level of resocialization, enormous costs for maintenance and management of the prison institutions are some of the problems that exist in our penitentiary system. According to the latest report of the Directorate for execution of sanctions, in 2015 we had 3087 prisoners in our prisons. According to the Directorate, this is almost 40% more than our real capacity. On the other hand, there are reports of international institutions that constantly call for improvement of the prison conditions. The European Committee for the Prevention of Torture take note of the disastrous conditions in the Macedonian prisons during their ad hoc visits made to Macedonian prisons.

In the previous sections we presented the history, meaning and the pros and cons of privatization of the penitentiary institutions. The next logical question would be – *whether the privatization of the prison facilities in Macedonia would solve the problems that our penitentiary system is currently facing?*

The answer to this question is not simple. It is a reform that requires broad public debate to discuss all the possibilities, but also all the shortcoming of our penal system, as well as any problems that would arise if we decide to undertake such a step. Edified from previous mistakes from the privatization of other state institutions, this time we can not allow privatization without an appropriate legal solution in which there will be no room for any types of mismanagement. All these problems that our penitentiary system is facing require urgent reform. But reforms cost a lot. As we mentioned above, all states that have decided on the privatization of prison facilities did it to provide better conditions for the prisoners and to reduce the costs. In this sense, our legislator took a big step in hope that the costs will decrease and the quality of the prison treatment will be improved.

In 2013, a proposal for amendments to the Law of Execution of Sanctions was made to our legislation, including the new article 8-a which provides that the state can establish a public-private partnership with a private company to carry out sanctions. This proposal caused great attention in our public and heated the debate in the Assembly.

With the amendments to the Law of Execution of Sanctions, a new Article 8-a was added to Article 8 which, as we said, provides an opportunity for private companies to perform activities related to the execution of sanctions as public services pursuant to the Law on Concessions and Public-Private Partnership and the Law on Execution of Sanctions. The job related to the execution of sanctions will be carried out under a contract for establishment of a public-private partnership. For the implementation of that agreement, a special task company may be established according to the Law on Concessions and Public-Private Partnership. The private partner is obligated to apply all laws and by-laws that regulate the execution of sanctions. The work that the public partner

has with the Government of the Republic of Macedonia is performed by the Directorate for Execution of Sanctions.[3]

But what does it mean? Is our country making the first step to privatization, or is it just looking for a solution to reduce the huge costs of the prison facilities? The Directorate for Execution of Sanctions repeatedly emphasized that this is not privatization of prisons, but hiring staff to compensate the shortage of staff that they are facing, believing that in that way they will reduce costs and improve the services and treatment in prison establishments. According to them, this will primarily solve the enormous costs that they have, especially for escorting the convicted persons to the courtroom and, second, by hiring private actors to perform these tasks, the prison staff will be able execute their primary task – resocialization and securing of the convicted persons.

The enormous costs, especially for escorting the convicted persons to the courtroom and the need for a huge number of officials for this purpose, speak of the fact that for escort of the defendants, the engagement of the regular and special police and other engagements during the trial of the case "Divo Naselje" reached the sum of 40.000 Euros or 2.452.000 MKD. The costs are so high because for just one court hearing special forces units, the Rapid Deployment Unit, the Tigers, the Special Support Unit, a regular police unit, a helicopter unit, prison police and traffic police are engaged for transporting and escorting the defendants from prisons in different cities with special vehicles[4]. After the adoption of the amendments to the Law of Execution of Sanctions and the introduction of this new reform, it was stated that by-laws and other regulations will be adopted that stipulate in detail this public-private partnership. However, to this date, not a single by-law has been brought, nor is there any evidence that the Directorate singed a partnership with any private company.

Whether this reform will be good or not time will tell, but the history of our country does not speak well for the process of privatization. If we begin from the historical point of view, we can freely say that our society in not up to such crucial step, that the level of democracy and the rule of law is still at a low level so we cannot afford to give such complex and sensitive tasks to private companies. Nevertheless, there are many problems in our penitentiary institutions that call for reforms.

Conclusion

The privatization of the penitentiary institutions is a complex process. It is necessary to take into consideration all the dangers and disadvantages posed by this decision, especially since it requires a high level of democracy and rule of law in the country that provide the privatization. All the arguments that are in favor of and against privatization should be taken seriously. Perhaps the model of privatization is perfect on paper, but we must admit that the results indicate something else. However, the countries that are facing serious problems in the penitentiary systems and have small budgets that cannot withstand the necessary reforms must seek for alternatives. Will be it be a full or partial privatization is a decision that should be made by the competent authorities considering all the above listed

[3] Article 8-a, Law on changes and amendment to the Law of execution of sanctions, Official Gazette of the Republic of Macedonia, no.170, 06.12.2013

[4] Online portal – Factor.mk, (March, 2016). "Милионски трошоци за едно рочиште". From: http://faktor.mk/milionski-troshotsi-za-edno-rochishte-na-divo-nasele/

criteria. We cannot afford any illustrations in this paper since it is a very sensitive segment of society that directly affects the fundamental human rights and freedoms.

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THE RELEVANCE OF CRIMINOLOGICAL THEORIES IN INFORMING AND EDUCATING SECURITY MANAGERS

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ABSTRACT

Criminology is commonly regarded as a science associated with the public functions of criminal justice, public policing, and of lesser relevance, with the private security sector.

To get a better understanding on how the criminological theories could help the private security professionals, this paper starts by reviewing the early schools of thoughts of modern criminology and some of the contemporary trends.

Then, two suitable theories, i.e. the Rational Choice and the Routine Activity, relevant to the security managers' informational needs, are presented and discussed.

Some crime prevention and crime reduction models of great practical use in the management of security, derived from the above mentioned criminological theories, are analyzed in the last part of the paper. In addition, some concepts of the theoretical body of knowledge on security management inspired by the criminological science are revised.

In its conclusion, this paper underlines the usefulness of including criminology in the educational programs of private security managers and presents how criminological theories may support security managers in approaching crime and informs on loss prevention from a more informed standing point and with a more pro-active attitude.

Nevertheless, some limitations in using criminological theories as guiding frames of private security operations are also mentioned.

The topics of this paper were explored through a documentary research method. Relevant authors from the criminology, crime prevention and private security management fields were consulted. The consulted volumes and other documentary resources are listed at the end of this paper.

In addition, some relevant good practices in the private security management are stated as well. Such information is mainly derived from the author's and other security practitioners work experience.

1. INTRODUCTION

According to Encyclopedia Britannica, "Criminology is the scientific study of the non legal aspects of crime and delinquency, including its causes, correction, and prevention, from the viewpoints of such diverse disciplines as anthropology, biology, psychology and psychiatry, economics, sociology, and statistics." (Manheim, 2009)

Therefore, from the perspective of crime prevention and the utility of the study of criminology that is supposed to scientifically explain the crime phenomenon and identify the triggering causes of crimes, criminologists are rightly expected to generate ideas, concepts and principles able to support public and private actions in combating criminality. And indeed, oftentimes news media report on crime using programs based on criminological studies. Usually, such programs are associated with public policies in

various fields such as enhancing education, improving the legal framework and the criminal justice systems, ameliorating the living conditions of the population, etc.
However, besides its prominent relevance to public policies for preventing crime, one way or another, criminology could equally help the private sector to fight criminality.

2. CRIMINOLOGY AND PRIVATE SECURITY PROFFESIONALS

Unfortunately, criminology science and its body of useful knowledge are widely ignored by many private security industry practitioners who erroneously regard criminology as the sole privilege of scholars, thus of not much practical utility.
Moreover, there is a general belief, among private security professionals as well, that there is no need for complicated science to explain crime and that a good dose of common sense may be enough to understand why people turn into offenders and what can be done for fighting crime.

On the other hand, it has to be acknowledged that a vast array of criminological theories is in existence these days, many of them of high scientific intricacy and sometimes being in opposition one to another. This situation s makes it rather difficult for the security professionals, who usually tend to be practical persons, to identify and rely on one or more suitable criminological theories of significant relevance to their day to day activity. Conversely, it has to be pointed out that by and large, criminology is rather ignoring the private security sector in spite of its significant contribution to public safety. (Clarke, 1997). Nevertheless, regardless of such setbacks, the study of criminology may be highly capable of providing both solutions and guidance in all areas of private security management.

2. CRIMINOLOGY - A BRIEF HISTORICAL PERSPECTIVE

The beginnings of modern criminological science and of researches in this area are likely to be linked with the moment when the crime phenomenon became more a public issue than a "private affair" as it used to be during the Middle Ages (Vold, Bernard & Snipes, 2002).

As human civilization evolved to modernity, the role carried out by the state as a steward of public order increased in significance. As a result, the methodical researches and studies about crimes, criminals and the system of legal punishment started to build up into coherent, scientifically developed criminological theories. Most of such theories are thought to bear the influences of the times when they had been developed, or the influences of the political views of their originators. Such particular circumstances, influences and approaches also determined to some extent, the taxonomy of the criminological theories.

In this respect, the *Classicist Theories* developed during the 18th century are centered on the belief that crimes are deliberated actions of reasoning people. In other words, criminal acts are products of the free will of the individual who is capable of assessing the outcomes of crimes in terms of benefits and costs.
Conversely, the adepts of the *Classical School* of thought consider the *swift and proportionate punishment* as the most effective deterrence to crimes. (Lilly, Cullen & Ball, 2002)
Such conceptions should be regarded in the context of the Enlightenment times, also known as the *Age of Reason.*
While the Classical School linked crime to the individual's freedom of choice, *the Positivist Criminology*, places the causes of crimes outside and above the individual's

rational process. Generally, positivist theories assert that the crime is more likely to be a complex result of some interacting, interfering, economic, social, biological, psychological and environmentally related factors (the criminogenic factors). From this perspective, the Positivist Criminology is usually divided into three branches, i.e. *Biological Positivism*, *Psychological Positivism* and *Social Positivism*. The theories of *Biological Positivism* argue that criminality could be linked to certain biological body features and its anatomical functions.

Psychological Positivism, explain criminality as being determined by some personal inborn psychological characteristics, such as the level of intelligence, and the attributes of personality like emotiveness, impulsivity, aggressiveness, tolerance, patience, etc.

In contrast to the *Biological* and *Psychological* theories, the *Social Positivism* explains the criminal act as being the result of the economic and social living conditions. Amongst such criminogenic factors, they pointed out: poverty and economic inequality, unemployment, urbanizations and high population density, poor living condition and social disorganization, poor social services, racial inequality, social alienation and lack of opportunities for self-fulfillment, gang subculture etc.
(Vold, Bernard & Snipes 2002).

The study of criminological theories inspired by both the Classical School and Positivism may provide the private security practitioners with some interesting information and knowledge about the genesis and mechanisms of criminal thought and action. On the other hand, such theories are less prone to inspire some practical approaches to the challenges that security professionals are facing, namely the threats and risks to physical security of persons, goods and businesses. For example, the adepts of the Classical School are centered on enhancing the penal system, while positivist criminologists usually recommend an increasing number of social and economic programs and other forms of educational activities to be provided by the state as crime prevention strategies. Obviously, the private sector and security professionals have little or no saying both in terms of criminal justice reforms and governmental social programs.

Therefore, with no means to intervene over the causes determining the criminal behavior that are still a subject to debate among criminologists of various schools of thought, it would be sensible to assume that the theories explaining the mechanism of crime by pointing out some criminogenic factors that are susceptible to alterations through means accessible not only to the public and governmental structures but also to the private actors, should be of a higher relevance to the private security professionals. From this viewpoint, the New Classicist theories could be an appropriate choice.

3. THE CONTEMPORARY CLASSICIST THEORIES

The neoclassicist criminology emerged in the late 20th century in the context of massive expansion of private property with correlated extensive security needs and probably at the same time when the public policies on more effective and efficient criminal justice (Fishcher, Halibozek & Green, 2008) and on improving the socio-economic conditions in the Western societies seemed to fail to meet the public expectations in curbing criminality (Felson, 2002)

Essentially, *neoclassicist criminological theories,* besides the classical idea of the criminal as a calculator of the costs and rewards of crime, are also introducing the concepts of *opportunity* and *routine activities* as key triggers of criminality. In this respect, they essentially maintain that people, regardless of their natural predisposition and socio-

economic status, are engaging in crimes because they have the opportunity to do so and they perceive crime as rewarding and enjoyable and of no or only insignificant negative consequences. (Vold, Bernard & Snipes, 2002).

Three criminological theories are commonly perceived as part of the cluster of *Contemporary Classicism*: the *Deterrence Theory*, the *Rational Choice Theory* and the *Routine Activity Theory*.

The *Deterrence Theory* introduces the new concepts of the *certainty* of being caught and of the *severity* of the penalty, much like the ideas of the Classical School's Italian scientist, Giovani Becarria.

Consequently, the relevance of the Deterrence Theory to the private security sector seems to be limited as it prioritizes "*the deterrent effect of criminal justice policies"* (Vold, Bernard, Snipes & 2002, p.196) as the main response in fighting criminality.

On the other hand, the *Rational Choice and Routine Activity theories* regard crime as the product of a rational decision, made by responsible people, who chose to offend, in order to benefit from their offense (Lilly, Cullen & Ball, 2002, 223).

At the same time, the Routine Activity Theory stresses that crime occurrence is a result of the time and space interference between a determined offender, a suitable target, in the absence of a capable guardian against the offense (Cohen & Felson quoted in Scarman Center, 2003: 1-25).

The significance of both theories for the private security sector becomes more evident as their concepts and elements are more closely examined.

Firstly, the *Rational Choice theory* presumes that every offender makes a calculation about the *costs* and the *benefits* of the prospective offense.

In this respect, the cost element of the offenses could be linked to the perceived efforts of the offenders in perpetrating the criminal act and the associated perceived risks of being caught and reprimanded.

Regarding the *benefits of the crime*, the proponents of the above mentioned criminological theory are suggesting *the money* as the most desired reward of criminal acts, money being regarded as a means to achieve whatever self-gratification may be sought to be achieved through the perpetration of the crime. Personal satisfaction resulting from being engaged in an expressive type of crimes (vandalism, destruction, etc.) may also be regarded as a benefit of the criminal activity.

For example, in the eyes of an offender, the target's convenience and its strength, the risk associated with the possibility to be observed, to be caught in the act *(red handed)*, and nevertheless, the likelihood to encounter a heavy and/ jeopardizing *resistance* from the victim, may be regarded as the cost elements of the crime equation (Lilly, Cullen, Ball 2002: 219,220). Furthermore, the amount of the needed *effort* to plan, to prepare and to complete the criminal act and afterward the efforts of converting the stolen goods in desired money (for example, in cases of burglaries or robberies) could be regarded as topping up the perceived cost of the crime. (Scarman Center 2003, 3-20)

On the other hand, crimes targeting light, valuable, easy to be detached goods that can be easily converted into money (pieces of jewelry, hi-tech appliances, for example) are likely to be of higher frequency, assumingly the "cost" factor of the stealing activity would be significantly lower and a higher benefit is also anticipated.

In a similar logic should be regarded the "suitable target" concept of the Routine Activity Theory, which refers both to persons (victims) and properties A suitable target should pay off the offenders' risk and effort and ought to satisfy their immediate needs.

Furthermore, a suitable target should be easily accessible (not demanding a hard or a supplementary effort and should be easy to convert into money). The Routine Activity Theory assumes a close correlation between the dimensions of the criminal phenomenon and the availability of "expensive," "durable", "portable" goods. (Cohen & Fenelson quoted in Lilly, Cullen and Ball, 2002: 237)

The offender who is assumed to be a *rational individual* is another important element of the crime equation in the view of both the Rational Choice and the Routine Activity theories.

Apparently, the offenders do ponder the costs and benefits of the crime as every regular person does about his or her everyday-life decisions.

However, the offender's reasoning process means a "series of choices" including, the selection of the target, the selection of the appropriate means or tools, choosing and planning the appropriate escape routes, etc. At the same time, the reasoning process of the offenders is likely to be affected by pressure, the perceived risk and other elements of uncertainty (Lilly, Cullen, Ball, 2002, 221). In addition, due to the adrenalin hormone discharge, the offending process is heavily influencing the process of rationing. Nevertheless, the personal *cognitive ability*, combined with the amount of available time for planning and with the volume of the available accurate information are also important elements of the decisional process of criminals.(Vito & Holmes quoted in Scarman Center 2003: 1-25)

Consequently, due to the specific limitations and constraints presented above, the decision to commit an offence, although is the result of a mental reasoning process, it is not necessarily a reasonable, and well-minded decision.

Similarly, *the "determined offender*" is regarded as an individual with low self-control, a "gratification seeker" (Lilly, Cullen, Ball, 2002: 236), therefore potentially with a relatively weak reasoning capability.

For such individuals, the propensity to offend is activated by the *opportunity* i.e. the concomitant *interaction between a suitable target and the absence of a capable guardian against the offence*.

The *"opportunity"* is also the most significant element of the Rational Choice Theory, which equally links the likelihood of offending with the occurrence of the opportunities to offend. The Rational Choice Theory, also known as the "Situationalism Theory" (Scarman Center 2003: 1-25), believes that the opportunity fostered by situational circumstances is the key element of the rational process that leads to crime.

4. THE SITUATIONAL CRIME PREVENTION

Evidently, the *"opportunity"* is also the key element in the development of the *Situational Crime Prevention* strategy which may be regarded as a practical approach, developed on the concepts and principles of criminological theories of the Rational Choice and the Routine Activity.

As a result, the foremost goal of the *situational crime prevention* approach is about taking away the "opportunity" (Scarman Center 2003) and altering the situations favorable to crime. Since its inception, the above-stated crime prevention strategy suggests some collections of techniques aiming to *increase the perceived effort, to increase the risk, to reduce the anticipated reward and to remove the excuses of the offenders.*

According to Ronald Clarke (1997, p. 4), who is the main contributor to both the Rational Choice Theory and the Situational Crime Prevention strategy, the above-stated techniques

are "*directed to highly specific forms of crime; involve the management design or manipulation of the immediate environment in as systematic and permanent way as possible; make crime more difficult and risky or less rewarding and excusable as judging by a wide range of offenders"*.

It has to be noted that the Situational Crime Prevention model is a kind of a "work in process" project and new techniques may constantly be added. (R. Clarke, 1997)

Considering the above definition, the situational crime prevention model is highly appealing to the private sector representatives as the situational crime prevention collection of techniques is directly pointing out to measures commonly associated with the private security management and to the security solutions supplied by the private security sector.

For instance, the "*Increasing the Effort*" category of measures includes four types of situational dealings i.e. "*Target Hardening*," "*Access Control*," "*Deflecting the Offender*" and "*Controlling Facilitators*."

In terms of *hardening the premises* and *controlling the access* to potential targets of crime, such objectives are usually achieved through the means of physical security i.e. reinforced gates and doors, improved locking systems, safe boxes, barriers, bollards, security graded fences, barbed wires, electronic access control systems, etc.

Security Managers should be the key players in implementing measures related to *"Deflection of Offenders"* and *"Controlling Facilitators"* techniques, as well. In this respect, they may rely on more complex sets of actions that may encompass landscaping, architectural and physical security projects. Nevertheless, security managers should provide advice on new business projects that may be of higher risks. For example, by recommending less intense advertising about a supermarket's refunding policy, a security manager could achieve a significant reduction in refunding-abuse incidents, as long as refund-abuse specialized offenders will be deflected being less aware of the generous refunding policy of the supermarket in question.

In the same way, through internal security policies, security managers may set and implement rules about controlling the means that facilitate crimes. For example, by forbidding people to carry weapons inside banks, the risk of armed robberies is significantly reduced.

"*Increasing the Risk*" is a second class of situational crime prevention techniques, comprising four categories of actions namely *"Screening of People*," *"Formal Surveillance*," *"Surveillance by Employees"* and *"Natural Surveillance*."

Again, security managers and private security play a major role in implementing the above-mentioned crime-reducing measures. For instance, in response to the increased terrorist risk, screening of bags and luggage is routinely performed by private security officers in places such as football stadiums, supermarkets, and public entertainment places, etc. Exit screens are implemented to prevent stealing of valuable goods from secured premises.

Moving on to the *"Formal Surveillance*," according to Ronald Clark (1997, p.20), it is to be provided by police and private security officers, as well. Additionally, formal surveillance can be enhanced by security camera (CCTV) networks and intrusion detection systems.

In terms of implementing *formal surveillance*, security managers are supposed to be sufficiently capable of choosing between the appropriate physical security measures and suppliers, but also in drafting specifications and standard operating procedures for security officers and CCTV operators, to the least. Nevertheless, security managers are important actors in regard to implementing an effective system of "*Surveillance by Employees*,"

especially in industries such as retail, hospitality (Clark, 1997), etc. which could achieve a higher level of effectiveness in detecting and reporting potential security threats, through proper training and procedures designed by professional security specialists.

In the same way, *natural surveillance* could be employed to increase the early crime detection capability. In this respect, security managers may consider measures, such improving security lighting, removing obstacles, including vegetation that obstructs visibility and supporting whistleblowers both from within and outside their organizations.
The third "*Reward-Reducing*" group of crime reducing techniques comprises "*Target Removal*," "*Denial the Benefits*," "*Reducing the Temptation*" and "Identifying Property" sets of measures.

In this respect, by implementing a security policy of systematically collecting cash from supermarkets or gas stations at the end of the day and sending it to the bank, the risk of thefts, robberies and burglaries is supposed to decrease significantly.
Similarly, using ATM cash boxes fitted with indelible ink dispensers that render worthless the banknotes inside, security managers aim to eliminate any incentive of attacking such targets by *denying* the benefits of the crime.

An increased effect of reducing the temptation may be induced by a security policy of *identifying the property*. Marking valuable goods simply by writing the name of the owners (persons or organizations) makes them easy to be detected in case of unauthorized removal and also increase the risk of exposure when the thieves try to use them or to convert them into money.

The fourth group of techniques proposed by the Situational Crime Prevention model related to *Reducing Excuse, inducing the shame or guilt* to would-be offenders could be a real inspiration to security managers, especially because the costs for their implementation are lower than investing in physical security. The techniques of this cluster refer to measures of *Rule Setting, stimulating conscience, controlling disinhibitors and facilitating compliance.*

Setting rules about sensitive operations such as cash handling and manipulating high valuable company's property must be a top priority. The absence of clear and comprehensive regulation is likely to be exploited sooner or later by determined, opportunistic wrongdoers.

On the other hand, security managers may systematically conduct internal programs consisting of seminars and campaigns aiming to rise the employees' awareness of security regulations, thus *stimulating conscience* about the negative side of offending.
Controlling disinhibitors is normally a key priority in managing security of private businesses. For instance, employees under alcohol or drugs' influence have their cognitive and self-control capability severely affected, thus they are increasingly likely to engage in all sorts of crimes, including serious offences related to workplace violence.

"Facilitating Compliance", the last technique of the situational crime prevention model should equally be regarded as a quite effective tool in the implementation of security regulations. For instance, in order to increase the detection of stolen goods, supermarkets introduced a policy of preventing customers from entering their shopping area with bags and extra luggage. Providing the visitors with safe boxes for their luggage is an example of an effective measure to facilitate compliance to a rule that aimed to address shop-lifting.

As it can be noted, most of the measures proposed by Situational Crime Prevention are closely related to the elements of the Routine Activity Theory as well.

For instance, by implementing measures of “increasing the effort” and “reducing anticipated rewards”, the groups of prevention techniques could be linked to actions of making *suitable targets* less accessible to *determined offenders*. Similarly, the preventive measures of the increasing the effort and increasing the risk group of the situational techniques could be associated with measures of ensuring a *capable guardian* to *suitable targets* of the Routine Activity Theory. However, the routine activity theory has inspired its own crime prevention model, too.

In accordance with Felson's view, who is the main originator of Routine Activity Theory, (Lilly, Cullen, Ball, 2002, 241), three crime-reducing strategies have been inspired by the said theory. "*The Natural Strategies*" are the first, dealing with designing the environment and organizing some inside security routines. Second are the *"Organized Strategies,"* which consist in deploying manned security services in the area. And lastly, the *“Mechanical Strategies”* are pointing to the security equipment (CCTV, electronic access control, burglar alarms etc.).

Similar to the Situational Crime Prevention, the Routine Activity crime prevention solutions are evidently aligned with the everyday professional routines of the security managers.

5. NEW CLASSICIST CRIMINOLOGICAL THEORIES AND THE THEORETICAL BASE OF PRIVATE SECURITY MANAGEMENT

In addition to their own crime prevention models of great relevance to the private security sector, the above stated criminological theories have already inspired some theoretical concepts of the private security management.

6.1. CPTED

A prime example of such interference between the above criminological theories and the private security management is the concept of *Crime Prevention Through Environmental Design (CPTED).*

CPTED is a complex strategy aiming to manipulate the environment in order to influence a behavior in a way that it is expected to result in a decrease of both criminality and the perceived fear of crime. CPTED related strategies aim to achieve effective *natural access control, natural surveillance* and *territorial reinforcement* through the means of architectural design, landscaping, physical security, maintenance, etc. Such strategies have much in common with the crime prevention models presented above.

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6.2. 3Ds - 5Ds MODEL

The “5 Ds” approach to physical security is another widely popular concept of private security management that could be associated with crime prevention and risk reduction strategies based on new classicist theories.

The 5 Ds stands for Deterrence, Detection, Delay, Deny and Defense which are regarded as primal functions that should be performed by an effective deployment of physical security measures. From this perspective, physical security should not only be adequate to the risk exposure of the premises, but must be sufficiently visible in order to be perceived by would-be offenders as a factor of high risk, thus projecting a discouraging effect against a potential attack. Furthermore, the physical security in place should ensure an early detection of perpetration, enabling a prompt and efficient preventative intervention. An effective intervention is also enabled by the strength of the physical

security that should delay criminals on their way toward the target. A hardened target may either determine the perpetrators to desist because of an increased effort and increased risk of apprehension or provide the response teams with additional time to intervene effectively. (Garcia, 2008)

The denying and defending functions of physical security deployment must be equally capable of preventing the perpetrators to enter the target and benefit from their crime.

Nevertheless, it could be easily noted that all five functions associated with physical security are closely correlated with the Situational Crime Prevention techniques of "Increasing Efforts," "Increasing Risks" and "Denying Benefits."

7. CONCLUSION

By considering all the above, it could be concluded that criminology and especially the new classicist theories of Rational Choice and Routine Activity, and the crime prevention models developed on their concepts and principles, should play an important role in the educational and informational background of the security managers, and moreover, they could inspire practical and methodological approaches in designing and implementing effective and efficient security solutions capable of reducing the threats and risks faced by domestic households or by the business sector.

On the other hand, security practitioners should be aware of some limitations of the new classicist theories and of their crime prevention models.

7.1. DISPLACEMENT

Unfortunately, a complete eradication of crime opportunities that can last forever and include the entire world is not realistically feasible. Therefore, the offenders are constantly looking for weaker “suitable targets” and are waiting for good “opportunities” to take advantage of the vulnerabilities in securing valuable assets.

7.2. NONSENSE SECURITY

Nevertheless, security managers have to be aware that an uncritical or a less diligent approach to the situational crime prevention strategies could lead to some unwanted results. For instance, ignoring the particular real level of risk exposure of assets may lead to expensive security projects featuring some unnecessary “nonsense security” measures.

On the other hand, an improper, careless implementation of situational crime reduction techniques may compromise the expected results in terms of reducing offences. (R. Clarke, 1997)

However, in spite of their relative limitations, the Rational Choice Theory and Routine Activity remain extremely valuable theoretical information resources for all security managers providing them with an informed pro-active attitude towards crime and fostering more effective loss preventions strategies.

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VICTIMOLOGICAL ASPECTS OF HATE CRIME

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The criminal offences of hate crime are offences with a distinctive victimological dimension, and without its studying it is not possible to for see the complexity of these offences. In accordance with the used literature, it can be ascertained that the victimological dimension of examining the complex issue of the hate crime offences is insufficiently studied, and even less empirically surveyed, especially when it is a question of Republic of Macedonia.

One of the specifics of the hate crime offences is the choice of the victim which belongs to a specific social group and its instrumentation to be used as a mean for achieving the further aim: the offence is pointed towards the victim as a member of the group, and she, most common, is chosen victim from which the message should be sent to the entire group.

In this study, the authors will make attempts to identify the characteristics of the victim of the hate crime offences, although that will be relatively difficult, whereas with elements of hate are heterogeneous, and also for the fact that the dark figure of this type of crime is large. When it comes to the last, it can be ascertained that many hate crimes remain unreported, unprocessed and in accordance with that – invisible.

The subject of this study will include also the consequences of the hate crime, which is especially significant out of a victimological aspect, whereupon the starting basics for its analysing will represent the ascertainment that they, as a rule, does not refer only to the victim and the group that the victim belongs, but also to the victim's inner and broader circle, and the society as a whole.

The main aim of this study is to indicate the indispensability of the theoretical and the empirical studying of the victimological dimension of the hate crime offences.

Keywords: hate crime, victims of hate crime, hate, invisibility

1. INTRODUCTION

The previous century and nearly two decades of this century have been characterized by great technical and technological progress, as well as major social crises, disintegration of traditional values, family breakdown and massive growth of many forms of hate crimes and destruction. It is really devastating for humanity in conditions of such technical and technological progress to have failed to prevent or suppress certain phenomena of the social plan, including hate crimes with their specific nature and severity of consequences. Hatred, as an emotion, is a result of the irrational belief that individuals or groups of people are evil and therefore they deserve the worst punishment, which is not always so, such as individual or mass liquidations, persecution, threats, violence, and ghettoization, humiliation, exclusion from community, etc. Hate crimes are more

widespread phenomenon causing general insecurity of citizens in many countries, being especially present among minority and marginalized social groups (ethnic, religious, sexual, gender, political, etc.). Hate crimes represent the most extreme consequence of prejudice and affect not only the individual victims, but also the community in which they live, as well as society in general.

Neglecting **motivation prejudices** of a crime is a **violation of Article 14, European Convention on Human Rights.** The European Court of Human Rights stresses that **motivation by prejudice** is actually in the background of hate crime because offenders who abuse people because of who they are or consider themselves to belong to a certain group, The abusers convey a very humiliating message: first that the victim is not an individual with his/her own peculiarity, abilities and experiences, but a **faceless member of a distinctive group.** The perpetrator also implies that the rights of that group may or even have to be ignored, **thus openly violating the basic EU principles of democracy and equality.** (FRA: Hate Crime in EU)

It is emphasized that the term "hate crime" represents the spearhead of the English expression "hate crime" in the introductory part. This term has been used intensively worldwide since 1990 when the US Congress adopted "The Hate Criminal Statistics Act". This Act has enabled intensive data collection on the prevalence and nature of crimes motivated primarily by racial prejudice" (Jacobs, Porter, 1984 4- 25, quote according to Kovacevic, M., 2009: 94).

2. TERMINOLOGICAL CONFUSION REGARDING THE USE OF TERMS

There is a real confusion in the literature that examines this issue, especially in the use of the general term for these illegal actions, therefore several terms can be encountered, such as acts i.e. delicts, or crime i.e. felony. There is also a difference in the use of the preposition referring to hate, more precisely sometimes “by” can be used and sometimes “of”. Explanations can be found how to use all these terms, so that those authors who incline towards the criminal legal aspects of this issue, as a rule, choose the term act / delict. Others who approach this issue from a criminal-victimizing perspective, use the term delict i.e. felony, or crime i.e. criminality. Regarding the preposition, those who want to accentuate the motive of these actions opt for the preposition "for". The use of any these terms is generally not wrong when it comes to naming this complex phenomenon, and we believe that the authors dealing with it should take into account these nuances and, depending on the aspect of the study, use the respective term that can be as consequential as possible. We use the term "hate crime" in this study, taking into consideration the emphasized aspect of victimization research. There are exceptions when we cite certain authors who approach this matter from different aspects, therefore using other terms. We have chosen the specified term, taking into consideration the incidence of use of this term, as well as the seriousness of the consequences of this phenomenon which might be caused and reflected on multiple levels, from individual to general, which will be discussed more precisely in a separate section of the study. We also do take into consideration the need to be aligned with relevant literature that deals with this issue. The use of the preposition "of" instead of "by" is decided taking into account the concept of our criminal legislation according to which, during the processing of the crime, it is not insisted on the determination of the subjective element, i.e. the existence of hate (so-called model of

"hostile motive")[1], but the fulfilment of the basis i.e. the grounds for the existence of these cases related to the victim's belonging to a particular formal or informal group (so-called Model of discriminatory basis).[2]

3. DEFINITIONS OF HATE CRIMES AND THEIR CLASSIFICATION

With respect to this issue, we will first invoke an interesting perception of Ignjatovic, who talks about so- called inverse course in the definition of the term compared to the previous terms, such as organized crime, white collar crime, violent crime, domestic violence, etc., which are first defined in science as terms and were afterwards implemented in the criminal law. There is a reverse course with regard to hate crime, namely the first legislators in the US and Great Britain reacting to serious crimes of this kind instituted this category in criminal law and judicial practice, and then criminologists approached its scientific shaping. (Ignjatovic, F., 2005/6: 130)

Crime Dictionary defines this category as acts of hate, resentment or negative disposition performed by the perpetrator towards a group or collectivism where the victim belongs in accordance of the perpetrator's belief. Thus, an important feature that refers to "hate criminality" is an attack on the victim and her /his possessions because of a real or supposed membership of a particular race, ethnic group, gender, religion and sexual orientation. Such criminal activities can be targeted to racial and sexual crimes, offenses that are based on homophobia (hate of individuals who are sexually oriented toward their own sex), xenophobia (fear of foreigners), anti-Semitism and hatred of religious sects against Roma and **all "who are different."** It can also be associated with ethnic cleansing and genocide. (McLaughlin, 2001 Yearbook of the Police Academy, 2005/6: 131)

There is a rightful distinction between the criminological and criminal justice notion of crimes or acts of hate in literature. Thus, the criminological notion of "acts of hate" means all negative conducts of individuals who are motivated or aimed at creating and stirring up hate against individuals or groups of people based on racial, ethnic, gender or other grounds on which a social group is distinguished from another. The criminological definition stems from the negative social consequences of actions motivated by hate in terms of social relations and their stability; regardless of whether a certain conduct is a result of a motive or a purpose, it is clearly defined in the law as a crime.

As specified by the penal definition of "hate crime", this act is expressly stipulated by law as a crime, motivated by an ill-disposition toward the victim as a member of a certain social group, or toward the social group itself. This is a crime of discrimination against the victim on racial, ethnic, gender or other grounds and is a motive or a target of a violent act defined by law as a criminal offence. (Kambovski, V.- Lazarova-Trajkovska, M. 2012: 7) Unsurprisingly, the second case is one with a more literal interpretation of the

[1] In **the model of "hostile motive"** such motive should be clearly demonstrated in committing the crime and if specifically determined during the procedure, it can be taken as an aggravating circumstance. This model expresses better the idea of hate crime, but there are practical difficulties in proving the hostilities, i.e. hate as a psychological fact relevant to sentencing.

[2] The **model of discriminatory basis** assumes the motive of hate, but from a legislative and technical aspect, it does not anticipate the motive (motive), but an aggravating circumstance is the **causal relationship between the status of the victim and the committed crime.** / concept is facing the victim, of course linked to the act- LC / This means that the penal policy does not have to determine the motive, but it is enough that the work is done due to the peculiarities of the individual / group to which he belongs (CC accepted in Bulgaria, France, Denmark, which use the same formula *because, by reason of; stems etc. the particular protected characteristics of the victim*). (Kambovski V. Lazarova Trajkovska, M., 2012: 28)

term crime, i.e. act of hate, pursuant to the paragraph in which incriminating acts are regarded solely as criminal offences.

Ignjatovic (2005/6: 134- 135) draws a distinction between defining these acts in their broader or narrower sense. According to the broadest definition of this crime, it incorporates all acts in which the perpetrator has performed an unlawful activity because of hatred (or prejudices) toward individuals of other social groups. He dismisses and strongly criticizes this definition. The author opts for a narrower definition by which: Hate crimes are (above all violent, but also against personal property) acts where the hate or prejudices of the perpetuator toward the social group in which the victim is a member of are motives for severe breaches of personal and proprietary safety. One of the arguments he uses in view of his definition is "that it is closer to what had been envisaged with the introduction of this category in the judicial statistics of the country." He is chiefly considering the U.S. and Great Britain, where such statistics on hate crimes were instituted for the first time. (Ignjatovic, Gj. 2005/2006: 134 and 135) It can be concluded, unfortunately, that in many countries, among which our own as well, notwithstanding the endeavours, there are no specific existent statistics on these crimes.

According to Boshkovic (2015: 152), a hate crime is an aggregate of felonies based on prejudices, animosity, odium and hatred on national, ethnic, racial, religious, ideological or sexual grounds toward others.

Dokmanovic (2015: 60) in his paper records several definition of hate crime, among which we have selected the following: Hate crime is a type of a deviant behaviour driven by prejudices, non-tolerance or hatred toward a certain group, a member of which is victimized (Nolan, Akiyama, Berhanu, 2002: 136; Cunneen, 2009: 132; Tripkovic, 2011: 39; OSCE, 2012a: 7; Barjaktarovic, 2013: 250). Other authors (Maroney, 1998: 564; Sibbit as claimed by Gavrielides, 2011: 7) specifically list the reasons for the prejudices and state the culprits of the violent behaviour, e.g. race, skin colour, sex, gender, nationality or ethnicity, religion, sexual orientation, gender identity, disability, age and migrant status.

The **FBI** defines hate crime as criminal offences perpetrated against individuals, social groups or against their property that are resultant from complete or partial prejudiced views on part of the perpetrator toward a different race, religion, disability, sexual orientation or nationality/ethnicity. (FBI, 2002) (Ignjatovic, Gj.,005/2006: 131)

The **European Union Fundamental Rights Agency** defines these acts as "violence and felonies stemming from racism, xenophobia, religious intolerance or prejudices resultant from disability, sexual orientation or gender identity of individuals." According to **YUCOM** (2013:2) that crime is motivated by hatred toward somebody solely on account of the fact that that somebody is different. (Dokmanovic, 2015: 60)

ODIHR adheres to a simple definition of the term "hate crime," i.e. a **motive of prejudice** (bias) **plus criminal behaviour** (murder, bodily harm, damage to property etc.). Hate crime is *any* offence, including those against individuals or property, whereat the victim, preconditions and the objectives of the commission of the crime are selected as a result from their real or presumed (supposed) link, involvement, kinship, support or membership in a certain group.

Authors exploring the issue of hate crimes are endeavouring to find common elements to the various definitions. They believe there are three common elements: **hatred**, further interpreted as subjective emotion and attitude with varying degrees (intolerance, animosity etc.); **offence** which entails violent breach of basic human rights and of equality; and **grounds** upon which is determined **the status of the victim as a**

member of a certain group (racial, ethnic, sex etc.) (Kambovski- Lazarova-Trajkovska, 2012: 7)

The author Tripkovic (2011: 39) nominates these elements almost identically, though with a slightly different order. Namely, she singles out the same three, constitutional elements of these crimes: **unlawful act** (varying forms and degrees of gravity of violent behaviour), **hatred as a dominant motive** for the commission of the crime, and **the affiliation of the victim to a certain social group** at which the perpetrator's hatred is focused upon. A great deal of definitions in literature comprises these elements, which is why they can incontestably be considered as such.

In this context, we should like to invoke the **legal definition of hate crimes** as stipulated in our Criminal Code (i.e. Article 39, para. 5) in connection to the general rules on sanction determination - "… the felony is indirectly or directly perpetrated against an individual or group of individuals or property, **as a result of their affiliation** to a certain sex, race, skin colour, gender, affiliation of a marginalised group, ethnicity, language, nationality, social background, religion or religious belief, other forms of beliefs, education, political affiliation, personal or social status, health condition, or as a result of any other grounds prescribed by law or a ratified international agreement.

This interpretation lacks the expressly stipulated third element of hatred, intolerance or prejudices; only the criminal behaviour and affiliation to a certain group are mentioned. To our mind, this is due to the fact that when it comes to such crimes, the concept of discrimination is acknowledged within the legislation. This is done so as to avoid the express establishment of the subjective element in these acts, which might pose problems in substantiating its existence in the perpetrator. Therefore, it is deemed sufficient to determine the affiliation to a certain group which is victimized and on those grounds to draw the motive of the crime. The term **"as a result of"** is used, without the express mentioning of hate, prejudices, prevalence, intolerance etc. Such practices are present as part of the Criminal Code in the legislation in Bulgaria, France, and Denmark.

3.1. We deem it necessary to briefly explain the terms *hate, prejudices, partiality* etc., which are essential to comprehending the phenomenon of hate crimes. In point of fact, defining hate crimes is as complex as the interpretation of the terms themselves. It is Psychology that lends particular contribution to the study of the aforementioned terms, defining them as subjective sentiments, i.e. perceptions, dispositions etc.

In general, hate is defined as an emotion of *aversion toward somebody or something, and in contemporary dictionaries of Psychology as "profound, lasting and intense feeling* conducive to animosity, wrath and antipathy toward a person, group or an object." Freud interprets it as a state of the ego that wants to annihilate the source of its despair. Most often, hate is not a fleeting emotional state, but a **lasting inclination** of one person toward another, a group or an object. There are cutting-edge methods in Psychology that are applied when the brain is scanned (FMRI). It has been concluded that if an individual is subjected to images of people or objects they garner hatred toward during a scan, a specific pattern in cerebral activities can be observed. (Kambovski, V., Lazarova-Trajkovska, M., 2012: 8)

As opposed to the generic sense of hatred, that may be behind numerous acts of violence (murder, bodily harm etc.), hate crimes have to do with an **aggressive feeling of animosity toward the victim** that manifests itself resultant from a certain prejudice, assumption or the perpetrator's inclination might have a broader social relevance. The hatred the perpetrator experiences may stem from various sources: *bitterness, jealousy or*

ill-feelings toward the group in its entirety. As a negative emotional state, it can be focused on the group and/or a specific victimized member of that respective group. This, however, does not necessarily have to be the case. … Hate crime can transpire even in instances where the perpetrator feels compassion or pity, yet the sentiment of hatred is so potent that cannot be suppressed.

As a result it is common practice for the terms hatred and "**partiality**" to be used synonymously. Having said that, though, "partiality" has a broader meaning than hatred in that it conveys a link to a some type of prejudice that has to do with the victimized member's traits as a member of a certain group. Hatred is associated with **prejudices**. How are they defined? A prejudice is a viewpoint which is based on no rational arguments, but on irrational generalization on a singularly negative experience, or a biased conclusion drawn from inaccurate or unsubstantiated premises that is considered irrefutable, leaving no margin for change, counterargument or contention. The interaction between social groups and their members (examined in greater detail in Social Psychology) can be encumbered with many prejudices based on national, religious, ethnic, racial, social, political and the like grounds (e.g. all are imperfect, traitors etc.). Such prejudices result in *varying degrees of intolerance, non-acceptance, negation, blatant hatred, acrimony and aggression toward members of different groups, which can reach a level of segregation, exile or destruction.* Stretches of social instability and crisis are particularly critical for they further expand the prejudices to the point of them becoming catalysts of escalating hatred and violence toward the members of different social groups. (Kambovski, V., Lazarova-Trajkovska, M., 2012: 8-9)

3.2. Kovachevic, M. (2009: 95) in his/her paper supplies a classification of hate crimes that are established in the Anglo-Saxon theory and practice, stating that there are four subcategories, grouped by what the motives are. As follows.

1. Thrill-seeking
2. Defence - the culprits commit these offences mistakenly believing that the members of the minority group pose a threat to them;
3. Vengeance - the culprits act accordingly to the perceptions they interpret as offensive to them and their inner circle;
4. Fulfilment of a mission - such offenders have deeply-rooted beliefs and are under the impression that are fighting for their ideals, hence their aggressive behaviour, e.g. followers of extreme right-wing groups (Shively, Mudford, 2007: 11).[3]

By no means do we consider that further classifications on hate crimes and their criteria are herewith exhausted; this is merely a representation of the most common ones in literature.

[3] For more extensive reading on hate crime classification refer to Tripkovic, M (2011: 40- 41). It is noteworthy that she cites Levin, McDevitt (2002: 67-98) for this classification.

4. FEATURES OF HATE CRIME VICTIMS

In a handbook published by OSCE: *Understanding Hate Crimes* (2012: 7), amongst other, it is emphasized that one of two elements of hate crime- motive for the commission of the offence has to be based upon a certain prejudice. "A motive based on a prejudice," means that the perpetrator selects the aim of the criminal offence based on the *protected characteristics*, further specifying the scope of which, as follows:

- The aim of the criminal offence can be an individual, more than one person or property associated with a certain group whose affiliates share a certain protected characteristic.
- A protected characteristic is a general or a notable feature that characterizes the group in question, such as "race", religion", ethnicity, language or sexual orientation.

This implies that these protected characteristics relate to the hate crime victims, i.e. as the object of protection, which is central to the commission of the crime, when examined from a legal stance. If, however, observed on part of the victims, these characteristics become **social victimogen predispositions**[4], typical of these victims, which differ from victims of similar felonies.

Regarding above mentioned, a conclusion could be drawn that such delicts may be referred to as **crimes motivated by prejudices** based on **discriminatory matrix**, instead of the narrower term hate crimes!

In the subsequent section of the paper, based on published literature, we shall endeavour to catalogue the basic characteristics of hate crimes so as to better differentiate them from other types of crime. The following characteristics support the claim of our Parliament for them to be subjected to special treatment and to necessitate implications as to the specificities in combating this type of crimes, i.e. its suppression, and even more significantly its prevention. Please note that the following numeration has not been made in accordance with the importance if the characteristics. In other words, we deem them all of importance. It should also be noted that we do not consider that the following characteristics are finite. However, owing to a paucity in personal research, as well as the resources made available (e.g. a research paper conducted by the Helsinki Committee), insufficient information, or the lack thereof, hindered the corroboration of key aspects in victimology - victimogen predispositions, the relationship between the perpetrator and the victim, and the contributing behaviour of the victim. Nonetheless, we deem the following information still satisfactory so as to extrapolate the findings and draw conclusions therefrom.

Compared to victims of other types of violence, hate crime victims are victimized because of some personal characteristic or an assumed one (here as well: **attitudes and actions**, Kovachevic.: 96) such as nationality and ethnicity, religious profession, gender identity and sexual orientation. /**first characteristic/** The perpetrator would not commit the offence were it not for his/her assumption that the victim possessed a certain trait the perpetrator harbours antagonistic sentiments toward. Thus, anyone can become a victim of a hate crime, though most often the victims come from a minority and marginalized groups within a community. / **second characteristic/**

[4] In the victimological literature, when it comes to victimogen predispositions, a classification has been agreed on, as follows: personal (biophysical and biopsychological), social, situational, predispositions of legal entities, social groups and society in its entirety. (For more extensive reading, refer to Bachanovikj, O. / 1997:212 / and the cited literature therein).

The fact that they are being subjected to maltreatment because of some personal trait (or a supposed one) exacts a negative influence on the victim. This is because the victim cannot influence that trait themselves. /**third characteristic**/ The criminal offence is deliberately exacted upon the victim, which is why there is the threat of further targeted victimization. Consequently, the victim exhibits such qualities as serious *trauma, depression, distrust to others, self-guilt, conscious isolation from society, feelings of indignity, fear, panic etc.).* Their experiences differ from those victims of other crimes encounter. Moreover, this type of victimization exerts its impact not only on the victims themselves, but also on their immediate families and wider social context as well. (OSCE, 2009: 16; FRA, 2012: 17-23). /**fourth characteristic**/ The fear of victimization spreads among the affiliates of the certain community or the individuals who have identical characteristics as the victims, particularly if an adequate solution fails to be afforded by the state and the victim is precluded from accessing the justice system. Besides, the acknowledgement of the hate crime and the rights of the victim are required so as to effectuate other rights such as access to healthcare, nursing and various other forms of support. (Dokmanovic, 2015: 60-61).

The victim's personality and individual characteristics come secondary in these offences, and more so than when other types of crimes are concerned. The perpetrator and the victim do not know each other in most cases and as the offence is committed, a high degree of conviction is present on the perpetrator's part that the victim belongs to the social group towards which he/she garners ill-feelings. In other words, the personal relation between the victim and the offender does not take place in hate crimes, as much as it does in other types of crime. This, in turn, is a key characteristic in this deviant crime. / **sixth characteristic**/

The aforementioned goes to show that hatred-related delicts are regarded as "**crimes with a message**." This is to say, that despite the fact that an individual is directly victimized, there is an indirect message to be sent to the social group the victim in question is a member of, as well as to similar social groups. In this respect, the victimization is "impersonal" / **seventh characteristic**/ for it solely epitomizes the social group. It is through the victim that the culprit sends a message to the rest of the affiliates. When compared to "regular" victimization, hate crimes are distinguished by its far-reaching nature, /**eight characteristic**/ for the consequences of the crime surpass the individually targeted victim and their immediate social context (family, friends etc.) and imprint the furthest societal stretches. (Tripkovic, M., 2011: 39-40)[5]

In this context, I consider Kambovski's explanation with regard to the degrees of the victims is more inclusive, for it does not solely revolve around the victims as individuals, part of a group or other similar groups according to their characteristics with previously victimized groups! This is applicable to the accepted viewpoint across Victimology that victims are not merely physical beings that distinguish between direct and indirect ones; and the latter further distinguishable as tangible and abstract victims.

[5] Iganski believes that the consequences of a hate crime disperse in concentric motion via the community of the direct victim both within and beyond the neighbourhood, as well as any other identifiable communities (Iganski 2001). It is in this fashion that potentially any given member of the social community, who thinks of the victim and of themselves as equal members of society, may become an indirect hate crime victim, for these offences undermine the pillars of liberal-democratic societies, such as equality, autonomy, dignity etc. Such establishment of the consequences of the crime and the circle of victims render hate crimes one of the most grievous deviant manifestations victimologically speaking... (Tripkovikj: 2011: 40)

The aforementioned characteristics of victimization, where the true hate crime victim is the social group in which the victim is an affiliate, result in a pool of problems that are not present in other types of criminal offences. Although the act of crime is committed upon an individual victim, he/she is incapable of rationalizing and surmounting the psychological consequences left in the aftermath, as victims of other forms of crime are not. The realization that they had become a victim due to some permanent personality traits which make them "conspicuous", they are incapable of preventing further victimization, for there is no way they can protect themselves from intolerant outbursts. If we consider that hate crimes are in fact "crimes with a message," and the victims impersonal or collateral objects / **ninth characteristic**/ chosen so as to send a message to their community, the effects of victimization are profoundly grievous. (Tripkovic, 2011: 42-43)

Hate delicts are mainly performed against members of minority groups who are otherwise **marginalized**, and their group identity may be overshadowed by the group who is majority / **tenth characteristic** /. Furthermore, marginalization goes in favour of the emergence of high level of secondary victimization./**eleventh characteristic/** While it is impossible to determine what is the real figure of crime referring to hate crime o, some authors argue that it is significant that apparently stems from mistrust that the minorities can nurture towards state institutions, hence the cases are not reported (Levin, 1999: 16). In this context arise and experiences of **"secondary victimization"** - when victims of hate crime of hate would encourage work to report the encounter distrust and disapproval, which is partly caused by problems in establishing that the present case involves a hate crime, but it is largely determined by stereotypical views of those present in a given society. (Tripkovic, 2011: 43) /**twelfth characteristic/**

A deed of hate can be directed against a particular group or a larger or smaller number of its members or to *deliberately chosen victim*, who personalizes the group or its peculiarities. The perpetrator selects the victim by its association with actual or notional group, so that **the victim is replaceable,** or in its place you can find any member of the group. It refer to so called. **symbolic victim,** whose rights are violated or threatened as a message to other members of the group. /**thirteenth characteristic**/ A victim may belong to *a minority or majority group*.

We would conclude that the issue referring to victimological characteristics of hate delicts with reference to the work of Levin and McDevitt with a very depicting title" *Hate crimes - the tide of bigotry and bloodshed*" (1993), more precisely referring to the characteristics mentioned in what way they differ from other types of violent crime:

1. Due to the effects they are more dangerous than the large number of cases of this type, because it causes a strong sense of insecurity among members of minority groups;
2. Characterized by extreme brutality and lack of compassion towards the victim;
3. Commonly performed against totally unknown victims (usually individuals) by a group of offenders (usually young working class)[6];
4. "Replaceable victim" - offenders in this way express their attitude towards one group therefore they can commit such crimes against members of any other group, led by hatred and prejudice. (Bachanovik)

[6] Examples that have been analysed in the annual report of the Helsinki Committee on the situation of hate crimes in the Republic Macedonia for 2015, saying that, as a rule, the group has both perpetrators and victims, although the fact that that ratio was in "favour" of the perpetrators. Please note that this report primarily refers to migrant groups in the role of victim of this crime.

It is enough to look briefly over the given characteristics of hate crime and to conclude that all refer to the victim!

5. CONSEQUENCES OF HATE CRIME

We believe that this issue is related to the previous one, starting from the fact that victimological analysis of hate crimes must deal with the consequences those crimes caused or could possibly cause (with greater or lesser probability or degree of risk) on the victim. The question whether it is better to start from the individual to the general or vice versa. Kambovski, for example, started from general to specific consequences in this regard stresses that:

The acts of hate represent qualified forms of damage or threat to the fundamental human rights and freedom. It violates the fundamental values - equality of rights and freedom, as an element of their natural and legal substance. The acts of hatred, by their nature, appear as a severe threat to the fundamental tenets of a democratic state of law, *tolerance, rule of law, justice and non-discrimination.* As a rule, any offense causes consequences, not only to the victim, but to its closer or wider surrounding or society as a whole, but in relation to these matters, the nature of the crimes, it is particularly acute. Furthermore, it specifies the consequences of victimization of hate crimes, starting in reverse order, i.e. the individual and the immediate victim to society, i.e. social relations as a whole, taking into account the most extreme consequences. In this sense, it highlights the following:

- consequences on the individual who is a victim of such a *crime in the form of psychological and affective disorder and anxiety, the sense of identity of the victim and his/her self-esteem,* reinforced the level of violence that is usually higher than in the general matters;[7]
- effects on the targeted groups - to *create a sense of terror, fear and insecurity, exposure to possible harm to its members,* who could be the next victims; On another occasion he adds that: Consequences for the group, as a rule, are of a psychological nature and appear in the form of: *collective anger, rage, fear, feelings of deprivation and so on,* and the *severe forms of intolerance, conflict, collective violence, revenge and armed conflict,* with irreversible consequences for society in general.
- effects on other vulnerable groups, minorities or groups who are identified with the target, especially when the acts are based on a broader ideology or doctrine that tends to involve other groups;
- effects on social relations in general, in the form of *increased social disharmony and social conflicts, when disadvantaged groups started using different forms of response,* thus creating a spiral of hatred and violence; and
- converting the climate of intolerance, hatred and hostility in the most severe forms of terrorism and other acts of violence (genocide, mass destruction, etc.).

All of the above mentioned, gives us a right to draw a conclusion for another mark of these acts: the existence of victims on multiple levels – from an individual to a group, from particular to general, or at individual level, group level, and other vulnerable groups

[7] In this sense, Dokmanovic, citing the findings of the OSCE (2009) and FRA (2012), notes that the... victims express various symptoms such as *severe trauma, suspicion of others, self-blame, entry into isolation from society, a sense of humiliation, fear, panic and so on.* (Dokmanovic, M., 2015: 61)

tending to the to society in general ! The complexity of the consequences, and not underestimate any level, confirms the thesis of the seriousness of these offenses and hence they need to be analysed as well as from victim-based perspective. Regarding this as well as the conclusion of **the European Union Agency for Fundamental Rights** (FRA) that the design and execution of specialized training with the subjects of the opposition of these offenses should be removed from the victim oriented approach in investigating hate delicts. (FRA- Promoting respect and diversity Combating intolerance and hate)

The complexity of the crime consequences is determined by the size and heterogeneity of the act that can be qualified as hate (whether they are legal or illegal acts of hatred). Additionally to the fact that the causes of hatred, bias, prejudice and other reasons due to the number of grounds (race, gender, ethnicity, religion, culture, political, social, health, cultural, sexual orientation, etc.) which are the "cause" for the offenders act. Additional to all this is connected and the number of ways of execution and forms of violence manifested through: *physical assault, damage to property, threatening of the safety, psychological abuse, verbal abuse, insults and offensive graffiti, slogans* (burning the flag, desecration of churches and various sacred objects, the tomb - my note) *and other public expressions of hatred*.

At the end of this section we refer to paragraphs Ignjatovic (2005/2006: 135), in favour of the thesis that the consequences of victimization caused by hate crimes can be felt more levels, thus pointing out the consequences of the scope from a very negative effects they can cause to become serious conflicts on various grounds where a question can be posted about the existence of society, particularly those with a fragile democracy. "... In order to have clearer understanding which offenses should be classified in the" *hate crime* "it must be concluded that such acts violate and threaten individuals from certain social groups, and society in general. Unfortunately, for these cases (as in other similar cases), we talk about **different levels of victimization**. An attack of an individual almost always has the character of a symbolic attack of the group to which he/she belongs to. Despite the fact that these acts **violate social peace**, which can lead to potentially dangerous social conflicts **(inter) national, (inter) religious and others, are attacking and society in general**. " (more details in Bachanovik).

Summing up the above, we would like to stress that the impression that the negative consequences of hate crimes is often underestimated. After all, in favour of this assertion goes exactly their invisibility, which has already been discussed. How to forget that they do not pose a threat for the physical safety of an individual but to the very foundation of society and the cohesion of each community.

INSTEAD OF CONCLUSION

In the final part of this paper/study we would like to suggest something that has not been mentioned because it is not the subject of this paper, and it is the need of collecting data on these cases. Importance of continuous and systematic data collection on hate crimes deserves special attention and study [8] and is very important for our multinational, multicultural and multi-religious society. I think it should be a subject of a separate paper/study. I would like to finish this work by stressing the connection to this

[8] In this regard, you see, for example, work by Dokmanovic, M., Register of Hate Crime Data: Recommendations of the International Bodies and Their Importance for Serbia (2015).Also, the need of keeping statistics on cases of hate is indicated by Kambovski- Lazarovska- Trajkovski (2012: 35- 36); look at OSCE Plan 10 points! (also in Kambovski- Lazarovska- Trajkovska)

very issue. Namely, all countries in Europe (including those which are members and those which tend to become members) the task of expanding the scope of data collection for the crimes of hatred, because it will have many positive effects and, above all, will contribute to: their greater visibility; Furthermore, the victims will have the opportunity to seek satisfaction (e.g., compensation, rehabilitation, etc.) and overall to improve their protection and assistance; and, last but not its meaning, for more efficient prevention and treatment of this extremely negative social phenomenon.

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MENTAL DISORDER AND CRIMINAL BEHAVIOR

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ABSTRACT

The paper deals with the connection between mental disorder and criminal behavior. It explains the concepts of mental health and mental disorder by presenting the medical and developmental model. Furthermore, in this paper we will make an overview of the literature and main thematic surveys about certain types of mental disorders and criminal behaviors. In particular, we will elaborate the influence of individual variables as risk factors for criminal behavior of persons with mental disorders such as: sex, age, history of personality pathology and characteristics of the parents, abuse in childhood etc. In the conclusion, certain suggestions are presented for improving and expanding the future studies.

Keywords: mental disorder, criminal behavior, mental health, risk factors, persons with mental disorder

INTRODUCTION

Mental disorders never stop to intrigue us, not only in everyday life, but also in art and that is most probably a result of the lack of knowledge, their mystery, their emanating distinctness... We are familiar with the fact that since 1954, there has been at least one movie that deals with the subject of mental illness among the nominees for best picture, screenplay and role every year (Clark, 2003).

The connection between crime and mental disorders has been among the main research subjects for several decades and the interest for this subject is increasing in parallel with the widespread deinstitutionalization in many Western countries, taking into consideration the fact that more people live in community, rather than in isolation which was more common in the past (Aderibigbe 1997). In a social context, the importance of this subject is indisputable, mostly for reducing the crime and resource spending, as well as for mitigation of the individual consequences (Torrey 2011).

According to the public opinion, the connection between mental disorders and crime, mostly violent crime, is substantial. The media, that frequently inform and write in a bombastic manner about 'disturbed people', 'psychopaths', 'mentally ill' persons who commit violent crimes also contribute to this opinion. These reports are often biased, stereotypical, insufficiently investigated, even incorrect, with incorrectly reported diagnosis, leading to a misrepresentation of these people and portraying them as dangerous in front of the public, contributing to their stigmatization. The studies indicate that the majority of persons with mental disorders are not violent and the majority of violent criminals are not mentally ill (Van Dorn et al. 2011).

DEFINITION OF MENTAL DISORDER

Regardless of the large number of authors and disciplines dedicated to issues related to mental health and mental disorders, there are still confusions with regard to these terms. Several terms are used and their relationship is not differentiated: mental illness, mental disorder, abnormality, deviation; and on the other side we have: mental health, normality, adaptation, maturity and positive mental health.

The American Psychiatric Association formally defines mental disorder as a clinically significant behavioral or psychological syndrome or pattern that occurs in an individual and that is associated with present distress (symptom of illness) or disability (that disables one or more important areas of functioning) or with a significantly increased risk of suffering death, pain, disability or an important loss of freedom (Eaton 2001, p. 50).

The term 'mental disorder' was introduced in 1980, with the third revision of the American Psychiatric Association's Manual (DSM-III-R), because it was believed that this term is more neutral than the term illness or disease.

A mental disorder is a type of deviant behavior which occurs when the cognitive processes, feelings and behavior of the individual digress from the usual expectations or experiences, and the individual, or some other individual from their environment believes that it is a problem that requires intervention. Laymen usually identify a mental disorder after the bizarre behavior which is considered irrational by the observers. Any behavior that is drastically deranged, and for which, no reasonable motives are found, is considered 'insane'. This type of behavior may include bizarre and senseless speech, different visions that no other person can hear or see. The most spectacular manifestations of the psychopathology are the cognitive and emotional disorders. Prototypes of a mental disorder are insanity and hallucinations, typical for the psychotic conditions and the intense affection that is usual among the affective and anxiety disorders.

People can also make a difference between these types of behavior which they consider 'ill' and 'bad' behavior. When the personal motives in someone's behavior can be noticed it is considered a 'bad' behavior, and when the behavior is senseless, it is considered an 'ill' behavior. Professionals also make a similar assessment. For example, they make a difference between behavior that results from rational motives (grief for the loss of someone close), which is considered a normal reaction, and a depression as a psychotic disorder.

The Diagnostic and Statistical Manual (DSM) of the American Psychiatric Association and the International Statistical Classification of Diseases and Related Health Problems of the WHO ICD-10, 10th revision (МКБ-10), give descriptions of what is considered to be a mental condition, as well as of the specific criteria used to establish a diagnosis.

They include the individual disorders related to perception and cognition (in psychosis), emotions and emotional regulation (in depression), the ability for behavioral control (for example, in Obsessive Compulsive Disorders), the ability to control the relationships with others and oneself (personality disorders) (Mullen 2008). While these disorders are common among healthy people to a different degree, they must be present with a significant intensity and to a high degree in order to be considered pathological.

When we talk about the connection between mental disorder and crime, especially violent crime, we must take into consideration that mental disorders include different conditions and that each of them can, in a specific manner, be related to criminal behavior.

Table 1: Major categories of mental and behavioral disorders according to ICD-10

	Mental and behavioral disorders according to ICD-10
F00-F09	Organic (including symptomatic) mental disorders
F10-F19	Mental and behavioral disorders due to use of psychoactive substances
F20-F29	Schizophrenia, schizotypal and delusional disorders
F30-F39	Mood (affective) disorders
F40-F48	Neurotic, stress-related and somatoform disorders
F50-F59	Behavioral syndromes associated with physiological disturbances and physical factors
F60-F69	Disorders of personality and behavior in adult persons
F70-F79	Mental retardation
F80-F89	Disorders of psychological development
F90-F98	Behavioral and emotional disorders with onset usually occurring in childhood and adolescence
F99	Unspecified mental disorders

What is abnormal behavior?

Davison and Nail state that abnormal behavior could be considered a statistical rarity, norms violation, personal suffering, disability or difficulties in the functioning and unexpectedness (Davison and Neale, 1999).

The statistical rarity implies that the abnormal behavior is a rare condition. This explanation uses the standard normal curve to present the human characteristics, which shows that only few people are either on one or the other side of the curve, while the majority is in the middle, which means that they do not show any significant digression. However, not every rare behavior is considered abnormal, for example, the extraordinary sport results, which are not very common, are not considered a rare behavior.

The abnormal behavior is characterized by violation of the social norms. It is considered that the behavior, the reasoning and the feeling violate the norms of the normal psychological functioning. However, what is considered to be normal and abnormal varies in different countries; furthermore, in the Western cultures, which are competitive, the aggressiveness can be accepted, while in cultures where cooperation is appreciated, the aggressive behavior is considered abnormal. This should not be taken for granted, criminals and sex workers violate the norms, but they do not belong to the category of people with abnormal behavior.

Personal suffering is a typical feature of many mental disorders, such as depression and anxiety disorders. However, this is not a typical feature in every case, for example, a psychopath may violate all norms without suffering at all, while other people suffer as a result of his/her behavior.

Disability implies that, due to the mental disorder, there is permanent or temporary disability, in other words, the affected individual cannot achieve some personal goal as a result of the mental disorder. For example, drug and alcohol addicts, as a result of their

addiction, have a weak effect at work, dysfunctional family relationships, or, someone who has a phobia avoids situations that are important to him/her, for instance, he/she rejects a well paid job because of fear of flying, etc. Nevertheless, not every abnormal behavior is related to disability.

Unexpectedness implies that many of the forms of abnormal behavior are unexpected responses of the environmental stressors, for example: anxiety disorders appear regardless of the situation.

MEDICAL MODELS AND THE CONCEPT OF DISORDER

The diagnostic model of disorders that is included in the classifications is based on the idea that disorders are discrete (separate) entities. According to the medical model, this means that people are either ill or not, the only difference being the degree of the illness. Therefore, it is important to establish the boundaries between the healthy and the ill. Listing the psychological disorders as 'diseases' has reduced the torture treatments and provided a more humane treatment on the one hand, however, it has allowed medicine to interfere in the real life of an everyday person to a great extent and has expanded the boundaries of mental abnormality, on the other hand. Even though this interpretation of mental disorder is the oldest and the most prevalent among the clinical departments, it is also criticized by the supporters of the humanist and anti-psychiatry movements. To be specific, the categorical model does not allow the existence of a third possibility, in other words, the existence of 'something between' health and illness. According to the representatives of the humanistic medicine, as well as the anti-psychiatrists, the areas of social pathology, neurosis, crisis and problems of living cannot be considered as disorders.

To alleviate this situation, it is recommended that the mental health and mental disorders are treated as extremes with several variations between them, some of which are closer to the concept of disorder, while others are closer to the concept of health.

DEVELOPMENTAL UNDERSTANDING OF THE MENTAL DISORDER

The developmental understanding aims to develop biographical-historical understanding of the personality and the functioning of the individual. The idea is that there is a logical continuity in the individual and his/her behavior, regardless of their normality or abnormality. Therefore, the same principle applies to the understanding of the normal, as well as the abnormal behavior. Considering that the deranged behavior is perceived as an adaptation of a former experience, developmental factors and stressors, it would be rational to analyze this type of behavior from the same perspective used for analyzing the adaptation whatsoever.

Those who support this interpretation strive to understand the different factors that influence personal development and behavior. Such factors include: parenthood quality, family communication, relationship with peers, emotional connection quality which starts to develop within the immediate family and later on and child maltreatment and neglect.

The development is perceived as continuous and the boundary between well-being and illness is only a question of level, unlike the medical model, which is discrete and discontinuous. On a graph, the relationship between health and mental disorder can be presented as a continuum, the disorder being on the left and health being on the right side and the variations between health and disorder being in the middle. The developmental model hypothesizes that the same factors influence both normal and abnormal behavior.

The medical and developmental models are two different viewpoints of the world: none of them is inaccurate. As a matter of fact, the applicability of these different

perspectives of mental disorders and providing support is the most important. This means that both models have good dimensions, so that the majority practitioners accept the eclectic approach, including a combination of these two models, depending on their usefulness in the particular situation.

The mental disorder is a much more complex term than it sounds. It surely has a biological basis, but the social environment plays a crucial role in its occurrence. Individuals with serious mental disorders are identified as different by every society which treats them in a particular manner.

ATTITUDES TOWARDS PSYCHOLOGICAL NORMALITY

Can we, at least to a certain extent, answer the question: what is normal and what is not, from a psychological point of view?

For that purpose, we include the findings of Offer and Sabshin, which starting from different definitions of a 'normal person' have divided the concept of normality in four major groups: normality as health; normality as an average; normality as a utopia and normality as a process.

Normality as health is a medical-psychiatric model based on the criterion of absence of pathology. Individuals with no symptoms are considered normal and healthy. The absence of symptoms is very uncommon: studies show that 75% of the people are 'symptomatic' at some point of their lives.

Normality as an average is an approach that is typical in sociological and behavioral studies. This approach uses a statistical average in order to determine what is characteristic or typical. However, we cannot completely rely on this approach. For example, there are behaviors, such as domestic violence, which are very common in some countries, so we could state that it is an 'average'. Is that a normal behavior?!

Normality as a utopia is an approach that is common in the psychoanalytic and humanistic theories which portray normality as an ideal or optimal functioning, in other words, as a potential for self-actualization. According to Freud, normality is actually an 'ideal fiction', and thus, an ideal that should be achieved.

Normality as a process is manifested with the help of the individual developmental processes that do not depend on the interaction between the biological, psychological and social processes. This approach is based on the general theory of systems and it is considered to be the most productive, mainly being used in psychological research. This model differs from the others because it constantly focuses on the processes, unlike the other three approaches, which are focused on identifying the fixed traits of a so-called 'normal person'.

Maslov believes that a person is healthy as far as his/her needs are suited, and the opposite, if the person faces obstacles in satisfying his/her needs, he/she becomes mentally ill. According to the anti-psychiatrists, everything that the psychiatrists consider to be pathological is related to the problems of living, which are mainly psychological, moral and legal. Thomas Sas, who is one of them, suggests that the term 'social identity change' should be used instead of the term 'pathological'. Although the scientific contribution of the anti-psychiatrists was not very significant, anti-psychiatry as a discipline has contributed to the humanization of the society's attitude towards the mentally ill individuals.

According to Berger, there are three different interpretations of the nature of psychopathology (psychiatric/mental disorder):

1. A mental disorder is a disease or a pathological entity. Causes are physical, chemical and biological disorders.

2. A mental disorder is the result of discrepancies or conflict of the individual‘s biological and social needs. This conflict is universal, but the disorder occurs when the mental processes break down and when one, or the other side overwhelms, causing damage to the mentality.

3. A mental disorder is a manifestation, and the nature of that manifestation is unknown, however, its existence is unquestionable. It represents an atypical lifestyle that is opposite to the family, society, culture, and, as such, it mainly causes negative attitudes (Berger, 1990). The normality includes the ability of a person to think rationally, to act sensibly (in accordance with his/her age, environment and culture) and to behave adequately (from an emotional and moral aspect). The pathology shows digressions in the above mentioned.

The difficulties in defining the term normality are the result of the methodological problems related to the definition of mental health. In this context, the World Health Organization defines health (as a synonym of normal), as ‘a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity’.

There is a common tendency to substitute the terms ‘healthy person’ or ‘normal person’ with the term ‘mature person’, or with the term ‘successful adaptation’, in contrast to ‘deviant behavior’, ‘nonconformist behavior’ or ‘aberrant behavior’.

Although the mental health definitions are not identical, they include: ability to be happy; capacity for productive work; emotional competence and dealing with the environment; emotional security, self-acceptance, self-awareness, real and undistorted image of oneself, of the others and of the environment; interpersonal adequacy and capacity for empathic and warm relationships with others, respect and intimacy.

MENTAL DISORDER AND CRIMINAL BEHAVIOR

The question of normality of a person who has committed a crime can be analyzed from two aspects: from the social normality point of view and from the psychiatric normality point of view.

The norms of social normality are established by the society, while the norms of psychological and psychiatric normality are based on the psychological and psychiatric expertise. Social abnormality does not always mean psychiatric abnormality (for example, psychopathology).

In order to make a difference between psychiatric and social normality, psychological and psychiatric expertise is required. In the 1930s, the criminal law started to apply the principle of act individuation, which is different from the modulation of penalties in accordance with the previous judicial systems. This principle takes into consideration the specific individual together with his/her psychological and sociological traits, and in that regard, the penalty is given taking into account the perpetrator, his/her personality, past, lifestyle, attitudes and his/her personal traits. The ‘mitigating circumstances’ are also taken into account, and in that manner, the verdict includes not only circumstances, but something completely different and that is the personality of the perpetrator, the opinion about him/her, the connections between him/her, his/her past and the offence he/she committed, and finally, what to expect from him/her in future“.[1]

[1] Kostić, M. : Forenzička psihologija, Zavod za udžbenike i nastavna sredstva, Beograd 2002, page 23

In contemporary criminal law, this approach creates the possibility for a broader application of the psychological and psychiatric knowledge. During the legal proceedings, the psychologists are expected to create a psychological portrait of the perpetrator, while the psychiatrists evaluate his/her level of mental health and both groups are required to suggest an application of certain instructional, preventive and therapeutic measures that would help to predict the future behavior of the perpetrator and would deter him/her from committing the same crime again.

Are the mental disorders associated with criminal offenses, mostly the violent ones they, and if yes, in which way?

With regard to the fact whether there is sufficient evidence about the connection between mental disorder and crime, mostly violent crime, literature review implies that only a small group of hospitalized patients, mainly those who have developed acute psychosis symptoms, have been involved in violent incidents. Moreover, former patients who have not been treated properly, show a higher risk of committing violent offenses, while substance abuse significantly increases the risk of violent behavior. Family members are at the highest risk of being victimized (Arboleda-Flórez J, 1998).

However, when we talk about the connection between mental disorder and violence, studies show a moderate connection between them. This does not mean that, generally speaking, people with mental disorders would commit any criminal offense or harm other people. An increased risk of violent behavior is only noticed among certain psychiatric diagnoses and particular syndromes. For example, individuals with schizophrenia, personality disorder and other mental disorders, as well as individuals who misuse substances are more likely to commit criminal offenses. (Angermeyer MC, Schulze B, 1998).

When it comes to crimes committed by persons with mental disorders, there is an increased interest in the criminal offense homicide, as well as in the differences between 'psychotic' and 'normal' homicides. It is found that the main difference between murderers affected by mental disorders and murderers without mental disorders is the psychopathology, which is in the essence of the murder. (Richard-Devantoy S, Chocard AS, Bourdel MC, Gohier B, Duflot JP, Lhuillier JP, Garré JB, 2007)

Although there is a connection between mental disorder and crime, the variables that influence their relationship are not completely investigated. There is empirical evidence within the frames of different disciplines – criminology, psychiatry, psychology and social work for the factors and risks of crime and violence among the persons affected by mental disorders.

These factors can be classified in demographic, historical, clinical and contextual variables. Understanding these variables is crucial for adequate and effective policies that support mental health, which would contribute towards prevention of violence and crime among persons with mental disorders.

Demographic variables include sex, age, race and socioeconomic status. It is generally known that men are involved in criminal activities more than women. However, in psychiatric circles there are some retrospective and prospective studies indicating that in the sample of persons with mental disorders there are no differences in the criminal offenses between men and women (Swartz, M. S., Swanson, J. W., Hiday, V. A., Borum, R., Wagner, H. R., & Burns, B. J. (1998, Silver, 2003).

The crime rates among men affected by schizophrenia are almost equal compared to the crime rates among men affected by other mental disorders (Wessely, 1994), as well as compared to the general male population (Linfqvist & Allebeck,1990; Mdeestin &

Ammann, 1995). In contrast to this, the crime rates among women affected by schizophrenia is two to three times higher than the crime rates among women affected by other mental disorders (Wessely, 1994), as well as women who are not affected by mental disorders (Linfqvist & Allebeck, 1990; Mdeestin & Ammann, 1995).

When it comes to perpetrators, more precisely, murderers, it is discovered that the risk of homicide, based on a diagnosis is higher among females in the majority of diagnostic categories, than among males (Eronen, M., Hakola, P., & Tiihonen, J. 1996).

When it comes to the age as a risk factor for criminal behavior, it is well known that the higher crime rates in the general population are among adolescents and young people and they decline with age (Moffitt, T. E. (1993). The age is also a risk factor among persons with mental disorders, who, during their adolescence, are most susceptible to committing criminal and violent offences (Bonta, 1998, Feder, 1991, Warren, Hurt & Loper, 2002). The findings of Hodgins (1992) indicate that adolescence is a predictor of criminal behavior and that the crime rates among men and women with no mental disorders decline with age; however, it has also been discovered that a significant number of males affected by mental disorders who commit crimes belong to all age groups.

The history of criminal behavior is an important factor which is related to criminality, as well as to the traits of the parents. Furthermore, the crime committed by parents is related to the violent recidivism among persons with a mental disorder, as well as the substance dependence of the parent (Harris, 1993). It was discovered that drug abuse of the father is related to violence among the patients released from hospital (Monahan, 2001). Having stopped living with parents before the age of 15 is a strong predictor of violent recidivism among persons affected by mental disorders (Harris, 1993, Rice, 1990).

The studies about the connections between violent behavior and abuse during childhood among persons with mental disorders have shown different results. In this context, Mohanan et al. (2001) have found out that the gravity and frequency of physical abuse and violence after the patients have left the hospital are mutually related. Compared to this, Swanson et al. (2002) came to knowledge that childhood victimization is related to violent behavior only in cases when the victimization continued after the age of 16.

CONCLUSION

During the past twenty years, significant contributions have been made to establishing the connection between particular mental disorders and criminal behavior, mostly violent criminal behavior. Furthermore, there are important findings pertaining to the demographic, historical, clinical and contextual factors which are related to criminal behavior manifested by persons with mental disorders. The lack of consistency in the findings is a result of the discrepancies in the methodology, as well as the limitations in controlling particular variables, considering the fact that it is a question of particularly complex manifestation. Factors such as comorbidity (for example, substance dependence and other mental disorders), or activity of the brain, are not sufficiently controlled and analyzed.

Understanding which individuals are at high risk would not lead towards more efficient intervention (except debilitation for prevention of criminal behavior). Becoming aware of the processes that lead towards criminal behavior among persons affected by mental disorders will deliver better results than only becoming aware of the connection between this behavior and particular mental disorders. Having knowledge of the processes

would help provide more efficient treatment, supervision and support for these persons, which would deter their committing crimes.

In this regard, further examination is necessary, which in addition to the connection between particular mental disorders and criminal behavior, would broaden the range of interest and include contextual variables, while simultaneously narrowing it down and putting an emphasis only on specific symptoms and traits. Therefore, the emphasis would be placed on understanding rather than only on predicting.

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MASS-SURVEILLANCE AND NEW CRIME CONTROL : CHALLENGES AND THREATS

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ABSTRACT

The 21st century is characterized by a changing nature of crime control and its methods. The new policy of crime control arises, on the one hand, as the result of the failure of the traditional repressive measures to reduce crime. In addition, changes take place due to the fact that the traditional social prevention measures fail to produce the anticipated outcomes in terms of reduction, elimination, or at least, mitigation of the negative consequences caused by the social factors. As a result, in theory and practice, scholars debate more the control and management of both, crime and behavior of the people who are seen as risk and potential offenders. Hence, the measures are targeting the *presumed danger* and they want to reduce the risk and fear of crime, rather than the real causes and crime as such. Such controls render some dangers, because in the network of social control, they also include those citizens who do not represent any real threat to public safety. The most spread means of controlling crime in the 21st century is the mass-surveillance operationalized through video-surveillance (CCTV), neighborhood watch programs, private security and surveillance, and the like. It is used to monitor both the public and private space in order to protect and secure the citizens (as legitimate users) from outsiders, illegitimate users or unwanted persons in those areas. However, surveillance is frequently faced with criticism, which is subject to scientific debates and public discourses. It can have certain positive outcomes in terms of increased safety or decreased fear of the citizens in the areas where they are set (although some studies indicate the opposite results). But, we cannot deny that surveillance is in conflict with certain human rights.

These current debates concerning the challenges, threats and criticism of the new crime control, in particular, are the subject of this article. In addition, we will make a brief overview of the challenges produced by globalism which have inevitably led to the new crime control policy.

Key words: surveillance, crime control, prevention, risk, exclusion.

1. INTRODUCTION

The fight against crime is related to the issues of its reduction, suppression, prevention, control, and in current debates, to the issues of crime management. These processes are sometimes used as synonyms with the same or similar meaning. For example, the suppression or the fight against crime is associated with repressive measures within the criminal justice system, including the criminal sanctions. Other authors (Sulejmanov, 2001, Tiiley, 2000) claim that prevention is connected only with non-repressive means and methods directed to remove or lessen the negative factors that affect crime. Regardless of the undertaken measures to combat crime, they have one goal: to reduce and deter its occurrence.

The 21st century is characterized by a changing nature of crime control and its methods. The new crime control policy arises as the result of the failure of the traditional repressive measures to reduce crime, on the one hand. In addition, changes take place due to the fact that the traditional social prevention measures fail to produce the anticipated outcomes in terms of reduction, elimination, or at least, mitigation of the negative consequences caused by the social factors. As a result, in theory and practice, scholars debate more the control and management of both, crime and behavior of the people who are seen as risk and potential offenders. Hence, the measures are targeting the *presumed danger* and they want to reduce the risk and fear of crime, rather than the real causes and crime as such. Such controls render some dangers, because in the network of social control they include those citizens who do not represent any real threat to public safety.

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These current debates concerning the challenges, threats and criticism of the new crime control, in particular, are subject of the article. In addition, we will make a brief overview of the challenges produced by globalism which have inevitably led to the new crime control policy.

2. THE CHALLENGES OF GLOBALISM AND THE NEW CRIME CONTROL POLICY

In the period after the seventies, many changes have occurred in the economic, political and cultural spheres in many societies. These changes include changes on the global market and in the production process, such as: increased capitalist production and exchange of goods, mass consumption, restructure of the labor markets, uncertainty of employment. Economic growth causes divisions and polarization between those who have and those who do not have. The consumption expectations are increased and new wishes and needs are developed, increasing thus the individualistic consumption culture. In addition, the structure of the families and households has changed which an increased number of divorces, family breakdowns and changed roles of both (men and women) within the family, decreased parental control and the like. Ecology and demography, in a global context, have faced modifications because the social processes of migration and urbanization accelerate the growth of inhabitants in the million cities. All this affects the nature of communication, as well as the exercise of human freedoms and rights. Namely, the people, instead enjoying their full freedom, have started to be in conflict with other values, such as security, reduction of crime and other collective rights (Garland & Spark, 2000: 199).

The period after the seventies, also known as the period of late modernity, creates economic and personal insecurity, discontinuity of the person and the society and the tendency for exclusion of the deviants. Market society, by increasing the economic deprivation and inequality among people, as well as through erosion of the capacity of the local communities to deal with crime, produce risks that increase crime (Ass Katja, 2008:

18). People lose their trust in the system and become ever more repressive by nature. In this sense, Ulrich Beck in his book *Risky Society (1986)*, describes the societies of late modernism as risk societies, which constantly debate, manage and prevent risks which are actually produced by themselves. Basically, he talks about risks as products of progress and "successful" modernization. In risk societies, social inequality is individualized and, in such societies, the focus is placed on fear and security rather than on issues of social justice. Hence, global processes and changes increase uncertainty, risk, fear and social exclusion of citizens. In such circumstances, the rehabilitation of offenders does not work and the state of social welfare does not solve the problems; on the contrary, it increases them. In addition, the enlargement of freedom and individual rights and the erosion of social prestige and political democracy have exceeded the limits, so that democracy has become excessive and politically dangerous (Kanduc, 2009: 78). In such conditions, the dynamics of crime control has changed as well (Ass Katja, 2007: 15).

Furthermore, crime is becoming normal and the central social phenomenon that blurs the boundaries between criminal and not criminal activity. In these circumstances, crime is seen not just as an episode or marginal phenomenon, but it is becoming an integral part of the social, economic and political life. Specifically, criminal behavior is integrated into the normal social, economic and political dynamics of late modernity (Kanduc, 2009: 81-82). The consumer society, with its abundance of goods, offers more opportunities to commit crimes and, after the seventies, crime in developed Western countries is increasing. Statistics show that by the nineties (over 40 years ago), crime has increased tenfold. At the same time, it is perceived as a normal social fact, and because of this perception, the traditional conditions beyond criminology and criminal policy have altered (Garland & Spark, 2000: 200).

This means that the challenges of globalization are restructuring and reshaping both crime and criminal justice. In late modernity, the effectiveness of formal and informal social control is decreasing, and instead, the care for victim protection and fear of crime is increasing (Garland & Spark, 2000: 200). In such circumstances, we return to the understanding of the offender as an enemy who should be punished because he/she has deserved that. The solidarity among people is abandoned and the state is not required to adopt social policies to protect the vulnerable groups at risk of commit a criminal offense. Instead, the public demands severe penal policy, harsher treatment and public condemnation of the offenders. The criminal justice system is perceived as too "warm" to crime, and therefore, instead to improve offender's behaviors, the rehabilitation model in the seventies has shifted to greater protection of victims and the public (Selih, 2009: 47-48). Thus, the old ideals of the welfare system "help, advice, be a friend" are abandoned (Garland, stated in Owen, 2007). Therefore, in the late 20th century the crime control systems (criminal policy) moved into two trends. The first response is *an adaptation*, which includes greater rationalization and commercialization of the criminal justice system and in particular, the formation of multi-agency partnerships for community based crime prevention. This *adaptation strategy* sees the offender as a rational actor. The second answer is committed to prison sentence and the approach of zero tolerance policing (Hughes & McLauglin, 2003).

To sum up, the new crime control policy abandons the development of social policy and social response to crime (as a good criminal policy) and directs its interest towards increased repression and harsher treatment of offenders, increased control of behavior and extended responsibility beyond the criminal justice system. That control, despite the increased repression, is oriented towards another set of goals and priorities:

prevention, safety, reduction of damage, loss and fear, which are different from the traditional goals of general and special prevention of criminal sanctions (Whattam, 2011: 6).

The greater emphasis on punishment, in contrast to the past, rather than on treatment is considered as the main reason for shifting the punitive welfare system into increased crime control. It is an expression of the paradigm "nothing works" to rehabilitate offenders, and also, of the more severe approach to crime and offenders which tends to demonize them. This shift is done due to the need for developing and providing short-term solutions and response to risky situations, rather than for improving the behavior of the offenders who require long-term measures and activities, long-term investments and visible and quick results. Also, the new control means recognize the limitations of the state to deal with crime and emphasize the partnerships and communities to take the responsibility for its prevention. Last, changes occur due to the growing role of the private sector in crime prevention (Garland, 2001 stated in Hastings, 2006).

Hence, the priorities and control methods in societies have changed. Not just the criminal justice system, but also the public requires enhanced supervision of the offenders, application of situational measures and development of new technologies to monitor and control the human behavior. Because of the increased insecurity, people demand tougher penalties and the state, in order to meet their demands and needs, adds to its repression. Offenders are now seen as a risk to others, rather than as people with specific problems (or persons endangered or disadvantaged) who are struggling with the challenges in their lives. Moreover, many people in pursuit for a life free from fear have raised their demands for protection by private insurance companies. These demands spread the market of private security.

Hence, in the period of late modernism, the problem of crime control is associated with the security in society, with the increased risks and the feeling of fear which cause increased repressive policies by the criminal justice system.

3. NEW TECHNOLOGIES FOR BEHAVIOUR MONITORING AND MANAGEMENT

The new technologies for monitoring and detection of offenders put the citizen as a potential object of observation. The idea is that when the problem of crime cannot be eradicated or when there is no political will to solve the problem, than it must be managed. That means observation of both, the minority (citizens classified as dangerous) and the majority (all citizens as potential perpetrators and potential victims). The tendency is to observe the majority, rather than, as in the past, the minority, i.e. those citizens who are suspected or warranted for criminal offences (Evans, 2010: 184). In late modernism, all people are viewed with suspicion and fear that they can do something suspicious and criminal. Therefore, the principles of deterrence and incarceration have become a major part of crime control. If they are acceptable as a treatment for certain "suspected" groups, then, they can be easily accepted and transferred to the general population, especially when there is a general mistrust and suspicion. According to Garland (2001), no one is immune from criminological scanning. As the criminal justice system has a limited capacity and is not a single part of the crime control system, the control, the monitoring and the surveillance of the citizens can be transferred to other private and public agencies and institutions (Evans, 2010: 184-185).

3.1. Applying video-surveillance (CCTV Closed Circuit Television)

One of the theses of the new crime control is that potential offenders will be deterred from committing crimes when they know that somebody is watching them, which means that they can be easily detected and caught. Proceeding from the above assumption, a widely accepted and commonly applied measure is placing video cameras in public places whose videos can be seen via a closed television system. These measures of video-surveillance (CCTV) began to apply from 1995 and it is estimated that in the US, approximately one million cameras were installed in 2006 in private and public places. In the UK, the British Home Office allocated £ 153 million for a period of three years (between 1999 and March 2002) to finance CCTV programs (Fussey, 2004: 254-255). In terms of their efficacy, studies show positive results, especially in reducing property offences when they are combined with street lighting (Byrne & Marx, 2011: 22). For example, in some cities (Newcastle) in England and Wales, where video-surveillance is widely used, when the identification of the perpetrators is possible, a decrease of robbery, theft and vandalism was registered up to 57%, as well as a reduction of the dark figure of crime (Clarke, 2000: 103). However, it raises the question whether people feel safer in the areas when they know that video cameras are placed in public places? The results of one study in Scotland showed that those citizens who felt safe prior to their installation continued to feel safer. Conversely, for those who did not feel safe, placing the cameras did not improve their feeling of fear and insecurity. In another study in the UK, the results for improved security are insignificant. In addition, the application of video-surveillance is often criticized as it violates the right to privacy in the area which is under surveillance.

Therefore, the question of the relationship between video-surveillance and fundamental human rights is the subject of debate at the UN Congress on the Prevention of Crime and Treatment of Offenders, at the European Forum for Urban Security (EPHESUS) and other international organizations. In that sense, in light of the danger of their limitation, EPHESUS has adopted a *Charter for a democratic use of video-surveillance*, which contains safeguards to protect privacy and fundamental freedoms. The Charter established seven principles to be observed. They are: legality, necessity, proportionality, transparency, accountability and citizen participation.

According to the *principle of legality*, the design and operation of the video-surveillance systems may be performed in accordance with the legal requirements for data protection, honor and privacy in the home and elsewhere. The video-surveillance system must be justified and inevitable, which means that, in a specific environment, no other measure can be applied to secure and maintain public order. So, there should be a connection between the security and crime situation in one area, on the one hand, and the need for supervision and control of behavior, on the other hand. Additionally, the surveillance should be employed when other, less invasive and affordable measures have proved insufficient and inapplicable or when the problem cannot be solved by applying the existing measures. In any case, the cameras should be installed in places that are designated as criminal hot spots and high risk and part of an appropriate strategy for crime prevention (Fisher S. Bonnie & Lab P. Steven, 2010, 110-111). It is important to point out that when monitoring is no longer needed or when the cameras can be moved elsewhere, the possibility of their withdrawal or relocation should be considered. *The principle of proportionality* means that the video-surveillance system must be appropriate and proportionate to the problem that is the subject of settlement and must have a balance between the objectives and the means to achieve them. Video-surveillance should not be the only answer, but part of an appropriate prevention strategy for increased security in the

community. *Transparency* means availability of information and external visibility of the system. *Responsibility* means that the right of surveillance of public spaces is the responsibility of carefully selected institutions. Whether private companies or other state institutions, they are guarantors that the application system will respect the privacy and fundamental rights and freedoms, and are therefore responsible for any infringement and violation of the established rules. Finally, the citizens have the right to consult and participate in the decision making process, as well as part of the assessment and evaluation of the system implementation.

4. THREATS FROM MASS-SURVEILLANCE AND THE NEW CRIME CONTROL

Security has become a new focus of crime control and these policies multiply the public campaigns for increased crime and insecurity in order to incite the purchase of safety and protection devices. And in fact, both the campaigns which raise the awareness of crime and the increased application of security measures, intensify the sense of uncertainty and affect the quality of life of all citizens. The new technologies for control and surveillance, pose a risk and danger to the individual privacy, as well as a risk of their excessive and inappropriate use (Grabocki, 1998). The danger of such measures lies not only in the measure itself, but in the fact that they are spreading to broader and broader groups of citizens. With their application, the respect for human rights, which is the key driving force in democratic systems loses its meaning and becomes the subject to many limitations (Salih, 2009: 52). With the application of video-surveillance, a growing number of citizens are put into doubt (Evans, 2011: 186). This is in line with the new focus of the criminal justice systems, which moved from individualized justice to management of dangerous groups and the development of new surveillance technologies. Instead responding to individual crimes, the penal system is designed to control those that are labeled and marked as hazardous, marginal and risky for the security (Ass. F. Katja, 2007: 20). So the question arises: *whether the new surveillance technologies represent a new repression?*

In response to this question, one of the most significant criticisms of such technologies is that they lead to the development of selfish and enclosed societies, causing withdrawal of people, isolation, seclusion and preoccupation with privacy. Basically, locks, fences and video surveillance are signs of fearful people. Fear and social exclusion further increase the distrust not only to strangers and to those who are perceived as outsiders and undesirable in certain space, but also the general distrust in the system. As a result of such disbelief, citizens build natural defense mechanisms. An example is the increased number of private residences surrounded by further installation of video surveillance or private security. Actually, they protect their private space from attacks from outside and the citizens rarely leave their homes because they feel the safest in their private residences. Such closed communities convey the message that access is limited to undesirable persons in their neighborhood, and thus, the social and physical distance between individuals and communities is growing (Tilley, 2008: 134). Thus, rather than strengthening the community, fences and video surveillance reinforce social controls through observation and surveillance in the neighborhood. The estimation is that around 2.5 million people in America live in some form of closed communities that are built in both rich and poorer communities (Clarke, 2000: 103). This means that fear is present everywhere and citizens are beginning, as in the past, to create their own enclaves with external safeguards. Also, the measures of mass observation result in exclusion of

undesirable persons (homeless, minority groups, foreigners, etc.) from public places such as shopping centers, parks and other facilities for recreational activities, because it is presumed that any stranger could take the opportunity to commit a crime. This creates social divisions and promotes selfishness and mistrust of foreigners who are perceived as a potential threat and danger. Such distrust and fear are characteristic of people regardless of age and they rarely rely on the help of strangers. In addition, video-surveillance, cameras for fast driving and other measures for monitoring in public places are a threat to human freedom (Clarke, 2000: 104) and in conflict with the right to privacy. When videos are used as evidence, they may violate certain procedural guarantees of the defendants in the criminal proceedings. In addition to court proceeding, their use is put into question when pictures are displayed on some televisions (or other media), as they may cause negative social effects for the people who are caught in committing illicit activities. For example, stigmatization, avoidance, condemnation, judgment, etc., that is inconsistent with the objectives of the crime prevention concept.

The new surveillance technologies are also blamed for devoting too much attention to the protection of the property and interests of the powerful, while neglecting crime against the marginalized, poor, minorities and other vulnerable groups. That *bought protection* (alarms, cameras, security devises, fences, etc.) means that the rich are slowly retreating from the state crime protection, as well as withdrawing from others areas of social life (for example, public health care or public education system).

In addition, the new crime control increases public campaigns about the threats and dangers in society caused by crime and at the same time encourage people to insure their properties and lives and to buy security devices (alarms, cameras, safety locks, dual locks, protection windows, sensors, light timers, etc.) (Whattam, 2011) For example, the British Crime Survey shows that between 1992 and 2000, as a result of the campaigns *protect your security*, the percentage of households that buy security devices has been increased. In fact, new technologies encourage greater fear and insecurity among the citizens and consequently increase their demands for protection. According to some critics (Whattam, 2011), that means *going on the edge* and thus the mass surveillance represents an industry of fear which is keen on maintaining insecurity and fear. The rationale is that insurance and other commercial companies in order to sell their products, encourage greater demand in the market of goods by the citizens (Whattam, 2011). To achieve that goal, campaigns for increased crime, theft protection and protection of the right to property are often undertaken.

Notwithstanding, it is often argued that the introduction of monitoring programs in the neighborhood (for example, neighborhood watch programs) and posting signs on certain public buildings, increase, rather than reduce, both the fear of crime and of victimization. For example, the survey of 14 cities in England and Wales (2005) shows that the cameras do not improve the feeling of security among the people, except when they know that a certain area is under video surveillance. Other research shows that those who are aware of the existence of video cameras are more concerned about the crime situation. Hence, situational and security measures, although aiming to reduce crime and increase safety, often fail to achieve that goal (Whattam, 2011: 37).

The new Crime Control also extends the application of the criminal justice system, which means that the increased use of the surveillance measures has tightened the penal policy. The rationale is that, as a result of the public campaigns for increased crime and increased self-protection, people become more fearful and therefore they require public condemnations, penalties and harsher treatment of the offenders. In this regard, the

criminal justice system increases the application of criminal sanctions as measures of repression in order to deliver the demands of the citizens and reduce and alleviate their fear. This situation in England and Wales has been illustrated by Tonry Michael (2004) with his statement:

"Now, I think the English massive and continuous investment in crime prevention a mistake. People who are constantly reminded that they should be fearful and protect themselves from criminals became fearful, and that may make them more likely to be more mistrustful and more receptive to populist anti-crime appeals. And, having through assiduous crime prevention programmes created a more fearful populace, England is now busily expanding its criminal justice system to address these fears. The worst of both worlds" (Michael Tonry, 2004 stated in Tilley, 2005: 6).

One of the remarks of the community based monitoring programs is putting greater emphasis on the situational versus social approach to solve the problems and improve the conditions in the community. This means that the surveillance and control measures have distanced and put aside the real social problems in the community. Instead, they deal only with protecting the safety and reducing the sense of fear that is often a result of external influences and threats. Such processes: putting problems aside, on the one hand, and increasing security, on the other hand, fulfill contradictory goals, because instead of reducing, they can increase fear. For example, placing stickers or signs on the walls of private or other public residences can signify that the area around them is under surveillance or that "crime is a problem there". Those messages can exert unwanted consequences and can increase the feeling of insecurity among the citizens. In fact, it means that the emphasis of such an observation and prevention is placed on protection from external influences. Offenders are seen primarily as outsiders, not as neighbors or members of certain communities. They are "the others" that endanger the security which becomes the target and object of attack from outside. In this sense, the importance of the role of citizens in preventive activities is seen as exercising control and maintaining order. By doing so, it reinforces the responsibility of those who can control and exclude others (Guilling, 2007: 195). Because of such understanding of the problems, community safety often fails to address the other types of crime that involve family relationships, child abuse, abuse of work, abuse of power and other violent crimes (Crawford, 1998: 245). One example which shows that such measures do not touch the real social problems in the communities is the fact that many security and surveillance measures are applied in areas that have a low crime rate and where the safety levels are often minimal.

The ethical issues of the new surveillance technologies were reviewed at the 10th UN Congress on Crime Prevention and Treatment of Offenders, held in Vienna from 10 to 17 April 2000. At the Congress it was emphasized that due to the fact that such measures and situational prevention in general aim to reduce opportunities for crime, in terms of reducing criminal motivations, they represent a more repressive approach and produce harmful effects on society. Therefore, the 10th UN Congress (2000) addressed the issues related to the negative consequences that create closed (fortress) societies, which increase the alienation among people and reduce mutual trust. It was particularly noted that the application of video-surveillance and other surveillance measures enhances the development of authoritarian forms of social control and restrict human rights and freedoms. They can also lead to social exclusion of the homeless, minorities and the poor from public places, such as shopping centers, parks and places for recreational activities.

5. MASS-SURVEILLANCE BETWEEN FREEDOM AND SECURITY

With regard to the foregoing, man becomes the subject to constant interventions, surveillance and increased discipline in the name of increased safety of the public and society (Rodriguez, M. Anabela, 2003: 195-196). Instead of sympathy, help and support for offenders, it offers protection to the public and immediate protection of the potential victim. Rather than indirect and long-term measures of social control, it offers a return of situational control. So, despite the creation of gated communities, limited access and social exclusion, situational prevention is consistent with the general culture of control that grows in late modernism (Garland, 2000: 13-14). However, despite the idea to create order through the mechanisms of situational control, which can be effective, the important ethical questions about the methods used for crime prevention as the ultimate goal cannot be ignored (Tilley, 2005: 5). While these methods can reduce crime, they create other negative consequences for the citizens at the same time: increased concern for personal safety, separation, closed societies, increased suspicion of potential perpetrators and limited access to certain locations that are subject to massive property. Such system represents a system of controlled living (Shapland, 2000).

Hence, we emphasize the question: whether, to achieve greater security, the goals justify the means, or whether security should be above freedom (and over democracy and individual human rights) if it limits and threatens the freedom of citizens? (Persak, 2007: 107). This question actually refers to the conflict between freedom and security, two top values in any society. For Clark, those measures whose outcomes reduce the level of crime can be justified (Clarke, 2000: 105). This means that security is placed above freedom. But, although security is the most important value and human need, it is also more important how it is protected. Its protection should not cause greater harm than that which would have been caused by the potential attack of the good or value (i.e., the commission of crime). Security does not need to increase xenophobia and intolerance. It cannot even accept the opinion that in order to prevent crime and in the efforts to increase security, we should balance between individual freedom, autonomy and human rights, on the one, and the values of security, on the other hand. Therefore, balance and compromises should not be allowed to the detriment of freedom and basic human rights (Persak, 2009: 116). Similarly, Garland argues that the new penal policies have no strategy for progressive social change and do not care to overcome the social divisions. These are policies that manage dangerousness and risks and strive to shift the burden of social control to individuals, organizations and surveillance measures that do not have enough resources to achieve those goals (Lea, 2002: 164).

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ANTI-CORRUPTION: LEGAL AND INSTITUTIONAL FRAMEWORK

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ABSTRACT

Fight against corruption is an important activity, both at international and national level. Worldwide experience in this area shows that this fight is a serious challenge too. The purpose of this paper is first, to analyze the legal and institutional framework for fight against corruption in certain countries and second, to deliver effective lessons from this base for better resolution of the problems connected with this issue in the Republic of Macedonia. This paper is composed of Introduction, two parts and a Conclusion. The paper begins with the definition of corruption and its main features and meaning. The first part of the paper analyzes the legal and institutional framework for anti-corruption in Denmark and Turkey, Denmark as a country with the lowest rate of corruption in the world, and Turkey as a country which according to the corruption perceptions index for 2015 is right behind the Republic of Macedonia. The second part of the paper analyzes the legal and institutional framework for fight against corruption in the Republic of Macedonia. The conclusion includes assessments of the analyzed questions and recommendations for further treatment of the anti-corruption legal and institutional framework in the Republic of Macedonia. The results of this paper are generated by analyzing official legal documents and political acts and using literature and studies connected with the issue.

Keywords: corruption, anti-corruption, Denmark, Turkey, Republic of Macedonia.

INTRODUCTION

The term "corruption" comes from the Latin word "corruptio" which means depravity, turpitude, debauchery, bribery, decay, rot, decomposition, adulteration (file, measures, weights, etc.). This term falls into the group of terms that are difficult to define with a single definition, because its meaning and content are changed depending on the historical period and political context in which the corruption is considered. However, the majority of scientists and organizations which research corruption worldwide, generally define it as "the abuse of entrusted power for private gain" (Transparency International. "How to define corruption?"; The World Bank Group."Helping Countries Combat Corruption: The Role of the World Bank-Corruption and Economic Development"; Kregar, 1997; Бошковић, 2005). In literature there are many different types and classifications of corruption depending on which area it occurs in, the form it takes or the social impact it makes. The most common classification is grand and petty corruption. Grand corruption is the abuse of high-level power that benefits the few at the expense of the many, and causes serious and widespread harm to individuals and society.

(Transparency International. “What is Grand Corruption and How can We Stop It?”; Amundsen, 1999). Petty corruption relates to the public servants responsible for the implementation of decisions and regulations. It is the day-to-day corruption of having to pay for everyday services. (Conference of the States Parties to the United Nations Convention against Corruption, 2015; Blasszauer, 1997). Regardless of the sector corruption appears in, it can take different forms. Each type has different origins and characteristics, and therefore requires different solutions.

1. The legal and institutional framework for anti-corruption in Denmark and Turkey

Denmark is regarded as one of the world’s least corrupt countries and Turkey is a country which according to the corruption perceptions index for 2015 is right behind the Republic of Macedonia.

1.1. Institutional and legal framework for anti-corruption in Denmark

As regards the institutional framework for fight against corruption in Denmark, the main body responsible for investigating corruption is the Public Prosecutor for Serious Economic and International Crime. The Public Prosecutor for Serious Economic and International Crime (hereinafter: SØIK) was introduced in 1973 for the first time as a separate institution for fight against corruption. Nowadays, SØIK continues to perform this function in Denmark. SØIK was established as a special branch under the authority of the Director of Public Prosecutions, as part of the unique Danish Prosecution system. SØIK operates nationwide. Organizationally, SØIK is a multidisciplinary team composed of prosecutors and investigators, divided in two sections. This division in two sectors is made on the basis of the types of crimes concerned, although almost all of the crimes are associated with financial crime. One of the sections deals with most of SØIK's criminal cases, which in addition to IPR cases includes tax fraud, investment fraud, violation of securities law, corruption, EU fraud and breaches of competition law. The second section deals with cases of money laundering, asset recovery and special international cases. In fact, the fight against corruption which this institution leads concerns cases related to economic and international crime that are substantial in scale or are part of organized crime or otherwise qualify for special attention or because of their comprehensive nature. It should be emphasized that SØIK is not limited solely to the above mentioned cases. It may decide to investigate and prosecute a case itself. Separate parts of Danish law pertaining to the above mentioned cases, obligate the persons who are associated with a specific corruption case in some way, to submit the required information to the SØIK. For example, Danish competition law stipulates that if the Danish competition authorities find that competition law has been breached intentionally or grossly negligently, and if the case cannot be closed with a fine in lieu of prosecution, the authorities may report it to the Public Prosecutor who may charge the undertaking and/or the responsible individual formally and bring the case to court. The Act on Measures to Prevent Money Laundering and Financing of Terrorism provides that in case of a suspicion of a client’s transaction or the enquiry having connection to money laundering or financing of terrorism, lawyers must investigate the transaction or the enquiry and the SØIK must be informed immediately. A reported transaction may be carried through unless the SØIK issues a seizure order. Lawyers are required to cease transactions upon reporting for suspicion of terrorist financing until given further notice from the SØIK. On the other hand, SØIK also has the obligation to inform through the Danish Bankers' Association, publish and distribute

updated alert lists to all Danish banks. These alert lists contain information about names of individuals who are suspected in connection with acts of terrorism.

But what emerges as the undisputed conclusion is that the fight against corruption in Denmark is aimed at fighting the financing of terrorism, money laundering, corporate corruption, while the Danish civil service is considered to have high ethical standards as a common value. These standards of behavior among public servants and transparency in public procedures results in a few formal rules regulating integrity and anti-corruption.

The main legal anti-corruption source is the Danish Criminal Code which forbids most of the forms of corruption including active and passive bribery and forms of corruption contained in international anti-corruption conventions. The other and the last is the Act on Measures to Prevent Money Laundering and Financing of Terrorism which requires regulated financial institutions and other entities to report suspicious transactions to the SØIK. Denmark has no specific laws to protect whistleblowers, to ensure registered contact between public officials and lobbyists, nor for the conflict of interest.

The conclusion is that the basic anti-corruption measures in Denmark primarily rest on ethics and moral rather than on formal rules.

1.2. Institutional and legal framework for anti-corruption in Turkey

Turkey does not have an anti-corruption institution *per se*. However, there are several institutions which have an anti-corruption mandate in different areas.

1.2.1. The Financial Crimes Investigation Board (MASAK)

MASAK was established with the enactment of Law No. 4208 on Prevention of Money Laundering on 19 November 1996 and started to carry out its functions on 17 February 1997. The functions and powers of MASAK are determined in detail with a number of laws (Law No. 5549 on Prevention of Laundering Proceeds of Crime which was put into force on 18 October 2006; Law No. 6415 on the Prevention of the Financing of Terrorism which was entered into force on 16 February 2013 and Law No. 5271 on Turkish Criminal Procedure Law (in Article 128 which was amended on 21 February 2014). Organizationally, it could be said that MASAK is divided in three main sectors, depending on the type of issues it deals with. Each of these sectors is led by a deputy head. The functions of MASAK cover the following main areas: prevention and detection of money laundering and terrorist financing; policy development and regulation; quick and reliable information collection and analysis, carrying out examination and research and dissemination of the information and results to the relevant authorities.

1.2.2. The Council of Ethics for Public Service (CEPS)

CEPS was established within the Prime Ministry in 2004 with Law No. 5176 referred to as the "Establishment of Council of Ethics for Public Service and Making Amendments to Certain Laws". Its main goal is to fight against corruption and embed ethical culture among public officials by managing and investigating complaints by individuals and companies regarding mismanagement and misconduct in public offices. According to the data related to the Council's Decisions based on application titles between the years 2005-2010, it could be concluded that the majority of submitted cases (128) were objected due to procedural reasons and in a small number of cases (38) it was found that the ethical principles had been violated.

1.2.3. Prime Ministry Inspection Board (hereinafter: PMIB)

PMIB was established in 1984 pursuant to the oversight and inspection authority of the Prime Minister over the Ministries as stated in Article 112 of the Turkish Constitution. It has the mandate to inspect and supervise the ministries, public institutions and other public bodies under the directive of the Prime Minister. It can also investigate major corruption cases. The last available report for PMIB`s activities to be found on line is from 2009.

1.2.4. Turkish Court of Accounts (hereinafter: TCA)

TCA was set up by the imperial edict of His Majesty Sultan Aziz I on 29 May 1862 and took its place as the Supreme Audit Institution in the first Ottoman Constitution of 1876. The TCA carried out regular (financial and compliance) and performance audits. In December 2010, the Parliament adopted a new law on Court of Accounts. According to this new law, TCA has no longer the authority to conduct inspections and limit public institutions' power of discretion. Under the changes, the Court will not be able to carry out performance audits of public institutions. According to this new law, all of the audit reports of the Court will be open to the public, with the exception of the Military Forces.

The research showed that all these bodies have a common feature - the fact that their organization and functions are prescribed by law in detail. Additionally, they have been strongly supported by the European Council and European Union through projects for reducing corruption and embedding ethical culture. It should be noted that the information about these bodies and the achieved results for some of them are available on line, but they do not allow in-depth view on the achievements. Generally, the reports of their operations and the results of their work are not published online annually. We consider this as very important because in some way it can help the public to see the real intentions of the government for fight against corruption.

In 2009, an action plan called the National Anti-Corruption Strategy Plan (2010-2014) was announced in the Official Gazette of the Republic of Turkey annexed to the Council Decision. The aim of the Strategy Plan was as follows: "To develop and implement a perception of governance that is just, accountable, transparent and credible, that would not only continue the reform attempts since 2002, but also take into consideration the multiple factors that feed into the lack of transparency and predicament of corruption". The right question is what is the impact of this Turkish anti-corruption strategy on the level of state corruption? According to the European Union Regular Progress Report for Turkey in 2016, corruption remains prevalent in many areas and continues to be a serious problem (European Commission, "Turkey 2016 Report - SWD(2016) 366 final").

The list of main anti-corruption regulations in Turkey is long (Law on the Right to Information No.4982, Law Concerning the Establishment of State Employees Board of Ethics, Law of Public Finance Management and Control No.5018, Public Procurement Law No.4734, Direct Foreign Investments Law No.4875, Law Concerning Associations' and Foundations' Relations with Public Institutions and Organizations No.5072, Press Law No.5187, Law on Amending the Petroleum Market Law No.5576, Banking Law No.5411, Turkish Penal Code No.5237, Criminal Proceedings Law No.5271), but the analysis shows that these laws contain a number of provisions that limit the rights of the citizens (for example, Article 16 and Article 17 of the Law on the Right to Information No.4982. Furthermore, the cases involving leading public officials cannot be pursued unless the Prime Minister decides to do so). Therefore, it cannot be said that it is a real fight against

corruption. Turkey also has no codes of conduct in place for members of the legislature or judiciary. As to the legislative framework, most reports agree that one of the major problems is the lack of independence of the legislators from their political parties (Transparency International, 2016; Bertelsmann Foundation, 2010; Global Integrity, 2010).

The example of Turkey also shows that it is important to involve various public agencies and authorities in the fight against corruption, but much more important is the implementation of appropriate anti-corruption measures and at the same time it is necessary to have mechanisms to monitor their implementation.

2. **Institutional and legal anti-corruption framework in the Republic of Macedonia**

The National Commission for Preventing Corruption (hereinafter referred to as NCPC). It should be noted that on the web side, this Commission`s name is State Commission for Corruption Prevention, but in the English version of the Law on Preventing Corruption, the same commission is named National Commission for Preventing Corruption and it is the main anti-corruption body in the Republic of Macedonia (hereinafter referred to as RM). NCPC was established in 2002 with the Law on Preventing Corruption. This law stipulates the position, composition, jurisdiction and manner of work of this Commission. The main objective of the NCPC is to implement measures and activities for corruption prevention in the exercise of power, public authorization, official duty and policy, measures and activities for prevention of conflict of interests, measures and activities for prevention of corruption in performing matters of public interests by legal entities related to the exercise of public authority, as well as measures and activities for corruption prevention in the business sector. According to the Law, the NCPC is autonomous and independent in the performance of its actions. The members of the NCPC are appointed by the Assembly of the Republic of Macedonia, for a term of four years, without the right to reappointment. Article 49 of the Law on Preventing Corruption stipulates that NCPC has the following areas of competence: adopts a National Programme for corruption prevention and repression; adopts annual programmes and plans for the realisation of the National Programme; gives opinion of proposed laws relevant to corruption prevention; raises initiatives before the competent bodies for control of the financial and material work of the political parties, trade unions and citizens' associations; raises initiatives to conduct proceedings before the competent bodies for discharge, replacement, criminal prosecution or application of other measures of responsibility to elected or appointed civil servants, officials or responsible persons in public enterprises and other juridical persons managing state capital; considers cases of conflict of general and personal interests, determined by this Law; makes evidence of, and follows the property situation, changes in property situation and additional profitable and other activities of elected and appointed civil servants, officials and responsible persons in public enterprises and other juridical persons managing state capital, in a manner defined by this Law; adopts a Book of Procedures for work; proposes funds in the draft budget of the Assembly of the Republic of Macedonia necessary for its work; prepares annual statements for its work and undertaken measures and activities and submits them to the Speaker of the Assembly, the Assembly, the Government and the Supreme Court of the Republic of Macedonia and publishes them in the media; cooperates with other state bodies in the suppression of corruption; cooperates with corresponding national bodies of other states and with international agencies and bodies in the field of suppression of corruption; undertakes activities in the area of education of the bodies competent to detect and

prosecute corruption and other forms of crime; and performs other tasks defined by this Law.

The following main questions arise: how does the NCPC implement its legal obligations and what is its transparency and accountability in the fight against corruption. According to the Law, NCPC is obligated to inform the public of the undertaken measures and activities and of their results through regular annual reports or when it deems it is necessary to inform the public. Annual reports are published online on the NCPC`s web site, but the available data are generally defined and hence do not suggest whether, for ex. certain judges were involved in these cases.We will try to give an objective answer to the previous questions through the results of the independent reports. In this sense, most of the reports for Macedonia agree that corruption and inefficient bureaucracy are still big challenges for Macedonia. (World Economic Forum, 2015-2016*;* World Bank & IFC. 2015; Freedom House, 2015; US Department of State. 2015; US Department of State, 2014; USAID, 2014; European Commission, Oct. 2014; Freedom House, 2014;; Bertelsmann Foundation, 2014; World Economic Forum, 2014; UNODC, 2013; World Bank & IFC, 2013; Transparency International., 2011). The Macedonian judicial system suffers from corruption, nepotism and a lack of independence. Corruption and government interference remain general problems in Macedonia's police sector. Corruption, red tape and political patronage are problems throughout Macedonia's public administration. Corruption and mismanagement are major problems in municipal administrations, especially with regards to bribery in the construction sector. Corruption and mismanagement are widespread in public procurements. Despite Constitutional protections, the freedom of press and of expression are not always upheld in Macedonia. The EU Progress Reports, which are prepared yearly to monitor Macedonia’s progress towards its accession to the EU, note the problems with the rule of law and corruption as “serious problems.”

The main anti-corruption laws in the RM are as follows: the Law on Prevention of Corruption, the Law on Prevention of Conflict of Interest and the Law on Lobbying. There are rules in place regarding gifts and hospitality, but there are no internal mechanisms for supervision of these rules. The Laws on Courts and Judicial Council do not explicitly mention corruption nor organized crime. Anti-corruption provisions apply to all individuals in public or private sectors, and companies can be held criminally liable for corruption offences committed by their representatives. The general conclusion is that there are formally well developed anti-corruption laws, but not properly implemented in reality. Additionally, there is the problem with those who adopt the laws. Namely, the Assembly of the Republic of Macedonia is formally independent, but in practice its independence is compromised by the political parties. In this context, quality laws and more efficient and effective cooperation and coordination between institutions are necessary. (Labovic, 2010).

Conclusion and recommendations

The fight against corruption depends on the specific circumstances in the particular state. However, some lessons can be drawn as common aiming towards much more successful fight against corruption. One of the general conclusions is that Macedonia and Turkey struggle with very similar problems. According to the European Union, corruption in both countries is a serious problem. There are laws and technical documents, but there is also the lack of their implementation in reality. We consider that this situation is a result of the lack of real political support. A successful anti-corruption strategy should be both

political and legally supported. If the fight against corruption is not a high priority of the government, the environment will also not be conducive to achieving good progress. At the same time, the legal anti-corruption framework should not be complex. The legislative process needs to be transparent, particularly in the terms of public participation and consultation.

Furthermore, one of the democratic principles, the separation of powers, should be effectively implemented, otherwise it is one of the most prominent obstacles to the struggle against corruption. By doing so, the institutions whose organizational structures depend on the Parliament will be more independent and trustful. All the bodies that fight corruption, including the judiciary, should establish detailed statistics of corruption cases, available to the public, in an understandable format. The anti-corruption strategies should provide the terms of implementation of the activities and specify how the responsible authorities will determine whether a measure has been implemented. This is necessary for progress evaluation with regard to the undertaken measures against corruption and for the future fight against corruption.

There is no doubt that the fight against corruption involves and should involve many subjects, different bodies, agencies; nevertheless, independent and sufficient budget is essential for success. They should be separately included in the national budget.

The perception of the public is very important. Exposing ethical violations and violaters by effective tools is necessary. Another important measure are mandatory trainings which should include lectures and seminars about the legal requirements related to the fight against corruption, conflict of interest regulations, codes of ethics and values. This training should address the specific corruption problems which the concrete subject faces: individuals or agencies/bodies.

We consider that one of the most effective ways to change the public tradition of bribe giving is clear transparency of the information related to the citizens, the business sector, the government and the judiciary. The Government and the judiciary are the key institutions in the fight against corruption and therefore, they should observe the highest standards for transparency in their activities.

The constant cooperation between NGOs, the public and the private sector is a "must have" for fighting corruption. Support of the international organizations is very helpful and it should be sustainable and strong in all aspects of this issue.

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ADMISSIBLE AND INADMISSIBLE EVIDENCE IN CRIMINAL PROCEDURE

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ABSTRACT

The status of evidence and its evidentiary value are determined by legal solutions in national legislations and court decisions. At the same time, this problem is becoming the more complex when it comes to cases where evidence is collected in several countries, on grounds of decisions of various government bodies in different legal systems. Applying unlawful evidence today is only a relatively significant violation of proceedings. Regardless of the system, there is no universal solution whatsoever for the evaluation of the status of evidence as lawful or unlawful, admissible or inadmissible. The court's action, in this sense, is determined as conventional and legal, but with full respect for the principle of free judicial conviction and the principle of lawfulness. The treaties of the European Union and the international legal standards in the law on criminal evidence allow for new possibilities with full respect for the provisions of national law, with the aim of respecting fair criminal proceedings.

Key words: *lawfulness, evidence, criminal proceeding, fairness.*

1. Introduction

The basis of modern criminal proceedings today clearly maintains the concept of *fair trial*. Thus, a significant feature of the proceedings implies that evidence presented to the court shall be truthful and that they arose in a way as stipulated by law. In the case that the latter condition is not fulfilled, certain evidence is considered unlawful, which is excluded from the procedure as inadmissible, even if it gives important, and perhaps, also, incriminating, information (Bayer, 1978; Simić-Jekić, 1989; Brkić, 2011; Pisarić, 2010).

Noting louder demands of the society for efficient, fast and economic criminal procedures, the fact that the standards of legal ethics are constantly being limited can also be observed. This is especially evident in the mentioned context of *evidentiary*, or criminal procedural law. Thus, the issue of inadmissible (both direct and indirect) evidence is among the most delicate issues (Krapac, 1982; 2010; Halilović, 2013).

Namely, the presented position encompasses two conflicting interests in the criminal procedure. On the one hand, there is a tendency that evidence, which is lawful *per se* and really proves the guilt of the defendant, is not excluded for the reason that the information based on which the evidence was collected originated from any unlawful evidence. On the other hand, there is also a tendency to ensure the lawfulness of criminal proceedings and respect for the defendant's human rights during the criminal proceedings (Knežević, 2007; Škulić, 2009).

Respecting the above stated, the authors of this paper will further point at certain logical and practical problems regarding the legal validity of various evidentiary materials. In this sense, attention will be paid not only to the standards of national criminal legislative and judicial practice, but also to the standards of international law. Finally, by a critical approach, attempt will be made to define *de lege ferenda* proposals for legislative improvements regarding the given subject.

2. Defining the issue and certain questions

The complexity of defining the evidence status in criminal procedure is certainly most easily observable in examples of judicial practice. In this sense, the most striking are the cases in the Special Department for Organized Crime in the Belgrade High Court against Darko Šarić (DŠ) and others, as well as the trial before the High Court in Ljubljana against Dragan Tadić (DT) and others. Other trials can be observed in the same context, those conducted before the courts in other countries regarding the evidence resulting from the police action "Balkanski ratnik" ("The Balkan Warrior"). Namely, in these cases various evidence was used which had to be obtained from several legal systems, resulting from different procedures and authorities. Thus, it is reasonable that the issue of admissible and inadmissible evidence is further complicated (Pavlović, 2016).

When analyzing the specific cases in more detail and raising charges, the prosecutors used evidence obtained both in the Republic of Serbia, as well as abroad. It was acquired by secret monitoring and recording, raster scan, controlled delivery and/or participation of undercover agents, whereby their validity before the Courts of First and Second Instance was not contested. Written evidence was not disputed either: evidence such as documents obtained via international legal assistance from other countries e.g. Italy, Great Britain, Argentina and others. The Court of First Instance in Belgrade did not question the lawfulness of this evidence, while the Prosecutor's Office pointed out that European standards were observed in course of the implementation of the mentioned investigative techniques and procurement of evidence.[1]

Although the above mentioned does not indicate procedural issues on a national level, it should be noted that the international character of the given action bore significant legal complexities. Thus, in the criminal proceedings, as part of the *Balkan Warrior*'s activities, the trial was held before the District Court in Ljubljana, where in 2012 the First Instance Court excluded the evidence obtained in Serbia and Slovenia for one of the branches of DŠ's organized crime groups. The excluded evidence contained evidence procured by secret monitoring of communication, secret following and recording, while the court did consider evidence from Italy and Uruguay. The Ljubljana High Court eventually overruled the verdict because it evaluated differently the evidence obtained abroad (inadmissible in this exact case) leading to the reopening of the proceedings, in the instance verdict at the time.[2] In relation to the same issue, the Court of Appeal in Belgrade, deciding on the complaints of the mentioned verdict, actually referred also to the evidence

[1] The Prosecutor's Office for Organized Crime: March 2009-September 2012 – Belgrade, TOK, 2013. See: Introductory speech vi: Overview of the most important cases – The Balkan Warrior, pp. 2-8

[2] http://www.naslovi.net/2012-11-22/b92/srpski-sud-kasno-dostavio-dokaze/4107847 posećeno 15.8.2016. at 11 p.m. However, in the *Patria* case evidence from foreign countries (Finland and Austria) had a major role, whereby Slovenian courts and First and Second Instance Courts used evidence from abroad as the grounds for conviction. In both cases in Slovenia the fundamental issue was assessment of admissibility of evidence from abroad. (The case eventually became obsolete.) See: in 2nd and 3rd volume of the trilogy on arms trade "U ime države" Matej Šurc and Blaž Zgaga published in Slovenia in 2011/12.

which was legal, but in the given case, nevertheless, inadmissible regarding the way of presentation.

The topic dealing with the status of evidence on which the verdict can (not) be based implies a whole range of questions that require immediate answers. This topicality, in effect, stems exactly from the fact, that in terms of inconsistent jurisprudence, numerous verdicts in criminal proceedings are overruled exactly with the reason that they are based on *unlawful/inadmissible* evidence. At the same time, we should bear in mind that there is an increasing number of committed criminal offences of organized crime, terrorism, human trafficking, drug trafficking and others, both in the country and abroad. The new means of evidence that stem from the scientific and technological novelties demand appropriate assessment of their admissibility, lawfulness of obtaining and use as evidence in criminal proceedings (Ivanović, 2015; Manojlović, 2006). A separate topic here is definitely the evidence generally called a chance find i.e. *the fruit of the poisonous tree* doctrine (Obradović & Župan, 2011; Ikanović, 2014; Carić, 2006).

To avoid going into detail at this point about all the controversies and stipulations of the existing Criminal Procedure Code of Serbia of 2011, let us note that the court activities have been directed to the examining of the lawfulness i.e. inadmissibility of evidence (Pavlović, 2015). Not wishing to further analyze the case of DŠ and the organized crime group and the final verdict of which is still to be heard, we should point out that this case in fact opens up issues of how the court is to assess evidence. Thus, for instance, the principle of free assessment of evidence (Art. 16 of the Criminal Procedure Code) refers both to evidence obtained in the country and abroad. Nevertheless, the judge is not entirely free, primarily because of respecting the prohibition of evidence based on international treaties, the Constitution and the Criminal Procedure Code. With cases of organized crime, the decision is surely influenced, more or less, by the interaction of case features, offenders, as well as the element of foreignness of evidence, and the perception of facts which are established with them in the proceedings. The catalogues of investigative actions or ways of obtaining evidence, as well as the conditions and actions which regulate certain investigative actions, influence the validity of evidence obtained in the country and abroad, as well as their application so as to be accepted by the domestic legal order and serve as legal grounds for the decision.

The use of inadmissible evidence represents a major violation of the stipulations of the criminal procedure (and not only of the criminal, but the misdemeanor proceedings as well), which is definitely an irremovable obstacle, which the court has to observe by official duty (Škulić, 2009). The court's failing to warn the witnesses of their right when and who is exempt from testifying, or taking statements from police officers on the circumstances which they had found out in the pre-trial proceedings from the defendants or witnesses are textbook examples of evidence which is both unlawful and inadmissible by origin and content.

A fact to be underlined is that under the influence of the judicature of the European Court of Human Rights (ECHR) and international courts, the model of relative exclusion of inadmissible evidence has been accepted by the court. This stands out along with the noticeable Americanization of criminal procedure present in most countries in transition, thus in Serbia as well. Thereby, a rhetorical type of question arises, whether court practice can renounce hesitant standpoints and different approaches in similar cases where inadmissible evidence appears. Regardless of whether a piece of evidence originates from the country of the seat of the court or from a foreign country, the rules have to be the same for all.

3. Acceptability of evidence according to the ECHR standards and international legal provisions

Convention provisions regarding inadmissible evidence can be seen through the attitude to observe the right to fair trial. Generally speaking, ECHR concludes that the role of this instance is not to give assessment on the admissibility of evidence instead of national courts. Nevertheless, the given court has the right to examine the way the evidence was assessed, as a significant element in decision making, and to establish whether the trial was or was not fair.[3]

Following court practice, it can be concluded that using inadmissible evidence *per se* does not automatically mean that the right to fair trial has been violated, or that the evidence should necessarily be excluded.[4] This virtually means the lack of absolute (obligatory) approach to exclusion of inadmissible evidence when the credibility of evidence was approved in the criminal procedure and the defendant had adequate opportunities of evidence through the right to defense, without compromising the right to fair trial.

Since the first decisions which dealt with the influence of evidence obtained by virtue of violating rights, as in *Schenk vs. Swiss* or *Khan vs. UK*[5], the ECHR has maintained the principle stance not to prohibit the possibility of using evidence in court collected in an unlawful way, provided that all the circumstances of the case have been examined. The situation is dissimilar in respect to non-derogable rights!

It is exactly the standards of the procedure of fairness or reliability (i.e. inadmissibility) of evidence in proving the indictment that the European Court of Human Rights especially values. In the case of *Jalloh vs. Germany*, the court emphasized the necessity to answer the question whether the way of procuring evidence was legal.[6] In the course of deciding whether it was conducted in a legal way, the court had to consider whether the submitter had the opportunity to challenge the admissibility of evidence, and thus to oppose its execution.[7] This way, the court which decides on a criminal case has to observe constantly not only the lawfulness of the evidence presented but also its admissibility; in other words, whether there is or there is not any doubt regarding its validity and reliability.

With respect to the previously stated increasing internationalization of criminality and the issue of evidence "movement" between various competences, the Institute of Mutual Legal Assistance has a particular role in criminal matters. The multilateral legal foundation of the said institute is the European Convention on Mutual Legal Assistance in Criminal Matters (ECMLA), concluded on 20 April 1959 in Strasbourg, and the Additional Protocol to the European Convention on Mutual Legal Assistance in Criminal Matters, signed on 17 March 1978.[8]

The 1959 Convention of the Council of Europe and the Additional Protocol are founded on the principle of member states' reciprocity, with full respect of the *locus regit actum* rule. The admissibility of evidence, in this sense, is assessed respective of the right

[3] Van Mechelen at al. vs Netherlands, 18 March 1997. item 50.

[4] *The court therefore cannot exclude as a matter of principle and in the abstract that unlawfully obtained evidence of the present kind may be admissible*, Schenk v. Swiss, No 10862/84, 12 July 1988

[5] Khan v. UK, No 35394/97, 12. May 2000

[6] Jalloh v. Germany, petition no. 54810/00, 11.7. 2006

[7] Vanjak v. Croatia, petition no. 9889/04

[8] The Convention and Additional protocol were incorporated in Serbian law in 2001.

of the requested member state, with full mutual respect of the sovereignty of the states participating in the mutual legal assistance.

A problem which is evident in the stipulations of ECMLA, regarding cases, lies in the exclusively *ad hoc* character of the application. Namely, the provisions of this legal source refer to criminal offenses and do not render solutions regarding certain more recent procedural evidentiary actions, such as videoconferences or covert investigative actions. In addition, the requested state can always refuse the request for providing legal assistance if it would jeopardize its *ordre public*, security and other vital interests (ECMLA Art. 2b). The requesting state could face an additional problem with the *locus regit actum* rule regarding the admissibility of evidence.

The shortcomings of the Convention in procuring evidence within EU member states have been attempted to be solved through the implementation of specific conventions on legal assistance in criminal matters, which amend the ECMLA and are applied in parallel. Since the 1999 conference in Tampere, the European Council has implemented the principle of mutual recognition as the cornerstone of judicial co-operation in the EU in civil and criminal matters.[9] Mutual recognition means that each decision of an EU member state shall be recognized and enforced throughout the Union. Thus, the co-operation called *request model* has been changed into *order model*. The subjects of co-operation are judicial bodies which have been given very short procedures to respond to a received order, with the aim of efficient fight against transnational organized crime.

The principle of judicial co-operation in criminal matters with the element of foreignness has brought about the ratification of a range of documents that facilitate it. The first introduced instrument was the 2002 Framework Decision on the European Arrest Warrant and the Surrender Procedures between Member States, by which the procedure of extradition was replaced with the procedure of surrendering wanted persons.[10] The Framework Decision is a model of the principle founded on mutual recognition, which is additionally followed and specified by further instruments. Moreover, two Framework Decisions have been brought in 2003, regulating the insurance of property and evidence, as well as procuring evidence, but they have not come to life in practice in all EU member states.

Based on the positive results achieved through the implementation of the European Directive of Arrest which has raised the efficiency in surrendering wanted persons to maximum 6-7 weeks, the legislator has extended the principle of mutual recognition in the EU to cross-border procurement of (all) evidence in a criminal procedure. This bears enhanced significance since on grounds of the 2003 Decisions the given problem was addressed in a partial way. The legislative which is slowly adopted in this matter advanced step by step, so that the motion was made only in 2010, and the Directive Regarding the European Investigation Order in Criminal Matters was ratified on 3 April 2014, which, nevertheless, offers comprehensive solutions. The Directive must be implemented into the national legal systems of the EU member states no later than 22 May 2017.[11]

The law on evidence in EU member states, with different models of court actions regarding evidence obtained in a foreign country, is definitely a "stone in the shoe" in the

[9] Tampere European Council, 15-16 Oct. 1999, Presidency Conclusions, par. 33.

[10] Framework Decision on the European arrest warrant and the surrender procedures between Member States, Official Gazette 190,18/7/2002

[11] *Directive regarding the European investigation order in criminal matters*, Official Gazette 130, 1 May 2014, Initiative of Belgium, Bulgaria, Estonia, Spain, Luxemburg Austria, Slovenia and Sweden, COPEN 115, CODEC 363, EUROJUST 47, EJN 12, Brussels, 29. 4. 2010.

development of European criminal law. The implementation of the mutual recognition principle with evidence procured in a foreign country and the possible problems stemming from it rest on the differences existing in the laws of evidence in EU member states. Namely, procuring evidence and its use represent a logically connected and undivided whole. The status of evidence obtained in a foreign country, according to the criminal procedural law of the country executing the warrant can always be challenged before the court of the country issuing the warrant, i.e. its admissibility in a criminal procedure. Therefore, EU candidate countries, such as Serbia at this point, should in good time start amending their national legislation. Thus, such a move would reflect higher efficiency of procedure in cases of organized crime, with the element of foreignness, which are more numerous than a few years ago, let alone a few decades ago.

4. Status of evidence in the Criminal Procedural Law of Serbia

The Constitution of the Republic of Serbia, [12] irrespective of the constitutionalization of Criminal Procedure Law (Pavlović, 2014), does not explicitly deal with the lawfulness of evidence. Thus, issues regarding admissibility/inadmissibility of evidence are to be regulated through procedural legislation. However, the Constitution does refer to fundamental citizen rights and freedoms, through the protection of which the level of acquired human rights and freedoms in each modern country is reflected. These are rules on inviolability of home, confidentiality of communication, the general right to remain silent, the privilege against self-incrimination, as well as protection from involuntary self-incrimination (including the *Miranda paradigm*). Thus, these rights are ultimately stipulated as limited or controlled only by a special court decision.

According to the valid Criminal Procedure Code of 2011 applicable in all criminal procedures as of 2013, and the provisions of Art. 16, the role of the court is to assess in each phase of the criminal procedure whether the evidence in the procedure has been legally procured and presented. Thus, the CPC does not stipulate which evidence is unlawful. The general provision cites, connected to the Constitution of Serbia (Art. 16, par. 2, which speaks of the sources of evidence in general) that court decisions may not be based on evidence which is, directly or indirectly, in itself or by the manner in which it was obtained, in contravention of the Constitution, this Code, other statute or universally accepted rules of international law and ratified international treaties, except in court proceedings in connection with the obtaining of such evidence.

The Criminal Procedure Code underlines that the evidence is unlawful if it was obtained in an unlawful manner, or which is indirectly unlawful. Thus, *the fruit of the poisonous tree* concept is clearly accepted. This means that the lawfulness of evidence is compromised if in the process of its procurement or presentation certain unlawful evidence was used, or if the evidence would have never been obtained had it not been preceded by the procurement of unlawful evidence. *Argumentum a contrario*, it is the case of lawful and inadmissible evidence. The devaluation of the *fruit of the poisonous tree* concept stipulated in Art. 16 CPC is evident in that a legal provision defines it as a relatively substantial violation of criminal procedure. This results in the fact that this shall not necessarily lead to the dismissal of the decision if according to the assessment of the second instance it would be obvious that even without that unlawful evidence the same decision would be rendered. The principle of the *fruit of the poisonous tree* regarding exclusion is limited even in the American legal practice in cases when the fruit of the

[12] The Constitution of the Republic of Serbia, *Official Gazette RS* 98/2006.

poisonous tree would be obtained even if the lawful manner of evidence procurement was maintained.

With respect to the procedural actions, the evidence which is established as unlawful shall be put in a separate envelope, sealed, and kept by the judge for the previous procedure (Art. 84, on unlawful evidence) until the final decision is rendered, and shall be destroyed and a record shall be made on the action. An exemption to the rule is that the evidence is kept until the finality of the judicial proceedings because of obtaining such evidence. It is a situation when violation is established of Art. 5 of the Universal Declaration on Human Rights, and of Art. 25 of the Constitution of Serbia. Namely, it is stipulated (by Art. 9 of the Criminal Procedure Code) that any use of torture, inhumane and degrading treatment, force, threats, coercion, deception, medical procedures and other means affecting the free will or extorting a confession or other statement or action by a defendant or other participant in proceedings is prohibited and punishable.

There is a more specific situation regarding evidence obtained from a foreign country with the aim of its use in criminal proceedings in home courts, which was procured on grounds of bilateral agreements or by virtue of international legal assistance. Evidently, the legislator accepted the model by which evidence obtained abroad is assessed according to *lex fori*, where the court shall apply constitutional, legal and other criteria such as transnational public order and international standards in the field of observing human rights and fundamental freedoms, respecting which allows for the possible application of this evidence. Consequently, evidence obtained in a foreign country shall comply with the principle of lawfulness not only in Serbia but also in the country and with the procedural rules of the country of origin.

A special decision in a conviction on the status of evidence procured in a foreign country has to be rendered, regardless of whether it is a case or special jurisdiction (organized crime) or not. Such a decision must always represent the free assessment of an independent court which does not depend on the wishes of either the prosecution or the defense. Nevertheless, the analysis of court practice shows that there is no universal answer to the question on how such evidence is assessed.[13]

Pursuant to the applicable legal provisions and convention obligations, the question is what suggestion to give to the judge, what stance he/she should take regarding the status of evidence obtained in a foreign country. It is fundamental to establish the lawfulness of evidence procured in the country of origin. This is to be verified if the party claims that the evidence was collected in an unlawful manner, or if the court has any doubts about it. If the court finds that it was obtained unlawfully, most states stipulate that it may not be used in the proceedings. However, if the answer is affirmative, the next step is to establish whether such evidence was procured in co-operation with Serbia through international legal assistance or not. If in the course of the procurement of evidence from a foreign country, the Republic of Serbia was in the position to influence the manner of procurement, it is considered to have been completely procured by the Serbian authorities, in Serbia. In this case, *only* the standard stipulated in Art. 16 of CPC is to be established, i.e. whether the evidence was obtained pursuant to the stipulations of the Criminal Procedure Code, the Constitution, and international rules (such as the ECHR). Nevertheless, if it is a matter of evidence which was not originally obtained in a foreign country at the request of the Serbian court, but of a foreign one, then only the standards

[13] On court rulings in cases of organized crime see court reports on the website of the Court of Appeals www.bg.ap.sud.rs for the period from 2014 to May 2016.

guaranteed by the Constitution are required since the provisions of the Serbian CPC may not be binding for a foreign court.

Analyzing a few (instance) decisions of the Court of Appeal,[14] where the defense lawyers appealed to the fact that the statements of witnesses before foreign courts were obtained against the provisions of procedural laws of those countries and the provisions of Article 47 of the Law on International Legal Assistance in Criminal Matters, it is somewhat surprising that there was no reaction from the Court nor an assessment of lawfulness of evidence collected from a foreign country in this manner.

In the case against DŠ and others, deciding upon the appeals of the parties, the Court of Appeal in Belgrade[15] did, however, reflect multiple times upon the evidence procured in foreign countries, predominantly the written documents the credibility of which was challenged by the parties, stating only that the first instance court does not present its conclusions regarding the value and the mutual correlation of this evidence. In our opinion, this specific case lacked evidentiary initiative on the side of the representatives of public prosecution, to supplement evidence if required – for which there was more than plenty of time before first instance decision was rendered. Such action would have surely influenced the evidentiary power, and the procured evidence would have been differently assessed both by the first instance and second instance court. Nonetheless, except for the police work in the international co-operation, the continuation of this specific case has not been carried out in entirety.

The previous citations are especially important since the function of international assistance and co-operation is procurement of evidence for a case does not take place only in the country but abroad as well, including the authentication of documents of foreign bodies, before the competent authorities of those countries, and further on. With respect to that, the second instance court states that in the application of the principle of free assessment of evidence, the court is not bound by any formal evidentiary rules, which means that it is free in determining the value of certain evidence upon the principle of free judicial conviction. Nevertheless, the court is obligated to maintain the proper logic on proper thought and conclusion, to represent substantial and fundamental analysis and assessment of evidence singularly and a mutual connection with other evidence.[16]

5. Conclusion

The previous elaboration indicates that this is a field with two contradictions: the need for a freer and uniform space of freedom, security and justice in the criminal procedure, and a tendency to preserve national criminal-legal identity. The status of evidence obtained in a foreign country primarily depends on the judicial co-operation between states, with a conclusion that the current normative regulations in Serbia are not enough after the opening of Chapters 23 and 24 on the accession of the Republic of Serbia to the EU. To bring these contradictions closer, it is crucial to establish common European

[14] Thus e.g. there was no court decision of the Appeal Court in the case of ŽP of the committed murder crime Art. 113 CPC, regarding the assessment of lawfulness of evidence obtained in a foreign country contrary to the procedural provisions *lex fori* of Hungary, where witness statements were taken, which was pointed out by the defense attorney of the defendant VT. An unrepresentative number of examined decisions does not allow for drawing conclusions, nevertheless it seems that such possible omissions can be made regarding the evidence procured on the initiative of public prosecution.

[15] Verdict of the Special Department of the Court of Appeal in Belgrade no. Kž1 Po1 9/16 od 25. 5. 2016.

[16] See p. 23 Verdicts, par. two

standards in evidence law. The existing models of use of evidence obtained in a foreign country via bilateral contracts and the Convention provisions with the Protocols of the European Council of 1959 are no longer completely satisfactory, so Serbia is in a favorable moment to adopt into its legislation instruments by which it would harmonize its criminal-procedure provisions in this field and the EU standards. Freedom, security and justice in a criminal procedure in the context of the defendant's fundamental rights in a criminal procedure also apply to evidence law.

One of the solutions could also be the development of Serbian supranational criminal-legal institutes and bodies, such as an attorney general in charge of cross-border procurement of evidence in a criminal procedure. The European Arrest Warrant gives additional possibilities for fighting cross-border and organized crime. However, the broadening of possibilities by adopting this and other instruments for conducting transnational evidentiary actions of criminal procedure bodies should not lower the standards of human rights protection in general and the right of defense in that context.

The current forms of international legal assistance would thus be replaced by mechanisms of co-operation in criminal matters, which should result in greater efficiency and decisions founded on lawful evidence procured both in the home country as well as abroad. New perspectives through instituting co-operation in criminal matters founded on the principle of mutual recognition of evidence would lead to an easier and faster procurement in foreign countries, which would be another element in building better possibilities for easier procurement and securing the status of *lawful* or admissible evidence that would be used in practice.

Upon the question whether the judge who gets evidence procured abroad may decide on the admissibility of such evidence, the least restrictive stance is the one which implies absolute confidence in another legal system. This means that there is a supposition that this evidence was lawfully obtained. Such solution is found in the Criminal Procedure Code of the Kingdom of Spain, as one of the European exceptions in that sense.[17]

The judicial powers regarding evidence procured in a foreign country are, therefore, determined in four categories. Evidence obtained abroad *per se* is also treated as lawful by the court of the foreign country where the court presented it as such. The second category of evidence collected in a foreign country refers to evidence procured in a lawful manner, but the court of the other country which performs the function of trial in the criminal-legal matter has assessed it as unlawful. A reverse situation could further complicate the trial, for it would bring forth a situation where the unlawful evidence from the country of procurement would be assessed as lawful and admissible, which would be contrary to the rules of logic to be applied as such. The fourth option produces fewest problems: evidence collected unlawfully in a foreign country is assessed as such also by the country where the trial is performed, and as such shall not serve as grounds for the verdict.

If the judge would set off to decide on the evidence procured in a foreign country, the issue of range in that decision and the criteria of rendering a decision would also open up. The court assessing such evidence could assess it in compliance with the principle of *locus regit actum* (place governs the act) i.e. the law of the country of procurement. In other words, if the evidence was collected in a lawful manner in the country of origin, it

[17] Gane, C., Mackarel, M. The Admissibility of Evidence Obtained from Abroad into Criminal Proceedings. The Interpretation of Mutual Legal Assistance Treaties and Use of Evidence Irregularly Obtained, European Journal of Crime, Criminal Law and Criminal Justice, 1996, str. 98 – 119.

would be acceptable for the court irrespective of the provisions of the positive legislature of the home country. An issue may arise at this point: how can the court be sure whether the evidence was obtained in a lawful manner, since the court, however, is not acquainted with foreign laws. In British law the court principally calls upon parties to gather relevant information through *expert witnesses* on the content of a foreign law, while in Germany the court can plead to state authorities as well, even to scientific institutions, to obtain answers.[18]

Evidence procured in a foreign country can be assessed in compliance with the *lex fori* rule, where it is up to the court to apply constitutional, legal or other criteria (as it is stipulated by Article 47 of the Law on International Legal Assistance in Criminal Matters of the Republic of Serbia)[19], such as transnational public order and international standards in the field of protection of human rights and fundamental freedoms.

Indeed, the court may assess the status of evidence obained in a foreign country according to certain external criteria, such as the provisions of the European Convention on Human Rights (ECHR) and the judicial practice of the European Court of Human Rights, while a combination of the above mentioned approaches would be a different solution.

The hesitancy of the legislator to take a definite stand on which model it shall build a criminal procedure has resulted in a vague approach to unlawful/inadmissible evidence. Our opinion would probably be contested by defense lawyers explaining that in criminal evidence law a middle way should be found, a double lane road, in respect to the evidence. One of them would refer to evidence procured in a foreign country, while the other would deal with evidence obtained in the home country. However, bearing in mind that it is the matter of the same criminal procedure, effort is made that along that way the ever more developed doctrine of human rights has to be reconciled with the fact that each evidence prohibition actually reduces the possibility of establishing the truth, and along with that the possibility of application of criminal material law.

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[18] Daneman, G., Establishing Foreign Law in a German Court, http://www.iuscomp.org/gla/literature/foreignlaw.htm, downloaded 15.8.2016. The British legal system treats foreign law and its procurement as a factual question, while German law sees it as a legal one.

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THE RELATIONSHIP BETWEEN HUMAN SECURITY AND HUMAN RIGHTS IN THE NEW CRIMINAL AND POLITICAL CONTEXT IN EUROPE

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ABSTRACT

Generally speaking, when we are talking about human security and human rights, we take into consideration two notions which should support each other. The economic and technological development of the past period has led to the appearance of new threats to citizens' security, threats that have manifested themselves concretely by activities of organized crime and terrorism, economic crimes, cyber attacks, etc. The states, employing their criminal politics, have tried to offer an answer to these new challenges elaborating a series of new laws to prevent and eradicate such phenomena. Unfortunately, the means they used were not always the most suited, as they affected the citizens' fundamental rights and freedoms. More than that, there were several situations in which, exploiting the need of security, measures of diminishing the fundamental rights had been used to obtain total control of the population and not because they were necessary. In this context, a question arises: how can we create a security space by a minimal restriction of the fundamental rights? The answer to this question is not easy to state, but, with a thorough analysis of the main measures adopted at the European level, as well as by the jurisprudence of the super-national instances, we can draw out certain principles that are compulsory to be respected. Thus, we reach the conclusion that the right to security is itself a fundamental right which has to be protected and people's security can be reached only by respecting and protecting all human fundamental rights. Consequently, I consider that there are three essential rules that have to be observed when talking about the initiation of certain measures meant to assure citizens' security: i) to respect the principle of legality, meaning to adopt several clear, precise laws, with no room for arbitrary interpretations of those who are called to apply these measures concretely, ii) a set of guarantees to be implemented which should accompany any measure by which the fundamental right might be affected, iii) to respect the principle of proportionality, meaning that the adoption of a certain measure is permitted only if it is necessary in a democratic society, if it is able to reach its own security objective and if it does not diminish the very essence of the protected right. In conclusion, I think that the focus should be laid on the protection and respect of the fundamental rights, since by protecting human rights we protect citizens' security both at the national and European level.

Key words : security, human rights, protection, crimes

1. Introduction

The notion of human security is very vast nowadays, as it supposes respect and protection of life seen from different perspectives. This is because a safe space, in which people have no access to enough food, where there is no proper education, where health

has no proper protection, and human rights and freedom are a luxury which is not affordable to all people, is unimaginable. The identification of any possible threats to the human life gives the state the obligation to protect that vulnerability, to secure it, and, as the threats are uncountable in a world that develops at such a fast rhythm as we live in, it is practically impossible for us to define what the phrase 'human security' contains.

Definitely, the notion has a component which includes all the fundamental rights and freedoms. Safety of a nation means, first of all, safety of its citizens and this cannot be accomplished without a minimum standard of protection of their fundamental rights.

That is why, generally speaking, we can say that human security is a concept that contains both the legal aspects related to the violent conflicts underpinned by the fear and threats to freedom and equally the non-violent aspects, that is, the socio-economic aspects of life, freedom from want.[1]

Nowadays, we notice an obsession regarding security, which can generate a totally different effect and can change the whole construction into a threat to the fundamental rights. Adopting different measures for the only reason to create a secure and safe space, and missing the necessity of respecting human rights, is the wrong direction to take, which, unfortunately, not in few cases, was followed at world level. The identification of the actual relationship that exists between human security and human rights means a profound analysis of the main measures taken on international level. This way, we reach the conclusion that there is a need to re-think this relationship, as its main goal is to assure a security space by a smaller restriction of the fundamental rights. That is why the goal of this paper is to identify the main pillars on which the relationship between human rights and human security is to be rebuilt. Obviously, this relationship starts from the legal level, by creating a legal environment able to generate harmony and not a conflict between the two notions.

2 Is the need for security challenging human rights nowadays?

The modern approach of what the concept of human security should mean appeared as an answer to the new challenges the world confronted, especially after the Second World War. Thus, the new dangers, that do not necessarily come from other states, but which appear and develop within the state, are relevant. Globalization, the free movement of citizens, goods and services, between different states gave birth to a new set of dangers.

Currently, global criminality, by its acts of organized crime, terrorism, corruption, money laundering, etc. is the greatest challenge regarding the fundamental rights from a twofold perspective. Firstly, they are serious acts, which, undoubtedly affect directly the most precious human rights, leading to a feeling of general insecurity. The fear of these acts has reached unthinkable levels nowadays, and, facing this reality, a prompt reaction of the international community is necessary. The image of the planes hitting the World Trade Center on 11 September 2011 are still alive in the collective memory, and the following attacks which took place in the very heart of Europe, in London and Madrid, Paris or Berlin determined an unimaginable fear. It is obvious that such acts hit the very essence of the citizens' life, their fundamental rights and freedoms, making them feel vulnerable and unprotected and limited their freedom of action.

[1]United Nation Development Programme, Human Development Report http://hdr.undp.org/en/media/hdr_1994_en_chap2.pdf

Secondly, these threats triggered a firm reaction at the international level, a reaction that leads to the appearance of an extremely vast legislation board, which sometimes reduces the fundamental rights. The international answer to such a reality should be stern and success could be reached by total collaboration among the states.

Hence, the answer to the question above is definitely affirmative.

3. The elements that unite the two notions

The two concepts have a lot of similarities, but their defining element which, somehow, determines their interdependence is the fact that they both place the individual in the center of their attention. Thus, a certain change of preoccupations regarding security can be noted. When talking about human security today it does not mean taking into consideration only the community, with no interest in the very individual's fate and in his/her condition in society, as it previously happened. The international community started to understand that the idea of security cannot exist without placing the individual, with all his/her rights and freedoms, in the center of its attention. Protection should be provided to every single person. With respect to human rights, it is unquestionable that they are related to the individual.

Then, the two notions are connected by the idea of freedom as well, which, in one way or another, they imply. When talking about human security, we are implicitly talking about the individuals' freedom, and this is so because there is no security without freedom. This way, not only freedom is a precondition for security, but also it is its very essence. Restraining a person and trying to impose a way of living on them is incompatible with the notion of human security.

On the other hand, the fundamental rights and freedoms are, practically, constitutive elements of freedom. We are really talking about freedom only in the situation in which the basic rights are respected and protected. This thing results, undoubtedly, from the very introduction of the Universal Declaration of Human Rights, where it is stated that: *'recognition of the inherent dignity of all the members of the human family and their equal and inalienable rights constitutes the foundation of freedom'*.

Last, but not the least, the unity of the two notions is given by the right of security belonging to the category of fundamental rights. Thus, this can be easily seen in the analysis of the main international papers concerning the fundamental rights and freedoms. All of them contain certain regulations referring to individual security and safety in society.

The right to security is not at all different from the other rights, it extracts its essence from the existence of the human being, exactly as the right to life, for example, or the right to liberty. According to this source, it disappears only with the person's disappearance, even if, under certain circumstances, it can support certain restraints.

It is sufficient for us to search for the source, the spring of law, to convince ourselves whether it is a fundamental right or not, and although human safety and security were not respected and protected from the very beginning, this does not mean that their source cannot be found in the appearance of the human being itself.

4. Examples of unjustified restrictions of the human rights made in the name of security

The international order has unfortunately changed very much in the context of the fight against terrorism and organized crime. Undoubtedly, such actions create a serious threat to security, but the states are not permitted to adopt any measures. This is because there is a risk that several unjustified restrictions of the fundamental rights will appear in the name of security and it can never lead to security consolidation, but, on the contrary, to its defeat.

For instance, the Patriot Act was adopted in the USA in October 2011, immediately after the States were hit by the assault. This act was one of the most restrictive ones at the international level and a simple suspicion upon a person, related to his/her belonging to a terrorist group, permitted the state to interfere by force, practically disregarding the most elementary fundamental rights and liberties.

However, a law which was adopted in Germany in the context of the assaults seems to be very interesting. Hence, in 2005, the Parliament adopted the Air Security Transport Act which permitted a plane to be hit in a situation similar to that of 11 September 2011 in the States. A year later, the Constitutional Court declared the law to be contrary to the Constitution. It was concluded that such a regulation violated the right to human dignity. This right enjoys a special protection in the German Constitution, that cannot be found even in the European Convention of Human Rights, but, in the essence, it was concluded that the active evil, caused by the murder of some innocent people who were in the plane was more dangerous than the passive evil determined by a simple possibility that some other people died because the plane crashed.[2]

Another measure adopted at the international level to ensure security in the context of the fight against terrorism was the so-called *'black list'*[3] which contains the names of the main persons and organizations that are considered to be connected with terrorism. Although it is a necessary list, the way it was implemented was not proper. Thus, a person may be included in such a list due to a simple suspicion and there is no real and effective possibility to contest the decision of being included in the list, which is a serious infringement of the fundamental rights, among which the right to respect the presumption of innocence and the right to a fair trial.

At the EU level, Directive 2006/24/CE[4] was adopted, which contained a series of regulations regarding the type of data that are to be preserved, the persons who have access to this data, the preservation period of time, etc.

Even if its main objective is, as stated in Art.1, to help with the prevention and fight against serious crimes[5] by the Decision on 8, April, 2014[6], the European Court of

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[2] For a detailed analysis of the Decision of the Constitutional Court of Germany see: *Hornle T, 'Shooting down a hijacked plane'- the German Discussion and Beyond',* Crime Law and Philos (2009) 3:111–131 .

[3] The necessity of making a black list containing the terrorist organizations was adopted by the mutual position in the 2001/1931/PESC of the European Council, published in the Official Journal of the European Community, 28.12.2001 under L344/93.

[4] Published in the Official Journal of the EU, no. L 105, 13.04.2006

[5] Art.1, Directive 2006/24/E.C.:*'The present directive wants to harmonize the member states' dispositions regarding the electronic communication services accessible to to the public or public communication networks regarding preservation of certain data generated and remade by them, to make sure that these data are available, the serious crime to studied and legally taken to court, in the way they are defined in their own internal law, by each member state*

[6] Pronounced în the joint cases, Cases C-293/12 and C-594/12 http://eur-lex.europa.leu/lega-content/EN/TXT/HTML/?uri=CELEX:62012CJ0293&from=RO

Justice decided that the analyzed regulations have become a disproportionate interference in the area of the fundamental rights and, consequently, the whole directive was invalidated.

Taking this reason into consideration, a detailed check of the conditions for proportionality of the measure has been conducted, reaching the conclusion that the total lack of limits, both regarding persons and regarding the means of communication, the lack of an objective criterion that should limit the persons with access to such data, as well as the procedural lack of transparency make these measures be considered as an unjustified restraint of rights.

Romania also took such measures and adopted the Law 82/2012, regarding the data generated or remade by the public communication network, a law which was considered to be unconstitutional by the Decision of the Constitutional Court no. 44/2014, as well as the law regarding cyber security, invalidated by Decision 17/2015 of the Constitutional Court that admitted an objection of unconstitutionality.

These examples illustrate that the international need for security generated the adoption of some measures that have not strengthened security at the international community level, but, on the contrary, they made it weaker, as the fundamental rights were not taken into consideration. In this context, willingly or not, we can qualify the relationship between human security and human rights as conflicting and this ensues from the misunderstanding each one's role in society.

5. Re-thinking the human security- human rights relationship

In order to reconsider the relationship between the need for human security and the need for human rights, we should begin with the correct identification of the role for each of them. Therefore, it is essential for us to understand human rights not as an obstacle that interferes in the fight against global criminality, making it harder, but as a partner fighting with us to create a security space. At the end of the day, as it was previously demonstrated, the right to security is a fundamental right as well, and a society in which the fundamental rights have a conflicting nature is not wanted. Consequently, each of us should understand that collective security can only be reached in the context of respecting human rights that are part of security.

Unfortunately, we currently note a general tendency to create mechanisms designed to make the fight against the threatening acts to security more efficient and they gradually grew over the past decade. Therefore, we consider that in order to ensure a balance between the needs for security and for human rights, we have to take into consideration certain principles in the process of norm elaboration. This way, a correct relationship between the two concepts can be built respecting the following criteria:

5.1. Respecting the legality principle

As it is well-known, a measure which restricts certain rights can be implemented only if it is included in the law. This is the very essence of the legality principle and even the fight against the most dangerous threats to international security cannot be conducted unless we strictly respect this principle.

Considering the point of view of this study, we are interested in the compliance with the legality principle especially from the perspective of the clarity and predictability of the legal norms. Issuing laws in this respect is not an easy thing to do and this is so because any norm unclarity or ambiguity can be a danger for the citizens' security or can open the way for abuses on behalf of those who are entitled to put them into practice.

Therefore, the terms used should be well defined in the content of the law, their meaning should be exactly determined and, equally, they should be used properly with their generally known and accepted meaning.

The way terrorism is defined in the international treaties is a good example. This crime has no certain definition and we often use a general definition. In Resolution 1566/2004 of the UN Security Council, the terrorism acts are seen as: *' criminal acts, including those against civilians, committed with the intention of provoking death or serious corporal damage or hostages capture, on the purpose of provoking terror among people or a group of private persons, or to intimidate a population or force a government or an international organization to make or to refrain from making any act.'*[7]

The multitude of causes that generate terrorist acts brings, inevitably, changes of their characteristics of manifestation. That is why the defining of terrorism acts is often made by the goal- means- consequence description method, hence, revealing the fundamental characteristics and helping us understand better the nature of such acts. Nevertheless, this is not beneficial for the international community, as it is possible to include facts which do not really represent terrorist acts, and this creates special consequences upon the fundamental rights and liberties of the persons discussed.

A similar situation could be identified in the case of the crimes connected with organized crime. Here, for instance, the modality in which we define the organized group is considered to be a problem.

The framework decision no. 2008/841/JAI[8] against organized crime, presents the criminal organization as being ' *a structured association, established in time, of more than two persons, which actions in such a way as to commit crimes which are followed by a punishment that deprives them of liberty or which punishes them with a safety maximum measure that deprives them of liberty, lasting for at least four years, or a more severe punishment, to obtain, directly or indirectly, a financial benefit or of another material nature.*' [9]

The analysis of these documents underlines that fact that several terms which have a well defined meaning are used. Hence, the existence of an organized criminal group, an association, requires an existence 'for a certain period of time', without specifying how long the period is or, at least, some criteria for it to be identifiable. At the same time, the signification of the notion of a 'structured group' or a 'structured association' is, ambiguous as well, which leads to the possibility of including certain associations within them which, in reality, do not suppose a structured group of organized crime.

5.2. Setting up some guarantees that accompany any measure that limits a right

'The end justifies the means' cannot be a permitted action, even when we are talking about the necessity to ensure security. No matter how legitimate the state interest to ensure its citizens' protection is, this cannot lead to the abolishment of certain rights belonging to the persons they want to protect.

These guarantees are the central element of the human security- fundamental rights relationship and its observance leads to a just balance between the two parts. It is an

[7] Resolution 1566/2004 of the UN Security Council, adopted on 08.10.2004.
[8] Published in OJL 300, 11.11.2008.
[9] Art. 1, para. 1, The Framework Decision no.2008/841/ JAI.

undeniable fact that you cannot ensure security without imposing certain restrictions on the citizens, but it is also important that these restrictions are not arbitrary.

With respect to guarantees, we are talking about the implementation of some efficient mechanisms that could eliminate any unjustified deviation from the fundamental legal norms. Thus, respecting the innocence presumption, or respecting the right to a fair trial, or defending the right not to be treated inhumanely and degradingly, are minimal requirements that have to be respected no matter the followed reasons.

The guarantees against certain arbitrary actions of the state place human rights in the center of their preoccupations. We have seen, in the previous examples, several situations that caused breaking of the balance between the public and private interest, since the guarantees that accompany the restriction measures do not exist. The international organizations, and even the states, are most of the time aware of this aspect, although they have a tendency to eliminate it.

This is undesirable and their role in society is vital for maintaining a balance between the need for security and the obligation to protect and respect the fundamental values that the society itself is building.

5.3. Respecting the principle of proportionality

The principle of proportionality undoubtedly imposed the idea of balance, order, equality, rational proportion and justice.[10] It is the central element on the basis of which the human security-human rights relationship should be built.

Its concrete application in this matter supposes the respect of certain essential rules, real under-principles as: the criterion of necessity, suitability and proportionality in a *stricto senso*.[11]

The need for a measure in the security domain should be evaluated by comparing it to those that already exist, assessing in the end whether a new measure is necessary or not. The security objective having been reached, the adoption of others is not justified any longer because an overcrowded number of norms is not a benefit for the law system.

The criterion of fitting into the proposed purpose also supposes the adoption of certain new objectives to ensure security only if they are able to fulfill the defined purpose. Insofar as that condition is not fulfilled, the principle of proportionality will be defeated and balance will be broken.

Last but not the least, proportionality, in a restricted meaning, supposes the evaluation of the concrete elements that generate a certain action in the security domain. No element should be lost and the analysis is made in detail.

Consequently, there is no doubt that the principle of proportionality has a central role in the reconstruction of security- human rights relationship and it must not be ignored.

[10] Harbo T.I., *The Function of the Proportionality Principle in EU Law***,** în European Law Journal, Vol. 16, Nr. 2/ 2010, pag. 158–185.

[11] See Emiliou N. *The Principle of proportionality in European Law, A comparative study*, ed. Kluwer Law International, Londra, 1996.

6. CONCLUSION

Crimes are today the greatest threats to international security and they are manifested through acts of organized crime, terrorism or related to it, corruption offenses, drug trafficking, money laundering, tax evasion, etc. Therefore, the activities meant to prevent and combat such phenomena are extremely necessary.

The problem is that they affect certain fundamental rights and freedoms. This need of security, which imposes in most cases restrictive rights measures, is in fact, the starting point of the conflicting relationship between human security and human rights. Although we might think that in the short term this kind of measures make security stronger, in the long term they make it weaker. A society in which the fundamental rights and freedoms stay in 'the back seat' is vulnerable.

At the same time, we must understand security as a protection from everyday risks and not as a threat to human rights. Therefore, I believe that a correct relationship between the two can be developed on three pillars: legality, proportionality and a set of guarantees to accompany any measure that limits a right.

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ANTI-TRAFFICKING INITIATIVES IN THE BALKANS

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ABSTRACT

This paper presents the main characteristics, etiology and connection between human trafficking and other related phenomena, such as migrant smuggling. The focus is on the detection and punishment of the perpetrators of these crimes and the protection of the victims. One of the biggest problems related to human trafficking is its detection and finding both perpetrators and victims and collecting evidence. Accordingly, the analysis of trafficking acknowledges the transnational character and various forms of international cooperation, such as cooperation between police forces, the use of formal legal instruments or extradition. These are crucial for the success of the transnational investigation, prosecution and punishment of trafficking. Consultation and cooperation are essential, in order to coordinate the activities and, more importantly, to determine the appropriate jurisdiction under which to conduct the prosecution in a particular case. Issues such as nationality, location of witnesses, the applicable legal framework, the availability of resources and the place where the suspect is arrested, must be taken into consideration.

Key words: criminal justice, prosecution, protection, South-Eastern Europe, human trafficking.

1. INTRODUCTION

The Balkan region is very diverse and represents a mosaic of cultures, religions and ethnicities which have gradually shaped its characteristics over the years (Zitnanova, 2014). Since the beginning of the 1990s, its development has been impacted by three events and processes: a) the collapse of the socialist system and centralized economy; b) the disintegration of Yugoslavia and various conflicts during the process of the formation of the new independent states; c) the process of the European Union enlargement (Boano et al, 2003).

Most countries in the region have experienced a severe economic and social decline. Unemployment, inflation, income differentials and poverty have increased. As a result of the conflict and economic change, the living conditions and the access to services have all deteriorated (Lindstrom, 2006). Smuggling of goods, arms and people, corruption of state employees, organized crime groups and acceptance of illegal ways to earn money, as well as unregulated migration, have become the new norm.

The new situation has also had a special impact especially on women and children. The reality of the post conflict situation and the economic transition have weakened the position of women on the labor market, causing more women to be unemployed and feminization of poverty, which in turn, has resulted in increased migration especially among younger women. Also more women are becoming the only breadwinners in families where the men have become unemployed and are not able to find a job as a result

of the transition process. A growing trend in the region is the women taking the responsibility for the survival of the whole family and looking for new sources of income.

At the same time, violence against women, the contradiction between their lowly position in the family and their responsibility for the family well being, their lack of influence in public life and their exclusion from the decision-making processes, are also increasing trends. All these factors have contributed to the growing number of young women willing to take their chances by searching for opportunities and a better life in the West.

2. COUNTRIES OF ORIGIN, TRANSIT AND DESTINATION

Throughout Southern and Eastern Europe, trafficking in persons is a prominent human rights and social protection issue for citizens and foreign nationals alike. (Shelley, 2003). It also poses a serious challenge to the rule of law in the countries of origin, transit and destination. Women are trafficked from a range of different countries in Southern and Eastern Europe and the former Soviet Union to various destinations in Europe, North America and the Middle East, as well as within those regions (Surtees, 2008: 40).

East Southern and Eastern Europe also became a transit point for victims en route to the European Union. And some countries, such as Hungary and the Czech Republic, developed prolific sex industries, which involve trafficking for sexual exploitation (KARO, 2003). The traditional transit and destination Balkan countries – such as Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia (FYROM), Serbia, Montenegro – continue to receive victims and are increasingly becoming countries of origin (IMF, 2015). South-East European nationals are trafficked extensively within the region as well as further afield – to the EU, the Middle East, Russia and Turkey.

Although victims are trafficked for various forms of exploitation, approximately 85 percent of the assisted victims in SEE in 2003 and 2004 were women and girls trafficked for sexual exploitation (Surtees, 2006: 32). The House of Lords and the House of Commons Joint Committee on Human Rights (Home Office, 2006: 28) Report also highlights that the vast majority of people trafficked into Britain for sexual exploitation are women from Eastern Europe and the Balkans (Goodey, 2004). They also found that "recently Britain has also seen a growing trend in trafficking for sexual exploitation involving persons brought to Britain from within the EU, Lithuania and other newly-acceded Eastern European states in particular".

Trafficking for sexual exploitation from, through and to South-Eastern Europe takes place in a range of different contexts and generally involves high levels of abuse, violence and exploitation. Traffickers inflict extensive violence on the victims, including regular beatings, sexual violence and psychological coercion, such as threats against the victim or her family. Many victims report poor living and working conditions and receiving no or very limited pay.

The two most common trafficking routes begin in Ukraine, Moldova, and Romania and move through Serbia, and on to the West European markets, primarily through Hungary and Slovenia, or to destination points in Bosnia or Macedonia. Trade routes in southwestern Balkans change frequently. For instance, since the police have disrupted the trafficking of women by speedboats from the Albanian port of Vlore to Italy, the traffickers moved their operations to the Albanian port of Dürres, the Adriatic port towns in Montenegro or overland through Greece and Macedonia. Assessing the number of trafficked women is also difficult (Lindstrom, 2004: 46).

The most widely used sources of data on the trafficking trade are provided by international and local nongovernmental organizations involved in assisting, and often repatriating, trafficked women and by the national and international law-enforcement agencies. According to the International Organization for Migration (IOM), each year more than 400,000 women are trafficked through the Balkans to the states of the European Union. Another 170,000 women are trafficked annually into the Balkan region. The IOM differentiates countries of "origin," "transit," and "destination." Moldova and Romania are typically characterized as states of origin, Serbia and Albania as transit states and Bosnia as a destination state. The Regional Clearing Point measures the scope of the trafficking trade by counting the number of trafficked women assisted by local or international NGOs. The IOM report concludes that the largest percentage of women included in the data were between the ages of eighteen and twenty-four. Most of the women were identified and assisted within the first month of being trafficked and they reported having accepted an offer of employment abroad or being recruited by an acquaintance. (CEES and EFB, 2014)

However, the classification of states by origin, transit and destination also obscures the realities of Balkan trafficking, as most states now have the characteristics of all three categories. With the continuing decline of the living standards and the rising rates of unemployment across the region, states such as Serbia and Bosnia, traditionally classified as transit and destination states, are also becoming states of origin as more women are forced to seek illegal employment.

3. ORGANIZATION OF TRAFFICKING NETWORKS AND GROUPS

The phenomenon of forced human labor and the economic infrastructures that enable a variety of actors (buyers, sellers, transporters, recruiters, overseers, etc.) to profit from it have existed for centuries.

Across Europe, organized crime figures operate vast and profitable networks to transport young women from the economically destitute nations of Central and Eastern Europe to their more economically secure neighbors in Western Europe (Levi and Maguire, 2004). Such women are then placed in conditions of servitude, working as prostitutes to pay off the debts they are told they owe to those who have taken them across borders and who have arranged their employment. It is the modern day form of slavery.

In Italy and France, the traffickers force women to work in street prostitution, whereas in Germany and Austria the traffickers exploit most victims in bars and brothels. In Turkey, the traffickers generally keep the women in private apartments with one or two other victims and force them to provide sexual services in apartments, cafés, bars and brothels. The traffickers in Russia either keep the victims in private apartments where they are sexually exploited or exploit them in street prostitution, though strictly monitoring their movements. The traffickers in the Balkans exploit victims in bars and nightclubs, but also increasingly in private homes or apartments – more hidden from the police – and either force them to perform sexual services at these locations or transport them to clients (Surtees, 2008). The isolation of keeping women from having contact with others not only prevents their escape, it means their only contact is with those who pay for the services, all of which further ensures that the girls remain dependent upon the trafficker. Psychologically, this isolation is devastating for the victim, but extremely effective for the traffickers. (Kathryn, 2005: 90) In South-Eastern Europe (SEE), most human trafficking is conducted by organized criminal groups, which is in contrast to regions such as South-East Asia, where trafficking is often informal and managed through personal connections.

The traffickers in SEE may be individuals acting alone (at a low level of organization), small local criminal groups (at mid level) or well-organized criminal networks (at a high level).

Trafficking networks in SEE generally have a fairly well-defined organizational structure: they act on one or more territories and on several markets; they have the ability to use one or more routes, both legal and clandestine; they often employ a managerial approach to trafficking; and they have the ability to respond to the (shifting) market demand. Traffickers mobilize a network based on effective collaboration and joint ventures with other criminal groups and with people in conventional positions, such as government employees, commercial lawyers, accountants, financial services experts and public notaries, all of whom may or may not be aware of the criminal nature of their activities (Bernasco and Bruinsma, 2004: 79).

High-level groups tend to use well-developed methods of planning and control; they typically set the prices and finance the costs of transfer, but avoid becoming directly involved in transporting the victims or crossing borders. They establish trade relationships with other high-level groups (in the same country or in other countries) and cooperate in the exchange of victims or set up contracts with medium-level groups for the supply of various services, such as transportation. The mid-level groups operate in strategic geographical areas, generally at border, and are usually commissioned by high-level groups to take care of the operational matters, including transportation, production of false documents and payment to the border officials. The low-level groups are unskilled criminals whose job is to receive the victims and ensure border crossings; their role usually ceases with the delivery of the victims (Andreani and Raviv 2004: 13).

Crime groups are increasingly professionalized and they reinvest the profits earned from human trafficking in criminal enterprises (such as arms and drugs trading), as well as in legitimate business ventures (Shelley 2003: 126). They are also increasingly professionalized in the handling of the victims as commodities. The level of organization and the number of criminal groups in trafficking differs substantially from one country to another, as well as within the countries.

While the pyramidal, hierarchical model appears to have dominated in the past, the trend now seems to be toward loose network structures. Traffickers are very flexible, adapting their operations to different market opportunities and adjusting operations according to the risks to their business, all in an effort to maximize the economic gain (Jeleva, 2012). In the Balkans, trafficking groups have changed both their structure and their operating strategies to adapt to the anti-trafficking activities put in place by law enforcement agencies and legislators.

Organized crime is notoriously known for its involvement in drugs and arms trafficking due to the profits it can make. Their increasing numbers within trafficking for forced prostitution are in part due to the low risk of apprehension, the high profits that are obtained and the moderate penalties the criminals receive if caught. Organized crime is very much on the increase within the Central and Eastern European states, in part because of the weak state of the social control system in place there and also the high amount of corruption within the legal system, which has lead to its ineffectiveness. Forced recruitment, such as kidnapping, is now relatively uncommon; more often recruitment plays upon the individual's desire to migrate and find well-paid work abroad. Traffickers exploit the victims' frustration with low salaries and limited employment options in their home countries. Others prey upon a crisis in the victim's family – an illness, an unexpected

debt, a death in the family or another emergency – which necessitates finding immediate and well-paid job (Brunovskis and Tyldum, 2004).

4. CORRUPTION AND THE ABUSE OF INFLUENCE

The corruption of government authorities – politicians, state functionaries, law enforcement officials, foreign service staff – plays a critical role in the operation of traffickers' networks and allows trafficking to continue from, through, and within South-Eastern Europe (UNODC, 2011).

Corruption supports trafficking in different ways, through document falsification, illegal border crossings, overlooking prostitution venues in identifying victims, compromising criminal investigations, lack of investigation and judges dismissing cases or imposing minimal sanctions (Transcrime, 2003).

In 2004, Serbia recorded 18 cases involving 4 organized crime groups with 81 perpetrators; 15 cases were prosecuted involving 53 perpetrators. Montenegro registered 305 corruption cases in 2003 and 221 in 2004, none linked to organized crime. Macedonia recorded 536 corruption cases involving 664 perpetrators, of which 505 cases involved abuse of official position and 31 involved corruption for criminal acts. In Ukraine, 34 of 721 organized crime groups were identified as relying on corrupt relationships (Council of Europe 2005: 54).

Some actors within organized crime groups are current or former officials and use their position and/or experience to support criminal ventures. Former members of security agencies, for example, are able to combine their security experience (which includes intimidation) with high-level connections to the political and law enforcement agencies, allowing them to function with impunity (Surtees, 2007). Organized crime groups increasingly use corruption in a professional manner by hiring legal and business experts as intermediaries or brokers or by planting associates in relevant political and administrative positions (Council of Europe 2005: 53).

One victim described, in testifying against her trafficker, that during the court recess he had stood together with police officers, laughing and joking. She was skeptical about a conviction, in spite of her testimony. Corruption erodes the victims' confidence in law enforcement and may prevent their escape or acceptance of assistance (Transparency International, 2015).

5. ILLEGAL MIGRATION AND HUMAN TRAFFICKING

Researches indicate that there is a close link between illegal migration and human trafficking (USA Department of State, 2015). The migratory profile of the Western Balkan countries is very diverse because their migration dynamics significantly changed over the past few years transforming this region in an important migration hub (Cvejic and Babovic, 2014: 12).

Determinants of human trafficking can be found on both, demand and supply side. On the demand side, large-scale migration may increase the opportunities of the traffickers to easily recruit potential victims making this market very attractive (UN, 2013). On the supply side, the population of economically poor, deprived and conflicting areas might see migration as the sole strategy to start a better life and increase their economic opportunities (Cvejic and Babovic, 2014: 21).

This has implications for their migration process because they might be prone to illegal border crossing or give their consent to exploitative working conditions (Mahmoud and Trebesch, 2010). The main problem for all police investigators is differentiating between trafficking and smuggling, as it is not always clear cut and can be misunderstood with victims only being deceived and exploited on their arrival in a destination State. This problem is further compounded by the emerging trend amongst traffickers of victims being smuggled then trafficked, once they have reached their destination.

Operation "Bluesky", which involved thousands of people, was the biggest investigation into migrant smuggling undertaken by the Metropolitan Police. The smuggling operation ran into millions of pounds and the police could not quantify the exact number of people smuggled into the UK. The illegal immigrants brought into the UK were mostly from Turkey and some from Iraq. 400 would-be illegal immigrants were identified as a result of the investigations. The victims were transported, in deplorable conditions, on planes, trains and in lorries and cars to evade customs. In one case, four young children in a van were found gasping for breath by the French border police. Often a "coffin-like" secret metal compartment welded to the underside of the lorries was used to transport "customers". The significance in trying to put the compartment as low as possible was to try to avoid police techniques designed to find evidence of breathing and heartbeats. The illegal immigrants would often be forced to go without food or water for days and these included women, at least one of whom was pregnant at the time and several children. The smuggling network was run by Turkish nationals and the three network heads saw themselves as untouchable by the law. They used 39 mobile phones to run the organization and try to avoid detection. The operation involved investigations across the UK and 21 European countries, and more than 60 arrests linked to the ring were made across Europe. Law enforcement officials from France, Italy, Holland, Belgium and Denmark and Europol all contributed to the investigation. The Judge said that the network considered people "more as commodities rather than individuals" (OSCE, 2013: 46).

In October 2009, the Supreme Court in Netherlands issued interpretative guidance on the concept of "abuse of a vulnerable position". The case concerned six Chinese irregular migrants who, desperate for work and afraid of being discovered by the authorities, approached a Chinese restaurant owner. They were provided with accommodation and work that paid well below the statutory minimum wage (Van Ham, 2014). A district court initially ruled that this set of facts did not constitute trafficking in persons because "abuse of a position of vulnerability" implies that the perpetrator takes the initiative. In this case, the victims took the initiative by approaching the restaurant manager, in some instances "begging" him. The Court of Appeal upheld this decision, confirming that "abuse of authority arising from the actual state of affairs" and "abuse of a vulnerable position" requires a certain initiative and positive action on the part of the perpetrator, whereby the weaker or vulnerable position of the victims is consciously abused. The case was appealed to the Supreme Court, which took the view that it was not necessary for the perpetrator to take initiative. It also disagreed with the lower court that the perpetrator must "intentionally abuse" the vulnerable position of the victims. The Supreme Court held that "conditional intent" is sufficient: it is enough that the perpetrator was aware of the state of affairs that must be assumed to give rise to power or a vulnerable position (Supreme Court, 2009).

Displaced persons, especially women and children, are highly vulnerable to trafficking because their traditional support systems no longer exist, the family's principle bread-winner is often dead or missing and their family's property probably lost in between.

There are also many regions within the developed world, which do not allow many displaced people to enter in order for them to achieve a better life. Also stricter border regulations unwittingly provide a ready market for criminal networks ready to exploit this situation with the provision of a smuggling service for those wishing to gain illegal entry to Western Europe. (Orlova, 2004: 19).

6. POLICE COOPERATION IN THE WESTERN BALKAN COUNTRIES

Trafficking is an economic and human rights issue that calls for a regional solution. Measuring the volume, scope, and patterns of sex trafficking is an extremely difficult process. The traffickers are very flexible, quickly changing routes to accommodate the fluctuating supply and demand or to evade increased law enforcement measures (Lindstrom, 2004: 46).

Irregular migration and human trafficking can be successfully combated in the Western Balkan countries if they work together to ensure an effective regional police cooperation. However, they are currently challenged by a) human and administrative under capacity; b) superficial cooperation; c) lack of police cooperation projects between non-EU and EU member states (Lembovska, 2013). When investigating cases of labor exploitation, it can be difficult to distinguish whether the victims have been trafficked into or placed into a forced labor position. The police investigators may not know if the trafficking process has been completed or whether the victim was recruited for the purposes of exploitation. When a victim is found in an exploitative situation, the investigator should look back through the process of how the victim arrived in the current situation to determine if the elements of trafficking have been completed (Agir, 2014).

When the victims are rescued prior to any exploitation, it can be difficult to investigate the case as a crime. This is because it may not be possible to demonstrate that the trafficker intended to place the victim in an exploitative situation and, therefore, complete the criminal offence of human trafficking.

Trafficking in people in South-Eastern Europe is a complex and evolving industry and much has changed in recent years in how trafficking takes place. Not only have the traffickers' profiles changed, but so too have their strategies, behaviors and tactics. Traffickers are regularly responding and adapting to the social, economic and political arenas in which recruitment and trafficking take place, which makes it imperative that anti-trafficking actors are equipped with detailed and up-to-date information about the traffickers and their activities (Thompson, 2015).

Law enforcement efforts have increased and have become more strategic and proactive. Traditionally, bar raids have been a main identification strategy in the region, but law enforcement bodies are increasingly shifting from this reactive strategy to more proactive approaches, such as investigation and surveillance often coordinated between different cities and even different countries.

Although this approach is more time consuming and may, in the short term, yield fewer criminals, in the longer term it is arguably more effective in apprehending and prosecuting the perpetrators.

The law enforcement efforts in some transit countries to intercept traffickers before the act of trafficking is complete should also be noted. Recently in Serbia the anti-trafficking police intercepted many potential victims en route to a trafficking situation, a proactive attempt to address trafficking in this transit and origin country.

7. CONCLUSION

A detailed analysis of the situation indicates that the Balkan countries share a number of problems. These include the overall need to improve the protection of the victim's rights, including their access to compensation and the protection of their personal data and the need to examine the role that corruption plays in facilitating trafficking and preventing the prosecution of traffickers. Other problems are the detainment of victims and the prosecution of victims for offences they committed as a direct result of their being trafficked. Human trafficking in SEE is a serious and often violent crime and one that needs to be more proactively tackled and addressed in ways that reflect its status as organized crime.

Currently, the limited information we have about organized crime and human trafficking restricts the options for designing and evaluating anti-trafficking programs. There is a need for careful and systematic analysis of the transnational crime phenomena in a transnational marketplace.

Research can play an important role in better understanding and appreciating the actions of the traffickers, by mobilizing methodologies that directly engage with the traffickers and by carefully reviewing their activities. It is also vital to engage in detached analyses of human trafficking (as with other forms of trafficking and illicit markets) to enhance our understanding and capacity to react.

The counter-trafficking law enforcement measures have not always adequately anticipated the traffickers' activities or adapted to changes in how trafficking occurs. As an example, in spite of the recognized shift in SEE from open-site prostitution (bars, restaurants) to more closed venues (private homes, escort agencies), law enforcement actors have been slow to develop alternative means of identification and investigation. Law enforcement will need to be increasingly flexible in its efforts to combat trafficking in people – identifying different profiles of victims, recognizing different types of exploitation, adjusting to the changing patterns of the traffickers' behavior and even anticipating the directions the traffickers will focus on in future. Traffickers in SEE have manifested a level of professionalism and a level of adaptability that allow them to avoid detection and maximize profit, both of which serve to fortify their position further. The anti-trafficking actors will need to be increasingly flexible in their own work, so as to adapt to the changes in the way trafficking is organized from outside, into and through SEE, and from the region to countries outside. The central focus in this endeavor should be given to increased information about traffickers and their work, information that forms the basis of sound and better-informed counter-trafficking criminal investigations, operations and policy.

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ANALYSIS OF THE COMPETENCIES OF COURT EXPERTS FOR FIRE AND EXPLOSIONS OF THE REPUBLIC OF SERBIA AND THE REPUBLIC OF MACEDONIA

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ABSTRACT

Due to the rights of the accused to remain silent and to be able to change the statement and the witness in the process of establishing the material truth, the court in many cases relies on the results of the court experts' opinions. It is therefore important that the court has at its disposal a quality database of court experts. The paper includes a comparative analysis of competencies of the registered court experts of the Republic of Serbia and the Republic of Macedonia in the field of fire, explosions and accidents. Pointing to the perceived deficiencies both in the first and in the second base, recommendations were given in order to improve the registers of court experts in the field of fire, explosions and accidents, and thus enable the selection of the most competent court experts.

Keywords: fire, explosions, expertise, register of court experts

INTRODUCTION

As the main purpose of each trial is that no one who is innocent can be convicted and that the right verdict must be pronounced, the basic principle of each procedure is establishing the fact. During the assert, it is necessary that there is a clear and standard procedure of evidence treatment, so that the lawful relevant fact can be established by the court. During a legal proceedings, the statements of the accused and the witnesses are taken into account for establishing the material truth. Given the possibility of the convicted to remain silent or to change a statement or that the facts can be subjectively perceived and that some statements can be given with a purpose because there is some interest for the court procedure epilogue, there is the need for a neutral opinion based on scientific or professional interpretation of evidence material and other facts and for providing answers to questions out of court competence. The Criminal Procedure Code of the Republic of Serbia (Official Gazette RS, no. 72/11, 101/11, 121/12, 32/13 and no. 45/13 and no. 55/2014) provides for an engagement of a person with expert knowledge (Article 113). Also, the "Macedonian legislator particularly stresses out the fact that the expertise can be made only by the experts who are enrolled in the Register of Experts" (Kesic, et.al. 2013). The expert establishes or evaluates the fact in the legal procedure by applying his/her

knowledge in the relevant field. The authority of the criminal procedure determines the expertise with a written order. The expertise has an important place in the criminal procedure. “Expertise is a criminal procedure act which is requested by the authority of the criminal procedure order with regard to the terms written in the Criminal Procedure Code and which permits the engagement of expert witnesses consistent with the rules of scientific field, technical knowledge, skills or art orientation. These experts examine the delivered objects of expertise and give expert findings and opinion.“ (Milosevic, et.al., 2016) The expertise work consists of expert activities which provide expert knowledge to the criminal procedure authority necessary to establish, evaluate or clarify lawful relevant facts. The court expert is a witness who by reason of his/her special technical training, scientific knowledge or experience is permitted to present findings and opinion regarding the issue involved in the court action. The purpose of existence of a court expert is to interpret scientific and technical information in a particular speciality in order to assist the court in administering justice. In addition to the expert knowledge, the expert ought to have appropriate knowledge in law which is about the role of the expert witness in the criminal procedure and his/her rights, responsibilities and obligations. Hence, it is necessary that they have knowledge in the Criminal Procedure Code, the Code of Experts and international conventions. In addition to the legal issues, the ethical issues are also important and they are regulated by an oath of the court expert that obligates him to make an expertise according to the rules of science or skills knowlingly, fairly and with his/her best knowledge and to give exactly and integrally his/her findings and opinion (Article 119). The expertise can be confided in some person, institution or state authority (Article 114). The expert is very often a person employed in some accredited laboratory according to international standard ISO17025 and it is necessary that the expert has knowledge about standards and the quality management system. (Milosevic, et.al. 2009) A legal person can do the expertise if it is registered in a competent authority for the proper field of expertise and if it has employees – registered court expertrs. Additionally, there is the need for use of adequate terminology in the analysis and interpretation of the results of the expertise which can be understandable for those who are not experts in that field and an ability for management, quality planning and organization of the process of expertise with the application of scientific methods (observation, measurement, description, experiment and comparison) during the process of writing the record of expertise as a final document. “Each court expert ought to have certain personal characteristics as: morality, adaptability, decision making ability, self-confidence, objectivity, authority, patience during the work, responsibility, ability for systematic work, reality, restrain, motivation and a feeling for team work.“ (Popovic, et.al., 2006) For the purpose of a timely notification about the engagement of the expert for the court to examine the facts in the proceedings, it is important to have registered court experts with the exact and updated information and a procedure and reasonable deadlines so that the expert can timely do the examination and present the results of the expertise. The quality register of court experts is the most important prerequisite, as well as the fact that the expert actualy has the necessary and considerable professional knowledge.

THE REGISTER OF COURT EXPERTS FOR FIRE AND EXPLOSION

Managing the register of court experts is in the competence of the Ministry of Justice both in the Republic of Serbia and the Republic of Macedonia. Hence, the website of the Ministry of Justice in the Republic of Serbia contains the old Register of Court Experts[1] with the names of active court experts from the past period because in the meantime there was a open competition for registration of court experts and active experts. So one can compare the old register and the updated register of court experts and establishthe continuity and the time of engagement of an expert. Also, the list of court experts can be found at other addresses[2] which can be considered as incomplete compared to the Register of Court Experts of the Ministry of Justice of the Republic of Serbia because it has a list of 18 court experts for fire, explosions and failures which is lesser number compared to the actual number of registered court experts in this field. Additionally, some associations of court experts have available basic information about their members (name, contact, field of expertise, validity of licence). It is clear that these databases are smaller than the unique register of court experts managed by the Ministry of Justice and that fact has to be considered when an expert has to be recommended or engaged.

The website of the Chamber of Court Experts[3] of the Republic of Macedonia contains documents as the Code of Expertise (Official Gazette RM, no. 115/10), the Law on Amendments and Supplements to the Code of Expertise (Official Gazette RM no. 12/14, Official Gazette RM, no. 43/14, Official Gazette RM, no. 104/15) and the reports about trainings conducted in different fields (traffic, mechanical engineering and traffic, geodesy, architecture, agriculture, psychiatry, etc.). With respect to the specialized training of court experts in the Republic of Serbia, there is available data at the website of the Economic Chamber of the Republic of Serbia regarding the trainings of traffic experts, financial experts and experts in civil engineering. Special trainings, seminars and workshops for court experts are organized by the state authority of the Ministry of Interior of the Republic of Serbia, more specifically, the National Forensic Center which functions inside the Directorate of the Criminal Police and it is a member of the ENFSI (European Network of Forensic Science Institutes) at the same time. ENFSI periodically organizes workshops in specific fields. Furthermore, there is the association named Chamber of Court Experts in the Republic of Serbia established in 2011, but there are no data about activities of this association at its website. There are a lot of registered associations of court experts. Upon searching the website of the Ministry of Justice of the Republic of Macedonia, the Bureau of Court Expertise[4] can be found which deals with organization of professional meetings in different fields, with expertise, professional analysis and estimations. There is no such organization in the Republic of Serbia.

There is list of basic demands for the court experts and a an open announcement which is published periodically. The register of court experts is filled in such a way that the Minister publishes an open announcement for court experts when there is a need for court experts based on the notification of the presidents of first instance courts. A person can be denominated for a court expert if, besides the basic requirements for working in a state authority that are regulated by law, he/she must meet special requirements. Thus, the court expert needs to have „relevant higher education in a second grade study program (graduated academic studies – master, specialist academic studies, specialist professional

[1] http://arhiva.mpravde.gov.rs available Oct. 14th 2016
[2] http://adresar.mojepravo.net/vestaci/index.php available Oct. 14th 2016
[3] www.kvrm.org.mk available Jan. 15th 2017
[4] www.bsv.gov.mk available Jan. 15th 2017

studies) and a first grade for a specific field of expertise".[5] This demand implicates that it is necesarry to have higher education. On rare ocassions, if there are no enough court experts with higher education, person with completed high school can be proposed as an expert. Hence, one can find 12 registered experts (an armourer, a machinist, a textile seller, a proffesional worker, a graphic artist, a teacher, a generous metal treater -goldsmith, a master of pharmacy, a graduated civil engineer, a goldsmith-jeweler) when searching the register under the criterion "craft". It can be noticed that there are experts with higher education. It is obvious that the quoted competencies are based on a personal opinion without taking into account the translated International Standard Classification of Occupations ISCO-08 published by the Republic institute for statistics (International Standard Classification of Occupations ISCO-08). Furthermore, there is a requirement for experts who have at least five years of working experience in the field of expertise and expert knowledge and practical experience. There is the question how to check the practical experience of an expert. An expert witness should be worthy of the working expertise. Also, it remains unclear what is the way to check if this requirement is observed. When searching the websites of both the Ministries of Justice of the Republic of Serbia and the Republic of Macedonia there is no data regarding the review of the working quality and the professionalism of court experts.

A candidate for court expert proves his/her expert knowledge and practical experience in a specific area of expertise by publishing professional or scientific papers, a certificate of participation on scientific and professional meetings at the Organization of professional associations, as well as the opinions or recommendations of the courts or other sate authorities, professional associations, scientific and other institutions or legal entities in which the candidate for expert has worked, or for which he/she has performed professional tasks. The obligation for proving the professionalism and practical experience, so there are no candidates for experts without scientific degrees (Art. 7 Code of court experts RS ZSV, Official Gazette RS, no. 44/2010Z).

When searching the database of registered court experts in the field of fires and explosions published on the internet, this field of expertise is defined as "Fires, Explosions and Failures" in the Republic of Serbia while in the Republic of Macedonia the field of expertise is defined as "Fires and Explosions". There is a need to study the definitions of fire, explosion and failure and to make a restriction. Etymologically, the meaning of the word explosion originates from the Latin word explosio (a splash with a shoot). Explosions are defined according to *Lees* as a sudden release of a high amount of energy from a relatively small volume of explosive substance in the surrounding space (Lees, 1996:5). As the basic division of explosion is physical (there is no chemical transformation of substance as the explosion of a vessel under pressure, boiler, etc.) and chemical (an explosion of a vapour of flammable fluids, an explosion of explosive substance such as TNT, etc.), there is a need toake a distinction between these terms and the competencies of the court experts accordingly. The term failure has a broad meaning as an accident, damage, etc. This means that the experts who claim that they are competent for a machine technique can be competent for failures as well.

Critical analysis of the working and educational profile of court experts has been made (Žarković, et.al., 2014), but not for the specific field of expertise for explosions. The total number of registered court experts for explosions is 39. This number includes experts competent for fires, explosions and failures and for other fields as well since they

[5] http://www.mpravde.gov.rs/court-experts.php available Oct. 14th 2016.

dedicated a narrow specific field of interest to traces of drugs and explosions. When we consider the year of registration, 31 expert were registered in 2011, 2 experts were registered in 2013, 5 experts were registered in 2014 and 1 expert was registered in 2015. When we consider the gender of the registered court experts there are 10 female experts (26%), while 29 are male experts (74%).

The age structure of the court experts in the Republic of Serbia is presented in Figure 1.

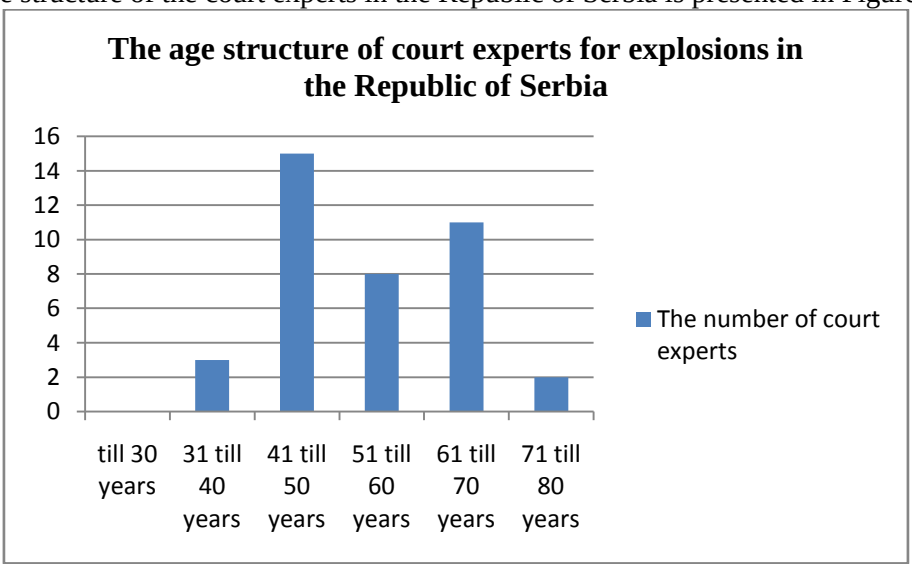

Figure 1. The age structure of court experts for explosions in the Republic of Serbia

When we consider the list of fields of expertise for which the court experts are registered, we can note that it is possible for one expert to be registered for the field of chemistry, mining and geology, ballistics, cold and fire weapons, mechanical technique, fire and explosion and failures and be competent for explosions as well. The reason is that these fields are similar. It is interesting that there is field of expertise named "Specific Field" but there is no explanation what this field covers.

When we consider the occupation of court experts, it can be noted that in 2 cases there is no data about the ocupation of the expert. There is one expert with the following occupations: sports trainer, fire protection engineer, environmental engineer, technological engineer, chemical engineer, mechanical engineer, work protection engineer, graduated engineer for electronics, graduated physist, fire protection master degree, environmental protection master of science, PhD in engineering and environmental protection. The register lists 2 experts with the occupations: fire protection engineer, engineer, PhD in tecnical science and PhD, whereas 3 experts are listed with the occupations: graduated physical chemist, master of technical sciences, master of science and 4 experts are graduated mechanical engineer and graduated engineer of electronics.

Registered court experts develop their narrow specializations. Thus, 29 experts are called for theire specialization in "The Causes of Fire, Explosions and Failures", 4 in "Narcotics and Traces of Fire and Explosions", 2 in "Security and Technical Protection, Handling Explosive Devices, Machines and Equipment", 1 in fortis weapons, munition and explosive devices as for physical chemistry, explosive and flammable substances and

gases, 1 in the causes of accidents, fires, explosions and failures and 1 in ballistics, cold and fire weapons.

In addition to natural persons, there are 86 legal persons registered as court experts and each of them is listed with their competence in a specific field. Only one company is registered in the field "The Causes of Fire, Explosions and Failures". There is no data regarding a court expert working for that legal person.

The analysis of the website of Ministry of Interior of the Republic of Macedonia[6] indicates the existence of different fields of expertise compared to the fields of expertise in the Republic of Serbia. There are fields that are not listed in the Register of the Republic of Serbia, such as forensics, criminalistic, technical and chemical analysts, etc. Certain fields are broadly defined. Given the fact that the register is missing data pertaining to the professional competences of court experts (narrow field of expertise, education of expert, etc.), experts from similar fields that may be competent for explosions are taken for analysis. The total number of registered court experts in the field of fire and explosions is - 1, for criminalistic, technical and chemical analysis - 3, for mechanical engineering - 37, technical sciences - 5, technological enginneering – 11, physics – 1, forensics - 1, chemical science – 1, mining - 1.

The analysis of the Register of Court Experts of the Republic of Macedonia indicates that in 2011 - five court experts were registered, in 2012 and in 2013 - nine court experts, 31 court expert were registered in 2014 and 7 experts were registered in 2015.

DISCUSSION

The analysis of the registers of court experts of Serbia and Macedonia has shown that they are very similar with respect to the columns displaying the names of the court experts, contact data, the field of specialty and the number and date of the issued expertise licence. The Register of Court Experts of the Republic of Serbia contains more data (occupation and the age of the experts). In terms of the occupations of the explosion experts in the Republic of Serbia, it is evident that the data are not unified. The listed occupations are incomplete (there are experts without occupational data). The Register of Court Experts of the Republic of Macedonia contains no data whatsoever regarding the occupation of the experts. Hence, the question what are the criteria that qualify such experts for explosions. The analysis of the working and educational profiles of the individual court experts in the Register shows that there are different profiles with different levels of education. Thus, there are PhD and MSc experts in different fields of science (technical and other) with no data regarding the field or the faculty where they have obtained their diploma. Furthermore, there are mechanical engineers with different modules, engineers of electronics, chemical engineers, technological engineers, physical chemists, sports trainers, etc. The Register of Court Experts of the Republic of Serbia contains data pertaining to the narrow specialization of the court experts, whereas the Register of Court Experts of the Republic of Macedonia does not include such data. The fields of expertise are broadly defined in the Register of Court Experts of the Republic of Macedonia. It remains unclear what is the meaning of the field of expertise named "forensics", since the term *Forensics* implies information analysis in the field of fundamental and applied science suitable for use in a court of law. Hence, one can derive the conclusion that each expert has listed the field of his/her expertise by his/her own attitude. When looking at the Register of Court Experts of the Republic of Serbia it is

[6] www.pravda.gov.mk/vestaci/ available Oct 14th 2016.

evident that most of the experts state the same field of expertise with their narrow speciality. It remains unclear what criteria are used for defining the narrow speciality of the court expert. It can be noted that neither Register of Court Experts contains data with respect to the work place of the court experts, their years of working experience, attended seminars, scientific or professional published papers, the sum of cases in which they provided their findings and opinions, etc.

CONCLUSION

The analysis of the Registers of Court Experts of the Republic of Serbia and the Republic of Macedonia has indicated that they are very similar, but both need further improvement. To begin with, the field and the narrow specification of expertise in which the court experts are registered and the competencies of the experts (adding an educational profile relevant to the field of expertise) need to be improved. Comparing the two Registers, it can be noticed that each expert quotes his/her field of expertise on the basis of his/her own assumption (in the Republic of Macedonia) or speciality and occupation (in the Republic of Serbia). Also, the occupations of court experts should be coordinated (the court expert should fill out a form indicating the exact degree he/she has obtained by completng their education according to the nomenclature of occupations). The Registers of Court Experts could be upgraded with data such as the age of the experts, the level and type of acquired education, forms of profesional specialization (all attended courses, trainings, seminars, workshops etc.) and listing of all certificates, the years of working experience, published scientific and professional papers, etc., as certain information seems more important and recognizable for a specific field of expertise. For completing the Register of Court Experts, it is necessary to include examples of good practice from both states, as well as from other states in the world.

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DEFINITION OF ORGANIZED CRIME – SQUARING THE CIRCLE?!

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ABSTRACT

Starting with the certitude that the theoretical knowledge always precedes legislative solutions, then subsequently, scientific theory is the one that should provide the necessary supplementary explanations for the formulations contained in the law, giving the impression of being simple at first glance, and as such eliminates or reduces the unclarities and problems that one could encounter while applying the law into practice and at the same time positively influencing and improving the legislative, the importance of theoretical studies and analyses prove to be incontestable. Given its complexity and especially due to the diverse forms of manifestation, the concept of organized crime is considered to be one of the most controversial concepts in modern social science. For this reason, but especially due to its presence in (almost) every country, the problem of organized crime is treated by many criminologists and criminal law specialists from all over the world, and almost all of them try to give their own definition regarding this social phenomenon. Nevertheless, today there is no unanimously accepted definition, but on the contrary, there are countless different definitions concerning the notion of organized crime, representing not only a drawback from the doctrine, but also a big problem in practice for the fight against organized crime. The present paper will first underline and systematize some of definitions given in the universal and Serbian literature on this matter. Following this presentation, without debating each scientific approach, by applying the comparative method and the content analysis method, the noted opinions will be analyzed in a general way, and as a result of this analysis, an original classification of the essential and dominant characteristics of organized crime will be delivered. Based on the theoretical abilities of organized crime, stated in the present paper and on the analysis of this phenomenon's dominant characteristics, as well as the personal observations made during the research, we shall try to draw conclusions by giving our own definition of this phenomenon.

Keywords: *definition of organized crime; universal and Serbian doctrine; essential and dominant characteristics.*

1. INTRODUCTION

The first and most important step in understanding a social phenomenon, and as such organized crime as well, is to determine its definition. Setting down the correct and complete notion is very important so that a stable base can be established, but also for other professional and theoretical considerations.[1]

[1] *See*: Darian Rakitovan, et. al., „Organized Crime and Similar Terminological Concepts. A Problem in Defining the Notion of Organized Crime", in *Journal of Eastern-European Criminal Law*, no. 1/2015, Law Faculties of the West University of Timişoara and the University of Pécs, Universul Juridic Publishing House, 2015, p. 177.

The fact that, on one hand, there is no clear, precise and complete definition and on the other hand there is a multitude of different approaches in defining the concept, can result in discrepancies and misunderstandings regarding the existence of the phenomenon of organized crime, as well as its patterns, amplitude and degree of social danger. This could negatively influence the adequate reaction and decisions of the law-making body causing a failure in taking the necessary repressive actions against this criminogenic phenomenon.

Defining the notion in precise terms is crucial for certain procedural mechanisms that deal with the prevention, detection, proving and sanctioning the actual organized crime acts.

Defining organized crime "is not important only from the theoretical character, but is also of great importance for the competent state authorities to complete their practical actions"[2] signifying therewith the essential premise in order for this phenomenon to be rebutted.

Due to all aforementioned issues, defining the term of organized crime is, today, one of the priority tasks of criminal justice, criminological and forensic science and it is an inevitable duty of international and national referential institutions and the legislature.

However, to provide the very definition of organized crime is not an easy task, considering that it includes a specifically complex and comprehensive procedure of applying scientific methods and principles. On the contrary, this term is often perceived wrongly and it is extremely difficult to define.

As a socially negative phenomenon, which is present in (almost) all the countries of the world in many different forms, organized crime is the subject of study of criminal justice, forensic and criminological science, but also of political and security science, sociology, psychology and many other sciences.

"Even though the problem of defining organized crime has been discussed for several decades by the doctrine and international studies and professional institutions, as well as by national legislations, resolutions and international declarations, today there is no unanimously accepted definition; on the contrary, there are multiple different definitions on this matter."[3]

It could be said that "in defining organized crime there are as many different definitions and approaches as many authors dealing with it"[4]. These papers are riddled with "such an array of thoughts that agreement cannot be made even in the terms of their title or systematization." [5] "Namely, a single casual look on the plain of terminological specification of organized crime, convincingly shows a series of blurry and inaccurate images regarding this phenomenon, thus opening the door to various interpretations, volunteerism, entanglement in a "sort of squaring the circle" manner, as one wrong or incomplete definition leads to another and so on."[6]

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[2] Milan Škulić, *Organizovani kriminalitet – pojam i krivičnoprocesni aspekti*, Beograd, Dosije, 2003, p. 26, (translation by the author).

[3] Darian Rakitovan, *op. cit*., p. 178.

[4] Milo Bošković, Zdravko Skakavac, *Organizovani kriminalitet – Karakteristike i pojavni oblici*, Novi Sad, Fakultet za Pravne i Poslovne Studije i Prometej, 2009, p. 142, (translation by the author).

[5] Đorđe Ignjatović, *Organizovani kriminalitet – II deo – kriminološka analiza stanja u svetu*, Beograd, Policijska akademija, 1998, p. 6, (translation by the author).

[6] Dragana Petrović, *Organizovanje zločinačkih udruženja*, Beograd, Srpsko udruženje za krivično pravo, 1996, p. 23, (translation by the author).

Led by various approaches in defining the term of organized crime, one group of authors gives a too narrow definition that does not correspond to the very essence of the phenomenon, while on the other hand, others give definitions that are too wide, that are a description rather than a serious theoretical conclusion, while some other authors, who do not make up such a small number, do not provide a realistic definition of this phenomenon at all, but only describe some of its basic characteristics or forms of manifestation.

The result of all of this is that today, there is a multitude of more or less similar or different definitions, none of which are all-encompassing or generally accepted, which is not only a doctrinal drawback, but also presents a big problem in the practical combat against organized crime.

It is important to mention at the very beginning that in a large number of national legislatures, organized crime is (only) defined as: "conducting criminal activity by an organized group or its members." Using this idea as a guideline, a certain number of theorists also define the idea of organized crime in such way, due to which the term *organized criminal group* occupies the "central position" in their papers and that term is then later elaborated and explained.

It is not disputable whether such definitions are accurate, in the end, the legislators also use such or similar phrasings. However, we are of the opinion that in theory, the term *organized crime* cannot be taken lightly, but on the contrary, it is necessary to precisely define this term in as a clear and precise way as possible, considering that organized crime is a special social (negative) phenomenon and a special form of (severe) criminality and *organized crime group* is only one of its comprising elements and important characteristics. Of course, there should not be an insistence to define the term of *organized crime* in every place and at any cost. For example, in the commentary on criminal laws, the authors must strictly adhere to the phrasings used by the law, so if the law being commented upon defines organized crime only as conducting criminal activity by an organized criminal group, in such analyses, the content of the term organized crime groups should be elaborated and explained in more detail, as this term is "the central term" in the law being commented upon.

However, on the other hand, in the papers that are strictly thematically connected with the problem of organized crime, there must be determination and a tendency to precisely define this term.

Our paper belongs to this type of papers, which is why we primarily directed our attention to the term of organized crime. In connection with this, considering that we do not believe that these two terms can be treated as synonyms, but that *organized crime group* is only one of the important characteristics and basic elements of *organized crime*, in the continuation we will not present a single definition of the term *organized crime groups*, but we will exclusively quote the believes of those authors that define the term *organized crime*.

2. THE CONCEPT OF ORGANIZED CRIME IN FOREIGN EXPERT LITERATURE

Without a doubt, the largest number of authors that have dealt with and who still deal with the problem of organized crime are from the United States of America.

One of the most complete definitions in American literature is given by the reputable Howard Abadinsky. He defines organized crime as: "Organized crime is a non-ideological enterprise involving a number of persons in close social interaction, organized on a hierarchical basis, with at least three levels/ranks, for the purpose of securing profit

and power by engaging in illegal and legal activities. Positions in the hierarchy and positions involving functional specialization may be assigned on the basis of kinship or friendship, or rationally assigned according to skill. The positions are not dependent on the individuals occupying them at any particular time. Permanency is assumed by the members who strive to keep the enterprise integral and active in pursuit of its goals. It eschews competition and strives for monopoly on an industry or territorial basis. There is a willingness to use violence and/or bribery to achieve ends or to maintain discipline. Membership is restricted, although nonmembers may be involved on a contingency basis. There are explicit rules, oral or written, which are enforced by sanctions that include murder ".[7]

American criminologist Donald R. Cressey, states among other things that "an organized crime is any crime committed by a person occupying, in an established division of labor, a position designed for the commission of crime, providing that such division of labor also includes at least one position for a corrupter, one position for a corruptee, and one position for an enforcer."[8]

Professor Jay S. Albanese believes that "organized crime is a continuing criminal enterprise that rationally works to profit from illicit activities; its continuing existence is maintained through the use of force, threats, monopoly control, and/or the corruption of public officials "[9]

European doctrine is also abundant with a large number of attempts to define organized crime. However, it can be noticed that European countries did not recognize or did not want to recognize the existence of this form of crime long after it appeared in their territories.

In this discussion regarding the term of organized crime, Karl-Heinz Lehnard from Germany points out that: "organized crime is, in order to acquire gain or power, a planned activity of criminal acts, which are individually or in their totality of significant importance, and when more than two participants cooperate in division of labor for a longer or undefined period of time: a) within the hierarchal and business structures; b) by using violence or other suitable means of intimidation; c) by using politics, mass media, public authority, justice system or economy"[10].

Professor Gilinskiy Yakov from Russia mentions that "(…) organized crime is defined as the functioning of stable, hierarchical associations, engaged in crime as a form of business, and setting up a system of protection against public control by means of corruption"[11].

Ernesto Savona, according to many, one of the best connoisseurs of the problem of organized crime in Europe, points out these words as key words of this phenomenon:
-"organization and cooperation of several offenders
- using violence and corruption in order to more easily conduct their activity,

- concealment of criminal activities through legal activities and corporations,

[7] Howard Abadinsky, *Organized crime*, Third ed., Chicago, Nelson-Hall, 1990, p. 21.
[8] Donald R. Cressey, *Theft of the Nation*, New York, Harper and Row, 1969, p. 319.
[9] Jay S. Albanese, *The Causes of Organized Crime: Do Criminals Organize Around Opportunities for Crime or Do Criminal Opportunities Create New Offenders*, in „Journal of Contemporary Criminal Justice", vol. 16 no. 4, 2000, p. 411.
[10] Karl-Heinz Lehnard, *Kriminalistik, Das organisierte Verbrechen*, No. 3/91, Heidelberg, 1991, p. 228, *apud* Milan Škulić, *op. cit.*, p. 35 (translation by the author)
[11] Yakov Gilinskiy, *Crime in Contemporary Russia*, in „European Journal of Criminology", vol. 3 Issue. 3, SAGE publications and the European Society of Criminology, 2006, p. 278.

- the main purpose of the organization is to acquire profit,

- transnational nature - their activities transcend national borders"[12].

Andre Bossard, from France, defines this phenomenon in the following manner: "Organized crime is the most structured form of criminal associations. While it is difficult to give an exact, complete definition of organized crime, its characteristic elements are listed below:

1. Permanence: Organized crime groups are conceived with a view of permanence, even in the case of the disparateness of the leader. As a matter of fact, they have continued for many years.

2. Structures: Organized crime groups have well-established structures frequently based on ancient local traditions. The Mafia, for instance, is based on the Roman „gens" and „clients". The Oriental groups (Triad, Yakusa), on Samurai or noble resistance to invaders. Motor gangs, on a common passion. The internal organization of the groups is divided so that members generally know only their immediate superior.

3. Strict hierarchy: The group is based on obedience, loyalty, faithfulness. Sometimes, the organization is similar to military hierarchy; sometimes, it has a traditional character. Discipline is very strong. Each „family" has a territory and fields of activity. There are attempts at „federation" of these groups or families (commission, assembly of „bosses"), but it often happens that they are engaged in real wars between themselves.

4. Secret: The „Law of Society" (*Omerta*) is very strongly enforced and punishment for transgression is death, executed without pity.

Thus, organized crime appears as a parallel society, living out of the legal community, having its own regulations, its own organization, hierarchy and strong discipline and high resolve to use all possible means to reach its goal, i.e., maximum profit"[13].

3. THE CONCEPT OF ORGANIZED CRIME IN THE EXPERT LITERATURE FROM THE REPUBLIC OF SERBIA

A famous Serbian criminologist Prof. Đorđe Ignjatović states that organized crime is a "(…) type of property criminality and it is characterized by the existence of a criminal organization which conducts continuous economic activity, accompanied by the use of violence and corruption of authority figures"[14].

Mićo Bošković states that "(…) the content of the term organized crime includes organized criminal activity for the purpose of acquiring unlawful property gain and gaining profit, but also this term includes those forms of organized crime where a criminal organization succeeds to establish certain connections with the state and its bodies. Precisely this established criminal connection with the state and its bodies gives a content of particular quality to such a criminal organization, as such connection enables better protection for conducting illegal and legal activity for organized crime, certain concessions, acquiring substantial profit, which creates the conditions where certain bosses show interest and attempt to infiltrate the structures of political power"[15].

[12] Ernesto U. Savona, *Organized Criem Across the Borders*, Heuni Papers, Helsinki, 1995, *apud* Đorđe Ignjatović, *op. cit.*, p. 22, (translation by the author).
[13] Andre Bossard, *Transnational Crime and Criminal Law*, Chicago, Office of International Criminal Justice, 1990, p. 110-111.
[14] Đorđe Ignjatović, *op. cit.*, p. 24 (translation by the author).
[15] *ibidem* p. 7-8, (translation by the author).

This author is of the opinion that "there is a broader and a narrower understanding of the term of organized crime in theory. The broader understanding of the term organized crime includes those forms of organized criminal activity, where there is a criminal organization and an organized approach to the preparation phase and the execution phase of criminal acts with the intention to acquire unlawful property gain. The narrower understanding of the term organized crime is reduced to only those forms of organized criminal activity where certain connections have been established between the bosses of criminal organizations and the representatives of the state and its bodies"[16].

According to Milo Bošković, organized crime can be defined as a "kind of professional criminality characterized by the existence of a firm and flexible, hierarchically established criminal organization, with precise division of labor and regulated internal relationships, committed to conduct even the most serious criminal acts, by applying the methods of bribery, violence and similar methods in acquiring extreme profit and political power and influence"[17].

Unlike the previous above stated authors, certain Serbian authors do not explicitly elaborate the relationship between the state and organized crime, but from the analysis of their texts, conclusions regarding the existence of this connection can be drawn indirectly.

So, Zoran Stojanović, defines organized crime as "(…) a structure that includes other forms of criminality or takes advantage of various sectors and spheres of illegal economy, by infiltrating economic, or even political-administrative world"[18]. In his definition he lists important characteristics of organized crime, such as: "a more permanent association of a larger number of persons, hierarchical organizational structure, planned activities with division of labor, conducting illegal activities adapted to the needs of the population, flexible criminal technology and diversity of criminal methods, such as exploitation, threats, extortion, force, forcible protection, terror, active bribery, desire for economic and political power, internationality and mobility"[19], and he lists its severe forms: "illegal drug trafficking, smuggling, gambling, prostitution, illegal weapons trade, kidnappings for ransom, theft of objects of high value, concealment and reselling of such, etc."[20].

Milan Škulić, states that: "organized crime is a collection of two types of criminal acts:1) Criminal act of the organized criminal association itself; 2) A collection of criminal acts committed by the members of the organized criminal association, which are based on the aims for which it was founded and for which it still exists, and it attempts to secure its existence for a longer period of time, i.e. those criminal acts which directly or indirectly stem from those aims of the criminal organization"[21]. In his definition of an organized criminal group, as one of the most important characteristics of such a group, Škulić points out that it "is attempting to use corruptive methods to establish a direct or indirect influence on the state authority bodies"[22], which is why we can conclude that he also

[16] Mićo Bošković, *Organizovani kriminalitet – I deo – kriminološki i kriminalistički aspekti,* Beograd, Policijska Akademija, 1998, p. 7, (translation by the author).
[17] Milo Bošković, Zdravko Skakavac, *op. cit.*, p. 15-16, (translation by the author).
[18] Zoran Stojanović, *Organizovane forme kriminaliteta*, in „Bezbednost i društvena samozaštita", no. 5/1990, Beograd, 1990, p. 62-63, (translation by the author).
[19] *ibidem*, p. 63, (translation by the author).
[20] *ibidem*, (translation by the author).
[21] Milan Škulić, *op. cit*, p. 44, (translation by the author).
[22] *ibidem*, p. 46, (translation by the author).

believes that the connection between criminals and the state is one of the more important elements of organized crime.

4. DOCTRINAL DEFINITIONS ANALYSIS

It is a fact that there is no agreement amongst authors as to what is believed to be organized crime. In the expert literature, many different phrasings regarding the definition of organized crime can be found, some of which are significantly different, often contradictory, while on the other hand some of them are very similar in content, or almost identical.

By a careful analysis of the definitions in relation to the content of the very term organized crime, it can undoubtedly be concluded that all common characteristics of this term, for which it can be said that there is a consensus of the authors, are: the existence of organized criminal organization with a clear division of tasks amongst its members, which with intent act jointly and with the intention of remaining in mutual association for a longer period of time, in order to commit criminal acts by using violence and intimidation for the purpose of acquiring substantial financial gain.

By further analysis, it can be noticed that, on the other hand, there are various elements based on which the definitions differ.

We will point out three of the most important ones in our opinion.

In a large number of existing definitions of the term organized crime, it is stated that a criminal group, as the basic element of this term, with all its qualifying characteristics, is formed in order to commit *severe criminal acts*. When defining criminal acts that can turn into acts of organized crime, the abstract severity of the proposed punishment for certain specific acts from a special section of criminal law is taken into consideration (e.g. "criminal acts for which imprisonment of four years or more is proposed"), while explicit enumeration of these criminal acts which can be placed in this category is done more rarely.

A smaller number of authors do not even mention the severity here, as an important condition of existence, nor the type of those criminal acts which, under certain circumstances, can be considered as acts of organized crime. Such approach, however, we believe to be wrong. Namely, in case that it is not terminologically predicted that only severe criminal acts can be listed amongst the acts of organized crime, we believe that *ratio legis* of special criminal-procedural legal norms would be made pointless, as their purpose is to incorporate only those forms of crime which are particularly dangerous and for which the procedure of discovering and proving is made significantly more difficult. Apart from that, in such case, organized crime would be understood too broadly, which can potentially lead to a counter effect in suppressing those true and particularly dangerous forms of organized crime.

Therefore, we believe that it is absolutely necessary to terminologically define which acts can "grow" into acts of organized crime. It is of less importance which of the two approaches is applied. However, we give the advantage to the first approach, as we are of the opinion that it is better to categorize criminal acts into the category of criminal acts of organized crime based on the possible punishment, than by their enumeration, especially because this would expand the content of the definition and decrease the possibility of leaving out some of the possible forms of organized crime activity, while on the other hand, the very definition of organized crime would be shorter in form.

We believe that such approach, i.e. defining criminal acts that can "grow" into acts of organized crime according to the possible sentence would be particularly suitable for the

adoption of a universal definition of organized crime, considering that in national legislatures various terms are used for the same criminal acts and are also sanctioned differently.

Furthermore, it can be noticed that the authors use different *titles for a group* of people that conduct acts of organized crime. In addition, in defining the term organized crime, some authors give special attention to the model, the manner and the type of organization of these groups, as well as the necessity of a strict hierarch within the group and claim that if an organized criminal group is not organized in such a manner, organized crime does not exist.

We hold justified the opinion of most authors regarding the stance that in order to terminologically define organized crime, it is only important that several perpetrators are involved in committing criminal acts, meaning that organized crime includes the existence of a group of people who willingly and wittingly participate in committing illegal activities for a longer period of time, who are loyal to that organization, whose tasks are divided amongst themselves and who use violence or threats of violence in order to achieve their goals. Such a group of people that deals with criminality in such a way can be called an organized criminal organization, association, group, or even gang, mafia, crime syndicate, clan, "family", criminal block, cartel, etc. These terms, of course, differ based on the type of organization, or other characteristics, however, those differences and therefore the terms are of no importance to the very definition of organized crime, nor is it important for the terminological definition whether the members of these groups stem from the same or different ethnic, religious, racial or any other affiliation.

A cumulative fulfilment of the aforementioned elements for which there is a general consensus of the authors (the existence of an organized criminal organization with a clear division of tasks amongst its members, who act jointly with premeditation and with the intent to remain in association for a longer period of time in order to commit criminal acts by using violence and intimidation for the purpose of acquiring substantial financial gain) is still not a sufficient condition to conclude the existence of organized crime in a specific case.

When a criminal act is committed in a group, the institute of *complicity* has been always used in criminal law. From the standpoint of criminal law, a continuous committing of criminal acts, by fulfilling certain legal presumptions, can be classified in the institute of *real concurrence*[23].

As far as *violence* is concerned, it is clear that it is an essential element of numerous criminal acts.

Even if intertwining of legal and illegal affairs is added to these elements, allocating illegally acquired capital into legal procedures, a strictly mafia type organization of the group, inter-border cooperation while committing criminal acts, exercising political power and other elements which are considered to be typical for organized crime, not even then it could be claimed with certainty that it is a case of organized crime.

In order for it to be possible to determine with certainty the existence of organized crime in a specific case, we believe that it is of key importance for another crucial element to be present – *a link between the criminal organization and the state*.

[23] *See*: Viorel Paşca, *Curs de drept penal – Partea generală, ed. a II-a, acutualizată cu modificările noului Cod penal*, Bucureşti, Universul Juridic, 2012, p. 300.

The existence of a certain link between an organized criminal group on the one hand and state bodies of various levels on the other hand, we deem to be *conditio sine qua non* for the existence of organized crime in any specific case.

When the state and state bodies are mentioned, this primarily refers to legislative and executive bodies, courts, prosecutor's offices, police, border and inspectoral services, local and other bodies of authority, not as a whole, but as individuals from these bodies that have used a part of their social and political power for the purpose of organized crime.

The manners and the forms used by organized crime to connect with the state and its bodies can be various, but, as a rule, some form of corruption is involved. Depending on whether state officials cooperate actively or passively in order to provide assistance in committing or ensuring protection after criminal acts have been committed, passively meaning that they silently allow activities of organized crime, the connection between organized crime and the state can be stronger or looser.

Based on their degree of realization, how successful and intense such relationships are and which structures are being influenced, depends on one the hand on the capacity of the very leaders of the criminal organizations to use socio-political and economic conditions, and on the other hand on the strength and efficiency of state institutions to combat the aforementioned.

Precisely these relations enable to a great extent the organized criminal organizations to survive despite the attempts of the legal state system directed towards repressing their activity and to fight other criminal organizations for the monopoly over a certain territory or market. For this reason, even in the cases when a criminal organization is not in league with the government, it has a tendency to establish such links with it. We are of the opinion that this very tendency to establish a connection with representatives of the state authority can be considered a characteristic of organized crime.

However, the biggest disagreements in the definitions of organized crime amongst theorists are precisely related to the necessity of existence of a league between the members of criminal organizations and the state, i.e. whether it is a necessary presumption in order for the activity of a certain organized criminal group to be considered organized crime.

Even though it is obvious that the authors do not have identical stances regarding the relationship of organized crime and the state, most of them, however, are of the opinion that organized crime includes such a connection.

Regarding the aforementioned theoretical definitions of organized crime, we can agree with the previously stated opinion of Mićo Bošković, who believes that there is a broader and a narrower understanding of the term organized crime in theory.[24]

Based on the aforementioned discussion, it can be concluded that the narrower understanding of the definition of organized crime is more acceptable and that organized crime cannot be discussed if a certain link between the criminal organization itself and the state is not present, or at least a tendency to establish such a connection. Moreover, we are of the opinion that this understanding can be expanded to similar connections with political parties, particularly with those in power, as well as with various financial institutions, economic companies and media, which can provide significant benefits, profit and social reputation to the organized criminal groups.

By analyzing these understandings regarding the terminological definition of organized crime and the content in national legislative and international documents, it can

[24] *See:* ftn. 19.

be concluded that there is no agreement regarding the understanding and terminological explanation of organized crime, but certain dominant characteristics of organized crime can be drawn from these documents.

5. DOMINANT CHARACTERISTICS OF ORGANIZED CRIME

Considering that a singular definition of organized crime does not exist, it is understandable that a unified opinion regarding its basic elements also does not exist, nor a singular stance in terms of the important characteristic for these phenomena.

In the continuation of the paper, we will present and elaborate on the original categorization of he and dominant characteristics of organized crime which was made based on our own analysis of scientific and theoretical papers and expert studies of professional organizations and police institutions, as well as analysis of national legislatures and international resolutions and declarations.

We are aware of the fact that a precise listing of all the characteristics of organized crime is practically impossible (primarily due to its large-scale dynamics of etiology and phenomenology), but we are of the opinion that primarily due to an easier identification of the acts of organized crime in practice and a better understanding of this problem, it is completely justifiable to single out a few dominant characteristics of modern organized crime. We point out that for the existence of organized crime, cumulative existence of all characteristics discussed in the continuation is not necessary, because only some of these characteristics are at the same time basic elements of this term.

Dominant characteristics of organized crime are:

1. The existence of a criminal organization consisting of at least three persons;
2. Durability of the criminal organization;
3. Committing severe criminal acts;
4. Non-ideological character – the aim is to accumulate profit and/or power;
5. Corrupt or other type of relation with bodies of authority;
6. Tendency to use violence or other means of intimidation;
7. Specialization and division of labor amongst the participants;
8. Dynamic and flexible adapting to a specific socio-political and economic situation;
9. Structure of a criminal organization which is based on hierarchy, secrecy, explicit rules and regulations, and/or member exclusivity;
10. Striving for a monopoly in certain activities and/or territories;
11. Intertwinement of legal and illegal affairs;
12. Money laundering;
13. International character.

By analyzing the doctrinal definitions of organized crime, as well as those provided in national legislatives and international documents, it can be concluded that, out of all the listed dominant characteristics of organized crime *conditio sine qua non* are the first seven.

They make up the basic qualifying elements of this term, therefore, we are of the opinion that without a cumulative fulfillment of these elements, a specific case cannot be discussed in terms of organized crime. In other words, a criminal act which does not contain all the aforementioned elements cannot be qualified as an act from the sphere of organized crime.

The remaining six characteristics present the specificities of organized crime, and all or most of them characterize most criminal organizations, but they should not be

considered as necessary attributes based on which the existence of organized crime could be determined in each specific case. What is possibly the most important for these characteristics is that, in theoretical analysis, they definitely contribute to a better understanding of the problem, while in practice they can significantly aid the easier identification of organized crime acts.

6. ORIGINAL DEFINITION OF ORGANIZED CRIME – INSTEAD OF CONCLUSION

Based on the theoretical understandings of organized crime found in the paper and the review of the dominant characteristics of this phenomenon, as well as based on personal observations made during the research conducted, we will attempt to give our own specific definition of this phenomenon, without any major pretentions for it to be widely accepted, while being aware of the possibility that it may not be complete, or the most adequate. We are of the opinion, however, that it is broad enough to include numerous forms of organized crime all over the world, and on the other hand, it is precise enough to enable a clear difference between organized crime and other similar types of criminality.

"Organized crime represents those activities carried out by a group, organised for a long period of time out of three or more persons, that have corruptive liaisons or of any other nature with state's authorities and are predisposed to use violence and other ways of intimidation, having as final purpose to obtain profits and/or power by committing crimes for which the legislation provides punishment with prison of minimum four years, by the group members that have precise and clearly determined assignments."[25]

For a better understanding in the theoretical analyses, respectively for an easier identification of the phenomenon in practice, the following mainly descriptive definition, will be suggested: "*organized crime represents those criminal activities of a certain gravity, undertaken by a group composed of three or more persons, that are being committed in a constant, planned and conspired manner through different methods and means. Criminal associations have generally an internal well determined hierarchy, with a specialized structure and self-defence mechanisms. Organized crime is usually oriented to obtaining profit, their main purpose being a material gain at very high quotas, noting that sometimes its purpose is to obtain power or other high social positions. In order for it to obtain the high profits, it tries to obtain absolute control over several territories and internal and/or external markets of different products and services. In achieving this, it adapts to the concrete social-political and economic situation. Money laundering is being used in order to hide the existence, origin and nature of the illegally obtain resources assuring in such a way perfect conditions for the use of the money. It deals with illegal businesses, usually using of force, violence and intimidation, but is conducting legal businesses as well. Its exponents are mingled within different state structures and authorities. It does not know borders and usually it holds an international character. It affects the country's economic, social and political life, through different illegal and forbidden methods and means. Corrupting state functionaries, judicial and political system officials and police structures is a permanent preoccupation of organized crime."*[26]

[25] Darian Rakitovan, *op.cit*., p. 179.
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